

District of Columbia

REGISTER

HIGHLIGHTS

- DC Council passes Law 20-24, Vending Regulation Temporary Amendment Act of 2013
- DC Council passes Act 20-204, Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013
- DC Council schedules a public oversight roundtable on the state of nursing home care in the District of Columbia
- Office on Asian and Pacific Islander Affairs announces funding availability for the Vietnamese American Youth Empowerment and Capacity Building Grant
- Department of Employment Services announces funding availability for the Adult Training Program
- Department of Health Care Finance publishes notice of Medicaid State Plan Amendment Governing Alternative Benefit Plan
- Office of the Deputy Mayor for Planning and Economic Development announces funding availability for the H Street NE Retail Priority Area Project Grant

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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

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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 20-307 on first and second readings June 4, 2013 and June 26, 2013 respectively. Following the signature of the Mayor on July 17, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 20-112 and was published in the August 2, 2013 edition of the D.C. Register (Vol. 60, page 11102). Act 20-112 was transmitted to Congress on August 2, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-112 is now D.C. Law 20-24, effective October 17, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Aug. 2,12


Sept. 6,9,10,11,12,13,16,17,18,19,20,23,24,25,26,27,30

Oct. 1,2,3,4,7,8,9,10,11,15,16

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 20-25****“Workers’ Compensation Statute of Limitations
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Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 20-339 on first and second readings June 18, 2013 and July 10, 2013 respectively. Following the signature of the Mayor on July 24, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 20-118 and was published in the August 2, 2013 edition of the D.C. Register (Vol. 60, page 11115). Act 20-118 was transmitted to Congress on August 2, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-118 is now D.C. Law 20-25, effective October 17, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Aug. 2,12

Sept. 6,9,10,11,12,13,16,17,18,19,20,23,24,25,26,27,30

Oct. 1,2,3,4,7,8,9,10,11,15,16

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 20-26****“Telehealth Reimbursement Act of 2013”**

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 20-50 on first and second readings June 4, 2013 and June 26, 2013 respectively. Following the signature of the Mayor on July 23, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 20-119 and was published in the August 2, 2013 edition of the D.C. Register (Vol. 60, page 11117). Act 20-119 was transmitted to Congress on August 2, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-119 is now D.C. Law 20-26, effective October 17, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Aug. 2,12


Sept. 6,9,10,11,12,13,16,17,18,19,20,23,24,25,26,27,30

Oct. 1,2,3,4,7,8,9,10,11,15,16

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 20-27****“Testing Integrity Act of 2013”**

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 20-109 on first and second readings June 4, 2013 and June 26, 2013 respectively. Following the signature of the Mayor on July 23, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 20-120 and was published in the August 2, 2013 edition of the D.C. Register (Vol. 60, page 11120). Act 20-120 was transmitted to Congress on August 2, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-120 is now D.C. Law 20-27, effective October 17, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Aug. 2,12

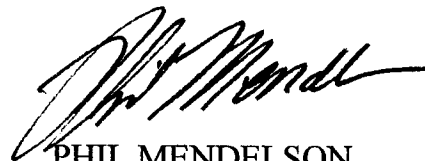
Sept. 6,9,10,11,12,13,16,17,18,19,20,23,24,25,26,27,30

Oct. 1,2,3,4,7,8,9,10,11,15,16

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 20-28****“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”**

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 20-126 on first and second readings June 26, 2013 and July 10, 2013 respectively. Following the signature of the Mayor on July 24, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 20-121 and was published in the August 2, 2013 edition of the D.C. Register (Vol. 60, page 11128). Act 20-121 was transmitted to Congress on August 2, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-121 is now D.C. Law 20-28, effective October 17, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Aug. 2,12

Sept. 6,9,10,11,12,13,16,17,18,19,20,23,24,25,26,27,30

Oct. 1,2,3,4,7,8,9,10,11,15,16

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 20-29****“Delta Sigma Theta Way Designation Act of 2013”**

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 20-241 on first and second readings June 26, 2013 and July 10, 2013 respectively. Following the signature of the Mayor on July 23, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 20-122 and was published in the August 2, 2013 edition of the D.C. Register (Vol. 60, page 11130). Act 20-122 was transmitted to Congress on August 2, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-122 is now D.C. Law 20-29, effective October 17, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Aug. 2,12


Sept. 6,9,10,11,12,13,16,17,18,19,20,23,24,25,26,27,30

Oct. 1,2,3,4,7,8,9,10,11,15,16

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 20-30****“Atlas Court Alley Designation Act of 2013”**

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 20-250 on first and second readings June 26, 2013 and July 10, 2013 respectively. Following the signature of the Mayor on July 23, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 20-123 and was published in the August 2, 2013 edition of the D.C. Register (Vol. 60, page 11132). Act 20-123 was transmitted to Congress on August 2, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-123 is now D.C. Law 20-30, effective October 17, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Aug. 2,12

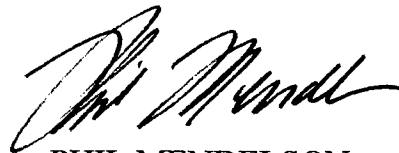
Sept. 6,9,10,11,12,13,16,17,18,19,20,23,24,25,26,27,30

Oct. 1,2,3,4,7,8,9,10,11,15,16

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 20-31****“Board of Elections Petition Circulation
Requirements Amendment Act of 2013”**

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 20-245 on first and second readings June 26, 2013 and July 10, 2013 respectively. Following the signature of the Mayor on July 30, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 20-134 and was published in the August 9, 2013 edition of the D.C. Register (Vol. 60, page 11535). Act 20-134 was transmitted to Congress on August 2, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-134 is now D.C. Law 20-31, effective October 17, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Aug. 2,12

Sept. 6,9,10,11,12,13,16,17,18,19,20,23,24,25,26,27,30

Oct. 1,2,3,4,7,8,9,10,11,15,16

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 20-32****“Dimitar Peshev Plaza Designation Act of 2013”**

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 20-69 on first and second readings June 26, 2013 and July 10, 2013 respectively. Following the signature of the Mayor on July 31, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 20-135 and was published in the August 16, 2013 edition of the D.C. Register (Vol. 60, page 11779). Act 20-135 was transmitted to Congress on August 2, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-135 is now D.C. Law 20-32, effective October 17, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Aug. 2,12

Sept. 6,9,10,11,12,13,16,17,18,19,20,23,24,25,26,27,30

Oct. 1,2,3,4,7,8,9,10,11,15,16

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 20-33****“Capitol Hill Business Improvement District Amendment Act of 2013”**

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 20-92 on first and second readings June 26, 2013 and July 10, 2013 respectively. Following the signature of the Mayor on July 31, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 20-136 and was published in the August 16, 2013 edition of the D.C. Register (Vol. 60, page 11781). Act 20-136 was transmitted to Congress on August 2, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-136 is now D.C. Law 20-33, effective October 17, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Aug. 2,12

Sept. 6,9,10,11,12,13,16,17,18,19,20,23,24,25,26,27,30

Oct. 1,2,3,4,7,8,9,10,11,15,16

ENROLLED ORIGINAL

AN ACT
D.C. ACT 20-198

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 17, 2013

To amend, on an emergency basis, the Department of Transportation Establishment Act of 2002 to create a separate fund for the deposit of fees for project review and mitigation measures by developers, property owners, and utility companies in connection with projects on private property or public space that may impact the District Department of Transportation's ("DDOT") ability to manage and maintain the transportation infrastructure in the District, to authorize expenditures from the fund, and to authorize the Director of the DDOT to enter into a payment agreement for services related to DDOT's review of proposed and existing projects.

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

Sec. 2. The Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code § 50-921.01 *et seq.*), is amended as follows:

(a) Section 3(f) (D.C. Official Code § 50-921.02(f)) is amended to read as follows:

"(f) The Director may enter into a payment agreement with the developer, person, property owner, utility company, federal government, and governmental jurisdiction for all services related to DDOT's reviews of proposed and existing projects on private property and public space and for mitigation measures, including bikeshare stations, to address a project's impact on DDOT's ability to manage and maintain the transportation infrastructure in the District."

(b) The second section 9f (D.C. Official Code 50-921.16) is redesignated as section 9h.

(c) A new section 9i is added to read as follows:

"Sec. 9i. Transportation Infrastructure Project Review Fund.

"(a) There is established as a special fund the Transportation Infrastructure Project Review Fund ("Fund"), which shall be administered by the Director of the DDOT in accordance with subsection (c) of this section.

"(b) The Fund shall consist of the revenue from the following sources:

"(1) Payments from an individual or entity, including a developer, property owner, utility company, the federal government, or another governmental jurisdiction, to review the individual or entity's plans for a proposed or existing project on private property or public space to determine the impact the project will have on DDOT's ability to manage and maintain the transportation infrastructure in the District; and

ENROLLED ORIGINAL

“(2) Payments for mitigation measures related to a proposed project on private property or public space to minimize the impact the project will have on DDOT’s ability to manage and maintain the transportation infrastructure in the District.

“(c) The Fund shall be used for the following purposes:

“(1) To fund reviews of projects on private property or public space that will affect DDOT’s ability to manage and maintain the transportation infrastructure in the District;

“(2) To fund mitigation measures, including traffic mitigation and bikeshare stations, related to projects on private property or public space that will affect DDOT’s ability to manage and maintain the transportation infrastructure in the District;

“(3) To fund studies on private property that could be affected by transportation infrastructure projects; and

“(4) To the extent not needed for the purposes set forth in paragraphs (1) through (3) of this subsection, for local transportation enhancement or local infrastructure projects.

“(d) The fees deposited into the Fund shall be separate from any funds paid for the temporary use of public space or the use of the public right of way, pursuant to the District of Columbia Public Space Rental Act, approved October 17, 1968 (82 Stat. 1156; D.C. Official Code § 10-1101.01 *et seq.*), and title VI of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997 (D.C. Law 11-198; D.C. Official Code § 10-1141.01 *et seq.*).

“(e)(1) The money deposited into the Fund, and any interest earned, shall not revert to the unrestricted fund balance of the General Fund at the end of a fiscal year, or at any other time.

“(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.”.

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.

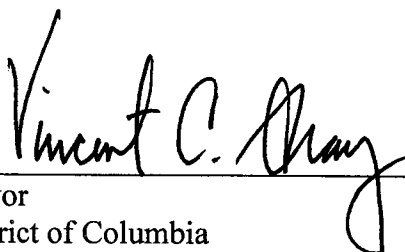
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

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
October 17, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-199

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 17, 2013

To amend, on an emergency basis, Chapter 28 of Title 47 of the District of Columbia Official Code to enable the Mayor to suspend or revoke the business licenses of any business engaged in the buying or selling of stolen items; and to amend section 16-1001.04 of the District of Columbia Municipal Regulations to include, in the account of each transaction by a junk dealer or secondhand dealer, information regarding the title of the good transacted.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Personal Property Robbery Prevention Second Emergency Amendment Act of 2013".

Sec. 2. Chapter 28 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-2837(d) is repealed.

(b) Section 47-2844 is amended as follows:

(1) Subsection (a) is amended by striking the phrase "The Council of the District of Columbia is" and inserting the phrase "The Council of the District of Columbia and Mayor are" in its place.

(2) New subsections (a-2) and (a-3) are added to read as follows:

"(a-2)(1) In addition to the provisions of subsection (a-1) of this section, the Mayor may, notwithstanding § 2-1801.04, take the following actions against any licensee, or agent or employee of a licensee, that with or without the appropriate license required under this chapter, engages in the purchase, sale, exchange, or any other form of a commercial transaction involving used goods or merchandise that are knowingly stolen:

"(A) The Mayor, for the first violation of this subsection:

"(i) Shall issue a civil infraction in the amount of \$2,500; and

"(ii) May seal the licensee's premises for up to 96 hours without a

prior hearing.

"(B) The Mayor, for the second violation of this subsection:

"(i) Shall issue a civil infraction fine in the amount of \$5,000;

ENROLLED ORIGINAL

“(ii) May seal the licensee’s premises for up to 96 hours without a prior hearing; and

“(iii)(I) Shall, within 30 days of the issuance of a civil infraction, require the licensee to submit a remediation plan approved by the Mayor, in consultation with the Chief of Police, that contains the licensee’s plan to prevent any future recurrence of purchasing, selling, exchanging, or otherwise transacting stolen goods and acknowledgement that a subsequent occurrence of engaging in prohibited activities may result in the revocation of all licenses issued to the licensee pursuant to this chapter.

“(II) If the licensee fails to submit a remediation plan in accordance with this sub-subparagraph, or if the Mayor rejects the licensee’s remediation plan, the Mayor shall provide written notice to the licensee of the Mayor’s intent to suspend all licenses issued to the licensee pursuant to this chapter for an additional 30 days.

“(C) The Mayor, for the third violation of this subsection:

“(i) Shall issue a civil infraction fine in the amount of \$10,000;

“(ii) May seal the licensee’s premises for up to 96 hours without a prior hearing; and

“(iii) Shall provide written notice to the licensee of the Mayor’s intent to permanently revoke all licenses issued to the licensee pursuant to this chapter.

“(2)(A) A violation of this subsection shall be a civil infraction for purposes of Chapter 18 of Title 2. Civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this subsection, or the rules issued under authority of this subsection, pursuant to Chapter 18 of Title 2.

“(B) Adjudication of any civil infractions issued pursuant to this subsection shall be pursuant to Chapter 18 of Title 2.

“(C) Summary action taken pursuant to this subsection shall be pursuant to subchapter 1 of Chapter 18 of Title 2.

“(3) In addition to other remedies provided by law, the Office of the Attorney General for the District of Columbia may commence an action in the Civil Branch of the Superior Court of the District of Columbia to compel compliance, abate, enjoin, or prevent violations of this subsection. Plaintiff need not prove irreparable injury or harm to obtain a preliminary or temporary injunction.

“(a-3) The term “knowingly” includes:

“(1) For the purposes of subsections (a-1) and (a-2) of this section, actual notice of a specific violation set forth in subsection (a-1) or (a-2) of this section to the licensee, or agent or employee of the licensee, issued by a District agency notifying the licensee, or agent or employee of the licensee, of the same or similar violation occurring on the licensee’s premises. Actual notice to the agent or employee of the licensee constitutes notice to the licensee for the purposes of this section; or

“(2) For the purpose of subsection (a-2) of this section, constructive notice to the licensee, or agent or employee of the licensee, resulting from the failure of the licensee, or agent or employee of the licensee, to ascertain the ownership of the used goods or merchandise.

ENROLLED ORIGINAL

Constructive notice to the agent or employee of the licensee constitutes notice to the licensee for the purposes of this section.”.

(3) Subsection (b) is amended by striking the phrase “the Council” and inserting the phrase “the Mayor” in its place.


Sec. 3. Section 16-1001.4(f) of the District of Columbia Municipal Regulations (16 DCMR §1001.4(f)) is amended by striking the phrase “purchase or receipt.” and inserting the phrase “purchase or receipt, including the title of the goods, article, or other thing purchased or received.” in its place.

Sec. 4. Fiscal impact statement.

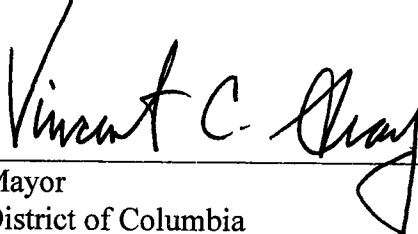
The Council adopts the fiscal impact statement in the committee report for the Personal Property Prevention Amendment Act of 2013, passed on 2nd reading on October 1, 2013 (Enrolled version of Bill 20-143), as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home 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 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
October 17, 2013

ENROLLED ORIGINAL

AN ACT
D.C. ACT 20-200

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 17, 2013

To approve, on an emergency basis, Delivery Order No. CW23328 under federal Contract No. SP0600-13-D-4016 to provide and deliver fuel to various District locations and to authorize payment for the goods received and to be received under that delivery order.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Delivery Order No. CW23328 under Federal Contract No. SP0600-13-D-4016 Approval and Payment Authorization Emergency Act of 2013".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Delivery Order No. CW23328 with Fannon Petroleum Services, Inc., to provide fuel and authorizes payment in the estimated amount of \$30,542,841.60, for goods received and to be received under that order.

Sec. 3. Fiscal impact statement.

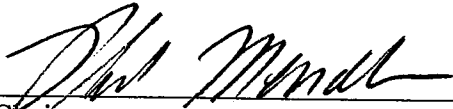
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

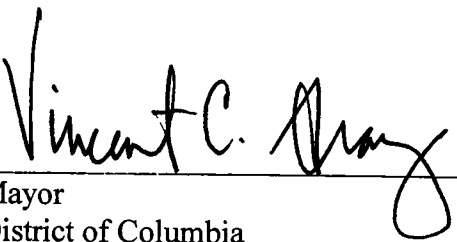
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

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
October 17, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-201

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 17, 2013

To approve, on an emergency basis, Modification No. 13 to Contract No. DCKA-2010-C-0219 with C&D Tree Planting Service, Inc. for tree planting services and to authorize payment for services received and to be received by the District Department of Transportation.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modification No. 13 to Contract No. DCKA-2010-C-0219 Approval and Payment Authorization Emergency Act of 2013".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification No. 13 to Contract No. DCKA-2010-C-0219 for tree planting services by C&D Tree Planting Service, Inc. to the District Department of Transportation and authorizes payment in the amount of \$2,123,489.00 for services received and to be received under this 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.

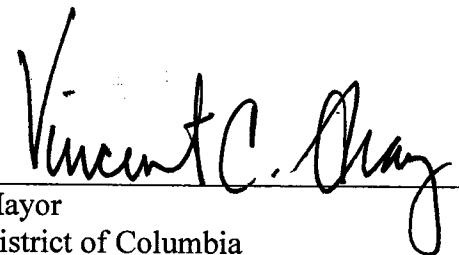
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

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
October 17, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-202

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 17, 2013

To approve, on an emergency basis, Change Orders No. FY13-002 through No. FY13-008 to Contract No. GM-10-S-0707B-FM between the District of Columbia government and Turner Construction Company for On-Call Small Capital Projects, and to authorize payment to Turner Construction Company in the aggregate amount of \$3,148,287.37 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. FY13-002 through No. FY13-008 to Contract GM-10-S-0707B-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. FY13-002 through No. FY13-008 to Contract No. GM-10-S-0707B-FM with Turner Construction Company for On-Call Small Capital Projects and authorizes payment in the aggregate amount of \$3,148,287.37 for the goods and services received and to be received under these change orders.

Sec. 3. Fiscal impact statement.

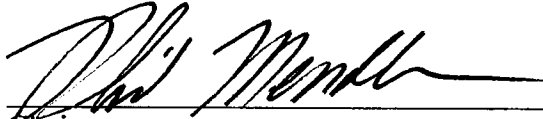
The Council adopts the fiscal statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

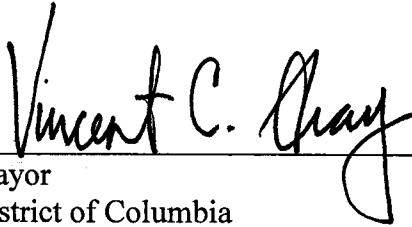
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

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
October 17, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-203

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 17, 2013

To amend, on an emergency basis, due to Congressional review, the School Transit Subsidy Act of 1978 to clarify the fare charged, if any, to students to travel to and from school.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "School Transit Subsidy Congressional Review Emergency Amendment Act of 2013".

Sec. 2. Section 2 of the School Transit Subsidy Act of 1978, effective March 6, 1979 (D.C. Law 2-152; D.C. Official Code § 35-233), is amended as follows:

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

"(a)(1) On regular school days, no student shall be charged a bus fare for regular route transportation within the District during peak and off-peak hours on the Metrobus Transit System and the DC Circulator.

"(2) The fare to be paid by a student on regular school days for regular route transportation during peak and off-peak hours on the Metrorail Transit System within the District shall be as follows:

"(A) \$30 dollars for a monthly pass; and

"(B) \$9.50 for a 10-trip rail pass.

"(3) The fares listed in paragraph (2) of this subsection shall be modified by the same percentage as future Washington Metropolitan Area Transit Authority fare increases or decreases, rounded to the nearest dime (\$.10)."

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

"(c) Reduced fares for students under this section on the Metrobus and Metrorail Transit Systems and the DC Circulator shall be available only to persons who are under 22 years of age and are:

"(1)(A) District residents; and

"(B) Currently enrolled in a regular course of instruction at an elementary or secondary public, parochial, or private school located in the District; or

"(2) Youth in the District's foster care system until they reach 21 years of age."

(c) A new subsection (g) is added to read as follows:

ENROLLED ORIGINAL

“(g) The District Department of Transportation shall have the authority to issue rules to implement the provisions of this act.”

Sec. 3. Section 10003 of the Fiscal Year 2014 Budget Support Act of 2013, signed by the Mayor on August 28, 2013 (D.C. Act 20-157; 60 DCR 12472), is repealed.

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.

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
October 17, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-204

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 17, 2013

To enact and amend, on an emergency basis, due to Congressional review, provisions of the law necessary to support the fiscal year 2014 budget.

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

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ENROLLED ORIGINAL

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ENROLLED ORIGINAL

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ENROLLED ORIGINAL

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- Subtitle EE. Internet Sales Tax, Homelessness Prevention, and WMATA Momentum Fund Establishment
- Subtitle FF. Age-in-Place and Equitable Senior-citizen Real Property and Relief Payment Plan
- Subtitle GG. Smoking Cessation Dedicated Funding Act
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TITLE VIII. CAPITAL BUDGET

- Subtitle A. Waterfront Park Bond
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TITLE IX. COUNCIL REPORTING REQUIREMENTS

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TITLE I. GOVERNMENT DIRECTION AND SUPPORT

SUBTITLE A. BONUS AND SPECIAL PAY

Sec. 1001. Short title.

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This subtitle may be cited as the "Bonus and Special Pay Limitation Congressional Review Emergency Act of 2013".

Sec. 1002. Bonus and special pay limitations.

(a) For fiscal year 2014, no funds may be used to support the categories of special awards pay or bonus pay; provided, that funds may be used to pay:

- (1) Retirement awards;
- (2) Hiring bonuses for difficult-to-fill positions;
- (3) Additional income allowances for difficult-to-fill positions;
- (4) Agency awards or bonuses funded by private grants or donations;
- (5) Safe driving awards;
- (6) Gainsharing incentives in the Department of Public Works;
- (6) Suggestion or invention awards; or
- (7) Any other award or bonus required by an existing contract or collective bargaining agreement that was entered into before the effective date of this subtitle.

(b) No special awards pay or bonus pay may be paid to a subordinate agency head or an assistant or deputy agency head unless required by an existing contract that was entered into before the effective date of this subtitle.

(c) Notwithstanding any other provision of law, no restrictions on the use of funds to support the categories of special awards pay (comptroller subcategory 0137) or bonus pay (comptroller subcategory 0138) shall apply in fiscal year 2014 to employees of the District of Columbia Public Schools who are based at a local school or who provide direct services to individual students.

SUBTITLE B. INNOVATION FUND ESTABLISHMENT

Sec. 1011. Short title.

This subtitle may be cited as the "Innovation Fund Establishment Congressional Review Emergency Act of 2013".

Sec. 1012. Definitions.

For the purposes of this subtitle, the term:

- (1) "Fund" means the Innovation Fund established in section 1013.
- (2) "Grant-managing entity" means the Community Foundation for the National Capital Region pursuant to section 1016.

Sec. 1013. Innovation Fund.

(a) There is established a Innovation Fund ("Fund") to provide subgrants to nonprofit organizations in education, job training, health, services for seniors, arts, public safety, and the environment.

(b) The Mayor shall make a grant to a single grant-managing entity of which at least 94% shall be used to make subgrants for the purpose of promoting a growing economy, educational

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improvement, increasing sustainability, and improving the quality of life for all residents. The remaining 6% shall be utilized for administrative expenses and evaluation of the Fund.

(c) The Fund is designed to provide subgrants to nonprofits in education, job training, health, services for seniors, arts, public safety, and the environment. The funds shall be available for conveyance to a grant-managing entity for the purposes identified in subsection (b) of this section.

(d) Subgrants shall be awarded, subject to the availability of funding, as follows:

- (1) All subgrants shall be awarded on a competitive basis;
- (2) The subgrants shall not exceed \$100,000 per year;
- (3) Capacity-building subgrants are one-time and can be carried over for a maximum of 3 years;
- (4) Program-development subgrants are limited to a maximum of 3 years and contingent on first-year grant outcomes;
- (5) The subgrant funds shall be used exclusively to serve District of Columbia residents;
- (6) Independent review panels shall be used as part of the subgrant selection process; and
- (7) All subgrants shall be subject to District transparency requirements, such as Freedom of Information Act requests.

(e) The Fund shall be administered pursuant to the requirements set forth in the Grant Administration Congressional Review Emergency Act of 2013, passed on emergency basis on October 1, 2013 (Enrolled version of Bill 20-199).

Sec. 1014. Required information before approval.

(a) To be eligible to receive a subgrant from the grant-managing entity pursuant to section 1013, a subgrantee shall submit the following required documentation to the grant-managing entity as well as any additional information required by the grant-managing entity:

(1) Internal Revenue Service certification that the organization is tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));

(2)(A) The organization's most recent financial audit, not more than 2 years old;

or

(B) A recent financial statement, not more than one year old, prepared by a certified accountant that shows that the organization is in good financial standing and which delineates its:

- (i) Existing assets and liabilities;
 - (ii) Pending lawsuits, if any; and
 - (iii) Pending and final judgments, if any;
- (3) Internal Revenue Service Form 990 covering the organization's most recently completed fiscal year;
- (4) A notarized statement from the subgrantee certifying that:

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- (A) The organization is current on District and federal taxes;
- (B) The grant-managing entity is authorized to verify the organization's tax status with the Office of Tax and Revenue and the Office of Tax and Revenue is authorized to release this information to the grant-managing entity;
- (C) The grant-managing entity shall have access to the subgrantee's financial, administrative, and operational records, including specific consent for the grant-managing entity to access its books, accounts, records, findings, and documents related to the subgrant; and
- (D) The subgrantee is registered with the Department of Consumer and Regulatory Affairs; and
- (5) A comprehensive program statement that includes a detailed:
 - (A) Scope of work; and
 - (B) Budget that describes how the subgrant funds shall be spent.

Sec. 1015. Reporting requirements.

Beginning January 2, 2015, the grant-managing entity shall submit an annual report to the Mayor and the Council of all District funds allocated, which includes:

- (1) Detailed subgrantee data;
- (2) Performance measures and performance outcomes under each subgrant;
- (3) The specific services provided under each subgrant;
- (4) The entity providing the services, if one other than the subgrantee;
- (5) The time period of delivery of the services;
- (6) The type of service provided;
- (7) The actual amount paid for the services; and
- (8) The amount of other expenditures under the subgrant, if any.

Sec. 1016. Authorization for grant-managing entity.

For fiscal years 2014, 2015, and 2016, the Community Foundation for the National Capital Region ("Community Foundation") is designated as the grant-managing entity. The Community Foundation shall be required to enter into a Memorandum of Understanding ("MOU") with the District of Columbia government. The MOU shall set forth certain administrative requirements for the Community Foundation to abide by when it obtains District funds and awards subgrants involving District funds, and will clarify and reaffirm the Community Foundation's responsibility and obligation with respect to District funds, including the monitoring of the use of District funds.

Sec. 1017. Limitation on duplicative projects.

(a) The grant-managing entity shall take steps to avoid awarding subgrants to a nonprofit that has been awarded or is being awarded funds from the DC Children and Youth Investment Trust Corporation ("Trust") for the same or similar program purposes for which it is applying for funding from the Fund.

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(b) Within 30 days after the effective date of the MOU, the grant-managing entity shall provide to the Mayor, or his or her designee, and the Council, a plan that sets forth procedures for avoiding the award of duplicative funds from the Trust and the Fund.

SUBTITLE C. DEPARTMENT OF GENERAL SERVICES PROTECTIVE SERVICES DIVISION

Sec. 1021. Short title.

This subtitle may be cited as the "Department of General Services Protective Services Division Congressional Review Emergency Amendment Act of 2013".

Sec. 1022. Section 1023(6) of the Department of General Services Establishment Act of 2011, effective September 14, 2011 (D.C. Law 19-21; D.C. Official Code § 10-551.02(6)), is amended to read as follows:

"(6) Protective Services Division, which shall coordinate, manage, and provide security services for District government facilities through the use of special police officers and security officers, as defined in § 47-2839.01, civilian employees, or contractors."

SUBTITLE D. CAPTIVE INSURANCE

Sec. 1031. Short title.

This subtitle may be cited as the "Captive Insurance Congressional Review Emergency Amendment Act of 2013".

Sec. 1032. The District of Columbia Medical Liability Captive Insurance Agency Establishment Act of 2008, effective July 18, 2008 (D.C. Law 17-196; D.C. Official Code § 1-307.81 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 1-307.81) is amended as follows:

(1) Paragraph (2) is amended by striking the phrase "District of Columbia Medical Liability Captive Insurance Agency" and inserting the phrase "Captive Insurance Agency" in its place.

(2) A new paragraph (2A) is added to read as follows:

"(2A) "Act of terrorism" shall have the same meaning as provided in section 102(1) of the Omnibus Anti-Terrorism Act of 2002, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 22-3152(1))."

(3) A new paragraph (4A) is added to read as follows:

"(4A) "District real property asset" means improved real property owned by the District and includes all structures of a permanent character erected on or affixed to the property."

(4) Paragraph (5) is amended by striking the phrase "Medical Liability Captive" both places it appears and inserting the phrase "Captive" in its place.

(5) A new paragraph (8A) is added to read as follows:

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"(8A) "Medical malpractice" means professional negligence by act or omission by a health care provider in which the treatment provided falls below the accepted standard of practice in the medical community and causes injury or death to the patient, with most cases involving medical error."

(6) A new paragraph (9A) is added to read as follows:

"(9A) "Property insurance" means an insurance policy that protects against most risks to property such as earthquakes, floods, acts of terrorism, fires, boiler or machinery failures, business interruptions, pollution, fidelity, builders risk, debris removal, and weather damage."

(b) Section 3 (D.C. Official Code § 1-307.82) is amended to read as follows:

"Sec. 3. Establishment of the Captive Insurance Agency.

"(a) There is established, as a subordinate agency, the Captive Insurance Agency.

"(b) The purpose of the Agency is to:

"(1) Provide medical malpractice liability insurance policies for health centers, including coverage for the staff, contractors, and volunteer service providers for the services provided at the health centers; and

"(2) Provide property insurance for District real property assets.

"(c) The liability of the Agency for medical malpractice liability and property insurance policies shall be limited to the funds in the Captive Trust Fund."

(c) Section 4(a) (D.C. Official Code § 1-307.83(a)) is amended follows:

(1) Paragraph (1) is amended to read as follows:

"(1) By delegation from the Mayor, to exercise procurement authority as is necessary or proper to carry out the provisions and purposes of this act, including contract oversight and contracting with:

"(A) Other insurance companies, captives, risk pools, re-insurers, and other similar entities;

"(B) Similar captives of other states, municipalities, or counties for the joint performance of common administrative functions; and

"(C) Persons or other entities for the performance of organizational, management, or administrative functions;"

(2) A new paragraph (4A) is added to read as follows:

"(4A) Obtain and issue policies of property insurance, in accordance with the requirements of the plan of operation under section 8;"

(d) Section 6 (D.C. Official Code § 1-307.85) is amended as follows:

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

"(b) The Advisory Council shall consist of 7 members appointed by the Risk Officer. One member shall represent the District of Columbia Primary Care Association, 2 members shall represent District health centers, 2 members shall have expertise in general property insurance and re-insurance, and 2 members shall have general insurance expertise, whether medical malpractice or general property insurance."

(2) Subsection (i) is amended as follows:

(A) Paragraph (2) is amended by striking the word "and" at the end.

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(B) A new paragraph (2A) is added to read as follows:

"(2A) Assess the needs and interests of the District with respect to obtaining property insurance through the Agency; and".

(e) Section 7(b) (D.C. Official Code § 1-307.86(b)) is amended by striking the phrase "March 2" and inserting the phrase "December 15" in its place.

(f) Section 8(b) (D.C. Official Code § 1-307.87(b)) is amended by adding a new paragraph (4A) to read as follows:

"(4A) Establish procedures for the offering of property insurance for District real property assets;".

(g) Section 11 (D.C. Official Code § 1-307.90) is amended to read as follows:

"Sec. 11. Coverage.

"(a) The Agency shall offer:

"(1) Health centers medical malpractice insurance that is consistent with coverage offered in the market; and

"(2) Property insurance for the benefit of the District for District real property assets consistent with coverage offered in the market.

"(b) The insurance policies and coverage offered pursuant to this act shall be established by the Risk Officer with the advice of the Advisory Council and subject to the approval of the Commissioner.

"(c) Any policy offered by the Agency shall state that the liability of the Agency shall be limited to the funds in the Captive Trust Fund."

(h) Section 12(a) (D.C. Official Code § 1-307.91(a)) is amended by striking the phrase "Medical Liability Captive" and inserting the word "Captive" in its place.

(i) A new section 16a is added to read as follows:

"Sec. 16a. Short title.

"This act may be cited as the "Captive Insurance Agency Establishment Act of 2008".

SUBTITLE E. TECHNOLOGY SERVICES SUPPORT

Sec. 1041. Short title.

This subtitle may be cited as the "Technology Services Support Congressional Review Emergency Amendment Act of 2013".

Sec. 1042. The Technology Services Support Act of 2007, effective September 18, 2007 (D.C. Law 17-20; D.C. Official Code § 1-1431 *et seq.*), is amended as follows:

(a) Section 1002 (D.C. Official Code § 1-1431) is amended by repealing paragraphs (1), (2), (5), and (6).

(b) Section 1004 (D.C. Official Code § 1-1433) is amended to read as follows:

"Sec. 1004. Technology Infrastructure Services Support Fund.

"(a) There is established as a special fund the Technology Infrastructure Services Support Fund ("Fund"), which shall be administered by the Chief Technology Officer in accordance with subsection (c) of this section.

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"(b) The Fund shall consist of the revenue from payments by independent District government agencies and federal agencies for services provided by the Office of the Chief Technology Officer in accordance with subsection (c) of this section.

"(c) The Fund shall be used solely to defray operational costs of programs of the Office of the Chief Technology Officer, other than the DC-Net program, that the Chief Technology Officer shall designate based on the use of such programs to provide services to independent agencies of the District and agencies of the federal government.

"(d)(1) The money deposited into the Fund, and interest earned, 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.

"(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation."

SUBTITLE F. EASTERN MARKET JURISDICTION CLARIFICATION

Sec. 1051. Short title.

This subtitle may be cited as the "Eastern Market Jurisdiction Clarification Congressional Review Emergency Amendment Act of 2013".

Sec. 1052. The Eastern Market Real Property Asset Management and Outdoor Vending Act of 1998, effective April 16, 1999 (D.C. Law 12-228; D.C. Official Code § 37-101 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 37-101) is amended as follows:

(1) Paragraph (12) is amended to read as follows:

"(12) "Eastern Market Special Use Area" means:

"(A) Eastern Market Square, including the North Hall Plaza;

"(B) The Capitol Hill Natatorium Plaza;

"(C) The playground and parking lot of Hine Junior High School, as of the effective date of the Eastern Market Jurisdiction Clarification Amendment Act of 2013, signed by the Mayor on August 28, 2013 (D.C. Act 20-157; 60 DCR 12472), until commencement of construction with respect to new development on the Hine Junior High School site;

"(D) 7th Street, S.E., between North Carolina Avenue, S.E., and Pennsylvania Avenue, S.E., including the area between the curb and near edge of the sidewalk on both the east and west sides of the street and excluding the area between the property line and far edge of the sidewalk on both sides of the street;

"(E) The new C Street, S.E., to be constructed between 7th and 8th Streets, S.E., including the area between the curb and near edge of the sidewalk on both the north and south sides of the street and excluding the area between the property line and the far edge of the sidewalk on both sides of the street; and

"(F) Other privately owned or controlled lands or buildings that are directly adjacent to the area defined in subparagraphs (A), (B), (C), and (D) of this paragraph, each being subject to a lease or management agreement between the market manager and such

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owner or controlling entity, and for durations and under conditions defined in the lease or management agreements."

(2) Paragraph (21) is amended to read as follows:

"(21) "Market manager" means a person or persons, having experience relevant to operating an historic urban fresh food or farmers' market, employed to provide unified and coordinated management for the Eastern Market Special Use Area."

SUBTITLE G. COMMUNITY AFFAIRS GRANT-MAKING AUTHORITY

Sec. 1061. Short title.

This subtitle may be cited as the "Community Affairs Grant-Making Authority Authorization Congressional Review Emergency Amendment Act of 2013".

Sec. 1062. Section 303(10) of the District of Columbia Latino Community Development Act, effective September 29, 1976 (D.C. Law 1-86; D.C. Official Code § 2-1313(10)), is amended by striking the word "act" and inserting the phrase "act; provided, that grants shall be administered pursuant to the requirements set forth in the Grant Administration Congressional Review Emergency Act of 2013, passed on emergency basis on October 1, 2013 (Enrolled version of Bill 20-496)" in its place.

Sec. 1063. Section 304(c)(9) of the Office on Asian and Pacific Islander Affairs Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 2-1373(c)(9)), is amended by striking the word "act" and inserting the phrase "act; provided, that grants shall be administered pursuant to the requirements set forth in the Grant Administration Congressional Review Emergency Act of 2013, passed on emergency basis on October 1, 2013 (Enrolled version of Bill 20-496)" in its place.

Sec. 1064. Section 3 of the Office and Commission on African Affairs Act of 2006, effective June 8, 2006 (D.C. Law 16-111; D.C. Official Code § 2-1392), is amended as follows:

(a) Paragraph (8) is amended by striking the word "and" at the end.

(b) Paragraph (9) is amended by striking the period at the end and inserting the phrase "; and" in its place.

(c) A new paragraph (10) is added to read as follows:

"(10) Issue grants to organizations that provide services to African residents of the District in furtherance of the mission of the Office or the purposes of this act; provided, that grants shall be administered pursuant to the requirements set forth in the Grant Administration Congressional Review Emergency Act of 2013, passed on emergency basis on October 1, 2013 (Enrolled version of Bill 20-496)."

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SUBTITLE H. DISTRICT OF COLUMBIA GOVERNMENT COMPREHENSIVE MERIT PERSONNEL

Sec. 1071. Short title.

This subtitle may be cited as the "District of Columbia Government Comprehensive Merit Personnel Congressional Review Emergency Amendment Act of 2013".

Sec. 1072. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) Section 909(a) (D.C. Official Code § 1-609.03(a)) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase “, no more than 2 of whom may be appointed or detailed to a single agency, other than the Executive Office of the Mayor or the Office of the City Administrator”.

(2) Paragraph (9) is amended by striking the number “6” and inserting the number “10” in its place.

(b) Section 1052 (D.C. Official Code § 1-610.52) is amended by added a new subsection (b-1) to read as follows:

"(b-1) Notwithstanding subsections (a) and (b) of this section, the compensation of the Chief Medical Examiner ("CME") shall not exceed \$253,000 unless approved by an act of the Council. The level of compensation as provided in this subsection shall be the total annual salary amount that the CME may receive. The CME may not receive longevity pay, bonus pay, including performance bonus pay, retention pay, per annum percentage increases for cost-of-living purposes or due to any collective bargaining activity within the agency, or any equivalent financial incentives or salary enhancements."

SUBTITLE I. DISTRICT OF COLUMBIA UNIFORM LAW COMMISSION

Sec. 1081. Short title.

This subtitle may be cited as the "District of Columbia Uniform Law Commission Congressional Review Emergency Amendment Act of 2013".

Sec. 1082. Section 4(b) of the District of Columbia Uniform Law Commission Act of 2010, effective March 12, 2011 (D.C. Law 18-313; D.C. Official Code § 3-1433(b)), is amended by adding a new paragraph (3) to read as follows:

"(3) The District may expend funds necessary to cover the costs of commissioners' attendance at the annual meeting as required under paragraph (1) of this subsection, the annual dues for the NCCUSL, and any other expenses as required."

SUBTITLE J. GRANT ADMINISTRATION

Sec. 1091. Short title.

This subtitle may be cited as the "Grant Administration Congressional Review Emergency Act of 2013".

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Sec. 1092. Definitions.

For the purposes of this subtitle, the term:

- (1) "Grant program" means the management or administration by a grantor of grant-making or grant-issuing authority as covered by this subtitle.
- (2) "Grantee" means the person that receives funds under a grant program.
- (3) "Grantor" means a District agency, board, commission, instrumentality, or program designated by law as the grant-managing entity for a grant program.

Sec. 1093. Applicability of requirements on grants.

Notwithstanding any other provision of law, and except where the law establishing authority for the grant exempts or modifies the requirements of this subtitle by specific reference, any grant-making or grant-issuing authority established under the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013, passed on emergency basis on October 1, 2013 (Enrolled version of Bill 20-496), shall be administered pursuant to the requirements of this subtitle.

Sec. 1094. Requirements for award of grants.

- (a) Any grant of \$50,000 or more that is made pursuant to an authority described in section 1093 shall be awarded on a competitive basis and solely for the purpose or purposes identified in the statute establishing the grant-making or grant-issuing authority.
- (b) Before providing notice of the availability of grant funds as required by subsection (c) of this section, a grantor shall establish criteria or standards for the selection of a grantee or grantees under the grant program, and shall set priorities among those criteria or standards.
- (c) A grantor shall publish notice in the District of Columbia Register for a minimum of 14 days in advance of making or issuing a grant of the following:
 - (1) A detailed description of the availability of grant funds, including the amount, the number of likely grant awards to be made, and any limitations or requirements on the use of such grant funds;
 - (2) Eligibility requirements for receiving funds under the grant program, including the requirements in section 1095;
 - (3) Selection criteria for the awarding of funds under the grant program;
 - (4) A description of the application process under the grant program, including the date after which applications will no longer be received; and
 - (5) The date that final determination of grant awards will be made.

Sec. 1095. Requirements for administration of grant programs.

A grantor administering a grant program covered by this subtitle shall:

- (1) Within 30 days from the closing date of the grant application process, provide notification to all applicants of the acceptance or rejection of their applications for the grant funds; and

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(2)(A) Maintain records of any written communications as well as a description of any other communications, including telephonic or face-to-face communications, between the grantor and any District government official or staff regarding:

- (i) The development of the selection criteria or eligibility requirements;
- (ii) Selection by the grantor of a grantee; or
- (iii) Issues with a grantee's compliance with grant-program requirements.

(B) Records required under this paragraph shall be provided, upon request, within a reasonable time, to the Mayor, or his or her designee, or to a member of the Council.

Sec. 1096. Eligibility requirements for receiving grants.

In addition to any other eligibility requirements provided under the enabling statute of the grant program, to be eligible to receive funds under a grant program covered by this subtitle, an individual or entity must be current on all taxes and liabilities owed to the District, or have a plan to resolve such taxes and liabilities that is satisfactory to the grantor.

Sec. 1097. Reporting requirements.

Beginning in 2014, a grantor managing a grant program covered by this subtitle shall submit a report to the Mayor and the Council by November 1 of each year containing the following information:

- (1) All funds allocated pursuant to a grant program in the previous fiscal year;
- (2) The type of services and a timeline for delivery of services for the grant; and
- (3) Performance measures and performance outcomes for each grant issued during the previous fiscal year.

SUBTITLE K. DISCRETIONARY FUNDS RENAMING

Sec. 1101. Short title.

This subtitle may be cited as the "Discretionary Fund Renaming Congressional Review Emergency Amendment Act of 2013".

Sec. 1102. Section 26 of An Act To authorize certain programs and activities of the government of the District of Columbia, and for other purposes, approved October 26, 1973 (87 Stat. 509; D.C. Official Code § 1-333.10), is amended by adding a new subsection (c) to read as follows:

"(c) This section may be cited as the "Discretionary Funds Act of 1973"."

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TITLE II. ECONOMIC DEVELOPMENT AND REGULATION**SUBTITLE A. DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT LIMITED GRANT-MAKING AUTHORITY**

Sec. 2001. Short title.

This subtitle may be cited as the "Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Congressional Review Emergency Amendment Act of 2013".

Sec. 2002. The Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Act of 2012, effective September 20, 2012 (D.C. Law 19-168; codified in scattered cites in the D.C. Official Code), is amended as follows:

(a) Section 2032 (D.C. Official Code § 1-328.04) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (2) is amended by striking the phrase "project;" and inserting the phrase "project; and" in its place.

(B) Paragraph (3) is repealed.

(2) A new subsection (b-1) is added to read as follows:

"(b-1)(1) The Deputy Mayor may make grants for fiscal year 2014 as follows:

"(A) An amount of \$100,000 for sector consultants;

"(B) An amount of \$350,000 for local business promotion;

"(C) An amount of \$75,000 for regional economic development; and

"(D) An amount of \$50,000 for increasing access to financial services and products to unbanked and under-banked residents.

"(2) Grants made pursuant to this subsection shall be administered pursuant to the requirements set forth in the Grant Administration Congressional Review Emergency Act of 2013, passed on emergency basis on October 1, 2013 (Enrolled version of Bill 20-496)."

(b) Section 2033 (D.C. Official Code § 1-325.211) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "Deputy Mayor for Planning and Economic Development" and inserting the phrase "Commission on Arts and Humanities" in its place.

(2) Subsection (b)(1) is amended as follows:

(A) Subparagraph (A) is amended by striking the word "and".

(B) Subparagraph (B) is amended by striking the period and inserting the phrase "; and" in its place.

(C) A new subparagraph (C) is added to read as follows:

"(C) An annual appropriation of \$107,000."

(3) A new subsection (d) is added to read as follows:

"(d) The Commission on Arts and Humanities is authorized to make grants for the purposes described in this section. Grants made under this section shall be administered pursuant

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to the requirements set forth in the Grant Administration Congressional Review Emergency Act of 2013, passed on emergency basis on October 1, 2013 (Enrolled version of Bill 20-496)."

Sec. 2003. Section 5 of the Commission on Arts and Humanities Act, effective October 21, 1975 (D.C. Law 1-22; D.C. Official Code § 39-204), is amended as follows:

(a) A new paragraph (3A) is added to read as follows:

"(3A) Make grants to neighborhood or civic associations for the purpose of providing funds for parades, festivals, and any other celebrations sponsored by a neighborhood or civic association in accordance with section 2033(c) and (d) 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(c) and (d))."

(b) Paragraph (5)(C) is amended by striking the phrase "in the Fund" and inserting the phrase "in the Fund or in the Neighborhood Parade and Festival Fund, established by 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), if the donation, gift, or grant is designated to be used for a parade, festival, or any other celebration sponsored by a neighborhood or civic association" in its place.

SUBTITLE B. WORKFORCE INVESTMENT COUNCIL AND WORKFORCE INTERMEDIARY GRANT-MAKING AUTHORITY

Sec. 2011. Short title.

This subtitle may be cited as the "Workforce Investment Council and Workforce Intermediary Grant -Making Authority Congressional Review Emergency Amendment Act of 2013".

Sec. 2012. Section 4 of the Workforce Investment Implementation Act of 2000, effective July 18, 2000 (D.C. Law 13-150; D.C. Official Code § 32-1603), is amended by adding new subsections (c) and (d) to read as follows:

"(c) The Council shall have grant-making authority for the purpose of providing competitive grants under the authority granted to the Council by this act; provided, that grants shall be administered pursuant to the requirements set forth in the Grant Administration Congressional Review Emergency Act of 2013, passed on emergency basis on October 1, 2013 (Enrolled version of Bill 20-496).

"(d) The Council shall have grant-making authority for the purpose of providing competitive grants based on the recommendations of the Workforce Intermediary Task Force, made pursuant to the Workforce Intermediary Task Force Establishment Temporary Act of 2011, effective December 2, 2011 (D.C. Law 19-55; 58 DCR 8962), and approved by the Council in the Workforce Intermediary Task Force Recommendations Emergency Approval Resolution of 2012, effective June 5, 2012 (Res. 19-454; 59 DCR 7454); provided, that grants shall be administered pursuant to the requirements set forth in the Grant Administration Congressional

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Review Emergency Act of 2013, passed on emergency basis on October 1, 2013 (Enrolled version of Bill 20-496)."

SUBTITLE C. UNEMPLOYMENT COMPENSATION ANTI-FRAUD FEDERAL CONFORMITY

Sec. 2021. Short title.

This subtitle may be cited as the "Unemployment Compensation Anti-Fraud Federal Conformity Congressional Review Emergency Amendment Act of 2013".

Sec. 2022. Section 19(e) of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 956; D.C. Official Code § 51-119(e)), is amended by adding a new paragraph (3) to read as follows:

"(3) Beginning on October 1, 2013, at the time the Director determines an erroneous payment was made to an individual due to fraud committed by such individual, the Director shall assess a penalty on the individual in an amount of 15% of the amount of the erroneous payment. Penalties paid pursuant to this paragraph shall be deposited in the District Unemployment Fund, established by section 2. The penalty assessed by this paragraph shall not be deducted from any future benefits payable to claimant under this act."

SUBTITLE D. UNEMPLOYMENT COMPENSATION PENALTY REDUCTION

Sec. 2031. Short title.

This subtitle may be cited as the "Unemployment Compensation Penalty Reduction Congressional Review Emergency Amendment Act of 2013".

Sec. 2032. Section 4(c)(2) of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 948; D.C. Official Code § 51-104(c)(2)), is amended by striking the number "25" and inserting the number "10" in its place.

SUBTITLE E. UNEMPLOYMENT COMPENSATION BENEFITS CHANGES FEDERAL CONFORMITY

Sec. 2041. Short title.

This subtitle may be cited as the "Unemployment Compensation Benefit Charges Federal Conformity Congressional Review Emergency Amendment Act of 2013".

Sec. 2042. Section 3(c)(2) of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 947; D.C. Official Code § 51-103(c)(2)), is amended by adding a new subparagraph (F) to read as follows:

"(F) Commencing with overpayments of benefits established after September 30, 2013, no employer shall be relieved of benefit charges for payments made from the District Unemployment Fund if the charges resulted from benefit payments made because the employer or the employer's agent was at fault for failing to respond timely or adequately to the

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request of the Director for information relating to the claim for benefits and the employer or agent has established a pattern of failing to respond timely or adequately to such requests unless the Director finds such failure was for good cause."

**SUBTITLE F. WORKERS' COMPENSATION AVERAGE WEEKLY WAGE
CALCULATION ALIGNMENT**

Sec. 2051. Short title.

This subtitle may be cited as the "Workers' Compensation Average Weekly Wage Calculation Alignment Congressional Review Emergency Amendment Act of 2013".

Sec. 2052. Section 6(d) of the District of Columbia Workers' Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D. C. Official Code § 32-1505(d)), is amended to read as follows:

"(d) For the purposes of this section, the average weekly wage of insured employees in the District shall be determined by the Mayor as follows:

"(1) For the calendar year 2013, the average weekly wage rate is set at \$1,416.00.

"(2) For years commencing after January 1, 2013, on or before November 1st of each preceding year, the total wages reported on contribution reports for employees, excluding employees of the District government and the United States government, to the Department of Employment Services for the year ending on the preceding June 30th shall be divided by the average number of such employees (determined by dividing the sum of total employees reported in each quarter for the preceding year, excluding employees of the District government and the United States government, by 4). The average annual wage thus obtained shall be divided by 52 and the average weekly wage thus determined rounded to the nearest cent. The average weekly wage as so determined shall be applicable for the year beginning the following January 1".

SUBTITLE G. WAGE THEFT PREVENTION

Sec. 2061. Short title.

This subtitle may be cited as the "Wage Theft Prevention Congressional Review Emergency Amendment Act of 2013".

Sec. 2062. An Act To provide for the payment and collection of wages in the District of Columbia, approved August 3, 1956 (70 Stat. 976; D.C. Official Code § 32-1301 *et seq.*), is amended as follows:

(a) Section 1(3) (D.C. Official Code § 32-1301(3)) is amended to read as follows:

"(3) "Wages" means all monetary compensation after lawful deductions, owed by an employer, whether the amount owed is determined on a time, task, piece, commission, or other basis of calculation. The term "wages" includes a:

"(A) Bonus;

"(B) Commission;

"(C) Fringe benefits paid in cash;

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"(D) Overtime premium; and

"(E) Other remuneration promised or owed:

"(i) Pursuant to a contract for employment, whether written or oral;

"(ii) Pursuant to a contract between an employer and another

person or entity; or

"(iii) Pursuant to District or federal law.".

(b) Section 3(4) (D.C. Official Code § 32-1303(4)) is amended by striking the phrase "equal to the unpaid wages" and inserting the phrase "equal to treble the unpaid wages" in its place.

(c) Section 5 (D.C. Official Code § 32-1305) is amended as follows:

(1) The existing language is designated as subsection (a).

(2) A new subsection (b) is added to read as follows:

"(b) In enforcing the provisions of this act, the remuneration promised by an employer to an employee shall be presumed to be at least the amount required by federal law, including federal law requiring the payment of prevailing wages, or by District law.".

(d) Section 6(a) (D.C. Official Code § 32-1306(a)) is amended as follows:

(1) Strike the phrase "for penalties" and insert the phrase "for the payment of wages, liquidated damages, and penalties" in its place.

(2) A new sentence is added to the end to read as follows: "The Mayor shall inform any employee affected by a prosecution brought under this section of the proceedings of the prosecution and shall consult with the employee concerning appropriate restitution and damages.".

Sec. 2063. Section 13(f) of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1012(f)), is amended by striking the phrase "wages owed" and inserting the phrase "wages and liquidated damages owed" in its place.

Sec. 2064. Section 108 of the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code § 2-220.08), is amended as follows:

(a) Strike the phrase "wages required" and insert the phrase "wages, enforcement of non-payment, and penalties and remedies for non-payment required" in its place.

(b) A new sentence is added to the end to read as follows: "Failure to pay wages in conformance with this act shall constitute unpaid wages and shall subject the violator to all procedures, liquidated damages and penalties, and any other remedies or relief applicable under An Act To provide for the payment and collection of wages in the District of Columbia, approved August 3, 1956 (70 Stat. 976; D.C. Official Code § 32-1301 *et seq.*)".

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SUBTITLE H. HOUSING PRODUCTION TRUST FUND REVENUE DEDICATION

Sec. 2071. Short title.

This subtitle may be cited as the "Housing Production Trust Fund Revenue Dedication Congressional Review Emergency Amendment Act of 2013".

Sec. 2072. Section 2072 of the Fiscal Year 2013 Budget Support Act of 2012, effective September 20, 2012 (D.C. Law 19-168; 59 DCR 8025), is repealed.

SUBTITLE I. SENIOR HOUSING MODERNIZATION GRANT FUND

Sec. 2081. Short title.

This subtitle may be cited as the "Senior Housing Modernization Grant Fund Congressional Review Emergency Amendment Act of 2013".

Sec. 2082. The Senior Housing Modernization Grant Fund Act of 2010, effective August 12, 2010 (D.C. Law 18-218; D.C. Official Code § 1-325.161 *et seq.*), is amended as follows:

(a) Section 2(1) (D.C. Official Code § 1-325.161(1)) is amended to read as follows:

"(1) "Director" means the Director of the Department of Housing and Community Development."

(b) Section 3(b) (D.C. Official Code § 1-325.162(b)) is amended as follows:

(1) Strike the phrase "Deputy Mayor" and insert the word "Director" in its place.

(2) Strike the phrase "\$5,000" and insert the phrase "\$20,000" in its place.

(3) Add the following sentence at the end: "Administration of grants from the Fund shall be exempt from the requirements set forth in the Grant Administration Congressional Review Emergency Act of 2013, passed on emergency basis on October 1, 2013 (Enrolled version of Bill 20-496)."

(c) Section 4 (D.C. Official Code 1-325.163) is amended as follows:

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

"(a) An applicant is eligible for a grant if the applicant is a qualified senior citizen; provided, that the Director shall give priority consideration to lower-income applicants."

(2) Strike the phrase "Deputy Mayor" wherever it appears and insert the word "Director" in its place.

(d) Section 5 (D.C. Official Code § 1-325.164) is amended by striking the phrase "provisions of this act" and inserting the phrase "provisions of this act within 60 days of the effective date of the Senior Housing Modernization Grant Fund Congressional Review Emergency Amendment Act of 2013, passed on emergency basis on October 1, 2013 (Enrolled version of Bill 20-496)" in its place.

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SUBTITLE J. LOCAL RENT SUPPLEMENT SUSTAINMENT

Sec. 2091. Short title.

This subtitle may be cited as the "Local Rent Supplement Sustainment Congressional Review Emergency Amendment Act of 2013".

Sec. 2092. The Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-751.01 *et seq.*), is amended by adding a new section 8c to read as follows:

"Sec. 8c. Placement of first-priority homeless families.

"(a) When funds which have been allocated for tenant-based assistance under section 26c of the District of Columbia Housing Authority Act of 1999, effective March 2, 2007 (D.C. Law 16-192; D.C. Official Code § 6-228), are made available because a family which has been receiving tenant-based assistance no longer requires or has become ineligible for the assistance, the Mayor and the District of Columbia Housing Authority shall use those funds to provide tenant-based assistance to homeless families referred by the Department of Human Services and determined to have first priority to shelter pursuant to 29 DCMR § 2508.01(a)(1). The referrals shall be made in accordance with the special eligibility criteria set forth in 29 DCMR § 2556 through 29 DCMR § 2558.

"(b) Funding for tenant-based assistance which has been made available due to reasons other than the circumstances described in subsection (a) of this section shall not be subject to the requirements of subsection (a) of this section. "

SUBTITLE K. WALTER REED ARMY MEDICAL CENTER COMMUNITY ADVISORY COMMITTEE

Sec. 2101. Short title.

This subtitle may be cited as the "Walter Reed Army Medical Center Community Advisory Committee Congressional Review Emergency Amendment Act of 2013".

Sec. 2102. The Walter Reed Army Medical Center Base Realignment and Closure Homeless Assistance Submission Approval Act of 2012, effective October 16, 2012 (D.C. Law 19-175; D.C. Official Code § 10-1901 *et seq.*), is amended by adding a new section 6a to read as follows:

"Sec. 6a. Establishment of advisory committee.

"(a) There is established a Walter Reed Army Medical Center Site Reuse Advisory Committee ("Committee").

"(b)(1) The Committee shall consist of the following 9 members:

"(A) The Master Developer or the Master Developer's designee;

"(B) The Deputy Mayor for Planning and Economic Development or the Deputy Mayor's designee;

"(C) The Chairman of the Council or the Chairman's designee;

"(D) The Councilmember from Ward 4 or the Councilmember's designee;

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"(E) Three community members, appointed by the Mayor, one member each from the Brightwood, Shepherd Park, and Takoma communities;

"(F) One member of ANC4A chosen by ANC4A; and

"(G) One member of ANC4B chosen by ANC4B.

"(2) Members of the Committee appointed pursuant to paragraph (1)(E) of this subsection shall have expertise in economic development, public safety, law, transportation, affirmative action, or local community issues.

"(3) Each member of the Committee, except the Master Developer or the Master Developer's designee, shall be a District resident.

"(4) The Chairperson of the Committee shall be designated by the Mayor.

"(5) Members shall serve without compensation.

"(6) Members shall serve until replaced by their appointing authority.

"(7) The member appointed pursuant to paragraph (1)(A) of this subsection shall not be a voting member.

"(c) The Committee shall advise the LRA and Master Developer with respect to the following:

"(1) The needs of the community, including providing retail uses that are accessible to the community that serve the needs of both the community and visitors to the Walter Reed Army Medical Center Site, and adequate security in and around the Walter Reed Army Medical Center Site;

"(2) Parking issues, including parking for persons using or employed at the Walter Reed Army Medical Center Site and the prevention of parking in the surrounding neighborhoods by non-residents of those neighborhoods;

"(3) Transportation issues, including:

"(A) Proposals for directing traffic to and from the Walter Reed Army Medical Center Site away from the surrounding residential streets;

"(B) Providing a method of truck staging to minimize any adverse impact on the surrounding neighborhoods;

"(C) Restricting the parking of trucks, trailers, and buses at the Walter Reed Medical Center Site or other areas outside of the area surrounding the Walter Reed Medical Center Site; and

"(D) Providing adequate pull-off areas for taxicabs, buses, and shuttles;

"(4) Economic-development opportunities that may be created for surrounding neighborhoods as a result of the reuse of the Walter Reed Army Medical Center Site;

"(5) The development of environmental guidelines, including the mitigation of adverse noise and air-quality impacts;

"(6) Any request for proposal or contract modification for economic-development projects, streetscape or pedestrian movement projects, and transportation or parking projects; and

"(7) Other issues directly related to the operation or redevelopment or reuse of the Walter Reed Army Medical Center Site that are likely to have an impact on the community.

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"(d) A quorum of the Committee shall meet at least 6 times per year.

"(e) For the purposes of this section, the term "Master Developer" means the real-estate-development team selected by the Walter Reed LRA to implement the Walter Reed Reuse Plan.

"(f) The committee shall be subject to the provisions of the Open Meetings Amendment Act of 2010, effective March 31, 2010 (D.C. Law 18-350; D.C. Official Code § 2-571 *et seq.*)

"(g) This section shall sunset as of December 31, 2023."

SUBTITLE L. FOSTER YOUTH TRANSIT SUBSIDY

Sec. 2111. Short title.

This subtitle may be cited as the "Foster Youth Transit Subsidy Congressional Review Emergency Amendment Act of 2013".

Sec. 2112. Section 2 of the School Transit Subsidy Act of 1978, effective March 3, 1979 (D.C. Law 2-152; D.C. Official Code § 35-233), is amended by adding a new subsection (f) to read as follows:

"(f)(1) Youth in the District's foster care system shall be eligible for a foster-youth transit-subsidy program ("Program") as established by the Mayor until they reach 21 years of age.

"(2) The Program shall allow qualified foster youth to travel on Metrobus, Metrorail, and public transportation services offered by the District at subsidized or reduced fares.

"(3) The subsidized or reduced foster-youth fare set forth in this subsection shall be valid only for the transportation of foster youth for educational or employment purposes."

SUBTITLE M. HOUSING PRODUCTION TRUST FUND SECURITIZATION

Sec. 2121. Short title.

This subtitle may be cited as the "Housing Production Trust Fund Securitization Congressional Review Emergency Amendment Act of 2013".

Sec. 2122. 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.*), is amended as follows:

(a) Section 3(b-2) (D.C. Official Code § 42-2802(b-2)) is amended by adding a new paragraph (3) to read as follows:

"(3) This subsection shall not apply to the new issuance of bonds after May 1, 2013."

(b) Section 203 (D.C. Official Code § 42-2812.03) is amended by adding a new subsection (e) to read as follows:

"(e) After May 1, 2013, the Housing Production Trust Fund established pursuant to section 3 may not be used to support the new issuance of bonds under subsection (a) of this section."

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SUBTITLE N. AFRICAN-AMERICAN CIVIL WAR MEMORIAL FREEDOM FOUNDATION INC. MUSEUM DEVELOPMENT

Sec. 2131. Short title.

This subtitle may be cited as the "African-American Civil War Memorial Freedom Foundation Inc., Museum Development Congressional Review Emergency Act of 2013".

Sec. 2132. Grimke School covenant.

(a) Notwithstanding any rule, regulation, or other law to the contrary, the District may not convey, exchange, lease, sell, transfer, or otherwise dispose to any person of the real property located at 1925 Vermont Avenue, N.W., known for tax and assessment purposes as Lot 0827, Square 0361 ("the Grimke School"), unless the District places a covenant that provides for the exclusive use, renovation, and expansion of a space of not less than 10,000 square feet for the establishment and operation of the African-American Civil War Memorial Museum and Visitor's Center.

(b) The covenant required under this section shall:

- (1) Be binding upon the person and the person's heirs, successors, and assigns, and upon occupiers or users of the Grimke School;
- (2) Run with the land both as to benefit and as to burden; and
- (3) Run with the land in perpetuity.

Sec. 2133. Restriction on disposal.

The Mayor may not transmit, pursuant to 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), or otherwise, any disposition of the Grimke School that does not include a provision that ensures that exclusive use, renovation, and expansion of a space not less than 10,000 square feet for the establishment and operation of an African American Civil War Memorial Museum and Visitor's Center.

SUBTITLE O. NOMA PARKS GRANT AUTHORIZATION

Sec. 2141. Short title.

This subtitle may be cited as the "NoMa Parks Grant Authorization Congressional Review Emergency Act of 2013".

Sec. 2142. Grant for NoMa public parks authorized.

(a) The Director of the Department of General Services ("DGS") may issue grants to the NoMa BID, the NoMa Parks Foundation, or a related Friends of NoMa Parks organization for the purpose of acquiring land and building public parks and public spaces that are to be owned by the District, or for which the District has received a suitable and permanent easement, covenant, or ground lease, in accordance with the NoMa Public Realm Design Plan from the funds made available to DGS.

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(b) Notwithstanding the provisions of D.C. Official Code §47-368.06, grants may be issued pursuant to this section through use of an intra-District transfer, a memorandum of understanding, or a reprogramming from an agency lacking grant-making authority.

(c) This subtitle shall be administered pursuant to the requirements set forth in the Grant Administration Congressional Review Emergency Act of 2013, passed on emergency basis on October 1, 2013 (Enrolled version of Bill 20-496).

**SUBTITLE P. UNIVERSITY OF THE DISTRICT OF COLUMBIA
COMMUNITY COLLEGE WORKFORCE DEVELOPMENT PROGRAM**

Sec. 2151. Short title.

This subtitle may be cited as the "University of the District of Columbia Community College Workforce Development Congressional Review Emergency Act of 2013".

Sec. 2152. Notwithstanding any other provision of law, any funds not subject to federal requirements that are transferred from the Department of Employment Services ("Department") to the Workforce Development Program at the University of the District of Columbia Community College ("Community College") for workforce-development purposes shall be used by the Community College without regard to any reporting requirements or other oversight requirements by the Department. The Community College shall adopt or use policies and procedures currently in place to ensure appropriate reporting, tracking of funds, and controls.

TITLE III. PUBLIC SAFETY AND JUSTICE

**SUBTITLE A. DEPARTMENT OF CORRECTIONS CENTRAL CELLBLOCK
MANAGEMENT**

Sec. 3001. Short title.

This subtitle may be cited as the "Department of Corrections Central Cellblock Management Congressional Review Emergency Amendment Act of 2013".

Sec. 3002. Section 2 of An Act To create a Department of Corrections in the District of Columbia, approved June 27, 1946 (60 Stat. 320; D.C. Official Code § 24-211.02), is amended by adding a new subsection (a-1) to read as follows:

"(a-1)(1) The Department of Corrections shall have charge of the management and operation of the Central Cellblock, located at 300 Indiana Avenue, N.W., Washington, D.C., and shall be responsible for the safekeeping, care, and protection of all persons detained at the Central Cellblock, by the Metropolitan Police Department, before their initial court appearance.

"(2) Nothing in this subsection shall be construed as:

"(A) Removing any authority from the Metropolitan Police Department to determine where to hold in custody any person arrested and awaiting an initial court appearance;

"(B) Granting any arrest powers to any employee of the Department of Corrections performing any duty at the Central Cellblock; or

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"(C) Limiting any powers or authority of the Metropolitan Police Department or the Department of Corrections."

Sec. 3003. Transfers.

All property, records, unexpended balances of appropriations, allocations, and other funds required for the management and operation of the Central Cellblock at 300 Indiana Avenue, N.W., Washington, D.C. are hereby transferred from the Metropolitan Police Department to the Department of Corrections.

SUBTITLE B. SECURITY LICENSE STREAMLINING

Sec. 3011. Short title.

This subtitle may be cited the "Security Licensing Streamlining Congressional Review Emergency Act of 2013".

Sec. 3012. Chapter 28 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-2839 is amended by adding a new subsection (g) to read as follows:

"(g) All license fees collected pursuant to this section shall be deposited into the Occupations and Professions Licensing Special Account established pursuant to § 47-2853.11."

(b) Section 47-2839.01 is amended by adding a new subsection (f) to read as follows:

"(f) All license fees collected pursuant to this section shall be deposited into the Occupations and Professions Licensing Special Account established pursuant to § 47-2853.11."

(c) Section 47-2853.11 is amended as follows:

(1) Subsection (a) is amended by striking the phrase "identified in this subchapter" and inserting the phrase "identified in §§ 47-2839 and 47-2839.01, and this subchapter" in its place.

(2) Subsection (c) is amended by striking the phrase "this subchapter" wherever it appears and inserting the phrase "§§ 47-2839 and 47-2839.01, and this subchapter" in its place.

(3) Subsection (d) is amended by striking the phrase "this subchapter" and inserting the phrase "§§ 47-2839 and 47-2839.01, and this subchapter" in its place.

SUBTITLE C. AUTOMATED TRAFFIC ENFORCEMENT ENHANCEMENT

Sec. 3021. Short title.

This subtitle may be cited as the "Automated Traffic Enforcement Enhancement Congressional Review Emergency Amendment Act of 2013".

Sec. 3022. Section 604c(2) of the Emergency and Non-Emergency Number Telephone Calling Systems Fund Act of 2000, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 34-1803.03(2)), is amended to read as follows:

"(2) From fines paid due to automated photo enforcement in any one fiscal year:

"(A) Aggregate revenues in excess of \$105,791,000 in fiscal year 2013;

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- "(B) Aggregate revenues in excess of \$141,348,000 in fiscal year 2014;
 "(C) Aggregate revenues in excess of \$155,812,000 in fiscal year 2015;
 "(D) Aggregate revenues in excess of \$148,020,000 in fiscal year 2016;

and

"(E) Aggregate revenues in excess of \$140,618,000 in fiscal year 2017
 and in each fiscal year thereafter."

SUBTITLE D. DOMESTIC VIOLENCE HOTLINE ESTABLISHMENT

Sec. 3031. Short title.

This subtitle may be cited as the "Domestic Violence Hotline Establishment
 Congressional Review Emergency Act of 2013".

Sec. 3032. Definitions.

For the purposes of this subtitle, the term:

(1) "Domestic violence" means a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner, dating partner, or family member. The term "domestic violence" includes physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This consists of any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

(2) "Domestic violence counselor" shall have the same meaning as provided in D.C. Official Code § 14-310(a)(2).

(3) "Domestic violence program" shall have the same meaning as provided in D.C. Official Code § 14-310(a)(3).

(4) "Hotline" means the Domestic Violence Hotline program established by section 3033.

(5) "Office" means the Office of Victim Services, established by Mayor's Order 2004-119, issued July 19, 2004 (51 DCR 7997).

Sec. 3033. Domestic Violence Hotline.

(a) The Office shall establish the Domestic Violence Hotline to provide assistance for victims and potential victims of domestic violence beginning October 1, 2014.

(b)(1) The Hotline shall:

(A) Be operated by a domestic violence program funded and supported by the Office;

(B) Provide a direct toll-free number that accepts calls and text messages;

(C) Be directly available to callers, without an intermediary agency;

(D) Be available on a 24-hour basis;

(E) Provide live assistance by domestic violence counselors; and

(F) Offer anonymity and confidentiality to enable a victim or a friend or family member of a victim to seek support without giving his or her legal name.

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(2) The requirements of paragraph (1)(F) of this subsection shall not be construed to limit or supersede any mandatory reporting requirements under District law.

(c) The Office shall develop and implement an outreach campaign to educate District residents about the Hotline.

Sec. 3034. Task force.

(a) Beginning October 1, 2013, the Office shall establish a task force to:

- (1) Assess staff and technology needs of the Hotline; and
- (2) Develop mechanisms for administration of the Hotline; and
- (3) Develop standards that coincide with the standards used by the existing

domestic violence first responder line.

(b) The task force shall include representatives from the D.C. Coalition Against Domestic Violence, governmental victim services programs, and domestic violence programs.

(c) By January 30, 2014, the task force shall transmit to the Office and to the Office of the Secretary to the Council a report that includes the assessments and developments completed pursuant to subsection (a) of this section.

SUBTITLE E. JUVENILE WORKING GROUP ESTABLISHMENT

Sec. 3041. Short title.

This subtitle may be cited as the "Alternatives to Juvenile Arrest and Secured Detention Working Group Establishment Congressional Review Emergency Act of 2013".

Sec. 3042. Alternatives to Juvenile Arrest and Secured Detention Working Group establishment.

(a) There is established an Alternatives to Juvenile Arrest and Secured Detention Working Group ("Working Group").

(b) The Working Group shall be convened by the following:

- (1) The Attorney General for the District of Columbia; and
- (2) The City Administrator.

(c) The Working Group shall include the following members or their designees:

- (1) The Chief of Police;
- (2) The Director of the Child and Family Services Agency;
- (3) The Director of the Department of Behavioral Health;
- (4) The Chancellor of the District of Columbia Public Schools;
- (5) The Director of the Department of Youth Rehabilitation Services;
- (6) The Executive Director of the District of Columbia Public Charter School

Board;

- (7) The Chief of the District of Columbia Public Schools Patrol Services Division;
- (8) The Executive Director of the Criminal Justice Coordinating Council;
- (9) The Chairperson of the Council Committee on the Judiciary and Public Safety;
- (10) The Chairperson of the Council Committee on Human Services; and

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(11) Representatives from public agencies, community-based, nonprofit organizations, and educational institutions that represent court-involved youth in delinquency matters in the District or conduct research on local juvenile justice issues.

(d) The Working Group shall invite the Chief Judge of the Family Court of the Superior Court of the District of Columbia or his designee to participate.

Sec. 3043. Responsibilities of Working Group.

(a) The Working Group shall:

(1) Review data regarding juvenile arrests in the District from at least January 2011 to present as the basis for its review, analysis, and recommendations. The juvenile arrest data review should also include a review of the number and type of arrests made that arise from school-based or school-related incidents;

(2) Review data regarding the Youth Services Center population from at least January 2011 to present as the basis for its review, analysis, and recommendations;

(3) Develop and propose a differential response policy, program, and budget for juvenile arrests with the goal of diverting more youth from arrest, prosecution, overnight detention, or pre-trial detention; and

(4) Review policies guiding the detention of probation violators and assessment of youth posing a public-safety risk or risk to himself or herself.

(b) In developing and proposing the differential response policy, program, and budget required by subsection (a)(2) of this section, the Working Group shall consider the policies and practices of the Annie E. Casey Foundation's Juvenile Detention Alternative Initiatives and other innovative programs, such as the Florida Juvenile Civil Citation program, that are consistent with positive public safety and youth development outcomes.

Sec. 3044. Report.

No later than February 28, 2014, the Working Group shall submit a report to the Mayor and the Council that includes recommendations for diversion and detention-policy changes, practices, and proposed budget.

Sec. 3045. Sunset.

This subtitle shall sunset 30 days after the submission of the report required by section 3044.

SUBTITLE F. FIRE AND EMERGENCY MEDICAL SERVICES OVERTIME LIMITATION

Sec. 3051. Short title.

This subtitle may be cited as the "Fire and Emergency Medical Services Overtime Limitation Congressional Review Emergency Amendment Act of 2013".

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Sec. 3052. Section 1103(f) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.03(f)), is amended as follows:

(a) Paragraph (2)(B) is amended as follows:

(1) Strike the phrase "2011, 2012, and 2013" and insert the phrase "2011, 2012, 2013, and 2014" in its place.

(2) Strike the phrase "Battalion Fire Chief and above in the Firefighting Division" and insert the phrase "Deputy Fire Chief and above in the Firefighting Division" in its place.

(b) Paragraph (4)(A) is amended by striking the phrase "2011, 2012, and 2013" and inserting the phrase "2011, 2012, 2013, and 2014" in its place.

Sec. 3053. Section 2 of An Act To amend the Act entitled "An Act to classify the officers and members of the Fire Department of the District of Columbia, and for other purposes", approved June 20, 1906, and for other purposes, approved June 19, 1948 (62 Stat. 498; D.C. Official Code § 5-405), is amended as follows:

(a) Subsection (f) is amended by striking the phrase "2011, 2012, and 2013" and inserting the phrase "2011, 2012, 2013, and 2014" in its place.

(b) Subsection (g) is amended by striking the phrase "2011, 2012, and 2013" and inserting the phrase "2011, 2012, 2013, and 2014" in its place.

Sec. 3054. Section 202(c) of the Omnibus Public Safety Agency Reform Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-441(c)), is amended by striking the phrase "2012, and 2013" and inserting the phrase "2012, 2013, and 2014" in its place.

SUBTITLE G. RETURNING CITIZENS CLARIFICATION

Sec. 3061. Short title.

This subtitle may be cited as the "Returning Citizens Renaming Congressional Review Emergency Amendment Act of 2013".

Sec. 3062. The Office on Ex-Offender Affairs and Commission on Re-Entry and Ex-Offender Affairs Establishment Act of 2006, effective March 8, 2007 (D.C. Law 16-243; D.C. Official Code § 24-1301 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 24-1301) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase "Commission on Re-entry and Ex-Offender Affairs" and inserting the phrase "Commission on Re-Entry and Returning Citizen Affairs" in its place.

(2) Paragraphs (2) and (4) are amended by striking the phrase "Office on Ex-Offender Affairs" and inserting the phrase "Office on Returning Citizen Affairs" in its place.

(3) Paragraph (3) is repealed.

(4) A new paragraph (5) is added to read as follows:

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“(5) “Returning citizens” means persons who are residents of the District who were previously incarcerated.”.

(b) Section 3 (D.C. Official Code § 24-1302) is amended as follows:

(1) The heading and subsection (a) are amended by striking the phrase "Office on Ex-Offender Affairs" and inserting the phrase "Office on Returning Citizen Affairs" in its place.

(2) Strike the phrase "ex-offenders" wherever it appears and insert the phrase "returning citizens" in its place.

(c) Section 4 (D.C. Official Code § 24-1303) is amended as follows:

(1) The heading is amended by striking the phrase "Commission on Re-Entry and Ex-Offender Affairs" and inserting the phrase "Commission on Re-Entry and Returning Citizen Affairs" in its place.

(2) Subsection (a) is amended by striking the phrase "Commission on Re-entry and Ex-Offender Affairs" and inserting the phrase "Commission on Re-Entry and Returning Citizen Affairs" in its place.

(3) Strike the phrase "ex-offenders" wherever it appears and insert the phrase "returning citizens" in its place.

(4) Subsection (b)(8) is amended by striking the phrase "and returning citizens".

SUBTITLE H. CRIMINAL JUSTICE COORDINATING COUNCIL CRIMINAL JUSTICE AGENCY

Sec. 3071. Short title.

This subtitle may be cited as the “Criminal Justice Coordinating Council Criminal Justice Designation Congressional Review Emergency Amendment Act of 2013”.

Sec. 3072. Section 1505 of the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2011, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 22-4234), is amended by adding a new subsection (c) to read as follows:

"(c) The CJCC is designated as a criminal justice agency for purposes of transmitting electronically to local, state, and federal agencies criminal-justice-related information, as required by CJCC to perform the duties specified under this section and in accordance with the terms and conditions regarding data sharing approved by the agency that is the source of the information for transmission."

TITLE IV. PUBLIC EDUCATION

SUBTITLE A. FUNDING FOR PUBLIC SCHOOLS AND PUBLIC CHARTER SCHOOLS

Sec. 4001. Short title.

This subtitle may be cited as the "Funding for Public Schools and Public Charter Schools Congressional Review Emergency Amendment Act of 2013".

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Sec. 4002. The Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2901 *et seq.*), is amended as follows:

(a) Section 104 (D.C. Official Code § 38-2903) is amended by striking the phrase "\$9,124 per student for fiscal year 2013" and inserting the phrase "\$9,306 per student for fiscal year 2014" in its place.

(b) Section 105 (D.C. Official Code § 38-2904) is amended by striking the tabular array and inserting the following chart in its place:

Grade Level	Weighting	Per Pupil Allocation in FY 2014
Pre-School	1.34	\$12,470
Pre-Kindergarten	1.30	\$12,098
Kindergarten	1.30	\$12,098
Grades 1-3	1.00	\$9,306
Grades 4-5	1.00	\$9,306
Grades 6-8	1.03	\$9,585
Grades 9-12	1.16	\$10,795
Alternative program	1.17	\$10,888
Special education school	1.17	\$10,888
Adult	0.75	\$6,980

(c) Section 106(c) (D.C. Official Code § 38-2905(c)) is amended to read as follows:

"(c) The supplemental allocations shall be calculated by applying weightings to the foundation level as follows:

"General Education Add-ons:

"Level/ Program	Definition	Weighting	Per Pupil FY 2014
"LEP/NEP	Limited and non-English proficient students	0.45	\$4,188
"Summer	An accelerated instructional program in the summer for students who do not meet literacy standards pursuant to promotion policies of the District of Columbia Public Schools and public charter schools	0.17	\$1,582

"Special Education Add-ons:

Level/ Program	Definition	Weighting	Per Pupil FY 2014
"Level 1: Special Education	Eight hours or less per week of specialized services	0.58	\$5,397
"Level 2: Special	More than 8 hours and less than or equal to 16	0.81	\$7,538

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Education	hours per school week of specialized services.		
"Level 3: Special Education	More than 16 hours and less than or equal to 24 hours per school week of specialized services	1.58	\$14,703
"Level 4: Special Education	More than 24 hours per week which may include instruction in a self-contained (dedicated) special education school other than residential placement	3.10	\$28,849
"Special Education Capacity Fund	Weighting provided in addition to special education level add-on weightings on a per student basis for each student identified as eligible for special education.	0.40	\$3,722
"Residential	D.C. Public School or public charter school that provides students with room and board in a residential setting, in addition to their instructional program	1.70	\$15,820

"Residential Add-ons:

"Level/ Program	Definition	Weighting	Per Pupil FY 2014
"Level 1: Special Education - Residential	Additional funding to support the after-hours level 1 special education needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting	0.374	\$3,480
"Level 2: Special Education - Residential	Additional funding to support the after-hours level 2 special education needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting	1.360	\$12,656
"Level 3: Special Education - Residential	Additional funding to support the after-hours level 3 special education needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting	2.941	\$27,369
"Level 4: Special Education - Residential	Additional funding to support the after-hours level 4 special education needs of limited and non- English proficient students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting	2.924	\$27,211
"LEP/NEP - Residential	Additional funding to support the after-hours Limited and non-English proficiency needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting	0.68	\$6,328

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"Special Education Add-ons for Students with Extended School Year ("ESY") Indicated in Their Individualized Education Programs ("IEPs"):

"Level/ Program	Definition	Weighting	Per Pupil FY 2014
"Special Education Level 1 ESY	Additional funding to support the summer school/program need for students who require extended school year (ESY) services in their IEPs.	0.064	\$596
"Special Education Level 2 ESY	Additional funding to support the summer school/program need for students who require extended school year (ESY) services in their IEPs	0.231	\$2,150
"Special Education Level 3 ESY	Additional funding to support the summer school/program need for students who require extended school year (ESY) services in their IEPs	0.500	\$4,653
"Special Education Level 4 ESY	Additional funding to support the summer school/program need for students who require extended school year (ESY) services in their IEPs	0.497	\$4,625".

SUBTITLE B. PUBLIC CHARTER SCHOOL PAYMENT IMPROVEMENT

Sec. 4021. Short title.

This subtitle may be cited as the "Public Charter Schools Payment Improvement Congressional Review Emergency Amendment Act of 2013".

Sec. 4022. Section 107b of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2906.02), is amended as follows:

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

(1) Strike the phrase "4 equal".

(2) Strike the phrase "October 15" and insert the phrase "October 25" in its place.

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

(1) The introductory text is amended by striking the phrase "Each payment shall be one-fourth of each public charter school's entitlement, determined" and inserting the phrase "Payments shall be determined" in its place.

(2) Paragraph (1) is amended by striking the period and inserting the phrase "and shall be 30% of the school's entitlement." in its place.

(3) Paragraph (2) is amended as follows:

(A) Strike the phrase "and January 15 payments" and insert the word "payment" in its place.

(B) Strike the phrase "October 5" and insert the phrase "October 5 and shall be equal to 55% of the school's entitlement less amounts paid in July" in its place.

(4) Paragraph (3) is amended to read as follows:

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"(3) The basis of the January 15 payment shall be the unaudited October enrollment numbers for that school contained in reports submitted by the eligible chartering authorities on October 5 and shall be equal to 80% of the school's entitlement less amounts paid in July and October."

(5) A new paragraph (4) is added to read as follows:

"(4) The basis of the April 15 payment shall be the audited October enrollment numbers and shall be equal to 100% of the school's entitlement less amounts paid in July, October, and January; provided, that these amounts shall be adjusted in accordance with the provisions of subsection (c) of this section."

(c) Subsection (c) is amended by striking the phrase "October 15" and inserting the phrase "October 25" in its place.

(d) Subsection (d) is amended as follows:

(1) The existing text is designated as paragraph (1).

(2) The newly designated paragraph (1) is amended by striking the phrase "such students" and inserting the phrase "such students, as set forth in subsection (g) of this section" in its place.

(3) New paragraphs (2) and (3) are added to read as follows:

"(2)(A) Payments for summer school shall be made by the Chief Financial Officer on April 15 on the basis of a funding schedule from the District of Columbia Public Charter School Board listing each charter school offering a summer school program in accordance with the requirements of section 2401(b)(3)(B) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code §38-1804.01(b)(3)(B)).

"(B) The Office of the State Superintendent of Education shall certify enrollment projections based upon information contained in the state education longitudinal data system that form the basis of the funding schedule. The payment amount shall be equal to 75% of the total summer school entitlement for each charter school.

"(C) Not later than August 25 of each year, the Office of the State Superintendent of Education shall certify the final actual summer school enrollment for each charter school. The final payment for summer school will be issued to each charter school not later than September 30 of each year and shall be equal to the remainder of the school's entitlement.

"(3) Payments for the Special Education Extended School Year add-on shall be made in full to each charter school by the Chief Financial Officer following certification of the actual enrollment for each school by the Office of the State Superintendent of Education."

SUBTITLE C. STATE ATHLETIC ACTIVITIES, PROGRAMS, AND OFFICE FUND

Sec. 4031. Short title.

This subtitle may be cited as the "State Athletic Activities, Programs, and Office Fund Congressional Review Emergency Act of 2013".

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Sec. 4032. Advertisements and sponsorships.

(a) Notwithstanding any other provision of law, the Mayor, through the Office of the State Superintendent of Education ("OSSE"), may enter into written agreements for advertisements and sponsorships for the State Athletic Office's ("SAO") athletic activities and programs, including those organized or directed by the SAO of OSSE or the District of Columbia State Athletic Association ("DCSAA") to supplement local funding of the DCSAA.

(b) The State Superintendent of Education may delegate, by written order, the authority to contract for advertisements or sponsorships to officials within OSSE, including to the State Athletic Officer.

(c) An agreement pursuant to this section shall not require the District to expend funds.

(d) Only advertisements shall be agreed to in exchange for corporate goods, services, or currency.

(e) There shall be no limit to the value of goods, services, or currency that may be received from a foreign organization registered or not outside of the District of Columbia or from an individual domiciled outside of the District of Columbia.

(f) There shall be a \$1,000 limit on the value of goods, services, and currency that may be received during one school year from a domestic organization registered or not within the District of Columbia or from an individual domiciled in the District of Columbia.

(g) Sponsorships and advertisements shall be memorialized by written agreement of the parties.

(h) The Chief Financial Officer shall deposit all cash proceeds received from advertisements and sponsorships pursuant to this section to the credit of OSSE in the State Athletics Activities, Programs, and Office Fund established in section 4033 in the same manner as that used for donations under section 115 of the District of Columbia Appropriations Act, 2003, approved February 20, 2003 (117 Stat. 123; D.C. Official Code § 1-329.01).

Sec. 4033. State Athletic Activities, Programs, and Office Fund.

(a) There is established as a special fund the State Athletic Activities, Programs, and Office Fund ("Fund"), which shall be used solely as provided in subsection (b) of this section, and which shall be administered by the State Superintendent of Education. The State Superintendent of Education may designate or assign the authority to administer the Fund to an entity within the Office of the State Superintendent of Education, including the SAO.

(b)(1) The Fund shall be used to enhance the development of state interscholastic athletic programs and competitions and to supplement the operations budget of the DCSAA. The Statewide Director of Athletics shall prioritize resources from the Fund to ensure well-designed and effective interscholastic athletic programs and competitions.

(2) The Fund may be used for the financial support of state athletic programs and competitions that are well-designed and effective and comply with National Federation of State High School Associations standards and District laws and regulations, including for:

(A) Championship events;

(B) Equipment;

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- (C) Memorabilia;
 - (D) Training;
 - (E) Security;
 - (F) Awards; and
 - (G) Related operations.
- (c) The Fund shall consist of the revenue from the following sources:
- (1) Annual appropriations;
 - (2) Any proceeds resulting from athletic programs and activities organized or directed by the SAO or DCSAA, or both, including:
 - (A) Sponsorships or advertisements;
 - (B) Ticket or merchandise sales;
 - (C) Fundraising activities;
 - (D) Competitions; or
 - (E) Other athletic programs and activities; and
 - (3) Interest earned on funds deposited into the Fund.
- (d)(1) The money deposited into the Fund 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.
- (2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

Sec. 4034. Rules.

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.*), may issue rules to implement the provisions of this subtitle. The proposed rules shall be submitted to the Council for a 30-day period of review, excluding Saturdays, Sundays, holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, by resolution, within the 30-day period, the proposed rules shall be deemed approved.

SUBTITLE D. UNIVERSITY OF DISTRICT OF COLUMBIA ACCREDITATION**Sec. 4041. Short title.**

This subtitle may be cited as the "University of the District of Columbia Accreditation Congressional Review Emergency Amendment Act of 2013".

Sec. 4042. Section 4042 of the University of the District of Columbia Community College Autonomy Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 38-1271.01, note), is amended by adding a new subsection (c) to read as follows:

"(c) By December 1, 2013, the University of the District of Columbia shall submit to the Council a timeline, using existing resources, for the separate accreditation of the University of the District of Columbia Community College. This timeline shall address the following areas:

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"(1) Transition of financial and administrative independence in the areas of student affairs and academic affairs of the University of the District of Columbia Community College from the University of the District of Columbia;

"(2) Ability of the University of the District of Columbia Community College to obtain self-sufficiency in the areas of admissions and financial aid;

"(3) A separate personnel classification of University of the District of Columbia Community College employees;

"(4) Ability for the University of the District of Columbia Community College to initiate and sustain its own academic programs;

"(5) A policy for the University of the District of Columbia Community College Chief Executive Officer to regularly report to the University of the District of Columbia's Board of Trustees regarding the University of the District of Columbia Community College's affairs;

"(6) A fully operational University of the District of Columbia Community College foundation;

"(7) A financial plan for the University of the District of Columbia Community College that addresses funding, resource planning, and allocation responsibilities;

"(8) Approval of degree-granting authority from the Office of the State Superintendent for Education; and

"(9) Other evidence that the University of the District of Columbia Community College is effectively fulfilling its mission and serving students in a manner consistent with Middle States Commission on Higher Education's 10 requirements of affiliations and 14 accreditation standards."

Sec. 4043. In fiscal year 2014, of the funds allocated to Non-Departmental, an amount up to \$1 million shall be transferred to the University of the District of Columbia ("UDC") if, by January 1, 2014, UDC raises an amount of \$1 million from private donations for the purpose of meeting accreditation standards. The amount transferred under this section shall be matched dollar-for-dollar from the amount raised.

SUBTITLE E. LIBRARY COLLECTIONS ACCOUNT

Sec. 4051. Short title.

This subtitle may be cited as the "Library Collections Account Congressional Review Emergency Amendment Act of 2013".

Sec. 4052. An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896 (29 Stat. 244; D.C. Official Code § 39-101 *et seq.*), is amended as follows:

(a) Section 7 (D.C. Official Code § 39-107) is amended by striking the phrase "into the Books and Other Library Materials Account, established by section 14" and inserting the phrase "into the Library Collections Account, established by section 14" in its place.

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(b) Section 14 (D.C. Official Code § 39-114) is amended by striking the phrase "Books and Other Library Materials Account" both times it appears and inserting the phrase "Library Collections Account" in its place.

SUBTITLE F. STATE BOARD PERSONNEL

Sec. 4061. Short title.

This subtitle may be cited as the "State Board Personnel Congressional Review Emergency Amendment Act of 2013".

Sec. 4062. Section 903(a)(10) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-609.03(a)(10)), is amended to read as follows:

"(10) The State Board of Education may appoint staff to serve an administrative role for the elected members of the Board; provided, that funding is available and that at least 3 full-time equivalent employees are appointed to the Office of Ombudsman for Public Education."

SUBTITLE G. ATTENDANCE ZONE BOUNDARIES

Sec. 4071. Short title.

This subtitle may be cited as the "Attendance Zone Boundaries Congressional Review Emergency Act of 2013".

Sec. 4072. Attendance zone boundaries; establishment, modification, alteration.

Except as required due to a school closure or a consolidation of schools, upon the effective date of this subtitle, notwithstanding any other law or regulation, no approved establishment, modification, or alteration of any attendance zone boundary shall be implemented, or in any manner initiated, until the 2015-2016 school year or with less notice than a full school year to the parent or guardian of each affected student, whichever is greater; provided, that nothing in this subtitle shall prohibit the Chancellor from proposing or implementing changes to school feeder patterns that would result in additional options in next-level schools for a feeder school.

SUBTITLE H. PUBLIC EDUCATION MASTER FACILITIES PLAN**APPROVAL**

Sec. 4081. Short title.

This subtitle may be cited as the "Public Education Master Facilities Plan Approval Congressional Review Emergency Act of 2013".

Sec. 4082. Pursuant to section 1104 of the School Based Budgeting and Accountability Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D. C. Official Code § 38-2803), the

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Council approves the 2013 Master Facilities Plan for public education facilities submitted by the Mayor on March 28, 2013.

**SUBTITLE I. DEPUTY MAYOR FOR EDUCATION LIMITED GRANT-
MAKING AUTHORITY**

Sec. 4091. Short title.

This subtitle may be cited as the "Deputy Mayor for Education Limited Grant-Making Authority Congressional Review Emergency Act of 2013".

Sec. 4092. Deputy Mayor for Education grant-making authority.

For fiscal year 2014, the Deputy Mayor for Education shall have grant-making authority solely for the purpose of providing a capital grant of \$6 million for facility construction of a language-immersion public charter school serving middle and high school-aged students in the District; provided, that the grant issued under this section shall be administered pursuant to the requirements set forth in the Grant Administration Congressional Review Emergency Act of 2013, passed on emergency basis on October 1, 2013 (Enrolled version of Bill 20-496).

SUBTITLE J. EDUCATION FUNDING FORMULA EQUITY

Sec. 4101. Short title.

This subtitle may be cited as the "Education Funding Formula Equity Congressional Review Emergency Amendment Act of 2013".

Sec. 4102. Section 115 of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective September 24, 2010 (D.C. Law 18-223; D.C. Official Code § 38-2913), is amended by striking the phrase "fiscal year 2014" and inserting the phrase "fiscal year 2015" in its place.

SUBTITLE K. SOUTH CAPITOL STREET MEMORIAL

Sec. 4111. Short title.

This subtitle may be cited as the "South Capitol Street Memorial Congressional Review Emergency Amendment Act of 2013".

Sec. 4112. Section 601 of the South Capitol Street Memorial Act of 2012, effective June 7, 2012 (D.C. Law 19-141; 59 DCR 3083), is amended to read as follows:

"Sec. 601. Applicability.

"Sections 302(b)(1)(A) and (C) and 304(b)(1)(D) shall apply to public charter schools upon the inclusion of their fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register."

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SUBTITLE L. SCHOOL MODERNIZATION LIBRARY FUNDING

Sec. 4121. Short title.

This subtitle may be cited as the "School Modernization Library Initial Circulation Funding Congressional Review Emergency Act of 2013".

Sec. 4122. For any completed school modernization, unexpended capital funds shall first be used to purchase the initial circulation in that school's library before being reprogrammed for any other purpose.

TITLE V. HEALTH AND HUMAN SERVICES**SUBTITLE A. DC HEALTHCARE ALLIANCE PRESERVATION**

Sec. 5001. Short title.

This subtitle may be cited as the "DC HealthCare Alliance Preservation Congressional Review Emergency Amendment Act of 2013".

Sec. 5002. Section 7(c)(2) of the Health Care Privatization Amendment Act of 2001, effective July 12, 2001 (D.C. Law 14-18; D.C. Official Code § 7-1405(c)(2)), is amended to read as follows:

"(2) A contract between the District and a health maintenance organization or a managed care organization that provides health-care services to persons enrolled in the DC HealthCare Alliance shall include coverage for all services, including hospital-based services, being provided to DC HealthCare Alliance enrollees as of January 1, 2013; provided, that the Department of Health Care Finance shall have the authority to exclude coverage for those hospital-based emergency services that are eligible for Medicaid reimbursement under section 401(b)(1)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, approved August 21, 1996 (110 Stat. 502; 8 U.S.C. § 1611(b)(1)(A)), section 1903(v)(3) of the Social Security Amendments Act of 1965, approved July 30, 1965 (79 Stat. 286; 42 U.S.C. §1396b(v)(3)), and 42 C.F.R. § 440.255(c)."

SUBTITLE B. DEPARTMENT OF HEALTH CARE FINANCE ESTABLISHMENT

Sec. 5011. Short title.

This subtitle may be cited as the "Department of Health Care Finance Establishment Congressional Review Emergency Amendment Act of 2013".

Sec. 5012. The Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.01 *et seq.*), is amended by adding a new section 6a to read as follows:

"Sec. 6a. Assessment Fund.

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"(a) There is established as a special fund the Assessment Fund ("Fund"), which shall be administered by the Department of Health Care Finance in accordance with subsection (c) of this section.

"(b) The Fund shall consist of revenue from the following sources:

"(1) User fees; and

"(2) Enrollment fees.

"(c) The Fund shall be used for the following purposes:

"(1) Administration and maintenance of the Department's provider operations;

"(2) Enrollment activities; and

"(3) Health information exchange activities.

"(d)(1) The money deposited into the Fund, and interest earned, 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.

"(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation."

**SUBTITLE C. STEVIE SELLOWS INTERMEDIATE CARE FACILITY
QUALITY IMPROVEMENT**

Sec. 5021. Short title.

This subtitle may be cited as the "Stevie Sellows Intermediate Care Facility Quality Improvement Congressional Review Emergency Act of 2013".

Sec. 5022. Chapter 12D of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-1270 is amended as follows:

(1) Designate paragraph (1) as paragraph (1B).

(2) New paragraphs (1) and (1A) are added to read as follows:

"(1) "Administrative costs" means the costs of DHCF to administer, manage, and monitor the Intermediate Care Facility for People with Intellectual Disabilities reimbursement program and the Stevie Sellows quality improvement funding support, including personnel costs.

"(1A) "DHCF" means the Department of Health Care Finance."

(3) A new paragraph (2A) is added to read as follows:

"(2A) "ICF/IID" means Intermediate Care Facility for People with Intellectual Disabilities."

(4) Paragraph (4) is amended by striking the phrase "the Department of Health" and inserting the acronym "DHCF" in its place.

(5) A new paragraph (5A) is added to read as follows:

"(5A) "Rebasing year" means the third year after the effective date of the State Plan Amendment governing the reimbursement of ICF/IID and every subsequent third year."

(b) Section 47-1271 is amended as follows:

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

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"(b) The Fund shall be used to:

"(1) Fund quality of care improvements for those facilities that meet the requirements of the District's State Plan for Medical Assistance and the accompanying rules governing the reimbursement of ICF/IID.

"(2) Cover administrative costs of the DHCF in administering the ICF/IID reimbursement program and the Stevie Sellows quality improvement funding support, which costs shall not be more than 10% of the Fund's total revenues; and

"(3) Cover administrative costs of DHCF in auditing the ICF/IID in a rebasing year or as necessary to ensure the integrity of the ICF/IID reimbursement methodology, which costs shall not be more than 15% of the Fund's total revenues."

(2) Subsection (c) is amended by striking the phrase "ICD/IDD" and inserting the phrase "ICF/IID" in its place.

(c) Section 47-1273 is amended to read as follows:

"§ 47-1273. Assessments on ICF/IID.

"(a) Except as provided in § 47-1278(d), each ICF/IID in the District of Columbia shall pay an assessment of 5.5% of the gross revenues per annum.

"(b) Each ICF/IID shall pay the assessment required by subsection (a) of this section in quarterly installments.

"(c) The Mayor shall provide notice of the amount of the assessment for the quarter to each ICF/IID no later than 30 days after the end of each quarter.

"(d) The assessment required by subsection (a) of this section shall be determined by the Medicaid claims information from the DHCF Medicaid Management Information System.

"(e) If the total amount of the assessments to be collected for a fiscal year is inadequate to cover disbursements required under § 47-1271(b), the Mayor may raise the assessment to the maximum allowed under federal law."

(d) Section 47-1274(b) is repealed.

SUBTITLE D. DEVELOPMENTAL DISABILITIES SERVICE MANAGEMENT REFORM

Sec. 5031. Short title.

This subtitle may be cited as the "Developmental Disabilities Service Management Reform Congressional Review Emergency Amendment Act of 2013".

Sec. 5032. The Department on Developmental Disabilities Establishment Act of 2006, effective March 14, 2007 (D.C. Law 16-264; D.C. Official Code § 7-761.01 *et seq.*), is amended by adding a new section 105a to read as follows:

"Sec. 105a. Ticket to Work Employment Network Fund.

"There is established as a special fund the Ticket to Work Employment Network Fund ("Fund"), which shall be administered by DDS in accordance with subsection (c) of this section.

"(b) The Fund shall consist of revenue from payments from the Social Security Administration as an Employment Network for the Ticket to Work and Self-Sufficiency

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Program, establish pursuant to the Ticket to Work and Work Incentives Improvement Act of 1999, approved December 17, 1999 (113 Stat. 1863; 42 U.S.C. § 1320b-19).

"(c) The Fund shall be used for the Ticket to Work and Self-Sufficiency Program; provided, that to the extent that payments received from the Social Security Administration represent administrative or other fee payments, those amounts shall be available to DDS to defray the costs and expenses associated with administering the program or for any other purpose as determined by the Director.

"(d)(1) The money deposited into the Fund, and interest earned, 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.

"(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation."

SUBTITLE E. MEDICAL ASSISTANCE PROGRAM

Sec. 5041. Short title.

This subtitle may be cited as the "Medical Assistance Program Congressional Review Emergency Amendment Act of 2013".

Sec. 5042. Section 1(a) of 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 (a)), is amended as follows:

(a) A new paragraph (7) is added to read as follows:

"(7) Review and approval by the Council of the Fiscal Year 2014 Budget and Financial Plan shall constitute the Council review and approval required by paragraph (2) of this subsection of any amendment, modification, or waiver of the state plan required to:

"(A) Establish a supplemental payment to rectify historic underpayments to District Medicaid hospitals for outpatient and emergency room services;

"(B) Implement Title II of the Patient Protection and Affordable Care Act, approved March 23, 2010 (Pub. L. No. 111-148; 124 Stat. 119), to:

"(i) Provide for new Modified Adjusted Gross Income eligibility methodologies;

"(ii) Streamline the application process;

"(iii) Align Medicaid eligibility determinations, renewals, and appeals with eligibility determinations and appeals of cost sharing and advanced premium tax credits for the Health Benefit Exchange;

"(iv) Secure enhanced federal medical assistance percentages for newly eligible Medicaid beneficiaries and preventive services, including tobacco cessation;

"(v) Provide coverage for former foster care children through age 25;

"(vi) Implement presumptive eligibility by hospitals;

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"(vii) Extend the District's current Section 1115 demonstration for childless adults ages 21 through 64 years with incomes between 133% and up to 200% of the federal poverty level to provide stop-gap coverage for these beneficiaries until the District establishes the basic health plan; and

"(viii) Create health homes for chronically ill District residents;

"(C) Implement needed reforms to Medicaid-funded, long-term care services and supports, including:

"(i) The establishment of a single-point-of-entry system and a standardized, conflict-free assessment tool and process;

"(ii) Clarification of eligibility requirements for institutional long-term care services; and

"(iii) The creation of new programming, including adult day health services pursuant to Title XIX of the Social Security Act to ensure that District residents may be served in the most integrated setting appropriate to their needs; and

"(D) Implement an annual inflation rate adjustment for nursing facilities."

SUBTITLE F. DEPARTMENT OF HUMAN SERVICES' CONFORMING AMENDMENTS

Sec. 5051. Short title.

This subtitle may be cited as the "Department of Human Services Conforming Congressional Review Emergency Amendment Act of 2013".

Sec. 5052. The District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-201.01 *et seq.*), is amended as follows:

(a) Section 101(5A)(b) (D.C. Official Code § 4-201.01(5A)(B)) is amended by striking the phrase "18 years of age, a full-time student in a secondary school or in the equivalent level of vocational or technical training, and who is expected to graduate from such school or training by the person's 19th birthday" and inserting the phrase "less than 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training)" in its place.

(b) Section 515 (D.C. Official Code § 4-205.15) is amended as follows:

(1) Subsection (a)(2) is amended by striking the phrase "or age 18 and expected to complete high school before reaching age 19" and inserting the phrase "or under 19 years of age and are full-time students in a secondary school (or in the equivalent level of vocational or technical training)" in its place.

(2) Subsection (b) is amended by striking the phrase "the Mayor shall determine the meaning of the term "full-time student", shall determine which vocational or technical training courses are equivalent to the level of secondary school, and shall determine which factors will be considered in deciding whether an individual may reasonably be expected to complete the program of study or training before reaching age 19" and inserting the phrase "the Mayor shall determine the meaning of the term "full-time student" and shall determine which

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vocational or technical training courses are equivalent to the level of secondary school" in its place.

SUBTITLE G. DEPARTMENT OF HEALTH FUNCTIONS CLARIFICATION

Sec. 5061. Short title.

This subtitle may be cited as the "Department of Health Functions Clarification Congressional Review Emergency Amendment Act of 2013".

Sec. 5062. Section 4907a of the Department of Health Functions Clarification Act of 2001, effective March 3, 2010 (D.C. Law 18-111; D.C. Official Code § 7-736.01), is amended by adding new subsections (c) and (d) to read as follows:

"(c) For fiscal year 2014, the Director of the Department of Health shall have the authority to issue grants to:

"(1) Qualified community organizations for the purpose of providing the following services:

"(A) Ambulatory health services for an amount not to exceed \$3,236,980;

"(B) Poison control hotline and prevention education services for an amount not to exceed \$350,000; and

"(C) Operations and primary care services for school-based health clinics for an amount not to exceed \$2,250,000; and

"(2) Organizations for the purpose of providing the following programs and services:

"(A) A teen pregnancy prevention program for an amount not to exceed \$400,000;

"(B) Programs designed to promote healthy development in girls attending public and chartered schools in grades 9 through 12 located in areas of the city possessing the highest rates of teen pregnancy and highest enrollment in state-funded health programs in the District of Columbia, not to exceed \$400,000;

"(C) Farmers market incentive programs, not to exceed \$200,000;

"(D) Food-pantry services, not to exceed \$52,000;

"(E) Wildlife rehabilitation services, not to exceed \$250,000;

"(F) Mother-to-child (vertical) HIV transmission programs and services, not to exceed \$50,000; and

"(G) Nonprofit organizations dedicated to preventing any of the following chronic diseases, not to exceed \$850,000:

"(i) Asthma;

"(ii) Cancer;

"(iii) Diabetes;

"(iv) Hypertension;

"(v) Kidney disease; and

"(vi) Obesity.

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"(d)(1) All grants issued pursuant to subsection (c) of this section shall be administered pursuant to the requirements set forth in the Grant Administration Congressional Review Emergency Act of 2013, passed on emergency basis on October 1, 2013 (Enrolled version of Bill 20-496).

'(2) The Department of Health shall submit a quarterly report to the Secretary to the Council on all grants issued pursuant to the authority granted in subsection (c) of this section."

SUBTITLE H. MEDICAID HOSPITAL OUTPATIENT SUPPLEMENTAL PAYMENT

Sec. 5071. Short title.

This subtitle may be cited as the "Medicaid Hospital Outpatient Supplemental Payment Congressional Review Emergency Act of 2013".

Sec. 5072. Definitions.

For the purposes of this subtitle, the term:

(1) "Department" means the Department of Health Care Finance.

(2) "Gross patient revenue" means the amount calculated in accordance with generally accepted accounting principles for hospitals that is reported as the sum of Worksheet G-2; Column 1; Lines 1, 2, 2.01, 15, 17 and 18 and Worksheet G-2; Column 2; Lines 17, 18, 18.5 and 18.51 of the Medicare Cost Report (2552-96), excluding long-term care inpatient ancillary revenues.

(3) "Hospital" shall have the same meaning as provided in section 2(a)(1) of 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(a)(1)), but excludes any hospital operated by the federal government.

(4) "Hospital system" means any group of hospitals licensed separately but operated, owned, or maintained by a common entity.

(5) "Medicaid" means the medical assistance programs authorized by Title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396 *et seq.*), and by section 1 of 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), and administered by the Department of Health Care Finance.

Sec. 5073. Hospital Provider Fee Fund.

(a) Effective May 1, 2013, there is established as a special fund the Hospital Provider Fee Fund ("Fund"), which shall be administered by the Department and used in accordance with subsection (c) of this section.

(b) The Fund shall consist of revenue from the following sources:

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- (1) All moneys collected or received by the Department from the hospital provider fee imposed by this subtitle;
- (2) All federal matching funds received by the Department as a result of expenditures made by the Department that are attributable to moneys deposited in the Fund;
- (3) Interest and penalties collected under this subtitle; and
- (4) Interest earned by the Fund.

(c) Notwithstanding any other provision of law, the Fund may only be used for the following purposes:

(1) For making Medicaid outpatient hospital access payments to hospitals as required under section 5076;

(2) For payment of administrative expenses incurred by the Department or its agent in performing the activities authorized by this subtitle at an amount not to exceed the prorated amount of \$150,000 annually; and

(3) For making refunds to hospital providers pursuant to section 5075.

(d)(1) The money deposited into the Fund, and interest earned, 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.

(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

(e) The Fund shall not be used to replace any moneys appropriated to the Medicaid program.

Sec. 5074. Hospital provider fee.

(a) Subject to section 5075, the District may charge a fee at a uniform rate on the gross patient revenue of each hospital beginning May 1, 2013. The District may charge the fee retroactively to May 1, 2013, upon the effective date of this subtitle. The uniform rate shall be applied to each hospital's gross patient revenue as derived from each hospital's filed Medicare cost report ending between July 1, 2009, and June 30, 2010. The hospital provider fee is applied at a uniform rate necessary to generate the following:

(1) An amount equal to the non-federal share of the total available spending room under the Medicaid upper payment limit for private hospitals applicable to District fiscal years ("DFY") 2013 and 2014 consistent with the federal approval of the authorizing Medicaid State Plan amendment; plus

(2) An amount equal to the lesser of the non-federal share of the total available spending room under the Medicaid upper payment limit for District operated hospitals applicable to DFY 2013 and 2014 consistent with the federal approval of the authorizing Medicaid State Plan amendment or United Medical Center's Medicaid disproportionate share hospital limit as adjusted by the District in accordance with the federally approved Medicaid State Plan; plus

(3) An amount equal to the Department's administrative expenses as described in section 5073(c)(2).

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(b) A psychiatric hospital provider that is an agency or a unit of the District government is exempt from the fee imposed under this subtitle, unless the exemption is adjudged to be unconstitutional or otherwise invalid, in which case a psychiatric hospital provider that is an agency or a unit of the District government shall pay the fee imposed by this subtitle.

Sec. 5075. Applicability of fees.

(a) The fee imposed by section 5074 shall not be due and payable until such time that the federal Centers for Medicare and Medicaid Services approves the Medicaid State Plan amendment authorizing the Medicaid payments described in section 5076.

(b) The fee imposed by section 5074 shall cease to be imposed, and any moneys remaining in the Fund shall be refunded to hospital providers in proportion to the amounts paid by them, if:

(1) The Department makes changes in its rules that reduce the hospital inpatient or outpatient Medicaid payment rates, including adjustment payment rates, in effect on October 1, 2012; or

(2) The payments to hospitals required under section 5076 are modified in any way other than to secure federal approval of such payments as described in section 5076 or are not eligible for federal matching funds under Title XIX of the Social Security Act.

(c) The fee imposed by section 5074 shall not take effect or shall cease to be imposed if the fee is determined to be an impermissible tax under Title XIX of the Social Security Act.

(d) Should the fee imposed by section 5074 not take effect or cease to be imposed, moneys in the Fund derived from the imposed fee shall be disbursed in accordance with section 5076 to the extent federal matching is available. If federal matching is not available due to a determination by the Centers for Medicare and Medicaid Services that the provider fee is impermissible, any remaining moneys shall be refunded to hospital providers in proportion to the amounts paid by them.

Sec. 5076. Medicaid outpatient hospital access payments.

(a) For visits and services beginning May 1, 2013, quarterly Medicaid outpatient hospital access payments shall be made to each private hospital. Each payment will be equal to the hospital's DFY 2011 outpatient Medicaid payments divided by the total private hospital DFY 2011 outpatient Medicaid payments multiplied by one quarter of the total outpatient private hospital access payment pool minus \$250,000. The total outpatient private hospital access payment pool is equal to the total available spending room under the private hospital outpatient Medicaid upper payment limit for DFY 2013 and 2014, respectively.

(b) The remaining \$250,000 shall be distributed as an adjustment to the quarterly access payments for all private children's hospitals with less than 150 beds and distributed based on the hospital's DFY 2011 outpatient Medicaid payments relative to the total qualifying hospitals' DFY 2011 outpatient Medicaid payments.

(c) Any private hospital that is also a Disproportionate Share Hospital ("DSH") will receive no more than the available room under their District-adjusted, hospital-specific DSH

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limit. Any Medicaid outpatient hospital access payments that would otherwise exceed a private disproportionate share hospital's adjusted DSH limit shall be distributed to the remaining private hospitals consistent with each private hospital's relative share of DFY 2011 Medicaid payments.

(d) For visits and services beginning May 1, 2013, outpatient hospital access payments shall be made to the United Medical Center. Each payment will be equal to one quarter of the total outpatient public hospital access payment pool. The total outpatient public hospital access payment pool is equal to the lesser of the total available spending room under the District-operated hospital outpatient Medicaid upper payment limit for DFY 2013 and 2014, respectively, and the United Medical Center District-adjusted Medicaid DSH limit.

(e) The quarterly Medicaid outpatient hospital access payments shall be made within 15 business days of the end of each DFY quarter for the Medicaid visits and services rendered during that quarter.

(f) No payments shall be made under this section until such time that the federal Centers for Medicare and Medicaid Services approves the Medicaid State Plan amendment authorizing the Medicaid payments described in this subtitle.

(g) The Medicaid payment methodologies authorized under this subtitle shall not be altered in any way unless such alteration is necessary to gain federal approval from the Centers for Medicare and Medicaid Services.

Sec. 5077. Quarterly notice and collection.

(a) The fee imposed under section 5074 shall be due and payable by the 15th of the last month of each DFY quarter.

(b) The fee imposed under section 5074 shall be calculated, due, and payable on a quarterly basis, but shall not be due and payable until:

(1) The District issues the written notice that the payment methodologies to hospitals required under section 5076 have been approved by the federal Centers for Medicare and Medicaid Services;

(2) The District issues written notice to each hospital informing the hospital of its fee rate, gross patient revenue subject to the fee, and the fee amount owed on a quarterly basis; and

(3) The initial written notice from the District shall include all fee amounts owed beginning with the period May 1, 2013, to ensure all applicable fee obligations have been identified.

(c) When a hospital fails to pay the full amount of its fee by the date required, the unpaid balance shall accrue interest at the rate of 1.5% per month or any fraction thereof, which shall be added to the unpaid balance. The Chief Financial Officer may arrange a payment plan for the amount of the fee and interest in arrears.

(d) The payment by the hospital of the fee created in this subtitle shall be reported as an allowable cost for purposes of Medicaid hospital reimbursement.

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Sec. 5078. Multi-hospital systems, closure, merger, and new hospitals.

(a) If a hospital system conducts, operates, or maintains more than one hospital licensed by the Department of Health, the provider shall pay the fee for each hospital separately.

(b) Notwithstanding any other provision in this subtitle, in the case of a person who ceases to conduct, operate, or maintain a hospital for which the person is subject to the fee under this subtitle as a hospital provider, the fee for the DFY in which the cessation occurs shall be adjusted by multiplying the fee computed under section 5074 by a fraction, the numerator of which is the number of days in the year during which the provider conducts, operates, or maintains the hospital and the denominator of which is 365. Immediately upon ceasing to conduct, operate, or maintain a hospital, the person shall pay the fee for the year as so adjusted (to the extent not previously paid).

(c) Notwithstanding any other provision in this subtitle, a provider who conducts, operates, or maintains a hospital, upon notice by the Department, shall pay the fee computed under section 5074 and subsection (a) of this section in installments on the due dates stated in the notice and on the regular installment due dates for the DFY occurring after the due dates of the initial notice.

Sec. 5079. Rules.

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.*), may issue rules to implement the provisions of this subtitle.

SUBTITLE I. DEPARTMENT OF PARKS AND RECREATION O-TYPE

Sec. 5101. Short title.

This subtitle may be cited as the "Department of Parks and Recreation O-Type Congressional Review Emergency Amendment Act of 2013".

Sec. 5102. Section 4(c)(2) of the Recreation Act of 1994, effective March 23, 1995 (D.C. Law 10-246; D.C. Official Code § 10-303(c)(2)), is amended to read as follows:

"(2) The money deposited into the Fund, and interest earned, 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."

SUBTITLE J. DEPARTMENT OF BEHAVIORAL HEALTH ESTABLISHMENT

Sec. 5111. Short title.

This subtitle may be cited as the "Department of Behavioral Health Establishment Congressional Review Emergency Act of 2013".

Sec. 5112. Definitions.

For the purposes of this subtitle, the term:

(1) "Behavioral health" means a person's overall social, emotional, and psychological well-being and development.

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(2) "Behavioral health services" means stand-alone and co-occurring, integrated treatment services for substance abuse and mental health disorders that are designed to promote a person's behavioral health.

(3) "Comprehensive Psychiatric Emergency Program" or "CPEP" means a 24-hour/7-days a week program providing emergency psychiatric evaluation and stabilization.

(4) "Department" means the Department of Behavioral Health.

(5) "Director" means the Director of the Department of Behavioral Health.

(6) "Recovery" means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(7) "Recovery support services" means substance abuse treatment, care coordination, and community-based support that promote recovery.

(8) "Substance abuse" means a pattern of pathological use of a drug or alcohol that causes impairment in social or occupational functioning or produces physiological dependency evidenced by physical tolerance or physical symptoms when the drug or alcohol is not used.

Sec. 5113. Establishment of the Department of Behavioral Health.

(a) There is established as a separate, cabinet-level Department, subordinate to the Mayor, the Department of Behavioral Health.

(b) The Department shall be the successor-in-interest to the Department of Mental Health, established by the Department of Mental Health Establishment Amendment Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1131.01 *et seq.*), and the Department of Health Addiction Prevention and Recovery Administration, established in the Department of Health by the Reorganization Plan No. 4 of 1996, effective July 17, 1996 (D.C. Official Code, Vol. 3).

Sec. 5114. Appointment of Director.

The Department shall be headed by a Director, who shall:

(1) Be appointed by the Mayor with the advice and consent of the Council, pursuant to section 2(a) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a));

(2) Be qualified by experience and training to carry out the purposes of the Department as set forth in section 5116; and

(3) Serve at the pleasure of the Mayor.

Sec. 5115. Duties of Director.

In addition to other duties as may be lawfully imposed, the Director shall:

(1) Supervise and direct the Department;

(2) Organize the Department for its efficient operation, including creating offices within the Department, as necessary; and

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(3) Exercise any other powers necessary and appropriate to implement the provisions of this subtitle.

Sec. 5116. Purpose of the Department.

The Department shall:

- (1) Ensure the provision of high-quality behavioral health services by establishing District-wide behavioral health standards and policies;
- (2) Foster and promote behavioral health education and disease prevention;
- (3) Provide high-quality prevention, treatment, and recovery support services related to mental health disorders, addictions, and the abuse of alcohol, tobacco, and other drugs in the District;
- (4) Develop and maintain an efficient and cost-effective behavioral health care financing system; and
- (5) Implement, monitor, and evaluate the District's strategic behavioral health plan.

Sec. 5117. Powers and duties of the Department.

Notwithstanding any other provision of law, the Department shall:

- (1) Plan, develop, coordinate, and monitor comprehensive and integrated behavioral health systems of care for adults and for children, youth, and their families in the District, so as to maximize utilization of behavioral health services and behavioral health supports;
- (2) Assure that services for priority populations identified in the Department's annual plan are funded within the Department's appropriations or authorizations by Congress and are available;
- (3) Serve as the state mental health authority and arrange for all authorized, publicly funded behavioral health services and behavioral health supports for the residents of the District, whether operated directly by, or through contract with, the Department; provided, that the Department of Youth Rehabilitation Services ("DYRS") shall be responsible for the delivery of behavioral health services to youth in custody in DYRS secure facilities;
- (4) Serve as the single state agency for substance abuse services and promulgate rules, regulations, and certification standards for high-quality prevention, treatment, and recovery support services related to addictions and the abuse of alcohol, tobacco, and other drugs in the District of Columbia;
- (5) Maximize and leverage local, federal, and other available funding to support behavioral health prevention, treatment, and recovery support services;
- (6) Directly operate a hospital to provide inpatient mental health services, and maintain the hospital's certification by the Department of Health and the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services;
- (7) Make grants, pay subsidies, purchase services, and provide reimbursement for behavioral health services and behavioral health supports; provided, that any grants shall be

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administered pursuant to the requirements set forth in the Grant Administration Congressional Review Emergency Act of 2013, passed on emergency basis on October 1, 2013 (Enrolled version of Bill 20-496);

(8) Arrange for, or directly provide, a Comprehensive Psychiatric Emergency Program for all persons identified to the Department who meet criteria for admission for such services;

(9) Arrange for a 24-hour, District-wide telephone communication service to provide intervention services for adults, children, and youth in need of behavioral health services and behavioral health supports, including observation, evaluation, emergency treatment, and, when necessary, referral for behavioral health services and behavioral health supports;

(10) Be the exclusive agency to regulate all behavioral health services and behavioral health supports, including outpatient behavioral health services and all substance abuse and detoxification services;

(11) Facilitate the delivery of acute inpatient behavioral health services and behavioral health supports through community or public hospitals in the District, including coordinating comprehensive behavioral health services and behavioral health supports for children, youth, and their families;

(12) Upon request or on its own initiative, investigate, or ask another agency to investigate, any complaint alleging abuse or neglect of any consumer of behavioral health services, and, if the investigation by the Department or an investigation by any other agency or entity substantiates the charge of abuse or neglect, take appropriate action to correct the situation, including notification of other appropriate authorities; and

(13) Exercise all other powers, duties, functions, and responsibilities previously assigned to the Department of Mental Health pursuant to the Department of Mental Health Establishment Amendment Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1131.01 *et seq.*), and to the Department of Health Addiction Prevention and Recovery Administration pursuant to Reorganization Plan No. 4 of 1996, effective July 17, 1996 (D.C. Official Code, Vol. 3).

Sec. 5118. Transfer of authority, functions, property, and personnel.

The following powers, duties, functions, and responsibilities are hereby transferred to the Department of Behavioral Health, effective October 1, 2013:

(1) All real and personal property, Career and Excepted Service, Management Supervisory Service, trainee positions, assets, records, obligations, unexpended balances of appropriations, allocations, and other funds available or to be made available to the Department of Mental Health and the Department of Health Addiction Prevention and Recovery Administration, or relating to the powers, duties, functions, operations, and administration set forth in section 5117;

(2) All of the functions assigned and authorities granted and delegated to the Director of the Department of Mental Health, and the Department of Mental Health, as set forth

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in the Department of Mental Health Establishment Amendment Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1131.01 *et seq.*); and

(3) All of the functions assigned and authorities granted and delegated to the Department of Health Addiction Prevention and Recovery as set forth in section IV(A)(3) of Reorganization Plan No. 4 of 1996, effective July 17, 1996 (D.C. Official Code, Vol. 3).

Sec. 5119. Continuation of rules and regulations.

All rulemaking and regulations for the administration of the District's public mental health system and the addiction, recovery, and prevention system, issued under appropriate authority, shall continue in full force and effect until otherwise superseded.

Sec. 5120. Construction and abolishment.

(a) To the extent any provision of the Department of Mental Health Establishment Amendment Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1131.01 *et seq.*), is inconsistent with a provision of this subtitle, the provision of this subtitle shall govern and shall be deemed to supersede the inconsistent provision.

(b) The Department of Health Addiction Prevention and Recovery Administration as set forth in section IV(A)(3) of Reorganization Plan No. 4 of 1996, effective July 17, 1996 (D.C. Official Code, Vol. 3), is abolished.

SUBTITLE K. PUBLIC ASSISTANCE

Sec. 5121. Short title.

This subtitle may be cited as the "District of Columbia Public Assistance Congressional Review Emergency Amendment Act of 2013".

Sec. 5122. Section 5173 of the Temporary Assistance for Needy Families Time Limit Amendment Act of 2012, effective September 20, 2012 (D.C. Law 19-168; 59 DCR 8025), is repealed as of October 1, 2013.

SUBTITLE L. DEPARTMENT OF HUMAN SERVICES MEMORANDUM OF UNDERSTANDING AUTHORITY FOR SUBSTANCE ABUSE TREATMENT

Sec. 5131. Short title.

This subtitle may be cited as the "Department of Human Services Memorandum of Understanding Authority for Substance Abuse Treatment Congressional Review Emergency Act of 2013".

Sec. 5132. For fiscal year 2014, the Department of Human Services ("DHS") shall enter into a Memorandum of Understanding of up to \$2.5 million with the Department of Behavioral Health ("DBH") for a substance abuse treatment program for Temporary Assistance for Needy Families ("TANF") clients. DHS shall work with DBH, other agencies, and community-based experts as necessary to establish an integrated system of care for TANF beneficiaries living with

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barriers, including mental health disorders, alcohol and substance abuse, and HIV/AIDS. DHS shall present the integrated system of care plan to the Council's Committee on Human Services no later than December 1, 2013.

SUBTITLE M. PUBLIC ASSISTANCE HUMAN IMPACT

Sec. 5141. Short title.

This subtitle may be cited as the "Public Assistance Human Impact Congressional Review Emergency Amendment Act of 2013".

Sec. 5142. Section 511c of the District of Columbia Public Assistance Act of 1982, effective April 8, 2011 (D.C. Law 4-101; D.C. Official Code § 4-205.11c), is amended as follows:

(a) The introductory text is amended by striking the phrase "Within 60 days of January 19, 2011" and inserting the phrase "Within 120 days of October 1, 2013" in its place.

(b) Paragraph (3) is amended as follows:

(1) The lead-in language is amended by striking the number "35" and inserting the number "100" in its place.

(2) Subparagraph (D) is amended by striking the phrase "Court Social Services or Department of Youth Rehabilitation Services" and inserting the phrase "Child and Family Services Agency, Department of Human Services, Court Social Services, or Department of Youth Rehabilitation Services" in its place.

SUBTITLE N. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES TIME LIMIT

Sec. 5151. Short title.

This subtitle may be cited as the "Temporary Assistance for Needy Families Time Limit Congressional Review Emergency Amendment Act of 2013".

Sec. 5152. Section 5163 of the Temporary Assistance for Needy Families Time Limit Amendment Act of 2012, effective September 20, 2012 (D.C. Law 19-168; 59 DCR 8025), is repealed as of October 1, 2013.

Sec. 5153. The District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-201.01 *et seq.*), is amended as follows:

(a) Section 205(d) (D.C. Official Code § 4-202.05(d)) is amended to read as follows:

"(d) Within 30 days of the effective date of the Temporary Assistance for Needy Families Time Limit Amendment Act of 2013, signed by the Mayor on August 28, 2013 (D.C. Act 20-157; 60 DCR 12472)) ("Time Limit Act"), 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 the provisions of the Time Limit Act."

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(b) Section 511b (D.C. Official Code § 4-205.11b) is amended as follows:

- (1) Subsection (c) is repealed.
- (2) Subsection (d) is repealed.
- (3) Subsection (f) is repealed.

(c) Section 572a(a) (D.C. Official Code § 4-205.72a(a)) is amended as follows:

- (1) The lead-in language is amended by striking the number "2012" and inserting the number "2013" in its place.
- (2) Paragraph (3)(D) is amended by striking the phrase "old; or" and inserting the phrase "old;" in its place.
- (3) Paragraph (4) is repealed.
- (4) New paragraphs (5) and (6) are added to read as follows:
 - "(5) Is a parent or caretaker who is 60 years of age or older; or
 - "(6) Is the head of an assistance unit who is meeting the full requirements of his or her Individual Responsibility Plan and can show that he or she is enrolled in an accredited postsecondary education program or a Department of Employment Services approved job training program in which he or she is working towards the attainment of a degree, certificate, or official credential."

(d) Section 519a (D.C. Official Code § 4-205.19a) is amended as follows:

- (1) Subsection (c) is repealed.
- (2) Subsection (d) is amended by striking the phrase "and TANF hardship extensions".
- (3) A new subsection (e) is added to read as follows:

"(e) Other than victims of domestic violence, pursuant to section 572a(a)(2)(A), no TANF recipients eligible for POWER pursuant to section 572a may receive case management services beyond the services currently being received on the effective date of the Time Limit Act, unless the Department of Human Services deems such services as necessary and funding is available."

SUBTITLE O. INTERIM DISABILITY ASSISTANCE

Sec. 5161. Short title.

This subtitle may be cited as the "Interim Disability Assistance Congressional Review Emergency Amendment Act of 2013".

Sec. 5162. Section 407(d) of the District of Columbia Public Assistance Act of 1982, effective April 3, 2001 (D.C. Law 13-252; D.C. Official Code § 4-204.07(d)), is amended as follows:

(a) Paragraph (2)(A) is amended to read as follows:

"(A) Applies to the Social Security Administration for SSI benefits and maintains or pursues an active SSI application, motion for reconsideration, or request for hearing before an Administrative Law Judge, subject to the limitations of paragraph (3) of this subsection;"

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(b) Paragraph (3) is amended as follows:

(1) Subparagraph (B) is amended to read as follows:

“(B) An otherwise qualified individual’s period of eligibility for IDA benefits shall end either at the end of the month in which the Social Security Administration begins payment of SSI benefits, or at the end of the month in which an Administrative Law Judge issues a decision denying the IDA recipient’s SSI application following a hearing pursuant to 20 C.F.R. § 416.1429.”.

(2) Subparagraph (C) is repealed.

(3) Subparagraph (D) is amended as follows:

(A) Strike the phrase “and an appeal is filed timely”.

(B) Strike the phrase “IDA recipient” and insert the word “individual” in its place.

Sec. 5163. This subtitle shall not be construed as affecting the eligibility of an otherwise qualified individual who has a Social Security application pending at the time of the effective date of this subtitle.

SUBTITLE P. HOMELESS PREVENTION AND RAPID RE-HOUSING PILOT INITIATIVE

Sec. 5171. Short title.

This subtitle may be cited as the “Homelessness Prevention and Rapid Re-Housing Pilot Initiatives Congressional Review Emergency Act of 2013”.

Sec. 5172. (a)(1) For fiscal year 2014, the Department of Human Services (“Department”) shall implement an Emergency Rental Assistance Program (“ERAP”) pilot initiative for the purpose of providing emergency rental assistance to non-elderly, non-disabled adults without minor children in their care who would otherwise qualify for emergency rental assistance under Chapter 75 of Title 29 of the District of Columbia Municipal Regulations.

(2) No later than October 1, 2013, the Department shall submit to the Council a plan for the ERAP pilot initiative. The plan shall include the following information:

(A) An estimated number of clients that will be served by the initiative;

(B) A timeline for implementation of the initiative;

(C) Metrics or criteria for measuring the initiative’s outcomes; and

(D) Any other information the Department believes would assist in analyzing the initiative’s impact.

(b)(1) For fiscal year 2014, the Department shall implement a Rapid Re-Housing (“RRH”) pilot initiative for the purpose of providing assistance to rapidly re-house adults without minor children in their care who would otherwise qualify for rapid re-housing assistance under Chapter 78 of Title 29 of the District of Columbia Municipal Regulations.

(2) No later than October 1, 2013, the Department shall submit to the Council a plan for the RRH pilot initiative. The plan shall include the following information:

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(A) An estimated number of clients that will be served by the initiative;
(B) A timeline for implementation of the initiative;
(C) Metrics or criteria for measuring the initiative's outcomes; and
(D) Any other information the Department believes would assist the Council in analyzing the initiative's impact.

SUBTITLE Q. HOMELESS SERVICES REFORM

Sec. 5181. Short title.

This subtitle may be cited as the "Homeless Services Reform Congressional Review Emergency Amendment Act of 2013".

Sec. 5182. The Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-751.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 4-751.01) is amended as follows:

(1) Paragraph 18(A) is amended by striking the word "immediately" and inserting the phrase "immediately, including any individual or family who is fleeing, or is attempting to flee, domestic violence and who has no other residence and lacks the resources or support networks to obtain safe housing" in its place.

(2) A new paragraph (31A) is added to read as follows:

"(31A) "Rapid Re-Housing" means a program that provides a homeless individual or family with financial assistance to obtain permanent housing, by providing some or all of a security deposit, first month's rent, short-term rental subsidy, and supportive services to help the recipient become self-sufficient."

(3) Paragraph (41) is amended as follows:

(A) The lead-in language is amended by striking the word "accommodation" and inserting the phrase "accommodation, the purpose of which is to facilitate the movement of homeless individuals and families to permanent housing within 2 years or a longer period approved by the provider" in its place.

(B) Subparagraph (B) is amended by striking the phrase "up to 2 years or as long as necessary" and inserting the phrase "less than or equal to 2 years or a longer period approved by the provider" in its place.

(b) Section 4(b) (D.C. Official Code § 4-752.01(b)), is amended by adding a new paragraph (1A) to read as follows:

"(1A) The Director to End Homelessness, who shall assist the City Administrator in leading and coordinating the Interagency Council;"

(c) Section 7 (D.C. Official Code § 4-753.01) is amended by adding a new subsection (f) to read as follows:

"(f)(1) The Mayor may require clients to establish and contribute to a savings or escrow account, or other similar savings arrangement. The savings or escrow arrangement shall be customized to each client so as not to jeopardize another benefit program and to allow for reasonable and necessary expenses.

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“(2) A client shall not be terminated for failing to contribute to a savings or escrow account or similar savings arrangement; provided, that other sanctions may be imposed as provided by rule.

“(3) Pursuant to section 31, the Mayor shall issue rules on the establishment of any mandatory savings or escrow accounts, or other similar savings arrangements, authorized by this section. The rules shall provide exceptions to the requirement for mandatory savings or escrow accounts, or other similar savings arrangements.”.

(d) Section 11 (D.C. Official Code § 4-754.13) is amended as follows:

(1) Paragraph 10 is amended by striking the word “and”.

(2) Paragraph 11 is amended to read as follows:

“(11) Establish and contribute to a savings or escrow account, or other similar savings arrangement, if required by rules established by the Mayor pursuant to section 7(f) and included in the provider’s Program Rules approved pursuant to section 18(b); and”.

(3) A new paragraph 12 added to read as follows:

“(12) Follow all Program Rules established by a provider pursuant to section 18.”.

(e) Section 18 (D.C. Official Code § 4-754.32) is amended as follows:

(1) Paragraph (7) is amended by striking the word “and”.

(2) Paragraph (8) is amended by striking the period and inserting the phrase “; and” in its place.

(3) A new paragraph 9 is added to read as follows:

“(9) A description of a client’s responsibilities to establish and contribute to a savings and escrow account, or other similar savings arrangement, if required by rules established by the Mayor pursuant to section 7(f).”.

(f) Section 19 (D.C. Official Code § 4-754.33) is amended as follows:

(1) Subsection (c) is amended to read as follows:

“(c) All providers shall give written and oral notice to clients of their transfer to another provider or of their suspension, termination, or discontinuation from services at least 15 days before the effective date of the transfer or the suspension, termination, or discontinuation of services except:

“(1) When the sanction results from the client’s imminent threat to the health or safety of someone on the premises of the provider in accordance with section 24; or

“(2) When the sanction is a suspension of supportive services for a period shorter than 10 days.”.

(2) Subsection (d)(4) is amended to read as follows:

“(4) A clear and complete statement of the client’s right to appeal the sanction or denial through fair hearing proceedings pursuant to section 26 and administrative review proceedings pursuant to section 27, or the client’s right to reconsideration pursuant to rules established by the Mayor in accordance with section 31, including the appropriate deadlines for instituting the appeal or reconsideration; and”.

(g) Section 22 (D.C. Official Code § 4-754.36) is amended to read as follows:

“Sec. 22. Termination.

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“(a) A provider may terminate its delivery of services to a client only when:

“(1) The provider documents that it has considered suspending the client in accordance with section 21 or has made a reasonable effort, in light of the severity of the act or acts leading to the termination, to transfer the client in accordance with section 20;

“(2) The client:

“(A) Possesses a weapon on the provider’s premises;

“(B) Possesses or sells illegal drugs on the provider’s premises;

“(C) Assaults or batters any person on the provider’s premises;

“(D) Endangers the client’s own safety or the safety of others on the provider’s premises;

“(E) Intentionally or maliciously vandalizes, destroys, or steals the property of any person on the provider’s premises;

“(F) Fails to accept an offer of appropriate permanent housing or supportive housing that better serves the client’s needs after having been offered 2 appropriate permanent or supportive housing opportunities; or

“(G) Knowingly engages in repeated violations of a provider’s Program Rules; and

“(3) In the case of a termination pursuant to paragraph (2)(F) or (G) of this subsection, the provider has made reasonable efforts to help the client overcome obstacles to obtaining permanent housing.

“(b) For the purposes of subsection (a)(2)(F) of this section, Rapid Re-Housing shall be considered an offer of supportive housing and an offer of 2 different units through a Rapid Re-Housing program shall be considered 2 offers of supportive housing. In determining whether an offer of permanent or supportive housing is appropriate, the results of a research- or evidence-based assessment tool used as part of the decision to make such an offer shall be given great weight.”

(h) A new section 22a is added to read as follows:

"Sec. 22a. Discontinuation of supportive housing services.

“(a) A provider may discontinue supportive housing services for a client only when the client has:

“(1) Relocated to another program or facility for more than 180 days;

“(2) Abandoned his or her unit for more than 60 days and good-faith efforts to locate the client have failed, or the client has been located but has indicated by words or actions that he or she does not intend to return to and reside in the unit; or

“(3) The client has not requested a reasonable accommodation to continue the supportive housing services for disability-related reasons, or has requested a reasonable accommodation and it was denied; and

“(4) No household members who have been approved as part of the household unit for purposes of the program remain in the supportive housing placement.

“(b) Providers of supportive housing shall give oral and written notice, in accordance with section 19(d), to clients of their discontinuation from services only after the required time

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period in subsection (a) of this section has lapsed, except where there is credible evidence that the client who has relocated to another program or facility is expected to be absent for more than 180 days . The notice shall be given at least 30 days before the effective date of the discontinuation of services. If it is not possible to provide written notice at the time of the action because the client's whereabouts are unknown, a written notice shall be delivered to the client's last known address or, upon request, within 90 days of the discontinuation of services.

"(c) A client whose supportive housing services are discontinued pursuant to this section shall have the right to be re-housed upon return; provided, that the client continues to meet the eligibility criteria for the program and the services are available. If the services are not available from the original supportive housing provider, the client shall receive the first available opening at the original supportive housing provider's program, unless an opening elsewhere is available and the client consents to the alternate provider. To the extent possible, a provider who is notified of a client's impending return shall make a reasonable effort to work with the client to arrange supportive housing services that will be available upon the client's return."

(i) A new section 31a is added to read as follows:

"Sec. 31a. Director to End Homelessness.

"(a) The Mayor shall appoint a Director to End Homelessness ("Director"), pursuant to section 2(a) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a)). The Director shall report to the Mayor, and shall be highly qualified and experienced. The Mayor is encouraged to consult with the Interagency Council of Homelessness on the specific qualifications and job description for this position.

"(b) The Director shall:

"(1) Coordinate efforts across agencies to end homelessness in the District;

"(2) Provide a single point of accountability for efforts to end homelessness in the District;

"(3) Help lead and coordinate the Interagency Council on Homelessness;

"(4) Work with community stakeholders and the Interagency Council to create, coordinate, and implement a plan to end homelessness in the District;

"(5) Create and monitor performance measures that track the District's progress on the plan to end homelessness; and

"(6) Report to the Mayor and to the Council by September 30 of each year, beginning in 2014, on the status of ending homelessness in the District."

SUBTITLE R. END HOMELESSNESS FUND

Sec. 5191. Short title.

This subtitle may be cited as the "End Homelessness Fund Congressional Review Emergency Act of 2013".

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Sec. 5192. End Homelessness Fund.

(a) There is established as a special fund the End Homelessness Fund ("Fund"), which shall be administered by the Department of Human Services in accordance with subsection (c) of this section.

(b) The Fund shall consist of 50% of the revenue from the automated traffic enforcement program, to the extent that the revenue is offset by revenue from a tax imposed by Chapter 39A of Title 47 of the District of Columbia Official Code on sales made via the Internet, and the interest earned on that revenue, but not to exceed \$50 million in a fiscal year.

(c) The Fund shall be used to end homelessness in the District, as set forth in a plan and legislation prepared by the Director to End Homelessness and the Interagency Council on Homelessness and transmitted to the Council for enactment. No moneys may be used from the Fund to supplant existing funding for programs already in existence.

(d)(1) The money deposited into the Fund, and interest earned, 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.

(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

SUBTITLE S. ASTHMA MANAGEMENT CENTER

Sec. 5201. Short title.

This subtitle may be cited as the "Pediatric Asthma Management Congressional Review Emergency Act of 2013".

Sec. 5202. Pediatric asthma management center.

Of the capital funds allocated in fiscal year 2014 for project HTO-UMCOI within the Department of Health Care Finance, up to \$2 million may be used to fund the renovation of existing space on the campus of United Medical Center in support of a pediatric asthma management center.

TITLE VI. TRANSPORTATION, PUBLIC WORKS, AND THE ENVIRONMENT**SUBTITLE A. SAFETY-BASED TRAFFIC ENFORCEMENT FINE REDUCTION**

Sec. 6001. Short title.

This subtitle may be cited as the "Safety-Based Traffic Enforcement Fine Reduction Congressional Review Emergency Amendment Act of 2013".

Sec. 6002. Section 105 of the Safety-Based Traffic Enforcement Amendment Act of 2012, returned unsigned by the Mayor on February 11, 2013 (D.C. Act 19-674; 60 DCR 2753), is repealed.

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Sec. 6003. Section 2600.1 of Title 18 of the District of Columbia Municipal Regulations is amended as follows:

(a) The existing text under the subheading "Intersection" is amended by striking the phrase "Failure to clear (including crosswalks) [§ 2201.11] \$100" and inserting the phrase "Failure to clear (including crosswalks) [§ 2201.11] \$50" in its place.

(b) The subheading "Right turn on red" and existing text is amended to read as follows:
"Right turn on red

- "Failure to come to a complete stop before turning [§ 2103.7] \$50
- "Failure to yield right-of-way to vehicle or pedestrian [§ 2103.7] \$50
- "Violation of "No Turn on Red" sign [§ 4013] \$50".

(c) The existing text under the subheading "Right-of-way" is amended by striking the phrase "Failure to stop and give right-of-way to pedestrian in roadway [§ 2208] \$250" and inserting the phrase "Failure to stop and give right-of-way to pedestrian in roadway [§ 2208] \$75" in its place.

(d) The existing text under the subheading "Speeding" is amended to read as follows:

- "Up to 10 mph in excess of limit [§ 2200] \$50
- "11 to 15 mph in excess of limit [§ 2200] \$100
- "16 to 20 mph in excess of limit [§ 2200] \$150
- "21 to 25 mph in excess of limit [§ 2200] \$200
- "Over 25 mph in excess of limit [§ 2200] \$300
- "Minimum; driving too slowly [§ 2200.10] \$50
- "Unreasonable [§ 2200.3] \$100".

SUBTITLE B. DEPARTMENT OF MOTOR VEHICLES IMMOBILIZATION

Sec. 6011. Short title.

This subtitle may be cited as the "DMV Immobilization Congressional Review Emergency Amendment Act of 2013".

Sec. 6012. Section 6(k) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(k)), is amended by adding a new paragraph (5) to read as follows:

"(5) Before the removal of an immobilization mechanism on a motor vehicle or the release of a motor vehicle from impoundment, the owner shall pay all outstanding fees, charges, civil fines, or penalties incurred pursuant to this section and sections 7 and 8 of this act, section 15(b)(2)(A) of the Compulsory/No Fault Motor Vehicle Insurance Act of 1982, effective September 18, 1982 (D.C. Law 4-155; D.C. Official Code § 31-2413(b)(2)(A)), sections 1 and 6 of An Act To provide for the annual inspection of all motor vehicles in the District of Columbia, approved February 18, 1938 (52 Stat. 78; D.C. Official Code §§ 50-1101 and 1106), sections 2 and 3 of Title IV of the District of Columbia Revenue Act of 1937, approved August 17, 1937 (50 Stat. 680; D.C. Official Code §§ 50-1501.02 and 1501.03), sections 105 and 304a of the

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District of Columbia Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law 2-104; D.C. Official Code §§ 50-2301.05 and 50-2303.04a), and section 9(a) of the Removal and Disposition of Abandoned and Other Unlawfully Parked Vehicles Reform Act of 2003, effective October 28, 2003 (D.C. Law 15-35; D.C. Official Code § 50-2421.09(a)), against the owner or any motor vehicle in which the owner has an ownership interest or had an ownership interest when a notice of infraction was issued."

Sec. 6013. Section 9(a)(4) of the Removal and Disposition of Abandoned and Other Unlawfully Parked Vehicles Reform Act of 2003, effective October 28, 2003 (D.C. Law 15-35; D.C. Official Code § 50-2421.09(a)(4)), is amended to read as follows:

"(4) Making a payment in accordance with section 6(k)(5) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(k)(5));".

SUBTITLE C. STORMWATER IN LIEU FEE SPECIAL FUND

Sec. 6021. Short title.

This subtitle may be cited as the "Stormwater In-Lieu Fee Special Purpose Revenue Fund Congressional Review Emergency Amendment Act of 2013".

Sec. 6022. The Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code § 8-103.01 *et seq.*), is amended by adding a new section 10b to read as follows:

"Sec. 10b. Stormwater In-Lieu Fee Payment Fund.

"(a) There is established as a special fund the Stormwater In-Lieu Fee Payment Fund ("In-Lieu Fee Fund"), which shall be administered by the Mayor in accordance with subsection (c) of this section.

"(b) The In-Lieu Fee Fund shall consist of revenue from payments to the In-Lieu Fee Fund to achieve stormwater retention obligations of regulated properties, as required by the Municipal Separate Storm Sewer System permit issued to the District by the Environmental Protection Agency.

"(c) The In-Lieu Fee Fund shall be used for the installation, operation, and maintenance of stormwater retention facilities.

"(d)(1) The money deposited into the In-Lieu Fee Fund, and interest earned, 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.

"(2) Subject to authorization by Congress, any funds appropriated in the In-Lieu Fee Fund shall be continually available without regard to fiscal year limitation.

"(e) The District Department of the Environment shall publish on its website at least annually a report which includes a description of how revenues are spent from the In-Lieu Fee Fund and Anacostia River Clean Up and Protection Fund, established by the Anacostia River

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Clean Up and Protection Act of 2009, effective September 23, 2009 (D.C. Law 18-55; D.C. Official Code § 8-102.01 *et seq.*).

"(f) The report on the In-Lieu Fee Fund required by subsection (e) of this section shall include:

"(1) The total amount of in-lieu fees collected to date;

"(2) The total amount of funds spent to date;

"(3) For each sub-drainage area or watershed, the aggregate off-site retention volume per year purchased with in-lieu fees, based on the location of regulated projects paying in-lieu fees; and

"(4) For each of the stormwater retention facilities installed using In-Lieu Fee Fund dollars, the type of best management practices used by the facility, the gallons per year of stormwater volume achieved by the facility, the sub-drainage or watershed location of the facility, and a summary of the capital and maintenance costs of the project."

SUBTITLE D. DISTRICT DEPARTMENT OF TRANSPORTATION PARKING METER REVENUE

Sec. 6031. Short title.

This subtitle may be cited as the "District Department of Transportation Parking Meter Revenue Congressional Review Emergency Amendment Act of 2013".

Sec. 6032. Section 2a of the Performance Parking Pilot Zone Act of 2008, effective November 25, 2008 (D.C. Law 17-279; D.C. Official Code § 50-2531.01), is amended as follows:

(a) Subsection (a)(2) is amended to read as follows:

"(2) Fees collected for the parking of vehicles where meters or devices are installed shall be deposited into the Fund in accordance with section 3(h)(2) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved February 16, 1942 (56 Stat. 91; D.C. Official Code § 50-2603(8)(B))."

(b) Subsection (b) is amended by striking the phrase "for projects within the zone from which revenues were raised".

Sec. 6033. Section 3(h) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved February 16, 1942 (56 Stat. 91; D.C. Official Code § 50-2603(8)), is amended as follows:

(a) Paragraph (1) is amended to read as follows:

"(1) For fiscal year 2014, and each year thereafter, 100% of the amount collected from the parking of vehicles where meters or devices are installed shall be used in accordance with this section to fund the general operations of the Washington Metropolitan Area Transit Authority, with the exception of the portions required to be transferred to the District Department of Transportation Parking Meter Pay-by-phone Transaction Fee Fund and the DC Circulator Fund, in accordance with section 9f of the Department of Transportation

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Establishment Act of 2002, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 50-921.14)."

(b) Paragraph (2) is amended to read as follows:

"(2)(A) For fiscal year 2013, \$35,264,948 shall be dedicated to paying a portion of the District's annual operating subsidies to the Washington Metropolitan Area Transit Authority.

"(B) Other fees collected for the parking of vehicles where meters or devices are installed in excess of the portions required to be transferred to the District Department of Transportation Parking Meter Pay-by-Phone Transaction Fee Fund and the Parking Meter Fund shall be divided evenly between the Sustainable Transportation Fund established by section 9g of the Department of Transportation Establishment Act of 2002, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 50-921.15); and the Performance Parking Fund established by section 2a of the Performance Parking Pilot Zone Act of 2008, effective November 25, 2008 (D.C. Law 17-279; D.C. Official Code § 50-2531.01)."

(c) Paragraph (3) is repealed.

Sec. 6034. Section 9g(b) of the Department of Transportation Establishment Act of 2002, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 50-921.15(b)), is amended by striking the phrase "section 3(h)(3)" and inserting the phrase "section 3(h)(2)" in its place.

Sec. 6035. Right-of-way revenues.

Notwithstanding any other provision of law, for fiscal year 2014, the Chief Financial Officer shall transfer to the unrestricted fund balance of the General Fund of the District of Columbia and recognize as local funds \$921,000 of fiscal year 2014 right-of-way revenues.

**SUBTITLE E. ACCESSIBLE PUBLIC VEHICLES-FOR-HIRE FUNDING
AMENDMENT**

Sec. 6041. Short title.

This subtitle may be cited as the "Accessible Public Vehicles-for-Hire Congressional Review Emergency Amendment Act of 2013".

Sec. 6042. Section 20a(b) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-320(b)), is amended as follows:

(a) Paragraph (2) is amended to read as follows:

"(2) For fiscal years 2014 and 2015:

"(A) The first \$4,700,000 of funds deposited into the Fund each year shall be used to support the operations of the Commission pursuant to paragraph (1)(A) of this subsection;

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"(B) \$750,000 of the remaining funds deposited into the Fund each year shall be used to increase the number of wheelchair accessible public vehicles-for-hire pursuant to paragraph (1)(B) of this subsection; and

"(C) Any remaining funds in the Fund may be used for any of the purposes described in paragraph (1) of this subsection."

(b) A new paragraph (3) is added to read as follows:

"(3) Nothing in this subsection shall affect any requirements imposed upon the Commission by 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.*)".

SUBTITLE F. BICYCLE ADVISORY COUNCIL CHAIR

Sec. 6051. Short title.

This subtitle may be cited as the "Bicycle Advisory Council Congressional Review Emergency Amendment Act of 2013".

Sec. 6052. Section 5(b)(2)(B) of the District of Columbia Comprehensive Bicycle Transportation and Safety Act of 1984, effective March 16, 1985 (D.C. Law 5-179; D.C. Official Code § 50-1604(b)(2)(B)), is amended to read as follows:

"(B) A chairperson shall be elected from among the 13 community representatives and shall serve for a term of 2 years."

SUBTITLE G. PRIORITY SIDEWALK ASSURANCE

Sec. 6061. Short title.

This subtitle may be cited as the "Priority Sidewalk Assurance Congressional Review Emergency Amendment Act of 2013".

Sec. 6062. Section 2(a) of the Priority Sidewalk Assurance Act of 2010, effective September 24, 2010 (D.C. Law 18-227; D.C. Official Code § 9-425.01(a)), is amended by striking the phrase "road reconstruction or curb and gutter replacement" and inserting the phrase "road reconstruction, installation of a curb and gutter, or curb and gutter replacement" in its place.

SUBTITLE H. PESTICIDE REGISTRATION FUND PRESERVATION

Sec. 6071. Short title.

This subtitle may be cited as the "Pesticide Registration Fund Preservation Congressional Review Emergency Amendment Act of 2013".

Sec. 6072. The Pesticide Education and Control Amendment Act of 2012, effective October 23, 2012 (D.C. Law 19-191; D.C. Official Code § 8-431 *et seq.*), is amended by adding a new section 9a to read as follows:

"Sec. 9a. Pesticide Registration Fund.

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"(a) There is established as a special fund the Pesticide Registration Fund ("Fund"), which shall be administered by the Department in accordance with subsection (c) of this section.

"(b) The Fund shall consist of revenue from fees collected pursuant to section 9 and other pesticide license and registration fees.

"(c) The Fund shall be used for the administration of the Department's pesticide programs.

"(d) The money deposited into the Fund, and interest earned, 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."

Sec. 6073. Section 9084 of the Fiscal Year 2012 Transfer of Special Purpose Funds Act of 2011, effective September 14, 2011 (D.C. Law 19-21; 58 DCR 6362), is repealed.

SUBTITLE I. PUBLIC SPACE CLEANING GRANTS

Sec. 6081. Short title.

This subtitle may be cited as the "Public Space Cleaning Grant Congressional Review Emergency Act of 2013".

Sec. 6082. (a) Of the funds appropriated in fiscal years 2014 and 2015 to the Department of Small and Local Business Development for Clean Teams, \$800,000 may be awarded for grants over a 2-year period to include \$400,000 in fiscal year 2014 and \$400,000 in fiscal year 2015 for clean-team services to, at minimum, the following areas:

- (1) Connecticut Avenue, N.W., between Calvert Street and Cathedral Avenue; between Macomb Street and Porter Street; and between Tilden Street and Albemarle Street;
- (2) 12th Street, N.E., from Jackson Street, N.E., to Randolph Street, N.E.; and
- (3) Minnesota Avenue, N.E., from Grant Street, N.E., to East Capitol Street.

(b) An eligible grantee must have experience in:

- (1) Providing clean-team services;
- (2) Providing job-training services to its employees;
- (3) Hiring District residents; and
- (4) Providing social support services to its Clean Team employees.

(c) Grants awarded under this subtitle shall administered pursuant to the requirements set forth in the Grant Administration Congressional Review Emergency Act of 2013, passed on emergency basis on October 1, 2013 (Enrolled version of Bill 20-496).

SUBTITLE J. TRANSPORTATION FINE AND FEE ADJUSTMENT

Sec. 6091. Short title.

This subtitle may be cited as the "Transportation Fee and Fine Adjustment Congressional Review Emergency Amendment Act of 2013".

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Sec. 6092. Section 2601.1 of Title 18 of the District of Columbia Municipal Regulations (18 DCMR § 2601.1) is amended by inserting an infraction in between the "Stop sign" and "Tags" infractions to read as follows:

"Street cleaning route, parked on during prohibited period (§ 2423) \$45.00".

**SUBTITLE K. SAFETY JUSTIFICATION FOR TRAFFIC CONTROL
OFFICERS PLACEMENT**

Sec. 6101. Short title.

This subtitle may be cited as the "Allocation of Traffic Control Officers Congressional Review Emergency Act of 2013".

Sec. 6102. Safety justification.

The District Department of Transportation ("DDOT") shall:

- (1) Justify the placement of Traffic Control Officers ("TCOs") at intersections based on safety, except when needed to manage special events or construction sites or when safety concerns for TCOs exist; and
- (2) Prioritize placement of TCOs at the 10 most dangerous intersections during peak hazardous times.

Sec. 6103. Public notification of safety justification and dangerous intersections.

On or before February 1, 2014, DDOT shall publish on its website:

- (1) A standard safety justification for the placement of TCOs; and
- (2) A list of the 10 most dangerous intersections that will have TCOs during the most hazardous times of day, and the corresponding justification for these placements.

**SUBTITLE L. DISTRICT DEPARTMENT OF TRANSPORTATION DC
CIRCULATOR**

Sec. 6111. Short title.

This subtitle may be cited as the "District Department of Transportation DC Circulator Congressional Review Emergency Amendment Act of 2013".

Sec. 6112. Section 11c(a) of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code § 50-921.33(a)), is amended as follows:

- (1) Strike the phrase "lapsing special purpose revenue fund" and insert the phrase "nonlapsing special fund" in its place.
- (2) Strike the phrase "or their agents," and insert the phrase "or their agents, parking meter revenue from the National Park Service for meters on the Mall," in its place.

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**SUBTITLE M. DISTRICT DEPARTMENT OF TRANSPORTATION
JURISDICTION**

Sec. 6121. Short title.

This subtitle may be cited as the "District Department of Transportation Jurisdiction Congressional Review Emergency Amendment Act of 2013".

Sec. 6122. Section 3 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), is amended by adding a new subsection (g) to read as follows:

"(g)(1) The Director may enter into agreements with jurisdictions in the Washington metropolitan area ("regional jurisdictions") to plan, fund, design, construct, and otherwise carry out transportation projects.

"(2) DDOT may receive funds from and disperse funds to regional jurisdictions for the purposes of planning, funding, designing, constructing, and otherwise carrying out the transportation projects.

"(3) DDOT may take other appropriate actions to plan, fund, design, construct, and otherwise carry out the transportation projects, including performing work, including construction work, in regional jurisdictions."

SUBTITLE N. REPRESENTATION TAGS

Sec. 6131. Short title.

This subtitle may be cited as the "Representation Tags Congressional Review Emergency Amendment Act of 2013".

Sec. 6132. Section 423 of Title 18 of the District of Columbia Municipal Regulations (18 DCMR § 423) is amended by adding a new subsection 423.3a to read as follows:

"423.3a. Members of the Council may choose to be issued a standard motor vehicle identification tag or a tag designating the member's ward of representation or at-large status. If the member opts for a standard tag, the member shall also be issued a placard to be placed on the dashboard of a vehicle indicating that the vehicle is being used by the member for official business."

Sec. 6133. Section 6(c)(2) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(c)(2)), is amended to read as follows:

"(2) The vehicle is displaying a Congressional or Council registration tag or parking placard issued for the current session or by the District."

TITLE VII. FINANCE AND REVENUE**SUBTITLE A. SUBJECT TO APPROPRIATIONS REPEALERS**

Sec. 7001. Short title.

This subtitle may be cited as the "Subject to Appropriations Repealers Congressional Review Emergency Amendment Act of 2013".

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Sec. 7002. Section 3 of the Land Acquisition for Housing Development Opportunities Program Act of 2010, effective December 3, 2010 (D.C. Law 18-260; 57 DCR 9632), is repealed.

Sec. 7003. Section 5 of the UNCF Tax Abatement and Relocation to the District Assistance Act of 2010, effective August 6, 2010 (D.C. Law 18-211; 57 DCR 4949), is repealed.

Sec. 7004. Section 3 of the Carver 2000 Low-Income and Senior Housing Project Amendment Act of 2012, effective July 13, 2012 (D.C. Law 19-151; 59 DCR 5134), is repealed.

Sec. 7005. Section 4 of the Elizabeth Ministry, Inc. Affordable Housing Initiative Real Property Tax Relief Act of 2012, effective April 20, 2013 (D.C. Law 19-253; 60 DCR 982), is repealed.

Sec. 7006. Section 3 of the King Towers Residential Housing Real Property Tax Exemption Clarification Act of 2012, effective July 13, 2012 (D.C. Law 19-153; 59 DCR 5138), is repealed.

Sec. 7007. Section 7 of the Taxicab Service Improvement Amendment Act of 2012, effective October 22, 2012 (D.C. Law 19-184; 59 DCR 9431), is repealed.

Sec. 7008. The 8th Street Plaza Condominium Association, Inc. Clarification Act of 2012, effective October 22, 2012 (D.C. Law 19-178; 59 DCR 9416), is amended as follows:

(a) Section 2(b)(2) is amended to read as follows:

“(2) The exemptions granted by paragraph (1) of this subsection shall expire on October 1, 2014.”

(b) Section 3 is repealed.

Sec. 7009. Section 3 of the Parkside Parcel E and J Mixed-Income Apartments Tax Abatement Act of 2012, effective April 20, 2013 (D.C. Law 19-255; 60 DCR 987), is repealed.

Sec. 7010. Section 3 of the Israel Senior Residences Tax Exemption Act of 2012, effective April 27, 2013 (D.C. Law 19-285; 60 DCR 2316), is repealed.

Sec. 7011. Section 3 of the Families Together Amendment Act of 2010, effective September 24, 2010 (D.C. Law 18-228; 57 DCR 6926), is repealed.

Sec. 7012. Section 701 of the Adoption Reform Amendment Act of 2010, effective September 24, 2010 (D.C. Law 18-230; 57 DCR 6951), is repealed.

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Sec. 7013. Section 5 of the District of Columbia Flood Assistance Fund Act of 2012, effective April 27, 2013 (D.C. Law 19-293; 60 DCR 2613), is repealed.

Sec. 7014. Section 47-1086 of the District of Columbia Official Code is amended by adding a new subsection (c) to read as follows:

"(c) This section shall apply as of March 1, 2011."

Sec. 7015. Section 1203 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-362.03), is repealed.

Sec. 7016. Section 5 of the State Board of Education Personnel Authority Amendment Act of 2012, effective April 27, 2013 (D.C. Law 19-284; 60 DCR 2312), is repealed.

Sec. 7017. Section 5 of the Public Vehicle-for-Hire Innovation Amendment Act of 2012, effective April 23, 2013 (D.C. Law 19-270; 60 DCR 1717), is repealed.

Sec. 7018. (a) Section 3 of the Howard Town Center Real Property Tax Abatement Act of 2012, effective April 20, 2013 (D.C. Law 19-257; 60 DCR 992), is repealed.

(b) Section 47-4656(b) of the District of Columbia Official Code is amended as follows:

(1) Paragraph (1) is amended to read as follows:

"(1) Commence with the tax year in which the final certificate of occupancy is issued to the last property developed on the site, but in no case before October 1, 2015."

(2) Paragraph (2) is amended to read as follows:

"(2) Be in the amount of \$800,000 per year, not to exceed \$8 million in the aggregate over 10 years."

Sec. 7019. Section 4 of the Workplace Fraud Amendment Act of 2012, effective April 28, 2013 (D.C. Law 19-300; 60 DCR 2679), is repealed.

Sec. 7020. Section 3 of the Schedule H Property Tax Relief Act of 2012, effective April 27, 2013 (D.C. Law 19-283; 60 DCR 2307), is amended to read as follows:

"Sec. 3. Applicability.

"This act shall apply as of January 1, 2014."

**SUBTITLE B. TAX INCREMENT REVENUE BONDS DC USA PROJECT
EXTENSION**

Sec. 7021. Short title.

This subtitle may be cited as the "Tax Increment Revenue Bonds DC USA Project Extension Congressional Review Emergency Act of 2013".

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Sec. 7022. Definitions.

For the purposes of this subtitle, the term:

(1) "Available Real Property Tax Revenues" means the revenues resulting from the imposition of the tax provided for in Chapter 8 of Title 47 of the District of Columbia Official Code and the tax imposed by D.C. Official Code § 47-1005.01, including any penalties and interest charges, exclusive of the special tax provided for in section 481 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 807; D.C. Official Code § 1-204.81), pledged to the payment of general obligation indebtedness of the District.

(2) "Available Sales Tax Revenues" means the revenues resulting from the imposition of the tax imposed pursuant to Chapter 20 of Title 47 of the District of Columbia Official Code, including any penalties and interest charges, exclusive of the portion thereof required to be deposited in the Washington Convention Center Fund established pursuant to section 208 of the Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code § 10-1202.08).

(3) "Available Tax Increment" means the sum of the Available Sales Tax Revenues and Available Real Property Tax Revenues generated by the DC-USA Project TIF Area minus the sum of Available Sales Tax Revenues and Available Real Property Tax Revenues generated in the respective base year, as certified by the Chief Financial Officer.

(4) "Bonds" means the \$46.9 million National Capital Revitalization Variable Rate Revenue Bonds (DC USA Parking Garage Project) Series 2006.

(5) "Chief Financial Officer" means the Chief Financial Officer of the District of Columbia.

(6) "DC USA Project TIF Area" means the following parcels and lots and squares: Square 2674, Lot 0866; Square 2674, Lot 0720; Square 2674, Lot 0863; Square 2674, Lot 0832; Square 2674, Lot 0812; Square 2674, Lot 0869; Square 2674, Lot 0719; Square 2674, Lot 0872; Square 2674, Lot 0870; Square 2674, Lot 0871.

Sec. 7023. Allocation of Available Tax Increment.

There is allocated to the repayment of the Bonds 100% of the Available Tax Increment until such time as the Bonds are paid in full. The Available Real Property Tax Revenues shall be calculated based upon the assessed value of the real property comprising the DC-USA Project TIF Area as of January 1, 2004, for the base year of tax year 2005 as certified by the Chief Financial Officer. The Available Sales Tax Revenues shall be calculated based upon the sales tax revenue for base year 2003 as certified by the Chief Financial Officer.

SUBTITLE C. DELINQUENT DEBT RECOVERY

Sec. 7031. Short title.

This subtitle may be cited as the "Delinquent Debt Recovery Congressional Review Emergency Amendment Act of 2013".

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Sec. 7032. The Delinquent Debt Recovery Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 1-350.01 *et seq.*), is amended as follows:

(a) Section 1043 (D.C. Official Code § 1-350.02) is amended as follows:

(1) Subsection (a) is amended by striking the word "Notwithstanding" and inserting the phrase "Except as provided in subsections (a-1) and (a-2) of this section, notwithstanding" in its place.

(2) New subsections (a-1) and (a-2) are added to read as follows:

"(a-1) The University of the District of Columbia shall transfer and refer unpaid student tuition, student fees, and student loans to the Central Collection Unit within one year after the end of the semester in which the student tuition, student fees, and student loans were incurred.

"(a-2) Beginning in fiscal year 2014 and for each fiscal year thereafter, funds collected and recovered by the Central Collection Unit arising out of delinquent debts transferred and referred to the Central Collection Unit by the Not-For-Profit Hospital Corporation for collection, net of costs and fees, shall be deposited into the Not-For-Profit Hospital Corporation Fund by the Central Collection Unit within 60 days following the then current fiscal year."

(b) A new section 1043a is added to read as follows:

"Sec. 1043a. Collection on behalf of the University of the District of Columbia.

"Funds collected and recovered by the Central Collection Unit, beginning in fiscal year 2014 and continuing in the following fiscal years, arising out of delinquent debts transferred and referred to the Central Collection Unit by the University of the District of Columbia for collection, net of cost and fees, shall be deposited into the University of the District of Columbia Debt Collection Fund established pursuant to section 7033 of the Delinquent Debt Recovery Congressional Review Emergency Amendment Act of 2013, passed on emergency basis on October 1, 2013 (Enrolled version of Bill 20-496), by the Central Collection Unit within 60 days following the then current fiscal year."

(c) Section 1045 (D.C. Official Code § 1-350.04) is amended by striking the phrase "all delinquent debts collected by the Central Collection Unit" and inserting the phrase "all delinquent debts collected by the Central Collection Unit, except those amounts collected by the Central Collection Unit described in section 1043(a-1) and (a-2)" in its place.

Sec. 7033. University of the District of Columbia Debt Collection Fund.

(a) There is established as a special fund the University of the District of Columbia Debt Collection Fund ("Fund"), which shall be administered by the University of the District of Columbia in accordance with subsection (c) of this section.

(b) The fund shall consist of the revenue from the collection of unpaid student tuition, student fees, and student loans by the Central Collection Unit in accordance with the Delinquent Debt Recovery Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 1-350.01 *et seq.*).

(c) The Fund shall be used for expenses associated with the operations of the University of the District of Columbia.

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(d)(1) The money deposited into the Fund, and interest earned, 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.

(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

SUBTITLE D. BANK FEES SPECIAL FUND

Sec. 7041. Short title.

This subtitle may be cited as the "Bank Fees Special Fund Congressional Review Emergency Act of 2013".

Sec. 7042. Bank Fees Special Fund.

(a) There is established as a special fund the Bank Fees Special Fund ("Fund"), which shall be administered by the Chief Financial Officer in accordance with subsection (c) of this section.

(b) Beginning October 1, 2013, the following sources shall be deposited into the Fund:

(1) All interest earned on public funds under the custody of the Chief Financial Officer in a general fund account that is not otherwise restricted; and

(2) Such amounts from the unassigned General Fund of the District of Columbia balance as may be required to pay bank fees and charges, as they come due, in excess of the interest earned on public funds as described in paragraph (1) of this subsection.

(c) The Fund shall be used to pay bank fees and charges.

SUBTITLE E. AFFORDABLE HOUSING REAL PROPERTY TAX RELIEF

Sec. 7051. Short title.

This subtitle may be cited as the "Affordable Housing Real Property Tax Relief Congressional Review Emergency Act of 2013".

Sec. 7052. Section 47-1002(20)(A)(ii) of the District of Columbia Official Code is amended by striking the semicolon at the end and inserting the phrase "or payments made under any renewal of a contract originally made under the new construction, substantial rehabilitation, or moderate rehabilitation under section 8 that entitled the property to the exemption and for which an exemption was granted;" in its place.

Sec. 7053. Applicability.

This subtitle shall apply with respect to renewal contracts entered into before, on, or after the effective date of this subtitle.

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SUBTITLE F. BEULAH BAPTIST CHURCH REAL PROPERTY EQUITABLE TAX RELIEF

Sec. 7061. Short title.

This subtitle may be cited as the "Beulah Baptist Church Real Property Equitable Tax Relief Congressional Review Emergency Act of 2013".

Sec. 7062. Section 47-4654(d) of the District of Columbia Official Code is amended by striking the phrase "September 30, 2010" and inserting the phrase "September 30, 2020, and any real property taxes, interest, penalties, fees, or other related charges assessed, as of the effective date of the Beulah Baptist Church Real Property Equitable Tax Relief Temporary Act of 2013, effective April 27, 2013 (D.C. Law 19-27; 60 DCR 2629), against this real property with respect to this period are forgiven and any payment already made shall be refunded" in its place.

SUBTITLE G. GALA HISPANIC THEATRE REAL PROPERTY TAX ABATEMENT

Sec. 7071. Short title.

This subtitle may be cited as the "GALA Hispanic Theatre Real Property Tax Abatement Congressional Review Emergency Act of 2013".

Sec. 7072. Chapter 46 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation to read as follows:

"47-4660. GALA Hispanic Theatre; Lot 79, Square 2837."

(b) A new section 47-4660 is added to read as follows:

"§ 47-4660. GALA Hispanic Theatre; Lot 79, Square 2837.

"(a) Real property taxes assessed against Lot 79, Square 2837 in excess of the amount of taxes levied for tax year 2005 shall be abated to the extent that the excess is allocable to the portion of the property leased to the Grupo de Artistas Latinoamericanos, G.A.L.A., Inc., also known as the GALA Hispanic Theatre ("GALA"), under the terms of its lease, so long as such portion is leased to GALA and is used for the purpose of producing and staging live theatre performances; provided, that the benefit of this abatement shall be passed on to GALA in the form of reduced rent equal to the amount of the abatement.

"(b) Both GALA and its landlord shall provide to the Office of Tax and Revenue ("OTR"), at the time and in the manner directed by OTR, the information as OTR may consider necessary to determine the amount of the abatement allowable for a taxable year and to verify eligibility for the abatement.

"(c) The abatement provided under this section shall apply beginning with tax year 2011. If the property becomes ineligible for the abatement, the abatement shall end at the beginning of the month following the month that the property becomes ineligible."

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SUBTITLE H. OUT-OF-STATE MUNICIPAL BOND TAX REPEAL

Sec. 7081. Short title.

This subtitle may be cited as the "Out-of-State Municipal Bond Tax Repeal Congressional Review Emergency Act of 2013".

Sec. 7082. Section 47-1803.02(a)(1)(B) of the District of Columbia Official Code is amended to read as follows:

"(B) Individuals, estates, and trusts shall not, and shall not have been required to, include interest on the obligations of the District of Columbia, a state, a territory of the United States, or any political subdivision thereof, in the computation of District gross income."

SUBTITLE I. [RESERVED]**SUBTITLE J. COMBINED REPORTING CLARIFICATION**

Sec. 7101. Short title.

This subtitle may be cited as the "Combined Reporting Clarification Congressional Review Emergency Act of 2013".

Sec. 7102. Chapter 18 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by striking the designation "§ 47-1810.06. Designation of surety" and inserting the designation "§ 47-1810.06. Designation of agent" in its place.

(b) Section 47-1801.04 is amended to read as follows:

"§ 47-1801.04. General definitions.

"For the purposes of this chapter, unless otherwise required by the context, the term:

"(1) "Affiliated group" means an affiliated group as defined in section 1504 of the Internal Revenue Code of 1986; provided, that the affiliated group shall not include any corporation that does not have gross income derived from sources within the District.

"(2) "Aggregated effective tax rate" means the sum of the effective rates of tax imposed by the District of Columbia, states, or possessions of the United States, and foreign nations that have entered into comprehensive tax treaties with the United States government, where a related member receiving a payment of interest expense or intangible expense is subject to tax and where the measure of the tax imposed included the payment.

"(3) "Apportioned net operating loss" means the net operating loss generated in the year of the loss multiplied by the District of Columbia's apportionment formula for the loss year.

"(4) "Blind" means a taxpayer whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity is greater than 20/200 but

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is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

"(5) "Business income" means all income that is apportionable under the Constitution of the United States.

"(6)(A) "Capital asset" means property defined or treated as a capital asset under the Internal Revenue Code of 1986.

"(B) For the purpose of computing, for any taxable year, the tax imposed under this chapter with respect to sales or other dispositions of property referred to in subparagraph (A) of this paragraph, the provisions of the Internal Revenue Code of 1986 relating to the treatment of gains and losses (other than the alternative tax imposed by section 1201 of the Internal Revenue Code of 1986) shall apply.

"(7) "Combined group" means the group of all persons whose income and apportionment factors are required to be taken into account pursuant to § 47-1805.02a(a) and (b) and the pertinent regulations in determining the taxpayer's share of the net business income or loss apportionable to the District.

"(8) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

"(9) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to an employee for personal services.

"(10) "Corporation" means:

"(A) Any corporation as defined by the laws of the District or organization of any kind treated as a corporation for tax purposes under the laws of the District, wherever located, which, were it doing business in the District, would be subject to the tax imposed by this chapter;

"(B) A joint-stock company, trust, association and S corporation as defined in section 1361(a) of the Internal Revenue Code of 1986, or other organization that is taxable as a corporation under federal income tax law.

"(11)(A) "Cost-of-living adjustment" means an amount, for any calendar year, equal to the dollar amount set forth in paragraph (44)(A) and (B) of this section or § 47-1806.02(f)(1)(A) and (i) multiplied by the percentage that the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the calendar year beginning January 1, 2007.

"(B) For the purposes of this paragraph, the Consumer Price Index for any calendar year is the average of the Consumer Price Index for the Washington-Baltimore Metropolitan Statistical Area for all-urban consumers published by the Department of Labor, or any successor index, as of the close of the 12-month period ending on July 31 of such calendar year.

"(12) "Deficiency" with respect to any tax imposed by this chapter means:

"(A) The amount or amounts by which the tax imposed by this chapter, as determined by the Chief Financial Officer, exceeds the amount shown as the tax by the taxpayer upon his return; or

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"(B) The amount assessed as a tax by the Chief Financial Officer if no return is filed by the taxpayer.

"(13) "Dependent" means a dependent as defined in section 152 of the Internal Revenue Code of 1986.

"(14) "Dividend" means any distribution made by a corporation or financial institution (domestic or foreign) to its stockholders or members, out of its earnings, profits, or surplus, other than paid-in surplus, whenever earned by the corporation or financial institution and whether made in cash or in any other property (other than stock of the same class in the corporation or financial institution, if the recipient of the stock dividend has neither received nor exercised an option to receive the dividend in cash or in property other than stock instead of stock) and whether distributed before, during, upon, or after liquidation or dissolution of the corporation or financial institution; except, that in the case of any such distribution, any part of which for purposes of the income tax imposed under the Internal Revenue Code of 1986 is deemed to constitute a capital gain, such part shall be deemed to constitute a capital gain for purposes of the tax imposed by this chapter; provided, that in the case of any dividend that is distributed other than in cash or stock in the same class in the corporation or financial institution and not exempted from tax under this chapter, the basis of tax to the recipient shall be the market value of the property at the time of the distribution; provided further, that a dividend shall not include any dividend paid by a mutual life insurance company to its shareholders.

"(15) "Doing business" means any activity of a partnership, corporation, or financial institution that enjoys the benefits and protection of the government and laws of the District.

"(16) "Domestic partners" means persons who have registered their relationship with the District pursuant to § 32-702).

"(17) "Employee" means an individual having a place of abode or residing or domiciled within the District at the time the tax is required to be withheld in respect to the individual's employment by another, and to every other individual who maintains a place of abode within the District for an aggregate of 183 days or more during the taxable year, whether domiciled in the District or not, including an officer of a corporation, but excluding any elective officer of the government of the United States or any officer or employee in the legislative branch of the government of the United States whose compensation is paid by the Secretary of the Senate or Clerk of the House of Representatives, any officer of the executive branch of the government of the United States whose appointment was made by the President of the United States, subject to confirmation by the Senate of the United States, and whose tenure of office is at the pleasure of the President of the United States, or any Justice of the Supreme Court of the United States, unless the officer, employee, or justice is domiciled within the District of Columbia at any time during the taxable year.

"(18) "Employer" means an employer as defined in section 3401(d) of the Internal Revenue Code of 1986.

"(19) "Fiduciary" means a guardian, trustee, executor, committee, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any person.

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"(20) "Financial institution" means any bank or trust company incorporated or required to be incorporated and doing business under the laws of the United States, the District of Columbia, or any state, a substantial part of the business of which consists of receiving deposits and making loans and discounts or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency and which is subject by law to supervision and examination by the District or by any state, territorial, or federal authority having supervision over the financial institution, including:

"(A) Any savings and loan associations; and

"(B) Any company, a substantial part of the business of which consists of receiving deposits and making loans and discounts or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency, which is organized or created under the laws of a foreign country and which maintains an office or branch in the District.

"(21) "Fiscal year" means an accounting period of 12 months ending on any day other than the last day of December and on the basis of which the taxpayer is required to report for federal income tax purposes.

"(22) "Head of household" shall have the same meaning as defined in section 2(b) of the Internal Revenue Code of 1986.

"(23) "Individual" means all natural persons (other than fiduciaries), whether married, domestic partners, or unmarried.

"(24) "Intangible expense" means:

"(A) An expense, loss, or cost for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property, to the extent the expense, loss, or cost is allowed as a deduction or cost in determining taxable income for the taxable year under the Internal Revenue Code of 1986;

"(B) A loss related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;

"(C) A royalty, patent, technical, or copyright and licensing fee; or

"(D) Any other similar expense or cost.

"(25) "Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights, and similar types of intangible assets.

"(26) "Interest expense" means an amount directly or indirectly allowed as a deduction under section 163 of the Internal Revenue Code of 1986 for purposes of determining taxable income under the Internal Revenue Code of 1986.

"(27) "Internal Revenue Code of 1954" means the Internal Revenue Code of 1954, approved April 6, 1954 (68A Stat. 3; 26 U.S.C. § 1 *et seq.*), as amended through May 24, 1985.

"(28) "Internal Revenue Code of 1986" means the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 *et seq.*); which provisions shall apply on the same dates that they are effective for federal tax purposes.

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"(29) "International banking facility" or "IBF" shall have the same meaning as provided in section 204.8(a)(1) of Regulation D of the Board of Governors of the Federal Reserve System, effective December 3, 1981 (12 CFR § 204.8(a)(1)).

"(30) "International banking facility extension of credit" or "IBF loan" shall have the same meaning as provided in section 204.8(a)(3) of Regulation D of the Board of Governors of the Federal Reserve System, effective December 3, 1981 (12 CFR § 204.8(a)(3)).

"(31) "International banking facility time deposit" or "IBF time deposit" shall have the same meaning as provided in section 204.8(a)(2) of Regulation D of the Board of Governors of the Federal Reserve System, effective December 3, 1981 (12 CFR § 204.8(a)(2)).

"(32) "Net operating loss" shall have the same meaning as provided in section 172(c) of the Internal Revenue Code of 1986, subject to limitations and modifications provided in this section.

"(33) "Net operating loss deduction" means the aggregate of the apportioned net operating loss carryovers to the taxable year.

"(34) "Nonbusiness income" means all income other than business income.

"(35) "Nonresident" means every individual other than a resident.

"(36) "Ownership" in determining the ownership of stock, assets, or net profits of any person, means the constructive ownership of section 318(a) of the Internal Revenue Code of 1986 as modified by section 856(d)(5) of the Internal Revenue Code of 1986.

"(37) "Partnership" means a general or limited partnership or organization of any kind that is treated as a partnership for tax purposes under the laws of the District of Columbia.

"(38) "Payroll period" means a payroll period as defined in section 3401(b) of the Internal Revenue Code of 1986.

"(39) "Person" means any individual, firm, partnership, general partner of a partnership, limited liability company, registered limited liability partnership, foreign limited liability partnership, association, corporation (whether or not the corporation is, or would be if doing business in the District, subject to this chapter), unincorporated business, company, syndicate, estate, trust, business trust, trustee, trustee in bankruptcy, receiver, executor, administrator, assignee, fiduciary, or organization of any kind. For purposes of combined reporting, The term "person" shall not include a Qualified High Technology Company as defined in § 47-1817.01(5)(A).

"(40) "Related entity" means a person that under the attribution rules of section 318 of the Internal Revenue Code of 1986 is:

"(A) A stockholder who is an individual, or a member of the stockholder's family as enumerated in section 318 of the Internal Revenue Code of 1986, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the taxpayer's outstanding stock;

"(B) A stockholder, or a stockholder's partnership, limited liability company, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts, and corporations own directly, indirectly, beneficially,

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or constructively, in the aggregate, at least 50% of the value of the taxpayer's outstanding stock;
or

"(C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of section 318 of the Internal Revenue Code of 1986 ("party related to the corporation"), if the corporation or party related to the corporation owns, directly, indirectly, beneficially, or constructively, at least 50% of the value of the corporation's outstanding stock.

"(41) "Related member" means:

"(A) A person that, with respect to the taxpayer is, at any time during the year, a related entity;

"(B) A component member as defined in section 1563(b) of the Internal Revenue Code of 1986;

"(C) A controlled group of which the taxpayer is also a component; or

"(D) A person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code of 1986.

"(42) "Resident" means an individual domiciled in the District at any time during the taxable year, and every other individual who maintains a place of abode within the District for an aggregate of 183 days or more during the taxable year, whether or not the individual is domiciled in the District, excluding any elective officer of the government of the United States or any employee on the staff of an elected official in the legislative branch of the government of the United States if the employee is a bona fide resident of the state of residence of the elected officer, or any officer of the executive branch of the government whose appointment was made by the President of the United States and subject to confirmation by the Senate of the United States and whose tenure of office is at the pleasure of the President of the United States, or any Justice of the Supreme Court of the United States, unless the officer, employee, or justice is domiciled within the District at any time during the taxable year. In determining whether an individual is a resident, an individual's absence from the District for temporary or transitory purposes shall not be regarded as changing his domicile or place of abode.

"(43) "Sales" means all gross receipts of the taxpayer that are business income, as that term is defined in this section.

"(44) "Standard deduction" means:

"(A) The amount of \$4,000, increased annually, beginning January 1, 2013, by the cost-of-living adjustment (if the adjustment does not result in a multiple of \$50, rounded to the next lowest multiple of \$50), in the case of a return filed by a single individual, by a head of household, by a surviving spouse, or jointly by husband and wife (or domestic partner);

"(B) The amount of \$2,000; provided that, for tax years beginning after December 31, 2012, the amount shall be one-half of the amount determined in subparagraph (A) of this paragraph, in the case of a married person filing separately; or

"(C) In the case of an individual who is a resident, as defined in paragraph (42) of this section, for less than a full 12-month taxable year, the amounts specified in

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subparagraphs (A) and (B) of this paragraph prorated by the number of months that the individual was a resident.

"(45) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory, or possession of the United States and any foreign country or political subdivision thereof.

"(46) "Subpart F income" shall have the same meaning as provided in section 952 of the Internal Revenue Code of 1986.

"(47) "Surviving spouse" shall have the same meaning as provided in section 2(a) of the Internal Revenue Code of 1986; except, that in applying section 2(a) of the Internal Revenue Code of 1986, the term spouse shall be deemed to include a domestic partner.

"(48) "Tax" or "tax liability" includes the liability for all amounts owing by a taxpayer to the District under this chapter.

"(49)(A) "Tax haven" means a jurisdiction that:

"(i) For a particular tax year in question has no, or nominal, effective tax on the relevant income and has laws or practices that prevent effective exchange of information for tax purposes with other governments regarding taxpayers benefitting from the tax regime;

"(ii) Lacks transparency, which, for the purposes of this definition, means that the details of legislative, legal, or administrative provisions are not open to public scrutiny and apparent or are not consistently applied among similarly situated taxpayers;

"(iii) Facilitates the establishment of foreign-owned entities without the need for a local substantive presence or prohibits these entities from having any commercial impact on the local economy;

"(iv) Explicitly or implicitly excludes the jurisdiction's resident taxpayers from taking advantage of the tax regime's benefits or prohibits enterprises that benefit from the regime from operating in the jurisdiction's domestic market; or

"(v) Has created a tax regime that is favorable for tax avoidance, based upon an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial or other services sector relative to its overall economy.

"(B) For the purposes of this paragraph, the term "tax regime" means a set or system of rules, laws, regulations, or practices by which taxes are imposed on any person, corporation, or entity, or on any income, property, incident, indicia, or activity pursuant to governmental authority.

"(50) "Taxable income" means as required by the context set forth in § 47-1807.01(2) or § 47-1808.02(1).

"(51) "Taxable year" means the calendar year or the fiscal year, whichever is the basis upon which the net income of the taxpayer is computed under this section; if no fiscal year has been established by the taxpayer, it means the calendar year. The term "taxable year" includes, in the case of a return made for a fractional part of a calendar or fiscal year under the provisions of this section or under regulations prescribed by the Chief Financial Officer, the period for which the return is made; provided, that no taxpayer shall change from a calendar year

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to a fiscal year or from a fiscal year to a calendar year within any taxable year without the written authorization of the Chief Financial Officer.

"(52) "Taxpayer" means any person subject to the tax imposed by this chapter.

"(53) "Trade or business" means the engaging in or carrying on of any trade, business, profession, vocation, or calling, or commercial activity in the District of Columbia, including activities in the District that benefit a related entity of the taxpayer, the performance of functions of a public office, and the leasing of real or personal property in the District of Columbia by any person whether or not the property is leased directly by the person or through an agent, officer, or a representative, and whether or not the person, agent, officer, or representative performs any services in connection with the property.

"(54) "United States" means the United States of America and includes all of the states of the United States, the District of Columbia, and United States' territories and possessions.

"(55) "Unitary business" means a single economic enterprise that is made up either of separate parts of a single business entity or of a commonly controlled group of business entities that are sufficiently interdependent, integrated, and interrelated through their activities so as to provide synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts.

"(56) "Wages" means wages as defined in section 3401(a) of the Internal Revenue Code of 1986.

"(57) "Water's-edge combined group" is comprised of all entities includible in the combined report, as determined pursuant to § 47-1810.07.

"(58) "Worldwide combined report" means the combination of the income and activities of all members of a unitary group irrespective of the country in which the corporations are incorporated or conduct business activity."

(c) Section 47-1805.02a is amended to read as follows:

"§ 47-1805.02a. Combined reporting required.

"(a) For tax years beginning after December 31, 2010, a taxpayer engaged in a unitary business with one or more other persons that are part of a water's-edge combined group reporting pursuant to § 47-1810.07 shall file a combined report, which includes the income, determined under § 47-1810.04 and § 47-1810.05 and the allocation and apportionment factors determined under § 47-1810.02 and the pertinent regulations of all such persons that are members of the unitary business, and other information as required by the Chief Financial Officer. If a worldwide combined reporting election has been made, the taxpayer shall file a combined report that includes such income and factors of all the persons that are members of the unitary business, and any other information as required by the Chief Financial Officer.

"(b) The Chief Financial Officer may require, by regulation, a combined report to include the income and associated apportionment factors of any persons that are not included pursuant to subsection (a) of this section but that are members of a unitary business to reflect proper apportionment of income of the entire unitary business.

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"(c) If the Chief Financial Officer determines that the reported income or loss of a taxpayer engaged in a unitary business with any person not included represents an avoidance or evasion of tax by the taxpayer, the Chief Financial Officer may require, on a case-by-case basis, that all or any part of the income and associated apportionment factors be included in the taxpayer's combined report.

"(d) With respect to inclusion of associated apportionment factors pursuant to this section, the Chief Financial Officer may require the exclusion of any one or more of the factors, the inclusion of one or more additional factors, that will fairly represent the taxpayer's business activity in the District, or the employment of any other method to effectuate a proper reflection of the total amount of income subject to apportionment and an equitable allocation and apportionment of the taxpayer's income.

"(e) The Chief Financial Officer shall adopt regulations as necessary to implement combined reporting and to ensure that the tax liability or net income of any taxpayer whose income derived from or is attributable to sources within the District that is required to be determined by a combined report pursuant to § 47-1810.02 or § 47-1810.07 and of each entity included in the combined report, both during and after the period of inclusion in the combined report, is properly reported, determined, computed, assessed, collected, or adjusted.

"(f) The Chief Financial Officer shall adopt regulations as necessary prescribing the form and manner of all returns and reports required under this section, including the time, place, and extension of such returns and reports.

"(g) Any taxpayer election made under § 47-1805.02(5)(C) and the pertinent regulations to file a consolidated return is revoked for tax years beginning after December 31, 2010."

(d) Sections 47-1810.04, 47-1810.05, 47-1810.06, 47-1810.07, and 47-1810.08 are amended to read as follows:

"§ 47-1810.04. Determination of taxable income or loss using combined report; components of income subject to tax in the District, application of tax credits and post-apportionment deductions; determination of taxpayer's share of the business income of a combine group apportionable to the District.

"(a) The use of a combined report does not disregard the separate identities of the taxpayer members of the combined group. Each taxpayer member is responsible for tax based on its taxable income or loss apportioned or allocated to the District, which shall include, in addition to other types of income, the taxpayer member's apportioned share of business income of the combined group, where business income of the combined group is calculated as a summation of the individual net business incomes of all members of the combined group. A member's net business income is determined by removing all but business income, expense, and loss from that member's total income, as provided in this section and § 47-1810.05.

"(b)(1) Each taxpayer member is responsible for tax based on its taxable income or loss apportioned or allocated to the District, which shall include its:

"(A) Share of any business income apportionable to the District of each of the combined groups of which it is a member, as determined under subsection (c) of this section;

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"(B) Share of any business income apportionable to the District of a distinct business activity conducted within and without the District wholly by the taxpayer member, as determined under the provisions for apportionment of business income set forth in this chapter;

"(C) Income from a business conducted wholly by the taxpayer member entirely within the District;

"(D) Income sourced to the District from the sale or exchange of capital or assets, and from involuntary conversions, as determined under § 47-1810.05(b)(8);

"(E) Nonbusiness income or loss allocable to the District as determined under the provisions for allocation of nonbusiness income set forth in this chapter;

"(F) Income or loss allocated or apportioned in an earlier year required to be taken into account as District source income during the income year, other than a net operating loss; and

"(G) Net operating loss carryover.

"(2) If the taxable income computed pursuant to this section and § 47-1810.05 results in a loss for a taxpayer member of the combined group, that taxpayer member has a District net operating loss, subject to the net operating loss limitations and carryover provisions of this chapter. The District net operating loss shall be applied as a deduction in the subsequent year only if that taxpayer has District source positive net income, whether or not the taxpayer is a member of a combined reporting group in the subsequent year.

"(3) Except where otherwise provided, no tax credit or post-apportionment deduction earned by one member of the group, but not fully used by or allowed to that member, may be used, in whole or in part, by another member of the group or applied, in whole or in part, against the total income of the combined group. A post-apportionment deduction carried over into a subsequent year as to the member that incurred it, and available as a deduction to that member in a subsequent year, will be considered in the computation of the income of that member in the subsequent year regardless of the composition of that income as apportioned, allocated, or wholly within the District.

"(c) The taxpayer's share of the business income apportionable to the District of each combined group of which it is a member shall be the product of the:

"(1) Business income of the combined group, determined under § 47-1810.05; and

"(2) Taxpayer member's apportionment percentage, determined in accordance with this chapter, including in the property, payroll, and sales factor numerators of the taxpayer's property, payroll, and sales, respectively, associated with the combined group's unitary business in the District and including in the denominator the property, payroll, and sales of all members of the combined group, including the taxpayer, which property, payroll, and sales are associated with the combined group's unitary business wherever located.

"§ 47-1810.05. Determination of the business income of the combined group.

"(a) The business income of a combined group is determined as follows:

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"(1) From the total income of the combined group as determined under paragraph (2) of this subsection and subsection (b) of this section, subtract any income and add any expense or loss, other than the business income, expense, or loss of the combined group.

"(2) Except as otherwise provided, the total income of the combined group is the sum of the income of each member of the combined group determined under federal income tax laws, as adjusted for District purposes, as if the member were not consolidated for federal purposes.

"(3) In the case of any person entitled to the distributive share of a trade or business net income, the Chief Financial Officer shall adopt regulations as necessary to determine the methodology of including the distributive share but provide an exclusion for the portion of the distributive share that is reported by and taxed against any person under the provisions of this chapter to prevent double taxation or double deduction.

"(b) The income of each member of the combined group shall be determined as follows:

"(1) For any member incorporated in the United States, or included in a consolidated federal corporate income tax return, the income to be included in the total income of the combined group shall be the taxable income for the corporation after making appropriate adjustments under this chapter.

"(2) For any member not included in paragraph (1) of this subsection, the income to be included in the total income of the combined group shall be determined as follows:

"(A) A profit and loss statement shall be prepared for each foreign branch or corporation in the currency in which the books of account of the branch or corporation are regularly maintained.

"(B) Adjustments shall be made to the profit and loss statement to conform it to the accounting principles generally accepted in the United States for the preparation of such statements, except as modified by regulation.

"(C) Adjustments shall be made to the profit and loss statement to conform it to the tax accounting standards required by this chapter.

"(D) Except as otherwise provided by regulation, the profit and loss statement of each member of the combined group, and the apportionment factors related thereto, whether United States or foreign, shall be translated into the currency in which the parent company maintains its books and records.

"(E) Income apportioned to the District shall be expressed in United States dollars.

"(3)(A) In lieu of the procedures set forth in paragraph (2) of this subsection, and subject to the determination of the Chief Financial Officer that it reasonably approximates income as determined under this chapter, any member not subject to paragraph (1) of this subsection may determine its income on the basis of the consolidated profit and loss statement that includes the member and that is prepared for filing with the Securities and Exchange Commission by related corporations.

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"(B) If the member is not required to file with the Securities and Exchange Commission, the Chief Financial Officer may allow the use of the consolidated profit and loss statement prepared for reporting to shareholders and subject to review by an independent auditor.

"(C) If the statements described in subparagraphs (A) or (B) of this paragraph do not reasonably approximate income as determined under this chapter, the Chief Financial Officer may accept those statements with appropriate adjustments to approximate that income.

"(4)(A) All dividends paid by one to another of the members of the combined group shall, to the extent those dividends are paid out of the earnings and profits of the unitary business included in the combined report, in the current or an earlier year, be eliminated from the income of the recipient.

"(B) Except as otherwise provided, this paragraph shall not apply to dividends received from members of the unitary business that are not a part of the combined group. Except when specifically required by the Chief Financial Officer to be included, all dividends paid by an insurance company directly or indirectly to a corporation that is part of a unitary business with the insurance company shall be deducted or eliminated from the income of the recipient of the dividend.

"(5)(A) Except as otherwise provided by regulation, business income from an inter-company transaction between members of the same combined group shall be deferred in a manner similar to 26 CFR § 1.1502-13.

"(B) Upon the occurrence of any of the following events, deferred business income resulting from an inter-company transaction between members of a combined group shall be restored to the income of the seller and shall be apportioned as business income earned immediately before the event:

"(i) The object of a deferred inter-company transaction is:

"(I) Resold by the buyer to an entity that is not a member of the combined group;

"(II) Resold by the buyer to an entity that is a member of the combined group for use outside the unitary business in which the buyer and seller are engaged; or

"(III) Converted by the buyer to a use outside the unitary business in which the buyer and seller are engaged; or

"(ii) The buyer and seller are no longer members of the same combined group, regardless of whether the members remain unitary.

"(6)(A) A charitable expense incurred by a member of a combined group shall, to the extent allowable as a deduction pursuant to section 170 of the Internal Revenue Code of 1986, be subtracted first from the business income of the combined group, subject to the income limitations of that section applied to the entire business income of the group, and any remaining amount shall then be treated as a nonbusiness expense allocable to the member that incurred the expense, subject to the income limitations of that section applied to the nonbusiness income of that specific member.

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"(B) Any charitable deduction disallowed under subparagraph (A) of this paragraph, but allowed as a carryover deduction in a subsequent year, shall be treated as originally incurred in the subsequent year by the same member, and the rules set forth in this section shall apply in the subsequent year in determining the allowable deduction in that year.

"(7) Gain or loss from the sale or exchange of capital assets, property described by section 1231(a)(3) of the Internal Revenue Code of 1986, and property subject to an involuntary conversion shall be removed from the total separate net income of each member of a combined group and shall be apportioned and allocated as follows:

"(A) For each class of gain or loss (short-term capital, long-term capital, section 1231 of the Internal Revenue Code of 1986, and involuntary conversions) all members' business gain and loss for the class shall be combined without netting between classes and each class of net business gain or loss separately apportioned to each member using the member's apportionment percentage determined under § 47-1810.04.

"(B) Each taxpayer member shall then net its apportioned business gain or loss for all classes, including any such apportioned business gain and loss from other combined groups, against the taxpayer member's nonbusiness gain and loss for all classes allocated to the District, using the rules of sections 1222 and 1231 of the Internal Revenue Code of 1986, without regard to any of the taxpayer member's gains or losses from the sale or exchange of capital assets, section 1231 of the Internal Revenue Code of 1986 property, and involuntary conversions that are nonbusiness items allocated to another state.

"(C) Any resulting District source income or loss, if the loss is not subject to the limitations of section 1211 of the Internal Revenue Code of 1986, of a taxpayer member produced by the application of the preceding subparagraphs shall then be applied to all other District source income or loss of that member.

"(D) Any resulting District source loss of a member that is subject to the limitations of section 1211 of the Internal Revenue Code of 1986 shall be carried over by that member and shall be treated as District source short-term capital loss incurred by that member for the year for which the carryover applies.

"(8) Any expense of one member of the unitary group that is directly or indirectly attributable to the nonbusiness or exempt income of another member of the unitary group shall be allocated to that other member as a corresponding nonbusiness or exempt expense, as appropriate.

"§ 47-1810.06. Designation of agent.

"As a filing convenience, and without changing the respective liability of group members, members of a combined reporting group shall designate one taxpayer member of the combined group to file a single return, in the form and manner prescribed by the Chief Financial Officer, in lieu of filing their own respective returns; provided, that the taxpayer designated to file the single return consents to act as surety with respect to the tax liability of all other taxpayers properly included in the combined report and agrees to act as agent on behalf of those taxpayers for tax matters relating to the combined report. If for any reason the agent is unwilling

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or unable to perform its responsibilities, tax liability may be assessed against the taxpayer members.

"§ 47-1810.07. Water's-edge reporting; initiation and withdrawal election.

"(a)(1) Absent an election under subsection (b) of this section to report based upon a worldwide unitary combined reporting basis, taxpayer members of a unitary group shall determine each of their apportioned shares of the net business income or loss of the combined group on a water's-edge unitary combined reporting basis.

"(2) In determining tax under this chapter on a water's-edge unitary combined reporting basis, taxpayer members shall take into account all or a portion of the income and apportionment factors of only the following members otherwise included in the combined group pursuant to § 47-1805.02a:

"(A) The entire income and apportionment factors of any member incorporated in the United States or formed under the laws of any state, the District, or any territory or possession of the United States;

"(B) The entire income and apportionment factors of any member, regardless of the place incorporated or formed, if the average of its property, payroll, and sales factors within the United States is 20% or more;

"(C) The entire income and apportionment factors of any member that is a domestic international sales corporation, as described in sections 991 through 994 of the Internal Revenue Code of 1986, inclusive, a foreign sales corporation, as described in sections 921 through 927 of the Internal Revenue Code of 1986, inclusive, or any member that is an export trade corporation, as described in sections 970 through 971 of the Internal Revenue Code of 1986, inclusive;

"(D) Any member not described in subparagraphs (A), (B), or (C) of this paragraph shall include its business income that is effectively connected, or treated as effectively connected under the provisions of the Internal Revenue Code of 1986 with the conduct of a trade or business within the United States and, for that reason, subject to federal income tax;

"(E) Any member that is a resident of a country that does not have a comprehensive income tax treaty with the United States and earns more than 20% of its income, directly or indirectly, from intangible property or service-related activities that are deductible against the business income of other members of the water's-edge group, to the extent of that income and the apportionment factors related thereto; and

"(F)(i) The entire income and apportionment factors of any member that is doing business in a tax haven defined as being engaged in activity sufficient for that tax haven jurisdiction to impose a tax under United States constitutional standards.

"(ii) If the member's business activity within a tax haven is entirely outside the scope of the laws, provisions, and practices that cause the jurisdiction to meet the criteria of a tax haven, as that term is defined in § 47-1801.04(49), the activity of the member shall be treated as not having been conducted in a tax haven.

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"(b) An election to report District tax based on worldwide unitary combined reporting is effective only if made on a timely filed original return for a tax year by every member of the unitary business subject to tax under this chapter.

"(c) At the discretion of the Chief Financial Officer:

"(1) A worldwide unitary combined reporting election may be disregarded, in part or in whole, and the income and apportionment factors of any member of the taxpayer's unitary group may be included in or excluded from the combined report without regard to the provisions of this section, if any member of the unitary group fails to comply with any provision of this chapter; and

"(2) Worldwide unitary combined reporting may be mandated, in part or in whole, and the income and apportionment factors of any member of the taxpayer's unitary group may be included in or excluded from the combined report without regard to the provisions of this section, if any member of the unitary group fails to comply with any provision of this chapter, or if a person otherwise not included in the water's-edge combined group was availed of with a substantial objective of avoiding District income tax.

"(d)(1) A worldwide unitary combined reporting election is binding for and applicable to the tax year it is made and all tax years thereafter for a period of 10 years. It may be withdrawn or reinstated after withdrawal, before the expiration of the 10-year period, only upon written request for reasonable cause based on extraordinary hardship due to unforeseen changes in District tax statutes, law, or policy, and only with the written authorization of the Chief Financial Officer.

"(2) An election shall constitute consent to the reasonable production of documents and taking of depositions in accordance with District law.

"(3) If the Chief Financial Officer grants a withdrawal of election pursuant to paragraph (1) of this subsection, the Chief Financial Officer shall impose reasonable conditions necessary to prevent the evasion of tax or to clearly reflect income for the election period before or after the withdrawal.

"(4) Upon the expiration of the 10-year period, a taxpayer may withdraw from the worldwide unitary combined reporting election. Withdrawal must be made in writing within one year of the expiration of the election and is binding for a period of 10 years, subject to the same conditions as applied to the original election.

"(e) The Chief Financial Officer shall develop rules governing the impact, if any, on the scope or application of a worldwide unitary combined reporting election, including termination or deemed election, resulting from a change in the composition of the unitary group, the combined group, the taxpayer members, and any other similar change.

"§ 47-1810.08. Accounting rules; future deductions.

"(a) If the enactment of combined reporting requirements for unitary businesses results in an increase to a combined group's net deferred tax liability, the combined group shall be entitled to a deduction to the extent determined under subsection (b) of this section. Only publicly traded companies, including affiliated corporations participating in the filing of a publicly traded company's financial statements prepared in accordance with generally accepted accounting

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principles, as of September 14, 2011, shall be eligible for this deduction. To the extent the deduction would produce a net operating loss in any tax year, the unused deduction may be carried forward to each succeeding tax year by the combined group.

"(b) For the 7-year period beginning with the 5th year of the combined filing, a combined group shall be entitled to a deduction equal to 1/7th of the net increase in the taxable temporary differences that caused the increase in the net deferred tax liability, as computed at the time of enactment in accordance with generally accepted accounting principles, that would result from the imposition of the combined reporting requirements but for the deduction provided under this section. The amount of the deduction shall in no case exceed the amount necessary to offset any increase in net deferred tax liability, as computed in accordance with generally accepted accounting principles, that would result from the imposition of all of the provisions of combined reporting but for the deduction provided under this section.

"(c) For the purposes of this section, the term "net deferred tax liability" shall mean the net increase, if any, in deferred tax liabilities minus the net increase, if any, in deferred tax assets of the combined group, as computed in accordance with generally accepted accounting principles."

Sec. 7103. Applicability.

This subtitle shall apply for taxable years beginning after December 31, 2010.

**SUBTITLE K. FIRST CONGREGATIONAL UNITED CHURCH OF CHRIST
TAX RELIEF**

Sec. 7111. Short title.

This subtitle may be cited as the "First Congregational United Church of Christ Tax Relief Congressional Review Emergency Amendment Act 2013".

Sec. 7112. Section 7013 of the Fiscal Year 2011 Budget Support Act of 2010, effective September 24, 2010 (D.C. Law 18-223; 57 DCR 6242), is amended to read as follows:

Sec. 7113. Equitable real property tax relief.

"Of the deed transfer taxes imposed on the transfer by First Congregational United Church of Christ of Lots 834, 835, 837, 7003, 7006, 7007, 7008, 7009, 7010, 7011, 7014, 7015, Square 375, and any other lots created from Lots 823 and 831, Square 375, and all real property taxes, interest, penalties, fees, and other related charges assessed against First Congregational United Church of Christ on real property located on Lots 823 and 831 (or as the land for such lots may be subdivided into a record lot or lots or assessment and taxation lots in the future), Square 375, \$951,000 shall be forgiven by the District and refunded to First Congregational United Church of Christ."

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SUBTITLE L. TREGARON CONSERVANCY TAX EXEMPTION AND RELIEF

Sec. 7121. Short title.

This subtitle may be cited as the "Tregaron Conservancy Tax Exemption and Relief Congressional Review Emergency Act of 2013".

Sec. 7122. (a) The Council orders the forgiveness for the period beginning March 1, 2007, through the end of the month that this subtitle becomes effective of:

(1) All real property taxes, interest, penalties, fees, and other related charges assessed against the real property described as Lots 842, 849, and 857, Square 2084;

(2) Eighty-eight percent of the real property taxes, interest, penalties, fees, and other related charges assessed against the real property described as Lot 843, Square 2084; and

(3) All transfer and recordation taxes, interest, and penalties (but excluding recordation fees) imposed with respect to the conveyance of any of the properties described in this section to the Tregaron Conservancy, a District of Columbia nonprofit corporation.

(b) The Council further orders that, notwithstanding any law or rule of law limiting the time for claiming a refund of such taxes, any payments made for the period beginning March 1, 2007, through the end of the month that this subtitle becomes effective shall be refunded to the person who made the payment.

Sec. 7123. Applicability.

This subtitle shall apply as of the effective date of this act; provided, that there has been a reprogramming of \$222,490 to the Office of the Chief Financial Officer in fiscal year 2013.

SUBTITLE M. ADAMS MORGAN HOTEL REAL PROPERTY TAX ABATEMENT JOBS REQUIREMENT CLARIFICATION

Sec. 7131. Short title.

This subtitle may be cited as the "Adams Morgan Hotel Real Property Tax Abatement Jobs Requirements Clarification Congressional Review Emergency Act of 2013".

Sec. 7132. Section 47-4652 of the District of Columbia Official Code is amended by striking the number "765" and inserting the number "342" in its place.

SUBTITLE N. TAX REVISION COMMISSION EXTENSION AND PROCUREMENT STREAMLINING

Sec. 7141. Short title.

This subtitle may be cited as the "Tax Revision Commission Extension and Procurement Streamlining Congressional Review Emergency Amendment Act of 2013".

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Sec. 7142. Section 47-462(d) of the District of Columbia Official Code is amended by striking the phrase "9 months after the Commission's appointment" and inserting the phrase "December 31, 2013" in its place.

Sec. 7143. The Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 *et seq.*), is amended as follows:

(a) Section 201(b) (D.C. Official Code § 2-352.01(b)) is amended by adding a new paragraph (1A) to read as follows:

"(1A) The Tax Revision Commission, pursuant to section 407;"

(b) Section 407 (D.C. Official Code § 2-354.07) is amended as follows:

(1) A new subsection (a-1) is added to read as follows:

"(a-1) The Tax Revision Commission may establish a streamlined noncompetitive process for entering into contracts for goods and services not exceeding \$40,000."

(2) Subsection (b) is amended by striking the phrase "this section" and inserting the phrase "this section or the \$40,000 limitation of subsection (a-1) of this section" in its place.

SUBTITLE O. TAX CLARIFICATIONS

Sec. 7151. Short title.

This subtitle may be cited as the "Tax Clarification Congressional Review Emergency Amendment Act of 2013".

Sec. 7152. Section 302(32) of the District of Columbia Deed Recordation Tax Act, approved March 2, 1962 (76 Stat. 11; D.C. Official Code § 42-1102(32)), is amended to read as follows:

"(32)(A) A deed to property to which there is a valid certification by the Mayor that both the property and transferee are eligible for exemption from real property taxation pursuant to § 47-1005.02; provided, that, unless waived by regulation, a copy of the certification shall accompany the deed at the time it is submitted for recordation.

"(B) For the purposes of this paragraph, the term "deed to property" includes a deed of trust encumbering the property."

Sec. 7153. Section 47-902 of the District of Columbia Official Code is amended by adding a new paragraph (25) to read as follows:

"(25) Transfers of property to which there is a valid certification by the Mayor that both the property and transferor are eligible for exemption from property taxation pursuant to § 47-1005.02; provided, that, unless waived by regulation, a copy of the certification shall accompany the deed at the time it is submitted for recordation."

Sec. 7154. Section 47-1005.02(a)(1) of the District of Columbia Official Code is amended to read as follows:

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"(a)(1) Property eligible for the low-income housing tax credit provided by section 42 of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2189; 26 U.S.C. § 42), ("affordable housing") that is owned by an organization that is not organized or operated for private gain, or that is owned by an entity controlled, directly or indirectly, by such an organization, shall be exempt from the tax imposed by Chapter 8 of this title and from a payment in lieu of tax imposed under § 47-1002(20) during the time that the real property is being developed for or being used as affordable housing and is subject to restrictive covenants governing income during the federal low-income housing tax credit compliance period, including any extended use period."

Sec. 7155. Section 47-2202(3A) of the District of Columbia Official Code is amended by striking the phrase "The rate of the tax shall be 9%" and inserting the phrase "Effective October 1, 2011, the rate of the tax shall be 10%" in its place.

Sec. 7156. Section 47-3802(b) of the District of Columbia Official Code is amended by striking the phrase "a qualified supermarket, qualified restaurant, or retail store" and inserting the phrase "a qualified restaurant or retail store" in its place.

Sec. 7157. Chapter 47 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation to read as follows:

"47-4704. Applicability."

(b) Section 47-4702 is amended to read as follows:

"§ 47-4702. Annual certification of continuing eligibility for exemptions and abatements from real property tax.

"(a) To the extent allowable by law, on or before April 1 of each year, beginning in 2012, and every year thereafter, any nonprofit organization or business entity owning property receiving a real property tax exemption or abatement pursuant to Chapter 10 (other than property exempt under § 47-1002(1), (2), (3), or (21)) or Chapter 46 of this title, regardless of when the exemption or abatement was received, shall be required to file an annual report, under oath, with the Office of the Chief Financial Officer providing:

"(1) The lot and square, parcel, or reservation number of the real property and certifying that the real property has been used during the preceding real property tax year for the purpose for which the exemption or abatement was granted; and

"(2) A description of the community benefits provided pursuant to the provisions of the act granting the tax exemption or abatement, or an update on the progress of the community benefits identified in the act granting the tax exemption or abatement.

"(b) Failure to certify that the property was still eligible for the exemption or abatement based on the use of the property as required by subsection (a)(1) of this section shall result in a termination of the exemption or abatement as of the beginning of the tax year in which the report

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is required to be filed. If the report is not filed timely, the Office of the Chief Financial Officer shall assess a penalty of \$250. This section shall not apply to a property owner that is required to file an annual report pursuant to § 47-1007.

"(c) Upon written application by the property owner filed on or before April 1 of any year, the Office of the Chief Financial Officer may grant a reasonable extension of time for filing the report required under subsection (a) of this section. For reasonable cause, the Office of the Chief Financial Officer may abate the penalty provided under subsection (b) of this section as well as the tax, penalty, and interest resulting from the failure to file the report timely."

(c) A new section 47-4704 is added to read as follows:

"§ 47-4704. Applicability.

"This chapter shall apply as of October 1, 2011."

Sec. 7158. Chapter 28 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-2884.03 is amended by adding a new subsection (f) to read as follows:

"(f) No license shall be issued to any person unless:

"(1) At least 30 days before the issuance of a license, all affected Advisory Neighborhood Commissions have been provided notice that a pawnbroker license application has been submitted to the Mayor; provided, that this paragraph shall not apply to applications for a renewal of a pawnbroker license; and

"(2) The opinions of all affected Advisory Neighborhood Commissions have been accorded great weight during deliberations to approve or deny the license application."

(b) Section 47-2884.05 (b) is amended by striking the phrase "immediately give written notice thereof to the Mayor. Upon receipt of such notice the Mayor shall attach to the license a statement of the change of location and the date thereof, which shall be authority for the operation of such business under such license at the new location" and inserting the phrase "file an application for a new license in accordance with the provisions of § 47-2884.03" in its place.

(c) Section 47-2884.09 is amended as follows:

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

"(a) Beginning January 1, 2011, the maximum rate of interest which a pawnbroker may contract for, and receive, including fees, shall not exceed 5% per month, or fraction of the month, for the first 6 months of a loan, and 3% per month, or fraction of the month, thereafter; provided, that a pawnbroker may contract for, and receive, a minimum charge of \$2 per month, or fraction of the month, in lieu of interest."

(2) New subsections (c) and (d) are added to read as follows:

"(c) Once during each calendar year, a borrower shall have the right to rescind any pawn loan by the end of the same business day of the transaction. A \$2 fee may be assessed by the licensee to offset the administrative cost of the rescission.

"(d) The Mayor shall investigate from time to time, but no more frequently than once every 3 years, the economic conditions and other factors relating to and affecting the business of

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making pawnbroker loans under this part and shall ascertain and report to the Council all pertinent facts necessary to determine what maximum rate of interest should be permitted."

(d) Section 47-2884.11(d) is amended by striking the phrase "on forms to be prescribed by the Mayor of the District of Columbia" and inserting the phrase "on forms or via electronic means in a format prescribed by the Mayor" in its place.

(e) The text of section 47-2884.17 is amended to read as follows:

"The Mayor, pursuant to Chapter 2 of Title 5, may issue rules to implement the provisions of this part."

Sec. 7159. Section 106(a) of the Fiscal Year 2013 Budget Support Technical Clarification Temporary Amendment Act of 2012, effective March 13, 2013 (D.C. Law 19-226; 59 DCR 13553), is repealed.

SUBTITLE P. TAX ABATEMENT FINANCIAL ANALYSIS REQUIREMENTS

Sec. 7161. Short title.

This subtitle may be cited as the "Tax Abatement Financial Analysis Requirements Congressional Review Emergency Act of 2013".

Sec. 7162. Chapter 47 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-4701 is amended to read as follows:

"§ 47-4701. TAFE requirements.

"(a) A bill introduced in the Council that grants an exemption or abatement of a tax imposed by this title or by § 42-1103, unless the exemption or abatement is one of general applicability, shall not receive a Council hearing until a completed tax abatement financial analysis ("TAFE") has been provided to the Council and made available to the public.

"(b)(1) The TAFE shall include:

"(A) The terms of the exemption or abatement;

"(B) The estimated annual value of the exemption or abatement;

"(C) The purpose for which the grantee seeks the exemption or abatement;

"(D) A summary of the proposed community benefits to be provided by the grantee of the exemption or abatement, including, if applicable, the number of jobs that may be created, delineated in accordance with paragraph (2)(A)(iv), (v) and (vi) of this subsection;

"(E) If, in the opinion of the Chief Financial Officer, it is unlikely that the grantee's stated purpose could be accomplished without the proposed exemption or abatement:

"(i) An estimate of the amount of exemption or abatement necessary to accomplish the purpose;

"(ii) Efforts by the grantee to obtain alternate financing; and

"(iii) Any factors that limit the ability of the grantee to obtain adequate financing; and

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"(F) A financial analysis prepared by the Office of the Chief Financial Officer, which shall consist of:

"(i) For existing buildings, a review and analysis of the financial condition of the recipient of the proposed exemption or abatement and an advisory opinion stating whether or not it is likely that the recipient could be reasonably expected to meet its fiscal needs without the proposed exemption or abatement;

"(ii) For new developments, a review and analysis of the financial condition of the recipient of the proposed exemption or abatement and of the financing proposal submitted by the recipient and an advisory opinion stating whether or not it is likely that the project could be financed without the proposed exemption or abatement; and

"(iii) For exemptions or abatements related to a person or small group of persons that can be readily identified, a review and analysis of the financial condition of the recipient of the proposed exemption or abatement and an advisory opinion stating whether or not it is likely that the recipient could be reasonably expected to meet its fiscal needs without the proposed exemption or abatement. If individual financial information is not available, the requirements of this sub-subparagraph may be met through an advisory opinion on whether the proposed exemption or abatement can reasonably be expected to meet the proposed public policy goal."

"(2)(A) In addition to the requirements described in paragraph (1) of this subsection, where applicable, the TAFE shall include in the summary of the proposed community benefits:

"(i) The number of affordable housing units to be developed;

"(ii) For what level of Area Median Income, as defined by § 47-858.01(1)(A)(i), the units will be affordable;

"(iii) The assessed financial value of the subsidy, which shall be measured as the difference between the market rate of a comparable unit within the same neighborhood and the rate that is being charged as affordable housing;

"(iv) The number of jobs that will be created, delineated by status as to whether a job is:

"(I) Permanent;

"(II) Temporary;

"(III) Full-time; or

"(IV) Part-time;

"(v) The estimated wages and benefits for each job created;

"(vi) Any commitment made to hiring District residents; and

"(vii) A description of any other public policy goal that the exemption or abatement is meant to address, including expected results.

"(B) The summary shall state which community benefits are already required by law, such as inclusionary zoning, the community amenities that have already been negotiated as part of a planned-unit-development approval, and the requirements or incentives already included in law or regulation, such as environmental standards."

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(b) Section 47-4703 is amended by striking the citation "§ 47-4701(b)(4)" and inserting the citation "§ 47-4701(b)(1)(F)" in its place.

SUBTITLE Q. CLARIFICATION OF PERSONAL PROPERTY TAX REVENUE REPORTING

Sec. 7171. Short title.

This subtitle may be cited as the "Clarification of Personal Property Tax Revenue Reporting Congressional Review Emergency Act of 2013".

Sec. 7172. Section 47-501 of the District of Columbia Official Code is amended by adding the following sentence at the end:

"Beginning September 30, 2011, personal property tax shall be reported in the fiscal year in which it is collected."

SUBTITLE R. INCOME TAX WITHHOLDING STATEMENTS ELECTRONIC SUBMISSION

Sec. 7181. Short title.

This subtitle may be cited as the "Income Tax Withholding Statements Electronic Submission Congressional Review Emergency Act of 2013".

Sec. 7182. Section 47-1812.08 of the District of Columbia Official Code is amended as follows:

(a) Subsection (g)(1)(B) is amended by striking the last sentence.

(b) A new subsection (n) is added to read as follows:

"(n)(1) Beginning for statements due after December 31, 2011, each employer or payor required under this section to withhold income tax for an employee or a person who receives a payment subject to withholding ("payee") shall prepare a statement for each employee or payee that shows for the previous calendar year any information that the Chief Financial Officer requires by regulation or guidance.

"(2)(A) An employer or payor required to submit the statements pursuant to paragraph (1) of this subsection shall submit one copy of the statement for each employee or payee to the Chief Financial Officer by January 31 of each year.

"(B) Except as provided by subparagraph (C) of this paragraph, if the number of statements that an employer or payor is required to submit is 25 or more, the employer or payor shall submit the statements in an electronic format, as prescribed by the Chief Financial Officer.

"(C) The Chief Financial Officer may waive the requirement that an employer or payor submit statements in electronic format if the Chief Financial Officer determines that the requirement will result in undue hardship to the employer or payor."

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SUBTITLE S. CLEAN HANDS

Sec. 7191. Short title.

This subtitle may be cited as the "Clean Hands Congressional Review Emergency Act of 2013".

Sec. 7192. Section 47-2862(a) of the District of Columbia Official Code is amended as follows:

- (a) Paragraph (6) is amended by striking the word "or".
- (b) Paragraph (7) is amended by striking the period and inserting the phrase "; or" in its place.
- (c) A new paragraph (8) is added to read as follows:
 - "(8) Has failed to file required District tax returns."

SUBTITLE T. [RESERVED]**SUBTITLE U. DESTINATION DC CLARIFICATION**

Sec. 7211. Short title.

This subtitle may be cited as the "Destination DC Technical Clarification Congressional Review Emergency Amendment Act of 2013".

Sec. 7212. The Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code § 10-1201.01 *et seq.*), is amended as follows:

- (a) Section 205(f) (D.C. Official Code § 10-1202.05(f)) is repealed.
- (b) Section 208a(h) (D.C. Official Code § 10-1202.08a(h)) is amended by striking the phrase "transfer \$3 million from" and inserting the phrase "transfer \$3 million, as adjusted for inflation beginning in fiscal year 2015, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor, from" in its place.
- (c) Section 218(b)(10) (D.C. Official Code § 10-1202.18(b)(10)) is amended by striking the phrase "ANC2C" and inserting the phrase "ANC 6E" in its place.

SUBTITLE V. TIBETAN COMMUNITY REAL PROPERTY TAX EXEMPTION AND RELIEF

Sec. 7221. Short title.

This subtitle may be cited as the "Tibetan Community Real Property Tax Exemption and Relief Congressional Review Emergency Act of 2013".

Sec. 7222. Chapter 46 of Title 47 of the District of Columbia Official Code is amended as follows:

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(a) The table of contents is amended by adding a new section designation to read as follows:

"47-4661. Tibetan community property; Lot 30, Square 139."

(b) A new section 47-4661 is added to read as follows:

"§ 47-4661. Tibetan community property; Lot 30, Square 139.

"The real property described as Lot 30, Square 139 shall be exempt from real property taxation so long as the real property is owned and used by the International Campaign for Tibet, an organization approved under section 501(c)(3) of the Internal Revenue Code, and used solely to further its tax-exempt purposes, including continuing to offer programs that are open and free to the general public, such as lectures, films, art exhibits, a library of Tibetan materials, and meeting space for the Tibetan and Buddhist communities of the District."

SUBTITLE W. CONTINGENCY CASH RESERVE NOTIFICATION

Sec. 7231. Short title.

This subtitle may be cited as the "Contingency Cash Reserve Notification Congressional Review Emergency Act of 2013".

Sec. 7232. Within 3 business days after an allocation from or use of the contingency cash reserve fund established by section 450A of the District of Columbia Home Rule Act, approved November 22, 2000 (114 Stat. 2440; D.C. Official Code § 1-204.50a), the Chief Financial Officer shall transmit to the Budget Director of the Council a report of the:

- (1) Amount of the allocation or use; and
- (2) Purpose of the allocation or use.

SUBTITLE X. DEDICATED FUNDING FOR THE COMMISSION ON ARTS AND HUMANITIES COMMISSION

Sec. 7241. Short title.

This subtitle may be cited as the "Dedicated Funding for the Commission on Arts and Humanities Congressional Review Emergency Amendment Act of 2013".

Sec. 7242. Section 6a of the Commission on the Arts and Humanities Act, effective January 29, 1998 (D.C. Law 12-42; D.C. Official Code § 39-205.01), is amended as follows:

(a) Subsection (a-1) is amended to read as follows:

"(a-1) There shall be deposited into the Fund:

- "(1) Dedicated taxes as provided by subsection (a-2) of this section;
- "(2) Interest earned on money deposited into the Fund.
- "(3) Private donations, gifts, and grants; and
- "(4) Proceeds of the sale or loan of works of arts, prints, and promotional items."

(b) A new subsection (a-2) is added to read as follows:

"(a-2)(1)(A) Notwithstanding § 47-392.02, from fiscal year 2014 through fiscal year 2017, of the amount of revenue by which taxes imposed by § 47-2002 ("sales-tax revenue") reported in the fiscal year's Comprehensive Annual Financial Report ("CAFR") exceed the

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annual sales-tax revenue estimate from February 22, 2013, quarterly revenue estimate provided by the Chief Financial Officer ("February 2013 revenue estimate"), up to \$22 million of the sales-tax revenue shall be deposited into the Fund for use in the following fiscal year.

"(B) The amount to be deposited in the Fund under this paragraph shall be adjusted for inflation, as measured by the percentage increase, if any, from fiscal year 2014 in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

"(C) The amount to be deposited in the Fund under this paragraph shall not exceed the difference between the total amount of revenue reported in the fiscal year's CAFR above the February 2013 revenue estimate.

"(2) Notwithstanding § 47-392.02, beginning in fiscal year 2018 and for each fiscal year thereafter, except as provided by paragraph (4) of this subsection, 1/23rd of the sales-tax revenue reported in the prior fiscal year Comprehensive Annual Financial Report shall be deposited in the Fund.

"(3) Any revenue deposited in the Fund pursuant to paragraph (2) of this subsection shall, dollar-for-dollar, be used to offset other local funds available to the Commission.

"(4) For each fiscal year, any unexpended funds in the Fund attributable to dedicated taxes from the previous fiscal year shall be deducted from the amount to be deposited in that fiscal year."

(c) A new subsection (f) is added to read as follows:

"(f) Beginning in fiscal year 2018, the Commission shall be funded entirely from moneys deposited into the Fund."

Sec. 7243. Section 47-2002 of the District of Columbia Official Code is amended by adding a new subsection (c) to read as follows:

"(c) Of the revenue received pursuant to this section, a portion shall be allocated to the Arts and Humanities Enterprise Fund in accordance with section 6a(a-2) of the Commission on the Arts and Humanities Act, effective January 29, 1998 (D.C. Law 12-42; D.C. Official Code § 39-205.01(a-2))."

SUBTITLE Y. BRYANT MEWS HOMEOWNER'S ASSOCIATION EQUITABLE REAL PROPERTY TAX RELIEF

Sec. 7251. Short title.

This subtitle may be cited as the "Bryant Mews Homeowner's Association Equitable Real Property Tax Relief Congressional Review Emergency Act of 2013".

Sec. 7252. The Council orders that all real property taxes, interest, penalties fees, and other related charges assessed against Lots 0858 and 0859 in Square 4112, currently owned by the Bryant Mews Homeowners Association, for tax years 1989 through 2007, inclusive, shall be forgiven. The Council further orders that all tax sales of Lots 0858 and 0859 in Square 4112

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conducted under Chapter 13A of Title 47 of the District of Columbia Official Code shall be cancelled pursuant to D.C. Official Code § 47-1366.

**SUBTITLE Z. BASILICA OF THE NATIONAL SHRINE OF THE
IMMACULATE CONCEPTION REAL PROPERTY TAX EXEMPTION**

Sec. 7261. Short title.

This subtitle may be cited as the "Basilica of the National Shrine of the Immaculate Conception Real Property Tax Exemption and Equitable Real Property Tax Relief Congressional Review Emergency Act of 2013".

Sec. 7262. Chapter 10 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation to read as follows:

"47-1091. Basilica of the National Shrine of the Immaculate Conception Property; Lot 6, Square 3663."

(b) A new section 47-1091 is added to read as follows:

"§ 47-1091. Basilica of the National Shrine of the Immaculate Conception Property; Lot 6, Square 3663.

"(a) The Basilica of the National Shrine of the Immaculate Conception Property, Lot 6, Square 3663, located in the northeast quadrant of the District of Columbia and comprising approximately 5 acres of land, generally bounded by the Basilica's parking lot, Harewood Road, and the Catholic University of America, together with the improvements thereon and owned by the Basilica of the National Shrine of the Immaculate Conception ("Property") shall be exempt from all taxation so long as it is owned and planned for use by, or actually used by, the Basilica of the National Shrine of the Immaculate Conception for its purposes and activities and is not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009.

"(b) If the owner applies for and is granted a real property tax exemption under § 47-1002, the exemption provided under subsection (a) of this section shall terminate on the day before the effective date of the exemption granted under § 47-1002.

"(c) Real property taxes, interest, penalties, fees, and other related charges assessed against the Property for the period of July 1, 2012, through the end of the month following the effective date of this subtitle, as well as transfer and recordation taxes, interest, and penalties incurred as a result of the conveyance of Lot 6 in Square 3663 to the Basilica of the National Shrine of the Immaculate Conception Property, shall be forgiven, and any payments made for the period or on account of the conveyance shall be refunded."

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**SUBTITLE AA. JUBILEE HOUSING RESIDENTIAL RENTAL PROJECT
PROPERTY TAX EXEMPTION**

Sec. 7271. Short title.

This subtitle may be cited as the "Jubilee Housing Residential Rental Project Property Tax Exemption and Equitable Real Property Tax Relief Congressional Review Emergency Act of 2013".

Sec. 7272. Chapter 10 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation to read as follows:

"47-1089. Jubilee Housing Limited Partnership Residential Rental Project; Lots 62, 63, and 809, Square 2576, and Lot 818, Square 2566."

(b) A new section 47-1089 is added to read as follows:

"§47-1089. Jubilee Housing Limited Partnership Residential Rental Project; Lots 62, 63, and 809, Square 2576, and Lot 818, Square 2566.

"Beginning October 1, 2013, the real properties described as Lots 62, 63, and 809, Square 2576, and Lot 818, Square 2566, owned by Jubilee Housing, Inc., or by Jubilee Housing Limited Partnership, shall be exempt from real property taxation so long as the real properties continue to be owned by Jubilee Housing, Inc., or Jubilee Housing Limited Partnership, and continue to be under applicable use restrictions during a federal low-income housing tax credit compliance period, and not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009."

SUBTITLE BB. MARRIAGE EQUALITY ESTATE TAX CLARIFICATION

Sec. 7281. Short title.

This subtitle may be cited as the "Marriage Equality Estate Tax Clarification Congressional Review Emergency Act of 2013".

Sec. 7282. The Chief Financial Officer is directed to make the clarifying changes to all estate tax forms, filing instructions, and regulations necessary to make it clear that all married couples are eligible for estate tax deductions and exclusions, including the spousal exclusion of bequests, whether direct or through trusts, to a surviving spouse, regardless of whether such marriage is recognized under federal law.

SUBTITLE CC. MOTOR VEHICLE FUEL TAX

Sec. 7291. Short title.

This subtitle may be cited as the "Motor Vehicle Fuel Tax Congressional Review Emergency Act of 2013".

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Sec. 7292. Section 47-2301(a) of the District of Columbia Official Code is amended to read as follows:

"(a)(1) The District shall levy and collect a tax on motor vehicle fuels equal to 8.0% of the average wholesale price of a gallon of regular unleaded gasoline for the applicable base period, excluding federal and state taxes, sold or otherwise disposed of by an importer or by a user, or used for commercial purposes. In no case shall the average wholesale price computed for purposes of this section be less than \$2.94.

"(2) The average wholesale price shall be calculated for adjustment of the motor vehicle fuel tax effective April 1 and October 1 of each year. When computing the average wholesale price of a gallon of motor vehicle fuel, the District shall use the monthly Central Atlantic (PADD 1B) Regular Gasoline Wholesale/Resale Price by Refiners data compiled by the US Energy Information Administration, or equivalent wholesale price data. Monthly price data for the period from July 1 through December 31, rounded to the nearest one half-cent, shall be used to determine the tax for the immediately following period beginning April 1. Monthly price data for the period from January 1 through June 30, rounded to the nearest one half-cent, shall be used to determine the tax for the immediately following period beginning October 1.

"(3) In no case shall an average wholesale price computed for purposes of this section vary by more than 10% from the average wholesale price for the prior period."

**SUBTITLE DD. TITLE-HOLDING ENTITY REAL PROPERTY TAX
EXEMPTION**

Sec. 7301. Short title.

This subtitle may be cited as the "Title-Holding Entity Real Property Tax Exemption Congressional Review Emergency Act of 2013".

Sec. 7302. Chapter 10 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-1002 is amended as follows:

(1) Paragraph (29) is amended by striking the word "and" at the end.

(2) Paragraph (30) is amended by striking the period and inserting the phrase "; and" in its place.

(3) A new paragraph (31) is added to read as follows:

"(31)(A) Property owned by a title-holding entity that is not organized or operated for private gain, as to which all of the ownership, membership, or beneficial interest is vested in one or more organizations, each of which is entitled to an exemption under paragraphs (6) through (20) of this section, and that is used by one or more organizations, each of which is entitled to an exemption under paragraphs (6) through (20) of this section, for the activities and purposes entitling each such organization to the exemption.

"(B) A title-holding entity shall notify the Office of Tax and Revenue within 30 days of any change in any of its owners, members, or beneficial interest holders.

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"(C) For the purposes of this paragraph, the term "title-holding entity" means an entity whose activities are limited to holding record title to a property, providing the property (with or without consideration) for the use of the one or more organizations, each of which is entitled to an exemption under paragraphs (6) through (20) of this section, for the activities and purposes entitling each such organization to the exemption, encumbering the property with indebtedness, and repaying indebtedness secured by the property."

(b) Section 47-1005.01(a) is amended by striking the phrase "through (20)" and inserting the phrase "through (20) and § 47-1002(31)" in its place.

Sec. 7303. Chapter 10 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation to read as follows:

"47-1090. Washington Latin Public Charter School property; Lot 0800, Square 3327."

(b) A new section 47-1090 is added to read as follows:

"§ 47-1090. Washington Latin Public Charter School property; Lot 0800, Square 3327.

"(a) The real property located at 5210 2nd Street, N.W., and described as Lot 0800, Square 3327, shall be exempt from real property taxation and possessory interest taxation so long as the real property continues to be owned or occupied under a ground lease by Washington Latin Public Charter School or Latin Rudolph QALICB, LLC.

"(b) Any transfer, assignment, or other disposition of all or any portion of the real property described in subsection (a) of this section, including as assignment of leasehold interest in the real property or a sublease of the real property between Washington Latin Public Charter School and Latin Rudolph QALICB, LLC, or a deed of trust with respect to the real property granted by Washington Public Charter School or Latin Rudolph QALICB, LLC, to a third party lender, shall be exempt from the tax imposed under § 42-1103 and § 47-903.

"(c) The exemptions set forth in this section shall apply:

"(1) To successor corporations or entities organized or incorporated by Washington Latin Public Charter School for the purposes of receiving New Market Tax Credits administered by the U.S. Treasury Department; and

"(2) As of April 12, 2013."

**SUBTITLE EE. INTERNET SALES TAX, HOMELESSNESS PREVENTION,
AND WMATA MOMENTUM FUND ESTABLISHMENT**

Sec. 7311. Short title.

This subtitle may be cited as the "Internet Sales Tax, Homelessness Prevention, and WMATA Momentum Fund Establishment Congressional Review Emergency Act of 2013".

Sec. 7312. Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new chapter designation "39A. Internet Tax." after the chapter designation "39. Toll Telecommunication Service Tax."

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(b) A new Chapter 39A is added to read as follows:

"Chapter 39A. Internet Tax

"Sec.

"47-3931. Definitions.

"47-3932. Imposition of tax.

"47-3933. Scope.

"47-3934. Deposit into General Fund of the District of Columbia.

"§ 47-3931. Definitions.

"For the purposes of this chapter, 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 exempt it from the requirement to collect remote sales taxes pursuant to this chapter.

"(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 chapter.

"§ 47-3932. Imposition of tax.

"(a)(1) Within 120 days of the effective date of this chapter, 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:

"(A) 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;

"(B) Appropriate protections for consumer privacy;

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

"(D) 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;

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

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

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"(G) Subject to § 47-3933, the products and types of products that shall be exempt from the remote sales taxes;

"(H) Rules:

"(i) For accounting for bad debts and rounding;

"(ii) That address refunds and credits for remote sales taxes

relating to:

"(I) Customer returns;

"(II) Restocking fees;

"(III) Discounts; and

"(IV) Coupons;

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

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

"(v) That the Mayor determines are necessary or appropriate to further the purposes of this chapter; and

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

"(2) The compensation authorized by paragraph (1)(D) of this subsection 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.

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

"§ 47-3933. Scope.

"(a) Nothing in this chapter 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.

"(b) Nothing in this chapter 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.

"§ 47-3934. Deposit into General Fund of the District of Columbia.

"The proceeds of the taxes imposed under this chapter, and any money collected from fees or fines charged pursuant to this chapter, if any, shall be deposited in the General Fund of the District of Columbia established under § 47-131 and shall, dollar-for-dollar, be used to offset revenue collected from the automated traffic enforcement program."

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Sec. 7313. Funding for homelessness prevention.

Fifty percent of the revenue from the automated traffic enforcement program, to the extent that the revenue is offset by revenue from a tax imposed by Chapter 39A of Title 47 of the District of Columbia Official Code on sales made via the Internet, and the interest earned on that revenue, but not to exceed \$50 million in a fiscal year, shall be dedicated to the End Homelessness Fund established in section 5192 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013, passed on emergency basis on October 1, 2013 (Enrolled version of Bill 20-496).

Sec. 7314. WMATA Momentum Fund.

(a) There is established as a special fund the WMATA Momentum Fund ("Fund"), which shall be administered by the Chief Financial Officer in accordance with subsection (c) of this section.

(b) The Fund shall consist of 50% of the revenue from the automated traffic enforcement program to the extent that the revenue is offset by revenue from a tax imposed by Chapter 39A of Title 47 of the District of Columbia Official Code on sales made via the Internet and the interest earned on that revenue, and to the extent that the revenue exceeds \$100 million in a fiscal year, 100% of the revenue in excess of \$100 million shall be deposited in the Fund.

(c) Upon execution of an inter-jurisdiction funding agreement for implementation of the Washington Metropolitan Area Transit Authority Momentum Strategic Plan, any monies in the Fund shall be made available to finance the District's share of the implementation costs.

(d)(1) The money deposited into the Fund, and interest earned, 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.

(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

Sec. 7315. Applicability.

This subtitle shall apply as of the effective date of the Marketplace Fairness Act of 2013, passed by the Senate on May 6, 2013 (S. 743).

SUBTITLE FF. AGE-IN-PLACE AND EQUITABLE SENIOR-CITIZEN REAL PROPERTY AND RELIEF PAYMENT PLAN

Sec. 7321. Short title.

This subtitle may be cited as the "Age-in-Place and Equitable Senior-Citizen Real Property and Relief Payment Plan Congressional Review Emergency Amendment Act of 2013".

Sec. 7322. Section 3 of the Age-in-Place and Equitable Senior Citizen Real Property Act of 2012, effective July 13, 2012 (D.C. Law 19-165; 59 DCR 6188), is repealed.

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Sec. 7323. Section 47-863 of the District of Columbia Official Code is amended as follows:

(a) Subsection (a)(1A)(A) is amended by striking the figure "\$125,000" wherever it appears and inserting the phrase "\$125,000; adjusted for inflation beginning on January 1, 2015, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index for All Urban Consumers, Washington-Baltimore Area, published by the Bureau of Labor Statistics of the Department of Labor" in its place.

(b) Subsection (g)(3) is amended by striking the phrase "late payment of real property tax" and inserting the phrase "late payment of real property tax; provided, that the Chief Financial Officer may establish a payment plan to collect the delinquent taxes" in its place.

SUBTITLE GG. SMOKING CESSATION DEDICATED FUNDING ACT

Sec. 7331. Short title.

This subtitle may be cited as the "Smoking Cessation Dedicated Funding Congressional Review Emergency Act of 2013".

Sec. 7332. Section 47-2402 of the District of Columbia Official Code is amended by adding a new subsection (1) to read as follows:

"(1)(1) There is established as a special fund the Smoking Cessation Fund ("Fund"), which shall be administered by the Department of Behavioral Health in accordance with paragraph (3) of this subsection.

"(2) There shall be deposited into the Fund:

"(A) Dedicated taxes as provided by paragraph (4) of this subsection; and

"(B) Interest earned on money deposited into the Fund.

"(3) The Fund shall be used for smoking-cessation efforts.

"(4)(A) Notwithstanding § 47-392.02, from fiscal year 2014 through fiscal year 2017, the amount of revenue by which taxes imposed by § 47-2402 ("cigarette-tax revenue") reported in the fiscal year's Comprehensive Annual Financial Report exceed the annual cigarette-tax revenue estimate from February 22, 2013, quarterly revenue estimate provided by the Chief Financial Officer ("estimated revenue"), the excess of cigarette-tax revenue shall be deposited into the Fund for use in the following fiscal year; provided, that no more than 10% of the estimated revenue shall be deposited into the Fund.

"(B) Beginning with fiscal year 2018, 10% of the cigarette-tax revenue shall be deposited into the Fund.

"(5)(A) The money deposited into the Fund, and interest earned, 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.

"(B) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation."

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SUBTITLE HH. MULTISTATE TAX COMPACT ENACTMENT AND CLARIFICATION

Sec. 7341. Short title.

This subtitle may be cited as the "Multistate Tax Compact Enactment and Clarification Congressional Review Emergency Act of 2013".

Sec. 7342. Chapter 4 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-441 is repealed.

(b) Section 47-441 is re-enacted and reads as follows:

"The Multistate Tax Compact is adopted and entered into with all jurisdictions legally joining therein, in the form substantially set forth as follows:

"Article I. Purposes.

"The purposes of this compact are to:

"1. Facilitate proper determination of state and local tax liability of multistate taxpayers, including equitable apportionment of tax bases and settlement of apportionment disputes.

"2. Promote uniformity or compatibility in significant components of tax systems.

"3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.

"4. Avoid duplicative taxation.

"Article II. Definitions.

"1. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

"2. "Subdivision" means any governmental unit or special district of a state.

"3. "Taxpayer" means any corporation, partnership, firm, association, governmental unit or agency or person acting as a business entity in more than one state.

"4. "Income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions.

"5. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety.

"6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.

"7. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession, or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price, by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed

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exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.

"8. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession, or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property and (b) is complementary to a sales tax.

"9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of Articles III, IV, and V of this compact shall apply only to the taxes specifically designated therein and the provisions of Article IX of this compact shall apply only in respect to determinations pursuant to Article IV.

"Article III. Elements of Income Tax Laws.

"Repealed.

"Article IV. Division of Income.

"Repealed.

"Article V. Elements of Sales and Use Tax Laws.

Tax Credit.

"1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

"Exemption Certificates.

"Vendors May Rely.

"2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

"Article VI. The Commission.

"Organization and Management.

"1. (a) The Multistate Tax Commission is hereby established. It shall be composed of one "member" from each party state who shall be the head of the state agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency, the state shall provide by law for the selection of the Commission member from the heads of the relevant agencies. State law may provide that a member of the Commission be represented by an alternate but only if there is on file with the Commission written notification of the designation and identity of the alternate. The Attorney General of each party state or his designee, or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the Commission, but shall not vote. Such Attorneys General, designees, or other counsel shall receive all notices of meetings required under paragraph 1(e) of this article.

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“(b) Each party state shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the Commission member from that state.

“(c) Each member shall be entitled to one vote. The Commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

“(d) The Commission shall adopt an official seal to be used as it may provide.

“(e) The Commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its Executive Committee may determine. The Commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular, and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

“(f) The Commission shall elect annually, from among its members, a Chairman, a Vice Chairman and a Treasurer. The Commission shall appoint an Executive Director who shall serve at its pleasure, and it shall fix his duties and compensation. The Executive Director shall be Secretary of the Commission. The Commission shall make provisions for the bonding of such of its officers and employees as it may deem appropriate.

“(g) Irrespective of the civil service, personnel, or other merit system laws of any party state, the Executive Director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the Commission, and shall fix their duties and compensation. The Commission bylaws shall provide for personnel policies and programs.

“(h) The Commission may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental entity.

“(i) The Commission may accept for any of its purposes and functions, any and all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any governmental entity and may utilize and dispose of the same.

“(j) The Commission may establish one or more offices for the transacting of its business.

“(k) The Commission shall adopt bylaws for the conduct of its business. The Commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party states.

“(l) The Commission annually shall make to the Governor and legislature of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the Commission or services borrowed shall be reported in the annual report of the Commission, and shall include the nature, amount, and conditions, if any, of the donation, gift, grant, or services borrowed and the identity of the donor or lender. The Commission may make additional reports as it may deem desirable.

“Committees.

“2. (a) To assist in the conduct of its business when the full Commission is not meeting, the Commission shall have an Executive Committee of seven members, including the Chairman, Vice Chairman, Treasurer, and four other members elected annually by the Commission. The Executive Committee, subject to the provisions of this compact and consistent with the policies of the Commission, shall function as provided in the bylaws of the Commission.

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“(b) The Commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the Commission, including problems of special interest to any party state and problems dealing with particular types of taxes.

“(c) The Commission may establish such additional committees as its bylaws may provide.

“Powers.

“3. In addition to powers conferred elsewhere in this compact, the Commission shall have power to:

“(a) Study state and local tax systems and particular types of state and local taxes.

“(b) Develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and administration.

“(c) Compile and publish information as in its judgment would assist the party states in implementation of the compact and taxpayers in complying with state and local tax laws.

“(d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

“Finance.

“4. (a) The Commission shall submit to the Governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

“(b) Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In determining such amounts, the Commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the Commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

“(c) The Commission shall not pledge the credit of any party state. The Commission may meet any of its obligations in whole or in part with funds available to it under paragraph 1(i) of this article; provided that the Commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it under paragraph 1(i), the Commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

“(d) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the

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Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

“(e) The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the Commission.

“(f) Nothing contained in this article shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

“Article VII. Uniform Regulations and Forms.

“1. Whenever any two or more party states, or subdivisions of party states, have uniform or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales or use tax, the Commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms. The Commission may also act with respect to the provisions of Article IV of this compact.

“2. Prior to the adoption of any regulation, the Commission shall:

“(a) As provided in its bylaws, hold at least one public hearing on due notice to all affected party states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the Commission for advance notice of its regulation-making proceedings.

“(b) Afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the Commission.

“3. The Commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

“Article VIII. Interstate Audits.

“1. This article shall be in force only in those party states that specifically provide therefor by statute.

“2. Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records, or other documents, may request the Commission to perform the audit on its behalf. In responding to the request, the Commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The Commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The Commission shall make charges, to be paid by the state or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

“3. The Commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper, documents, other record, property or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, he may be required to attend for such purpose at any time and place

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fixed by the Commission within the state of which he is a resident; provided, that such state has adopted this article.

"4. The Commission may apply through the Mayor of the District of Columbia, to any court in the District of Columbia having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article, if the party or subject matter on account of which the Commission seeks an order is within the jurisdiction of the courts of the District of Columbia. The Commission may apply for such order to the courts of the state or subdivision thereof, other than the District of Columbia, on behalf of which the audit is being made, or in which the party or subject matter being sought is situated, to the extent that the Commission is authorized to do so by the laws of such other state. Failure of any person to obey any such order shall be punishable as contempt of the issuing court.

"5. The Commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the Commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the Commission.

"6. Information obtained by an audit pursuant to this article shall be confidential and available only for tax purposes to party states, their subdivisions, or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the Commission performs the audit, and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

"7. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this article.

"8. In no event shall the Commission make any charge against a taxpayer for an audit.

"9. As used in this article, "tax", in addition to the meaning ascribed to it in Article II, means any tax or license fee imposed in whole or in part for revenue purposes.

"Article IX. Entry into Force and Withdrawal.

"1. This compact shall enter into force when enacted by any seven states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The Commission shall arrange for notification of all party states whenever there is a new enactment of the compact.

"2. Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

"Article X. Effect on Other Laws and Jurisdiction.

"Nothing in this compact shall be construed to:

"(a) Affect the power of any state or subdivision thereof to fix rates of taxation.

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“(b) Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax; provided that the definition of “tax” in Article VIII 9. may apply for the purposes of that article and the Commission's powers of study and recommendation pursuant to Article VI 3. may apply.

“(c) Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation, or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.

“(d) Supersede or limit the jurisdiction of any court of the United States.

“Article XI. Construction and Severability.

“This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby if this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.”.

(c) Section 47-443 is amended by striking the phrase “for which there are no corresponding provisions in the Uniform Division of Income provisions contained in Article IV of the Multistate Compact in § 47-441.”.

(d) Section 47-445 is amended by striking the word “Mayor” and inserting the phrase “Chief Financial Officer” in its place.

Sec. 7343. Applicability.

This subtitle shall apply for tax years beginning after December 31, 2012

SUBTITLE II. PROCESSING SALES TAX CLARIFICATION

Sec. 7361. Short title.

This subtitle may be cited as the “Sales Tax on Restaurant Utilities Clarification Congressional Review Emergency Act of 2013”.

Sec. 7362. Section 47-2005(11A) of the District of Columbia Official Code is amended to read as follows:

“(11A)(A) Sales of natural or artificial gas, oil, electricity, solid fuel, or steam, directly used in a restaurant.

“(B) For the purposes of this paragraph, the term “restaurant” means a retail establishment that is licensed by the District of Columbia, a separately metered or sub-metered facility, and in the principal business of preparing and serving food to the public. The term “restaurant” shall include a pizzeria, delicatessen, ice cream parlor, cafeteria, take-out

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counter, and caterer, and banquet and food-processing areas in hotels. The term "restaurant" does not include beverage counters, including coffee shops and juice bars."

TITLE VIII. CAPITAL BUDGET**SUBTITLE A. WATERFRONT PARK BOND**

Sec. 8001. Short title.

This subtitle may be cited as the "Waterfront Park Bond Congressional Review Emergency Amendment Act of 2013".

Sec. 8002. Section 2(1)(A) of the DOT PILOT Revision Emergency Approval Resolution of 2010, effective February 2, 2010 (Res. 18-389; 57 DCR 1534), is amended as follows:

- (a) Sub-subparagraph (viii) is amended by striking the word "and".
- (b) Sub-subparagraph (ix) is amended by striking the period and inserting the phrase "; and" in its place.
- (c) A new sub-subparagraph (x) is added to read as follows:
" (x) Waterfront Park. "

SUBTITLE B. CAPITAL CAPACITY EXPANSION

Sec. 8011. Short title.

This subtitle may be cited as the "Capital Capacity Expansion Congressional Review Emergency Act of 2013".

Sec. 8012. Section 47-2763 of the District of Columbia Official Code is amended to read as follows:

"§ 47-2763. Enforcement.

"Any feepayer who fails to file a return or pay the ballpark fee due, as required by § 47-2762, shall be subject to all collection, enforcement, and administrative provisions applicable to unpaid taxes or fees, as provided in Chapter 18, Chapter 41, Chapter 42 (except §§ 47-4211(b)(1)(B), 47-4214, and 47-4215), Chapter 43, and Chapter 44 of this title."

SUBTITLE C. PAY-AS-YOU-GO CAPITAL ACCOUNT AND STREETCAR FUNDING DEDICATION

Sec. 8021. Short title.

This subtitle may be cited as the "Pay-as-you-go Capital Account and Streetcar Funding Dedication Congressional Review Emergency Act of 2013".

Sec. 8022. Section 47-392.02(f) of the District of Columbia Official Code is amended as follows:

- (a) Paragraph (5)(A) is amended by striking the phrase "All funds" and inserting the phrase "Beginning in the fiscal year following the completion of the capital construction of the Streetcar Project, all funds" in its place.
- (b) A new paragraph (6) is added to read as follows:

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"(6) All funds in the Pay-as-you-go Capital Account shall be budgeted for the Streetcar Project until the construction of the streetcar system is complete."

SUBTITLE D. GREAT STREETS NEIGHBORHOOD RETAIL PRIORITY AREA

Sec. 8031. Short title.

This subtitle may be cited as the "Great Streets Neighborhood Retail Priority Area Congressional Review Emergency Amendment Act of 2013".

Sec. 8032. The Retail Incentive Act of 2004, effective September 8, 2004 (D.C. Law 15-185; D.C. Official Code § 2-1217.71 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Official Code § 2-1217.72) is amended by adding a new subsection (c) to read as follows:

"(c) The maximum principal amount of bonds that may be issued with respect to the Downtown Retail Priority Area is limited to the amount of bonds issued before March 1, 2013."

(b) Section 4 (D.C. Official Code § 2-1217.73) is amended by adding new subsections (f), (g), (h), (i), and (j) to read as follows:

"(f) There is established the Rhode Island Avenue, N.E., Retail Priority Area, which shall consist of the parcels, squares, and lots within the following area: Beginning at the intersection of Fourth Street, N.E., and Franklin Street, N.E.; thence east on Franklin Street NE to 15th Street, N.E.; thence north on 15th Street, N.E., to Girard Street, N.E.; thence east on Girard Street, N.E., to 17th Street, N.E.; thence north on 17th Street, N.E., to Brentwood Road, N.E.; thence northeast on Brentwood Road N.E., to 18th Street, N.E.; thence north on 18th Street, N.E., to Irving Street, N.E.; thence east on Irving Street, N.E., to Rhode Island Avenue, N.E.; thence north along the western boundary of the property at the northeast corner of 20th Street, N.E., and Rhode Island Avenue, N.E., to its northwest corner; thence northeast along the rear boundaries of all properties with frontage along the north side of Rhode Island Avenue, N.E., to the northeast corner of the property at the northwest corner of Rhode Island Avenue, N.E., and Eastern Avenue, N.E.; thence southeast along the eastern boundary of property at the corner of Rhode Island Avenue, N.E., and Eastern Avenue, N.E., to its southeast corner; thence continuing southeast to the southeast corner of the property at the southwest corner of Rhode Island Avenue, N.E., and Eastern Avenue, N.E.; thence southwest along the rear boundaries of all properties with frontage along the south side of Rhode Island Avenue, N.E., to Montana Avenue, N.E.; thence southeast along Montana Avenue, N.E., to Downing Street, N.E.; thence southwest along Downing Street, N.E., to Bryant Street, N.E.; thence west along Bryant Street, N.E., to 13th Street, N.E.; thence southeast along 13th Street, N.E., to its end at W Street, N.E.; thence west along a line extending W Street, N.E., west to the continuation of W Street, N.E., and continuing west along W Street, N.E., to Brentwood Road, N.E.; thence southwest along Brentwood Road, N.E., to its end at T Street, N.E.; thence southwest to the intersection of a line extending Fourth Street, N.E., south and a line extending R Street, N.E., east; thence north along line extending

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Fourth Street, N.E., to Fourth Street, N.E., and continuing north along Fourth Street, N.E., to the point of beginning.

"(g) There is established the Bladensburg Road, N.E., Retail Priority Area, which shall consist of the parcels, squares, and lots within the following area: Beginning at the intersection of Holbrook Street, N.E., and Mount Olivet Road, N.E.; thence east on Mount Olivet Road, N.E., to Bladensburg Road, N.E.; thence south on Bladensburg Road, N.E., to 17th Street, N.E.; thence south on 17th Street, N.E., to H Street, N.E.; thence east on H Street, N.E., to 19th Street, N.E.; thence south on 19th Street, N.E., to Benning Road, N.E.; thence west on Benning Road, N.E., to H Street, N.E.; thence west on H Street, N.E., to Florida Avenue, N.E.; thence west on Florida Avenue, N.E., to Holbrook Street, N.E.; thence north on Holbrook Street, N.E., to the point of beginning.

"(h) There is established the North Capitol Street Retail Priority Area, which shall consist of the parcels, squares, and lots within the following area: Beginning at the intersection of New York Avenue, N.W., and First Street, N.W.; thence north along First Street, N.W., to Florida Avenue, N.W.; thence northwest along Florida Avenue, N.W., to Second Street, N.W.; thence north along Second Street, N.W., to Rhode Island Avenue, N.W.; thence northeast along Rhode Island Avenue, N.W., to First Street, N.W.; thence north along First Street, N.W., to Michigan Avenue, N.W.; thence in a westerly direction along Michigan Avenue, N.W., to Park Place, N.W.; thence north along Park Place, N.W., to Irving Street, N.W.; thence northeast along Irving Street, N.W., to Kenyon Street, N.W.; thence west along Kenyon Street, N.W., to Park Place, N.W.; thence north along Park Place, N.W., to Rock Creek Church Road, N.W.; thence northeast along Rock Creek Church Road, N.W., to Harewood Road, N.W.; thence southeast along Harewood Road, N.W., to North Capitol Street; thence south along North Capitol Street to Irving Street, N.E.; thence east along Irving Street, N.E., to Michigan Avenue, N.E.; thence southwest along Michigan Avenue, N.E., to North Capitol Street; thence south along North Capitol Street to Rhode Island Avenue, N.E.; thence northeast along Rhode Island Avenue, N.E., to Lincoln Road, N.E.; thence south along Lincoln Road, N.E., to R Street, N.E.; thence east along R Street, N.E., and continuing east along a line extending R Street, N.E., to the east to its intersection with the WMATA railroad tracks; thence southwest along the WMATA railroad tracks to New York Avenue, N.E.; thence southwest along New York Avenue, N.E., to New York Avenue, N.W., and continuing southwest along New York Avenue, N.W., to the point of beginning.

"(i) There is established the Connecticut Avenue Retail Priority Area, which shall consist of the parcels, squares, and lots within the following area: Beginning at the intersection of Connecticut Avenue, N.W., and Macomb Street, N.W., thence north on Connecticut Avenue, N.W., to its intersection with Albemarle Street, N.W., including both the east and west sides of Connecticut Avenue, N.W.", to the point of beginning.

"(j) There is established the Nannie Helen Burroughs Avenue Priority Area, which shall consist of the parcels, squares, and lots within the following area: Beginning at the intersection of the center line of Nannie Helen Burroughs Avenue, N.E., and Minnesota Avenue, N.E.; thence northeast along Minnesota Avenue, N.E., to Sheriff Road, N.E.; thence east along Sheriff

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Road, N.E., to 44th Street, N.E.; thence south along 44th Street, N.E., to Jay Street, N.E.; thence east along Jay Street, N.E., to 46th Street, N.E.; thence south along 46th Street, N.E., to Hayes Street, N.E.; thence east along Hayes Street, N.E., to 54th Place, N.E.; thence northeast along 54th Place, N.E., to 55th Street, N.E.; thence northeast along 55th Street, N.E., to Jay Street, N.E.; thence southeast along Jay Street, N.E., to Nannie Helen Burroughs Avenue, N.E.; thence east along Nannie Helen Burroughs Avenue, N.E., to Eastern Avenue, N.E.; thence southeast along Eastern Avenue, N.E., to Foote Street, N.E.; thence west along Foote Street, N.E., to 55th Street, N.E.; thence south along 55th Street, N.E., to Eads Street, N.E.; thence west along Eads Street, N.E., to the Marvin Gaye Park Trail, and continuing east along the Marvin Gaye Park Trail, to the point of the beginning.”.

(c) A new section 4b is added to read as follows:

“Sec. 4b. Retail Priority Area corridor revitalization programs.

“(a) Notwithstanding any tax increment financing that may be available, all funds allocated for Great Streets within the budgets of the Deputy Mayor for Planning and Economic Development and the District Department of Transportation shall be used to support the following corridor revitalization programs in designated Retail Priority Areas:

“(1) Small business retention and attraction programs;

“(2) Neighborhood branding and marketing;

“(3) Blighted and vacant property mitigation;

“(4) Redevelopment of private property through financial incentives, technical assistance, temporary urbanism initiatives, and property acquisition and disposition, among other mechanisms identified by the Mayor;

“(5) Streetscape and roadway infrastructure improvements to enhance walkability, pedestrian safety, lighting, and transportation; and

“(6) Beautification and greening of the public realm, including public art, landscaping, storm water retention, and litter control.

“(b)(1) With respect to the small business retention and attraction program referenced in subsection (a)(1) of this section, the Mayor shall publish, no later than 30 days after October 1, 2013, and no less than annually after that date, a notice of funding availability to make grants or loans in certain Retail Priority Areas selected by the Mayor. All awards issued with Great Streets funds shall be made on a competitive basis, and the Mayor shall publish online the application criteria and evaluation rubric for Great Streets grants and loans.

“(2) Eligible retailers and service providers shall include:

“(A) Retail businesses engaged in the sale of home furnishings, apparel, books, art, groceries, and general merchandise goods to specialized customers;

“(B) Businesses providing goods or services geared toward the enrichment of children, families, and adults; and

“(C) Sit-down restaurants, bakeries, coffee shops, and other specialty food retailers.

“(3) To be eligible for small business retention and attraction grants or loans referenced in subsection (a)(1) of this section, a project shall:

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- "(A) Be within a designated Retail Priority Area;
- "(B) Maintain site control of the property either through fee simple ownership of the site or through an executed contract or lease with the property owner;
- "(C) Execute a First Source Agreement with the Department of Employment Services; and
- "(D) Adhere to all design, construction, and rehabilitation requirements defined by the Mayor, or his or her designee."

Sec. 8033. The Great Streets Neighborhood Retail Priority Areas Approval Resolution of 2007, effective July 10, 2007 (Res. 17-257; 54 DCR 7194), is amended as follows:

(a) Section 2(4) is amended to read as follows:

"(4) Georgia Avenue Priority Area, consisting of the parcels, squares, and lots within the area bounded by a line beginning at the intersection of the center line of Kenyon Street, N.W., and Sherman Avenue, N.W.; continuing north along the center line of Sherman Avenue, N.W., to the center line of New Hampshire Avenue, N.W.; continuing northeast along the center line of New Hampshire Avenue, N.W., to the center line of Rock Creek Church Road, N.W.; continuing north along the center line of Rock Creek Church Road, N.W., to the center line of Spring Road, N.W.; continuing northwest along the center line of Spring Road, N.W., to the center line of Kansas Avenue, N.W.; continuing northeast along the center line of Kansas Avenue, N.W., to the western line of Georgia Avenue; continuing north along the western line of Georgia Avenue, N.W., to the center line of Eastern Avenue, N.W.; continuing south along the eastern line of Georgia Avenue, N.W., to the northern line of Kennedy Street, N.W.; continuing east along the northern line of Kennedy Street, N.W. to the center line of Kansas Avenue, N.W.; continuing southwest along the center line of Kansas Avenue, N.W., to the center line of Varnum Street, N.W.; continuing east along the center line of Varnum Street, N.W., to the center line of 7th Street, N.W.; continuing south along the center line of 7th Street, N.W., until the point where 7th Street, N.W., becomes Warder Street, N.W.; continuing further south along the center line of Warder Street, N.W., to the center line of Kenyon Street, N.W.; and continuing west along the center line of Kenyon Street, N.W., to Georgia Avenue, N.W.; continuing south along Georgia Avenue, N.W., to Barry Place, N.W.; continuing west along Barry Place, N.W., to Sherman Avenue N.W.; and continuing north along the center line of Sherman Avenue, N.W., to the beginning point;"

(b) Section 3 is amended by adding a new subsection (d) to read as follows:

"(d) The maximum principal amount of bonds that may be issued is limited to the amount of bonds issued before March 1, 2013."

SUBTITLE E .WATERFRONT PARK AT THE YARDS

Sec. 8041. Short title.

This subtitle may be cited as the "Waterfront Park at the Yards Congressional Review Emergency Amendment Act of 2013".

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Sec. 8042. The Waterfront Park at the Yards Act of 2009, effective March 3, 2010 (D.C. Law 18-105; D.C. Official Code 10-1801 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 10-1801) is amended by adding a new paragraph (2A) to read as follows:

"(2A)(A) "Cost-of-living adjustment" means an amount, for any calendar year, equal to the maximum dollar amount set forth in section 5(a)(1) multiplied by the difference between the CPI for the preceding calendar year and the CPI for the calendar year beginning January 1, 2011, divided by the CPI for the calendar year beginning January 1, 2011.

"(B) For the purposes of this paragraph, the CPI for any calendar year is the average of the CPI for the Washington-Baltimore Metropolitan Statistical Area for all-urban consumers published by the Department of Labor, or any successor index, as of the close of the 12-month period ending on July 31 of such calendar year."

(b) Section 4(a) (D.C. Official Code § 10-1803(a)) is amended to read as follows:

"(a) There is established as a special fund the Waterfront Park Maintenance Fund ("Fund"), which shall be used solely to pay the expenses of maintaining, operating, and improving the Waterfront Park and the expenses of events held in the Waterfront Park. The Chief Financial Officer shall deposit into the Fund the sales tax revenues attributable to the Waterfront Park Retail Area and revenue from the Waterfront Park Special Assessment. All monies in the Fund shall be paid by the Chief Financial Officer to the Capital Riverfront Business Improvement District pursuant to the terms set forth in the Maintenance Agreement. The payments from the Fund shall be an authorized expenditure by the District."

(c) Section 5 (D.C. Official Code § 10-1804) is amended as follows:

(1) The existing text is designated as subsection (a).

(2) The newly designated subsection (a) is amended as follows:

(A) Paragraph (1) is amended by striking the figure "\$380,000" and inserting the phrase "\$380,000--or the amount of sales and use tax revenue attributable to the Waterfront Park Retail Area--if less than \$380,000" in its place.

(B) Paragraph (2) is amended by striking the phrase "by the increase in the CPI during the period from July 1, 2012, to the beginning of that 12-month period" and inserting the phrase "annually by the cost-of-living adjustment (if the adjustment does not result in a multiple of \$50, rounded to the next lowest multiple of \$50)--or the amount of sales and use tax revenue attributable to the Waterfront Park Retail Area--if less" in its place.

(3) A new subsection (b) is added to read as follows:

"(b) All sales and use tax revenue and revenue from the Waterfront Park Special Assessment received by the Chief Financial Officer by the 20th day of a month shall be deposited into the Fund by the Chief Financial Officer by the last business day of the following month."

(d) Section 6(b)(3) (D.C. Official Code § 10-1805(b)(3)) is amended to read as follows:

"(3) The District is authorized to transfer the income transferred to the District pursuant to paragraph (2) of this subsection to the Capitol Riverfront Business Improvement District, performing services under the Maintenance Agreement."

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Sec. 8043. Section 47-895.23 of the District of Columbia Official Code is amended as follows:

(a) A new subsection (a-1) is added to read as follows:

"(a-1) The Deputy Mayor for Planning and Economic Development shall timely notify the Chief Financial Officer of every property that is subject to the levy of the special assessment; which notice shall include:

"(1) The applicable square and lot;

"(2) The date the property became subject to the special assessment;

"(3) Any days of proration;

"(4) The gross square foot area of the property; and

"(5) The corresponding amount of the special assessment.".

(b) Subsection (h) is amended by striking the phrase "year of the contribution period" and inserting the phrase "tax year before such notice" in its place.

(c) Subsection (i) is amended to read as follows:

"(i) Special assessments shall accrue based on the tax year and shall be billed in arrears semi-annually in the same manner, under the same conditions and with the same due dates, and subject to the same interest and penalty provisions for the non-payment thereof as provided in § 47-811 for the billing of real property tax."

(d) Subsection (k) is amended by striking the phrase "this title" and inserting the phrase "this title, nor shall a lien be required to be filed therefore for sale in subsequent tax sales" in its place.

SUBTITLE F. CAPITAL PROJECT RESCISSION.

Sec. 8051. Short title.

This subtitle may be cited as the "Capital Project Rescission Congressional Review Emergency Act of 2013".

Sec. 8052. (a) The Chief Financial Officer shall rescind \$750,000 of PAYGO allotment and budget authority from capital project PL110C "MPD Building Renovations/Construction" under the Metropolitan Police Department, in fiscal year 2013.

(b) The Chief Financial Officer shall recognize the rescinded amount identified in subsection (a) of this section as fiscal year 2014 local funds revenue.

Sec. 8053. The Chief Financial Officer shall rescind \$386,108.02 of fiscal year 2013 0300 (GO/IT Bond) allotment and budget authority from capital project AW707C "Boathouse Row" and allocate \$386,108.02 in fiscal year 2013 0300 (GO/IT Bond) allotment and budget authority to capital project EB008C "New Communities".

TITLE IX. COUNCIL REPORTING REQUIREMENTS

Sec. 9011. Short title.

This title may be cited as the "Council Reporting Requirements Congressional Review Emergency Act of 2013".

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Sec. 9012. For the purposes of this title, unless otherwise provided, reports made to the Council shall be made to the Secretary to the Council.

PUBLIC EDUCATION

Sec. 9013. District of Columbia Public Schools reporting requirements.

(a) By October 1, 2013, the District of Columbia Public Schools ("DCPS") shall submit to the Council:

(1) A report on:

(A) Recommendations for improving transparency of the DCPS budget, including an implementation plan for establishing a single budgeting system for the agency; and

(B) Its work with the Department of General Services to analyze DCPS energy usage and develop a mechanism that allows the agency to re-invest its savings from consolidations and fixed costs into its operational needs;

(2) In collaboration with the Office of the State Superintendent of Education, a strategic plan to increase access to, participation in, and the funding of an intramural and interscholastic athletics program in the District of Columbia Public Schools by the 2014-2015 school year, which shall include, at a minimum:

(A) A list of all intramural, junior varsity, and varsity sports currently offered by DCPS along with the number of students that participate in each sport;

(B) A spending plan for the school year 2013-2014 for all DCPS intramural, junior varsity, and varsity sports; and

(C) An implementation plan, including a spending plan and timeline, for the expansion of intramural, junior varsity, and varsity sports within DCPS;

(3) A strategic plan to improve parental engagement efforts for the 2013-2014 school year, including:

(A) A plan for regular communication with parents regarding DCPS programs, services, initiatives, and student performance; and

(B) A plan for use of the established parent resource centers to help in engaging parents; and

(4) A plan, based upon consultation and collaboration with the Office of Planning and the Department of General Services, for the construction of regulation-size athletic fields at Stuart-Hobson Middle School, which shall include, at a minimum:

(A) Alternative approaches on how to address the parking needs for the school, including identifying available parking at other locations, such as Logan Annex or other appropriate sites; and

(B) A spending plan that does not exceed the current capital allocation for Stuart-Hobson, as set forth in the Capital Improvement Program.

(b) By October 1, 2013, DCPS shall make publically available on its website, the final budgets for each school, along with a list of actual staff positions filled for the 2013-2014 school year.

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Sec. 9014. District of Columbia Public Library requirements.

By October 1, 2013, the District of Columbia Public Library shall report on the planning for the renovation of the Martin Luther King Jr. Central Library. The report shall include, at a minimum:

- (1) A detailed update on design plans;
- (2) A description of the project's financing, including all public-private partnerships and the use of financing other than District capital funds;
- (3) A detailed timeline on the steps that will be taken leading up to the start of construction in fiscal year 2017 and through completion in fiscal year 2018; and
- (4) A description of the project's community and stakeholder engagement plan with an explanation of how the project will reflect the needs and perspectives of District residents.

Sec. 9015. Office of the State Superintendent of Education reporting requirements.

(a) By October 1, 2013, the Office of the State Superintendent of Education ("OSSE") shall submit to the Council a report on:

- (1) Efforts to implement state-level standards addressing special education transportation services, and OSSE's efforts to ensure alignment of services with student needs and reduce unnecessary and duplicative costs, which shall include, at a minimum:
 - (A) A schedule and plan for training all District local education agencies ("LEAs") and relevant individualized education program ("IEP") team participants on the new standards;
 - (B) An update on OSSE's work to determine fidelity to the established standards, including criteria for eligibility; and
 - (C) Recommendations on how the District could enhance transportation services and reduce costs, including on contracting with outside vendors to provide transportation at a reduced cost for students attending non-public schools outside of the District, shared routes, and staggered school start times;
- (2) The status of implementing the Partnership for Assessment of Readiness of College and Careers ("PARCC") assessment in public schools, which shall include, at a minimum:
 - (A) The barriers to implementation;
 - (B) Program and technological enhancements needed to administer the new assessment; and
 - (C) Changes in test security protocols to accommodate the PARCC assessment;
- (3) The development of a uniform school report card for all public schools in the District, which shall include, at a minimum:
 - (A) A recommended system of uniform quality measurement that can be used to compare schools across public school sectors;

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(B) A timetable for implementation; and
 (C) A plan to educate and promote the universal report card to parents and students;

(4) Program enhancements that will increase the frequency of residency fraud detection, which shall include, at a minimum:

(A) The rationale for the recommendation, including the data and information used to support the decision; and

(B) If advisable, a comprehensive plan, with a timetable, to implement residency fraud prevention program enhancements;

(5) The development of the Student Information System ("SIS"), which shall include, at a minimum:

(A) A detailed description of the SIS;

(B) A timetable for development and the estimated launch date;

(C) Feedback on the SIS from public LEAs and the Public Charter School

Board;

(D) A recommendation for a data governance policy; and

(E) A detailed explanation on how the SIS will interact with existing student information systems; and

(6) Recommendations to implement a single statewide enrollment methodology for purposes of determining student enrollment and budget projections for DCPS and public charter schools.

(b) In addition to the reporting requirements listed in subsection (a) of this section, OSSE shall provide to the Council:

(1) A biannual report issued no later than January 15, 2014, and July 1, 2014, on special education transportation expenditures during fiscal year 2014, along with a projected spending plan for the remainder of the fiscal year;

(2) A biannual report, which shall be issued no later than January 15, 2014, and July 1, 2014, on non-public tuition expenditures during fiscal year 2014, including the name of each vendor receiving a payment, along with a projected spending plan for the remainder of the fiscal year;

(3) A biannual report issued no later than January 15, 2014, and July 1, 2014, on all students in non-public placements, which shall include on an aggregate level, at a minimum, the number of students delineated by the:

(A) Level of need;

(B) Reason for the initial referral and the placement determination;

(C) Duration of time in the placement; and

(D) LEA that was unable to meet the student's individual level of need;

and

(4) A biannual report issued no later than January 15, 2014, and July 1, 2014, on all non-public students who have returned to an LEA, which shall include on an aggregate level, at a minimum, the number of students returning delineated by the:

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- (A) Student's level of need;
- (B) Duration of time in the non-public facility; and
- (C) Name and profile of the receiving LEA.

Sec. 9016. State Board of Education reporting requirements.

By December 1, 2013, the State Board of Education shall submit to the Council an implementation plan for the re-establishment of the Office of the Ombudsman, which shall detail how and ensure that the Office of the Ombudsman will be fully operational by January 1, 2014.

Sec. 9017. Office of the Deputy Mayor for Education reporting requirements.

(a) By October 1, 2013, the Office of the Deputy Mayor for Education shall submit to the Council a report on:

- (1) Efforts to re-engage disconnected youth, including on the development, funding, and staffing needed during fiscal year 2014 for the planned Re-Engagement Center;
- (2) The distribution and utilization of transit subsidies, including a fiscal year 2014 spending plan;
- (3) The continued implementation of the South Capitol Street Memorial Act of 2012, effective June 7, 2012 (D.C. Law 9-211; 59 DCR 3083), including a fiscal year 2014 spending plan;
- (4) The fiscal year 2014 implementation of the Attendance Accountability Amendment Act of 2013, signed by the Mayor on June 24, 2013 (D.C. Act 20-0094; 60 DCR 9839); and
- (5) The implementation of the capital grant of \$6 million for construction of a language immersion public charter school serving students of middle-school age and high-school age, which shall include, at a minimum:
 - (A) The name of the grantee and a detailed description of the capital project to be supported by the grant;
 - (B) The timeline for completion of the capital project;
 - (C) An analysis of the need of capital funding for charter schools with recommendations on expanding such capital grant funding for charter schools; and
 - (D) The supplemental services and funding provided to DCPS outside of the uniform per student funding formula, including:
 - (i) The amount of funds for each service and expenditure; and
 - (ii) The criteria by which these services and related resources are allocated and a specific plan for how the District intends to allocate these resources to all public schools to achieve equity and equal access to resources pursuant to section 115 of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective September 24, 2010 (D.C. Law 18-223; D.C. Official Code § 38-2913).

(b) By January 1, 2014, the Office of the Deputy Mayor for Education shall submit to the Council a recommendation on expanding compulsory attendance requirements to students attending Pre-K 3 and Pre-K.

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ECONOMIC DEVELOPMENT AND REGULATION

Sec. 9018. New Communities Initiative reporting.

Section 203 of the Housing Production Trust Fund Act of 1988, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 42-2812.03), is amended by adding a new subsection (e) to read as follows:

"(e) On an annual basis, the Office of the Deputy Mayor for Planning and Economic Development and the District of Columbia Housing Authority shall submit a written report to the Chairperson of the Council's Committee on Economic Development, which shall address the following:

"(1) An overall summary of the progress of the New Communities Initiative, including:

- "(A) Overall spending to date;
- "(B) Projected future costs;
- "(C) Completion status;
- "(D) Total number of units built and income mix by Area Median Income;

and

"(E) Estimated completion date.

"(2) A report on each New Communities Initiative site building, including:

- "(A) Spending on the site to date;
- "(B) Projected future costs;
- "(C) Financing sources;
- "(D) Updates on plans for new buildings, if any;
- "(E) Income mix by Area Median Income;
- "(F) Number of units in each building;
- "(G) Completion status of each building; and
- "(H) Estimated completion date of construction.

"(3) A report on each existing New Communities Initiative site, including:

- "(A) Plans;
- "(B) Completion status;
- "(C) Spending on building to date;
- "(D) Projected future costs;
- "(E) Financing sources;
- "(F) Estimated date of construction completion;
- "(G) Number of residents that have been relocated;
- "(H) Number of residents that have returned to site;
- "(I) Number of units on original site; and
- "(J) Income mix by Area Median Income.

"(4) A report on amenities, including:

- "(A) Plans for amenities;
- "(B) Spending on amenities to date;

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- "(C) Projected future costs; and
- "(D) Financing sources.
- "(5) A report on human capital, including:
 - "(A) Number of residents served;
 - "(B) Services offered;
 - "(C) Spending on human capital to date; and
 - "(D) Projected future costs."

Sec. 9019. District of Columbia Water and Sewer Authority report.

(a) With respect to the proposed relocation and development of the District-owned property at 125 O Street, S.E., Washington, D.C. 20003 ("DC WASA Site"), the Mayor shall, by December 31, 2013, submit to the Council a report to include progress related to the following activities:

- (1) Identification of a relocation site;
- (2) Outreach to communities adjacent to a proposed relocation site;
- (3) Environmental remediation of the DC WASA Site and the relocation site;
- (4) Estimated costs for environmental remediation;
- (5) Entitlements, permits, and approvals necessary to prepare the DC WASA Site and the relocation site; and
- (6) Surplus designation and land disposition agreements;

(b) The report required by subsection (a) of this section shall also include a narrative description of the need for additional funding, if any, during fiscal year 2014.

HEALTH AND HUMAN SERVICES

Sec. 9020. Report on financing options for United Medical Center.

By October 1, 2013, the Mayor shall prepare a report for public review, in consultation with the Office of the Chief Financial Officer and Huron Healthcare, that analyzes public and private financing options that will generate a minimum of an additional \$60 million for the construction of a new hospital on the grounds of United Medical Center. All financing packages shall be in addition to the \$20 million of existing, proposed District capital funds for planning and site development for the new hospital.

Sec. 9021. Department of Behavioral Health reporting requirements.

By October 1, 2013, the Department of Behavioral Health ("DBH") shall submit to the Council:

- (1) A report on:
 - (A) The efforts made to ensure that children receive behavioral health screenings from pediatricians at well-child and other pediatric visits;
 - (B) The percentage of children receiving such screens;
 - (C) The screening tools currently being utilized; and
 - (D) How pediatricians are reimbursed for these screens; and

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(2) If screening rates are not satisfactory, a plan for how to increase them during the remainder of fiscal year 2014.

Sec. 9022. Department of Health Care Finance reporting requirements.

(a) By October 1, 2013, the Department of Health Care Finance ("DHCF") shall submit to the Council a report on:

(1) Strategies for auditing the DC HealthCare Alliance ("Alliance") recertification process with the Department of Human Services ("DHS"), and updated projected enrollment for fiscal year 2014;

(2) Potential solutions to the long delays in the Alliance eligibility process that discourage eligible beneficiaries from recertifying and enrolling;

(3) The status of the new Day Health program, including all of the following:

(i) Status of the State Plan Amendment approval;

(ii) The number of and name of providers that have been certified to receive reimbursement under the new Day Health program;

(iii) The number and name of providers or beneficiaries transitioned to or offering services under another provider type and no longer participating in the Day Health program; and

(iv) Explanation of the DHCF's reimbursement methodology;

(4) The feasibility of a Medicaid Buy-In program for people with disabilities;

(5) The feasibility of reimbursing nursing home providers for mental health services;

(6) The feasibility of increasing reimbursement rates for home health aides;

(7) The distribution of cost settlements in fiscal year 2013 and the status of transitioning hospitals from cost-based reporting to prospective reporting;

(8) An accounting of the Nursing Home Quality of Care Fund, to date, and any plans for future expenditures in fiscal year 2014;

(9) The status of the Elderly and Persons with Disabilities ("EPD") Waiver waitlist, including all of the following:

(i) The number of people currently enrolled in the EPD waiver;

(ii) The number of people currently on the waitlist;

(iii) The number of people who were offered a slot in fiscal year 2013;

(iv) The number of people who lost the benefit because they did not timely recertify; and

(v) A strategy to address the loss of benefits for institutionalized persons;

and

(10) The details of how the \$20 million of existing, proposed District capital funds for planning and site development for the Not-For-Profit Hospital Corporation will be spent before the release of those funds.

(b) Starting on October 1, 2013, and ending on September 31, 2014, DHCF shall submit to the Council a quarterly report:

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(1) Assessing the performance of the Long Term Care Contractor, including data on its reduction of fraud and abuse of the Personal Care Aid ("PCA") benefit;

(2) Reflecting PCA benefit utilization and enrollment; and

(3) Assessing the performance of each Managed Care Organization ("MCO"), which shall include, at a minimum, the following information:

(A) A listing of the provider network for each MCO identifying each provider by name;

(B) The stratification of MCO membership, to date, that shall reflect the number of members initially auto-assigned to each MCO by July 1, 2013, and the number of newly eligible beneficiaries auto-assigned to each MCO that quarter, along with the total number of members enrolled in each MCO;

(C) An assessment of each MCO's compliance with each contractual network adequacy requirement and performance objective, including a description of any threatened or assessed corrective action plans or penalties; and

(D) Early and Periodic Screening, Diagnostic, and Treatment ("EPSDT") data for each MCO, including the following:

(i) Number of EPSDT providers in each MCO network;

(ii) Number of screens and percentage of children screened per quarter;

(iii) Number of mental health screens and percentage of children receiving mental health screens per quarter; and

(iv) Plans to address unsatisfactory screening rates in the next quarter.

Sec. 9023. Department of Health reporting requirements.

By October 1, 2013, the Department of Health shall submit to the Council:

(1) A report, providing an update on the Medical Marijuana Program, including:

(A) The number of people enrolled and the wards in which they live;

(B) A breakdown of the enrollees illnesses;

(C) The adequacy of the number of cultivation centers and dispensaries;

(D) Whether the number of cultivation centers or the ceiling of plants allowed to be grown is adequate or needs to be lifted;

(E) Whether the number of dispensaries needs to be increased;

(F) Whether clients of the program have encountered problems with law enforcement officers;

(G) Whether any adverse impacts or problems have arisen in neighborhoods where the cultivation centers or dispensaries are located; and

(H) Whether any adjustment in the budget is required for the program;

(2) A report on the Housing Opportunities for People with AIDS ("HOPWA") program, including:

(A) The number of people enrolled and the wards in which they live;

ENROLLED ORIGINAL

- (B) The length of time each individual has lived in HOPWA housing;
- (C) The number of residents who are employed and their salaries;
- (D) The number of residents who are viral suppressed; and
- (E) A detailed explanation and description of the recertification process;
- (3) A report on the Senior HIV/AIDS Program, including:
 - (A) The total number of peer educators trained;
 - (B) The number of presentations that have occurred since the program's inception;
 - (C) The locations of presentations identified, by ward;
 - (D) The number of attendees at each training;
 - (E) A review of presentation evaluations;
 - (F) The number of the corps of trainers;
 - (G) Whether any trainers have been replaced and reasons, if any, for replacement;
 - (H) The amount of stipends, if any, provided to trainers;
 - (I) The number of people currently being trained to be peer educators; and
 - (J) An itinerary of upcoming trainings;
- (4) A report on the HIV/AIDS education requirement for physician or nurse licensure recertification, including:
 - (A) A detailed plan of the commencement of the program; and
 - (B) Whether physicians, nurses, physician assistants, and nurse assistants are required to attend trainings in person or via the Internet; and
- (5) A report on the hiring of new food inspectors, including:
 - (A) The foreign-language speaking proficiency of each new inspector;
 - (B) Copies of the position announcements;
 - (C) A list of the languages spoken by each new hire; and
 - (D) Whether the Health Professionals Loan Repayment Program will pay for current or new staff to learn foreign languages.

Sec. 9024. Not-For-Profit Hospital Corporation reporting requirements.

By October 1, 2013, the Not-For-Profit Hospital Corporation ("NFPHC") shall submit to the Council a bi-monthly report on the progress made by Huron Healthcare at the NFPHC, including:

- (1) Milestones completed;
- (2) A progress report on scheduled work and the expected completion date of such work;
- (3) Unexpected issues that have arose and plans to address those issues;
- (4) An update on issues that were scheduled to be completed before the due date of the next report, but were not, and the plan to complete them; and
- (5) Answers to any documented questions sent over by the Council to the NFPHC Board of Directors.

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Sec. 9025. Deputy Mayor for Health and Human Services reporting requirements.

By October 1, 2013, the Office of the Deputy Mayor for Health and Human Services ("DMHHS") shall submit to the Council a report providing a detailed plan on the expenditure of the \$1 million of truancy prevention funds, including:

- (1) The agencies or organizations ("provider") identified to provide the services;
- (2) The criteria used to select the provider;
- (3) The specific services to be provided by the provider;
- (4) The benchmarks to be achieved for services;
- (5) The timelines for completion of these services;
- (6) The evaluation plans to be employed for each provider to measure the effectiveness of their work;
- (7) The corrective action plans, should the work not meet satisfactory standards;
- (8) The geographic location of each provider by ward;
- (9) The demographic served by the respective provider; and
- (10) The submission of quarterly reports thereafter on the Truancy Prevention program.

Sec. 9026. Cost per DYRS-involved youth.

(a) The Department of Youth Rehabilitation Services ("DYRS") shall conduct an analysis of the per-youth cost for DYRS-involved youth during the 2012 calendar year.

(b) DYRS shall identify 20 random DYRS-involved youth to analyze, as follows:

- (1) Eight youth shall have Structure for Decision Making ("SDM") scores of High to Medium High.
- (2) Seven youth shall have SDM scores of Medium.
- (3) Five youth shall have SDM scores of Low.

(c) For each of the youth identified in subsection (b) of this section, DYRS shall analyze the costs of serving the youth in calendar year 2012, including the following:

- (1) Number of days in secure placement during the year and cost per day of secure placement;
- (2) Number of days in non-secure placement during the year and cost per day of non-secure placement;
- (3) Number of days linked to D.C. YouthLink service providers and the cost per service;
- (4) Services received through other District agencies or contracts with other District agencies and the cost per service;
- (5) Number of days in abscondence and cost per day related to abscondence; and
- (6) Number of days in custody in adult facilities in the District or another jurisdiction and cost per day related to adult custody.

(d) The analysis shall include an individual narrative report of services provided to each identified youth during the 2012 calendar year, identifying each youth by a unique identifier,

ENROLLED ORIGINAL

SDM score, month and year of commitment, month and year of expected end of commitment, and annualized costs for the youth.

(e) DYRS shall submit the analysis to the Council's Committee on Human Services no later than December 1, 2013.

TRANSPORTATION, PUBLIC WORKS, AND THE ENVIRONMENT

Sec. 9027. DC Circulator expansion planning reporting.

On or before January 31, 2014, the District Department of Transportation and DC Surface Transit, Inc. shall transmit a report to the Secretary to the Council on expanding the DC Circulator. The report shall include:

- (1) A route and plan to begin operating a new DC Circulator line along the National Mall in fiscal year 2015;
- (2) A set of routes and plans to extend the following existing DC Circulator routes in fiscal year 2015:
 - (A) Rosslyn / Georgetown / Dupont line to Adams Morgan, U Street, and Shaw;
 - (B) Union Station / Georgetown line to the National Cathedral; and
 - (C) Union Station / Navy Yard line to the Southwest Waterfront;
- (3) A set of routes and plans to extend the Skyland route to Camp Simms and other extensions in Wards 4, 5, 7, and 8;
- (4) An analysis of other ways to fund DC Circulator extension;
- (5) If fares are to be increased, the appropriate effective date for doing so;
- (6) Recommendations for improving DC Circulator operations, including improving route efficiency, passenger satisfaction, and the speed of fare collection; and
- (7) A plan for marketing the Circulator expansion and any fare changes.

Sec. 9028. Waste and recycling reporting.

(a) On or before December 31, 2013, the Department of Public Works ("DPW") and the Department of General Services shall transmit a report to the Secretary to the Council on recycling by District government agencies. The report shall include:

(1) A list of each District agency, including independent agencies and instrumentalities, an indication of whether the agency complies with section 8 of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988, effective March 16, 1989 (D.C. Law 7-226; D.C. Official Code § 8-1007) ("Act"), by separating and recycling each item required by the Act at its offices and facilities; and

(2) For agencies that are not recycling the items required by the Act, a detailed plan and timeline for complying with the Act and recycling each required item at their sites.

(b) On or before September 30, 2014, DPW shall transmit a report to the Secretary to the Council regarding the District residences from which it collects waste and recycling twice weekly. The report shall include:

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- (1) A list of neighborhoods currently receiving twice weekly collections;
- (2) The annual cost of providing twice weekly collections to an average residence;
- (3) The annual cost of providing once weekly collections to an average residence;
- (4) An analysis of whether the size of streets, alleys, yards, and containers, and other relevant factors, could allow some residences currently receiving twice weekly collections to receive once weekly collections; and
- (5) The potential cost savings that would result if residences identified in paragraph (4) of this subsection currently receiving twice weekly collections were to receive collection once a week.

Sec. 9029. Speed camera safety nexus reporting.

(a) By February 1, 2014, the District Department of Transportation ("DDOT") and the Metropolitan Police Department ("MPD") shall transmit a joint report to the Secretary to the Council on speed cameras located in the District or proposed to be located in the District. The report shall include:

- (1) A list of each speed camera in the District;
- (2) An analysis of the speed camera's nexus with safety; and
- (3) If no nexus with safety can be identified, a justification by MPD regarding the speed camera's location.

(b) By February 1, 2014, DDOT shall publish all justifications contained in the joint report pursuant to subsection (a)(3) of this section on its website.

TITLE X. REVISED REVENUE ESTIMATE ADJUSTMENT ALLOCATION

Sec.10001. Short title.

This subtitle may be cited as the "Revised Revenue Estimate Adjustment Allocation Congressional Review Emergency Act of 2013".

Sec. 10002. Pursuant to the Fiscal Year 2014 Budget Request Act of 2013, passed on final reading on May 22, 2013 (Enrolled version of Bill 20-198), and notwithstanding any other provision of law, local revenues certified in the June 2013 revenue estimate that exceed the annual revenue estimate incorporated in the approved budget and financial plan for fiscal year 2014 shall be allocated as follows:

- (1) Office of the State Superintendent of Education - \$11,000,000 to increase early childhood program infant and toddler slots by 200 and to increase the quality of existing infant and toddler slots by increasing the child care subsidy rate by 10%;
- (2) Office on Aging - \$2,000,000 to increase subsidies and transfers for Senior Service Network grantees;
- (3) Department of Behavioral Health - \$1,985,000 to expand the school-based mental health program;
- (4) District Department of Transportation - \$3,107,000 to increase from 50% to 100% the Metrobus subsidy for students;

ENROLLED ORIGINAL

(5) District Department of Transportation - \$797,000 to expand the Metrobus and Metrorail subsidy for students to include 18- to 21-year-olds still attending high school;

(6) Office of the State Superintendent of Education - \$4,000,000 to be deposited in the Schools Technology Fund, established pursuant to section 10005 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013, passed on emergency basis on October 1, 2013 (Enrolled version of Bill 20-496), for District of Columbia Public Schools and District of Columbia Public Charter Schools, to be distributed to the local education agencies on a per-pupil basis based on the Fall 2012 audited enrollment;

(7) Pay-As-You-Go Capital funds - \$2,800,000 to fund the upgrade of the DCStars system at District of Columbia Public Schools;

(8) Commission on Arts and Humanities - \$4,500,000 to increase grants for the arts;

(9) Office of the State Superintended for Education - \$4,000,000 to expand adult literacy and career and technology education programs;

(10) Non-departmental - \$1,000,000 to provide matching funds for University of District of Columbia accreditation activities;

(11) Office of Motion Pictures and Television Development - \$4,000,000 to be deposited in the Film DC Economic Incentive Fund established pursuant to 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);

(12) Pay-As-You-Go Capital funds - \$1,560,532 to fund a new field and fence at Dwight Mosley/Taft Recreation Center;

(13) Pay-As-You-Go Capital funds - \$1,000,000 to improve the Shaed Elementary School field;

(14) District of Columbia Housing Authority - \$3,000,000 to enhance the Local Rent Supplement Program; provided, that of this amount, 50% shall be used for tenant-based assistance, and 50% shall be used for project- or sponsor-based assistance;

(15) District Department of Transportation - \$421,000 for agency operations that would otherwise have been funded by a fare increase for the DC Circulator;

(16) Pay-As-You-Go Capital funds - \$4,300,000 for the renovation of the University of the District of Columbia's Bertie Backus facility;

(17) District Department of Transportation - \$480,000 to fund the automated traffic enforcement safety nexus requirements set forth in section 9029.

Sec. 10003. Student transit amendments.

Section 2 of the School Transit Subsidy Act of 1978, effective March 6, 1979 (D.C. Law 2-152; D.C. Official Code § 35-233), is amended as follows:

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

"(a)(1) On regular school days for regular route transportation during peak and off-peak hours on the Metrobus Transit System within the District, no student shall be charged a bus fare.

ENROLLED ORIGINAL

"(2) The fare to be paid by students on regular school days for regular route transportation during peak and off-peak hours on the Metrorail Transit System within the District shall be 1/2 of the base boarding peak rail fare charged to passengers other than students and senior citizens for Metrorail travel within the District.

"(3) In a case where the reduced student fare as determined in paragraph (2) of this subsection results in an amount that is not a multiple of \$.05, the fare shall be rounded downward to the nearest amount that is a multiple of \$.05.

"(4) Transfers for students between rail and bus shall be made in the same manner as are transfers of other passengers, but without any additional charge for the transfer."

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

"(c) Reduced fares for students under this section on the Metrobus and Metrorail Transit Systems shall be available only to persons who are under 22 years of age and are:

"(1)(A) Residents of the District; and

"(B) Currently enrolled in a regular course of instruction at an elementary or secondary public, parochial, or private school located in the District; or

"(2) Youth in the District's foster care system until they reach 21 years of age."

Sec. 10004. DC Circulator fares.

Section 11d of the District Department of Transportation Establishment Act of 2002, effective March 6, 2007 (D.C. Law 16-225; D.C. Official Code § 50-921.34), is amended by adding a new subsection (c) to read as follows:

"(c) Beginning August 26, 2013, the Department shall not charge a DC Circulator fare to students on regular school days."

Sec. 10005. Schools Technology Fund.

(a) There is established as a special fund the Schools Technology Fund ("Fund"), which shall be administered by the Office of the State Superintendent of Education in accordance with subsection (c) of this section.

(b) The Fund shall consist of appropriated amounts.

(c)(1) The Fund shall be used to improve technology at District of Columbia Public Schools and District of Columbia Public Charter Schools.

(2) For fiscal year 2014, the Office of the State Superintendent of Education shall distribute the amounts in the fund to local education agencies ("LEAs") on a per-pupil basis, based on the Fall 2012 audited enrollment.

(3) In fiscal year 2015 and each fiscal year thereafter, the Office of the State Superintendent of Education shall distribute any amounts in the fund to LEAs on a per-pupil basis, based on the audited enrollment for the preceding school year.

ENROLLED ORIGINAL

Sec. 10006. Sales tax relief.

Section 47-2002(a) of the District of Columbia Official Code is amended by striking the phrase "The rate of such tax shall be 6%" and inserting the phrase "Beginning on October 1, 2013, the rate of such tax shall be 5.75%" in its place.

Sec. 10007. Reservation of local fund revenues.

Of the fiscal year 2014 local funds revenues certified by the Chief Financial Officer in the June 2013 revenue estimate, \$18 million shall be reserved within the General Fund of the District of Columbia for the purpose of offsetting potential tax expenditures or revenue reductions pursuant to legislation that may be recommended by the Tax Revision Commission.

TITLE XI. APPLICABILITY, FISCAL IMPACT, AND EFFECTIVE DATE

Sec. 11001. Applicability.

Except as otherwise provided, this act shall apply as of the effective date of this act.

Sec. 11002. 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. 11003. 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

October 17, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-205

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 17, 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 extend the time in which the Mayor may dispose of certain District-owned real property located at 5131 Nannie Helen Burroughs Avenue, N.E., known as the Strand Theater.

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 the Strand Theater 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-6) to read as follows:

"(d-6) Notwithstanding subsection (d) of this section, the time period within which the Mayor may dispose of the property located at 5131 Nannie Helen Burroughs Avenue, N.E., known as the Strand Theater, for which disposition was approved by the Council pursuant to the Strand Theater Disposition Approval Resolution of 2009, effective October 6, 2009 (Res. 18-263; 56 DCR 8410), and extended by the Strand Theater Disposition Extension Approval Resolution of 2011, effective September 20, 2011 (Res. 19-246; 58 DCR 8477), is extended to October 6, 2014."

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

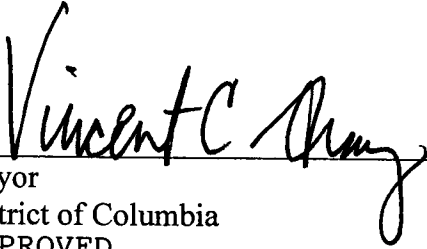
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 17, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-206

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 23, 2013

To amend the Legalization of Marijuana for Medical Treatment Initiative of 1999 to limit the number of medical marijuana cultivation centers and dispensaries that may locate in an election ward in the District of Columbia and to prohibit locating medical marijuana cultivation centers in Retail Priority Areas.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Medical Marijuana Cultivation Center Amendment Act of 2013”.

Sec. 2. Section 7 of the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.06), is amended as follows:

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

(1) Paragraph (2) is amended to read as follows:

“(2)(A) No more than 5 dispensaries shall be registered to operate in the District; provided, that the Mayor may increase the number to as many as 8 by rulemaking to ensure that qualifying patients have adequate access to medical marijuana; provided further, that no more than 2 dispensaries shall be registered to operate within an election ward established by the Council in section 4 of the Redistricting Procedure Act of 1981, effective March 16, 1982 (D.C. Law 4-87; D.C. Official Code § 1-1041.03).

“(B) The prohibition of no more than 2 dispensaries being registered to operate within an election ward set forth in subparagraph (A) of this paragraph shall apply to applications pending as of the effective date of the Medical Marijuana Cultivation Center Amendment Act of 2013, passed on 2nd reading on October 1, 2013 (Enrolled version of Bill 20-128).

“(C)(i) No more than one dispensary may be registered to operate in any election ward in which 5 or more cultivation centers have been registered to operate.

(ii) The prohibition of no more than one dispensary being registered to operate within an election ward in which 5 or more cultivation centers have been registered to operate set forth in sub-subparagraph (i) of this subparagraph shall apply to applications pending as of the effective date of the Medical Marijuana Cultivation Center

ENROLLED ORIGINAL

Amendment Act of 2013, passed on 2nd reading on October 1, 2013 (Enrolled version of Bill 20-128).”.

(2) Paragraph (3) is amended to read as follows:

“(3)(A) The number of cultivation centers that may be registered to operate in the District shall be determined by rulemaking; provided, that no more than 6 cultivation centers shall be registered to operate within an election ward established by the Council in section 4 of the Redistricting Procedure Act of 1981, effective March 16, 1982 (D.C. Law 4-87; D.C. Official Code § 1-1041.03).

“(B) The prohibition of no more than 6 cultivation centers being registered to operate within an election ward set forth in subparagraph (A) of this paragraph shall apply to applications pending as of the effective date of the Medical Marijuana Cultivation Center Amendment Act of 2013, passed on 2nd reading on October 1, 2013 (Enrolled version of Bill 20-128).”.

(b) A new subsection (g-1) is added to read as follows:

“(g-1)(1) A cultivation center shall not be located within a Retail Priority Area, as designated pursuant to section 4 of the Retail Incentive Act of 2004, effective September 8, 2004 (D.C. Law 15-185; D.C. Official Code § 2-1217.73), and as approved by the Council pursuant to the Great Streets Neighborhood Retail Priority Areas Approval Resolution of 2007, effective July 10, 2007 (Res. 17-257; 54 DCR 7194).

“(2) Any applicant that had an application pending as of the effective date of the Medical Marijuana Cultivation Center Temporary Amendment Act of 2012, effective June 20, 2012 (D.C. Law 19-146; 59 DCR 4164), for a registration to operate a cultivation center within a Retail Priority Area as identified in paragraph (1) of this subsection, shall be allowed to modify the application within 180 days of the effective date of the Medical Marijuana Cultivation Center Temporary Amendment Act of 2013, effective May 1, 2013 (D.C. Law 20-1; 60 DCR 3962), without negatively affecting the current status of the application.”.

Sec. 3. 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. 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), 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.

A handwritten signature in black ink, appearing to read "Phil Mendel", is written over a horizontal line.

Chairman
Council of the District of Columbia

UNSIGNED

Mayor
District of Columbia
October 20, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-207

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 23, 2013

To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to create the Mayor's Office of Legal Counsel and the position of Director of the Mayor's Office of Legal Counsel, to provide that all attorneys who perform work as or for the General Counsels of the subordinate agencies shall be employed by the subordinate agencies they advise, to establish that Senior Executive Attorneys facing removal or demotion may be appointed to positions in the Office of the Attorney General or the Mayor's Office of Legal Counsel, to establish that a Senior Executive Attorney appointed by the head of subordinate agency shall serve at the pleasure of the subordinate agency head, to require the subordinate agency head to consult with the Director of the Mayor's Office of Legal Counsel before terminating an attorney who works as or for the General Counsel of a subordinate agency, to provide that attorneys who perform work as or for the General Counsels of subordinate agencies shall be appointed by the subordinate agency head after consulting with the Director of the Mayor's Office of Legal Counsel, to provide that attorneys employed by a subordinate agency shall act under the direction, supervision, and control of the subordinate agency head, to provide that the subordinate agency heads are responsible for the discipline of attorneys under their control, to require the Attorney General and the Director of the Mayor's Office of Legal Counsel to provide training and establish performance standards, to authorize the Director of the Mayor's Office of Legal Counsel to adopt rules, to transfer attorneys from the Office of the Attorney General to the subordinate agencies as of October 1, 2014, to provide that the Office of the Attorney General shall continue to be responsible for the compensation of these attorneys until the Legal Service budget for them is transferred, to provide for the transfer of resources, and to confirm the applicability of the attorney-client privilege to communications and legal advice between Legal Service attorneys and their clients in the subordinate agencies; to amend the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010 to postpone the election for the Attorney General until 2018; and to amend the District of Columbia Election Code of 1955 and the Campaign Finance Reform and Conflict of Interest Public Disclosure Amendment Act of 2011 to include the elected Attorney General in relevant sections.

ENROLLED ORIGINAL

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Elected Attorney General Implementation and Legal Service Establishment Amendment Act of 2013".

TITLE I – MAYOR’S OFFICE OF LEGAL COUNSEL

Sec. 101. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D. C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) A new section 851a is added to read as follows:

“Sec. 851a. Establishment of the Mayor’s Office of Legal Counsel.

“(a) Pursuant to section 404(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 787; D.C. Official Code § 1-204.04(b)), the Council establishes the Mayor’s Office of Legal Counsel, within the executive branch of the District of Columbia government. The office shall be headed by a Director who shall be appointed by the Mayor and serve at the Mayor’s pleasure.

“(b)(1) The purposes of the Mayor’s Office of Legal Counsel shall include:

“(A) Coordinating the hiring, compensation, training, and resolution of significant personnel-related issues for subordinate agency counsel in conjunction with agency directors;

“(B) Providing legal and policy advice to the Mayor and executive branch;

“(C) Resolving interagency legal issues for the Mayor;

“(D) Overseeing the representation of agencies in investigative matters before the executive branch of the federal government, Congress, or the Council of the District of Columbia; and

“(E) Supervising outside counsel in matters where the Office of the Attorney General is recused from a matter or otherwise not available.

“(2) The Director shall employ attorneys and support staff to assist in carrying out the purposes of the office. At least one staff member shall have as one of his or her primary duties the management of issues arising from subordinate agency general counsel-related matters.

“(c) Nothing in this section shall be construed to abrogate the provisions of sections 109 or 121 of 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 §§ 1-301.89 and 1-301.90).”

(b) Section 852 (D.C. Official Code § 1-608.52) is amended by striking the phrase “all attorneys who perform work for subordinate agencies shall become employees of the Office of the Attorney General for the District of Columbia” and inserting the phrase “all attorneys who perform work primarily as or for the General Counsels of the subordinate agencies shall become employees of the subordinate agencies they advise.” in its place.

(c) Section 853 (D.C. Official Code § 1-608.53) is amended as follows:

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(1) Subsection (c) is amended by striking the phrase "Attorney General" and inserting the phrase "Director of the Mayor's Office of Legal Counsel or Attorney General" in its place.

(2) Subsection (d) is amended by adding 2 new sentences at the end to read as follows: "A Senior Executive Attorney employed by a subordinate agency shall serve at the pleasure of the head of the subordinate agency. A Senior Executive Attorney employed by the Mayor's Office of Legal Counsel shall serve at the pleasure of the Director of the Mayor's Office of Legal Counsel."

(3) Subsection (e) is amended to read as follows:

"(e) A Senior Executive Attorney employed by a subordinate agency shall serve at the pleasure of the head of the subordinate agency, and the subordinate agency head shall consult with the Director of the Mayor's Office of Legal Counsel before making any decision concerning the termination of a Senior Executive Attorney."

(d) Section 854(a) (D.C. Official Code § 1-608.54(a)) is amended to read as follows:

"(a) Attorneys employed by the Office of the Attorney General shall be hired by the Attorney General. Attorneys employed by subordinate agencies shall be hired by the subordinate agency heads after consultation with the Director of the Mayor's Office of Legal Counsel. Attorneys employed by the Mayor's Office of Legal Counsel shall be hired by the Director of the Mayor's Office of Legal Counsel."

(e) Section 855 (D.C. Official Code § 1-608.55) is amended as follows:

(1) A new subsection (a-1) is added to read as follows:

"(a-1) Attorneys employed by subordinate agencies shall act under the direction, supervision, and control of the head of the subordinate agency."

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

"(b) Attorneys employed by the Mayor's Office of Legal Counsel shall be under the direction, supervision, and control of the Director of the Mayor's Office of Legal Counsel."

(3) Subsection (d) is amended to read as follows:

"(d) The Director of the Mayor's Office of Legal Counsel may, with the consent of a subordinate agency director, assign an attorney employed by the Mayor's Office of Legal Counsel to perform work primarily as or for the General Counsel of the affected subordinate agency, whether located at the agency or not, in the Director of the Mayor's Office of Legal Counsel's discretion."

(f) Section 856 (D.C. Official Code § 1-608.56) is amended as follows:

(1) Subsection (b) is amended as follows:

(A) A new paragraph (1A) is added to read as follows:

"(1A) The Director of the Mayor's Office of Legal Counsel when the attorney is employed by the Mayor's Office of Legal Counsel and performs work primarily for that office, whether located in that office or not;"

(B) Paragraph (2) is repealed.

(C) Paragraph (3) is amended to read as follows:

"(3) The agency head or the Senior Executive Attorney designee when the attorney is employed by an independent agency, and by the subordinate agency head in

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consultation with the Director of the Mayor's Office of Legal Counsel when the attorney is employed by a subordinate agency.”.

(2) Subsection (c) is amended to read as follows:

“(c) Any disciplinary action taken pursuant to this section against an attorney employed by a subordinate agency or the Mayor's Office of Legal Counsel may be appealed to the Mayor. Any such action taken against an attorney employed by the Office of the Attorney General may be appealed to the Attorney General. The Mayor's and the Attorney General's decisions regarding disciplinary actions shall be final.”.

(g) Section 857 (D.C. Official Code § 1-608.57) is amended as follows:

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

“(a)(1) Attorneys in the Legal Service, other than attorneys employed by independent agencies, shall participate in an annual mandatory program of continuing legal education. The Attorney General shall establish a program for attorneys employed by the Office of the Attorney General, and the Director of the Mayor's Office of Legal Counsel shall establish a program for attorneys employed by the subordinate agencies and the Mayor's Office of Legal Counsel.

“(2) Training programs offered by the Office of the Attorney General shall, to the extent practicable, be made available with no charge to attorneys employed by the subordinate agencies; likewise, training programs offered by the Mayor's Office of Legal Counsel for attorneys employed by the subordinate agencies shall, to the extent practicable, be made available with no charge to attorneys in the Office of the Attorney General.

“(3) Attorneys in the Legal Service who supervise one or more other attorneys as part of their normal duties shall maintain and enhance their management and supervisory skills through at least annual in-house or other training arranged or approved by their employing agency.”.

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

“(b) The Attorney General and the Director of the Mayor's Office of Legal Counsel shall each develop and establish performance management systems that include accountability standards and individual accountability plans for all attorneys, including Senior Executive Attorneys, in the Legal Service who are under their direction, supervision, or control. The performance management systems shall link pay to performance.”.

(3) Subsection (c) is amended by striking the second sentence and inserting the following sentence in its place: “The head of an independent agency may utilize a system developed for use by the Attorney General or the Director of the Mayor's Office of Legal Counsel for attorneys under the independent agency head's direction or control.”.

(h) Section 861 (D.C. Official Code § 1-608.61) is amended by striking the phrase “Attorney General may” and inserting the phrase “Attorney General and the Director of the Mayor's Office of Legal Counsel may each” in its place.

(i) Section 862(5) (D.C. Official Code § 1-608.62(5)) is amended to read as follows:

“(5) Effective October 1, 2014, any attorney who is employed by the Office of the Attorney General and performs work primarily as or for the General Counsel of a subordinate agency shall become an attorney employed by the subordinate agency.”.

(j) Section 863 (D.C. Official Code § 1-608.63) is amended to read as follows:

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“Sec. 863. Compensation for subordinate agency attorneys and support staff during transition.

“Until the Legal Service budget for attorneys and support staff who perform work, primarily as or for the General Counsel of a subordinate agency is transferred to the budget of the subordinate agency involved, the Office of the Attorney General shall continue to be responsible for the compensation of these attorneys and support staff and for related non-personal services expenses. After the budget is transferred, the subordinate agency shall reimburse the Office of the Attorney General for any costs or expenses incurred between October 1, 2014, and the completion of the transfer from the Office of the Attorney General to the subordinate agency.”

(k) Section 864 (D.C. Official Code § 1-608.64) is amended to read as follows:

“Sec. 864. Transfers.

“By October 5, 2014, the District of Columbia Department of Human Resources, in collaboration with the Office of the Attorney General, shall transfer to the subordinate agencies, all attorney and support staff employees, personal property, full-time equivalent position authority, assets, records, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the furnishing of legal and other services by the attorneys who perform work primarily as or for the General Counsels of the subordinate agencies as of October 1, 2014.”

(l) Section 865 (D.C. Official Code § 1-608.65) is amended as follows:

(1) Subsection (a) is repealed.

(2) Subsection (b) is repealed.

(3) Subsection (c) is amended by striking the phrase “Attorney General’s” and inserting the phrase “subordinate agencies” in its place.

(m) A new section 866 is added to read as follows:

“Sec. 866. Privilege.

“Nothing in this act shall limit, waive, or abrogate the scope or nature of the attorney-client privilege, whether statutory or common law, with respect to communications between attorneys employed by the Office of the Attorney General and subordinate agency personnel, or legal advice given by Office of the Attorney General attorneys to subordinate agency personnel before the date of the appointment of these attorneys to positions in the subordinate agencies. This privilege shall continue to apply fully to all communications made and legal advice provided between subordinate agency personnel and attorneys employed by the subordinate agencies after attorneys are transferred to the subordinate agency.”

TITLE II-ELECTION OF ATTORNEY GENERAL

Sec. 201. Section 102(a) of 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 § 1-301.82(a)), is amended to read as follows:

“(a) Until such time as an Attorney General is elected under section 435 of the District of Columbia Home Rule Act, effective May 28, 2011 (D.C. Law 18-160A; D.C. Official Code § 1-204.35), which time shall not be before January 1, 2018, the Attorney General for the District of

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Columbia shall be appointed by the Mayor with the advice and consent of the Council pursuant to section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01).”.

TITLE III – CONFORMING AMENDMENTS

Sec. 301. The District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.01 *et seq.*), is amended as follows:

(a) Section 8 (D.C. Official Code § 1-1001.08) is amended as follows:

(1) The heading is amended by striking the phrase “Delegate, Mayor, Chairman, members of Council” and inserting the phrase “Delegate, Chairman of the Council, members of Council, Mayor, Attorney General,” in its place.

(2) Subsection (b)(1) is amended by adding a new subparagraph (D) to read as follows:

“(D) Any candidate for the position of Attorney General shall also meet the qualifications required by section 103 of 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 § 1-301.83), before the day on which the election for Attorney General is to be held.”.

(3) Subsection (d) is amended by striking the phrase “Delegate, Mayor, Chairman of the Council, or member of the Council” and inserting the phrase “Delegate, Chairman of the Council, member of the Council, Mayor, or Attorney General” in its place.

(4) Subsection (h) is amended as follows:

(A) Paragraph (1)(A) is amended as follows:

(i) Strike the phrase “Delegate, Mayor, Chairman of the Council of the District of Columbia and the 4 at-large members of the Council” and insert the phrase “Delegate, Chairman of the Council, the 4 at-large members of the Council, Mayor, and Attorney General” in its place.

(ii) Strike the phrase “Delegate, Mayor, Chairman of the Council of the District of Columbia, and at-large members of the Council” and insert the phrase “Delegate, Chairman of the Council, the at-large members of the Council, Mayor, and Attorney General” in its place.

(B) Paragraph (2) is amended by striking the phrase “Delegate, Mayor, Chairman of the Council and member of the Council” and inserting the phrase “Delegate, Chairman of the Council, member of the Council, Mayor, and Attorney General” in its place.

(5) Subsection (i)(1) is amended by striking the phrase “Delegate, Mayor, Chairman of the Council, or at-large member of the Council” and inserting the phrase “Delegate, Chairman of the Council, at-large member of the Council, Mayor, or Attorney General” in its place.

(6) Subsection (j) is amended as follows:

(A) Paragraph (1) is amended as follows:

(i) Strike the phrase “Delegate, Mayor, Chairman of the Council, or member of the Council” and insert the phrase “Delegate, Chairman of the Council, member of the Council, Mayor, or Attorney General” in its place.

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(ii) Strike the phrase “Delegate, Mayor, Chairman of the Council, or at-large member of the Council,” and insert the phrase “Delegate, Chairman of the Council, at-large member of the Council, Mayor, or Attorney General,” in its place.

(B) Paragraph (3) is amended by striking the phrase “Mayor, Chairman of the Council, member of the Council,” and inserting the phrase “Chairman of the Council, member of the Council, Mayor, Attorney General,” in its place.

(7) Subsection (k)(3) is amended as follows:

(A) The introductory language is amended by striking the phrase “Delegate and Mayor” and inserting the phrase “Delegate, Mayor, and Attorney General,” in its place.

(B) Subparagraph (B) is amended by striking the phrase “pursuant to § 1-1001.10(d); or” and inserting the phrase “pursuant to § 1-1001.10(d), or, in the case of the Attorney General, pursuant to section 435(b) of the District of Columbia Home Rule Act, effective May 28, 2011 (D.C. Law 18-160A; D.C. Official Code § 1-204.35(b)); or” in its place.

(b) Section 10 (D.C. Official Code § 1-1001.10) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (3)(C) is amended by striking the phrase “, primary elections of each political party for the office of Mayor and Chairman” and inserting the phrase “or by section 435(b) of the District of Columbia Home Rule Act, effective May 28, 2011 (D.C. Law 18-160A; D.C. Official Code § 1-204.35(b)), primary elections of each political party for the office of Chairman of the Council, Mayor and Attorney General” in its place.

(B) Paragraph (4) is amended by striking the phrase “authorized by this subchapter,” and inserting the phrase “authorized by this subchapter or by section 435(b) of the District of Columbia Home Rule Act, effective May 28, 2011 (D.C. Law 18-160A; D.C. Official Code § 1-204.35(b)),” in its place.

(2) Subsection (d)(1) is amended by striking the phrase “Delegate, Mayor, member of the Council, member of the Board of education, or winner of a primary election for the office of Delegate, Mayor, or member of the Council” and inserting the phrase “Delegate, member of the Council, Mayor, Attorney General, member of the Board of Education, or winner of a primary election for the office of Delegate, member of the Council, Mayor, or Attorney General” in its place.

(c) Section 11(a)(2) (D.C. Official Code § 1-1001.11(a)(2)) is amended by striking the phrase “Delegate to the House of Representatives, Mayor, Chairman of the Council, member of the Council” and inserting the phrase “Delegate to the House of Representatives, Chairman of the Council, member of the Council, Mayor, Attorney General” in its place.

(d) Section 15 (D.C. Official Code § 1-1001.15) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “No person shall be a candidate for more than 1 office on the Board of Education or the Council or Mayor in any election for the members of the Board of Education or the Council or Mayor, and no person shall be a candidate for more than 1 office on the Council or for the Mayor in any primary election.” and inserting the phrase “No person shall be a candidate for more than one office on the Board of Education, the Council, Mayor, or Attorney General in any election for the members of the Board of Education, the Council, Mayor, or Attorney General, and no person

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shall be a candidate for more than one office on the Council, Mayor, or Attorney General in any primary election.”.

(2) Subsection (b) is amended by striking the phrase “Mayor, Delegate, Chairman or member of the Council” and inserting the phrase “Delegate, Chairman or member of the Council, Mayor, Attorney General” in its place.

Sec. 302. 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; D.C. Official Code § 1-1161 *et seq.*), is amended as follows:

(a) Section 226(b) (D.C. Official Code § 1-1162.26(b)) is amended to read as follows:

“(b) Except as provided in subsection (c) of this section, neither the Chairman of the Council, the Mayor, the Attorney General, nor any member of the Chairman of the Council’s, the Mayor’s, or the Attorney General’s immediate family shall accept royalties for works of the Chairman of the Council, the Mayor, or the Attorney General that exceed \$10,000 in the aggregate during any calendar year. For the purposes of computing the limit on royalties established under this subsection, a royalty shall be considered received during the calendar year in which the right to receive the royalty accrues.”.

(b) Section 304(7) (D.C. Official Code § 1-1163.04(7)) is amended as follows:

(1) The introductory language is amended as follows:

(A) Strike the phrase “the Mayor, Council,” and insert the phrase “the Council, Mayor, Attorney General,” in its place.

(B) Strike the phrase “candidates for Mayor, the Chairman and members of the Council,” and insert the phrase “candidates for the Chairman and members of the Council, Mayor, and Attorney General,” in its place.

(c) Section 319 (D.C. Official Code § 1-1163.19) is amended as follows:

(1) Subsection (a) is amended by adding a new paragraph (1A) to read as follows:

“(1A) \$150,000 for an Attorney General exploratory committee;”.

(2) Subsection (b) is amended by adding a new paragraph (1A) to read as follows:

“(1A) \$1,500 for an Attorney General exploratory committee;”.

(d) Section 333 (D.C. Official Code § 1-1163.33) is amended as follows:

(1) Subsection (a) is amended by adding a new paragraph (1A) to read as follows:

“(1A) In the case of a contribution in support of a candidate for Attorney General or for the recall of the Attorney General, \$1,500;”.

(2) Subsection (b)(1) is amended by striking the phrase “for Mayor, Chairman of the Council, each member of the Council,” and inserting the phrase “for Chairman of the Council, each member of the Council, Mayor, Attorney General,” in its place.

(e) Section 336(b) (D.C. Official Code § 1-1163.36(b)) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase “the Mayor, the Chairman and members of the Council” and inserting the phrase “the Chairman and members of the Council, the Mayor, the Attorney General” in its place.

(2) Paragraph (2) is amended by striking the phrase “the Mayor, the Chairman and members of the Council” and inserting the phrase “the Chairman and members of the Council, the Mayor, the Attorney General” in its place.

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TITLE IV - APPLICABILITY.

Sec. 401. Applicability

(a) Title I shall apply as of October 1, 2014.

(b) Title II and Title III shall apply as of the effective date of this act.

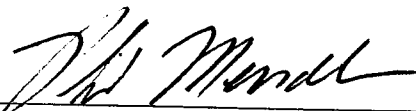
TITLE V – FISCAL IMPACT AND EFFECTIVE DATE

Sec. 501. 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. 502. 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

UNSIGNED

Mayor
District of Columbia
October 22, 2013

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AN ACT

D.C. ACT 20-208

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 4, 2013

To authorize the issuance of District of Columbia general obligation tax revenue anticipation notes to finance general governmental expenses 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 Tax Revenue Anticipation Notes Act of 2013".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Additional Notes" means District general obligation revenue anticipation notes described in section 9 that may be issued pursuant to section 472 of the Home Rule Act and that will mature on or before September 30, 2014, on a parity with the notes.

(2) "Authorized delegate" means the City Administrator, the Chief Financial Officer, or the Treasurer to whom the Mayor has delegated any of the Mayor's functions under this act pursuant to section 422(6) of the Home Rule Act.

(3) "Available funds" means District funds required to be deposited with the Escrow Agent, receipts, and other District funds that are not otherwise legally committed.

(4) "Bond Counsel" means a firm or firms of attorneys designated as bond counsel or co-bond counsel from time to time by the Chief Financial Officer.

(5) "Chief Financial Officer" means the Chief Financial Officer established pursuant to section 424(a)(1) of the Home Rule Act.

(6) "City Administrator" means the City Administrator established pursuant to section 422(7) of the Home Rule Act.

(7) "Council" means the Council of the District of Columbia.

(8) "District" means the District of Columbia.

(9) "Escrow Agent" means any bank, trust company, or national banking association with requisite trust powers designated to serve in this capacity by the Chief Financial Officer.

(10) "Escrow Agreement" means the escrow agreement between the District and the Escrow Agent authorized in section 7.

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(11) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*)

(12) "Mayor" means the Mayor of the District of Columbia.

(13) "Notes" means one or more series of District general obligation revenue anticipation notes authorized to be issued pursuant to this act.

(14) "Receipts" means all funds received by the District from any source, including, but not limited to, taxes, fees, charges, miscellaneous receipts, and any moneys advanced, loaned, or otherwise provided to the District by the United States Treasury, less funds that are pledged to debt or other obligations according to section 9 or that are restricted by law to uses other than payment of principal of, and interest on, the notes.

(15) "Secretary" means the Secretary of the District of Columbia.

(16) "Treasurer" means the District of Columbia Treasurer established pursuant to section 424(a)(3)(E) of the Home Rule Act.

Sec. 3. Findings.

The Council finds that:

(1) Under section 472 of the Home Rule Act, the Council may authorize, by act, the issuance of general obligation revenue anticipation notes for a fiscal year in anticipation of the collection or receipt of revenues for that fiscal year. Section 472 of the Home Rule Act provides further that the total amount of general obligation revenue anticipation notes issued and outstanding at any time during a fiscal year shall not exceed 20% of the total anticipated revenue of the District for that fiscal year, as certified by the Mayor pursuant to section 472 of the Home Rule Act, as of a date not more than 15 days before each original issuance of the notes.

(2) Under section 482 of the Home Rule Act, the full faith and credit of the District is pledged for the payment of the principal of, and interest on, any general obligation revenue anticipation note.

(3) Under section 483 of the Home Rule Act, the Council is required to provide in the annual budget sufficient funds to pay the principal of, and interest on, all general obligation revenue anticipation notes becoming due and payable during that fiscal year, and the Mayor is required to ensure that the principal of, and interest on, all general obligation revenue anticipation notes is paid when due, including by paying the principal and interest from funds not otherwise legally committed.

(4) The Chief Financial Officer has advised the Council that, based upon the Chief Financial Officer's projections of anticipated receipts and disbursements during the fiscal year ending September 30, 2014, it may be necessary for the District to borrow to a sum not to exceed \$600 million, an amount that does not exceed 20% of the total anticipated revenue of the District for such fiscal year, and to accomplish the borrowing by issuing general obligation revenue anticipation notes in one or more series.

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(5) The issuance of general obligation revenue anticipation notes in a sum not to exceed \$600 million is in the public interest.

Sec. 4. Note authorization.

(a) The District is authorized to incur indebtedness by issuing the notes pursuant to sections 472 and 482 of the Home Rule Act, in one or more series, in a sum not to exceed \$600 million, to finance its general governmental expenses, in anticipation of the collection or receipt of revenues for the fiscal year ending September 30, 2014.

(b) The Chief Financial Officer is authorized to pay from the proceeds of the notes the costs and expenses of issuing and delivering the notes, including, but not limited to, underwriting, legal, accounting, financial advisory, note insurance or other credit enhancement, marketing and selling the notes, and printing costs and expenses.

Sec. 5. Note details.

(a) The notes shall be known as "District of Columbia Fiscal Year 2014 General Obligation Tax Revenue Anticipation Notes" and shall be due and payable, as to both principal and interest, on or before September 30, 2014.

(b) The Chief Financial Officer is authorized to take any action necessary or appropriate in accordance with this act in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the notes, including, but not limited to, determinations of:

- (1) The final form, content, designation, and terms of the notes, including any redemptions applicable thereto and a determination that the notes may be issued in book-entry form;
- (2) Provisions for the transfer and exchange of the notes;
- (3) The principal amount of the notes to be issued;
- (4) The rate or rates of interest or the method of determining the rate or rates of interest on the notes; provided, that the interest rate or rates borne by the notes of any series shall not exceed in the aggregate 10% per year calculated on the basis of a 365-day year (actual days elapsed); provided, further, that if the notes are not paid at maturity, the notes may provide for an interest rate or rates after maturity not to exceed in the aggregate 15% per year calculated on the basis of a 365-day year (actual days elapsed);
- (5) The date or dates of issuance, sale, and delivery of the notes;
- (6) The place or places of payment of principal of, and interest on, the notes;
- (7) The designation of a registrar, if appropriate, for any series of the notes, and the execution and delivery of any necessary agreements relating to the designation;
- (8) The designation of paying agent(s) or escrow agent(s) for any series of the notes, and the execution and delivery of any necessary agreements relating to such designations; and
- (9) Provisions concerning the replacement of mutilated, lost, stolen or destroyed notes.

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(c) The notes shall be executed in the name of the District and on its behalf by the manual signature of the Mayor or an authorized delegate. The official seal of the District or a facsimile of it shall be impressed, printed, or otherwise reproduced on the notes. If a registrar is designated, the registrar shall authenticate each note by manual signature and maintain the books of registration for the payment of the principal of and interest on the notes and perform other ministerial responsibilities as specifically provided in its designation as registrar.

(d) The notes may be issued at any time or from time to time in one or more issues and in one or more series.

Sec. 6. Sale of the notes.

(a) The notes of any series shall be sold at negotiated sale pursuant to a purchase contract or at competitive sale pursuant to a bid form. The notes shall be sold at a price not less than par plus accrued interest from the date of the notes to the date of delivery thereof. The purchase contract or bid form shall contain the terms that the Chief Financial Officer considers necessary or appropriate to carry out the purposes of this act. The Chief Financial Officer's execution and delivery of the purchase contract or bid form shall constitute conclusive evidence of the Chief Financial Officer's approval, on behalf of the District, of the final form and content of the notes. The Chief Financial Officer shall deliver the notes, on behalf of the District, to the purchasers upon receiving the purchase price provided in the purchase contract or bid form.

(b) The Chief Financial Officer may execute, in connection with each sale of the notes, an offering document on behalf of the District, and may authorize the document's distribution in relation to the notes being sold.

(c) The Chief Financial Officer shall take actions and execute and deliver agreements, documents, and instruments (including any amendment of or supplement to any such agreement, document, or instrument) in connection with any series of notes as required by or incidental to:

- (1) The issuance of the notes;
- (2) The establishment or preservation of the exclusion from gross income for federal income tax purposes of interest on the notes, the treatment of interest on the notes as not constituting an item of tax preference for purposes of the federal alternative minimum tax ("non-AMT"), if the notes are originally issued as non-AMT notes, and the exemption from District income taxation of interest on the notes (except estate, inheritance, and gift taxes);
- (3) The performance of any covenant contained in this act, in any purchase contract for the notes, or in any escrow or other agreement for the security thereof;
- (4) The provision for securing the repayment of the notes by a letter or line of credit or other form of credit enhancement, and the repayment of advances under any such credit enhancement, including the evidencing of such a repayment obligation with a negotiable instrument with such terms as the Chief Financial Officer shall determine; or
- (5) The execution, delivery, and performance of the Escrow Agreement, a purchase contract, or a bid form for the notes, a paying agent agreement, or an agreement

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relating to credit enhancement, if any, including any amendments of any of these agreements, documents, or instruments.

(d) The notes shall not be issued until the Chief Financial Officer receives an approving opinion of Bond Counsel as to the validity of the notes and the establishment or preservation of the exclusion from gross income for federal income tax purposes of the interest on the notes and, if the notes are issued as non-AMT notes, the treatment of such interest as not an item of tax preference for purposes of the federal alternative minimum tax, and the exemption from the District income taxation of the interest on the notes (except estate, inheritance and gift taxes).

(e) The Chief Financial Officer shall execute a note issuance certificate evidencing the determinations and other actions taken by the Chief Financial Officer for each issue or series of the notes issued and shall designate in the note issuance certificate the date of the notes, the series designation, the aggregate principal amount to be issued, the authorized denominations of the notes, the sale price, and the interest rate or rates on the notes. The Mayor shall certify in a separate certificate, not more than 15 days before each original issuance of a series, the total anticipated revenue of the District for the fiscal year ending September 30, 2014, and that the total amount of all general obligation revenue anticipation notes issued and outstanding at any time during the fiscal year will not exceed 20% of the total anticipated revenue of the District for the fiscal year. These certificates shall be delivered at the time of delivery of the notes and shall be conclusive evidence of the actions taken as stated in the certificates. A copy of each of the certificates shall be filed with the Secretary to the Council not more than 3 days after the delivery of the notes covered by the certificates.

Sec. 7. Payment and security.

(a) The full faith and credit of the District is pledged for the payment of the principal of, and interest on, the notes when due.

(b) The funds for the payment of the notes as described in this act shall be irrevocably deposited with the Escrow Agent pursuant to the Escrow Agreement. The funds shall be used for the payment of the principal of, and interest on, the notes when due, and shall not be used for other purposes so long as the notes are outstanding and unpaid.

(c) The notes shall be payable from available funds of the District, including, but not limited to, any moneys advanced, loaned, or otherwise provided to the District by the United States Treasury, and shall evidence continuing obligations of the District until paid in accordance with their terms.

(d) The Chief Financial Officer may, without regard to any act or resolution of the Council now existing or adopted after the effective date of this act, designate an Escrow Agent under the Escrow Agreement. The Chief Financial Officer may execute and deliver the Escrow Agreement, on behalf of the District and in the Chief Financial Officer's official capacity, containing the terms that the Chief Financial Officer considers necessary or appropriate to carry out the purposes of this act. A special account entitled "Special Escrow for Payment of District of Columbia Fiscal Year 2014 General Obligation Tax Revenue Anticipation Notes" is

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created and shall be maintained by the Escrow Agent for the benefit of the owners of the notes as stated in the Escrow Agreement. Funds on deposit, including investment income, under the Escrow Agreement shall not be used for any purposes except for payment of the notes or, to the extent permitted by the Home Rule Act, to service any contract or other arrangement permitted under subsections (k) or (l) of this section, and may be invested only as provided in the Escrow Agreement.

(e) Upon the sale and delivery of the notes, the Chief Financial Officer shall deposit with the Escrow Agent to be held and maintained as provided in the Escrow Agreement all accrued interest and premium, if any, received upon the sale of the notes.

(f) (1) The Chief Financial Officer shall set aside and deposit with the Escrow Agent funds in accordance with the Escrow Agreement at the time and in the amount as provided in the Escrow Agreement.

(2) If Additional Notes are issued pursuant to section 9(b), and if on the date set forth in the Escrow Agreement, the aggregate amount of principal and interest payable at maturity on the outstanding notes, including any Additional Notes, less all amounts on deposit, including investment income, under the Escrow Agreement exceeds 90% of the actual receipts of District taxes (other than special taxes or charges levied pursuant to section 481(a) of the Home Rule Act, and taxes, if any, dedicated to particular purposes pursuant to section 490 of the Home Rule Act), for the period August 15, 2014, until September 30, 2014, beginning on the date set forth in the Escrow Agreement, the Chief Financial Officer shall promptly, upon receipt by the District, set aside and deposit with the Escrow Agent the receipts received by the District after the date set forth in the Escrow Agreement, until the aggregate amount of principal and interest payable at maturity on the outstanding notes, including any Additional Notes as described above, is less than 90% of actual receipts of District taxes (other than special taxes or charges levied pursuant to section 481(a) of the Home Rule Act, and taxes, if any, dedicated to particular purposes pursuant to section 490 of the Home Rule Act).

(3) The District covenants that it shall levy, maintain, or enact taxes due and payable during August 1, 2014, through September 30, 2014, to provide for payment in full of the principal of, and interest on, the notes when due. The taxes referred to in this paragraph shall be separate from special taxes or charges levied pursuant to section 481(a) of the Home Rule Act, or taxes, if any, dedicated to particular purposes pursuant to section 490 of the Home Rule Act.

(4) The District covenants that so long as any of the notes are outstanding, it shall not grant, create, or permit the existence of any lien, pledge, or security interest with respect to its taxes due and payable during the period August 1, 2014, through September 30, 2014, or commit or agree to set aside and apply those tax receipts to the payment of any obligation of the District other than the notes. The taxes referred to in this paragraph shall not include special taxes or charges levied pursuant to section 481(a) of the Home Rule Act, or taxes, if

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any, dedicated to particular purposes pursuant to section 490 of the Home Rule Act, or any real property tax liens created or arising in any fiscal year preceding the issuance of the notes.

(g) Before the 16th day of each month, beginning in August 2014, the Chief Financial Officer shall review the current monthly cash flow projections of the District, and if the Chief Financial Officer determines that the aggregate amount of principal and interest payable at maturity on the notes then outstanding, less any amounts and investment income on deposit under the Escrow Agreement, equals or exceeds 85% of the receipts estimated by the Chief Financial Officer to be received after such date by the District but before the maturity of the notes, then the Chief Financial Officer shall promptly, upon receipt by the District, set aside and deposit with the Escrow Agent the receipts received by the District on and after that date until the aggregate amount, including investment income, on deposit with the Escrow Agent equals or exceeds 100% of the aggregate amount of principal of and interest on the notes payable at their maturity.

(h) The Chief Financial Officer shall, in the full exercise of the authority granted the Chief Financial Officer under the Home Rule Act and under any other law, take actions as may be necessary or appropriate to ensure that the principal of and interest on the notes are paid when due, including, but not limited to, seeking an advance or loan of moneys from the United States Treasury if available under then current law. This action shall include, without limitation, the deposit of available funds with the Escrow Agent as may be required under section 483 of the Home Rule Act, this act, and the Escrow Agreement. Without limiting any obligations under this act or the Escrow Agreement, the Chief Financial Officer reserves the right to deposit available funds with the Escrow Agent at his or her discretion.

(i) There are provided and approved for expenditure sums as may be necessary for making payments of the principal of, and interest on, the notes, and the provisions of the District of Columbia Appropriations Act, 2014, if enacted prior to the effective date of this act, relating to short-term borrowings are amended and supplemented accordingly by this section, as contemplated in section 483 of the Home Rule Act.

(j) The notes shall be payable, as to both principal and interest, in lawful money of the United States of America in immediately available or same day funds at a bank or trust company acting as paying agent, located in the District, and at not more than 2 co-paying agents that may be located outside the District, one of which shall be located in New York, New York. All of the paying agents shall be qualified to act as paying agents under the laws of the United States of America, of the District, or of the state in which they are located, and shall be designated by the Chief Financial Officer without regard to any other act or resolution of the Council now existing or adopted after the effective date of this act.

(k) In addition to the security available for the holders of the notes, the Chief Financial Officer is hereby authorized to enter into agreements, including any agreement calling for payments in excess of \$1 million during fiscal year 2014, with a bank or other financial institution to provide a letter of credit, line of credit, or other form of credit enhancement to secure repayment of the notes when due. The obligation of the District to reimburse the

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bank or financial institution for any advances made under any such credit enhancement shall be a general obligation of the District until repaid and shall accrue interest at the rate of interest established by the Chief Financial Officer not in excess of 15% per year until paid.

(l) The Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 *et seq.*), and the Financial Institutions Deposit and Investment Amendment Act of 1997, effective March 18, 1998 (D.C. Law 12-56; D.C. Official Code § 47-351.01 *et seq.*), shall not apply to any contract that the Chief Financial Officer may from time to time determine to be necessary or appropriate to place, in whole or in part, including:

(1) An investment or obligation of the District as represented by the notes;

(2) An investment or obligation or program of investment; or

(3) A contract or contracts based on the interest rate, currency, cash flow, or other basis as the Chief Financial Officer may desire, including, without limitation, interest rate swap agreements; currency swap agreements; insurance agreements; forward payment conversion agreements; futures; contracts providing for payments based on levels of, or changes in, interest rates, currency exchange rates, or stock or other indices; contracts to exchange cash flows or a series of payments; and contracts to hedge payment, currency, rate, spread, or similar exposure, including, without limitation, interest rate floors, or caps, options, puts, and calls. The contracts or other arrangements also may be entered into by the District in connection with, or incidental to, entering into or maintaining any agreement that secures the notes. The contracts or other arrangements shall contain whatever payment, security, terms, and conditions as the Chief Financial Officer may consider appropriate and shall be entered into with whatever party or parties the Chief Financial Officer may select, after giving due consideration, where applicable, to the creditworthiness of the counterparty or counterparties, including any rating by a nationally recognized rating agency or any other criteria as may be appropriate. In connection with, or incidental to, the issuance or holding of the notes, or entering into any contract or other arrangement referred to in this section, the District may enter into credit enhancement or liquidity agreements, with payment, interest rate, termination date, currency, security, default, remedy, and any other terms and conditions as the Chief Financial Officer determines. Proceeds of the notes and any money set aside for payment of the notes or of any contract or other arrangement entered into pursuant to this section may be used to service any contract or other arrangement entered into pursuant to this section.

Sec. 8. Defeasance.

(a) The notes shall no longer be considered outstanding and unpaid for the purpose of this act and the Escrow Agreement, and the requirements of this act and the Escrow Agreement shall be deemed discharged with respect to the notes, if the Chief Financial Officer:

(1) Deposits with an Escrow Agent, herein referred to as the “defeasance escrow agent,” in a separate defeasance escrow account, established and maintained by the Escrow Agent solely at the expense of the District and held in trust for the note owners, sufficient

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moneys or direct obligations of the United States, the principal of and interest on which, when due and payable, will provide sufficient moneys to pay when due the principal of, and interest payable at maturity on, all the notes; and

(2) Delivers to the defeasance escrow agent an irrevocable letter of instruction to apply the moneys or proceeds of the investments to the payment of the notes at their maturity.

(b) The defeasance escrow agent shall not invest the defeasance escrow account in any investment callable at the option of its issuer if the call could result in less than sufficient moneys being available for the purposes required by this section.

(c) The moneys and direct obligations referred to in subsection (a)(1) of this section may include moneys or direct obligations of the United States of America held under the Escrow Agreement and transferred, at the written direction of the Chief Financial Officer, to the defeasance escrow account.

(d) The defeasance escrow account specified in subsection (a) of this section may be established and maintained without regard to any limitations placed on these accounts by any act or resolution of the Council now existing or adopted after this act becomes effective, except for this act.

Sec. 9. Additional debt and other obligations.

(a) The District reserves the right at any time to: borrow money or enter into other obligations to the full extent permitted by law; secure the borrowings or obligations by the pledge of its full faith and credit; secure the borrowings or obligations by any other security and pledges of funds as may be authorized by law; and issue bonds, notes, including Additional Notes, or other instruments to evidence the borrowings or obligations. The reserved right with regard to notes and Additional Notes issued pursuant to sections 471, 472, 475, and 490 of the Home Rule Act shall be subject to this act. No borrowings or other obligations, including Additional Notes, shall be entered into that would require an immediate set-aside and deposit under section 7(g) applied as of the date of the issuance.

(b) (1) The District may issue Additional Notes pursuant to section 472 of the Home Rule Act that shall mature on or before September 30, 2014, and the District shall covenant to set aside and deposit under the Escrow Agreement, receipts and other available funds for payment of the principal of, and the interest on, the Additional Notes issued pursuant to section 472 of the Home Rule Act on a parity basis with the notes.

(2) The receipts and available funds referred to in subsection (a) of this section shall be separate from the special taxes or charges levied pursuant to section 481(a) of the Home Rule Act, and taxes, if any, dedicated to particular purposes pursuant to section 490 of the Home Rule Act.

(3) Any covenants relating to any Additional Notes shall have equal standing and be on a parity with the covenants made for payment of the principal of, and the interest on, the notes.

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(4) If Additional Notes are issued pursuant to section 472 of the Home Rule Act, the provisions of section 7 shall apply to both the notes and the Additional Notes and increase the amounts required to be set aside and deposited with the Escrow Agent.

(5) As a condition precedent to the issuance of any Additional Notes, the Chief Financial Officer shall deliver a signed certificate certifying that the District is in full compliance with all covenants and obligations under this act and the Escrow Agreement, that no set-aside and deposit of receipts pursuant to section 7(g) applied as of the date of issuance is required, and that no set-aside and deposit will be required under section 7(g) applied immediately after the issuance.

(c) Any general obligation notes issued by the District pursuant to section 471 of the Home Rule Act shall not be scheduled to be due and payable until after the earlier of the following:

- (1) The stated maturity date of all outstanding notes and Additional Notes; or
- (2) The date an amount sufficient to pay all principal and interest payable at maturity on the notes and the Additional Notes is on deposit with the Escrow Agent.

(d) Revenue notes of the District, which are payable from specified District revenue that is set aside for the payment of the revenue notes and that is included in the amount of receipts estimated by the Chief Financial Officer, pursuant to section 7(g), to be received after the proposed date of issue of the revenue notes and before the maturity of the notes, shall not be issued if a set-aside and deposit of receipts pursuant to section 7(g) applied as of the proposed date of the issuance of revenue notes would be required. In determining, for purposes of this subsection, whether a set-aside and deposit would be required, there shall be excluded from receipts estimated by the Chief Financial Officer to be received after the proposed date of issuance of revenue notes and before the maturity of the notes an amount equal to the estimated revenues set aside for the payment of revenue notes.

Sec. 10. Tax matters.

The Chief Financial Officer shall not take any action or omit to take any action, or invest, reinvest, or accumulate any moneys in a manner, that will cause the interest on the notes to be includable in gross income for federal income tax purposes or, if the notes were issued as non-AMT notes, to be treated as an item of tax preference for purposes of the federal alternative minimum tax. The Chief Financial Officer also shall take all actions necessary to be taken so that the interest on the notes will not be includable in gross income for federal income tax purposes or, if the notes were issued as non-AMT notes, be treated as an item of tax preference for purposes of the federal alternative minimum tax.

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Sec. 11. Contract.

This act shall constitute a contract between the District and the owners of the notes authorized by this act. To the extent that any acts or resolutions of the Council may be in conflict with this act, this act shall be controlling.

Sec. 12. District officials.

(a) The elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the notes or be subject to any personal liability by reason of the issuance of the notes.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the notes shall be valid and sufficient for all purposes, notwithstanding the fact that the official ceases to be that official before delivery of the notes.

Sec. 13. Authorized delegation of authority.

To the extent permitted by the District and federal laws, the Mayor may delegate to the City Administrator, the Chief Financial Officer, or the Treasurer the performance of any act authorized to be performed by the Mayor under this act.

Sec. 14. Maintenance of documents.

Copies of the notes and related documents shall be filed in the Office of the Secretary of the District of Columbia.

Sec. 15. Information reporting.

(a) Within 3 days after the Chief Financial Officer's receipt of the transcript of proceedings relating to the issuance of the notes, the Chief Financial Officer shall transmit a copy of the transcript to the Secretary to the Council.

(b) The Chief Financial Officer shall notify the Council within 30 days of any action taken under section 7(g).

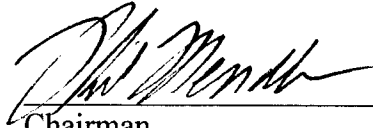
Sec. 16. Fiscal impact statement.

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)).

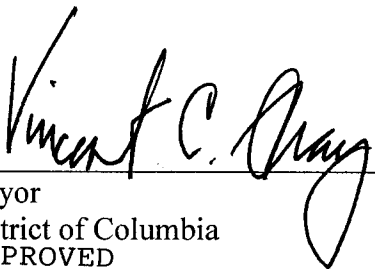
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Sec. 17. Effective date.

This act shall take effect upon enactment as provided in section 472(d)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 806; D.C. Official Code § 1-204.72(d)(1)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 4, 2013

**COUNCIL OF THE DISTRICT OF COLUMBIA
NOTICE OF INTENT TO ACT ON NEW LEGISLATION**

The Council of the District of Columbia hereby gives notice of its intention to consider the following legislative matters for final Council action in not less than **15 days**. Referrals of legislation to various committees of the Council are listed below and are subject to change at the legislative meeting immediately following or coinciding with the date of introduction. It is also noted that legislation may be co-sponsored by other Councilmembers after its introduction.

Interested persons wishing to comment may do so in writing addressed to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, NW, Room 5, Washington, D.C. 20004. Copies of bills and proposed resolutions are available in the Legislative Services Division, 1350 Pennsylvania Avenue, NW, Room 10, Washington, D.C. 20004 Telephone: 724-8050 or online at www.dccouncil.us.

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COUNCIL OF THE DISTRICT OF COLUMBIA	PROPOSED LEGISLATION
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BILLS

B20-540 Community Development Amendment Act of 2013

Intro. 10-28-13 by Councilmember Evans and referred to the Committee on Business, Consumer, and Regulatory Affairs

PROPOSED RESOLUTIONS

PR20-525 Domestic Violence Fatality Review Board Sharlene J. Kranz Confirmation Resolution of 2013

Intro. 10-24-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety

PR20-526 Real Estate Commission Stephen W. Porter Confirmation Resolution of 2013

Intro. 10-24-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs

PR20-527 Commission on African-American Affairs Dr. Janette Harris Confirmation Resolution of 2013

Intro. 10-28-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations

PROPOSED RESOLUTIONS Con't

PR20-530 Commission on African Affairs Mamadou M. Samba Confirmation Resolution of 2013
Intro. 10-29-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations

PR20-531 Paul Public Charter School, Inc. Revenue Bonds Project Approval Resolution of 2013
Intro. 10-30-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue

PR20-532 National Children's Center Bonds Project Approval Resolution of 2013
Intro. 10-30-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue

PR20-533 Smoking Schedule of Fines Approval Resolution of 2013
Intro. 10-31-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

PR20-534 Out-of-Boundary Common Lottery Process Regulations Approval Resolution of 2013
Intro. 10-31-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education

PR20-535 Alcohol Beverage Control Board Victor H. Rodriguez Confirmation Resolution of 2013
Intro. 10-31-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer and Regulatory Affairs

PR20-536 Alcohol Beverage Control Board James N. Short Confirmation Resolution of 2013
Intro. 10-31-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs

Council of the District of Columbia
Committee on Economic Development
Committee on Transportation and the Environment
1350 Pennsylvania Avenue, N.W. Washington, DC 20004
Notice of Public Oversight Roundtable

**COUNCILMEMBER MURIEL BOWSER, CHAIRPERSON
COMMITTEE ON ECONOMIC DEVELOPMENT**

AND

**COUNCILMEMBER MARY CHEH, CHAIRPERSON
COMMITTEE ON TRANSPORTATION AND THE ENVIRONMENT**

ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE

ON

Implementation of the Kids Ride Free Program

DECEMBER 12, 2013

2:00 PM

ROOM 120

JOHN A. WILSON BUILDING

1350 PENNSYLVANIA AVENUE, N.W.

On December 12, 2013, Councilmember Muriel Bowser, Chairperson of the Committee on Economic Development and Councilmember Mary Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public oversight roundtable to review the implementation of the Kids Ride Free program.

The Kids Ride Free program was created and funded by the Fiscal Year 2014 Budget Support Act and Budget Request Act. It offers public, charter, and private school students in the District a free ride to and from school via Metrobus and the DC Circulator. Thanks to cooperation between the Council, District Department of Transportation, the Washington Metropolitan Area Transit Authority, and other agencies, the District was able to launch the program in time for the first day of school on August 26, 2013. This public oversight roundtable will review the status of the program to ensure that it is convenient for parents and students, preventing truancy, and effectively using District resources.

The public roundtable will begin at 2:00 PM in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

Individuals and representatives of organizations wishing to testify should contact Judah Gluckman, Legislative Counsel for the Committee on Economic Development, at (202) 724-8025, or jgluckman@dccouncil.us and furnish their name, address, telephone number, and organizational affiliation, if any, by the close of business Wednesday, December 11, 2013. Persons presenting testimony may be limited to 3 minutes in order to permit each witness an opportunity to be heard.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee on Economic Development, Council of the District of Columbia, Suite 112 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

Council of the District of Columbia
Committee on Human Services

PUBLIC OVERSIGHT ROUNDTABLE

1350 Pennsylvania Avenue, N.W., Room 116, Washington, D.C. 20004

**THE COMMITTEE ON HUMAN SERVICES
JIM GRAHAM, CHAIRPERSON**

ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE ON

**“REVISED FISCAL IMPACT OF THE TEMPORARY ASSISTANCE FOR
NEEDY FAMILIES TIME LIMIT AMENDMENT ACT OF 2013, SUBTITLE
(V)(N) OF THE FY 2014 BUDGET SUPPORT ACT”**

TUESDAY, NOVEMBER 12, 2013 –11:00 A.M.

**THE JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
ROOM 412
WASHINGTON, D.C. 20004**

Councilmember Jim Graham, Chairperson of the Committee on Human Services, will convene a public oversight roundtable on the “Revised Fiscal Impact of the Temporary Assistance for Needy Families Time Limit Amendment Act of 2013, Subtitle (V)(N) of the FY 2014 Budget Support Act”. The roundtable will be held on Tuesday, November 12, 2013, at 11:00 a.m., in Room 412, of the John A. Wilson Building.

The purpose of this roundtable is to discuss the revised fiscal impact issued by the Office of Revenue Analysis for the Temporary Assistance for Needy Families Time Limit Amendment Act of 2013, Subtitle (V)(N) of the FY 2014 Budget Support Act. Subtitle (V)(N) provides an exemption from the 60-month TANF time limit requirement to certain groups of TANF recipients. The exemption has been implemented for each group enumerated in the subtitle except for TANF recipients who are enrolled in a certified training or education program. The roundtable will also provide an opportunity to address the challenges associated with the full implementation of this subtitle.

Those who wish to testify or have questions regarding the roundtable should contact Malcolm Cameron of the Committee on Human Services by e-mail at mcameron@dccouncil.us or by telephone at (202) 724-8191. E-mail contacts to Mr. Cameron should include the residential ward, full name, title, and affiliation -- if applicable -- of the person(s) testifying. Witnesses should bring 15 copies of their testimony to the roundtable. Representatives of organizations will be allowed a maximum of five (5) minutes for oral presentation and individuals will be allowed a maximum of three (3) minutes for oral presentation.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee on Human Services, 1350 Pennsylvania Avenue, N.W., Suite 116, Washington, D.C. 20004, no later than 6:00 p.m., Friday, November 22, 2013.

**Council of the District of Columbia
Committee on Health
Notice of Public Oversight Roundtable
1350 Pennsylvania Ave., N.W., Washington, D.C. 20004**

**COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON
COMMITTEE ON HEALTH ANNOUNCES A PUBLIC OVERSIGHT ROUND TABLE**

on

The State of Nursing Home Care in the District of Columbia

**Thursday, December 12, 2013
11:00 a.m., Room 500, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health, announces a public oversight round table on the state of nursing home care in the District of Columbia. The roundtable will be held at 11:00 a.m. on Thursday, December 12, 2013 in Room 500 of the John A. Wilson Building.

The purpose of this public oversight round table is to: i) obtain public input on the quality of nursing home care in the District and any measures that might be undertaken to improve it; ii) afford the Department of Health an opportunity to comment on its oversight of nursing home facilities and professionals; and iii) obtain input from nursing homes in the District of Columbia regarding the challenges of operating a nursing home in the District and delivering adequate care to patients.

Those who wish to testify should contact Melanie Williamson, Legislative Counsel to the Committee on Health, at 202-741-2112 or via e-mail at mwilliamson@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Tuesday, December 10, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Tuesday, December 10, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

For those unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements can be emailed to mwilliamson@dccouncil.us (email) or to Melanie Williamson at the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Room 115, Washington, D.C., 20004. The record will close at 5:00 p.m. on Monday January 6, 2013.

**Council of the District of Columbia
Committee on Finance and Revenue
Notice of Public Roundtable**

John A. Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004

**COUNCILMEMBER JACK EVANS, CHAIR
COMMITTEE ON FINANCE AND REVENUE**

ANNOUNCES A PUBLIC ROUNDTABLE ON:

**PR 20-531, the “Paul Public Charter School, Inc. Revenue Bonds Project Approval Resolution of 2013”
PR 20-532, the “National Children’s Center Bonds Project Approval Resolution of 2013”**

November 13, 2013

10:00 a.m.

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

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public roundtable to be held on Wednesday, November 13, 2013 at 10:00 a.m. in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

PR 20-531, the “Paul Public Charter School, Inc. Revenue Bonds Project Approval Resolution of 2013” will authorize and provide for the issuance, sale and delivery in an aggregate principal amount not to exceed \$20 million of the District of Columbia revenue bonds in one or more series and to authorize and provide for the loan of the proceeds of such bonds to assist Paul Public Charter School in the financing, refinancing or reimbursing of cost associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act. The project is located at 5800 8th Street, N.W., in Ward 4.

PR 20-532, the “National Children’s Center Bonds Project Approval Resolution of 2013” will authorize and provide for the issuance, sale and delivery in an aggregate principal amount not to exceed \$8 million of the District of Columbia revenue bonds in one or more series and to authorize and provide for the loan of the proceeds of such bonds to assist the National Children’s Center in the financing, refinancing or reimbursing of cost associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act. The project is located at 3400 Martin Luther King, Jr. Avenue, S.E., in Ward 8.

The Committee invites the public to testify at the roundtable. Those who wish to testify should contact Sarina Loy, Committee Aide at (202) 724-8058 or sloy@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization by 10:00 a.m. on Tuesday, November 12, 2013. Witnesses should bring 15 copies of their written testimony to the hearing. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to sloy@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004.

COUNCIL OF THE DISTRICT OF COLUMBIA
CONSIDERATION OF TEMPORARY LEGISLATION

B20-542, “Department of Corrections Central Cellblock Management Clarification Temporary Amendment Act of 2013”, **B20-545**, “Transportation Infrastructure Improvements GARVEE Bond Financing Temporary Amendment Act of 2013”, **B20-554**, “Department of Health Grant Making Authority for Clinical Nutritional Home Services Temporary Amendment Act of 2013”, **B20-557**, Critical Infrastructure Freedom of Information Temporary Amendment Act of 2013”, **B20-559**, “Board of Elections Nominating Petition Circulator Affidavit Temporary Amendment Act of 2013”, **B20-561**, “Party Officer Elections Temporary Amendment of 2013” and **B20-562**, “Controlled Substance, Alcohol Testing, Criminal Background Check and Background Investigation Temporary Amendment Act of 2013” was adopted on first reading on November 5, 2013. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on December 3, 2013.

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

**NOTICE OF PUBLIC HEARINGS
CALENDAR**

**WEDNESDAY, NOVEMBER 13, 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-00068; Kusam International, Inc., t/a Stone Fish Restaurant & Lounge, 1050 17th Street NW, License #14073, Retailer CR, ANC 2B	
Renewal Application	
Protest Hearing (Status)	9:30 AM
Case # 13-PRO-00126; TGI Friday's, Inc., t/a TGI Friday's, 3334 14th Street NW, License #92827, Retailer CR, ANC 1A	
New Application	
Protest Hearing (Status)	9:30 AM
Case # 13-PRO-00124; Notta Tav Urne, LLC, t/a Pi Restaurant, 2309 18th Street NW, License #76754, Retailer CR, ANC 1C	
Termination of Settlement Agreement	
Protest Hearing (Status)	9:30 AM
Case # 13-PRO-00122; Sami Restaurant, LLC, t/a Bistro 18, 2420 18th Street NW, License #86876, Retailer CR, ANC 1C	
Termination of Settlement Agreement	
Show Cause Hearing (Status)	9:30 AM
Case # 13-CMP-00287; Eun & Peter, Inc., t/a Uncle Lee's Seafood, 1102 Eastern Ave NE, License #85918, Retailer A, ANC 7C	
Posted Advertisements in the Window of the Establishment Relating to the Price of Alcoholic Beverages on more then 25% of the Window Space, Failed to Post ABC Window Lettering, Failed to Post Pregnancy Sign, Failed to Maintain Sales Receipts in the Establishment.	
Fact Finding Hearing	9:30 AM
Pub Crawl; Date of Event: December 7, 2013, Applicant: John Kaplar Event Name: The Christmas Crawl/Tackey Sweater Bar Crawl Neighborhood: New Hampshire Ave <i>The names of the establishments participating in the Pub Crawl are available upon request.</i>	

Board's Calendar

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Show Cause Hearing **10:00 AM**

Case # 11-251-00372; De Amigo, LLC, t/a Sesto Senso/Andalu/Spot/Lupe/M I A, 1214 18th Street NW, License #81092, Retailer CT, ANC 2B

Allowed the Establishment to be Used for an Unlawful or Disorderly Purpose, Failed to Follow Security Plan

Show Cause Hearing **11:00 AM**

Case # 12-CMP-00054; Sunshine Bar & Lounge, LLC, t/a Sunshine Bar & Lounge, 7331 Georgia Ave NW, License #85239, Retailer CR, ANC 4B

Failed to Comply With the Terms of Board Order No. 2012-419

BOARD RECESS AT 12:00 PM

ADMINISTRATIVE AGENDA

1:00 PM

Show Cause Hearing **1:30 PM**

Case # 12-251-00243; Sunshine Bar & Lounge, LLC, t/a Sunshine Bar & Lounge, 7331 Georgia Ave NW, License #85239, Retailer CR, ANC 4B

Allowed the Establishment to be Used for an Unlawful or Disorderly Purpose, Failed to allow MPD officers to enter the establishment, Substantial Change without Boards Approval, Failed to Comply With the Terms of Board Order No. 2011-198

Protest Hearing **4:30 PM**

Case # 13-PRO-00093; Amde Sofenias, t/a Queen Makeda, 1917 9th Street NW, License #60510, Retailer CR,ANC 1B

Renewal Application

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: November 8, 20, 2013
Petition Date: December 23, 2013
Hearing Date: January 6, 2014
Protest Date: March 5, 2014

License No.: ABRA-093635
Licensee: Bodogs, LLC
Trade Name: Bodogs
License Class: Retailer’s Class “D” Restaurant
Address: 614 E St., NW
Contact: Joseph Jemal (399) 917-3525

WARD 2 ANC 2C SMD 2C03

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 March 5, 2014.

NATURE OF OPERATION

Restaurant serving hot dogs with a seating capacity of 15 and total occupancy load of 15. Sidewalk café with 15 seats.

HOURS OF OPERATION

Sunday through Saturday 9 am – 11 pm

HOURS OF ALCOHOLIC BEVERAGES SALES/SERVICE/CONSUMPTION

Sunday through Saturday 10 am – 11 pm

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

Sunday through Saturday 10 am – 11 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: November 8, 2013
Petition Date: December 23, 2013
Hearing Date: January 6, 2014
Protest Date: March 5, 2014

License No.: ABRA-093454
Licensee: Experience Umbria Wines, LLC
Trade Name: Experience Umbria Wines
License Class: Retailer’s Class “A” Online
Address: 1629 K St. NW
Contact: Michael Fonseca 202-625-7700

WARD 2 ANC 2B SMD 2B05

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 March 5, 2014.

NATURE OF OPERATION

Online retailer liquor store. Sales will be made through Internet credit cards transactions to District of Columbia Residents only. Confirmation of identification of the purchaser will be made at the time of delivery. Off-site storage of its alcoholic beverages will be at Security Moving & Storage, 1701 Florida Ave., NW. This location is for storage and delivery only; no public access.

HOURS OF OPERATION AT STORAGE FACILITY

Sunday through Saturday 9 am – 9 pm

HOURS OF SALES AND SERVICE OF ALCOHOLIC BEVERAGE

Sunday through Saturday 9 am – 9 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: November 8, 2013
 Petition Date: December 23, 2013
 Roll Call Hearing Date: January 6, 2014
 Protest Hearing Date: March 5, 2014

License No.: ABRA-93501
 Licensee: MI at International Square, LLC
 Trade Name: Mama I’s Pizza & Pasta
 License Class: Retailer’s Class “D” Restaurant
 Address: 1825 Eye Street, NW
 Contact: Jennifer Pugh-Nolan: 202-295-6635

WARD 2 ANC 2B SMD 2B06

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 on March 5, 2014 at 1:30 pm.

NATURE OF OPERATION

A new Restaurant serving Pizza & Pasta, all seating is in the common area.

HOURS OF OPERATION

Sunday: Closed, Monday through Friday: 7am-7pm, Saturday: 12noon-5pm

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday: Closed, Monday through Friday: 11am-7pm, Saturday: 12noon-5pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: November 8, 2013
Petition Date: December 23, 2013
Hearing Date: January 6, 2014
Protest Date: March 5, 2014

License No.: ABRA-093621
Licensee: Yellow/Green LLC
Trade Name: Seven Faces Barroom
License Class: Retail Class "C" Tavern
Address: 251 Florida Avenue, N.W.
Contact: Cheryl Webb, 202-277-7461

WARD 5

ANC 5E

SMD 5E06

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the Hearing Date at 10:00 am, 2000 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 March 5, 2014.

NATURE OF OPERATION

New full service Tavern. Entertainment with DJ. Occupancy load is 85. Sidewalk Café.

HOURS OF OPERATON

Sunday through Thursday 10 am – 2 am, Friday and Saturday 10 am – 3 am

HOURS OF SALES/SERVICE/CONSUMPTION

Sunday through Thursday 10 am – 2 am, Friday and Saturday 10 am – 3 am

HOURS OF OPERATON FOR SIDEWALK CAFE (35 SEATS)

Sunday through Thursday 10 am – 2 am, Friday and Saturday 10 am – 3 am

HOURS OF SALES/SERVICE/CONSUMPTION OF SIDEWALK CAFE

Sunday through Thursday 10 am – 2 am, Friday and Saturday 10 am – 3 am

HOURS OF OF ENTERTAINMENT INSIDE AND SIDEWALK CAFE

Sunday through Thursday 10 am – 2 am, Friday and Saturday 10 am – 3 am

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

Posting Date: November 8, 2013
Petition Date: December 23, 2013
Hearing Date: January 6, 2014
Protest Date: March 5, 2014

License No.: ABRA-093550
Licensee: Andy Lee Liquor, Inc.
Trade Name: TBD
License Class: Retailer A
Address: 914 H Street, NE
Contact Information: Cynthia Simms 202 821-3043

WARD 6

ANC 6A

SMD 6A01

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the Hearing Date at 10:00 am, 2000 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 March 5, 2014.

NATURE OF OPERATION

New Liquor Store with tasting.

HOURS OF OPERATON

Sunday through Saturday 9 am – 10 pm

HOURS OF SALES/SERVICE/CONSUMPTION

Sunday through Saturday 9 am – 10 pm

DEPARTMENT OF GENERAL SERVICES

NOTICE OF PUBLIC MEETINGS REGARDING
SURPLUS RESOLUTIONS PURSUANT TO D.C. OFFICIAL CODE 10-801

The District will conduct a public hearing to receive public comments on the proposed surplus of the following District property. The date, time and location shall be as follows:

Property: Square: 5084 Lots: 801, 823, and 826 collectively known as the “Benning School Building”

Date: Monday November 25, 2013

Time: 6:30 p.m.

Location: Benning School Building
100 41st Street, NE
Washington, DC 20019

Contact: Althea O. Holford, Real Estate Specialist
Department of General Services
202.478.2428 or althea.holford@dc.gov

DEPARTMENT OF GENERAL SERVICES

NOTICE OF PUBLIC MEETINGS REGARDING
SURPLUS RESOLUTIONS PURSUANT TO D.C. OFFICIAL CODE 10-801

The District will conduct a public hearing to receive public comments on the proposed surplus of the following District properties. The date, time and location shall be as follows:

Properties: Square 5283, Lot 0820 – 5601 East Capitol Street, SE (“Shadd School Building”)

Date: December 4, 2013

Time: 6:00 p.m.

Location: Capitol View Neighborhood Library
5001 Central Avenue, SE
Washington, DC 20019

Contact: Althea O. Holford, Real Estate Specialist
Department of General Services
202.478.2428 or althea.holford@dc.gov

**MAYOR'S AGENT
FOR THE HISTORIC LANDMARK AND HISTORIC DISTRICT PROTECTION ACT**

NOTICE OF PUBLIC HEARINGS

Public notice is hereby given that the Mayor's Agent will hold a public hearing on an application affecting property subject to the Historic Landmark and Historic District Protection Act of 1978. Interested parties may appear and testify on behalf of, or in opposition to, the application. The hearings will be held at the Office of Planning, 1100 4th Street, SW, Suite E650.

- 1) Hearing Date: **Friday, December 20, 2013 at 9:30 a.m.**
 Case Number: H.P.A. 13-476
 Address: 1211 10th Street NW
 Square/Lot: Square 369, Lot 82
 Type of Work: Demolition and additions

Affected Historic Property: Blagden Alley-Naylor Court Historic District
Affected ANC: 2F

The Applicant's claim is that the demolition is consistent with the purposes of the Act and that the failure to issue the permit will result in unreasonable economic hardship to the owner.

The hearing will be conducted in accordance with the Rules of Procedure pursuant to the Historic Landmark and Historic District Protection Act (Title 10C DCMR Chapters 4 and 30), which are on file with the D.C. Historic Preservation Office and posted on the Office website under "Regulations." The office is located at the Office of Planning, 1100 4th Street, SW, Suite E650, Washington, D.C. 20024. For further information, contact the Historic Preservation Office, at (202) 442-8800.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL 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. 744; D.C. Official Code § 1-307.02 (2012 Repl.)) 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) (2012 Repl.)), hereby gives notice of the adoption of a new Section 941 of Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), to be entitled “Medicaid Birth Center Services and Reimbursement.”

Birth centers provide alternatives to institutionalized childbirth settings for women who have uncomplicated, low risk pregnancies. Medicaid reimbursable services focus on three distinct phases of care: (1) routine ante-partum care in any trimester; (2) delivery services; and (3) postpartum care. Additionally, these rules require birth centers to have procedures to access hospital care in the event complications arise during the labor phase of birth. Lastly, these rules set standards for Medicaid participation, as well as identify health care practitioners eligible for reimbursement of services rendered at freestanding birth centers.

The corresponding amendment to the District of Columbia State Plan for Medical Assistance (State Plan) was approved by the Council of the District of Columbia (Council) on August 10th, 2012 (PR-0820). The State Plan Amendment (SPA) was submitted to the Centers for Medicare and Medicaid Services (CMS) on August 3, 2012 and approved on September 16, 2013 with an effective date of April 13, 2013.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on April 12, 2013 at 60 DCR 005648. No comments were received and no substantive changes have been made. These rules were adopted by the Director on October 28, 2013 and shall become effective on the date of publication of this notice in the *D.C. Register*.

A new Section 941 of Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) of the DCMR is added to read as follows:

941 MEDICAID BIRTH CENTER SERVICES AND REIMBURSEMENT

941.1 These rules establish standards governing Medicaid reimbursement for the delivery of services provided to Medicaid beneficiaries at freestanding birth centers located in the District of Columbia.

941.2 A freestanding birth center, eligible for Medicaid reimbursement shall be:

- (a) Licensed in accordance with 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.)) and implementing rules; and

- (b) Enrolled by DHCF as a Medicaid provider of birth center/maternity center services.

941.3 Services eligible for Medicaid reimbursement provided at a freestanding birth center shall be delivered by a:

- (a) Physician licensed in accordance with 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.));
- (b) Pediatric Nurse Practitioner 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) Family Nursing Practitioner 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 credentialed as a Family Nurse Practitioner- Board Certified (FNP-BC);
- (d) Nurse Midwife who is licensed as an advanced practice 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 American Midwifery Certification Board (AMCB); or
- (e) Certified Professional Midwife who is certified pursuant to the American Midwifery Certification Board (AMCB).

941.4 Services eligible for Medicaid reimbursement provided at a freestanding birth center shall be provided:

- (a) To beneficiaries in an outpatient setting;
- (b) By a facility that is not a part of a hospital; and
- (c) By or under the direction of a physician.

- 941.5 Services eligible for Medicaid reimbursement provided at a freestanding birth center shall consist of the following:
- (a) Routine ante-partum care;
 - (b) Delivery; and
 - (c) Postpartum care.
- 941.6 Medicaid reimbursement for routine ante-partum care in any trimester shall include the following:
- (a) Initial and subsequent medical history;
 - (b) Physical examination;
 - (c) Recording of fetal heart tones;
 - (d) Recording of weight and blood pressure;
 - (e) Routine chemical urinalysis; and
 - (f) Maternity counseling.
- 941.7 Medicaid reimbursement for delivery services shall include:
- (a) Admission history and physical examination;
 - (b) Management of uncomplicated labor; and
 - (c) Vaginal delivery.
- 941.8 Medicaid reimbursement for postpartum care shall include:
- (a) Mother's postpartum check within six (6) weeks after birth;
 - (b) Newborn screening test which consists of a screening panel which shall include, but not be limited to:
 - (1) Phenylketonuria (PKU);
 - (2) Congenital Adrenal Hyperplasia (CAH);
 - (3) Congenital hypothyroidism;
 - (4) Hemoglobinopathies;

- (5) Biotinidase deficiency;
- (6) Maple Syrup Urine Disease (MSUD);
- (7) Homocystinuria; and
- (8) Galactosemia.

(c) A well baby check or newborn assessment to include two separate screenings for a newborn on two separate dates of service.

941.9 Medicaid reimbursement for services for normal, uncomplicated pregnancies shall be limited to fourteen (14) ante-partum visits. These visits shall occur in the following manner:

- (a) Monthly visits up to twenty-eight (28) weeks gestation;
- (b) Thereafter, biweekly visits up to thirty-six (36) weeks gestation;
- (c) Thereafter, weekly visits until delivery.

941.10 In order to be eligible for Medicaid reimbursement, additional birth center visits, beyond the requirements set forth in § 941.9 shall be deemed medically necessary and require prior authorization.

941.11 Reimbursement rates for birth centers and practitioners delivering birth center services shall be published on the DHCF website at www.dhcf.dc.gov.

941.99 **DEFINITIONS**

For purposes of this chapter, the following terms shall have the meanings ascribed:

Ante-partum care - Care delivered to a pregnant patient during the period before childbirth.

Gestation - The period of development in the uterus from conception until birth.

Outpatient - A patient who receives medical treatment without being admitted to a hospital.

Postpartum care - Care delivered to a patient shortly after childbirth.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL 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 (2012 Repl. & 2013 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) (2012 Repl.)), hereby gives notice of the adoption 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 final 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 final 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 are utilized; and (4) omitting the option to provide day habilitation services in the person’s home.

A Notice of Emergency and Proposed rulemaking was published in the *DC Register* on August 2, 2013 (60 DCR 011300). Comments were received and considered. No substantive changes have been made. The Director adopted these rules on October 28, 2013 and they shall become effective on the date of publication of this notice in the *DC 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 health, safety, or well-being of 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, and have a physician's order for one-to-one staffing support
- 1920.7 Day habilitation one-to-one services shall be authorized and approved in accordance with DDS/DDA policies and procedures available at <https://dds.dc.gov/DC/DDS>.
- 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, including assessments such as a vocational assessment, 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 health care management plan and behavioral support plan, as applicable;
- (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 or the physician's order for one-to-one staffing support for persons receiving day habilitation one-to-one services; and
- (g) When required by a person's BSP, 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.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL 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 (2012 Repl.)) 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)(2012 Repl.)), hereby gives notice of final rulemaking to Chapter 50, Medicaid Reimbursement for Personal Care Services, of Title 29, Public Welfare, of the District of Columbia Municipal Regulations (DCMR).

Personal Care Aide (PCA) services are health-related services that are provided to individuals because they are unable to perform one or more activities of daily living such as bathing, dressing, toileting, ambulation, or feeding oneself as a result of a medical condition or cognitive impairment causing a substantial disability. These amendments provide DHCF with the tools to increase oversight and closely monitor the quality and appropriateness of services being delivered to beneficiaries.

These final rules amend the existing rules by establishing a process for an independent assessment of need and authorization for PCA services. This change is needed to eliminate any conflicts of interest that may exist when an agency that is assessing the need for the amount, duration and scope of services to be delivered is the same agency that will deliver the services and receive financial compensation for so doing. They also: eliminate the provision that prohibits a home care agency from claiming more than ten (10) percent of billed service units for PCA services provided through the use of staffing agency personnel; clarify the responsibilities of home care agencies for managing and supervising all PCAs, regardless of employment status; and lastly, establishes accountability for compliance with all rules associated with PCA service delivery.

In addition, the final rules: (1) clarify the level of disability that a Medicaid beneficiary must have in order to qualify for PCA services; (2) state the requirements for giving advance notice to beneficiaries whenever the Provider proposes to terminate a beneficiary from the provider's care or to reduce or terminate the provision of PCA services; (3) strengthen the prohibitions regarding financial relationships between home care agencies, physicians, nurse practitioners and staffing agencies; (4) provide additional information on record keeping requirements; and (5) restate the reimbursable unit of PCA service and the commensurate payment rate. The change in the stated payment rate reflects the Medicaid program's current payment rate and does not represent any change in the amount to be paid for PCA services.

The Notice of Proposed Rulemaking was published in the *D.C. Register* on September 13, 2013 at 60 DCR 012923. Several comments were received, but no substantive changes have been made. These rules were adopted by the Director on October 22, 2013 and shall become effective on November 20, 2013.

Chapter 50, MEDICAID REIMBURSEMENT FOR PERSONAL CARE AIDE SERVICES, of Title 29, PUBLIC WELFARE, of the DCMR is deleted in its entirety and replaced to read as follow:

CHAPTER 50 MEDICAID REIMBURSEMENTS FOR PERSONAL CARE AIDE SERVICES

5000 GENERAL PROVISIONS

5000.1 These rules establish the standards and conditions of participation for home care agencies providing personal care aide (PCA) services under the District of Columbia Medicaid Program (Medicaid Program).

5000.2 The rules are in support and furtherance of the following goals:

- (a) To provide necessary hands-on assistance with the activities of daily living to beneficiaries who are unable to perform one or more activities of daily living; and
- (b) To encourage home-based care as a preferred and cost-effective alternative to institutional care.

5001 PROVIDER QUALIFICATIONS

5001.1 A Provider receiving reimbursement for PCA services shall:

- (a) Be a home care agency licensed pursuant to the requirements for home care agencies as 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.)), and implementing rules; and
- (b) Be enrolled as a Medicare home health agency qualified to offer skilled services as set forth in Sections 1861(o) and 1891(e) of the Social Security Act and 42 CFR § 484.

5001.2 An applicant seeking reimbursement as a Provider under the Medicaid Program shall submit a Medicaid Provider Enrollment Application to the Department of Health Care Finance (DHCF), execute a Provider Agreement and be enrolled as such a Provider.

5001.3 Each Provider application shall contain, but not be limited to, the following:

- (a) Name, address, and business email of the applicant's organization and location of the applicant's place of business. An applicant shall submit a separate application for each place of business from which the applicant intends to offer District of Columbia Medicaid program services;

- (b) Answers sufficient to meet requirements as set forth in 42 C.F.R. § 455, subpart B: Disclosure of Information by Providers and Fiscal Agents;
- (c) Names, license numbers and National Provider Identifier (NPI) numbers of all individuals providing personal care services or nursing services from the National Plan and Provider Enumeration System (NPPES) as of the date of the application to become a District of Columbia Medicaid Provider;
- (d) The applicant's U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) Medicare Supplier Letter issued pursuant to 42 C.F.R. § 424.510 to evidence enrollment of the applicant in the Medicare program;
- (e) A copy or copies of all contracts held between the applicant and any staffing agency pertaining to the delivery of personal care services;
- (f) A copy or copies of license(s) held by the employees of any staffing agency or agencies used by the Provider for the delivery of personal care services;
- (g) The applicant's NPI number as required by the Health Insurance Portability and Accountability Act of 1996 approved August 21, 1996 (Pub.L. No 104-191; 110 Stat. 1936);
- (h) A copy of the applicant's surety bond, pursuant to requirements set forth in § 5011 of this chapter; and
- (i) A copy of a Certificate of Registration or Certificate of Authority, if required by District law or rules.

5001.4 A Provider shall submit a new Medicaid Provider Enrollment Application within thirty (30) days after any change in business ownership. Re-enrollment or continued enrollment in the Medicaid program after any change in business ownership shall be conditioned upon the Provider's compliance with all applicable Federal and District requirements.

5001.5 A Provider shall submit a new Medicaid Provider Enrollment Application and successfully re-enroll in the D.C. Medicaid program at least every five (5) years from the date of execution of its most recent Provider Agreement.

5001.6 A Provider shall accept referrals from, and provide requested information to DHCF or its designated agent.

5002 ELIGIBILITY REQUIREMENTS

- 5002.1 To be eligible to receive PCA services, a Medicaid beneficiary must meet all of the following qualifications:
- (a) Be unable to independently perform one or more activities of daily living for which personal care services are needed;
 - (b) Be in receipt of a written order for PCA services in accordance with Sections 5006.1 and 5006.2; and
 - (c) Be in receipt of a PCA Service Authorization in accordance with Section 5003.

5003 PCA SERVICE AUTHORIZATION REQUEST AND SUBMISSION

- 5003.1 Except as provided in Section 5003.8, PCA services shall not be initiated or provided on a continuing basis by a Provider without a PCA Service Authorization from DHCF or its designated agent that, for each beneficiary, identifies the amount, duration and scope of PCA services authorized and the number of hours authorized.
- 5003.2 A Medicaid beneficiary who is seeking PCA services for the first time shall submit his or her request for a PCA Service Authorization to DHCF or its designated agent in writing, accompanied by a copy of the physician's written order for PCA services that complies with the requirements set forth in Section 5006.
- 5003.3 DHCF or its designated agent shall be responsible for conducting a face-to-face assessment of each beneficiary using a standardized assessment tool to determine each beneficiary's need for assistance with activities of daily living that the beneficiary is unable to perform. The assessment shall:
- (a) Confirm and document the beneficiary's functional limitations and personal goals with respect to long-term care services and supports;
 - (b) Be developed in consultation with the beneficiary and/or the beneficiary's representative;
 - (c) Document the beneficiary's unmet need for services taking into account the contribution of informal supports and other resources in meeting the beneficiary's needs for assistance;
 - (d) Document the amount, frequency, duration, and scope of PCA services needed; and
 - (e) Specify the expected outcome(s) of the delivery of the PCA services.

- 5003.4 Based upon the results of the face-to-face assessment conducted in accordance with Section 5003.3, DHCF or its authorized agent shall issue to the beneficiary a PCA Service Authorization that specifies the amount, frequency,

duration, and scope of PCA services authorized to be provided to the beneficiary.

5003.5 Authorization for PCA services in accordance with these rules, when provided through the DC Medicaid program's State Plan PCA benefit, shall not exceed eight (8) hours per day or one thousand and forty (1,040) hours in any twelve (12) month period, unless specifically authorized by DHCF or its agent in accordance with this Section.

5003.6 If authorized, PCA services may be provided seven (7) days per week.

5003.7 DHCF or its designated agent shall conduct the initial face-to-face assessment following the receipt of a request for service authorization and shall conduct a reassessment at least every one hundred and eighty (180) days or upon significant change in the beneficiary's condition. A request for service authorization may be made by a Medicaid beneficiary, the beneficiary's representative or a Provider.

5003.8 For beneficiaries who were receiving PCA services on the effective date of these rules, the provisions of Sections 5003.1 through 5003.7 pertaining to assessments and PCA Service Authorizations shall take effect on a phased-in basis on a schedule to be established by DHCF not to exceed twelve (12) months from the effective date of these rules.

5003.9 If, based upon the assessment conducted pursuant to this Section, a beneficiary is found to be ineligible for PCA services, or the amount, duration or scope of PCA services is reduced, DHCF or its agent shall issue a Beneficiary Denial or Reduction of Services Letter informing the beneficiary of his or her right to appeal the denial or reduction of services in accordance with federal and District law and regulations.

5004 REFERRALS

5004.1 Upon completion of the PCA Service Authorization, DHCF or its designated agent shall make a referral to the beneficiary's choice of a qualified Provider.

5004.2 A referral to a qualified Provider shall not be considered complete unless it includes all of the following:

- (a) A copy of the physician's order for PCA services issued in accordance with Section 5006;
- (b) A copy of the completed written assessment of the beneficiary undertaken in accordance with Section 5003.3; and
- (c) A copy of the completed PCA Service Authorization issued in accordance with Section 5003.4.

5005 PLAN OF CARE

5005.1 Each Provider shall conduct an initial face-to-face visit with the beneficiary to develop a plan of care for delivering PCA services no later than seventy-two (72) hours after receiving the referral for services from DHCF or its designated agent.

5005.2 The plan of care shall:

- (a) Be developed in consultation with the beneficiary or the beneficiary's representative;
- (b) Specify how the beneficiary's need, as identified in the assessment conducted in accordance with Section 5003.3, will be met within the amount, duration, scope, and hours of services authorized by the PCA Service Authorization as set forth in Section 5003.4;
- (c) Consider the beneficiary's preferences regarding the scheduling of PCA services;
- (d) Specify the detailed services to be provided, their frequency, and duration, and expected outcome(s) of the services rendered consistent with the PCA Service Authorization; and
- (e) Be approved and signed by the beneficiary's physician or an advanced practice registered nurse within thirty (30) days of the start of care, provided that the physician or advanced practice nurse has had a prior professional relationship with the beneficiary that included an examination(s) provided in a hospital, primary care physician's office, nursing facility, or at the beneficiary's home prior to the prescription of the personal care services.

5005.3 A registered nurse (R.N.) who is employed by the Provider shall review the beneficiary's plan of care at least once every sixty (60) days, and shall update or modify the plan of care as needed. The R.N. shall notify the beneficiary's physician of any significant change in the beneficiary's condition.

5005.4 If an update or modification to a beneficiary's plan of care requires any change in the frequency, duration or scope of PCA services provided to the beneficiary, the Provider must obtain an updated PCA Service Authorization from DHCF or its designated agent.

5006 PROGRAM REQUIREMENTS

5006.1 PCA services shall be ordered, in writing, by a physician who has had a prior professional relationship with the beneficiary that included an examination(s) provided in a hospital, primary care physician's office, nursing facility, or at the beneficiary's home prior to the order for the personal care services. A

written order for PCA services constitutes a certification that the beneficiary is unable to perform one (1) or more activities of daily living for which personal care services are needed.

- 5006.2 A written order for PCA services issued in accordance with § 5006.1 shall be renewed every six (6) months and after any interruption of service greater than fourteen (14) days, including hospital admission.
- 5006.3 Each written order for PCA services under this section shall include the prescriber's NPI number obtained from NPPES.
- 5006.4 A Provider has an on-going responsibility to verify that each beneficiary that receives PCA services from the Provider has current eligibility for the District of Columbia Medicaid program and is eligible for and authorized to receive Personal Care Services.
- 5006.5 An individual or family member other than a spouse, parent of a minor beneficiary, any other legally responsible relative, or court-appointed guardian may provide PCA services. Each family member providing PCA services shall comply with the requirements set forth in these rules.
- 5006.6 The Provider shall initiate services no later than twenty-four (24) hours after completing the plan of care unless the beneficiary's health or safety warrants the need for more immediate service initiation or the beneficiary or beneficiary's representatives agree to begin the services at a later date.
- 5006.7 PCA services shall include, but not be limited to, the following:
- (a) Performance of routine activities of daily living (such as, bathing, transferring, toileting, dressing, feeding, and maintaining bowel and bladder control);
 - (b) Assisting with incontinence, including bed pan use, changing urinary drainage bags, changing protective underwear, and monitoring urine input and output;
 - (c) Assisting beneficiaries with transfer, ambulation and range of motion exercises;
 - (d) Assisting beneficiaries with self-administered medications;
 - (e) Measuring and recording temperature, pulse, blood pressure and respiration;
 - (f) Observing, documenting and reporting the beneficiary's physical condition, behavior, and appearance and reporting all services provided on a daily basis;

- (g) Preparing meals in accordance with dietary guidelines and assistance with eating;
- (h) Performing tasks related to keeping areas occupied by the beneficiary in a condition that promotes the beneficiary's safety;
- (i) Accompanying the beneficiary to medical or dental appointments or place of employment and recreational activities if approved in the beneficiary's plan of care; and
- (j) Recording and reporting to the supervisory health professional, changes in the beneficiary's physical condition, behavior or appearance.

5006.8 PCA services shall not include:

- (a) Services that require the skills of a licensed professional as defined by the District of Columbia Health Occupations Revision Act of 1985, as amended, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*);
- (b) Tasks usually performed by chore workers or homemakers, such as cleaning of areas not occupied by the beneficiary and shopping for items not used by the beneficiary; and
- (c) Money management.

5006.9 PCA services shall not be provided in a hospital, nursing facility, intermediate care facility, or other living arrangement which includes personal care as part of the reimbursed service.

5006.10 PCA services may be provided at the beneficiary's place of employment.

5006.11 A PCA is not authorized to make decisions on behalf of a beneficiary.

5006.12 A PCA shall immediately report to the R.N. any significant change in the beneficiary's health status in the case of emergency, or within four (4) hours for other situations, unless indicated otherwise in the beneficiary's plan of care.

5006.13 If the beneficiary seeks to change his or her Provider, the Provider shall assist the beneficiary in transferring to the new Provider. Until the beneficiary is transferred to a new personal care services Provider, the Provider shall continue providing personal care services to the beneficiary until the transfer has been completed successfully and the beneficiary is receiving personal care services from the new Provider.

5006.14 Each Provider shall immediately terminate the services of a PCA and instruct the PCA to discontinue all services to the beneficiary, in any case where the

Provider believes that the beneficiary's physical or mental well-being is endangered by the care or lack of care provided by the aide, or that the beneficiary's property is at risk. The Provider is responsible for assigning a new PCA and ensuring that the beneficiary's needs continue to be met.

5006.15 Each Provider shall conduct annual performance assessments of all personal care aides who deliver services to beneficiaries served by the Provider, regardless of whether the personal care aide is an employee or is secured through another staffing agency. The initial performance assessment shall be conducted no later than three (3) months after the PCA first provides services to any beneficiary served by the Provider.

5006.16 Each Provider shall develop contingency staffing plans to provide coverage for each beneficiary in the event the assigned PCA cannot provide the services or is terminated.

5007 DENIAL, SUSPENSION, REDUCTION OR TERMINATION OF SERVICES

5007.1 When PCA services are no longer desired by the beneficiary or their authorized representative or required in the amount, duration or scope authorized, each Provider shall discontinue or reduce personal care services only after:

- (a) Giving the beneficiary written notice that meets the requirements set forth in Section 5007.2,
- (b) The thirty (30) day notice period prescribed in Section 5007.2 elapses; and
- (c) The beneficiary has not appealed the discontinuation.

5007.2 For Provider initiated denials, suspensions, terminations or reductions of service, each Provider shall notify DHCF or its designated agent and the beneficiary or the beneficiary's authorized representative, in writing, no less than thirty (30) calendar days prior to any denial, suspension, termination or reduction of services, consistent with the requirements set forth in District and Federal law and rules. The beneficiary's record shall contain a copy of the notice and documentation of the date the notice was either personally served upon or mailed to the beneficiary or the beneficiary's designated agent.

5007.3 For denials, suspensions, terminations or reductions of service initiated by DHCF or its agent, DHCF or its designated agent shall notify the beneficiary or the beneficiary's authorized representative, in writing, no less than thirty (30) calendar days prior to any denial, suspension, termination or reduction of services, consistent with the requirements set forth in District and Federal law and rules.

- 5007.4 If the behavior of a beneficiary poses an immediate threat to the safety and well-being of the PCA or PCA Provider staff, the Provider shall immediately suspend or terminate the beneficiary's services. Suspension of services shall not exceed thirty (30) days.
- 5007.5 Within seventy-two (72) hours of suspension, the Provider shall notify the beneficiary or authorized representative in writing of the following:
- (a) The grounds for suspension; and
 - (b) The beneficiary's right to appeal the suspension.
- 5007.6 At the end of the suspension period, the Provider may re-instate or terminate the beneficiary's services.
- 5007.7 The beneficiary or the beneficiary's representative shall be provided with a written notice of termination at least fifteen (15) days before the effective date of termination, if the decision is made to terminate services following suspension. The written notice shall comply with District and federal law and rules.

5008 STAFFING

- 5008.1 Each Provider shall utilize registered nurses to manage and provide supervision to PCAs who are qualified to perform all of the functions described in Section 5008.3.
- 5008.2 Each Provider shall verify that each PCA used to deliver services, regardless of whether the personal care aide is an employee of the Provider or is secured through another staffing agency, meets the qualifications set forth in Section 5009.
- 5008.3 Each Provider shall employ an R.N. who is responsible for the following:
- (a) Accepting and reviewing the beneficiary's PCA Service Authorization and initial assessment or reassessment of need for personal care services;
 - (b) Developing a written plan of care in accordance with Section 5005 that meets the beneficiary's assessed needs and preferences within the service limitations authorized in the PCA Service Authorization;
 - (c) Updating each beneficiary's written plan of care based upon subsequent reassessments of need;
 - (d) Maintaining a clinical record in accordance with Section 5013;

- (e) Reviewing the beneficiary’s plan of care with each assigned PCA and ensuring that each assigned PCA has the requisite training, skills and ability to meet the beneficiary’s identified needs and preferences;
- (f) Monitoring the quality of personal care services on a regular basis and ensuring that PCA services are delivered in accordance with the beneficiary’s Plan of Care;
- (g) Supervising all PCAs, regardless of whether the PCA is an employee of the Provider or is secured through a staffing agency. Supervision shall include on-site supervision at least once every sixty (60) days;
- (h) Coordinating the provision of PCA services with other home health services, as appropriate and communicating with each beneficiary’s physician or advanced practice R.N., regarding changes in the beneficiary’s condition and needs;
- (i) Gathering information regarding the beneficiary's condition and the need for continued care;
- (j) Communicating and coordinating with DHCF or its designated agent regarding changes in the beneficiary’s condition and needs. At a minimum the Provider must communicate to DHCF or its designated agent:
 - 1) Any failure or inability of the provider to deliver authorized services within three (3) business days of the scheduled visit; and
 - 2) Any change in the beneficiary’s status requiring a modification in the amount, duration, or scope of service authorized.
- (k) Counseling the beneficiary and the beneficiary’s family regarding nursing and related needs.

5008.4 The R.N. nurse shall visit each beneficiary within forty-eight (48) hours of initiating personal care services, and no less than every sixty (60) days thereafter, to monitor the implementation of the plan of care and the quality of PCA services provided to the beneficiary.

5008.5 The R.N. may provide an additional supervisory visit to each beneficiary if the situation warrants an additional visit, such as in the case of an assignment of a new personal care aide or change in the beneficiary's health status.

5009 PERSONAL CARE AIDE QUALIFICATIONS

5009.1 Each PCA, whether an employee of the Provider or secured through a staffing agency, shall meet the following qualifications:

- (a) Be at least eighteen (18) years of age;
- (b) Be a citizen of the United States or an alien who is lawfully authorized to work in the United States;
- (c) Be mentally, physically and emotionally competent to provide services as certified by a physician;
- (d) Be able to accept instruction from an R.N.;
- (e) Be certified and meet all of the qualifications, including training requirements, in accordance with the Practice of Nursing Amendment Act of 2009, effective July 7, 2009 (D.C. Law 18-18; 56 DCR 3624).
- (f) Be certified in cardiopulmonary resuscitation (CPR) and maintain current CPR certification;
- (g) Complete three (3) hours of continuing education at quarterly intervals, in addition to annual CPR recertification and be trained on the beneficiary's plan of care;
- (h) Be able to read and write the English language at least at the fifth (5th) grade level and carry out instructions and directions in English;
- (i) Be able to recognize an emergency and be knowledgeable about emergency procedures;
- (j) Be knowledgeable about infection control procedures;
- (k) Confirm on an annual basis that he or she is free from tuberculosis by undergoing an annual purified protein derivative (PPD) skin test;
- (l) Confirm, on an annual basis, that he or she is free from communicable disease by undergoing an annual physical examination by a physician, and obtaining written and signed documentation from the examining physician confirming freedom from communicable disease;
- (m) Pass a criminal background check pursuant to the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999 (D.C. Law 12-238; D.C. Official Code, §§ 44-551 *et seq.* (2005 Repl. & 2012 Supp.));
- (n) Pass a reference check and a verification of prior employment;
- (o) Provide documentation of acceptance or declination of the hepatitis vaccine; and
- (p) Have an individual NPI number obtained from NPPES.

- 5010.1 A Provider may contract with a licensed staffing agency to secure staff to deliver PCA services. Agreements between the Provider and the a staffing agency providing personal care staffing services shall be in writing and include at a minimum, the following:
- (a) A provision requiring the staffing agency to provide the Provider with the staffing agency's NPI number obtained from the NPPES and the NPI numbers of all individuals providing personal care services to the home care agency throughout the duration of the contract.
 - (b) Business address and e-mail address of each staffing agency ;
 - (c) Provisions making explicit and delineating the Provider's responsibility to:
 - 1) Manage, supervise and evaluate the PCA services secured through a staffing agency; and
 - 2) Be accountable for all services delivered by non-employee PCAs to the same extent as if the PCAs were employees of the Provider.
 - (d) The duration of the agreement, including provisions for renewal, if applicable; and
 - (e) Assurances that the staffing agency shall comply with all applicable federal and District laws and rules, including all relevant licensing requirements imposed by the District of Columbia.
- 5010.2 Each Provider contracting with a staffing agency to provide staffing for personal care services shall:
- (a) Ensure that the staffing agency obtains an NPI number for itself and all personnel performing personal care services through the agency;
 - (b) Provide DHCF with a copy of any and all contract(s) entered into with a staffing agency; and
 - (c) Ensure that each beneficiary's records shall be the property of the beneficiary's Provider and are maintained at the Provider's place of business in accordance with Section 5013.
- 5010.3 A staffing agency supplying staff to the provider for the delivery of personal care services shall be considered an agent of the Provider.
- 5010.4 A Provider is prohibited from having a financial relationship with any staffing agency providing staffing unless the relationship meets one of the exceptions applicable to ownership interests and compensation arrangements established

in 42 U.S.C. § 1320a-7b(b)(3) and 42 C.F.R. § 1001.952. A financial relationship includes but is not limited to:

- (a) A direct or indirect ownership or investment interest (including an option or non-vested interest) by the Provider in a staffing agency. This interest may be in the form of partnership shares, limited liability company memberships, loans, bonds, equity, debt, or other means; and
- (b) A direct or indirect compensation arrangement other than the contract referenced in § 5010.1 between the Provider and the staffing agency for the provision of staff to perform personal care services provided the contract meets the requirements of 42 C.F.R. § 1001.952(d).

5010.5 A Provider is prohibited from contracting with a staffing agency that is or has engaged in any of the following:

- (a) Advertising or marketing directly to Medicaid beneficiaries;
- (b) Misrepresenting the staffing agency as the provider of PCA services; or
- (c) Offering financial or other types of inducements to individuals for the referral of Medicaid beneficiaries, their names, or other identifying information to any health care provider.

5011 INSURANCE

5011.1 Each applicant or Provider shall maintain the following minimum amounts of insurance coverage:

- (a) Blanket malpractice insurance for all employees in the amount of at least one million dollars (\$1,000,000) per incident;
- (b) General liability insurance covering personal property damages, bodily injury, libel and slander of at least one million dollars (\$1,000,000) per occurrence; and
- (c) Product liability insurance, when applicable.

5011.2 Each applicant or Provider shall post a continuous surety bond in the amount of fifty thousand dollars (\$50,000) against all personal care services claims, suits, judgments, or damages including court costs and attorney's fees arising out of the negligence or omissions of the Provider in the course of providing services to a Medicaid beneficiary or a person believed to be a Medicaid beneficiary. The number of bonds required shall be predicated upon the number of Provider offices enrolled by the applicant or Provider in the Medicaid program.

5012 ADMINISTRATION

- 5012.1 NPI numbers for Providers and staffing agencies, and all personnel delivering personal care services shall be included in all Medicaid billings.
- 5012.2 Each Provider shall have a current organizational chart that clearly describes the organizational structure, management responsibilities, staff responsibilities, lines of authority, and use of any contractors.
- 5012.3 Each Provider shall maintain current copies of all fully executed contracts including all staffing agency contracts pertaining to the delivery of personal care services, in the Provider's office and make them available to DHCF, CMS, and other authorized government officials or their agents when requested.
- 5012.4 Each Provider shall maintain a copy of each license held by their employees and employees of any staffing agency utilized by the Provider for the delivery of personal care services.
- 5012.5 A Provider shall be prohibited from waiving liability or assigning contract authority to any other entity for covered services provided to Medicaid beneficiaries.
- 5012.6 Each Provider shall provide to all employees and contractors (such as staffing agencies providing staffing) a current policy manual which sets forth all of its policies and procedures.
- 5012.7 Each policy manual shall include, but not be limited to, the following information:
- (a) A description of the services to be provided;
 - (b) Procedures for beneficiary care;
 - (c) The reimbursement methodology or fee schedules;
 - (d) Operational schedules;
 - (e) Quality assurance standards;
 - (f) A statement of beneficiary rights and responsibilities;
 - (g) Financial and record-keeping requirements;
 - (h) Procedures for emergency care, infection control and reporting of incidents;
 - (i) A description of staff positions and personnel policies, which shall be reviewed annually, revised as necessary, and dated at time of review;

- (j) Policies and procedures for hiring, performance assessments, grievances, and in-service training of all PCAs who deliver services, regardless of whether the PCA is an employee of the Provider or is secured through a staffing agency;
- (k) An up to date listing of professional staff licensure and registration information;
- (l) An up to date listing of PCA certifications;
- (m) Policies and procedures for providing advance notice to beneficiaries in accordance with Section 5007; and
- (n) Policies, procedures, and presentation materials for owners, managers, employees and contractual staff for in-service training on the following subjects:
 - 1) Compliance with these regulations;
 - 2) Compliance with federal and District False Claims Acts;
 - 3) Preventing, detecting, and reporting fraud, waste, and abuse; and
 - 4) Rights of employees to be protected as whistleblowers.

5013 RECORDS

- 5013.1 Each Provider shall maintain complete and accurate records reflecting the specific personal care services provided to each beneficiary.
- 5013.2 Each Provider shall be responsible for maintaining the confidentiality of each beneficiary’s care, treatment, and records. The disclosure of personal health information by the Provider is subject to all of the provisions set forth in applicable District and Federal laws and rules.
- 5013.3 Each beneficiary's record shall be readily retrievable and shall be kept in a locked room or file maintained and safeguarded against loss or unauthorized use at the location of the Provider's place of business that is identified on the Provider’s Medicaid Provider application.
- 5013.4 Each Provider shall permit reviews and on-site inspections to be conducted by CMS, its agents, DHCF and its agents to determine Provider compliance with all applicable laws.

- 5013.5 Each Provider shall comply with the terms of its Medicaid Provider Agreement with respect to the maintenance of all beneficiary and financial records.
- 5013.6 Each beneficiary's record shall include, but is not limited to, the following information:
- (a) General information including the beneficiary's name, Medicaid identification number, address, telephone number, age, sex, name and telephone of emergency contact person, authorized representative (if applicable), and primary care physician's or advanced practice registered nurse's name, address, and telephone number;
 - (b) Health care information, including all referrals, assessments, service authorizations, plans of care, and progress notes;
 - (c) Dates and description of PCA services rendered, including the name and NPI of the personal care aide performing the services;
 - (d) Documentation of each supervisory visit of the registered nurse including signed and dated clinical progress notes;
 - (e) Discharge summary, if applicable;
 - (f) Copies of any written notices given to the beneficiary; and
 - (g) Any other appropriate identifying information that is pertinent to beneficiary care.

5014 BENEFICIARY RIGHTS AND RESPONSIBILITIES

- 5014.1 Each Provider shall develop a written statement of the beneficiary's rights and responsibilities consistent with the requirements of this section, which shall be given to each beneficiary in advance of receiving services or during the initial care planning visit before the initiation of services.
- 5014.2 The written statement of the beneficiary's rights and responsibilities shall be prominently displayed at the Provider's business location and available at no cost upon request by a member of the general public.
- 5014.3 Each Provider shall develop and implement policies and procedures outlining the following beneficiary's rights:
- (a) To be treated with courtesy, dignity and respect;
 - (b) To control his or her own household and lifestyle;
 - (c) To participate in the planning of his or her care and treatment;

- (d) To receive treatment, care, and services consistent with the plan of care and to have the plan of care modified for achievement of outcomes;
- (e) To receive services by competent personnel who can communicate with the beneficiary in accordance with the Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code § 2-1931 *et seq.*);
- (f) To refuse all or part of any treatment, care, or service and be informed of the consequences;
- (g) To be free from mental and physical abuse, neglect and exploitation from persons providing services;
- (h) To be assured that for purposes of record confidentiality, the disclosure of the contents of the beneficiary's records is subject to all the provisions of applicable District and federal laws;
- (i) To voice a complaint or grievance about treatment, care, or lack of respect for personal property by persons providing services without fear of reprisal;
- (j) To have access to his or her records; and
- (k) To be informed orally and in writing of the following:
 - 1) Services to be provided, including any limits;
 - 2) Amount charged for each service, the amount of payment required from the beneficiary and the billing procedures, if applicable;
 - 3) Whether services are covered by health insurance, Medicare, Medicaid, or any other third party sources;
 - 4) Acceptance, denial, reduction or termination of services;
 - 5) Complaint and appeal procedures;
 - 6) Name, address and telephone number of the Provider;
 - 7) Telephone number of the District of Columbia Medicaid fraud hotline;
 - 8) Beneficiary's freedom from being forced to sign for services that were not provided or were unnecessary; and
 - 9) A statement, provided by DHCF, defining health care fraud and ways to report suspected fraud.

- 5014.4 Each beneficiary shall be responsible for the following:
- (a) Treating all Provider personnel with respect and dignity;
 - (b) Providing accurate information when requested;
 - (c) Informing Provider personnel when instructions are not understood or cannot be followed;
 - (d) Cooperating in making a safe environment for care within the home; and
 - (e) Reporting suspected fraud, waste and abuse.
- 5014.5 Each Provider shall take appropriate steps to ensure that each beneficiary, including beneficiaries who cannot read or those who have a language or communication barrier, has received the information required pursuant to this section. Each Provider shall document in the records the steps taken to ensure that each beneficiary has received the information.

5015 REIMBURSEMENT

- 5015.1 Each Provider shall be reimbursed four dollars and eight cents (\$4.08) per fifteen minutes for services rendered by a PCA.
- 5015.2 Reimbursement for PCA services, when provided through the DC Medicaid program's State Plan PCA benefit, shall not exceed eight (8) hours per day and shall be limited to the amount, duration, and scope of services set forth in the PCA Service Authorization described in Section 5003.
- 5015.3 Claims for PCA services submitted by a Provider in any period during which the beneficiary has been admitted to another health care facility including a hospital, nursing home, psychiatric facility or rehabilitation program shall be denied.
- 5015.4 Claims for PCA service submitted by a Provider for any hours in which the beneficiary was receiving adult day health or other similar service in which PCA services are provided to the beneficiary shall be denied.
- 5015.5 Each Provider shall agree to accept as payment in full the amount determined by DHCF as Medicaid reimbursement for the authorized services provided to beneficiaries. Providers shall not bill the beneficiary or any member of the beneficiary's family for PCA services.
- 5015.6 Each Provider shall agree to bill any and all known third-party payers prior to billing Medicaid.
- 5015.7 All reimbursable claims for PCA services shall include the NPI numbers for the:

- (a) Provider;
- (b) Physician who ordered the personal care services;
- (c) The staffing agency, if applicable; and
- (d) Personal care aide who provided the personal care services, regardless of whether the personal care aide is an employee of the Provider or is from another staffing agency.

5015.8 Pursuant to 42 C.F.R. § 424.22(d), the Department shall deny PCA service claims or recoup paid claims when Provider records or other evidence indicate that the primary care physician ordering a beneficiary's treatment has a direct or indirect financial relationship, compensation, ownership or investment interest as defined in 42 CFR § 411.354 in the Provider billing for the services, unless the financial relationship, compensation, ownership or investment interest meets an exception as defined in 42 CFR § 411.355.

5015.9 Claims resulting from marketing by a staffing agency (including face-to-face solicitation at doctors' offices, home visits, requests for beneficiary Medicaid numbers, or otherwise directing beneficiaries to any Medicaid Provider) shall not be reimbursed.

5016 AUDITS AND REVIEWS

5016.1 DHCF shall perform audits to ensure that Medicaid payments are consistent with efficiency, economy and quality of care and made in accordance with federal and District rules governing Medicaid.

5016.2 The audit process shall be routinely conducted by DHCF to determine, by statistically valid scientific sampling, the appropriateness of services rendered and billed to Medicaid. These audits shall be conducted on-site or through an off-site, desk review.

5016.3 Each Provider shall allow access to relevant records and program documentation upon request and during an on-site audit or review by DHCF, other District of Columbia government officials and representatives of the United States Department of Health and Human Services.

5016.4 If DHCF denies a claim, DHCF shall recoup, by the most expeditious means available, those monies erroneously paid to the Provider for denied claims, following the period of Administrative Review as set forth in § 5017 of these rules.

5016.5 The recoupment amounts for denied claims shall be determined by the following formula:

- (a) A fraction shall be calculated with the numerator consisting of the number of denied paid claims resulting from the audited sample. The

denominator shall be the total number of paid claims from the audit sample; and

- (b) This fraction shall be multiplied by the total dollars paid by DHCF to the Provider during the audit period, to determine the amount recouped. For example, if a Provider received Medicaid reimbursement of ten thousand dollars (\$10,000) during the audit period, and during a review of the claims from the audited sample, it was determined that ten (10) claims out of one hundred (100) claims are denied, then ten percent (10%) of the amount reimbursed by Medicaid during the audit period, or one thousand dollars (\$1000), would be recouped.

5016.6 DHCF shall issue a Notice of Proposed Medicaid Overpayment Recovery (NR), which sets forth the reasons for the recoupment, including the specific reference to the particular sections of the statute, rules, or provider agreement, the amount to be recouped, and the procedures for requesting an administrative review.

5017 APPEALS FOR PROVIDERS AGAINST WHOM A RECOUPMENT IS MADE

5017.1 The Provider shall have sixty (60) days from the date of the NR to request an administrative review of the NR. The request for administrative review of the NR shall be submitted to Manager, Division of Program Integrity, DHCF.

5017.2 The written request for administrative review shall include a specific description of the item to be reviewed, the reason for the request for review, the relief requested, and documentation in support of the relief requested.

5017.3 DHCF shall mail a written determination relative to the administrative review to the provider no later than one hundred twenty (120) days from the date of the written request for administrative review pursuant to § 5017.1.

5017.4 Within fifteen (15) days of receipt of the Medicaid Program’s written determination, the Provider may appeal the written determination by filing a written notice of appeal with the Office of Administrative Hearings (OAH), 441 4th Street, NW, Suite 450 North, Washington, DC 20001.

5017.5 Filing an appeal with the OAH shall not stay any action to recover any overpayment.

5099 DEFINITIONS

When used in this chapter, the following terms and conditions shall have the following meanings:

Activities of Daily Living - The ability to bathe, transfer, dress, eat and feed self, engage in toileting, and maintain bowel and bladder control (continence).

Advanced Practice Registered Nurse - A person who is licensed or authorized to practice as an advanced practice registered nurse pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl. & 2012 Supp.)).

Authorized representative – Any person other than a provider:

- (a) Who is knowledgeable about a resident's circumstances and has been designated by that resident to represent him or her; or
- (b) Who is legally authorized either to administer a resident's financial or personal affairs or to protect and advocate for a resident's rights.

Department of Health Care Finance – The executive agency of the government responsible for administering the Medicaid program within the District of Columbia, effective October 1, 2008.

Family - Any person related to the client or beneficiary by blood, marriage, or adoption.

Order – A formal, written instruction signed by a physician or advanced practice R.N. regarding a specific patient's medical care, treatment or management. An order for PCA services may only be written by a physician in accordance with § 5006.1.

PCA Service Authorization Form – A form that has been developed or approved by DHCF that identifies the amount, duration and scope of PCA services and the number of hours authorized based upon a face-to-face assessment in accordance with § 5003.

Primary care physician - A person who is licensed or authorized to practice medicine pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl. & 2012 Supp.)).

Registered Nurse - A person who is licensed or authorized to practice registered nursing pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl. & 2012 Supp.)).

Staffing Agency – Shall have the same meaning as set forth in the Nurse Staffing Agency Act of 2003, effective March 10, 2004 (D.C. Law 15-74, D.C. Official Code § 44-1051.01 *et seq.*).

Start of Care – The first date upon which a beneficiary receives or is scheduled to receive PCA services.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF FINAL RULEMAKING

The District of Columbia Taxicab Commission (Commission), pursuant to the authority set forth in Sections 8(c)(3), (5), (7), (20), 14, 19, 20a, 20g, 20l, and of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c)(3) (5), (7), (20), 50-313, 50-320, 50-329, (2012 Repl.)) (“Act”) and D.C. Official Code § 47-2829(d) (2012 Repl.), all as amended by the Taxicab Service Improvement Amendment Act of 2012 (D.C. Law 19-0184; D.C. Official Code §§ 50-301 *et seq.* (2013 Supp.)), and the Public Vehicle for Hire Innovation Amendment Act of 2012 (D.C. Law 19-0270, D.C. Official Code §§ 50-307(c)(20) and 50-329.02 (2012 Repl. & 2013 Supp.)); hereby gives notice of its adoption of amendments to Chapter 4 (Taxicab Payment Service Providers) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

This rule clarifies the hardware and software components of integrations between taxicab payment service providers (PSPs) and digital dispatch services (DDSs) to provide for the digital dispatch of taxicabs.

An initial Notice of Emergency and Proposed rulemaking was adopted on July 31, 2013, took effect on Friday, August 9, and was published in the *D.C. Register* at 60 DCR 12001 on August 16, 2013. The Commission received comments during the comment period which ended on September 14, 2013, but is making no changes to the rulemaking. The Commission voted to adopt these rules as final on October 9, 2013. The rules will become effective immediately upon publication in the *D.C. Register*.

Section 401, GENERAL REQUIREMENTS, of Chapter 4, TAXICAB PAYMENT SERVICE PROVIDERS, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, is amended as follows:

Subsections 401.3 and 401.4 are amended to read as follows:

- 401.3 Each PSP and each digital dispatch service (DDS) shall comply with the integration requirements of § 408.16 for the processing of digital payment, not later than the date required by § 603.2. Prior to such date, each DDS shall be permitted to process digital payments without integration. Where a PSP and DDS are affiliated businesses, the PSP shall comply with all applicable provisions of this Chapter without regard to the form of payment, including ensuring that the passenger surcharge will be collected from the passenger and paid to the District for every trip.
- 401.4 No later than the date required by § 603.2, no PSP shall fail or refuse to participate in processing digital payments in the manner required by this chapter, where the taxicab company or independent owner that uses an MTS unit provided by the PSP chooses to offer digital payment to its passengers.

Section 408, OPERATING REQUIREMENTS APPLICABLE TO PSPs AND DDSs, is amended as follows:

Subsection 408.16 is amended to read as follows:

408.16 Digital payment requirements.

Each approved PSP and each approved DDS shall comply with the following requirements for integration of their services, except that this section shall not apply to a digital payment where the PSP and the DDS are affiliated businesses that comply with the data reporting and passenger surcharge requirements of subparagraph (b)(2) of this section.

(a) Integration mandated.

(1) Each PSP that fails to integrate or to maintain integration as required by this subsection shall be subject to civil penalties, including the suspension or revocation of its operating authority under this title.

(2) Each DDS that fails to integrate or to maintain integration as required by this subsection shall be subject to civil penalties, including the modification, suspension, or revocation of its operating authority as provided in this chapter. Modification may consist of the suspension or revocation of authority to provide dispatch services for taxicabs, including digital payment.

(b) Integration requirements.

(1) Each PSP and each DDS shall integrate by complying with the data security requirements of subparagraph (2) of this paragraph and by complying with the minimum requirements for integration in paragraph (b)(3) of this subsection, or by executing an integration agreement pursuant to paragraph (b)(4) of this subsection. Failure to integrate and maintain integration as required shall subject both businesses to civil penalties.

(2) Data security requirements for all integration. Integration shall in all cases require that the PSP and DDS use, incorporate, or connect to one another via technology that meets Open Web Application Security Project (“OWASP”) security guidelines, that complies with the current standards of the PCI Security Standards Council (“Council”) for payment card data security, if such standards exist, and, if not, then with the current guidelines of the Council for payment card data security, and, that, for direct debit transactions,

complies with the rules and guidelines of the National Automated Clearing House Association.

- (3) Additional minimum requirements for integration. Where a PSP and a DDS do not operate pursuant to an integration agreement executed and approved pursuant to paragraph (b)(4), they shall operate either through hardware integration under paragraph (b)(3)(A) or through hardware and software integration under paragraph (b)(3)(B), as they shall determine.
- (A) Hardware integration requirements. Hardware integration between a PSP and DDS shall allow the following events to occur in the following order:
- (i) At the conclusion of the trip, the operator shall use the MTS unit to notify the PSP of the identity of the DDS approved pursuant to Subsection 1604 that is processing the digital payment;
 - (ii) The operator shall manually enter the following information into the MTS unit or into the DDS's payment solution approved pursuant to Chapter 16, thereby notifying the DDS of:
 - (A) The taximeter fare pursuant to § 801.7;
 - (B) The amount of any gratuity;
 - (C) The number of passengers;
 - (D) Any additional information commercially and reasonably required to allow the DDS to process the digital payment and to comply fully with this paragraph § 408.16 (b)(3)(A);
 - (iii) Upon receipt of the information in § 408.16 (b)(3)(A)(ii), the DDS shall:
 - (A) Process the digital payment;
 - (B) Collect from the passenger and remit to the District the taxicab passenger surcharge pursuant to § 408.15;

- (C) Transmit to the TCIS the trip data required by § 603.9, other than the PSP's unique trip number; and
 - (iv) The PSP shall transmit to the TCIS the trip data required by § 603.9 to allow the Office to reconcile the data provided by the PSP and the DDS.
- (B) Hardware and software integration. Hardware and software integration between a PSP and DDS shall allow the following events to occur in the following order:
 - (i) At the conclusion of the trip, the operator shall use the MTS unit to notify the PSP of the identity of DDS approved pursuant to Subsection 1604 that is processing the digital payment;
 - (ii) The operator shall use an application program interface (API) information in the MTS unit or in the DDS's payment solution approved pursuant to Chapter 16, to notify the DDS of:
 - (A) The taximeter fare pursuant to § 801.7;
 - (B) The amount of any gratuity;
 - (C) The number of passengers;
 - (D) Any additional information commercially and reasonably required to allow the DDS to process the digital payment and to comply fully with § 408.16 (b)(3);
 - (E) The PSP's unique trip number assigned to the trip;
 - (iii) The DDS shall:
 - (A) Process the digital payment;
 - (B) Collect from the passenger and remit to the District the taxicab passenger surcharge pursuant to § 408.15;

- (C) Transmit to the TCIS the trip data required by § 603.9, including the PSP’s unique trip number;
 - (iv) The PSP shall transmit to the TCIS the trip data required by § 603.9 to allow the Office to reconcile the data provided by the PSP and the DDS; and
 - (v) The vehicle owner (taxicab company or independent owner) shall pay the PSP an integration service fee of not more than thirty five cents (\$.35).
- (4) Alternative for integration via approved integration agreement. In lieu of complying with paragraph (b)(3) of this subsection, any DDS and any PSP may negotiate an integration agreement that allocates the obligations set forth in paragraph (b)(3) in any reasonable, reliable, verifiable, and commercially reasonable manner that meets the following requirements:

Section 409, PROHIBITIONS, is amended as follows:

Subsections 409.5 is amended to read as follows:

409.5 No PSP shall allow its MTS to be used by any person for a taxicab trip unless the taxicab passenger surcharge is collected from the passenger and paid to the District for such trip.

Subsection 409.9 is amended to read as follows:

409.9 A PSP shall not allow its associated taxicab companies, independent owners, or taxicab operators to associate with a dispatch service that is not in full compliance with this title or other applicable law.

Section 411, PENALTIES, is amended as follows:

Subsection 411.1 is amended to read as follows:

411.1 A PSP or DDS that violates this chapter or an applicable provision of another chapter of this title is subject to:

- (a) A civil fine of two hundred fifty dollars (\$250) for the first violation of a provision, which shall double for the second violation of the same provision, and triple for each subsequent violation of the same provision thereafter;

- (b) Confiscation of an MTS unit or unapproved equipment (including any fixed or mobile hardware component such as a smartphone, mobile data terminal, tablet, or attached payment card reader) used in connection with the violation:
- (c) Suspension, revocation, or non-renewal of the Office’s approval of its MTS (if a PSP) or modification, suspension, revocation, or non-renewal of its certificate of operating authority under Chapter 16 (if a DDS);
- (d) Any combination of the sanctions listed in (a)-(c) of this subsection.

Section 499, DEFINITIONS, is amended as follows:

Subsection 499.2 is amended as follows:

The following definition is added after the definition of “Group riding”:

“Implementation date” – the date for implementation of MTS units in all taxicabs, as provided in § 603.2.

The definition of “Integration service fee” is amended to read as follows:

“Integration service fee” - a fee paid by the vehicle owner to the PSP for the use of the MTS whenever a digital payment is made.

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF PROPOSED RULEMAKING

The Acting Director of the Department of Behavioral Health (Department), pursuant to the authority set forth in Sections 5113, 5115, 5117, and 5118 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (BSEA), the “Department of Behavioral Health Establishment Emergency Act of 2013”, signed by the Mayor on July 30, 2013 (D.C. Act 20-130; 60 DCR 11384); the Fiscal Year 2014 Budget Support Act of 2013 (BSA), signed by the Mayor on August 28, 2013 (D. C. Act 20-157; 60 DCR 12472); and any substantially identical emergency, temporary, or permanent versions of the BSEA, hereby gives notice of the intent to adopt a new Chapter 56 to be entitled “Supported Independent Living — Reimbursement”, of Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

The Department provides Supported Independent Living Services to individuals enrolled in the public mental health system. The basic goal of Supported Independent Living (SIL) services and supports is to provide a safe home setting that includes community support within the consumers’ living environment, which allows consumers to recover from their mental illness while living independently on their own. In addition, SIL services provide assistance to consumers in moving forward and in transitioning to a less restrictive living environment, with training in life skills activities, home management, community services, and supports that are provided through a comprehensive continuum of care on an individual, flexible recovery driven basis. This type of SIL is appropriate for consumers that require limited assistance and supervision in personal care. SIL services include weekly home visits and monitoring conducted to provide every opportunity for the consumer to be successful in living independently within the community.

The proposed rules establish the reimbursement requirements and rates for those qualified Supported Independent Living providers which have contracted with the Department to provide SIL services to those consumers who have been determined to need SIL supports.

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

Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations is amended by adding a new Chapter 56 to read as follows:

CHAPTER 56 SUPPORTED INDEPENDENT LIVING PROGRAM - REIMBURSEMENT

5600 PURPOSE

5600.1 This chapter establishes the daily reimbursement rate for the Supported Independent Living (SIL) service. Establishment of a daily reimbursement rate will allow the Department of Behavioral Health (Department) to contract with

providers who enter into a contract with the Department to provide SIL supportive services for specific consumers at an established rate.

5600.2 Nothing in this chapter grants any right or entitlement to reimbursement to an SIL provider for the costs of SIL services. Eligibility for reimbursement for SIL services is determined solely by the Human Care Agreement (HCA) contract between the Department and the SIL provider and is subject to the availability of appropriated funds.

5601 REIMBURSEMENT RATE

5601.1 The SIL rate is as set forth below:

SERVICE	RATE	UNIT
Supported Independent Living	\$13.50	Daily

5602 ELIGIBILITY

5602.1 A qualified SIL provider must be a Department-certified Mental Health Rehabilitation Services (MHRS) provider in good standing, maintain a valid Certificate of Occupancy that authorizes the number of housing units to be provided for SIL and have a valid business license on file with the Department’s Office of Accountability.

5603 SUBMISSION OF CLAIM; PAYMENT OF VOUCHER

5603.1 In order for claims to be eligible for reimbursement, the MHRS provider shall:

- (a) Submit claims through the Department’s electronic billing system pursuant to this chapter, the Department’s billing policy, and the terms of the HCA between the Department and the MHRS provider; and
- (b) Complete appropriate documentation to support all claims under its HCA with the Department and shall retain such documentation for a minimum of six (6) years or longer if necessary to ensure the completion of any audit.

5603.2 The Department will reimburse an MHRS provider for a claim that is determined by the Department to be eligible for reimbursement pursuant to the terms of this chapter, applicable Department policies, and the HCA between the Department and the MHRS provider, subject to the availability of appropriated funds.

5604 AUDITS

5604.1 An SIL provider shall, upon the request of the Department, cooperate in any audit or investigation concerning the SIL. Failure to cooperate or to provide the

necessary information and documentation shall result in recoupment of the reimbursement and may result in other actions available to the Department pursuant to applicable policies and the HCA.

5699 DEFINITIONS

5699.1 When used in this chapter, the following terms shall have the meaning ascribed:

Consumer - Adult, child, or youth who seeks or receives mental health services or mental health supports funded or regulated by the Department.

Mental Health Rehabilitation Services or “**MHRS**” - Mental health rehabilitative or palliative services provided by a Department-certified community mental health provider in accordance with the District of Columbia State Medicaid Plan, the provider’s Human Care Agreement with the Department and Chapter 34 of this title.

MHRS provider - An organization certified by the Department to provide MHRS. MHRS provider includes Core Service Agencies, sub-providers, and specialty providers.

Supported Independent Living or “**SIL**” - Housing designed for individuals who have an ability to engage with others and in community activities. The goal of this level of care is to teach consumers how to manage their illness and enhance skills in activities of daily living in order to live safely in the community.

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 Office of General Counsel for the Department of Behavioral Health at 64 New York Avenue, N.E., 4th Floor, Washington, D.C. 20002, or e-mailed to Rena Justice, Assistant Attorney General, at Rena.Justice@dc.gov. Copies of the proposed rules may be obtained from dmh.dc.gov or from the Department of Behavioral Health at the address above.

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority (DCHA) hereby gives notice, pursuant to D.C. Official Code § 6-203 (2012 Repl.), of its intent to amend the definition of “violent criminal activity” in Chapter 59 (Definitions) 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*.

The purpose of the amendment is to provide guidance on the definition of violent criminal activity.

Section 5999 (Definitions) of Chapter 59 (Definitions) of Title 14 (Housing) of the DCMR is amended as follows:

Subsection 5999.1 is amended as follows:

5999.1 For purpose of Chapters 49 through 59 of Title 14 of the District of Columbia Municipal Regulations, comprising the administration of the Housing Choice Voucher Program, the following definition shall apply:

Violent Criminal Activity—Violent criminal activity means “crime of violence” as set forth in D.C. Official Code § 23-1331(4).

All persons desiring to comment on the subject matter of this rulemaking should file comments in writing no later than thirty (30) days after the publication of this Notice in the *D.C. Register*. Comments should be filed with the Office of the General Counsel, DCHA, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599; (202) 535-2935; copies of the rules can be requested from DCHA at that same address. Alternatively, copies of the rules can be requested from and comments can be sent to Karen Harris at Office of the General Counsel, District of Columbia Housing Authority, at PublicationComments@dchousing.org. Individuals wishing to comment by email must include the phrase “Comment to Proposed Rulemaking” in the subject line.

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 (2012 Repl. & 2013 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) (2012 Repl.)), hereby gives notice of repeal of Section 936 , entitled “Dental Services”, and adoption, on an emergency basis, of a new Section 1921, entitled “Dental Services” of Chapter 19 (Home and Community-Based Waiver Services for Persons with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the DCMR.

These emergency and proposed rules establish standards governing reimbursement of dental services provided to participants in the Home and Community-Based Waiver 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. These rules amend the previously published rules by: (1) specifying the service authorization requirement for dental services; and (2) specifying record keeping requirements to be maintained by the provider for audit and monitoring reviews.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of ID/DD Waiver participants who are in need of dental 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 and appropriate services. By taking emergency action, this emergency and proposed rule will clarify the duties and responsibilities of dental 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 October 11, 2013, and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days or until February 9, 2014, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director of DHCF 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 936 (DENTAL SERVICES) of Chapter 9, Title 29 (PUBLIC WELFARE) of the DCMR is repealed.

A new Section 1921 (DENTAL SERVICES) of Chapter 19, Title 29 (PUBLIC WELFARE) is added to read as follows:

1921 DENTAL SERVICES

- 1921.1 The purpose of this section is to establish standards governing Medicaid eligibility for dental services under the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (Waiver) and to establish conditions of participation for providers of dental services.
- 1921.2 To be eligible for Medicaid reimbursement, each person shall have a documented need for the service as identified in the Individual Support Plan (ISP) and Plan of Care.
- 1921.3 Medicaid reimbursable dental services under this Waiver are identical to dental services offered under the District of Columbia's Medicaid State Plan and shall be provided in accordance with the applicable requirements set forth in Section 964 (Dental Services) of Chapter 9 of Title 29 DCMR.
- 1921.4 Medicaid reimbursable dental services shall be provided by a dentist, or a dental hygienist working directly under the supervision of a dentist, who meets all of the following requirements:
- (a) Provides services consistent with the scope of practice authorized 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.*) or consistent with the applicable professional practices act within the jurisdiction where services are provided;
 - (b) Is enrolled as a dentist in the District of Columbia Medicaid Program; and
 - (c) Complies with Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 of the DCMR.
- 1921.5 Each provider of Medicaid reimbursable dental services shall develop a written treatment plan for the person receiving dental services after completion of a comprehensive evaluation. The services provided shall be consistent with the treatment plan.

- 1921.6 The treatment plan shall be updated annually and shall serve as a guide for treatment to be completed over the course of one (1) year unless special circumstances require a longer treatment plan.
- 1921.7 Each provider of Medicaid reimbursable dental services shall maintain records pursuant to the requirements described under Section 1908 (Reporting Requirements) and Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 of the DCMR.
- 1921.8 If the person enrolled in the Waiver is between the ages of eighteen (18) and twenty-one (21), the Department on Disability Services, Service Coordinator shall ensure that Early and Periodic Screening, Diagnostic and Treatment benefits are fully utilized and there is no duplication of services.
- 1921.9 In order to be eligible for Medicaid reimbursement, each dental provider shall comply with the following requirements:
- (a) Confirm the person's Medicaid eligibility; and
 - (b) Bill the District of Columbia Medicaid Program using a Waiver provider identification number.
- 1921.10 Medicaid reimbursement for dental services provided to a person enrolled in the Waiver shall be paid at the reimbursement rate set forth in the District of Columbia Medicaid fee schedule increased by twenty percent (20%). The District of Columbia Medicaid fee schedule is available online at <http://www.dc-medicaid.com>.

Section 1999 (DEFINITIONS) is amended by adding the following:

Dentist - An individual who is licensed to practice dentistry 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.*) or licensed to practice dentistry in the jurisdiction where services are provided.

Dental Hygienist - An individual who is licensed to practice dental hygiene 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.*) or licensed practice dental hygiene in the jurisdiction where services are provided.

Treatment Plan - A written plan that includes diagnostic findings and treatment recommendations resulting from a comprehensive evaluation of the client's dental health needs.

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 DHCFpubliccomments@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.

DISTRICT OF COLUMBIA TAXICAB COMMISSION**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The District of Columbia Taxicab Commission (Commission), pursuant to the authority set forth in Sections 8(c)(3), (7), 14, 20a, 20g and of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c)(3), (7), 50-313, 50-320, 50-329 (2012 Repl.)) (“Act”), as amended by the Taxicab Passenger Vehicle for Hire Impoundment Act of 1992 (D.C. Law 9-199, D.C. Official Code § 50-331 (2012 Repl. & 2013 Supp.)), the Taxicab Service Improvement Amendment Act of 2012 (D.C. Law 19-0184; D.C. Official Code §§ 50-301 *et. seq.* (2012 Repl.)), and the Public Vehicle for Hire Innovation Amendment Act of 2012 (D.C. Law 19-0270, D.C. Official Code § 50-307(c)(20)(2012 Repl. & 2013 Supp.)), hereby gives notice of intent to adopt amendments to Chapters 4 (Taxicab Payment Services) and 6 (Taxicab Parts and Equipment) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

These rules are necessary because there is an immediate need to preserve and promote the safety and welfare of the District’s taxicab industry. Specifically, Payment Service Provider (PSP) non-compliance with vehicle and driver verification measures, in addition to consistent driver complaints regarding the submission of payments from their PSPs, necessitates a significant increase in associated fines for specific provisions. These rules will (1) increase fines associated with a failure to properly maintain the vehicle or operator inventories; (2) increase fines associated with a failure to properly submit data to the Commission’s Taxicab Information System (TCIS), and (3) clarify that a connection to the Commission’s TCIS must be achieved through a required login process, and increasing the fine for allowing operation without the required login process. The failure to fully enforce these regulatory mandates prevents the owners and operators of taxicabs in the District from obtaining the protections contemplated by the Commission, in addition to negatively impacting residents and visitors from receiving the improvements intended by the D.C. Council.

The emergency rulemaking was adopted on October 9, 2013, took effect immediately on that date, and will remain in effect for one hundred twenty (120) days after the date of adoption, expiring February 6, 2014, unless earlier superseded by an amendment or repeal by the Commission, or the publication of final rulemaking, whichever occurs first.

The Commission also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register*.

Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR is amended as follows:

Section 411, PENALTIES, of Chapter 4, TAXICAB PAYMENT SERVICES, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR is amended as follows:

A new Subsection 411.2 is added to read as follows:

- 411.2 A PSP shall be subject to a civil fine of one thousand dollars (\$1,000) for the first violation of any of the following provisions, which shall double for the second violation of the same provision, and triple for each subsequent violation of the same provision thereafter:
- (a) A violation of § 408.12 by failing to submit electronic trip data to the TCIS every twenty-four (24) hours, or
 - (b) A violation of § 408.12 by failing to verify driver credentials through a required login process, or
 - (c) A violation of § 409.4 by failing to submit updated vehicle and operator inventories to the TCIS every twenty-four (24) hours.

Subsection 603.9(a), MTS SERVICE AND SUPPORT REQUIREMENTS, of Chapter 6, TAXICAB PARTS AND EQUIPMENT, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR is amended as follows:

- 603.9
- (a) Validate the status of the operator's DCTC license (Face Card) in real time by connecting to the Taxicab Commission Information System (TCIS) through a required login process to ensure the license is not revoked or suspended, and that the operator is in compliance with the insurance requirements of Chapter 9;

Copies of the proposed rulemaking can be obtained at www.dcregs.dc.gov or by contacting Jacques Lerner, General Counsel and Secretary to the Commission, District of Columbia Taxicab Commission, 2041 Martin Luther King, Jr., Avenue, S.E., Suite 204, Washington, D.C. 20020. All persons desiring to file comments on the proposed rulemaking should submit written comments via e-mail to dctc@dc.gov or by postal mail or hand delivery to the DC Taxicab Commission, 2041 Martin Luther King, Jr., Ave., S.E., Suite 204, Washington, D.C. 20020, Attn: Jacques Lerner, General Counsel and Secretary to the Commission. Comments should be filed within thirty (30) days after publication of this notice in the *D.C. Register*.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-207
November 1, 2013


SUBJECT: Appointments – Citizen Review Panel: Child Abuse and Neglect

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 Repl.), and in accordance with sections 351 and 352 of the Prevention of Child Abuse and Neglect Act of 1977, effective April 12, 2005, D.C. Law 15-341, D.C. Official Code §§ 4-1303.51 and 4-1303.52 (2012 Repl.), it is hereby **ORDERED** that:

1. **CLARESA VENSON** is appointed as a member of the Citizen Review Panel: Child Abuse and Neglect, replacing Dr. Anthony Hill, for the remainder of an unexpired term to end September 24, 2015.
2. **SHERRILL TAYLOR** is appointed as a member of the Citizen Review Panel: Child Abuse and Neglect, replacing Sarah King, for the remainder of an unexpired term to end September 24, 2015.
3. **EFFECTIVE DATE:** This Order shall become effective immediately.


VINCENT C. GRAY
MAYOR

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-208
November 1, 2013


SUBJECT: Appointment – Commission on Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings

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(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 Repl.), and in accordance with sections 9 and 10 of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002, D.C. Law 14-76, D.C. Official Code §§ 2-1831.06 and 2-1831.07 (2012 Repl.), which established the Commission on Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings (“Commission”), it is hereby **ORDERED** that:

1. **JAMES WILLIAM COOPER** is appointed as a voting member of the Commission, representing the Mayor of the District of Columbia, replacing Rohulamin Quander, for a term to end on April 30, 2016.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.


VINCENT C. GRAY
MAYOR

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-209
November 5, 2013

SUBJECT: Sustainable DC Transformation Order

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 Repl.), it is hereby **ORDERED** that:

I. POLICY

In order to make the District of Columbia the healthiest, greenest, and most livable city in the United States, the District must achieve the ambitious goals set in the *Sustainable DC Plan* to address the challenges of protecting the climate and the environment, ensuring health and wellness, promoting equity and diversity, and growing jobs and the economy. Similarly, the District must pursue solutions to these challenges across the areas of built environment, energy, food, nature, transportation, waste, and water systems. It is therefore the policy of the District of Columbia that the agencies and instrumentalities of the District of Columbia shall adopt practices that cut energy consumption and increase efficiency; measure, report, and reduce their greenhouse gas emissions from direct and indirect activities; conserve and protect water resources through efficiency, reuse, and stormwater management; reduce waste, increase diversion, and prevent pollution; leverage District acquisitions to foster markets for sustainable technologies and environmentally preferable materials, products, and services; promote the design, construction, maintenance, and operation of high-performance sustainable buildings in sustainable neighborhoods; strengthen the vitality and livability of all District communities; and inform District employees about and involve them in the achievement of these goals.

It is further the policy of the District of Columbia that to achieve these goals and support their respective missions, agencies shall conduct a comprehensive review of their practices and policies and identify specific, bold, and measurable actions to promote the broad sustainability goals of the *Sustainable DC Plan*. Agencies shall develop targeted actions and develop outcome-oriented goals and policies that positively affect the economic, social, and environmental impacts of their

missions and practices and shall include measures to achieve these goals into their annual performance plans.

Finally, it is also the policy of the District of Columbia that agency efforts and outcomes in implementing this Order shall be made publically available to the residents of the District through online resources and websites.

II. GREEN CABINET

- A. The City Administrator shall lead, as a subset of the Executive Cabinet, a regular meeting of the directors of the executive branch agencies whose operations have a direct and appreciable impact on sustainability.
- B. The Green Cabinet shall serve as the Mayor's interagency advisory board for the development and implementation of the *Sustainable DC Plan*.
- C. The following deputy mayors, District agency heads, and other District officials shall be members of the Green Cabinet:
 - 1. The Deputy Mayor for Planning and Economic Development;
 - 2. The Deputy Mayor for Education;
 - 3. The Deputy Mayor for Public Safety and Justice;
 - 4. The Deputy Mayor for Health and Human Services;
 - 5. The Chancellor of the District of Columbia Public Schools;
 - 6. The Director of the District Department of the Environment;
 - 7. The Director of the Office of Planning;
 - 8. The Director of the Department of Parks and Recreation;
 - 9. The Director of the District Department of Transportation;
 - 10. The Director of the Department of General Services;
 - 11. The Director of the Department of Public Works;
 - 12. The Director of the Department of Housing and Community Development;
 - 13. The Director of the Department of Health;

14. The Director of the Department of Consumer and Regulatory Affairs;
 15. The Director of the Department of Employment Services;
 16. The Director of the Department of Small and Local Business Development;
 17. The Executive Director of the District of Columbia Housing Authority;
 18. The Chief Technology Officer;
 19. The Chief Procurement Officer;
 20. The Executive Director of Serve DC;
 21. The President of the University of the District of Columbia;
 22. The General Manager of the District of Columbia Water and Sewer Authority; and
 23. Any other agency head or official designated by the City Administrator.
- D. The activities of the Green Cabinet shall be directly supported by the District Department of the Environment and the Office of Planning. The City Administrator may also call upon other District agencies, at his or her discretion, to support the Green Cabinet.

III. ESTABLISHMENT OF THE SUSTAINABLE DC INITIATIVE

- A. There is established a Sustainable DC Initiative ("Initiative") in the executive branch of the District government.
- B. The Mayor's expressed policy goal is to make the District the healthiest, greenest, and most livable city in the United States by 2032. The purpose of the Initiative is to coordinate and develop the efforts of the executive branch toward achieving those goals and to engage key stakeholders in an open and participatory process.
- C. Functions
 1. Every five (5) years, the Initiative shall undergo a community outreach campaign to solicit ideas and input from the widest

possible variety of District residents, civic participants, community leaders, stakeholders, business partners, technical experts, and subject matter experts to establish and refine priorities for increasing the level of sustainability in the District.

2. The Initiative shall use the information gathered from the community outreach campaign to help articulate a comprehensive vision of sustainability in the District, inform government planning and implementation efforts, and update the current sustainability plan or develop a new plan to be submitted to the Mayor for approval.
3. The Initiative shall identify and recommend changes to existing District statutes, regulations, and policies that are obsolete or hinder the articulated goals of sustainability to the Mayor for action.
4. The Initiative shall coordinate with the Office of the City Administrator and individual agencies to incorporate sustainability goals into agency performance plans and track progress on the goals, where appropriate.
5. The Initiative shall assist agencies in developing, evaluating, and supporting innovative pilot programs to test the feasibility of incorporating new practices and policies that support sustainability into standard government operations.
6. The Initiative shall recommend to the Mayor District-wide and agency-specific sustainability goals.
7. The Initiative shall report annually on the progress of its functions.

D. Administration

1. Each District agency named in Section II.C of this Order as a member of the Green Cabinet shall be considered a critical partner in the functions of the Initiative.
2. Each District agency shall cooperate with the Initiative and provide, in a timely manner, any information that the Initiative may request to carry out the provisions of this Order.
3. Members of the Initiative shall be selected by the City Administrator and shall include employees of the District Department of the Environment, the Office of Planning, and any

other employees designated by the Mayor or the City Administrator.

- E. The Initiative may establish such partnerships, teams, advisory groups, committees, or subcommittees as it deems necessary to carry out the purposes of this Order.

IV. SUSTAINABILITY ASSESSMENTS

- A. To assist in the implementation of the overarching sustainability policy set forth in Section I of this Order and to facilitate preparation and incorporation of sustainability goals into agency performance plans as called for in Section III.C.4 of this Order, the Director of the District Department of the Environment and the Office of Planning, in coordination with the directors of the agencies identified in Section II.C of this Order, shall develop and deliver to the City Administrator a comprehensive set of proposed assessment criteria to guide agencies in evaluating the sustainability of their respective operations.
- B. Within one hundred twenty (120) days after the approval of the assessment criteria by the City Administrator, each agency head subject to the authority of the Mayor shall submit to his or her responsible Deputy Mayor and the Office of the City Administrator the results of the agency's internal assessment.

V. JOBS AND ECONOMY

- A. Green Economic Development Action Plan
1. The Deputy Mayor for Planning and Economic Development shall develop and submit to the Mayor by January 30, 2015, a Green Economic Development Action Plan, including a proposed implementation timeline.
 2. The goal of the Green Economic Development Action Plan shall be to detail a strategy to optimize available green jobs for District residents that identifies opportunities for employment and the necessary and available training programs available to District residents in present and future green collar jobs.
 3. The Green Economic Development Action Plan shall include:
 - a. A description of the local capacity for increasing "green collar jobs" as defined by the United States Bureau of Labor Statistics;

- b. Projected green business growth in the District and actions the District government should take to attract further green business growth;
- c. A list of planned private and public sector development projects that are expected to include green collar job opportunities; and
- d. A description of the course offerings of local higher education institutions that will help prepare District residents for green collar job opportunities and a description of the capacity of local higher education institutions to increase the availability of such course offerings.

VI. HEALTH AND WELLNESS

A. Parks and Natural Spaces Public Access Plan

1. The Director of the Department of Parks and Recreation shall develop and incorporate into the Play DC Parks and Recreation Master Plan, by September 30, 2015, a plan and timeline for improving public access to parks and natural spaces.
2. The plan shall:
 - a. Recommend capital budget enhancements for those actions that require capital investments;
 - b. Include recommended modifications to maintenance schedules to protect the appearance and safety of facilities;
 - c. Recommend a staffing and hiring plan that allows the Department of Parks and Recreation and the Department of General Services to improve public access to parks and natural spaces;
 - d. Recommend methods for protecting the District from legal liability from unauthorized use of parks and natural spaces;
 - e. Include design guidelines for parks that encourage spaces that are safe, inviting, attractive, and interconnected with the surrounding community and support access for all persons, accounting for differences in age, race, ethnicity, income, and ability; and

- f. Include recommendations for changes to transportation access to parks and other open spaces, focusing on access by currently underserved communities to large parks and open spaces in the District.

B. Green Housing Action Plan

1. The City Administrator, in consultation with the Deputy Mayor for Planning and Economic Development, the Deputy Mayor for Health and Human Services, and the Executive Director of the District of Columbia Housing Authority, shall develop and submit to the Mayor by January 30, 2015, a Green Housing Action Plan.
2. The plan shall:
 - a. Set standards for the rehabilitation of affordable and public housing to be green and healthy;
 - b. Examine the feasibility of public housing meeting net-zero energy standards; and
 - c. Provide guidance for the elimination of environmental health threats such as mold, lead, and carbon monoxide.

VII. EQUITY AND DIVERSITY

A. Healthy By Design Program

1. The Deputy Mayor for Planning and Economic Development, in consultation with the Deputy Mayor for Health and Human Services, shall develop and submit to the Mayor by January 30, 2015, a study of the potential to implement a Healthy by Design program for new affordable housing projects.
2. The goals of the Healthy by Design study shall be to identify criteria for selecting future locations of affordable housing, including public housing, so that healthy living standards and accessibility of neighborhood amenities are included in future sites.
3. The study shall:
 - a. Identify standards for the selection and design of sites for affordable housing; and

- b. Identify the maximum distances that an affordable housing site should be located from neighborhood amenities and services.

B. Food Access and Security Report

1. The Director of the Office of Planning shall develop and submit to the Mayor by January 31, 2015, a Food Access and Security Report.
2. The report shall:
 - a. Evaluate existing conditions for food access, urban agriculture, and agricultural economy in the District; and
 - b. Provide recommendations to increase the accessibility of healthy foods and the reduction of food insecurity of District residents consistent with the goals identified in the *Sustainable DC Plan*.

VIII. CLIMATE AND THE ENVIRONMENT

A. Green Construction Code Transition Plan

1. The Department of Consumer and Regulatory Affairs, in coordination with the Deputy Mayor for Planning and Economic Development and the Construction Codes Coordinating Board, shall develop and submit to the Mayor by January 30, 2015, a Green Construction Code Transition Plan.
2. The plan shall describe the steps that should be taken to implement the full transition of the District's green building requirements to the 2013 Green Construction Codes located at 12 DCMR K and a timeline for implementing the plan.
3. The plan shall incorporate to the extent reasonable the recommendations of the Green Building Advisory Council and affected stakeholders from the building construction, building management, and building systems efficiency industries.

B. Building Energy Performance Standards

1. The District Department of the Environment shall develop and submit to the Mayor by January 30, 2015, a plan and timeline for the development and implementation of building energy

performance standards for public and private buildings in the District of Columbia.

2. The plan shall:
 - a. Establish methods for tracking compliance with the building energy standards, established pursuant to Subsection C of this Section, for buildings owned, occupied, or controlled by the District government; and
 - b. Include building energy performance standards for privately owned properties in the District.
3. The Director of the Department of General Services, in consultation with the Director of the District Department of the Environment, shall develop energy reduction targets for all District-owned, occupied, or controlled buildings including:
 - a. As of the effective date of this Order, a plan to achieve a twenty percent (20%) reduction in energy consumption in District facilities by December 31, 2014; and
 - b. By January 30, 2015, a plan to achieve the energy reduction goals for District facilities identified in the *Sustainable DC Plan* by 2032.

C. Comprehensive Energy Plan

The Director of the District Department of the Environment shall develop and submit to the Mayor by January 30, 2014, a Comprehensive Energy Plan for the District that incorporates the necessary methods, means, and resources to achieve a District-wide energy consumption reduction of fifty percent (50%) by 2032 from baseline energy consumption in 2012.

D. Cooperative Plant Management Group

1. The Director of the District Department of the Environment shall convene a Cooperative Plant Management Group consisting of representatives from the following agencies:
 - a. The District Department of the Environment;
 - b. The Department of Health;
 - c. The Department of General Services;

- d. The District of Columbia Public Schools;
 - e. The Department of Parks and Recreation;
 - f. The District Department of Transportation; and
 - g. The Office of Contracting and Procurement.
2. By January 30, 2015, the Cooperative Plant Management Group shall submit to the Mayor standards for the identification, planting, use, and cultivation of native plants in the management of grounds and properties under the control of the District government.

IX. GREEN GOVERNMENT TASK FORCE

A. Establishment

There is established a Green Government Task Force ("Task Force") in the executive branch of the District Government.

B. Membership and Procedure

1. The Task Force shall be comprised of the following eleven (11) members, or their designees:
 - a. City Administrator;
 - b. Director of the Department of Consumer and Regulatory Affairs;
 - c. Director of the Department of Small and Local Business Development;
 - d. Director of the Department of Employment Services;
 - e. Director of the District Department of Transportation;
 - f. Director of the District Department of the Environment;
 - g. Director of the Office of Planning;
 - h. The Chief Financial Officer;
 - i. The Director of the Office of Grants and Partnerships;

- j. The Chief Procurement Officer; and
 - k. The Chief Technology Officer.
2. The City Administrator and the Chief Technology Officer shall serve as co-chairpersons of the Task Force.
 3. The Task Force shall meet at the joint call of the co-chairpersons.
 4. A majority of the members of the Task Force shall constitute a quorum for official action by the Task Force.

C. Functions

1. The Task Force shall evaluate the current operating procedures and business processes within the District government to identify ways to “green” internal operations while maintaining or improving customer service.
2. Within one (1) year after the first meeting of its members, the Task Force shall submit a written report to the Mayor which shall include:
 - a. An inventory of the statutes, regulations, and internal and customer-facing processes and procedures in the District government that contribute to or require duplicative operational procedures or create a negative environmental impact;
 - b. Recommendations to eliminate or modify the statutes, regulations, or processes and procedures identified pursuant to Subparagraph a. of this Paragraph, including recommendations to eliminate harmful or duplicative processes, increase computer automation, and reduce paper use;
 - c. Recommendations for improvements to operational practices that would reduce the environmental impact of District government practices; and
 - d. A plan and timeline to implement the recommended solutions.

D. Administration

1. The District Department of the Environment shall provide administrative and technical support needed by the Task Force.
2. Subject to existing law, each agency, independent agency, and instrumentality of the District government shall cooperate with the Task Force and provide any information, in a timely manner, that the Task Force requests to carry out the provisions of this Order.
3. The Task Force may establish such advisory groups, committees, or subcommittees, consisting of members or nonmembers, as it deems necessary to carry out the purposes of this Order and further a participatory process.

E. Sunset

The Task Force shall cease to exist as of the date on which it transmits to the Mayor the written report required by Section IX.C.2 of this Order.

X. HEALTH IN ALL POLICIES TASK FORCEA. Establishment

There is established a Health in All Policies Task Force (“HiAP Task Force”) in the executive branch of the District government.

B. Membership and Procedure

1. The HiAP Task Force shall consist of the following six (6) individuals or their designees:
 - a. The City Administrator;
 - b. The Director of the District Department of the Environment;
 - c. The Director of the Department of Health;
 - d. The Director of the Office of Planning;
 - e. The Director of the Office on Aging; and
 - f. The Director of the Department of Parks and Recreation.

2. The Directors of the District Department of the Environment and the Department of Health shall serve as co-chairpersons of the HiAP Task Force.
3. The HiAP Task Force shall meet at the joint call of the co-chairpersons.
4. A majority of the members of the HiAP Task Force shall constitute a quorum for official action by the HiAP Task Force.

C. Functions

1. The mission of the HiAP Task Force shall be to develop a plan for the District to implement a Health in All Policies (HiAP) program in order to ensure a sustained and continuous pursuit of health equity among District residents and strengthen the vitality and livability of all District communities.
2. Within one (1) year of the date of the first meeting of its members, the HiAP Task Force shall submit a written report to the Mayor, which shall include the following:
 - a. An analysis of existing HiAP programs established in jurisdictions of a similar size including their relative suitability to the District's needs and their relative strengths and weaknesses;
 - b. Recommendations on a proposed structure and goals of a HiAP program in the District; and
 - c. A plan and timeline to implement the recommendations.

D. Administration

1. The District Department of the Environment and the Department of Health shall provide administrative and technical support needed by the HiAP Task Force to carry out the provisions of this Order.
2. Subject to existing law, each agency, independent agency, and instrumentality of the District government shall cooperate with the HiAP Task Force and provide any information, in a timely manner, that the HiAP Task Force requests to carry out the provisions of this Order.

3. The HiAP Task Force may establish such advisory groups, committees, or subcommittees, consisting of members or nonmembers, as it deems necessary to carry out the purposes of this Order and further a participatory process.

E. Sunset

The HiAP Task Force shall cease to exist as of the date on which it transmits to the Mayor the written report required by Section X.C.2 of this Order.

XI. PUBLIC PARTICIPATION

All plans, reports, and studies submitted under this Order shall engage key external stakeholders in an open and participatory process.

XII. PRECEDENCE


This Order supersedes all previous Mayor's Orders to the extent of any inconsistency therein.

XIII. EFFECTIVE DATE

This Order shall become effective immediately.



VINCENT C. GRAY
MAYOR

ATTEST: 

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-210
November 5, 2013

SUBJECT: Reappointment – District of Columbia Board of Zoning Adjustment


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 Repl.), and pursuant to section 8 of An Act Providing for the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and of the uses of land in the District of Columbia, and for other purposes, approved June 20, 1938, 52 Stat. 799, D.C. Official Code § 6-641.07 (2012 Repl.), it is hereby **ORDERED** that:

1. **LLOYD JORDAN**, having been nominated by the Mayor on January 23, 2013, and approved by the Council of the District of Columbia, pursuant to Resolution 20-0067, on March 19, 2013, is reappointed as a member of the District of Columbia Board of Zoning Adjustment, for a term to end on September 30, 2015.
2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to March 19, 2013.


VINCENT C. GRAY
MAYOR

ATTEST:


CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-211
November 6, 2013

SUBJECT: Amendment – Delegation of Authority Under the Fiscal Year 2014 Tax Revenue Anticipation Notes Act of 2013

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(6) and (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(6) and (11) (2012 Repl.), it is hereby **ORDERED** that:


1. The preamble of Mayor's Order 2013-185, dated October 10, 2013, is amended to read as follows:

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) 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(6) (2012 Repl.), and pursuant to section 13 of the Fiscal Year 2014 Tax Revenue Anticipation Notes Act of 2013, effective October 4, 2013, D.C. Act 20-208 (hereinafter cited as the "Notes Act"), it is hereby **ORDERED** that:

2. **EFFECTIVE DATE:** This Order shall become effective immediately and apply *nunc pro tunc* to October 10, 2013.



VINCENT C. GRAY
MAYOR

ATTEST: 

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
AGENDA

WEDNESDAY, NOVEMBER 13, 2013 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Request for Safekeeping. ANC 1B SMD 1B12. *Al Crostino*, 1324 U Street NW, Retailer CR, Lic#: 86659.

2. Review of Request to Transfer License dated November 4, 2013 from Michael D. Fonseca, Counsel for LEI AG-Embassy Row, LLC. *The Embassy Row Hotel*, 2015 Massachusetts Avenue NW, Retailer CH.

3. Review for Temporary Operating Retail Permit dated November 4, 2013 from Michael D. Fonseca, Counsel for LEI AG-Embassy Row, LLC. *The Embassy Row Hotel*, 2015 Massachusetts Avenue NW, Retailer CH.

4. Review of Request for License Application Refund. *David H.S. Pattison*. *

5. Review of Request to withdraw protest dated November 2, 2013 from Paulette Tilghman representative for ANC 7B, and a group of 61 Ft. Davis Community members. *Lee's Mini Market*, 3853 Alabama Avenue SE, Retailer B, Lic#: 32231.

6. Review of Request for Reconsideration of Untimely Protest filing dated October 31, 2013 from Barbara Schauer. *The American*, 1209-1213 10th Street NW, Retailer CR, Lic#: 092766.*

7. Review of Request for Reconsideration of Denial of Reinstatement dated November 4, 2013 from Dr. Bertha Holliday, Protestant. *Red Hen*, 1822 1st Street NW, Retailer CR, Lic#: 090832.*

8. Review of Request for Reinstatement of Application for Substantial Change dated October 26, 2013 from Paul Kadlick of BJ's Enterprises. *JP's*, 2412 Wisconsin Avenue NW, Retailer CN, Lic#: 008511.*

9. Review of Joint Response to Applicant's Request for Reinstatement dated November 4, 2013, from ANC 3B and Glover Park Citizens Association. *JP's*, 2412 Wisconsin Avenue NW, Retailer CN, Lic#: 008511.*

10. Review of Motion to Dismiss Applicant's Request for Reinstatement or Deny the Applicants Request to Maintain Protest Hearing Date of December 4, 2013 from Pamela J. Bethel, Counsel for Group of 8 Concerned Property Owners. *JP's*, 2412 Wisconsin Avenue NW, Retailer CN, Lic#: 008511.*

11. Review of Motion for Reconsideration and Stay of Board Order No. 2013-408 dated October 25, 2013 from Michael D. Fonseca, Counsel for Beehive, LLC. *Sticky Rice*, 1224 H Street NE, Retailer CR, Lic#: 72783.*

12. Review of the Office of The Attorney General's Response to the Licensee's Motion for Reconsideration. LLC. *Sticky Rice*, 1224 H Street NE, Retailer CR, Lic#: 72783.*

13. Review of a Voluntary Mutual Request to Terminate Settlement Agreement with BEG Investments filed by a partial Group of Residents. *XII*, 1123 H Street NE, Retailer CT, Lic#: 76336.*

14. Review of Settlement Agreement dated October 17, 2013 between ANC 6B and Matchbox Capitol Hill LLC. *Matchbox*, 521 8th Street SE, Retailer CR, Lic#: 079276.*

15. Review of Settlement Agreement dated November 4, 2013 between ANC 2B, Shaw Dupont Citizens Association, Dupont Circle Citizens Alliance and The Griffin Group LLC. *Policy*, 1902-1904 14th Street NW, Retailer CR, Lic#: 076804.*

16. Review of Request dated November 4, 2013 from E & J Gallo to provide retailers with products valued at more than \$50 and less than \$500.

17. Review of Request dated November 1, 2013 from E & J Gallo to provide retailers with products valued at more than \$50 and less than \$500.

18. Review of Request dated October 30, 2013 from E & J Gallo to provide retailers with products valued at more than \$50 and less than \$500.

*** In accordance with D.C. Official Code §2-574(b) Open Meetings Act, 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
CANCELLATION AGENDA- CLASS B

WEDNESDAY, November 13, 2013 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

The Board is requested to approve the following license cancellations for the reasons outlined below.

1. ABRA-086103- *Darby's Market* - Retail- Grocery B, 1136 Florida Ave, NE [Licensee has not made 3rd year payment.]

2. ABRA-074723 – *Clover Market* –Retail- Grocery B, 5014 Connecticut Ave, NW [Licensee has not made 3rd year payment.]

3. ABRA-072942 – *Bella Market*–Retail- Grocery B, 101 15th St NE, NW [Licensee has not made 3rd year payment.]

4. ABRA-077147 – *New Star Supermarket*–Retail- Grocery B, 2205 4th St, [Licensee has not made 3rd year payment.]

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
CANCELLATION AGENDA- CLASS CT/ CN

WEDNESDAY, November 13, 2013 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

The Board is requested to approve the following license cancellations for the reasons outlined below.

1. ABRA-088347- *King of Kabob* -Retailer CT, 1018 Vermont Ave, NW [Licensee has not renewed; Enforcement confirmed that the Licensee is Out of Business and no longer operating.]

2. ABRA-070707- *Newtown Kitchen and Lounge* -Retailer CT, 1336 U St, NW [Licensee has not renewed; Enforcement confirmed that the Licensee is Out of Business and no longer operating.]

3. ABRA-089716- *Fever Bar & Lounge* -Retailer CT, 816 H St, NE [Licensee has not renewed; Enforcement confirmed that the Licensee is Out of Business and no longer operating.]

4. ABRA-084578 - *Martin's Restaurant & Lounge* -Retailer CT, 1919 9th St, NW [Licensee has not renewed; Enforcement confirmed that the Licensee is Out of Business and no longer operating.]

5. ABRA-089177 - *Montserrat Dough Joe* -Retailer CT, 2014 9th St, NW [Licensee has not renewed; Licensee has requested cancellation.]

6. ABRA-087339 – *America Eats Tavern* -Retailer CT, 405 8th St, NW [Licensee has not renewed.]

7. ABRA-088924 - *Koffee's Lounge*-Retailer CT, 2632 Georgia Ave, NW Unit 2 [Licensee has not renewed; Enforcement confirmed that the Licensee is Out of Business and not operating; 405.1.]

8. ABRA-088592 – *HR-57* -Retailer CT, 1007 H St, NE [Licensee has not renewed.]

9. ABRA-080666 – *The Library Saloon* -Retailer CT, 3514 12th St, NE [Licensee has not renewed.]

10. ABRA-084726– *Love* -Retailer CN, 1350 Okie St, NE [Licensee has not renewed.]

11. ABRA-085583 – *Ma Ma's Southern Cuisine* -Retailer CT, 3118 Georgia Ave, NE [Licensee has not renewed.]

12. ABRA-086424– *Sankofa Café* -Retailer CT, 2714 Georgia Ave, NW [Licensee has not renewed.]

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

**NOTICE OF MEETING
INVESTIGATIVE AGENDA**

**WEDNESDAY, NOVEMBER 13, 2013
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On November 13, 2013 at 4:00 pm, the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed “to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations.”

1. Case#13-251-00125 Lotus, 1420 K ST NW Retailer C Nightclub, License#: ABRA-075162

2. Case#13-CMP-00470 El Pulgarcito of America, LLC, 5313 GEORGIA AVE NW Retailer C Restaurant, License#: ABRA-076672

3. Case#13-CC-00110 Malcolm Liquors, 3845 MINNESOTA AVE NE Retailer A Retail - Liquor Store, License#: ABRA-076382

4. Case#13-CC-00094 Capitol Market, 2501 NORTH CAPITOL ST NE Retailer B Retail - Grocery, License#: ABRA-091021

5. Case#13-CC-00080 Busboys & Poets, 1025 5TH ST NW Retailer C Restaurant, License#: ABRA-077964

6. Case#13-CC-00109 Trinity Deli & Food Market, 200 MICHIGAN AVE NE Retailer B Retail - Grocery, License#: ABRA-060661

7. Case#13-CC-00111 Eat First, 609 H ST NW Retailer C Restaurant, License#: ABRA-060387

8. Case#13-CMP-00452 World Wine and Spirits, 1453 PENNSYLVANIA AVE SE Retailer A Retail - Liquor Store, License#: ABRA-000076

9. Case#13-AUD-00061 Cafe Deluxe, 3226 - 3230 WISCONSIN AVE NW Retailer C Restaurant, License#: ABRA-085876

10. Case#13-CMP-00478 Zenebech Restaurant, 608 T ST NW Retailer C Restaurant, License#: ABRA-085946

11. Case#13-CC-00063 Cavalier Wine and Liquors, 3515 14TH ST NW Retailer A Retail - Liquor Store, License#: ABRA-085968

12. Case#13-CC-00021 Rasika West End, 1177 22nd ST NW Retailer C Restaurant, License#: ABRA-087042

13. Case#13-PRO-00093 Queen Makeda, 1917 9TH ST NW Retailer C Restaurant, License#: ABRA-060510

OFFICE ON ASIAN AND PACIFIC ISLANDER AFFAIRS

NOTICE OF FUNDING AVAILABILITY

FY2014 Vietnamese American Youth Empowerment and Capacity Building Grant

Background information on the grant:

The Mayor's Office on Asian and Pacific Islander Affairs (OAPIA) is soliciting grant applications from qualified community-based organizations (CBOs) providing direct services to the District's Asian American and Pacific Islander (AAPI) community for its FY2014 Vietnamese American Youth Empowerment (VAYE) and Capacity Building Grant. The VAYE grant will be available to eligible community-based organizations providing mentoring and academic services to Vietnamese American youth. The Capacity Building grant will be available to eligible community-based organizations providing direct services to the District's Asian American and Pacific Islander.

Amount of grant funds available and number of awards:

OAPIA expects to award 1 grant for the Vietnamese Youth Empowerment Grant and 1 grant for the Capacity Building Grant. Eligible CBOs applying for the Vietnamese Youth Empowerment Grant can be funded up to \$43,169.48 and for the Capacity Building Grant \$5,000.

Eligible organizations and entities:***Vietnamese American Youth Empowerment***

- Is a nonprofit – 501(c)3 – organization
- Program serves primarily AAPI residents
- Program is located in the District of Columbia
- Program serves at least 50 Vietnamese American youth (VAYE)
- Program provides mentoring and academic support. (VAYE)

Capacity Building

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

Preference will be given to applicants that:

- Demonstrates the capacity to work effectively with the District's Vietnamese youth and language minority parents
- Focuses on emerging AAPI communities (e.g., South Asians) in the District
- Demonstrates limited access to other grants or funding sources
- Collaborates or partners with other service organizations
- Has experience working with District Agencies

Program scope:

The primary focus of the VAYE grant is programs directed to the District's Vietnamese American community that address youth empowerment. The programs should encompass culturally and linguistically competent mentoring and academic direct services that increase low-income American Asian and Pacific Islander immigrant's capacity for independence into the general community. The focus of the Capacity Building grant is to support community based organizations ability to fulfill its mission over time, and enhances their ability to have a positive impact on the lives of District residents.

Release Date of RFA: Monday November 18, 2013

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

Pre-bidder's conference: Monday November 25, 2013 from 10:00 a.m. – 11:00 a.m. WebConference, Contact Neel Saxena to sign up at neel.saxena@dc.gov or 202-727-3120.

Deadline for Submission: Wednesday December 18, 2013 at 12:00 noon
441 4th Street, NW Suite 721 North
Washington, DC 20001

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

**DEPARTMENT OF EMPLOYMENT SERVICES
OFFICE OF WORKFORCE DEVELOPMENT**

NOTICE OF FUNDS AVAILABILITY

Adult Training Program

The District of Columbia Department of Employment Services (DOES) is seeking grant applications to meet the workforce development needs of District residents by implementing a variety of occupational programs and/or postsecondary education classes. The goal of this grant program is to accelerate the ability of District residents to earn nationally recognized credentials and college credits. This grant will provide: (1) credit-bearing, high-demand occupational training, (2) nationally recognized credentials, and (3) academic courses which may lead to a degree.

Eligibility: Local educational agencies, training providers, universities, and colleges are eligible to apply. The applications will be ranked based on the applicant's capacity and ability to demonstrate: 1) a record of success in implementing a variety of high-demand occupational training and academic courses; 2) a record of participants successfully completing a variety of high-demand occupational training and academic courses; and 3) a record of working collaboratively with and/or partnering with at least two (2) of the following: a) employers, b) education and training community, and c) non-profit organizations.

Length of Awards: The grant period will be for twelve (12) months from the date of execution of a Grant Agreement with the District. At the discretion of DOES, a maximum of four (4) one-year option periods may be granted based on performance and the availability of funding. Option periods may consist of a year, a fraction thereof, or multiple successive fractions of a year.

Available Funding for Awards: The amount available for this award is approximately \$4,000,000.

Anticipated Number of Awards: DOES anticipates making up to ten (10) awards depending on funding availability and responsiveness of applicants. The Request for Applications (RFA) will be released on **Friday, November 22, 2013**, This RFA will be available on the DOES website at: <http://does.dc.gov/page/does-grants>, and it will also be posted on the District's Grant Clearinghouse website at: <http://opgs.dc.gov/page/opgs-district-grants-clearinghouse>.

For additional information regarding this NOFA or RFA, please contact Jill Saletta, Program Manager for Workforce Grants via email at jill.saletta@dc.gov or via phone at (202) 671-1124.

The deadline for submission is Monday, January 6, 2013 at 2:00 PM EST.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2014

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, 5th Floor, Washington, DC, intends to issue Permit #6738 to the Communications Workers of America to operate one Detroit Diesel emergency diesel generator, located in Washington, DC. The contact person for the facility is Teri Pluta, Assistant to Secretary Treasurer, at (202) 434-1434.

Emergency Generator to be Permitted

Equipment Location	Address	Equipment Size	Model Number	Permit No.
Rear of 501 Third Street NW, Washington, DC	501 Third Street NW Washington, DC 20001	234.9 kW (315hp)	6-71T	6738

The proposed emission limits are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from the generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated emissions from the Emergency Generator are as follows:

Pollutant	Emission Rate (lb/hr)	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	1.73	0.4325
Oxides of Nitrogen (NO _x)	7.56	1.8900
Total Particulate Matter , PM (Total)	0.2	0.0500
Volatile Organic Compounds (VOCs)	0.222	0.0555
Sulfur Dioxide (SO _x)	0.00382	0.00095

The application to operate the emergency generator and the draft permit and supporting documents are available for public inspection at AQD and copies may be made available

between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after December 9, 2013 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

FRIENDSHIP PUBLIC CHARTER SCHOOL**INVITATION FOR BID**

1. Friendship Public Charter School (FPCS) is soliciting bids from agencies to provide a **branding design, marketing strategy and photography** to include materials, for two-way communication of information to and from the community, families, and staff in accordance with requirements and specifications detailed in the RFP. For full Request for Proposal, send an email to ProcurementInquiry@friendshipschools.org.
2. Friendship Public Charter Schools seeks a firm to provide **switching and routing equipment** in accordance with requirements and specifications detailed in the Request for Proposal. For full Request for Proposal, send an email to ProcurementInquiry@friendshipschools.org.
3. Friendship Public Charter School (FPCS) is soliciting bids from agencies to provide **WIRED-WIRELESS-PHONE EQUIPMENT** in accordance with requirements and specifications detailed in the RFP. For full Request for Proposal, send an email to ProcurementInquiry@friendshipschools.org.

HEALTH BENEFIT EXCHANGE AUTHORITY
NOTICE OF PUBLIC MEETING

Executive Board of the Health Benefit Exchange Authority

The Executive Board of the Health Benefit Exchange Authority, pursuant to the requirements of Section 6 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-0094), hereby announces a public meeting of the Executive Board. The meeting will be held at 441 4th Street, N.W., Suite 820 N, Washington, DC 20001 on **Wednesday, November 13, 2013 at 5:30 pm**. The call in number is 1-877-668-4493, Access code 646 913 521.

The Executive Board meeting is open to the public.

If you have any questions, please contact Debra Curtis at (202) 741-0899.

DEPARTMENT OF HEALTH CARE FINANCE**PUBLIC NOTICE OF PROPOSED AMENDMENT TO THE
D.C. STATE PLAN FOR MEDICAL ASSISTANCE**

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 (2013 Repl. & 2013 Supp.)) and the Department of Health Care Finance Establishment Act of 2007, effective February 27,2008 (D.C. Law 17-109) hereby gives notice of the intent to amend the District of Columbia State Plan for Medical Assistance (State Plan).

The proposed State Plan Amendments (SPA) is designed to implement a provision of the Patient Protection and Affordable Care Act (the ACA), Pub. L. 111-148, March 23, 2010, 124 Stat. 283, 918. In accordance with section 1937 of the Social Security Act (42 U.S.C. § 1396u-7) and 42 C.F.R. § 440.305(d), DHCF will submit a SPA to the Centers for Medicare and Medicaid Services to implement changes to the Alternative Benefit Plan (ABP) known as “D.C. Healthy Families II” . The ABP serves beneficiaries ages 19 through 64, with incomes up to one hundred and thirty three percent (133%) of the Federal Poverty Level (FPL).

The ABP SPA seeks to authorize the alignment of benefits available under the ABP with “Essential Health Benefits” (EHBs). EHBs are the categories of health care services that are mandatory for all health insurance plans, pursuant to the ACA. Consistent with 42 U.S.C. § 18022, the ten (10) EHB categories are as follows: 1) ambulatory patient services; 2) emergency services; 3) hospitalization; 4) maternity and newborn care; 5) mental health and substance use disorder services, including behavioral health treatment; 6) prescription drugs; 7) rehabilitative and habilitative services and devices; 8) laboratory services; 9) preventive and wellness services and chronic disease management; and 10) pediatric services, including oral and vision care.

DHCF is not proposing any changes to the ABP delivery system (i.e., through MCOs), nor the overall level or types of benefits that beneficiaries actually receive. For enrollees, ages 19 and 20, who are still eligible for early and periodic, screening, diagnosis and treatment (EPSDT) services, DHCF assures this SPA complies with 42 C.F.R. § 440.345 and does not alter the maximum availability of access to those services. DHCF proposes to submit the ABP SPA to provide assurances to CMS that the District’s ABP covers the necessary categories of EHBs to beneficiaries covered through the2010 expansion of Medicaid eligibility. Though the ABP SPA is necessary for the District to comply with the ACA definition of EHBs, the District implemented the Medicaid expansion in 2010 and has provided those “newly eligible” beneficiaries access to the full complement of Medicaid services available through Medicaid Managed Care Organizations (MCOs).

As this SPA does not have any impact on the coverage and access to health care services that are currently available to District beneficiaries, the District does not project a fiscal impact related to this SPA. Copies of the proposed SPAs may be obtained by calling (202) 442-9115, or by sending an email to DHCFPubliccomments@dc.gov.

Comments on the proposed SPA will be accepted until December 13, 2013, and may be submitted to the attention of Linda Elam, Ph.D., M.P.H., 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 DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, .

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

HOUSING PRODUCTION TRUST FUND ADVISORY BOARD

MEETING NOTICE

The Housing Production Trust Fund (HPTF) Advisory Board announces its next Meeting on **Monday, November 18, 2013, at 10:00 A.M.**, at the Department of Housing and Community Development, Housing Resource Center, 1800 Martin Luther King Jr., Avenue, SE, Washington, DC 20020. See Proposed Agenda below.

For additional information, please contact Oke Anyaegbunam via e-mail at Oke.Anyaegbunam@dc.gov or by telephone at 202-442-7200.

PROPOSED AGENDA (as of 11.1.13):

Call to Order, David Bowers, Chair

- 1) Approval of Prior Meeting Minutes
- 2) Updates on HPTF Activities
- 3) Old Business:
 - a. Review of NOFA Requests for HPTF dollars by income bands
 - b. Status of Needs Assessment Contract
 - c. Follow-Up to Board's October 2013 Letter to Mayor regarding changes to the budget financing of the HPTF to make funds more readily available from one fiscal year to the next.
- 4) New Business
 - a. Discussion of Next Meeting Agenda

DISTRICT OF COLUMBIA HOUSING FINANCE AGENCY
BOARD OF DIRECTORS MEETING

November 12, 2013
815 Florida Avenue, NW
Washington, DC 20001
5:30 pm

AGENDA

- I. Call to order and verification of quorum.
- II. Discussion – Amendments to the Agency’s Bylaws and Rules.
- III. Vote to close meeting to discuss an Agency personnel matter.

Pursuant to the District of Columbia Administrative Procedure Act, the Chairperson of the Board of Directors will call a vote to close the meeting in order to discuss the appointment, employment, assignment, promotion, performance evaluation, compensation, discipline, demotion, removal, or resignation of government appointees, employees, or officials. An open meeting would adversely affect the personnel matters related to the Agency. (D.C. Code §2-405(b)(10)).

- IV. Executive Director’s Report.
- V. Other Business.
- VI. Adjournment.

**INSPIRED TEACHING DEMONSTRATION PUBLIC CHARTER SCHOOL
REQUESTS FOR PROPOSALS**

Legal Services, Builders Risk Insurance, Civil Engineering, Phase I, Topo/ALTA Survey, Hazmat Survey, Traffic Study, Commissioning, Third Party Review, and Permit Expeditor

The Inspired Teaching Demonstration Public Charter School, in partnership with the Charter School Incubator Initiative and Lee Montessori Public Charter School, invite all interested parties to submit proposals to provide Legal Services, Builders Risk Insurance, Civil Engineering, Phase I, Topo/ALTA Survey, Hazmat Survey, Traffic Study, Commissioning, Third Party Review, and Permit Expeditor services for the proposed renovation of an approximately 70,000 square foot facility. The required delivery date of the project is July 31, 2014. The complete RFP can be obtained by contacting crollman@programmanagers.com. Please indicate which service you would like to provide so that we may distribute the appropriate RFP. RFPs will be distributed starting November 11, 2013 and are due by 5:00 p.m. on November 20, 2013.

INSPIRED TEACHING DEMONSTRATION PUBLIC CHARTER SCHOOL**REQUESTS FOR PROPOSALS****Project Management Services**

The Inspired Teaching Demonstration Public Charter School, in partnership with the Charter School Incubator Initiative and Lee Montessori Public Charter School, invite all interested parties to submit proposals to provide predevelopment and construction management project management services for the proposed renovation of an approximately 70,000 square foot facility. The required delivery date of the project is July 31, 2014. The complete RFP can be obtained by contacting rfp@bhope.org. RFPs will be distributed starting November 11, 2013 and are due by 5:00 p.m. on November 20, 2013.

DISTRICT OF COLUMBIA COMMISSION ON JUDICIAL DISABILITIES AND TENURE

**Judicial Tenure Commission Begins Reappointment Evaluations Of
Chief Judge Eric T. Washington and
Judges Stephen H. Glickman and Hiram E. Puig-Lugo**

This is to notify members of the bar and the general public that the Commission has begun inquiries into the qualifications of Chief Judge Eric T. Washington and Judge Stephen H. Glickman of the District of Columbia Court of Appeals and Judge Hiram E. Puig-Lugo of the Superior Court of the District of Columbia, who are declared candidates for reappointment as Associate Judges upon the expiration of their terms on June 6, 2014.

Under the provisions of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198, 87 Stat. 796 (1973), §443(c) as amended by the District of Columbia Judicial Efficiency and Improvement Act, P.L. 99-573, 100 Stat. 3233, §12(1) provides in part as follows:

"...If a declaration (of candidacy) is so filed, the Tenure Commission shall, not less than sixty days prior to the expiration of the declaring candidate's term of office, prepare and submit to the President a written statement of the declaring candidate's performance during his present term of office and his fitness for reappointment to another term. If the Tenure Commission determines the declaring candidate to be well qualified for reappointment to another term, then the term of such declaring candidate shall be automatically extended for another full term, subject to mandatory retirement, suspension, or removal. If the Tenure Commission determines the declaring candidate to be qualified for reappointment to another term, then the President may nominate such candidate, in which case the President shall submit to the Senate for advice and consent the renomination of the declaring candidate as judge. If the President determines not to so nominate such declaring candidate, he shall nominate another candidate for such position only in accordance with the provisions of subsections (a) and (b). If the Tenure Commission determines the declaring candidate to be unqualified for reappointment to another term, then the President shall not submit to the Senate for advice and consent the nomination of the declaring candidate as judge and such judge shall not be eligible for reappointment or appointment as a judge of a District of Columbia court."

The Commission hereby requests members of the bar, litigants, interested organizations, and members of the public to submit any information bearing on the qualifications of Judges Washington, Glickman, and Puig-Lugo which it is believed will aid the Commission. The cooperation of the community at an early stage will greatly aid the Commission in fulfilling its responsibilities. The identity of any person submitting materials shall be kept confidential unless expressly authorized by the person submitting the information.

All communications should be received by the Commission no later than **February 28, 2014**, and addressed to:

District of Columbia Commission on Judicial Disabilities and Tenure
Building A, Room 246
515 Fifth Street, N.W.
Washington, D.C. 20001
Telephone: (202) 727-1363
Fax: (202) 727-9718

The members of the Commission are:

Hon. Gladys Kessler, Chairperson
Jeannine C. Sanford, Esq., Vice Chairperson
Michael K. Fauntroy, Ph.D.
Shirley Ann Higuchi, Esq.
William P. Lightfoot, Esq.
Anthony T. Pierce, Esq.

BY: /s/ Gladys Kessler
Chairperson

KIPP DC PUBLIC CHARTER SCHOOL

NOTICE OF REQUEST FOR PROPOSALS

**Internet, WAN, Landline Telephone Service, Cellular Telephone Service and Basic
Maintenance for Eligible Equipment FY2014**

KIPP DC is seeking proposals for Internet, WAN, Landline Telephone Service, Cellular Telephone Service and Basic Maintenance for Eligible Equipment. The Request for Proposal can be found at: <http://www.kippdc.org/about/procurement/>

The RFP is due no later than 5:00 P.M., EST, Monday, December 2, 2013. No proposals will be accepted after the deadline.

**THE NOT-FOR-PROFIT HOSPITAL CORPORATION
BOARD OF DIRECTORS**

NOTICE OF PUBLIC ANNUAL COMMUNITY MEETING

The monthly Governing Board meeting of the Board of Directors of the Not-For-Profit Hospital Corporation, an independent instrumentality of the District of Columbia Government, will be held at **2:30pm on Saturday, November 16, 2013**. The meeting will be held at **Turner Elementary School, located at 3264 Stanton Road, SE, Washington DC 20020**. 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).

AGENDA

- I. CALL TO ORDER**
- II. DETERMINATION OF A QUORUM**
- III. APPROVAL OF AGENDA**
- IV. CONSENT AGENDA**
 - A. READING AND APPROVAL OF MINUTES**
 - 1. October 24, 2013 Board Meeting
- V. NON-CONSENT AGENDA**
 - A. MEDICAL STAFF REPORT**
 - 1. Dr. Gilbert Daniel, Chief of Staff
 - B. CHIEF EXECUTIVE REPORTS**
 - 1. Michael Davis, CFO, "Financial Condition of United Medical Center"
 - 2. David Small, CEO, "What's Happening at United Medical Center"
 - C. UMC STRATEGIC PLAN UPDATE**
 - 1. Dawn Gideon, Huron Consulting
- VI. COMMUNITY QUESTIONS**
- VII. ANNOUNCEMENTS**
 - 1. The next Governing Board Meeting will be held at January 23, 2014 at 9:00am at United Medical Center / Conference Room 2/3.
- VIII. ADJOURNMENT**

**OFFICE OF THE DEPUTY MAYOR
FOR PLANNING AND ECONOMIC DEVELOPMENT**

NOTICE OF FUNDING AVAILABILITY

GREAT STREETS SMALL BUSINESS CAPITAL IMPROVEMENT GRANTS

The Office of the Deputy Mayor for Planning and Economic Development (DMPED) invites the submission of applications for the Great Streets Small Business Capital Improvement Grant, authorized from the Economic Development Special Account pursuant to DC Official Code §2-1225.21 and also pursuant to the Great Streets Neighborhood Retail Priority Area Congressional Review Emergency Amendment Act of 2013, D.C. Official Code Section 2-1217.71 et seq.

Grant funds purpose and availability:

The purpose of the Great Streets Small Business Capital Improvement Grants is to support existing small businesses, attract new businesses, increase the District's tax base, and create new jobs for District residents. DMPED will award individual grants of up to a maximum of \$85,000 each to support and foster growth among small businesses. Grant funds will be utilized to reimburse grantees for capital expenditures to improve the subject property or for the purchase of equipment that will be used onsite.

Eligible applicants:

Eligible applicants include (1) small businesses and (2) real estate developers that have secured one or more small business tenant(s) and propose to improve property in preparation for these tenants.

Eligible applicants must possess all of the following prior to an award being made:

1. Be located within the targeted Great Streets corridors. Prospective applicants can verify their location eligibility at greatstreets.dc.gov.
2. Be a registered business in Good Standing with the DC Department of Consumer and Regulatory Affairs (DCRA), the DC Office of Tax and Revenue (OTR), the DC Department of Employment Services (DOES), and the federal Internal Revenue Service (IRS).
3. Retain site control of the property either through fee simple ownership or an executed contract or lease with the property owner. Grantees must demonstrate site control for at least two years after receiving a grant.

Prior to the execution of a grant agreement, the grantee must enter into a First Source Agreement with DOES. More information about the First Source Program can be found at does.dc.gov.

The grant application will be released on **Friday, November 22, 2013**. The grant application will be available on the Great Streets website at greatstreets.dc.gov. Applicants must submit a completed online application to DMPED by **Monday, February 17, 2014 at 4:00 PM**. Late applications will not be forwarded to the review team.

DMPED will host multiple informational sessions on the Great Streets corridors; once confirmed, details will be posted on the DMPED website at dcbiz.dc.gov and on the Great Streets website at greatstreets.dc.gov.

Please direct all inquiries to:

LaToyia Hampton, Grants Manager

Office of the Deputy Mayor for Planning and Economic Development

1100 4th Street, SW

Washington, DC 20024

Telephone: [\(202\) 724-7648](tel:(202)724-7648)

Email: LaToyia.Hampton@dc.gov

**OFFICE OF THE DEPUTY MAYOR
FOR PLANNING AND ECONOMIC DEVELOPMENT**

NOTICE OF FUNDING AVAILABILITY

H STREET, NE SMALL BUSINESS CAPITAL IMPROVEMENT GRANTS

The Office of the Deputy Mayor for Planning and Economic Development (DMPED) invites the submission of applications for the H Street, NE Small Business Capital Improvement Grant. Funding for this program is authorized under the "H Street NE Retail Priority Area Incentive Act of 2010," effective April 8, 2011 (D.C. Law 18-354; D.C. Official Code § 1-325.171 et seq.), and as amended by the "H Street NE Retail Priority Area Incentive Amendment Act of 2012," effective September 20, 2012 (D.C. Law 19-168).

Grant funds purpose and availability:

The purpose of the H Street, NE Small Business Capital Improvement Grants is to support existing small businesses, attract new businesses, increase the District's tax base, and create new jobs for District residents. DMPED will award individual grants of up to a maximum of \$85,000 each to support and foster growth among small businesses. Grant funds will be utilized to reimburse grantees for capital expenditures to improve the subject property or for the purchase of equipment that will be used onsite.

Eligible applicants:

Eligible applicants include (1) small businesses and (2) real estate developers that have secured one or more small business tenant(s) and propose to improve property in preparation for these tenants. *Eligible small businesses and commercial tenants shall not include liquor stores, restaurants, nightclubs, phone stores, or businesses with 20 or more locations in the United States.*

Eligible applicants must possess all of the following prior to an award being made:

1. Have direct frontage on the H Street, NE corridor from 3rd Street, NE to 15th Street, NE (or provide technical assistance to businesses located in this area). Prospective applicants can verify their location eligibility at greatstreets.dc.gov.
2. Be a registered business in Good Standing with the DC Department of Consumer and Regulatory Affairs (DCRA), the DC Office of Tax and Revenue (OTR), the DC Department of Employment Services (DOES), and the federal Internal Revenue Service (IRS).
3. Retain site control of the property either through fee simple ownership or an executed contract or lease with the property owner. Grantees must demonstrate site control for at least two years after receiving a grant.

Prior to the execution of a grant agreement, the grantee must enter into a First Source Agreement with DOES. More information about the First Source Program can be found at does.dc.gov.

The grant application will be released on **Friday, November 22, 2013**. The grant application will be available on the Great Streets website at greatstreets.dc.gov. Applicants must submit a

completed online application to DMPED by **Monday, February 17, 2014 at 4:00 PM**. Late applications will not be forwarded to the review team.

DMPED will host an informational session on the H Street, NE corridor; once confirmed, details will be posted on the DMPED website at dcbiz.dc.gov and on the Great Streets website at greatstreets.dc.gov.

Please direct all inquiries to:

LaToyia Hampton, Grants Manager

Office of the Deputy Mayor for Planning and Economic Development

1100 4th Street, SW

Washington, DC 20024

Telephone: [\(202\) 724-7648](tel:(202)724-7648)

Email: LaToyia.Hampton@dc.gov

**DISTRICT OF COLUMBIA
HISTORIC PRESERVATION REVIEW BOARD**

NOTICE OF HISTORIC LANDMARK AND HISTORIC DISTRICT DESIGNATIONS

The D.C. Historic Preservation Review Board hereby provides public notice of its decision to designate the following property as a historic landmark in the D.C. Inventory of Historic Sites. The property is now subject to the D.C. Historic Landmark and Historic District Protection Act of 1978.

Designation Case No. 13-19: The Metropolitan Apartments
200-210 Rhode Island Avenue NE (Square 3560, Lots 810 and 811)
Designated October 24, 2013

Listing in the D.C. Inventory of Historic Sites provides recognition of properties significant to the historic and aesthetic heritage of the nation's capital city, fosters civic pride in the accomplishments of the past, and assists in preserving important cultural assets for the education, pleasure and welfare of the people of the District of Columbia.

DISTRICT OF COLUMBIA RETIREMENT BOARD

INVESTMENT COMMITTEE

NOTICE OF CLOSED MEETING

November 21, 2013
10:00 a.m.

DCRB Board Room
Mezzanine Level Training Room
900 7th Street, N.W.
Washington, D.C 20001

On November 21, 2013, at 10:00 a.m., the District of Columbia Retirement Board (DCRB) will hold a closed investment committee meeting regarding investment matters. In accordance with D.C. Code §§2-575(b)(1), (2), and (11) and 1-909.05(e), the investment committee meeting will be closed to deliberate and make decisions on investments matters, the disclosure of which would jeopardize the ability of the DCRB to implement investment decisions or to achieve investment objectives.

The meeting will be at 900 7th Street, N.W., Mezzanine Level Training Room, Washington, D.C 20001.

For additional information, please contact Deborah Reaves, Executive Assistant/Office Manager at (202) 343-3200 or Deborah.Reaves@dc.gov.

DISTRICT OF COLUMBIA RETIREMENT BOARD**NOTICE OF OPEN PUBLIC MEETING**

November 21, 2013
1:00 p.m.

900 7th Street, N.W.
Mezzanine Level Training Room
Washington, D.C. 20001

The District of Columbia Retirement Board (DCRB) will hold an Open meeting on November 21, 2013, at 1:00 p.m. The meeting will be held at 900 7th Street, N.W., Mezzanine Level Training Room, Washington, D.C. 20001. A general agenda for the Open Board meeting is outlined below.

Please call one (1) business day prior to the meeting to ensure the meeting has not been cancelled or rescheduled. For additional information, please contact Deborah Reaves, Executive Assistant/Office Manager at (202) 343-3200 or Deborah.reaves@dc.gov.

AGENDA

- | | | |
|-------|-----------------------------------|-----------------|
| I. | Call to Order and Roll Call | Chairman Bress |
| II. | Approval of Board Meeting Minutes | Chairman Bress |
| III. | Chairman's Comments | Chairman Bress |
| IV. | Executive Director's Report | Mr. Stanchfield |
| V. | General Counsel's Report | Ms. Sampson |
| VI. | Investment Committee Report | Ms. Blum |
| VII. | Operations Committee Report | Mr. Ross |
| VIII. | Benefits Committee Report | Mr. Smith |
| IX. | Legislative Committee Report | Mr. Blanchard |
| X. | Other Business | Chairman Bress |
| XI. | Adjournment | |

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA
RECOMMEND FOR APPOINTMENTS OF NOTARIES PUBLIC

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after December 1, 2013.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on November 8, 2013. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

D.C. Office of the Secretary

Effective: December 1, 2013

Recommended for appointment as a DC Notaries Public

Page 2

Altham	Gregory E.	Alderson Court Reporting 1155 Connecticut Avenue, NW, Suite 200	20036
Anastasio	Lauren	JPMorgan Chase 800 Connecticut Avenue, NW, 9th Floor	20006
Anewalt, Jr.	Eric H.	Meadow Financial, LLC 3630 Highwood Drive, SE	20020
Aparisio-Corbin	Anna	PNC Bank 1348 Fourth Street, NE	20002
Arevalo	Marvila S.	Kelley Drye & Warren LLP 3050 K Street, NW, Suite 400	20007
Auberger	Marcia A.	Self 507 7th Street, SE	20003
Beckett	Mary H.	Marine Engineers' Beneficial Association 444 North Capitol Street, NW, Suite 800	20001
Binning	Rachael Lilly	The American Israel Public Affairs Committee 251 H Street, NW	20001
Brown	Chondra	Department of Employment Services 4058 Minnesota Avenue, NE, Suite 5700	20019
Bulter	Angela J.	US Department of Education 550 12th Street, SW	20202
Bulter	Robin M.	Committee on Oversight and Government Reform 2157 Rayburn HOB	20515
Burton-McFadden	Patricia L.	D.I.V.A. EnterpriZe, LLC 20 F Street, NW	20002
Butani	Anita	HRGM Corporation 2021 Shannon Place, SE	20020

D.C. Office of the Secretary

Effective: December 1, 2013

Recommended for appointment as a DC Notaries Public

Page 3

Cameron	Clinton, J.	SunTrust Bank 5000 Connecticut Avenue, NW	20008
Cephas	Elizabeth I.	Office of the Attorney General, Child Support Services Division 441 4th Street, NW	20001
Chae	Catherine	Cause of Action 1919 Pennsylvania Avenue, NW, Suite 650	20006
Childs	Nicole	Lydia's House in Southeast 4101 Martin Luther King, Jr. Avenue, SW	20032
Colletti	Lisa C.	Chadbourne & Parke, LLP 1200 New Hampshire Avenue, NW	20036
Conley	Patricia C.B.	Bank of America 730 15th Street, NW, 4th Floor	20005
Cooper	Deborah T.	The National Bureau of Asian Research 1301 Pennsylvania Avenue, NW, Suite 305	20004
Corridan	Anne B.	BuckleySandler, LLP 1250 24th Street, NW, Suite 700	20037
DeVille	Marcia A.	Washington Navy Yard Naval, Facilities Engineering Command 1314 Harwood Street, SE	20374
Doyle	Saundra M.	Department of Justice, Environment Division 601 D Street, NW, Suite 2926	20004
Ducatman	Joseph	American Israel Public Affairs Committee 251 H Street, NW	20001

**D.C. Office of the Secretary
Recommended for appointment as a DC Notaries Public****Effective: December 1, 2013****Page 4**

Farringer	Tricia M.	Morgan Lewis 1111 Pennsylvania Avenue, NW	20004
Ferguson	Fay S.	Self 901 6th Street, SW, Suite 117A	20024
Finwall	Vania	Marmara Corporation 1125 Okie Street, NE	20002
Gagnon	Lori V.	Colonial Parking, Inc. 1050 Thomas Jefferson Street, NW, Suite 100	20007
Garlenski	Joshua	American Israel Public Affairs Committee 251 H Street, NW	20001
Garoute	Aida	Office of the Attorney General 441 4th Street, NW, Suite 1060N	20001
Ghebreyohannes	Hiwot	Colonial Parking, Inc. 1050 Thomas Jefferson Street, NW, Suite 100	20007
Glick	Mark	Burka & Engle PLLC 601 Pennsylvania Avenue, NW, Suite 900 South	20004
Graham	Virginia C.	Self 730 24th Street, NW, Apt. 319	20037
Gray	Celeste	American Israel Public Affairs Committee 251 H Street, NW	20001
Greene	Barbara L.	Self 1700 40th Street, SE	20020
Henriquez	Sebastian	Collins Elevator Service, Inc. 800 Hamlin Street, NE	20017

D.C. Office of the Secretary
Recommended for appointment as a DC Notaries Public

Effective: December 1, 2013

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Hermes	Suzanne	Steinman & Rodgers, LLP 5630 Connecticut Avenue, NW, 2nd Floor	20015
Howland	Samantha E.	Beach-Oswald Immigration Law Associates, PC 888 17th Street, NW, Suite 310	20006
Huddleston	Natalie	Pierce Atwood LLP 900 17th Street, NW, Suite 350	20006
Ingraham	Carroll E.	Legal Counsel for the Elderly 601 E Street, NW	20049
James-Scott	Barbara	Self 1 Anacostia Road, SE	20019
John	Clifford E.	Capital One Bank, N.A. 5714 Connecticut Avenue, NW	20015
Johnson	Carol D.	Supreme Court of the United States 1 First Street, NE	20543
Kajubi	Caroline T.	Colonial Parking, Inc. 1050 Thomas Jefferson Street, NW, Suite 100	20007
Kasdan	David A.	Worldwide Reporting, LLP 529 14th Street, SE	20003
Kass	Brian L.	Kass, Mitek & Kass, PLLC 1050 17th Street, NW, Suite 1100	20036
Khanna	Vainoo	Capital One Bank, N.A. 1700 K Street, NW	20006
Kuniholm	Lisa Elizabeth	2101 Connecticut Avenue Cooperative Apartments 2101 Connecticut Avenue, NW	20008

**D.C. Office of the Secretary
Recommended for appointment as a DC Notaries Public****Effective: December 1, 2013****Page 6**

LaBonte	Richard J.	AIPAC 251 H Street, NW	20001
Lee	Alexander William	PNC Bank 7601 Georgia Avenue NW	20012
Lockard	Bruce L.	Grunfeld Desiderio 1201 New York Avenue, Suite 650	20005
Lonas	Coleen D.	Cassidy & Associates 733 10th Street, NW, Suite 400	20001
Long	Jeanette	Public Defender Services 601 Indiana Avenue, NW	20001
McLean	Lualgia	Pillsbury Winthrop Shaw Pittman, LLP 2300 N Street, NW	20037
Mills	Grace P.	Lt. Joseph P. Kennedy Institute 801 Buchanan Street, NE	20017
Mizrahi	Adele L.	J. Anukem & Associates, LLC 1875 Eye Street, NW, Suite 500	20006
Mongoven	John O.	Neal R. Gross & Company Inc. 1323 Rhode Island Avenue, NW	20005
Moore	Viola E.	Self 429 N Street, SW, Suite S- 508	20024
Morey	Verna Lynn	Brookfield Properties Management, LLC 750 9th Street, NW	20001
Mukasa	Samuel M.	Colonial Parking, Inc. 1050 Thomas Jefferson Street, NW, Suite 100	20007

**D.C. Office of the Secretary
Recommended for appointment as a DC Notaries Public****Effective: December 1, 2013****Page 7**

Olsen	Jeremy J.	Law Office of Christina Forbes 1629 K Street, NW, Suite 300	20006
Payne	Richelle A.	Corcoran Jennison Management 750 6th Street, SE	20003
Pereira	Stephen F.	US Department of Transportation, Federal Transit Administration 1200 New Jersey Avenue, SE, Room E56-310	20590
Pierce	Rosalyn	United States Institute of Peace 2301 Constitution Avenue, NW	20037
Pomponio	Sharon	2029 Connecticut Avenue Condominium Unit Owners Association 2029 Connecticut Avenue, NW	20008
Pruitt	Irene M.	Womble Carlyle Sandridge & Rice LLP 1200 19th Street, NW, Suite 500	20036
Puereschitz	Maria	International Finance Corporation 2121 Pennsylvania Avenue, NW	20433
Reed	Shonell R.	Public Defender Service, Mental Health Division 633 Indiana Avenue, NW, 2nd Floor	20004
Rivas	Jonathan	DCDB Group 2101 L Street, NW, Suite 800	20037
Russell, Jr.	Richard W.	Neal R. Gross & Company Inc. 1323 Rhode Island Avenue, NW	20005
Sander	Courtney	Smiths Ethics & Compliance 818 Connecticut Avenue, NW, Suite 450	20006

**D.C. Office of the Secretary
Recommended for appointment as a DC Notaries Public****Effective: December 1, 2013****Page 8**

Santucci	Patricia	LAYC Career Academy Public Charter School 3047 15th Street, NW	20009
Shaikh	Jaffar	TD Bank, N.A. 1611 Wisconsin Avenue, NW	20007
Sisco	Lydia D.	Self (Dual) 3600 Ely Place, SE, Apt 303	20019
Smith	Tiffany	Clark Construction Group, LLC 2229 4th Street, NW	20059
Stallworth	Joanne H.	AdvantEdge Business Centers 1250 24th Street, NW, Suite 300	20037
Taylor	Benjamin C.	Self (Dual) 4909 Central Avenue, NE	20019
Swanson	Lois J.	Ballard Spahr LLP 1909 K Street, NW, 12th Floor	20006
Taylor	Benjamin C.	Self (Dual) 4909 Central Avenue, NE	20019
Taylor	Chardonnay M.	Office of the Attorney General, Child Support Service Division 441 4th Street, NW, Suite 550N	20001
Terry	Jody F.	Fiduciary Investment Management International 1133 Connecticut Avenue, NW, Suite 410	20036
Thompson	Lawrence	TD Bank, N.A. 1611 Wisconsin Avenue, NW	20007

**D.C. Office of the Secretary
Recommended for appointment as a DC Notaries Public****Effective: December 1, 2013****Page 9**

Todd	Leslie Anne	PlanetDepos 1100 Connecticut Avenue, NW	20036
Trammell-Ellis	Reverend Evie	Self 1624 Q Street, SE	20020
Trimmer	Letha	US Department of Education 550 12th Street, SW, Suite 8156	20024
Tyson	Kiyo Oden	District of Columbia Office of Administrative Hearings 441 4th Street, NW, Suite 450N	20001
Wade	Marcia A.	Cohen Milstein Sellers & Toll PLLC 1100 New York Avenue, NW, Suite 500 West Tower	20005
Watkins	Melissa Y.	Baker & McKenzie, LLP 815 Connecticut Avenue, NW	20006
Waugh	Octavia L.	Bianchi Funeral Service, LLC 814 Upshur Street, NE	20011
Wertz	Darcy E.	Solidarity Center 888 16th Street, NW, Suite 400	20006
Whitchurch	Kristina	American University 4400 Massachusetts Avenue, NW	20016
Williams, Jr.	Melvin F.	Millennium Challenge Corporation 875 15th Street, NW	20005
Wilson	Morgan H.	Washington Fine Properties/Hatfield Weir Real Estate 3201 New Mexico Avenue, NW, Suite 220	20016
Wood	Julius	Suntrust 2250 N Street, NW	20037

D.C. Office of the Secretary

Effective: December 1, 2013

Recommended for appointment as a DC Notaries Public

Page 10

Woodard

Pamela T.

Millennium Challenge Corporation
875 15th Street, NW

20005

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DC TAXICAB COMMISSION**

NOTICE OF GENERAL COMMISSION MEETING

The District of Columbia Taxicab Commission will hold its regularly scheduled General Commission Meeting on Wednesday, November 13, 2013 at 10:00 am. The meeting will be held in the Old Council Chambers at 441 4th Street, NW, Washington, DC 20001.

The final agenda will be posted no later than seven (7) days before the General Commission Meeting on the DCTC website at www.dctaxi.dc.gov.

Members of the public must register to speak. The time limit for registered speakers is five (5) minutes. A speaker should also submit two (2) copies of any prepared statement to the Assistant Secretary to the Commission. Registration to speak closes at 3:30 pm the day prior to the meeting. Contact the Assistant Secretary to the Commission, Ms. Mixon, on 202-645-6018, selection 4. Registration consists of your name; your phone number or email contact; and your subject matter.

DRAFT AGENDA

- I. Call to Order
- II. Commission Communication
- III. Commission Action Items
- IV. Government Communications and Presentations
- V. General Counsel's Report
- VI. Staff Reports
- VII. Public Comment Period
- VIII. Adjournment

THE ARTS AND TECHNOLOGY ACADEMY PUBLIC CHARTER SCHOOL**SPECIAL EDUCATION LEGAL SERVICES****INVITATION TO BID**

The Arts & Technology Academy Public Charter School is soliciting bids for special education legal services. The bid package may be obtained beginning on November 1, 2013, by sending a request via email to Rich Blickendorfer, School Administrator, at rblickendorfer@dcata.org. No phone calls. Bids must be delivered via email to rblickendorfer@dcata.org by **3:00 PM on Friday, November 22, 2013.**

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Environmental Quality and Sewerage Services Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Environmental Quality and Sewerage Services Committee will be holding a meeting on Thursday, November 21, 2013 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dewater.com.

DRAFT AGENDA

- | | |
|--|--|
| 1. Call to Order | Committee Chairperson |
| 2. AWTP Status Updates
1. BPAWTP Performance | Assistant General Manager,
Plant Operations |
| 3. Status Updates | Chief Engineer |
| 4. Project Status Updates | Director, Engineering &
Technical Services |
| 5. Action Items
- Joint Use
- Non-Joint Use | Chief Engineer |
| 6. Emerging Items/Other Business | |
| 7. Adjournment | Committee Chairperson |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Governance Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Governance Committee will be holding a meeting on Wednesday, November 13, 2013 at 9:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or لمانley@dcwater.com.

DRAFT AGENDA

- | | |
|---|---------------------------------|
| 1. Call to Order | Chairperson |
| 2. Government Affairs: Update | Government Relations
Manager |
| 3. Update on Workforce Development Program | Chief of Staff |
| 4. Update on the Compliance Monitoring Program | TBD |
| 5. Enhancements to the Debarment/Suspension Provisions
of the Procurement Manual | General Counsel |
| 6. Emerging Issues | Chairperson |
| 7. Adjournment | Chairperson |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Human Resources and Labor Relations Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Human Resources and Labor Relations Committee will be holding a meeting on Wednesday, November 13, 2013 at 11:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to the DC Water’s website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or لمانley@dcwater.com.

DRAFT AGENDA

- | | |
|---|-----------------------|
| 1. Call to Order | Committee Chairperson |
| 2. 2014 Medical Plan Renewals | Manager, Benefits |
| 3. Action Items | Manager, Benefits |
| 4. Executive Session – To discuss personnel matters Pursuant to D.C. Official Code § 2-575(b)(10) | Committee Chairperson |
| 5. Adjournment | Committee Chairperson |

OFFICE ON WOMEN'S POLICY AND INITIATIVES
DISTRICT OF COLUMBIA COMMISSION FOR WOMEN

NOTICE OF PUBLIC MEETING

**Thursday, November 7, 2013
6:45 PM – 8:45 PM**

John A. Wilson Building
1350 Pennsylvania Avenue, NW
Room 301
Washington, DC 20004

The District of Columbia Commission for Women will hold its monthly meeting on Thursday, November 7, 2013 at 6:45pm. The meeting will be held at the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Room 301, Washington, DC 20004.

For additional information, please contact Terese Lowery, Executive Director at (202) 724-7690 or women@dc.gov.

DRAFT AGENDA

- I. Call to Order
- II. Debrief from Commission Retreat
- III. Discussion of Agenda for Mayor's Visit to Upcoming Commission Meeting
- IV. Discussion of Winter Commission Events and Plans for Women's History Month
- V. Discussion of Other Commissions for Women
(Best Practices/ Potential Collaboration)
- VI. Comparative Discussion of Domestic Violence Hotlines Across the Country
and the Feasibility of a Hotline in DC
- VII. Questions, Comments, Concerns
- VIII. Adjournment

Please note that this is a draft agenda and subject to change.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Order No. 18462-A of Application No. 18462 of Karen Sayre, pursuant to 11 DCMR § 3104.1, for a special exception to allow additions to an existing two-family flat under § 223 of the Zoning Regulations, not meeting the lot occupancy requirements (§ 403), rear yard requirements (§ 404), and nonconforming structure limitations (§ 2001.3) in the R-4 District at premises 13 15th Street, S.E. (Square 1058, Lot 47).

HEARING DATE: November 7, 2012

DECISION DATES: October 23, 2012 (Expedited Review) and November 7, 2012

CORRECTED DECISION AND ORDER¹

Karen Sayre, the property owner of the subject premises (“the Owner” or “the Applicant”), filed an application with the Board of Zoning Adjustment (“Board”) on August 14, 2012 for a special exception under § 223 to construct additions to her residence, where the completed project will not conform to lot occupancy requirements and rear yard requirements of the Zoning Regulations. The Board held a public hearing on November 7, 2012. After deliberating, the Board voted, to approve the application.

PRELIMINARY MATTERS

Notice of Public Hearing

Pursuant to 11 DCMR § 3113.13, notice of the hearing was sent to the Applicant, all owners of property within 200 feet of the subject site, Advisory Neighborhood Commission (“ANC”) 6B, and the District of Columbia Office of Planning (“OP”). The Applicant posted placards at the property regarding the application and public hearing and submitted an affidavit to the Board to this effect. (Exhibit 25.)

Pursuant to 11 DCMR § 3181, this application was tentatively placed on the Board’s expedited review calendar on October 23, 2012 for decision without hearing as a result of the Applicant’s waiver of her right to a hearing.

Once called, the Board noted that a party had filed in opposition. The Board requested that the application be removed from the expedited review calendar and scheduled for a public hearing pursuant to 11 DCMR § 3118.6(a). At the Board's request, staff scheduled the application for

¹ This order corrects BZA Order No. 18462, dated March 14, 2013, which incorrectly cites the square and lot number as “Square 1056, Lot 28.” The correct cite is Square 1058, Lot 47. The change has been made to the caption and body of this corrected order. In all other respects, the substance of the March 14th Order remains unaltered.

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hearing at 1:00 p.m. on November 7, 2012. Notice of the newly scheduled hearing date was posted in the Office of Zoning pursuant to 11 DCMR § 3118.5(b).

The Applicant retained the services of George Keys for legal representation. (Exhibit 29.) At the public hearing, the Board granted expert witness status to Will Teass, as an expert in architecture.

Pre-hearing Submissions

The Applicant made changes to the original application in response to concerns raised by OP and the ANC. These changes are shown in the revised plans dated October 8, 2012. The front wall of the third floor addition, fronting on 15th Street, S.E. was sloped back from the existing front wall to reduce the visual impact of the addition on the 15th Street streetscape.

The Applicant also submitted a copy of the structural report prepared by FMC & Associates (“FMC”), dated June 6, 2012. (Exhibit 29.) In its report, FMC noted that no significant cracks or settlement in load bearing masonry walls were found. No representative of FMC testified at the public hearing.

Request for Party Status

The owner of the adjacent row dwelling at 15 15th Street, S.E., which abuts the subject property to the south, filed a request for party status in opposition on October 9, 2012. At its November 7 public hearing, the Board granted Mr. Adam’s request for party status.

ANC Report

In its report dated October 11, 2012, ANC 6B indicated that, at a regularly scheduled and properly noticed monthly meeting with a quorum present, the ANC voted to support the special exception application. (Exhibit 22.) The ANC concluded that the proposed additions would have a negligible impact on light, air and privacy. No representative of the ANC testified at the public hearing.

Persons in Support

Holly and Isaac Brown, the owner of the adjacent property at 11 15th Street, S.E., reviewed the Applicant’s initial proposed plans and submitted a letter in support of the application. (Exhibit 6.) Mr. and Mrs. Brown did not testify at the public hearing.

John Adam, the owner of the adjacent property at 15 15th Street, S.E., reviewed the Applicant’s initial proposed plans and submitted a letter in support of the application. (Exhibit 7.) Mr. Adam later withdrew his support and filed a request for party status in opposition. During his testimony, Mr. Adam stressed that his letter did not state his unconditional support, but rather represented his views at the moment it was written based upon the knowledge that he had at the time.

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Persons in Opposition

Letters. The Board received two letters in opposition to the application from neighboring property owners John Adam (Exhibits 26 and 28) and Nathalie Large-Odier. (Exhibits 28.)

- Mr. Adam resides at 15 15th Street, S.E., the adjacent neighbor to the south of the Applicant. He expressed concerns regarding the stability of party wall and the impact on the street view. Mr. Adam requested party status and participated in the public hearing.
- Ms. Large-Odier resides three houses south of the Applicant at 19 15th Street, S.E. She raised concerns about the impact of the addition on the street view. She did not participate in the public hearing.

Testimony in Opposition. Neighboring property owner, John Adam, testified in opposition to the project. Mr. Adam resides at 15 15th Street, S.E., to the south of the Applicant's property. Mr. Adam raised a number of concerns, including increased noise, intrusions on privacy and light, and additional stress on the shared party wall. Mr. Adam also testified that he was not informed of the ANC public meetings.

Government Reports

OP Report

OP prepared a written report in support of the application dated October 16, 2012. (Exhibit 23.) In its report, OP concluded that the light and air available to neighboring properties would not be unduly affected by the additions, and the privacy of use and enjoyment of neighboring properties would not be unduly compromised. OP also noted that the application also requires rear yard relief under § 404 of the Regulations, in that the minimum rear yard is deficient by 2.7 feet. Arthur Jackson, the OP representative who prepared the report, testified at the hearing.

DDOT Report

DDOT prepared a written report dated October 18, 2012. (Exhibit 24.) In its report, DDOT concluded that the proposed project will have no adverse impacts on the travel conditions of the District's transportation network. No representative of DDOT testified at the public hearing.

Closing of the Record

The Board completed the public testimony on November 7, 2012 and closed the record. (Exhibit 32.)

FINDINGS OF FACT

The Site and Surrounding Area

1. The subject property is located at 13 15th Street, S.E., Square 1058, Lot 47, in the R-4 Zone

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District.

2. The lot is improved with a two-story, two-family flat row dwelling. The subject property does not have a basement.
3. The property fronts on 15th Street, S.E. to the east and a 10-foot wide public alley to the west.
4. To the north and south are abutting two-story row dwellings. To the west, across the public alley are the rear yards of row dwellings. To the east, across A Street, S.E. from the property, is a school.
5. The block is primarily a block of two-story row dwellings with raised basements. Two neighboring buildings on the west side of 15th Street, S.E., north of the subject property are three stories. Across the street from the property is the "Center City Public Charter School", which consists of a much larger three-story structure.

The Proposal

6. The Applicant proposes to construct a third story addition and roof deck above the existing two-story flat.
7. The Applicant also proposes to construct a circular stairway that would lead from the second floor of the existing structure, the main floor of the top unit to the ground.

Zoning Relief

8. Section 403 of the Zoning Regulations permits a maximum lot occupancy of 60% in the zone. The dwelling currently has nonconforming lot occupancy of 68% and with the additions will have a lot occupancy of 70%.
9. Subsection 2001.3 (a) prohibits the expansion of a structure that is nonconforming as to lot occupancy.
10. Section 404 of the Zoning Regulations requires a minimum rear yard of 20 feet in the zone. The dwelling with additions will have a rear yard of approximately 17.3 feet.
11. As specified above, the dwelling and proposed additions will not comply with the applicable area requirements under §§ 403 and 404 of the Zoning Regulations or with the prohibition against the enlargement of a structure with nonconforming lot occupancy of § 2001.3(a).

The Impact of the Additions

12. The plans, elevations, photographs, and site plan show the relationship of the additions to adjacent buildings, and also show views from the public right-of-ways.

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13. The third floor addition will be visible from 15th Street, S.E. and the rear alley. However, the façade materials and treatments will read as a mansard roof and have a reduced visual impact on the streetscape. Also, the existing cornice line, which is a prominent feature on the block, will remain intact.
14. The addition will have no windows along the shared property lines to the north and south, and the neighbor to the west is separated from the property by a 10-foot wide alley.
15. The shading study shows that the addition will have a minimal impact to the neighbor to the north. Most of the shadows created by the addition are cast on the roof of the adjacent northern structure.
16. The roof deck is setback from the edge of the roof at the south and west sides.
17. The addition will have no windows on the along the shared property lines to the north and south, and the neighbor to the west is separated by a 10-foot wide alley.
18. Any sound resulting from the use of the addition will be noninvasive and consistent with what could be reasonably expected from living in a residential environment.

CONCLUSIONS OF LAW

The Applicant is seeking a special exception pursuant to 11 DCMR §§ 223 and 3104.1 to construct additions to a two-family flat in an R-4 Zone District, where the proposal will not comply with the lot occupancy requirements of § 403, the rear yard requirements of § 404, and the restriction on the enlargement of nonconforming structures of § 2001.3 (a). As stated in § 3104.1 of the Zoning Regulations (Title 11 DCMR), the Board “is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) ... to grant special exceptions, as provided in this title, where, in the judgment of the Board, the special exceptions 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 Maps, subject in each case to the special conditions specified in this title.” In this case, the “special conditions” are those specified in §§ 223.2 through 223.5. As noted by the Court of Appeals:

In evaluating requests for special exceptions, the BZA is limited to a determination of whether the applicant meets the requirements of the exception sought. ‘The applicant has the burden of showing that the proposal complies with the regulation; but once that showing has been made, the Board ordinarily must grant the application.’ *National Cathedral Neighborhood Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 753 A.2d 984, 986 n. 1 (D.C.2000) (quoting *French v. District of Columbia Bd. of Zoning Adjustment*, 658 A.2d 1023, 1032-33 (D.C.1995)).

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Georgetown Residents Alliance v. District of Columbia Bd. of Zoning Adjustment, 802 A.2d 359, 363 (D.C., 2002).

In this case, the Board concludes that the Applicant has satisfied the two general tests stated in § 3104.1 and the specific conditions contained in § 223.

As to the general test, the Board concludes that the requested special exception will “be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.” (11 DCMR § 3104.1.) The proposed addition will not change the residential use of the dwelling and will be in harmony with the existing residential neighborhood. With respect to whether the special exception will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, the Board concludes that this standard is satisfied if the specific conditions of § 223 are met. These will be discussed in the section below entitled “The ‘special conditions’ for an addition under § 223.1.”

The “special conditions” for an addition under § 223.1

Under § 223.1 of the Zoning Regulations, an addition to a two-family flat shall be permitted even though it does not comply with applicable area requirements if approved by the Board as a special exception, subject to its not having a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

223.2(a) The light and air available to neighboring properties shall not be unduly affected. As OP found, the Board concludes that the light and air at neighboring properties will not be unduly affected. The solar study shows that the addition will have only a minimal impact on light and air at the adjacent property. (See, Exhibit 9 and Finding of Fact 15.)

223.2(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised. Nor will the privacy of use and enjoyment of neighboring properties be significantly affected by the proposed rear addition. Based upon the evidence of record, the Board is not persuaded that the privacy of neighboring property owners will be diminished in any significant way. (Finding of Fact 16 and 17.) Nor will the sounds attributable to the use of the addition prove different in kind that what could be anticipated in living in a residential environment. (Finding of Fact 18.)

223.2(c) The addition, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage. The third floor “pop-up” will not substantially visually intrude upon the character, scale, or pattern of homes along the street frontage. (Findings of Fact 5 and 6.)

223.3 The lot occupancy of the dwelling or flat, together with the addition, shall not exceed fifty percent (50%) in the R-1 and R-2 Districts or seventy percent

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(70%) in the R-3, R-4, and R-5 Districts. The subject property is in the R-4 Zone District. (Finding of Fact 1.) With the proposed additions, the lot occupancy will be 70%. (Finding of Fact 8.) Therefore, this condition will be met.

Neighboring property owners submitted letters regarding structural integrity of the party wall, construction-related problems, and the impact on the street view. The structural integrity of the party wall and construction issues are not relevant to a special exception application under § 223, which is only concerned with the impact of the proposed addition.

The Board is required under § 13 of the Advisory Neighborhood Commission Act of 1975, effective October 10, 1975 (D.C. Law 1-21), as amended; D.C. Official Code § 1-9.10(d)(3)(A), to give “great weight” to the issues and concerns raised in the affected ANC’s recommendations. For the reasons stated in this Decision and Order, the Board finds the ANC’s advice to be persuasive.²

In reviewing a special exception application, the Board is also required under D.C. Official Code § 6-623.04(2001) to give “great weight” to OP recommendations. For the reasons stated in this Decision and Order, the Board finds OP’s advice to be persuasive.

For the reasons stated above, the Board concludes that the applicant has satisfied the burden of proof with respect to the application for a special exception under § 223 to allow the construction of additions that do not comply with area requirements of the R-4 Zone District. Therefore, for the reasons stated above, the application for a special exception, subject to Exhibit 9 - Plans, is hereby **GRANTED**.

VOTE: **4-0-1** (Lloyd J. Jordan, Nicole C. Sorg, Jeffrey L. Hinkle, and Robert E. Miller to Approve; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this Decision and Order.

FINAL DATE OF ORDER: October 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.

² Mr. Adam claims that he did not receive notice from the ANC, but did not refute that the ANC’s meeting was “properly noticed” as stated in the ANC report. The notice provisions for ANC meetings are stated in § 14 (c) of the Advisory Neighborhood Commission Act of 1975; D.C. Official Code § 109.11(c) and can be satisfied without mailed notice to residents.

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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**

Order No. 18463-A of CAS Riegler Real Estate Development, Motion for Modification of Condition No. 3 in Order No. 18463, pursuant to § 3129.7 of the Zoning Regulations.

The original application, was pursuant to 11 DCMR § 3103.2, for a variance from the lot area requirements (section 401) to allow the conversion of and addition to an existing building into an apartment house in the R-4 District at premises 901 D Street, N.W. (Square 938, Lot 809).

HEARING DATE (Original Application):	December 11, 2012
DECISION DATE (Original Application):	December 18, 2012
FINAL ORDER ISSUANCE DATE (No. 18463):	December 21, 2013
HEARING DATES FOR MODIFICATION:	October 29, 2013
MODIFICATION DECISION DATES:	September 24, 2013 and
October	29, 2013

SUMMARY ORDER ON REQUEST FOR MODIFICATION

BACKGROUND

On December 18, 2012, the Board of Zoning Adjustment (the “Board” or “BZA”) approved CAS Riegler Real Estate Development’s (the “Applicant”) original request for a variance from the lot area requirements under § 401, to allow the conversion of and addition to an existing building into an apartment house in the R-4 District at premises 901 D Street, N.W. (Square 938, Lot 809). The approval was given pursuant to four enumerated conditions, including Condition No. 3, whereby the Applicant is obligated to pay the cost for installing a Capital Bikeshare station at a location agreed upon by the Applicant and Advisory Neighborhood Commission (“ANC”) and provided that the Capital Bikeshare is able to find a suitable location.

Specifically, Condition No. 3 stated:

“The Applicant shall pay the cost for installing a Capital Bikeshare station at a location agreed upon by the Applicant and the ANC, provided that Capital Bikeshare is able to find a suitable location.”

BZA Order No. 18463, approving the original request, was issued on December 21, 2012. (Exhibit 37.)

MOTION FOR MODIFICATION

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On August 29, 2013, the Applicant filed a Request for Minor Modification of Condition No. 3 in Order No. 18463, pursuant to § 3129.7 of the Zoning Regulations with a Certificate of Service providing notice by electronic mail and first class mail to the Office of Planning (“OP”) and Advisory Neighborhood Commission (“ANC”) 6A, the affected ANC. (Exhibits 41 and 42.) The Applicant requested modification of Condition No. 3 so as to limit its financial contribution to \$25,000 for the cost of the installation of a Capital Bikeshare station.

The Applicant had proposed paying the cost of installing a Capital Bikeshare station after extensive negotiation and having reaching an agreement with ANC 6A. It was that agreement upon which the Board based its approval of the original application. The Applicant offered this condition in response to the ANC’s concerns about traffic and as a transportation demand measure. At the time, both the ANC and the Applicant agreed that the proposal was a reasonable offer without knowing the full cost of installing a Capital Bikeshare station.¹

Subsequently, after conversations with the District Department of Transportation (“DDOT”), the Applicant learned that the cost of installing a Capital Bikeshare station would be a minimum of \$75,000, which is a significantly greater amount than either the ANC or the Applicant anticipated. The Applicant indicated that this will add a major cost to a project for which the Applicant did not account. The Applicant noted that the relative burden of the full cost of a Capital Bikeshare station is much greater than the potential impact of the relief that the Applicant was granted.

The Applicant stated that it continued to want to honor its commitment to the ANC of having a Capital Bikeshare station installed nearby. As soon as it learned of the significant installation cost, the Applicant met with the ANC to discuss a possible solution to the unanticipated cost. According to the Applicant, the ANC agreed that this expenditure was much greater than they had anticipated and that they did not intend for the Applicant to incur such a large expense.

As a result, the Applicant is seeking to modify the condition to limit any such financial contribution to \$25,000. At the time of the original approval, both the Applicant and ANC agreed that the proposal had been a reasonable offer. However, neither knew the full cost of installing a Capital Bikeshare station. Through discussions with DDOT, the Applicant discovered that the full cost of installing a Capital Bikeshare station is approximately \$75,000. The Applicant and ANC subsequently have met and agreed that the Applicant’s proposed contribution of \$25,000 is consistent with the agreement that the parties previously reached. (Exhibit 41.)

¹ At the hearing on the modification request, the Board questioned the Applicant on why the Applicant and ANC did not know the full cost. The Applicant replied that during negotiations with the ANC for the original case, it had asked if the ANC knew how much the installation would cost. The Single Member District told them that based on his prior experience with such an installation, he believed the cost was \$25,000. As the negotiations were completed only shortly before the public hearing on the original application, the Applicant did not check the estimate it had been given.

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Pursuant to § 3129.7, the Board conducted a public hearing on the requested modification on October 29, 2013.² OP filed a report dated September 17, 2013 (Exhibit 44) stating that it had no objection to the Board granting approval of the requested modification³ and appeared at the hearing. The affected ANC, ANC 6A, which was a party in support to the underlying case, filed a report dated September 14, 2013 in support of the modification request. The ANC's report indicated that at a duly noticed and scheduled public meeting with a quorum present, the ANC voted 6-0-0 to support the modification request. The ANC stated that the amount of \$25,000 was consistent with the agreement previously reached by the ANC and the Applicant and an appropriate contribution toward the expense of the Capital Bikeshare station. (Exhibit 43.)

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR § 3129, that the requested modification 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. No parties opposed this modification. Accordingly, a decision of the Board to grant this modification would not be adverse to any Party.

The Board concludes that the Applicant's proposed Modification of Condition No. 3 is well supported and consistent with requirements of § 3129.7 of the Zoning Regulations and represents a modification that does not change the material facts the Board relied upon in approving the original application.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law.

It is therefore **ORDERED** that this application for modification of Condition No. 3 be **GRANTED SO THAT CONDITION NO. 3 IS MODIFIED TO READ AS FOLLOWS:**

3. The Applicant shall pay \$ 25,000 of the cost for installing a Capital Bikeshare station at a location agreed upon by the Applicant and the ANC, provided that Capital Bikeshare is able to find a suitable location. This condition shall be satisfied once the Applicant makes the payment.

² This case had originally been placed on the September 24, 2013 Public Meeting agenda. At the meeting on September 24th, the Board found that the modification could not be deemed minor and decided without a hearing, as it did not involve the modification of plans. The Board requested additional information and moved the case to the October 29, 2013 Public Hearing agenda for a public hearing, per § 3129.7 of the Zoning Regulations.

³ Although OP expressed some concerns for modification requests such as these, it ultimately indicated that it had no objection to granting this Applicant's request. (Exhibit 44.)

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In all other respects, Order No. 18496 and the conditions approved therein remain unchanged.

VOTE ON ORIGINAL APPLICATION ON DECEMBER 18, 2012: 4-0-1

(Lloyd L. Jordan, Nicole C. Sorg, and Jeffrey L. Hinkle to APPROVE, Michael G. Turnbull to approve by absentee ballot; one Board seat vacant.)

VOTE ON MODIFICATION OF CONDITION NO. 3 (OCTOBER 29, 2013): 3-0-2

(Lloyd J. Jordan, Marcie I. Cohen, and S. Kathryn Allen to APPROVE; Jeffrey L. Hinkle, not present or voting; 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 summary order.

ATTESTED BY: _____

SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: November 4, 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.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18494 of Lauriol Properties, LLC Cactus Cantina, pursuant to 11 DCMR § 3104.1, for a special exception under § 214 to allow the continued use of an accessory parking lot in the R-5-B District at premises 1780-1782 T Street, N.W. (Square 152, portion of Lot 862).

HEARING DATE: January 29, 2013

DECISION DATE: March 26, 2013

DECISION AND ORDER

This self-certified application was submitted on October 26, 2012 by Lauriol Properties LLC Cactus Cantina (“Applicant”), the owner of the property that is the subject of the application, seeking a special exception under § 214 of the Zoning Regulations to continue an accessory parking lot use in the R-5-B Zone District at 1780-1782 T Street, N.W. (Square 152, portion of Lot 862) to provide parking for the Applicant’s restaurant, located on an abutting lot. Following a public hearing, the Board of Zoning Adjustment (“Board”) voted to approve the application, subject to conditions.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated November 2, 2012, the Office of Zoning provided notice of the application to the Office of Planning (“OP”); the District Department of Transportation (“DDOT”); the Councilmember for Ward 2; Advisory Neighborhood Commission (“ANC”) 2B, the ANC in which the subject property is located; and Single Member District/ANC 2B08. Pursuant to 11 DCMR § 3112.14, on November 15, 2012 the Office of Zoning mailed letters providing notice of the hearing to the Applicant, ANC 2B, and the owners of all property within 200 feet of the subject property. Notice was published in the *D.C. Register* on November 16, 2012 (59 DCR 13041).

Party Status. The Applicant and ANC 2B were automatically parties in this proceeding. The Board granted a request for party status in opposition to the application submitted by Joseph Brinker, a resident of the 1800 block of 18th Street, across the street from the Applicant’s restaurant.

Applicant’s Case. The Applicant provided evidence and testimony from Raul Sanchez, co-owner of the Applicant’s restaurant, who described operations of the accessory parking lot as previously approved as well as the plans for modifications to its valet parking program intended to minimize traffic impacts associated with the restaurant. The Applicant indicated its agreement with conditions proposed in this proceeding by OP.

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OP Report. By memorandum dated January 29, 2013, OP recommended approval of the application, subject to conditions similar to those previously adopted by the Board for the accessory parking lot use. (Exhibit 33.)

DDOT Report. By memorandum dated January 22, 2013, DDOT indicated no objection to the application. According to DDOT, the continued use of the parking lot would have negligible impacts on the travel conditions of the District's transportation network, noting that "the area has a high demand for on-street parking spaces and the continued use of the parking lot is not expected to increase on-street parking demand in the area." (Exhibit 34.)

ANC Report. By letter submitted January 16, 2013, ANC 2B indicated that, at a regular public meeting, held January 9, 2013 with a quorum present, the ANC voted 8-0 to approve a resolution in support of the application, subject to conditions pertaining to DDOT's approval of a permit for a new valet staging area proposed by the Applicant on 18th Street "to alleviate the hazards and nuisance issues that derive from the existing lot and valet system," and to the installation of new landscaping by the Applicant "in the garden outside the wall separating the parking lot from T Street, to mitigate views of the lot from T Street and surrounding residences." According to ANC 2B, the Applicant's parking lot "benefits the neighborhood by relieving parking pressure on neighborhood streets," but its location, near the intersection of 18th and T Streets, also adversely affects the neighborhood when vehicles of restaurant patrons form a queue that "bottlenecks traffic at the intersection – causing hazards to pedestrians, bicyclists, and other drivers" on both streets" as well as creating "noise nuisance to surrounding properties." The ANC noted two changes since the parking lot was originally approved in 1998: (i) DDOT had constructed a new streetscape along 18th Street that "substantially narrowed the opening to T Street to 1 car width and eliminated substantial curb-side idling space near the corner," thereby "exacerbate[ing] the problems associated with the queuing of patrons' cars"; and (ii) new rules had been implemented for any valet parking that utilizes public space, inducing the Applicant to apply for a valet parking permit to stage all drop-offs using three parking spaces on 18th Street, directly in front of the restaurant. (Exhibit 31.)

Persons in support. The Board received letters in support of the application from persons living in the vicinity of the subject property. The letters stated generally that the Applicant's current use of the subject property as an accessory parking lot did not adversely impact the surrounding neighborhood and reduced the demand for on-street parking. The letters also commented favorably on the Applicant's planned valet parking station on 18th Street, which was expected to eliminate the vehicular stacking that presently occurs near the intersection of 18th and T Streets. (Exhibit Nos. 26-29.)

Party in opposition. The party in opposition asserted that the Applicant's current parking operations, including the valet service, contributed to traffic congestion especially on 18th Street in the vicinity of the restaurant. By letter dated March 19, 2013, the party in opposition acknowledged that the Applicant's revised valet parking plan "may solve the significant current congestion and public safety problem" but recommended approval of the requested special

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exception conditioned on “a review of the success of the proposed valet parking plan six months to one year after the approval ... to allow the community to evaluate if the plan did in fact solve the problem it is meant to address.” (Exhibit 41.)

Persons in opposition. The Board received letters from persons living in the vicinity of the subject property who contended that the Applicant had not provided sufficient landscape screening to block the view of the parking lot from nearby residences and that the restaurant’s current parking operations cause noise and traffic congestion, especially at night. The residents did not oppose the continued use of the parking lot if their concerns were adequately addressed. (Exhibit No. 24.)

FINDINGS OF FACT**The Subject Property**

1. The subject property is located at 1780-1782 T Street, N.W., on the south side of the street near its intersection with 18th Street (Square 152, portion of Lot 862).¹ Lot 862 is rectangular, approximately 49 feet wide and 100 feet deep, with an area of 4,893 square feet. A public alley, 10 feet wide, abuts the property along its rear lot line.
2. Approximately 3,262 square feet of Lot 862 is used to provide off-street parking. The remaining (eastern) portion of the lot is improved with a row dwelling and accessory building at 1778 T Street, N.W.; that property is also owned by the Applicant. The lot abutting the subject property to the west is the site of the Applicant’s restaurant.
3. The subject property is improved with a surface parking lot currently used to provide accessory parking for the restaurant. The subject property contains space to park 20 vehicles, while the remainder of the Applicant’s property provides some additional parking spaces at the rear of the restaurant building. The entrance to the parking lot is approximately 63.5 feet east of the intersection of 18th and T Streets.
4. The parking lot is paved and striped, and is partially enclosed by a masonry wall and wooden fence. Lighting fixtures have been mounted on the row building immediately to the east of the parking lot, and lights have been positioned so as to confine all direct rays to the surface of the parking lot.
5. The Applicant’s restaurant, Lauriol Plaza, is located immediately to the west of the subject property at the corner of 18th and T Streets, N.W. The restaurant site lacks space to provide any off-street parking beyond the 10 parking spaces currently provided behind the restaurant building. Construction of below-grade parking there might not be possible, given the size and configuration of the lot, and would be economically impracticable in any event.

¹ Lot 862 is also known as Lots 60-62; the subject property comprises record lots 60 and 61.

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6. Properties fronting on 18th Street in the vicinity of the subject property, including the restaurant site, are zoned C-2-A, while areas to the east and west, including the subject property, are zoned R-5-B. Properties on the west side of 18th Street are also located within the Dupont Circle overlay zone.
7. Properties in the vicinity of the subject property include numerous row dwellings and some multifamily dwellings along T Street. Properties along 18th Street contain a variety of commercial uses as well as some residences.

The Applicant's Project

8. Use of the subject property as an accessory parking lot was originally approved, subject to 11 conditions, in Application No. 16301.² The Applicant proposed to continue the accessory parking lot use as previously approved.
9. The Applicant proposed an updated landscaping plan reflecting its commitment to plant three Redspire Pear trees to replace trees that had been removed due to vehicular and storm damage. (Exhibit 42, Tab B.) The new trees are intended to screen the view of the accessory parking lot from residences on the north side of T Street.
10. The Applicant also proposed to modify its valet parking program in connection with use of the accessory parking lot. The new program will utilize five valet parking spaces located on 18th Street in front of the restaurant. The Applicant received approval for the five valet parking spaces from the District of Columbia Public Space Committee on February 28, 2013, provided that the Applicant obtains the necessary permit within six months.
11. Pursuant to the new valet operation, customers arriving at the Applicant's restaurant during dinner hours and all day on weekends will be able to leave their vehicles at the five valet

² Those conditions were:

1. Approval shall be for a period of fifteen (15) years.
2. Twenty (20) parking spaces shall be provided on the lot as identified on Exhibit No. 30 of the record.
3. The lot shall be attendant-controlled during its hours of operation.
4. The lot shall be secured during all hours that it is not in operation.
5. Landscaping shall be maintained in a healthy growing condition and have a neat and orderly appearance.
6. The lot shall be cleaned daily and trash pick-up shall occur five times per week.
7. Any lighting of the parking lot shall be arranged so that all direct rays are confined to the surface of the lot.
8. All areas devoted to driveways, access lanes, and parking areas shall be maintained with an all-weather impervious surface paving material.
9. No vehicle or any part thereof shall be permitted to project over any lot or building line or on the public space.
10. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
11. No other uses shall be conducted from or upon the premises, and no structure other than an attendant's shelter shall be erected or used upon the premises, unless the use or structure is otherwise permitted in the district in which the parking lot is located.

See Application No. 16301 of Harold Schneiberg, order issued February 9, 1998.

BZA APPLICATION NO. 18494**PAGE NO. 5**

parking spaces for parking by valet attendants. The attendants will turn right from 18th Street onto T Street, then make another right turn into the accessory parking lot on the subject property. Customers will retrieve their vehicles from an attendant at the accessory lot and exit by turning right onto T Street. During weekday lunch hours, when the restaurant generates less traffic, customers driving to the valet station on 18th Street will be directed to park at the accessory parking lot or to leave their vehicles for parking at the accessory lot by a valet attendant.

12. When the accessory lot is full, customers will be directed to use another parking lot owned by the Applicant at 18th and California Streets, N.W., which contains space for approximately 60 vehicles.

Harmony with Zoning

13. The subject property is zoned R-5-B, a general Residence District designed to permit flexibility of design by permitting, in a single district, all types of urban residential development that conform to the height, density, and area requirements established for the districts, as well as institutional and semi-public buildings compatible with adjoining residential uses. (11 DCMR § 350.1.) The R-5-B District permits a moderate height and density. (11 DCMR § 350.2.)

CONCLUSIONS OF LAW AND OPINION

The Applicant requests a special exception under § 214 of the Zoning Regulations to continue an accessory parking lot use in the R-5-B Zone at 1780-1782 T Street, N.W. (Square 152, portion of Lot 862) to provide parking for a restaurant on an abutting lot. 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 § 214, accessory passenger automobile parking spaces, elsewhere than on the same lot on which the principal use is located, are permitted subject to the specific provisions. The accessory parking may be in an open area (or in an underground garage), and must be located in their entirety within 200 feet of the area to which they are accessory. (11 DCMR §§ 214.2, 214.3.) Accessory parking spaces on another lot are appropriate when the location of parking within the principal building or on the same lot as the principal building or use is economically impracticable or unsafe due to factors such as shallow zoning depth; restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on the lot; unusual topography grades, shape, size, or dimensions of the lot; the lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets; or traffic hazards caused by unusual street grades or other conditions. (11 DCMR § 214.6.) The accessory

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parking spaces must be contiguous to or separated only by an alley from the use to which they are accessory, and they must be located, and the facilities in relation to the parking lot must be designed, so that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions. (11 DCMR §§ 214.4, 214.7.) The accessory parking lot must comply with the provisions governing parking lots set forth in chapter 23, which establishes requirements with respect to paving, lighting, and landscaping as well as a provision mandating that a vehicular entrance or exit to a parking lot must be located more than 40 feet of a street intersection. (11 DCMR § 214.5, 2303.1.)

Based on the findings of fact, the Board concurs with the Applicant and OP that the requested special exception to continue an accessory parking lot use, subject to the conditions of approval adopted in this order to mitigate any potential adverse impacts, satisfies the requirements of §§ 214 and 3104.1 as well as chapter 23. As set forth in the findings of fact, the application demonstrates compliance with the applicable zoning requirements, including location of the accessory parking lot in an open area contiguous to and less than 200 feet of the area to which the parking spaces are accessory, but more than 40 feet from a street intersection; a principal building located on a lot where the location of additional parking is economically impracticable; design of the parking lot so that the accessory parking is not likely to become objectionable to nearby property because of noise, traffic, or other objectionable conditions; and compliance with provisions pertaining to paving, lighting, and landscaping.

The Board also concludes that approval of the requested special exception, subject to the conditions adopted in this order, will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, and that the requested special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map. The subject property is located in a Residence zone of moderate density, and abuts the site of the principal use, which is located in a Commercial zone. The restaurant site provides off-street parking for 10 vehicles but lacks space to provide any additional parking to accommodate those customers traveling to the site by car. The ANC and persons in support of the application noted that the accessory parking lot provided a benefit to the surrounding neighborhood by relieving parking pressure on neighborhood streets. The additional measures planned by the Applicant to improve its valet parking operation will address concerns pertaining to traffic congestion associated with operation of the restaurant.

As conditions of approval of the continued use of the accessory parking lot, the Board readopts several of the conditions originally approved in Application No. 16301. However, some of the prior conditions are not adopted in this Order because they restated provisions of the Zoning Regulations, some of which have been amended since 1998, and which require compliance by the Applicant in any event.³ The Board declines to adopt the recommendation of the party in opposition to limit approval of the application to a term of six months to one year. As noted by

³ Prior Condition No. 7 (lighting) is similar to § 2110.5(i); prior Conditions 8 (paving) is similar to § 2110.5(g); prior Condition No. 9 (projections by vehicles onto other spaces) is similar to § 2110.5(b); prior Condition No. 10 (bumper stops) is similar to § 2117.7; and Condition No. 11 (no other use) is similar to § 2110.4.

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the party in opposition, the Applicant's revised valet parking plan is intended to address issues related to traffic congestion on 18th Street associated with the restaurant use. The Board does not find that any adverse impacts associated with the use of the subject property as an accessory parking lot warrant the imposition of such a short term of approval as necessary to mitigate any objectionable conditions related to the operation of the accessory parking lot.

The Board is 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, subject to conditions.

The Board is also 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 2B voted to support the application subject to conditions related to the valet parking operation and the landscaping of the parking lot. The Board notes the issues and concerns raised by ANC 2B and concludes that the conditions of approval adopted in this order will be sufficient to avoid creation of adverse impacts related to traffic congestion or insufficient landscaping.

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 to allow continued use as an accessory parking lot use in the R-5-B Zone at 1780-1782 T Street, N.W. (Square 152, portion of Lot 862) for the restaurant on the abutting lot. Accordingly, it is **ORDERED** that the application is **GRANTED**, subject to Exhibit 10 – Site Plan, and **SUBJECT** to the following **CONDITIONS**:

1. The application is approved for a term of 15 years beginning on the date upon which this order becomes final.
2. Twenty (20) parking spaces shall be provided on the lot as identified on plan attached as Tab B of the Applicant's post-hearing submission, as amended. (Exhibit 42.)
3. The Applicant shall implement the valet parking plan described in the post-hearing filing dated March 19, 2013, as amended. (Exhibit 42.)
4. The lot shall be attendant-controlled during its hours of operation.
5. The lot shall be secured during all hours that it is not in operation.
6. Landscaping at the Property shall be in accordance with the plan attached as Tab B of the Applicant's post-hearing submission (Exhibit 42) and shall be maintained in a healthy growing condition and have a neat and orderly appearance.
7. The parking lot shall be cleaned daily and trash pick-up shall occur five times per week.

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VOTE: **4-0-1** (Lloyd J. Jordan, Michael G. Turnbull, Nicole C. Sorg, and Jeffrey L. Hinkle, to Approve; S. Kathryn Allen not present, not voting.)

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: _____

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.

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.

BZA APPLICATION NO. 18494

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

HEARING DATE: September 17, 2013

DECISION DATE: October 22, 2013

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case is self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6.)

The Board of Zoning Adjustment (the "Board") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to the Applicant, Advisory Neighborhood Commission ("ANC") 2E, 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 2E, which is automatically a party to this application. ANC 2E submitted a letter report dated September 4, 2013, which indicated that at a duly noticed, public monthly meeting on September 3, 2013, at which a quorum of eight commissioners out of eight were present, the ANC voted unanimously (8:0) that the ANC is not opposed to the application. (Exhibit 25.)

The Office of Planning ("OP") submitted a timely report dated September 10, 2013, in support of the application. (Exhibit 26.) The District Department of Transportation ("DDOT") submitted a letter of "no objection" to the record. (Exhibit 23.)

At the public hearing on September 17th, Harry Schnipper spoke as a person in opposition to the application, citing concerns about the alleged impact of the planned subdivision on nearby property rented by a business in which he is an owner, especially with respect to the extension of utilities. The Board granted Mr. Schnipper an opportunity to submit comments on the application, due by October 2nd. The Board also granted the Applicant the opportunity to submit a response and set the date for its decision meeting. No additional submission was ever submitted by Mr. Schnipper. The Applicant submitted a filing on October 15, 2013, in which the Applicant stated that Mr. Schnipper is no longer opposed to the application. (Exhibit 30.)

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

BZA APPLICATION NO. 18610**PAGE NO. 2**

for a variance from the nonresidential floor area ratio restrictions under § 931.2. 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**.

VOTE: **4-0-1** (Lloyd J. Jordan, Jeffrey L. Hinkle, S. Kathryn Allen (by absentee vote), and Michael G. Turnbull (by absentee vote) to Approve; 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: October 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.

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.

BZA APPLICATION NO. 18610**PAGE NO. 3**

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. 18636-A of JBG/33 N Street LLC, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a variance from the loading requirements under § 2201 and a special exception from the roof structure requirements under §§ 411 and 770.6, to permit the development of a residential building with ground floor retail in the C-3-C District at premises 33 N Street, N.E. (Square 672, Lot 254¹).

HEARING DATE: October 22, 2013
DECISION DATE: October 22, 2013 (Bench Decision)

CORRECTED² SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4.)

The Board of Zoning Adjustment ("Board" or "BZA") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. ANC 6C submitted a report dated October 12, 2013, in support of the application, which indicated that at a duly noticed, regularly scheduled monthly meeting of the ANC on October 12, 2013, at which a quorum of five out of six Commissioners was present, the ANC voted to support the application by a unanimous vote (5:0:0). (Exhibit 25.) The Office of Planning ("OP") submitted a timely report in support of the application. (Exhibit 26.) The District Department of Transportation also submitted a report citing no objection to the application. (Exhibit 27.)

Variance Relief

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 § 2201. 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 OP and ANC reports filed in this case, the Board concludes that in seeking a variance from

¹ After the application was filed, Lot 254 was combined with Lots 247, 847, and 848 in Square 672 to become Lot 260 in Square 672.

² The plans that are cited in this order have been corrected from the original summary order that was issued.

BZA APPLICATION NO. 18636-A**PAGE NO. 2**

§ 2201, the applicant has met its burden of proof 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 requested 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.

Special Exception Relief

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 special exception relief under §§ 411 and 770.6. 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 the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 411, 770.6, and 3104.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO THE PLANS AT EXHIBIT 24H.**

VOTE: 3-0-2 (Lloyd J. Jordan, Jeffrey L. Hinkle and Peter G. May to APPROVE; S. Kathryn Allen not present, not voting; 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 summary order.

FINAL DATE OF ORDER: October 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. 18636-A**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. 18639 of New Vision Properties LLC, pursuant to 11 DCMR § 3104.1, for a special exception to allow an addition to an existing one-family row dwelling under § 223, not meeting the lot area (§ 401), lot occupancy (§ 403), court (§ 406), minimum rear yard setback (§ 404), and nonconforming structure (§ 2001.3) requirements in the R-4 District at premises 229 12th Street, S.E. (Square 990, Lot 817).¹

HEARING DATE: October 22, 2013

DECISION DATE: October 22, 2013

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated June 12, 2012, from the Zoning Administrator, which stated that Board of Zoning Adjustment (“Board” or “BZA”) approval is required for a “[s]pecial exception pursuant to § 223.1 for a two-story rear addition that does not comply with § 403.2 maximum lot occupancy, and § 406.1 required open court, and § 2001.3 expansion of a nonconforming structure. (§ 3104.1).” (Exhibit 2.)

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”) 6B, 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 6B, which is automatically a party to this application. ANC 6B submitted a letter dated October 17, 2013, in support of the application on October 21, 2013 and requested that the Board allow it into the record. The Board waived the timeliness rules and allowed the ANC’s report into the record. The ANC report indicated that at a duly noticed, regularly scheduled monthly meeting on October 8, 2013, with a quorum present, the ANC voted unanimously (10:0:0) to approve the application. (Exhibit 27.)

The Office of Planning (“OP”) submitted a timely report dated October 15, 2013, recommending approval of the application. (Exhibit 26.) The District Department of Transportation (“DDOT”) submitted a letter of “no objection” to the record. (Exhibit 21.)

John Smeltzer and Catherine A. Flanagan, owners of 227 12th Street, S.E. and who are the adjacent neighbors to the north of the Applicant, (the “Neighbors”), filed a request to be a party in opposition. (Exhibit 22.) At the hearing, Mr. Smeltzer appeared and withdrew his party status request and requested that the Board accept into the record a

¹ The Applicant amended the application by adding relief from the rear yard setback requirements under § 404. (Exhibit 25.)

BZA APPLICATION NO. 18639**PAGE NO. 2**

memorandum of understanding (“MOU”) (Exhibit 30) between the Applicant and the Neighbors based on changes the Applicant had made to the project. The Board granted that request and granted the Applicant’s request for flexibility in allowing for final changes in the materials used and placement of windows.

The Capitol Hill Restoration Society submitted a letter of support, citing an agreement that was reached with the Applicant and the neighbors. (Exhibit 29.)

Another neighbor, Matthew Chalifoux, 231 12th Street, S.E., testified in support of the application.

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception pursuant to § 3104.1 from the strict application of the regulations to allow an addition to an existing one-family row dwelling under § 223, not meeting the lot area (§ 401), lot occupancy (§ 403), court (§ 406), minimum rear yard setback (§ 404), and nonconforming structure (§ 2001.3) requirements in the R-4 District. 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.

The Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, 223, 401, 403, 404, 406, and 2001.3, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO THE REVISED PLANS AT EXHIBIT 25 AND THE FOLLOWING CONDITION:**

1. The Applicant shall be granted flexibility to modify the materials and placement of windows facing the court area to meet historic preservation requirements.

VOTE: **3-0-2** (Lloyd J. Jordan, Peter G. May, 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.

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FINAL DATE OF ORDER: November 1, 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

BZA APPLICATION NO. 18639

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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. 18643 of Jonas Stiklorius for a special exception for an accessory garage serving a one-family row dwelling under section 223, not meeting the lot occupancy requirements (section 403) in the R-4 District at premises 119 12th Street, S.E. (Square 989, Lot 50).

HEARING DATE: October 29, 2013

DECISION DATE: October 29, 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”) 6B, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. ANC 6B 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. The Department of Transportation submitted a report not objecting to the application. The Board received several letters from neighbors in support of the application. The Board considered testimony in opposition to the application from Joanne Hatfield, a resident in the neighborhood.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under subsection 223. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 9 – Plans) be **GRANTED**.

BZA APPLICATION NO. 18643

PAGE NO. 2

VOTE: **3-0-2** (Lloyd J. Jordan, Marcie I. Cohen and S. Kathryn Allen to APPROVE. Jeffrey L. Hinkle not present not voting, 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: October 29, 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. 18646 of 3053 Q Street LLC, pursuant to 11 DCMR § 3103.2, for a variance from the nonconforming structure provisions under subsection 2001.3, to allow the expansion of the existing fourth floor of a one-family dwelling not meeting the number of stories (section 400) limitation in the R-1-B District at premises 3053 Q Street, N.W. (Square 1282, Lot 863).

HEARING DATE: October 29, 2013

DECISION DATE: October 29, 2013

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

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”) 2E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2E, which is automatically a party to this application. The ANC submitted a letter in support of the application. The Office of Planning (“OP”) submitted a report in support of the application. The Department of Transportation submitted a report of no objection 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 variances from §§ 400 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 variances from §§ 400 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 10 – Plans) is hereby **GRANTED**.

BZA APPLICATION NO. 18646

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VOTE: 3-0-2 Lloyd J. Jordan, Marcie I. Cohen and S. Kathryn Allen to APPROVE.
Jeffrey L. Hinkle not present not voting 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: October 29, 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
441 4TH STREET, N.W.
SUITE 200-SOUTH
WASHINGTON, D.C. 20001**

PUBLIC NOTICE OF CLOSED MEETING

In accordance with § 405(c) of the Open Meetings Act, D.C. Official Code § 2-575 (c), on 11/29/13, the Board of Zoning Adjustment voted 3-0-2, to hold closed meetings telephonically on Monday, November 4 and 18, 2013, beginning at 4:00 pm for the purpose of obtaining legal advice from counsel and/or to deliberate upon, but not voting on the cases scheduled to be publicly heard or decided by the Board on the day after each such closed meeting, as those cases are identified on the Board's agendas for November 5, and 19, 2013.

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

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

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 06-11J/06-12J
Z.C. Case No. 06-11J/06-12J
The George Washington University Foggy Bottom Campus
(Second-Stage Planned Unit Development and
Further Processing of an Approved Campus Plan @ Square 77)
July 25, 2013

Pursuant to notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public hearing on May 20, 2013, to consider an application of The George Washington University (the “University”) for the review and approval of the second-stage of an approved planned unit development (“PUD”) and further processing of an approved campus plan. The Commission considered the application pursuant to § 210, Chapter 24, and Chapter 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. The Commission approves the application, subject to the conditions below.

FINDINGS OF FACT

Application, Parties, and Hearing

1. The property that is the subject of the application is located in Square 77 and consists of Lots 5, part of 845, 846, and a portion of a public alley to be closed (the “Property”).
2. In December 2012, the University submitted an application for second-stage PUD approval of the Property. The University sought approval to develop the Property as a new residence hall. The University concurrently requested further processing approval of its approved campus plan to construct the new facility. (Exhibit [“Ex.”] 2.)
3. The application was set down for a public hearing at the Commission’s February 11, 2013 public meeting. Notice of the public hearing was published in the *D.C. Register* on March 22, 2013 (60 DCR 4603) and was mailed to Advisory Neighborhood Commission (“ANC”) 2A and to owners of property within 200 feet of the second-stage PUD site. (Ex. 14.)
4. A public hearing was conducted on May 20, 2013. The Commission accepted Alick Dearie as an expert in the field of architecture, Jami Milanovich as an expert in the field of traffic engineering, and Andi Adams as an expert in the field of historic preservation. The University provided testimony from these experts as well as from Alicia Knight, the University’s Senior Associate Vice President for Operations.
5. In addition to the University, ANC 2A was automatically a party in this proceeding. The Commission also granted a request for party status in opposition to the application from the West End Citizens Association (“WECA”). (Ex. 13.)
6. At the hearing, the Commission heard testimony and received evidence from the Office of Planning (“OP”), the District Department of Transportation (“DDOT”), and ANC 2A

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in support of the application, as well as testimony and evidence from WECA expressing objections to the application. (Ex. 18, 19, 20, 31.)

7. The Commission also heard testimony from area residents and students in support of the application. (Ex. 25-27.) Other than WECA, no other person or party testified in opposition to the application.
8. At the close of the hearing, the Commission recommended that the University continue to consider internal changes at the ground floor of the new residence hall. The University filed its post-hearing submission responding to the Commission's recommendations on May 28, 2013. (Ex. 32.) The University filed an additional post-hearing submission regarding the ground-floor retail space on June 12, 2013.
9. At its public meeting on June 10, 2013, the Commission took proposed action to approve the application and plans that were submitted into the record.
10. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the Home Rule Act. NCPC, by action dated July 16, 2013, found that the proposed PUD would not be not inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other identified federal interests. (Ex. 38.)
11. The Commission took final action to approve the application on July 25, 2013.

Campus Plan and First-Stage PUD Approval

12. In Z.C. Order No. 06-11/06-12, the Commission concurrently approved a new campus plan and first-stage PUD for the Foggy Bottom Campus (the "Campus Plan/PUD"). The Campus Plan incorporated a plan for developing the campus as a whole by concentrating height and density within the central campus core. The First-Stage PUD is coterminous with the approved boundaries for the Foggy Bottom Campus, and includes all properties that were owned by the University at the time of approval of the Campus Plan/PUD. The approved First-Stage PUD identified 16 development sites for future development as well as the uses, height, gross floor area, and lot occupancy for each development site.
13. For the Property that is the subject of this application, the Campus Plan/PUD approved a building devoted to residential/campus life/athletic use with a height of 110 feet, lot occupancy of 75% (based on a lot area of 37,666 square feet), and gross floor area of 316,500 square feet (8.4 floor area ratio [FAR], based on a lot area of 37,666 square feet).
14. The Campus Plan/PUD approved the rezoning of certain development sites in order to permit the University to achieve the height and density needed to achieve its forecasted academic and student housing needs. For the Property that is the subject of this application, the Campus Plan/PUD approved a rezoning to the C-3-C Zone District

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15. The historic preservation component of the Campus Plan/PUD called for the preservation of the front portions of the three existing residence halls on the Property (West End, Schenley, and Crawford Halls).
16. The Campus Plan/PUD called for the closure of the existing public alley on the square to accommodate the redevelopment.
17. The Campus Plan/PUD called for the University to discontinue the use of off-campus properties for undergraduate housing, including City Hall which will no longer be used to house undergraduate students by July 1, 2016.
18. The Campus Plan/PUD did not require ground-floor retail space on the Property because of the requirement to retain the historic portions of West End Hall.

Second-Stage PUD Approval/Further Processing

Overview of the Property

19. The Property is a rectangular through parcel located in the middle of Square 77 with frontage on both H Street, N.W. and I Street, N.W. The Property is currently improved with the West End, Schenley, and Crawford residence halls, as well as a public alley and surface parking in the interior of the site. The three residence halls currently accommodate up to 568 student beds. (Ex. 2.)
20. According to evidence and testimony from the University's expert architectural historian, the three eight-story residence halls were originally constructed as apartment buildings in the 1920s. As a part of the Campus Plan/PUD process, the University and its preservation consultants worked with the Historic Preservation Review Board ("HPRB") and its staff at the Historic Preservation Office ("HPO") to undertake a comprehensive assessment of potential historic resources throughout the campus. The three residence halls were identified as contributing buildings in the proposed historic district, but the stakeholders determined that only the front portions of the buildings were significant and the remainder of the structures could be demolished to accommodate the redevelopment of the Property.
21. Surrounding uses in the square include the Marvin Center (the student center) and the Academic Center (which contains student classrooms and faculty offices). To the south are Gelman Library, Kogan Plaza, and Lisner Auditorium. (Ex. 2.)
22. The entrance to the Foggy Bottom-GWU Metrorail station is located two blocks west of the Property. (Ex. 2.)

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The Project

23. The University sought approval to retain the front portions of the West End, Schenley and Crawford residence halls and construct a 12-story infill addition that will create a new residence hall (the “Project”). The Project also includes two stories of below-grade student life and retail program space and a minimum of approximately 1,000 square feet of retail space fronting I Street N.W. The uses within the Project are consistent with the Property’s residential/campus life/ athletic designation under the approved Campus Plan. (Ex. 2, 17, 23.)
24. At the hearing, the University’s representatives explained that the Project will accommodate up to 898 student beds (or approximately 332 net new beds) through two planned types of housing: affinity-based group housing and more traditional units. The Project will also contain housing for faculty-in-residence, and the University requested flexibility to modify the number and type of housing within the Project. (Ex. 23.)
25. The University also explained that the Project would contain up to five retail spaces, including up to four potential retailers in the first below-grade level and an additional retail space at ground level along I Street. In response to community request, the University agreed to increase the size of the ground-floor retail space to a minimum of approximately 1,000 square feet and require that at least 50% of the retail spaces remain open until at least 9:00 p.m. (Ex. 17, 23.)
 - a. The Commission does not agree with WECA’s contentions regarding the ground-floor retail space. This development site was exempt from the requirement to provide ground-floor retail along the I Street Retail Corridor because of the historic status of the West End building. Notwithstanding that exemption, the University designed the Project to include such retail space in direct response to community requests for additional ground-floor retail space along I Street. Furthermore, the University voluntarily agreed to increase the size of the ground-floor retail space and committed to keep it open until at least 9:00 p.m.; and
 - b. The Commission also disagrees with WECA’s contentions that the proposed retail uses will not be “night-time activating.” First, the Campus Plan/PUD imposes no such requirement on the retail space. Second, the University presented testimony that, consistent with student lifestyles and preferences, the vast majority of its retail spaces within University buildings are open until well after 9:00 p.m. The University’s commitment is a minimum baseline and does not preclude later hours of operation, which will likely be supported by market demand.
26. The Project will feature multiple pedestrian entrances to both the public portions of the Project (that is, the retail and student life spaces) and the residential portions of the Project along H Street. The existing West End Hall entrance on I Street will serve as the

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entrance to the public and residential portions of the Project, as well as the ground-floor retail component, along I Street. (Ex. 2, 23.)

27. At the hearing, the project architect provided a detailed description of the building design intent, façade design, materials selection, and surrounding context. The University presented testimony and evidence that the proposed design of the Project had received concept approval from HPRB. The architect and architectural historian each noted the proposed components of the building design including type and color of materials, bays, and other modulations in the façade design, and location of the roof structure were all incorporated based on their compatibility with the retained portions of the existing historic structures pursuant discussions with HPRB and HPO. The University requested flexibility to continue to modify the design of the Project in response to comments from HPRB and HPO.
28. The Project and the related alley closing will create a significantly improved site plan for vehicular and pedestrian traffic over existing conditions. Through the alley closing, the University will seek approval to close the existing curb cut on H Street. The University will also convert an existing back-in loading area along I Street into a new front-in, front-out shared service and loading area for the Project and the Marvin Center. This will eliminate existing back-in loading activity along I Street. The University requested flexibility to further refine the design and operation of the Project in response to comments received and changes made during the alley closing process. (Ex. 2, 23.)
 - a. The University testified that all regular deliveries would take place in trucks no larger than a WB-40 (that is, trucks that are 45 feet or less in length), and that such trucks could safely maneuver in and out of the loading dock front-first. The University also agreed to implement a detailed Loading Management Plan to regulate loading activity on the square. In response to community request, the University agreed to eliminate a proposed on-street loading space and further agreed to require all trucks— even special deliveries that take place in trucks longer than 45 feet in length – to use the loading area within the square, rather than do so from the street; (Ex. 17.)
 - b. The Commission does not agree with WECA that the Project will negatively impact pedestrian safety. The elimination of the H Street curb cut and discontinuation of back-in loading on I Street, combined with the loading management measures proposed by the University, will improve pedestrian safety over current conditions. When combined with the planned streetscape improvements that will widen the sidewalk width on both H and I Streets, the Project will result in improved and safe pedestrian conditions;
 - c. The Commission does not agree with WECA that the University should be required to accommodate student move-in and move-out within the loading area similar to residential apartment buildings. As the University explained, student

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move-in and move-out is a unique situation that must manage all residents moving in within a compressed period of time, and such volume cannot be accommodated within the loading area. Furthermore, the University testified that it actively and carefully manages student move-in and move-out activities, including at the Property for the existing residence halls, and it will be able to accommodate the additional volume associated with the net new 332 beds resulting from the Project. Finally, the Project is located within the core of the campus and away from adjacent residential neighborhoods;

- d. The Commission also finds that WECA's claims regarding student-related deliveries are unsupported and without merit. As the University explained, most student deliveries are processed through student mail services and are, therefore, not delivered directly to the building. Furthermore, the units will be furnished and will not require furniture, appliances or other large deliveries that are typically delivered directly to a building. WECA provided no evidence that such student-arranged deliveries were a regular occurrence. Finally, the Project is located within the core of the campus and away from residential neighborhoods, so even if such activity occasionally takes place, it is not likely to generate adverse or objectionable impacts on surrounding residential property; and
 - e. For these reasons, the Project will not generate adverse or objectionable impacts due to loading and service activity, including student move-in and move-out activity or other student deliveries.
29. The University testified that it is targeting the equivalent of a Silver rating for the Project under the US Green Building Council's LEED 2009 for New Construction rating system. Sustainable features include approximately 13,000 square feet of green roof. The University also testified that it is considering a solar hot water array, and requested design flexibility to incorporate the array at the University's discretion. (Ex. 23.)
 30. The Project will provide approximately 112 bicycle parking spaces within the Project as well as an additional 40 bicycle parking spaces in public space. (Ex. 17.)
 31. The total gross floor area for the Project is approximately 270,118 square feet for a total density of approximately 8.08 FAR and a lot occupancy of approximately 79.7%.¹ The building will reach a maximum height of approximately 110 feet. (Ex. 17, 23.)
 32. The University requested flexibility from the court width requirements in order to accommodate the proposed design of the building relative to the underlying lot; flexibility from the roof structure requirements in order to accommodate the lack of setback and varying heights of the roof structure; flexibility from the loading requirements in order to eliminate the requirement for a 55-foot loading berth; and

¹ The proposed FAR and lot occupancy are each addressed in Finding of Fact 35.

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flexibility from the accessory structure requirements to permit the location of an accessory structure providing elevator access to the below-grade portions of the Project in the loading and service area, which is a closed court. (Ex. 2.) The University also requested flexibility to modify the design of the Project as is detailed in the conditions of approval.

Project Amenities and Public Benefits

33. The project amenities and public benefits of the PUD were proffered and accepted in conjunction with the Campus Plan/PUD process. The University indicated in its written submissions that it had started to implement many of these public benefits and project amenities. (Ex. 2.)
34. As detailed in the University's testimony and written submissions, the proposed Project will implement the following project amenities and public benefits that were approved as part of the Campus Plan/PUD:
 - a. Exemplary urban design, architecture, and landscaping, including high-quality materials, pedestrian-oriented landscape improvements, clear separation of pedestrian and vehicular entrances and circulation patterns, and sustainable features;
 - b. Site planning and efficient land utilization, through the construction of an infill addition with new on-campus beds within the campus core and immediately proximate to other student life and academic buildings;
 - c. Effective and safe vehicular and pedestrian access and transportation management measures, including the improved loading and service area that permits trucks to turn around within the loading area and therefore enter and exit front-first and ample bicycle parking;
 - d. Environmental benefits, including approximately 13,000 square feet of green roof as well as a goal of achieving a minimum of the equivalent of a Silver rating under the LEED-NC 2009 rating system (which exceeds the minimum commitment of 16 points under Condition P-13 of the Campus Plan/PUD);
 - e. Uses of special value, including retail establishments within the first below-grade level and a minimum of approximately 1,000 square feet of ground-floor retail along I Street N.W. consistent with the University's commitment to build out an "I Street Retail Corridor." The Commission notes that the Property was exempt from the retail requirement and the proffered retail therefore represents an additional public benefit above what was proffered in the Campus Plan/PUD; and

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- f. Historic preservation, through the retention of the historic front portions of the West End, Schenley, and Crawford buildings and construction of a compatible infill addition.

(Ex. 2, 17.)

Compliance with Requirements of Z.C. Order No. 06-11/06-12

35. Pursuant to Condition P-14 of Z.C. Order No. 06-11/06-12 (the "Order"), the University demonstrated that the proposed second-stage PUD is consistent with the location, use, zoning, gross floor area, lot occupancy, and height set forth in the First-Stage PUD.
 - a. In the First-Stage PUD, the Commission initially approved a gross floor area of 316,500 square feet for the development site, which corresponded to a 8.4 FAR; accordingly, the Commission authorized the additional five percent of density permitted under § 2405.3 at that time. Similarly, the First-Stage PUD identified a lot coverage of 75% for the development site even though the C-3-C Zone District permits a lot occupancy of up to 100% for residential uses;
 - b. The First-Stage PUD assumed the development site had a land area of 37,666 square feet, and calculated the proposed FAR and lot coverage based on that land area. The actual development site, as proposed by the University, has a land area of 33,413 square feet, which is approximately 4,000 square feet smaller than what was originally contemplated;
 - c. The initial application for the Project identified a 7.68 FAR of and 73% occupancy based on the smaller lot area. At the hearing, the University explained that the size of the Project, and therefore the additional density and lot occupancy, had increased to 8.08 FAR and 79.7% lot occupancy, in order to address comments from HPRB and maintain the Project's bed count; and
 - d. The Commission finds that, given the reduction in the lot area of the development site, the Project's FAR and lot occupancy are consistent with the First-Stage PUD approval. In both cases, the building area and gross floor area are well within the maximum areas approved in the First-Stage PUD. Furthermore, the Commission previously approved the five percent increase in FAR under § 2405.3 as a part of the First-Stage PUD and the C-3-C Zone District permits a lot occupancy of 100%; accordingly, the Project's FAR and lot coverage each comply with the requirements of the Zoning Regulations.
36. Pursuant to Condition P-16 of the Order, the University provided the compliance, impact analysis, and progress reports required for each second-stage PUD in its initial PUD application. (Ex. 2.)

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37. Pursuant to Condition P-17 of the Order, the University provided its most recently filed Foggy Bottom Campus Plan Compliance Report indicating substantial compliance with Z.C. Order No. 06-11/06-12. (Ex. 2.)
38. The Commission finds that the University has satisfied the above conditions and requirements of Z.C. Order No. 06-11/06-12.

Compliance with § 210 Standards

39. In evaluating a special exception to permit a college or university use in a residential zone district, the Commission must review whether the application meets the standards for approval under § 210 of the Zoning Regulations, including whether the “proposed use will be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable impacts.” The Commission is also authorized under the Zoning Act to approve planned unit developments consistent with the requirements set forth in Chapter 24 of the Zoning Regulations. Even though the subject property is located in a commercial zone by virtue of a PUD-related map amendment granted in Z.C. Order No. 06-11/06-12, that same order determined that this and other commercial rezoned properties would still be subject to special exception review as part of their second stage PUD applications. *See* Z.C. Order No. 06-11/106-12 at page 30.
40. During its consideration of the campus plan in Z.C. Case No. 06-11/06-12, the Commission determined that the use of the Foggy Bottom Campus as a whole, including the number of students, faculty and staff proposed and the related traffic and parking impacts associated with that use, would not become objectionable to neighboring property. Here, the Commission finds that the University has satisfied its burden of proof under the Zoning Regulations for further processing of the approved campus plan to construct the Project.
41. The Project will increase the number of on-campus student beds and facilitate a concomitant reduction in the number of off-campus students and will therefore reduce the likelihood of objectionable impacts due to the number of students in the surrounding residential neighborhoods. (Ex. 2.)
42. The Commission credits the testimony of the University’s traffic consultant and DDOT and finds that the loading, service and other transportation impacts of the Project are not likely to become objectionable to neighboring property.
 - a. The Project is located close to several modes of transportation, including the nearby Foggy Bottom-GWU Metrorail station, Metrobus and D.C. Circulator lines, shuttle buses, bicycle facilities, a connected and developed urban network of pedestrian sidewalks and paths, and a connected network of arterial, collector, and local streets;

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- b. The Project will generate very few additional trips and will not impose adverse or objectionable impacts on traffic operations in the surrounding area. For the reasons discussed elsewhere in this order, the proposed I Street loading and service entrance will accommodate the loading needs for the Project and minimize the impact of service and loading activity. The Commission also credits the testimony of DDOT that these measures are acceptable; and
- c. The proposed streetscape design and improvements will enhance the pedestrian experience around the entire perimeter of the square through a reduction in the number of curb cuts, elimination of back-in loading activity, and new streetscape improvements adjacent to the project on both H Street and I Street.

(Ex. 12, Tab B; Ex. 17, Tab C.)

- 43. The Commission credits the evidence submitted by the University that total campus FAR will remain well within the density limit approved for the residentially-zoned portions of the campus even after the construction of the Project. (Ex. 2, Tab I.)
- 44. The Commission credits the evidence provided by the University and OP that the Project would not be inconsistent with the District of Columbia Comprehensive Plan, and will further the goals and policies of the Comprehensive Plan. (Ex. 2, 18.)

Compliance with PUD Standards

- 45. In evaluating a PUD application, the Commission must “judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects.” During its consideration of the First-Stage PUD in Z.C. Case No. 06-11/06-12, the Commission determined that the development incentives and related rezoning for the entire campus were appropriate and fully justified by the superior benefits and amenities offered by the Campus Plan/PUD and this decision was affirmed by the District of Columbia Court of Appeals. Here, the Commission finds that the University has satisfied its burden of proof under the Zoning Regulations for this second-stage PUD, including the requested flexibility from the court, roof structure, loading and accessory structure requirements and satisfaction of the PUD standards.
 - a. As this Commission has previously found (see Z.C. Order No. 06-11B1/06-12B1), WMATA has determined that a future second entrance to the Foggy Bottom-GWU Metrorail station could be located at the northwest corner of Square 77, at the intersection of 22nd and I Streets N.W. and adjacent to a development site under the Campus Plan/PUD. The University has already stated that it would accommodate space for a future second Metrorail entrance in conjunction with its buildout of that development site;

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- b. As the Commission has previously found, the University should not be required to fund or contribute to the construction of a second Metrorail entrance, either through the Project or through future development. The University has already provided ample benefits and amenities through the Campus Plan/PUD, and no additional benefits are warranted because of the impact of this Project; and
 - c. Notwithstanding the above, the Commission finds that the ground-floor and other retail included in the Project represents an additional public benefit that directly responded to community requests.
46. The Commission credits the testimony of the University and its architectural experts and finds that the additional on-campus student beds, superior design, site planning, streetscape, sustainable design, uses of special value (retail space), and historic preservation features of the Project all constitute acceptable project amenities and public benefits consistent with the Commission's first-stage approval.
47. The Commission finds that the character, scale, mix of uses, and design of the Project are appropriate, and finds that the site plan is consistent with the intent and purposes of the PUD process to encourage high quality developments that provide public benefits. In addition, the Commission finds that the site plan and features of the Project, including the closure of the public alley and related H Street curb cut, streetscape improvements, and transformation of the I Street curb cut into a front-in, front-out service entrance are consistent with the First-Stage PUD.
48. For the reasons detailed in this Order, the Commission credits the testimony of the University's traffic consultant and finds that the loading, service, and other transportation impacts of the Project on the surrounding area are capable of being mitigated through the measures proposed by the University and are acceptable given the quality of the public benefits of the PUD. The Commission also agrees with DDOT's conclusions regarding vehicular and pedestrian impacts and related issues with the proposed development. The proposed service and loading plan, with the loading management measures proffered by the University are acceptable and will mitigate potential pedestrian-vehicular conflicts. The Commission was not persuaded by WECA's testimony regarding the transportation impacts of the Project.
49. The Commission credits the testimony of the University and OP regarding the compliance of the Project with the District of Columbia Comprehensive Plan. The development is fully consistent with and furthers the goals and policies in the map, citywide and area elements of the Plan, including:
- a. Designation as an Institutional use on the Future Land Use Map;
 - b. Land Use Element policies recognizing the important contribution of universities to the District economy and their efforts to address transportation issues and serve

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as corporate role models through high quality architecture and sustainable building methods;

- c. Other policies in the Economic Development, Education, Transportation, Environmental Protection, Historic Preservation and Urban Design Elements related to the Land Use policies and goals stated above, including the provision of additional on-campus housing; and
- d. Policies in the Near Northwest Area Element regarding additional on-campus housing, improved communication, increased density on-campus, and mitigation measures and amenities that improve the character of the area as a whole.

Agency Reports

50. By report dated May 10, 2013 and by testimony at the public hearing, OP recommended approval of the application, including the second-stage PUD and further processing of the campus plan. OP reviewed the application under the PUD and campus plan standards of the Zoning Regulations as well as the specific conditions of the Campus Plan/PUD Order, and concluded that the University had satisfied its burden of proof. (Ex. 18.)
51. By report dated May 10, 2013 and by testimony at the public hearing, DDOT recommended approval of the University's application based on its review of the vehicular, pedestrian, and other transportation impacts of the Project. (Ex. 19.)

ANC 2A Report

52. At a regularly scheduled meeting on April 17, 2013, with a quorum present, ANC 2A approved a resolution in support of the application subject to the Commission conditioning its approval to require that the University "fulfills its commitment to use this project to end the use of the off-campus City Hall building for undergraduate student housing," provides retail space both at the ground floor and on the first level below grade and commit that no less than half of the establishments in the project will close no earlier than 9:00 p.m., and schedules the limited large truck deliveries it expects during times when other deliveries are not being made to the Square. (Ex. 20.)
53. It is not necessary for the Commission to require that this project be used to fulfill the University's commitment to the end the use of City Hall for undergraduate housing. Condition P-8 (d) of Z.C. Order No. 06-11/06-12 requires the termination of that use by July 1, 2016. The Commission did not at the time of the approval of the Campus Plan PUD choose to dictate how the University would accomplish this result. The University proffered that it would end the use by July 1, 2016 and the Commission expects full and timely compliance. The requested second and third conditions are reflected in conditions 3.c and 6.b of this Order.

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Testimony in Support

54. At the hearing, the Commission received evidence and heard testimony from students and neighbors in support of the Application. (Ex. 25-27.)

Testimony in Opposition

55. WECA presented testimony and evidence from Barbara Kahlow. WECA generally objected to the impacts of the proposed Project related to transportation impacts regarding loading activity, night-time retail use, and additional community amenities. (Ex. 31.)
56. For the reasons discussed in detail herein, the Commission does not agree with WECA's assertions regarding the impacts of the Project.
57. No other persons or organizations provided testimony in opposition to the application.

CONCLUSIONS OF LAW

1. The Applicant requested special exception approval, pursuant to 11 DCMR §§210, 3305, and 3104, of further processing of its approved campus plan, and approval, pursuant to 11 DCMR Chapter 24, of a second-stage planned unit development and modification to a first-stage planned unit development for its Foggy Bottom Campus. The Commission is authorized under the aforementioned provisions to grant a special exception which, in the judgment of the Commission, will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. A special exception to allow use as a college or university in a Residence zone may be granted subject to the provisions contained in § 210, including that the university use must be "located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions" and that the maximum bulk requirements may be increased for specific buildings, subject to restrictions based on the total bulk of all buildings and structures on the campus.
2. Based on the above Findings of Fact and pursuant to Condition P-15 of Z.C. Order No. 06-11/06-12, the Commission concludes that the University has satisfied the burden of proof for special exception approval of further processing of its campus plan in accordance with § 210. In particular, the Commission concludes that the proposed Project will not create objectionable impacts on the surrounding community due to the number of students or loading and service impacts.
3. Also based on the above Findings of Fact, the Commission concludes that the University has satisfied the burden of proof for approval of the second-stage PUD under Chapter 24 of the Zoning Regulations. Approval of this Project will provide high-quality

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development that provides public benefits, is consistent with the overall goal of the PUD process to permit flexibility of development and other incentives provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.”

4. The proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1.
5. Under the PUD process and pursuant to Condition P-14 of Z.C. Order No. 06-11/06-12, the Commission has the authority to consider this application as a second-stage PUD. This second-stage review permits detailed design review of each project based on the conceptual height, density and use parameters established in the First-Stage PUD and the benefits and amenities approved in exchange for that height, density, and design flexibility. The Commission concludes that the Project is consistent with the First-Stage PUD, including the parameters regarding location, use, height, bulk (including both FAR and lot occupancy), and parking set forth for the Property in the First-Stage PUD.
6. In approving the PUD, the Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards. In this application, the Commission concludes that the requested flexibility from the court, roof structure, loading and accessory structure requirements can be granted without detriment to surrounding properties and without detriment to the zone plan or map.
7. Based on the documentation included in the initial PUD application, the Commission concludes that the University has demonstrated compliance with the conditions of the First-Stage PUD as detailed in Condition P-16 of Z.C. Order No. 06-11/06-12.
8. Based on the University’s most recently filed Foggy Bottom Campus Plan Compliance Report, which was included in the initial application package, the Commission concludes that the University is in substantial compliance with Z.C. Order No. 06-11/06-12.
9. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter of right standards. The character, scale, mix of uses, and design of uses in the proposed PUD are appropriate, and the proposed development is compatible with the citywide and area plans of the District of Columbia.
10. The Commission concludes that this project provides superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right development on the Property would provide. The Commission finds that the additional on-campus beds, urban design, site planning, efficient and safe traffic circulation, sustainable features, retail space, historic preservation, and streetscape improvements all are significant public benefits.

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11. The Commission concludes that the impact of the Project is acceptable given the quality of the public benefits of the Project. The Commission agrees with the conclusions of the University's traffic expert that the proposed Project will not create adverse transportation impacts on the surrounding community.
12. Approval of the PUD and further processing application is not inconsistent with the Comprehensive Plan. The Commission agrees with the determination of OP and finds that the proposed project is consistent with and furthers numerous goals and policies of the Comprehensive Plan, including the Land Use Element provisions related to educational institutions, transportation impacts, and corporate leadership in exemplary design, as well as related provisions in other citywide elements and policies in the Near Northwest Area Element related to additional on-campus housing and managing the impacts of campus development.
13. The Commission has judged, balanced, and reconciled the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects, and concludes approval is warranted.
14. The Commission previously concluded in Z.C. Order No. 06-11/06-12 that the proposed PUD-related Zoning Map Amendment for the Property from the R-5-D to the C-3-C Zone District was not inconsistent with the Comprehensive Plan and is appropriate given the superior features of the PUD, the goals and policies of the Comprehensive Plan, and other District of Columbia policies and objectives.
15. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04) to give great weight to OP recommendations. The Commission concurs with OP's view that second-stage approval and further processing approval should be granted.
16. In accordance with § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)), the Commission must give great weight to the written issues and concerns of the affected ANC. Through its discussion of the ANC Report contained in findings of fact numbered 52 and 53, the Commission accorded the issues and concerns raised by ANC 2A the "great weight" to which they are entitled, and in so doing fully credited the unique vantage point that ANC 2A holds with respect to the impact of the proposed application on the ANC's constituents.
17. The University is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission of the District of Columbia **ORDERS APPROVAL** of the applications for

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(1) second-stage PUD approval for property consisting of Square 77, Lots 5, part of 845, 846, and a portion of a public alley to be closed (“Property”); and (2) further processing approval of the 2007 Foggy Bottom Campus Plan. This approval is subject to the following guidelines, conditions, and standards:

1. This Project shall be developed in accordance with the plans marked as Tab B of Exhibit 17 of the record, as modified by guidelines, conditions, and standards herein.
2. The University shall have flexibility from the court, roof structure, loading and accessory structure provisions of the Zoning Regulations as shown on the approved plans.
3. The Project shall be used for residential/ campus life/athletic and retail uses.
 - a. The University shall have the flexibility to adjust the size, number, location and type of student beds and faculty and staff apartments within the Project depending on programming needs over the life of the Project;
 - b. The Project shall include a minimum of approximately 5,000 square feet of retail space, including a minimum of approximately 1,000 square feet of retail space on the ground floor of the building; and
 - c. A minimum of 50% of the retail establishments, including the ground-floor retail establishment, shall remain open until at least 9:00 p.m. on a regular basis (e.g. except during holidays, semester breaks, or extenuating circumstances).
4. The Project shall provide a minimum of approximately 112 bicycle parking spaces within the building and an additional 40 bicycle parking spaces in public space in front of the building, as shown on the approved plans. The final number and location of improvements in public space shall be subject to the discretion of DDOT.
5. The Project shall be designed to achieve the equivalent of a minimum Silver rating on the LEED-NC 2009 rating system, including a green roof with an approximate area of 13,000 square feet.
6. The Project shall provide loading consistent with the approved plans. Such loading may be utilized to serve both the Project and the Marvin Center. The University shall abide by the following loading management plan provisions:
 - a. Dock Manager. A member of the University staff shall be designated to serve as the on-site dock manager for the square, who shall be responsible for coordination of the schedule of deliveries to the extent possible. The dock manager shall also be responsible for disseminating information to tenants, vendors, suppliers, and service providers of the square regarding rules and regulations, preferred truck

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- routes, and hours of operation. The dock manager may assume other duties when needed; however, the loading operations should be the primary task;
- b. Size Restrictions. The University shall require all tenants, vendors, suppliers and service providers utilize the loading area for all deliveries. Regular deliveries in trucks longer than a WB-40 shall be prohibited. In the rare event that a truck longer than a WB-40 is required to make a special delivery, the dock manager shall be notified at least four weeks in advance so that the dock manager can schedule the delivery during a time when the loading area is otherwise not being utilized and can accommodate the delivery;
 - c. Truck Routes. Preferred truck routes shall be established in consultation with DDOT. The dock manager for the new building shall direct all deliveries and trash disposal services to use the preferred truck routes;
 - d. Truck Operations. All trucks shall obey all traffic control devices including signs, markings, and signals. Trucks shall yield to pedestrians upon entering and exiting the loading area. Truck idling shall not be permitted;
 - e. Hours of Operation. The dock manager shall notify trash service provider(s) that District of Columbia regulations prohibit trash collection by private haulers between the hours of 9:00 p.m. and 7:00 a.m. at this site; and
 - f. Enforcement. The dock manager shall be the primary point of contact responsible for ensuring compliance with this loading management plan. The University shall require its retail tenants to conform to the size restrictions of the loading management plan through a lease provision or similar mechanism. The University shall require that its vendors and service providers (not including commercial delivery services such as FedEx or UPS) to conform to the size restrictions of this loading management plan through a contract provision or similar mechanism.
7. Prior to the issuance of a certificate of occupancy for the Project, the University shall demonstrate that it has constructed the streetscape improvements as shown on the approved plans. The final design of any improvements in public space shall be subject to final approval from DDOT and the University shall have flexibility to modify such improvements in response to DDOT direction as well as to modify the location of the proposed accessible I Street ramp to accommodate the final design of the ground floor of the Project. Such improvements shall also be subject to any required review and approval by historic preservation officials and may be modified in response to their direction.
 8. The University shall have flexibility with the design of the PUD in the following areas:

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- a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;
 - b. To vary final selection of the exterior materials within the color ranges and materials types as proposed, based on availability at the time of construction or in response to comments received from the Historic Preservation Office and the Historic Preservation Review Board;
 - c. To modify the exterior design of the Project, including but not limited to the exterior window, door styles and light fixtures as well as the pattern of panels on the penthouse, the east façade elevator lobby, and west façade bays, to address comments received from the Historic Preservation Office and the Historic Preservation Review Board;
 - d. To modify the design and operation of the Project in response to modifications agreed to as a part of the alley closing process;
 - e. To modify the roof plan to incorporate the solar array described by the University at the public hearing;
 - f. To make minor refinements to exterior details and dimensions, including balcony enclosures, belts, courses, sills, bases, cornices, railings, and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit, or are needed to address the structural, mechanical, or operational needs of the building uses or systems;
 - g. To modify the location, number and type of doors on the roof and terraces as well as the emergency egress doors as needed to meet code requirements or accommodate changes in use over the life of the Project;
 - h. To vary the size, location and design features of the retail component of the Project, including the size, location, and design of windows, doors, awnings, canopies, signage, and similar features, to accommodate the needs of specific retail tenants and storefront design; and
 - i. To vary the size, location, type and other features of proposed building signage related to the university use or the retail use, provided that such signage is permitted under the applicable provisions of the Building Code and the Historic Landmark and Historic District Protection Act and related regulations.
9. No building permit shall be issued for this project until the University has recorded a covenant among the land records of the District of Columbia between the owners and the

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District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the University and all successors in title to construct on or use the Property in accordance with this Order and any amendment thereof by the Commission.

10. The application approved by this Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for the building permit as specified in 11 DCMR § 2409.1.
11. The University is required to comply fully with the provisions of the Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01, et seq. (“Act”) and this Order is conditioned upon full compliance with those provisions. In accordance with the Act, the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On June 10, 2013, upon the motion of Chairman Hood, as seconded by Commissioner Miller, the Zoning Commission **APPROVED** the application at its public hearing by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On July 25, 2013, upon the motion of Commissioner May, as seconded by Commissioner Miller, the Order was **ADOPTED** by the Zoning Commission at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on November 8, 2013.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 10-26A
Z.C. Case No. 10-26A
3321 Georgia, LLC
(Two-Year PUD Time Extension @ Square 3040)
July 25, 2013

Pursuant to notice, a special public meeting of the Zoning Commission for the District of Columbia (the "Commission") was held on July 25, 2013. At the meeting, the Commission approved a request on behalf of 3321 Georgia, LLC ("the Applicant") for a two-year extension of time period in which to file a building permit for the construction of a mixed-use development composed of retail and residential uses, which was approved in Z.C. Order No 10-26.

FINDINGS OF FACT

1. Pursuant to Z.C. Order No. 10-26, the Commission granted applications for consolidated approval of a Planned Unit Development ("PUD") and a related zoning map amendment to amend the Zoning Map from the GA/C-2-A Zone District to the GA/C-2-B Zone District for property located at Lot 130 in Square 3040 ("the Subject Property"). The Subject Property consists of approximately 22,002 square feet of land area and is located on the southeast corner of Georgia Avenue, N.W. and Morton Street, N.W.
2. The approved PUD includes construction of a mixed-use development composed of retail and residential uses. The project will have a maximum floor area ratio ("FAR") of 5.37, and will include approximately 82,801 square feet of residential uses, comprised of 112 units (plus or minus 10%), and approximately 7,190 square feet of new retail uses. A total of eight percent of the residential gross floor area devoted to residential use will be dedicated as affordable to households earning up to 80% of the area median income. The building will have a maximum building height of 90 feet and will have 50 off-street parking spaces located in a below-grade garage.
3. Z.C. Order No. 10-26 became final and effective upon publication in the *D.C. Register* on September 2, 2011. Z.C. Order No. 10-26 requires the Applicant to file a building permit application for the approved PUD no later than September 2, 2013, with construction to start no later than September 2, 2014.
4. By letter dated June 13, 2013, the Applicant filed an application and supporting materials requesting a two-year extension of Z.C. Order No. 10-26 such that a building permit application for the PUD must be filed no later than September 2, 2015, with construction to start no later than September 2, 2016. (Exhibit ["Ex."] 1).
5. The Office of Planning ("OP") submitted a report dated July 12, 2013 indicating that the Applicant meets the standards of § 2408.10 and 2408.11 of the Zoning Regulations. (Ex. 6.) OP thus recommended that the Commission approve the requested two-year PUD extension.

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6. Advisory Neighborhood Commission 1A ("ANC") submitted a resolution indicating that at the regularly scheduled meeting on June 12, 2013, at which notice was properly given and a quorum was present, ANC 1A voted 9-0-1 to support the requested extension. (Ex. 5.)
7. As to the merits, the Applicant submitted evidence that the project has experienced delay beyond the Applicant's control. (Ex.1.) The Applicant has taken many steps to move forward with the development which is the subject of this application, including the following:
 - a. Worked diligently to secure financing for the project and has met with numerous potential lenders and other financing sources, but due to the volatility in the industry has been unable to secure project financing or attract a joint venture partner;
 - b. Engaged Marcus & Millichap, a global real estate agency to market the property to potential third-party purchasers;
 - c. Worked with MAC Realty, a real estate advisory firm to evaluate the development plan and determine how to best attract interest from equity and debt capital sources;
 - d. Received a letter of interest from J.P. Morgan Chase expressing its commitment to purchase tax exempt bonds for the purpose of making a loan to finance the project;
 - e. Received a letter of interest from Wells Fargo expressing its interest in acquiring Federal Low Income Housing Tax Credits and providing financing for the project;
 - f. Submitted applications to D.C. Department of Housing and Community Development ("DCHD") seeking funding for the project in 2013 and 2012; and
 - g. Invested more than \$3 million dollars in the property since 2010.
8. Despite the Applicant's good faith efforts, the Applicant has been unable to obtain financing for the approved project, and as the Commission has recognized in approving recent extension requests, the real estate market has been subject to, and continues to suffer from, severe financing, construction, and leasing impediments.
9. The Commission finds that the approved development cannot move forward at this time, despite the Applicant's diligent, good faith efforts, because of changes in the economic and market conditions beyond the Applicant's control. The Commission further finds that this

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request for extension satisfies the sole criterion for good cause shown as set forth in § 2408.11(a) of the Zoning Regulations.

CONCLUSIONS OF LAW

1. The Commission may extend the validity of a PUD for good cause shown upon a request made before the expiration of the approval, provided: (a) the request is served on all parties to the application by the applicant, and all parties are allowed 30 days to respond; (b) there is no substantial change in any material fact upon which the Zoning Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD; and (c) the applicant demonstrates with substantial evidence that there is good cause for such extension as provided in § 2408.11. (11 DCMR § 2408.10.) Subsection 2408.11 provides the following criteria for good cause shown: (a) an inability to obtain sufficient project financing for the PUD, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control; (b) an inability to secure all required governmental agency approvals for a PUD by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or (c) the existence of pending litigation or such other condition or factor beyond the applicant's reasonable control which renders the applicant unable to comply with the time limits of the PUD order.
2. The Commission concludes that the application complied with the notice requirements of 11 DCMR § 2408.10(a) by serving all parties with a copy of the application and allowing them 30 days to respond.
3. The Commission concludes there has been no substantial change in any material fact that would undermine the Commission's justification for approving the original PUD.
4. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to issues and concerns raised in the affected ANC's written recommendation. ANC 1A submitted a resolution indicating that at the regularly scheduled meeting on June 12, 2013, at which notice was properly given and a quorum was present, ANC 1A voted 9-0-1 to support the requested extension. (Ex. 5). The Commission carefully considered the ANC's recommendation in its deliberations, and has given ANC 1A's recommendation great weight in approving this application.
5. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP recommendations. OP submitted a report indicating that the

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Applicant meets the extension standards of the Zoning Regulations, and therefore recommended that the Commission approve the requested extension. The Commission carefully considered OP's recommendation in its deliberations, and has given OP's recommendation great weight in approving this application.

6. The Commission finds that the Applicant presented substantial evidence of good cause for the extension based on the criteria established by 11 DMCR § 2408.11(a). Specifically, the Applicant has been unable to obtain sufficient project financing for the PUD, following the Applicant's diligent good faith efforts, because of changes in economic and market conditions beyond the Applicant's reasonable control.
7. Subsection 2408.12 of the Zoning Regulations provides that the Commission must hold a public hearing on a request for an extension of the validity of a PUD only if, in the determination of the Commission, there is a material factual conflict that has been generated by the parties to the PUD concerning any of the criteria set forth in § 2408.11.
8. The Commission concludes a hearing is not necessary for this request since there are not any material factual conflicts generated by the parties concerning any of the criteria set forth in § 2408.11 of the Zoning Regulations.
9. The Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for a two-year time extension of the validity of Z.C. Order No. 10-26, such that an application must be filed for a building permit for the PUD no later than September 2, 2015, and construction to must start no later than September 2, 2016.

The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identify or expression, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, genetic information, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

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On July 26, 2013, upon the motion made by Michael Turnbull as seconded by Robert Miller, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull) to adopt.

In accordance with the provisions of 11 DCMR §3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on November 8, 2013.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 10-28(1)
Z.C. Case No. 10-28
901 Monroe Street, LLC
(Consolidated Approval for a Planned Unit Development and Zoning Map Amendment)
Order on Remand
July 25, 2013

This proceeding concerns an application submitted by 901 Monroe Street, LLC (“Applicant”) for a planned unit development (“PUD”) and related Zoning Map amendment in connection with the development of a property adjacent to the Brookland/CUA Metrorail station in Northeast Washington, D.C. (the “Project”). By Order effective June 8, 2012, the Zoning Commission for the District of Columbia (the “Commission”) approved the application subject to conditions (“Z.C. Order No. 10-28”).

Parties to this proceeding, in addition to the Applicant, are Advisory Neighborhood Commission (“ANC”) 5B, the Brookland Neighborhood Citizens Association (“BNCA”), and a group of residents residing within 200 feet of the subject property (the “200-Footers”). The 200-Footers petitioned the District of Columbia Court of Appeals (“Court of Appeals” or “DCCA”) to review the Commission’s Order. By decision dated May 16, 2013, the Court of Appeals concluded that although “the Commission addressed this case with an open mind and considerable care and deliberation” and “for the most part, the Commission’s findings are supported by substantial evidence on the record as a whole and that its legal analysis is generally sound,” the Court nevertheless found that “that the Commission failed to make findings on several disputed issues” and therefore remanded the case back to the Commission for additional findings of fact and conclusions of law. *Guy Durant, et al., v. D.C. Zoning Comm’n*, 65 A3d 1161,1163 (D.C. 2013).

Specifically, the decision contained the following remand instruction:

During the public hearing, the petitioners raised a number of material issues, calling into question whether the application was consistent with the Comprehensive Plan. Based on our own review of the Commission’s order and the record, we conclude that the Commission did not address or explain its resolution of three of these issues . . . Specifically, the Commission should:

1. Resolve the dispute regarding the FLUM designations, and determine whether the project is consistent with the Plan as a whole in light of its resolution of that issue;
2. Explain whether the proposal is consistent with the written Plan policies discussed above: UNE-1.1.1, LU-2.16, LU-2.1.8, LU-2.3.1, and with the portions of the UNE-2.6.1 and LU-1.3.1 omitted from its quotation of these policies;
3. Make findings regarding the GPM’s designation of the property as a Neighborhood Conservation Area, and determine whether the developer’s application is consistent with the Plan in light of that designation; and
4. Make any other necessary findings of fact and conclusions of law, in accordance with this opinion.”

65 A.3d 1171 -1172.

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PRELIMINARY MATTERS

Pursuant to the Court of Appeals' instruction to the Commission that it provide "supplemental findings and related conclusions of law" on the stated issues, the Commission, through the issuance of a Procedural Order on Remand requested the Applicant, as the prevailing party, to provide a proposed order on remand that makes the determinations, explanations, and findings required by the Court of Appeals. The Applicant provided a draft order on June 24, 2013. (Exhibit ("Ex.") 347.)

The Commission also provided ANC 5B, the 200-Footers, and BNCA the opportunity to each provide a response that identifies any alleged errors or omissions in the findings of fact and conclusions of law stated in the proposed order.

This Order reflects the Commission's supplemental Findings of Fact and Conclusions of Law on the issues remanded by the Court. This Order, therefore, will not restate all facts concerning the Project, but only those relevant to the remand issues. Where appropriate, this Order will identify those finding of facts contained in Z.C. Order No. 10-28 that support the supplemental findings made.

FINDINGS OF FACT

THE LAND USE ELEMENT

1. Based on the provisions of the Comprehensive Plan itself and the testimony of Office of Planning ("OP"), the Commission finds the Comprehensive Plan and the Brookland Small Area Plan must be considered in totality, not by individual land use elements, when determining whether the Project is not inconsistent with the Comprehensive Plan and elements thereof. (Ex. 80, 320.)
2. The Land Use Element of the Comprehensive Plan provides:

The District's Metrorail stations include 15 stations within the Central Employment Area and 25 "neighborhood" stations (see Map 3.5). Looking forward, certain principles should be applied in the management of land around all of the District's neighborhood stations. These include: A preference for mixed residential and commercial uses rather than single purpose uses, particularly a preference for housing above ground floor retail uses; A preference for diverse housing types, including both market-rate and affordable units and housing for seniors and others with mobility impairments; A priority on attractive, pedestrian-friendly design and a de-emphasis on auto-oriented uses and surface parking; Provision of well-designed, well-programmed, and well-maintained public open spaces; A "stepping down" of densities with distance away from each station, protecting lower density uses in the vicinity; Convenient and comfortable connections to the bus system, thereby expanding access to the stations and increasing Metro's ability to serve all parts of the city; and A high level of pedestrian and bicycle connectivity between the stations and the neighborhoods around them.

(10-A DCMR § 306.4 (LU-1.3.))

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3. The Project supports the principles to be applied in the management of land around Metrorail stations set forth directly above because it creates: mixed residential and commercial uses with housing above ground floor retail; an attractive, pedestrian-friendly design and a de-emphasis on auto-oriented uses and surface parking; well-designed, well-programmed, and well-maintained public open spaces; and a high level of pedestrian and bicycle connectivity between the Brookland/CUA Metro Station and the neighborhood around it. (Ex. 25; 1/19/12 Transcript (“Tr.”) pp. 35-54.)

4. The Land Use Element of the Comprehensive Plan also provides:

Encourage the development of Metro stations as anchors for economic and civic development in locations that currently lack adequate neighborhood shopping opportunities and employment. The establishment and growth of mixed use centers at Metrorail stations should be supported as a way to reduce automobile congestion, improve air quality, increase jobs, provide a range of retail goods and services, reduce reliance on the automobile, enhance neighborhood stability, create a stronger sense of place, provide civic gathering places, and capitalize on the development and public transportation opportunities which the stations provide. This policy should not be interpreted to outweigh other land use policies which call for neighborhood conservation. Each Metro station area is unique and must be treated as such in planning and development decisions. The Future Land Use Map expresses the desired intensity and mix of uses around each station, and the Area Elements (and in some cases Small Area Plans) provide more detailed direction for each station area.

(10-A DCMR § 306.10 (LU-1.3.1).)

5. The Project will support the development of the Brookland/CUA Metrorail station as an anchor for economic and civic development in an area that currently lacks adequate neighborhood shopping opportunities and employment. The Project will reduce automobile congestion, improve air quality, increase jobs, provide a range of goods and services, reduce reliance on the automobile, enhance neighborhood stability, create a stronger sense of place, and capitalize on the development and public transportation opportunities which the Brookland/CUA Metrorail station provides. (Ex. 25; 1/19/12 Tr. pp. 35-54; Z.C. Order No. 10-28 Findings of Fact (“FOF”) 29-32, 39.)

6. The Commission acknowledges that the policies embodied in LU-1.3.1 do not outweigh other land use policies, including those which call for neighborhood preservation, in every instance. The Commission considers the unique characteristics of the area surrounding the Brookland/CUA Metrorail station and the specific features of the Project in their totality in arriving at its decision regarding the Project. (Ex. 25; 1/19/12 Tr. pp. 35-54; FOF 26-27.)

7. The Land Use Element of the Comprehensive Plan also provides:

Ensure that development adjacent to Metrorail stations is planned and designed to respect the character, scale, and integrity of adjacent neighborhoods. For stations that are located within or close to low density areas, building heights should “step down” as needed to avoid dramatic contrasts in height and scale between the station area and nearby residential streets and yards.

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(10-A DCMR § 306.14 (LU-1.3.5).)

8. The Project's design respects the character, scale, and integrity of the adjacent neighborhoods. The Project's scale mediates between the 70-foot-high developments being constructed at CUA campus, the densities the Small Area Plan supports adjacent to the Brookland Metrorail station, and the single-family residences to the east and south of the Project. The Project has been designed to "step down" as needed to avoid dramatic contrasts between the Project and surrounding areas. The Commission gives due deference to OP's recommendation that the Project's scale is consistent with the adjacent neighborhoods. (Ex. 25; 1/19/12 Tr. pp. 35-54; FOF 35.)

9. The Land Use Element of the Comprehensive Plan also provides:

Protect and conserve the District's stable, low density neighborhoods and ensure that their zoning reflects their established low density character. Carefully manage the development of vacant land and the alteration of existing structures in and adjacent to single family neighborhoods in order to protect low density character, preserve open space, and maintain neighborhood scale.

(10-A DCMR § 309.10 (LU-2.1.5).)

10. The Land Use Element of the Comprehensive Plan also provides:

Discourage the replacement of quality homes in good physical condition with new homes that are substantially larger, taller, and bulkier than the prevailing building stock.

(10-A DCMR § 309.11 (LU-2.1.6).)

11. The Commission acknowledges that LU-2.1.6 discourages "Teardowns." The Commission finds that the Project tears down four existing residential homes and that the removal of the homes is necessary in order to complete the Project. The Commission further finds that, on balance, the loss of four homes is outweighed by the benefits that will accrue to the neighborhood and the city by advancing the land use policies that support development of the Project, such as encouraging development around Metrorail stations. The Project will provide such benefits as new housing and affordable housing; urban architecture, landscaping, and creation of open spaces; site planning and efficient and economical land uses; effective and safe vehicular and pedestrian access; environmental benefits; revenue for the District; and employment and local business stimulation. (Ex. 25; 1/19/12 Tr. pp. 35-54; FOF 29-32, 39.)

12. The Land Use Element of the Comprehensive Plan also provides:

Discourage the zoning of areas currently developed with single family homes, duplexes, and rowhouses (e.g., R-1 through R-4) for multifamily apartments (e.g., R-5) where such action would likely result in the demolition of housing in good condition and its replacement with structures that are potentially out of character with the existing neighborhood.

(10-A DCMR § 309.13 (LU-2.1.8).)

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13. The Commission acknowledges that LU-2.1.8 discourages the rezoning of areas currently developed with single family homes in order to accommodate multifamily apartments where such rezoning would result in the demolition of homes in good condition and the construction of structures out of character with the existing neighborhood.
14. However, the Project is not out of character with the existing neighborhood. The Applicant incorporated changes into the Project that included the provision of additional public amenities, increased building setbacks, refinements to the building's massing and appearance, a decrease in the number of proposed apartments, additional landscaping and parking spaces, and an enhanced transportation demand management plan. These changes enhanced the Project's compatibility with the surrounding neighborhood and result in a structure compatible with the surrounding neighborhood. Moreover, the Commission finds that LU-2.1.8 must be considered together with the other policies of the Land Use Element and the Comprehensive Plan encouraging new mixed use transit oriented development. The Commission concurs with OP's view that the Project is not inconsistent with this policy. (Ex. 80, p. 8; FOF 35.)
15. The Land Use Element of the Comprehensive Plan also provides:

Maintain zoning regulations and development review procedures that: (a) prevent the encroachment of inappropriate commercial uses in residential areas; and (b) limit the scale and extent of non-residential uses that are generally compatible with residential uses, but present the potential for conflicts when they are excessively concentrated or out of scale with the neighborhood.

(10-A DCMR § 311.3 (LU-2.3.1).)

16. The Commission acknowledges that Land Use Policy LU-2.3.1 encourages zoning regulations and development review procedures to prevent inappropriate encroachment of commercial uses in residential areas and to limit the scale and extent of non-residential uses that may create conflicts or be out of scale with a neighborhood. This policy does not prohibit commercial uses in residential areas as long as such uses are appropriately reviewed to assess their impact.
17. The Commission finds that the many changes made to the Project by the Applicant during the application process – including increased building setbacks, refinements to the massing and appearance, enclosed loading facilities, and enhanced landscaping along Monroe Street – reflect the Commission's careful review and assessment of the Project with respect to encroachment of commercial uses in residential areas. In light of these changes and the Commission's careful review, the Commission finds that the Project does not extend inappropriate commercial uses into residential areas and is not excessively concentrated or out of scale with the neighborhood. (Ex. 25; 1/19/12 Tr. pp. 35-54; FOF 35.)

THE UPPER NORTHEAST AREA ELEMENT

18. The Upper Northeast Area Element of the Comprehensive Plan provides:

Protect and enhance the stable neighborhoods of Upper Northeast, such as Michigan Park, North Michigan Park, University Heights, Woodridge, Brookland, Queens Chapel, South Central, Lamond Riggs, and Arboretum. The residential character of

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these areas shall be conserved, and places of historic significance, gateways, parks, and special places shall be enhanced.

(10-A DCMR § 2408.2 (UNE-1.1.1).)

19. The Upper Northeast Area Element of the Comprehensive Plan provides:

Capitalize on the presence of the Metro stations at Rhode Island Avenue, Brookland/CUA, and Fort Totten, to provide new transit-oriented housing, community services, and jobs. New development around each of these three stations is strongly supported. The District will coordinate with WMATA to ensure that the design, density, and type of housing or other proposed development at these stations is compatible with surrounding neighborhoods; respects community concerns and feedback; serves a variety of household incomes; and mitigates impacts on parking, traffic, and public services. Development shall comply with other provisions of the Comprehensive Plan regarding the compatibility of new land uses with established development, the provision of appropriate open space, and mitigation of impacts on traffic, parking, and public services.

(10-A DCMR § 2408.4 (UNE-1.1.3).)

20. The Upper Northeast Area Element of the Comprehensive Plan provides:

Encourage moderate-density mixed use development on vacant and underutilized property in the vicinity of the Brookland/CUA Metro station, including the parking lot east of the station. Special care should be taken to protect the existing low-scale residential uses along and east of 10th Street NE, retain the number of bus bays at the station, and develop strategies to deal with overflow parking and cut-through traffic in the station vicinity.

(10-A DCMR § 2416.3 (UNE-2.6.1).)

21. The Commission acknowledges that UNE-1.1.1 encourages the protection, enhancement, and character of residential neighborhoods of Upper Northeast, including Brookland. However, based on its own terms and OP's analysis, the Comprehensive Plan requires that this policy must be balanced with other competing land use policies. In addition, this policy does not prohibit new development in residential neighborhoods in the Upper Northeast area.
22. The creation of a Moderate-Density Mixed-Use development at this location near the Brookland/CUA Metrorail station is appropriate and not inconsistent with the Upper Northeast Element and the Comprehensive Plan as a whole. Policies, such as UNE-2.6.1, encourage this type of development, and the Project's features reflect the careful balance of protecting the existing residential neighborhood and the development of mixed-use transit-oriented projects. (FOF 29-35.)
23. Because of the Project's many features and benefits, such as neighborhood-serving retail and features intended to preserve the residential character of the neighborhood, including the building's setbacks, the building's massing and appearance, the number of proposed apartments, and

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landscaping, the Project will not destabilize the existing residential neighborhood. (Ex. 25; 1/19/12 Tr. pp. 35-54; FOF 29-31, 33-34.)

24. The Commission acknowledges that policy UNE-2.6.1, which encourages moderate-density mixed-use development in the vicinity of the Brookland/CUA Metro station, also encourages special care for protecting low-scale residential uses along and east of 10th Street, N.E. However, the policy does not advise that no development should occur along 10th Street.
25. When the totality of policy UNE-2.6.1 is considered with the many elements of the Comprehensive Plan that encourage this mixed-use transit oriented development, the Project is not inconsistent with the this policy or the Comprehensive Plan as a whole. The Project incorporates many design features, such as setbacks, to respect and protect the low-scale residential character of the surrounding neighborhood, particularly along 10th Street. (Ex. 25; 1/19/12 Tr. pp. 35-54; FOF 30.)

THE FUTURE LAND USE MAP

26. The FLUM is not a zoning map in that it is not parcel specific and it does not set forth specific requirements for setback, height, use, and the like. Rather, the FLUM is to be interpreted broadly in conjunction with the text of the Comprehensive Plan, including the citywide elements and the area elements, as well as approved Small Area Plans. (10-A DCMR § 226.1.) The Comprehensive Plan permits the Commission to approve heights and densities through the PUD process that exceed those set forth in the FLUM. (“It should be noted that the granting of density bonuses (for example, through Planned Unit Developments) may result in heights that exceed the typical ranges cited here.”). (10-A DCMR § 226.1(c).)
27. The FLUM designates the existing zoning classification for the Project as part Low-Density Residential, part Low-Density Mixed-Use, and part Moderate-Density Mixed-Use. More than half of the Project’s square footage is classified under the FLUM as Low-Density Residential. The balance of the Project is classified as Moderate-Density Mixed-Use and Low-Density Mixed-Use. Because the FLUM is not boundary or parcel specific, the exact distribution of land among different land use classifications cannot be determined. (FOF 28.)
28. OP incorrectly stated in its January 9, 2012 report that that the FLUM designates more than half the Project as Moderate-Density Mixed-Use. The Commission repeated the mistake in its Order. OP corrected its mistake in its February 23, 2012 supplemental report in which it recognized that the majority of the Project is classified as Low-Density Residential. The Commission corrects its mistake as set forth in the preceding paragraph. (Ex. 320.)
29. The Commission’s approval of the Project changes the zoning from the R-2 and C-1 Zone Districts to the C-2-B Zone District. The C-2-B Zone District is congruent with both Moderate-Density Mixed-Use and Medium-Density Mixed-Use. The change to the C-2-B Zone District is limited by the PUD restrictions, in particular those with respect to the Project’s height and density. (Ex. 25; FOF 35.)
30. The Project will extend a Moderate-Density Mixed-Use into areas that are designated Low-Density Residential and Low-Density Mixed-Use on the FLUM. (Ex. 25.)

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31. Interpreted broadly in conjunction with the Comprehensive Plan as a whole, the FLUM's designation of more than half of the Project as Low-Density Residential does not render the Project inconsistent with the FLUM. The precise amount of the Property that is designated as Low-Density Residential on the FLUM is not a material consideration for the Commission to approve the Project. The neighborhood context, the characteristics of the Project, and the applicable policies in the Comprehensive Plan allow the Commission to conclude that extending the proposed Moderate-Density Mixed-Use into the Low-Density Residential-designated area of the Property is appropriate for this Property. (Ex. 25, 80, 320.)
32. The PUD limitations placed on the height and density of the Project mitigate against the potential adverse impacts from the imposition of Moderate-Density Mixed-Use into portions of a lot designated Low-Density Residential on the FLUM. (Ex. 25; FOF 35.)
33. The competing policies encouraging transit oriented mixed use growth near Metrorail stations outweighs the policies embodied in the FLUM's designation of more than one-half the Project as Low-Density Residential. (Ex. 25, 80.)

THE GENERALIZED POLICY MAP

34. The Generalized Policy Map (GPM) of the Comprehensive Plan provides:

Neighborhood Conservation areas have very little vacant or underutilized land. They are primarily residential in character. Maintenance of existing land uses and community character is anticipated over the next 20 years. Where change occurs, it will be modest in scale and will consist primarily of scattered site infill housing, public facilities, and institutional uses. Major changes in density over current (2005) conditions are not expected but some new development and reuse opportunities are anticipated. Neighborhood Conservation Areas that are designated "PDR" on the Future Land Use Map are expected to be retained with the mix of industrial, office, and retail uses they have historically provided.

(10-A DCMR § 223.4.)

35. The GPM of the Comprehensive Plan also provides:

The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods. Limited development and redevelopment opportunities do exist within these areas but they are small in scale. The diversity of land uses and building types in these areas should be maintained and new development and alterations should be compatible with the existing scale and architectural character of each area. Densities in Neighborhood Conservation Areas are guided by the Future Land Use Map.

(10-A DCMR § 223.5.)

36. The Commission acknowledges that the Project is designated as a Neighborhood Conservation Area on the GPM. The Project is adjacent to, but not part of, the Land Use Change Area for the Brookland/CUA Metrorail station.

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37. By its own terms, the GPM is not a zoning map. It is not parcel specific and it does not set forth specific requirements for setbacks, height, use, parking, and the like. Rather, the GPM is to be interpreted broadly in conjunction with the text and other maps of the Comprehensive Plan. A site's designation on the GPM is not dispositive for how the land should be used. (10-A DCMR § 223.2; Ex. 80, 320.)
38. The categories of the GPM are broad and, if a developed residential area is not designated as a Land Use Change Area on the GPM, then it is generally designated as a Neighborhood Conservation Area. By its own terms, the GPM does not offer a category for redevelopment of a non-vacant residential area. (10-A DCMR § 223.)
39. The Commission finds that the Project is compatible with the existing scale and architectural character of the area. (Ex. 25, 80; 1/19/12 Tr. pp. 35-54.)
40. The Commission finds that when the GPM is considered along with the applicable written policies and other maps of the Comprehensive Plan that encourage moderate-density mixed-use transit-oriented development and the Project's features that will enhance and respect the neighborhood, the Project is not inconsistent with the GPM or the Comprehensive Plan. The GPM's designation of the Project as a Neighborhood Conservation Area does not alter the Commission's conclusion that the Project is not inconsistent with the Comprehensive Plan as a whole.

CONCLUSIONS OF LAW

1. The Commission must consider the competing policies encouraging transit-oriented mixed-use development near Metrorail stations and preserving the residential nature of District neighborhoods set forth in the various elements of the Comprehensive Plan, including the Land Use Element, Northeast Area Element, FLUM, and GPM.
2. Having considered these competing policies in light of the Comprehensive Plan as a whole, the Commission concludes that the Project is not inconsistent with the Comprehensive Plan.
3. The Commission concludes that the Project is not inconsistent with the Land Use Element of the Comprehensive Plan. Specifically, the Project is not inconsistent with the policies set forth in LU-1.3.1, LU-1.3.5, LU-2.1.6, LU-2.1.8, and LU-2.3.1 for the reasons set forth in the Findings of Fact.
4. The Commission concludes that the Project is not inconsistent with the Northeast Area Element of the Comprehensive Plan. Specifically, the Project is not inconsistent with the policies set forth in UNE-1.1.1 and UNE-2.6.1 for the reasons set forth in the Findings of Fact.
5. The Commission concludes that the Project is not inconsistent with the FLUM. Specifically, the Project is not inconsistent with the FLUM's designation of more than one half of the Project as Low Density Residential for the reasons set forth in the Findings of Fact.
6. The Commission concludes that the Project is not inconsistent with the GPM. Specifically, the Project is not inconsistent with the GPM's designation of the Project as a Neighborhood Conservation Area for the reasons set forth in the Findings of Fact.

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7. For these reasons, the Commission finds that the Applicant has met its burden of addressing each material contested issue. The Commission's judgment that the Project is not inconsistent with the Comprehensive Plan is supported by sufficient findings of fact. The record supports each finding of fact with respect to the FLUM, the six written policy elements, and the GPM.

DECISION

Based upon the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia hereby **ORDERS** that Zoning Commission Order No. 10-28, effective June 8, 2012, shall be supplemented by the addition of the above Findings of Fact and Conclusions of Law.

On July 25, 2013, upon the motion of Chairman Hood, as seconded by Vice Chairman Cohen, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Marcie I. Cohen, Peter G. May, and Michael G. Turnbull to adopt; Robert E. Miller, not having participated, not voting).

In accordance with the provisions of 11 DCMR § 2038, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on November 8, 2013.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 12-05A
Z.C. Case No. 12-05A
Ballpark Square, LLC
(Capitol Gateway Overlay Review @ Square 701)
September 30, 2013

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on July 15, 2013, to consider an application for property owned by Ballpark Square, LLC (“Applicant”)¹, co-applicant in Z.C. Case No. 12-05 and co-developer of the Property, for Commission review and approval of modification to the project on First, M, and N Streets, S.E. approved by Z.C. Order No. 12-05 (“Order”) in the Capitol Gateway Overlay District (“CG Overlay”) as set forth in Title 11, Chapter 16 of the District of Columbia Municipal Regulations (“Zoning Regulations”). The property that is the subject of this application consists of Lots 169 and 170 in Square 701 (the “Property”)². The Property is comprised of approximately 77,201 square feet of land area and is located in the CG Overlay/CR Zone District. The Property is comprised of two parcels - a north parcel of 73,583 square feet of lot area (“Main Parcel”) and a south parcel of 3,618 square feet of lot area (“South Parcel”).

The Order approved an approximately 653,159-square-foot mixed-use development, containing separate components for office, hotel, and residential uses tied together through a ground-floor retail pedestal and an approximately 7,630-square-foot retail building on the corner of 1st and N Streets, N.E. (the “Project”).

On May 9, 2013, the Applicant requested a modification to the Project approved by the Order to allow for the reorientation of the residential component, which results in changes to the residential building’s appearance on First Street and a modest increase in the number of units and gross rentable area, among other small changes. The hotel (except for the flexibility request described below) and office components, along with the ground retail elements of those structures, and the two-story retail structure on Lot 169³ remain unchanged in this modification.

The Applicant submits this application pursuant to §§ 1602.1(e) and 1610 of the District of Columbia Zoning Regulations, which require Commission review of properties abutting M Street, S.E., properties located in Square 701, or properties that are the recipient of certain

¹ In the original case before the Commission, Z.C. Case No. 12-05, the Applicant was the contract purchaser of the Property. Since that time, the Applicant and SCD Acquisitions, LLC (through Ballpark Square 701, LLC) have taken ownership of the Property. Since this modification does not affect the portion of the project on A&T Lot 869, SCD Acquisitions, LLC and its affiliate (and current owner of A&T Lot 869) Ballpark Square 701, LLC are not parties to this modification application.

² The original application and Order dealt with Lots 33-41, 48-61, 131-136, 155-160, 816-817, 822-823, 828-830, 832-834, and 854-856 in Square 701. Those lots have been combined through subdivision into Lots 169 and 170. The size of the Main Parcel was calculated as 73,505 square feet at the time the application and plans were submitted for Z.C. Case Nos. 12-05 and 12-05A and the size of Lot 170 as recorded is 73,583 square feet. Therefore, the floor area ratio figures contained in this Order have been calculated utilizing the newly-created record lot size of 73,583 square feet. All modifications proposed by this application affect A&T Lot 868 in Square 701, owned by the Applicant.

³ Lots 155 and 156 in Square 701 were subdivided into on Record Lot, Lot 169 in Square 701, after the Order was issued.

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amounts of density through combined lot development rights (“CLDs”), as the result of the modification to the residential component of the Project. The Applicant also maintains its prior request and approval for special exception relief with regard to its parking requirement of §§ 2101.1 and 2116.2; and variance relief from the loading requirements of § 2201.1 and the rear yard requirement of § 636. The only element of such relief relevant to the modified residential component is the rear yard relief, the extent of which is not changing as the result of this modification.

The Commission considered the application pursuant to Chapter 30 of the Zoning Regulations. A public hearing was conducted in accordance with the provisions of § 3022. For the reasons stated below, the Commission hereby approves the application.

FINDINGS OF FACT

PROCEDURAL HISTORY

1. On May 9, 2013, the Applicant submitted an application to the Commission for a modification to the design review and variance relief for the Property. The Applicant requested a modification to the approved review under Zoning Regulations §§ 1602.1 and 1610, which require Commission review of properties abutting M Street, S.E., properties located in Square 701, or properties that are the recipient of certain amounts of density through combined lot development rights (“CLDs”). In addition to the CG/CR Overlay District Review, the Applicant maintained the request for the following relief which was approved under the Order:
 - Special exception relief with regard to the parking requirements of §§ 2116.2 and 2101.1 for the retail use on the South Parcel;
 - Variance relief from the loading requirements of § 2201.1 for the office use on the Main Parcel and the retail use on the South Parcel; and
 - Variance relief from the rear yard requirement of § 636 for the residential and hotel structures on the Main Parcel.
2. The purposes and objectives of the CG/CR Overlay District, as enumerated in § 1600.2, that are relevant to the proposed modification to the approved Project include:
 - Assuring development of the area with a mixture of residential and commercial uses, and a suitable height, bulk, and design of buildings, as generally indicated in the Comprehensive Plan and recommended by planning studies of the area;
 - Encouraging a variety of support and visitor-related uses, such as retail, service, entertainment, cultural, and hotel or inn uses;
 - Requiring suitable ground-level retail and service uses and adequate sidewalk width along M Street, S.E., near the Navy Yard Metrorail station; and

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- Providing for the development of First Street, S.E., as an active pedestrian-oriented street with active ground-floor uses, connecting M Street, the Metro Station, and existing residential neighborhoods to the Ballpark site and the Anacostia Waterfront.
3. After proper notice was provided, the Commission held a hearing on the application on July 15, 2013. Parties to the case included the Applicant and Advisory Neighborhood Commission (“ANC”) 6D, the ANC within which the Property is located.
 4. The witness appearing on behalf of the Applicant at the hearing was Don Capobres of Ballpark Square, LLC; the expert witnesses appearing on behalf of the Applicant at the hearing were Devon Perkins of Hickok Cole Architects and Dan Van Pelt of Grove/Slade Associates, Inc.
 5. ANC 6D submitted a letter in support of the requested modification to the project noting that at the ANC’s “regularly called, properly noticed meeting on June 10, 2013, with a quorum present, Advisory Neighborhood Commission (ANC) 6D voted 7-0 to support the above-referenced request.” (Exhibit [“Ex.”] 9.) At the hearing, the Commission noted that the ANC letter had been received and would be given great weight.
 6. The Office of Planning (“OP”) filed a report in support of the modification request on July 5, 2013. (Ex 12.) At the hearing, OP stood on the record after reiterating that they “strongly support the project”. The District Department of Transportation (“DDOT”) submitted a report into the record on July 3, 2013 stating that it had no objection to the requested modification. (Ex. 11.) DDOT did not appear at the hearing on July 15, 2013 and the Commission read its report into the record.
 7. At the conclusion of the hearing, the Commission requested that the Applicant file a post hearing submission containing information regarding the following: additional residential façade details; additional information relating to the balconies and bays on the residential façade; and studies and information relating to the outdoor rooftop television viewing area and related operational rules and regulations. The Applicant submitted these materials to the Commission in its post-hearing submission dated August 5, 2013. (Ex. 17.)
 8. On September 9, 2013, the Commission considered the Applicant’s post-hearing submission and requested that the Applicant file a second post hearing submission containing information regarding the size and use of, and screening provided for, the outdoor rooftop television area. The Applicant submitted these materials to the Commission in its second post-hearing submission dated September 16, 2013. (Ex. 19.)
 9. On September 30, 2013, the Commission voted to approve the application subject to the conditions enumerated in this Order.

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DESCRIPTION OF PROPERTY AND SURROUNDING AREA

10. The Property is located on the southwest corner of the intersection of First and M Streets, S.E., in Southeast Washington. It is bound by M Street, S.E. to the north, First Street, S.E. to the east, N Street, S.E. to the south, and Cushing Place to the west. One block south of the Property is the Washington Nationals' Ballpark ("Ballpark"). Entrances to the Navy Yard Metrorail Station are located along M Street less than one block to the east of the Property and one block to the west of the Property. A property owned by Capital Riverfront Hotel, LLC (with a 130 foot hotel project approved by the Commission as Z.C. Case No. 12-19) splits the Property into the Main Parcel and the South Parcel and is not part of this Order. Immediately east of the Property is the mixed-use project which was approved by the Commission in Z.C. Case Nos. 06-46 and 06-46A.

PROJECT OVERVIEW

11. The Applicant requests a modification to the Order to revise the residential portion of the Project with a new configuration, a reconsidered façade, an increased unit count, and a reconfiguration of retail space within the residential component. The Applicant does not propose to modify the hotel (except for the flexibility request described herein) or office portions of the Project, and the Applicant does not propose to modify those retail portions of the Project that are not associated with the residential component. (Ex. 5 and Applicant's presentation at the July 15, 2013 hearing ("Applicant's Presentation").)
12. The residential component will be enlarged from approximately 260,000 square feet (approximately 292 units) to 304,000 square feet (approximately 326 units) of residential use while the retail use within the residential component will be reduced from approximately 28,000 square feet to 26,500 square feet. The total retail use provided by the Project will therefore be modified from approximately 46,500 square feet to approximately 45,000 square feet. The Project will still contain approximately 126,000 square feet of hotel use (approximately 170 units), and 224,000 square feet of office use, and provide approximately 370-380 parking spaces. As a result of the enlargement of the residential component, the total square footage of approximately 653,000 square feet (8.89 FAR) approved under the Order will be increased to approximately 695,600 square feet (9.45 FAR). (Ex. 5 and Applicant's Presentation.)
13. Consistent with §§ 1604 and 1606 of the Zoning Regulations, retail and restaurant uses are still proposed for all of the ground-floor space in the Project (other than lobbies for the residential, hotel, and office components and related parking and service areas). The Project still has a proposed building height of approximately 130 feet, occupies 79% (up from 74%) of the lot area above the first floor, and still provides approximately 370-390 automobile parking spaces. The residential and hotel component has a total of approximately 130 bicycle spaces, located on the P1 level. The number of bicycle

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- parking spaces in the office component and on public space adjacent to the Property will not change as a result of this modification. (Ex. 5 and Applicant's Presentation.)
14. On the Main Parcel, as with the previously approved design, the Project will still break the massing of the building into three distinct forms with the office, hotel and residential structures appearing and functioning as their own independent components. The structures will be tied together through building connections on the ground floor. Parking will still take place in the two below-grade garages and all loading will still be accessed via Cushing Place. The South Parcel, located at the corner of First and N Streets, will consist entirely of retail use and is not being modified as the result of this modification request. (Ex. 5 and Applicant's Presentation.)
 15. The residential portion of the Project will include approximately 304,000 square feet (approximately 326 units) on the Main Parcel. Instead of its court configuration opening to the south towards the Ballpark, the modified residential component's primary court now opens as a "U" west towards the Cushing Place. This reconfiguration allows the Project to react to the party wall proposed at the southern edge of the Property under Z. C. Case No. 12-19. Rather than opening its main courtyard onto this party wall, the redesigned residential component will now have at-risk windows along such party wall and retain the views and air from its primary court opening regardless of the development on the adjacent parcel. The building will also include a substantial courtyard facing east towards First Street. In addition, the redesigned residential component will allow for a more continuous streetwall along First Street. The rooftop, complete with a pool and pool terrace, as well as a roof terrace facing the Ballpark (which includes an outdoor television viewing area), will provide a common leisure and social space for the Project's residents. The inner core of the residential component will face a heavily landscaped courtyard, thereby providing a private living option. A significant number of units will be placed onto First Street and thereby have monumental views. (Ex. 5 and Applicant's Presentation.)
 16. Due to the reorientation of the building, the First Street façade has changed significantly. The façade of the building has several projecting bays along First Street that have horizontal and vertical gaps between them. These elements break down the scale of the façade and give the building a unique and interesting residential expression, very uncommon for a mid-block building. The railings of the balconies will be a combination of glass and metal mesh railings. These are arranged in a diagonal pattern on the façade and create a sense of movement on the façade. The entry will now be at the southern end of the building, whereas it had previously been in the middle of the building. In association with the relocation of the entry are modest changes to the cornice and canopy above the doors. Very minor changes to the spacing of the street trees will be necessary to accommodate the change in the location of the entryway. The Cushing Place elevation

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- has also been reconsidered, although the design of such façade is very similar to that previously approved by the Commission. (Ex. 5 and Applicant's Presentation.)
17. The residential building will incorporate materials of the highest quality as well as a color palette marking the building as a location in a burgeoning neighborhood of the Ballpark district. Similar to the previously approved residential structure, the primary materials used will be brick (of three different hues of grey), grey metal panels, painted aluminum, metal mesh and glass. (Ex. 5, 17, 17A, and Applicant's Presentation.)
 18. The retail portion of the Project will be comprised of 45,000 square feet total (not counting the above-grade parking provided on the Main Parcel), spread across the entire Property. Approximately 37,400 square feet of retail use (not counting the above-grade parking provided on the Main Parcel) will be provided on the Main Parcel and approximately 7,600 square feet of retail use will be provided on the South Parcel. As previously approved, the ground-floor retail will be demarcated from the uses above by metal banding. Each retailer will also be allowed to customize its space and hang its own signage within the general design parameters of the Project. The retail spaces will have ceiling heights of a minimum of 14 feet as required by the CG Overlay, making them marketable to a wide range of urban retailers. As in the original case, individual retailers will be encouraged to make their own mark on the streetscape with inboard and outboard tables, chairs, benches, and planters that both reflect and complement their storefronts and invite the public into the stores. The Applicant envisions First Street including a restaurant, café, coffee shop, and other retailers that can serve the variety of users that frequent the area, such as tourists and businesspeople staying in the hotel, residents living in the building and nearby, and visitors on their way to the Ballpark. (Ex. 5, 5A, and Applicant's Presentation.)
 19. The Project's office portion will include approximately 224,000 square feet on the Main Parcel. Such portion of the project was not altered as the result of this modification. (Ex. 5.)
 20. The Project will also include approximately 126,000 square feet of hotel use (approximately 170-180 units) on the Main Parcel. Such portion of the project was not altered as the result of this modification; however, in its June 25, 2013 filing, the Applicant requested additional flexibility to increase the width of the hotel component by up to one foot (from approximately 59 feet to approximately 60 feet of width) for the depth of the structure, if necessary due to user requirements. This flexibility request for an increase to the width of the hotel component by one foot would be reflected in the following zoning measurements for the Project:
 - Gross Floor Area – The hotel gross floor area would increase by approximately 1,200 gross square feet to approximately 127,200 gross square feet (up from the currently approved approximately 126,000 square feet of the hotel component).

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This would increase the total Project gross floor area to approximately 696,800 gross square feet (up from the approximately 695,600 gross square feet proposed by the modification application);

- FAR – The FAR for the entirety of the Project would increase from 9.46 to 9.47 (and therefore, the Applicant requests approval to utilize 0.97 FAR beyond .5 FAR under § 1602.1(e));
- Court – Irregular Open Court C would be slightly decreased to 35’-9” at its widest point (instead of 36’-9”) and would have an area of 3,614 square feet (instead of 3,720 square feet). Such width and area measurements would still comply with the court requirements; and
- As part of the slight reconfiguration of the hotel component, the Applicant also requests flexibility to slightly vary the sizes of certain hotel windows. These windows will vary from 4’-0 to 4’-8” wide.

(Ex. 10 and Applicant’s Presentation.)

21. As previously approved, construction of the Project will be permitted to proceed in a phased fashion such that the construction of one or more of the primary components of the Project (e. g., the residential, hotel, or office) may be constructed and/or completed before the other components are started, constructed, and/or completed. The building connections between the building’s use components and retail areas will not necessarily be complete until construction has finished in its entirety. (Ex. 5.)
22. The Applicant submitted the updated Technical Memorandum from Gorove/Slade, dated June 25, 2013, on June 25, 2013 as Exhibit 10B of the Record. This Memorandum concludes that the modification request will have no detrimental impact to the surrounding transportation network. It also confirms that the modified Project’s access plan, with its primary use of Cushing Place, will be suitable. (Ex. 10B.)

REQUESTED AREAS OF ZONING COMMISSION REVIEW AND RELIEF

Satisfaction of CG Overlay

23. Under CG Overlay District Review, the Applicant must prove that the Project satisfies the requirements of §§ 1604, 1606, 1610.3, and 1610.5, in addition to § 3104, because the Property has frontage along M Street and First Street, S.E. The following paragraphs address the Applicant’s satisfaction of these standards. (Ex. 5 and Applicant’s Presentation.)
24. Under § 1602.1(e), the Commission may approve the use of CLDs to achieve an additional transfer of density of up to 1.0 FAR to Square 701 provided that the applicant satisfies the objectives and guidelines of §§ 1601 and 1604-1607, as applicable. Previously, the Commission approved the use of 0.39 FAR beyond 8.5 FAR with the use

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- of CLDs. Under the modification, the Project proposes a CLD transfer of approximately 0.95 FAR (or 0.97 FAR if the hotel enlargement described herein is elected) of CLD density beyond 8.5 FAR under § 1602.1(e). The proposed Project as modified complies fully with § 1601. Sections 1605 and 1607 are not applicable to the Property because those two Sections regulate projects fronting on South Capitol Street and Half Street, respectively. (Ex. 5 and Applicant's Presentation.)
25. Sections 1604 and 1606 govern projects fronting on M Street, S.E., and First Street, S.E., and apply to this Project. The Project conforms to the requirements of those two sections and furthers the sections' objectives. As a whole, the Project achieves those sections' objectives because the Project delivers an even greater amount of preferred uses than are required. Further, the design of the Project's facades will foster an interactive pedestrian experience that capitalizes on its location adjacent to the Navy Yard Metro Station and the emerging Ballpark District. The analysis regarding § 1604, which affects M Street, S.E., has not changed from that under the Order since the office element of the Project has not changed as a result of the modification. (Ex. 5, 5A, and Applicant's Presentation.)
26. Under §§ 1606.2 and 1606.3, each new building fronting along First Street must devote a minimum percentage of the gross floor area of the ground floor to certain preferred uses including retail, entertainment, and service uses. Such preferred uses will occupy 100% of the Project's street frontage along both First Street except for the space devoted to the office building lobby entrance and fire control and a minimum of 77.5% of the ground-floor area for the Project in total. This Project will not include any of the uses prohibited under these Subsections. Similar to the project approved under the Order, the modifications to the Project conforms to the requirements of § 1606 and further the objectives of such section. (Ex. 5 and Applicant's Presentation.)
27. Pursuant to § 1610.3(a), the Applicant is required to prove that the Project will help achieve the objectives of the CG Overlay District. This Project, as modified, including its building uses, siting, architecture, landscaping, sidewalk treatment, urban design, and operation will still achieve several of the objectives of § 1600.2. The Applicant is proposing to modify the residential component of a mixed-use development that will also include a significant commercial office space, a hotel component, and a variety of preferred retail uses. The modification specifically will enlarge the residential component to deliver more residents at this important site – to help catalyze the Capitol Gateway neighborhood and satisfy CG Overlay objectives. Consistent with § 1600.2(a), the height and density of the Project are still suitable for the CG/CR Overlay District because the Project is within the limits of the Overlay District's height and density parameters. Moreover, the Project is still consistent with the area's high density residential and high density commercial designation under the Comprehensive Plan. Subsection 1600.2(b) encourages support and visitor-related uses such as retail and hotel uses, both of which are still included in the Project. Similarly, the ceiling heights of the

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- retail space will still have at least 14 feet of clearance, which is in accordance with § 1606.4. Finally, consistent with § 1600.2(i), the modified Project will still help to create an active pedestrian zone along First Street, between M Street, the Metrorail station, and the Ballpark by adding new retail and service uses, full-time residents, office workers, and visitors who will occupy the Project's hotel rooms. (Ex. 5 and Applicant's Presentation.)
28. In accordance with § 1610.3(b), the proposed building will help achieve the desired mix of uses in the CG Overlay District as set forth in § 1600.2 (a) and (b). As described more specifically above, the Project will still include residential, hotel, entertainment, retail, and service uses. The approximately 326 (up from 292) residential units will include a mix of unit types (studios, one-bedroom, two-bedrooms, and two-bedroom with den) that will attract a diverse resident base. The retail will likely accommodate entertainment and other preferred uses. The hotel use will still bring visitors - both personal and business travelers - to the Ballpark district to patronize local establishments and add a consistent flow of new energy to the area. (Ex. 5 and Applicant's Presentation.)
29. Pursuant to § 1610.3(c), the proposed building will still be consistent with the context of the surrounding neighborhood and street patterns. The Project is still consistent with the high density development encouraged around the Navy Yard Metro Station. The Property is surrounded by existing and proposed office, hotel, and residential buildings, making the Project's mixed-use program complementary to adjacent land uses. The development will still encourage pedestrian activity along First and M Streets through the inclusion of ground-floor retail, an enhanced streetscape environment, and by prohibiting curb cuts along the surrounding streets. The Project will utilize the alley for all parking and loading access. The development will serve as a pedestrian and visitor gateway between the Navy Yard Metro Station, particularly the eastern entrance thereof, and the Ballpark. Moreover, the design of the Project will be different, yet complementary to the surrounding neighborhood. Similarly, the Project's components will still be uniquely designed such that each of the three "tower" structures appears as a separate use and design approach. As mentioned above, each of such "towers" will be unified by the retail floor that runs the entirety of the lot frontage for the record lot, interrupted only by entrances accessing the upper floors of the towers themselves. The proposed building design as modified respects the existing street grid and is in context with the surrounding neighborhood and street patterns. (Ex. 5 and Applicant's Presentation.)
30. Also pursuant to § 1610.3(c), the Project is sympathetic to the context created by its immediate neighbors. The property to the west, southwest, and south of the Project has been approved for a mixed-use development of varying, but similar, densities and heights. When finished, that neighboring development will include residential, retail, office, and hotel uses. To date, only the office portion of such building has been constructed (55 M Street, S.E.). The properties to the north of the site are office

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buildings with ground-floor retail. To the west of the Project, across First Street, sits a seven-story Federal mapping agency building and a large surrounding parking lot. The proposed modified residential component of the Project and the resulting envelope of the entire Project is in keeping with the scale of density and height of the surrounding buildings and fits appropriately into that context. The modified structure has been designed to respect and in the case of the Ballpark, serve, the surrounding buildings. It will not affect adversely these neighboring properties, but will work in concert with them to create a more dynamic destination and community surrounding the Ballpark. (Ex. 5 and Applicant's Presentation.)

31. Satisfaction of § 1610.3(d) requires that the proposed building minimize conflict between vehicles and pedestrians. The proposed design as modified still promotes a safe and efficient pedestrian experience, especially along First and M Streets which are two primary pedestrian corridors within the CG Overlay. Per the CG Overlay District Review regulations, no new curb cuts may be established along First or M Streets. The proposed building will still eliminate four existing curb cuts along First and M Streets. Access to parking and loading for the entire development will still be from Cushing Place, the alley at the west of the Property. Eliminating curb cuts along the main pedestrian corridors will still reduce the possibility of vehicular and pedestrian conflicts. In addition, the Applicant's traffic consultant, Gorove/Slade Associates, Inc., determined that the alley would still function acceptably, even if 55-foot trucks arrived in such alley. (Ex. 5, 10B, and Applicant's Presentation.)
32. In accordance with § 1610.3(e), the proposed building as modified minimizes unarticulated blank walls adjacent to public spaces through facade articulation. Primarily, the articulation will be achieved by the use of building materials and display windows along the ground floor. However, the residential component also will include projections through a series of unique horizontal balconies and bays. These proposed projections will provide excellent sweeping views for many residents of the Project. The office component will still be permitted to apply for projections as well, as described in the Order. Special attention has been given to the facades facing the Project's alley, and as much detail has been added to such alley-facing facades as has been added to those facades facing the more prominent right of ways. (Ex. 5, 17A, and Applicant's Presentation.)
33. Subsection 1610.3(f) requires that the proposed building minimize the impact on the environment, as demonstrated through the provision of an evaluation of the proposal against LEED certification standards. The residential component of the building will still meet LEED Silver certification standards for new construction. The other components of the Project that were not altered through this modification will meet the LEED certification level stipulated under the Order. In addition, the environmentally sustainable residential development creates a livable transit-oriented community adjacent

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- to the Navy Yard Metro Station, with a significant amount of bicycle parking and changing facilities. The residential component's configuration results in shallow dwelling units which rely on natural ventilation and take advantage of natural lighting and views to promote a healthy and energy efficient lifestyle. (Ex. 5 and Applicant's Presentation.)
34. Under § 1610.5(a), a new building along First Street, S.E., must provide for safe and active streetscapes through building articulation, landscaping, and the provision of active ground level uses including retail, entertainment, cultural, and pedestrian concourse space. The proposed building design still encourages pedestrian activity along its First and M Street frontages and provides safe and active streetscapes. This is achieved through building articulation, thoughtfully landscaped and hardscaped spaces in the adjacent public space, the provision of ground-floor retail, variable depth retail areas, and electronic signage. To further facilitate the pedestrian activity along those frontages and to minimize vehicular and pedestrian conflicts, the Applicant still provides vehicular access to its garage and its loading areas via Cushing Place. (Ex. 5, 10B, and Applicant's Presentation.)
35. Pursuant to § 1610.5(b), new buildings must provide for safe and convenient movement through the site and to public transit, the Ballpark, and the Anacostia Riverfront. This Project as modified still achieves these circulation objectives. The Project's primary pedestrian pathway will be along First Street, which is currently an often forgotten or ignored link between the Navy Yard Metrorail Station and the Ballpark. While Half Street is the main access way to the Ballpark for pedestrians, the Project aims to create another exciting option for Ballpark visitors along with a unique place to live for its residents. The Project's ground-floor retail along First and M Streets will still make for an interactive and exciting pedestrian experience for those attending a ballgame as well as for those seeking a shopping experience. Additionally, the landscaping, lighting, the transparent display glass of the ground-floor retail, and overall increased activity will enhance the pedestrian safety. Just as the development of First Street encourages pedestrian activity to reach the Ballpark, it also provides safe and convenient access to the Anacostia Riverfront. In addition, the Project fosters a developing community that will invite even more people to utilize the Ballpark-area Metro stations before, during, and after games and even in the off-season. Moreover, the Project's emphasis of retail along First Street will encourage use of the eastern Navy Yard Station entrance, which is rarely used for games. (Ex. 5 and Applicant's Presentation.)
36. Finally, consistent with § 1610.5(c), applications for development under CG Overlay District Review must include a view analysis that assesses the openness of views towards and vistas around, the Capitol Dome, other federal monumental buildings, the Ballpark, and the waterfront. The Project as modified will not block or detract from the view of the Capitol, other federal monumental buildings, the waterfront, or the Ballpark. Rather, the

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superior design of the residential component will provide a favorable view for tenants and residents of neighboring buildings, and visitors to the Ballpark. (Ex. 5 and Applicant's Presentation.)

Variance Relief from the Rear Yard Requirement

37. In order to receive area variance relief, the Applicant must satisfy a three-part test: (1) the property must be subject to an extraordinary or exceptional situation or condition; (2) a practical difficulty will result if the applicant is required to satisfy the strict application of the Zoning Regulations; and (3) no harm to the public or to the zone plan will occur as a result of the approval of the variance application.
38. As to the first prong of the test, as found by the Commission in the Order, a number of exceptional conditions still affect the Property, and the Property still meets the "exceptional conditions" element of the variance test. The exceptional condition at the Property arises from a confluence of factors rather than a single situation or condition. In addition, the exceptional conditions at the Property are not related to general conditions in the neighborhood. These exceptional conditions include:
- The Property is large (at nearly 80,000 square feet) and deep (the east/west dimension is nearly 160 feet);
 - The Project is unique in that it includes the Main Parcel, with a three-tower component, and the South Parcel, approximately 58 feet to the south;
 - The Project is located at the intersection of two important streets, M Street and First Street, each with a separate set of requirements, in the CG/CR Overlay District, which requires a mixture of uses and dictates design features with which the Applicant must comply simply as a result of its presence on both such streets. The Property has an atypical amount of high profile street frontage and public access. Such a site creates complications to construct structures that are fully compliant with the Zoning Regulations because a large number of driveways and service-related areas would stifle the street life. The Zoning Regulations applicable for this Property include a prohibition on curb cuts on two sides of the Project, substantial percentages of ground-floor retail with elevated ceiling heights, and the requirement to provide a "pedestrian scale" building with large setbacks from the curb;
 - The Applicant also proposes to include four different types of uses on the Property, which is encouraged by the Zoning Regulations but introduces considerations regarding construction feasibility; and
 - Finally, the Property is located directly north of the Ballpark, which requires a building design that is cognizant of the building's singular context and respectful of the District of Columbia's objectives for development in and around the Ballpark. (Ex. 5 and Applicant's Presentation.)

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39. The Applicant is maintaining its request for variance relief from § 636 from the rear yard requirements for the residential building (and hotel building) of the Main Parcel and requests the approval of the modified design in relation to the rear yard relief previously granted. Section 636 requires the proposed residential building provide a rear yard of three inches per foot of height for each residential structure. Due to the building's façade's height of 130 feet, a 32-foot, six-inch rear yard would be required. However, the Project will not provide a rear yard. Instead, the Project will provide several courts in lieu of a rear yard, of 30 feet, 30 feet, and 66 feet in width. (Ex. 5 and Applicant's Presentation.)
40. The strict application of the Zoning Regulations' requirements with respect to the rear yard of the residential component on the Main Parcel would create a practical difficulty. Strict compliance with the Zoning Regulations is burdensome for the following reasons:
- The Project contains a unique mix of four distinct uses, three of which include a "tower" element to meet the density objectives of the CG/CR Overlay District. The inclusion of such tower elements renders impracticable furnishing the required rear yards for the residential and hotel components. To require the full rear yard of 32 foot, six-inch would necessitate eliminating a significant portion of the residential building (and the hotel building), which would detract from the appeal of the buildings, and the viability of the Project;
 - Providing a compliant rear yard would also push the uses closer together, whereas the Project has been designed to maximize the space between the use components through courts; and
 - The Project provides a 15-foot setback from M Street in order to give more room for pedestrian activity in the public realm, an objective of the CG/CR Overlay District. In meeting the objectives of activating the public realm, the Zoning Regulations create a burden in also meeting the rear yard requirements. (Ex. 5 and Applicant's Presentation.)
41. Under the third part of the variance test described in Paragraph 37, the Applicant's request for relief from the rear yard requirement will not be detrimental to the public good or impair the intent, purpose and integrity of the zone plan. The Applicant is providing as much of the preferred use mixture on the Main Parcel as possible. The resulting three "towers" created by this proposal and the interwoven courtyard systems furnish a more open view-inducing configuration than the provision of a compliant rear yard would have achieved. Such varied structures creating three different vertical elements are consistent with the design guidelines and objectives of the CG/CR Overlay District. No neighbor will be adversely impacted by the provision of these courts rather than a compliant rear yard. Similarly, no views of monuments, the Ballpark or the Anacostia will be impeded by the provision of courts in lieu of a compliant rear yard. Further, the provision of dead rear yard space so close to the Ballpark would be

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inconsistent with the desired urban design of the Ballpark district. (Ex. 5 and Applicant's Presentation.)

Special Exception Relief for Parking and Variance Relief for Loading

42. The Applicant is maintaining its special exception relief pursuant to §§ 3104 and 2116.5 from 11 DCMR § 2101.1 since the four parking spaces required for the retail use of the South Parcel are provided on the Main Parcel. Similarly, the Applicant is maintaining its variance relief from 11 DCMR § 2201.1 relating to the loading requirements for the South Parcel retail and the residential and retail uses on the Main Parcel. The modification described herein does not alter these elements of relief approved by the Commission. (Ex. 5 and Applicant's Presentation.)

GOVERNMENT REPORTS

43. OP noted in its July 3, 2013 report ("OP Report") that it recommended approval of the proposed design review modification. OP noted that the modification to the Project "addresses the criteria of the Capitol Gateway Overlay" and that "OP also continues to recommend approval of the previously approved rear yard variance, and supports the requested flexibility for the width of the hotel structure." The OP Report also noted that the building approved by Z.C. Case No. 12-19, which created a 130-foot party wall on the Property's south boundary, caused the Applicant to reorient the residential component so that the court faced west instead of south. OP stated that "[t]he proposed modification ... is generally consistent with most aspects of the zoning regulations, specifically height, FAR and use. As such, the proposal is generally consistent with the Comprehensive Plan and, as detailed in the OP report for case #12-05, would further several Guiding Principles of the Plan. The application is also consistent with major policies from various elements of the Comprehensive Plan including the Land Use, Transportation and Economic Development Citywide Elements, and the Lower Anacostia Waterfront / Near Southwest Area Element." OP's analysis of the modification to the Project compared to the design review criteria of §§ 1600.2, 1606, and 1610 consistently supported the Project, and OP did not oppose granting the Project an additional 1.0 FAR of CLD density. Likewise, OP did not object to any of the requested variance or special exception relief. (Ex. 12.) At the July 15, 2013 Zoning Commission hearing, OP voiced "strong support" for the modification to the Project.
44. The District Department of Transportation ("DDOT") submitted a report into the record on July 3, 2013. DDOT concluded that "the proposed modification does not alter the findings in our September 12, 2012 Zoning Commission report, which concluded that the previously approved project would not adversely impact the surrounding transportation network." DDOT continued that "DDOT has no objection to the application, provided the previous transportation related conditions identified in our previous report attached here and memorialized in Zoning Commission Order No. 12-05 are included in the new

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Zoning Order.” (Ex. 11.) DDOT did not appear at the hearing on July 15, 2013 and the Commission read its report into the record.

ADVISORY NEIGHBORHOOD COMMISSION REPORT

45. The ANC voted 7-0 on June 10, 2013 to support the Project. As noted above, the ANC voted with a quorum present at a regularly called, properly noticed meeting to support the Project. (Ex. 9.)

PARTIES IN SUPPORT OR OPPOSITION

46. No other parties appeared at the hearing to support or oppose the Project.

POST-HEARING SUBMISSION

47. As requested by the Commission, on August 5, 2013, the Applicant submitted the following information in its post-hearing submission:
- Additional design information, including plans, relating to the residential component of the Project. The Applicant submitted more detailed elevations of the west, south and east-facing facades of the residential component. These, combined with the renderings included in the May 9, 2013 application packet, depict the nautical theme of the apartment building, which draws inspiration from the project’s location near the Anacostia River;
 - Greater information about the specific materials being utilized in the modified building and where those materials will be incorporated into the facades. The materials shown corresponded to the material samples that the Applicant team brought to the July 15, 2013 hearing;
 - Additional information regarding how the balconies will appear and operate, including renderings focusing on the balconies’ appearance and specifications showing the various types of railings and detailing the horizontal bays defining the 1st Street façade; and
 - Additional information relating to the proposed television viewing area on the residential component’s rooftop, including studies of the viewing area’s impact on adjacent properties and guidelines relating to the operation of such area mitigating adverse impacts of such area.

(Ex. 17, 17A, 17B.)

SECOND POST-HEARING SUBMISSION

48. As requested by the Commission, on September 16, 2013, the Applicant submitted the following information in its second post-hearing submission:

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- Enhancements to the screening for the Outdoor Rooftop TV Area;
- Additional design clarifying the size of the Outdoor Rooftop TV; and
- Enhanced Guidelines relating to the operation of the Outdoor Rooftop TV.

(Ex. 19, 19A, 19B.)

CONCLUSIONS OF LAW

1. The Commission finds that, pursuant to § 1610.3 of the Zoning Regulations, the Applicant must satisfy the burden of proving the elements necessary to receive design review approval of the modification of the Project under §§ 1604, 1606, 1610.5, and 3104. In addition, the Applicant must also carry its burden to modify its variance relief from the rear yard requirements of § 636. The Applicant is not modifying its previously granted special exception relief pursuant to § 2115.6 for parking on the South Parcel or variance relief from the loading requirements of § 2201.1, and such relief remains intact.
2. The Zoning Commission set forth its authority and standards for review of special exception and variance relief in the Order. Those Conclusions of Law are incorporated herein by reference. The Applicant has carried its burden to demonstrate each of the three relevant factors for the modification of the previously approved rear yard variance.
3. The Commission provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to the ANC, OP, and to owners of property within 200 feet of the site.
4. The proposed Project as modified is within the applicable height, bulk, and density standards of the Zoning Regulations, and the height and density of the residential component will not cause a significant adverse effect on any nearby properties. The Commission notes that the Applicant will enter into CLD covenants pursuant to Chapter 16 and § 1602.1(a) and (e), to achieve this density and mix of uses. The Commission approves the additional density in excess of 8.5 FAR as the Applicant has provided sufficient evidence that the Project satisfies the objectives and guidelines of §§ 1601, 1604, and 1606. The residential, office, hotel, and retail uses as modified are appropriate for the site. The proposed development as modified has been appropriately designed to complement existing and proposed buildings adjacent to the site, with respect to height and mass.
5. Approval of the proposed development is not inconsistent with the Comprehensive Plan.
6. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give “great weight” to the issues and concerns raised in the written report of the affected ANC. As is reflected in the Findings of Fact, at its duly noticed meeting held

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on June 10, 2013, ANC 6D, the ANC within which the Property is located, voted 7-0 in support of the application for the modification to the prior CG Overlay District review approval. The Commission found this advice to be persuasive.

7. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to the recommendations of the Office of Planning in all zoning cases. The Commission has considered OP's recommendation for approval of the application and found its advice to be persuasive.
8. Based upon the record before the Commission, having given great weight to the views of the ANC and having considered the reports and testimony of OP and DDOT provided in this case, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under §§ 1610 and 3104, and the burden for the variance requested. The Commission finds that the Project as modified fully satisfies the goals and objectives of the CG Overlay District Review. The Commission finds that the Property is subject to exceptional conditions as outlined in the Applicant's application and pre-hearing statement and as presented at the public hearing. The Commission agrees that the Applicant faces practical difficulties satisfying the strict application of the Zoning Regulations with regard to the rear yard requirements of § 636. The Commission agrees with the Applicant's written statements and testimony at the public hearing that it would be unnecessarily burdensome for the Applicant to satisfy the requirement. The Commission also finds that granting this variance relief will not cause substantial detriment to the public good and the variance can be modified without impairing the intent, purpose, and integrity of the Zone Plan.
9. The Commission finds that granting the modified variance relief will create a building of significant architectural quality that will further the goals of the CG Overlay District and will create a new entertainment, retail, office, and residential destination in the District of Columbia.
10. The application for CG Overlay District Review will promote the orderly development of the site in conformity within the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and the Map of the District of Columbia.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL**, consistent with this Order, of the application for CG Overlay District Review, special exception, and variance relief. This approval is subject to the following guidelines, conditions, and standards:

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1. The residential component of the Project shall be built in accordance with the architectural plans, elevations, and materials submitted in the record of Z.C. Case No. 12-05A as Exhibits 5A, 10A, 17A, and 19A, as modified by the guidelines, conditions, and standards below.
2. The overall maximum permitted density shall be approximately 9.45 FAR, although 9.48 FAR shall be permitted if the enlargement to the hotel component is deemed necessary by the Applicant. In order to achieve the maximum permitted density, the Applicant shall comply with the process set forth under §§ 1602.1(a) and 1602.1(e) of the Zoning Regulations.
3. The maximum permitted height of the building shall be 130 feet. The Project in its entirety shall include approximately 304,000 square feet of residential use (approximately 326 units), 224,000 square feet of office use, approximately 126,000 square feet of hotel use (approximately 170 units), and approximately 45,000 square feet of retail use. The Project shall include between 370 and 390 parking spaces.
4. A minimum of 77.5% of gross floor area on the ground floor shall be devoted to preferred uses as defined in §§ 1604 and 1606.
5. With respect to the design of the Project, the Applicant shall have flexibility to incorporate the elements of Condition 9 of Z.C Order No. 12-05. The Applicant shall also have the flexibility to increase the width of the hotel by up to one foot (from 59 feet to 60 feet), and shall have flexibility to vary the sizes of certain windows of the hotel component from 4'-0 to 4'-8" wide.
6. The Applicant shall abide by the operational rules and regulations for the design and usage of the outdoor television rooftop viewing area as attached to the Applicant's Post-Hearing Submission. (Tab B, Ex. 19B.) In addition, the operational rules and regulations for the design and usage of the outdoor television rooftop viewing area shall include the following additional term:
 17. Building management shall maintain the vegetation in the rooftop planters adjacent to the rooftop entertainment area at all times so that the vegetation in the rooftop planters shall be of sufficient density and structure to provide adequate screening to prevent noise and light from being conveyed out of the viewing area.
7. This Order shall be valid for a period of three years from its effective date. Within such time, an application must be filed for a building permit for the construction of the office, hotel, or residential component of the Project. The filing of this or any subsequent building permit application will vest the Order as to that component provided that the subsequent application is filed within five years of the issuance of the final certificate of

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occupancy for the first component of the Project. Any request for an extension of time shall be filed and decided pursuant to 11 DCMR § 2408.10 through 2408.11.

8. Subject to the timing requirements set forth in Paragraph 21 of the Findings of Fact in this Order, the Project may proceed in a phased fashion. The ground-floor connection between the residential, hotel, and office uses need only be completed once the entirety of the building is constructed. If the hotel and residential component of the Project proceeds prior to the office component of the Project, the hotel and residential component may use M Street as the measuring point for height until the remainder of the Project is constructed without any temporary structure(s) or building connection(s) being constructed on the office component.
9. Conditions Numbered Five, Six, Seven, Eight, and Ten of Zoning Commission Order No. 12-05 are incorporated herein.

For this reason stated above, the Commission concludes that the Applicant has met its burden, and it is hereby **ORDERED** that the application be **GRANTED**.

On September 30, 2013, upon the motion of Commissioner Miller, as seconded by Vice Chair Cohen, the Zoning Commission **APPROVED** this application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, and Michael G. Turnbull to adopt; Peter G. May, not having participated, not voting).

In accordance with the provisions of § 3028 of the Zoning Regulations, this Order shall become final and effective upon publication in the *D.C. Register* on November 1, 2013.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 12-16
Z.C. Case No. 12-16
CG Marketplace, LLC
(Consolidated PUD & Related Map Amendment
for Various Lots @ Squares 5276, 5272, 5273, 5277, and 5246)
September 30, 2013

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on June 20, 2013 to consider applications from CG Marketplace, LLC (the "Applicant") for review and approval of a consolidated Planned Unit Development ("PUD") and related map amendment from the R-2 and R-5-A Zone Districts to the C-2-A Zone District for Square 5276, Lots 812, 813, and 23-121; Square 5272, Lot 51; Square 5273, Lot 67; Square 5277, Lots 22-33 and 805; and Square 5246, Lot 110 (the "PUD Site"). The Commission considered the applications pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On August 29, 2012, the Applicant submitted an application and supporting materials with the Commission requesting consolidated review of a PUD and related map amendment to rezone the PUD Site from the R-2 and R-5-A Zone Districts to the C-2-A Zone District (the "Initial PUD Submission").
2. The Applicant is a single purpose entity controlled by the D.C. Housing Authority ("DCHA"), which owns the site, and an affiliate of A&R Development Corp. ("A&R"). DCHA is the owner of the PUD Site.
3. The subject property consists of Square 5276, Lots 812, 813, and 23-121; Square 5272, Lot 51; Square 5273, Lot 67; Square 5277, Lots 22-33 and 805; and Square 5246, Lot 110. The PUD Site is located in southeast Washington and has a total area of approximately 521,734 square feet or 11.9 acres.
4. The proposed project, known as Capital Gateway Marketplace (the "project"), is a mixed-use development comprised of a large-format retail store; a mixed-use building with approximately 288 residential units (plus or minus 10%) and approximately 23,500 square feet of ground floor retail uses; and an 8,400 square foot sit-down restaurant site.
5. On February 4, 2013, the Applicant submitted a revised Statement in Support, which includes revised Architectural Plans and Elevations and sets forth in detail the proposed development, project design, requested areas of zoning and design flexibility, and a

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detailed analysis indicating how the Applicant meets the applicable standards set forth in the Zoning Regulations. (Exhibit ["Ex."] 12, 13.)

6. On March 29, 2013, the Office of Planning ("OP") recommended that the Commission schedule a public hearing on the application. (Ex. 14.) At its public meeting held on April 8, 2013, the Commission voted to schedule a public hearing on the application.
7. On April 10, 2013, the Applicant submitted a Prehearing Statement. (Ex. 17.) The Prehearing Statement included the information requested by OP and the Commission, including additional plan sheets and development information; confirmation of the Applicant's affordable housing commitment; and a detailed analysis of how the project complies with the special exception standards of § 2516 of the Zoning Regulations. (Ex. 17, 17A.)
8. On May 31, 2013, the Applicant submitted a Supplemental Prehearing Statement. (Ex. 23.) The Supplemental Prehearing Statement included a set of Revised Architectural Plans and Elevations incorporating changes to address the concerns raised by OP and the Commission, and that improve the design and sustainability of the overall development. (Ex. 23A1-10.) For example, the Applicant removed the office building initially proposed as a project component in response to concerns raised including siting/visibility of the proposed building, the need for excessive retaining walls to support the development, and uncertainty regarding demand for office space in the neighborhood. The Applicant also made additional improvements to its proposal including a more defined architecture for the restaurant and mixed-use buildings, reduction in the height and number of retaining walls, the addition of more open/green space, and an increase in the amount of pervious surfaces.
9. After proper notice, the Commission held a public hearing on the application on June 20, 2013.
10. The parties to the case were the Applicant and the Advisory Neighborhood Commission ("ANC") 7C. ANC 7C submitted a motion, and requested at the public hearing on June 20, 2013, that the Commission keep the record open for the ANC to submit its comments. (Ex. 24.) ANC 7C submitted a letter dated July 18, 2013 stating the ANC's opposition to the application. (Ex. 48.) The Commission re-opened the record to receive the Applicant's response to the report, submitted on July 23, 2013. (Ex. 50.) The contents of the ANC 7C's letter and the Applicant's response, are discussed below.
11. OP and the District Department of Transportation ("DDOT") testified in support of the project at the public hearing.

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12. At the hearing, the Applicant submitted a copy of its PowerPoint presentation; a copy of the project's materials board; updated architectural plan sheets; and a report prepared by Mr. Sher. (Ex. 37A1-37A3, 38-40.)
13. A number of groups and individuals submitted letters in support of the application, including the Northeast Boundary Civic Association, the Capital Gateway Community Resident Association, Councilmember Yvette Alexander, Ronald Streff, Mary Gaffney, and Mary D. Jackson. (Ex. 25-29, 33.) The Capitol View Civic Association submitted a letter of conditional support. The letter expressed support of the project, but recommended that the project include less affordable housing. (Ex. 35.)
14. Five principal witnesses testified on behalf of the Applicant at the public hearing, including Feras Qumseya, on behalf of the Applicant; Derek Warr, on behalf of Perkins & Will Architects, as an expert in architecture; Gabriel Massa of MMA Architects, as an expert in architecture; Scott Delgado, on behalf of Bowman Consulting Group, as an engineering expert; and Erwin N. Andres, an expert in transportation planning and analysis, on behalf of Gorove/Slade Associates. Based on their professional experience, as evidenced by the resumes submitted for the record, Mr. Warr, Mr. Massa, Mr. Delgado, and Mr. Andres were qualified by the Commission as experts in their respective fields. Mr. Bruno P. Carvalho of Carvalho Good, PLLC was also qualified by the Commission as an expert in landscape design.
15. On June 13, 2013, ANC 7E submitted a letter to the Commission expressing their strong support for the application, and requesting expeditious approval of the application. (Ex. 34.) ANC 7E stated that the proposed development is a critical step in implementing the overall Capitol Gateway Estates development. ANC 7E indicated that it worked very hard with the Applicant over a period of many years and that the project reflects the community desires for a sit-down restaurant, retail uses in Ward 7, and for the proposed large-format retailer. ANC 7E further indicated that the residential units would add stability and strength to the community.
16. Michael Kroopnick of G. Macy Nelson, LLC and Chris Otten on behalf of Create for Community testified at the public hearing in opposition to the application. (Ex. 41, 42.) As discussed in more detail below, the Commission finds that the Applicant has adequately addressed the issues raised by Mr. Kroopnick and Mr. Otten.
17. On July 11, 2013, the Applicant submitted a Post-Hearing Submission. (Ex. 45.) The Post-Hearing Submission addressed the comments raised at the public hearing on June 20, 2013, including revised plans detailing a number of refinements to the mixed-use building to address the comments raised by the Commission, a justification for the proposed density on the restaurant parcel and a revised parking lot design, and a

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commitment by the Applicant to construct pedestrian safety amenities at the intersection of East Capitol Street and Southern Avenue as requested by DDOT.

18. At its public meeting held on July 29, 2013, the Commission took proposed action to approve the application and requested further information from the Applicant regarding the Applicant's First Source commitment, the project's phasing insofar as it affects the delivery of the project's affordable housing component, and the design of the western façade of the retail building.
19. Pursuant to 11 DCMR § 2403.15 through 2403.20, the Applicant submitted a list of the public benefits of the project, and proposed draft conditions for the final order on August 5, 2013, and in response to the comments provided by the District's Office of the Attorney General, the Applicant submitted its revised list of public benefits of the project and draft conditions on August 15, 2013. (Ex. 52, 53.)
20. On September 16, 2013, the Applicant responded to the Commission's requests for information made when it took proposed action. (Ex. 54.)
21. The application was referred to the National Capital Planning Commission ("NCPC") for review of any impacts on the federal interest under the Comprehensive Plan. By delegated action September 6, 2013, the Executive Director of NCPC found that the application was not inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital. (Ex. 55.)
22. The Commission took final action to approve the application on September 30, 2013.

The PUD Site and Area

23. The PUD Site consists of two vacant parcels which are divided by 58th Street, N.E. along the north frontage of East Capitol Street. The primary site, located to the east of 58th Street, consists of Square 5276, Lots 812, 813, and 23-12; Square 5272, Lot 51; Square 5273, Lot 67; and Square 5277, Lots 22-33 and 805. The west parcel, which will be developed to include a sit-down restaurant, consists of Lot 110 in Square 5246 and has a land area of 61,817 square feet or 1.4 acres.
24. The PUD Site fronts on East Capitol Street, which is a major corridor providing access to the Downtown central business district. As noted in the Comprehensive Plan, East Capitol Street is one of the major boulevards into the city, but needs new development and improved urban design. The surrounding area is generally residential in character and is characterized by single family and duplex houses. Immediately to the north of the PUD Site is the 151-unit senior building that was developed by the Applicant pursuant to the overall Capitol Gateway Estate PUD. To the northwest and south of the PUD Site,

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existing housing types include single-family, duplex, and small walk-up multifamily buildings also developed pursuant to the Capitol Gateway Estates PUD.

Description of the PUD

25. The proposed project includes a full-service, large-format retail store; a mixed-use building with approximately 288 residential units (plus or minus 10%) and approximately 23,500 square feet of ground-floor retail use; and an 8,400-square-foot sit-down restaurant. The project includes approximately 114,900 square feet of green space, which is approximately 22% of the PUD Site's area. In addition, the project will include approximately 39,000 square feet of permeable pavers, which is approximately 7.5% of the PUD Site's area. Overall, approximately 30% of the PUD Site is permeable.
26. *Mixed-Use Building Site.* As the first building visible upon entering the District of Columbia from the east, the mixed-use building and site function as a symbolic and literal gateway and landmark. The building consists of four residential stories above a podium that includes two levels of parking. Retail space and the residential lobby line the parking structure's southern façade, and address the site's natural grade through a series of outdoor terraces along East Capitol Street. The site's natural grade is also incorporated into the building's design to provide separate entrances and parking areas for the retail and residential components. Loading and other services are located along the building's east side.
27. A variety of materials and finishes are employed in order to minimize the bulk of the building into a smaller, more residential scale. The eastern half of the building also steps back substantially to create an urban plaza and additional retail frontage. Façade materials on the southern side of the building include metal panels and a variety of sizes and finishes of masonry and cementitious cladding systems. The building includes a "tower" element at the southeast corner of the building, forming a landmark "anchor" which engages the various building volumes and serves as a focal point for the overall building mass.
28. *Large-Format Retailer Site.* Located at the corner of two major public streets, the large format retail building has been designed to physically mark the corner at the intersection of East Capitol Street and 58th Street while simultaneously helping to create an inviting and comfortably defined street space. The design incorporates vegetation buffers on the street edge, pedestrian amenities in areas of circulation, and the use of glass along the main portions of the building. The glazing shares the multiple functions of separating the store from public gathering areas and providing voids within the mass.
29. The building mediates the considerable change in grade on the PUD Site by locating a parking garage under the building. Much of the parking, therefore, will be below grade

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- and hidden from views along the eastern perimeter of the building. The building design also uses the natural slope of the site to create pedestrian entrances at both the high and low ends of the site. The scale of the façade along East Capitol Street is further reduced by the use of a variety of building materials and colors such as brick, aluminum, glazing, and Trespa panels. The materials were selected to fit within the context of the surrounding community and within the overall development itself.
30. The architectural massing, scale, and façade materials are appropriate to meet the requirements of maintaining a strong corner. The aesthetic composition of the massing, scale, and materials has also been composed in a manner that meets the needs of a neighborhood made up of primarily single, low-density and multi-family housing. The large format retail building will have a maximum height of approximately 56 feet (from the lowest point on the site to the highest point on the building) and a gross floor area of approximately 135,551 square feet.
 31. Restaurant Site. The project includes a sit-down restaurant site in response to requests from the community for a sit-down restaurant in the neighborhood, as stated in numerous community meetings, and as noted in the Comprehensive Plan. The restaurant pad forms the western end of the PUD Site, and is composed of a single-story restaurant building of approximately 8,400 square feet and surface parking located behind the building.
 32. The restaurant building faces East Capitol Street, both to complete the project's continuous urban façade and engage the public realm, and to screen the surface parking lot from view. The exterior finish palette (masonry or cementitious cladding with metal panels used as accents and at focal points) complements the overall material palette of the project without attempting to compete with the other buildings included in the development. Moreover, the Applicant has designed the restaurant site to include a number of sustainability features and to be consistent with the design of the overall development. In addition, the Applicant has revised the design of the porous pavers in the restaurant's parking lot to make the transition between pervious and impervious paving more intentional and strategic. The revised paving design will facilitate better practical maintenance and will ensure the durability of the proposed paving without compromising the overall stormwater management strategy for the restaurant site. (Ex. 23A1-10, Sheet C.03-02.)
 33. The slope of the restaurant site is the most complicated of all the parcels in this development since the restaurant site slopes in more than three directions. However, instead of utilizing retaining walls, the site will utilize rain gardens, garden walls, planted hedge systems, interlocking grass pavers, plaza areas, and other landscaping features. This design will capture all of the rain water from the roof as well as the site by utilization of sustainable site features incorporated into the design. In addition, outdoor seating has been added to the design and now connects the exterior to the interior and

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provides for an exciting and vibrant environment both during the day and evening. (Ex. 23A1-10, Sheets A04-42 and 43 and A04-51.)

Zoning Flexibility Requested

34. The Applicant requested flexibility from several provisions of the Zoning Regulations, including the loading requirements (§ 2201.1), the building height requirements (§ 2405.1), limitations on roof structures (§§ 411, 770), and special exception approval to permit Prepared Food Shops and Fast Food Establishments, and to permit more than one principal building on all lot of record.
35. Loading for the Mixed-Use Building. The Applicant requested relief from the off-street loading requirements for the mixed-use building included in the project. Subsection 2201.1 of the Zoning Regulations includes the following applicable requirements: (a) For a retail establishment in the C-2-A Zone District with more than 20,000 to 30,000 square feet of gross floor area, two loading berths at 30 feet deep, two loading platforms at 100 square feet, and one service/delivery loading space; and (b) for an apartment house or multiple dwelling with 50 or more dwelling units, one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery loading space at 20 feet deep.
36. The proposed mixed-use building includes 23,500 square feet of the retail gross floor area and 288 residential units, which yields a loading requirement of two loading berths at 30 feet deep (retail), two loading platforms at 100 square feet (retail), one service/delivery loading space (retail), one loading berth at 55 feet deep (residential); one loading platform at 200 square feet (residential); and one service/delivery space at 20 feet deep (residential). However, due to the anticipated needs of the residential and retail uses, the Applicant is seeking flexibility to provide the following loading facilities for the mixed-use building: two loading berths at 30 feet deep; one loading platform at 100 square feet; one loading platform at 200 square feet; and two service/delivery spaces.
37. The Commission finds that this requested flexibility is in accordance with the Comprehensive Plan's recommendations to consolidate loading areas within new developments and to minimize curb cuts and pedestrian conflicts to the greatest extent possible. Given the nature and size of the residential units, it is unlikely that the building will be served by 55-foot tractor-trailer trucks. In addition, the loading areas are likely to be used by the residents primarily when they move in or out of the building, and any subsequent use by residents is likely to be generally infrequent and can be coordinated to ensure that the loading facilities are well-managed. Likewise, the use of the retail loading facilities will be coordinated in a manner that causes the least amount of conflict. Therefore, the loading facilities provided will be able to accommodate both the residential and retail uses, and there will not be a need for additional loading spaces since the Applicant can coordinate deliveries.

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38. Building Height for Mixed-Used Building. The Zoning Regulations permit a maximum matter-of-right height of 50 feet with no limit on the number of stories in the C-2-A Zone District, and a maximum height of 65 feet with no limit on the number of stories under the PUD regulations. (11 DCMR §§ 770.1 and 2405.1.) As shown on the elevations for the mixed-use building, the building has a height of 62'-9" as measured to the top of the roof, but the Applicant is requesting flexibility pursuant to § 2405.3 of the Zoning Regulations to increase a portion of the building to a maximum height of 67'-3" feet as measured to the top of the parapet.
39. The Commission finds that the requested additional height is not being used to increase the floor area or habitable space of the building, but is rather being requested in order to reinforce the building's role as a prominent and symbolic architectural gateway into the District of Columbia from Maryland. The area of increased parapet height occurs at the southeast corner of the building, which is the most prominent and dramatic architectural component of the building. The length of the raised parapet area accounts for less than 12% of the building's perimeter. Accordingly, the Commission finds that approving this requested relief will not have any adverse impacts, is necessary to the successful functioning of the building to reinforce the building's role as architectural gateway, and is appropriate when balanced against the superior public benefits and amenities of the project.
40. Roof Structures for Mixed-Use Building. The Applicant initially requested flexibility from the roof structure requirements of the Zoning Regulations because, as shown on the roof plan sheets included in the plans, the mixed-use building includes multiple roof structures (§§ 411.3 and 770.6(a)), and the roof structures cannot be set back from all exterior walls a distance equal to their height above the roof (§§ 411.2 and 770.6(b)). The Applicant revised the project's plans to eliminate the need for setback relief, but still requires relief to have multiple roof structures.
41. Based upon the plans and the evidence of record in this case, the Commission finds that each roof structure is a necessary feature for the proposed buildings. The multiple roof structures have been separated due to the building code requirement to provide separate means of egress for buildings, as well as the desire to break up massing on the roof. The location and number of the roof structures for the mixed-use building is driven by the layout and design of the residential units within the building. In addition, the Applicant is providing the greatest setbacks possible given the size of the roof and the internal configuration of the proposed building. The requested roof structure designs will not adversely impact the light and air of any adjacent buildings since the roof elements have been located to minimize their visibility. Therefore, the intent and purposes of the Zoning Regulations will not be materially impaired and the light and air of adjacent buildings will not be adversely affected.

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Special Exception Approvals

To Permit Prepared Food Shops and Fast Food Establishments.

42. The Applicant proposes to include approximately 23,500 square feet of ground-floor retail use in the mixed-use building. The Applicant intends to market the proposed retail areas to a mix of nationally recognized chains as well as locally based chains and smaller specialty stores -- such as eating establishments, coffee shops, branch banks, barbershops, and similar uses -- which will help to improve the mix of goods and services available to residents in the surrounding neighborhood. Among the potential tenant would be such establishments as FroZenYo, Panera Bread, and Starbucks.
43. The Applicant is concerned that these or similar uses could fall within the definition of "Prepared Food Shop" and "Fast Food Restaurant" in § 199 of the Zoning Regulations. Therefore the Applicant is seeking approval pursuant to §§ 712.1 and 733.1 of the Zoning Regulations in order to enable the Applicant to potentially lease a portion of the retail space to a tenant type such as FroZenYo, Panera Bread, Starbucks, or similar tenants if such retailers express interest in the space once this building is completed.
44. Subsection 712.1 of the Zoning Regulations provides that a prepared food shop with more than 18 seats for patrons shall be permitted in a C-1 Zone District as a special exception if approved by the Board of Zoning Adjustment ("BZA") under § 3104 provided that no drive-through shall be permitted. Moreover, pursuant to § 733.1 of the Zoning Regulations, the BZA is authorized to approve as a special exception under § 3104, fast food establishment uses, subject to the provisions of § 733.
45. Subsection 2405.7 of the Zoning Regulations provides that in approving PUDs, the Commission also has the authority to approve any use that is permitted as a special exception and that would otherwise require approval by the BZA. Moreover, § 2405.8 of the Zoning Regulations provides that approval by the BZA is not required for any such use approved by the Commission under § 2405.7, and that the Commission is not required to apply the special exception standards normally applied by the BZA.
46. The Applicant requested that the Commission exercise its authority to hear and decide special exceptions. Although the Commission is not required to apply the standards of § 733, however, the Commission finds that the Applicant complies with applicable specific special exception standards as follows, which having been met also prove compliance with the general standard set forth at 11 DCMR § 3104.1:
 - a) 733.2 - No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a Residence District unless separated therefrom by a street or alley.

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As shown on the plans in the record, the mixed-use building includes three proposed retail areas, ranging in size from 5,026 square feet to 7,693 square feet. Any of these spaces could accommodate a potential prepared food shop or fast food restaurant use. The retail spaces are located on the East Capitol Street frontage of the building. Although the property to the north of the PUD Site is zoned R-5-A, the lot upon which the proposed uses are located is separated from the residential district by a proposed private street. The residentially zoned properties to the east and west of the PUD Site are separated from the PUD Site by 61st Street and East Capitol Street, respectively. Thus, the Commission finds that the Applicant meets the requirements of § 733.2. The Commission also finds that the space for a potential prepared food shop or fast food restaurant use is located within the building, and the space is over 250 feet away from the R-5-A zone boundary to the north. Moreover, the nearest actual residential uses to the closest edge of space for the potential prepared food shop or fast food restaurant use are approximately 650 feet to the north (across a park); approximately 300 feet to the east (across 61st Street); approximately 600 feet to the west (across the large-format retail parcel and across 58th Street); and approximately 275 feet to the south (across East Capitol Street);

- b) 733.3 - If any lot line of the lot abuts an alley containing a zone district boundary line for a Residence District, a continuous brick wall at least six feet (6 ft.) high and twelve inches (12 in.) thick shall be constructed and maintained on the lot along the length of that lot line. The brick wall shall not be required in the case of a building that extends for the full width of its lot. As shown on the civil sheets in the record, no part of the mixed-use building lot abuts an alley containing a zone district boundary line for a residence district. Thus, § 733.3 is not applicable;
- c) 733.4 - Any refuse dumpsters shall be housed in a three (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a Residence District. As shown on the plans included in the record, the trash rooms for the retail and the potential prepared food shop or fast food restaurant use are located inside the mixed-use building, and the trash room entrances are all located within the building. The trash will be collected utilizing the proposed loading facilities also located within the building. Therefore, the proposed trash rooms will have no adverse impacts on any adjacent residential uses, and thus comply with § 733.4;
- d) 733.5 - The use shall not include a drive-through. As shown on the plans included in the record, the mixed-use building does not include a drive-through and thus complies with § 733.5;

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- e) 733.6 - There shall be no customer entrance in the side or rear of a building that faces a street or alley containing a zone district boundary line for a Residence District. As shown on the plans included in the record, the customer entrances for the retail spaces and the potential prepared food shop or fast food restaurant use are located on East Capitol Street, "Private Street 1", and "Private Street 2". None of these entrances are located on a street or alley that contains a zone district boundary line for a residence district. Thus, the Applicant meets the requirement of § 733.6;
- f) 733.7 - The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions. The potential prepared food shop or fast food restaurant use will be located within a new building and that has been sited so as not to become objectionable to neighboring properties. Given the location of the potential uses within the new building, the potential prepared food shop or fast food restaurant use will not create any excessive noise, sounds, odors, lights, or other conditions that would impact any neighboring properties. Moreover, the closest residential properties range from 275 feet to 650 feet away from the space for the potential prepared food shop or fast food restaurant use. Therefore, the Applicant meets the requirement of § 733.7;
- g) 733.8 - The use shall provide sufficient off-street parking, but not less than that required by § 2101.1, to accommodate the needs of patrons and employees. The proposed retail gross floor area yields an off-street parking requirement of 68 parking spaces. As shown on the Zoning Tabulations sheet included in the plans of record, the mixed-use building includes 79 off-street parking spaces for the retail and potential prepared food shop or fast food restaurant use this building. Therefore, the Applicant meets the requirement of § 733.8;
- h) 733.9 - The use shall be located and designed so as to create no dangerous or other objectionable traffic conditions. The proposed mixed-use building has been located and designed so as to create no dangerous or other objectionable traffic conditions. Moreover, DDOT has submitted a report reviewing the overall development, and the Applicant has agreed to implement a number of the mitigation measures identified in the DDOT report. Therefore, the Applicant meets the requirements of § 733.9;
- i) 733.10 - There shall be adequate facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles, or driveways on the site. As shown on the plans in the record, the loading facilities in the mixed-use building are accessed from Private Street 1, which ensures that deliveries can be made and trash

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collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles, or driveways on the site. Thus, the Applicant meets the requirements of § 733.10;

- j) 733.11 - The Board may impose conditions pertaining to design, screening, lighting, soundproofing, off-street parking spaces, signs, method and hours of trash collection, or any other matter necessary to protect adjacent or nearby property. The Commission finds that additional conditions regarding the potential prepared food shop or fast food restaurant use are not necessary in this case; and
- k) 733.12 - An applicant for special exception under this section may request the Board to modify the conditions enumerated in §§ 733.2 through 733.4; provided that the general purposes and intent of this section are complied with. As described above, the Commission finds that the Applicant meets the special exception standards of § 733, and thus there is no need for the Commission to modify the conditions enumerated in § 733.2 through 733.4.

To permit more than one principal building on a single lot within 25 feet of a residence district.

- 47. Subsection 2517.1 of the Zoning Regulations permits two or more principal buildings or structures to be erected as a matter-of-right on a single subdivided lot that is not located in, or within 25 feet of, a residence district. The eastern portion of the PUD Site includes Square 5276, Lots 812, 813, and 23-121; Square 5272, Lot 51; Square 5273, Lot 67, and Square 5277, Lots 22-33 and 805. The Applicant will ultimately subdivide the eastern portion of the PUD Site into a single lot of record to be occupied by the large-format retailer building and the mixed-use building. Because the PUD Site is within 25 feet of a residence district, the Applicant must obtain a special exception pursuant to § 2516 to permit the two buildings to occupy the single lot contemplated.
- 48. The Commission finds that the Applicant complies with the applicable requirements of § 2516 as follows:
 - a) The PUD Site Is Located within 25 Feet of a Residence District (§ 2516.2). The PUD Site is currently zoned R-2 and R-5-A, and the Applicant is seeking to rezone the PUD Site to the C-2-A Zone District. As shown on the Zoning Map included with the application, the PUD Site is located within 25 feet of a residence district;
 - b) The Applicant Has Filed Copies of All Required Landscaping, Grading, and Site Plans (§ 2516.3). The Applicant has submitted all of the plans required under § 2516.3 of the Zoning Regulations. As required under those sections, the plans

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of record include typical floor plans and elevations, landscaping and grading plans, and a site plan that illustrates all new rights-of-way within the project;

- c) The Applicant Has Requested Variance Relief from the Building Height Requirement for the Mixed-Use Building in Order to Proceed with this Development (§ 2516.4). Subsection 2516.4 of the Zoning Regulations provides that the "number of principal buildings permitted by this section shall not be limited; provided, that the applicant for a permit to build submits satisfactory evidence that all the requirements of this chapter (such as use, height, bulk, open spaces around each building, and limitations on structures on alley lots pursuant to § 2507), and §§ 3202.2 and 3202.3 are met." (11 DCMR § 2516.4.) However, the Applicant is seeking flexibility from the Zoning Regulations, which permit a maximum building height of 65 feet, since a portion of the mixed-use building has a height of 67'-3" feet as measured to the top of the parapet. This additional height is not being used to increase the floor area or habitable space of the building. The area of increased parapet height occurs at the southeast corner of the building, which is the most prominent and dramatic architectural component of the building, and the length of the raised parapet area accounts for less than 12% of the building's perimeter;
- d) The Commission finds that § 2516.5 is not applicable since the proposed large-format retail building and the mixed-use building will both have frontage on a public street;
- e) The Proposed Development Complies with the Requirements of § 2516.6. Subsection 2516.6 of the Zoning Regulations provides that the Board shall require the following in providing for net density pursuant to § 2516.11:
- (i) The area of land that forms a covenanted means of ingress or egress shall not be included in the area of any theoretical lot, or in any yard that is required by this title;
 - (ii) Notwithstanding any other provisions of this title, each means of vehicular ingress or egress to any principal building shall be twenty-five feet (25 ft.) in width, but need not be paved for its entire width;
 - (iii) If there are not at least two (2) entrances or exits from the means of ingress or egress, a turning area shall be provided with a diameter of not less than sixty feet (60 ft.); and
 - (iv) The requirements of paragraphs (b) and (c) of this subsection may be modified if the Board finds that a lesser width or diameter will be

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compatible with, and will not be likely to have an adverse effect on, the present character and future development of the neighborhood; provided, that the Board shall give specific consideration to the spacing of buildings and the availability of resident, guest, and service parking;

The Commission finds that the land devoted to the private roadways will not be included in calculating the area of any theoretical building site within the proposed development. Second, the vehicle entrances for the buildings will be at least 25 feet in width at all points. Moreover, as shown on the circulation diagrams included with the plans of record, there is sufficient circulation space for passenger vehicles, fire trucks, and trash/service vehicles. Therefore, the Commission is utilizing the authority granted pursuant to § 2516.6(d) to approve the site plan as proposed by the Applicant;

- f) The Height of Each Building in the Proposed Development Has Been Measured from the Finished Grade at the Middle of the Front of the Building (§ 2516.7). The building height for each building to be located on a theoretical lot has been measured from the finished grade at the middle of the front of each proposed building. The large-format retail building has a building height of 40'-10" and the mixed-use building has a building height of 62'-9" to the top of the roof and 67'-3" to the top of the highest parapet. Both the large-format retail building and the mixed-use building front on East Capitol Street, which has a width of 80 feet, which would permit a building height of 100 feet under the 1910 Height Act. However, the Applicant is seeking flexibility from the Zoning Regulations, which permit a maximum building height of 65 feet, since a portion of the mixed-use building has a height of 67'-3" feet as measured to the top of the parapet. This additional height is not being used to increase the floor area or habitable space of the building. The area of increased parapet height occurs at the southeast corner of the building, which is the most prominent and dramatic architectural component of the building, and the length of the raised parapet area accounts for less than 12% of the building's perimeter;
- g) The Proposed Development Will Comply with the Substantive Provisions of the Zoning Regulations and Will Have No Adverse Effects on the Present Character or Future Development of the Surrounding Neighborhood (§ 2516.9). With the exception of the specific areas of relief requested by the Applicant, the Commission finds that the project will comply with all substantive provisions of the Zoning Regulations. In addition, the project will have no adverse effects on the present character or future development of the surrounding neighborhood. Overall, the project will significantly improve the existing area by virtue of the exceptional architectural design and the replacement of vacant parcels with new restaurant, retail, and residential uses that will increase the vitality of the

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neighborhood. In addition, the project's design carefully considers the nearby uses and accordingly, will have a minimal impact on the surrounding area. Moreover, the project will not have an unacceptable impact on traffic, will provide adequate parking for the proposed uses, and will add to the walkability and vitality of East Capitol Street. The project will introduce a new streetscape experience, while activating what is currently a dormant, under-utilized portion of East Capitol Street;

- h) This Application Has Been Referred to the Office of Planning for Review and Is Consistent with the Requirements and Standards Set Forth in § 2516.10(a) through 2516.10(e). This application has been referred to OP and a number of other District agencies for review. The Commission finds that the Applicant has worked closely on the project with OP and DDOT. As discussed below, each of the considerations set forth in § 2516.10 provides further support for the application:
- (i) The Relationship of the Proposed Development to the Overall Purpose and Intent of the Zoning Regulations and Other District Policies (§ 2516.10(a)). The project is consistent with the purpose and intent of the Zoning Regulations and Zoning Map and with a number of the policies and objectives set forth in the District's Comprehensive Plan as described in detail in the Applicant's submissions in this case and the OP reports:
- (1) Public Safety Relating to Police and Fire Concerns (§ 2516.10(a)(1)). The Commission finds that the project will have no adverse impacts on public safety. In fact, the development of this vacant site is likely to increase public safety by establishing a stable mixed-use community on the PUD Site;
- (2) The Environment Relating to Water Supply, Water Pollution, Soil Erosion, and Solid Waste Management (§ 2516.10(a)(2)). The Commission finds that the new water and sanitary sewer systems for the project will be constructed to D.C. Water ("DC Water") standards and specifications, and the proposed storm drainage and storm water management systems will be constructed to District Department of the Environment ("DDOE"), DDOT, and DC Water standards and specifications. The private construction of this infrastructure by the Applicant will further Policy IN-6.1.3 of the Infrastructure Element of the District's Comprehensive Plan, which provides that "developers should contribute to the cost of extending utilities to the project site or upgrading existing utilities

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to the specifications necessary for their proposed project"; (10 DCMR § 1317.5.)

- (3) Public Education (§ 2516.10(a)(3)). The PUD Site is located within close proximity to a number of public schools. Two public schools – the Evans Middle School and the Maya Angelou Charter School are located on East Capitol Street to the west of the PUD Site. Given the existing and projected student enrollment in the District's public school system, the Commission finds that the project is unlikely to impose an unreasonable burden on that system;
- (4) Recreation (§ 353.3 and § 2516.10(a)(4)). The Commission finds that the PUD Site is located within reasonable proximity to a number of public recreation facilities. For example, the Watts Branch Park, which includes the Watts Branch Playground, primarily defines the north-northeastern edge of the PUD Site;
- (5) Parking, Loading, and Traffic (§ 2516.10(a)(5) and § 2516.10 (c)). The Commission finds that the project will not have an unacceptable impact on traffic, will provide adequate parking for the proposed uses, and will add to the walkability and vitality of East Capitol Street, as indicated in the report submitted by the Applicant's traffic expert and the report submitted by DDOT in this case;
- (6) Urban Design (§ 2516.10(a)(6)) and Site Planning Considerations (§ 2516.10 (b)). The Commission finds that the project has a number of urban design and architectural benefits, and will assist in the further development of East Capitol Street into an enhanced neighborhood center with high-quality restaurant, retail, and residential uses. The overall design and configuration of the project responds to its unique identity as a gateway to the District of Columbia from Maryland, creating a vibrant, urban experience for residents and visitors alike. A large, open plaza situated at the southeast corner of the PUD Site will frame a landmark piece of artwork signifying entry to the District, and will serve as a gathering place for the many residents, guests, and retail patrons that the project will attract. This plaza also serves as the main entry point to the mixed-use building, and is ringed with retail spaces opening directly onto the plaza and East Capitol Street; and

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- (7) Historic Preservation and Visual Impacts on Adjacent Parkland (§ 2516.10(a)(7)). The PUD Site is currently vacant and is not located within any historic district. In addition, the proposed development will not have any visual impacts on the adjacent parkland;
- i) Impact on Neighboring Properties (§ 2516.10 (d)). The project is not expected to have any adverse impact on the use or enjoyment of neighboring properties. The properties to north, south, east, and west will be separated from the project by significant distances, streets, and open space. Thus, the proposed development will not have any significant impact on other properties in the surrounding area;
- j) Recommendations of District Agencies (§ 2516.10 (e)). The OP setdown report indicated that the proposed development is not inconsistent with the goals, objectives, and policies of the District of Columbia Comprehensive Plan. OP and DDOT also submitted final reports recommending approval of the applications;
- k) Conditions Necessary to Protect the Overall Purpose and Intent of the Zoning Regulations (§ 2516.11). Subsection 2516.11 provides that the "Board may impose conditions with respect to the size and location of driveways; net density; height, design, screening, and location of structures; and any other matter that the Board determines to be required to protect the overall purpose and intent of the Zoning Regulations." (11 DCMR § 2516.11.) The Commission finds that additional conditions or safeguards are not necessary to protect the overall purpose and intent of the Zoning Regulations in this case; and
- l) The Requested Special Exception Relief Will Be in Harmony with the General Purpose and Intent of the Zoning Regulations and Map and Will Not Tend to Affect Adversely the Use of Neighboring Property (§ 3104.1). The Commission finds that the proposed development is consistent with each of the general purposes described in § 6-641.02 of the D.C. Code and § 101 of the Zoning Regulations, as well as the Comprehensive Plan. The Future Land Use Map of the Comprehensive Plan designates the majority of the PUD Site for Low Density Commercial uses, and the corresponding zone districts identified in the Comprehensive Plan are C-1 and C-2-A. (10 DCMR § 224.13.) The proposed map amendment to C-2-A will allow the matter-of-right development of residential and commercial uses on the PUD Site and is consistent with the PUD Site's designation on the Future Land Use Map. Moreover, the Generalized Policy Map designates the PUD Site within a Neighborhood Enhancement Area and as an Enhanced/New Neighborhood Center. The Applicant's proposal to rezone the PUD Site to C-2-A and to develop the PUD Site with a full-service large-format retail store, a mixed-use building with approximately 288 residential

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units (plus or minus 10%) and approximately 23,500 square feet of retail use, and a sit-down restaurant site is fully consistent with and will help to implement the policies for the PUD Site as both a Neighborhood Enhancement Area and an Enhanced/New Neighborhood Center as specified in the Generalized Policy Map.

Development Flexibility Requested

49. Phasing of Development. The Applicant intends to move forward with the development and construction of the project in multiple phases due to market conditions. The Applicant would like to move forward with as many of the project components as quickly as possible. Accordingly, the Commission finds that the following phasing plan provides flexibility to address market conditions and is appropriate for the project:
- a) Phase 1- Phase 1 includes the building pad for the large-format retail building, all associated infrastructure work including underground utilities, streets (stone base and asphalt binder course), overhead electric poles and lines, the stormwater management basin, retaining walls, curbs, and vertical construction of the large-format retail building. The Applicant anticipates filing a building permit for Phase 1 no later than December 1, 2015, and starting construction no later than December 1, 2016; and
 - b) Phase 2- Phase 2 includes construction of the mixed-use building, restaurant, and all associated sidewalks, parking lots, the urban plaza, and associated hardscape and landscaping features. The Applicant will maintain this portion of the PUD Site as seeded, balanced, and secured until construction of the Phase 2 components commence. The Applicant anticipates filing a building permit for Phase 2 no later than December 1, 2016, and starting construction no later than December 1, 2017.
50. The Applicant also requests flexibility in the following other areas:
- a) To be able to provide a range in the number of residential units and the corresponding residential floor area of plus or minus 10% from the 288 depicted on the Plans;
 - b) To reallocate or reconfigure the number of parking spaces provided, so long as the total amount of parking provided meets the applicable Zoning Regulations;
 - c) To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the buildings;

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- d) To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of materials;
 - e) To vary the final selection of landscaping materials utilized, based on availability and suitability at the time of construction; and
 - f) To make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit.
51. Restaurant Design Flexibility. The Applicant is requesting flexibility to permit the restaurant operator to make minor adjustments to the approved plans, without the need to return to the Commission for approval, provided that the adjustments do not materially differ from the approved plans and the overall design of the development, and are consistent with the following guidelines:
- a) *Building Envelope* - The building footprint shown on plans include 8,400 square feet of gross floor area, whereas, restaurant operators can range in size from as small as 4,000 to as large as 9,000 square feet. Therefore, the Applicant requested flexibility to reduce the building envelope by reducing the building's length along East Capitol Street or 58th Street;
 - b) *Building Materials* - The plans include a range of materials to ensure that the overall development has a consistent palette. The Applicant anticipates that the restaurant operator might desire flexibility to adjust the façade treatments within the range of materials and colors as shown on the plans. The Applicant has provided a list of materials and color palettes utilized in the entire development to aid the future tenant in branding its restaurant to be more in line with its corporate requirements; and
 - c) *Signage* - The approved plans identify the general location, size, and parameters of the signage. Most restaurant operators have specific signage packages. Therefore, the Applicant is requesting flexibility such that the final signage can be located in the general areas identified on the plans. All signage will comply with the District's sign regulations.
52. The Commission determined that although the Applicant cannot make the proposed changes without coming back to the Commission, changes within the scope described above could be treated as a minor modification by the Commission in the future.

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Public Benefits and Amenities

53. *Architecture and Landscaping.* The project will assist in the further development of East Capitol Street into an enhanced neighborhood center with high-quality restaurant, retail, residential, and office uses. The configuration of the project responds to its unique identity as a gateway to the District of Columbia from Maryland, creating a vibrant, urban experience for residents and visitors alike. A large, open plaza situated at the southeast corner of the PUD Site will frame a landmark piece of artwork signifying entry to the District, and will serve as a gathering place for the many residents, guests, and retail patrons that the project will attract. This plaza also serves as the main entry point to the mixed-use building, and is ringed with retail spaces opening directly onto the plaza and East Capitol Street.
54. As the first visible component of the project when entering the District from the west, the mixed-use building acknowledges its status through the incorporation of rich materials, generous windows, and sensitive massing that maximizes views for residents and responds to its urban context. The mixed-use building has also been designed in a manner that will help to create a continuous and active urban façade spanning several blocks along the north side of East Capitol Street. The PUD Site offers a number of additional amenities to residents and visitors, including, for example, a generously landscaped pedestrian promenade situated between the large-format retailer and the mixed-use building.
55. The project is further activated by a restaurant at the western portion of the PUD Site, which completes the continuous retail façade along East Capitol Street. The restaurant building is oriented to face East Capitol Street and is situated as close to the sidewalk as possible in order to fully engage the urban realm. The building's massing and material palette complement those of the other buildings onsite, and a generous, landscaped outdoor seating area further integrates the building into the surrounding urban fabric.
56. *Transportation Features (§ 2403.9(c)).* The proposed development will include a number of elements designed to promote effective and safe vehicular and pedestrian access, transportation demand management ("TDM") measures, and connections to public transit services. The project includes a total of 126 bicycle spaces located throughout the PUD Site. The Applicant has committed to implementing the following transportation demand management measures:
- The Applicant will maintain or coordinate relocation of any existing bus stops during construction of the development;

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- The Applicant will comply with zoning requirements to provide bicycle parking/storage facilities. This includes secure parking located in the garage for retail employees and long-term storage for residents;
- The Applicant will unbundle all parking costs from the cost of lease or purchase of residential units. Parking costs will be set at no less than the charges of the lowest fee garage located within one-quarter mile;
- The Applicant will post all TDM commitments on-line, publicize availability, and allow the public to see what commitments have been promised;
- The Applicant will identify separate TDM Leaders for the mixed-use and large-format retail building portions of the site (for planning, construction, and operations) and provide this information to DDOT and Zoning Enforcement;
- The Applicant will install a transportation kiosk in the residential lobbies, which will contain printed materials related to local transportation alternatives and will maintain a stock of materials at all times;
- The Applicant will provide website links to CommuterConnections.com and goDCgo.com on developer and property management websites;
- The Applicant will dedicate two spaces on site for car-sharing services to use with right of first refusal;
- The Applicant will provide reserved spaces for carpools and vanpools that are conveniently located with respect to the elevators serving the buildings;
- The Applicant will provide an on-site business center available to residents, which will provide access to copier, fax, and internet services;
- The large-format retail building will provide a Capital Bikeshare station and ongoing funding for the program;
- The Applicant will also provide a one-year Capital Bikeshare membership for each new resident;
- The Applicant agrees to host transportation mobility fair six months after the development has opened. The transportation fair will be advertised to all retail workers and residents. The onsite TDM coordinator will work with DDOT's goDCgo team to organize representatives that are experts in the non-auto

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transportation options that serve the site. Each person that attends the event will be educated on the various options and representatives will work with attendees to help them tailor the use of non-auto options to their specific transportation needs. Based on the turnout of the transportation fair and feedback gleaned by the onsite TDM coordinator, a determination will be made if the event will be repeated the following year; and

- Two years after the project is 90% occupied, the Applicant will perform a monitoring study of site trip generation. The site trips will be compared to the projected trip generation contained in this report. If the measured trip generation exceeds the projections, the Applicant will supplement the above TDM measures with additional ones, such as those from in *Incorporation of Transportation Demand Management (TDM) into the Development Review Process* suggested for a project of this size not listed above.
57. Employment and Training Opportunities (§ 2403.9(e)). Expanding employment opportunities for local residents is a priority of the Applicant. Therefore, the Applicant will be entering into a First Source Employment Agreement with the Department of Employment Services.
58. Housing and Affordable Housing (Section 2403.9(f)). The single greatest benefit to the area, and the city as a whole, is the creation of new housing consistent with the goals of the Zoning Regulations, the Comprehensive Plan and the Mayor's housing initiative. The mixed-use component of the project includes 288 residential units (plus or minus 10%). As indicated in the Applicant's Prehearing Submission, the residential units will be financed through a Low Income Housing Tax Credit ("LIHTC") financing offering and will therefore be requesting the Zoning Administrator to grant an exemption from the Inclusionary Zoning requirements pursuant to § 2602.3(f) and 2602.7 of the Zoning Regulations. All of the residential gross floor area in the mixed-use building will be designated as affordable housing units for households earning up to 60% of the Area Median Income. The affordable controls will remain in place as to 90% of the residential gross floor area for 15 years. Pursuant to § 2602.7, the affordable units comprising the remaining 10% of residential gross floor area will remain affordable to households earning up to 60% of the Area Median Income for as long as the project exists. This substantially exceeds the amount of affordable housing that would be required under the Inclusionary Zoning requirements set-forth in § 2603.1 of the Zoning Regulations. Under the LIHTC program, the Applicant anticipates that monthly rents for residential units in the project will be \$1,129 for studio/efficiency units, \$1,209 for one-bedroom units, and \$1,452 for two-bedroom units based upon the rates established by the D.C. Department of Housing and Community Development. (See <http://dhcd.dc.gov/service/home-and-lihtc-rent-program-limits>.) These rates will be dictated by the LIHTC program and the market, and thus may change from time to time. Rental rates and per square foot rents are below

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DC averages in Ward 7 and the 20019 zip code. Generally, current rental rates in Ward 7 and the 20019 zip code average approximately \$925 per month for a one-bedroom apartment (ranging between \$775 and \$1,100) and \$1,170 per month for a two-bedroom apartment (ranging between \$900 and \$1,200). These rental rates will help to continue to support property values in the existing neighborhood.

59. Environmental Benefits (§ 2403.9(h)). The project exhibits many characteristics of urban design and green building practices, and demonstrates the Applicant's commitment to utilizing innovative sustainable design practices. Specifically, the Applicant has focused on streetscape improvements and enhancements to the public space, vehicular and pedestrian improvements, TDM measures, environmental benefits, the reduction of retaining walls, and the provision of special features such as rain gardens, linear bioswales along streetscapes, native vegetation, and porous pavers where feasible. The project will include approximately 114,900 square feet of green space, which is approximately 22% of the PUD Site's area. In addition, the project will include approximately 39,000 square feet of permeable pavers, which is approximately 7.5% of the PUD Site's area. Overall, approximately 30% of the PUD Site is permeable. The following is a summary of the sustainable features incorporated into the overall PUD Site's design:

a) Restaurant Parcel:

- Porous grass pavers covering 5,000 square feet (or 20%) of the restaurant's surface parking lot, and a total of 12,970 square feet of the restaurant site is green space;
- Large bioswales along the East Capitol Street frontage which capture 100% of the parking lot and roof run off from the restaurant site;
- Landscaped islands throughout the parking lot to further capture runoff and provide added canopy coverage to the site;
- Landscape perimeter planting providing a visual buffer to the north and west of the site; and
- Active corner plaza engaging the East Capitol Street and 58th Street intersection with outdoor seating, planting, decorative porous paving, and lighting;

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b) Large-Format Retail:

- Native planting areas and decorative porous paving along the East Capitol Street frontage consistent with the other parcels along East Capitol Street;
- Large bio-retention areas along the 58th Street frontage and at the northeast corner of the site, and porous pavers along the East Capitol Street frontage, will capture runoff from the roof and site, capturing approximately 85% of the site's run-off;
- Capital Bike-Share station provided on parcel site; and
- Street trees along all surrounding streets (58th Street, Private Street 1, and Private Street 2).

c) Mixed-Use Building:

- Signature gateway plaza at southeast corner to mark the entrance into the site and symbolically into the City with paving and planting consistent with the other parcels. The plaza design further softens the space with enlarged planting areas and additional shade trees;
- Bio-retention areas throughout the plaza, along the frontages of the building, at the northeast corner of the site, and porous pavers along the East Capitol Street frontage will capture approximately 85% of the runoff from the roof and site;
- Attractive interior courtyard amenity with over 50% green area;
- Outdoor seating with shade for residents, retail patrons, and the general public; and
- The building has been designed to achieve a minimum of 52 points as shown on the theoretical LEED checklist included in the record which is the equivalent of LEED Silver designation.

Office of Planning Reports

60. OP reviewed the Applicant's proposal to rezone the PUD Site to the C-2-A District and submitted reports dated March 29, 2013 and June 10, 2013. (Ex. 14, 31.) OP indicated that it is supportive of the project, and the proposed map amendment is not inconsistent with the goals, objectives, and policies of the Comprehensive Plan.

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61. By report dated June 10, 2013, OP stated that it is supportive of the development and indicated that the proposal is not inconsistent with Comprehensive Plan which recommends the site for Low Density Commercial mixed use and specifically for a Neighborhood Commercial Center. OP recommended that the Commission approve the proposal, subject to the submission of additional information from the Applicant. OP stated at the public hearing that the Applicant submitted the requested information. OP indicated that the C-2-A Zone District is an appropriate designation for this PUD Site, as it intended to provide for facilities for shopping and business needs, housing, and mixed uses for areas outside of the central core. OP further indicated that the proposed C-2-A zone is not inconsistent with the Comprehensive Plan, which recommends low density commercial for the majority of the site. OP included a detailed analysis of the elements of the Comprehensive Plan, and concluded that the proposed map amendment and the proposed development fulfills many of the Comprehensive Plan's objectives and policies listed in the Land Use Element, Housing Element, Transportation Element, Environment Element, Economic Development Element, Urban Design Element, and the Far Northeast & Southeast Area Element. OP, therefore, recommend approval of the PUD and the map amendment.

DDOT Report

62. On June 10, 2013, DDOT submitted a report to the Commission stating that it supported the application provided that the Applicant incorporate the following conditions: (1) extend the median on East Capitol Street; (2) review and update if necessary the signal software and hardware on 58th Street; (3) construct a direct path from the Marvin Gaye Trail to the site; (4) provide pedestrian safety amenities at the intersection of East Capitol and Southern Avenue; (5) relocate existing bus stops on East Capitol Street; (6) install a real-time transit information screen at the residential lobby entrance; and (7) provide required bicycle parking ratios. (Ex. 32.)
63. DDOT requested at the public hearing that the Applicant continue to work with DDOT to: (1) explore the feasibility of constructing a direct connection to the Marvin Gaye Trail connecting to the PUD Site, and (2) discuss DDOT's recommendation that the Applicant construct pedestrian amenities at the intersection of East Capitol Street and Southern Avenue.
64. The Applicant had extensive discussions with DDOT after the public hearing. Regarding the trail connection, DDOT and the Applicant have determined that constructing a direct connection to the Marvin Gaye Trail connecting to the PUD Site currently is not feasible since the Applicant does not own or otherwise control the land area between the Marvin Gaye Trail and the northern boundary of the PUD Site, and since there currently is no pedestrian bridge providing access from the trail across the Watts Branch. Thus, there is

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currently no practical way for a connection to be made from the Marvin Gaye Trail to the PUD Site. Nonetheless, the Applicant has begun discussions with the D.C. Department of Parks and Recreation ("DPR") and will be working with DPR during the permitting process for the project to potentially grade along the easternmost boundary of the PUD site in an effort to eliminate the proposed retaining wall along the eastern boundary of the PUD Site. If the Applicant and DPR reach an agreement allowing the Applicant to grade along the eastern property line, then the Applicant will develop the grading on DPR's property in a manner that will enable the District to construct a connection from the Marvin Gaye Trail down to East Capitol Street in the future. With respect to DDOT's recommendation that the Applicant construct pedestrian safety amenities at the intersection of East Capitol Street and Southern Avenue, the Applicant agreed with DDOT on a scope of the proposed improvements, which will include the Applicant completing the following work: (a) excavation and installation of a concrete island/sidewalk extension of approximately 1,360 square feet along the northwest corner of East Capitol Street and Southern Avenue, and (b) modifying the existing crosswalks on the westbound lane of East Capitol Street that lead to the northwest corner of the intersection at East Capitol Street and Southern Avenue.

Organizations in Opposition

65. At the public hearing on June 20, 2013, Chris Otten testified that he was testifying on behalf of Create for Community, Washington D.C. Mr. Otten also submitted a statement to the Commission. (Ex. 44.) Mr. Otten indicated he was concerned that the project's affordable housing component is not inclusive because it is targeted to people making more than \$50,000 a year. Mr. Otten also stated that large-format retailer had negative employment practices and negative social implications.
66. Michael Kroopnick, of the law office of G. Macy Nelson, LLC, testified at the hearing, and submitted a statement and letter to the Commission stating that he was testified on behalf of his law firm and on behalf of Forward 7 and the Joint Labor and Management Fund ("JLM"). (Ex. 41, 46.) Mr. Kroopnick stated that Forward 7 and JLM opposed the application because: (1) the PUD application does not include an annotated table of the public benefits and amenities; (2) the Applicant has made a number of changes to the development scheme through the PUD process and has not identified the proposed restaurant or retail operators; (3) the application does not include an analysis of how the project meets the applicable special exception standards; (4) the proposed public benefits are not significantly greater than that which would stem from development permitted under existing zoning; (5) the project does not include adequate affordable housing; (6) the application fails to demonstrate that the project will substantially advance the major themes and other policies and objectives of any of the elements of the Comprehensive Plan; (7) the project does not employ efficient and economical land utilization; and (8) the project fails to implement effective and safe vehicular and pedestrian access,

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transportation management measures, connections to public transit service, and other measures to mitigate adverse traffic impacts. (Ex. 41, 46.)

67. The Commission has carefully reviewed the arguments raised by the Organizations in Opposition, and the Commission finds that the Applicant has met all of the applicable standards for approval of the applications, as follows:

- a) Identification of Public Benefits and Amenities. The Commission finds that the Applicant has submitted, and the record contains, a clear description of the public benefits and amenities generated by this project, as identified in Exhibits 13, 14, 31, 40, 52, and 53 in the record of this case, and as described in this Order;
- b) Revisions to Plans and Identification of Restaurant or Retail Operators. The Commission finds that the project's plans have been revised throughout the PUD process, as is often the case, to address comments raised by the Commission, OP, DDOT, and other stakeholders throughout the process, and to further improve the design of the project. The Commission further finds that the Zoning Regulations do not require applicants to identify the restaurant or retail operators during the PUD process. Thus, the Commission concludes that the Applicant's changes to the development scheme and not identifying the proposed restaurant or retail operators are not a basis to deny the applications;
- c) Analysis of Compliance with Applicable Special Exception Standards. The Commission finds that the Applicant has submitted a detailed analysis of how the project complies with the applicable special exception standards, as identified in Exhibits 17 and 40 in the record of this case, and as described in this Order;
- d) Affordable Housing. The Commission finds that the project includes a substantial amount of affordable housing. The mixed-use component of the project includes 288 residential units (plus or minus 10%). All of the residential gross floor area in the mixed-use building will be designated as affordable housing units for households earning up to 60% of the Area Median Income. The affordable controls will remain in place as to 90% of the residential gross floor area for 15 years and the remaining 10% of residential gross floor area will remain affordable to households earning up to 60% of the Area Median Income for as long as the project exists. This substantially exceeds the amount of affordable housing that would be required under the Inclusionary Zoning requirements set-forth in § 2603.1 of the Zoning Regulations. The Commission further finds that the Applicant is appropriately balancing the goals of providing affordable housing, but respecting the community's desire that the proposed rental rates will help to continue to support property values in the existing neighborhood; and

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- e) Compliance with PUD and Map Amendment Evaluation Standards. The Commission finds that the record in this case clearly establishes that the Applicant meets the PUD and map amendment standards, that the project will result in a number of important public benefits and amenities, and the Applicant has taken a number of steps to ensure that the project will not have any unmitigated impacts, as indicated by the Applicant's Exhibits 13, 17, 23, 37, 40, and 45 in the record; the OP and DDOT reports (Ex. 14, 31, 32) and testimony at the public hearing on the applications; the multiple letters in support of the project; and as described in this Order. The Commission further finds that the concerns raised regarding the large-format retailer's employment and social implications are beyond the jurisdiction of the Commission.

Compliance with PUD Standards

68. The Commission finds that the project advances the purposes of the Comprehensive Plan, is consistent with the Future Land Use Map, complies with the guiding principles in the Comprehensive Plan, and furthers a number of the major elements of the Comprehensive Plan.
69. The purposes of the Comprehensive Plan are six-fold: (1) to define the requirements and aspirations of District residents, and accordingly influence social, economic and physical development; (2) to guide executive and legislative decisions on matters affecting the District and its citizens; (3) to promote economic growth and jobs for District residents; (4) to guide private and public development in order to achieve District and community goals; (5) to maintain and enhance the natural and architectural assets of the District; and (6) to assist in conservation, stabilization, and improvement of each neighborhood and community in the District. (D.C. Official Code §1-245(b) (¶ 1-301.62).)
70. The Commission finds that the project significantly advances these purposes by promoting the social, physical and economic development of the District through the provision of a high-quality mixed-use development that will increase the housing supply, add new retail uses, create additional employment opportunities, and generate significant tax revenues for the District.
71. The Commission also finds that the project is consistent with many guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, increasing access to education and employment, connecting the city, and building green and healthy communities.
72. The Commission finds that the proposed PUD is also consistent with many guiding principles in the Comprehensive Plan for managing growth and change, creating

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successful neighborhoods, increasing access to education and employment, connecting the city, and building green and healthy communities, as follows:

- a) *Managing Growth and Change.* The guiding principles of this element are focused on ensuring that the benefits and opportunities of living in the District are equally available to everyone in the city. The project is fully consistent with a number of the goals set forth in this element. Specifically, the project will help to attract a diverse population with the inclusion of a mix of housing types for households of different incomes. (§ 217.2 and 217.3.) The Applicant's proposal to develop a significant amount of residential and retail use is also consistent with the Comprehensive Plan's acknowledgement that the growth of both residential and non-residential uses is critical, particularly since non-residential growth benefits residents by creating jobs and opportunities for less affluent households to increase their income. (§ 217.4.) In addition, the Commission further finds that the rest of the neighborhood and the overall urban fabric benefits by developing a vibrant mixed-use development on East Capitol Street; (§ 217.5 and 217.6.)
- b) *Creating Successful Neighborhoods.* The guiding principles for creating successful neighborhoods include both improving the residential character of neighborhoods and encouraging commercial uses that contribute to the neighborhood's character and make communities more livable. (§ 218.1 and 218.2.) In addition, the production of new affordable housing is essential to the success of neighborhoods. (§ 218.3.) Another guiding principle for creating successful neighborhoods is getting public input in decisions about land use and development, from development of the Comprehensive Plan to implementation of the plan's elements. (§ 218.8.) The project furthers each of these guiding principles with the construction of market-rate and affordable housing, as well as commercial uses that will create additional housing, retail, and employment opportunities. In addition, as part of the PUD process, the Applicant worked with ANCs 7C and 7E, the Capitol View Civic Association, Northeast Boundaries, and the Ward 7 Councilmember to ensure that the development provides a positive impact to the immediate neighborhood;
- c) *Increasing Access to Education and Employment.* The Increasing Access to Education and Employment element includes a number of policy goals focused on increasing economic activity in the District, including increasing access to jobs by District residents (§ 219.1); encouraging a broad spectrum of private and public growth (§ 219.2); supporting land development policies that create job opportunities for District residents with varied job skills (§ 219.6); and increasing the amount of shopping and services for many District neighborhoods. (§ 219.9.)

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The project is fully consistent with these goals since the proposed retail area will help to attract new jobs to the District, as well as to this specific neighborhood;

- d) *Connecting the City.* The project will help to implement a number of the guiding principles of this element. The project includes streetscape improvements to provide improved mobility and circulation through the project, as well as the overall neighborhood. (§ 220.2.) In addition, the access points for the required parking and loading facilities have been designed to appropriately balance the needs of pedestrians, bicyclists, transit users, autos, and delivery trucks as well as the needs of residents and others to move around and through the city. *Id.* Moreover, the project and streetscape improvements along East Capitol Street will also help to reinforce and improve this portion of the city; and (§ 220.3.)
- e) *Building Green and Healthy Communities.* The proposed development is fully consistent with the guiding principles of the building green and healthy communities element since the project's proposed landscaping plan will help to increase the District's tree cover, and the proposed development will minimize the use of non-renewable resources, promote energy and water conservation, and reduce harmful effects on the natural environment. (§ 221.2 and 221.3.) In addition, the project, which includes LEED elements, will also help to facilitate pedestrian and bicycle travel.
73. The PUD Site is located within the Capitol View/Northeast Boundary Policy Focus Area of the Far Northeast & Southeast Area Element of the Comprehensive Plan. As indicated in the Comprehensive Plan:
- Many residents in this area must travel long distances for shopping, education, and basic services; (10 DCMR § 1700.4.)
 - The area needs a variety of new housing choices and more density is appropriate on land within one-quarter mile of the Capitol Heights Metro station; and (10 DCMR § 1707.2(b) and § 1713.2.)
 - The neighborhood is underserved by retail stores and services, including the “basics” such as sit-down restaurants, banks, hardware stores, drug stores, and movie theaters. (10 DCMR § 1707.2(c).)

Moreover, Policy FNS-1.1.2: Development of New Housing, calls for encouraging new housing for area residents on vacant lots and around Metro stations within the community and on underutilized commercial sites along the area's major avenues. (§ 1708.3.) In addition, Policy FNS-2.3.1: Northeast Boundary Neighborhood, recommends leveraging the development of the Capitol Gateway Estates PUD to achieve additional reinvestment

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in the Northeast Boundary neighborhood, particularly the rehabilitation of existing housing and the development of new mixed-income family housing on vacant lots. (§ 1713.4.)

74. The Commission finds that the project is consistent with and will help to address and implement a number of the policy goals identified in the Far Northeast & Southeast Area Element since the development will include a full-service large-format retail store which includes a much desired grocery component that will offer fresh produce; a mixed-use building with approximately 288 residential units (plus or minus 10%) and approximately 23,500 square feet of retail use; a 8,400 square foot sit-down restaurant site; and new streetscape improvements that will help to activate this portion of the East Capitol Street corridor.
75. The Commission also finds that the proposed PUD furthers the objectives and policies of many of the Comprehensive Plan's major elements as follows:
- a) *Land Use Element.* For the reasons discussed above, the project supports the following policies of the Land Use Element:
- (i) Policy LU-1.2.2: Mix of Uses on Large Sites. The project, which includes restaurant, residential, retail, and office uses on a large site, is consistent and compatible with adjacent uses and will provide a number of benefits to the immediate neighborhood and to the city as a whole. In addition, as discussed above, the proposed mix of uses on the PUD Site is consistent with the Comprehensive Plan Future Land Use Map's designation of the PUD Site;
- (ii) Policy LU-1.3: Transit-Oriented and Corridor Development. The PUD Site is steps from the Capitol Heights Metrorail station which is to the east of the site. Further, Metrobus routes 96, 97 & U8 (DC buses) and A12 & A14 (serving DC and Maryland) operate along East Capitol Street and Southern Avenue (Blue Line). The project includes restaurant, residential, retail, and office uses, as well as a great design, all of which will help to increase the vitality of this portion of East Capitol Street. In addition, the project is consistent with the following principles:
- A preference for mixed residential and commercial uses rather than single-purpose uses, particularly a preference for housing above ground-floor retail uses;
 - A preference for diverse housing types, including affordable units; and

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- A priority on attractive, pedestrian-friendly design;
- (iii) Policy LU-1.3.4: Design to Encourage Transit Use. The project has been designed to encourage transit use and helps to enhance the safety, comfort, and convenience of passengers walking to local buses along East Capitol Street since the project incorporates streetscape improvements, including lighting and landscaping, and includes ground-floor retail uses that will activate and animate the street frontages;
- (iv) Policy LU-1.4.1: Infill Development. The project is consistent with the goal of encouraging infill development on vacant land within the city, particularly in areas where there are vacant or underutilized lots that create gaps in the urban fabric and detract from the character of a commercial or residential street. The development complements the established character of the area and does not create sharp changes in the physical development pattern;
- (v) Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods. In designing the project, and consistent with this policy element, the project architect has sought to balance the housing supply in the area and expand neighborhood commerce with the parallel goals of protecting the neighborhood character, and restoring the environment;
- (vi) Policy LU-2.2.4: Neighborhood Beautification. Policy LU-2.2.4 encourages projects to improve the visual quality of the District's neighborhoods. As shown on the plans included in the record, the project includes a number of neighborhood beautification elements, such as landscaping and tree planting. Moreover, development of the PUD Site will be an improvement to the current condition with the addition of new, well-designed buildings. In addition, the proposed uses will help activate the street level of the project and, importantly, remove several large vacant lots;
- (vii) Policy LU-2.3.2: Mitigation of Commercial Development Impacts. The project has been designed so that it does not result in unreasonable or unexpected traffic, parking, litter, view obstruction, odor, noise, or vibration impacts on surrounding residential areas; and
- (viii) Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods. In designing the project, and consistent with this policy element, the project architect has sought to balance the housing supply in

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the area and expand neighborhood commerce with the parallel goals of protecting the neighborhood character and restoring the environment.

- b) *Transportation Element.* The PUD Site is located on East Capitol Street which is a major transit corridor. Thus, in light of its location, the proposed project is uniquely situated to help further several policies and actions of the Transportation Element of the Comprehensive Plan, including:
- (i) Policy T-1.1.4: Transit-Oriented Development. The project includes various transportation improvements, including the construction of new mixed-uses along a major transportation corridor, bicycle parking and storage areas, and sidewalk improvements;
 - (ii) Policy T-2.3.1: Better Integration of Bicycle and Pedestrian Planning. As shown on the plans included in the record, the project architect has carefully considered and integrated bicycle and pedestrian planning and safety considerations in the development of the project; and
 - (iii) Action T-2.3-A: Bicycle Facilities. This element encourages new developments to include bicycle facilities. The Applicant proposes to include secure bicycle parking and bike racks as amenities within the development that accommodate and encourage bicycle use. Specifically, the Applicant will be providing a total of 126 bicycle parking spaces located throughout the project;
- c) *Housing Element.* The overarching goal of the Housing Element is to "[d]evelop and maintain a safe, decent, and affordable supply of housing for all current and future residents of the District of Columbia." (10 DCMR § 501.1.) The Commission finds that the project will help achieve this goal by advancing the following policies:
- (i) Policy H-1.1.1: Private Sector Support. The project helps to meet the needs of present and future District residents at locations consistent with District land use policies and objectives. Specifically, the project will contain approximately 278,086 square feet of gross floor area devoted to residential uses, plus or minus 10%, which represents a substantial contribution to the District's housing supply. The provision of new housing at this particular location, moreover, is fully consistent with the District's land use policies; and
 - (ii) Policy H-1.1.4: Mixed Use Development. The project is consistent with the goals of promoting mixed use development, including housing on commercially zoned land, particularly in neighborhood commercial

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centers. This project represents exactly the type of mixed-use development contemplated by Policy H-1.1.4.

- d) *Environmental Protection Element.* The Environmental Protection Element addresses the protection, restoration, and management of the District's land, air, water, energy, and biologic resources. This element provides policies and actions on important issues such as energy conservation and air quality, and specific policies include the following:
- (i) Policy E-1.1.1: Street Tree Planting and Maintenance - encourages the planting and maintenance of street trees in all parts of the city;
 - (ii) Policy E-1.1.3: Landscaping - encourages the use of landscaping to beautify the city, enhance streets and public spaces, reduce stormwater runoff, and create a stronger sense of character and identity;
 - (iii) Policy E-2.2.1: Energy Efficiency - promotes the efficient use of energy, additional use of renewable energy, and a reduction of unnecessary energy expenses through mixed-use and shared parking strategies to reduce unnecessary construction of parking facilities; and
 - (iv) Policy E-3.1.3: Green Engineering - has a stated goal of promoting green engineering practices for water and wastewater systems.

As discussed in both the Environmental Benefits and Building Green and Healthy Communities sections of this order, the Commission finds that the project includes street tree planting and maintenance, landscaping, energy efficiency, methods to reduce stormwater runoff, and green engineering practices, and is therefore fully consistent with the Environmental Protection Element.

- e) *Economic Development Element.* The Economic Development Element of the Comprehensive Plan indicates that the addition of 125,000 jobs during the next 20 years will create the demand for a number of uses, including real use, in a variety of settings with a variety of building types. (§ 706.1.) The Economic Development Element also includes a number of policy recommendations regarding the promotion of retail development, including the following:
- (i) Policy ED-2.2.3: Neighborhood Shopping. The project is consistent with this principle since the development includes the creation of additional shopping opportunities in a neighborhood commercial district that will help to better meet the demand for basic goods and services. In addition, the proposed development of appropriately-scaled retail development on

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the PUD Site will help to create new and unique shopping experiences; and (§ 708.7.)

- (ii) Policy ED-2.2.5: Business Mix. The Applicant intends to market the proposed retail areas to a mix of nationally recognized chains as well as locally based chains and smaller specialty stores, which will help to reinforce existing and encourage new retail districts in the immediate neighborhood and help to improve the mix of goods and services available to residents; (§ 708.9.)
- f) *Urban Design Element.* The goal of the Comprehensive Plan's Urban Design Element is to "[e]nhance the beauty and livability of the city by protecting its historic design legacy, reinforcing the identify of its neighborhoods, harmoniously integrating new construction with existing buildings and the natural environment, and improving the vitality, appearance, and security of streets and public spaces." (10 DCMR § 901.1.) In keeping with this objective, the Commission finds that the Applicant has gone to great lengths to integrate the proposed construction with the character of the surrounding neighborhood. For example, consistent with Policy UD-2.1.3, the project incorporates variations in height, massing, and architectural quality to ensure that the project respects the scale of adjacent residential neighborhoods. (§ 909.10.) The architects have also incorporated greater architectural detailing at the ground-floor retail levels to help improve the visual image of the streetscape. (§.909.12.) In addition, the project includes attractive, visually interesting and well-designed building facades that eschew monolithic or box-like forms, or long blank walls which detract from the human quality of the street. See Policy UD-2.2.5, §310.12. Also, the Applicant has provided significant setbacks along East Capitol Street.

Zoning Map Amendment Application

76. The PUD site is currently zoned R-2 and R-5-A. R-2 is a low-density single family residential zone and R-5-A is a low-density apartment house zone.
77. The Future Land Use Map of the Comprehensive Plan designates the majority of the PUD site for Low Density Commercial uses, and the corresponding zone districts identified in the Comprehensive Plan are C-1 and C-2-A. (10 DCMR § 224.13.)
78. The Generalized Policy Map designates the PUD Site within a Neighborhood Enhancement Area and as an Enhanced/New Neighborhood Center. The Generalized Policy Map also designated the PUD Site within an Enhanced/New Neighborhood Center Area. The Applicant's proposal to rezone the PUD Site to C-2-A and to develop the PUD Site with a full-service large-format retailer store, a mixed-use building with

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approximately 288 residential units (plus or minus 10%) and approximately 23,500 square feet of retail use, a sit-down restaurant site is fully consistent with and will help to implement the policies for the PUD Site as both a Neighborhood Enhancement Area and an Enhanced/New Neighborhood Center as specified in the Generalized Policy Map.

79. The Commission finds that the proposed map amendment to C-2-A will allow the matter-of-right development of residential and commercial uses on the PUD Site, and is consistent with the PUD Site's designation on the Future Land Use Map. The C-2-A Zone District is a moderate density commercial zone designed to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core. (11 DCMR § 720.2.) The C-2-A Zone District is appropriate in this location near the Capital Heights Metrorail Station and the surrounding low- and medium-density residential uses. The C-2-A Zone District permits a maximum height of 50 feet, with no limit on the number of stories, and a maximum FAR of 2.5. (11 DCMR § 770.1, 770.2.) Under the PUD provisions, a maximum height of 65 feet with no limit on the number of stories, and a maximum FAR of 3.0, all of which may be devoted to residential use, but not more than 2.0 of which may be devoted to non-residential uses. (11 DCMR §§ 2602.1, 2604.1.)
80. Based upon the testimony and evidence presented, as well as the OP reports, the Commission finds that the proposed rezoning is consistent with numerous elements of the Comprehensive Plan Amendment Act of 2006 (D.C. Law 16-300, March 8, 2007), as amended by the Comprehensive Plan Amendment Act of 2010 (D.C. Law 18-361, April 8, 2011), as described above in this order. The Commission also finds that the proposed map amendment would create favorable conditions for the District and satisfies each of the statutory standards applicable to map amendments.

ANC 7C Report

81. ANC 7C submitted a report dated July 18, 2013. (Ex. 48.) The report indicated that it voted to oppose the Application, and expressed the following issues and concerns:
1. The application does not meet the PUD evaluation standards with respect to public benefits and amenities because the only public benefit of the project is the proposed restaurant;
 2. The proposed affordable housing should not be treated as an amenity because the anticipated rental rates exceed existing rental rates in the area;
 3. The project is inconsistent with the Comprehensive Plan because it conflicts with Policy FNS-2.3.1 which "precludes, "Capital Gateway should generate additional development within the community"; and

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4. The large format retail component of the project does not include an effective hiring policy for ex-offenders.
82. The Applicant submitted a response to the ANC report on July 23, 2013. (Ex. 49.) The Applicant responded to the ANC's issues and concerns as follows:
- a) The project will result in a number of public benefits and amenities, in addition to the proposed restaurant, as described in detail in the OP report recommending approval of the application, and that these benefits and amenities are sufficient to satisfy the PUD requirements of Chapter 24 of the Zoning Regulations;
 - b) The affordable housing component of the project exceeds the amount required by the Zoning Regulations under existing matter-of-right zoning and thus counts as a public benefit or the project;
 - c) Policy-FNS-2.3.1 recommends leveraging the development of the Capitol Gateway Estates PUD to achieve additional reinvestment in the Northeast Boundary neighborhood, including the development of new housing. The project is consistent with this policy because it will promote reinvestment in the neighborhood by delivering a high-quality development that includes a large-format retail store, a mixed-use building with approximately 288 residential units and approximately 23,500 square feet of retail space, a 8,400 square foot restaurant site, and new streetscape improvements that will help to activate this portion of the East Capitol Street corridor; and
 - d) All retailers within the development will comply with all applicable local and federal employment laws.
83. With respect to the ANC's issues and concerns, the Commission finds as follows:
- a) As discussed above, the project contains public benefits in several of the categories established by the PUD regulations, in addition to the restaurant. These benefits justify approving the PUD application;
 - b) The affordable housing included in the project exceeds the amount of affordable housing required by the existing matter-of-right zoning and therefore counts as a benefit;
 - c) The project complies with the Comprehensive Plan as a whole, and with FNS-2.3.1; and

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- d) The project does not have an obligation to address the needs of any particular subgroup of the population, including ex-offenders, in order to qualify for approval. The fact that the project does not do more to assist the needs of one particular group should not count against the application.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments, which will offer a project with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The PUD seeks an increase in height of the building, as permitted under § 2405.3 of the Zoning Regulations. The increase is not being used to increase the building’s floor area, but rather is used to increase the height of the parapet at the southeast corner of the building, and is necessary to the successful functioning of the building to reinforce the building’s role as architectural gateway, and is appropriate when balanced against the superior public benefits and amenities of the project.
5. The retail, restaurant and residential uses for this project are appropriate for the PUD Site. The impact of the project on the surrounding area and the operation of city services is acceptable, given the quality of the public benefits in the project. Accordingly, the project should be approved.
6. The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.

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7. The Applicant's request for flexibility from the Zoning Regulations is not inconsistent with the Comprehensive Plan. The Commission also concludes that the project benefits and amenities are reasonable trade-offs for the requested development flexibility.
8. Approval of this PUD is appropriate because the proposed development is consistent with the present character of the area, and is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
9. The proposal to rezone the Property from the R-2 and R-5-A Zone Districts to the C-2-A Zone District is not inconsistent with the Property's designation on the Future Land Use Map and the Generalized Policy Map.
10. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to issues and concerns expressed in the affected ANC's written recommendation. In this case, ANC 7C submitted a report stating it was opposed to the application, and stated a number of issues and concerns. The ANC's issues and concerns, and a discussion as to why the Commission did not find them persuasive are set forth above in findings of fact 81 to 83 above.
11. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP recommendations. The Commission concurs with the OP's recommendation for approval, and has given the recommendation the great weight to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for review and approval of a consolidated PUD and related map amendment from the R-2 and R-5-A Zone Districts to the C-2-A Zone District for Square 5276, Lots 812, 813, and 23-121; Square 5272, Lot 51; Square 5273, Lot 67; Square 5277, Lots 22-33 and 805; and Square 5246, Lot 110 (the "PUD Site"). For the purposes of these conditions, the term "Applicant" shall mean the person or entity then holding title to the PUD Site. If there is more than one owner, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the PUD Site, that party shall have no further obligations under this Order; however, that party remains liable for any violation of these conditions that occurred

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while an Owner. The approval of this PUD is subject to the guidelines, conditions and standards set forth below.

A. Project Development

1. The development shall be developed in accordance with the Architectural Plans & Elevations, dated May 31, 2013 (Ex. 23), as supplemented by the Updated Architectural Plan sheets, dated June 20, 2013 (Ex. 39) the Applicant's Post-Hearing Submission plan sheets, dated July 11, 2013 (Ex. 45), and the Revised 58th Street elevation sheet submitted on September 16, 2013, (Ex. 54) and as modified by the guidelines, conditions and standards of this Order.
2. In accordance with the plans, the PUD shall be a mixed-used project consisting of approximately 507,618 square feet of gross floor area. Approximately 135,551 square feet of gross floor area will be devoted to a large-format retail use; approximately 363,667 square feet of gross floor area shall be devoted to a mixed-use building with residential uses, retail use, and parking; and a restaurant site with approximately 8,400 square feet of gross floor area. Each building shall include the uses shown on the Architectural Plans and Elevations.
3. The PUD shall have a maximum density of 1.0 FAR.
4. The PUD shall be constructed to a maximum height of 23'-4" for the restaurant building, 4'-10" for the large-format retail building, and 67'-3" as measured to the top of parapet for the mixed-use building.
5. The PUD shall provide parking for no less than 805 vehicles and 126 bicycle parking spaces.
6. The Applicant shall have zoning flexibility with the PUD in the following areas:
 - (i) To be able to provide a range in the number of residential units and the corresponding residential floor area of plus or minus 10% from the 288 depicted on the Plans;
 - (ii) To reallocate or reconfigure the number of parking spaces provided, so long as the total amount of parking provided meets the applicable Zoning Regulations;
 - (iii) To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and

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mechanical rooms, provided that the variations do not change the exterior configuration of the buildings;

- (iv) To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of materials;
 - (v) To vary the final selection of landscaping materials utilized, based on availability and suitability at the time of construction; and
 - (vi) To make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit.
7. The Applicant shall have the flexibility to construct the project in accordance with the following phasing plan:
- a) Phase 1 includes the building pad for the large-format retail building, all associated infrastructure work including underground utilities, streets (stone base and asphalt binder course), overhead electric poles and lines, the stormwater management basin, retaining walls, curbs, and vertical construction of the large-format retail building; and
 - (ii) Phase 2 includes construction of the mixed-use building, restaurant, and all associated sidewalks, parking lots, the urban plaza, and associated hardscape and landscaping features. The Applicant will maintain this portion of the PUD Site as seeded, balanced, and secured until construction of the Phase 2 components commence.

B. Public Benefits and Mitigation Measures

1. Public Space Improvements. Subject to approval by DDOT, the PUD shall provide public space improvements as shown on the Plans dated May 31, 2013, including the urban plaza and public space improvements on East Capitol Street.
2. During the life of the project, the Applicant shall implement to following Transportation Demand Management ("TDM") measures:
 - a) Maintain or coordinate relocation of any existing bus stops during construction of the development;

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- b) Provide a minimum of 126 bicycle parking/storage facilities. This includes secure parking located in the garage for retail employees and long-term storage for residents;
- c) Unbundle all parking costs from the cost of lease or purchase of residential units. Parking costs will be set at no less than the charges of the lowest fee garage located within one-quarter mile;
- d) Post all TDM commitments on-line, publicize availability, and allow the public to see what commitments have been promised;
- e) Identify separate TDM Leaders for the mixed-use and large-format retail building portions of the site (for planning, construction, and operations) and provide this information to DDOT and Zoning Enforcement prior to the issuance of the Certificate of Occupancy for each building;
- f) Install a transportation kiosk in the residential lobbies, which will contain printed materials related to local transportation alternatives and will maintain a stock of materials at all times;
- g) Provide website links to CommuterConnections.com and goDCgo.com on developer and property management websites;
- h) Dedicate two spaces on site for car-sharing services;
- i) Provide reserved spaces for carpools and vanpools that are located within 40 feet of the elevator serving the buildings;
- j) Provide an on-site business center available to residents, which will provide access to copier, fax, and internet services;
- k) Provide a one-year Capital Bikeshare memberships for each new resident upon initial move-in;
- l) Host a transportation mobility fair six months after the development has opened. The transportation fair will be advertised to all retail workers and residents. The onsite TDM Leader will work with DDOT's goDCgo team to organize representatives that are experts in the non-auto transportation options that serve the site. Each person that attends the event will be educated on the various options and representatives will work with attendees to help them tailor the use of non-auto options to their specific transportation needs. Based on the turnout of the transportation fair and

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feedback gleaned by the onsite TDM Leader, a determination will be made if the event will be repeated the following year; and

- m) Two years after the Project is 90% occupied, perform a monitoring study of site trip generation. The site trips will be compared to the projected trip generation contained in this report. If the measured trip generation exceeds the projections, the Applicant shall supplement the above TDM measures with additional ones, such as those from in *Incorporation of Transportation Demand Management (TDM) into the Development Review Process* suggested for a project of this size not listed above.
3. During the life of the project, the Applicant shall include in the lease for the Large-Format Retail operator a provision requiring the Large-Format Retail operator to provide a Capital Bikeshare station on the Large-Format Retailer's parcel, and to provide ongoing funding for the program as necessary to maintain the Bikeshare program.
 4. LEED Qualification: The mixed-use building in the PUD shall be designed to meet a LEED-Silver rating, consistent with the score sheets submitted with the Plans. The Applicant shall put forth its best efforts to design the PUD so that it may satisfy such LEED-Silver standards but the Applicant shall not be required to obtain the certification from the United States Green Building Council. During the life of the project, each building shall include the following features , as shown on the Architectural Plans and Elevations, and as specified below as applicable:
 - a) Restaurant Parcel
 - Porous grass pavers covering 5,000 square feet (or 20%) of the restaurant's surface parking lot, and a total of 12,970 square feet of the restaurant site is green space;
 - Large bioswales along the East Capitol Street frontage which capture 100% of the parking lot and roof run off from the restaurant site;
 - Landscaped islands throughout the parking lot to further capture runoff and provide added canopy coverage to the site;
 - Landscape perimeter planting providing a visual buffer to the north and west of the site; and

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- Active corner plaza engaging the East Capitol Street and 58th Street intersection with outdoor seating, planting, decorative porous paving, and lighting.

b) Large-Format Retail:

- Native planting areas and decorative porous paving along the East Capitol Street frontage consistent with the other parcels along East Capitol Street;
- Large bio-retention areas along the 58th Street frontage and at the northeast corner of the site, and porous pavers along the East Capitol Street frontage, will capture runoff from the roof and site, capturing approximately 85% of the site's run-off;
- Capital Bike-Share station provided on parcel site; and
- Street trees along all surrounding streets (58th Street, Private Street 1, and Private Street 2).

c) Mixed-Use Building:

- Signature gateway plaza at southeast corner to mark the entrance into the site and symbolically into the City with paving and planting consistent with the other parcels. The plaza design further softens the space with enlarged planting areas and additional shade trees;
- Bio-retention areas throughout the plaza, along the frontages of the building, at the northeast corner of the site, and porous pavers along the East Capitol Street frontage will capture approximately 85% of the runoff from the roof and site;
- Attractive interior courtyard amenity with over 50% green area;
- Outdoor seating with shade for residents, retail patrons and the general public; and
- The building has been designed to achieve a minimum of 52 points as shown on the theoretical LEED checklist included in the record which is the equivalent of LEED Silver designation.

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5. The Applicant shall abide by the terms of the First Source Employment Agreement between the Applicant and the D.C. Department of Employment Services included as Exhibit 54A1 in the record of this case.
6. Prior to the issuance of a certificate of occupancy for the mixed-use building, the Applicant shall submit to the Department of Consumer and Regulatory Affairs (“DCRA”) evidence that the Applicant has funded the construction of the following pedestrian safety amenities at the intersection of East Capitol Street and Southern Avenue: (a) excavation and installation of a concrete island/sidewalk extension of approximately 1,360 square feet along the northwest corner of East Capitol Street and Southern Avenue, and (b) modifying the existing crosswalks on the westbound lane of East Capitol Street that lead to the northwest corner of the intersection at East Capitol Street and Southern Avenue.
7. All of the residential gross floor area in the mixed-use building will be designated as affordable housing units for households earning up to 60% of the Area Median Income. The affordable controls shall remain in place as to 90% of the residential gross floor area for 15 years after the first certificate of occupancy for the mixed-use building is issued. The affordable units comprising the remaining 10 % of residential gross floor area shall be “Exempt Affordable Units” within the meaning of § 2602.7 and pursuant to that subsection shall remain affordable to households earning up to 60% of the Area Median Income for as long as the project exists.

C. Miscellaneous

1. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs (“DCRA”). Such covenant shall bind the Applicant and all successors in title to construct and use the property in accordance with this order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
2. The PUD shall be valid for a period of two years from the effective date of Z.C. Order No. 12-16. Within such time, an application must be filed for a building permit for the construction of Phase 1. Construction of Phase I must commence within three years of the effective date of this order. The Applicant will maintain the Phase 2 portion of the PUD Site as seeded, balanced, and secured until construction of the Phase 2 components commence. The Applicant shall file a building permit for Phase 2 within four years from the effective date of this Order.

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Construction of Phase 2 must commence within five years of the effective date of this order.

3. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On July 29, 2013, upon the motion of Commissioner Miller, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the Application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On September 30, 2013, upon the motion of Commissioner Miller, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this order shall become final and effective upon publication in the *D.C. Register*; that is on November 8, 2013.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
CORRECTED* NOTICE OF FILING**

Z.C. Case No. 13-11

**(Text and Map Amendments to Create the Mount Pleasant Tree and Slope Overlay
District @ Various Lots in Squares 2617, 2619, 2620, and 2621)**

October 23, 2013

THIS CASE IS OF INTEREST TO ANC 1D

On October 21, 2013, the Office of Zoning received a petition from the Mount Pleasant Community Association (“Petitioner”) for approval of text and map amendments for the above-referenced property.

The property that is the subject of this petition consists of Lots 826 and 170 in Square 2617; Lot 809 in Square 2619; Lots 420, 671, 672, 673, 674, 675, 676, 709, 808, 809, 820, 823, and 826 in Square 2620; and Lots 496, 590, 591, 592, 593, 594, 595, 662, 672, 673, 674, 717, 718, 719, 766, 767, 768, 769, 770, 819, 836, 838, 842, 1002, 1003, and 1004 in Square 2621 in Northwest Washington, D.C. (Ward 1), which are bounded by Oakwood Terrace (east), 19th Street (west), Piney Branch Parkway (north), and Ingleside Terrace (south).

The property is currently zoned R-4 (except for Lot 826 in Square 2617, Lot 809 in Square 2619, and Lot 823 in Square 2620, which are unzoned). The Petitioner proposes text and map amendments to create the Mount Pleasant Tree and Slope Overlay District (MtP/TSP).

For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

*Corrected to reflect date of filing was October 21st and not October 23rd.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**NOTICE OF FILING****Z.C. Case No. 13-12****(1333 M Street, SE, LLC – First-Stage PUD and Related Map Amendment and Consolidated PUD @ Square 1025E, Lot 802; Square 1048S, Lots 1, 801, and 802; and Reservations 129 and 299)****November 4, 2013****THIS CASE IS OF INTEREST TO ANC 6B**

On October 30, 2013, the Office of Zoning received an application from 1333 M Street, SE, LLC (the “Applicant”) for approval of a first-stage planned unit development (“PUD”) and related map amendment, and a consolidated PUD for the above-referenced property.

The property that is the subject of this application consists of Lot 802 in Square 1025E; Lots 1, 801, and 802 in Square 1048S; and Reservations 129 and 299 in Southeast Washington, D.C. (Ward 6), which is located at 1333 M Street, S.E. The property is currently zoned M. The Applicant proposes a PUD-related map amendment to rezone the property, for the purposes of this project, to C-3-A.

The Applicant proposes to redevelop the property in phases with a mixed-use project of retail and residential uses. The project will have an overall density of 4.14 floor area ratio (“FAR”) and a maximum height of 110 feet. The consolidated PUD portion of the project consists of a 10-story residential tower with 216 dwelling units that will be located on a triangular-shaped parcel bounded by M Street, Virginia Avenue, and Water Street.

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

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