

District of Columbia

REGISTER

HIGHLIGHTS

- Office of Contracting and Procurement updates regulations on contracting for services
- Executive Office of the Mayor establishes Office of the Deputy Mayor for Greater Economic Opportunity
- Department of Health announces funding availability for the SNAP-Ed Nutrition and Wellness Education Services
- Department of Human Services announces funding availability for the Fiscal Year 2015 Homeless Prevention Services Grants and Coordinated Entry Outreach Services Grant
- Public Employee Relations Board proposes updates to its regulations
- D.C. Taxicab Commission integrates all payment service providers with the DC TaxiApp

DISTRICT OF COLUMBIA REGISTER

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DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

RM 520 – 441 4th ST, ONE JUDICIARY SQ. - WASHINGTON, D.C. 20001 - (202) 727-5090

MURIEL E. BOWSER
MAYOR

VICTOR L. REID, ESQ.
ADMINISTRATOR

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-60

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 8, 2015

To amend the Washington Convention Center Authority Act of 1994 to delete obsolete provisions, to clarify that the President of the Hotel Association of Washington, D.C. shall serve as an ex-officio voting member of the Board of Directors, and to repeal the establishment of the Washington Convention Center Advisory Committee.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Events DC Technical Clarification Emergency Amendment Act of 2015".

Sec. 2. Title II of the Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code § 10-1202.01 *et seq.*), is amended as follows:

(a) Section 205 (D.C. Official Code § 10-1202.05) is amended as follows:

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

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

"(1) "The Authority shall be governed by a Board of Directors ("Board"), which shall be comprised of 12 members, including the 9 members appointed pursuant to paragraph (2) of this subsection ("public Board members") and the following individuals, each of whom shall serve as an ex-officio voting member:

"(A) The Chief Financial Officer of the District of Columbia;

"(B) The President of the Hotel Association of Washington, D.C.; and

"(C) An individual designated by the Mayor."

(B) Paragraph (5) is repealed.

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

"(b)(1) All public Board member terms shall be 4-year terms."

(3) Subjection (g) is amended by striking the phrase "Each Board member" and inserting the phrase "Each public Board member" in its place.

(4) Subsection (j) is amended by striking the word "Six" and inserting the word "Seven" in its place.

ENROLLED ORIGINAL

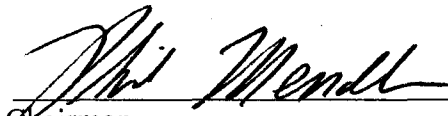
(b) Section 218 (D.C. Official Code § 10-1202.18) is repealed.

Sec. 3. Fiscal impact statement.

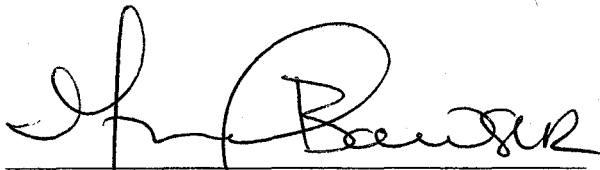
The Council adopts the fiscal impact statement in the committee report for the Events DC Technical Clarification Amendment Act of 2015, passed on 1st reading on April 14, 2015 (Engrossed version of Bill 21-76), as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home 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 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
May 8, 2015

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.

COUNCIL OF THE DISTRICT OF COLUMBIA**PROPOSED LEGISLATION****BILLS**

- | | |
|---------|--|
| B21-210 | Medical Marijuana Reciprocity Amendment Act of 2015

Intro. 5-5-15 by Councilmember Alexander and referred sequentially to the Committee on Health and Human Services and the Committee on Judiciary |
| <hr/> | |
| B21-211 | Employment Protections for Victims of Domestic Violence Amendment Act of 2015

Intro. 5-5-15 by Councilmember Orange and referred sequentially to the Committee on Business, Consumer, and Regulatory Affairs and the Committee on Judiciary |
| <hr/> | |
| B21-217 | Closing of a Public Alley in Square 369, S.O. 13-07989, Act of 2015

Intro. 5-27-15 by Councilmember Evans and referred to the Committee of the Whole |
-

B21-218 Lots 804, 814, 818, 820, 822 in Square 1230 Eminent Domain Authorization Act of 2015

Intro. 5-27-15 by Councilmember Evans and referred to the Committee of the Whole

PROPOSED RESOLUTIONS

PR21-163 Aramark Sports and Entertainment Services, LLC Contract Approval Resolution of 2015

Intro. 5-22-15 by Chairman Mendelson at the request of the Washington Convention and Sports Authority and Retained by the Council with comments from the Committee on Finance and Revenue

PR21-164 Zoning Commission David Franco Confirmation Resolution of 2015

Intro. 5-22-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

PR21-165 Chief of the Fire and Emergency Medical Services Department Confirmation Resolution of 2015

Intro. 5-22-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary

PR21-166 Director of the Department of Parks and Recreation Keith Anderson Confirmation Resolution of 2015

Intro. 5-22-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

PR21-167 Director of the Child and Family Services Agency Raymond Davidson Confirmation Resolution of 2015

Intro. 5-22-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services

PR21-168 Director of the Office of Disability Rights Alexis P. Taylor Confirmation Resolution of 2015

Intro. 5-22-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services

PR21-169 Director of the Department of Consumer and Regulatory Affairs Melinda Bolling Confirmation Resolution of 2015

Intro. 5-22-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs

PR21-170 Board of Directors of Washington Metropolitan Area Transit Authority Principal Member Corbett Price Appointment Resolution of 2015

Intro. 5-22-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT
COMMITTEE ON EDUCATION

REVISED

NOTICE OF JOINT PUBLIC OVERSIGHT ROUNDTABLE ON

**The Department of General Services Contracting and Procurement
Practices for Constructing and Modernizing District of Columbia Public
Schools**

Wednesday, July 8, 2015
at 11:00 a.m.
in Room 500 of the
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Wednesday, July 8, 2015, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment; and Councilmember David Grosso, Chairperson of the Committee on Education, will hold a joint public oversight roundtable to discuss the Department of General Services (“DGS”) contracting and procurement practices for building and modernizing schools owned by District of Columbia Public Schools (“DCPS”). The roundtable will begin at 11:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The purpose of the roundtable is to discuss how DGS contracts for the construction and modernization of DCPS schools; how DGS determines costs associated with constructing, modernizing, and maintaining DCPS schools; and how DGS works with both DCPS and community members when contracting, constructing, and maintaining a DCPS school.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official Hearing Record. Anyone wishing to testify should contact Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, at (202) 724-8062 or via e-mail at abenjamin@dccouncil.us. Persons representing organizations will have five minutes to present their testimony. Individuals will have three minutes to present their testimony. Witnesses should bring 8 copies of their written testimony and should submit a copy of their testimony electronically to abenjamin@dccouncil.us.

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108,

Washington, D.C. 20004. They may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on July 10, 2015.

This notice is revised to reflect that the date of the roundtable has been changed from June 22, 2015 to July 8, 2015.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT
MARY M. CHEH, CHAIR

CANCELLED

NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE ON

**The District Department of Transportation's Proposed Rulemakings on the
Proposal to Adopt a New Title 13 for Sign Regulations and for the Use of
U.S. Reservations Transferred to the District**

Wednesday, June 10, 2015
at 11:00 a.m.
in Room 412 of the
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Wednesday, June 10, 2015, Councilmember Mary M. Cheh, Chairperson of the Committee on the Transportation and the Environment, will hold a public oversight roundtable on the District Department of Transportation's Proposed Rulemakings on the Proposal to Adopt a New Title 13 for Sign Regulations and for the Use of U.S. Reservations Transferred to the District. The roundtable will begin at 11:00 a.m. in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The purpose of the roundtable is to provide the public an additional opportunity to comment on two proposed rulemakings by the District Department of Transportation ("DDOT"). The first proposed rulemaking concerns proposed rules to regulate the display of outdoor signs and exterior advertising within the District. DDOT published a Notice of Proposed Rulemaking on the Proposal to Adopt a New Title 13 for Sign Regulations on August 17, 2012. A Notice of Second Proposed Rulemaking was published on February 13, 2015. This proposed rulemaking would update and consolidate the District's current sign regulations into a single title; create new Designated Entertainment Areas that would be open to the display of new signs; clarify existing regulations as they relate to signs on public space, private property, and specific areas of the District; establish a means of enforcement; and establish a permit application fee schedule.

The second proposed rulemaking addresses proposed rules to clarify the process to be followed when a community or individual applies to make improvements to U.S. Reservations under the control of DDOT—commonly referred to as triangle or pocket parks. DDOT published a Notice of Proposed Rulemaking on the Use of U.S. Reservations Transferred to the District on July 4, 2014. A Notice of Second Proposed Rulemaking was published on April 3, 2015. The proposed rulemaking would require a permit to make certain changes to the landscape and would require that public and open access be maintained for these reservations.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official Hearing Record. Anyone wishing to testify should contact Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, at (202) 724-8062 or via e-mail at abenjamin@dccouncil.us. Persons representing organizations will have five minutes to present their testimony. Individuals will have three minutes to present their testimony. Witnesses should bring 8 copies of their written testimony and should submit a copy of their testimony electronically to abenjamin@dccouncil.us.

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. They may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on June 24, 2015.

This Public Oversight Roundtable, scheduled for Wednesday, June 10, at 11:00 a.m. in Room 412, has been cancelled.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT
MARY M. CHEH, CHAIR

NOTICE OF PUBLIC ROUNDTABLE ON

PR 21-0109, the District of Columbia Water and Sewer Authority Board of Directors Kendrick E. Curry Confirmation Resolution of 2015

Monday, June 15, 2015
at 11:00 a.m.
in Room 412 of the
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Monday, June 15, 2015, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public roundtable on PR 21-0109, the District of Columbia Water and Sewer Authority Board of Directors Kendrick E. Curry Confirmation Resolution of 2015. This legislation would confirm Kendrick E. Curry as a member of the DC Water and Sewer Authority's Board of Directors. The roundtable will begin at 11:00 a.m. in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official Hearing Record. Anyone wishing to testify should contact Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, at (202) 724-8062 or via e-mail at abenjamin@dccouncil.us. Persons representing organizations will have five minutes to present their testimony. Individuals will have three minutes to present their testimony. Witnesses should bring 5 copies of their written testimony and should submit a copy of their testimony electronically to abenjamin@dccouncil.us.

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. They may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on June 16, 2015.

**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 21-170, the “Board of Directors of the Washington Metropolitan Area Transit Authority Principal Member Corbett Price Reappointment Resolution of 2015”

Wednesday, June 17, 2015

10:15 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, June 17, 2015 at 10:15 a.m. in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

PR 21-170, the “Board of Directors of the Washington Metropolitan Area Transit Authority Principal Member Corbett Price Reappointment Resolution of 2015” would confirm the reappointment of Corbett Price as a principal member of the Washington Metropolitan Area Transit Authority Board of Directors for a term to end June 30, 2019.

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, June 16, 2015. Witnesses should bring 10 copies of their written testimony to the roundtable. 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

B21-165, Fiscal Year 2015 Second Revised Budget Request Temporary Adjustment Act of 2015 was adopted on first reading on May 27, 2015. This temporary measure was considered in accordance with Council Rule 413. A final reading on this measure will occur on June 10, 2015.

B21-209, Heat Wave Safety Temporary Act of 2015, **B21-213**, Extension of Review Period for the Southwest Small Area Plan Temporary Amendment Act of 2015 and **B21-223**, TOPA Bona Fide Offer of Sale Clarification Amendment Temporary Amendment Act of 2015 were adopted on first reading on June 2, 2015. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on June 30, 2015.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

**Posting Date: June 5, 2015
**Petition Date: July 20, 2015
**Hearing Date: August 3, 2015
**Protest Date: October 14, 2015

License No.: ABRA-098427
Licensee: Brick Lane DC, Inc.
Trade Name: Brick Lane Restaurant
License Class: Retailer's Class "C" Restaurant
Address: 1636 17th Street, N.W.
Contact: Elalami Ikhlar: (202) 247-0526

WARD 2

ANC 2B

SMD 2B03

Notice is hereby given that this applicant has applied for a new 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 **October 14, 2015 at 1:30 pm.

NATURE OF OPERATION

New restaurant with sidewalk café and a total occupancy load of 100.

HOURS OF OPERATION & ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR PREMISES AND SIDEWALK CAFE

Sunday through Thursday 10 am – 1:30 am, Friday & Saturday 10 am – 2: 30 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

**Posting Date: May 22, 2015
**Petition Date: July 6, 2015
**Hearing Date: July 20, 2015
**Protest Date: September 30, 2015

License No.: ABRA-098427
Licensee: Brick Lane DC, Inc.
Trade Name: Brick Lane Restaurant
License Class: Retailer’s Class “C” Restaurant
Address: 1636 17th Street, N.W.
Contact: Elalami Ikhlar: (202) 247-0526

WARD 2 ANC 2B SMD 2B03

Notice is hereby given that this applicant has applied for a new 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 **September 30, 2015 at 1:30 pm.

NATURE OF OPERATION

New restaurant with sidewalk café and a total occupancy load of 100.

HOURS OF OPERATION & ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR PREMISES AND SIDEWALK CAFE

Sunday through Thursday 10 am – 1:30 am, Friday & Saturday 10 am – 2: 30 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: June 5, 2015
 Petition Date: July 20, 2015
 Roll Call Hearing Date: August 3, 2015
 Protest Hearing Date: October 14, 2015

License No.: ABRA-098356
 Licensee: Chef AmyB LLC
 Trade Name: Centrolina
 License Class: Retailer’s Class “B” Grocery Store
 Address: 974 Palmer Alley, N.W.
 Contact: Stephen J. O’Brien: 202-625-7700

WARD 2

ANC 2C

SMD 2C01

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for October 14, 2015 at 1:30pm.

NATURE OF OPERATION

New Full-Service Grocery with Tasting Endorsement.

HOURS OF OPERATION

Sunday through Saturday 6am-12:30am

HOURS OF ALCOHOLIC BEVERAGE SALES AND SERVICE

Sunday through Saturday 7am-12am

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

Posting Date: June 5, 2015
Petition Date: July 20, 2015
Hearing Date: August 3, 2015

License No.: ABRA-092773
Licensee: Daci Enterprises LLC
Trade Name: Dacha Beer Garden
License Class: Retailer's Class "D" Tavern
Address: 1600 7th Street, N.W.
Contact: Andrew Kline: 202-686-7600

WARD 6

ANC 6E

SMD 6E01

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

NATURE OF SUBSTANTIAL CHANGES

Class Change from Class "D" Tavern to Class "C" Tavern. Addition of an Entertainment Endorsement with dancing. Expansion of the premises to include an interior three-story restaurant and second floor terrace. The combined occupancy load of the interior restaurant, second floor terrace and previously approved beer garden shall not exceed 600 people.

APPROVED HOURS OF OPERATION

Sunday through Thursday 7am - 10:30pm, Friday and Saturday 7am - 11:59pm

APPROVED HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION

Sunday through Thursday 8am - 10:30pm, Friday and Saturday 8am - 11:59pm

PROPOSED HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday 6pm - 10:30pm, Friday and Saturday 6pm - 11:59pm

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

Posting Date: June 5, 2015
Petition Date: July 20, 2015
Roll Call Hearing Date: August 3, 2015
Protest Hearing Date: October 14, 2015

License No.: ABRA-099065
Licensee: El Sol LLC
Trade Name: El Sol Restaurant & Tequileria
License Class: Retailer's Class "C" Restaurant
Address: 1227 11th Street, N.W.
Contact: J. Jackson: 202-251-1566

WARD 2

ANC 2F

SMD 2F07

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for October 14, 2015 at 4:30 pm.

NATURE OF OPERATION

A full service-restaurant that will serve authentic Mexican cuisine. Total Occupancy Load of 30. Total of 25 seats inside premises. Sidewalk Café with seating for 10.

HOURS OF OPERATION

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

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

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

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SIDEWAK CAFE

Sunday through Thursday 10am-10pm, Friday and Saturday 10am-12am

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

Posting Date: June 5, 2015
Petition Date: July 20, 2015
Hearing Date: August 3, 2015

License No.: ABRA-097821
Licensee: Last Laugh, LLC
Trade Name: High Dive
License Class: Retailer's Class "C" Tavern
Address: 2337 18th Street, N.W.
Contact: Andrew Kline: 202-686-7600

WARD 1

ANC 1C

SMD 1C07

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

NATURE OF SUBSTANTIAL CHANGE

Request is to have a Sidewalk Cafe. The Sidewalk Cafe capacity is 14. The premises capacity is 15.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Thursday 11am -2am
Friday through Saturday 11am-3am

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFE

Sunday through Thursday 11am- 10pm
Friday through Saturday 11am- 2am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Posting Date: May 22, 2015
Petition Date: July 6, 2015
Hearing Date: June 20, 2015

License No.: ABRA-000927
Licensee: Chowder House Inc.
Trade Name: Mr. Smith's of Georgetown
License Class: Retailer's Class "C" Tavern
Address: 3205 K Street, N.W.
Contact: Ernesto Carrasco: 202-333-3104

WARD 2

ANC 2E

SMD 2E05

Notice is hereby given that this licensee has applied for a Substantial Change to its license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date.

NATURE OF SUBSTANTIAL CHANGE

Applicant requests an Entertainment Endorsement to allow live piano player performances.

CURRENT HOURS OF OPERATION & ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday 10 am – 2 am, Monday through Thursday 11:30 am – 2 am, Friday 11:30 am – 3 am, Saturday 10 am – 3 am

PROPOSED HOURS OF LIVE ENTERTAINMENT BEGINNING AFTER 6:00 PM

Monday through Thursday 9 pm – 1:30 am, Friday & **Saturday 8 pm – 2:30 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Posting Date: May 22, 2015
Petition Date: July 6, 2015
Hearing Date: June 20, 2015

License No.: ABRA-000927
Licensee: Chowder House Inc.
Trade Name: Mr. Smith's of Georgetown
License Class: Retailer's Class "C" Tavern
Address: 3205 K Street, N.W.
Contact: Ernesto Carrasco: 202-333-3104

WARD 2

ANC 2E

SMD 2E05

Notice is hereby given that this licensee has applied for a Substantial Change to its license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date.

NATURE OF SUBSTANTIAL CHANGE

Applicant requests an Entertainment Endorsement to allow live piano player performances.

CURRENT HOURS OF OPERATION & ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday 10 am – 2 am, Monday through Thursday 11:30 am – 2 am, Friday 11:30 am – 3 am,
Saturday 10 am – 3 am

PROPOSED HOURS OF LIVE ENTERTAINMENT BEGINNING AFTER 6:00 PM

Monday through Thursday 9 pm – 1:30 am, Friday & **Sunday 8 pm – 2:30 am

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

Posting Date: May 22, 2015
Petition Date: July 6, 2015
Hearing Date: July 20, 2015
Protest Date: September 30, 2015

License No.: ABRA-098536
Licensee: Soundcheck, LLC
Trade Name: Soundcheck
License Class: Retailer's Class "C" Nightclub
Address: 1420 K Street, N.W.
Contact: Danielle Balmelle: 202-714-2976

WARD 2

ANC 2F

SMD 2F05

Notice is hereby given that this applicant has applied for a new 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 4:30 pm on September 30, 2015.

NATURE OF OPERATION**

Late night lounge with DJ, dancing and cover charge. Total occupancy load of 239.

HOURS OF OPERATION

Sunday through Saturday 11am – 5 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

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

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

Posting Date: May 22, 2015
Petition Date: July 6, 2015
Hearing Date: July 20, 2015
Protest Date: September 30, 2015

License No.: ABRA-098536
Licensee: Soundcheck, LLC
Trade Name: Soundcheck
License Class: Retailer's Class "C" Nightclub
Address: 1420 K Street, N.W.
Contact: Danielle Balmelle: 202-714-2976

WARD 2

ANC 2F

SMD 2F05

Notice is hereby given that this applicant has applied for a new 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 4:30 pm on September 30, 2015.

NATURE OF OPERATION**

Late night lounge with DJ, dancing and cover charge. Small plates/appetizers to be served during hours of sales and service with a total occupancy load of 239.

HOURS OF OPERATION

Sunday through Saturday 11am – 5 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

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

HOURS OF LIVE ENTERTAINMENT**

Sunday through Thursday 8 pm – 2 am and Friday & Saturday 8 pm – 3am

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

Posting Date: June 5, 2015
Petition Date: July 20, 2015
Roll Call Hearing Date: August 3, 2015
Protest Hearing Date: October 14, 2015

License No.: ABRA-099133
Licensee: 3632 Georgia Hospitality LLC
Trade Name: Walters
License Class: Retailer's Class "C" Tavern
Address: 3632 Georgia Avenue, N.W.
Contact: Jeremy Gifford: 703-507-4204

WARD 1

ANC 1A

SMD 1A08

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for October 14, 2015 at 1:30 pm.

NATURE OF OPERATION

Sports bar serving traditional fare such as cold sandwiches, soups, various cold spreads, and cold platters. Kitchen space is limited with no hood ventilation system. Total Occupancy Load of 100. Total Occupancy Load of 80 inside premises. Summer Garden with seating for 20. Entertainment Endorsement, Cover Charge and Dancing.

HOURS OF OPERATION FOR PREMISES AND SUMMER GARDEN

Sunday 7am-2am, Monday through Thursday 8am-2am, Friday 8am-3am, Saturday 7am-3am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR PREMISES AND SUMMER GARDEN

Sunday 10am-2am, Monday through Thursday 8am-2am, Friday & Saturday 8am-3am

HOURS OF LIVE ENTERTAINMENT INDOORS AND OUTDOORS

Sunday through Thursday 6pm-2am, Friday and Saturday 6pm-3am

HISTORIC PRESERVATION REVIEW BOARD**NOTICE OF PUBLIC HEARING**

The D.C. Historic Preservation Review Board will hold a public hearing to consider applications to designate the following properties as historic landmarks in the D.C. Inventory of Historic Sites. The Board will also consider the nomination of the properties to the National Register of Historic Places:

Case No. 15-14: 3020 Albemarle Street NW
Square 2042, Lot 1
Applicant: Forest Hills Neighborhood Alliance
Affected Advisory Neighborhood Commission: 3F

Case No. 15-15: Heurich-Parks House
3400 Massachusetts Avenue NW
Square 1937, Lot 806
Affected Advisory Neighborhood Commission: 3C

The hearing will take place at **9:00 a.m. on Thursday, July 23, 2015**, at 441 Fourth Street, NW (One Judiciary Square), in Room 220 South. It will be conducted in accordance with the Review Board's Rules of Procedure (10C DCMR 2). A copy of the rules can be obtained from the Historic Preservation Office at 1100 4th Street, SW, Suite E650, Washington, DC 20024, or by phone at (202) 442-8800, and they are included in the preservation regulations which can be found on the Historic Preservation Office website.

The Board's hearing is open to all interested parties or persons. Public and governmental agencies, Advisory Neighborhood Commissions, property owners, and interested organizations or individuals are invited to testify before the Board. Written testimony may also be submitted prior to the hearing. All submissions should be sent to the Historic Preservation Office.

For each property, a copy of the historic landmark application is currently on file and available for inspection. A copy of the staff report and recommendation will be available at the office five days prior to the hearing. The office also provides information on the D.C. Inventory of Historic Sites, the National Register of Historic Places, and Federal tax provisions affecting historic property.

If the Historic Preservation Review Board designates the property, it will be included in the D.C. Inventory of Historic Sites, and will be protected by the D.C. Historic Landmark and Historic District Protection Act of 1978. The Review Board will simultaneously consider the nomination of the property to the National Register of Historic Places. The National Register is the Federal government's official list of prehistoric and historic properties worthy of preservation. Listing in the National Register provides recognition and assists in preserving our nation's heritage. Listing provides recognition of the historic importance of properties and assures review of Federal undertakings that might affect the character of such properties. If a property is listed in the Register, certain Federal rehabilitation tax credits for rehabilitation and other provisions may apply. Public visitation rights are not required of owners. The results of listing in the National Register are as follows:

Consideration in Planning for Federal, Federally Licensed, and Federally Assisted Projects: Section 106 of the National Historic Preservation Act of 1966 requires that Federal agencies allow the Advisory Council on Historic Preservation an opportunity to comment on all projects affecting historic properties listed in the National Register. For further information, please refer to 36 CFR 800.

Eligibility for Federal Tax Provisions: If a property is listed in the National Register, certain Federal tax provisions may apply. The Tax Reform Act of 1986 (which revised the historic preservation tax incentives authorized by Congress in the Tax Reform Act of 1976, the Revenue Act of 1978, the Tax Treatment Extension Act of 1980, the Economic Recovery Tax Act of 1981, and the Tax Reform Act of 1984) provides, as of January 1, 1987, for a 20% investment tax credit with a full adjustment to basis for rehabilitating historic commercial, industrial, and rental residential buildings. The former 15% and 20% Investment Tax Credits (ITCs) for rehabilitation of older commercial buildings are combined into a single 10% ITC for commercial and industrial buildings built before 1936. The Tax Treatment Extension Act of 1980 provides Federal tax deductions for charitable contributions for conservation purposes of partial interests in historically important land areas or structures. Whether these provisions are advantageous to a property owner is dependent upon the particular circumstances of the property and the owner. Because the tax aspects outlined above are complex, individuals should consult legal counsel or the appropriate local Internal Revenue Service office for assistance in determining the tax consequences of the above provisions. For further information on certification requirements, please refer to 36 CFR 67.

Qualification for Federal Grants for Historic Preservation When Funds Are Available: The National Historic Preservation Act of 1966, as amended, authorizes the Secretary of the Interior to grant matching funds to the States (and the District or Columbia) for, among other things, the preservation and protection of properties listed in the National Register.

Owners of private properties nominated to the National Register have an opportunity to concur with or object to listing in accord with the National Historic Preservation Act and 36 CFR 60. Any owner or partial owner of private property who chooses to object to listing must submit to the State Historic Preservation Officer a notarized statement certifying that the party is the sole or partial owner of the private property, and objects to the listing. Each owner or partial owner of private property has one vote regardless of the portion of the property that the party owns. If a majority of private property owners object, a property will not be listed. However, the State Historic Preservation Officer shall submit the nomination to the Keeper of the National Register of Historic Places for a determination of eligibility for listing in the National Register. If the property is then determined eligible for listing, although not formally listed, Federal agencies will be required to allow the Advisory Council on Historic Preservation an opportunity to comment before the agency may fund, license, or assist a project which will affect the property. If an owner chooses to object to the listing of the property, the notarized objection must be submitted to the above address by the date of the Review Board meeting.

For further information, contact Tim Dennee, Landmarks Coordinator, at 202-442-8847.

OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF FINAL RULEMAKING

The Chief Procurement Officer of the District of Columbia, pursuant to the authority set forth in Sections 204 and 1106 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code §§ 2-352.04 and 2-361.06 (2012 Repl.)) (the “Act”), hereby gives notice of the adoption of the following emergency rules and of the intent to adopt a final rulemaking to amend Chapter 19 (Contracting for Services) of Title 27 (Contracts and Procurement) of the District of Columbia Municipal Regulations (DCMR).

The rulemaking updates Chapter 19 and implements the provisions in the Act that apply to contracting for services, as the current Chapter 19 contains regulations that are outdated and inconsistent with the Act.

The CPO gave notice of her intent to adopt these rules on March 18, 2015, and the emergency and proposed rules were published in the *D.C. Register* on April 10, 2015, at 62 DCR 4643. No comments were received and no changes have been made to the text of the rules as published. The CPO took final action to adopt these rules on May 11, 2015 and they will be effective upon publication in the *D.C. Register*.

Chapter 19, CONTRACTING FOR SERVICES, of Title 27 DCMR, CONTRACTS AND PROCUREMENT, is amended as follows:

Section 1900, GENERAL PROVISIONS, is amended to read as follows:

1900 GENERAL PROVISIONS

- 1900.1 The provisions of this chapter apply to contracts for the provision of “services,” as that term is defined in § 104(58) of the District of Columbia Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.04(58) (2012 Repl.)) (the “Act”).
- 1900.2 The provisions of the Act and this title requiring competition and setting forth the requirements and procedures for competitive procurement shall apply to the procurement of services.
- 1900.3 A contract for services may provide for services to be performed by professional or non-professional personnel on an individual or organizational basis.
- 1900.4 A contract may be used to provide services including, but not limited to, the following:
- (a) Maintenance, overhaul, and repair;
 - (b) Routine or recurring maintenance of real property;

- (c) Housekeeping services;
- (d) Expert and consulting services;
- (e) Engineering and technical services;
- (f) Operation of District-owned equipment, facilities, and systems;
- (g) Communications services;
- (h) Architectural and engineering services (in accordance with Chapter 26 of this title);
- (i) Transportation and related services;
- (j) Day care services;
- (k) Janitorial services;
- (l) Stenographic reporting services;
- (m) Human care services (in accordance with §§ 1905 to 1908 of this chapter); and
- (n) Real property appraisal services.

1900.5 The contracting officer shall ensure that the applicable provisions of the Service Contract Act of 1965 (41 U.S.C. §§ 6702 to 6707), the Davis-Bacon Act of 1931 (40 U.S.C. §§ 3141 to 3148), the Way to Work Amendment Act of 2006, effective June 9, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.*), and any applicable wage determination, are incorporated in accordance with federal regulations into all solicitations and awards.

Section 1901, EXPERT AND CONSULTING SERVICES, is amended to read as follows:

1901 EXPERT AND CONSULTING SERVICES

1901.1 A contracting officer may contract for expert and consulting services when essential to the agency's mission, when necessary to comply with a court order, or when those services would improve the agency's effectiveness or economy of operations. Expert and consulting services may include, but are not limited to, the following:

- (a) Specialized opinions or professional or technical advice not available within the agency or from another District agency;

- (b) Outside points of view, to avoid too limited a judgment on critical issues;
- (c) Advice on developments in industry, university, or foundation research;
- (d) The opinions, special knowledge, or skills of noted experts;
- (e) Assistance with the understanding of, and development of alternative solutions to, complex issues;
- (f) Advice on making the operation of managerial or hardware systems more efficient or effective; or
- (g) Citizen advisory participation in developing or implementing District programs that by their nature or by statutory provision require citizen participation.

1901.2 Except as provided in § 1901.4, a contracting officer shall not contract for expert or consulting services for any of the following purposes:

- (a) To perform work of a policy-making, decision-making, or managerial nature that is the direct responsibility of agency officials;
- (b) To bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures; or
- (c) To specifically aid in influencing or enacting legislation in the Council of the District of Columbia.

1901.3 Except as provided in § 1901.4, the contracting officer shall ensure that a contract for expert or consulting services does not establish or allow any of the following:

- (a) An employer-employee relationship between the District and the contractor;
- (b) Detailed control or supervision by District personnel of the contractor or its employees with respect to the day-to-day operations of the contractor or the methods of accomplishment of the services;
- (c) A regularly established tour of duty for the contractor; or
- (d) Supervision of District employees by the contractor.

1901.4 When an expert or consultant is engaged by a court-appointed receiver or, upon review by and the concurrence of the Attorney General, by any other contracting

officer pursuant to or in order to comply with a court order, §§ 1901.2 and 1901.3 shall not apply.

1901.5 The contracting officer shall not award a contract for consulting or expert services in a manner that gives preferential treatment to former District employees.

Section 1902, CONTRACTING FOR INFORMATION TECHNOLOGY SERVICES, is repealed.

Section 1905, HUMAN CARE SERVICES, is amended to read as follows:

1905 HUMAN CARE SERVICES

1905.1 If an agency intends to provide human care services through a human care agreement, the contracting officer shall give public notice of a request for qualifications that:

- (a) States the general requirements of the service; and
- (b) Requests interested service providers to respond in writing with a statement of their qualifications to perform the service.

1905.2 The contracting officer shall use the procedures set forth in §§ 1905 through 1908 to procure human care services rather than the solicitation or source selection procedures specified elsewhere in this title, if the human care service is:

- (a) To be negotiated on a fee-for-service or unit-rate basis using benchmarks and quantifiable measurements that are uniformly provided to providers of the same service;
- (b) To be purchased at rates adopted by rule; or
- (c) One that the agency typically purchases as needs arise, but for which the quantity, rate of utilization, delivery area, or specific beneficiaries of the service cannot be accurately estimated at the outset of the procurement process.

1905.3 Compliance with §§ 1905 through 1908 of this chapter shall constitute a competitive procedure for the procurement of human care services.

1905.4 The contracting officer shall certify the financial and professional responsibility of each service provider based on the following criteria:

- (a) The type of business or organization and its history;

- (b) The resumes and professional qualifications of the business or organization's staff, including relevant professional or business licenses, affiliations, and specialties;
- (c) Information attesting to financial capability, including financial statements;
- (d) Specialized experience and technical competence in the type of work required;
- (e) Capacity to accomplish the work in the required time;
- (f) A summary of similar contracts awarded to the service provider, and the service provider's performance of those contracts;
- (g) A certification of compliance with all applicable tax and filing requirements;
- (h) A statement attesting to compliance with wage, hour, workplace safety and other standards of labor law;
- (i) A statement attesting to compliance with federal and District equal employment opportunity law;
- (j) Information about pending lawsuits or investigations, and judgments, indictments, or convictions against the service provider or its proprietors, partners, directors, officers, or managers; and
- (k) Acceptability under other appropriate characteristics of a prospective service provider.

Section 1906, SELECTION OF HUMAN CARE SERVICES PROVIDERS, is amended to read as follows:

1906 SELECTION OF HUMAN CARE SERVICES PROVIDERS

1906.1 Prior to conducting discussions with a service provider who has submitted a statement of qualifications, the contracting officer shall make a written determination that the service provider is qualified, based on the criteria in § 1905.6.

1906.2 Following pre-qualification of service providers, the contracting officer may:

- (a) Conduct discussions with all qualified service providers, and negotiate a price on a unit rate or fee for service basis using benchmarks and quantifiable measurements that are uniformly applied, including, but not

limited to, each service provider’s cost data attributable to provision of the services and consideration of each service provider’s maximum customer capacity; and

- (b) Award a human care agreement to one or more qualified service providers to satisfy all or part of the District’s anticipated requirements at a price that is reasonable.

1906.3 The contracting officer shall retain statements of qualifications for approved service providers, and consider those providers for award of human care agreements, for a period of three years following pre-qualification of the providers.

Section 1907, HUMAN CARE AGREEMENT, is amended to read as follows:

1907 HUMAN CARE AGREEMENT

1907.1 The human care agreement shall identify the services to be rendered during the term of the agreement and shall set forth the terms and conditions of any orders that may be issued pursuant to the agreement.

1907.2 A human care agreement is not a commitment to purchase any quantity of a particular service covered under the agreement.

1907.3 The District is obligated only to the extent that authorized purchases are made pursuant to the human care agreement.

1907.4 When ordering services under a human care agreement, the contracting officer shall issue a task order for required services under each human care agreement, and secure all appropriate approvals and funding prior to execution of the task order.

1907.5 As much as practicable, the contracting officer shall give qualified service providers fair and equal treatment with respect to the issuance of task orders.

Section 1908, VOUCHERS, is amended to read as follows:

1908 VOUCHERS

1908.1 Upon a written determination by the Director approving the use of vouchers for a human care agreement, the contracting officer following award of the agreement may issue vouchers to eligible customers to use for the purchase of human care services.

Section 1909, HUMAN CARE AGREEMENTS UNDER THE TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) PROGRAM, is amended to read as follows:

1909 HUMAN CARE AGREEMENTS UNDER THE TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) PROGRAM

1909.1 The Director sets the prices established in § 1610.1(a) of this title, to be paid to contractors selected through the human care procurement method for services provided under the District's Temporary Assistance to Needy Families (TANF) Program, implementing the Self-Sufficiency Promotion Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-241; D.C. Official Code § 4-205.54).

Section 1915, REAL PROPERTY APPRAISAL SERVICES, is repealed and replaced with:

1915 DISMANTLING, DEMOLITION, OR REMOVAL OF STRUCTURES

1915.1 Contracts for dismantling, demolition, or removal of structures shall be awarded in accordance with either the Service Contract Act 1965 (41 U.S.C. §§ 6702 to 6707), or the Davis-Bacon Act (40 U.S.C. §§ 3141 to 3148), as follows:

- (a) When the contract is solely for dismantling, demolition, or removal of a structure, the provisions of the Service Contract Act shall apply.
- (b) When the contract is for dismantling, demolition, or removal of a structure, and further work will result in the construction, alteration, or repair of a public building or public work at the same location, even if by separate contract, the provisions of the Davis-Bacon Act shall apply with respect to the contract for dismantling, demolition, or removal of the structure and the contract for the construction, alteration, or repair of the public building or public work.

1915.2 When a contract is solely for dismantling, demolition, or removal of a structure, the contracting officer may require the contractor to furnish a performance bond or other security in accordance with the provisions of Chapter 27 of this title in an amount that the contracting officer considers adequate to do the following:

- (a) Ensure completion of the work;
- (b) Protect property to be retained by the District;
- (c) Protect property to be provided as compensation to the contractor; and
- (d) Protect the District against damage to adjoining property.

Section 1916, REAL PROPERTY APPRAISAL SERVICES EVALUATION BOARDS, is repealed and replaced with:

1916 PAYMENTS FOR SALVAGE AND REMOVAL

- 1916.1 A contract may provide that the District pay the contractor for the dismantling or demolition of a structure or that the contractor pay the District for the right to salvage and remove the materials resulting from the dismantling or demolition operation.
- 1916.2 The contracting officer shall determine whether the District shall retain materials resulting from a dismantling or demolition operation in accordance with §§ 1915.3 and 1915.4.
- 1916.3 If property is determined more useful to the District than its value as salvage to the contractor, the contract shall expressly designate that the property be retained by the District.
- 1916.4 The contracting officer, on advice of technical personnel, shall determine the fair market value of any property designated as salvage which will be retained by the contractor. The fair market value estimate shall be used in determining the amount of payment, if any, that will be made to the contractor.

Section 1917, REAL PROPERTY APPRAISAL SERVICES SELECTION, is repealed.

Section 1918, REAL PROPERTY APPRAISAL: SMALL PURCHASE CONTRACTS, is repealed:

Section 1919, REAL PROPERTY APPRAISAL: QUALIFICATIONS, is repealed.

Section 1920, DISTRICT COST ESTIMATE FOR REAL PROPERTY APPRAISAL SERVICES, is repealed.

Section 1921, NEGOTIATION OF REAL PROPERTY APPRAISAL CONTRACTS, is repealed.

Section 1922, REAL PROPERTY APPRAISAL PERFORMANCE EVALUATIONS, is repealed.

Section 1923, RESERVED, is repealed.

Section 1924, RESERVED, is repealed.

Section 1925, DISMANTLING, DEMOLITION, OR REMOVAL OF STRUCTURES, is repealed.

Section 1926, PAYMENTS FOR SALVAGE AND REMOVAL, is repealed.

Section 1999, DEFINITIONS, is amended to read as follows:

1999 **DEFINITIONS**

1999.1 When used in this chapter, the following words and terms shall have the meanings ascribed:

Appraisal services - services performed by an expert licensed by a state, city, county, or other governmental unit which are associated with the purchase and lease of real property relating to the determination of the value of real property.

Consultant - a firm or individual with knowledge and special abilities not generally available to an agency who renders services of a purely advisory nature relating to governmental functions or agency administration and management.

Consulting services - services of a purely advisory nature relating to governmental functions, agency administration and management, or program management which are normally provided by persons that are considered to have knowledge and expertise not generally available within the agency.

Customer - a recipient of human care services.

Expert - a person with excellent qualifications and a high degree of attainment in a professional, scientific, technical, or other field, whose knowledge and mastery of the principles, practices, problems, methods, and techniques of his or her field of activity, or of a specialized area in the field, are clearly superior to those usually possessed by ordinarily competent persons in that activity, and whose attainment is such that he or she usually is regarded as an authority or as a practitioner of unusual competence and skill by other persons in the profession, occupation, or activity.

Human care services - education or special education, health, human, or social services, to be provided directly to individuals who are disabled, disadvantaged, displaced, elderly, indigent, mentally ill, physically ill, unemployed, or minors in the custody of the District of Columbia.

Pre-qualification - the process by which the contracting officer determines whether a prospective service provider under a human care agreement is responsible.

Voucher - a written authorization, to a service provider who has been awarded a human care agreement, to provide the services authorized in the agreement and described in the voucher directly to a customer identified in writing.

OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF FINAL RULEMAKING

The Chief Procurement Officer (CPO) of the District of Columbia, pursuant to the authority set forth in Sections 204 and 1106 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code §§ 2-352.04 and 2-361.06 (2012 Repl.)), hereby gives notice of the intent to adopt final rulemaking to amend Chapter 42 (Freedom of Information and Privacy) of Title 27 (Contracts and Procurement) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking updates the regulations and outlines the procedures applicable to requests for records made pursuant to the D.C. Freedom of Information Act, Title II of the District of Columbia Administrative Procedure Act, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code §§ 2-531 *et seq.* (2012 Repl.)) (the “FOIA Act”). This rulemaking aligns the regulations and procedures for records requests with the FOIA Act and Title 1, Chapter 4 of the DCMR.

The CPO gave notice of her intent to adopt these rules on March 18, 2015, and the proposed rules were published in the *D.C. Register* on April 10, 2015, at 62 DCR 4641. No comments were received and no changes have been made to the text of the rules as published.

The CPO took final action to adopt these rules on May 11, 2015 and they will become effective upon publication in the *D.C. Register*.

Chapter 42, FREEDOM OF INFORMATION AND PRIVACY, of Title 27 DCMR, CONTRACTS AND PROCUREMENT, is amended as follows:

Section 4200, FREEDOM OF INFORMATION REQUESTS, is repealed and replaced with:

4200 REQUESTS FOR RECORDS

4200.1 A request for a record of the Office of Contracting and Procurement (OCP) shall be made to OCP’s designated Freedom of Information Officer.

4200.2 OCP’s response to a request for a record shall be made in accordance with the provisions of the D.C. Freedom of Information Act (title II of the District of Columbia Administrative Procedure Act, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code §§ 2-531 *et seq.* (2012 Repl.)) (“FOIA Act”), and Title I, Chapter 4 of the D.C. Municipal Regulations.

Section 4201, PROPRIETARY AND CONFIDENTIAL INFORMATION, is repealed and replaced with:

4201 [RESERVED]

Section 4202, PRIVACY AND DISCLOSURE, is amended to read as follows:

4202 PRIVACY AND DISCLOSURE

- 4202.1 If a contractor collects, retains, or has in its possession any document, record, or other information obtained in the performance of a District contract which document, record, or information may be exempt from disclosure under the FOIA Act, the contractor shall not disclose the document, record, or other information to any person other than an authorized District employee or agent.

- 4202.2 If a contractor collects, retains, or has in its possession any document, record, or other information obtained in the performance of a District contract the disclosure of which is prohibited by any District or federal law or regulation, the contractor shall not disclose the document, record, or other information to any person other than an authorized District employee or agent.

- 4202.3 If a contractor is not sure whether a document, record, or other information may be disclosed, the contractor shall refer the matter to the contracting officer.

Section 4299, DEFINITIONS, is repealed.

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 (District) 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. & 2014 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 an amendment to Chapter 95 (Medicaid Eligibility) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

Under Section 1925 of the Social Security Act (the Act), as amended, 42 U.S.C.A. § 1396r-6, state Medicaid programs may extend Transitional Medical Assistance (TMA) to families and dependent children with low-incomes. TMA may be provided to families who no longer qualify under Section 1931 of the Act due to increased earned income or working hours of the caretaker relative's employment, or the loss of a time-limited earned income disregard. Under TMA, state Medicaid programs may offer temporary Medicaid for two six (6)-month periods or one twelve (12)-month period. DHCF has elected to provide one twelve (12)-month period of TMA to improve the health outcomes of families living in the District of Columbia, with low-incomes and with dependent children. Accordingly, this rule establishes standards governing TMA eligibility determinations and coverage.

The corresponding amendment to the State Plan was approved by the Council of the District of Columbia (Council) on March 27, 2015 (PR21-0044). The U.S. Department of Health and Human Services (HHS), Centers for Medicaid and Medicare Services (CMS) approved the State Plan Amendment (SPA) on April 15, 2015. The Notice of Proposed Rulemaking was published in the *D.C. Register* on February 6, 2015 at 62 DCR 001710. No comments were received and no substantive changes have been made. The Director adopted these rules on May 22, 2015 and they shall become effective on the date of publication of this notice in the *D.C. Register*.

Chapter 95, MEDICAID ELIGIBILITY, of Title 29 DCMR, PUBLIC WELFARE, is amended by adding a new Section 9510 to read as follows:

9510 TRANSITIONAL MEDICAID

9510.1 Under Section 1925 of the Social Security Act (the Act), as amended, 42 U.S.C §§ 1396r-6, the Department of Health Care Finance (DCHF) may extend Transitional Medical Assistance (TMA) to certain families and dependent children with low-income who were: Medicaid eligible (includes retroactive eligibility) during at least three (3) of the six (6) months immediately preceding the month in which the family became ineligible.

9510.2 Twelve (12) months of full Medicaid coverage under TMA may be provided to families who no longer qualify under Section 1931 of the Act due to:

- (a) Increased earned income, or working hours, from a parent or other caretaker relative's employment, or
- (b) The loss of a time-limited earned income disregard.

9510.3 TMA shall begin on the date of termination of Medicaid.

9510.99 DEFINITIONS

For the purposes of this section, the following terms shall have the meanings ascribed:

Disregard: means the amount(s) of income deducted in determining financial eligibility for Medicaid.

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)(2), (3), (5), (7), (8), (19), 14, 20, and 20a of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c)(2) (3), (5), (7), (8), (19), 50-319, and 50-320 (2012 Repl. & 2014 Supp.)), and D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Repl. & 2014 Supp.), all as amended by the Vehicle-for-Hire Innovation Amendment Act of 2014 (D.C. Law 20-197); D.C. Official Code §§ 50-301 *et seq.* (2012 Repl. & 2014 Supp.)) hereby gives notice of its intent to adopt amendments to Chapter 4 (Payment Service Providers), Chapter 8 (Operation of Taxicabs), and 16 (Dispatch Services) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking amends Chapters 4 and 16 to require that each payment service provider (“PSP”) integrate with the District of Columbia Universal Taxicab App (“DC TaxiApp”), for which service and support are provided by the District of Columbia Taxicab Industry Co-op (“Co-op”). Integration between all PSPs and the DC TaxiApp would expand the payment choices available to passengers who use the DC TaxiApp, allowing them to make both in-vehicle payments (cash or payment card) and digital payments. The existing rules allowing integration between any digital dispatch service (“DDS”) and any PSP would not be affected by these amendments. The expenses of integration between the Co-op and all PSPs with current operating authority would be paid by the Co-op. The amendments to Chapter 8 require each taxicab operator who uses a DDS which does not ensure that the passenger surcharge is collected from the passenger and paid to the District for each taxicab trip to establish and maintain an individual taxicab operator surcharge account, to ensure that the District is paid all passenger surcharges as required by this title. Chapter 8 is also amended to clarify that once a trip has been accepted by a taxicab operator through digital dispatch, the taxicab operator must pick up the passenger and complete the trip, and that the failure to do so shall be treated as a refusal to haul under Chapter 8.

The proposed rulemaking was adopted by the Commission on December 10, 2014 and published in the *D.C. Register* on January 9, 2015 at 62 DCR 000374. The Commission received one comment during the comment period which expired on February 9, 2015. The Commission carefully considered this comment, but no substantial changes were required as a result of the comment, and no substantial changes have been made. Minor changes have been made to correct a grammar error, and to maintain consistency in terminology with the existing rules.

The Commission voted to adopt this rulemaking as final on April 8, 2015, and it will become effective upon publication in the *D.C. Register*.

Chapter 4, TAXICAB PAYMENT SERVICE PROVIDERS, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 408, OPERATING REQUIREMENTS APPLICABLE TO PSPs AND DDSs, is amended as follows:

Subsection 408.16 is amended to read as follows:

- 408.16 Each PSP shall integrate with the District of Columbia Universal Taxicab App (“DC TaxiApp”) in a manner consistent with § 1613.13(b) not later than the implementation date set forth in §§ 1612 and 1613, and may integrate with any DDS, subject to the following requirements.
- (a) The reasonable and documented expenses for integration between the DC TaxiApp and each PSP shall be paid as follows:
 - (1) For integration with each PSP which has operating authority on the implementation date set forth in § 1612: by the District of Columbia Taxicab Industry Co-op (“Co-op”); and
 - (2) For integration with each PSP which obtains operating authority after the implementation date in § 1612: shared equally by the Co-op and each PSP.
 - (b) Each PSP that fails to integrate or maintain integration as required by this subsection shall be subject to a civil fine of one thousand dollars (\$1,000) for each day it is not integrated in the manner required by this subsection, in addition to any other penalty available under Chapter 7.
 - (c) Integration shall in all cases require a connection 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.

Chapter 8, OPERATION OF PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 802 is amended to read as follows:

802 TAXICAB OPERATOR SURCHARGE ACCOUNTS

- 802.1 Each taxicab operator who uses a digital dispatch service (“DDS”) which does not ensure that the passenger surcharge is collected from the passenger and paid to the District for each taxicab trip shall open and maintain a taxicab operator surcharge account (“account”) as provided in this section and any applicable Office instruction, issuance, or guidance.

- 802.2 An account shall be opened by the operator with the Office (which for purposes of this subsection shall include the Office of the Chief Financial Officer) within fourteen (14) days after the operator associates with the DDS.
- 802.3 An account shall be opened by filing the documents and information required by the Office, and making an initial deposit of one hundred dollars (\$100). No administrative fee shall be charged by the Office for opening or maintaining an account.
- 802.4 The operator shall make monthly deposits to the account as necessary to ensure a minimum account balance at all times of fifty dollars (\$50), provided however, that the minimum account balance may be maintained by the operator through automatic payments to the account if the operator chooses to provide the Office with account information for a payment card, or a checking or savings account belonging to the operator held as a federally-insured financial institution, to which the Office may post charges as necessary to maintain the minimum account balance.
- 802.5 The Office may make monthly deductions from the account based on an assumption that the operator is conducting not more than one hundred (100) fare paying trips per month, for which the District is owed passenger surcharges of not more than twenty five dollars (\$25), provided however, that an operator may request that the Office conduct an account reconciliation not more than once per quarter based on trip data or other reliable and verified information provided to or otherwise in the possession of the Office, and the Office shall then make such adjustments to the account as necessary based on the reconciliation.
- 802.6 A request for a quarterly reconciliation of the operator's account pursuant to § 802.5 shall be conducted by the Office within twenty-one (21) days of its receipt.
- 802.7 The Office may at any time make an adjustment to the account, based on trip data or other reliable and verified information in its possession, to ensure that the account accurately reflects the amount of passenger surcharges owed to the District by the operator.
- 802.8 The Office shall provide a statement of account activity to each operator annually at a time determined by the Office.
- 802.9 Each reconciliation under § 802.5, each adjustment to the account under § 802.7, and each statement of account activity under § 802.8, shall be provided in writing to the operator.
- 802.10 The balance of an account, if any, shall be refunded to the operator by the Office within thirty (30) days following any event, which results in the operator's no longer being required to maintain an account, by providing the operator with a

check, where appropriate, and a final statement of account activity, which may be mailed to the operator's address on file with the Office, provided however, that if the operator owes any amount to the Office at that time, the account shall remain open pending the payment of all amounts owed, any collection activity by the District, and any enforcement action under Chapter 7.

802.11 An operator may dispute any decision of the Office concerning an account, following a reconciliation, where appropriate, by appealing the Office's decision to the Chief of Operations, and thereafter to the Commission, whose decision shall be a final agency action, provided however, that an appeal shall not stay an operator's legal obligation to provide passenger surcharges owed to the District pending the outcome of any appeal regardless of any dispute by the operator.

802.12 An operator who:

- (a) Fails to open an account as required by § 802.1 shall be subject to a civil fine of two hundred fifty dollars (\$250).
- (b) Fails to maintain the minimum account balance as required by § 802.4 shall be subject to a civil fine of twenty five dollars (\$25).
- (c) Willfully fails to pay a passenger surcharge owed to the District which is subject to payment through an account under this section shall, in lieu of any civil fine otherwise established by a provision of this title, shall be subject to a civil fine of five hundred dollars (\$500).
- (d) Violates any other provision of this section shall be subject to a civil fine of fifty dollars (\$50).

Section 819, CONSUMER SERVICE AND PASSENGER RELATIONS, is amended as follows:

A new Subsection 819.10 is added to read as follows:

819.10 Once a trip has been accepted by a taxicab operator through digital dispatch, the taxicab operator shall not fail to pick up the passenger or to complete the trip after the passenger has been picked up. A violation of this subsection shall be treated as a refusal to haul under this section or § 818.2 or 819.5.

Chapter 16, DISPATCH SERVICES, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 1613, DISTRICT OF COLUMBIA TAXICAB INDUSTRY CO-OP, is amended as follows:

Subsection 1613.13 is amended to read as follows:

- (b) Establish and maintain a digital dispatch service, registered and operated in compliance with this chapter, which at all times, maintains integration between the DC TaxiApp and each PSP in a manner consistent with § 408.16, to ensure that:
- (1) Each passenger who books a ride through the DC TaxiApp may choose to make either an in-vehicle payment (cash or payment card) or a digital payment;
 - (2) The passenger surcharge is collected from the passenger and paid to the District for each trip; and
 - (3) The PSP is able to comply with all obligations under Chapters 4 and 6.

PUBLIC EMPLOYEE RELATIONS BOARD**NOTICE OF PROPOSED RULEMAKING**

The Public Employee Relations Board, pursuant to the Comprehensive Merit Personnel Act of 1978, effective March 3, 1979, as amended (D.C. Law 2-139; D.C. Official Code § 1-605.02(11) (2014 Repl.)), hereby gives notice of its intent to amend Chapter 5 (Rules of the Public Employee Relations Board) of Title 6, Subtitle B (Government Personnel) 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 proposed rulemaking will implement the authority of the Public Employee Relations Board under D.C. Official Code § 1-605.02(11) to conduct its business and carry out its powers and duties. In particular, the proposed rulemaking amends the rules to clarify ambiguities, to improve readability, and to increase efficiency of operations. Election procedures and an amended rule 507 were created to resolve ambiguities in representation proceedings. Filing deadlines and date calculations were revised to make the agency more efficient and to provide more clarity to filers. The rules were also amended to reflect the adoption of electronic filing and to resolve conflicting requirements in the rules' prior amendments, regarding electronic filing.

Chapter 5, RULES OF THE PUBLIC EMPLOYEE RELATIONS BOARD, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended to read as follows:

CHAPTER 5 RULES OF THE PUBLIC EMPLOYEE RELATIONS BOARD**500 GENERAL PROVISIONS**

- 500.1 The District of Columbia Public Employee Relations Board ("Board") was established in 1979 by Section 501 of D.C. Law 2-139, D.C. Official Code § 1-605.01 (2014 Repl.), and administers the Labor-Management Relations Program for the District of Columbia pursuant to the Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; §§ 1701 *et seq.* ("CMPA")), which is codified as D.C. Official Code §§ 1-617.01 *et seq.* (2012 Repl.).
- 500.2 The five Board members are appointed by the Mayor with the advice and consent of the Council of the District of Columbia. The Board may appoint such employees as may be required to conduct its business.
- 500.3 The Executive Director shall be the principal administrative officer of the Board and performs such duties as designated by the CMPA or as assigned by the Board, including the investigation of all petitions, requests, complaints and other matters referred or submitted to the Board.
- 500.4 The Executive Director shall be authorized, among other things, to conduct conferences, investigations and hearings, administer oaths, issue subpoenas, sign and issue notices and reports, certify copies of papers and documents, consider

timely requests for extensions of time and, pursuant to action by the Board or by an authorized panel thereof, sign and issue decisions and orders made by or on behalf of the Board. A decision made by the Executive Director shall become final unless a party files a motion for reconsideration within thirty (30) days after issuance of the Executive Director's decision.

- 500.5 The duly authorized and official documents of the Board of every description and without exception, including but not limited to decisions, orders, notices, subpoenas and other communications, may be signed on behalf of the Board by the Executive Director or any staff members or agents empowered to sign on the Board's behalf.
- 500.6 The Board shall have the authority to retain legal counsel to represent it in relation to enforcing its orders and otherwise carrying out its powers and duties under the CMPA.
- 500.7 All communications may be addressed to the PUBLIC EMPLOYEE RELATIONS BOARD, 1100 Fourth Street, SW, Suite E630, Washington, D.C. 20024.
- 500.8 The business hours of the office shall be from 8:30 a.m. to 4:45 p.m., Monday through Friday, exclusive of District of Columbia holidays.
- 500.9 The regular meetings of the Board shall be held on the third Thursday of each month unless otherwise scheduled, and shall be held at the Board's offices, unless otherwise specified.
- (a) The official acts of the Board shall be recorded in the minutes of the Board, which shall be certified and maintained by the Executive Director.
 - (b) The Board shall not be bound in any way by any action or statement of an individual member or group of members of the Board, except when that action or statement is authorized by an official act of the Board or the provisions of this chapter.
 - (c) Unless specifically provided for by a majority of the Board members present or under waiver of the rules, only the following may address the Board or participate in the discussion of matters at regular monthly, special, or emergency meetings of the Board: Members of the Board, the Executive Director, staff, and agents of the Board.
 - (d) Notice of Meetings. The Executive Director shall give timely notice of all meetings of the Board to the public, and such notice shall contain the time, date, and location of the meeting and the purpose or agenda of the meeting.

- 500.10 The Board may hold a special meeting at any time at the request of the Chair, any member of the Board or the Executive Director.
- 500.11 Three (3) members shall constitute a quorum. No decision of the Board shall be valid unless supported by the majority of a quorum.
- (a) If a Board member cannot attend a meeting in person, that member may participate in the Board meeting via teleconference upon notice three (3) or more days prior to the Board.
 - (b) If a Board member cannot attend a meeting in person or via teleconference, that Board member will provide reasonable notice to the Chair and the Executive Director.
 - (c) The Chair will designate one Board member to take notes during any Executive Session.
 - (d) If the Government of the District of Columbia is closed due to weather or a national emergency or other event, then a meeting by the Board scheduled to occur during the closure is deemed cancelled.
- 500.12 The public may inspect the rules, decisions and public records of the Board upon written request filed within a reasonable time period in advance of inspection. There shall be no prescribed form for requests for inspection. Written requests shall be submitted to the Executive Director.
- 500.13 Opinions, decisions and orders of the Board shall be forwarded for publication in the *D.C. Register* within sixty (60) days of issuance, pursuant to D.C. Official Code § 1-605.04 (2014 Repl.).
- 500.14 Any person may request in writing copies of slip opinions of the Board's opinions, decisions, orders, certifications, or other documents, in accordance with D.C. Official Code §§ 2-531 - 2-540.
- 500.15 The parties to a collective bargaining agreement may submit copies of the agreement to the Board for informational purposes after final execution of the agreement.
- 500.16 A labor organization that represents employees of the District of Columbia Government shall transmit to the Board the name(s), telephone number(s) and mailing address(es) of each appointed and elected office holder.
- 500.17 No party shall engage in any *ex parte* communication with a hearing officer or with any member of the Board regarding proceedings pending before the Board.

- 500.18 *Ex parte* communications which involve the merits of the case or those which violate other rules requiring submissions to be in writing are prohibited. Interested parties may make inquiries to the Executive Director about such matters as the status of a case, when it will be heard, and the method of transmitting evidence to the Board. Parties may not make a submission orally which is required to be in writing or inquire about such matters as what defense they should use or whether their evidence is adequate.
- 500.19 Except during settlement discussions, *ex parte* communications concerning the merits of any matter before the Board for adjudication, or communications which otherwise violate rules requiring written submission, are prohibited from the time the persons involved have knowledge that the matter may be considered by the Board until the Board has rendered a final decision.
- 500.20 If a prohibited oral communication occurs, the Hearing Examiner or other presiding official shall describe that occurrence on the record with notice to the parties either by filing a memorandum or by making a statement. If a prohibited communication occurs in writing, the Hearing Examiner or presiding official shall file any writing delivered to him or her.
- 500.21 If a Hearing Examiner or the Executive Director determines that a party has initiated a prohibited *ex parte* communication, the Hearing Examiner or the Executive Director may impose such procedural sanctions or remedial actions as may be appropriate under the circumstances.
- 500.22 Opinions, certifications, authorizations, decisions and orders of the Board are final, unless otherwise stated therein, for purposes of judicial review pursuant to D.C. Official Code §§ 1-617.13(c) and 1-605.02(12) (2014 Repl.).

**501 CONSTRUCTION, COMPUTATION AND EXTENSIONS OF TIME,
FILING AND SERVICE OF DOCUMENTS**

- 501.1 The rules of the Board shall be construed broadly to effectuate the purposes and provisions of the CMPA. When an act is required or allowed to be done within a specified time by these rules, the Board, Chair or the Executive Director shall have the discretion, upon timely request, to order the time period extended, or reduced to effectuate the purposes of the CMPA, except that no extension shall be granted for the filing of initial pleadings.
- 501.2 A request for an extension of time shall be in writing and made at least three (3) business days prior to the expiration of the filing period. Exceptions to this requirement may be granted for good cause shown as determined by the Executive Director.
- 501.3 The request for an extension of time shall indicate the purpose and reason for the requested extension of time and the positions of all interested parties regarding the

extension. With the exception of the time limit for the filing of the initial pleading that begins a proceeding of the Board, the parties may waive all time limits established by the Board by written agreement in order to expedite a pending matter.

501.4 Whenever a period of time is measured from the service of a pleading and service is by first-class U.S. mail, five (5) days shall be added to the prescribed period.

501.5 In computing any period of time prescribed by these rules, the time begins to run the day after the event occurs. Whenever the last date to file a document falls on Saturday, Sunday, or a District of Columbia holiday, the period shall extend to the next business day.

501.6 All pleadings filed with the Board shall be in the form designated by these rules. If the Board has not designated a form, the party seeking action by the Board shall use only 8 1/2 x 11 inch plain white paper and shall include the following:

- (a) The name, address and telephone number of each party, if known;
- (b) The title of the proceeding and the case number, if known;
- (c) The name, title, address and telephone number of the person signing and the date of signing; and
- (d) A certificate of service.

501.7 As illustrated in the following example, all pleadings shall contain a caption setting forth the name of the Board, the title of the proceeding, the case number, if known, and the title of the pleading:

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

[Name of Party],)	
Complainant)	
)	
v.)	PERB Case No. ____
)	
[Name of Party],)	
Respondent.)	

UNFAIR LABOR PRACTICE COMPLAINT

501.8 Every pleading that is filed to initiate a proceeding with the Board shall include the following:

- (a) A concise statement of the nature of the case, the relief requested, and the basis for entitlement; and
- (b) A concise statement of all information deemed relevant which shall be set forth in numbered paragraphs.

501.9 Pleadings submitted to the Board shall be typed or legibly hand-written, and limited to twenty (20) double-spaced pages. Requests to increase the page limitation shall be timely submitted to the Executive Director. The page limitation of this rule does not apply to pleadings filed with the trier of fact when the trier of fact is not the Board itself.

501.10 [REPEALED].

501.11 An initial pleading shall not be considered filed with the Board unless it is received electronically pursuant to Section 561 of these rules.

- (a) Exception: A *pro se* individual, acting on his or her own behalf, shall file an initial pleading by personal delivery during business hours as defined in Subsection 500.8 of these rules. A *pro se* individual may utilize the Board's public access terminal to upload the document.
- (b) The initial pleading must be served on the other party or parties by personal delivery, commercial delivery, or U.S. mail.

501.12 Non-initial pleadings must be filed with the Board electronically, pursuant to Section 561 of these rules. A party submitting a non-initial pleading to the Board shall concurrently serve a copy of the pleading on every other party, unless otherwise directed by these rules or by instructions from the Board. If a party is represented by an attorney or other representative, it shall be sufficient to serve the attorney or representative. Every pleading filed with the Board shall include a signed certificate of service naming all other parties and attorneys or representatives, if any, on whom concurrent service was made, and shall state how and when such service was made.

- (a) All non-initial pleadings must be electronically served on every other party through the Board's designated vendor, except for service on a *pro se* individual, acting on his or her own behalf.
- (b) A *pro se* individual, acting on his or her own behalf, must be served by personal delivery, commercial delivery, or U.S. mail, unless the *pro se* party has waived such method of service in writing and agreed to be served by email.

501.13 An initial pleading that is filed will be assigned a filing date and case number. The Board or its designated representative shall review the pleading to determine

whether it was filed in accordance with the procedural requirements of the CMPA and these rules. If the review reveals that the pleading was not filed in accordance with the CMPA or these rules, the Executive Director shall notify the party or the party's representative and allow seven (7) days from the date of notice for the filing deficiencies to be cured. Failure to cure deficiencies shall result in dismissal without further notice.

- 501.14 Interested persons who wish to intervene in a proceeding shall promptly direct such requests to the Executive Director. The request shall be filed electronically, pursuant to Section 561, and shall state the grounds for intervention.
- 501.15 The Board or its designee shall have discretion to grant or deny a request for intervention, basing the decision on the nature of the interests of the intervenor, whether those interests will be adequately protected by existing parties, and the timeliness of the intervenor's request.
- 501.16 [REPEALED].
- 501.17 [REPEALED].
- 501.18 A representative for a party shall enter a notice of appearance in a case and serve a copy on all parties to the proceeding.

502 EXCLUSIVE RECOGNITION AND NON-COMPENSATION UNIT DETERMINATION

- 502.1 A labor organization seeking exclusive recognition as the representative for an appropriate unit shall file a "Recognition Petition," electronically, pursuant to Sections 501 and 561. Evidence of the employees' showing of interest must be submitted to the Board by commercial delivery, U.S. Mail, or personal delivery to the Board's office. The Recognition Petition shall include the following:
- (a) A description of the proposed unit including the name, address, and telephone number of the employing agency (and agency subdivision, if any), the number of employees in the proposed unit, and the general classifications of employees;
 - (b) The name, address and telephone number of any other labor organization known to the Petitioner that claims recognition as a representative of any employees in the proposed unit;
 - (c) A statement as to whether there is a collective bargaining agreement in effect covering the proposed unit or any part of it, including the effective date and expiration date of any such agreement;

- (d) A statement as to how the employees in the proposed unit share a community of interest, by virtue of such common factors as skills, working conditions, supervision, physical location, organizational structure, distinctiveness of functions performed, or the existence of integrated work processes; and
- (e) A roster of the Petitioner's officers and representatives, a copy of its constitution, its articles of incorporation and bylaws, if any, and a statement of its objectives. The Petitioner shall include a statement that the petitioning labor organization subscribes to the standards of conduct for labor organizations, as set forth in the Comprehensive Merit Personnel Act of 1978, March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-617.03 (2014 Repl.)).

502.2 A petition for exclusive recognition shall be supported by a showing of interest, not more than one (1) year old, that at least thirty percent (30%) of the current employees in the proposed unit desire representation by the Petitioner. Forms of evidence may include the following:

- (a) Current dues deduction authorizations;
- (b) Notarized membership lists;
- (c) Membership cards;
- (d) Individual authorization cards or petitions signed and dated by employees indicating their desire to be represented by the labor organization; or
- (e) Other evidence as determined appropriate by the Board.

502.3 Upon service of the recognition petition by the Petitioner, the employing agency shall prepare an alphabetical list of all employees in the proposed unit for the last full pay period prior to the filing of the petition. This list, along with any comments concerning the petition, shall be transmitted to the Board within fourteen (14) days of the agency's receipt of the petition. The Executive Director may request additional payroll records from the agency in order to properly investigate the showing of interest.

502.4 The adequacy of the showing of interest shall be determined administratively by the Board or its designee. While signed and dated authorization cards, in accordance with Subsection 502.2, will always be accepted as adequate evidence, other forms of evidence may be considered adequate by the Board as proscribed under Subsections 502.2 above and 502.8(a) below. The showing of interest determination shall not be subject to appeal.

- (a) If the petition is amended so as to seek to represent a unit different from that in the original petition, the amended petition must be accompanied by a thirty percent (30%) showing of interest in the new unit. In cases where an agency's staffing fluctuates due to the seasonal nature of the work or in cases where a unit is expanding, a showing of interest is required only among those employees employed at the time the petition is filed.
- (b) If the status of employees in the proposed unit is disputed, the Executive Director may conduct such proceedings as are necessary to determine the adequacy of the showing of interest.
- (c) If the Executive Director is unable to resolve issues concerning the eligibility of employees or unit appropriateness, a hearing may be ordered in the matter. If the hearing results in a change to the unit, the Executive Director will provide the petitioner with seven (7) days after the issuance of the Hearing Examiner's Report and Recommendation to procure an adequate showing of interest in the changed unit.

502.5 The Board shall maintain the confidentiality of the showing of interest submitted in support of a petition filed under this section or Section 505 of these rules and this evidence shall not be available for public access.

502.6 Provided that the requirements of Subsections 502.1, 502.2, and 502.3 of these rules are met, the Executive Director shall prepare a Notice of Recognition Petition to be posted by the employing agency in conspicuous places on all employee bulletin boards at work sites of employees in the proposed unit and to be distributed in a manner by which notices are normally distributed. The Notice shall be posted within seven (7) days of the Board's transmittal of the Notice and shall remain posted for fourteen (14) consecutive days. The Notice shall include the following:

- (a) The name of the petitioner;
- (b) A description of the proposed unit;
- (c) The date the notice was posted;
- (d) The name of any other labor organization currently representing employees in the proposed unit; and
- (e) The requirements for intervention by any other labor organization.

502.7 A labor organization may file an intervention petition within the period required by the Notice and said petition shall contain the same information as required of a petitioner under Subsection 502.1 of these rules.

502.8 Intervention petition(s) shall be accompanied by the following:

- (a) A showing of interest that at least ten percent (10%) of the employees in the bargaining unit set forth in the petition for exclusive recognition wish to be represented by the intervening labor organization, unless a different unit is proposed by the intervenor, in which case a showing of interest of at least thirty percent (30%) shall accompany the intervenor's petition; or
- (b) Where applicable, a statement that the intervenor is the incumbent exclusive representative of the employees in the proposed unit. The incumbent labor organization shall be allowed to intervene as a matter of right without submitting any showing of interest.
- (c) If the intervenor's showing of interest is insufficient, the request for intervention will be denied, absent withdrawal.

502.9 A petition for exclusive recognition shall be barred if:

- (a) During the previous twelve (12) months, a valid majority status determination has been made for substantially the same bargaining unit, or if during this same period a certification of representative has been issued, or the Board has determined the compensation unit placement, whichever is later.
- (b) A collective bargaining agreement is in effect covering all or some of the employees in the bargaining unit and the following conditions are met:
 - (i) The agreement is of three years or shorter duration; provided, however, that a petition may be filed between the one hundred twentieth (120th) day and the sixtieth (60th) day prior to the scheduled expiration date or after the stated expiration of the contract; or
 - (ii) The agreement has a duration of more than three years; provided, however, that a petition may be filed after the contract has been in effect for nine hundred seventy-five (975) days.

502.10 Upon the filing of a petition pursuant to Subsections 502.1 or 502.7 of these rules, the Board shall direct such preliminary investigation as it deems necessary and thereafter shall take appropriate action which may include any one or more of the following:

- (a) Approving a withdrawal request;
- (b) Dismissing the petition;

- (c) Conducting an informal conference;
- (d) Holding a hearing;
- (e) Taking an action as prescribed by Sections 512 and 513 of these rules.

502.11 Hearings under Subsection 502.10(d) of these rules are investigatory and not adversarial. The purpose of hearings under Section 502 of these rules shall be to develop a full and factual record upon which the Board may make a decision. The procedures of Sections 550-557 of these rules shall apply to the hearing.

502.12 If the choice available to employees in an appropriate unit is limited to the selection or rejection of a single labor organization, the Board may permit the employing agency to recognize the labor organization without an election on the basis of evidence that demonstrates majority status (more than fifty percent (50%)), such as documentary proof not more than one (1) year old, indicating that employees wish to be represented by the petitioning labor organization. In case of voluntary recognition by the employer, the Executive Director shall review the evidence of majority status and shall recommend to the Board whether certification should be granted without an election.

- (a) If the proposed unit contains professionals and nonprofessionals, recognition without an election may be permitted if a majority of the professional employees petition for inclusion in the unit.

502.13 If the choice available to employees in an appropriate unit includes two (2) or more labor organizations, the Board shall order an election in accordance with these rules.

503 COMPENSATION UNIT DETERMINATION

503.1 An agency, a labor organization or a group of labor organizations may file a "Petition for Compensation Unit Determination" seeking a determination of an appropriate unit for the purpose of negotiations for compensation. The petition shall be filed electronically with the Board, pursuant to Section 501 and 561 of these rules.

503.2 The Board may on its own motion initiate proceedings for the determination of units for compensation bargaining absent the filing of a petition by any party.

503.3 A petition for the determination of a compensation unit shall meet the requirements of Section 501 and 561 of these rules and shall also include the following:

- (a) The name and address of each personnel authority, agency and labor organization that may be affected by the petition;

- (b) A description of the proposed unit, setting forth the numbers and types of employees to be included;
- (c) A list of the pay, retirement and other compensation systems to be included in the proposed unit; and
- (d) A showing that the proposed unit consists of broad occupational groups so as to minimize the number of pay systems.

503.4 Upon the filing of a petition or commencement of proceedings by the Board on its own motion for the determination of a compensation unit, the Executive Director shall prepare an official Notice to be posted by the employing agency in conspicuous places on employee bulletin boards at work sites of employees in the proposed unit and to be distributed in a manner by which notices are normally distributed. The Notice shall be posted within seven (7) days of the Board's transmittal of the Notice and shall remain posted for fourteen (14) consecutive days thereafter. The Notice shall indicate the following:

- (a) The party or parties that filed the petition or initiated the proceedings;
- (b) Each labor organization that might be affected by the proposed unit;
- (c) The proposed unit description;
- (d) A list of the compensation systems proposed to be included;
- (e) The date the Notice was posted; and
- (f) A statement that, within fourteen (14) days after posting of the Notice of a petition or proceedings for an appropriate compensation bargaining unit, any interested labor organization or person may file written comments. A labor organization may submit a request with the Executive Director to intervene concerning the proposed unit. Any comments or requests to intervene shall meet the requirements of Section 501 of these rules.

503.5 The Executive Director shall transmit a copy of the Notice to each labor organization that has exclusive recognition for any employees in the proposed unit and to each affected agency or its representative.

503.6 Any labor organization that has exclusive recognition for any employees in the proposed unit shall be permitted to intervene.

503.7 Subsequent to the filing of a petition or upon commencement of a proceeding, the Board shall order such preliminary investigation as it deems necessary.

503.8 In making its determination regarding an appropriate compensation unit the Board may take any one or more of the following actions:

- (a) Approving a withdrawal request;
- (b) Dismissing the petition;
- (c) Conducting an informal conference;
- (d) Conducting a hearing; or
- (e) Granting the petition or determining a unit.

503.9 Hearings under Subsection 503.8 of these rules shall be investigatory and not adversarial. The purpose of hearings under this section shall be to ascertain the facts of the matter(s) at issue by developing a full and factual record upon which the Board may make a decision. The procedures of Sections 550-557 of these rules shall apply to the hearing.

503.10 A hearing for the purpose of taking evidence in a unit determination matter may be conducted by the Board or any individual(s) designated by the Board.

503.11 If the Board, pursuant to Subsection 503.8(d) of these rules, decides to hold a hearing, the Executive Director shall issue a Notice of Hearing to each personnel authority, agency, and labor organization that may be affected by the unit determination at fourteen (14) days prior to the date of the hearing. The Notice of Hearing shall include the following:

- (a) A statement of the time, place and nature of the hearing;
- (b) The name of the agency and any other party; and
- (c) A description of the proposed unit.

504 MODIFICATION OF UNITS

504.1 A petition for unit modification of either a compensation or non-compensation unit may be filed by a labor organization, by an employing agency or jointly. The petition shall be filed electronically with the Board, pursuant to Section 501 and 561 of these rules. A unit modification may be sought for any of the following purposes:

- (a) To reflect a change in the identity or statutory authority of the employing agency;

- (b) To add to an existing unit unrepresented classifications or employee positions created since the recognition or certification of the exclusive representative;
- (c) To delete classifications no longer in existence or which, by virtue of changed circumstances, are no longer appropriate to the established unit; or
- (d) To consolidate two (2) or more bargaining units within an agency that are represented by the same labor organization.

504.2 A petition for unit modification shall meet the requirements of Section 501 and 561 of these rules and shall also include the following:

- (a) The names and addresses of all labor organizations and agencies affected by the proposed change;
- (b) A description of each existing unit and the proposed unit, including the name and address of the employer, the number of employees in the existing and proposed units, and the personnel and payroll classifications of the employees;
- (c) The date of recognition or certification of each labor organization for the affected units;
- (d) A copy of the documentation evidencing any existing recognition or certification; and
- (e) A statement setting forth the specific reasons for the proposed modification.

504.3 Upon the filing of a petition for unit modification, the Executive Director shall prepare an official Notice to be posted by the employing agency in conspicuous places on employee bulletin boards at work sites of employees in the proposed unit and to be distributed in a manner by which notices are normally distributed. The Notice shall be posted within seven (7) days of the Board's transmittal of the Notice and shall remain posted for fourteen (14) days thereafter. The Notice shall indicate the following:

- (a) The party or parties who filed the petition or initiated the proceedings;
- (b) The names and addresses of all labor organizations that would be affected by the proposed modification;
- (c) The existing and the proposed unit descriptions;

- (d) A list of the compensation systems proposed to be included;
- (e) The date the Notice was posted; and
- (f) A statement that, within fourteen (14) days after posting of the Notice, any labor organization or person that would be affected may file written comments. Any affected labor organization may file within said fourteen (14) days, with the Executive Director, a request to intervene concerning the proposed modification.

504.4 All comments or requests to intervene shall meet the requirements of Section 501 of these rules.

504.5 Upon the filing of a petition pursuant to Section 504 of these rules, the Board shall direct such preliminary investigation as it deems necessary and thereafter shall take appropriate action which may be any one or more of the following:

- (a) Approving a withdrawal request;
- (b) Dismissing the petition;
- (c) Conducting an informal conference;
- (d) Holding a hearing; or
- (e) Granting the modification sought.

504.6 Hearings under Section 504 of these rules shall be investigatory and not adversarial. The purpose of Hearings under this section shall be to develop a full and factual record upon which the Board may make a decision. The procedures of Sections 550-557 of these rules shall apply to the Hearing.

505 DECERTIFICATION PETITIONS

505.1 The purpose of a decertification proceeding shall be to determine whether a majority of the employees in an appropriate bargaining unit maintain their desire to be represented by the existing exclusive bargaining representative.

505.2 A petition to decertify an exclusive representative may be filed with the Board by an employer, an employee, or employees in the certified or recognized unit of an agency. The petition shall be filed electronically with the Board, pursuant to Section 501 and 561 of these rules. The petition shall be served on the exclusive representative pursuant to Subsection 501.11 and shall state the following:

- (a) The name, address and telephone number of the petitioner and of the petitioner's representative if any. (A Petitioner's representative under this rule may not be a labor organization).
- (b) The name, address and telephone number of the exclusive representative;
- (c) The name, address and telephone number of the employer;
- (d) A specific and detailed description of the bargaining unit including employee classifications or job titles;
- (e) The approximate number of employees in the bargaining unit;
- (f) The date that the exclusive representative was recognized and the method of recognition, if known; and
- (g) A brief description of any collective bargaining agreements covering any employees in the bargaining unit, including the expiration dates of the agreements.

505.3 A petition for decertification filed by an employee shall be accompanied by a showing that at least thirty percent (30%) of the employees in the bargaining unit no longer desire to be represented by the exclusive representative.

505.4 An employing agency shall not assist an employee or group of employees in the filing of a decertification petition.

505.5 A petition for decertification filed by an agency shall be accompanied by a sworn statement and supporting evidence of lack of activity by the exclusive representative.

505.6 The exclusive representative shall be given fourteen (14) days from the date of service of the petition to file a response to the decertification petition. If the exclusive representative does not file a timely response indicating that it desires to continue to represent the employees, the Board may issue a decertification order.

505.7 If the exclusive representative files a timely response indicating that it desires to continue to represent the employees, and the requirements of Subsections 505.2, 505.3 or 505.5 of these rules have been met, the Board shall order an election to determine majority status.

505.8 Decertification petitions shall not be entertained in the following circumstances:

- (a) The Board has certified within the preceding twelve (12) months the results of an election among all or some of the employees in the

bargaining unit or the Board has determined the compensation unit placement, whichever is later.

- (b) The exclusive representative of the employees in the bargaining unit was voluntarily recognized within the preceding twelve (12) months and the recognition was certified by the Board; or
- (c) A collective bargaining agreement is in effect covering employees in the bargaining unit; provided, however, that decertification petitions may be filed between the one hundred twentieth (120th) day and sixtieth (60th) day prior to the scheduled date of expiration of an agreement of three (3) years or less duration, or after the expiration of such an agreement, or at any time after an agreement of more than three years duration has been in effect for nine hundred seventy-five (975) days.

505.9 Upon receiving a timely response from the exclusive representative pursuant to Subsection 505.7, a copy of the decertification petition shall be transmitted to the employing agency. The employing agency shall prepare an alphabetical list of all employees in the unit for the last full pay period prior to the filing of the petition. This list, along with any comments concerning the petition, shall be transmitted to the Board within fourteen (14) days of the Board's transmittal of the petition to the agency.

505.10 The adequacy of the showing of interest shall be determined administratively by the Board or its designee. The showing of interest determination shall not be subject to appeal.

505.11 Provided that the requirements of Subsections 505.2, 505.3 and 505.9 of these rules are met, the Executive Director shall prepare a Notice to be posted by the employing agency in conspicuous places on all employee bulletin boards at work sites of employees in the unit and to be distributed in a manner by which notices are normally distributed. The Notice shall be posted within seven (7) days of the Board's transmittal of the Notice and shall remain posted for fourteen (14) consecutive days. The Notice shall include the following:

- (a) The name of the petitioner;
- (b) A description of the unit;
- (c) The date the notice was posted;
- (d) The name of the labor organization currently representing employees in the unit; and
- (e) The requirements for intervention by any other labor organization.

- 505.12 A labor organization may file an intervention petition within the period required by the Notice and said petition shall contain the same information as required under Subsection 505.2 of these rules.
- 505.13 Intervention petition(s) shall be accompanied by a showing of interest that at least ten percent (10%) of the employees in the bargaining unit set forth in the decertification petition wish to be represented by the intervening labor organization, unless a different unit is proposed by the intervenor, in which case a showing of interest of at least thirty percent (30%) shall accompany the intervenor's petition.
- 505.14 Upon the filing of a petition pursuant to Subsections 505.2 or 505.12 of these rules, the Board shall direct such preliminary investigation as it deems necessary and thereafter shall take appropriate action which may include any one or more of the following:
- (a) Approving a withdrawal request;
 - (b) Dismissing the petition;
 - (c) Conducting an informal conference;
 - (d) Holding a hearing;
 - (e) Taking an action as prescribed by Sections 512 and 513 of these rules.
- 505.15 Hearings under Subsection 505.14(d) of these rules are investigatory and not adversarial. The purpose of hearings under Section 505 of these rules shall be to develop a full and factual record upon which the Board may make a decision. The procedures of Sections 550-557 of these rules shall apply to the hearing.
- 505.16 When there is no intervening labor organization, an election to decertify an incumbent exclusive representative is not held if the incumbent provides the Executive Director with a written disclaimer of any representation interest in the unit. When there is an intervenor, an election is held if the intervening labor organization proffers a thirty percent (30%) showing of interest within the time period established by the Executive Director.

506 CLARIFICATION OF UNITS

- 506.1 A petition filed for clarification of an existing unit may be filed by the agency or by the labor organization which is party to the certification. The petition shall be filed electronically with the Board, pursuant to Section 501 and 561 of these rules. In addition, the petition shall be in the same form and contain the same information (as appropriate) that is required by Section 502 or 503; plus:

- (a) A description of the existing unit; and
- (b) A statement of why the proposed clarification is requested.

506.2 The Board shall grant or deny the petition following the appropriate investigation and recommendation to the Board by the Executive Director or a Hearing Examiner.

507 REORGANIZATION NON-COMPENSATION UNIT DETERMINATION

507.1 An agency may file a “Representation” (“RM”) petition when two or more labor organizations have presented to an agency conflicting claims that each labor organization represents a majority of the employees in the bargaining unit or units claimed to be appropriate. The petition must be filed electronically, pursuant to Sections 501 and 561.

507.2 The petition shall include the following, as appropriate:

- (a) A description of the proposed unit, including the name, address, and telephone number of the employing agency (and agency subdivision, if any), the number of employees in the proposed unit, and the general classifications of the employees;
- (b) The names, addresses and telephone numbers of the labor organizations known to the Petitioner that claims recognition as a representative of any employees in the proposed unit;
- (c) A statement as to whether there is a known collective bargaining in effect covering the proposed unit or any part of it, including the effective date and expiration date of any such agreement;
- (d) A statement as to how the proposed unit shares a community of interest, by virtue of such common factors as skills, working conditions, supervision, physical location, organizational structure, distinctiveness of functions performed, or the existence of integrated work processes; and
- (f) A statement as to how a unit or units are no longer appropriate for collective bargaining.

507.3 Provided that the requirements of Subsections 507.1 and 507.2, the Executive Director shall prepare a Notice to be posted by the employing agency in conspicuous places on all employee bulletin boards at work sites of employees in the affected and proposed unit(s) and to be distributed in a manner by which notices are normally distributed. The Notice shall be posted within seven (7) days of the Board’s transmittal of the Notice and shall remain posted for fourteen (14) consecutive days. The Notice shall include the following:

- (a) The name of the petitioner;
- (b) A description of the proposed unit;
- (c) The date the notice was posted;
- (d) The name of any other labor organization currently representing employees in the affected or proposed unit; and
- (e) The requirements for intervention by any other labor organization.

507.4 The Executive Director shall transmit a copy of the Notice to each labor organization that has exclusive recognition for any employees in the affected or proposed unit and to each affected agency or its representative.

507.5 Any labor organization that has exclusive recognition for any employees in the affected or proposed unit shall be permitted to intervene.

507.6 Upon the filing of a petition or a request for intervention, the Board or Executive Director shall direct such preliminary investigation as it deems necessary and thereafter shall take appropriate action which may include any one or more of the following:

- (a) Approving a withdrawal request;
- (b) Dismissing the petition;
- (c) Conducting an informal conference;
- (d) Holding a hearing;
- (e) Granting the petition; or
- (f) Determining a unit.

507.7 Hearing held under Subsection 507.7 of these rules shall be investigatory and not adversarial. The purpose of hearings under this section shall be to ascertain the facts of the matter(s) at issue by developing a full and factual record upon which the Board may make a decision. The procedures of Sections 550-557 of these rules shall apply to the hearing.

510 ELECTION PROCEDURES: GENERAL

510.1 Representation elections shall be conducted by the Board or by an impartial body selected by the mutual agreement of the parties and approved by the Board.

- 510.2 All elections shall be by secret ballot.
- 510.3 The Board or other impartial body conducting the election shall furnish an official Notice setting forth the details of the election to the employing agency and to the labor organization(s) that are parties to the proceeding. This Notice shall be posted not less than seven (7) days before the date of the election, and shall remain posted until after the election. Copies of the Notice shall be distributed in a manner by which notices are normally distributed
- 510.4 In any election, each party to the election may be represented at each polling place by an equal, predesignated number of poll watchers of its choice, subject to limitations that are mutually agreed upon by the parties and approved by the Board, or are prescribed by the Board.
- (a) Each party must submit the names(s) of its designated observer(s) to the Executive Director seven (7) days before an election.
- (b) The observers represent their principals, challenging voters, and generally monitoring the election process.
- 510.5 Where an election involves a bargaining unit containing professional and non-professional employees, all professional employees shall be given two ballots: one for indicating whether they desire a combined professional/nonprofessional unit, and a second for indicating the choice of representative, if any.
- 510.6 If the choice available to employees in an appropriate unit is limited to the selection or rejection of a single labor organization, the employing agency has submitted a written waiver of a hearing, and the Board cannot determine whether a majority of the proposed bargaining unit wish to be represented by the petitioning labor organization or the employing agency chooses not to voluntarily recognize the appropriate unit, an election pursuant to Board Rules §§ 512 or 513 will be conducted.
- 510.7 Parties are encouraged to enter into election agreements. If the parties are unable to agree on procedural matters, specifically, the eligibility period, method of election, dates, hours, or locations of the election, the Executive Director will decide election procedures and issue a Direction of Election, without prejudice to the rights of a party to file objections to the procedural conduct of the election.
- 510.8 When there is no intervening labor organization, an election is not held if the petitioner provides the Executive Director with a written request to withdraw the petition. When there is an intervenor and the petitioner provides the Executive Director with a written request to withdraw the petition, an election is held if the intervening labor organization presents a thirty percent (30%) showing of interest within the time period established by the Executive Director.

510.9 The parties may consent to an election prior to the holding of a hearing on the appropriateness of the unit. A ballot cast by an employee whose eligibility status is challenged will be segregated from the remainder of the ballots cast, and will not be tallied until after a hearing on the employee's eligibility has been concluded and a determination is made that the employee is eligible to vote.

511 ELECTION PROCEDURES: ELIGIBILITY

511.1 To be eligible to vote in an election, an employee shall have been employed in the bargaining unit during the payroll period immediately prior to the date on which the Board ordered the election or as otherwise determined by the Board or consented to by the parties, and shall still be employed in the bargaining unit on the date of the election. A list of employees eligible to vote in the election will be provided to designated election officials within seven (7) days of approval of an election agreement or seven (7) days after the Executive Director has directed an election, whichever occurs first. Where the election will be conducted by mail, the employing agency must provide a copy of the employee list in the form of mailing labels or in a format in which the information can be readily transferred to mailing labels.

511.2 To be eligible to vote in a runoff election, an employee shall have been eligible to vote in the original election and still be employed in the bargaining unit on the date of the runoff.

511.3 The Board's agent or any authorized observer may challenge the eligibility of any voter, and in so doing shall state the reason for the challenge. A voter whose identity has been challenged may establish his or her identity by showing any piece of identification acceptable to the Board's agent.

(a) An individual whose eligibility to vote is in dispute will be given the opportunity to vote a challenged ballot. If the parties and the Board's agent are unable to resolve the challenged ballot(s) before the tally of ballots, the Board's agent will impound and preserve the unresolved challenged ballot(s) until the Board or the Executive Director makes a determination regarding the eligibility of the voter.

511.4 A challenged ballot shall be placed in a "challenged ballot" envelope. The envelope shall be sealed by the Board's agent and initialed by the observers. The reason for the challenge and the voter's name shall be marked on the envelope and the envelope shall be placed in the ballot box.

511.5 The Board's agent shall attempt to resolve ballot challenges before the ballots are counted.

512 ELECTION PROCEDURES: MAIL BALLOTS

- 512.1 When an election is to be conducted by mail ballot, the procedures in this section shall apply, unless otherwise agreed to by the parties and approved by the Board.
- 512.2 Each eligible voter shall be mailed a packet containing a ballot, ballot envelope, pre-addressed stamped return envelope, and instructions.
- 512.3 The instructions shall advise the voter to mark his or her ballot without identifying him or herself, place the ballot in the ballot envelope, seal the ballot envelope and place it in the return envelope, seal the return envelope, which shall be signed by the voter, and mail it to the designated post office box or address provided in the instructions. The instructions shall also advise the voter of the date by which envelopes must be received. Ballots not returned by U.S. Mail will not be accepted.
- 512.4 When the election includes a vote on a combined professional/nonprofessional unit, the appropriate voters shall be mailed separate ballots and ballot envelopes for unit preference and for choice of representative. These voters shall be instructed to mark the ballots separately, place them in their respective ballot envelopes, and return both ballot envelopes in the return envelopes.
- 512.5 The parties may designate an equal number of representatives, as set by the Board, to observe the tallying of the ballots. Ballots shall be tallied on a date set by the Board.
- 512.6 Ballots shall remain unopened and be kept in the custody of the Board's agent until the date set for tallying. On the date set for tallying, the representatives and the Board's agent shall have an opportunity to challenge any ballots prior to the opening of the return envelopes.
- 512.7 A voter shall mark an (X) or a (√) in the circle or block designating his or her choice in the election. The intent of the voter, if clearly ascertainable from the ballot itself, shall be followed in assessing the marking of the ballot.
- 512.8 If the ballot is returned without being placed in a ballot envelope, defaced, torn or marked in such a manner that it is not understandable or identifies the voter, the ballot shall be declared void. Only ballots received prior to the tally will be counted.
- 512.9 Challenged ballots shall be handled in accordance with Subsection 511.4 of these rules.
- 512.10 All ballots that have not been challenged shall be separated from their return envelopes and commingled prior to tallying. The ballots shall be tallied in accordance with Section 514 of these rules.

513 ELECTION PROCEDURES: ON-SITE ELECTIONS

- 513.1 The procedures set forth in this section shall apply to an election conducted on-site, unless otherwise agreed to by the parties and approved by the Board.
- 513.2 The Board's agent or another impartial entity mutually selected by the parties and approved by the Board shall designate the areas in proximity to the polling place in which electioneering shall be prohibited.
- 513.3 Ballot boxes shall be examined in the presence of the observers immediately prior to the opening of the polls and shall be sealed following the observers' inspection of the polls and the ballot box. The seal shall allow for one opening on the top of the ballot box for voters to insert their ballots.
- 513.4 A voter shall mark an (X) or a (√) in a circle or block designating his or her choice in the election. The intent of the voter, if clearly ascertainable from the ballot itself, shall be followed in assessing the marking of the ballot.
- 513.5 If the ballot is defaced, torn, or marked in such a manner that it is not understandable or identifies the voter, the ballot shall be declared void.
- 513.6 If the voter inadvertently spoils a ballot, the ballot may be returned to the Board's agent who shall give the voter another ballot. The spoiled ballot shall be placed in a "spoiled ballot" envelope. The envelope shall be sealed by the Board's agent and initialed by the observers, and the Board's agent shall place the envelope in the ballot box.
- 513.7 A voter shall fold his or her ballot so that no part of its face is exposed, and on leaving the voting booth, shall deposit the ballot in the ballot box.
- 513.8 Each ballot box shall be sealed by the Board's agent and initialed by the observers after each election session and so kept until the re-opening of the polls and shall remain in the custody of the Board's agent until the tallying of the ballots.
- 513.9 The Board's agent may, upon request of a voter, privately assist the voter to mark his or her ballot.
- 513.10 Each party may designate representative(s) to observe the tallying of the ballots.
- 513.11 Upon conclusion of the polling, ballots shall be tallied in accordance with Section 514 of these rules.
- 513.12 If there is only one polling location, ballots shall be tallied at the polling site. If there is more than one polling location the Board's agent, upon conclusion of the voting, shall seal the ballot boxes, each of which shall be initialed by the observers, and transport them to a predetermined central location. When all of the

ballot boxes have arrived, they shall be opened by the Board's agent in the presence of observers and the ballots shall be commingled for tallying.

514 ELECTION PROCEDURES: TALLYING

514.1 Representation will be determined by the majority of the valid ballots cast. Ballots shall be tallied in the presence of the parties' representatives. The count shall proceed as set forth in this section.

514.2 The Board's agent shall segregate the challenged ballots. The challenged ballots shall be opened and counted only if they have been resolved by the parties and they could be determinative of the outcome of the election.

514.3 If challenged ballots have not been resolved, and if the challenges could affect the outcome of the election, the Board shall treat the challenges in the same manner as objections to the election. (See Section 515)

514.4 When the election includes a vote on a combined professional/nonprofessional unit, the ballots on unit preference shall be tallied first. If a majority of the professional employees casting valid ballots votes for a combined unit, the ballots on choice of representative, if any, shall be tallied together. If the majority of professional employees voting fail to vote for a combined unit, the ballots on choice of representative, if any, shall be tallied separately.

514.5 The Board shall preserve all ballots until the conclusion of any related proceedings.

514.6 The participants in the tally are the Board's agents and official observers, in the numbers necessary. Members of the press and other interested persons may be present to the extent permitted by the physical facilities and the permission of the owner of the premises being used. The Board agent in charge of the election has discretion to limit the number of participants.

515 CERTIFICATION OF ELECTION RESULTS

515.1 Each party to the election shall be served with a copy of the report of election results prepared by the Executive Director, which shall include the tally of ballots and a certificate of service.

515.2 Within seven (7) days after the tally of ballots has been served, any party to the election proceeding may file with the Board objections to the election procedure or to any conduct which may have improperly affected the results of the election. The objecting party shall include a specific statement of the reasons for each objection.

- 515.3 The Board shall certify the results of each election within fourteen (14) days or at the first Board meeting after the final tally of ballots and, within seven days after the certification of election results has been served, the Board shall issue to the parties a certification of representative if:
- (a) The challenged ballots are insufficient in number to affect the results of the election;
 - (b) No objections have been filed; and
 - (c) One labor organization has received a majority of the ballots cast.
- 515.4 If the challenged ballots are sufficient in number to affect the results of the election or if objections are filed, the Executive Director, or other person designated by the Board, shall conduct an investigation and, if necessary, hold a hearing, and make a report of findings to the Board. Any hearing held pursuant to this section shall be considered investigatory and not adversarial. The purpose of hearings under this section shall be to ascertain the facts by developing a full and factual record upon which the Board may make a decision. The procedures of Section 550 of these rules shall apply to the hearing.
- 515.5 If the Board determines that the challenge(s), if any, have been properly resolved and/or that the objections, if any, are without merit or insufficient to warrant setting aside the election, the Board shall issue a certification of representative, if appropriate, or a certification that no union has been selected.
- 515.6 A runoff may not be held until the Board or the Executive Director has ruled on objections to the election and determinative challenged ballots. An election shall be declared "inconclusive" if there are no challenges that affect the results, but none of the choices on the ballot receives a majority of the valid ballots cast.
- 515.7 If an election is declared inconclusive, the Board shall declare the election null and void and order that another election be conducted providing for a selection from among the original choices, except that if in the inconclusive election there were three or more choices on the ballot, only the two choices that received the most votes shall appear on the ballot in the subsequent election. In the event of a tie in the second election, the Board shall certify the election results indicating that no representative has been selected.

516 PETITIONS TO AMEND CERTIFICATION

- 516.1 An exclusive representative shall file a petition with the Board to amend its certification whenever there is a change in the identity of the exclusive representative that does not raise a question concerning representation (*e.g.*, whether the employees have designated a particular organization as their bargaining agent). A change in the identity of the representative that does not

raise a question concerning representation may include a change in the name of the labor organization. A petition raising a question concerning representation shall also meet the requirements of Section 502 of these rules. The petition shall be filed electronically with the Board, pursuant to Section 501 and 561 of these rules. The Petition shall meet the requirements of Sections 501 and 561 of these rules and shall also contain the following:

- (a) The name, address and telephone number of the employer as shown in the certification;
- (b) The name, address and telephone number of the exclusive representative, as shown in the certification;
- (c) The name, address and telephone number of petitioner's representative; and
- (d) A description of the proposed amendment.

516.2 The Board shall grant or deny the petition following the appropriate investigation which may include a hearing and recommendation to the Board by the Executive Director.

520 UNFAIR LABOR PRACTICE COMPLAINTS

520.1 The rules in this section detail the procedures for initiating, processing and resolving complaints that an employer, employees or a labor organization has committed or is committing an unfair labor practice in violation of D.C. Official Code § 1-617.04 (2014 Repl.).

520.2 An unfair labor practice complaint may be filed with the Board by a labor organization, an agency, or an aggrieved person.

- (a) The complaint shall be filed electronically with the Board, pursuant to Section 501 and 561 of these rules.
- (b) Exception: In accordance with Subsection 501.11, a *pro se* individual, acting on his or her own behalf, shall file a complaint by personal delivery during business hours as defined in Subsection 500.8 of these rules. An individual acting *pro se* may utilize the Board's public access terminal to upload the document.

520.3 Unfair labor practice complaints shall be filed according to the procedures under Section 501 and 561 of these rules, shall be signed by the complainant, and shall contain the following:

- (a) The name, address and telephone number of the complainant;

- (b) The name, address and telephone number of the respondent;
- (c) The name, address and telephone number of the complainant's representative, if any;
- (d) A clear and complete statement of the facts constituting the alleged unfair labor practice, including date, time and place of occurrence of each particular act alleged, and the manner in which D.C. Official Code § 1-617.04 (2014 Repl.) of the CMPA is alleged to have been violated;
- (e) A statement of the relief sought;
- (f) A statement as to the existence of any related proceedings or other proceedings involving matters related to the complaint, and the status or disposition of those proceedings; and
- (g) A copy of the collective bargaining agreement, if any.

520.4 Unfair labor practice complaints shall be filed not later than one hundred twenty (120) days after the date on which the alleged violations occurred. A complaint may be amended as a matter of course prior to the filing of an answer. Once an answer is filed, a complaint may be amended by motion. Any new allegations raised in the amended complaint shall be filed not later than one hundred twenty (120) days after the date on which the alleged violations occurred.

520.5 A complainant may withdraw a complaint without prejudice at any time prior to the filing of an answer. If a complainant fails to prosecute a complaint, the Executive Director may dismiss the complaint with prejudice, after providing the complainant with notice.

520.6 A respondent shall file, within fourteen (14) days from service of the complaint, an answer containing a statement of its position with respect to the allegations set forth in the complaint. The answer shall also include a statement of any affirmative defenses, including, but not limited to, allegations that the complaint fails to allege an unfair labor practice or that the Board otherwise lacks jurisdiction over the matter.

The answer shall include a specific admission or denial of each allegation or issue in the complaint or, if the respondent is without knowledge thereof, the answer shall so state and such statement shall operate as a denial. Admissions or denials may be made to all or part of an allegation but shall clearly meet the substance of the allegation.

- 520.7 A respondent who fails to file a timely answer shall be deemed to have admitted the material facts alleged in the complaint and to have waived a hearing. The failure to answer an allegation shall be deemed an admission of that allegation.
- 520.8 The Board or its designated representative shall investigate each complaint. The investigation may include an investigatory conference with the parties. The parties shall submit to the Board or its designated representative evidence relevant to the complaint. Such evidence may include affidavits or other documents, and any other material matter.
- 520.9 If the investigation reveals that the pleadings present an issue of fact warranting a hearing, the Board or its designated representative shall issue a Notice of Hearing and serve it upon the parties.
- All parties shall be given at least fourteen (14) days' notice of the hearing, except where the Board determines that this notice period should be abbreviated.
- 520.10 If the investigation reveals that there is no issue of fact to warrant a hearing, the Board may render a decision upon the pleadings or may request briefs and/or oral argument.
- 520.11 The purpose of hearings under this section is to develop a full and factual record upon which the Board may make a decision. The party asserting a violation of the CMPA shall have the burden of proving the allegations of the complaint by a preponderance of the evidence. The procedures of Sections 550 - 557 of these rules shall apply to the hearing.
- 520.12 Following a hearing, the hearing examiner shall submit a report and recommendations to the Board not later than thirty-five (35) days following the submission of post-hearing briefs, if any, or following the conclusion of closing arguments.
- 520.13 Parties may file exceptions and briefs in support of the exceptions not later than fourteen (14) days after service of the hearing examiner's report and recommendations. A response or opposition to the exceptions may be filed by a party not later than fourteen (14) days after service of the exceptions. A party may request oral argument before the Board, stating the reasons for the request. The Board may grant the request if in the Board's view such argument would be helpful.
- 520.14 The Board shall reach its decision upon a review of the entire record. The Board may adopt the recommended decision to the extent that it is supported by the record.
- 520.15 The Board may order preliminary relief. A request for such relief shall be accompanied by affidavits or other evidence supporting the request. Such relief

may be granted where the Board finds that the conduct is clear-cut and flagrant; or the effect of the alleged unfair labor practice is widespread; or the public interest is seriously affected; or the Board's processes are being interfered with, and the Board's ultimate remedy may be inadequate.

526 IMPASSE RESOLUTION PROCEEDINGS: COMPENSATION NEGOTIATIONS

526.1 When it appears that an impasse has been reached during collective bargaining negotiations regarding compensation matters, the Executive Director may be notified in writing by one or both of the parties. The notice of impasse shall meet the requirements of Sections 501 and 561 of these rules and shall include, in addition, the following:

- (a) The name(s) of the chief negotiator(s) for each party;
- (b) The expiration date of the existing collective bargaining agreement (if any);
- (c) A description of the unit affected by the impasse, including the approximate number of employees in the unit;
- (d) The date when negotiations commenced and the date of the last meeting; and
- (e) The nature of the matters in dispute and any other relevant facts, including a list of specific labor organization and/or employer demands upon which impasse has been reached.

526.2 Upon receipt of a notice of impasse concerning compensation negotiations, other than an automatic impasse as prescribed under D.C. Official Code § 1-617.17(f) (2014 Repl.), the Executive Director shall verify with the other party (unless jointly filed) that the parties are at impasse. Upon verification or receipt of a joint notice of impasse, the Executive Director shall consult with the parties regarding their choice of mediator, if any.

526.3 If the parties are unable to agree upon a mediator, the Executive Director shall appoint one or request that the Federal Mediation and Conciliation Service provide one.

Any information disclosed by the parties to a mediator, including all records, reports and documents prepared or received by the mediator in the performance of his or her duties shall be deemed confidential.

526.4 If mediation does not resolve an impasse within thirty (30) days or any shorter period designated by the mediator, the Executive Director shall appoint a Board

of Arbitration as required by D.C. Official Code § 1-617.17 (2014 Repl.); provided, however, that the appointment of a Board of Arbitration under D.C. Official Code §§ 1-617.17 (f)(2) and (3) (2014 Repl.), shall only be upon the request of a party.

526.5 Arbitration awards shall be in writing, and served on all parties within forty-five days after the board of arbitration has been established. The award shall in all respects conform to D.C. Official Code §§ 1-617.17(f) (1), (2) and (3) (2014 Repl.).

527 IMPASSE RESOLUTION PROCEEDINGS: NON-COMPENSATION NEGOTIATIONS

527.1 Upon receipt of a request for impasse resolution concerning terms and conditions of employment other than compensation, or upon its own motion, the Board may declare an impasse when the following has occurred:

- (a) After a reasonable period of negotiations, further negotiation appears to be unproductive; or
- (b) An impasse is declared in compensation negotiations covering the same employees as the terms and conditions negotiations.

527.2 Upon receipt of a request for impasse resolution procedures for non-compensation matters, the Executive Director shall initiate an informal inquiry.

- (a) If it determines that the parties have been unable to reach agreement, despite diligent efforts, the Executive Director shall consult with the parties regarding their choice of impasse resolution procedures. The parties may decide, by mutual agreement, to engage in any of the impasse resolution procedures outlined in D.C. Official Code § 1-617.02(c) (2014 Repl.).
- (b) If the Executive Director determines that an impasse has occurred regarding non-compensation matters, and an issue of negotiability exists at the time of such impasse determination, the negotiability issue must be withdrawn or a negotiability appeal filed with the Board within seven (7) days of the determination as to the existence of an impasse. Except when otherwise determined by the Board or the Executive Director, impasse proceedings shall not be suspended pending the Board's determination of a negotiability appeal.

527.3 If the parties are unable to agree upon a mediator, the Executive Director shall appoint one or request that the Federal Mediation and Conciliation Service provide one.

Any information disclosed by the parties to a mediator, including all records, reports and documents prepared or received by the mediator in the performance of his or her duties shall be deemed confidential.

527.4

- (a) If the parties have not reached agreement on the type of impasse resolution procedures to be utilized, the Board may direct fact-finding procedures in the following manner:
 - (i) The parties may jointly request the assignment of a specific fact-finder, fact-finder selection service, or request that the designated mediator also serve as the fact-finder or as a member of a fact-finding panel;
 - (ii) If the parties are unable to make a selection from a list supplied by the Board, the Board shall assign a fact-finder or panel of its choice or fact-finder selection service;
- (b) The fact-finder shall provide the services defined under the term "fact-finding" in Section 599 of these rules;
- (c) The fact-finder shall meet with the parties within seven (7) days after appointment, hold conferences and hearings, if necessary, to facilitate the fact-finding process and take such other steps as necessary to investigate, and to effect settlement of the impasse through fact-finding;
- (d) The fact-finder shall make a written report of findings of fact and recommendations for resolution of the impasse. The Board may set a deadline for the submission of the report, which shall be submitted confidentially to the parties and to the Board, unless the parties resolve the dispute prior to the submission of the written report; and
- (e) If the parties are unable to resolve the dispute within seven (7) days after the Board receives the report and recommendations, the Board may make the report and recommendations public using the news media or other appropriate means.

527.5

The Board may direct that interest arbitration procedures for non-compensation matters be utilized as follows:

- (a) The parties may jointly request the assignment of a particular arbitrator, or the use of a particular arbitration selection service. If the parties do not make such a request(s), the Executive Director shall submit to each of the parties a list of at least five (5) names of arbitrators;

- (b) Each party shall have seven (7) days from the date of the submission in which to examine the list, cross off as many as two (2) names, number the remaining names in order of preference and return the list to the Executive Director;
- (c) The Executive Director shall appoint an arbitrator with due consideration for the order of preference indicated by the parties;
- (d) If the appointed arbitrator declines or is unable to serve, the Executive Director may appoint another arbitrator from the original list who was not previously rejected by either party;
- (e) Parties to any negotiations may, by agreement, provide for an alternative method for the selection of one or more arbitrators. In such instances, Subsection 527.5(a-d) shall apply only in the event of the failure to select an arbitrator by the alternative method;
- (f) Within seven (7) days after appointment, the arbitrator and the parties, with the assistance of the Executive Director, if necessary, shall jointly select a date, time and place for the hearing; and
- (g) Arbitration awards shall be in writing and signed by the arbitrator and shall be served on the parties within thirty (30) days after the arbitrator has been appointed, unless otherwise agreed to by the parties. A statement of the arbitrator's fee and expenses shall be submitted with the award.

527.6 When fact-finding and arbitration proceedings are directed by the Board in non-compensation matters, they may proceed in the absence of any party who, after due notice, fails to be present and fails to obtain an adjournment.

532 NEGOTIABILITY APPEAL PROCEEDINGS

532.1 If in connection with collective bargaining, an issue arises as to whether a proposal is within the scope of bargaining, the party presenting the proposal may file a negotiability appeal with the Board. The appeal shall be filed electronically with the Board, pursuant to Section 501 and 561 of these rules.

532.2 A negotiability appeal shall meet the requirements of Sections 501 and 561 of these rules and shall include the following:

- (a) The name, title, address and telephone number of the chief negotiator for each party;
- (b) A short and plain statement of the negotiability issue(s), including a copy of the proposal(s) at issue and specific reference to any applicable statute, regulation(s), or collective bargaining agreement provisions; and

- (c) Any written communication from the other party to the negotiation asserting that a proposal is nonnegotiable.

532.3 An answer to a negotiability appeal shall state in short and plain terms the party's position on each negotiability issue raised in the appeal.

532.4 Negotiability Appeal and Answer – Filing

Except as provided in Subsection 532.1 of these rules, a negotiability appeal shall be filed within thirty-five (35) days after a written communication from the other party to the negotiations asserting that a proposal is nonnegotiable or otherwise not within the scope of collective bargaining under the CMPA. An answer to the negotiability appeal, if any, shall be filed within fourteen (14) days after the date of service of the appeal.

532.5 Upon the expiration of the period for filing the appeal and response with the Board, the Executive Director shall:

- (a) Make a prompt preliminary determination whether to require expedited briefing of the matter, with written briefs to be submitted within no more than fourteen (14); and
- (b) Refer the matter to the Board, either without such briefing or after receipt of the briefing, provided for in paragraph (a).

532.6 In deciding whether to require expedited briefing of the matter prior to submission of the matter to the Board, the Executive Director shall take into consideration the potential value of such briefing to the prompt resolution of the case by the Board and any potential delay in Board consideration that such briefing may cause.

532.7 After receiving a case under Subsection 532.5(b), the Board shall expeditiously take one or more of the following actions:

- (a) Issue a written decision;
- (b) If no briefing has yet been received, order the submission of written briefs to be submitted within fourteen (14) days;
- (c) Order oral argument in the matter, to be scheduled, without written briefs, within fourteen (14) days;
- (d) Order a hearing which may include briefs and arguments; or

- (e) Direct the parties to informal mediation or conference with the Executive Director or any staff members or agents empowered to conduct informal mediation on the Board's behalf.

532.8 Notice of any hearing ordered pursuant to Section 532 of these rules shall be issued at least seven (7) days prior to the date of the hearing. The hearing shall be conducted in accordance with Sections 550 - 557 of these rules.

532.9 The Board shall issue a decision on negotiability as soon as possible following final submission of the matter.

538 GRIEVANCE ARBITRATION REVIEW REQUEST

538.1 A party to a grievance arbitration proceeding who is aggrieved by the arbitration award may file a request for review with the Board not later than twenty-one (21) days after service of the award. The review request shall be filed electronically with the Board, pursuant to Sections 501 and 561 of these rules. Service of the arbitration award on a party shall be deemed completed by the Board upon personal delivery during business hours, depositing the document in the United States mail, properly addressed, first class postage prepaid, electronic mail, or by facsimile transmission. Whenever an award is served by United States mail, five (5) days shall be added to the prescribed period of time to file a request for review with the Board. The arbitration review request shall be designated "Arbitration Review Request" and shall contain the following information, set forth in numbered paragraphs:

- (a) The name, address and telephone number of the agency (or agency subdivision) involved, including the name of the person to contact;
- (b) The name, address and telephone number of the labor organization having exclusive recognition, including the name of the person to contact;
- (c) The name, address, and telephone number of the arbitrator;
- (d) A statement of the reasons for requesting review of the award;
- (e) A copy of the award and affidavit or other proof of the date of service of the award; and
- (f) Any other portion of the arbitration record upon which parties intend to rely in the arbitration review request.

538.2 An opposition to the arbitration review request may be filed with the Board by the other party to the arbitration proceeding not later than fourteen (14) days after service of the request. The Board may issue a Decision and Order requiring the parties to submit additional briefs. The parties will then have fourteen (14) days

from the issuance of the Board's Decision and Order to file briefs concerning the matter. Oral arguments may be permitted at the discretion of the Board.

538.3 In accordance with D.C. Official Code § 1-605.02(6) (2014 Repl.), the only grounds for an appeal of a grievance arbitration award to the Board are the following:

- (a) The arbitrator was without authority or exceeded the jurisdiction granted;
- (b) The award on its face is contrary to law and public policy; or
- (c) The award was procured by fraud, collusion or other similar and unlawful means.

538.4 The Board, after consideration of the review request, the opposition, and briefs and oral arguments, if any, shall make a determination which may reject the request for lack of jurisdiction or sustain, set aside or remand the award in whole or in part. The parties to an arbitration review request are responsible for preparing and filing with PERB any portion of the arbitration record, in addition to the arbitration award, upon which they intend to rely in the arbitration review request. The Board will base its decision on the record submitted by the parties, subject to the Board's limited authority to review arbitration awards pursuant to D.C. Official Code § 1-605.2(6) (2014 Repl.) and Subsection 538.3.

544 STANDARDS OF CONDUCT COMPLAINTS

544.1 The provisions of D.C. Official Code § 1-617.03 (2014 Repl.), concerning the Standards of Conduct for labor organizations shall apply to any labor organization that has been accorded exclusive recognition pursuant to D.C. Official Code §§ 1-617.10(a) or 1-617.11(b) (2014 Repl.), or that is seeking to be certified as an exclusive representative by the Board.

- (a) The complaint shall be filed electronically with the Board, pursuant to Section 501 and 561 of these rules.
- (b) Exception: In accordance with Subsection 501.11, a *pro se* individual, acting on his or her own behalf, shall file a complaint by personal delivery during business hours as defined in Subsection 500.8 of these rules. A *pro se* individual may utilize the Board's public access terminal to upload the document.

544.2 Any individual(s) aggrieved because a labor organization has failed to comply with the Standards of Conduct for labor organizations may file a complaint with the Board for investigation and appropriate action. The Standards of Conduct set forth in D.C. Official Code § 1-617.03(a) (2014 Repl.) are as follows:

- (a) The maintenance of democratic provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participate in the affairs of the organization, to fair and equal treatment under the governing rules of the organization, and to fair process in disciplinary proceedings;
- (b) The exclusion from office in the organization of any person identified with corrupt influences;
- (c) The prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members;
- (d) Fair elections; and
- (e) The maintenance of fiscal integrity in the conduct of the affairs of the organization, including provision for accounting and financial controls and regular financial reports or summaries to be made available to members.

544.3 A standards of conduct complaint shall be designated "Standards of Conduct Complaint," shall meet the requirements of Sections 501 and 561 of these rules and shall contain the following information:

- (a) The name, address and telephone number of the complainant(s), including the name of the person to contact;
- (b) The name, address and telephone number of the labor organization having or seeking exclusive recognition, including the name of the person to contact;
- (c) A statement of the reasons for the complaint, including the date, time, place and person(s) involved in each occurrence;
- (d) A statement of the relief sought.

544.4 A complaint alleging a violation under this section shall be filed not later than one hundred and twenty (120) days from the date the alleged violation(s) occurred. A complaint may be amended as a matter of course prior to the filing of an answer. Once an answer is filed, a complaint may be amended by motion. Any new allegations raised in the amended complaint shall be filed not later than one hundred twenty (120) days from the date the alleged violation(s) occurred.

544.5 A complainant may withdraw a complaint without prejudice at any time prior to the filing of an answer. If the complainant fails to prosecute a complaint, the Executive Director may dismiss the complaint with prejudice, after providing the complainant with notice.

- 544.6 A respondent shall file, within fourteen (14) days from service of the complaint, an answer containing a statement of its position with respect to the allegations set forth in the complaint. The answer shall also include a statement of any affirmative defenses, including, but not limited to, allegations that the complaint fails to allege a standards of conduct violation or that the Board otherwise lacks jurisdiction over the matter.
- The answer shall include a specific admission or denial of each allegation or issue in the complaint or, if the respondent is without knowledge thereof, the answer shall so state and such statement shall operate as a denial. Admissions or denials may be made to all or part of an allegation but shall clearly meet the substance of the allegation.
- 544.7 A respondent who fails to file a timely answer shall be deemed to have admitted the material facts alleged in the complaint and to have waived a hearing. The failure to answer an allegation shall be deemed an admission of that allegation.
- 544.8 The Board or its designated representative shall investigate each complaint. The investigation may include an investigatory conference with the parties. The parties shall submit to the Board or its designated representative evidence relevant to the complaint. Such evidence may include affidavits or other documents, and any other material matter.
- 544.9 If the investigation reveals that the pleadings present an issue of fact warranting a hearing, the Board or its designee shall issue a Notice of Hearing and serve it upon the parties.
- All parties shall be given at least fourteen (14) days' notice of the hearing, except where the Board determines that this notice period should be abbreviated.
- 544.10 If the investigation reveals that there is no issue of fact to warrant a hearing, the Board may render a decision upon the pleadings or may request briefs and/or oral argument.
- 544.11 The purpose of hearings under this section is to develop a full and factual record upon which the board may make a decision. The party asserting a violation of the CMPA shall have the burden of proving the allegations of the complaint by a preponderance of the evidence. The procedures of Sections 550-557 of these rules shall apply to the hearing.
- 544.12 Not later than thirty-five (35) days following a hearing and the submission of post-hearing briefs or the conclusion of closing arguments, if any, the hearing examiner shall submit a report and recommendation to the Board.

- 544.13 Parties may file exceptions and briefs in support of the exceptions not later than fourteen (14) days after service of the hearing examiner's report and recommendations. A response or opposition to the exceptions may be filed by a party not later than fourteen (14) days after service of the exceptions. A party may request oral argument before the Board, stating the reasons for the request. The Board may grant the request if in the Board's view such argument would be helpful.
- 544.14 The Board shall reach its decision upon a review of the entire record. The Board may adopt the recommended decision to the extent that it is supported by the record.
- 544.15 The Board may order preliminary relief. A request for such relief shall be accompanied by affidavits or other evidence supporting the request. Such relief may be granted where the Board finds that the conduct is clear-cut and flagrant; or the effect of the alleged violation is widespread; or the public interest is seriously affected; or the Board's processes are being interfered with, and the Board's ultimate remedy may be inadequate.

550 HEARINGS

- 550.1 In any proceeding when a hearing is to be held, the Executive Director or any other authorized agent of the Board may meet with the parties to conduct one or more pre-hearing conferences to do any one or more of the following:
- (a) Delineating the issues;
 - (b) Agreeing on such facts, matters and procedures as will facilitate and expedite the case; and
 - (c) Exchanging lists of witnesses and exhibits.
- 550.2 No statement or communication made during the course of a pre-hearing conference may be offered as evidence in the same or a subsequent proceeding except upon agreement by all parties.
- 550.3 A party to a proceeding before the Board may be represented by a designated representative. The representative shall file a notice of appearance with the Board. Once a notice of appearance has been filed, the provisions applicable to a party under Subsection 501.12 are applicable to a party's representative.
- 550.4 When a hearing has been directed by the Board or Executive Director, unless otherwise provided by these rules or directed by the Board, the Executive Director shall issue a Notice of Hearing to all parties to the proceeding at least fourteen (14) days prior to the scheduled date of the hearing. The hearing shall be

conducted at the time and place specified in the Notice of Hearing and shall be open to the public.

- 550.5 Postponements of hearings shall not be granted except for sufficient cause as determined by the Executive Director. Requests for postponements shall comply with Sections 501 and 561 of these rules and shall also meet the following requirements:
- (a) Alternate dates for any rescheduled hearings shall be given; and
 - (b) The positions of all other parties regarding the postponement requested shall be ascertained in advance by the requesting party and set forth in the request.
- 550.6 Except under extraordinary circumstances, no request for postponement shall be granted during the seven (7) days immediately preceding the date of a hearing.
- If a party requests to postpone the hearing less than forty-eight (48) hours prior to a scheduled hearing, the cancelling party may be assessed reasonable cancellation costs.
- 550.7 Any party intending to introduce documentary exhibits at a hearing shall make every effort to furnish a copy of each proposed exhibit to each of the other parties at least seven (7) days before the hearing.
- 550.8 Where a copy of an exhibit has not been tendered to the other parties because it was not available prior to the opening of the hearing, a copy of such exhibit shall be furnished to each of the other parties at the outset of the hearing.
- 550.9 One (1) copy of each documentary exhibit shall be submitted to the hearing examiner at the time the exhibit is offered in evidence at the hearing, unless otherwise requested by the hearing examiner.
- 550.10 Objections to an exhibit shall be reserved until the exhibit is offered into evidence.
- 550.11 Any party intending to call witnesses to testify at the hearing shall furnish a list of proposed witnesses to each of the other parties at least seven (7) days before the hearing. The party calling the witness is responsible for notifying the witness of the time and place of the hearing and, for witnesses who are employees of the District Government, so informing the representative of record for the District Government in the proceeding.
- 550.12 Hearings shall be presided over by a Hearing Examiner, who is a representative of the Board. Hearing Examiners shall have full authority to conduct a hearing unless restricted by the Board.

- 550.13 Hearing Examiners shall have the duty to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of proceedings, and to maintain order. Hearing Examiners shall have all powers necessary to that end including, but not limited to, the power to:
- (a) Administer oaths and affirmations;
 - (b) Request the issuance of subpoenas;
 - (c) Rule upon motions;
 - (d) Compel discovery of evidence ruled competent, relevant and material and not cumulative;
 - (e) Regulate the course of the proceeding, fix the time and place of any continuance of a hearing or conference, and exclude persons from such hearings or conferences for contumacious conduct;
 - (f) Call and examine witnesses and introduce or exclude documentary or other evidence;
 - (g) Recommend to the Board dismissal of a case with prejudice based on a settlement agreement reached by the parties; and
 - (h) Take any other appropriate action authorized by statute, these rules, or the Board.
- 550.14 All objections to evidence shall be raised before and presented to the Hearing Examiner. Any objection not made before the Hearing Examiner shall be deemed waived unless the failure to make such objection is excused by the Board because of extraordinary circumstances.
- 550.15 Unless otherwise specified in the CMPA or in these rules, a party with the burden of proof shall carry that burden by a preponderance of the evidence.
- 550.16 In hearings before Hearing Examiners, strict compliance with the rules of evidence applied by the courts shall not be required. The Hearing Examiner shall admit and consider proffered evidence that possesses probative value. Evidence that is cumulative or repetitious may be excluded.
- 550.17 The Hearing Examiner may impose procedural sanctions upon the parties as necessary to serve the ends of justice, including, but not limited to, the instances set forth below.

- 550.18 If a party fails to comply with an order for the production of evidence within the party's control or for the production of witnesses, unless for good cause, the Hearing Examiner may:
- (a) Draw an inference in favor of the requesting party with regard to the information sought;
 - (b) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon, testimony relating to the information sought;
 - (c) Permit the requesting party to introduce secondary evidence concerning the information sought; and
 - (d) Strike any part of the pleadings or other submissions of the party failing to comply with such request that relate to the requested information.
- 550.19 If a party fails to prosecute a cause of action, the Hearing Examiner may recommend that the Board or Executive Director dismiss the action with prejudice or rule against the defaulting party.
- 550.20 The Hearing Examiner or Executive Director may refuse to consider any motion or other action which is not filed in a timely fashion in compliance with this section.
- 550.21 If a hearing has been held, the Board may adopt the recommended decision of a Hearing Examiner to the extent that it is supported by the record, reasonable, and consistent with the Board's precedent.

551 RECORDING OF HEARINGS

- 551.1 When a hearing is directed by the Board, the Board shall make arrangements for the hearing to be recorded by stenographic or other means that adequately preserves the record. The parties may order transcripts and shall bear the cost of any transcripts that they order. Transcripts shall be available for review at the Board's offices upon appropriate arrangements being made.

552 SUBPOENAS

- 552.1 Application for issuance of a subpoena requiring a person to appear and testify at a specific place and time shall be made in writing to the Executive Director. All requests for subpoenas *ad testificandum* shall clearly identify the person subpoenaed and be accompanied by a forty dollar (\$40) per diem consisting of a certified check or money order payable to each person subpoenaed.

- 552.2 Application for issuance of a subpoena requiring a person to produce documents (including writings, drawings, graphs, charts, photographs, electronic records and other recordings, and other data compilations from which information may be obtained) at a specific time and place shall be made in writing to the Executive Director.
- 552.3 An applicant for a subpoena shall arrange for service. The following rules shall apply to service of subpoenas:
- (a) Personal service. Service of a subpoena may be made by any person who is not a party to the proceeding and who is at least eighteen (18) years of age. Service of the subpoena shall be attested to in an affidavit by the person making such service. The attesting affidavit shall state the date, time, and method of service.
 - (b) Service by certified mail. Service of a subpoena may be made by certified mail. If the subpoena is served by certified mail, a copy of the document shall be addressed to the person or business entity to be served, at his or her residence, principal office or place of business. The return receipt shall be proof of service of the document.
- 552.4 Any motion to limit or quash the subpoena shall be filed within seven (7) days after service of the subpoena or on the date for compliance with the subpoena, whichever is earlier. Such motions shall set forth all assertions of privilege, burdensomeness, irrelevancy or other factual and legal objections to the subpoena, including all appropriate arguments, affidavits, and other supporting documentation.
- 552.5 In the case of contumacy or failure to obey a subpoena issued, the Board, pursuant to D.C. Official Code § 1-605.2(16) (2014 Repl.), may request enforcement of the subpoena in the Superior Court of the District of Columbia.
- 552.6 Board employees may not be subpoenaed.
- 552.7 When an employee of the District of Columbia government receives a subpoena to appear as a witness on behalf of any party in connection with a proceeding before the Board under the Comprehensive Merit Personnel Act, the employing District of Columbia agency shall make the employee available to furnish sworn statements or affirmation or to appear as a witness at hearings. When providing such statements or testimony, a witness shall be on official duty status and shall not be required to use annual leave.

553 MOTIONS

- 553.1 All motions shall briefly state the relief sought and shall set forth, with particularity, the grounds therefor. A motion, other than one made at a hearing,

shall be filed with the Board and meet the requirements of Sections 501 and 561 of these rules.

553.2 Any response to a written motion shall be in writing and filed within seven (7) days after service of the motion. The Executive Director may allow additional responses by the moving or responding party upon a request made within seven (7) days.

553.3 The Executive Director may refer motions made prior to the issuance of the Hearing Examiner's Report and Recommendation to the Hearing Examiner. Motions made during a hearing shall be ruled on by the Hearing Examiner, except when the Hearing Examiner refers the matter to the Board. All rulings on motions shall be in writing, except that such rulings made at the hearing may be stated orally on the record.

554 INTERLOCUTORY APPEALS

554.1 Unless expressly authorized by the Board, interlocutory appeals to the Board of rulings by the Executive Director, Hearing Examiner or other Board agents shall not be permitted. Exceptions to such rulings shall be considered by the Board when it examines the full record of the proceeding.

555 ORAL ARGUMENTS/BRIEFS AND SUBMISSIONS

555.1 Any party shall be entitled, upon request, to a reasonable time for oral argument prior to the close of the hearing, except that upon the agreement of all parties or at the direction of the hearing examiner, the parties may submit written closing arguments instead of post-hearing briefs.

555.2 Any party may submit to the hearing examiner a brief which meets the requirements of Sections 501 and 561 of these rules. Briefs or written closing arguments shall be filed not later than fourteen (14) days after the transcript becomes available and the parties are so informed. The Executive Director may, for good cause shown, extend the time for the filing of briefs.

556 HEARING EXAMINER'S REPORT/EXCEPTIONS

556.1 In all proceedings conducted by a hearing examiner, the examiner shall prepare a report and recommendation after the close of the hearing and the receipt of briefs, if any, and shall submit it to the Executive Director.

556.2 Copies of the hearing examiner's report and recommendation shall be forwarded to the parties' representatives by the Executive Director.

556.3 Within fourteen (14) days after service of the report and recommendation, any party may file precise, specific, written exceptions with the Board. Written exceptions shall meet the requirements of Sections 501 and 561 of these rules.

556.4 An opposition to exceptions may be filed within fourteen (14) days after service of the exceptions.

556.5 The Board may order additional briefs where it deems appropriate. The Board may also order oral argument on its own motion or upon motion of a party.

557 DISQUALIFICATION

557.1 A hearing examiner or Board member shall withdraw from proceedings whenever that person has a conflict of interest.

557.2 In any case in which a hearing examiner fails to withdraw from a proceeding as has been requested by a party, the examiner shall state the reason for his or her decision on the record. The Board shall consider the request at the time the entire case is transmitted and shall take appropriate action.

558 VOLUNTARY AND MANDATORY SETTLEMENT OR ADJUSTMENT OF DISPUTES

558.1 It is Board policy to encourage voluntary efforts of parties to settle or adjust disputes involving issues of representation, unfair labor practices, standards of conduct or issues arising during negotiations.

558.2 Parties' efforts at resolution and any settlements or adjustments reached shall be consistent with the provisions, purposes and policies of the CMPA.

558.3 No admissions, offers of settlement or proposals of adjustment made during such efforts toward resolution may be used in any proceeding as evidence or as an admission of a violation of any law or regulation.

558.4 At the discretion of the Board, all parties filing pleadings before the Board shall submit to the mandatory mediation program established by the Board.

558.5 The Board or its designee shall designate the mediator in each matter.

558.6 The parties shall make a good faith effort in all mediations before the Board to resolve the issues in dispute as identified in the pleadings submitted to the Board. Party representatives to the mandatory mediation proceedings must have the settlement authority of the party.

- 558.7 Parties must inform the Board when they have multiple cases pending, which raise common issues. The Board encourages the resolution and consolidation of multiple cases for the purpose of mediation.
- 558.8 If mediation does not resolve a dispute within fourteen (14) days or any shorter period designated by the mediator, the Executive Director may terminate mediation and continue proceedings for resolution of the matter pursuant to the Board Rules and the CMPA.

559 FINALITY OF BOARD DECISION AND ORDER

- 559.1 The Board's Decision and Order shall become final thirty (30) days after issuance unless the order specifies otherwise.
- 559.2 The Board's Decision and Order shall not become final if any party files a motion for reconsideration within fourteen (14) days after issuance of the decision, or if the Board reopens the case on its own motion within fourteen (14) days after issuance of the decision, unless the order specifies otherwise.
- 559.3 Upon issuance of an Opinion on any motion for reconsideration of a Decision and Order, the Board's Decision and Order shall become final.
- 559.4 Administrative remedies are considered exhausted when a Decision and Order becomes final in accordance with this section.

560 ENFORCEMENT

- 560.1 If any respondent fails to comply with the Board's decision within the time period specified in Rule 559.1, the prevailing party or any aggrieved person may petition the Board to enforce the order.
- (a) The petition shall be filed electronically with the Board, pursuant to Section 501 and 561 of these rules.
 - (b) Exception: In accordance with Subsection 501.11, a *pro se* individual, acting on his or her own behalf, shall file a petition by personal delivery during business hours as defined in Subsection 500.8 of these rules. A *pro se* individual may utilize the Board's public access terminal to upload the document.
- 560.2 The responding party shall have fourteen (14) days from service to respond to the petition.
- 560.3 Failure by the responding party to file an answer may be construed as an admission of the petitioner's allegations.

561 ELECTRONIC FILING

- 561.1 All pleadings, motions, memoranda of law, orders, or other documents shall be filed electronically through the Board's designated vendor, except for such documents as may be excluded by these rules or by order of the Board or Executive Director.
- 561.2 [REPEALED].
- 561.3 Unless the Board orders otherwise, an original of all documents filed electronically, including original signatures, shall be maintained by the party filing the document and shall be made available, upon reasonable notice, for inspection by other counsel or the Board. From time to time, it may be necessary to provide the Board with a hard copy of an electronically filed document.
- 561.4 Any pleading filed electronically shall be considered filed with the Board at the time the transmission is completed ("authorized date and time"). Any document filed with the Board before midnight Eastern Standard Time at the Board's offices is deemed filed with the Board on that date; however, for the purpose of computing time for any other party to respond, any document filed on a day or at a time when the Board is not open for business shall be deemed to have been filed on the day and at the time of the next opening of the Board for business.
- 561.5 The vendor is hereby appointed the Agent of the Board as to the electronic filing, receipt, service, and/or retrieval of any pleading or document maintained electronically. Upon filing and receipt of a document, the vendor shall issue a confirmation that the document has been received. The confirmation shall serve as proof that the document has been filed. A filer will receive an e-mail notification of document(s) that the Board subsequently rejects, and may be required to re-file the document(s) to meet necessary filing requirements.
- 561.6 If the electronic filing is not filed with the Board because of: (1) an error in the transmission of the document to the vendor which was unknown to the sending party; (2) the vendor's failure to process the electronic filing upon receipt; or (3) other technical problems that the filer might experience, the Board may upon satisfactory proof enter an order permitting the document to be filed *nunc pro tunc* to the date it was first attempted to be filed electronically.
- 561.7 Documents filed electronically shall comply with the following requirements:
- (a) In accordance with Section 501, all electronically filed pleadings shall, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of paper pleadings, and in such other and further format as the Board may require from time to time;

- (b) Every pleading, document, and instrument electronically filed shall be deemed to have been signed by the attorney or declarant and shall bear a facsimile or typographical signature of such person, along with the typed name, address, telephone number, and District of Columbia Bar number of a signing attorney. Typographical signatures shall be styled “/s/ name” and shall be treated as personal signatures for all purposes under these rules; and
- (c) Where counsel is filing a pleading in consolidated cases, a single filing in the lead case is deemed to be filed in all cases consolidated with it.

561.8 [REPEALED].

561.10 The Board may issue, file, and serve notices, orders, and other documents electronically, subject to the provisions of this section.

561.11 A motion to file documents under seal shall be filed and served electronically. Redacted copies of documents filed under seal may be filed and served electronically; documents filed under seal containing confidential information may be filed conventionally (in physical form) or as a sealed electronic document.

566 LIST OF NEUTRALS

566.1 The Board shall establish and maintain a list of persons qualified to act as neutrals in resolving disputes. The list shall specify, for each person, the capacities (*i.e.* mediator, fact-finder, arbitrator, hearing examiner) for which that person is qualified. Unless otherwise specified by these rules or the parties' mutual agreement, the selection of mediators, fact-finders and arbitrators shall be made in order from the list of neutrals maintained by the Board, assuming the availability of the selected neutral. Nomination of a person to the list referred to in this section may be made by a member of the Board, the Executive Director or any other person including the nominee, by writing to the Executive Director. The nomination shall include the following information:

- (a) The name, occupation, residence and business address and telephone numbers of the nominee;
- (b) A brief statement of the nominee's related experience and education that serve as qualifications for appointment;
- (c) Any relevant professional, civic or social association memberships of the nominee;
- (d) The name, address, telephone number and occupation of the nominator (if different from the nominee);

- (e) A statement of the association between the nominator and the nominee (where they are different persons) and of its duration; and
- (f) A statement of any association the nominee has or had, other than as a neutral, with an agency or with a labor organization that represents or seeks to represent employees in the District Government.

566.2 In making appointments to the list, the Board shall consider such factors as experience and training, membership on other recognized mediation or arbitration panels, education, prior published awards, current advocacy in employment relations matters, potential conflicts of interest, letters of recommendations supporting the application and any other relevant material supplied by the applicant or requested by the Board. Special consideration will be granted to applicants who are residents of the District of Columbia.

566.3 Every person appointed to the list shall file a fee schedule with the Board. An individual on the list who is selected to serve in a case as a mediator, fact finder or arbitrator, shall not charge a fee greater than that listed in the fee schedule he or she has filed with the Board. A minimum of thirty (30) days' prior written notice shall be given to the Board of changes in fee schedules.

566.4 Requests for panels from the Board's list shall be submitted on a form developed by the Board and shall include the following:

- (a) The name, address and telephone number of the party or parties submitting the request and of any other party to the matter;
- (b) The name, address and telephone number of a party or all parties' representative;
- (c) The type of service requested; and
- (d) A brief description of the nature of the dispute, including unresolved issues, to the extent known.

566.5 Whenever the Board provides parties with a panel selected from the list, the Board shall also provide copies of the biographical sketches and fee schedules of the panelists.

566.6 Parties may jointly request that panels submitted to them contain or omit specific individuals. No party may unilaterally make such a request.

567 AMENDMENT TO RULES

567.1 Whenever the Board deems amendment of these rules to be in the public interest, it shall give notice of the proposed amendments to all labor organizations and

personnel authorities of the D.C. Government. Copies of the proposed amendments shall be posted as appropriate and published in the *D.C. Register*.

567.2 Any interested person may petition the Board in writing for amendments to any portion of the rules and regulations and provide specific proposed language together with a statement of grounds in support of the amendment.

567.3 Any person desiring to comment on a proposed amendment may do so within the time specified by the Board in the notice of the proposed amendment. Comments shall be in writing and shall meet the requirements of Section 501 of these rules, or as otherwise stated in the Notice.

599 DEFINITIONS

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

Agency - Any entity that is so defined in the CMPA.

Arbitrator - A neutral person selected by the parties or appointed by the Board or by the Executive Director to resolve disputed labor-management issues by issuing a final and binding decision after presentation by the parties of evidence and argument.

Days - Calendar days, unless otherwise specified.

Board - The District of Columbia Public Employee Relations Board.

Decision-making personnel - Any Hearing Examiner, employee, or Board Member of the Board who reasonably may be expected to participate in the decision-making process of the Board.

Ex parte Communication - Any oral or written communication between decision-making personnel of the Board and an interested party to a proceeding without providing the other parties the opportunity to participate.

Fact-finding - The procedure in which one or more neutral persons review the positions of the parties in a negotiation impasse with a view towards focusing attention on the issues in dispute and resolving differences as to facts.

Impasse - The point in collective bargaining negotiations at which no further progress can be made by the parties without the intervention of a neutral third party, except as otherwise defined by the CMPA for compensation bargaining.

Interested party - Any party or representative of a party involved in a proceeding before the Board; or any other person who might be affected by the outcome of a proceeding before the Board.

Mediation - The procedure in which a neutral person is selected or appointed to attempt to persuade the parties to a labor-management dispute to compromise or otherwise settle their differences by a solution which they reach themselves.

Panel - Either three members of the Board who have been designated to hear a particular matter brought before the Board or a tripartite committee of arbitrators who have been appointed to hear a particular matter.

Party - Any person, employee, group of employees, organization, agency, or agency subdivision initiating such a proceeding as authorized by these rules or named as a participant in such a proceeding or whose intervention in a proceeding has been granted or directed under the authority of the Board.

Pleadings - Complaint(s), petition(s), appeal(s), request(s) for review or resolution, motion(s), exception(s), brief(s), and responses to the foregoing.

Pro se individual - A party who is not represented by legal counsel nor represented in the proceedings before the Board by a representative from a labor organization.

Showing of Interest - Proof offered to the satisfaction of the Board establishing that a percentage (as defined by these rules) of employees in a proposed or existing unit desires representation by a petitioner seeking exclusive recognition or by another labor organization seeking to intervene in a representation proceeding, or that the unit employees no longer desire representation by a labor organization.

DEPARTMENT ON DISABILITY SERVICES**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Director of the Department on Disability Services (DDS), pursuant to the authority set forth in Section 109 of the Department on Disability Services Establishment Act of 2006, effective March 14, 2007 (D.C. Law 16-264; D.C. Official Code § 7-761.09 (2012 Repl. & 2014 Supp.)), and Mayor's Order 2007-68, dated March 20, 2007, hereby gives notice of the adoption, on an emergency basis, of the amendments to Sections 119 (Payment for Rehabilitation Services) and 199 (Definitions) of Chapter 1 (Vocational Rehabilitation Services) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The Vocational Rehabilitation Services are administered by DDS's Rehabilitation Services Administration (RSA). These emergency and proposed rules are necessary to: (1) comply with the federal regulations requiring all states and the District of Columbia to have a policy for establishing service rates; (2) revise and standardize vocational rehabilitation service reimbursement rates, allowing RSA to enter into agreements with current and prospective providers; (3) revise reimbursement rates so that subsequent provider agreements accurately reflect fair market rates and demand throughout the region; (4) standardize rates to ensure fair and equitable reimbursement rates for RSA's provider community, as the current process wherein rates are individually set with each provider has resulted in often substantial differences in reimbursement rates for the same units of service provided across the provider community; (5) allow RSA to include outcome payments, which incentivizes positive employment outcomes, including earnings at or above the District of Columbia living wage and long-term competitive employment; and (6) add definitions based on these rules.

Emergency action is necessary in order to ensure the integrity and sustainability of DDS's Vocational Rehabilitation Program by establishing equitable and consistent reimbursement provisions. Issuance of these rules on an emergency basis is necessary for the stability of the provider community and, therefore, the continued provision of necessary vocational rehabilitation services. Any delay in promulgating the new reimbursement rates will lead to a possible reduction in services, which may be detrimental to the population served by RSA. District of Columbia procurement regulations require that RSA advertise for existing human care services at least annually. RSA is currently unable to allow for new vendors that would increase its capacity to serve its clients, and current providers are under extended agreements that have exceeded the maximum of five years of service allowed by the District's procurement regulations. The resulting uncertainty has caused some providers to cease providing services until new agreements are awarded. This further strains RSA's capacity to provide services.

The emergency rulemaking was adopted and became effective on May 14, 2015. The emergency rules will remain in effect for one hundred twenty (120) days from the adoption date, until September 11, 2015, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

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

Sections 119, PAYMENT FOR REHABILITATION SERVICES, and 199, DEFINITIONS, of Chapter 1, VOCATIONAL REHABILITATION SERVICES, of Title 29 DCMR, PUBLIC WELFARE, are amended as follows:

Subsections 119.9 and 119.10 are amended to read as follows:

- 119.9 Consistent with the scope of appropriate vocational rehabilitation services described in § 113.2 and the definitions set forth in § 199.1, the Rehabilitation Services Administration shall pay for authorized services at a rate not higher than the provider’s customary charge for such services.
- 119.10 The Rehabilitation Services Administration shall pay for all authorized services in accordance with § 119.11 and consistent with the Procurement Practices Reform Act (D.C. Official Code §§ 2-351.01 *et seq.*).

New Subsections 119.11 to 119.13 are added to read as follows:

- 119.11 For the following vocational rehabilitation services, the Rehabilitation Services Administration shall reimburse the provider for such services and pay incentives based on the following tables of rates.
 - (a) For Benefits Planning and Job Placement, the Rehabilitation Services Administration shall reimburse the provider as follows:

Benefits Planning	Rate/Unit
Benefits Planning Report	\$1,000/person
Benefit Employment Management Report	\$250/month
Student Earned Income Exclusion request submission and approval	\$250/person
Blind Work Expense request form submission and approval	\$300/month
Impairment-Related Work Expense request form submission and approval	\$300/month
Plan For Achieving Self Support request form submission	\$300/person
Plan For Achieving Self Support request form approval	\$200/person
Expedited Reinstatement request submission	\$300/request
Benefits Summary and Analysis Report for Life Changing Events	\$350/person

Job Placement	Rate/Unit
Intake and Assessment	

Intake and Summary Assessment Report	\$400/report
Person-Centered Employment Plan	\$250/plan
Job Development	
Job Development Progress Report	\$500/monthly
Placement	
Placement Information Report	\$950/report
Job Stabilization Progress Report	\$450/report
Job Stabilization Closure Report	\$450/report

For purposes of payment for the Job Development Progress Report in the table above for Job Placement services, the provider shall be paid five hundred dollars (\$500) per month for three (3) months, unless the person is placed in a job in less than three (3) months. However, the provider shall not receive more than a total of one thousand five hundred dollars (\$1,500) for Job Development Progress Reports. If the person is placed in a job in less than three (3) months, then the provider shall be paid the difference between one thousand five hundred dollars (\$1,500) and the amount the provider has already received for providing these services to the person.

- (b) For Supported Employment, the Rehabilitation Services Administration shall reimburse the provider as follows:

<u>Supported Employment</u>	Rate/Unit
Intake and Assessment	
Intake and Summary Assessment Report	\$400/report
Person-Centered Employment Plan	\$250/plan
Job Development	
Job Development Progress Report	\$600/report
Job Development Progress Report Using Customized Employment Strategy	\$1,100/report
Placement	
Initial Placement Report	\$1,000/report

- (1) For purposes of payment for the Job Development Progress Report in the table above for Supported Employment Services, the provider shall be paid six hundred dollars (\$600) per month for three (3) months, unless the person is placed in a job in less than three (3) months. However, the provider shall not receive more than a total of one thousand eight hundred dollars (\$1,800) for Job Development Progress Reports. If the person is placed in a job in

less than three (3) months, then the provider shall be paid the difference between one thousand eight hundred dollars (\$1,800) and the amount the provider has already received for providing these services to the person.

(2) For purposes of payment for the Job Development Progress Report Using Customized Employment Strategy in the table above for Supported Employment Services, the provider shall be paid one thousand one hundred dollars (\$1,100) per month for three (3) months, unless the person is placed in a job in less than three (3) months. However, the provider shall not receive more than a total of three thousand three hundred dollars (\$3,300) for Job Development Progress Reports Using Customized Employment Strategy. If the person is placed in a job in less than three (3) months, then the provider shall be paid the difference between three thousand three hundred dollars (\$3,300) and the amount the provider has already received for providing these services to the person.

(c) For additional vocational rehabilitation services, the Rehabilitation Services Administration shall reimburse the provider and pay incentives as follows:

Additional Vocational Rehabilitation Services	Rate/Unit
Discovery Assessment	
Positive Personal Profile	\$1,000/person
Customized Employment	\$1,500 per verified placement
Job Coaching	\$55/hour
Support Service Provider	\$55/hour
Trial Work	\$55/hour
Job Readiness Training, formerly known as Work Adjustment Training	\$55/day
Job Readiness 1: Soft Skills Training Development	\$55/day
Job Readiness 2: Transitional Work Experience	\$55/hour

Incentives
The Rehabilitation Services Administration shall pay the provider two percent (2%) of the annual salary of the person with a disability who is successfully closed in employment with employer-paid health benefits and whose salary is at or above the District of Columbia Living Wage.
The Rehabilitation Services Administration shall pay the provider two percent (2%) of the annual salary of the person with a disability who is successfully closed in employment and who earns at least fifty-two percent (52%) of the

average annual salary in the District of Columbia, as defined by the Bureau of Labor Occupational Employment Statistics, with employer-paid health benefits.

The Rehabilitation Services Administration shall pay the provider up to five thousand dollars (\$5,000) per person for whom the Rehabilitation Services Administration receives Administrative, Counseling and Placement costs reimbursement if:

- (1) the person receives Supplemental Security Income or Social Security Disability Insurance benefits;
- (2) the person is placed in employment at the Substantial Gainful Activity (“SGA”) earnings level;
- (3) the provider provides proof of the employment to the Rehabilitation Services Administration;
- (4) the person remains employed at the SGA earnings level; and
- (5) the Rehabilitation Services Administration receives reimbursement.

119.12 The rates listed in the tables set forth in § 119.11(a)-(c) are for those services authorized after June 30, 2015.

119.13 Rates for services not listed in the tables set forth above in § 119.11(a)-(c) shall be negotiated by the Rehabilitation Services Administration in conjunction with its Office of Contracts and Procurement representative.

Subsection 199.1 is amended by adding the following definitions:

Administrative, Counseling, and Placement costs reimbursement - financial reimbursement that the Social Security Administration pays to the state vocational rehabilitation agency based on cost formulas unique to each state vocational rehabilitation agency and its fiscal year Administrative, Counseling, and Placement costs. Administrative, Counseling, and Placement costs include RSA’s administrative and indirect costs while services are being provided, and do not include the cost of purchased services.

Benefit Employment Management Report - a report detailing the desired employment outcome of the person with a disability, the steps needed to achieve that outcome, and the person responsible for the completion of each step. The Benefit Employment Management Report shall also report on the monthly wage of the person with a disability, the monitoring of the person, any communication with the Social Security Administration regarding the person, overpayments, medical reviews, and other details.

Benefits Planning Report - a report signed by the provider discussing in-depth research, analysis, and technical assistance about Social Security Income benefits, Social Security Disability Insurance benefits and other public programs and work incentives, which are in alignment with the unique circumstances and work goals of the person with a disability.

Benefits Summary and Analysis Report for Life Changing Events - a report signed by the Community Work Incentives Coordinator for a person with a disability, which summarizes the current Social Security benefits the person with a disability receives, analyzes how employment may affect the person's benefits, lists issues with benefits unrelated to employment, and lists employment services and supports the person may need. A Life Changing Event shall have a meaning consistent with 20 C.F.R. § 418.1205.

Blind Work Expense request form submission and approval - the submission of a Blind Work Expense request form to the Social Security Administration, which is documented in the Benefit Employment Management Report and submitted by a person who receives Supplemental Security Income benefits and who is blind, and approval of that submission by the Social Security Administration. The request form shall include information about the necessary work expenses of the person, accompanies wage reports to the Social Security Administration, and includes receipts and proof of wages, or self-employment tax returns. Blind Work Expense shall have a meaning consistent with 20 C.F.R. § 418.3325.

Competitive Integrated Employment - a term that shall have a meaning consistent with 29 U.S.C. § 705(5).

Customized Employment - competitive integrated employment for a person with a significant disability. Customized Employment is driven by an absolutely individualized determination of the strengths, needs, and interests of the person, rather than by the labor market, is designed to meet the specific and unique abilities of the person and the unmet business needs of the employer, and is carried out through flexible strategies. It may include a job exploration by the person and working with an employer to facilitate job placement in instances when there are no job positions open. Customized Employment includes tailoring the job for the person prior to the beginning of work, rather than after hire.

Discovery Assessment - an intensive person-centered assessment conducted in a person's natural environment by the person's support team, which discovers the person's interests, talents, skills and knowledge, learning styles, positive personality traits, temperaments in different settings, experiences, support systems, needs and specific challenges, accommodation requirements for different settings and activities, and dislikes, which all serve as a guide for customizing employment. Through a Discovery Assessment, a picture of what activities the person does successfully emerges, and potential vocational themes are uncovered.

Expedited Reinstatement request submission - the submission of a request to the Social Security Administration made by a person with a disability who was receiving Social Security Disability Insurance benefits or Supplemental Security Income benefits, became disqualified for continued benefits because of earnings from work, and then again became unable to work because of the disability. The request may be made through a letter or telephone call to the Social Security Administration to schedule an appointment. A Certified Benefits Specialist employed by the Department on Disability Services, Rehabilitation Services Administration may assist the person in gathering relevant information and making the request. Expedited Reinstatement shall have a meaning consistent with 20 C.F.R. § 404.1592b.

Impairment-Related Work Expense request form submission and approval - the submission of an Impairment-Related Work Expense request form to the Social Security Administration, which is documented in the Benefit Employment Management Report and submitted by a person with a disability other than blindness if that person also receives Supplemental Security Income benefits, and approval of that submission by the Social Security Administration. The request form shall include information about the necessary work expenses of the person, accompanies wage reports to the Social Security Administration, and includes receipts and proof of wages, or self-employment tax returns. Impairment Related Work Expense shall have a meaning consistent with 20 C.F.R. § 404.1576.

Initial Placement Report - a report equivalent in content to the Placement Information Report except that the Initial Placement Report is only for people receiving Supported Employment services.

Intake and Summary Assessment Report - a report synthesizing the findings of the intake interview and review of assessments, which includes a baseline functional evaluation and forms the basis for developing the Person-Centered Employment Plan.

Job Coaching - on-the-job training of a person with a disability by an approved specialist, who uses structured intervention techniques to help the person learn to perform job tasks to the employer's specifications and to learn the interpersonal skills necessary to be accepted as a worker at the job site and in related community contacts. Job coaching also includes related assessment, job development, counseling, advocacy, travel training and other services needed to maintain the employment for the person.

Job Development - job search activities to support and assist a person with a disability in searching for an appropriate job, which may include helping in resume preparation, identifying appropriate job opportunities,

developing interview skills, and making contacts with companies on behalf of the person.

Job Development Progress Report - a monthly report detailing the activities during the job development and/or customized employment job search phase and describing how the participation of the jobseeker and the efforts of the job developer or employment specialist contribute towards the jobseeker's achievement of the employment outcome. The Job Development Progress Report identifies issues and next steps, is submitted along with an attendance sign-in sheet called a Job Search Service Log, and is submitted monthly until the person is placed in a job successfully. A provider shall submit no more than three Job Development Progress Reports.

Job Placement - employment-related services (in a setting outside of supported employment) that are necessary to obtain suitable competitive integrated employment and that are offered by providers to people with disabilities. Job Placement services include Intake and Assessment, Job Development and Placement services.

Job Readiness Training, formerly known as Work Adjustment Training - training for a person with a disability by a provider in the development of work-related skills. This training includes components that enable the person to successfully develop the capacities for achieving and maintaining employment, such as travel, work behaviors, social skills in the work setting, effective communication, accepting supervision, problem solving, grooming and hygiene, goal setting and work tolerance. Other areas that may also be addressed include work-related daily living skills, disability awareness, work traits, and work ethics.

Job Stabilization Closure Report - a report regarding a person who receives Job Placement services, which incorporates the elements of the Job Stabilization Progress Report with the addition of closure elements for consideration, such as requested accommodations that were negotiated and established, integration of natural supports, and development of a plan to achieve Competitive Integrated Employment in the event that the job placement yields less than the Washington, D.C. minimum wage.

Job Stabilization Progress Report - a report regarding a person who receives Job Placement services, which documents employment information about the person with a disability, including his or her knowledge and performance of the essential tasks of the job, the person's attendance and punctuality, the person's social adjustment in the workplace, the employer's satisfaction with the person's job performance, and the person's satisfaction with the job and ongoing support services.

Person-Centered Employment Plan - a written program of action developed and reviewed by the Human Care Agreement provider at regular intervals with the participation of the person with a disability. The Person-Centered Employment Plan outlines the person's goals and describes the services that will be provided to accomplish employment goals, which include fading support services for Supported Employment and stabilization services for Job Placement. The Person-Centered Employment Plan is submitted along with the Intake and Summary Assessment Report.

Person with a disability - a term that shall have a meaning equivalent to "individual with a disability," as defined by 29 U.S.C. § 705(20).

Placement Information Report - in a setting outside of supported employment, a report documenting relevant employment information for a person with a disability, including his or her job title, start date, employer name and address, supervisor name and contact information, work hours and salary rate along with the job description, benefits, anticipated needs, and a guarantee that the job placement is Competitive Integrated Employment. The Placement Information Report is submitted along with an employment verification document within two business days of when job placement information has been obtained and preferably before the job's start date.

Plan for Achieving Self Support request form approval - approval given by the Social Security Administration for a person's Plan for Achieving Self Support request. A Plan for Achieving Self Support shall have a meaning consistent with 20 C.F.R. §§ 416.1180-416.1182.

Plan for Achieving Self Support request form submission - the submission of a Plan to Achieve Self-Support request form, which is made by a person with a disability to the Social Security Administration. The request form shall discuss the work goal of the person with a disability, the person's medical, vocational, or educational background, details about the Plan to Achieve Self Support, the person's expenses, funding for the work goal, information about anyone who helped the person prepare the Plan, and other details. A Plan for Achieving Self Support shall have a meaning consistent with 20 C.F.R. §§ 416.1180-416.1182.

Positive Personal Profile - a record or documentation of a Discovery Assessment identifying a person's interests, talents, skills and knowledge, learning styles, positive personality traits, temperaments in different settings, experiences, support systems, needs and specific challenges, accommodation requirements for different settings and activities, and dislikes, which all serve as a guide for customizing employment.

Student Earned Income Exclusion request submission and approval - the submission of a Student Earned Income Exclusion request to the Social Security Administration made by a person with a disability, and the approval of that submission by the Social Security Administration. The request may be made by noting, in writing, the person's student status when reporting a job and, in facilitating approval from the Social Security Administration, the person may provide proof of student status including but not limited to school grades, school enrollment, and class schedules. Student Earned Income Exclusion shall have a meaning consistent with 20 C.F.R. §§ 416.1870-416.1874.

Substantial Gainful Activity - a level of work activity and earnings that shall have a meaning consistent with 20 C.F.R. §§ 404.1510 and 404.1571-404.1576.

Support Service Provider - a group of specially trained professionals who enable people who have combined vision and hearing losses to access their environments and make informed decisions, providing them with visual and environmental information, sighted guide services, and communication accessibility.

Trial Work - exploration of different work experiences with necessary and appropriate supports for a person with a disability consistent with informed choice, including supported employment, that will provide a vocational rehabilitation specialist an assessment of a person's strengths, abilities, challenges, and work behavior from a realistic work situation; and to determine the services needed to remove barriers to employment, for example, for the person to acquire occupational skills and develop work attitudes, appropriate work habits, work tolerance, and social and behavior patterns necessary for successful job performance. The trial work period shall also provide sufficient information for the vocational rehabilitation specialist to make a decision about whether an applicant for vocational rehabilitation services can benefit from vocational rehabilitation services to reach an employment outcome. Trial Work shall have a meaning consistent with 34 C.F.R. §§ 361.5(b)(6)(iv), 361.42(e), 361.47(a)(5), and 361.54(b)(1).

Comments on these emergency and proposed regulations shall be submitted in writing by mail or email no later than thirty (30) days from the date of publication of this notice in the *D.C. Register*. Mailed comments should be sent to Andrew Reese, Deputy Director, Department on Disability Services, Rehabilitation Services Administration, 1125 15th Street, NW, 9th Floor, Washington, D.C. 20005. Emailed comments should be submitted to andrew.reese@dc.gov. Copies of these emergency and proposed regulations may be obtained from DDS/RSA's offices located at 1125 15th Street, NW, Washington, D.C. 20005; the Martin Luther King, Jr. Memorial Library, located at 902 G Street, NW, Washington, D.C. 20001; or online via DDS's website at www.dds.dc.gov.

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) (1), (2), (3), (7), (10), (12), (16), and (19), 14, 20f, and 20j of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97), as amended by the Vehicle-for-Hire Innovation Amendment Act of 2014 (“Vehicle-for-Hire Act”), effective March 10, 2015 (D.C. Law 20-197; D.C. Official Code §§ 50-307(c)(1), (2), (3), (7), (10), (12), (16), and (19), 50-313, 50-325, and 50-329 (2012 Repl. & 2014 Supp.)), hereby gives notice of its intent to adopt amendments to Chapter 10 (Public Vehicles for Hire) and Chapter 18 (Wheelchair Accessible Paratransit Taxicab Service) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

This proposed rulemaking for Chapters 10 and 18 would allow taxicab companies required by the Establishment Act to have six percent (6%) of their fleets wheelchair accessible by December 31, 2014, to meet this requirement by obtaining new Commission taxicab vehicle licenses from the Office of Taxicabs on the condition that the new vehicles be actively used in the CAPS-DC program for a period of not less than three (3) years. The amendments would require these new wheelchair accessible vehicles to operate in accordance with the operating requirements of the CAPS-DC program.

This emergency rulemaking for Chapters 10 and 18 is required to: (1) immediately increase the number of wheelchair accessible vehicles participating in the CAPS-DC program to minimize delays in wheelchair service for program customers; and (2) immediately increase the level of compliance with the Establishment Act’s requirements for minimum percentages of wheelchair accessible vehicles in the fleets of taxicab companies.

This emergency rulemaking was adopted by the Commission on April 8, 2015 and took effect immediately. The emergency rules shall remain in effect for one hundred and twenty (120) days after the date of adoption (expiring August 6, 2015), 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 of proposed rulemaking in the *D.C. Register*. Directions for submitting comments may be found at the end of this notice.

Chapter 10, PUBLIC VEHICLES FOR HIRE, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 1010, ISSUANCE OF DCTC VEHICLE LICENSES, is amended as follows:

New Subsections 1010.21, 1010.22 and 1010.23 are added to read as follows:

- 1010.21 A new DCTC taxicab vehicle license (non-transferable) may be issued to a taxicab company seeking to comply with the wheelchair accessible vehicle phase-in requirements of § 501.10 (other than a taxicab company approved to participate in CAPS-DC), provided that:
- (a) The license is used exclusively for a new wheelchair accessible, best fuel vehicle purchased and placed into active service within sixty (60) days of the Office's approval of a company's modification of its compliance plan submitted under § 501.13;
 - (b) The company executes a written agreement to enter into a dispatch agreement with a taxicab company participating in CAPS-DC, for a minimum period of three (3) years, during which the vehicle shall be in active service and available for dispatch in accordance with all of the applicable operating requirements of §1806, a copy of which shall be filed with the Office prior to placing the vehicle into service; and
 - (c) The DCTC taxicab vehicle license shall be subject to suspension or revocation if, at any time and for any reason, the vehicle or the company fails to comply with the provisions of subparagraphs (a) or (b) of this subsection.
- 1010.22 Each company and each operator of a vehicle participating in CAPS-DC pursuant to a dispatch agreement under § 1010.21 shall be subject to the prohibitions and penalties of §§ 1807 and 1808.
- 1010.23 A DCTC taxicab vehicle license issued under § 1010.21 shall be replaced with a DCTC transferrable taxicab vehicle license in accordance with § 1010.7 after the vehicle has participated in the CAPS-DC program as required by § 1010.21.

Chapter 18, WHEELCHAIR ACCESSIBLE PARATRANSIT TAXICAB SERVICE, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 1800, APPLICATION AND SCOPE, is amended as follows:

Subsection 1800.1, is amended to read as follows:

- 1800.1 This chapter establishes licensing and other requirements applicable to taxicab companies ("companies"), operators, and vehicles, that are approved under this chapter to provide paratransit taxicab service, including wheelchair accessible service, as a participant in the Coordinated Alternative to Paratransit Services – DC Pilot Program (CAPS-DC), to ensure the safety of passengers and operators, to protect consumers, and for other lawful purposes within the authority of the Commission.

Section 1806, TAXICAB COMPANIES AND OPERATORS – OPERATING REQUIREMENTS, is amended as follows:

Subsections 1806.8 – 1806.10 are amended to read as follows:

- 1806.8 Each company shall maintain with the Office a current and accurate inventory of all active operators and vehicles approved for and providing CAPS-DC service, including all vehicles associated with the company pursuant to a dispatch agreement under § 1010.21, updated in such manner and at such times as determined by the Office, with the following information:
- (a) For each operator: name, cellular telephone number, DCTC operator's license number, and an indication of whether the operator has completed the wheelchair service training pursuant to § 1806.6, and, if so, the date of completion; and
 - (b) For each vehicle: year, make, model, color, PVIN, tag number, and an indication of whether the vehicle is wheelchair accessible.
- 1806.9 Each company, including a company participating in CAPS-DC pursuant to a dispatch agreement under § 1010.21, shall ensure that:
- (a) Each operator:
 - (1) Possesses a current and valid DCTC operator's license; and
 - (2) If the operator is operating a wheelchair accessible vehicle, the operator has a wheelchair service certification, as required by § 1806.6, and has been issued an AVID operator's license.
 - (b) Each vehicle:
 - (1) Is in compliance with all applicable provisions of this title, including: vehicle licensing requirements; uniform color scheme requirements in Chapter 5; and equipment requirements in Chapter 6 (including the requirements for a modern taximeter system (MTS) unit and a uniform dome light);
 - (2) If it is a wheelchair accessible vehicle, is operated only by an operator trained to provide wheelchair service, as required by this chapter;
 - (3) If it is a wheelchair accessible vehicle, other than a WMATA van, or a wheelchair accessible vehicle that was associated with the company prior to its approval to participate in CAPS-DC, meets all

applicable provisions of this chapter for use in CAPS-DC; and

- (4) Has an MTS unit which complies with § 603, which has been configured to report CAPS-DC trip data in the format directed by the Office, allowing the Office to identify CAPS-DC trips.

1806.10 The rates and charges, and acceptable forms of payment, for each CAPS-DC trip shall be in accordance with the following requirements:

- (a) The fare for a CAPS-DC trip shall be the flat rate of thirty three (33) dollars, plus any gratuity which a passenger chooses to add to the total fare, payable as follows:
 - (1) Not more than five (5) dollars of the CAPS-DC fare shall be paid by the passenger by any means allowed by Chapter 8, including a payment card or cash; and
 - (2) The remaining fare shall be paid by District.
- (b) No passenger surcharge shall be collected from a passenger for a CAPS-DC trip.

Subsection 1806.15 is amended to read as follows:

1806.15 Each CAPS-DC trip shall be between a MetroAccess approved location or facility in the District and another location in the District, or vice-versa.

A new Subsection 1806.20 is added to read as follows:

1806.20 In addition to vehicles acquired pursuant to § 1806.3 (a) and (b), a company shall dispatch any vehicle associated with the company pursuant to a dispatch agreement under § 1010.21.

Chapter 99, DEFINITIONS, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 9901 is amended as follows:

“Coordinated Alternative to Paratransit Services” – a pilot program to provide paratransit service, including wheelchair accessible service, to eligible patients.

Copies of this proposed rulemaking can be obtained at www.dcregs.dc.gov or by contacting Juanda Mixon, Secretary to the Commission, District of Columbia Taxicab Commission, 2235 Shannon Place, S.E., Suite 3001, Washington, D.C. 20020. All persons desiring to file comments on the proposed rulemaking action should submit written comments via e-mail to dctc@dc.gov or by mail to the DC Taxicab Commission, 2235 Shannon Place, S.E., Suite 3001, Washington, DC 20020, Attn: Juanda Mixon, Secretary to the Commission, no later than thirty (30) days after the publication of this notice in the *D.C. Register*.

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

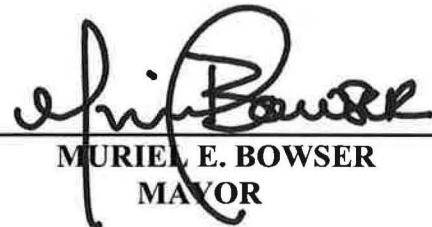
Mayor's Order 2015-140
May 22, 2015

SUBJECT: Appointment — Interim Director, Office of Unified Communications

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) (2014 Repl.), and pursuant to section 3203(b) of the Office of Unified Communications Establishment Act of 2004, effective December 7, 2004, D.C. Law 15-205, D.C. Official Code § 1-327.52(b) (2014 Repl.) it is hereby **ORDERED** that:

1. **CHRISTOPHER T. GELDART** is appointed Interim Director, Office of Unified Communications, and shall serve in that capacity at the pleasure of the Mayor. Mr. Geldart shall carry out these duties simultaneously with his duties as Director, HSMA; however, he will not receive a second salary for these additional duties.
2. This Order supersedes Mayor's Order 2015-051, dated January 29, 2015.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to May 5, 2015.



MURIEL E. BOWSER
MAYOR

ATTEST:



LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

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

Mayor's Order 2015-141
May 27, 2015


SUBJECT: Appointments — District of Columbia Educational Opportunity for
Military Children State Council


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) (2014 Repl.), and pursuant to Section 21 of the Interstate Compact on Educational Opportunity for Military Children Establishment Act of 2012, effective May 1, 2013, D.C. Law 19-304, 60 DCR 10577 (July 19, 2013), it is hereby **ORDERED** that:

1. **MARGIE YEAGER** is appointed, as the designee representative for the Mayor of the District of Columbia, to the District of Columbia Educational Opportunity for Military Children State Council ("State Council"), and shall serve in that capacity at the pleasure of the Mayor.
2. **AUBREY STULL** is appointed as a parent representative, to the State Council, and shall serve in that capacity at the pleasure of the Mayor.
3. ~~**MARGIE YEAGER** is designated as the Chairperson of the State Council and shall serve in that capacity at the pleasure of the Mayor.~~
4. This Order supersedes Sections I.a, I.d and I.e of Mayor's Order 2013-227, dated December 5, 2013.

5. **EFFECTIVE DATE:** This Order shall become effective *nunc pro tunc* to April 24, 2015.


MURIEL E. BOWSER
MAYOR

ATTEST: 
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-142
May 27, 2015

SUBJECT: Amendment – Age-Friendly DC Task Force

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(11) (2014 Repl.), it is hereby **ORDERED** that:

- I. Mayor's Order 2013-172, dated September 20, 2013, shall be amended as follows:
 1. Section II. shall be amended in its entirety to read as follows:

The purpose of the Task Force shall be to advise the Mayor regarding issues related to making the District of Columbia an age-friendly city by 2017 according to the World Health Organization's ("**WHO**") eight domains and two DC-specific domains: (1) outdoor spaces and buildings, (2) transportation, (3) housing, (4) social participation, (5) respect and social inclusion, (6) civic participation and employment, (7) communication and information, (8) community support and health services, (9) emergency preparedness and resilience, and (10) elder abuse, neglect, and fraud.
 2. Section III. A. shall be amended in its entirety to read as follows:

Produce recommendations for improvements and enhancements to transform the District of Columbia into an age-friendly city, and recommend methods to chart the District's progress;
 3. Section III. B. shall be amended in its entirety to read as follows:

Advise on best practices, strategies, policies, and private and public funding opportunities for implementing the *Age-Friendly DC Strategic Plan*;
 4. Section IV. shall be amended to read as follows:

The Task Force shall be comprised of twenty-five (25) voting members. All Task Force members shall be appointed by the Mayor and shall include the following:

5. Section IV. A. 10. shall be amended to read as follows:

One (1) representative with expertise on Emergency Preparedness and Resilience (domain #9); and

6. Section IV. B. shall be amended to include:


13. The Officer, Office of the Chief Technology Officer, or his or her designee; and

14. The Deputy Mayor for Greater Economic Opportunity, or his or her designee.

II. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL E. BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-143
May 27, 2015

SUBJECT: Establishment — Office of the Deputy Mayor for Greater Economic Opportunity

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) (2014 Repl.), it is hereby **ORDERED** that:

1. **Establishment:** There is established in the Executive Office of the Mayor, under the direction and control of the Mayor, the Office of the Deputy Mayor for Greater Economic Opportunity (DMGEO), to be headed by a Deputy Mayor for Greater Economic Opportunity.
2. **Purpose:** The mission of the Office of the Deputy Mayor for Greater Economic Opportunity is to facilitate investment and job creation in underserved District of Columbia communities in order to improve economic opportunities for residents in those communities. DMGEO will help the Mayor prioritize, tailor, and coordinate District economic development tools, along with various components of government, to spur growth and expand opportunity in District neighborhoods.
3. **Functions:** In addition to managing and coordinating a cluster of agencies and functions, DMGEO will work across agencies and operational clusters to:
 - a. Develop and advocate for policies and programs to improve the economic opportunities of overlooked communities;
 - b. Engage residents, businesses, anchor institutions, and other community stakeholders in target communities to improve understanding of needs and opportunities;
 - c. Engage and develop anchor institutions and other local assets that will serve as local epicenters of job growth, neighborhood amenities, and investment;
 - d. Develop and coordinate interagency initiatives; and
 - e. Identify opportunities for streamlining and aligning programs for the benefit of target communities.
4. The Deputy Mayor for Greater Economic Opportunity may issue procedures, guidelines or rules as may be appropriate to ensure the efficient implementation of this Order.

5. **EFFECTIVE DATE**: This Order shall be effective *nunc pro tunc* to April 13, 2015.



MURIEL E. BOWSER
MAYOR

ATTEST: 
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-144
May 27, 2015

SUBJECT: Appointment — Deputy Mayor for Greater Economic Opportunity

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) (2014 Repl.), and pursuant to Mayor's Order 2015-143, dated May 27, 2014, establishing the Office of the Deputy Mayor for Greater Economic Opportunity, it is hereby **ORDERED** that:

1. **COURTNEY SNOWDEN** is appointed Deputy Mayor for Greater Economic Opportunity and shall serve in that capacity at the pleasure of the Mayor.
2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to April 13, 2015.


MURIEL E. BOWSER
MAYOR

ATTEST: 
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-145
May 27, 2015

SUBJECT: Appointment — Interim Director, Department of Behavioral Health


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) (2014 Repl.), and pursuant to section 5114 of the Department of Behavioral Health Establishment Act of 2013, D. C. Official Code § 7-1141.03 (2014 Supp.), it is hereby **ORDERED** that:

1. **DR. BARBARA BAZRON** is appointed Interim Director, Department of Behavioral Health, and shall serve in that capacity at the pleasure of the Mayor.
2. This Order supersedes Mayor's Order 2015-026, dated January 8, 2015.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to February 27, 2015.



MURIEL E. BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-146
May 27, 2015

SUBJECT: Delegation of Authority to the Director, Acting Director, or Interim Director, the Department of Behavioral Health, or his or her Designee to Sign Documents Related to the Substance Abuse Prevention and Treatment (SAPT) Block Grant and to sign funding agreements with the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration for grants to be administered by the Department of Behavioral Health

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by sections 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) (2014 Repl.), it is hereby **ORDERED** that:

- FIRST DELEGATION OF AUTHORITY:** The Mayor hereby delegates to the Director, Acting Director, or Interim Director of the Department of Behavioral Health, or his or her designee, authority to sign funding agreements and certifications, provide assurances of compliance to the Secretary of the U.S. Department of Health and Human Services, and to perform similar acts relevant to the administration of the Substance Abuse Prevention and Treatment (SAPT) Block Grant until such time as this delegation of authority is rescinded.
- SECOND DELEGATION OF AUTHORITY:** The Mayor hereby delegates to the Director, Acting Director, or Interim Director of the Department of Behavioral Health, or his or her designee, authority to sign funding agreements with the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration for grants to be administered by the Department of Behavioral Health.
- RESCISSION:** Mayor's Order 2013-228, dated December 5, 2013, is hereby rescinded.

4. EFFECTIVE DATE: This Order shall become effective immediately.



MURIEL E. BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

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

**NOTICE OF MEETING
INVESTIGATIVE AGENDA**

**WEDNESDAY, JUNE 10, 2015
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On June 10, 2015, the Alcoholic Beverage Control Board will hold a closed meeting regarding the matter identified below. Under Section 406(3) of the Open Meetings Act, it was not practical to publish notice of this matter in the District of Columbia Register. However, the notice requirements of section 406 (1)-(2) were satisfied.

1. Case#15-CC-00012 R & M Market, 4003 GAULT PL NE Retailer B Retail - Grocery, License#: ABRA-075184

2. Case#15-CC-00018 Al's Liquor, 4009 SOUTH CAPITOL ST SW Retailer A Retail - Liquor Store, License#:ABRA-074611

3. Case#15-CMP-00283 Seymours Liquors, 5581 CENTRAL AVE SE Retailer A Retail - Liquor Store, License#:ABRA-070948

4. Case#15-CC-00029 Brentwood Liquors, 1319 RHODE ISLAND AVE NE Retailer A Retail - Liquor Store, License#:ABRA-060622

5. Case#15-CC-00025 Bistro Italia, 320 D ST NE Retailer C Restaurant, License#: ABRA-023539

6. Case#15-CC-00021 Lax Wine & Spirits, 3035 NAYLOR RD SE Retailer A Retail - Liquor Store, License#:ABRA-082054

7. Case#15-CC-00026 Wisdom, 1432 PENNSYLVANIA AVE SE Retailer C Tavern, License#: ABRA-077708

8. Case#15-CC-00028 Nooshi Capitol Hill, 524 8TH ST SE Retailer C Restaurant, License#: ABRA-085618

9. Case#15-CC-00020 Holiday Liquors, 3505 WHEELER RD SE Retailer A Retail - Liquor Store, License#:ABRA-091095

10. Case#15-251-00085 Peace Lounge, 2632 GEORGIA AVE NW Retailer C Tavern, License#: ABRA-094013

11. General Assembly, 5540 Connecticut Avenue NW, Unlicensed

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LEGAL AGENDA

WEDNESDAY, JUNE 10, 2015 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Settlement Agreement between ANC 4B and Takoma Park Liquors, dated May 25, 2015. *Takoma Park Liquors*, 6200 Eastern Avenue N.E., Retailer A, License No.: 019598.*

* 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
LICENSING AGENDA

WEDNESDAY, JUNE 10, 2015 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Safekeeping of License – Original Request. ANC 5D. SMD 5D01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Ris at Union Market***, 1309 5th Street NE, Retailer DT, License No. 094391.

2. Review Request for Change of Hours. ***Approved Hours of Operation and Alcoholic Beverage Sales and Consumption***: Sunday-Saturday 9am to 9pm. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption***: Sunday-Saturday 9am to 12am. ANC 2F. SMD 2F06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***11th & M Corner Market***, 1133 11th Street NW, Retailer B, License No. 086606.

3. Review Request for Change of Hours. ***Approved Hours of Operation and Alcoholic Beverage Sales and Consumption***: Sunday-Thursday 11am to 10pm, Friday-Saturday 11am to 11pm. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption***: Sunday-Thursday 11am to 11:30pm, Friday-Saturday 11am to 12:30am. ANC 2B. SMD 2B06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Nagomi***, 1990 M Street NW, Retailer CR, License No. 096999.

4. Review Application for Entertainment Endorsement. Entertainment to include a DJ or live band during happy hours and late night hours. ANC 2B. SMD 2B05. Outstanding fine/citation: Case #15-CMP-00178, 2/1/2015, Quarterly Statement, Citation #4362, outstanding \$250 fine. No conflict with Settlement Agreement. ***Stonefish Grill & Lounge***, 1050 17th Street NW, Retailer CR, License No. 094562.

5. Review Application for Manager’s License. ***Alex H. Lopez***-ABRA 099193.

6. Review Application for Manager's License. *Keela E. Young*-ABRA 099203.
-

***In accordance with D.C. Official Code §2-574(b) of the Open Meetings Amendment 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.**

BRIYA PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Database Application**

Briya Public Charter School is a District of Columbia public charter school providing education and training for parents while preparing their children ages 0-5 for future school success. Briya is issuing an RFP for a database application to support management of its programs and reporting to state agencies and funders. If you would like a copy of the RFP, please email bbletzinger@briya.org with subject line "RFP Briya Database." The RFP will be issued on Wednesday June 10, and responses are due on Wednesday June 24.

CHILD AND FAMILY SERVICES AGENCY
DISTRICT OF COLUMBIA CITIZENS REVIEW PANEL
NOTICE OF PUBLIC MEETING

The District of Columbia Citizen Review Panel will be holding a quarterly meeting on Tuesday, June 2, 2015 from 6:30 pm to 9:00 pm. The meeting will be held in Dorothy I. Height/Benning Neighborhood Library, 3935 Benning Rd NE, Washington, DC 20019, BEN Lg. Meeting Room. Below is the agenda for this meeting.

June 2, 2015 Quarterly Meeting of the DC Citizen Review Panel

Time: 6:30 PM - 9:00 PM

Day: Tuesday

Place: Dorothy I. Height/Benning Neighborhood Library, 3935 Benning Rd NE, Washington, DC, BEN Lg. Meeting Room.

PROPOSED AGENDA

- 6:30 PM Welcome/Introductions: *Damon King, Chairperson*
- 6:40 PM Review and Approve Minutes for December 2, 2014 and March 17, 2015
- 6:45 PM Review and Approve Proposed Agenda
- 6:55 PM Treasurer's Report: *Rick Bardach*
- 7:00 PM Chairperson's Report: *Damon King*
- 7:15 PM Proposed Invited Guest:
- Invited: Representative from Mayor's Office of Talent and Appointments
Invited: Potential Candidate: Marie Cohen
- 7:45 PM CRP Task Force on Youth Aging Out of Foster Care: *Rick Bardach*
- 8:15 PM CRP Task Force on Medical Needs: *Damon King*
- 8:30 PM Facilitator Report: *Joyce N. Thomas*
- Annual Report
 - Planning for Retreat
- 8:45 PM New Business
- 9:00 PM Adjournment

DC BILINGUAL PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Building Renovation Project**

DC Bilingual PCS is advertising the opportunity to bid on a building renovation project to take place in the summer of 2015 with the contractual option to continue renovation in phases over a three year period. Full RFP can be found at <http://dcbilingual.org/who-were-looking>. All bids not addressing areas outlined in the RFP will not be considered.

For more information, please contact Hannah Buie, Operations Manager at 202-332-4200.
Email: hbuie@centronia.org

Proposals will be accepted by email or at 1420 Columbia Rd, NW, Washington, DC 20009 on **6/12/15**.

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

Certification of Filling a Vacancy
In Advisory Neighborhood Commissions

Pursuant to D.C. Official Code §1-309.06(d)(6)(G) and the resolution transmitted to the District of Columbia Board of Elections “Board” from the affected Advisory Neighborhood Commission, the Board hereby certifies that the vacancy has been filled in the following single-member district by the individual listed below:

Julie Seiwel
Single-Member District 1C01

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY

Office of Government Ethics

Advisory Opinion – Redacted – Post-employment – 1318-001

VIA EMAIL

April 15, 2015

Mr. Ron M. Linton
3401 38th Street, N.W., No. 608
Washington, D.C. 20016

Dear Mr. Linton:

This responds to your March 14, 2015, email, and follow-up conversations, in which you request advice on whether you are permitted to work with taxicab company leaders in establishing a D.C. Taxicab Cooperative (“Co-op”), which was authorized by rules adopted during your tenure as Chairperson of the D.C. Taxicab Commission (“DCTC”). You also ask whether you are permitted to serve as XXXXXXXXXXXXXXXX of the Co-op, or respond to inquiries from your successor or other employees at your former agency who may seek your input on the rationale and background of prior Commission actions. This would include communications with the Commissioners or Commission employees for the purpose of information exchange and with no intent to influence Commission decisions.

Based upon the information you have provided, I conclude that, as long as you ensure that you meet the requirements set forth below, you may be involved in efforts to organize and implement the Co-op rules, and communicate with the Commission concerning ministerial or personal issues, but that if you were to serve in a capacity that required you to appear before, or communicate with the DCTC in any manner that could be construed as intending to influence the agency on behalf of the Co-op, you would violate the post-employment restrictions.

Background

Under rules adopted by the DCTC on January 2, 2015 (62 DCR 147), during your tenure as Chairperson, taxicab companies may organize a D.C. Taxicab Cooperative. The Co-op would be an industry-owned association organized under the laws of the District of Columbia to promote the use of DCTC-licensed taxicabs, including wheelchair accessible vehicles, by residents and visitors to the District. The Co-op would manage, and provide service and support for the District of Columbia Universal Taxicab Application (“DC TaxiApp”), with which all DCTC-licensed taxicabs would be equipped, in addition to any other apps their owners and operators wish to use. The Co-op would establish and

maintain competitive, market-based rates and charges for trips booked through the DC TaxiApp. Taxicab companies required by D.C. Official Code § 50-329.02 to provide dispatch services, are considered charter members of the Co-op, and other taxicab companies, associations, and independent owners and operators may also become members of the Co-op. Your work would consist of advising and assisting taxicab company leaders in establishing the Co-op by adopting bylaws, developing a management team, and implementing the technology and marketing plans.

Post-Employment Restrictions

Although the District has in place post-employment rules, they are not meant to prevent District employees from working in the private sector after their government service ends or to be so restrictive as to make following the post-employment rules impossible. There are, however, certain requirements you must follow.¹

One-Year Cooling-Off Period

A former District employee is prohibited, for one year, from having any transactions with the employee's agency that are **intended to influence the agency** in connection with any particular government matter pending before the agency or in which it has a direct and substantial interest. Specifically, 6B DCMR § 1811.10 provides:

A former employee ... shall be prohibited for one (1) year from having any transactions with the former agency intended to influence the agency in connection with any particular government matter pending before the agency or in which it has a direct and substantial interest, whether or not such matter involves a specific party.²

This restriction is “intended to prohibit the possible use of personal influence based on past government affiliations to facilitate the transaction of business,” which explains why the one-year prohibition is sometimes referred to as a cooling-off period. This prohibition applies regardless of whether the particular government matter involves a specific party and regardless of whether you participated in or had responsibility for that particular matter when you were a DCTC employee. In addition, this prohibition applies to matters that first arose after you left District service, as long as they concern a particular government matter that was pending before DCTC when you worked there or in which DCTC has a direct and substantial interest. Therefore, you, as a former District employee, are prohibited for one year from the date of your separation from service, January 2, 2014, from having any transactions with DCTC that are intended to influence DCTC on any particular government matter pending before DCTC or in which DCTC has a direct and substantial interest. Although the term “direct and substantial interest” is undefined in 6B DCMR Chapter 18, it is clear that easily identified matters such as contracts, leases, and other specific projects are included in the term.

¹ The discussion of post-employment restrictions that follows is based on 6B DCMR Chapter 18, which was revised and became effective on April 11, 2014 (61 DCR 3799).

² 6B DCMR § 1811.11.

Two-Year Ban: Behind-the-Scenes Advice and Official Responsibility

Former District government employees also are subject to a two-year ban that can take either or both of two forms. The first prohibits former employees from giving behind-the-scenes advice or assistance to someone else in representing another person before any District agency. Specifically, 6B DCMR § 1811.8 prohibits former employees for two years from knowingly “aiding, counseling, advising, consulting, or assisting in representing any other person (except the District of Columbia) by personal appearance before an agency as to a **particular government matter involving a specific party**³ if the former employee participated personally and substantially in that matter as a government employee.” Pursuant to this section, you would be prohibited from giving any behind-the-scenes advice or assistance on any particular matter involving a specific party on which you participated personally and substantially as a government employee.

The second form of the two-year ban prohibits former District employees from working on matters in which they did not participate personally and substantially, but over which they had official responsibility. Specifically, 6B DCMR § 1811.5 prohibits them for two years from knowingly “acting as an attorney, agent, or representative in any formal or informal matter before any agency if [they] previously had **official responsibility** for that matter.”⁴

Permanent Ban for the Lifetime of Particular Matters Involving Specific Parties

Finally, a former District government employee is also “permanently prohibited from knowingly acting as an attorney, agent, or representative in any formal or informal **appearance** before an agency as to a particular matter involving a specific party if the employee participated personally and substantially in that matter as a government employee.”⁵ Similarly, 6B DCMR § 1811.4 provides that “[a] former government employee shall be permanently prohibited from making any oral or written **communication** to an agency with the intent to influence that agency on behalf of another as to a particular government matter involving a specific party if the employee participated personally and substantially in that matter as a government employee.”

These two provisions, therefore, operate as permanent bans on your undertaking representational activities regarding any particular matters involving specific parties on which you participated personally and substantially (i.e., did substantive work) while in the government’s employ. The appearance and communications bans apply for the lifetime of each particular matter involving specific parties.

³ The term “particular government matter involving a specific party” is defined in 6B DCMR § 1899.1 to mean “any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which the District government is a party or has a direct and substantial interest, and which has application to one (1) or more specifically identified persons or entities.”

⁴ For purposes of §1811.5, 6B DCMR § 1811.6, provides that “a matter for which the former government employee had official responsibility is any matter that was actually pending under the former employee’s responsibility within a period of one (1) year before the termination of such responsibility.” Further, 6B DCMR § 1811.7 provides that the two-year period in 6 DCMR § 1811.5 is to be “measured from the date when the former employee’s responsibility for a particular matter ends, not from the termination of government service, unless the two (2) occur simultaneously.”

⁵ 6B DCMR § 1811.3.

Discussion

From your request and your subsequent conversations with my staff, the restriction that would potentially have the greatest impact on you would be the two-year ban on engaging in behind-the-scenes assistance in representing another person before your former agency (measured from the date of termination of employment). This provision applies if it is determined that you participated in a particular government matter involving a specific party **and** that your participation in the matter was “personal and substantial.” 6B DCMR § 1811.8.

Addressing the second prong first, whether an individual's participation was personal and substantial is typically a question resolved by the agency where the former employee worked, as the agency is best able to gauge the extent of the former employee's work in a matter and the importance of that work to the matter. Federal OGE Informal Advisory Letter 96 x 7 (March 27, 1996). However, in this instance, you have acknowledged that your participation involving the Taxicab Co-op regulations was personal and substantial, as your email notes that you were the “principal creator of the regulations,” the “primary executive in the implementation of the regulations,” and that you have “arguably the most inclusive body of knowledge of the Commission’s regulations and the history and reasoning for their adoption.”

Under the first prong of § 1811.8, if your participation in the Co-op rulemaking is determined to be a “particular government matter involving a specific party,” you would be barred from both communicating with the DCTC and providing behind-the-scenes advice to a prospective employer or client. A “particular government matter involving a specific party” must have application to “one (1) or more *specifically identified persons or entities.*” (emphasis added) 6B DCMR § 1899.1. Generally, rulemaking and legislation are not covered, unless they focus narrowly on identified parties. See, federal OGE Informal Advisory Opinion 96 x 7 (“rare” example of a rulemaking that involved specific parties). The example in that federal OGE Opinion involved the regulation of a specific parcel of property. Here, because the pool of affected persons is not known, the rulemaking would be considered one of general applicability. Concrete examples contained in the rules (5 C.F.R. § 2641.201) implementing the federal post-employment restrictions support the interpretation that a rulemaking such as this one would not be construed to be a particular government matter involving a specific party.⁶

⁶ Two examples of matters involving rulemaking found in the notes to the federal rules, though not binding on District employees, are instructive:

Example 1: A former employee of the Mine Safety and Health Administration (MSHA) participated personally and substantially in the development of a regulation establishing certain new occupational health and safety standards for mine workers. Because the regulation applies to the entire mining industry, it is a particular matter of general applicability, not a matter involving specific parties, and the former employee would not be prohibited from making post-employment representations to the Government in connection with this regulation.

Example 5: An employee of the Food and Drug Administration (FDA) drafted a proposed rule requiring all manufacturers of a particular type of medical device to obtain pre-market approval for their products. It was known at the time that only three or four manufacturers currently were marketing or developing such products. However, there was nothing to preclude other manufacturers from entering the market in the future. Moreover, the regulation on its face was not limited in application to those companies already known to be involved with this type of product at the time of promulgation. Because the proposed rule would apply to an open-ended class of manufacturers, not just specifically identified companies, it would not be a particular matter involving specific parties. After leaving Government, the former FDA employee would not be prohibited from representing a manufacturer in connection with the final rule or the application of the rule in any specific case.

In conclusion, for one year after leaving the District government, you are prohibited from having any contact with your former agency that is intended to influence the agency. This includes appearing in front of, or communicating with DCTC employees.⁷ This prohibition is extended for two years for matters that were within your official responsibility. However, because the Co-op rulemaking was not limited to specific parties, you would be permitted to perform behind-the-scenes work with someone else who would communicate with, or appear in front of your former agency.

“Behind-the-scenes assistance” is assistance provided to another that would not involve you making a communication to, or appearance before an employee of the DCTC. However, if you intend that a communication, made by someone else to an employee of the DCTC, be attributed to you, this is considered a prohibited communication and does not constitute “behind-the-scenes assistance.”⁸ Under this interpretation, you are unable to telephone, sign your name to a letter addressed to, or attend a meeting with a DCTC employee, but you may legally tell your employer the name of the government employee to call or write, or with whom to meet.

With respect to any particular matters involving specific parties (like contracts, investigations, applications, claims, or requests for rulings or determinations) that you dealt with personally and substantially as the head of the DCTC (which means you took action via a decision, approval or disapproval, recommendation, investigation or other similar action), we advise you not to communicate with or appear in front of your former agency on that matter. This means that if your work at the DCTC dealt with a specific contract, it would likely be a particular matter, involving a specific party, that you worked on personally and substantially in your capacity as the Chairperson, and you would therefore, be prohibited from communicating with or appearing in front of your former agency regarding that contract, for the life of the contract. If, however, the advice you gave was of the more general variety, then your work with them on similar subjects would not fall into the permanent prohibition category.

Certain provisions of the rules contemplate interaction between the Co-op and DCTC. For example, the Co-op is required to submit documents (bylaws) to DCTC for its review and approval (§ 1613.8). The Co-op is also authorized to apply to grants from DCTC (§§ 1613.7(n) and 1613.10). In both of those instances, a representative of the Co-op would be required to communicate with DCTC in a manner that you could not. The post-employment prohibitions do not restrict an employee from acting on behalf of an outside entity in purely ministerial contacts such as requesting public documents or other information that are routinely made available to the public by an agency,⁹ but any appearance before, or communication with the former agency intended to influence the agency would violate the post-employment prohibitions.

⁷ 6B DCMR § 1811.10.

⁸ See 5 CFR § 2641.201(d)(3) (note) A former employee established a small government relations firm with a highly specialized practice in certain environmental compliance issues. She prepared a report for one of her clients, which she knew would be presented to her former agency by the client. The report is not signed by the former employee, but the document does bear the name of her firm. The former employee expects that it is commonly known throughout the industry and the agency that she is the author of the report. If the report were submitted to the agency, the former employee would be making a communication and not merely confining herself to behind-the-scenes assistance, because the circumstances indicate that she intended the information to be attributed to herself.

⁹ See federal OGE Informal Advisory Letter 85 x 12 (Aug. 29, 1985).

This advice is provided to you pursuant to section 219 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (“Ethics Act”), effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.19), which empowers me to provide such guidance. As a result, no enforcement action for violation of the District’s Code of Conduct may be taken against you in this context, provided that you have made full and accurate disclosure of all relevant circumstances and information in seeking this advisory opinion.

You also are advised that the Ethics Act requires this opinion to be published in the District of Columbia Register within 30 days of its issuance, but that your identity will not be disclosed unless you consent to such disclosure in writing. We encourage individuals to so consent in the interest of greater government transparency. Please, then, let me know your wishes about disclosure.

If you have any questions or wish to discuss this matter further, I can be reached at 202-481-3411, or by email at darrin.sobin@dc.gov.

Sincerely,

_____/s/_____
DARRIN P. SOBIN
Director of Government Ethics
Board of Ethics and Government Accountability

1318-001

**DEPARTMENT OF HEALTH
HEALTH PROFESSIONAL LICENSING ADMINISTRATION**

NOTICE OF MEETING

Board of Medicine
May 27, 2015

On MAY 27, 2015 at 8:30 am, the Board of Medicine will hold a meeting to consider and discuss a range of matters impacting competency and safety in the practice of medicine.

In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed from 8:30 am until 10:30 am to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting will be open to the public from 10:30 am to 11:30 am to discuss various agenda items and any comments and/or concerns from the public. After which the Board will reconvene in closed session to continue its deliberations until 2:00 pm.

The meeting location is 899 North Capitol Street NE, 2nd Floor, Washington, DC 20002.

Meeting times and/or locations are subject to change – please visit the Board of Medicine website www.doh.dc.gov/bomed and select BoMed Calendars and Agendas to view the agenda and any changes that may have occurred.

Executive Director for the Board – Jacqueline A. Watson, DO, MBA.

Department of Health (DOH)
Community Health Administration (CHA)
Nutrition and Physical Fitness Bureau
Notice of Funding Availability (NOFA)
Request for Applications (RFA)
#CHA_SNAP-ED061915

SNAP-Ed Nutrition and Wellness Education Services

The Government of the District of Columbia, Department of Health (DOH), Community Health Administration (CHA) is soliciting applications from qualified applicants to provide SNAP-Ed nutrition and wellness education services to culturally diverse District residents.

This funding is provided through a Department of Agriculture (USDA) Supplemental Nutrition Assistance Program (SNAP) Food and Nutrition Service (FNS) grant. All awards resulting from this RFA are contingent upon the continued availability of federal funds.

Approximately \$100,000 in federal funds will become available for up to two awards for the provision of the following services between October 1, 2015 and September 30, 2016.

Service Category	Funding Source	Expected Available Funds (Annual)
SNAP-Ed Nutrition and Wellness Education Services	Federal Funds - USDA	\$100,000

The following entities are eligible to apply for grant funds under this RFA: not-for-profit public and private organizations with a demonstrated track record in providing nutrition and wellness education services to culturally diverse limited income District residents.

The Request for Application #CHA_SNAP-ED061915 will be released on Friday, June 19, 2015. The RFA will be posted on the Office of Partnerships and Grant Services website, under the District Grants Clearinghouse <http://opgs.dc.gov/page/opgs-district-grants-clearinghouse>. A limited number of copies of the RFA will be available for pick up at DOH/CHA offices located at 899 North Capitol Street, NE Washington, DC 20002 3rd floor.

The deadline for submission is July 17, 2015 at 4:45 pm.

A Pre-Application Conference will be held at the CHA offices located at 899 North Capitol Street, NE Washington, DC 20002 3rd floor on **Tuesday June 23, 2015 from 1 pm to 2 pm**. Please contact Amelia Peterson-Kosecki at 202.442.9140 for additional information.

**CHA is located in a secured building. Government issued identification must be presented for entrance.

DEPARTMENT OF HEALTH**PUBLIC NOTICE**

The District of Columbia Board of Long Term Care Administration (“Board”) hereby gives notice of a change in its regular meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2012 Repl.) (“Act”).

Due to schedule conflict, the meeting of the Board, formerly Board of Nursing Home Administration, previously scheduled for July 8, 2015, will be rescheduled to Wednesday, June 24, 2015. The meeting will be held from 10:00 AM to 11:00 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, D.C. Official Code § 2-574(b), the meeting will be closed to public attendance from 11:00 AM to 12:00 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

Thereafter, the Board’s next meeting will be held at the same time on Wednesday, October 7, 2015.

The meetings will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health’s Events webpage at www.doh.dc.gov/events to view the agenda.

**DEPARTMENT OF HUMAN SERVICES
FAMILY SERVICES ADMINISTRATION**

**NOTICE OF FUNDING AVAILABILITY (NOFA)
FOR FISCAL YEAR (FY) 2015**

HOMELESS PREVENTION SERVICES GRANTS

Purpose/Description of Project

The District of Columbia (District) Department of Human Services (DHS), Family Services Administration (FSA), is the lead agency in the District for providing protection, intervention, and social services to meet the needs of vulnerable adults and families to help reduce risk and promote self-sufficiency.

DHS/FSA has available funding for qualified non-profit and for-profit community-based organizations to establish homeless prevention services that facilitate person-centered, comprehensive, and targeted service delivery to families experiencing homelessness or at risk of chronic homelessness in the District. In recent years, the District has experienced a significant increase in the number of families seeking homeless services. In response to the complex needs of families, DHS/FSA has worked to help families remain in their communities through flexible supports to mediate conflicts and divert families from the need for shelter. DHS is committed to reducing the high demand for emergency shelter at the front door and increasing family well-being by using national best practices around prevention resources to help families stay in their communities.

Homelessness comes at a large cost for families as they experience disconnect from their communities and often lack access to family and support networks. DHS is seeking community-based partners to provide prevention services to families experiencing housing instability within the community. Homeless prevention services include:

- Mediation services (family, landlord-tenant, etc.)
- Financial assistance
- Budgeting and financial management (asset building),
- Comprehensive case management, and
- Rental and utility assistance.

Program outcomes anticipate a reduction in the number of families in need of emergency shelter due to the financial supports and assistance provided through this program.

DHS/FSA solicited detailed proposals, in accordance with applicable laws and regulations, to establish homeless prevention services that facilitate person-centered, comprehensive, and targeted service delivery to families experiencing homelessness or at risk of chronic homelessness in the District.

DHS intends to award three (3) homeless prevention grants to qualified non-profit and for-profit community-based organizations with a sub-grant that will require the successful applicant to establish homeless prevention services that facilitate person-centered, comprehensive, and targeted service delivery to families experiencing homelessness or at risk of chronic homelessness in the District, as outlined in the Request for Application (RFA).

The goal of this RFA is to assist DHS to provide prevention services to families experiencing housing instability within the community, including, but not limited to, mediation services, financial assistance, budgeting and financial management, comprehensive case management, and rental and utility assistance.

Eligibility

Qualified non-profit and for-profit community-based organizations with a demonstrated history of providing services to individuals and families experiencing homelessness or at imminent risk of becoming homeless are eligible and invited to submit applications.

Review Factors

All applications will be objectively reviewed and scored against the criteria specified in the RFA.

Length of Award

The grant will be for a period of one (1) year from the date of Award. The Award may be continued for up to four (4) additional years based on documented project success and availability of funding. Award recipients will be expected to begin project implementation within thirty (30) days of award.

Available Funding

The total amount available for the Award is one million five hundred thousand dollars and zero cents (\$1,500,000.00) which will fund three (3) homeless prevention grants. The Awards will be for a period of one (1) year from date of award. The Awards may be continued for up to four (4) additional years based on documented project success and availability of funding.

Anticipated Number of Awards

Three

Time and Location to Obtain RFA

The RFA (RFA No. DHS-FSA-HPS-2015) will be released on **Monday, June 8, 2015**. The RFA will be posted on the Office of Partnerships and Grant Services website, www.opgs.dc.gov under the District Grants Clearinghouse.

Pre-Application Conference

A pre-application conference will be held at DHS/FSA, 64 New York Avenue NE, Washington, DC 20002, 6th Floor (Hoteling Suite) on **Wednesday, June 10, 2015 from 1:00 p.m. - 3:00 p.m.** Please contact Allison Tucker at allison.tucker@dc.gov or (202) 698-4140 for additional information.

Deadline for Applications

The deadline for submission is Friday, June 19, 2015, at 4:45 p.m. Late or incomplete applications will not be forwarded for review.

**DEPARTMENT OF HUMAN SERVICES
FAMILY SERVICES ADMINISTRATION**

**NOTICE OF FUNDING AVAILABILITY (NOFA)
FOR ONE FISCAL YEAR (FY) 2015**

COORDINATED ENTRY OUTREACH SERVICES GRANT

Purpose/Description of Project

The District of Columbia (District) Department of Human Services (DHS), Family Services Administration (FSA), is the lead agency in the District for providing protection, intervention, and social services to meet the needs of vulnerable adults and families to help reduce risk and promote self-sufficiency.

DHS/FSA has available funding for qualified non-profit and for-profit community-based organizations to increase outreach service delivery to “unsheltered” and “sheltered” homeless individuals and families in the District within the coordinated entry process that facilitates person-centered, comprehensive, and targeted service delivery to individuals experiencing homelessness or at risk of chronic homelessness in the District. Coordinated entry is a decentralized “no wrong door” process that is a virtual hub for connecting individuals experiencing homelessness to comprehensive services and housing resources based upon their individually assessed needs.

DHS/FSA solicited detailed proposals, in accordance with applicable laws and regulations, to provide outreach service delivery to “unsheltered” and “sheltered” homeless individuals and families in the District within the coordinated entry process that facilitates person-centered, comprehensive, and targeted service delivery to individuals experiencing homelessness or at risk of chronic homelessness in the District.

DHS intends to award one (1) coordinated entry grant to a qualified non-profit and for-profit community-based organization with a sub-grant that will require the successful applicant to provide outreach service delivery to “unsheltered” and “sheltered” homeless individuals and families in the District within the coordinated entry process that facilitates person-centered, comprehensive, and targeted service delivery to individuals experiencing homelessness or at risk of chronic homelessness in the District, as outlined in the Request for Application (RFA).

The goal of this RFA is to assist DHS in expanding outreach service delivery within coordinated entry system that allocates assistance as effectively as possible, prioritizes assistance based on vulnerability and severity of service needs, offers a “no wrong door” approach no matter where or how people present for services, and identifies service needs and gaps to help DHS plan more targeted assistance and maximize available resources.

Eligibility

Qualified non-profit and for-profit community-based organizations with a demonstrated history of providing services to individuals and families experiencing homelessness or at imminent risk of becoming homeless are eligible and invited to submit applications.

Review Factors

All applications will be objectively reviewed and scored against the criteria specified in the RFA.

Length of Award

The grant will be for a period of one (1) year from the date of the grant award (Award). The Award may be continued for up to four (4) additional years based on documented project success and availability of funding. The Award recipient will be expected to begin project implementation within thirty (30) days of the Award.

Available Funding

The total amount available for the Award is two hundred fifty thousand dollars and zero cents (\$250,000.00) which will fund one (1) coordinated entry grant. The Award will be for a period of one (1) year from date of award. The grant may be continued for up to four (4) additional years based on documented project success and availability of funding.

Anticipated Number of Awards

One

Time and Location to Obtain RFA

The RFA (RFA No. DHS-FSA-CEO-2015) will be released on **Monday, June 8, 2015**. The RFA will be posted on the Office of Partnerships and Grant Services website, www.opgs.dc.gov under the District Grants Clearinghouse.

Pre-Application Conference

A pre-application conference will be held at DHS/FSA, 64 New York Avenue NE, Washington, DC 20002, 6th Floor (Hoteling Suite) on **Wednesday, June 10, 2015 from 10:00 a.m. - 12:00 p.m.** Please contact A. Dallas Williams at dallas.williams@dc.gov or (202) 698-4140 for additional information.

Deadline for Applications

The deadline for submission of applications is Friday, June 19, 2015, at 4:45 p.m. Late or incomplete applications will not be forwarded for review.

IDEA PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS**

The IDEA Public Charter School solicits proposals for the following:

- **IT Desk Support** - provide daily desktop and network support to staff and students.

Please go to www.ideapcs.org/requests-for-proposals to view a full RFP offering.

Please direct any questions to bids@ideapcs.org.

Proposals shall be received no later than 5:00 P.M., Friday, June 19, 2015.

KINGSMAN ACADEMY PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Multiple Services**

Kingsman Academy Public Charter School is accepting proposals with references from qualified vendors for the following services:

- Accounting
- Facilities Management
- Homebound Instruction
- IT Support
- Janitorial Services
- Related Services
- Security
- Student Transportation

Email questions, requests for the full RFPs, and proposals to procurement@kingsmanacademy.org. Deadline for submissions is 12:00 p.m. on Friday, June 19, 2015. **No phone calls please.**

MUNDO VERDE PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT****Achievement Network**

Mundo Verde Public Charter School intends to enter into a sole source contract with Achievement Network for approximately \$25,000.

- Mundo Verde PCS has a need for quarterly interim assessments and coaching and professional development on using data and data-driven instruction.

For further information regarding this notice contact Elle Carne at ecarne@mundoverdepcs.org no later than **4:00 pm June 12, 2015**.

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 July 1, 2015.

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 June 5, 2015. 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
Recommended for appointments as a DC Notaries Public**

**Effective: July 1, 2015
Page 2**

Addison	Brandi	Analytic Focus, LLC 729 15th Street, NW	20005
Addison	DasChell'e D.	The Washington Times 3600 New York Avenue, NE	20002
Agostinelli	Jessica Diane	Zamani & Scott LLP 2121 K Street, NW	20037
Anderson	Deborah A.H.	United States Department of Agriculture 1400 Independence Avenue, SW, STOP 1597, Room 2808	20250
Arcara	Sara Beth	Capitol Hill Learning Group 907 Maryland Avenue, NE	20002
Archer	Felicia	State Farm Insurance 4701 Wisconsin Avenue, NW	20016
Bakhos	Ayham	Wells Fargo Bank, N.A. 1510 K Street, NW	20005
Baron	Martha C.	Self 1328 Juniper Street, NW	20012
Barrios-Brown	Deyanira	Self 1444 Rock Creek Ford Road, NW, Apartment 103	20011
Bell	Vernice J.	PNC Bank 650 Pennsylvania Avenue, SE	20020
Benn	Melissa	Chemonics International 1717 H Street, NW	20006
Benson	Kyle Scott	1010 Massachusetts Avenue Condominium 1010 Massachusetts Avenue, NW	20001
Beregoi	Natalia	Bank-Fund Staff Federal Credit Union 1725 I Street, NW, Suite 150	20006
Bess	Dawn	Fedex Express 1700 Pennsylvania Avenue, NW, Suite 950	20006

**D.C. Office of the Secretary
Recommended for appointments as a DC Notaries Public****Effective: July 1, 2015
Page 3**

Binford	Coleen Paige	Fish & Richardson P.C. 1425 K Street, NW, 11th Floor	20005
Boggs	Justin G.	DC Public Defender Service 633 Indiana Avenue, NW	20001
Bower	Annika	Chemonics International 1717 H Street, NW	20006
Breaux	Patricia	Sedgwick LLP 2900 K Street, NW, Suite 500	20007
Briggs	Colette Z.	Kuzuska Harris Vetter Wareh Duncan LLP 1666 K Street, NW, Suite 400	20006
Bromfield	Evan	Center For Food Safety 660 Pennsylvania Avenue, SE, Suite 302	20003
Brown	R. Danielle	Peckar & Abramsonm P.C. 2055 L Street, NW, Suite 750	20036
Butler	Brandon	Creative Processes LLC 5363 Clay Terrance, NE	20019
Castro	Liz Gabriela	Alphatec PC 1525 18th Street, NW	20036
Chambers	April	Bliss 2122 24th Street, NE	20018
Cowling	Charletta M.	Jubilee Housing 1640 Columbia Road, NW, 2nd Floor	20009
Crump	Betrotious A.	Correctional Corporation of America/ Correctional Treatment Facility 1901 E Street, SE	20003
Curry	Eddie Hue	The Curry Estate 1204 Linden Place, NE	20002
Daniels	Adonica D.	Accolade Partners 1850 M Street, NW, Suite 1060	20036

**D.C. Office of the Secretary
Recommended for appointments as a DC Notaries Public**

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David	Christopher Joseph	Federal Title & Escrow Company 5335 Wisconsin Avenue, NW, Suite 700	20015
Davis	Kenneth	Self 6101 16th Street, NW, Apartment 701	20011
Dorn	Lisa M.	Wiley Rein LLP 1776 K Street, NW	20006
Edwards	Sharon M.	Self 2200 13th Street, NE	20018
Ehrlich	Allison	US Chamber of Commerce 1615 H Street, NW	20062
Eibs	Kelly M.	Self 1537 Foxhall Road, NW	20007
Follett	Allyson	The Ford Law Firm, PLLC 601 Pennsylvania Avenue, NW, Suite 900	20004
Francois	Alexandra	Property Group Partners 1101 New York Avenue, NW, Suite 909	20005
Gaines	Samantha	Self (Dual) 83 U Street, NW, Unit #2	20006
Galloway	Sonja D.	Reed Smith LLC 1301 K Street, NW	20005
Gethers	Shelley K.	Fannie Mae 3900 Wisconsin Avenue, NW	20016
Glekas	George Peter	Saint Sophia Greek Orthodox Cathedral 2815 36th Street, NW	20007
Gravelly-Moss	Carolyn E.	Crisis Management Introspect 2314 Minnesota Avenue, SE	20020
Greco	Jacqueline M.	US House of Representatives B-227 Longworth House Office Building	20515
Gregory	Diane S.	Self 1506 D Street, NE	20002

**D.C. Office of the Secretary
Recommended for appointments as a DC Notaries Public**

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Grimes	Elizabeth	State Farm 5217 Wisconsin Avenue, NW	20015
Harris	Morghen Fairley	Monarch Title, Inc 210 7th Street, SE, Suite 100	20003
Hassett	Craig R.	State Farm Insurance 1001 Connecticut Avenue, NW, Suite 201	20036
Hill	Reginia	District of Columbia Housing Authority 1133 North Capitol Street, NE	20002
Hodges	Celia	National Identification Service Association, Chartered 1629 K Street, NW, Suite 300	20006
Howe	Ashley	Capitol Compliance Associates 918 Pennsylvania Avenue, SE	20003
Jackson	Sakisha N.	The Carlyle Group 1001 Pennsylvania Avenue, NW, Suite 220S	20004
Jameson	Denise Y.	Steptoe & Johnson LLP 1330 Connecticut Avenue, NW	20036
Jansen	Mandy	Habitat for Humanity of Washington, D.C. 2115 Ward Court, NW, Room 100	20037
Johnson	Charlene A.	Expert Legal Services Chartered 6665 13th Street, NW	20012
Johnson	Ray A.	Law Offices of Ray A. Johnson, PLLC 1629 K Street, NW, Suite 300	20006
Johnson	Veronica M.	Securities Industry and Financial Markets Association (SIFMA) 1101 New York Avenue, NW, Suite 800	20005
Johnson- Bowlding	Elvyra	District of Columbia Housing Authority 1133 North Capitol Street, NE	20002
Knight	Alonya R.	PHRA Holding Company 1200 G Street, NW, Suite 800	20006

**D.C. Office of the Secretary
Recommended for appointments as a DC Notaries Public**

Effective: July 1, 2015

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Lambert	Carolyn	DC Water 5000 Overlook Avenue, SW	20019
Lee	Regina M.	Georgetown University 2115 Wisconsin Avenue, NW Suite 604	20007
Lilley	Douglas T.	Capital City Public Charter School 100 Peabody Street, NW	20011
Lymus	Stacey L.	US Department of Homeland Security-FEMA 500 C Street, SW, Techworld Building	0
Matthews	Lynnette J.	The Estate Planning & Elder Law Firm, P.C. 1020 19th Street, NW, Suite 510	22201
McClure	Kathy	Lowenstein Sandler LLP 2200 Pennsylvania Avenue, NW	20037
McMillan	Kimberly P.	Michael M. Wood 3633 M Street, NW, Unit 5	20016
Millard	Preston	National Association of Wheat Growers 415 2nd Street NE, Suite 300	20002
Moon	Carrie M.	Executive Office of the President, Office of the National Drug Control Policy 750 17th Street, NW	20530
Moore	Jazmine	Society of Plastics Industry Trade Association 1425 K Street, NW, Suite 500	20002
Moreland	Sarah M.	JAMS, Inc. 555 13th Street, NW, Suite 400 West	20004
Neely	Kelly	The Ezra Company 1717 K Street, NW, Suite 1110	20006
Newon	Phyllis M.	Squire Patton Boggs (US) LLP 2550 M Street, NW	20037
Outlaw	Traci R.	Self (Dual) 12 Burns Street, NE	20019
Panepinto	Catherine	Bradley Arant Boult Cummings LLP 1615 L Street, NW, Suite 1350	20036

**D.C. Office of the Secretary
Recommended for appointments as a DC Notaries Public****Effective: July 1, 2015****Page 7**

Parker	Cassandra E.	AFL-CIO-Accounting Department 815 16th Street, NW, 3rd Floor	20006
Pascual	Joven Rita	Jemsek Specialty Clinic 2440 M Street, NW, Suite 205	20037
Patel	Neha T.	EIG Global Energy Partners 1700 Pennsylvania Avenue, NW, Suite 800	20006
Paz-Gutierrez	Suyapa	District of Columbia Housing Authority 1133 North Capitol Street, NE	20002
Peckham	Mark S.W.	The Army and Navy Club 901 17th Street, NW	20006
Ramirez Otero	Izayana V.	The Estate Planning & Elder Law Firm, P.C. 1020 19th Street, NW, Suite 510	20036
Randolph	Cheryl J.	US Securities and Exchange Commission 100 F Street, NE	20549
Rice	Nichele Y.	Davis Wright Tremaine LLP 1919 Pennsylvania Avenue, NW, Suite 800	20006
Richards	Rebecca	Public Defender Service for the District of Columbia 633 Indiana Avenue, NW	20004
Russo	Bonnie L.	Esquire Deposition Solutions 1025 Vermont Avenue, NW	20005
Seale	Eleanor A.	Charles Hart Middle School 601 Mississippi Avenue, SE	20032
Sevier	Danielle	Schwartz & Ballen LLP 1990 M Street, NW, Suite 500	20036
Sheikh	Taimur Sultan	Wells Fargo Bank 2901 M Street, NW	20007
Silva	Star	Self 2818 Georgia Avenue, NW, 2nd Floor	20001

**D.C. Office of the Secretary
Recommended for appointments as a DC Notaries Public**

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Simmons-Epps	Gloria	Community Wellness Alliance 1029 Park Road, NW	20010
Sisk	John Henry	Closetline Settlements 210 Seventh Street, SE, Suite 100	20003
Spence	Gail M.	Webster & Frederickson, PLLC 1775 K Street, NW, Suite 600	21220
Stork	Nora Sylvia	Enterprise Settlement Services 2176 Wisconsin Avenue, NW, Suite 100	20007
Suthard	Barbard	Bank of America - Merrill Lynch 1152 15th Street, NW Suite 6000	20005
Thompson	Denita L.	Wells Fargo Bank 2119 Bladensburg Road, NE	20018
Thorpe	Nasasha	Capital One 901 New York Avenue, NW	20001
Travis	Tamara	Bank of America 1001 Pennsylvania Avenue, NW	20004
Turner	DeNelda	Lowenstein Sandler LLP 2200 Pennsylvania Avenue, NW	20037
Tyus	Yao	Steppingstones Management Services, LLC 1706 Gales Street, NE	20002
Ummar	Fahadz A.	Ritz-Carlton Hotels LLC. 3150 South Street, NW	20007
Vaughn	Chearice L.	United States Department of Agriculture 1400 Independence Avenue, SW, STOP 1597, Room 2817	20050
Vega	Delmy Arely Sandoval	UTS Corporation 1801 Columbia Road, NW, Suite 103	20009

**D.C. Office of the Secretary
Recommended for appointments as a DC Notaries Public****Effective: July 1, 2015
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Walsh	Kevin A.	HSBC Bank USA, N.A. 1401 Eye Street, NW, Suite 500	20005
Warsame	Anab A.	Georgia Avenue Family Support Collaborative 1104 Allison Street, NW	20011
Washington	Sonje M.	Wells Fargo 1700 Pennsylvania Avenue, NW	20006
Watling	Sarah E.	Perkins Eastman DC 1250 23rd Street, NW, Suite 475	20037
Westry	Jocelyn	O'Connell & Glock 1634 Eye Street, NW, Suite 205	20008
Whitaker	Joy	District of Columbia Housing Authority 1133 North Capitol Street, NE	20002
White	Simone G.	American Red Cross 430 17th Street, NW	20006
Wiley	Samara C.	R. McGhee Associates 1123 11th Street, NW, Suite 100	20001
Williams	E. Faye	National Congress of Black Women, Inc. 1250 4th Street, SW, Suite WG-1	20024
Williams	Vacylla	Self 712 48th Street, NE	20019
Wyman	Jill E.	National Community Church 205 F Street, NE	20002
Wyse	Philip G.	Premier Bank, Inc. 1501 K Street, NW	20005
Young	Deborah L.	Bradley Arant Boult Cummings LLP 1615 L Street, NW, Suite 1350	20036

WASHINGTON GLOBAL PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Washington Global Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for ELL support services:

Please direct questions and proposals to **rfp@buildinghope.org**.

Proposals shall be received no later than 5:00 P.M., Friday, June 19, 2015.

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, June 18, 2015 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

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| 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. Executive Session | |
| 8. Adjournment | Committee Chairperson |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Finance and Budget Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Finance and Budget Committee will be holding a meeting on Thursday, June 25, 2015 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 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

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|----|-----------------------------------|------------------------------|
| 1. | Call to Order | Chairman |
| 2. | May 2015 Financial Report | Director of Finance & Budget |
| 3. | Agenda for July Committee Meeting | Chairman |
| 4. | Adjournment | Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Retail Water and Sewer Rates Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Retail Water and Sewer Rates Committee will be holding a meeting on Tuesday, June 23, 2015 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 lmanley@dewater.com.

DRAFT AGENDA

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|----|--|-------------------------|
| 1. | Call to Order | Committee Chairman |
| 2. | Monthly Updates | Chief Financial Officer |
| 3. | Committee Work plan | Chief Financial Officer |
| 4. | Other Business | Chief Financial Officer |
| 5. | Agenda for July 28, 2015 Committee Meeting | Committee Chairman |
| 6. | Adjournment | Chief Financial Officer |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Water Quality and Water Services Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Water Quality and Water Services Committee will be holding a meeting on Thursday, June 18, 2015 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 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. Water Quality Monitoring | Assistant General Manager, Consumer Ser. |
| 3. Action Items | Assistant General Manager, Consumer Ser. |
| 4. Emerging Issues/Other Business | Assistant General Manager, Consumer Ser |
| 5. Executive Session | |
| 6. Adjournment | Committee Chairperson |

WILLIAM E. DOAR, JR. PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Food Service Management Services**

WEDJ is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2015-2016 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Request for Proposals (RFP) such as; student data, days of service, meal quality, etc. may be obtained beginning on June 5, 2015 by emailing bids@sedjschool.us

Proposals will be accepted at 705 Edgewood Street, NE, Washington, DC 20002 on **Friday, June 30, 2015** no later than **3 p.m.**

Contact (questions):

Email: bids@wedjschool.us

Subject: Attention - Food Supplies Bid

All bids not addressing all areas as outlined in the RFP will not be considered.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18013-A of Franklin Commons Intergenerational Day Care Center, Inc., pursuant to 11 DCMR §§ 3103.2 and 3104.1, for a variance from the off-street parking requirements under § 2101.1, and a special exception from the child development center provisions under § 205, for the continued operation of a child development center consisting of 50 children and 14 staff in the R-3 District at premises 119 Franklin Street, N.E. (Square 3505, Lot 802).¹

HEARING DATES: April 21, 2015² and May 19, 2015

DECISION DATE: May 19, 2015

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated May 7, 2015, from the Zoning Administrator, certifying the relief required for the application to continue operations at the existing Child Development Center. (Exhibit 42.)

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") 5E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5E, which is automatically a party to this application. ANC 5E filed a report/resolution in support of the application. In its report the ANC indicated that at a regularly scheduled and properly noticed public meeting, at which a quorum was present, the ANC voted 10-0 to support the application. (Exhibit 40.)

The Office of Planning ("OP") submitted a timely report indicating that it supported the request for special exception relief under § 205 and variance relief from parking under § 2101. (Exhibit 34.) The District Department of Transportation ("DDOT") submitted a timely report of "no objection" to the application. (Exhibit 35.) The OP report indicated that OSSE stated in an email to OP dated April 8, 2015, that it had no comments on the application. (Exhibit 34.)

¹ The Board granted special exception relief under § 205 to operate a child development center for 50 children and 14 staff in Case No. 18013. The only condition in that case was a five-year term, which expired in February 2015. This application (No. 18013-A) was filed to request to continue operations. The original application also requested an increase in the hours of operation, but the request for such an increase was removed by the Applicant. (Exhibit 21.)

² The public hearing in this case was continued from April 21, 2015 to May 19, 2015 because notice was posted late.

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A letter in support was submitted to the record from the Single Member District (“SMD”) ANC 5E09. (Exhibits 26 and 28.) The SMD also testified in support at the hearing. Seven other letters of support were submitted to the record. (Exhibit 8.) Testimony in support was also given by six staff members as well as a parent and resident of Franklin Commons.

Email correspondence in opposition to the application was submitted to the record from Gwen Southerland, President, Franklin Commons Tenant & Civic Association. (Exhibits 30, 31, and 37.) A request for party status in opposition was filed by the Franklin Commons Tenant & Civic Association (Exhibit 43); however, the Board denied that request as untimely filed. Ms. Southerland testified in opposition at the public hearing.

Variance Relief

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance under § 3103.2 from the parking requirements under § 2101.1, to continue operation of a child development center consisting of 50 children and 14 staff in the R-3 District. The parties to the application were the ANC and the Applicant. 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 proof pursuant to 11 DCMR § 3103.2 for a variance under § 2101.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty or undue hardship 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.

Special Exception Relief

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception under §§ 3104.1 and 205, to continue operation of a child development center consisting of 50 children and 14 staff in the R-3 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 and 205, and 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

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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**.³

VOTE: **3-0-2** (Marnique Y. Heath, Lloyd L. Jordan, and Jeffrey L. Hinkle to APPROVE; Zoning Commission member not participating; one Board member 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: May 28, 2015

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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.

³ The Board requested that the Applicant supplement the record with documentation of the four parking spaces leased from the Property Owner. The Applicant submitted the requested documentation. (Exhibit 45.)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Appeal No. 18114-A of Ward 5 Improvement Association, pursuant to 11 DCMR §§ 3100 and 3101, from decisions of the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue Certificate of Occupancy No. 1001838 on April 21, 2010, Certificate of Occupancy No. 1002471 on June 22, 2010, and Certificate of Occupancy No. CO1101152 on June 24, 2011, all for a restaurant with nightclub (not a sexually oriented business establishment), in the C-M-2 District at premises 2127 Queens Chapel Road, N.E. (Square 4258, Lot 34).

HEARING DATES: October 26, 2010 and September 27, 2011

DECISION DATES: December 7 and 14, 2010, and February 8, March 29, July 12, September 20, and November 8, 2011

**DATE OF COURT
DECISION
REMANDING TO
BOARD:**

August 21, 2014

BRIEFING ORDER ON REMAND

On August 24, 2012, the Board of Zoning Adjustment (“Board”) issued its order in Appeal No. 18114, in which the Appellant Ward 5 Improvement Association challenged the certificates of occupancy that authorized the Stadium Club to operate as “Nightclub and Restaurant with accessory parking (Not a Sexually Oriented Business Establishment).” In addition to the Appellant, the parties to the appeal were the Appellee Department of Consumer and Regulatory Affairs, the Intervener Stadium Group LLC, and Advisory Neighborhood Commission (“ANC”) 5B. As a result of redistricting that occurred subsequent to the date of the Board’s order, ANC 5C is now the “ANC for the area within which the property that is the subject of the appeal is located” and is therefore substituted for ANC 5B as a party to this proceeding. (*See* 11 DCMR § 3199.1(a)(4), definition of “Party”.)

That order was subsequently vacated and remanded by the District of Columbia Court of Appeals, in *Ward 5 Improvement Association v. District of Columbia Board of Zoning Adjustment*, 98 A.3d 147 (D.C. 2014). The Court of Appeals’ opinion included the following remand instruction:

On remand, the BZA is directed to consider whether the ZA erred in granting Stadium Club the second permanent certificate of occupancy on June 24, 2011, given the information available to the ZA at that time.¹⁷ In particular, the BZA shall consider whether the kind of dancing featured at Stadium Club involves

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“fondling,” “erotic touching,” or acts of “sexual stimulation or arousal,” as the BZA interprets those terms in light of its precedent. The BZA may consider whether these activities occur despite Stadium Club's “Rules and Regulations for Dancers” that purport to ensure compliance with zoning requirements.

98 A.3d at 156 (D.C. 2014).

The Board’s deliberations on this remand are scheduled for June 9, 2015.

The Board hereby directs the Appellant, Appellee, and Intervenor to submit to the Office of Zoning, and serve upon the other parties by 3:00 p.m. on June 2, 2015, a memorandum of no more than 20 pages in length double-spaced advising the Board as to how it should fulfil the remand instructions. ANC 5C may provide such comments as it sees fit.

Each memorandum must address the following issues raised in the Court of Appeals’ opinion:

1. What information was available to the Zoning Administrator (“ZA”) at the time of issuance of the second permanent certificate of occupancy on June 24, 2011?
2. How should the Board define key terms in the regulation listing “specified sexual activities,” particularly “fondling,” “other erotic touching of human genitals, pubic region, buttock or breast,” and acts of “sexual stimulation or arousal,” considering both the ZA’s interpretation and that “[w]ords not defined” in the Zoning Regulations “shall have the meanings given in Webster’s Unabridged Dictionary.” (11 DCMR § 199.2.)
3. How should the Board distinguish “fondling” from “other erotic touching of the human genitals, pubic region, buttock, or breast”?
4. Whether the Zoning Administrator reasonably made determinations regarding erotic touching at the Stadium Club, including whether the activities described by witnesses who attended the Stadium Club were consistent with the ZA’s determinations, and whether the “Rules and Regulations for Dancers” and other measures implemented by the managers at the Stadium Club were effective to ensure compliance with zoning requirements.
5. Whether evidence in the record adequately supports a determination by the ZA that the type of activity occurring at the Stadium Club does not promote “sexual stimulation or arousal” and therefore would not constitute a “specified sexual activity,” considering especially the Board’s decision in Appeal No. 13967 (Nov. 22, 1983, California Steak House, Inc.).
6. Whether the Board should evaluate potential acts of sexual stimulation or arousal by considering the intent of the provider of a specific type of nude dancing or some other metric such as a “reasonable person” standard.

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The memoranda shall be based solely upon the record in this case and shall not include any materials not before the Board in the original proceedings. All factual assertions shall be followed by citations to the transcript page(s) or exhibit(s) that support the contention. No replies shall be permitted.

This Briefing Order on Remand is not a final order of the Board and is therefore not the proper subject of a motion for reconsideration.

Accordingly, it is **ORDERED** that the Board **APPROVES** the issuance of this Order.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

The majority of the Board members approved the issuance of this order.

(Lloyd J. Jordan, Marnique Y. Heath, Jeffrey L. Hinkle, and Robert E. Miller to approve issuance)

FINAL DATE OF ORDER: May 21, 2015

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18972-A of Greenway Apartments L.P., as amended, pursuant to 11 DCMR § 3103.2 for a variance from the loading requirements under § 2201.1, and pursuant to § 3104.1, for a special exception from the new residential developments requirements under § 353, to construct a new residential development consisting of 60¹ multi-family rental housing units for seniors in the R-5-A District at premises 3605-3615 Minnesota Avenue, S.E. (Square 5410, Lot 800).

HEARING DATES: April 7, 2015 and May 5, 2015
DECISION DATE: May 5, 2015

CORRECTED SUMMARY ORDER²

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 3.)

The Board of Zoning Adjustment (the "Board") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 7F, and to owners of property within 200 feet of the site.³ The site is located within the jurisdiction of ANC 7F, which is automatically a party to this application. ANC 7F did not submit an official report related to the application. The Applicant testified that it had presented to the ANC twice. The Single Member District Commissioner for ANC 7F-06 submitted a letter in support of the application. (Exhibit 27.) The Office of Planning ("OP") submitted a timely report in support of the application as amended. (Exhibit 23.) The District Department of Transportation ("DDOT") submitted a report raising no objection to the approval of the application. (Exhibit 24.) A letter of support for the application was submitted by Ward 7 Councilmember Yvette Alexander. (Exhibit 25.) A neighbor testified in support of the application.

Variance Relief:

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance under § 3103.2 from

¹ In the Prehearing Statement (Exhibits 19 - 19K), the Applicant amended the application by reducing the number of units from 69-72 to 60 multi-family units for seniors.

² This order is being corrected to reflect the amendment in the number of proposed units, and to accurately cite the approved landscape plans as Exhibit 19H, not 19E, on page 2 of the order.

³ The Board waived the requirement that the application be referred to D.C. Board of Education under § 353.2.

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the strict application of the loading requirements of § 2201.1. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that in seeking the variance relief 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.

Special Exception Relief:

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1 for a special exception from the new residential developments requirements under § 353. 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 report filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR § 3104.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring properties 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 APPROVED PLANS AT EXHIBITS 7E1 – 7F (original plans), as revised by EXHIBITS 19C (survey and grading plans), 19H (landscape plans), and 19F (plans and elevations) (revised plans) and SUBJECT to the FOLLOWING CONDITIONS:**

1. The Applicant shall offer a one-year Capital Bikeshare and car share membership for the initial term of lease for new apartment residents.
2. The Applicant shall post all TDM commitments online and shall provide to each initial resident with links to goDCgo.com, WMATA Metrobus routes, and [DCBicycle](#) maps.

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3. The Applicant shall identify the property manager as the project's TDM Leader to advertise and build awareness of programs to residents.
4. The Applicant shall provide an information transit screen in the lobby area.

VOTE: **4-0-1** (Anthony J. Hood, Jeffrey L. Hinkle, Marnique Y. Heath, and Lloyd J. Jordan to Approve; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: May 28, 2015

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

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AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19001 of Michael Blake and Victoria Elias, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, and the rear yard requirements under § 404.1, to construct a two-story addition to an existing two-story, one-family dwelling in the R-4 District at premises 242 10th Street, N.E. (Square 939, Lot 26).

HEARING DATE: May 19, 2015

DECISION DATE: May 19, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

The Board of Zoning Adjustment (the “Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 6A, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application. The ANC submitted a report indicating that at a regularly scheduled and properly noticed meeting on May 14, 2015, at which a quorum was in attendance, ANC 6A voted 8-0-0 to support the application. (Exhibit 38.) The Office of Planning (“OP”) submitted a timely report and testified at the hearing in support of the application. (Exhibit 37.) The District Department of Transportation (“DDOT”) filed a report expressing no objection to the approval of the application. (Exhibit 32.) A petition in support of the application was signed by nine neighbors. (Exhibits 28, 29, and 31.) Two letters from an abutting neighbor to the rear of the property were submitted in support of the application. (Exhibits 30 and 36.)

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 §§ 223, 403.2, and 404.1. 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, 223, 403.2, and 404.1, 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

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not tend to affect adversely the use of neighboring property in the 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 is hereby **GRANTED, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 34.**

VOTE: **4-0-1** (Marnique Y. Heath, Lloyd J. Jordan, Jeffrey L. Hinkle, and Peter G. May to APPROVE; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: May 26, 2015

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.

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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. 19003 of Marie Pollard, as amended, pursuant to 11 DCMR § 3104.1 for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, the court width requirements under § 406.1, and the nonconforming structure requirements under § 2001.3,¹ to construct a rear one-story addition to an existing two-story, one-family dwelling in the R-5-B District at premises 2216 12th Street, N.W. (Square 271, Lot 195).

HEARING DATE: May 19, 2015

DECISION DATE: May 19, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 6 and 31.)

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”) 1B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1B, which is automatically a party to this application. The ANC submitted a report indicating that at a regularly scheduled and properly noticed meeting on May 7, 2015, at which a quorum was in attendance, ANC 1B voted 9-0-0 to support the application. (Exhibit 26.) The Office of Planning (“OP”) submitted a timely report and testified at the hearing in support of the amended application. (Exhibit 25.) The Department of Transportation (“DDOT”) filed a report expressing no objection to the application (Exhibit 23.) One letter from an abutting neighbor was submitted in support of the application. (Exhibit 28.)

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 §§ 223, 403.2, 406.1, 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, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223, 403.2, 406.1, and 2001.3, that the requested relief can be granted as

¹ At the hearing, in accordance with the recommendation of the Office of Planning, the Applicant amended the application to include special exception relief under § 223 for not meeting the nonconforming structure requirements under § 2001.3. (See Revised Zoning Self-Certification – Exhibit 31.)

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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 is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 8.**

VOTE: **4-0-1** (Marnique Y. Heath, Jeffrey L. Hinkle, Lloyd J. Jordan, and Peter G. May to APPROVE; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: May 28, 2014

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.

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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.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 13-08**

Z.C. Case No. 13-08

Square 5914, LLC

**(Consolidated Planned Unit Development and Related Map Amendment @ Square 5914,
Parcels 229/161, 229/160, 229/153, 229/151, and 229/103 and Lots 6 and 7)**

May 11, 2015

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on January 22, 2015 to consider an application from Square 5914, LLC (“Applicant”) for consolidated review and approval of a planned unit development (“PUD”) and related Zoning Map amendment. The Commission considered the application pursuant to Chapters 1, 24, and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations. 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, Motion, Public Hearing, and Post-Hearing submissions

1. The project site consists of Parcels 229/161, 229/160, 229/153, 229/151, and 229/103 and Lots 6 and 7 in Square 5914 (“Subject Property” or “Property”). The Subject Property includes approximately 88,486 square feet of land area, is currently zoned R-5-A, is located within the boundaries of Advisory Neighborhood Commission (“ANC”) 8E. (Exhibit [“Ex.”] 2, p. 1.)
2. The Applicant filed this application on May 2, 2013. The PUD application sought approval of a mixed-use, transit-oriented project consisting of two buildings with frontage along Alabama Avenue, S.E. and 13th Street, S.E. and a private alley for servicing both buildings. The PUD project maintains the entrance to the Congress Heights Metro Station and includes an enhanced plaza area around the entrance to the Metro Station. The PUD project initially was proposed to include approximately 205-215 apartment units and ground-floor retail in the building located at the intersection of Alabama Avenue and 13th Street (“residential building”). Initially, the residential building was proposed to have a measured building height of approximately 93 feet. The PUD project also included an office building (“office building”) located along Alabama Avenue. The office building will include approximately 236,000 square feet and will also have ground-floor retail uses adjacent to the entrance to the Congress Heights Metro Station. Initially, the office building was proposed to have a measured building height of approximately 94 feet. The Zoning Map Amendment sought to rezone the Property to the C-3-B Zone District. (Ex. 2, p. 1-2.)
3. The Commission set the application down for a public hearing at its July 8, 2013 public meeting. The Applicant filed a pre-hearing statement on September 12, 2014, and a public hearing was timely scheduled for January 22, 2015. In response to the comments made at the July 8, 2013 public meeting, the Applicant made the following modifications to the project, as noted in the September 12, 2014 pre-hearing statement:

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- The height of both the office and residential buildings was lowered to a measured height of 90 feet;
- The residential building included more red brick along Alabama Avenue, and the 13th Street façade was refined to add articulation and setbacks and convey more of a residential feel which better relates to the surrounding residential uses;
- The height of the Belvedere (architectural embellishment) located on the roof of the residential building along Alabama Avenue was reduced and the design refined to be more articulated;
- The upper two floors of the residential building along 13th Street were set back from the face of the building;
- Perspectives and site sections were provided which depicted the relationship of the proposed buildings to the scale of development that was approved on the St. Elizabeths East Campus; and
- The elevator penthouse structures were relocated to comply with the setback requirements from the public street facades and to reduce their visibility from the ground level, in particular their visibility from the Metro Plaza area.

(Ex. 15-15A7.)

4. Prior to the public hearing, the Applicant supplemented its application with additional information on January 2, 2015. The additional information included resumes of the Applicant's proposed expert witnesses, a final Community Benefits Agreement, and an additional rendering of the project as seen from Savannah Street, S.E. (Ex. 25C.)
5. On January 6, 2015, the Alabama Avenue/13th Street Tenants Coalition ("Coalition") filed a timely request for party status in opposition to the application. (Ex. 27.)
6. On January 21, 2015, the Coalition filed a motion to postpone the public hearing. The motion to postpone claimed that the Applicant lacked authorization to include Lot 7 in Square 5914 in the PUD application, and site control and title to Lot 7 in Square 5914 is clouded in several ways which prohibit the Zoning Administrator from approving building permit applications if the proposed PUD application is approved and may make moot any considerations and decisions by the Commission. The Coalition's motion claimed that "proceeding forward on this matter risks terrible administrative inefficiencies and the unnecessary expenditure of time and City money in processing the instant PUD application." (Ex. 32.)
7. On January 22, 2015, the Applicant filed a response to the Coalition's motion to postpone the public hearing. The Applicant's response noted that Square 5914, LLC is the contract

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purchaser of Lot 7 in Square 5914 and included signature pages for the PUD and Zoning Map Amendment application forms from the owner of Lot 7 in Square 5914 when the application was filed and from the current representative of the owner of Lot 7 in Square 5914. The Applicant noted that the arguments the Coalition raised regarding any lien and title issues and the Zoning Administrator's ability to approve a building permit application are not pertinent to the Commission's review of whether the consolidated PUD and Zoning Map amendment applications satisfy the relevant requirements of 11 DCMR § 2400 *et seq.* The Applicant also argued that the postponement of the public hearing on January 22, 2015, would result in "terrible administrative inefficiencies" as the Office of Planning ("OP"), the Department of Transportation ("DDOT"), the Department of the Environment ("DDOE"), and ANC 8E all submitted reports or took votes on this application in anticipation of the public hearing occurring on January 22, 2015. (Ex. 33.)

8. A public hearing was held on January 22, 2015. At the public hearing, the Commission granted the Coalition's request for party status. The Commission addressed the Coalition's motion to postpone the public hearing as a preliminary matter. The Commission determined that the issues raised in the Coalition's motion to postpone are not germane to the Commission's review of the application and it was appropriate to move forward with the public hearing and denied the Coalition's motion to postpone the public hearing. (Transcript of January 22, 2015 Public Hearing ("Tr."), pp. 10-11.)
9. Testimony was presented by the Applicant's project team, including representatives of the Applicant, the project architect and the project's transportation engineer. The Commission admitted Amanda Coen, one of the project architects, as an expert in architecture, and Jami Milanovich, the project's transportation engineer, as an expert in traffic engineering. (Tr., pp. 12-13.)
10. The Chairman of ANC 8E presented testimony in support of the application at the January 22, 2015 public hearing.
11. At the conclusion of the public hearing, the Applicant was requested to provide additional information regarding the following issues:
 - The Applicant's proposed tenant relocation plan and dialogue with the Coalition;
 - Potential architectural revisions to address the appearance of the roof structures, the private alley, retaining wall and fencing, the round retail corner element marking the entrance to the Plaza, and the relationship of this building to the adjacent school building;
 - Information from WMATA regarding its support for the project;

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- A calculation of the affordable housing requirement for the existing zoning of the Property and the amount of affordable housing provided in this project;
- Transportation issues, including the ability of residents of the project to obtain residential permit parking (“RPP”) stickers and the Applicant’s potential financial contribution to making the intersection of 15th Street and Alabama Avenue, S.E. a signalized intersection; and
- Additional information regarding the Applicant.

The Applicant was required to file this information with the Commission by February 23, 2015, and the Applicant and the Coalition were required to file proposed Findings of Fact and Conclusions of Law with the Commission on February 23, 2015. Any response to the Applicant’s submission was required to be filed with the Commission by March 2, 2015, and the Commission could take proposed action on the applications at the March 9, 2015 public meeting.

12. On February 18, 2015, the Applicant and the Coalition filed a joint motion to extend the time for filing the required post-hearing submissions. The Applicant and the Coalition proposed that the Applicant submit its required information by March 16, 2015 and that the Applicant and the Coalition submit their proposed Findings of Fact and Conclusions of Law on March 16, 2015. Any responses to the Applicant’s submission were to be filed with the Commission by March 23, 2015, and the Commission would schedule the case for proposed action on March 30, 2015. The Commission granted this joint motion on February 18, 2015. (Ex. 49.)
13. On March 16, 2015, the Applicant submitted the requested information into the record in response to issues that were raised at the public hearing, (Ex. 52-52F), and its proposed Findings of Fact and Conclusions of Law. (Ex. 51.) On March 16, 2015, the Coalition filed its proposed Findings of Facts and Conclusions of Law. (Ex. 54.)
14. On March 23, 2015, the Commission received the Coalition’s response to the Applicant’s post-hearing submissions. (Ex. 55.) The Coalition’s response detailed the reasons the Coalition did not support the relocation agreement offered by the Applicant. It also stated that the Applicant’s updated proffers contained in its post-hearing statement were not the same as those previously submitted into the record. The response further stated that because the Applicant had not quantified the rent range at which the space reserved for local tenants would be leased, its value as a proffer could not be quantified.
15. On March 30, 2015, the Commission took proposed action to approve the applications. The Commission requested that the Applicant provide the following additional information prior to final action: (i) the status of the negotiations of the relocation plan; (ii) the time period in which existing tenants may be able to return to the property; and (iii) the Applicant’s proposal to pay for the design and installation of a traffic signal at the

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- intersection of Alabama Avenue, S.E. and 15th Street, S.E. The Commission also requested a formal letter from ANC 8E noting the official action the ANC took in this case.
16. On April 6, 2015, the Applicant submitted its final proffers and conditions, pursuant to 11 DCMR § 2403.16. (Ex. 60.) The Applicant's April 6, 2015 submission also responded to the Commission's request for additional information. The Applicant's submission stated that it had not reached an agreement with the Coalition on the relocation plan, but that they hoped to reach an agreement, and further stated that it would provide a full and final description of its Tenant Relocation Plan when it submitted its final list of proffers and conditions on April 20, 2015. The Applicant stated that it expected that the tenants would need to be relocated for approximately 22-36 months. The Applicant stated that it agreed to pay for the cost of the design and construction of the new traffic intersection of Alabama Avenue, S.E. and 15th Street, S.E., with the cost capped at \$350,000 (the amount noted in DDOT's Supplemental Report), and requested that the Commission authorize the creation of an escrow account. The Applicant's letter also stated that it had encouraged the ANC 8E Chairman to submit a formal report, but stated that the Applicant had no control over whether such a report would be submitted.
 17. On April 20, the Applicant submitted its revised list of final proffers and draft conditions, pursuant to 11 DCMR § 2403.20. (Ex. 61.) The Applicant's April 20, 2015 submission also stated that, while the Applicant remains committed to having a signed relocation agreement with the existing residents on the property, the Applicant did not believe that the parties will be able to come to mutually satisfactory terms on a tenant relocation plan. The Applicant proposed therefore that the Commission include the major components of the tenant relocation plan as a condition of this Order. The major components are as follows: (i) all existing tenants have the ability to return to the new residential building; (ii) the residents will continue to pay the amount of rent they pay in their current units, subject to annual rent increases equal to the amount of the "automatic" rent increase allowed by DC's rent control law (CPI or CPI +2% depending on whether a tenant is senior or disabled), in both the temporary relocation unit and upon return to the new building; and (iii) the Applicant pays all costs of relocation for the existing tenants with the relocation units to be located within two miles of the Property.
 18. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to the District of Columbia Home Rule Act. NCPC, by delegated action by NCPC's Executive Director dated April 1, 2015, found the proposed PUD would not affect the federal interests in the National Capital, and would not be inconsistent with the Comprehensive Plan for the National Capital. (Ex. 59.)
 19. The Commission took final action to approve the application in Z.C. Case No. 13-08 on May 11, 2015.

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The Subject Property and the Surrounding Area

20. The Subject Property is currently improved with an entrance to the Congress Heights Metro Station and four residential buildings. The Subject Property includes approximately 370 feet of linear frontage along Alabama Avenue and 145 feet of linear frontage along 13th Street. The Subject Property includes some contour changes with the low point of the site located at the intersection of 13th Street and Alabama Avenue and rises approximately four and one-half feet as one moves east along Alabama Avenue. The Alabama Avenue frontage is also approximately five to six feet higher than the rear of the Subject Property. (Ex. 2, p. 2.)
21. Directly across Alabama Avenue from the Subject Property is the Kiss and Ride Parking Lot for the Congress Heights Metro Station and the Alabama Avenue entrance to the St. Elizabeths Hospital East Campus property, specifically subdistrict StE-18 of the recently adopted St. Elizabeths East (StE) District. (See Z.C. Order No. 12-08, effective March 29, 2013.) Across Alabama Avenue and further to the east is the historic Washington Hebrew Congregation Cemetery. (Ex. 2, pp. 2-3.)
22. Directly to the east of the Subject Property is the campus of the Malcolm X Elementary School. The grounds of this public elementary school extend to the south of the Subject Property all the way to Savannah Street. A garden apartment complex is located directly to the south of the Subject Property along 13th Street. To the west of the Subject Property, along Alabama Avenue and 13th Street, residential row houses are the primary use. (Ex. 2, p. 3.)

Existing and Proposed Zoning

23. The Property is located in the R-5-A Zone District and the mixed-use Medium-Density Commercial and Medium-Density Residential land use categories on the District of Columbia's Future Land Use Map. The Zoning Map Amendment application sought to rezone the Property to the C-3-B Zone District. (Ex. 2, p. 2.)

Description of the PUD Project

Applicant's Development Vision for the Project

24. The Applicant's vision for the development of the Subject Property was guided by the following goals:
 - Create a vibrant transit-oriented development with neighborhood-serving retail, office, and residential uses;
 - Increase Metro ridership originating/terminating at the Congress Heights station with uninterrupted operation of the station entrance;

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- Enhance pedestrian safety along Alabama Avenue; and
- Enliven the plaza surrounding the Metro Station entrance.

In furtherance of those goals, the Applicant stated that it created a truly transit-oriented project that helps achieve the District's vision of creating economic development opportunities in the Congress Heights neighborhood and Ward 8. The project will create new housing, office, and retail options for existing and new residents, and establish a high level of urban design and architectural quality that will guide future development in the area. (Ex. 2, p. 3.)

25. In written testimony, the Applicant noted that one of the focal points of the project's design process has been to create a truly special public space around the entrance to the Congress Heights Metro Station. The plaza area that is created by the location and architectural treatment of the proposed office and residential buildings will be a neighborhood center and focal point. A rotunda at the second level of the residential building provides a unique architectural marker for this building and helps pull pedestrians walking along Alabama Avenue into the plaza. Retail use is proposed along Alabama Avenue, at the corner of Alabama Avenue and 13th Street, as well as lining the proposed plaza that surrounds the Metro entrance. These retail uses will help animate the neighborhood and pedestrian realm as well as create a lively atmosphere for workers in the office building, tenants of the residential building, and patrons of the new stores and restaurants. (Ex. 2, pp. 3-4.)
26. The Applicant also noted that the buildings along Alabama Avenue have been pulled back from the property line in order to create a more lively and engaging public realm. The sidewalks along Alabama Avenue and 13th Street will include tree boxes of approximately six feet wide and pedestrian travel ways of between 10 and 20 feet wide. Planters with small trees and shrubs will help to define the plaza. All of the electrical vaults for both buildings will be placed on private property. (Ex. 2, p. 4.)

Residential Building

27. The 205-215 residential units will be located in the building at the intersection of 13th Street and Alabama Avenue, S.E. As noted above, this building will include ground-floor retail uses, a prominent lobby entrance on Alabama Avenue and small office users along 13th Street. The façade of this frontage on 13th Street is treated as a series of townhouse-like elements that step back at the fourth floor so as to better relate to the scale and rhythm of the neighboring buildings across 13th Street and further down 13th Street. Like the adjacent residential buildings, the main façade material is a warm red brick. A vertical band of sienna colored brick marks the corner while balconies farther up the façade break up the mass of the building, act as a cornice, and scale the new building to the existing context. (Ex. 2, p. 5.)

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28. In order to help further animate the plaza, the residential building includes a gym (for use by the residents of the building) at the second level which includes a patio space that overlooks the plaza. A large courtyard, with significant plantings and vegetative treatment, is proposed at the rear of the building. Just as in the office building, the roof level for the residential building has been thoughtfully designed to take full advantage of the views to the North that the Subject Property provides. An open terrace area is proposed at the corner of 13th Street and Alabama Avenue and a large amount of the roof area will be covered with a vegetative green roof which will also reduce the urban heat island effect and treat storm water for both quality and quantity. (Ex. 2, p. 5.)

Commercial Building

29. The proposed office building will be eight stories tall, with the eighth level further set back from the building's edge along Alabama Avenue. The façade treatment for this building is intended to include mainly tan colored brick and sienna colored brick accents, precast trim, as well as painted aluminum windows and curtain wall elements. The entrance to the lobby at the plaza level, at the rear of the plaza, will be a double height atrium that is set back slightly from the main façade. The entrance will be framed with a stone surround and glass and metal accent elements. The roof level of the office building has been designed to highlight the truly special views that this project will have over the St. Elizabeths East and West Campuses and towards the Anacostia River. A large terrace area is proposed, as well as a significant vegetative green roof which will reduce the urban heat island effect and be used to treat storm water for both quality and quantity. (Ex. 2, p. 4.)

LEED Requirements

30. The Applicant has agreed to design the multi-family building so that it could achieve a LEED-Silver certification. The Applicant has agreed to design the office building so that it could achieve a LEED-Gold certification. The Applicant has also agreed to have both buildings go through the LEED certification process. (Ex. 2, p. 13; Ex. 52.)

Transportation Issues

31. The project will include approximately 218 car parking spaces, 148 bicycle parking spaces inside the building (78 for the office building and 71 for the residential), and 22 public bicycle parking spaces at grade as well as the DC Bikeshare station which includes 15 bicycle spaces. Vehicular access to the project will be provided through the creation of a private alley system that wraps the project. Access to this alley system will occur from an existing curb cut on Alabama Avenue at the eastern end of the site (expanded from its current 13 foot width to a minimum width of 20 feet throughout) and a relocated curb cut on 13th Street to the southern end of the Subject Property. One existing curb cut on Alabama Avenue will be closed as a result of this application. The private alley will operate as one-way for trucks, with a clockwise directional flow of trucks entering the

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Subject Property from Alabama Avenue and then exiting out of the project onto 13th Street. Passenger cars will be able to access the entrances to the parking spaces at grade as well as the two below-grade parking levels through the alley from either 13th Street or Alabama Avenue. (Ex. 2, pp. 5-6.)

32. The loading and parking facilities for each building will be separate. Access to the two below-grade levels of parking spaces for the office building (with approximately 132 spaces) will be from an entrance at the southeast corner of the Subject Property. Four 30-foot loading berths and associated platforms will be fully enclosed in the building and two 20-foot service/delivery Spaces are located in a wide portion of the alley. Access to the one below-grade level of parking for the residential building will be in the general center of the Subject Property. Two separate entrances allow access from the at-grade parking onto the private alley. A total of 72 parking spaces are provided for the residential use and 14 retail parking spaces for retail use on the residential lot. The residential building will have one 20-foot service/delivery space and one 30-foot loading berth. The Applicant is requesting flexibility from the requirement to provide a 55-foot loading berth. (Ex. 2, p. 6.)
33. The Subject Property includes a slope of approximately five to six feet from the northern edge along Alabama Avenue to the southern edge. The design of the private alley effectively utilizes this grade change to help buffer the visual and noise impacts of personal vehicles and trucks that will access the parking and loading facilities. A retaining wall along the eastern and southern edges of the Subject Property is proposed to separate the private alley from the adjoining properties. (Ex. 2, p. 6.)
34. The Applicant submitted a transportation impact study (“TIS”) prepared by Wells & Associates. The TIS included a Transportation Demand Management (“TDM”) Plan that included the following elements:
 - (a) A member of the property management team will be designated as the Transportation Management Coordinator (“TMC”). The TMC will be responsible for ensuring that information is disseminated to tenants of the buildings. The position may be part of other duties assigned to the individual;
 - (b) Information on and/or links to the following programs and services will be provided on the property management website:
 - Capital Bikeshare;
 - Car-sharing services;
 - Uber;
 - Ridescout;

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- Commuter Connections Rideshare Program, which provides complimentary information on a variety of commuter programs to assist in determining which commuting options work best for commuters;
 - Commuter Connections Guaranteed Ride Home, which provides commuters who regularly (twice a week) carpool, vanpool, bike, walk, or take transit to work with a free and reliable ride home in an emergency; and
 - Commuter Connections Pools Program, which incentivizes commuters who currently drive alone to carpool. Participants can earn money for carpooling to work and must complete surveys and log information about their experience;
- (c) An electronic display will be provided in a common, shared space in each of the buildings and will provide public transit information such as nearby Metrorail stations and schedules, Metrobus stops and schedules, car-sharing locations, and nearby Capital BikeShare locations indicating the number of bicycles available at each location; and
- (d) Convenient and covered secure bike parking facilities will be provided with storage for a minimum of 76 bicycles for the entire development.

(Ex. 15C, pp. 37-38.)

35. DDOT requested that the Applicant fund the design and installation of a traffic signal at the intersection of Alabama Avenue, S.E. and 15th Street, S.E. In testimony at the public hearing, the Applicant's transportation engineer noted that the costs associated with the design and installation of a traffic signal are approximately \$300,000-\$350,000. The Applicant offered to pay for 25% of the cost of the signal. In response, DDOT submitted a supplemental report dated March 26, 2015. (Ex. 57.) DDOT's Supplemental Report stated that it was DDOT's position that the Applicant should be required to fully fund the new signal, and requested that the Applicant create an escrow fund of \$350,000 to fund the signal. The Supplemental Report further stated that the Applicant would be expected to complete a full warrant analysis as part of the public space permitting process, including existing conditions. In response to DDOT's Supplemental Report, the Applicant agreed to pay for the cost of design and construction of the new traffic signal at the intersection of Alabama Avenue, S.E. and 15th Street, S.E., with such costs capped at \$350,000 (the amount noted in DDOT's Supplemental Report). The Applicant explicitly requested that the Commission approve the Applicant's ability to establish an escrow account in which the \$350,000 will be placed. After the signal warrant analysis (noted by DDOT) is completed and if the signal is deemed to be warranted, the Applicant will agree

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that the signalized intersection will be operational prior to the issuance of a certificate of occupancy for the second building on the property. (Ex. 60.)

36. At the request of the Commission, the Applicant researched the ability of residents of this project to obtain residential permit parking (“RPP”) stickers for their cars. The existing Alabama Avenue and 13th Street addresses associated with this property are not eligible for RPP parking. The Applicant agreed to add a condition to the Commission’s approval of this application that prohibits any resident of this project from obtaining an RPP sticker. (Ex. 52, p. 6.)

Tenant Relocation Plan and Discussions/Dialogue with the Community

37. The Applicant’s March 16, 2015 post-hearing submission included specific responses to questions that were raised by one of the Coalition members at the January 22, 2015 public hearing regarding the tenant relocation plan. The Applicant’s tenant relocation plan consists of the following major components:

- All existing tenants have the ability to return to the new residential building;
- The residents will continue to pay the amount of rent they pay in their current units, subject to annual rent increases equal to the amount of the “automatic” rent increase allowed by DC’s rent control law (CPI or CPI + 2% depending on whether a tenant is senior or disabled), in both the temporary relocation unit and upon return to the new building. This proposal means that tenants are paying no more than what they would pay if they continued living in their current buildings and they are protected from other forms of rent increases allowed under rent control, such as hardship petitions or capital improvement petitions; and
- The Applicant pays all costs of relocation for the existing tenants, the relocation units will be located within two miles of the property (the landlord has provided the tenants with the opportunity to visit the relocation units).

(Ex. 52, p. 2 and Tab B.)

38. At the request of the Commission at the conclusion of the January 22, 2015 public hearing, the owner of the existing residential properties (“Residential Property Owner”) sought to engage in substantive discussions with the Coalition regarding the terms of the tenant relocation plan and the issues that were raised by the Coalition at the January 22, 2015 public hearing. Unfortunately, the Residential Property Owner’s representatives found the Coalition to be unresponsive to these requests. The Applicant provided an outline of the correspondence between the Residential Property Owner’s representatives and the Coalition’s counsel which detailed the correspondence between the parties from September of 2014 (the tenant relocation plan was presented to the Coalition in July of 2014 to March 2015. (Ex. 52, p. 1.)

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39. After the January 22, 2015 public hearing, the Residential Property Owner made a concession to the relocation plan offered to the tenants. The Residential Property Owner no longer asked that the tenants forego the exercise of their rights under the Tenant Opportunity to Purchase Act of 1980 (“TOPA”), D.C. Official Code §§ 42–3404.01 *et seq.* (2012 Repl.). The Residential Property Owner revised the draft agreement so that any decision that a tenant makes about returning to the new building after temporary relocation or accepting a buy-out would be made following the Residential Property Owner’s receipt of a demolition permit (which is only issued after the TOPA process is complete). (Ex. 52, pp. 1-2.)
40. In its April 20, 2015 submission, the Applicant stated that while it remained committed to having a signed relocation agreement with the existing residents on the property, it believed the parties were not going to be able to come to mutually satisfactory terms on a tenant relocation plan. The Applicant proposed instead that the Commission include the major components of the tenant relocation plan listed in the Applicant’s March 26, 2015 post-hearing submission as conditions of this Order. The Commission has adopted this approach, and this Order includes a condition requiring the Applicant to abide by the major components of the tenant relocation plan listed in the Applicant’s March 26, 2015 post-hearing submission.
41. Prior to taking final action to approve the application, the Commission requested that the Applicant’s attorney clarify the language of the first component of the tenant relocation plan. He stated that the Applicant will provide evidence to the Zoning Administrator that all existing tenants were provided the opportunity to return to the new residential building.

Affordable Housing

42. The Applicant’s final proposal was to create 15,655 square feet (“sf”) of workforce affordable housing, with 10,877 sf reserved for households making up to 80% of the area median income (“AMI”) and 4,778 sf reserved for households earning up to 50% of AMI. (Ex. 52, p. 5.)
43. The Applicant’s post-hearing submission also addressed the affordable housing component of the project. The Applicant provided information which calculated the Inclusionary Zoning (“IZ”) requirement that would be applicable if the site was developed as a matter-of-right in the existing R-5-A Zone District at the maximum permitted floor area ratio (“FAR”) plus the bonus 20% afforded IZ projects [9,556 sf (4,778 sf at 50% AMI and 4,778 sf at 80% AMI)], and the amount of affordable housing that is being provided in this PUD project [15,655 sf (10,877 sf square feet at 80% AMI and 4,778 sf at 50% AMI)]. The Applicant noted that it is providing 6,090 sf of affordable housing more than would be created on the property than if it was developed as a matter-of-right. The amount of affordable housing reserved for households at 50% in

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perpetuity is the same as what would be achieved on the property as a matter-of-right. The Applicant's post-hearing submission included a site plan which noted the number, size, and distribution of the IZ units in the residential building. (Ex. 52, pp. 4-5; Ex. 52D1-52D2.)

44. The Applicant also noted that one of the witnesses in opposition to the application questioned why was there no Housing Linkage payment required for the amount of office development that is being proposed in the project. The Applicant pointed to the fact that the residential and office components of this project have been designed to be one cohesive whole. These abutting buildings have been seamlessly designed to frame the Metro plaza and they share the private alley system which allows for an efficient and effective internal transportation system. The Applicant argued that it is entirely appropriate to include the total lot area in calculating the IZ requirement, and the applicability of the Housing Linkage requirement to this project. The Applicant concluded that this project does not trigger the Housing Linkage payment requirements, as the total amount of office gross floor area that is provided in this project is 226,695 sf, which results in a density of only 2.56 FAR, which is significantly less than the 4.0 non-residential FAR that is permitted in the C-3-B Zone District as a matter-of-right. (Ex. 52, p. 6.)

Applicant's Testimony

45. Amanda Coen, of Maurice Walters Architects, one of the project architects and admitted as an expert witness in the field of architecture, described the context of the area surrounding the Subject Property and how the massing and architectural details of the residential and office buildings (with the changes that were made to the buildings in response to the Commission's set-down comments) responded to the residential uses along 13th Street, the future development of the St. Elizabeths campus across Alabama Avenue, and the adjacent Malcolm X School. Ms. Coen also described the architectural treatment of the plaza area and the potential for creating a well-lit, safe, and energized space with retail and restaurant uses (Tr., pp. 16-19.)
46. Ms. Coen discussed how the architectural detailing of the building was continued all the way around the building, and there was no "back" to the building. Ms. Coen also noted the private alley that sinks down approximately four to five feet in the rear of the building and is separated from the adjacent property by a retaining wall and fence atop the retaining wall. Ms. Coen noted that the private alley allows the separation of cars and delivery trucks from the pedestrians along 13th Street and Alabama Avenue creating very pedestrian-friendly spaces along those street frontages. (Tr., pp. 19-25.)
47. At the public hearing, Jami Milanovich, of Wells & Associates and admitted as an expert witness in transportation engineering, testified to the vehicular access to the site via the private alley, the proposed amount of parking provided, and the loading that is provided. Ms. Milanovich discussed the requested relief from the 55-foot loading berth requirement

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- for the residential portion of the project and the appropriateness of the Applicant's Loading Management Plan to help ensure that no adverse impacts would result from loading activity on the property. (Tr. pp. 28-30.)
48. Ms. Milanovich also noted that the project is expected to generate approximately 250 vehicular trips during both the morning and evening peak hours and that seven intersections along the Alabama Avenue corridor were studied for this project. Ms. Milanovich noted that during the morning peak hour, site-generated traffic is expected to account for less than 10% of the total traffic at six of the intersections and 10.9% at the seventh intersection. During the evening peak hour, site-generated traffic is expected to account for less than 10% of the total traffic at five intersections, with the site generated traffic accounting for 11% and 10.5% at the two other intersections. (Tr., pp. 30-31.)
49. Ms. Milanovich also testified that from a transportation perspective, the site is ideally situated. Its location at the Congress Heights Metro Station will naturally encourage transit trips to and from the site and seven bus routes stop immediately adjacent to the site. To capitalize on those transportation options, Ms. Milanovich described the proposed TDM Plan that included all of DDOT's comments. (Tr., p. 31.)
50. Ms. Milanovich also presented testimony regarding DDOT's request that the Applicant design and install a traffic signal at the Alabama Avenue/15th Street intersection. Ms. Milanovich noted that since the traffic signal warrants are met at that intersection even without the proposed development, the Applicant was willing to provide a pro-rata contribution towards the design and construction of the traffic signal.¹ Ms. Milanovich also noted that the Applicant accepted DDOT's proposed conditions regarding: the installation of 22 short-term bicycle spaces the unbundling of parking costs in all commercial and residential leases; continued coordination with DDOT on public space issues; and continued coordination with DDOT on the installation of electric car charging stations on the property. (Tr. pp. 32-33.)
51. At the public hearing, Geoffrey Griffis of City Partners testified on behalf of the Applicant. Mr. Griffis testified to the project's benefits to: Metro, the City, and the Congress Heights neighborhood; the community benefits agreement the Applicant entered into with ANC 8E and community organizations; and the dialogue process that occurred with the current residential tenants. Mr. Griffis noted that the project is a transit-oriented project on an under-utilized site that will create new housing and retail options (with local retail opportunities), new job opportunities, will establish a high level of urban design and architectural quality with an active and safe streetscape and plaza, and is a project that will guide future development in the area. (Tr., pp. 34-36.)
52. Mr. Griffis discussed the Community Benefits Agreement that was negotiated with the community. Mr. Griffis noted that this agreement included employment opportunities for

¹ The Applicant later agreed to pay the full cost of design and construction of the signal, capped at \$350,000.

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local residents during construction and also with future employers in the project as well as internship opportunities, office space for ANC 8E, and retail or business space for local and small business enterprises at a discounted rent. (Tr., pp. 38-40.)

53. Mr. Griffis also testified to the tenant relocation plan that was offered to the residents of the existing buildings on the property. Mr. Griffis noted that the tenant relocation plan included four elements: (i) the right of all residents to return to the new project; (ii) relocation assistance during construction; (iii) helping tenants find temporary new units during construction; and (iv) for those residents that did not want to return, a buy-out payment. (Tr., pp., 40-41.)

Density Proposed and Flexibility Requested

54. The final total gross floor area included in the proposed PUD is approximately 447,588 sf for a total density of approximately 5.06 FAR. The proposed office building will include approximately 226,695 sf of office use, 9,138 sf of retail use and will have a measured building height of 90 feet. The proposed residential building will include approximately 205-215 residential units, 195,684 sf of residential use, 16,071 sf of retail use, and will have a measured building height of approximately 90 feet. The C-3-B Zone District permits a maximum FAR of 5.0 (4.0 commercial) as a matter-of-right and a maximum FAR of 5.5 (4.5 commercial) in a PUD project. The maximum height allowed as a matter-of-right in the C-3-B Zone District is 70 feet. A PUD project in the C-3-B Zone District is permitted a maximum building height of 90 feet. The Applicant requested flexibility from the following requirements of the Zoning Regulations:

- Roof structures – The Applicant is requesting the ability to create one roof structure on the office building. However, in order to mitigate its visual impact, the Applicant is requesting the ability to have this roof structure include varying heights. On the residential building the Applicant is similarly seeking to reduce the visual impact by creating three roof structures with varying heights. The Applicant is seeking set-back relief from the portion of the roof structure on the residential building that abuts the building's internal courtyard. This roof structure satisfies all required setbacks from the exterior walls of the residential building which face public streets;
- More than one structure on a single record lot – The residential and office buildings will be located on the same record lot and will not have an above-grade connection between the buildings. Each building's theoretical lot calculations were provided into the record. On the office building lot, the non-residential density will be 4.82 FAR, which is more than the permitted 4.5 FAR for non-residential use for a PUD in the C-3-B Zone District. However, the total amount of non-residential density provided on the entire site is only 2.85 FAR; and

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- Loading – The project will include a 30-foot loading berth for the residential building rather than a 55-foot loading berth. The two service and delivery spaces required for the office building will be provided on the theoretical residential lot.

(Ex. 15.)

55. At the public hearing, an additional area of flexibility was noted. Due to the complexities of the site, including construction in and around an operating Metro station and Metro tunnels, the Applicant requested that it be provided three years to file a building permit for the construction of the first building and up to five years to file the building permit for the second building. (Tr., pp. 15-16.)
56. The Applicant, in its written submissions and testimony before the Commission, noted that the following benefits and amenities will be created as a result of the project, in satisfaction of the enumerated PUD standards in 11 DCMR § 2403:
- (a) Housing and Affordable Housing: Pursuant to § 2403.9(f) of the Zoning Regulations, the PUD guidelines state that the production of housing and affordable housing is a public benefit that the PUD process is designed to encourage. This project will create approximately 205-215 residential units and approximately 15,655 sf of workforce affordable housing, with 10,877 sf reserved for households making up to 80% of AMI and 4,778 sf reserved for households earning up to 50% of AMI. In a post-hearing submission, the Applicant noted that the maximum matter-of-right development on the Property would create 9,565 sf of affordable housing (4,778 sf reserved for households making up to 50% of AMI and 4,778 sf reserved for households earning up to 80% of AMI), and the Applicant's proposed amount of affordable housing was 6,090 sf more than would be provided on the Property if the Property was developed as a matter-of-right. The affordable housing units will be distributed throughout the residential building (except for the upper two stories of the building). (Ex. 2, p. 11.) In addition, the Applicant has proffered the following tenant relocation plan: (i) all existing tenants have the opportunity to return to the new residential building; (ii) the residents will continue to pay the amount of rent they pay in their current units, subject to annual rent increases equal to the amount of the "automatic" rent increase allowed by DC's rent control law (CPI or CPI + 2% depending on whether a tenant is senior or disabled), in both the temporary relocation unit and upon return to the new building; and (iii) the Applicant pays all costs of relocation for the existing tenants with the relocation units to be located within two miles of the Property;
 - (b) Urban Design, Architecture, Landscaping, or Creation of Open Spaces: § 2403.9(a) lists urban design and architecture as categories of public benefits and project amenities for a PUD. The project exhibits all of the characteristics of exemplary urban design and architecture. The massing, height, and articulation of

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the buildings have been carefully studied in order to create a project that provides new housing, office, and retail opportunities for the District, yet also respects the nearby lower density residential and educational uses. The public spaces along Alabama Avenue and 13th Street and the public plaza have been designed to provide for an engaging and active street level experience; (Ex. 2, p. 12.)

- (c) Site Planning, and Efficient and Economical Land Uses: Pursuant to § 2403.9(b) of the Zoning Regulations, “site planning, and efficient and economical land utilization” are public benefits and project amenities to be evaluated by the Commission. The creation of a truly transit-oriented project on the Subject Property, with housing, office and retail uses, is an example of appropriate site planning and efficient and economical land use as a project amenity. Given the Subject Property’s adjacency to the Congress Heights Metro station, it is appropriate to have this level of density and building height on this site as proposed in this PUD project; (Ex. 2, p. 12.)
- (d) Effective and Safe Vehicular and Pedestrian Access: The Zoning Regulations, pursuant to § 2403.9(c), state that “effective and safe vehicular and pedestrian access” can be considered public benefits and project amenities. Vehicular access to the site has been carefully studied and designed to minimize the potential for pedestrian and vehicular conflicts. The private alley system will allow for vehicles and trucks to safely and efficiently access the parking and loading facilities without impeding pedestrian traffic flow along both Alabama Avenue and 13th Street. A total of approximately 148 dedicated bicycle parking spaces will also be provided in the three parking levels of the office and residential buildings. An additional 22 bicycle parking spaces will be provided in the adjacent public space and a DC BikeShare station provides an additional 15 bike parking spaces; (Ex. 2, pp. 12-13.)
- (e) Uses of Special Value: According to § 2403.9(i), “uses of special value to the neighborhood or the District of Columbia as a whole” are deemed to be public benefits and project amenities. The Applicant noted that it engaged in significant negotiations with representatives of ANC 8E, the Congress Heights Community Association, the Community Training and Development Corporation, Lead the Way Foundation and Higher Hopes, Inc., and the Ward Eight Council Against Domestic Violence. The Applicant and ANC 8E agreed upon a Community Benefits Agreement which included the following components:
- The Applicant will provide 1,600 sf feet of retail space to local tenants who will receive a rent discount of 25% for the life of the project;
 - Creation of job training, employment and internship programs specifically tailored to Ward 8 residents;

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- Creation of a revolving working capital fund, in an amount no less than \$200,000, for contracts directly with the Applicant. This fund will allow smaller contractors access to funds to pay employees. The fund shall be used to allow small contractors, including those located in the Ward 8 Community, retained during the construction phases of the development, to cover payroll and other fixed costs on a weekly basis;
- The Applicant will provide approximately 500 sf of office space for ANC 8E for a term of at least five years, with possible extensions, at a cost of \$12 per year;
- The Applicant will provide the Lead the Way Foundation and Higher Hopes, Inc. (“LTWFHHI”) with a payment of \$5,000 annually for a period of 15 years. These funds shall be used for facilitation of comprehensive, social reconstruction programs for the residents of the Ward 8 Community. These programs will include comprehensive resident and youth case management, engagement, and outreach services featuring an adolescent clubhouse and including, but not limited to, the arts and cultural services, health fitness and nutrition, financial management, and annual community social events, as well as development opportunities for the neighboring community;
- The Applicant will help the Congress Heights Community Association (“CHCA”) fund the Annual Congress Heights Health and Community Day by providing a payment in the amount of \$5,000 annually for a period of 15 years;
- The Applicant will provide the Ward Eight Council Against Domestic Violence (“WECADV”) with a payment of \$5,000 annually for a period of 15 years; and
- The Applicant will provide the Congress Heights Community Training and Development Corporation (“CHCTDC”) with a payment of \$5,000.00 annually for a period of 15 years. These funds shall be used solely to pay for the costs of conducting training for targeted businesses in Ward 8, to develop management and business capability to perform contracts for the Applicant, its general contractor, and subcontractors;

(Ex. 25, Tab B.)

- (f) Revenue for the District: § 2403.9(i) states that “uses of special value to the neighborhood or the District of Columbia as a whole” are deemed to be public benefits and project amenities. The creation of approximately 205-215 new households, approximately 25,209 sf of retail space, and approximately 226,000

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sf of new commercial office space will result in the generation of significant additional tax revenues in the form of real estate, income, sales, use, and employment taxes for the District; (Ex. 2, p. 14.)

- (g) Job Training Programs: § 2403.9(e) lists employment and training opportunities as a public benefit and project amenity. As part of the Community Benefits Agreement, the Applicant has agreed to the creation of job training, employment and internship programs specifically tailored to Ward 8 residents; (Ex. 25, Tab B.)
- (h) Environmental Benefits: According to § 2403.9(h), “environmental benefits” are representative public benefits and project amenities. The Applicant has agreed to design the multi-family building so that it could achieve a LEED-Silver certification. The Applicant has agreed to design the office building so that it could achieve a LEED-Gold certification. The Applicant has also agreed to have both buildings go through the LEED certification process; (Ex. 2, p. 13.)
- (i) Comprehensive Plan: According to § 2403.9(j), public benefits and project amenities include “other ways in which the proposed planned unit development substantially advances the major themes and other policies and objectives of any of the elements of the Comprehensive Plan.” The Applicant noted that the proposed PUD is consistent with and furthers many elements and goals of the Comprehensive Plan. The project’s consistency with the Comprehensive Plan is described in greater detail below; and (Ex. 2, p. 14.)
- (j) Public Benefits of the Project: §§ 2403.12 and 2403.13 require the Applicant to show how the public benefits offered are superior in quality and quantity to typical development of the type proposed. This PUD project will include many, if not all, of the attributes of PUD projects that have been recently approved by the Commission, including:
- Exemplary/superior architecture;
 - Affordable housing;
 - Transit-oriented development; and
 - Ground-floor retail establishments.

Comprehensive Plan

57. The Applicant noted that the Comprehensive Plan’s Housing Element includes the following policies that are supported by this project:

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- Policy H-1.1 - Expanding Housing Supply: Expanding the housing supply is a key part of the District's vision to create successful neighborhoods. Along with improved transportation and shopping, better neighborhood schools and parks, preservation of historic resources, and improved design and identity, the production of housing is essential to the future of our neighborhoods. It is also a key to improving the city's fiscal health. The District will work to facilitate housing construction and rehabilitation through its planning, building and housing programs, recognizing and responding to the needs of all segments of the community. The first step toward meeting this goal is to ensure that an adequate supply of appropriately zoned land is available to meet expected housing needs;
- Policy H-1.1.3 - Balanced Growth: Strongly encourage the development of new housing on surplus, vacant and underutilized land in all parts of the city. Ensure that a sufficient supply of land is planned and zoned to enable the city to meet its long-term housing needs, including the need for low-and moderate-density single family homes as well as the need for higher-density housing;

As noted by the Applicant and OP, the proposed development would better utilize the property around the Metro station, increasing workforce housing to complement other housing types, existing and planned, for the Congress Heights area. The required level of IZ units would be provided at eight percent or 15,565 gross square feet of the residential space of its affordable units (10,877 sf for households making up to 80% of AMI and 4,778 sf for households making up to 50% of AMI). These affordable units would also accommodate returning residents at various levels of AMI's, well below 80%.

- Policy H-1.1.4 – Mixed-Use Development: Promote mixed-use development, including housing, on commercially zoned land, particularly in neighborhood commercial centers, along Main Street mixed use corridors, and around appropriate Metrorail stations;
- Policy H-1.2.2 - Production Targets: Consistent with the Comprehensive Housing Strategy, work toward a goal that one-third of the new housing built in the city over the next 20 years should be affordable to persons earning 80 percent or less of the area-wide median income (AMI). Newly produced affordable units should be targeted towards low-income household; and

The Property is recommended for mixed-use development with residential, commercial and retail uses and is within an area designated to be a neighborhood commercial center at a Metro Station. The Applicant noted that the project's provision of 205-215 residential units, including approximately 15,655 sf of workforce affordable housing (at various levels at and below 80% AMI), is consistent with this policy of encouraging mixed-use development in close proximity to Metro Stations.

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- Policy FSS-1.1.10 - Minority/Small Disadvantaged Business Development: Provide technical assistance to minority-owned and small businesses in the Far Southeast/Southwest to improve the range of goods and services available to the community. Joint venture opportunities, minority business set-asides, business incubator centers, and assistance to community-based development organizations should all be used to jumpstart local business and provide jobs in the community.

The Applicant is providing: commercial space at reduced rents for neighborhood businesses for the life of the project; assistance to small, sub-contractors; and monetary donations to neighborhood organizations to fund their programs.

58. The Applicant noted that the Comprehensive Plan's Far Southeast/Southwest Area Element includes the following policies that are supported by this project:

- Policy FSS-2.4.1 - Congress Heights Metro Station Mixed-Use: "Encourage reuse of the Congress Heights Metro station site and its vicinity with mixed use medium density residential and commercial development through the use of planned unit developments that promote new economic development. Development on the site should be cognizant of the adjacent lower density neighborhood to the west and south, provide a connection to the future development on the St. Elizabeths Campus, and create a stronger sense of identity and gateway for the Congress Heights neighborhood. Medium density development on the portions of the northwest quadrant of Square 5814 [sic.] would be compatible with the adjacent lower density neighborhood to the west and south with appropriate design review through a Planned Unit Development process. Strongly encourage WMATA to make its land available for joint development around the Congress Heights Metro Station"; and

The Applicant states that the proposed PUD project and Zoning Map amendment application are the embodiment of these policies. The proposed project is a medium-density commercial (office and retail) and residential development directly above and adjacent to the Congress Heights Metro Station. The proposed project helps create a gateway between the development that will occur on the St. Elizabeths East Campus and the Congress Heights community. The massing and height of the buildings is respectful to the nearby lower-scale residential uses and also creates an attractive and engaging street level experience along Alabama Avenue, 13th Street, and the new public plaza. The buildings are located and designed so as not to affect the light and air of adjacent uses. Loading and parking areas are to the rear of the buildings and are set back from the property line to minimize noise to residents to the south. Retail uses are concentrated along Alabama Avenue and around the Metro plaza area. The façade of the residential building along 13th Street will be of red brick, similar to the homes along 13th Street and with articulations to mimic townhouse units

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- Policy FSS-1.1.1 - Directing Growth (in pertinent part): Additional opportunities for future housing development and employment growth in the Far Southeast/Southwest should be directed to the area around the Congress Heights Metro Stations [sic.] and along the Great Streets corridors of South Capitol Street. Provide improved transit and automobile access to these areas and improve their visual and urban design qualities.

The Applicant noted that this project is being reviewed as a PUD and promotes new and affordable housing, improves transit access and promotes quality in the design of the buildings and adjacent public spaces, including the Metro plaza area. The Applicant worked with community representatives to identify specific benefits needed in the neighborhood.

59. The Applicant noted that the Comprehensive Plan's Urban Design Element includes the following policies which are furthered by the PUD project:

- Policy UD-2.2.5 - Creating Attractive Facades: Create visual interest through well-designed building facades, storefront windows, and attractive signage and lighting. Avoid monolithic or box-like building forms, or long blank walls which detract from the human quality of the street;
- Policy UD-3.1.7 - Improving the Street Environment: Create attractive and interesting commercial streetscapes by promoting ground level retail and desirable street activities, making walking more comfortable and convenient, ensuring that sidewalks are wide enough to accommodate pedestrian traffic, minimizing curb cuts and driveways, and avoiding windowless facades and gaps in the street wall; and
- Policy UD-3.1.8 - Neighborhood Public Space: Provide urban squares, public plazas, and similar areas that stimulate vibrant pedestrian street life and provide a focus for community activities. Encourage the "activation" of such spaces through the design of adjacent structures: for example, through the location of shop entrances, window displays, awnings, and outdoor dining areas.

The Applicant notes the high levels of architectural design and quality of materials used in this project will serve as the standard for future development in the area. The proposed buildings are set back from the property line to provide additional space for pedestrian ways and landscaping. The creation of ground-floor retail uses and the treatment of the public space along Alabama Avenue and 13th Street and the public space will encourage and foster pedestrian activity and outdoor seating areas. Small office uses along 13th Street frontage would activate the street while respecting the residential street.

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60. The Applicant noted that the Comprehensive Plan's Land Use Element includes the following policies which are furthered by the PUD project:
- Policy LU-1.3.1 - Station Areas as Neighborhood Centers: 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;
 - Policy LU-2.4.5 - Encouraging Nodal Development: Discourage auto-oriented commercial "strip" development and instead encourage pedestrian-oriented "nodes" of commercial development at key locations along major corridors. Zoning and design standards should ensure that the height, mass, and scale of development within nodes respects the integrity and character of surrounding residential areas and does not unreasonably impact them;

The Applicant proposed that the PUD project will serve as an anchor for further economic and civic development of the Congress Heights neighborhood. The creation of a significant amount of office space, on top of the Congress Heights Metro Station, is an important economic generator that also has the opportunity to minimize adverse impacts on the surrounding community. The creation of 25,209 sf of new retail uses surrounded by active and accessible pedestrian travel routes provides both economic and civic benefits. The creation of approximately 205-215 new residential units provides the opportunity for new residents to come to the neighborhood or for existing residents to remain in their neighborhood. Finally, the creation of a lively and animated plaza around the Congress Heights Metro Station canopy and entrance creates a public place and new cultural focal point for the Congress Heights community.

- Policy LU-1.3.2 - Development Around Metrorail Stations: Concentrate redevelopment efforts on those Metrorail station areas which offer the greatest opportunities for infill development and growth, particularly stations in areas with weak market demand or with large amounts of vacant or poorly utilized land in the vicinity of the station entrance. Ensure that development above and around such stations emphasizes land uses and building forms which minimize the necessity of automobile use and maximize transit ridership while reflecting the design capacity of each station and respecting the character and needs of the surrounding areas;

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The Applicant stated that the proposed development at the Congress Heights Metro Station would replace underutilized property around the station. The transit-oriented development would maximize transit ridership while providing additional bike space and encouraging other transportation demand management measures. The proposed development would help to catalyze other developments in close proximity to the Congress Heights Metro Station and St. Elizabeths.

- Policy LU-1.3.4 - Design To Encourage Transit Use: Require architectural and site planning improvements around Metrorail stations that support pedestrian and bicycle access to the stations and enhance the safety, comfort, and convenience of passengers walking to the station or transferring to and from local buses. These improvements should include lighting, signage, landscaping, and security measures. Discourage the development of station areas with conventional suburban building forms, such as shopping centers surrounded by surface parking lots;

The Applicant stated that the proposal to increase the pedestrian ways along Alabama Avenue and 13th Street and activate the plaza area with retail uses would enhance the safety, comfort, and convenience for those who would use the metro station. Additional bicycle racks and the existing Capital Bikeshare station would provide facilities for users of the Metro station.

- Policy LU-2.1.11 - Residential Parking Requirements: Ensure that parking requirements for residential buildings are responsive to the varying levels of demand associated with different unit types, unit sizes, and unit locations (including proximity to transit). Parking should be accommodated in a manner that maintains an attractive environment at the street level and minimizes interference with traffic flow. Reductions in parking may be considered where transportation demand management measures are implemented and a reduction in demand can be clearly demonstrated; and

The project provides below-grade parking and ingress and egress should not inhibit traffic and pedestrian movements. The proposed location would not interrupt the building facades and would provide an attractive street level for each building. The Applicant agreed to a condition that residents of the project will be prohibited from obtaining an RPP sticker.

- Policy LU-2.4.6 - Scale and Design of New Commercial Uses: Ensure that new uses within commercial districts are developed at a height, mass, scale, and design that is appropriate and compatible with surrounding areas.

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The Applicant presented testimony and information that the proposed use-mix, height, massing, scale, and design are appropriate for this transit location and are not inconsistent with the Comprehensive Plan. The shadow studies show that the light and air to the adjacent residences and school should not be negatively impacted. Along the 13th Street frontage, office uses instead of retail uses are proposed to minimize the level of activity closest to the residential use.

61. The Applicant stated that the Comprehensive Plan's Transportation Element includes the following policies which are furthered by the PUD project:

- Policy T-1.1.5 - Joint Development: Attract new riders to the transit system by fostering transit-supportive commercial and residential joint development projects on Washington Metropolitan Area Transit Authority ("WMATA") owned or controlled land and on private properties adjacent to Metrorail stations.

WMATA is a partner in the proposed transit oriented development, which would bring new businesses and residents to the area. WMATA would retain a permanent access easement for public station access and service operations and would monitor design and construction of the development. WMATA submitted a letter into the record of this case which described its support of this project.

62. The Applicant noted that the Comprehensive Plan's Environment Element includes the following policies which are furthered by the PUD project:

- Environment Element Policy E-3.2.1: Support for Green Building: Encourage the use of green building methods in new construction and rehabilitation projects, and develop green building methods for operation and maintenance activities; and

The Applicant proposes LEED-Silver certification for the residential building and LEED-Gold for the office building. The Applicant has agreed to go through the LEED certification process for both buildings.

- Policy E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff: Promote an increase in tree planting and landscaping to reduce stormwater runoff, including the expanded use of green roofs in new construction and adaptive reuse, and the application of tree and landscaping standards for parking lots and other paved surfaces.

The proposal would increase tree planting along the public right-of-way. Additionally, 28,340 sf of green roof would be provided to reduce runoff.

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Government Agency Reports

63. By report dated January 12, 2015, OP recommended that the proposed PUD and related Zoning Map amendment should be approved. In its report, OP stated:

This PUD and PUD-related Zoning Map Amendment application conforms to the Comprehensive Plan's Generalized Land Use and Policy Map designations. The proposal would result in a vibrant transit-oriented development at the Congress Heights Metro Station (Metro). It would bring new residences, retail, and office uses to the area and would be a precursor to, and lead the way for the planned development of the St. Elizabeths East Campus. It would offer existing residents the opportunity to return to the neighborhood, and would offer commercial space for neighborhood businesses at reduced lease rates.

In response to OP and Commission requests during the set down meeting on June 28, 2013, the Applicant submitted the following: information pertaining to the height of the buildings; details regarding the residential look and feel of the building along 13th Street; perspectives showing the scale of the buildings in relationship to that approved on the St. Elizabeths East Campus; additional street-level renderings, plans, and drawings; and a more detailed amenities package. (Ex. 28, p. 1.)

64. The OP report also addressed the project's consistency with the Comprehensive Plan. The OP report noted that the Future Land Use Map designates the Subject Property for a mix of medium-density residential and medium-density commercial uses. The OP report noted that the proposed C-3-B Zone District² is not inconsistent with this land use designation. In regard to the Comprehensive Plan's Generalized Policy Map, OP concluded:

The Generalized Policy Map designates the site as a Neighborhood Enhancement Area, where the guiding philosophy is to "ensure that new development "fits-in" and responds to the existing character, natural features, and existing/planned infrastructure capacity. New housing should be encouraged to improve the neighborhood and must be consistent with the land use designation on the Future Land Use Map." Further, the "unique and special qualities of each area should be maintained and conserved, and overall neighborhood character should be protected as development takes place." and "New development in these areas should improve the real estate market, reduce crime and blight, and attract complementary new uses and services that better serve the needs of

² The text of the OP report appears to include a typographical error on p.10, referring to the C-3-A Zone District rather than the proposed C-3-B Zone District. Based on the entirety of OP's report and the testimony presented at the public hearing, it is clear that OP understood that the Applicant is seeking to establish the C-3-B Zone District on the Property.

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existing and future residents.” The property is also within an area designated a New Neighborhood Center. The proposal is consistent with these recommendations as the development would provide housing opportunities for existing residents as well as bring new residents to the area. Architectural elements such as red brick and the building’s articulation would enhance neighborhood character and set a standard for others to follow. The commercial portion of the development, with its office and retail uses, would bring new services and opportunities to the neighborhood to serve existing and new residents.

(Ex. 28, pp. 10-11.)

65. OP also addressed the application’s consistency with the Land Use, Transportation, Housing, Environment, Urban Design, and Far Southwest/Southeast Elements. (Ex. 28, pp. 11-15.)
66. OP reviewed the project’s satisfaction of the PUD standards and noted the following:
- *Urban Design, Architecture, Landscaping or Creation or Preservation of Open Space.* The project exhibits characteristics of exemplary urban design and architecture through the massing, height, and articulation of the buildings. Extensive landscaping around the building frontage would be provided with the buildings pulled back from the property line to provide additional space and additional landscaping and pedestrian ways of approximately 19-feet along Alabama Avenue and approximately 22-feet along 13th Street;
 - *Site Planning, and Efficient and Economical Land Utilization.* The subject property is an underutilized site located at a Metro station also served by several Metrobus lines, and along a major arterial roadway. It would be developed with a mix of residential, office, and ground-floor retail uses to activate Alabama Avenue and the Metro plaza;
 - *Transportation Features.* The proposal provides only one curb cut along Alabama Avenue and one along 13th Street. Vehicles would access the parking and loading facilities through a private alley on the eastern and southern portions of the site and exit onto 13th Street;
 - *Employment and Training Opportunities.* The Community Benefits Agreement addresses training and employment opportunities, which include: 30% of construction jobs to be filled by Ward 8 residents; two paid interns throughout the course of the construction with preference given to former residents of the site and then second preference to residents of Ward 8; graduates of training programs would be given first preference for positions that match their skills when available

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prior to construction and during each phase of the development; and a revolving working capital fund for subcontractors;

- *Housing and Affordable Housing.* The project would create 206 new residential units on site, with eight percent of the residential gross square footage, or 15,655 sf of its units, devoted to affordable households. 10,877 sf of this housing will be reserved for people earning 80% of AMI and 4,778 sf of this housing will be reserved for people making 50% of AMI; and
- *Uses of Special Value to the Neighborhood or the District of Columbia as a Whole.* The proposed development would be one of the first of its type in Ward 8 and its location at the Metro station would support the neighborhood. It would accommodate new retail offerings and affordable retail space for local businesses. The Applicant would provide 1,600 sf of retail space for local retailers at a 25% discounted rent for the life of the project. The Applicant has fully engaged the community and has finalized a Community Benefits Agreement with the ANC and four other community organizations. (Ex. 28, pp. 8-10.)

67. OP's report requested additional information from the Applicant, including a plan that showed the number, size, and distribution of the IZ units throughout the residential building and confirmation that the 1,600 sf feet of retail space for local retailers at a 25% discounted rental rate should be for the life of the project. At the public hearing, the OP representative testified that the information provided by the Applicant was sufficient to address OP's request for the additional information. (Ex. 28; Tr., p. 118.)

68. By its report dated January 12, 2015, DDOT recommended conditional support of the PUD and related Zoning Map amendment. The DDOT report noted that after an extensive, multi-administration review of the case materials, DDOT determined that it has no objection to the project provided that:

- The Applicant design and install a signal at Alabama Avenue and 15th Street, S.E., subject to DDOT approval;
- Install 22 short-term bicycle parking spaces in public space; and
- In addition to the TDM measures proposed, the Applicant should unbundle all parking costs from the price of all commercial and residential leases.

(Ex. 29, p. 2.)

69. The DDOT report noted that all loading facilities for the project are designed to accommodate front-in/front-out movements in compliance with DDOT standards. DDOT also found "that the Loading Management Plan as proposed [by the Applicant] sufficiently addresses loading impacts." The DDOT report also noted that, given the

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complexity and size of the application, the Applicant is expected to continue to work with DDOT on additional public space matters. (Ex. 29, pp. 2, 4.)

70. In testimony at the public hearing, the DDOT representative noted that while the project only accounts for four percent of the total volume in the peak hour, the traffic created by this project makes the traffic at the Alabama Avenue/15th Street intersection reach a tipping point that creates a problem. DDOT also noted that it does not currently have a mechanism to receive or reserve partial payments for traffic signals. (Tr., pp. 119-121.)
71. In a Supplemental Report dated March 26, 2015, DDOT restated its position that the Applicant should be required to fund a new signal at Alabama Avenue, S.E. and 15th Street, S.E. and requested that the Applicant create an escrow fund of \$350,000 to fund a full signal installation. DDOT also noted that in order to determine if a signal is necessary, the Applicant will be expected to complete a full warrant analysis as part of the public space permitting process including existing conditions. If a signal is warranted, the Applicant will be required to install a full signal. If it is not warranted, DDOT may waive this condition and release the funds of the escrow. (Ex. 57.) In response, the Applicant agreed to pay for the cost of design and construction of the new traffic signal at the intersection of Alabama Avenue, S.E. and 15th Street, S.E., with such costs capped at \$350,000 (the amount noted in DDOT's Supplemental Report). The Applicant explicitly requested that the Commission approve the Applicant's ability to establish an escrow account in which the \$350,000 will be placed. After the signal warrant analysis (noted by DDOT) is completed and if the signal is deemed to be warranted, the Applicant will agree that the signalized intersection will be operational prior to the issuance of a certificate of occupancy for the second building on the property. (Ex. 60.) The Commission agrees that the establishment of an escrow account for the purpose of paying for the design and construction of a traffic signal is appropriate and agrees to the establishment of such an escrow account in this case.
72. DDOE filed a report dated January 9, 2015 and provided testimony at the January 22, 2015 public hearing. The DDOE report noted that the Property sits in the center of the St. Elizabeths-Congress Heights EcoDistrict, and the project should serve as an example of sustainable, energy efficient development. DDOE encouraged the Applicant to fulfill or exceed LEED certification at the Gold level for both the office and residential portions of the project. (Ex. 30.)

ANC 8E Report

73. At the public hearing, ANC 8E Chairperson Anthony Muhammad represented ANC 8E and testified on its behalf. Mr. Muhammad testified that ANC 8E voted to approve the project at their duly noticed January 5, 2015 Public Meeting with a quorum present. Mr. Muhammad noted that the ANC has been negotiating with the Applicant for two years on this project and that all of the parties noted in the Community Benefits Agreement will be

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affected by the project. (Tr., pp. 136-137.) However, no written report was submitted by ANC 8E.

Parties and Persons in Support

74. There were no parties in support of the application.
75. The former Ward 8 Councilmember, Marion Barry, submitted a letter in support of the application. (Ex. 12.)
76. At the public hearing the Applicant submitted letters supportive of Sanford Capital from the Community Partnership for the Prevention of Homelessness, Pathways to Housing, D.C., and residents in other Sanford Capital buildings. (Tr., pp. 248; Ex. 46)

Party in Opposition

77. The Coalition presented testimony from Will Merrifield, a staff attorney with the Washington Legal Clinic for the Homeless and the authorized representative of the Coalition, members of the Coalition who live in the existing residential buildings on the property, and Eugene Puryear. Mr. Merrifield noted the Coalition's concerns with giving up their TOPA rights. Mr. Merrifield stated that the Coalition's greatest fear is that they will enter into an agreement with the Residential Property Owner, the project will be delayed because the Zoning Administrator will not be able to approve the permits, and the tenants will have given up their TOPA rights for a right-to-return that is essentially meaningless. Mr. Merrifield also noted concerns of the Coalition residents regarding past housing code violations and security issues in the existing buildings. (Tr., pp. 148-153.)
78. Ruth Barnwell, a resident of the building located at 1309 Alabama Avenue, noted that she had lived in her current residence for over 45 years and her goal was that this revitalization project will rebuild a distressed property, will improve the quality of life for existing residents, and the project will be a great opportunity to create a mixed-income community that will have a constructive influence on the environment and the economic and social impacts on her household. Ms. Barnwell raised a number of questions regarding the Applicant's tenant relocation plan. (Tr., pp. 153-156.)
79. Michelle Mitchell, a tenant at 3210 13th Street, S.E., noted that she was opposed to the project due to the property owner's poor record in maintaining the buildings, responding to maintenance requests, and provision of security for the residents. (Tr., pp. 156-160.)
80. Louise Meacham, a tenant for 10 years in one of the buildings, testified to poor conditions in the existing buildings and her desire to be able to return to the new project. (Tr., pp. 160-162.)

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81. Robert Green, a resident of 1331 Alabama Avenue, testified in opposition to the project because of the hardship that he would face with being displaced from his home and the property owner's poor track record with the existing buildings. Mr. Green noted that he did not trust the existing Residential Property Owner and did not want to give up his TOPA rights. (Tr., pp. 162-168.)
82. Eugene Puryear, a resident of 539 Mellon Street, S.E., presented testimony regarding the application's failure to satisfy the standards enumerated in 11 DCMR § 2403, paragraph 3. Mr. Puryear argued that the housing element of the project did not mitigate the adverse effects of the project with regard to the amount of affordable housing provided. Mr. Puryear testified that the Applicant was not providing housing at the 50% of AMI level and therefore the project was not exceeding the matter-of-right requirements of the Inclusionary Zoning Regulations. Mr. Puryear also testified that the Applicant should remove the requirement in the tenant relocation plan that requires the tenants to give up their TOPA rights. (Tr., pp. 168-176.)

Persons in Opposition

83. ANC 8E06 Commissioner Karlene Armstead testified in opposition to the application. Commissioner Armstead questioned whether proper notice of the ANC's vote was provided to the community and to the tenants of these buildings regarding this project. (Tr., pp. 208-211.) She submitted a letter dated February 9, 2015 listing her reservations. (Ex. 48.)
84. Chris Otten, on behalf of DC for Reasonable Development, testified in opposition to the application. Mr. Otten claimed that the project was inconsistent with the Comprehensive Plan due to the failure to take into account the project's greater height and density and its impact on the adjacent lower density neighborhood. Mr. Otten also asked the Commission to look into whether the office component requires a housing linkage contribution. (Tr., pp. 243-247.)
85. Eight additional witnesses testified in opposition to the project citing the Residential Property Owner's poor record of building maintenance and inadequate provision of security for residents, the need for the tenants to maintain their TOPA rights, and the need for more affordable housing units to be provided in the City. (Tr., pp. 207-243.)

Satisfaction of the PUD and Zoning Map Amendment Approval Standards

86. 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." (11 DCMR § 2403.8.) The Commission finds that the mix of uses provided in this application (residential, retail, and office) creates a truly transit-oriented development in a project which is currently an underutilized site on top of a Metro station. The urban design, the architectural details

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and quality of the buildings, the amount of affordable housing provided and economic development opportunities created by the project are significant project amenities and public benefits. Given the significant amount and quality of the project amenities and public benefits included in this PUD and related Zoning Map amendment application, the Commission finds that the development incentives to be granted for the project and the related rezoning are appropriate. The Commission also finds that the requested areas of flexibility from the requirements are consistent with the purpose and evaluation standards of Chapter 24 of the Zoning Regulations and are fully justified by the superior benefits and amenities offered by this project. In particular, the Commission notes the Applicant's request that it be allowed an additional year in which it is required to file for a building permit for the first building in order to vest the approval of this application. Given the complexities of the site, including construction in and around an operating Metro station and Metro tunnels, the Commission finds that granting the request to extend the period of the Order's approval for an additional year is appropriate.

87. The Commission finds that the project is acceptable in all proffered categories of public benefits and project amenities and is superior in public benefits and project amenities relating to urban design, site planning, architectural quality, and the provision of affordable housing. The massing and height of the buildings is respectful to the nearby lower-scale residential uses and also creates an attractive and engaging street-level experience along Alabama Avenue, 13th Street, and the new public plaza. The buildings are located and designed so as not to affect the light and air of adjacent uses. Loading and parking areas are to the rear of the buildings and are set back from the property line to minimize noise to residents to the south and allow for a vibrant and inviting pedestrian experience along Alabama Avenue and 13th Street. Retail uses are concentrated along Alabama Avenue and around the Metro plaza area.
88. The Commission credits the written submissions and testimony of the Applicant and OP that the proposed PUD and rezoning to the C-3-B Zone District is appropriate and that the proffered amenities and benefits are acceptable. The Commission also credits the testimony of the Applicant and OP that the proposed PUD project and rezoning of the Property are not inconsistent with the Comprehensive Plan. In this case, the Commission finds that the proposed PUD and related map amendment of the Property to the C-3-B Zone District is appropriate given the Future Land Use Map designation of the Property (mixed-use medium-density commercial and medium-density residential) and the project's satisfaction of numerous policies enumerated in the Comprehensive Plan. The Commission's conclusion is consistent with OP's recommendations to approve the project and the PUD-related Zoning Map amendment.

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CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process provides a means for creating a “well-planned development.” The objectives of the PUD process are to promote “sound project planning, efficient and economical land utilization, attractive urban design and the provision of desired public spaces-and other amenities” (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, the Commission has the authority to consider this application as a consolidated PUD. (11 DCMR § 2402.5.) The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, yards, or courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment. (11 DCMR § 2405.)
3. The development of the Project will implement 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 and that would not be available under matter-of-right development.
4. The application meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
5. The application meets the contiguity requirements of § 2401.3.
6. The Commission notes the materials submitted by the Applicant which depict the project in the context of the surrounding neighborhood, including the post-hearing submission of the Applicant which showed the relationship of the office building to the adjacent school building and the relationship of the entire project to the existing and future uses in the immediate area. Based on these materials, the testimony of the project architect, and OP’s conclusions on this subject, the Commission finds that the proposed height and density of the buildings in the project will not cause a significant adverse effect on any nearby properties.
7. The benefits and amenities provided by the project are significant and appropriate. The Commission agrees with the Applicant’s conclusion that the maximum matter-of-right development on the Property would create 9,565 sf of affordable housing (4,778 sf reserved for households making up to 50% of AMI and 4,778 sf reserved for households earning up to 80% of AMI), and the Applicant’s proposed amount of affordable housing was 6,090 sf more than would be provided on the Property if the Property was developed

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- as a matter-of-right. The Commission also agrees with the Applicant's arguments that this project is not subject to the Housing Linkage requirements of 11 DCMR § 2404.
8. The application seeks a PUD-related zoning map amendment to the C-3-B Zone District. The application also seeks limited flexibility from the Zoning Regulations regarding roof structures for the office and residential buildings; loading relief for the residential building; relief from the non-residential FAR limitations on the theoretical office building lot; and relief from the two-year time period in which a building permit application must be filed to vest the order. The Commission finds the requested relief to be minimal and allows for the creation of a project that has numerous benefits and amenities.
 9. The Commission finds that rezoning the site is consistent with the Comprehensive Plan. The PUD is fully consistent with and fosters the goals and policies stated in the elements of the Comprehensive Plan. The project is consistent with the major themes and city-wide elements of the Comprehensive Plan, including the Housing, Urban Design, Land Use, Environmental, and Transportation Elements. The PUD is also consistent with the more specific goals and policies of the Far Southeast/Southwest Area, in particular the policies (Policy FSS-2.4.1 and Policy FSS-1.1.1.) related to the development of the Congress Heights Metro Station as a Mixed-Use project.
 10. The Commission takes note of the Applicant's proposed tenant relocation plan and the major elements of that plan; the existing tenants have the right to return to the new project, the Applicant will provide relocation assistance and payments for moving expenses, and the residents will continue to pay the amount of rent that they pay in their current units subject to annual rent increases equal to the amount of the automatic rent increase allowed by DC's rent control law. The Commission finds that the proposed tenant relocation plan appropriately addresses the concerns raised by the Coalition and protects the rights of the existing residents of the Subject Property. The Commission notes that arguments that were made by the Coalition's counsel regarding the TOPA rights of the existing tenants. While the Commission finds that it is entirely appropriate to take into account the tenant relocation plan as part of this consolidated PUD and Zoning Map amendment application, the specific issues related to the TOPA rights of the tenants are outside of the scope of this zoning case.
 11. The Commission finds that the Applicant's proposed TDM measures are adequate to mitigate any potential adverse effects on the surrounding area from the development that relate to traffic. The Applicant finds that the Applicant's proposal to pay for the design and installation of the traffic signal at the intersection of Alabama Avenue and 15th Street is appropriate. The Applicant's proposed TDM measures and financial commitment for the design and installation of the traffic signal have been incorporated into the conditions of this Order.

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12. The Commission concludes that the Applicant's commitment to a LEED-Silver certification for the residential building and a LEED-Gold certification for the office building (with both buildings going through the LEED certification process) are an appropriate response to the issues raised by DDOE and can be considered project amenities.
13. 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. As is reflected in the Findings of Fact, ANC 8E voted to support the application, but did not submit a written report. Thus, the Commission could not give great weight to its recommendation. The Commission nonetheless carefully considered its recommendation in its deliberations.
14. The Commission is also required to give great weight to the recommendations of OP by § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04). The Commission gives OP's recommendation to approve the application great weight, and concurs with OP's conclusions.
15. The PUD project and the rezoning of the Property will promote orderly development of the Property in conformance with the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
16. The applications for a PUD, related Zoning Map amendment and amendment to an approved Campus Plan are subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of this application for consolidated review of a planned unit development and related Zoning Map amendment to the C-3-B Zone District for the Subject Property (Parcels 229/161, 229/160, 229/153, 229/151 and 229/103 and Lots 6 and 7 in Square 5914). The approval of this PUD is subject to the following guidelines, conditions, and standards.

A. PROJECT DEVELOPMENT

1. The PUD project shall be developed in accordance with the plans prepared by Maurice Walters Architects marked as Exhibits 15A1-15A7, as modified by Exhibits 52D1-52D2 of the record ("Approved Plans"), as modified by guidelines, conditions, and standards herein. The final total gross floor area included in the proposed PUD is approximately 447,588 sf for a total floor area ratio ("FAR") of approximately 5.06. The proposed office building will include approximately

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226,695 sf of office use, 9,138 sf of retail use and will have a measured building height of 90 feet. The proposed residential building will include approximately 205-215 residential units, 195,684 sf of residential use, 16,071 sf of retail use, and will have a measured building height of approximately 90 feet.

B. PUBLIC BENEFITS

1. The residential building shall include a range of 205-215 residential units, units and approximately 15,655 sf of workforce affordable housing, with 10,877 sf reserved for households making up to 80% of area median income (“AMI”) and 4,778 sf reserved for households earning up to 50% of AMI. The affordable housing units will be distributed throughout the residential building (except for the upper two stories of the building).
2. Prior to applying for a Certificate of Occupancy for the residential building, the Applicant will provide evidence to the Zoning Administrator that the residential building has gone through the LEED certification process and has achieved a LEED-Silver certification. Prior to applying for a Certificate of Occupancy for the office building, the Applicant will provide evidence that the office building has gone through the LEED certification process and has achieved a LEED-Gold certification.
3. The Applicant will provide the Lead the Way Foundation and Higher Hopes, Inc. (“LWFFHHI”) with a payment of \$5,000 annually for a period of 15 years. These funds shall be used for facilitation of comprehensive, social reconstruction programs for the residents of the Ward Eight Community. These programs will include comprehensive resident and youth case management, engagement, and outreach services featuring an adolescent clubhouse and including, but not limited to, the arts and cultural services; health, fitness, and nutrition; financial management, and annual community social events, as well as development opportunities for the neighboring community. LWFFHHI will provide an annual accounting of what the financial contribution was used for and the Applicant will be required to file that information with the Office of Zoning. The first annual payment will occur prior to the issuance of a building permit/certificate of occupancy for the first building on the property. No certificate of occupancy for either building will be issued unless the Applicant provides proof to the Zoning Administrator that the services are being provided by LWFFHHI and that all payments that are due have been made.
4. The Applicant will help the Congress Heights Community Association (“CHCA”) fund the Annual Congress Heights Health and Community Day by providing a payment in the amount of \$5,000 annually for a period of 15 years. CHCA will provide an annual accounting of what the financial contribution was used for and the Applicant will be required to file that information with the Office of Zoning.

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The first annual payment will occur prior to the issuance of a building permit/certificate of occupancy for the first building on the property. No certificate of occupancy for either building will be issued unless the Applicant provides proof to the Zoning Administrator that the services are being provided by CHCA and that all payments that are due have been made.

5. The Applicant will provide the Ward Eight Council Against Domestic Violence (WECADV) with a payment of \$5,000 annually for a period of 15 years. WECADV will provide an annual accounting of what the financial contribution was used for and the Applicant will be required to file that information with the Office of Zoning. The first annual payment will occur prior to the issuance of a building permit/certificate of occupancy for the first building on the property. No certificate of occupancy for either building will be issued unless the Applicant provides proof to the Zoning Administrator that the services are being provided by WECADV and that all payments that are due have been made.
6. The Applicant will provide the Congress Heights Community Training and Development Corporation (“CHCTDC”) with a payment of \$5,000 annually for a period of 15 years. These funds shall be used solely to pay for the costs of: (a) conducting training for targeted businesses in Ward 8, to develop management and business capability to perform contracts for the Applicant, its general contractor, and subcontractors. CHCTDC will provide an annual accounting of what the financial contribution was used for and the Applicant will be required to file that information with the Office of Zoning. The first annual payment will occur prior to the issuance of a building permit/certificate of occupancy for the first building on the property. No certificate of occupancy for either building will be issued unless the Applicant provides proof to the Zoning Administrator that the services are being provided by CHCTDC and that all payments that are due have been made.
7. Prior to applying for a Certificate of Occupancy for the residential or the office building (whichever contains the discounted retail or business space provided per this condition), the Applicant will provide evidence to the Zoning Administrator that 1,600 sf of retail or business space has been reserved for local tenants who will receive a rent discount of 25%. This rent discount will be applicable for the life of the project.
8. Prior to applying for a Certificate of Occupancy for the office building, the Applicant will provide evidence to the Zoning Administrator that the Applicant has provided approximately 500 square feet of office space for ANC 8E for a term of at least five years, with possible extensions, at a cost of \$12 per year.

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9. Prior to the issuance of a building permit for the first building on the property, the Applicant will create a job training, employment, and internship programs specifically tailored to Ward 8 residents.
10. Prior to the issuance of a building permit for the first building on the property, the Applicant will create a revolving working capital fund, in an amount no less than \$200,000, for contracts directly with the Applicant. The fund shall be used to allow small contractors, including those located in the Ward 8 Community, retained during the construction phases of the development, to cover payroll and other fixed costs on a weekly basis.
11. Prior to the issuance of a certificate of occupancy for the residential building on the property, the Applicant will provide evidence to the Zoning Administrator that all existing tenants were provided with the opportunity to return to the new residential building; that all of the residents of the existing residential buildings (deemed to be the people who were residents at the time that the Applicant filed a demolition permit for the existing residential buildings) will continue to pay the amount of rent they pay in their current units, subject to annual rent increases equal to the amount of the “automatic” rent increase allowed by DC’s rent control law (CPI or CPI + 2% depending on whether a tenant is senior or disabled), in both the temporary relocation unit and upon return to the new building; and the Applicant pays all costs of relocation for the existing tenants with the relocation units located within two miles of the property.

C. MISCELLANEOUS

1. The Commission grants the requested flexibility from the Zoning Regulations with regard to:
 - (a) Roof structures – The office building will include one roof structure of varying heights. The residential building will include three roof structures with varying heights and set-back relief from the portion of the roof structure on the residential building that abuts the building’s internal courtyard;
 - (b) More than one structure on a single record lot – Commercial FAR on the Office Building theoretical lot – The residential and office buildings will be located on the same record lot and will not have an above-grade connection between the buildings. On the office building lot, the non-residential density will be 4.82 FAR, which is more than the permitted 4.5 FAR for non-residential use for a PUD in the C-3-B Zone District. However, the total amount of non-residential density provided on the entire site is only 2.85 FAR; and

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- (c) Loading – The project will include a 30-foot loading berth for the residential building rather than a 55-foot loading berth. The two service and delivery spaces required for the office building will be provided on the theoretical residential lot.
2. The Applicant shall have flexibility with the design of the PUD in the following areas:
 - (a) To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration of the structures;
 - (b) To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction; and
 - (c) To make minor refinements to exterior details and dimensions, including balcony enclosures, belt 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;
3. 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 of the 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.
4. The change of zoning from the R-5-A Zone District to the C-3-B Zone District shall be effective upon the recordation of the covenant discussed in Condition No. C.3, pursuant to 11 DCMR § 3028.9.
5. The PUD shall remain valid for three years from the effective date of this Order, during which the Applicant must file for a building permit for the construction of the first building, and construction must begin within four years after the effective date of this Order for the PUD to remain valid. The PUD shall be vested as to any building or buildings for which construction has timely begun. Thereafter, for the PUD to remain valid, the Applicant must file for a building permit for the second building within five years after the effective date of this Order, and construction must begin within six years after the effective date of this Order.

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6. 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 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.

D. **TRANSPORTATION ISSUES**

1. Residents of the residential building shall be prohibited from obtaining Residential Permit Parking ("RPP") stickers. The Applicant shall take the following steps to ensure that residents do not receive an RPP sticker, including without limitation: (i) placing a clause in emphasized typeface in all leases for residential units prohibiting any resident from applying for or obtaining a RPP sticker, or using a RPP guest pass within one mile of the PUD, with the penalty for violation of this lease term being termination of the lease; and (ii) ensuring that DDOT continues to classify the property as ineligible for RPP, by obtaining written confirmation of such action by DDOT prior to applying for a certificate of occupancy for the residential building.
2. Prior to applying for a certificate of occupancy for either the residential building or the office building, the Applicant will implement the following Transportation Demand Management Plan:
 - (a) A member of the property management team will be designated as the Transportation Management Coordinator ("TMC"). The TMC will be responsible for ensuring that information is disseminated to tenants of the buildings. The position may be part of other duties assigned to the individual;
 - (b) Information on and/or links to the following programs and services will be provided on the property management website:
 - Capital Bikeshare;
 - Car-sharing services;
 - Uber;
 - Ridescout;

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- Commuter Connections Rideshare Program, which provides complimentary information on a variety of commuter programs to assist in determining which commuting options work best for commuters;
 - Commuter Connections Guaranteed Ride Home, which provides commuters who regularly (twice a week) carpool, vanpool, bike, walk or take transit to work with a free and reliable ride home in an emergency; and
 - Commuter Connections Pools Program, which incentivizes commuters who currently drive alone to carpool. Participants can earn money for carpooling to work and must complete surveys and log information about their experience;
- (c) An electronic display will be provided in a common, shared space in each of the buildings and will provide public transit information such as nearby Metrorail stations and schedules, Metrobus stops and schedules, car-sharing locations, and nearby Capital BikeShare locations indicating the number of bicycles available at each location;
- (d) Convenient and covered secure bike parking facilities will be provided with storage for a minimum of 76 bicycles for the entire development and 22 short-term bicycle parking spaces in public space; and
- (e) The Applicant will unbundle all parking costs from the price of all commercial and residential leases.
3. Prior to the issuance of a building permit for the second building on the property, the Applicant will provide evidence to the Zoning Administrator it has deposited \$350,000 in an escrow account which will be used for the design and construction of a new traffic signal at the intersection of Alabama Avenue, S.E. and 15th Street, S.E. In the event that the signal warrant analysis, requested by DDOT, determines that a signal is not warranted, the Applicant will not be required to construct the signalized intersection and the remaining funds in the escrow account will be returned to the Applicant.
4. Prior to the issuance of a certificate of occupancy for the second building on the property, and if DDOT determines that the signal is warranted, the Applicant will provide evidence to the Zoning Administrator that the new traffic signal at the intersection of Alabama Avenue, S.E. and 15th Street, S.E. is operational.

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On March 30, 2015, upon the motion of Vice Chairperson Cohen, as seconded by Commissioner May, the Zoning Commission **APPROVED** the application at its public meeting by a vote of **4-1-0** (Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; Anthony J. Hood to oppose).

On May 11, 2015, upon the motion of Chairman Hood, as seconded by Commissioner Miller, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 2038, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on June 5, 2015.

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