VOL. 62 – NO. 6 FRIDAY, FEBRUARY 6, 2015

District of Columbia REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 20-599, Urban Farming and Food Security Amendment Act of 2014
- D.C. Council enacts Act 20-604, Federal Health Reform Implementation and Omnibus Amendment Act of 2014
- D.C. Council enacts Act 20-605, Human Rights Amendment Act of 2014
- D.C. Council passes Resolution 20-734, Fiscal Year 2016 Budget Submission Requirements Resolution of 2014
- D.C. Lottery and Charitable Games Control Board implements the LUCKY FOR LIFE™ Lottery game
- Department of Behavioral Health proposes updates to the substance use disorder treatment and recovery service certification requirements

DISTRICT OF COLUMBIA REGISTER

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-594

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 25, 2015

To approve the exchange of certain District-owned real property with the Washington Metropolitan Area Transit Authority to further the redevelopment of a portion of the East Campus of St. Elizabeths Hospital.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "St. Elizabeths East Redevelopment Support Act of 2014".

Sec. 2. Notwithstanding the requirements of section 1(a-1) of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801(a-1)), the Council authorizes the Mayor to take the following actions:

(1) Exchange, in fee, approximately 1.06 acres of real property owned by the District on the southern portion of the East Campus of St. Elizabeths Hospital to be designated as Lot 834 in Square S-5868 for approximately 0.57 acres of adjacent real property owned by the Washington Metropolitan Area Transit Authority ("WMATA") to be designated as Lots 17B and 107 in Parcel 228/144 to enable the extension of 13th Street, S.E., and development of the East Campus of St. Elizabeths Hospital in accordance with the Saint Elizabeths Master Plan;

(2) Convey to WMATA, in fee or via easement, the portions of real property within the East Campus of St. Elizabeths Hospital determined by the Mayor to be currently occupied or used by WMATA for the operation and maintenance of the Metrorail system, including the surface and subsurface easements required for the operation and maintenance of the green line Metrorail system and the Congress Heights metro station; and

(3) Adjust the approximate acreages and Lot parameters as necessary to effect the exchange or conveyance.

Sec. 3. Fiscal impact statement.

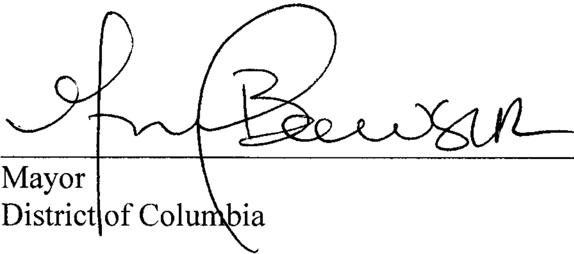
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

ENROLLED ORIGINAL

Sec. 4. Effective date.

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

Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 25, 2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-595

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 26, 2015

To amend the Renewable Energy Portfolio Standard Act of 2004 to eliminate the use of black liquor and the use of biomass from old and inefficient facilities as eligible renewable energy sources for Tier 1 credits.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Renewable Energy Portfolio Standard Amendment Act of 2014".

Sec. 2. The Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340; D.C. Official Code § 34-1431 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Official Code § 34-1431) is amended as follows:

(1) Paragraph (1) is redesignated as paragraph (1A).

(2) A new paragraph (1) is added to read as follows:

"(1) "Black liquor" means the spent cooking liquor from the Kraft process of paper making.".

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

"(6A) "Fuel input" means the higher heating value of the input fuel type, measured in BTU/LB, based on the standardized heating value of fuel type, multiplied by the annual fuel used in as delivered tons, multiplied by 2000.".

(4) Paragraph (9) is amended as follows:

(A) The lead-in language is amended by striking the phrase "old growth timber" and inserting the phrase "old growth timber, construction and demolition-derived wood, whole trees not part of a closed-loop biomass system that are cleared solely for the purpose of energy production," in its place.

(B) Subparagraph (B) is repealed.

(5) Paragraph (15)(C) is amended to read as follows:

"(C) Qualifying biomass used at a generation unit that achieves a total system efficiency of at least 65% on an annual basis, can demonstrate that they achieved a total system efficiency of at least 65% on an annual basis through actual operational data after one year, and that started commercial operation after January 1, 2007.".

(6) Paragraph (16) is amended as follows:

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

ENROLLED ORIGINAL

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

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

"(C) Qualifying biomass used at a generation unit that:

"(i) Started commercial operation on or before December 31, 2006; or

"(ii) Achieves a total system efficiency of less than 65%; or

"(iii) Uses black liquor.".

(7) A new paragraph (17) is added to read as follows:

"(17) "Total system efficiency" means the sum of the net useful thermal energy output measured in BTUs divided by the total fuel input. For the purposes of this paragraph, the term "useful thermal energy output" means energy in the form of direct heat, steam, hot water, or other thermal form that is used in production and beneficial measures for heating, cooling, humidity control, process use, or other valid thermal end use energy requirements and for which fuel or electricity would otherwise be consumed. The term "useful thermal energy output" does not include thermal energy used for the purpose of drying or refining biomass fuel.".

(b) A new section 11a is added to read as follows:

"Sec. 11a. Applicability.

"(a) The definitions added to section 3 by the Renewable Energy Portfolio Standard Amendment Act of 2014, passed on 2nd reading on December 17, 2014 (Enrolled version of Bill 20-418) ("amendment act"), shall apply to District of Columbia Standard Offer Service wholesale supply contracts effective on or after June 1, 2015.

"(b) The definitions added by the amendment act shall apply after December 31, 2017, to renewable energy credits included in PJM's Generator Attributes Tracking System that were or are generated by a facility that is certified by the commission as a Tier 1 energy source before the effective date of the amendment act and purchased by an electricity supplier pursuant to a contract executed before the effective date of the amendment act.".

Sec. 3. Section 3(b) of the Distributed Generation Amendment Act of 2011, effective October 20, 2011 (D.C. Law 19-36; 58 DCR 6839), is amended to read as follows:

"(b) This act shall not apply to contracts entered into before August 1, 2011; provided, that, for a contract entered into before August 1, 2011, this act shall apply to an extension or renewal of that contract executed on or after August 1, 2011.".

Sec. 4. Fiscal impact statement.

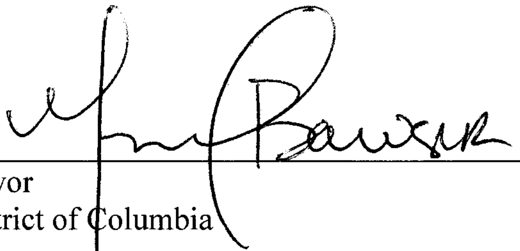
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

ENROLLED ORIGINAL

Sec. 5. Effective date.

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

Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 26,2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-596

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 26, 2015

To amend the Department of Youth Rehabilitation Services Establishment Act of 2004 to prohibit the use of restraints on a youth confined in a facility under the control of the Department of Youth Rehabilitation Services who is in her third trimester of pregnancy or in postpartum recovery, except when an individualized determination is made that extraordinary circumstances exist and restraints are necessary to prevent the youth from injuring herself or others, to prohibit the use of restraints on a confined youth who is in labor, to require places of confinement to report instances in which restraints are used, and to require places of confinement to give notice of the requirements of this act to relevant staff and to youth who are in their third trimester of pregnancy at the time the place of confinement takes custody of the youth; and to establish the same prohibitions and requirements pertaining to women confined in a facility under the control of the Department of Corrections.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Limitations on the Use of Restraints Amendment Act of 2014".

TITLE I.

Sec. 101. Title I of the Department of Youth Rehabilitation Services Establishment Act of 2004, effective April 12, 2005 (D.C. Law 15-335; D.C. Official Code § 2-1515.01 *et seq.*), is amended as follows:

(a) Designate the existing text as Subtitle A.

(b) A new Subtitle B is added to read as follows:

"Sec. 151. Definitions.

"For the purposes of this subtitle, the term:

"(1) "Administrator" means the superintendent of the secure juvenile residential facility, or the director of the facility under the control of the Department of Youth Rehabilitation Services, or any designees thereof, including medical and correctional staff.

"(2) "Confined" means housed, detained, or serving a commitment in a secure juvenile residential facility or other facility under the control of the Department of Youth Rehabilitation Services.

"(3) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive

ENROLLED ORIGINAL

dilation of the cervix and shall include any medical condition in which a woman is sent or brought to a medical facility for the purpose of delivering her baby.

"(4) "Medical facility" shall include a hospital, birthing center, or clinic.

"(5) "Postpartum recovery" means a period of recovery following childbirth or miscarriage or termination of a pregnancy as determined by a physician to be medically necessary for healing.

"(6) "Restraints" means any device used to control or bind the movement of a person's body or limbs.

"(7) "Secure juvenile residential facility" shall have the same meaning as provided in section 2(7) of An Act To prohibit the introduction of contraband into the District of Columbia penal institutions, effective December 10, 2009 (55 Stat. 800; D.C. Official Code § 22-2603.01(7)).

"Sec. 152. Use of restraints by places of confinement.

"(a) In any instance that restraints are used on a confined youth who is known to be pregnant, the restraints used must be the least restrictive available and the most reasonable under the circumstances.

"(b) In any instance that the restraints used on a confined youth who is known to be pregnant require restraints more restrictive than the least restrictive available, the use of such restraints shall be subject to the reporting requirements of section 153.

"(c) Except as provided in subsection (d) of this section, no confined youth who is in the third trimester of pregnancy or in postpartum recovery shall be put in restraints at any time, including during transport to a medical facility or while receiving treatment at a medical facility.

"(d)(1) The Administrator may authorize the use of restraints on a confined youth in the third trimester of pregnancy or in postpartum recovery after making an individualized determination, at the time that the use of restraints is considered, that extraordinary circumstances apply and restraints are necessary to prevent the confined youth from injuring herself or others, including medical or correctional personnel.

"(2) Notwithstanding the authorization by the Administrator under paragraph (1) of this subsection, if the doctor, nurse, or other health professional treating the confined youth determines that the removal of the restraints is medically necessary to protect the health or safety of the youth, or her baby, the restraints shall be removed immediately.

"(e) The Administrator shall not authorize the use of restraints on a confined youth who is in labor.

"Sec. 153. Reporting requirements.

"(a)(1) Within 10 days after the Administrator authorizes the use of restraints pursuant to section 152(b), section 152(c), or section 152(d), the Administrator shall submit a written statement to the Director of the Department of Youth Rehabilitation Services in the case of confined youth explaining the extraordinary circumstances and the reasons the use of restraints were necessary.

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"(2) The written statement must not include personal identifying information of the confined youth on whom restraints were used.

"Sec. 154. Notice requirements.

"The Administrator shall provide notice of the requirements of this act to:

"(1) The relevant staff at the place of confinement, including:

"(A) All medical staff;

"(B) Staff and contractors who are involved in the transport of confined youth of child-bearing age; and

"(C) Other staff as the Administrator deems appropriate; and

"(2) All youth who are in their third trimester of pregnancy at the time the place of confinement takes custody of the person.".

TITLE II.

Sec. 201. Definitions.

For the purposes of this title, the term:

(1) "Administrator" means the warden of the penal institution, the director of a facility under the control of the Department of Corrections, or any designees thereof, including medical and correctional staff.

(2) "Confined" means housed, detained, or serving a sentence in a penal institution or other facility under the control of the Department of Corrections.

(3) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix and shall include any medical condition in which a woman is sent or brought to a medical facility for the purpose of delivering her baby.

(4) "Medical facility" shall include a hospital, birthing center, or clinic.

(5) "Penal institution" shall have the same meaning as provided in section 2(6) of An Act To prohibit the introduction of contraband into the District of Columbia penal institutions, approved December 10, 2009 (55 Stat. 800; D.C. Official Code § 22-2603.01(6)).

(6) "Postpartum recovery" means a period of recovery following childbirth or miscarriage or termination of a pregnancy as determined by a physician to be medically necessary for healing.

(7) "Restraints" means any device used to control or bind the movement of a person's body or limbs.

Sec. 202. Use of restraints by places of confinement.

(a) In any instance that restraints are used on a confined woman who is known to be pregnant, the restraints used must be the least restrictive available and the most reasonable under the circumstances.

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(b) In any instance that the restraints used on a confined woman who is known to be pregnant require restraints more restrictive than the least restrictive available, the use of such restraints shall be subject to the reporting requirements of section 203.

(c) Except as provided in subsection (d) of this section, no confined woman who is in the third trimester of pregnancy or in postpartum recovery shall be put in restraints at any time, including during transport to a medical facility or while receiving treatment at a medical facility.

(d)(1) The Administrator may authorize the use of restraints on a confined woman in the third trimester of pregnancy or in postpartum recovery after making an individualized determination, at the time that the use of restraints is considered, that extraordinary circumstances apply and restraints are necessary to prevent the confined woman from injuring herself or others, including medical or correctional personnel.

(2) Notwithstanding the authorization by the Administrator under paragraph (1) of this subsection, if the doctor, nurse, or other health professional treating the confined woman determines that the removal of the restraints is medically necessary to protect the health or safety of the woman, or her baby, the restraints shall be removed immediately.

(e) The Administrator shall not authorize the use of restraints on a confined woman who is in labor.

Sec. 203. Reporting requirements.

(a)(1) Within 10 days after the Administrator authorizes the use of restraints pursuant to section 202(b), section 202(c), or section 202(d), the Administrator shall submit a written statement to the Director of the Department of Corrections in the case of confined women explaining the extraordinary circumstances and the reasons the use of restraints were necessary.

(2) The written statement must not include personal identifying information of the confined woman on whom restraints were used.

(b) Beginning January 1, 2016, and on an annual basis thereafter, the Department of Corrections shall provide the following information to the Council:

(1) The number of pregnant women in the custody of the Department of Corrections during the reporting period;

(2) The number of pregnant women on whom restraints that were not the least restrictive means necessary were used;

(3) The number of times restraints were used on each pregnant woman;

(4) For each use of restraints on a pregnant woman, the duration of time that restraints were used; and

(5) For each use of restraints on a pregnant woman, whether restraints were used because of:

(A) Risk of flight;

(B) Risk of injury to the pregnant woman; or

(C) Risk of injury to other persons.

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Sec. 204. Notice requirements.

The Administrator shall provide notice of the requirements of this act to:

(1) The relevant staff at the place of confinement, including:

(A) All medical staff;

(B) Staff and contractors who are involved in the transport of confined women of child-bearing age; and

(C) Other staff as the Administrator deems appropriate; and

(2) All women who are in their third trimester of pregnancy at the time the place of confinement takes custody of the person.

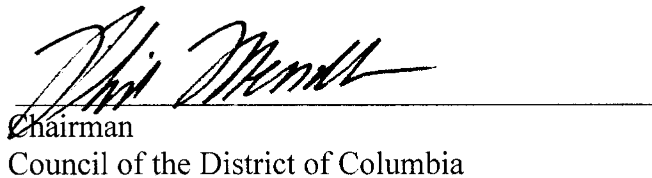
TITLE III.

Sec. 301. Fiscal impact statement.

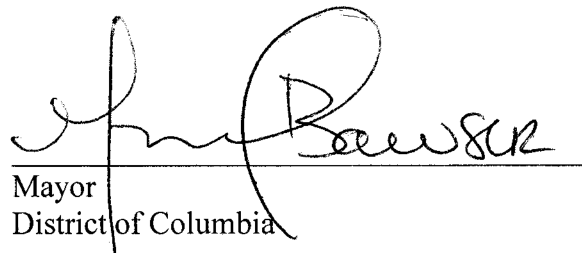
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 302. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 26,2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-597

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 25, 2015

To symbolically designate the 500 block of V Street, N.E., in Ward 5, as Sonia Gutierrez Campus Way in acknowledgement of the adjacent public charter school.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Sonia Gutierrez Campus Way Designation Act of 2014".

Sec. 2. Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) ("Act"), and notwithstanding the requirements of sections 407 and 408 (D.C. Official Code §§ 9-204.07 and 9-204. 08), of the Act, the Council symbolically designates 500 block of V Street, N.E., in Ward 5, as "Sonia Gutierrez Campus Way".

Sec. 3. Transmittal.
The Chairman of the Council shall transmit a copy of this act, upon its effective date, to the Director of the District Department of Transportation.

Sec. 4. Fiscal impact statement.
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

Sec. 5. Effective date.
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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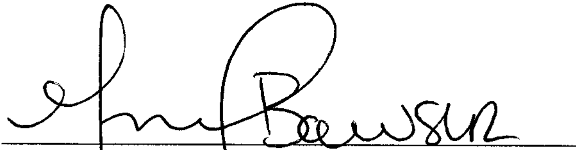
24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 25,2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-598

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 25, 2015

To order the closing of an unimproved public alley in Square 1412, bounded by Chain Bridge Road, N.W., in Ward 3, and to provide that the provisions of this act are nonseverable.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Closing of a Public Alley in Square 1412, S.O. 13-10159, Act of 2014".

Sec. 2. (a) Pursuant to section 404 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-204.04), and consistent with the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-201.01 *et seq.*), the Council finds that the unimproved public alley in Square 1412, as shown on the Surveyor's plat filed under S.O. 13-10159, is unnecessary for alley purposes and orders it closed, with title to the land to vest as shown on the Surveyor's plat.

(b) The Council approves this closing on the following conditions:

(1) That the applicant pays $31,177.26 to the District; and

(2) That, following review by the National Capital Planning Commission, the National Capital Planning Commission does not object to the closing.

Sec. 3. Nonseverability.

If any provision of this act is held invalid, such invalidity shall invalidate this act in its entirety, and the provisions of this act are declared to be nonseverable.

Sec. 4. Transmittal.

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

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

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

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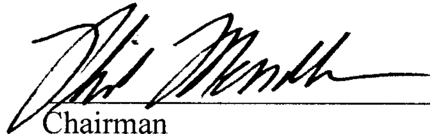
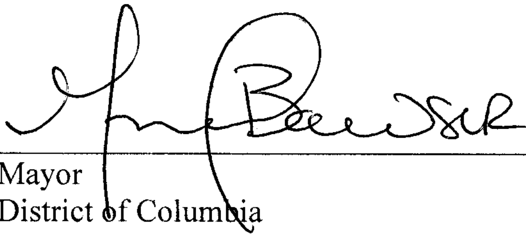
provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 25,2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-599

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 26, 2015

To amend the Food Production and Urban Gardens Program Act of 1986 to update existing law pertaining to urban farming, to create an urban farming land leasing initiative for District-owned land, to specify criteria for applicants to such initiative, to exempt property leased pursuant to such initiative from real property and possessory interest taxation, and to create a reporting requirement; to amend Title 47 of the District of Columbia Official Code to provide a 90% tax abatement for private land used, leased, or allowed to be used for an agricultural use under certain conditions, to provide that a tax exempt entity shall not lose its tax exempt status if its grounds are used for urban farming or community gardens, and to provide a tax credit for individual taxpayers, corporations, and unincorporated businesses that donate food grown from urban farming or community gardens.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Urban Farming and Food Security Amendment Act of 2014".

TITLE I – URBAN FARMING INITIATIVE

Sec. 101. The Food Production and Urban Gardens Program Act of 1986, effective February 28, 1987 (D.C. Law 6-210; D.C. Official Code § 48-401 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 48-401) is amended to read as follows:

"Sec. 2. Definitions.

"For the purposes of this act, the term:

"(1) "Community garden" means an area managed and maintained by a group of individuals to grow and harvest food crops or non-food crops for personal or group consumption, donation, or fundraising that is incidental in nature, and that may:

"(A) Include individuals working their own portions of a larger garden, or tending a communal garden together;

"(B) Be located in the ground, on a roof, or within a building; and

"(C) Include common areas such as tool storage sheds.

"(2) "Farm cooperative" means a type of urban farm or farms where production resources for farming such as land and machinery are pooled and jointly held by members.

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"(3) "Food" means any substance produced for human consumption and nourishment using horticultural techniques, such as vegetables, fruits, grains, mushrooms, honey, herbs, nuts, seeds, and rootstock.

"(4) "Horticultural techniques" means the scientific, artistic, and technological methods used to cultivate and manage an agricultural space, such as growing from the ground, hydroponics, container farming, vertical farming, or growing in greenhouses or raised beds.

"(5) "Urban agriculture" or "urban farming" means the practice of growing, cultivating, processing, and distributing vegetables, fruits, grains, mushrooms, honey, herbs, nuts, seeds, flowers, and rootstock within the District, including for profit, not for profit, and for educational purposes.

"(6) "Urban farm" means any property used for the growing, cultivating, processing, and distributing of vegetables, fruits, grains, mushrooms, honey, herbs, nuts, seeds, flowers, and rootstock within the District, including for profit, not for profit, and for educational purposes.

"(7) "Vacant lot" means any lot in the District on which there is no lawful structure.".

(b) Section 3 (D.C. Official Code § 48-402) is amended to read as follows:

"Sec. 3. Urban Farming and Gardens Program established.

"The Mayor shall establish an Urban Farming and Gardens Program, which shall include the development, implementation, and promotion of policies that encourage the donation and cultivation of public and private vacant lots for use as urban farms or community gardens, including:

"(1) The development of a land leasing initiative for publicly-owned vacant lots;

"(2) The inclusion of community gardening projects in the summer employment programs operated by the District government;

"(3) The provision by the Cooperative Extension Service of the University of the District of Columbia of technical assistance and research in the form of educational materials and programs for community gardening, urban farming, and other self-help food production efforts;

"(4) Coordination with the Office of the State Superintendent of Education, both on the use of suitable portions of buildings and grounds for community gardens or urban farming, and on the development of instructional programs in science and gardening that prepare students for related career opportunities such as restaurant produce supply, landscaping, and floral design;

"(5) The encouragement of food buying clubs and produce markets throughout the District to increase the supply of and demand for urban farms; and

"(6) The development of incentives and community outreach efforts to promote the availability of public and private vacant lots for participation in the Urban Farming and Gardens Program.".

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

"Sec. 3a. Urban Farming Land Leasing Initiative.

"(a)(1) By February 1, 2015, the Mayor shall identify at least 25 District-owned vacant lots for potential use for urban farming.

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"(2) These lots shall:

"(A) Be a minimum of 2,500 square feet; and

"(B) Have no pending agreements for development or sale.

"(b) By February 1, 2015, the Mayor shall establish a land leasing initiative whereby qualified District applicants will be selected to develop certain District-owned vacant lots identified in subsection (a) of this section for urban farming, pursuant to a lease agreement with the District.

"(c) All lease agreements entered into pursuant to subsection (b) of this section shall be for a term of at least 3 years.

"(d) In order to be considered for the land leasing initiative established pursuant to subsection (b) of this section, an applicant shall:

"(1) Be a resident of the District for at least one year before application;

"(2) Have at least one year of experience in agricultural production, as the sole farmer, an employee, a volunteer, or a significant partner of a farmer;

"(3) Not be ineligible for a license or permit pursuant to D.C. Official Code § 47-2862; and

"(4) Have no outstanding violations of District law or regulations on property owned by the applicant.

"(e) A lease agreement pursuant to subsection (b) of this section with an urban farm may permit the sale of the urban farm's products of urban agriculture on or off the leased land.

"(f) Property leased pursuant to subsection (b) of this section shall be exempt from real property taxation and possessory interest taxation.

"(g) Before the sale or consumption of food grown on property leased pursuant to subsection (b) of this section, the soil shall be tested for contamination.

"(h) By February 1st of each year, the Mayor shall submit an annual report to the Council on the status of the land leasing initiative pursuant to this section which shall include, at a minimum:

"(1) The number of active urban farms;

"(2) The names of the participants in the land leasing initiative;

"(3) Any educational or community programming or events hosted on the leased lots during the preceding calendar year; and

"(4) The amount of produce harvested by the participants during the preceding calendar year.".

TITLE II – TAX REBATE FOR AGRICULTURAL USE; TAX CREDITS FOR FARM TO FOOD DONATIONS

Sec. 201. Title 47 of the District of Columbia Official Code is amended as follows:

(a) Chapter 8 is amended as follows:

(1) The table of contents is amended by adding a new section 47-868 to read as follows:

"47-868. Reduced tax liability for agricultural uses.".

(2) A new section 47-868 is added to read as follows:

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"§ 47-868. Reduced tax liability for agricultural uses.

"(a) If an owner of real property uses the property, or leases the property or allows it to be used by an unrelated party, for an agricultural use, 90% of the real property tax otherwise levied by § 47-811 on the land value of the relevant portion of the real property shall be abated for each real property tax year that the real property is actually used for an agricultural use; provided, that:

"(1) The soil on the property has been tested and found to be free from contaminants and safe for use in the growth of food fit for human consumption;

"(2)(A) The property must be producing a food commodity or put to another season-appropriate agricultural-related use (such as providing cover cropping, a bee hive, or growing seedlings in a greenhouse) throughout substantially all of the year pursuant to an annual planting plan; and

"(B) The annual planting plan referenced in subparagraph (A) of this paragraph shall be retained by the taxpayer for at least 3 subsequent years and shall be produced in the event of an audit;

"(3) No abatement shall be permitted for abutting real property with common or related ownership that is not leased or used for an agricultural use; and

"(4) In the event that the property is put to agricultural use at some time other than the beginning of the tax year, the 90% tax abatement shall apply for all portions of the first year during which the property is in agricultural use, notwithstanding any other provision of this section.

"(b) An abatement shall be permitted under this section only with respect to a real property tax year during which each of the following requirements is met:

"(1) If the agricultural use involves a lease to a third party, the lease shall have an initial term of at least 3 years;

"(2)(A) If the agricultural use is for urban farming, at least 2,500 square feet of land, which may be comprised of one or more abutting lots, shall be under active use and cultivation during the growing season of either the food commodity produced or other season-appropriate agricultural-related use on the land;

"(B) If the agricultural use is for a community garden, the relevant portion of the property used for a community garden shall be under active use and cultivation during the growing season of either the food commodity produced or other season-appropriate agricultural-related use on the land; and

"(3) The entire portion of the property receiving reduced tax liability shall be dedicated toward an agriculture use.

"(c) The Mayor, pursuant to subchapter I of Chapter 2 of Title 5, may issue rules to implement the provisions of this section.

"(d) A real property owner claiming the tax abatement shall apply for and provide documentation supporting the tax abatement claim in the form and manner as prescribed by the Mayor, and shall be subject to the provisions of §§ 47-1007 and 47-1009.

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

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"(1) "Agricultural use" means urban farming, as defined in § 48-401(5), or use as a community garden, as defined in § 48-401(1); and

"(2) "Food commodity" means vegetables, fruits, grains, mushrooms, honey, herbs, nuts, seeds, or rootstock grown in the District by urban farming, as defined in § 48-401(5), or by a community garden, as defined in § 48-401(1), that are intended to be used as food in its perishable state and are approved by regulatory authorities.".

(b) Section 47-1005 is amended by adding a new subsection (c) to read as follows:

"(c) This section shall not apply to grounds used by individuals for the purpose of producing food commodities, as defined in § 47-1806.14(f).".

(c) Chapter 18 is amended as follows:

(1) The table of contents is amended as follows:

(A) A new section designation is added to read as follows:

"47-1806.14. Tax on residents and nonresidents – Credits – Tax credit for farm to food donations.".

(B) A new section designation is added to read as follows:

"47-1807.12. Tax on corporations and financial institutions – Credits – Tax credit for farm to food donations.".

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

"47-1808.12. Tax on unincorporated businesses – Credits – Tax credit for farm to food donations.".

(2) A new section 47-1806.14 is added to read as follows:

"§ 47-1806.14. Tax on residents and nonresidents – Credits – Tax credit for farm to food donations.

"(a) For tax years beginning on or after January 1, 2015, a taxpayer may claim a nonrefundable credit against taxes imposed by this subchapter for food commodity donations made during the tax year to a District of Columbia food bank or shelter recognized as a tax-exempt organization pursuant to 26 U.S.C. § 501(c)(3).

"(b)(1) The credit claimed in subsection (a) of this section shall equal 50% of the value of the contribution and shall not exceed $2,500 per taxpayer per tax year.

"(2) If a taxpayer elects to claim the credit for a contribution, no deduction under § 47-1803.03(b) shall be allowed on account of the contribution.

"(c) A donated food commodity shall not be damaged, out-of-condition, nor of a condition that would be considered unfit for human consumption under District or federal law or regulations.

"(d) If the amount of a tax credit under this section exceeds a taxpayer's tax liability under this chapter for a tax year, the amount of the tax credit that exceeds the taxpayer's income liability may be carried forward for a period not to exceed the following 5 tax years.

"(e) A taxpayer claiming the tax credit shall provide documentation supporting the tax credit claim in a form and manner prescribed by the Chief Financial Officer.

"(f) For the purposes of this section, the term "food commodity" means vegetables, fruits, grains, mushrooms, honey, herbs, nuts, seeds, or rootstock grown in the District by urban farming, as defined in § 48-401(5), or by a community garden, as defined in § 48-401(1), that are

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intended to be used as food in its perishable state and are approved by regulatory authorities.".

(3) A new section 47-1807.12 is added to read as follows:

"§ 47-1807.12. Tax on corporations and financial institutions – Credits – Tax credit for farm to food donations.

"(a) For taxable years beginning on or after January 1, 2015, any qualified incorporated business under § 6-1504 may claim a nonrefundable credit against taxes imposed by this subchapter equal to 50% of the value of food commodity donations made during the tax year to a District of Columbia food bank or shelter recognized as a tax-exempt organization pursuant to 26 U.S.C. § 501(c)(3).

"(b)(1) The credit shall not exceed $5,000 per corporation per tax year and shall not reduce the minimum tax liability under § 47-1807.02(b).

"(2) If the corporation elects to claim the credit for a contribution, no deduction under § 47-1803.03(a)(8) shall be allowable on account of the contribution.

"(c) A donated food commodity shall not be damaged, out-of-condition, nor of a condition that would be considered unfit for human consumption under District or federal law or regulations.

"(d) A corporation claiming the tax credit shall provide documentation supporting the tax credit claim in a form and manner prescribed by the Chief Financial Officer.

"(e) For the purposes of this section, the term "food commodity" means vegetables, fruits, grains, mushrooms, honey, herbs, nuts, seeds, or rootstock grown in the District by urban farming, as defined in § 48-401(5), or by a community garden, as defined in § 48-401(1), that are intended to be used as food in its perishable state and are approved by regulatory authorities.".

(4) A new section 47-1808.12 is added to read as follows:

"§ 47-1808.12. Tax on unincorporated businesses – Credits – Tax credit for farm to food donations.

"(a) For taxable years beginning on or after January 1, 2015, any qualified unincorporated business under § 6-1504 may claim a nonrefundable credit against taxes imposed by this subchapter equal to 50% of the value of food commodity donations made during the tax year to a District of Columbia food bank or shelter recognized as a tax-exempt organization pursuant to 26 U.S.C. § 501(c)(3).

"(b)(1) The credit shall not exceed $5,000 per unincorporated business per tax year and shall not reduce the minimum tax liability under § 47-1808.03(b).

"(2) If the unincorporated business elects to claim the credit for a contribution, no deduction under § 47-1803.03(a)(8) shall be allowable on account of the contribution.

"(c) A donated food commodity shall not be damaged, out-of-condition, nor of a condition that would be considered unfit for human consumption under District or federal law or regulations.

"(d) An unincorporated business claiming the tax credit shall provide documentation supporting the tax credit claim in a form and manner prescribed by the Chief Financial Officer.

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"(e) For the purposes of this section, the term "food commodity" means vegetables, fruits, grains, mushrooms, honey, herbs, nuts, seeds, or rootstock grown in the District by urban farming, as defined in § 48-401(5), or by a community garden, as defined in § 48-401(1), that are intended to be used as food in its perishable state and are approved by regulatory authorities.".

TITLE III – GENERAL PROVISIONS

Sec. 301. Non-liability of the District.

Nothing in this act shall be construed to create a governmental liability or cause of action against the District related to the safety of food purchased on District lands by non-governmental entities.

Sec. 302. Applicability.

(a)(1) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(2) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(3)(A) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(B) The date of publication of the notice of the certification shall not affect the applicability of this act.

(b) Subject to subsection (a) of this section,

(1) Section 201(a) shall apply to tax years beginning after September 30, 2015.

(2) Section 201(c) shall apply to tax periods beginning after December 31, 2015.

Sec. 303. Fiscal impact statement.

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

Sec. 304. Effective date.

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

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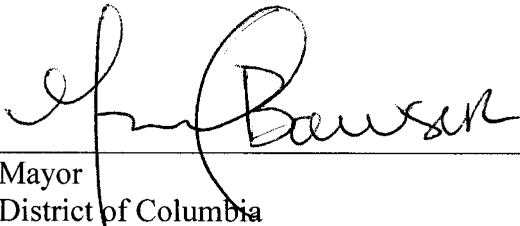
provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 26,2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-600

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 25, 2015

To amend the Historic Landmark and Historic District Protection Act of 1978 to require certain notice requirements at the time of an application for a permit for demolition, alteration, or new construction on, or subdivision of, historic properties, or for preliminary or conceptual review of such projects.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Notice Requirements for Historic Properties Amendment Act of 2014".

Sec. 2. The Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144; D.C. Official Code § 6-1101 *et seq.*), is amended as follows:

(a) Section 5(a) (D.C. Official Code § 6-1104(a)) is amended by striking the phrase "this section and place notice of the application in the District of Columbia Register" and inserting the phrase "this section and section 9c, and, for applications that will be submitted to the Historic Preservation Review Board or the Commission of Fine Arts for a public hearing, place notice of the application in the District of Columbia Register and on the website for the Historic Preservation Office" in its place.

(b) Section 6(a) (D.C. Official Code § 6-1105(a)) is amended by striking the phrase "this section and place notice of the application in the District of Columbia Register" and inserting the phrase "this section and section 9c, and, for applications that will be submitted to the Historic Preservation Review Board or the Commission of Fine Arts for a public hearing, place notice of the application in the District of Columbia Register and on the website for the Historic Preservation Office" in its place.

(c) Section 7(a) (D.C. Official Code § 6-1106(a)) is amended by striking the phrase "this section and place notice of the application in the District of Columbia Register" and inserting the phrase "this section and section 9c, and, for applications that will be submitted to the Historic Preservation Review Board or the Commission of Fine Arts for a public hearing, place notice of the application in the District of Columbia Register and on the website for the Historic Preservation Office" in its place.

(d) Section 8(a) (D.C. Official Code § 6-1107(a)) is amended by striking the phrase "this section and shall place notice of the application in the District of Columbia Register" and insert the phrase "this section and section 9c, and, for applications that will be submitted to the Historic Preservation Review Board or the Commission of Fine Arts for a public hearing, place notice of

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the application in the District of Columbia Register and on the website for the Historic Preservation Office" in its place.

(e) Section 9 (D.C. Official Code § 6-1108) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "considered by the Mayor" and inserting the phrase "considered by the Mayor, in accordance with this subsection and section 9c," in its place.

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

"(a-1) The Mayor shall place notice of applications for preliminary review that will be submitted to the Historic Preservation Review Board or the Commission on Fine Arts for a public hearing on the website for the Historic Preservation Office.".

(3) Subsection (b) is amended by striking the phrase "the application" and inserting the phrase "the application, in accordance with this subsection and section 9c," in its place.

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

"(b-1) The Mayor shall place notice of applications for conceptual review that will be submitted to the Historic Preservation Review Board or the Commission of Fine Arts for a public hearing on the website for the Historic Preservation Office.".

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

"Sec. 9c. Notice requirements.

"(a) Immediately after the application is filed for a permit for demolition pursuant to section 5, alteration pursuant to section 6, subdivision pursuant to section 7, new construction pursuant to section 8, preliminary review pursuant to section 9(a), or conceptual review pursuant to section 9(b), that will be submitted to the Historic Preservation Review Board or the Commission of Fine Arts for a public hearing, the applicant shall:

"(1) Post notice of the application on a form provided by the Mayor, in plain view of the public, at each street frontage on the property that is subject to review and on the front of each building located on the property that is subject to review; and

"(2)(A) Provide, by hand delivery with a delivery receipt or via the United States Postal Service with a certificate of mailing, to the owners of record of all confronting or abutting properties, excluding streets and alleys, and to all affected Advisory Neighborhood Commissions, the following:

"(i) Notice of the application;

"(ii) Information regarding how to obtain the schedule for review by the Historic Preservation Review Board or the Commission of Fine Arts; and

"(iii) A copy of the plans for the demolition, alteration, new construction on, or subdivision of, the property that is subject to review, or instructions on how to access the plans on a publicly available website or, upon request, for in-person viewing.

"(B) In the case of a residential condominium or cooperative with 25 or more dwelling units, notice by hand delivery with a delivery receipt or via the United States Postal Service with a certificate of mailing as required by subparagraph (A) of this paragraph may be provided to the board of directors or to the association of the condominium or cooperative that represents all of the owners of all of the dwelling units.

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"(b)(1) Before the Mayor approves a permit based on an application submitted to the Historic Preservation Review Board or the Commission of Fine Arts for a public hearing pursuant to section 5, section 6, section 7, section 8, or section 9(a) of this act, or before the Historic Preservation Review Board gives conceptual design approval pursuant to section 9(b) of this act for such an application, the Mayor shall require a certification by the owner that the requirements of subsection (a) of this section have been met.

"(2) The Mayor shall not approve a permit, and the Historic Preservation Review Board shall not grant conceptual design approval, pursuant to paragraph (1) of this subsection until 21 days have elapsed for citizen review of applications prior to the scheduling of a hearing, and following the date the Mayor receives the certification by the owner pursuant to paragraph (1) of this subsection.".

Sec. 3. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

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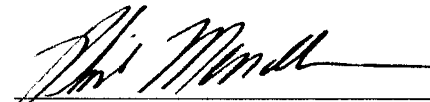
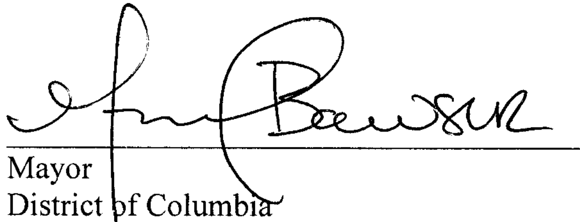
provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 25,2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-601

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 25, 2015

To amend the Retail Incentive Act of 2004 to establish the U Street/14th Street Retail Priority Area; to amend the Great Streets Neighborhood Retail Priority Areas Approval Resolution of 2007 to clarify the boundaries of the Ward 4 Georgia Avenue Priority Area; and to amend the H Street, N.E., Retail Priority Area Incentive Act of 2010 to expand eligibility requirements in the H Street, N.E., Retail Priority Area.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "U Street/14th Street, N.W., and Georgia Avenue Great Streets Neighborhood Retail Priority Amendment Act of 2014".

Sec. 2. Section 4 of the Retail Incentive Act of 2004, effective September 8, 2004 (D.C. Law 15-185; D.C. Official Code § 2-1217.73), is amended by adding a new subsection (m) to read as follows:

"(m) There is established the U Street/14th Street Retail Priority Area, which shall consist of the parcels, squares, and lots within and along the boundary of the following area: Beginning at the intersection of U Street, N.W., and 11th Street, N.W.; thence west on U Street, N.W., to 18th Street, N.W.; thence north on 18th Street, N.W., to Columbia Road, N.W.; thence northeast on Columbia Road, N.W., to Mount Pleasant Street, N.W.; thence northwest on Mount Pleasant Street, N.W., to Park Road, N.W.; thence southeast on Park Road, N.W., to 14th Street, N.W.; thence north on 14th Street, N.W., to Spring Road, N.W.; thence southeast on Spring Road, N.W., to 13th Street, N.W.; thence south on 13th Street, N.W., to V Street, N.W.; thence east on V Street, N.W., to 11th Street, N.W.; thence south on 11th Street, N.W., to the point of beginning.".

Sec. 3. Section 2(4) of the Great Streets Neighborhood Retail Priority Areas Approval Resolution of 2007, effective July 10, 2007 (Res. 17-257; 54 DCR 7194), is amended to read as follows:

"(4) Ward 4 Georgia Avenue Priority Area, consisting of the parcels, squares, and lots within and along the boundary of the following area: beginning at the intersection of Kenyon Street, N.W., and Sherman Avenue, N.W.; continuing north along Sherman Avenue, N.W., to New Hampshire Avenue, N.W.; then continuing northeast along New Hampshire Avenue, N.W., to Spring Road, N.W.; then continuing northwest along Spring Road, N.W., to 14th Street, N.W.; then continuing north along 14th Street, N.W., to Longfellow Street, N.W.; then continuing east along Longfellow Street, N.W., to Georgia Avenue, N.W.; then continuing north along Georgia

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Avenue, N.W., to Eastern Avenue, N.W.; then continuing southeast along Eastern Avenue, N.W., to Kansas Avenue, N.E.; then continuing southwest along Kansas Avenue, N.E., to Blair Road, N.W.; then continuing south along Blair Road, N.W., to North Capitol Street, N.E.; then continuing south along North Capitol Street, N.E., to Kennedy Street, N.W.; then continuing west along Kennedy Street, N.W., to Kansas Avenue, N.W.; then continuing southwest along Kansas Avenue, N.W., to Varnum Street, N.W.; then continuing east along Varnum Street, N.W., to 7th Street, N.W.; then continuing south along the center line of 7th Street, N.W., until the point where 7th Street, N.W., becomes Warder Street, N.W.; then continuing further south along Warder Street, N.W., to Kenyon Avenue, N.W.; and then continuing west along Kenyon Avenue, N.W., to the beginning point;".

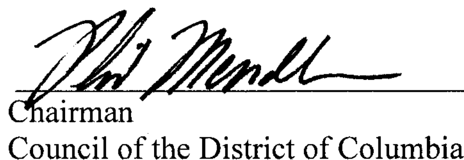
Sec. 4. Section 4(b)(2) of the H Street, N.E., Retail Priority Area Incentive Act of 2010, effective April 8, 2011 (D.C. Law 18-354; D.C. Official Code § 1-325.173(b)(2)), is amended by striking the word "restaurants" and inserting the phrase "restaurants whose annual alcohol sales exceed 20%" in its place.

Sec. 5. Fiscal impact statement.

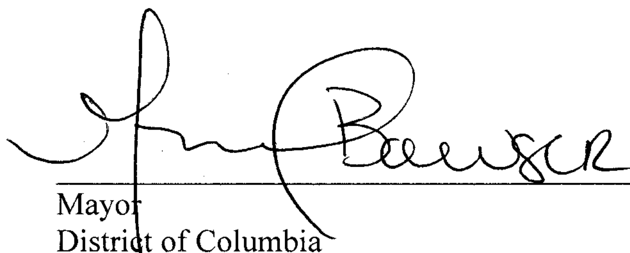
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 6. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 25,2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-602

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 25, 2015

To amend the Workforce Investment Implementation Act of 2000 to update and conform the law with the current functions of the Workforce Investment Council and federal law; and to amend the Workforce Investment Implementation Individual Training Accounts Limitation Amendment Act of 2004 to provide that beginning January 1, 2015, no eligible training provider shall be eligible to receive funding for more than 5 individual training accounts in a calendar year unless at least 25% of the students participating in the entity's training programs are funded by sources other than the individual training accounts and beginning January 1, 2016, to increase the minimum percent to 50%.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Workforce Investment Implementation Amendment Act of 2014".

Sec. 2. The Workforce Investment Implementation Act of 2000, effective July 18, 2000 (D.C. Law 13-150; D.C. Official Code § 32-1601 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Official Code § 32-1602) is amended as follows:

(1) Paragraph (1) is repealed.

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

"(1A) "Eligible training provider" means an organization that is approved to receive funds for individual training accounts for employment and training services, in accordance with criteria and procedures established by the Workforce Investment Council.

"(1B) "Individual training account" or "ITA" means the primary way individuals receive funds for training pursuant to the Federal Act.".

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

(A) Strike the phrase "means the" and insert the phrase "or "WIA" means the" in its place.

(B) Strike the phrase "§ 2822)" and insert the phrase "§ 2822) or the Workforce Innovation and Opportunity Act, approved July 22, 2014 (Pub. L. No. 113-128; 128 Stat. 1425), in accordance with section 13a" in its place.

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

"(3) "Self-sufficiency" means the self-sufficiency level as established annually by the Workforce Investment Council.".

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(5) Paragraph (4) is repealed.
(6) A new paragraph (5) is added to read as follows:
"(5) "WIC" means the Workforce Investment Council established by section 4.".
(b) Section 4 (D.C. Official Code § 32-1603) is amended as follows:
(1) Subsection (a) is amended to read as follows:
"(a) There is created a Workforce Investment Council that shall serve as the District's state workforce investment board pursuant to section 111 of the Federal Act, which shall carry out the functions of a local workforce investment board as assigned by the Mayor pursuant to section 117(c)(4) of the Federal Act.".
(2) Subsection (b) is repealed.
(3) New subsections (e), (f), (g), (h), (i), and (j) are added to read as follows:
"(e) The Mayor shall appoint members of WIC in a manner consistent with the requirements of section 111(b) and (c) of the Federal Act.
"(f) The WIC shall:
"(1) Assist the Mayor in the selection of the WIC Executive Director;
"(2) In cooperation with the WIA administrative entity:
"(A) Develop the District's state plan consistent with the requirements of section 112 of the Federal Act;
"(B) Negotiate the District's state performance measures as required under section 136(b) of the Federal Act; and
"(C) Develop the District's annual report as required under section 136(d) of the Federal Act;
"(3) Establish policies and guidance for the District's American Job Center system as required under section 134(c) of the Federal Act;
"(4) In coordination with the WIA administrative entity, develop and implement District-wide employment and training activities as required under section 134(a) of the Federal Act;
"(5) Develop and implement a workforce intermediary pilot project, as described in section 5b of the First Source Employment Agreement Act of 1984, effective February 24, 2012 (D.C. Law 19-84; D.C. Official Code § 2-219.04b); and
"(6) Develop applications for incentive grants pursuant to section 503 of the Federal Act.
"(g) The Mayor shall certify WIC as the local workforce investment board for the District of Columbia not less than once every 2 years, consistent with the requirements of section 117(c) of the Federal Act.
"(h) The Mayor shall designate WIC to:
"(1) Certify American Job Centers;
"(2) Select and terminate American Job Centers;
"(3) In coordination with the WIA administrative entity, develop a memorandum of agreement with mandatory partner programs for the administration of American Job Centers, which shall include a resource-sharing agreement;

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"(4) Establish eligibility and performance requirements for training providers to be considered eligible to receive ITA funds;

"(5) Identify demand occupations for which training may be provided and develop a demand occupation list not less than once every 2 years;

"(6) Implement a procedure for determining initial and subsequent eligibility of training providers;

"(7) Establish and implement eligibility and performance requirements for providers of training services other than those provided through ITAs, including on-the-job training and customized training services;

"(8) Develop and implement a policy for the selection of providers of youth employment and training services consistent with section 123 of the Federal Act;

"(9) Establish a youth council consistent with section 117(h) of the Federal Act;

"(10) Develop an annual operating budget for WIC;

"(11) In cooperation with the WIA administrative entity, advise the Mayor and the Office of the Chief Financial Officer of the District of Columbia on the annual budget and spending plan for youth activities as described in section 129 of the Federal Act and employment and training activities as described in section 134 of the Federal Act; and

"(12) Coordinate workforce development activities with economic development strategies and other employer linkages.

"(i)(1) The WIC shall direct the WIA administrative entity to disburse funds received pursuant to sections 127 and 132 of the Federal Act to support the activities described in subsections (d) and (e) of this section, consistent with WIC policies.

"(2) The WIA administrative entity shall disburse the funds described in paragraph (1) of this subsection immediately upon the direction of the local workforce investment board; provided, that the direction does not violate a provision of the Federal Act or District law.

"(j) The WIC may hire staff to assist it in carrying out its responsibilities, as described in subsections (f) and (h) of this section.".

(c) A new section 4a is added to read as follows:

"Sec. 4a. WIA administrative entity.

"The Mayor shall designate an agency to serve as the WIA administrative entity, which shall:

"(1) In cooperation with the WIC:

"(A) Develop the District's state plan;

"(B) Negotiate the District's state performance measures as required under section 136(b) of the Federal Act;

"(C) Develop the District's annual report as required under section 136(d) of the Federal Act;

"(D) Develop and submit all reports required under the Federal Act; and

"(E) Advise the Mayor and the Office of the Chief Financial Officer of the District of Columbia on the annual budget and spending plan for youth activities as described in

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section 129 of the Federal Act and employment and training activities as described in section 134 of the Federal Act;

"(2) Serve as the fiscal agent for all funds described in section 127 and section 132 of the Federal Act;

"(3) Develop and administer a District-wide employment statistics system consistent with section 309 of the Federal Act;

"(4) Subject to certification by WIC:

"(A) Serve as the operator of American Job Centers;

"(B) Provide core services as described in section 134(d)(2) of the Federal Act through the American Job Centers; and

"(C) Provide intensive services as described in section 134(d)(3) of the Federal Act through the American Job Centers;

"(5) Administer all grants and contracts for training services as described in section 134(d)(4) of the Federal Act, subject to policies established by WIC; and

"(6) Administer all grants and contracts with youth providers identified by WIC through the process described in section 11a.".

(d) Section 5 (D.C. Official Code § 32-1604) is amended to read as follows:

"Sec. 5. Council approval of state workforce plans.

"Upon the Mayor's approval of the state plan described in section 4(f)(2)(A), or any modification of such plan, the Mayor shall transmit the state plan to the Council for a 10-day period of review. If the Council does not approve or disapprove the state plan or modification, by resolution, within the 10-day review period, the state workforce plan shall be deemed approved.".

(e) Section 6 (D.C. Official Code § 32-1605) is repealed.

(f) Section 7 (D.C. Official Code § 32-1606) is repealed.

(g) Section 8 (D.C. Official Code § 32-1607) is amended as follows:

(1) The heading is amended to read as follows:

"Sec. 8. Training services criteria and performance accountability.".

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

(A) Designate the existing introductory text as paragraph (1).

(B) The newly designated paragraph (1) is amended to read as follows:

"(a)(1)(A) Except as provided in subsection (e) of this section, training services funded under section 133 of the Federal Act shall be provided through the use of individual training accounts. ITA funds may only be used to pay for employment and training services that are provided by organizations that have been approved as eligible training providers by WIC, according to criteria and procedures developed by WIC.

"(B) The criteria and procedures required by subparagraph (A) of this paragraph shall be submitted to the Council for a 10-day period of review, excluding days of Council recess. If the Council does not approve or disapprove the procedures and criteria, by resolution, within the 10-day period of review, the procedures and criteria shall be deemed approved.".

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(C) Existing paragraphs (1) and (2) are redesignated as paragraphs (2) and (3).

(D) The newly designated paragraph (2) is amended by striking the phrase "Each service provider shall" and inserting the phrase "The criteria and procedures shall require organizations seeking to become eligible training providers to" in its place.

(E) The newly designated paragraph (3) is amended by striking the phrase "The service provider shall also" and inserting the phrase "The criteria and procedures shall require organizations seeking to become eligible training providers to" in its place.

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

"(4)(A) The criteria and procedures required by this subsection shall include a list of demand occupations in the District for which training may be provided.

"(B) The criteria and procedures shall require eligible training providers to meet minimum performance requirements with respect to:

"(i) Placement in employment;

"(ii) Employment retention;

"(iii) Average wages; and

"(iv) Other requirements established by WIC.

"(C) Eligible training providers shall submit the required data to WIC to enable WIC to determine performance.".

(3) Subsection (c) is repealed.

(4) Subsection (d) is repealed.

(5) New subsections (e) and (f) are added to read as follows:

"(e)(1) Training services funded under section 133 of the Federal Act may be provided pursuant to a contract in lieu of an individual training account to the extent that such contracts are permitted under the Federal Act and District law.

"(2) No funds may be provided under this section except according to criteria and procedures developed by the Workforce Investment Council.

"(f)(1) All training services funded under section 133 of the Federal Act shall be provided in a manner that maximizes consumer choice.

"(2) The WIC shall publish annual report cards for each eligible training provider that includes performance data and cost information in a manner that helps enhance customer choice in selecting training services.".

(h) The lead-in text of section 9 (D.C. Official Code § 32-1608) is amended to read as follows:

"Participants in training activities funded pursuant to section 8 shall not be assigned or placed to work for any employer or worksite where:".

(i) Section 10 (D.C. Official Code § 32-1609) is amended by striking the phrase "Office of Human Rights" and inserting the phrase "Workforce Investment Council" in its place.

(j) Section 11 (D.C. Official Code § 32-1610) is amended as follows:

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

(A) Strike the word "Council" and insert the phrase "District's state workforce investment board" in its place.

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(B) Strike the phrase "advise the Mayor as required pursuant to section 112 of the Federal Act and on matters" and insert the phrase "develop policies and procedures" in its place.

(2) Subsection (b) is repealed.

(3) New subsections (b-1) and (b-2) are added to read as follows:

"(b-1) The WIC shall establish policies and procedures for the development of a one-stop delivery system consistent with the requirements of sections 121 and 134(c) of the Federal Act, including policies and procedures for the certification of American Job Centers and the selection of one-stop operators consistent with the requirements of section 121(d) of the Federal Act.

"(b-2) The WIC shall develop policies and procedures to ensure that American Job Centers provide:

"(1) Core services, as described in section 134(d)(2) of the Federal Act;

"(2) Access to intensive career services, as described in section 134(d)(3) of the Federal Act; and

"(3) Training services, as described in 134(d)(4) of the Federal Act and consistent with the requirements in section 8.".

(4) Subsection (d) is repealed.

(5) A new subsection (d-1) is added to read as follows:

"(d-1) The policies and procedures required by subsection (b-2) of this section shall ensure that eligible individuals seeking services through American Job Centers receive an initial assessment of aptitudes and abilities that is non-gender biased and that assesses a woman's interest in high-wage employment, including for positions that are nontraditional employment for women.".

(k) A new section 11a is added to read as follows:

"Sec. 11a. Youth activities.

"(a) The WIC shall develop policies and procedures for the selection of providers of youth employment and training services consistent with the requirements of section 123 of the Federal Act.

"(b) The policies and procedures required by subsection (a) of this section shall ensure that the providers of youth employment and training activities are selected on a competitive basis.".

(l) Section 12 (D.C. Official Code § 32-1611) is repealed.

(m) A new section 12a is added to read as follows:

"Sec. 12a. Mandatory partner programs.

"(a) With the approval of the Mayor, WIC shall develop and enter into a memorandum of agreement with mandatory partner programs consistent with the requirements of section 121(c) of the Federal Act.

"(b) To the extent that they are available in the District, the mandatory partner programs required by subsection (a) of this section shall include the:

"(1) Workforce Investment Act Adult program;

"(2) Workforce Investment Act Youth program;

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"(3) Workforce Investment Act Dislocated Worker program;
"(4) Wagner-Peyser Act programs and activities;
"(5) Local Veterans Outreach program;
"(6) Disabled Veterans Outreach program;
"(7) Trade Adjustment Assistance;
"(8) Senior Community Service Employment Program, as authorized under Title V of the Older Americans Act of 1965, approved October 17, 2006 (120 Stat. 2522; 42 U.S.C. § 3056);
"(9) Unemployment insurance programs authorized under District of Columbia unemployment compensation laws;
"(10) Vocational rehabilitation programs, as authorized under Parts A and B of the Title I of the Rehabilitation Act of 1973, approved August 7, 1998 (112 Stat. 1093; 29 U.S.C. § 720);
"(11) Any postsecondary career and technical education activities authorized under the Vocational Education Act of 1963, approved August 12, 2006 (120 Stat. 684; 20 U.S.C. § 2301);
"(12) Adult education and literacy activities authorized under Title II of WIA;
"(13) Employment and training activities carried out under the Community Services Block Grant Act, approved October 27, 1998 (112 Stat. 2728; 42 U.S.C.§ 9901);
"(14) Job-readiness training and employment-placement assistance under section 3 of the Housing and Urban Development Act of 1968, approved August 1, 1968 (82 Stat. 476; 12 U.S.C. § 1701u); or
"(15) Job Corps activities.".

(n) A new section 13a is added to read as follows:

"Sec. 13a. Reference.

"(a) Except as otherwise specified, a reference in this act to a section or provision of the Workforce Investment Act of 1998, approved August 7, 1998 (112 Stat. 936; 29 U.S.C. § 2822), shall be deemed to be a reference to the corresponding provision of the Workforce Innovation and Opportunity Act, approved July 22, 2014 (Pub. L. No 113-128; 128 Stat. 1425).

"(b) This section shall apply as of July 22, 1014.".

Sec. 3. Section 1142 of the Workforce Investment Implementation Individual Training Accounts Limitation Amendment Act of 2004, effective December 7, 2004 (D.C. Law 15-205; D.C. Official Code § 32-1631), is amended as follows:

(a) Subsections (a) and (b) are amended to read as follows:

"(a) Beginning January 1, 2015, or upon the effective date of the Workforce Investment Implementation Amendment Act of 2014, passed on 2nd reading on December 2, 2014 (Enrolled version of Bill 20-773), whichever occurs first, no eligible training provider shall be eligible to receive funding for more than 5 individual training accounts in a calendar year unless at least 25% of the students participating in the entity's training programs are funded by sources other than the individual training accounts.

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"(b) Beginning January 1, 2016, no eligible training provider shall be eligible to receive funding for more than 5 individual training accounts in a calendar year unless at least 50% of the students participating in the entity's training programs are funded by sources other than the individual training accounts.".

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

(A) The lead-in text is amended to read as follows:

"WIC shall establish a procedure by which eligible training providers shall certify as to:".

(B) Paragraph (1) is amended by striking the word "entity's" and inserting the phrase "eligible training provider's" in its place.

(C) Paragraph (2) is amended by striking the phrase "the District government" and inserting the phrase "individual training accounts" in its place.

(2) This subsection shall apply as of October 1, 2014.

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

"(d) For the purposes of this section, the term:

"(1) "Eligible training provider" shall have the same meaning as provided in section 3(1A) of the Workforce Investment Implementation Act of 2000, effective July 18, 2000 (D.C. Law 13-150; D.C. Official Code § 32-1602(1A)).

"(2) "Individual training account" shall have the same meaning as provided in section 3(1B) of the Workforce Investment Implementation Act of 2000, effective July 18, 2000 (D.C. Law 13-150; D.C. Official Code § 32-1602(1B)).".

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

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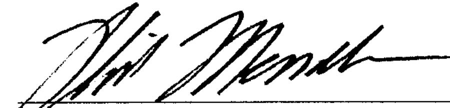
provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
January 25,2015

ENGROSSED ORIGINAL

AN ACT

D.C. ACT 20-603

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 26, 2015

To amend An Act Making appropriations to provide for the expenses of the government of the District of Columbia for fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes, to authorize the Mayor to enter into an agreement with a Business Improvement District or DC Surface Transit Inc. for maintenance and improvement of public space or to engage in public space planning activities.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Public Space Maintenance Contracting Authorization Amendment Act of 2014".

Sec. 2. The text under the heading "ASSESSMENT AND PERMIT WORK" of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes, approved August 7, 1894 (28 Stat. 247; D.C. Official Code § 9-401.06), is amended as follows:

(a) The first paragraph is designated as subsection (a).

(b) The second paragraph is designated as subsection (b).

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

"(c)(1) Notwithstanding the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 *et seq.*), the Mayor may enter into an agreement, excluding grant agreements, with a BID corporation, as defined in section 2(4) of the Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11-134; D.C. Official Code § 2-1215.02(4)), or with DC Surface Transit Inc., a nonprofit corporation in the District of Columbia, to maintain or improve public space, such as sidewalks and signage, within the boundaries of the BID, as defined in section 2(7) of the Business Improvement District Act of 1996, effective May 29, 1996 (D.C. Law 11-134; D.C. Official Code § 2-1215.02(7)), or to engage in public space planning activities in the District.

"(2) The Mayor shall pay or reimburse to a BID corporation or DC Surface Transit Inc. for reasonably incurred expenses in maintaining or improving public space or for engaging in planning activity under this subsection for services customarily provided by the District to any similar geographic area pursuant to section 20(a) of the Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11-134; D.C. Official Code § 2-1215.20(a)).

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"(3) An agreement with a BID corporation or DC Surface Transit Inc. made pursuant to this subsection to complete work in public space shall contain provisions requiring adequate insurance and indemnification.

"(4)(A) An agreement with a BID corporation or DC Surface Transit Inc. made pursuant to this subsection shall not exceed $250,000 for a single fiscal year; provided, that a multiyear agreement shall be allowed, subject to annual appropriation.

"(B) Beginning October 1, 2015, the amount referenced in subparagraph (A) of this paragraph shall be indexed by the percentage that the average of the Consumer Price Index for the Washington-Baltimore Metropolitan Statistical Area for all-urban consumers published by the Department of Labor, as of the close of the 12-month period ending on March 31 ("Consumer Price Index") for the preceding fiscal year, exceeds the Consumer Price Index for the fiscal year beginning October 1, 2014, and each succeeding fiscal year.".

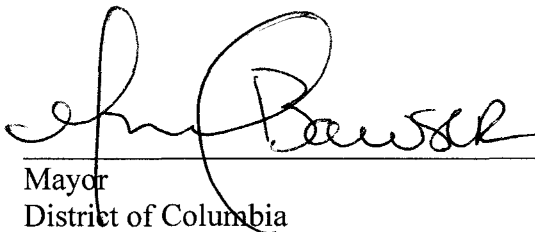
Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 26,2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-604

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 25, 2015

To authorize the Commissioner of the Department of Insurance, Securities and Banking to implement and enforce the health insurance market provisions of the federal Patient Protection and Affordable Care Act and the Public Health Service Act; to amend the Reasonable Health Insurance Ratemaking and Health Care Reform Act of 2010 to establish a benchmark plan that includes the essential health benefits and require that certain rating standards be used by health insurance issuers when setting rates; to amend the Drug Abuse, Alcohol Abuse, and Mental Illness Insurance Coverage Act of 1986, the Health Insurance Portability and Accountability Federal Law Conformity and No-Fault Motor Vehicle Insurance Act of 1998, and the Hospital and Medical Services Corporation Regulatory Act of 1996 to provide uniform definitions for the terms "large employer" and "small employer" and to define "excepted benefits"; and to regulate stop-loss insurance.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Federal Health Reform Implementation and Omnibus Amendment Act of 2014".

TITLE I. HEALTH INSURANCE PROVISIONS

Sec. 101. Compliance with federal health reform.

(a) Sections 1251, 1252, and 1304 of the Patient Protection and Affordable Care Act, approved March 23, 2010 (124 Stat. 119; 42 U.S.C. §§ 18011, 18021, and 18024), and sections 2701 through 2709, 2711 through 2719A, and 2794 of the Public Health Service Act, approved July 1, 1944 (58 Stat. 682; 42 U.S.C. §§ 300gg, 300gg-1, 300gg-2, 300gg-3, 300gg-4, 300gg-5, 300gg-6, 300gg-7, 300gg-8, 300gg-9, 300gg-11, 300gg-12, 300gg-13, 300gg-14, 300gg-15, 300gg-15A, 300gg-16, 300gg-17, 300gg-18, 300gg-19, 300gg-19A, and 300gg-94), (collectively "federal health acts") and any rules issued pursuant to the federal health acts are incorporated by reference and shall apply to all insurers, hospital and medical services corporations, and health maintenance organizations that deliver or issue for delivery individual or group health insurance policies or contracts in the District.

(b) The Commissioner of the Department of Insurance, Securities and Banking ("Commissioner") has the authority to take action to enforce violations of subsection (a) of this section pursuant to the Commissioner's authority under the Department of Insurance and

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Securities Regulation Establishment Act of 1996, effective May 21, 1997 (D.C.Law 11-268; D.C. Official Code § 31-101 *et seq.*).

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

Sec. 102. Section 2 of the Drug Abuse, Alcohol Abuse, and Mental Illness Insurance Coverage Act of 1986, effective February 28, 1987 (D.C. Law 6-195; D.C. Official Code § 31-3101), is amended as follows:

(a) Paragraph (10A) is amended to read as follows:

"(10A)(A)(i) Except as provided in sub-subparagraph (ii) of this subparagraph, "large employer" means, in connection with a group health plan with respect to a calendar year and a plan year, a single employer that employed an average of at least 51 employees on business days during the preceding calendar year and at least 2 employees on the first day of the plan year.

"(ii) Beginning in calendar year 2016 and for each succeeding year, "large employer" means, in connection with a group health plan with respect to a calendar year and a plan year, a single employer that employed an average of at least 101 employees on business days during the preceding calendar year and at least 2 employees on the first day of the plan year.

"(B) For the purposes of this paragraph:

"(i) All persons treated as a single employer under section 414(b), (c), (m), or (o) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 414(b), (c), (m), or (o)), shall be treated as a single employer;

"(ii) An employer and any predecessor employer shall be treated as a single employer;

"(iii) All employees shall be counted, including part-time employees and employees who are not eligible for health benefit coverage through the employer; and

"(iv) If an employer was not in existence throughout the preceding calendar year, the determination of whether that employer is a large employer shall be based on the average number of employees that the employer is reasonably expected to employ in the current calendar year.".

(b) Paragraph (19A) is amended to read as follows:

"(19A)(A)(i) Except as provided in sub-subparagraph (ii) of this subparagraph, "small employer" means a single employer that employed an average of not more than 50 employees during the preceding calendar year.

"(ii) Beginning in calendar year 2016 and for each succeeding year, "small employer" means a single employer that employed an average of not more than 100 employees during the preceding calendar year.

"(B) For the purposes of this paragraph:

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"(i) All persons treated as a single employer under section 414(b), (c), (m), or (o) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 414(b), (c), (m), or (o)), shall be treated as a single employer;

"(ii) An employer and any predecessor employer shall be treated as a single employer;

"(iii) All employees shall be counted, including part-time employees and employees who are not eligible for health benefit coverage through the employer;

"(iv) If an employer was not in existence throughout the preceding calendar year, the determination of whether that employer is a small employer shall be based on the average number of employees that the employer is reasonably expected to employ in the current calendar year.".

Sec. 103. Section 101 of the Health Insurance Portability and Accountability Federal Law Conformity and No-Fault Motor Vehicle Insurance Act of 1998, effective April 13, 1999 (D.C. Law 12-209; D.C. Official Code § 31-3301.01), is amended as follows:

(a) Paragraph (15) is amended to read as follows:

"(15) "Excepted benefits" means benefits under one or more of the following:

"(A) Benefits not subject to the requirements of this act include:

"(i) Coverage only for accident, or disability income insurance, or any combination thereof;

"(ii) Coverage issued as a supplement to liability insurance;

"(iii) Liability insurance, including general liability insurance and automobile liability insurance;

"(iv) Workers' compensation or similar insurance;

"(v) Medical expense and loss of income benefits;

"(vi) Credit-only insurance;

"(vii) Coverage for on-site medical clinics; and

"(viii) Other similar insurance coverage, as specified in regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

"(B) Benefits not subject to the requirements of this act if offered separately include:

"(i) Limited scope dental or vision benefits so long as the benefits are offered in a manner not inconsistent with applicable federal law;

"(ii) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and

"(iii) Other similar, limited benefit plans as specified in regulations;

"(C) Benefits not subject to the requirements of this act if offered as independent, non-coordinated benefits, supplemental to minimum essential coverage include:

"(i) Coverage only for a specified disease or illness; and

"(ii) Hospital indemnity or other fixed indemnity insurance; and

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"(D) Benefits not subject to the requirements of this act if offered as a separate insurance policy include:

"(i) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act, approved June 9, 1980 (72 Stat. 1445; 42 U.S.C. § 1395ss(g)(1));

"(ii) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code (10 U.S.C. § 1071 *et seq.*); and

"(iii) Similar supplemental coverage provided under a group health plan.

"(E) The term "excepted benefits" does not include any combination of benefits described in subparagraphs (A)(i), B(i), (C)(i) or (C)(ii) of this paragraph.".

(b) A new paragraph (19A) is added to read as follows:

"(19A) "Health Benefit Exchange Authority Establishment Act" means the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2011 (D.C. Law 19-94; D.C. Official Code § 31-3171.01 *et seq.*).".

(c) Paragraph (26) is amended to read as follows:

"(26) "Individual health insurance coverage" means health insurance coverage offered to individuals in the individual market, which includes a health benefit plan provided to individuals through a trust arrangement, association, or other discretionary group that is not an employer plan, but does not include coverage defined as excepted benefits. The term "individual health insurance coverage" does not include short-term limited duration coverage.".

(d) Paragraph (29) is amended to read as follows:

"(29)(A)(i) Except as provided in sub-subparagraph (ii) of this subparagraph, "large employer" means, in connection with a group health plan with respect to a calendar year and a plan year, a single employer that employed an average of at least 51 employees on business days during the preceding calendar year and at least 2 employees on the first day of the plan year.

"(ii) Beginning in calendar year 2016 and for each succeeding year, "large employer" means, in connection with a group health plan with respect to a calendar year and a plan year, a single employer that employed an average of at least 101 employees on business days during the preceding calendar year and at least 2 employees on the first day of the plan year.

"(B) For the purposes of this paragraph:

"(i) All persons treated as a single employer under section 414(b), (c), (m), or (o) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 414(b), (c), (m), or (o)), shall be treated as a single employer;

"(ii) An employer and any predecessor employer shall be treated as a single employer;

"(iii) All employees shall be counted, including part-time employees and employees who are not eligible for health benefit coverage through the employer; and

"(iv) If an employer was not in existence throughout the preceding calendar year, the determination of whether that employer is a large employer shall be based on

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the average number of employees that the employer is reasonably expected to employ in the current calendar year.".

(e) Paragraph (42) is amended to read as follows:

"(42)(A)(i) Except as provided in sub-subparagraph (ii) of this subparagraph, "small employer" means a single employer that employed an average of not more than 50 employees during the preceding calendar year.

"(ii) Beginning in calendar year 2016 and for each succeeding year, "small employer" means a single employer that employed an average of not more than 100 employees during the preceding calendar year.

"(B) For the purposes of this paragraph:

"(i) All persons treated as a single employer under section 414(b), (c), (m), or (o) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 414(b), (c), (m), or (o)), shall be treated as a single employer;

"(ii) An employer and any predecessor employer shall be treated as a single employer;

"(iii) All employees shall be counted, including part-time employees and employees who are not eligible for health benefit coverage through the employer; and

"(iv) If an employer was not in existence throughout the preceding calendar year, the determination of whether that employer is a small employer shall be based on the average number of employees that the employer is reasonably expected to employ in the current calendar year.".

Sec. 104. The Reasonable Health Insurance Ratemaking and Health Care Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-360; D.C. Official Code § 31-3311.01 *et seq.*), is amended as follows:

(a) Section 102(f) (D.C. Official Code § 31-3311.01(f)) is amended by striking the phrase "The Commissioner of the Department of Insurance, Securities, and Banking ("Commissioner"), in his or her discretion," and inserting the phrase "The Commissioner, in the Commissioner's discretion," in its place.

(b) New sections 104a and 104b are added to read as follows:

"Sec. 104a. Essential health benefits.

"(a) Consistent with federal law, the Commissioner, with the approval of the Executive Board of the Health Benefit Exchange Authority, shall, by rule, select the benchmark plan for the individual and small group markets for purposes of establishing the essential health benefits in the District pursuant to section 1302 of the Affordable Care Act.

"(b) If the essential health benefits benchmark plan for the individual and small group markets does not include all of the benefit categories specified by section 1302 of the Affordable Care Act, or a need exists to add additional benefits, the Commissioner, with the approval of the Executive Board of the Health Benefit Exchange Authority, may, by rule, supplement the benchmark plan benefits as needed so long as the benchmark plan meets the minimum requirements of section 1302 of the Affordable Care Act.

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"(c)(1) A health plan offering the required essential health benefits for the individual and small group markets, other than a health plan offered through the federal basic health program or Medicaid, may not be offered in the District unless the Commissioner determines that it is substantially equal to the benchmark plan.

"(2) When making this determination, the Commissioner shall:

"(A) Ensure that the plan covers the essential health benefits categories specified in section 1302 of the Affordable Care Act; and

"(B) Consider whether the health plan has a benefit design that would create a risk of biased selection based on health status and whether the health plan contains meaningful scope and level of benefits in each of the 10 essential health benefit categories specified by section 1302 of Affordable Care Act.

"(d)(1) Except as provided in paragraph (2) of this subsection, notwithstanding any other provision of benefits mandated by District law, the benchmark plan adopted by the Commissioner shall be the benefits required in all health benefit plans offered in the individual and small group markets.

"(2) Grandfathered health plans, as defined in section 1251 of the Affordable Care Act, shall be exempt from complying with the requirements of the benchmark plan.

"Sec. 104b. Underwriting ratemaking criteria.

"(a) To implement section 1201 of the Affordable Care Act, the Commissioner, with the approval of the Executive Board of the Health Benefit Exchange Authority, shall have the authority to establish by rule:

"(1)The geographic rating area for the District;

"(2)The age rating or curve; and

"(3)The rating for tobacco uses.

"(b)The Commissioner's authority to implement subsection (a) of this section shall be accomplished in a manner that is not inconsistent with, or would prevent the application of, the Affordable Care Act and its implementing regulations. In exercising the authority under subsection (a) of this section, the Commissioner may provide consumer protections and benefits that exceed those provided in the Affordable Care Act.

"(c) Health insurers are required to merge their experience in the individual and group markets for purposes of setting health insurance rates.".

(c) A new section 112 is added to read as follows:

"Sec. 112. Definitions.

"For the purposes of this title, the term:

'(1) "Affordable Care Act" means the Patient Protection and Affordable Care Act approved March 23, 2010 (124 Stat. 111; 42 U.S.C. § 18001, note).

"(2) "Commissioner" means the Commissioner of the Department of Insurance, Securities, and Banking established by the Department of Insurance and Securities Regulations Establishment Act of 1996, effective May 21, 1997 (D.C. Law 11-268; D.C. Official Code § 31-101 *et seq.*).".

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Sec. 105. The Hospital and Medical Services Corporation Regulatory Act of 1996, effective April 9, 1997 (D.C. Law 11-245; D.C. Official Code § 31-3501 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 31-3501) is amended as follows:

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

"(4A)(A)(i) Except as provided in sub-subparagraph (ii) of this subparagraph, "large employer" means, in connection with a group health plan with respect to a calendar year and a plan year, a single employer that employed an average of at least 51 employees on business days during the preceding calendar year and at least 2 employees on the first day of the plan year.

"(ii) Beginning in calendar year 2016 and for each succeeding year, "large employer" means, in connection with a group health plan with respect to a calendar year and a plan year, a single employer that employed an average of at least 101 employees on business days during the preceding calendar year and at least 2 employees on the first day of the plan year.

"(B) For the purposes of this paragraph:

"(i) All persons treated as a single employer under section 414(b), (c), (m), or (o) of the Internal Revenue Code of 1986, October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 414(b), (c), (m), or (o)), shall be treated as a single employer;

"(ii) An employer and any predecessor employer shall be treated as a single employer;

"(iii) All employees shall be counted, including part-time employees and employees who are not eligible for health benefit coverage through the employer; and

"(iv) If an employer was not in existence throughout the preceding calendar year, the determination of whether that employer is a large employer shall be based on the average number of employees that the employer is reasonably expected to employ in the current calendar year.".

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

"(7C)(A)(i) Except as provided in sub-subparagraph (ii) of this subparagraph, "small employer" means a single employer that employed an average of not more than 50 employees during the preceding calendar year.

"(ii) Beginning in calendar year 2016 and for each succeeding year, "small employer" means a single employer that employed an average of not more than 100 employees during the preceding calendar year.

"(B) For the purposes of this paragraph:

"(i) All persons treated as a single employer under section 414(b), (c), (m), or (o) of the Internal Revenue Code of 1986, October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 414(b), (c), (m), or (o)), shall be treated as a single employer;

"(ii) An employer and any predecessor employer shall be treated as a single employer;

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"(iii) All employees shall be counted, including part-time employees and employees who are not eligible for health benefit coverage through the employer; and

"(iv) If an employer was not in existence throughout the preceding calendar year, the determination of whether that employer is a small employer shall be based on the average number of employees that the employer is reasonably expected to employ in the current calendar year.".

(b) Section 4 (D.C. Official Code § 31-3503) is amended as follows:

(1) Paragraph (27) is amended by striking the phrase "reports; and" and inserting the phrase "reports;" in its place.

(2) Paragraph (28) is amended by striking the period and inserting the phrase "; and" in its place.

(3) A new paragraph (29) is added to read as follows:

"(29) Section 101(a) of the Federal Health Reform Implementation and Omnibus Amendment Act of 2014, passed on 2nd reading on November 18, 2014 (Enrolled version of Bill 20-797), making applicable sections 1251, 1252, and 1304 of the Patient Protection and Affordable Care Act, approved March 23, 2010 (124 Stat. 119; 42 U.S. C. §§ 18011, 18021 and 18024), and sections 2701 through 2709, 2711 through 2719A, and 2794 of the Public Health Service Act, approved July 1, 1944 (58 Stat. 682; approved July 1, 1944 (58 Stat. 682; 42 U.S.C. §§ 300gg, 300gg-1, 300gg-2, 300gg-3, 300gg-4, 300gg-5, 300gg-6, 300gg-7, 300gg-8, 300gg-9, 300gg-11, 300gg-12, 300gg-13, 300gg-14, 300gg-15, 300gg-15A, 300gg-16, 300gg-17, 300gg-18, 300gg-19, 300gg-19A, and 300gg-94), (collectively "federal health acts") and any implementing rules issued pursuant to the federal health acts.".

(c) Section 13(1) (D.C. Official Code § 31-3512(1)) is amended to read as follows:

"(1) A provision that the group contract holder is entitled to a grace period of the last day of the month for which the premium is due for the payment of any premium due except the first, during which grace period the contract shall continue in force, unless the group contract holder has given the corporation written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the contract; except, that the contract may provide that the contract holder shall be liable to the corporation for the payment of a pro rata premium for the time the contract was in force during such grace period;".

(d) Section 15 (D.C. Official Code § 31-3514) is repealed.

Sec. 106. Section 12(c)(1)(C)(i) of the Life Insurance Act of 1934, approved June 1934 (48 Stat. 1166; D.C. Official Code § 31-4712(c)(1)(C)(i)), is amended to read as follows:

"(C)(i) A provision as follows:

"*GRACE PERIOD*: A grace period of . . . . . . (insert the last day of the month for which the premium is due for policies issued on a calendar month basis and a period not less than 31 days for all other policies) will be granted for the payment of each premium falling due after the 1st premium, during which grace period the policy shall continue in force.".

TITLE II. STOP-LOSS INSURANCE

Sec. 201. Definitions.

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For the purposes of this title, the term:

(1) "Aggregate attachment point" means the total amount of health claims incurred by a small employer in a policy year for all covered employees and their dependents, and covered by a stop-loss insurance policy, above which the stop-loss insurer incurs a liability for payment under aggregate stop-loss coverage.

(2) "Attachment point" means the claims amount incurred by an insured group beyond which the insurer incurs a liability for payment.

(3) "Commissioner" means the Commissioner of the Department of Insurance, Securities and Banking.

(4) "Expected claims" means the total amount of claims that, in the absence of medical stop-loss insurance, are projected to be incurred by the insured using reasonable and accepted actuarial principles in a policy year.

(5) "Individual attachment point" means the amount of health claims incurred by a small employer in a policy year for an individual employee or dependent of an employee, and covered by a stop-loss insurance policy, above which the stop-loss insurer incurs a liability for payment, under individual stop-loss coverage.

(6) "Stop-loss insurance" means coverage that insures an employer or an employer-sponsored health plan against the risk that:

(A) One claim will exceed a specific dollar amount; or

(B) The entire loss of a self-insurance plan will exceed a specific dollar amount.

Sec. 202. Stop-loss policy.

(a) An insurer shall not issue or deliver to a small employer, as defined in section 101(42) of the Health Insurance Portability and Accountability Federal Law Conformity Act of 1998, effective April 13, 1999 (D.C. Law 12-209; D.C. Official Code § 31-3301.01(42)), a stop-loss insurance policy unless the employer has a fully-insured employee health benefit plan.

(b) Stop-loss insurance is subject to the following:

(1) The policy must be issued to and insure the employer, the trustee, or other sponsor of the plan, or the plan itself, but not the employees, members, or participants;

(2) Payment by the insurer must be made to the employer, trustee, or other sponsor of the plan, or to the plan itself, but not to the employees, members, participants, or health care providers; and

(3) Stop-loss insurance policies issued or renewed after the effective date of this act shall not contain any of the following provisions:

(A) An individual attachment point for a policy year that is less than $40,000.

(B) An aggregate attachment point for a policy year that is less than the greater of one of the following:

(i) Five thousand dollars times the total number of group members;

(ii) One hundred twenty percent of expected claims; or

(iii) Forty thousand dollars.

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(c)(1) A stop-loss insurer shall not exclude any employee or dependent on the basis of an actual or expected health status-related factor.

(2) Health status-related factors include any of the following: health status; medical condition, including both physical and mental illnesses; claims experience; medical history; receipt of health care; genetic information; disability; evidence of insurability, including conditions arising out of acts of domestic violence of the employee or dependent; or any other health status-related factor as determined by the Commissioner.

(d) A stop-loss insurer shall not cancel or not renew a stop-loss insurance policy except if:

(1) The employer has failed to make the required premium payments;

(2) The employer demonstrates fraud or an intentional misrepresentation of material fact under the terms of the stop-loss insurance policy;

(3) The stop-loss insurer has been determined by the Commissioner to be financially impaired; or

(4) The stop-loss insurer ceases to write, issue, or administer new stop-loss insurance policies in the District; provided, that the following conditions are satisfied:

(A) The insurer provides notice to the Commissioner and employer of its intent to cease writing, issuing, or administering new or existing stop-loss insurance policies in the District at least 180 days before the date the insurer seeks to discontinue the coverage; and

(B) The insurer provides the employer at least 180 days advance written notice of its intent to cancel stop-loss insurance coverage beginning from the date of discontinuation provided to the Commissioner pursuant to subparagraph (A) of this paragraph.

(e) If an insurer elects to cancel or not renew an employer's stop-loss insurance pursuant to subsection (d)(1) of this section, the insurer shall:

(1) Provide the employer notice no less than 30 days before the date of cancellation or expiration of the policy period;

(2) Accept any premium payment by the employer that would satisfy any outstanding amounts owed to the insurer and cure the deficiency giving rise to the cancellation or non-renewal; and

(3) Continue the policy in full force until the date of cancellation or expiration provided in the notice.

(f) Nothing in this section shall be construed to extinguish, limit, or otherwise impair any existing right in law or equity arising under a stop-loss insurance policy.

(g) On April 1, 2015, and on April 1 annually thereafter, a stop-loss insurer shall report to the Commissioner the number of small employer stop-loss policies it had issued and in effect as of December 31 of the previous year. The information in the report shall include new policies issued and policies reissued or renewed in the previous year for groups that have 1 to 50 employees and 51 to 100 employees.

(h) The provisions of this section shall apply to stop-loss insurance policies issued or renewed after the effective date of this act.

(i) The Commissioner, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), may issue rules to implement the requirements of this section, including rules providing for:

ENROLLED ORIGINAL

(1) Additional standards for employee benefit stop-loss insurance policies; and

(2) Required disclosures to policyholders by an insurance carrier providing employee benefit stop-loss insurance.

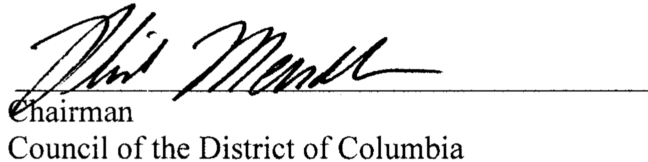
TITLE III. GENERAL PROVISIONS

Sec. 301. Fiscal impact statement.

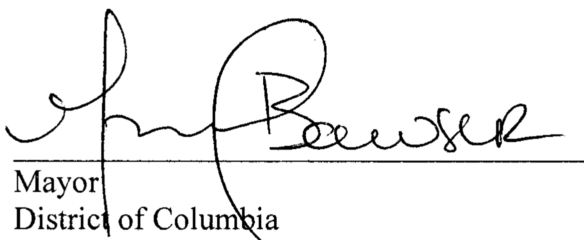
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 302. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 25,2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-605

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 25, 2015

To amend the Office of Human Rights Establishment Act of 1999 to require the Director of the Office to have a demonstrated professional background in human rights law; to amend the Human Rights Act of 1977 to require the annual report include information on investigations and inquiries undertaken by the Director or the Office; to repeal the exemption allowing religiously-affiliated educational institutions to discriminate on the basis of sexual orientation; and to clarify that the section 12-309 notice requirement does not apply to Human Rights Act claims.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Human Rights Amendment Act of 2014".

Sec. 2. Section 202 of the Office of Human Rights Establishment Act of 1999, effective October 20, 1999 (D.C. Law 13-38; D.C. Official Code § 2-1411.01), is amended by adding a new subsection (c) to read as follows:

"(c)(1)The Director shall have a demonstrated professional background in human rights law.

"(2)(A) For the purposes of this subsection, the term "human rights law" means District or federal laws related to discrimination by reason of 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, status as a victim of an intrafamily offense, and place of residence or business.

"(B) For the purposes of subparagraph (A) of this paragraph, the terms "age", "marital status", "personal appearance", "sexual orientation", "gender identity or expression", "familial status", "family responsibilities", "matriculation", "political affiliation", "genetic information", "disability", "source of income", and "intrafamily offense" shall have the same meanings as provided in section 102 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.02).".

Sec. 3. The Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), is amended as follows:

(a) Section 241(3) (D.C. Official Code § 2-1402.41(3)), is repealed.

(b) Section 301(g) (D.C. Official Code § 2-1403.01(g)) is amended as follows:

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

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

"(2) The annual report required by paragraph (1) of this subsection shall include information regarding concluded investigations, including concluded inquiries by the Director conducted pursuant to subsection (b) of this section; provided, that the Director may withhold information relating to a concluded investigation or inquiry if the Director finds that including the information in the annual report would:

"(A) Undermine the integrity of the concluded investigation or inquiry; or

"(B) Violate a work-sharing agreement with the Equal Employment Opportunity Commission, the U.S. Department of Housing and Urban Development, or any other federal agency.".

(c) Section 316 (D.C. Official Code § 2-1403.16) is amended by adding a new subsection (c) to read as follows:

"(c) The notice requirement of D.C. Official Code § 12-309 shall not apply to any action brought against the District of Columbia under this section.".

Sec. 4. Section 12-309 of the District of Columbia Official Code is amended as follows:

(a) The existing text is designated as subsection (a).

(b) The newly designated subsection (a) is amended by striking the phrase "An action" and inserting the phrase "Except as provided in subsection (b) of this section, an action" in its place.

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

"(b) This section shall not apply to claims brought under § 2-1403.16 or § 1-615.54.".

Sec. 5. Fiscal impact statement.

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

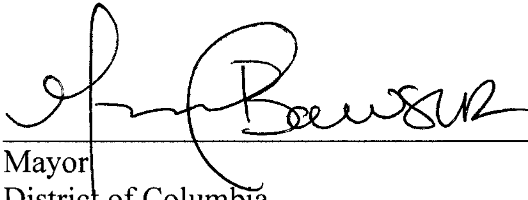
Sec. 6. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 25,2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-606

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 25, 2015

To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to add an Executive Schedule for subordinate agency heads in medical officer and public safety positions.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Executive Service Compensation System Changes and Pay Schedule Approval Amendment Act of 2014".

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

(a) The table of contents is amended as follows:

(1) A new section designation is added to read as follows:

"Sec. 1052a. Public Safety Executive Service pay schedule.".

(b) The section heading for section 1056 is amended to read as follows:

"Sec. 1056. Additional income allowance. [Repealed].".

(b) Section 903(a)(1) (D.C. Official Code § 1-609.03(a)(1)) is amended by striking the number "160" and inserting the number "220" in its place.

(c) A new section 1052a is added to read as follows:

"Sec. 1052a. Public Safety Executive Service pay schedule.

"(a) The Executive Service Public Safety Schedule ("DX Public Safety Schedule") shall be divided into 4 pay levels and shall be the basic pay schedule for subordinate agency heads within the public safety cluster who are required to hold a medical degree or another advanced health-related degree.

"(b) The Mayor shall designate the appropriate pay level for each subordinate agency head within the public safety cluster based on market analyses considering the qualifications and work experience of each individual appointee, and other relevant criteria.

"(c) A person paid from the DX Public Safety Schedule shall not be entitled to premium pay.

ENROLLED ORIGINAL

"(d) Each level within the schedule shall have a minimum and maximum salary range established by the Mayor, subject to Council review and approval by resolution. Initial salary ranges shall be submitted by the Mayor to the Council for a 60-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove of the proposed changes to the salary ranges by resolution within this 60-day period, the proposed salary ranges shall be deemed approved.

"(e) Any changes to the salary ranges established pursuant to subsection (d) of this section shall be submitted by the Mayor to the Council for a 15-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove of the proposed changes to the salary ranges by resolution within this 15-day period, the proposed salary ranges shall be deemed approved.

"(f) Initial salary ranges and any changes to the salary ranges shall become effective upon approval and shall be published in the District of Columbia Register no later than 45 days after their approval.

"(g) For the purposes of this section, the term "public safety cluster" means the following District agencies or any successor agencies:

"(1) Department of Forensic Sciences;

"(2) Office of the Chief Medical Examiner;

"(3) Department of Fire and Emergency Medical Services;

"(4) Department of Youth Rehabilitation Services;

"(5) Metropolitan Police Department;

"(6) Department of Corrections;

"(7) Office of Unified Communications; and

"(8) Homeland Security and Emergency Management Agency.".

(d) Section 1053 (D.C. Official Code § 1-610.53) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "DX Schedule" and inserting the phrase "DX Schedule or DX Public Safety Schedule" in its place.

(2) Subsection (c) is amended by striking the phrase "DX Schedule" and inserting the phrase "DX Schedule or DX Public Safety Schedule" in its place.

(e) Section 1056 (D.C. Official Code § 1-610.56) is repealed.

Sec. 3. Pursuant to section 1052a of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, passed on 2nd reading on December 17, 2014 (Enrolled version of Bill 20-855), the Council approves the proposed initial salary ranges established by the Mayor as the DX Public Safety Schedule for fiscal years 2015 through 2017, as follows:

ENROLLED ORIGINAL

1

District of Columbia Government Salary Schedule: PUBLIC SAFETY PAY EXECUTIVE SCHEDULE
Public Safety and Justice Cluster (Medical Services)

Effective Date: ***October 5, 2014*** ***Fiscal Year:*** 2015
Nonunion: Nonunion ***% Increase:***
Service Code Definition:

CBU/Service Code: ***XXX/A87***
Resolution #:
Date of Resolution:
Peoplesoft Plan:

Level	Minimum	Midpoint	Maximum
PS 1	$164,800	$189,520	$214,240
PS 2	$192,816	$221,738	$250,661
PS 3	$225,595	$259,434	$293,273
PS 4	$263,946	$303,538	$343,130

The levels on this pay Schedule are 1, 2, 3, AND 4
Levels 1,2,3,and 4 = (fully trained and/or board eligible)/Supervisory Public Safety Positions
The following factors will be considered when making salary placements:
Area of Specialized Expertise and Education
As it pertains to Supervisory Medical Positions only:
Board Certified In Primary
Board certified in primary specialty and in a subspecialty or a second primary specialty
Each year spent in a fellowship related to the specialty area generally practiced for the employer shall be counted as one year of "post training experience"

2

3

ENROLLED ORIGINAL

District of Columbia Government Salary Schedule: PUBLIC SAFETY PAY EXECUTIVE SCHEDULE
Public Safety and Justice Cluster (Medical Services)

Effective Date:	*October 4, 2015*	*Fiscal Year:*	2016
Nonunion:	Nonunion	*% Increase:*	
Service Code Definition:			

CBU/Service Code: *XXX/A87*
Resolution #:
Date of Resolution:
Peoplesoft Plan:

Level	Minimum	Midpoint	Maximum
PS 1	$169,744	$195,206	$220,667
PS 2	$198,600	$228,391	$258,181
PS 3	$232,363	$267,217	$302,071
PS 4	$271,864	$312,644	$353,423

The levels on this pay Schedule are 1, 2, 3, AND 4
Levels 1,2,3,and 4 = (fully trained and/or board eligible)/Supervisory Public Safety Positions
The following factors will be considered when making salary placements:
Area of Specialized Expertise and Education
As it pertains to Supervisory Medical Positions only:
Board Certified In Primary
Board certified in primary specialty and in a subspecialty or a second primary specialty
Each year spent in a fellowship related to the specialty area generally practiced for the employer shall be counted as one year of "post training experience"

3

4

ENROLLED ORIGINAL

District of Columbia Government Salary Schedule: PUBLIC SAFETY PAY EXECUTIVE SCHEDULE

Public Safety and Justice Cluster (Medical Services)

Effective Date: ***October 2, 2016*** ***Fiscal Year:*** 2017

Nonunion: Nonunion ***% Increase:***

Service Code Definition:

CBU/Service Code: *XXX/A87*

Resolution #:

Date of Resolution:

Peoplesoft Plan:

Level	Minimum	Midpoint	Maximum
PS 1	$174,836	$201,062	$227,287
PS 2	$204,558	$235,242	$265,926
PS 3	$239,333	$275,233	$311,133
PS 4	$280,020	$322,023	$364,026

The levels on this pay Schedule are 1, 2, 3, AND 4

Levels 1,2,3,and 4 = (fully trained and/or board eligible)/Supervisory Public Safety Positions

The following factors will be considered when making salary placements:

Area of Specialized Expertise and Education

As it pertains to Supervisory Medical Positions only:

Board Certified In Primary

Board certified in primary specialty and in a subspecialty or a second primary specialty

Each year spent in a fellowship related to the specialty area generally practiced for the employer shall be counted as one year of "post training experience"

ENROLLED ORIGINAL

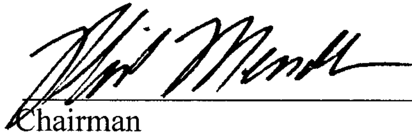
Sec. 4. The compensation system changes approved in section 3 shall apply as of October 5, 2014.

Sec. 5. Fiscal impact statement.

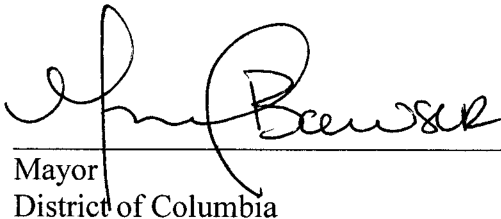
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official § 1-206.02(c)(3)).

Sec. 6. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 25,2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-607

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 25, 2015

To establish the Office of Motion Picture and Television Development as an agency within the executive branch of government, to require that the office be headed by a director, and to require that the Director be appointed by the Mayor and confirmed with the advice and consent of the Council.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Office of Motion Picture and Television Development Establishment Act of 2014".

Sec. 2. Establishment of the Office of Motion Picture and Television Development.

Pursuant to section 404(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 787; D.C. Official Code § 1-204.04(b)), the Council establishes the Office of Motion Picture and Television Development, established by Mayor's Order 79-218, dated September 14, 1979, as an agency within the executive branch of the government of the District of Columbia to market and promote the District to the visual media industry as a prime location for films, television, and other visual media productions and events.

Sec. 3. Appointment of Director.

The Office of Motion Picture and Television Development shall be headed by a Director. The Director shall be appointed by the Mayor with the advice and consent of the Council pursuant to section 2(a) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a)), and serve at the pleasure of the Mayor.

Sec. 4. Fiscal impact statement.

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

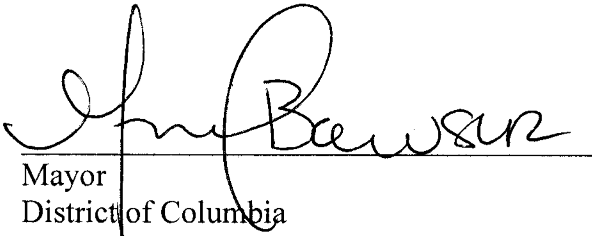
Sec. 5. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 25,2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-608

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 25, 2015

To amend An Act To regulate the placing of children in family homes, and for other purposes to allow private adoption agencies licensed in the District of Columbia to charge adoptive parents for reasonable fees for the transportation, living, medical, and legal expenses of the birth mother in connection with the adoption of a child, and to clarify the 14-calendar day right of revocation for parents relinquishing parental rights.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Adoption Fee Amendment Act of 2014".

Sec. 2. An Act To regulate the placing of children in family homes, and for other purposes, approved April 22, 1944 (58 Stat. 194; D.C. Official Code § 4-1401 *et seq.*), is amended as follows:

(a) Section 6(g)(1) (D.C. Official Code § 4-1406(g)(1)) is amended by striking the number "10" and inserting the number "14" in its place.

(b) Section 12 (D.C. Official Code § 4-1410) is amended as follows:

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

"(b-1) In addition to the fee set forth in subsection (b) of this section, a child-placing agency providing domestic or international adoption services that is authorized to charge a fee pursuant to subsection (a) of this section may charge an adoptive parent reasonable fees, but not more than the actual cost, for the following:

"(A) Customary and reasonable legal expenses of the child-placing agency;

"(B) Costs of locating an absent birthparent;

"(C) Foster care expenses incurred by the child-placing agency for a period not to exceed 120 days of foster care;

"(D) The living expenses of the birthmother, including food, shelter, and clothing;

"(E) Transportation costs to obtain medical services, adoption- related services, or costs associated with any required court appearance related to the adoption, including food and lodging expenses;

"(F) Expenses for adoption counseling or counseling for the birthparents

ENROLLED ORIGINAL

by an independent mental health professional;

"(G) The birthmother's legal, hospital, and medical expenses;

"(H) Legal fees and costs in connection with contested adoption proceedings;

"(I) Expenses incurred by the child-placing agency in connection with an adoption dissolution and alternative placement of a child; and

"(J) Expenses incurred by the child-placing agency in obtaining the documents required to complete the homestudy assessment.".

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

(A) Designate the existing text as paragraph (1).

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

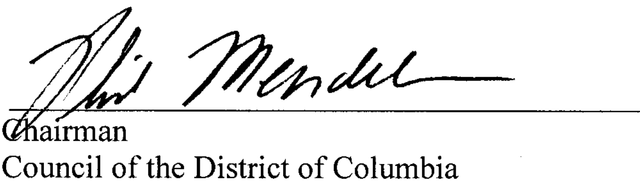
"(2) No later than May 31, 2015, the Mayor shall issue rules to implement the provisions of subsection (b-1) of this section.".

Sec. 3. Fiscal impact statement

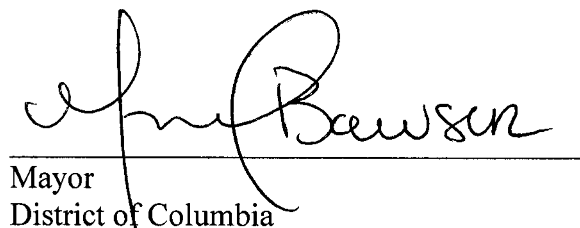
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 25,2015

ENROLLED ORIGINAL

A RESOLUTION

20-725

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 17, 2014

To declare the existence of an emergency, due to congressional review, with respect to the need to provide for the District's participation in the National Mortgage Licensing System and Registry.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Nationwide Mortgage Licensing System Second Congressional Review Emergency Declaration Resolution of 2014".

Sec. 2. (a) Congressional review emergency legislation is necessary to prevent a gap in the legal authority of the Department of Insurance, Securities and Banking to be enrolled in the National Mortgage Licensing System and Registry between the expiration of the Nationwide Mortgage Licensing System Conformity Congressional Review Emergency Act of 2014, effective October 23, 2014 (D.C. Act 20-456; 61 DCR 11361) ("emergency act") and the effective date of the Nationwide Mortgage Licensing System Conformity Temporary Act of 2014, signed by the Mayor 29, 2014 (D.C. Act 20-389; 61 DCR 8063) ("temporary act").

(b) The emergency act, which had a retroactive applicability date of October 8, expires on January 6, 2015. The temporary act may not become law until later in 2015 due to adjournment sine die of the 113th Congress.

(c) It is important that the provisions of the emergency act continue in effect, without interruption, until the temporary act is in effect.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the National Mortgage Licensing System Conformity Second Congressional Review Emergency Act of 2014 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-726

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 17, 2014

To declare the existence of an emergency, due to congressional review, with respect to the need to amend the Business Improvement Districts Act of 1996 to update the laws concerning business improvement districts.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Business Improvement Districts Congressional Review Emergency Declaration Resolution of 2014".

Sec. 2. (a) The Business Improvement Districts Amendment Act of 2014, signed by the Mayor on October 8, 2014 (D.C. Act 20-441; 61 DCR 10741) ("permanent legislation"), was transmitted to Congress on November 12, 2014, for the 30-day review period required by section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)). The permanent legislation is not likely to become law until 2015.

(b) The amendments made by this legislation allow the business improvement districts to update their bylaws and other measures as well as partake in updated payment methods. The legislation also contains updated definitions of what properties are taxable as well as updated taxation procedures.

(c) The changes made in the legislation allow the business improvement districts to incorporate different property types as well as incorporate adjacent properties along with the changes to meeting protocol and payment options.

(d) In October 2014, the Council enacted the Business Improvement Districts Emergency Amendment Act of 2014, effective October 7, 2014 (D.C. Act 20-435; 61 DCR 10717) ("emergency legislation"), to enact the amendments in the permanent legislation as soon as possible. The emergency legislation expires on January 5, 2015.

(e) It is important that the provisions of the emergency legislation continue in effect, without interruption, until the permanent legislation is law.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Business Improvement Districts Congressional Review Emergency Amendment Act of 2014 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-727

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 16, 2014

To declare the existence of an emergency, due to congressional review, with respect to the need to amend the District of Columbia Administrative Procedure Act to exempt from disclosure certain critical infrastructure information.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Critical Infrastructure Freedom of Information Third Congressional Review Emergency Declaration Resolution of 2014".

Sec. 2. (a) The Critical Infrastructure Freedom of Information Emergency Amendment Act of 2013 (D.C. Act 20-229; 60 DCR 16788) was enacted on November 29, 2013, and expired on February 27, 2014.

(b) The Critical Infrastructure Freedom of Information Temporary Amendment Act of 2013 (D.C. Law 20-71; 60 DCR 27) was enacted on December 20, 2013, and expired on October 3, 2014.

(c) The Critical Infrastructure Freedom of Information Amendment Act of 2014 (D.C. Act 20-439; 61 DCR 10735) was transmitted to Congress on November 12, 2014.

(d) The Critical Infrastructure Freedom of Information Second Congressional Review Emergency Amendment Act of 2014 (D.C. Act 20-459; 61 DCR 11374) was enacted on October 31, 2014. Due to retroactive applicability, this act expires on January 1, 2015.

(e) The Critical Infrastructure Freedom of Information Amendment Act of 2014 (D.C. Act 20-439; 61 DCR 10735) has not completed its 30-day congressional review period required by section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)).

(f) This congressional review emergency is necessary to prevent an anticipated gap in the law due to congressional recess.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Critical Infrastructure Freedom of Information Third Congressional Review Emergency Amendment Act of 2014 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-728

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 17, 2014

To declare the existence of an emergency with respect to the need to amend the District of Columbia Election Code of 1955 to require a digital voter service system that may be executed by electronic signatures, to require the Department of Motor Vehicles to transmit to the District of Columbia Board of Elections the electronic signatures of those individuals who possess current Department of Motor Vehicles-issued identification and who submit registration applications through the digital voter service system to the board, and to make conforming amendments.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Voter Registration Access and Modernization Emergency Declaration Resolution of 2014".

Sec. 2. (a) The Voter Registration Access and Modernization Amendment Act of 2014 passed on 2nd reading on September 23, 2014 (D.C. Act 20-437, 61 DCR 10730). The bill was transmitted to Congress on November 12, 2014, for the 30-day congressional review period required by section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)).

(b) Due to adjournment sine die of the 113th Congress, the law will not become effective before the end of Council Period 20.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Voter Registration Access and Modernization Emergency Amendment Act of 2014 be adopted after a single reading.

Sec 4. The resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-729

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 17, 2014

To declare the existence of an emergency with respect to the need to amend the District of Columbia Election Code of 1955 to permit the District of Columbia Board of Elections to hold special elections to fill vacancies in the offices of the Delegate to the House of Representatives from the District of Columbia and an elected member of the State Board of Education on a Tuesday occurring at least 70 days but not more than 174 days after the date on which the vacancy occurs.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Special Election Reform Emergency Declaration Resolution of 2014".

Sec. 2.(a) The Special Election Reform Amendment Act of 2014 passed on 2nd reading on September 23, 2014 (D.C. Act 20-440; 61 DCR 10738). The bill was transmitted to Congress on November 12, 2014, for the 30-day congressional review period required by section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)).

(b) Due to adjournment sine die of the 113th Congress, the law will not become effective before the end of Council Period 20.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Special Election Reform Emergency Amendment Act of 2014 be adopted after a single reading.

Sec 4. The resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-730

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 17, 2014

To confirm the appointment of Tendani Mpulubusi El to the District of Columbia Commemorative Works Committee.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Commemorative Works Committee Tendani Mpulubusi El Confirmation Resolution of 2014".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Mr. Tendani Mpulubusi El
2636 Wade Road, S.E., #12
Washington, D.C. 20020
(Ward 8)

as a citizen member of the District of Columbia Commemorative Works Committee, established by section 412 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective April 4, 2001 (D.C. Law 13-275; D.C. Official Code § 9-204.12), for a term to end July 22, 2016.

Sec. 3. The Council shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-731

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 17, 2014

To declare the existence of an emergency with respect to the need to approve Task Order Nos. T0002 and T0003 for Human Care Agreement No. DCRL-2013-H-0039H to provide case management and traditional family-based foster care services for children and youth and to authorize payment for the services received and to be received under the human care agreement.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Task Orders for Human Care Agreement No. DCRL-2013-H-0039H Approval and Payment Authorization Emergency Declaration Resolution of 2014".

Sec. 2. (a) There exists an immediate need to approve Task Order Nos. T0002 and T0003 for Human Care Agreement No. DCRL-2013-H-0039H with Foundations for Home and Community, Inc. to provide case management and traditional family-based foster care services for children and youth that have been removed from their natural home due to abuse or neglect and to authorize payment for the services received and to be received under that agreement.

(b) On September 27, 2013, the Child and Family Services Agency awarded Human Care Agreement No. DCRL-2013-H-0039H to Foundations for Home and Community, Inc. for a base-year period from October 1, 2013 through September 30, 2014.

(c) The Child and Family Services Agency thereafter exercised option year one of Human Care Agreement No. DCRL-2013-H-0039H and issued Task Order No. T0002 in the not-to-exceed amount of $948,821.79 for the first option-year period from October 1, 2014 through September 30, 2015.

(d) The Child and Family Services Agency thereafter modified Human Care Agreement No. DCRL-2013-H-0039H to include traditional foster care services for one teen parent with one child and issued Task Order No. T0003, which increased the not-to-exceed amount of $948,821.79 to $1,003,636.64 for the first option-year period from October 1, 2014 through September 30, 2015.

(e) Council approval is necessary to allow the continuation of these vital services because these orders increase the value of Human Care Agreement No. DCRL-2013-H-0039H to more than $1 million during a 12-month period.

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Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Task Orders for Human Care Agreement No. DCRL-2013-H-0039H Approval and Payment Authorization Emergency Act of 2014 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-732

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 17, 2014

To declare the existence of an emergency with respect to the need to approve Modification No. 2 and Proposed Modification No. 4 to Contract No. CW22520 with Holder Enterprises, Inc., to provide temporary support services and authorize payment for the services received and to be received under the contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Modifications to Contract No. CW22520 Approval and Payment Authorization Emergency Declaration Resolution of 2014".

Sec. 2. (a) There exists an immediate need to approve Modification No. 2 and Proposed Modification No. 4 to Contract No. CW22520 with Holder Enterprises, Inc. to provide temporary support services.

(b) On October 3, 2013, the Office of Contracting and Procurement ("OCP") awarded District of Columbia Supply Schedule Contract No. CW22520 ("Contract") to Holder Enterprises, Inc., for a base term from October 3, 2013 through October 2, 2014 in the not-to-exceed amount of $950,000.00.

(c) By Modification No. 2, dated October 2, 2014, OCP exercised a partial option for option year one of the Contract for the period from October 3, 2014 through January 2, 2015 in the not-to-exceed amount of $500,000.00.

(d) By Proposed Modification No. 4, OCP intends to exercise the remainder of the option for option year one of the Contract for the period from January 3, 2015 through October 2, 2015, in the aggregate not-to-exceed amount of $10,000,000.00.

(e) Council approval is necessary pursuant to section 451(b)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code §1-204.51(b)(1)), to allow the continuation of these vital services. Without this approval, Holder Enterprises, Inc., cannot be paid for services provided in excess of $1 million for option year one.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Contract No. CW22520 Approval and Payment Authorization Emergency Act of 2014 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-733

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 17, 2014

To declare the existence of an emergency with respect to the need to approve Modification No. 1 and Proposed Modification No. 4 to Contract No. CW22523 with Digidoc Inc. dba Document Managers to provide temporary support services and authorize payment for the services received and to be received under the contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Modifications to Contract No. CW22523 Approval and Payment Authorization Emergency Declaration Resolution of 2014".

Sec. 2. (a) There exists an immediate need to approve Modification No. 1 and Proposed Modification No. 4 to Contract No. CW22523 with Digidoc Inc. dba Document Managers to provide temporary support services.

(b) On September 10, 2013, the Office of Contracting and Procurement ("OCP") awarded District of Columbia Supply Schedule Contract No. CW22523 ("Contract") to Digidoc Inc. dba Document Managers for a base term from September 10, 2013 through September 9, 2014, in the not-to-exceed amount of $950,000.00.

(c) By Modification No. 1, dated September 9, 2014, OCP exercised a partial option for option year one of the Contract for the period from September 10, 2014 through January 9, 2015, in the not-to-exceed amount of $650,000.00.

(d) By Proposed Modification No. 4, OCP intends to exercise the remainder of the option for option year one of the Contract for the period from January 10, 2015 through September 9, 2015, in the aggregate not-to-exceed amount of $10,000,000.00.

(e) Council approval is necessary pursuant to section 451(b)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code §1-204.51(b)(1)), to allow the continuation of these vital services. Without this approval, Digidoc Inc. dba Document Managers cannot be paid for services provided in excess of $1 million for option year one.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Contract No. CW22523 Approval and Payment Authorization Emergency Act of 2014 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-734

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 17, 2014

To establish the date by which the Mayor shall submit to the Council the proposed budget for the government of the District of Columbia for the fiscal year ending September 30, 2016, to identify information and documentation to be submitted to the Council with the proposed budget for the government of the District of Columbia for the fiscal year ending September 30, 2016, and to require the Mayor to submit performance plans and accountability reports pursuant to Title XIV-A of the District of Columbia Government Comprehensive Merit Personnel Act of 1978.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Fiscal Year 2016 Budget Submission Requirements Resolution of 2014".

Sec. 2. Pursuant to section 442(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 798; D.C. Official Code § 1-204.42(a)) ("Home Rule Act"), the Mayor shall submit to the Council, and make available to the public, not later than April 2, 2015, the proposed budget for the District government and related budget documents required by sections 442, 443, and 444 of the Home Rule Act (D.C. Official Code §§ 1-204.42, 1-204.43, and 1-204.44), for the fiscal year ending September 30, 2016.

Sec. 3. The proposed budget shall contain:

(1) Required budget documents as follows:

(A) For the entire District government, including all subordinate agencies, independent agencies, independent instrumentalities, and independent authorities ("agency"), the proposed budget shall contain a summary statement or table showing the following:

(i) The revenues by source (local, dedicated tax, special purpose, federal, and private);

(ii) Expenditures by Comptroller Source Group; and

(iii) Projections for revenues and expenditures for the Fiscal Year 2015 approved budget and for the Fiscal Year 2016 proposed budget.

(B) For each agency or separate Organizational Level I line item in the District's annual budget, summary statements or tables showing all sources of funding by source (local, dedicated tax, special purpose, federal, private, and intra-district) for fiscal years 2013 and

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2014, including a presentation of any variance between fiscal year appropriations and expenditures;

(C) For each agency or separate Organizational Level I line item in the District's annual budget, a summary statement or table showing projections of all sources of funding by source (local, dedicated tax, special purpose, federal, private, and intra-district), for the Fiscal Year 2015 approved budget and for the Fiscal Year 2016 proposed budget;

(D) For each agency or separate Organizational Level I line item in the District's annual budget, summary statements or tables showing expenditures by Comptroller Source Group and by Program (Organizational Level II), delineated by Activity (Organizational Level III), by source of funding for fiscal years 2013 and 2014, including a presentation of any variance between fiscal year appropriations and expenditures, as well as projections for the Fiscal Year 2015 approved budget and for the Fiscal Year 2016 proposed budget;

(E) For each Program (Organizational Level II), a delineation by Comptroller Source Group;

(F) A narrative description of each program and activity that explains the purpose and services to be provided; and

(G) A summary statement or table showing, by Comptroller Source Group and by Program, delineated by Activity, authorized full-time equivalents ("FTEs") by revenue source (local, dedicated tax, special purpose, federal, private, intra-district, and capital).

(2) School-related budget documents as follows:

(A) A summary statement or table showing the number of full-time and part-time school-based personnel in the District of Columbia Public Schools, by school level (e.g., elementary, middle, junior high, pre-kindergarten through 8th grade, senior high school) and school, including school-based personnel funded by other District agencies, federal funds, or private funds;

(B) A summary statement or table showing the number of special education students served by school level (e.g., elementary, junior high), including the number of students who are eligible for Medicaid services; and

(C) For each District of Columbia public school, a summary statement or table of the local funds budget, including the methodology used to determine each school's local funding.

(3) Particular agency organizational structures as follows:

(A) The Uniform Law Commission, established by the District of Columbia Uniform Law Commission Act of 2010, effective March 12, 2011 (D.C. Law 18-313; D.C. Official Code § 3-1431 *et seq.*) ("Act"), shall be listed as a separate program in a single paper agency called Uniform Law Commission, that is separate from the Council of the District of Columbia, for the purpose of paying annual dues to the National Conference of Commissioners on Uniform State Law and for the registration fees and travel expenses associated with the annual meeting as required by section 4 of the Act.

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(B) The Office of Public-Private Partnerships established by the Public-Private Partnership Act of 2014, passed on 2nd reading on December 2, 2014 (Enrolled version of Bill 20-595), shall be listed as a separate program within the Office of the City Administrator.

(C) Agency budgets shall be restructured to ensure accessibility and transparency for how taxpayer dollars will be disbursed. Agency budget structures should align with current or proposed agency organizational structures and programs and clearly indicate the source and amount of funding needed for each individual program, facility, or venue identified on the agency's website.

(4) A Capital Improvements Plan ("CIP") for fiscal years 2016 through 2021 that is based on the current approved CIP. The CIP shall include all capital projects (inclusive of subprojects) as defined in section 103(8) of the Home Rule Act. The CIP shall be presented separately in one volume and shall include the following information:

(A) Detailed descriptions for each project with planned allotment in fiscal years 2016 through 2021. The projects shall be organized alphabetically by title, summarized by owner agency, and listed in a table of contents. Each project description shall include the following:

(i) A specific scope consistent with the project title;
(ii) The purpose;
(iii) The current status;
(iv) The location (address and ward, if applicable);
(v) A facility name or identifier, if applicable;
(vi) Appropriate maps or other graphics;
(vii) The estimated useful life;
(viii) The current estimated full-funded cost;
(ix) Proposed sources of funding;
(x) Current allotments, expenditures, and encumbrances;
(xi) Proposed allotments by fiscal year;
(xii) The change in budget authority request from the prior year;
(xiii) The number of FTE positions and the amount of Personnel Services budget to be funded with the project, as a percentage of the proposed allotment; and
(xiv) The estimated impact that the project will have on the annual operating budget;

(B) The proposed Highway Trust Fund budget and the projected local Highway Trust Fund cash flow for fiscal years 2015 through 2021, with actual expenditures for Fiscal Year 2014;

(C) A capital budget pro forma setting forth the sources and uses of new allotments by fund detail and owner agency;

(D) An explanation of the debt cap analysis used to formulate the capital budget and a table summarizing the analysis by fiscal year, which shall include total borrowing, total debt service, total expenditures, the ratio of debt service to expenditures, and the balance of debt service capacity for each fiscal year included in the capital improvement plan; and

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(E) An analysis, prepared by the Mayor, of whether the CIP is consistent with the Comprehensive Plan, Transportation Improvement Program, Washington Metropolitan Area Transit Authority capital budget, and other relevant planning programs, proposals, or elements developed by the Mayor as the central planning agency for the District. The Mayor's analysis shall highlight and explain any differences between the CIP and other programs and plans on a project-by-project basis.

(5) Additional documents as follows:

(A) Copies of all documents referenced in and supportive of the budget justification for Fiscal Year 2016, including the proposed Fiscal Year 2016 Budget Request Act, and any other legislation that is necessary for implementation of the proposed budget for the District for Fiscal Year 2016;

(B) A list, by agency, of all special purpose revenue fund balances, each fund balance use, carryover of funds from prior fiscal years, a narrative description of each fund, and the revenue source for each special purpose revenue fund, which shall include the:

(i) Actual amounts for Fiscal Year 2014;

(ii) Approved amounts for Fiscal Year 2015; and

(iii) Proposed amounts for Fiscal Year 2016;

(C) A table of all intra-district funds included in the Fiscal Year 2016 budget, including the receiving and transmitting agency, and whether a signed Memorandum of Understanding for each intra-district funding arrangement;

(D) A table showing all tax-supported debt issued and authorized within and above the debt cap and spending authority remaining within the cap;

(E) A summary table, which shall include a list of all intra-agency and inter-agency changes of funding, with a narrative description of each change sufficient to provide an understanding of the change in funds and its impact on services;

(F) A crosswalk, for any agency that has undergone a budget restructuring in Fiscal Year 2015 or which would undergo a proposed budget restructuring in Fiscal Year 2016, that shows the agency's allocations before the restructuring under the new or proposed structure;

(G) A listing of all stimulus awards and expenditures by year and by agency, project, or program;

(H) A master fee schedule, organized by agency, setting forth all fees charged by District agencies;

(I) A table showing each agency's actual fringe rate and amount for fiscal years 2013 and 2014, the approved rate and amount for Fiscal Year 2015, and the proposed rate and amount for Fiscal Year 2016; and

(J) A spreadsheet detailing each revenue source by line item including the actual amount received for that revenue line item in the prior 2 fiscal years and the amount project to be received for that revenue line item in the proposed budget.

ENROLLED ORIGINAL

Sec. 4. Performance accountability reports.

Pursuant to Title XIV-A of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective May 16, 1995 (D.C. Law 11-16; D.C. Official Code § 1-614.11 *et seq.*), the Mayor shall submit to each Councilmember and the Council Officers, and make available to the public, not later than January 31, 2015, all performance accountability reports for Fiscal Year 2014 that cover all publicly funded activities of each District government agency.

Sec. 5. Pursuant to section 446 of the Home Rule Act, the Council's budget review period shall begin after the date that all materials required to be submitted by sections 2 through 4, except for section 3(5)(H), have been submitted in accordance with this resolution and the Council's rules.

Sec. 6. The Chairman shall transmit a copy of this resolution, upon its adoption, to the Mayor.

Sec. 7. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A RESOLUTION

20-735

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 17, 2014

To declare the existence of a second emergency with respect to the need to amend the Animal Control Act of 1979 to clarify that animals at educational institutions are permitted for educational and instructional purposes.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Classroom Animal for Educational Purposes Clarification Emergency Declaration Resolution of 2014".

Sec. 2. (a) There is an immediate need to amendsection 9(h) of the Animal Control Act of 1979, effective October 18, 1979 (D.C. Law 3-30; D.C. Official Code § 8-1808(h)), to make clear that animals at educational institutions are permitted for educational and instructional purposes.

(b) The Department of Health has previously notified schools across the District that they must remove animals – such as geckos, frogs, toads, tadpoles, and other species historically used for instructional purposes but not specifically cited in section 9 of the Animal Control Act of 1979 – or the District will seize and destroy them.

(c) This interpretation has caused concern among educators and school administrators and potentially disrupts the teaching and learning opportunities for students.

(d) This second emergency action will prevent classroom and instructional animals from being removed and ensure that the schools can continue teaching sciences and biology with living creatures that are treated and maintained humanely and safely.

(e) This second emergency action is necessary to prevent a gap in the law as the temporary legislation, the Classroom Animal for Educational Purposes Clarification Temporary Amendment Act of 2014, effective May 20, 2014 (D.C. Law 20-104; 61 DCR 5676), expires on December 29, 2014. The permanent measure will not be marked up until the next Council period.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Classroom Animal for Educational Purposes Clarification Second Emergency Amendment Act of 2014 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-736

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 17, 2014

To declare the existence of an emergency with respect to the need to approve an Agreement to Enter into a Long Term Subsidy Contract for a 15-year term to fund housing costs associated with affordable housing units for Contract No. 2013-LRSP-04A with Beacon Center Housing, LLC, for Local Rent Supplement Program units at The Beacon Center, located at 6100 and 6104 Georgia Avenue, N.W.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Local Rent Supplement Program Contract No. 2013-LRSP-04A Approval Emergency Declaration Resolution of 2014".

Sec. 2. (a) In 2007, the District passed Title II of the Fiscal Year 2007 Budget Support Act of 2006, effective March 2, 2007 (D.C. Law 16-192; 53 DCR 6899) ("BSA"), to provide funding for affordable housing for extremely low-income households in the District. The BSA created the Local Rent Supplement Program ("LRSP"), a program designed to provide affordable housing and supportive services to extremely low-income District residents, including those who are homeless or in need of supportive services, such as elderly individuals or those with disabilities, through project-based, tenant-based, and sponsor-based LRSP affordable housing units. The BSA provided for the District of Columbia Housing Authority ("DCHA") to administer the LRSP of behalf of the District.

(b) In April 2013, DCHA participated in a Request for Proposals issued by the District of Columbia Department of Housing and Community Development. Of the total proposals received, 18 developers were chosen to work with DCHA and other District agencies to develop affordable housing and permanent supportive housing units for extremely low-income families making zero to 30% of the area's median income, as well as the chronically homeless and individuals with mental or physical disabilities throughout Washington, D.C. Upon approval of the contract by the Council, DCHA will enter into an Agreement to Enter into a Long Term Contract ("ALTSC") with the selected housing providers under the LRSP for housing services provided thereunder.

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(c) There exists an immediate need to approve a certain ALTSC with Beacon Center Housing, LLC, under the District of Columbia Housing Authority's Local Rent Supplement Program in order to provide long-term affordable housing units for extremely low-income households in the District of Columbia for units at The Beacon Center, located at 6100 and 6104 Georgia Avenue, N.W.

(d) The emergency legislation to approve the contract will authorize an ALTSC between the District of Columbia Housing Authority and Beacon Center Housing, LLC, with respect to the payment of rental subsidy, and allow the owner to lease the rehabilitated units at The Beacon Center and house District of Columbia extremely low-income households with incomes at 30% or less of the area median income.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Local Rent Supplement Program Contract No. 2013-LRSP-04A Approval Emergency Act of 2014 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-737

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 17, 2014

To declare the existence of an emergency with respect to the need to approve an Agreement to Enter into a Long Term Subsidy Contract for a 15-year term to fund housing costs associated with affordable housing units for Contract No. 2013-LRSP-005A with Open Arms Housing, Inc., for Local Rent Supplement Program units located at 1256 Owen Place, N.E.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Local Rent Supplement Program Contract No. 2013-LRSP-005A Approval Emergency Declaration Resolution of 2014".

Sec. 2. (a) In 2007, the District passed Title II of the Fiscal Year 2007 Budget Support Act of 2006, effective March 2, 2007 (D.C. Law 16-192; 53 DCR 6899) ("BSA"), to provide funding for affordable housing for extremely low-income households in the District. The BSA created the Local Rent Supplement Program ("LRSP"), a program designed to provide affordable housing and supportive services to extremely low-income District residents, including those who are homeless or in need of supportive services, such as elderly individuals or those with disabilities, through project-based, tenant-based, and sponsor-based LRSP affordable housing units. The BSA provided for the District of Columbia Housing Authority ("DCHA") to administer the LRSP of behalf of the District.

(b) In April 2013, DCHA participated in a Request for Proposals issued by the District of Columbia Department of Housing and Community Development. Of the total proposals received, 18 developers were chosen to work with DCHA and other District agencies to develop affordable housing and permanent supportive housing units for extremely low-income families making zero to 30% of the area's median income, as well as the chronically homeless and individuals with mental or physical disabilities throughout Washington, D.C. Upon approval of the contract by the Council, DCHA will enter into an Agreement to Enter into a Long Term Contract ("ALTSC") with the selected housing providers under the LRSP for housing services provided thereunder.

ENROLLED ORIGINAL

(c) There exists an immediate need to approve a certain ALTSC with Open Arms Housing, Inc., under the District of Columbia Housing Authority's Local Rent Supplement Program in order to provide long-term affordable housing units for extremely low-income households in the District of Columbia for units at the Owen House located at 1256 Owen Place, N.E..

(d) The emergency legislation to approve the contract will authorize an ALTSC between the District of Columbia Housing Authority and Open Arms Housing, Inc., with respect to the payment of rental subsidy, and allow the owner to lease the rehabilitated units at the Owen House and house District of Columbia extremely low-income households with incomes at 30% or less of the area median income.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Local Rent Supplement Program Contract No. 2013-LRSP-005A Approval Emergency Act of 2014 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-738

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 17, 2014

To declare the existence of an emergency with respect to the need to approve an Agreement to Enter into a Long Term Subsidy Contract for a 15-year term to fund housing costs associated with affordable housing units for Contract No. 2013-007A with Phyllis Wheatley Residential, LP, for Local Rent Supplement Program units at Phyllis Wheatley YWCA, located at 901 Rhode Island Avenue, N.W.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Local Rent Supplement Program Contract No. 2013-007A Approval Emergency Declaration Resolution of 2014".

Sec. 2. (a) In 2007, the District passed Title II of the Fiscal Year 2007 Budget Support Act of 2006, effective March 2, 2007 (D.C. Law 16-192; 53 DCR 6899) ("BSA"), to provide funding for affordable housing for extremely low-income households in the District. The BSA created the Local Rent Supplement Program ("LRSP"), a program designed to provide affordable housing and supportive services to extremely low-income District residents, including those who are homeless or in need of supportive services, such as elderly individuals or those with disabilities, through project-based, tenant-based, and sponsor-based LRSP affordable housing units. The BSA provided for the District of Columbia Housing Authority ("DCHA") to administer the LRSP of behalf of the District.

(b) In April 2013, DCHA participated in a Request for Proposals issued by the District of Columbia Department of Housing and Community Development. Of the total proposals received, 18 developers were chosen to work with DCHA and other District agencies to develop affordable housing and permanent supportive housing units for extremely low income families making zero to 30% of the area's median income, as well as the chronically homeless and individuals with mental or physical disabilities throughout Washington, D.C. Upon approval of the contract by the Council, DCHA will enter into an Agreement to Enter into a Long Term Contract ("ALTSC") with the selected housing providers under the LRSP for housing services provided thereunder.

ENROLLED ORIGINAL

(c) There exists an immediate need to approve a certain ALTSC with Phyllis Wheatley Residential, LP, under the District of Columbia Housing Authority's Local Rent Supplement Program in order to provide long-term affordable housing units for extremely low-income households in the District of Columbia for units at Phyllis Wheatley YWCA, located at 901 Rhode Island Avenue, N.W.

(d) The emergency legislation to approve the contract will authorize an ALTSC between the District of Columbia Housing Authority and Phyllis Wheatley Residential, LP, with respect to the payment of rental subsidy, and allow the owner to lease the rehabilitated units at the Phyllis Wheatley YWCA and house District of Columbia extremely low-income households with incomes at 30% or less of the area median income.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Local Rent Supplement Program Contract No. 2013-007A Approval Emergency Act of 2014 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-739

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 17, 2014

To declare the existence of an emergency with respect to the need to approve an Agreement to Enter into a Long Term Subsidy Contract for a 15-year term to fund housing costs associated with affordable housing units for Contract No. 2013-008A with So Others Might Eat, Inc., for Local Rent Supplement Program units at the Benning Road Project, located at 4414-4430 Benning Road, N.E..

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Local Rent Supplement Program Contract No. 2013-008A Approval Emergency Declaration Resolution of 2014".

Sec. 2. (a) In 2007, the District passed Title II of the Fiscal Year 2007 Budget Support Act of 2006, effective March 2, 2007 (D.C. Law 16-192; 53 DCR 6899) ("BSA"), to provide funding for affordable housing for extremely low-income households in the District. The BSA created the Local Rent Supplement Program ("LRSP"), a program designed to provide affordable housing and supportive services to extremely low-income District residents, including those who are homeless or in need of supportive services, such as elderly individuals or those with disabilities, through project-based, tenant-based, and sponsor-based LRSP affordable housing units. The BSA provided for the District of Columbia Housing Authority ("DCHA") to administer the LRSP of behalf of the District.

(b) In April 2013, DCHA participated in a Request for Proposals issued by the District of Columbia Department of Housing and Community Development. Of the total proposals received, 18 developers were chosen to work with DCHA and other District agencies to develop affordable housing and permanent supportive housing units for extremely low-income families making zero to 30% of the area's median income, as well as the chronically homeless and individuals with mental or physical disabilities throughout Washington, D.C. Upon approval of the contract by the Council, DCHA will enter into an Agreement to Enter into a Long Term Contract ("ALTSC") with the selected housing providers under the LRSP for housing services provided thereunder.

ENROLLED ORIGINAL

(c) There exists an immediate need to approve a certain ALTSC with So Others Might Eat, Inc. ("SOME"), under the District of Columbia Housing Authority's Local Rent Supplement Program in order to provide long-term affordable housing units for extremely low-income households in the District of Columbia for units at the Benning Road Project, located at 4414-4430 Benning Road, N.E.

(d) The emergency legislation to approve the contract will authorize an ALTSC between the District of Columbia Housing Authority and SOME with respect to the payment of rental subsidy, and allow the owner to lease the rehabilitated units at the Benning Road Project and house District of Columbia extremely low-income households with incomes at 30% or less of the area median income.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Local Rent Supplement Program Contract No. 2013-008A Approval Emergency Act of 2014 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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

B21-47 Educational and Instructional Animals Clarification Amendment Act of 2015

Intro. 1-30-15 by Councilmember Allen and referred to the Committee on Health and Human Services with comments from the Committee on Education

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B21-48 Advisory Neighborhood Commission 6E Residential Parking Permit Regulation Amendment Act of 2015

Intro. 1-30-15 by Councilmember Allen and referred to the Committee on Transportation and the Environment

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B21-54 Adequate Notice of Affordability Expiration Amendment Act of 2015

Intro. 2-3-15 by Councilmembers McDuffie and Bonds and referred to the Committee on Housing and Community Development

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B21-55 Community College For All Scholarship Amendment Act of 2015

Intro. 2-3-15 by Councilmembers Orange, Bonds, Allen, Silverman, Alexander, Nadeau, and Evans and referred to the Committee of the Whole

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B21-56	University of the District of Columbia Pay It Forward Program Establishment Amendment Act of 2015 Intro. 2-3-15 by Councilmembers Orange, Alexander, and Bonds and referred to the Committee of the Whole
B21-57	Marion S. Barry, Jr. University of the District of Columbia Redesignation Act of 2015 Intro. 2-3-15 by Councilmembers Orange and Evans and referred to the Committee of the Whole
B21-58	Sexual Abuse Statute of Limitations Elimination Amendment Act of 2015 Intro. 2-3-15 by Councilmember Cheh and referred to the Committee on Judiciary
B21-59	Tax Transparency and Effectiveness Amendment Act of 2015 Intro. 2-3-15 by Councilmember Cheh and referred to the Committee on Finance and Revenue and Committee of the Whole
B21-60	Grocery Store Restrictive Covenant Prohibition Act of 2015 Intro. 2-3-15 by Councilmember Cheh and referred to the Committee on Business, Consumer, and Regulatory Affairs
B21-61	Arson Amendment Act of 2015 Intro. 2-3-15 by Chairman Mendelson and referred to the Committee on Judiciary

PROPOSED RESOLUTIONS

PR21-26	KIPP DC Revenue Bonds Project Approval Resolution of 2015 Intro. 1-27-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue

PR21-27	National Public Radio, Inc., Refunding Revenue Bonds Project Approval Resolution of 2015 Intro. 1-27-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue
PR21-28	Director of the Department of Human Services Laura G. Zeilinger Confirmation Resolution of 2015 Intro. 1-27-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services
PR21-29	Deputy Mayor for Planning and Economic Development Brian Kenner Confirmation Resolution of 2015 Intro. 1-27-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
PR21-30	Director of the Department of Youth Rehabilitation Services Clinton Lacey Confirmation Resolution of 2015 Intro. 1-27-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary
PR21-31	Director of the Office of Motion Picture and Television Development Angie Gates Confirmation Resolution of 2015 Intro. 1-27-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs

Council of the District of Columbia
Committee on Health
Notice of Public Hearing
1350 Pennsylvania Ave., N.W., Washington, D.C. 20004

COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON
COMMITTEE ON HEALTH AND HUMAN SERVICES ANNOUNCES A PUBLIC HEARING

on

PR21-22, the "Director of the Department of Health LaQuandra Nesbitt Confirmation Resolution of 2015"

and

PR21-28, the "Director of the Department of Human Services Laura G. Zeilinger Confirmation Resolution of 2015"

Friday, February 27, 2015
11:00 a.m., Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health and Human Services, announces a hearing on PR21-22, the "Director of the Department of Health LaQuandra Nesbitt Confirmation Resolution of 2015", and PR21-0028, the "Director of the Department of Human Services Laura G. Zeilinger Confirmation Resolution of 2015". The public hearing will be held at 11:00 a.m. on Friday, February 27, 2015 in Room 412 of the John A. Wilson Building.

The stated purpose of Proposed Resolution 21-22 and Proposed Resolution 21-28 is to confirm the Mayoral appointments of LaQuandra Nesbitt as the Director of the Department of Health of the District of Columbia, and Laura G. Zeilinger as the Director of the Department of Human Services of the District of Columbia, respectively.

Those who wish to testify should contact Cory Davis, Legislative Assistant for the Committee on Health and Human Services, at (202) 741-0904 or via e-mail at cdavis@dccouncil.us and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Wednesday, February 25, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Wednesday, February 25, 2015, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Rayna Smith, Room 115 of the Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004. The record will close at 5:00 p.m. on Wednesday, March 4, 2015.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
NOTICE OF A PUBLIC HEARING
1350 Pennsylvania Avenue, NW, Washington, DC 20004

CANCELLATION NOTICE

COUNCILMEMBER ANITA BONDS, CHAIRPERSON
COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

ANNOUNCES A PUBLIC HEARING OF THE COMMITTEE ON

PR 21-025, the "Director of the Department of Housing and Community Development Polly Donaldson Confirmation Resolution of 2015"

on

Friday, February 20, 2015, at 11 a.m.
John A. Wilson Building, Room 123
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Councilmember Anita Bonds, Chairperson of the Committee on Housing and Community Development, would like to reschedule the public hearing on PR 21-025, the "Director of the Department of Housing and Community Development Polly Donaldson Confirmation Resolution of 2015."

The purpose of PR 21-025 is to confirm the Mayoral appointment of Mary R. (Polly) Donaldson as the Director of the Department of Housing and Community Development of the District of Columbia.

The reason for the cancellation and reschedule is in order to accommodate the schedule of the Committee and to find a suitable timeframe to expeditiously confirm the appointment as proposed by the Executive.

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

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

on

Sustaining Progress through Transition at the Office of Contracting and Procurement

on

Tuesday, February 10, 2015
10:00 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Council Chairman Phil Mendelson announces the scheduling of a public roundtable of the Committee of the Whole on "Sustaining Progress through Transition at the Office of Contracting and Procurement." The roundtable will be held at 10:00 a.m. on Tuesday, February 10, 2015 in Hearing Room 412 of the John A. Wilson Building.

The purpose of the roundtable is to receive an update from the Office of Contracting and Procurement (OCP) on its progress in continuing the implementation of the Delegated Procurement Authority (DPA) staffing model. Over the past year, OCP has undergone a staffing realignment whereby OCP contracting personnel are deployed to work at individual agencies side-by-side with agency program staff. The next step is to convert existing agency procurement staff to OCP procurement staff. This new model has seemingly led to better collaboration and is intended to improve the quality of contracts by better supporting the agencies and instilling contracting personnel with expertise in their assigned procurement portfolios. This Roundtable is an opportunity to explore the effect, if any, of the change in the administration and the departure of the Chief Procurement Officer on OCP's continuing transformation.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or email Evan Cash, Committee Director, at ecash@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Friday, February 6, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on February 6, 2015 the testimony will be distributed to Councilmembers before the roundtable. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on February 24, 2015.

Council of the District of Columbia
Committee on Business, Consumer, and Regulatory Affairs
Notice of Public Roundtable

John A. Wilson Building 1350 Pennsylvania Avenue, NW, Suite 119 Washington, DC 20004

Councilmember Vincent B. Orange, Sr., Chairperson
Committee on Business, Consumer, and Regulatory Affairs
Announces a Public Roundtable
on

- **PR21-0019, the "Director of the Department of Small and Local Business Development Ana Harvey Confirmation Resolution of 2015"**
- **PR21-0031, the "Director of the Office of Motion Picture and Television Development Angie Gates Confirmation Resolution of 2015"**

Wednesday, February 11, 2015, 10:00 A.M.
JOHN A. WILSON BUILDING, ROOM 412
1350 PENNSYLVANIA AVENUE, N.W.
Washington, DC 20004

Councilmember Vincent B. Orange, Sr. announces the scheduling of a public roundtable by the Committee on Business, Consumer, and Regulatory Affairs on PR21-0019, the "Director of the Department of Small and Local Business Development Ana Harvey Confirmation Resolution of 2015" and PR21-0031, the "Director of the Office of Motion Picture and Television Development Angie Gates Confirmation Resolution of 2015". The public roundtable is scheduled for Wednesday, February 11, 2015 at 10:00 a.m. in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, DC 20004.

Individuals and representatives of organizations who wish to testify at the public roundtable are asked to contact Ms. Faye Caldwell, Special Assistant to the Committee on Business, Consumer, and Regulatory Affairs, at (202) 727-6683, or via e-mail at fcaldwell@dccouncil.us and furnish their name, address, telephone number, e-mail address and organizational affiliation, if any, by the close of business Monday, February 9, 2015. Each witness is requested to bring 20 copies of his/her written testimony. Representatives of organizations and government agencies will be limited to 5 minutes in order to permit each witness an opportunity to be heard. Individual witnesses will be limited to 3 minutes.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. The official record will remain open until close of business Thursday, February 26, 2015. Copies of written statements should be submitted to the Committee on Business, Consumer, and Regulatory Affairs, Council of the District of Columbia, Suite 119 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC ROUNDTABLE

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC ROUNDTABLE

on

PR 21-20, Director of the Office of Planning Eric Shaw Confirmation Resolution of 2015

and

PR 21-29, Deputy Mayor for Planning and Economic Development Brian Kenner Confirmation Resolution of 2015

on

Tuesday, February 17, 2015
12:00 p.m. (or immediately following Committee of the Whole, if later)
the Council Chamber, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Council Chairman Phil Mendelson announces the scheduling of a public roundtable of the Committee of the Whole on PR 21-20, the "Director of the Office of Planning Eric Shaw Confirmation Resolution of 2015" and PR 21-29, the "Deputy Mayor for Planning and Economic Development Brian Kenner Confirmation Resolution of 2015." The roundtable will be held at 12:00 p.m. on Tuesday, February 17, 2015 in the Council Chamber of the John A. Wilson Building. (If the Committee of the Whole meeting runs late, the hearing will begin immediately following the meeting.)

The stated purpose of PR 21-20 is to confirm the appointment of Eric D. Shaw as the Director of the District of Columbia Office of Planning. The stated purposed of PR 21-29 is to confirm the Mayoral appointment of Brian T. Kenner as the Deputy Mayor for Planning and Economic Development for the District of Columbia. The purpose of this hearing is to receive testimony from public witnesses as to the fitness of these nominees.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or email Cynthia LeFevre, Legislative Counsel, at clefevre@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Friday, February 13, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on February 13, 2015, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. A copy of PR 21-20 and PR 21-29 can be obtained through the Legislative Services Division of the Secretary of the Council's office or on http://lims.dccouncil.us.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Monday, March 2, 2015.

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

COUNCILMEMBER DAVID GROSSO
COMMITTEE ON EDUCATION
ANNOUNCES A PUBLIC ROUNDTABLE

on

PR21-0023, Deputy Mayor for Education Jennifer Niles Confirmation Resolution of 2015

on

Monday, February 9, 2015
2:00 p.m., Hearing Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Councilmember David Grosso announces the scheduling of a public roundtable of the Committee on Education on PR21-0023, Deputy Mayor for Education Jennifer Niles Confirmation Resolution of 2015. The roundtable will be held at 2:00 p.m. on Monday February 9, 2015 in Hearing Room 123 of the John A. Wilson Building.

The stated purpose of PR21-0023 is to confirm the Mayoral appointment of Jennifer C. Niles as the Deputy Mayor for Education of the District of Columbia in accordance with section 202 of the Department of Education Establishment Act of 2007, effective June 2007 (D.C. Law 17-9; D.C. Official Code § 38-191(a) and section 2(a) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01).

Those who wish to testify are asked to telephone the Committee on Education, at (202) 724-8061, or email Ade Adenariwo, Administrative Assistant, at aadenariwo@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Friday, February 6, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Monday, February 6, 2015 the testimony will be distributed to Councilmembers before the hearing. Witnesses appearing on his or her own behalf should limit their testimony to three minutes; witnesses representing organizations should limit their testimony to five minutes. A copy of PR21-0023 can be obtained through the Legislative Services Division of the Secretary of the Council's office or on http://lims.dccouncil.us.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee on Education, Council of the District of Columbia, Suite 116 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on February 23, 2015.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
NOTICE OF A PUBLIC ROUNDTABLE
1350 Pennsylvania Avenue, NW, Washington, DC 20004

COUNCILMEMBER ANITA BONDS, CHAIRPERSON
COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

ANNOUNCES A PUBLIC ROUNDTABLE OF THE COMMITTEE ON

PR 21-025, the "Director of the Department of Housing and Community Development Polly Donaldson Confirmation Resolution of 2015"

on

Wednesday, February 11, 2015, at 10:00 a.m.
John A. Wilson Building, Room 123
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Councilmember Anita Bonds, Chairperson of the Committee on Housing and Community Development, will hold a public roundtable on PR 21-025, the "Director of the Department of Housing and Community Development Polly Donaldson Confirmation Resolution of 2015." The roundtable will be held on Wednesday, February 11, 2015, at 10 a.m., in Room 123 of the John A. Wilson Building. The purpose of PR 21-025 is to confirm the Mayoral appointment of Mary R. (Polly) Donaldson as the Director of the Department of Housing and Community Development of the District of Columbia.

Those who wish to testify are requested to telephone the Committee on Housing and Community Development, at (202) 724-5473, or email ikang@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any), by close of business Monday, February 9, 2015. Persons wishing to testify are encouraged to submit 15 copies of written testimony. Oral testimony should be limited to five minutes for all witnesses (less time may be allowed if there are a large number of witnesses). A copy of PR 21-025 can be obtained through the Legislative Services Division ((202) 724-8050) of the Office of the Secretary to the Council, or at http://lims.dccouncil.us.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee on Housing and Community Development, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 112, Washington, D.C. 20004. The record will close at 5:00 p.m. on Friday, February 25, 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 21-26, the "KIPP DC Revenue Bonds Project Approval Resolution of 2015"
PR 21-27, the National Public Radio, Inc., Refunding Revenue Bonds Project Approval Resolution of 2015"

Wednesday, February 18, 2015
10:00 a.m.
Room 120 - John A. Wilson Building
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public roundtable to be held on Wednesday, February 18, 2015 at 10:00 a.m. in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

PR 21-26, the "KIPP DC Revenue Bonds Project Approval Resolution of 2015" would authorize and provide for the issuance, sale, and delivery in an aggregate principal amount not to exceed $30 million of District of Columbia revenue bonds in one or more series and to authorize and provide for the loan of the proceeds of the bonds to assist KIPP DC in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act. The project is located at 5300 Blaine St., NE, in Ward 7.

PR 21-27, the National Public Radio, Inc., Refunding Revenue Bonds Project Approval Resolution of 2015" would authorize and provide for issuance, sale, and delivery in an aggregate principal amount not to exceed $200 million of District of Columbia revenue bonds in one or more series and to authorize and provide for the loan of the proceeds of the bonds to assist National Public Radio, Inc. in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act. This is a refunding of a portion of the 2010 Bonds used towards offices located at 1111 North Capitol Street, NE, in Ward 6.

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, February 17, 2015. Witnesses should bring 15 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

B21-51, "H Street, N.E., Retail Priority Area Clarification Temporary Amendment Act of 2015" and **B21-53**, "Wage Theft Prevention Clarification Temporary Amendment Act of 2015"were adopted on first reading on February 3, 2015. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on March 3, 2015.

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Reprogramming Requests

Pursuant to DC Official Code Sec 47-361 et seq. of the Reprogramming Policy Act of 1990, the Council of the District of Columbia gives notice that the Mayor has transmitted the following reprogramming request(s).

A reprogramming will become effective on the 15th day after official receipt unless a Member of the Council files a notice of disapproval of the request which extends the Council's review period to 30 days. If such notice is given, a reprogramming will become effective on the 31st day after its official receipt unless a resolution of approval or disapproval is adopted by the Council prior to that time.

Comments should be addressed to the Secretary to the Council, John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Room 5 Washington, D.C. 20004. Copies of reprogramming requests are available in Legislative Services, Room 10.
Telephone: 724-8050

Reprog. 21-05: Request to reprogram $1,000,000 of Fiscal Year 2015 Local funds budget authority within the Department of Human Services (DHS) was filed in the Office of the Secretary on February 2, 2015. This reprogramming ensures that DHS is able to support the Homeless Prevention Program for families.

RECEIVED: 14 day review begins February 3, 2015

Reprog. 21-06: Request to reprogram $400,000 of Capital funds budget authority and allotment within the District of Columbia Public Schools (DCPS) was filed in the Office of the Secretary on February 2, 2015. This reprogramming will enable the Department of General Services (DGS) to fully implement the DCPS facility renovations.

RECEIVED: 14 day review begins February 3, 2015

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: February 6, 2015
Petition Date: March 23, 2015
Hearing Date: April 6, 2015

License No.: ABRA-094523
Licensee: Citymarket Hotel Development LLC
Trade Name: Cambria Suites Washington City Market
License Class: Retailer's Class "C" Hotel
Address: 899 O Street, N.W.
Contact: Stephen J. O'Brien: 202-625-7700

WARD 6 ANC 6E SMD 6E01

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

NATURE OF SUBSTANTIAL CHANGE
Request to add a 29-seat summer garden to the rooftop.

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION FOR THE ROOFTOP SUMMER GARDEN
Sunday through Saturday 8am-11pm

CURRENT HOURS OF OPERATION INSIDE PREMISES
24 Hours

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION INSIDE PREMISES
Sunday through Thursday 8am-2am, Friday and Saturday 8am-3am

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION FOR THE 2ND FLOOR SUMMER GARDEN
Sunday through Thursday 8am-2am, Friday and Saturday 8am-3am

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: February 6, 2015
Petition Date: March 23, 2015
Hearing Date: April 6, 2015
Protest Hearing Date: June 17, 2015

License No.: ABRA-097857
Licensee: Yang Fire, LLC
Trade Name: Chao Ku
License Class: Retailer's Class "C" Restaurant
Address: 1414 9th Street, N.W.
Contact: John Fielding: 301-233-3072

WARD 2 ANC 2F SMD 2F06

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 license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for June 17, 2015 at 1:30 pm.

NATURE OF OPERATION
A casual fast-food restaurant serving Chinese food. Seating for 56 and a total occupancy load of 56.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION
Sunday through Saturday 10 am – 2 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date:	February 6, 2015
Petition Date:	March 23, 2015
Roll Call Hearing Date:	April 6, 2015
Protest Hearing Date	June 17, 2015

License No.:	ABRA-097569
Licensee:	Dew Drop Inn, LLC
Trade Name:	Dew Drop Inn
License Class:	Retailer's Class "C" Tavern
Address:	2801 8th Street, N.E.
Contact:	Cheryl Webb: 202-277-7461

WARD 5 ANC 5E SMD 5E01

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 license on the Roll Call Hearing Date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled on June 17, 2015 at 4:30 pm.

NATURE OF OPERATION
Neighborhood pub serving American-style sandwiches and salads with a 10x10 foot dance floor at the north end, and live musical entertainment with an emphasis on jazz and acoustic quartets. Total Occupancy Load of 68 and Summer Garden with 21 seats. Entertainment Endorsement.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR PREMISES AND SUMMER GARDEN
Sunday through Thursday: 10am-2am, Friday & Saturday: 10am-3am

HOURS OF LIVE ENTERTAINMENT INSIDE PREMISES
Sunday through Thursday: 6pm-2am, Friday and Saturday: 6pm-3am

HOURS OF LIVE ENTERTAINMENT FOR SUMMER GARDEN
Sunday through Saturday: 6pm-10pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: February 6, 2015
Petition Date: March 23, 2015
Hearing Date: April 6, 2015
Protest Date: June 17, 2015

License No.: ABRA-077812
Licensee: TGR, Inc.
Trade Name: Look
License Class: Retailer's Class "C" Restaurant
Address: 1909 K Street, N.W.
Contact: Erin Sharkey: 202.686.7600

WARD 2 ANC 2B SMD 2B06

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. The Protest Hearing Date is scheduled for June 17, 2015 at 1:30 pm.

NATURE OF SUBSTANTIAL CHANGE
Applicant requests a class change from Class "C" Restaurant to Class "C" Tavern.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION
Sunday through Thursday 11:30 am – 2am and Friday & Saturday 11:30 am – 3 am

HOURS OF LIVE ENTERTAINMENT
Sunday through Thursday 6 pm – 2 am and Friday & Saturday 6 pm – 3 am

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFE
Sunday 5 pm – 11 pm, Monday through Friday 11 am – 11 pm, and Saturday 5 pm – 11 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC NOTICE

Persons objecting to the approval of a renewal application are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, NW, 4th Floor, Washington, DC 20009.

RENEWAL NOTICES

POSTING DATE: 2/6/2015
PETITION DATE: 3/23/2015
HEARING DATE: 4/6/2015

License Number: ABRA-093115
Applicant: YD Progress, LLC
License Class/Type: B Retail – Class B
Trade Name: Lucky Corner Store
SMD: 4D01
Premise Address: 5433 GEORGIA AVE NW

Endorsements: Tasting

Days	Hours of Operation	Hours of Sales/Service
SUN:	7 am - 12 am	7 am - 12 am
MON:	7 am - 12 am	7 am - 12 am
TUE:	7 am - 12 am	7 am - 12 am
WED:	7 am - 12 am	7 am - 12 am
THU:	7 am - 12 am	7 am - 12 am
FRI:	7 am - 12 am	7 am - 12 am
SAT:	7 am - 12 am	7 am - 12 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Posting Date: December 12, 2014
Petition Date: January 26, 2015
Hearing Date: February 9, 2015

License No.: ABRA-086961
Licensee: T & L Investment Group, LLC
Trade Name: Panda Gourmet
License Class: Retailer's Class "C" Restaurant
Address: 2700 New York Avenue, N.E.
Contact: T & L Investment Group LLC, 202-832-5800

WARD 5 ANC 5C SMD 5C04

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 a computer-programmed playlist, live DJ, dancing and a jazz band.

CURRENT HOURS OF OPERATION
Sunday 12 pm – 2 am and Monday through Saturday 7 am - 2 am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION
Sunday through Saturday 12:30 pm – 2 am

HOURS OF LIVE ENTERTAINMENT BEGINNING AFTER 6:00 PM
Sunday through Saturday 6:30 pm – 1 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: February 6, 2015
Petition Date: March 23, 2015
Hearing Date: April 6, 2015

License No.: ABRA-086961
Licensee: T & L Investment Group, LLC
Trade Name: Panda Gourmet
License Class: Retailer's Class "C" Restaurant
Address: 2700 New York Avenue, N.E.
Contact: T & L Investment Group LLC: 202-832-5800

WARD 5 ANC 5C SMD 5C04

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 a computer-programmed playlist, live DJ, dancing and a jazz band.

CURRENT HOURS OF OPERATION
Sunday 12 pm – 2 am and Monday through Saturday 7 am - 2 am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION
Sunday through Saturday 12:30 pm – 2 am

HOURS OF LIVE ENTERTAINMENT BEGINNING AFTER 6:00 PM
Sunday through Saturday 6:30 pm – 1 am

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. 15-04: 16 Grant Circle NW
Square 3244, Lot 801
Applicant: The Off Boundary Preservation Brigade
Affected Advisory Neighborhood Commission: 4C

The hearing will take place at **9:00 a.m. on Thursday, March 26, 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.

DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD

NOTIFICATION OF CHARTER AMENDMENT

The District of Columbia Public Charter School Board ("PCSB") hereby gives notice, dated Wednesday, January 28, 2015, of Achievement Preparatory Public Charter School's request to increase its enrollment ceiling. PCSB will hold a public hearing during the regularly scheduled board meeting on Monday, March 23, 2015 at 6:30pm. Subsequently, PCSB will hold a vote on the matter during the regularly scheduled board meeting on Monday, April 20, 2015 at 6:30pm. For further information, please contact Ms. Laterica Quinn, Equity and Fidelity Specialist, at 202-328-2660. Please contact 202-328-2660 or email public.comment@dcpcsb.org to submit public comment.

BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
TUESDAY, MARCH 24, 2015
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001

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

TIME: 9:30 A.M.

WARD TWO

18954
ANC-2E

Application of Crumbs & Whiskers LLC, pursuant to 11 DCMR § 3104.1, for a special exception from the animal boarding requirements under § 735, to establish an animal boarding use for cats in the C-2-A District at premises 3211 O Street N.W. (Square 1244, Lot 800).

WARD EIGHT

18955
ANC-8A

Application of Good Home Investments, LLC, pursuant to 11 DCMR § 3104.1, for a special exception from the fast food restaurant requirements under § 733, to establish a fast food restaurant in the C-2-A/R-3 District at premises 1918-B 14th Street S.E. (Square 5767, Lot 1019).

WARD THREE

18956
ANC-3E

Application of 4725 Massachusetts Ave., LLC, pursuant to 11 DCMR § 3103.2, for a variance from the use provisions under § 201.1, to convert a single-family dwelling with a physician's office to an architectural office and residential unit in the R-1-B District at premises 4725 Massachusetts Avenue N.W. (Square 1531, Lot 45).

WARD THREE

18957
ANC-6C

Application of Guggan Datta/Masala Dosa, LLC, pursuant to 11 DCMR § 3104.1, for a special exception from the HS Overlay requirements under § 1320.4(c), to establish a fast food restaurant in two existing row dwellings in the HS-H/C-2-A District at premises 411 H Street N.E. (Square 809, Lot 69).

WARD THREE

18959
ANC-3F

Application of David and Elizabeth Field, pursuant to 11 DCMR § 3104.1 for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, the side yard requirements under § 405.8, and the rear yard

requirements under § 404.1, to allow the construction of a second-story addition to an existing single-family dwelling in the R-1-B District at premises 3629 Everett Street N.W. (Square 1983, Lot 37).

WARD FOUR

18897
ANC-2B

Application of Julian Hunt and Lucrecia Laudi, pursuant to 11 DCMR § 3103.2, for variances from the nonconforming structure requirements under § 2001.3(a)(b)(1) and (2), the lot occupancy requirements under § 403.2, and the rear yard requirements under § 404.1, to allow construction of an addition to an existing single family dwelling and conversion to a flat in the DC/R-4 District at premises 1504 Swann Street N.W. (Square 191, Lot 817).

PLEASE NOTE:

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

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

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

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

LLOYD J. JORDAN, CHAIRMAN, S. KATHRYN ALLEN, VICE CHAIRPERSON, MARNIQUE Y. HEATH, JEFFREY L. HINKLE AND A MEMBER OF THE ZONING COMMISSION, CLIFFORD W. MOY, SECRETARY TO THE BZA, SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING

THE DISTRICT OF COLUMBIA
LOTTERY AND CHARITABLE GAMES CONTROL BOARD

NOTICE OF FINAL RULEMAKING

The Executive Director of the District of Columbia Lottery and Charitable Games Control Board, pursuant to the authority set forth under Section 4 of the Law to Legalize Lotteries, Daily Numbers, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Official Code § 3-1306 (2012 Repl.)), District of Columbia Financial Responsibility and Management Assistance Authority Order, issued September 21, 1996, and the Office of the Chief Financial Officer Financial Management Control Order No. 96-22, issued November 18, 1996, hereby gives notice of the adoption of the following amendments to Chapter 9 (Description of On-Line Games) and Chapter 99 (Definitions) of Title 30 (Lottery and Charitable Games) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking implements the multi-jurisdictional Lottery game called LUCKY FOR LIFE™. The game expects to launch on February 15, 2015.

A Notice of Proposed Rulemaking was published in *D.C. Register* on December 26, 2014 at 61 DCR 13180. Final action to adopt these rules took place on January 29, 2015. No comments were received, and no substantive changes were made to the rulemaking. These rules will become effective upon publication of this notice in the *D.C. Register*.

Title 30, LOTTERY AND CHARITABLE GAMES, of the DCMR is amended as follows:

Add a new Section 973, DESCRIPTION OF THE LUCKY FOR LIFE GAME™, to Chapter 9, DESCRIPTION OF ONLINE GAMES, to read as follows:

973 DESCRIPTION OF THE LUCKY FOR LIFE GAME™

973.1 Lucky For Life™ is a five (5) out of forty-eight (48) plus one (1) out of eighteen (18) lottery draw game which pays the jackpot and set prizes. Drawings are on each Monday and Thursday.

973.2 The price of each Lucky For Life play shall be ($2.00).

Add a new Section 974, LUCKY FOR LIFE PLAY RESTRICTIONS AND PLAY STYLES, to Chapter 9, DESCRIPTION OF ONLINE GAMES, to read as follows:

974 LUCKY FOR LIFE PLAY RESTRICTIONS AND PLAY STYLES

974.1 Contribution to Prize Pool. A Party Lottery may offer Game Tickets as a prize or as part of an authorized promotion provided that all such Game Ticket sales are assessed and reported to the prize pool at the full gross sales amount.

974.2 Ineligible Players. Game Tickets Lucky For Life tickets shall not be purchased, and a prize won by any such ticket or share, either in whole or in part, shall not be paid to:

(a) A Party Lottery employee, officer, director, board member or commissioner.

(b) A contractor or consultant under agreement with any Party Lottery to perform audit and security procedures.

(c) An employee of the independent certified public accounting firm under contract with any New England Lottery to oversee Drawing Events.

(d) An employee of a Party Lottery's on-line vendor.

(e) An employee of a Party Lottery's advertising or public relations provider.

(f) An immediate family member (parent, stepparent, child, stepchild, spouse, sibling or person engaged in a domestic partnership or civil union) of an individual described in Paragraphs a, b, c, d, e, or f residing as a member of the same household in the principal place of residence of any such person.

(g) Those persons designated herein as ineligible to play the game in one (1) Party Lottery jurisdiction shall also be ineligible to play the game in all other Party Lottery jurisdictions selling the game.

974.3 A Lucky For Life ticket may not be cancelled or voided by returning the ticket to the Agent or Agency. A ticket accepted by the Agent as a returned ticket, and that cannot be resold, shall be deemed as owned by the bearer thereof. This prohibition also applies to a ticket that may be printed in error by the Agent.

974.4 A Lucky For Life ticket, subject to the validation requirements as detailed in Sections 603, 605, 975.17, 975.19, and 975.20 of these regulations, shall be the only proof of a Bet (or Plays), and the submission of a Winning Ticket to the Agency or an Agent shall be the sole method of claiming a prize or prizes.

974.5 A Selection Slip has no pecuniary or prize value and shall not constitute evidence of a ticket purchase or of numbers selected. Under no circumstances shall a claim be paid for a prize without a Winning Ticket.

974.6 Disclosure of Lucky For Life game winner and player information shall be in accordance with the District of Columbia's laws and regulations as well as Section 614 of Title 30 of the D.C. Municipal Regulations.

974.7 Players may submit a completed Selection Slip to any Agent to have a game ticket issued. Selection Slips shall be available at no cost to the player and shall have no pecuniary or prize value, or constitute evidence of purchase or number selections. The use of facsimiles of Selection Slips, copies of Selection Slips, or other materials that are inserted into the terminal's Selection Slip reader that are not printed or approved by the Agency, are not permitted. Agents shall not permit any device to be connected to a terminal to enter bets, plays, or wagers, except as approved by the Agency.

974.8 Players may convey their number selections to any Agent to obtain a game ticket. Such number selections shall be manually entered into the terminal by the Agent.

974.9 Players may either request a Quick Pick game ticket from an Agent or may select the Quick Pick option on the Selection Slip and submit the completed Selection Slip to any Agent. Quick Pick shall be differentiated from customer selected numbers in that Quick Pick shall refer to the random selection of numbers made by the Central Computer System rather than by the player.

974.10 Players may select their own numbers by completing a Selection Slip or by conveying their number selections directly to any Agent. Customer selected numbers shall be differentiated from Quick Pick in that customer selected numbers shall refer to number selections made by the player rather than the Central Computer System.

974.11 In connection with the winning numbers drawn, the holder of a Winning Ticket may win only one (1) prize per Play, board or panel, and shall be entitled only to the prize won by those numbers in the highest matching prize category.

974.12 A prize shall be claimed within one hundred eighty (180) days after the drawing in which the prize was won commencing with the day following the drawing, unless a shorter period of time has been authorized by the Executive Director.

974.13 It shall be the player's sole responsibility to verify the accuracy of the bet(s) (or plays) and the other data printed on the Lucky For Life ticket. The placing of bets or wagers is done at the player's own risk through the Agent.

Add a new Section 975, LUCKY FOR LIFE PRIZE LIABILITY LIMITS, PRIZE PAYOUTS, AND PRIZE LEVELS to Chapter 9, DESCRIPTION OF ONLINE GAMES, to read as follows:

975 LUCKY FOR LIFE PRIZE LIABILITY LIMITS, PRIZE PAYOUTS, AND PRIZE LEVELS

975.1 There are 10 prize levels in the Game.

975.2 Except as provided in Sections 973, 974, 975, or 976 of these regulations, the top

prize (Prize Level #1) shall be annuitized and based on a top prize liability that will be split equally among the number of winning tickets.

975.3 A top prize winner may request the cash option, the amount of which is to be established by the New England Lotteries for a defined period of Drawing Events. Notice of the amount of and changes to the cash option shall be posted on the Lucky For Life game's website and/or published in a manner determined by the Agency at least thirty (30) days prior to the first Drawing Event to which it is applicable (the "Published Notice"). Under certain circumstances, as defined in Subsection 975.6 of these regulations, the top prize is required to be paid in a single lump sum cash payment and no annuitized payment option is available.

975.4 If there is one (1) top prize winner, the annuitized prize value will be seven thousand dollars ($7,000.00) per week for life. As an alternative to the annuitized payment option, the top prize winner may request the top prize cash option in the amount set forth in the Published Notice.

975.5 If there are between two (2) and fourteen (14) top prize winners, the annuitized payment option, based on an annuitized prize value of seven thousand dollars ($7,000.00) per week, will be divided by the total number of top prize winners. The minimum annuitized prize value for this category will be five hundred dollars ($500.00) a week for life. Any of these two (2) to fourteen (14) top prize winners may choose the cash option as an alternative to the annuitized payment option. The amount of the cash option for this category will be the amount of the top prize cash option set forth in the Published Notice divided by the total number of top prize winners. The minimum cash option for this category will be the amount set forth in the Published Notice.

975.6 If there are fifteen (15) or more top prize winners, the top prize liability shall be capped at seven million one hundred twenty-five thousand dollars ($7,125,000.00), shall be split equally among all top prize winners, and shall paid in one (1) lump sum cash payment, without an annuitized payment option. The minimum prize value for this category shall not be less than any lower tier prize paid in that respective Drawing Event.

975.7 Winner(s) of the top prize who do not request the cash option shall be paid their appropriate top prize share on a weekly basis, or according to such other schedule of payments set at the discretion the Agency, as permitted in Sections 973, 974, 975, or 976 of these regulations, for a minimum period of twenty (20) years. The first Top Prize payment will be made when the prize is claimed at the Agency's Headquarters or other location designated by the Executive Director.

975.8 Except as provided in Subsections 975.3, 975.4, or 975.5 of these regulations, the second prize (Prize Level #2) winner will be paid twenty-five thousand dollars ($25,000.00) a year for life. A second prize winner may request the cash option, the amount of which is to be established by the New England Lotteries for a

defined period of Drawing Events. Notice of the amount of and changes to the cash option shall be posted on the Lucky for Life website and/or by the Agency. Under certain circumstances, as defined in Subsection 975.10 of these regulations, the second prize is required to be paid in a single lump sum cash payment and no annuitized payment option is available.

975.9 If there are between one (1) and twenty (20) second prize winner(s), the annuitized prize value will be twenty-five thousand dollars ($25,000.00) per year for life. Any of these one (1) to twenty (20) second prize winner(s) may choose the second prize cash option as an alternative to the annuitized payment option. The amount of the cash option for this category will be set forth in the Published Notice.

975.10 If there are twenty-one (21) or more second prize winners, the second prize liability shall be capped at nine million four hundred thousand dollars ($9,400,000.00), shall be split equally among all second prize winners, and shall be paid in a single lump sum cash payment, without an annuitized payment option. The minimum prize value for this category shall not be less than any lower tier prize paid in that respective Drawing Event.

975.11 The winner(s) of the second prize who do not request the cash option shall be paid their appropriate second prize share on an annual basis for a minimum period of twenty (20) years. The initial second prize payment will be made when the prize is claimed at the Agency's Headquarters or other location designated by the Executive Director; subsequent second prize payments will be made annually thereafter.

975.12 For a single bet or wager, the measuring life of a prize winner used to determine the duration over which the prize is paid, shall be the natural life of the individual determined by the Agency to be the prize Winner. If the prize under a single bet or wager is being claimed by more than one (1) natural person or by a legal entity, the measuring life for that prize winner shall be twenty (20) years.

975.13 If paid in a lump sum cash or single cash payment, prize amounts will be rounded to the nearest whole dollar.

975.14 Except as provided in Sections 973, 974, 975, or 976 of these regulations, the third prize (Prize Level #3) will be paid as a five thousand dollar ($5,000.00) set prize. If there are more than one thousand (1,000) winners of this prize level in a single Drawing Event, the total prize liability of five million dollars ($5,000,000.00) ($5,000.00 x 1,000) will be split equally among the winners.

975.15 Under no circumstances, will the value of the third prize fall below a minimum prize value of two hundred dollars ($200.00) per winner, regardless of the number of Winners.

975.16 The holder of a Winning Ticket shall be entitled only to the prize won by matching the winning numbers in the highest matching prize category.

975.17 All Winning Tickets, including the top prize and second prize Winning Tickets, shall be paid in accordance with District of Columbia jurisdictional law, D.C. Official Code §§ 3-1301 *et seq.,* and Title 30 of the District of Columbia's Municipal Regulations.

975.18 The Agency shall withhold taxes and other required withholdings in accordance with applicable federal and District laws.

975.19 To be a valid Winning Ticket and eligible to receive a prize, a Winning Ticket shall satisfy all the requirements established for the validation of Winning Tickets sold through the Agency's Central Computer System, and any other requirements adopted by the Agency and New England Lottery Directors.

975.20 The Agency shall not be responsible for game tickets that are altered in any manner.

975.21 Except in the case of a cash option payment or a lump sum cash payment paid in accordance with Sections 973, 974, 975, or 976 of these regulations, annuitized prize payments shall be made for the measuring life of the top prize or second prize winner.

975.22 All annuitized payments shall be made for a minimum of twenty (20) years. The measuring life as defined in Subsection 975.12 of these regulations shall be determined at the time the top prize or second prize is claimed.

(a) No rights of any person to a prize or a portion of a prize shall be assignable.

(b) In the event annuitized prize payments are assigned by a court order, the measuring life at the time the top prize or second prize was claimed shall not change and limit or extend the number of annuitized payments due any assignee, court-ordered or otherwise.

(b) In the event of the death of a top prize or second prize winner during the annuity payment period, the Agency, with the approval of the New England Lotteries, upon petition of the estate of that winner (the "Estate") to the Agency, and subject to the Agency's jurisdictional laws, may accelerate the payment of all the remaining lottery proceeds to the Estate.

(1) If the annuitant dies during the annuity payment period, but before the guaranteed prize amount has been paid, the Estate shall receive the remaining payments equal to the minimum guaranteed prize amount.

(2) If the annuitant dies during the annuity payment period, but after the minimum guaranteed prize amount has been paid, all payments shall stop.

975.23 All low-tier set prizes (all prizes except the top prize and second prize) shall be paid in one (1) single cash payment through the Agency. Prizes shall be rounded to the nearest whole dollar. The Agency may begin paying low-tier cash prizes after receiving authorization to pay from the Clearinghouse Lottery.

975.24 The following table details the Game's statistical information.

Odds of Winning, Prize Payouts and Prize Funding as a Percentage of Sales.

Prize Level	Matches Set #1 (5 of 48)	Matches Set #2 (1 of 18)	Odds of Winning: 1/	Prize	% Sales
1	5	1	30,821,472.000	$7,000/Week for Life*	10.2201%
2	5	0	1,813,027.765	$25,000/Year for Life*	11.6380%
3	4	1	143,355.684	$5,000*	1.7439%
4	4	0	8,432.687	$200	1.1859%
5	3	1	3,413.231	$150	2.1973%
6	3	0	200.778	$20	4.9806%
7	2	1	249.749	$25	5.0050%
8	2	0	14.691	$3	10.2103%
9	1	1	49.950	$6	6.0060%
10	0	1	32.019	$4	6.2463%
				Total Payout	59.4335%

Average Chance of Winning: 1 in 7.769

*Prize amounts may be split if there are multiple winners, in accordance with the provisions established in Subsections 975.6, 975.10, and 975.14 of these regulations. Split prizes may be lower than the published prize amounts.

Add a new Section 976, LUCKY FOR LIFE DISPUTES AND APPLICABLE LAW, to Chapter 9, DESCRIPTION OF ONLINE GAMES, to read as follows:

976 LUCKY FOR LIFE DISPUTES AND APPLICABLE LAW.

976.1 In purchasing a Lucky For Life ticket, the following provisions apply:

(a) The purchaser agrees to comply with and abide by the Agency's rules, regulations, guidelines, jurisdictional laws and final decisions, as well as all rules established for the conduct of the Lucky For Life Game.

(b) Decisions made by the New England Lotteries, Agency, and Executive Director, including the declaration of prizes, the payment thereof, and the interpretation of these regulations, shall be final and binding on all purchasers and on every person making a claim in respect thereof. In the event of conflict, however, between these regulations and the Agency's jurisdictional laws, the Agency's jurisdictional laws shall control.

(c) Any claims or litigation relating to Lucky For Life tickets and/or prizes:

(1) Shall be subject to and resolved in accordance with the laws, rules and regulations of the Agency and jurisdiction in which the ticket was purchased;

(2) Must be brought in and strictly limited to the courts located within the jurisdiction of the District of Columbia; and

(3) Shall only be brought against the Agency in the jurisdiction where such ticket was purchased.

Section 9900, DEFINITIONS, of Chapter 99, DEFINITIONS, is amended by adding the following terms and definitions:

"New England Lotteries" – means the Lotteries responsible for and offering the Lucky For Life Game.

"Party Lottery" – means a Lottery offering or participating in the Lucky For Life on-line game.

"Clearinghouse Lottery" – means the Party Lottery or other duly authorized entity who is responsible for collecting and transferring prize payouts for the Lucky For Life game on behalf of all Party Lotteries.

"Lucky Ball" – means the number selected from the second set of numbers in each Lucky For Life Drawing.

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Behavioral Health ("the Department"), pursuant to the authority set forth in Sections 5113, 5115, 5117 and 5118 of the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code §§ 7-1141.02, 7-1141-04, 7-1141.06 and 7-1141.07 (2012 Repl.)), hereby gives notice of his intent to adopt a new Chapter 63, Certification Standards for Substance Use Disorder Treatment and Recovery Providers, to Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations ("DCMR").

The purpose of this new rule is to: 1) generally update the substance use disorder treatment and recovery service requirements to reflect improvements in the American Society of Addiction Medicine ("ASAM" practice guidelines; 2) align the certification requirements with other certified programs within the authority of the Department of Behavioral Health; and 3) include the requirements of the Adult Substance Abuse Rehabilitation Services ("ASARS") State Plan Amendment ("SPA") which, when approved, will allow Medicaid reimbursement for services falling within the ASARS requirements. Substance use disorder providers currently certified pursuant to Chapter 23 of Title 29 will be required to be certified pursuant to this new rule, in accordance with the schedule detailed in the rule, and Chapter 23 will be repealed effective May 31, 2016. Providers not previously certified pursuant to Chapter 23 will be required to become certified pursuant to this chapter in order to provide substance use disorder treatment or recovery services.

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

Subtitle A, MENTAL HEALTH, of Title 22 DCMR, HEALTH, is amended by adding a new Chapter 63 to read as follows:

CHAPTER 63 CERTIFICATION STANDARDS FOR SUBSTANCE USE DISORDER TREATMENT AND RECOVERY PROVIDERS

6300 GENERAL PROVISIONS

6300.1 The Department of Behavioral Health ("Department") is the Single State Agency ("SSA") responsible for the development and promulgation of rules, regulations, and certification standards for prevention and treatment services related to the abuse of alcohol, tobacco, and other drugs ("ATOD") in the District of Columbia ("District"). The Department is responsible for the inspection, monitoring, and certification of all District of Columbia substance use disorder ("SUD") treatment and recovery providers.

6300.2 The purpose of these rules is to set forth the requirements for certification of programs providing SUD treatment or recovery services, including those

providing services under the Medicaid Adult Substance Abuse Rehabilitative Services ("ASARS") program.

6300.3 Each certified provider that seeks reimbursement from the District shall enter into and maintain a Human Care Agreement ("HCA") with the Department. Those providers receiving Medicaid reimbursement shall also enter into and maintain a Medicaid provider agreement with the Department of Health Care Finance ("DHCF").

6300.4 No person or entity shall own or operate a program that offers or proposes to offer non-hospital SUD treatment services without being certified by the Department pursuant to this chapter. This chapter does not apply to Health Maintenance Organizations, physicians, and other licensed behavioral health and medical professionals in individual or group practice.

6300.5 Providers who are certified as an SUD treatment or recovery program pursuant to Title 29, Chapter 23 of the District of Columbia Municipal Regulations prior to the effective date of this rule, may retain their certification until May 31, 2016, until the expiration of their current certification under Chapter 23, or until certification pursuant to this chapter is issued, whichever date comes first.

6300.6 Any provider certified pursuant to 29 DCMR Chapter 23 wishing to continue to provide services as an SUD treatment or recovery program must have submitted a completed certification application for all certified services to the Department in accordance with the schedule below and prior to the expiration of their current certification. If a provider has more than one program (level of care) or more than one facility, each with its own certification, the provider must submit its application for all of its facilities or programs at the time the provider's first certification falls due.

6300.7 Certification applications for new programs must be submitted at the time the provider's first certification is due as follows:

(a) Medication Assisted Therapy ("MAT") providers: all applications are due by April 1, 2015;

(b) Level 1 and Level II providers whose current certifications expire prior to October 1, 2015: all applications are due by June 1, 2015;

(c) Level I and Level II providers whose current certifications expire after October 1, 2015: all applications are due by August 1, 2015;

(d) Level III providers: all applications are due by October 1, 2015; and

(e) Access to Recovery ("ATR") providers: all applications are due by December 1, 2015.

6300.8 To obtain certification, an SUD treatment or recovery program shall meet all of the applicable requirements of this chapter.

6300.9 The Department shall issue one (1) certification for each provider that is valid only for the programs, (premises, and level(s) of care stated on the certificate. The certificate is the property of the Department and must be returned upon request by the Department. The certificate is valid only when the provider is in compliance with this chapter.

6300.10 The Department's staff, upon presentation of proper identification, has the authority to enter the premises of an SUD treatment or recovery program during operating hours for the purpose of conducting announced or unannounced inspections and investigations.

6300.11 The Department shall certify providers in one or more of the levels of care outlined in § 6300.13. All certified providers, except those only certified as Level 1-AR or Level-R, shall provide all of the following core services:

(a) Assessment/Diagnostic and Treatment Planning Services;

(b) Clinical Care Coordination;

(c) Case Management;

(d) Crisis Intervention;

(e) Substance Use Disorder (SUD) Counseling, including the following;

(1) Individual Counseling;

(2) Group Counseling;

(3) Group Counseling – Psychoeducation; and

(4) Family Counseling; and

(f) Drug Screening, as follows;

(1) Toxicology Sample Collection; and

(2) Breathalyzer Testing;

6300.12 Providers may also be certified to provide one or more of the following specialty

services based on their Level of Care ("LOC") certifications from the Department:

(a) Medication Management;

(b) Medication Assisted Treatment; and

(c) Adolescent – Community Reinforcement Approach ("ACRA").

6300.13 An applicant shall apply for certification at one or more of the LOCs:

(a) Level 1 – AR: Assessment and Referral;

(b) Level 1: Outpatient;

(c) Level 2.1: Intensive Outpatient Program;

(d) Level 2.5: Day Treatment;

(e) Level 3.1: Clinically Managed Low-Intensity Residential;

(f) Level 3.3: Clinically Managed Population-Specific High-Intensity Residential;

(g) Level 3.5: Clinically Managed High-Intensity Residential (Adult) or Clinically Managed Medium-Intensity Residential (Youth);

(h) Level 3.7-WM: Medically Monitored Intensive Inpatient Withdrawal Management "(MMIIWM"); and

(i) Level-R: Recovery Support Services.

6300.14 Providers in Levels 1 - 3, except MMIIWM, may also receive a special designation as a program serving parents with children, subject to Section 6324 of this chapter.

6300.15 Each certified program shall comply with all the provisions of this chapter consistent with the scope of the authorized LOC and program services.

6301 ELIGIBILITY FOR SUBSTANCE USE DISORDER SERVICES

6301.1 Substance Use Disorder ("SUD") is a chronic relapsing disease characterized by a cluster of cognitive, behavioral, and psychological symptoms indicating that the beneficiary continues using the substance despite significant substance-related problems. A diagnosis of an SUD requires a beneficiary to have had persistent, substance related problem(s) within a twelve (12)-month period in accordance

with the requirements of the most recent version of the American Psychiatric Association's Diagnostic and Statistical Manual ("DSM") in use by the Department.

6301.2 The SUD treatment framework in this chapter is based on levels of care established by the American Society for Addiction Medicine ("ASAM"). A typical course of treatment under the ASAM treatment framework anticipates continuity of services across multiple levels of care.

6301.3 To be eligible for SUD treatment, a client must have received a diagnosis of an SUD in accordance with Subsection 6301.1 of this chapter from a qualified practitioner.

6301.4 Qualified Practitioners eligible to diagnose a substance use disorder pursuant to this Chapter are Qualified Physicians, Psychologists, Licensed Independent Clinical Social Workers ("LICSWs"), Licensed Professional Counselors ("LPCs"), Licensed Marriage and Family Therapists ("LMFTs"), and Advanced Practice Registered Nurses ("APRNs").

6301.5 Clients eligible for services from a provider pursuant to contract with the Department must satisfy the following requirements:

(a) Be *bona fide* residents of the District, as required in 29 DCMR Subsection 2405.1(a); and

(b) Be referred for SUD services by an Assessment and Referral Center, unless the clients are only receiving Recovery Support Services.

(c) Clients eligible for Medicaid-funded SUD services must meet the following requirements: Be enrolled in Medicaid, or be eligible for enrollment and have an application pending; or

(d) For new enrollees and those enrollees whose Medicaid certification has lapsed:

(1) There is an eligibility grace period of ninety (90) days from the date of first service for new enrollees, or from the date of eligibility expiration for enrollees who have a lapse in coverage, until the date the District's Economic Security Administration makes an eligibility or recertification determination.

(2) In the event the consumer appeals a denial of eligibility or recertification by the Economic Security Administration, the Director may extend the ninety (90)-day eligibility grace period until the appeal has been exhausted. The ninety (90)-day eligibility grace period may also be extended in the discretion of the Director

for other good cause shown.

(3) Upon expiration of the eligibility grace period, SUD services provided to the consumer are no longer reimbursable by Medicaid. Nothing in this section alters the Department's timely-filing requirements for claim submissions.

6301.6 Clients eligible for locally-funded SUD treatment are those individuals who are not eligible for Medicaid or Medicare or are not enrolled in any other third-party insurance program except the D.C. HealthCare Alliance, or who are enrolled but the insurance program does not cover SUD treatment and who meet the following requirements:

(a) For individuals nineteen (19) years of age and older, live in households with a countable income of less than two hundred percent (200%) of the federal poverty level, and for individuals under nineteen (19) years of age, live in households with a countable income of less than three hundred percent (300%) of the federal poverty level.

(b) A client that does not meet the income limits of Subsection 6301.6(a) above may receive treatment services in accordance with the following requirements:

(1) The client must, within ninety (90) days of enrollment for services, apply to the Department of Human Services Economic Security Administration for certification, which will verify income.

(2) An individual with income over the limits in paragraph (a) above may receive treatment services with payment on a sliding scale.

(3) The provider shall ensure it develops a sliding scale fee policy, reviewed by the Department, and shall be able to provide documentation to the Department of its collection of fees.

6302 SERVICES FOR PEOPLE WITH CO-OCCURRING MENTAL ILLNESSES

6302.1 All providers shall provide SUD services to eligible individuals with a co-occurring mental illness. A provider shall not decline to provide SUD services because of the person's co-occurring mental illness.

6302.2 All providers shall, at a minimum, screen individuals during the Intake or Comprehensive Assessment to determine if the person may suffer from a mental illness in addition to an SUD.

6302.3 If a person screens positive for a co-occurring mental illness, the provider shall do the following in addition to providing SUD services:

(a) Offer the opportunity for the person to receive mental illness treatment in addition to SUD treatment. If the person declines, the provider shall make the appropriate referrals for the person to receive mental health treatment at another qualified provider;

(b) If the provider does not offer treatment for mental illness ensure the person is referred to an appropriate mental health provider;

(c) If an individual that screens positive for a co-occurring mental illness receives mental health treatment at another provider, the Clinical Care Coordinator is responsible for ensuring the treatment plan and subsequent care and treatment of the person is coordinated with the mental health provider.

6303 PROVIDER CERTIFICATION PROCESS

6303.1 Each applicant seeking certification as a provider shall submit a certification application to the Department. A Department-certified provider seeking renewal of certification shall submit a certification application at least ninety (90) days prior to the termination of its current certification.

6303.2 If a certification is about to expire, the Department may, for good cause, consider a written request for an extension of time to complete the application.

6303.3 If the provider has submitted a timely and complete recertification application, the current certification shall continue until the Department takes action to renew or deny renewal of certification. A recertification application is considered timely if it is submitted at least ninety (90) days prior to the certification expiration date or the Department has otherwise granted an extension for the submission of a complete application.

6303.4 Upon receipt of a certification application, the Department shall review the certification application to determine whether it is complete. If a certification application is incomplete, the Department shall return the incomplete application to the applicant. An incomplete certification application shall not be regarded as a certification application, and return of the incomplete certification application and the Department’s failure to take further action to issue certification to the applicant shall not constitute either the denial of an application for certification or the renewal of certification.

6303.5 Following the Department’s acceptance of the certification application, the Department shall determine whether the applicant's services and activities meet the certification standards described in this chapter. The Department shall schedule and conduct an on-site survey of the applicant's services to determine whether the applicant satisfies the certification standards. The Department shall

have access to all records necessary to verify compliance with certification standards and may conduct interviews with staff, others in the community, and clients (with client permission).

6303.6 The Department may issue certification to an applicant complying with the certification standard and to each certified provider seeking renewal of certification that complies with the certification standards.

6303.7 Nothing in these rules shall be interpreted to mean that certification is a right or an entitlement. The Director has the authority to issue restrictions on new provider certifications based upon the Department's assessment of the needs of the residents of the District. The restriction may apply to overall certification or specific levels of care.

6303.8 An applicant or certified provider that fails to comply with this chapter, fails to comply with a Human Care Agreement, or violates Federal or District law, may receive a Statement of Deficiencies ("SOD") from the Department. Evidence of violations gathered from an on-site survey, complaint, or other information may lead to the issuance of an SOD. An on-site survey is not required prior to the issuance of an SOD. The SOD shall describe the areas of non-compliance, suggest actions needed to bring operations into compliance with the certification standards, and set forth a timeframe for the provider's submission of a written Corrective Action Plan ("CAP"). The issuance of an SOD is a separate process from the issuance of a Notice of Infraction.

6303.9 An applicant or Department-certified provider's CAP shall describe the actions to be taken and specify a timeframe for correcting the areas of non-compliance. The CAP shall be submitted to the Department within ten (10) working days after receipt of the SOD from the Department.

6303.10 The Department shall notify the applicant or certified provider whether the provider's CAP is accepted within five (5) working days after receipt.

6303.11 The Department shall issue its certification after the Department verifies that the applicant or certified provider has complied with its CAP and meets all the certification standards.

6303.12 The Director may deny certification if the applicant fails to comply with any certification standard. The Director may revoke certification from a provider through the decertification process in accordance with § 6305 of this chapter.

6303.13 Certification as an SUD treatment provider or recovery support services provider shall be for one (1) calendar year for new applicants and two (2) calendar years for existing providers seeking renewal. Certification shall start from the date of issuance of certification by the Department, subject to the provider's continuous compliance with these certification standards. Certification shall remain in effect

until it expires, is renewed, or is revoked pursuant to this chapter. The certification shall specify the effective date of the certification, the program(s), level of care(s), and services that the provider is certified to provide.

6303.14 Certification is not transferable to any other organization.

6303.15 Written notice of any change in the ownership of a program owned by an individual, partnership, or association, or in the legal or beneficial ownership of ten (10) percent or more of the stock of a corporation that owns or operates a program, shall be given to the Department at least thirty (30) calendar days prior to the change in ownership.

6303.16 The provider shall notify the Department immediately of changes in its operation that affect the provider's continued compliance with these certification standards, including changes in ownership or control, changes in the Qualified Practitioners employed by the provider, changes in services, and changes in its affiliation and referral arrangements.

6303.17 The provider shall notify the Department in writing thirty (30) calendar days prior to implementing any of the following operational changes, including all aspects of the operations materially affected by the changes:

(a) A proposed change in the program's geographic location;

(b) The proposed addition or deletion of major service components;

(c) A change in the required staff qualifications for employment;

(d) A proposed change in organizational structure;

(e) A proposed change in the population served; and

(f) A proposed change in program capacity and, for residential programs, a proposed change in bed capacity.

6303.18 Certification shall be automatically terminated and invalid if the provider fails to apply for renewal of certification prior to the expiration date of the certification, voluntarily relinquishes certification, or goes out of business.

6303.19 Providers shall forward to the Department within thirty (30) calendar days all inspection reports conducted by an oversight body and all corresponding corrective actions taken regarding cited deficiencies.

6303.20 Providers shall immediately report to the Department any alleged criminal activity involving provider staff.

6304 CERTIFICATION: EXEMPTIONS FROM STANDARDS

6304.1 If a certification standard interferes with service provision, the Department may, at its discretion, exempt a provider from a certification standard if the exemption does not jeopardize the health and safety of clients, infringe on client rights, or diminish the quality of the service delivery.

6304.2 If the Department approves an exemption, such exemption shall end on the expiration date of the program certification, or at an earlier date if specified by the Department, unless the provider requests renewal of the exemption prior to expiration of its certificate or the earlier date set by the Department.

6304.3 The Department may revoke an exemption that it determines is no longer appropriate.

6304.4 All requests for an exemption from certification standards must be submitted in writing to the Department.

6305 DECERTIFICATION PROCESS

6305.1 Decertification is the revocation of the certification issued by the Director to an organization or entity as an SUD treatment or recovery provider. A decertified SUD provider shall not provide any SUD treatment and shall not be reimbursed for any services as an SUD provider.

6305.2 Grounds for revocation include a provider's failure to comply with the certification requirements contained in this chapter, the provider's breach of its Human Care Agreement (if applicable), violations of Federal or District law, or any other action that constitutes a threat to the health or safety of clients. Nothing in this chapter requires the Director to issue an SOD prior to revoking certification.

6305.3 If the Director finds that there are grounds for revocation, the Director will issue a written notice of revocation setting forth the factual basis for the revocation, the effective date, and right to request an administrative review.

6305.4 The provider may request an administrative review from the Director within fifteen (15) business days of the date on the notice of revocation.

6305.5 Each request for an administrative review shall contain a concise statement of the reason(s) why the provider asserts that it should not have had its certification revoked and include any relevant supporting documentation.

6305.6 Each administrative review shall be conducted by the Director and shall be completed within fifteen (15) business days of the receipt of the provider's request.

6305.7 The Director shall issue a written decision and provide a copy to the provider. If the Director approves the revocation of the provider's certification, the provider may request a hearing under the D.C. Administrative Procedure Act, within fifteen (15) business days of the receipt of the Director's written decision. The administrative hearing shall be limited to the issues raised in the administrative review request. The revocation shall be stayed pending resolution of the hearing.

6305.8 Once certification is revoked, the SUD provider shall not be allowed to reapply for certification for a period of two (2) years following the date of the order of revocation. If a provider reapplies for certification, the provider must reapply in accordance with the established certification standards for the type of services provided and show evidence that the grounds for the revocation have been corrected.

6306 CLOSURES AND CONTINUITY OF CLIENT CARE

6306.1 A provider shall provide written notification to the Department at least ninety (90) calendar days prior to its impending closure, or immediately upon knowledge of an impending closure less than ninety (90) calendar days in the future. This notification shall include plans for continuity of care and preservation of client records.

6306.2 The Department shall review the continuity of care plan and make recommendations to the provider as needed. The provider shall incorporate all Department recommendations.

6306.3 Closure of a program does not absolve a provider from its legal responsibilities regarding the preservation and the storage of client records.

6306.4 A provider shall be responsible for the execution of its continuity of care plan in coordination with the Department.

6307 GENERAL MANAGEMENT AND ADMINISTRATION STANDARDS

6307.1 Each provider shall be established as a recognized legal entity in the United States and qualified to conduct business in the District. Evidence of qualification to conduct business includes a certificate of good standing or clean hands, or an equivalent document, issued by the District of Columbia Department of Consumer and Regulatory Affairs. Each provider shall maintain the clinical operations, policies, and procedures described in this section. These operations, policies and procedures shall be, reviewed and approved by the Department during the certification survey process.

6307.2 All certified providers shall comply with the Department policies on reporting major unusual incidents and major investigations.

6307.3 Each provider shall:

(a) Have a governing body, which shall have overall responsibility for the functioning of the provider;

(b) Comply with all applicable Federal and District laws and regulations;

(c) Hire personnel with the necessary qualifications in order to provide SUD treatment and recovery services and to meet the needs of its enrolled clients; and

(d) For SUD treatment, employ Qualified Practitioners to ensure provision of services as appropriate and in accordance with this chapter.

6307.4 Each treatment and recovery provider shall have a full time program director with authorized and responsible for the administrative direction and day-to-day operation of the program(s).

6307.5 Each treatment provider shall have a clinical director responsible for the clinical direction and day-to-day delivery of clinical services provided to clients of the program(s). The clinical director must be a licensed clinician with a relevant degree and relevant experience.

6307.6 The program director and clinical director shall have adequate time and authority to perform necessary duties to ensure that service delivery is in compliance with applicable standards set forth in this chapter and in applicable policies issued by the Department.

6307.7 Each provider shall establish and adhere to policies and procedures for selecting and hiring staff (Staff Selection Policy), including but not limited to requiring:

(a) Evidence of licensure, certification, or registration, as applicable and as required by the job being performed;

(b) Evidence of completion of an appropriate degree, training program, or credentials, such as academic transcripts or a copy of degree;

(c) Evidence of all required criminal background checks, and for all unlicensed staff members, application of the criminal background check requirements contained in D.C. Official Code §§ 44-551 *et seq*., Unlicensed Personnel Criminal Background Check;

(d) Evidence, provided at least quarterly, that no individual is excluded from participation in a Federal health care program as listed on the Department of Health and Human Services List of Excluded Individuals/Entities

(http://oig.hhs.gov/fraud/exclusion.asp) or the General Services Administration Excluded Parties List System, or any similar succeeding governmental list;

(e) Evidence of completion of communicable disease testing required by the Department; and

(f) Evidence of a mechanism for ongoing monitoring of excluded party listing status, and staff licensure/certification.

6307.8 Each provider shall establish and adhere to written job descriptions for all positions, including, at a minimum, the role, responsibilities, reporting relationships, and minimum qualifications for each position. The minimum qualifications established for each position shall be appropriate for the scope of responsibility and clinical practice (if any) described for each position.

6307.9 Each provider shall establish and adhere to policies and procedures requiring a periodic evaluation of clinical and administrative staff performance (Performance Review Policy) that requires an assessment of clinical competence (if appropriate), general organizational work requirements, and key functions as described in the job description. The periodic evaluation shall also include an annual individual development plan for each staff member.

6307.10 Each provider shall establish and adhere to a supervision policy to ensure that services are provided according to this chapter and Department policies on supervision and service standards.

6307.11 Each provider shall establish and adhere to a training policy in accordance with § 6318 of this chapter.

6307.12 Personnel policies and procedures shall apply to all staff and volunteers working in a program and shall include:

(a) Requirements for consistent and fair practices in hiring staff, including a statement that a person having had an SUD or not having had an SUD (except for Recovery Coaches) is not the sole factor in denying employment, except that a provider may always decline to employ a person who is currently symptomatic;

(b) A current organizational flowchart reflecting each program position and, where applicable, the relationship to the larger program or provider of which the program is a part;

(c) Written plans for developing, posting, and maintaining files pertaining to work and leave schedules, time logs, and on-call schedules for each functional unit, to ensure adequate coverage during all hours of operation;

(d) A written policy requiring that a designated individual be assigned responsibility for management and oversight of the volunteer program, if volunteers are utilized;

(e) A written policy regarding volunteer recruitment, screening, training, supervision, and dismissal for cause, if volunteers are utilized; and

(f) Provisions through which the program shall make available to staff a copy of the personnel policies and procedures.

6307.13 A program shall develop and implement procedures that prohibit the possession, use, or distribution of controlled substances or alcohol, or any combination of them, by staff during their duty hours, unless medically prescribed and used accordingly. Staff possession, use, or distribution of controlled substances or alcohol, or any combination of them, during off duty hours that affects job performance shall also be prohibited. These policies and procedures shall ensure that the provider:

(a) Provides information about the adverse effects of the non-medical use and abuse of controlled substances and alcohol to all staff;

(b) Initiates disciplinary action for the possession, use, or distribution of controlled substances or alcohol, which occurs during duty hours or which affects job performance; and

(c) Provides information and assistance to any impaired staff member to facilitate his or her recovery.

6307.14 Individual personnel records shall be maintained for each person employed by a provider and shall include, at a minimum, the following:

(a) A current job description for each person, that is revised as needed;

(b) Evidence of a pre-employment physical examination, which shall include a negative result on a tuberculosis test or medical clearance related to a positive result;

(c) Evidence of the education, training, and experience of the individual, and a copy of the current appropriate license, registration, or certification credentials (if any);

(d) Documentation that written personnel policies were distributed to the

employee;

(e) Notices of official tour of duty: day, evening, night, or rotating shifts; payroll information; and disciplinary records;

(f) Documentation that the employee has received all immunizations as recommended by the Center for Disease Control (CDC) for healthcare workers except that individuals who are in a position that involves exposure to blood shall also demonstrate evidence of full immunization against hepatitis B or documentation of refusal; and

(g) Criminal background check as required under § 6307.8 of this chapter.

6307.15 All personnel records shall be maintained during the course of an individual's employment with the program and for three (3) years following the individual's separation from the program.

6308 EMPLOYEE CONDUCT

6308.1 All staff shall adhere to ethical standards of behavior in their relationships with clients as follows:

(a) Staff shall maintain an ethical and professional relationship with clients at all times;

(b) Licensed or certified staff must adhere to their professional codes of conduct, as required by District licensing laws;

(c) Staff shall not enter into dual or conflicting relationships with individuals that might affect professional judgment, therapeutic relationships, or increase the risk of exploitation; and

(d) The provider shall establish written policies and procedures regarding staff relationships with both current and former clients that are consistent with this section.

6308.2 No staff, including licensed professionals and volunteers, shall engage in sexual activities or sexual contact with current clients.

6308.3 No clinical staff including licensed professionals and volunteers shall engage in sexual activities or sexual contact with former clients in accordance with their licensing regulations.

6308.4 No non-clinical staff shall engage in sexual activities or sexual contact with former clients for a period of at least five (5) years after the conclusion of the client’s course of treatment.

6308.5 No staff, including licensed professionals and support personnel, shall engage in sexual activities or sexual contact with clients' relatives or other individuals with whom clients maintain a close personal relationship.

6308.6 No staff, including licensed professionals and support personnel, shall provide services to individuals with whom they have had a prior sexual or other significant relationship.

6308.7 Staff shall only engage in appropriate physical contact with clients and are responsible for setting clear, appropriate, and culturally sensitive boundaries that govern such physical contact.

6308.8 No staff, including licensed professionals and support personnel, shall sexually harass clients. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

6308.9 No provider or employee of a provider shall be a representative payee for any person receiving services from a treatment or recovery program.

6309 QUALITY IMPROVEMENT

6309.1 Each provider shall establish and adhere to policies and procedures governing quality improvement (Quality Improvement Policy).

6309.2 The Quality Improvement Policy shall require the provider to adopt a written quality improvement (QI) plan describing the objectives and scope of its QI program and requiring provider staff, client, and family involvement in the QI program.

6309.3 The Department shall review and approve each provider's QI program at a minimum as part of the certification and recertification process. The QI program shall submit data to the Department, upon request.

6309.4 The QI program shall be operational and shall measure and ensure at least the following:

(a) Easy and timely access and availability of services;

(b) Treatment and prevention of acute and chronic conditions;

(c) Close monitoring of high volume services, clients with high risk conditions, and services for children and youth;

(d) Coordination of care across behavioral health treatment and primary care treatment settings;

(e) Compliance with all certification standards;

(f) Adequacy, appropriateness, and quality of care for clients;

(g) Efficient utilization of resources;

(h) Client and family satisfaction with services;

(i) Quarterly random samplings of client outcomes, including but not limited to biological markers such as drug/alcohol screening results, in a format approved by the Department; and

(j) Any other indicators that are part of the Department QI program for the larger system.

6309.5 When a significant problem or quality of service issue is identified, the program shall notify the Department, act to correct the problem or improve the effectiveness of service delivery, or both, and shall assess corrective or supportive actions through continued monitoring.

6310 FISCAL MANAGEMENT STANDARDS

6310.1 The provider shall have adequate financial resources to deliver all required services. Evidence of adequate financial resources includes but is not limited to:

(a) Documented evidence of adequate resources to operate its programs; or

(b) A minimum line of credit sufficient to support ninety (90) days of operating expenses for programs certified by the Department.

6310.2 A provider shall have fiscal management policies and procedures and keep financial records in accordance with generally accepted accounting principles (GAAP).

6310.3 A provider shall include adequate internal controls for safeguarding or avoiding misuse of client or organizational funds.

6310.4 A provider shall have a uniform budget of expected revenue and expenses as required by the Department. The budget shall:

(a) Categorize revenue by source;

(b) Categorize expenses by type of service;

(c) Estimate costs by unit of service; and

(d) Be reviewed and approved by the provider's governing authority prior to the beginning of the current fiscal year.

6310.5 A program shall have the capacity to determine direct and indirect costs for each type of service provided.

6310.6 If a program charges for services, the written schedule of rates and charges shall be conspicuously posted and available to staff, clients, and the general public.

6310.7 The current schedule of rates and charges shall be approved by the provider's governing authority.

6310.8 A provider shall maintain a reporting mechanism that provides information to its governing body on the fiscal performance of the provider at least quarterly.

6310.9 Fiscal reports shall provide information on the relationship of the budget to actual spending, including revenues and expenses by category and an explanation of the reasons for any substantial variance.

6310.10 The provider's governing body shall review each fiscal report and document recommendations and actions in its official minutes.

6310.11 Each treatment provider shall have an annual audit by a certified public accountant or certified public accounting firm, and the resulting audit report shall be consistent with formats recommended by the American Institute of Certified Public Accountants (AICPA). Each recovery provider shall have an audit by a certified public accountant or certified public accounting firm every three years, and the resulting audit report shall be consistent with formats recommended by the AICPA. A copy of the most recent audit report shall be submitted to the Department within one-hundred-twenty (120) calendar days after the close of the program's fiscal year.

6310.12 Providers shall correct or resolve adverse audit findings.

6310.13 A provider shall have policies and procedures regarding:

(a) Purchase authority, product selection and evaluation, property control and supply, storage, and distribution;

(b) Billing;

(c) Controlling accounts receivable;

(d) Handling cash;

(e) Management of client fund accounts;

(f) Arranging credit; and

(g) Applying discounts and write-offs.

6310.14 All business records pertaining to costs, payments received and made, and services provided to clients shall be maintained for a period of six (6) years or until all audits and ongoing litigations are complete, whichever is longer.

6310.15 All providers must maintain proof of liability insurance coverage, which must include malpractice insurance of at least three million dollars ($3,000,000) aggregate and one million dollars ($1,000,000) per incident and comprehensive general coverage of at least three million dollars ($3,000,000) per incident that covers general liability, vehicular liability, and property damage. The insurance shall include coverage of all personnel, consultants, or volunteers working for the program and shall list the Department as an additional covered entity.

6310.16 If a program handles client funds, financial record keeping shall provide for separate accounting of those client funds.

6310.17 A provider shall ensure that clients employed by the organization are paid in accordance with all applicable laws governing labor and employment.

6310.18 All money earned by a client shall accrue to the sole benefit of that individual and be provided to the client or the client's legal representative upon discharge or sooner.

6311 ADMINISTRATIVE PRACTICE ETHICS

6311.1 All programs shall operate in an ethical manner, including but not limited to complying with the provisions of this section.

6311.2 A program shall not use any advertising that contains false, misleading, or deceptive statements or claims or that contains false or misleading information about fees.

6311.3 A program shall not offer or imply to offer services not authorized on the certification issued by the Department.

6311.4 A program shall not offer or pay any remuneration, directly or indirectly, to encourage a licensed practitioner to refer a client to them.

6311.5 All employees shall be kept informed of policy changes that affect performance of duties.

6311.6 Allegations of ethical violations must be treated as major unusual incidents.

6311.7 Any research must be conducted in accordance with federal law.

6312 PROGRAM POLICIES AND PROCEDURES

6312.1 Each provider must document the following:

(a) Organization and program mission statement, philosophy, purpose, and values;

(b) Organizational structure;

(c) Leadership structure;

(d) Program relationships;

(e) Staffing;

(f) Relationships with parent organizations, affiliated organizations, and organizational partners;

(g) Treatment philosophy and approach;

(h) Services provided;

(i) Characteristics and needs of the population served;

(j) Performance metrics, including intended outcomes and process methods;

(k) Contract services, if any;

(l) Affiliation agreements, if any;

(m) The scope of volunteer activities and rules governing the use of volunteers, if any;

(n) Location of service sites and specific designation of the geographic area to be served; and

(o) Hours and days of operation of each site.

6312.2 Each program shall establish written policies and procedures to ensure each of the following:

(a) Service provision based on the individual needs of the client;

(b) Consideration of special needs of the individual and the program's population of focus;

(c) Placement of clients in the least restrictive setting necessary to address the severity of the individual's presenting illness and circumstances; and

(d) Facilitation of access to other more appropriate services for individuals who do not meet the criteria for admission into a program offered by the provider.

6312.3 Each program shall develop and document policies and procedures subject to review by the Department related to each of the following:

(a) Program admission and exclusion criteria;

(b) Termination of treatment and discharge or transition criteria;

(c) Outreach;

(d) Infection control procedures and use of universal precautions, addressing at least those infections that may be spread through contact with bodily fluids and routine tuberculosis screening for staff;

(e) Volunteer utilization, recruitment, and oversight;

(f) Crisis intervention and medical emergency procedures;

(g) Staff communication;

(h) Safety precautions and procedures for participant volunteers, employees, and others;

(i) Record management procedures in accordance with "Confidentiality of Alcohol and Drug Abuse Patient Records" 42 C.F.R., Part 2, this chapter, and any other District laws and regulations regarding the confidentiality of client records;

(j) The on-site limitations on use of tobacco, alcohol, and other substances;

(k) Clients' rules of conduct and commitment to treatment regimen, including restrictions on carrying weapons and specifics of appropriate behavior while in or around the program;

(l) Clients' rights;

(m) Addressing and investigating major unusual incidents;

(n) Addressing client grievances;

(o) Addressing issues of client non-compliance with established treatment regimen and/or violation of program policies and requirements; and

(p) The purchasing, receipt, storage, distribution, return, and destruction of medication, including accountability for and security of medications located at any of its service site(s) (a Medication Policy).

6312.4 Providers must have the capacity to address the language and special needs of the clients.

6312.5 Gender-specific programs shall ensure that staff of that specific gender are in attendance at all times when clients are present.

6313 EMERGENCY PREPAREDNESS PLAN

6313.1 Each provider shall establish and adhere to a written disaster evacuation and continuity of operations plan in accordance with the Department policy on Disaster Evacuation/Continuity of Operations Plans.

6313.2 A provider shall immediately notify the Department and implement its continuity of operations plan if an imminent health hazard exists because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, gross unsanitary conditions, or other circumstances that may endanger the health, safety, or welfare of its clients.

6314 FACILITIES MANAGEMENT

6314.1 A provider shall establish and maintain a safe environment for its operation, including adhering to the following provisions:

(a) Each provider's service site(s) shall be located and designed to provide adequate and appropriate facilities for private, confidential individual and group counseling sessions;

(b) Each provider's service site(s) shall have appropriate space for group activities and educational programs;

(c) In-office waiting time shall be less than one (1) hour from the scheduled appointment time. Each program shall also demonstrate that it can document the time period for in-office waiting;

(d) Each provider shall comply with applicable provisions of the Americans with Disabilities Act in all business locations;

(e) Each service site shall be located within reasonable walking distance of public transportation;

(f) Providers shall maintain fire safety equipment and establish practices to protect all occupants. This shall include clearly visible fire extinguishers, with a charge, that are inspected annually by a qualified service company or trained staff member; and

(g) Each provider shall annually obtain a written certificate of compliance from the District of Columbia Department of Fire and Emergency Medical Services indicating that all applicable fire and safety code requirements have been satisfied for each facility.

6314.2 Each window that opens shall have a screen.

6314.3 Each rug or carpet in a facility shall be securely fastened to the floor or shall have a non-skid pad.

6314.4 Each hallway, porch, stairway, stairwell, and basement shall be kept free from any obstruction at all times.

6314.5 Each ramp or stairway used by a client shall be equipped with a firmly secured handrail or banister.

6314.6 Each provider shall maintain a clean environment free of infestation and in good physical condition, and each facility shall be appropriately equipped and furnished for the services delivered.

6314.7 Each provider shall properly maintain the outside and yard areas of the premises in a clean and safe condition.

6314.8 Each exterior stairway, landing, and sidewalk used by clients shall be kept free of snow and ice.

6314.9 Each facility shall be located in an area reasonably free from noxious odors, hazardous smoke and fumes, and where interior sounds may be maintained at reasonably comfortable levels.

6314.10 A provider shall take necessary measures to ensure pest control, including:

(a) Refuse shall be stored in covered containers that do not create a nuisance or health hazard; and

(b) Recycling, composting, and garbage disposal shall not create a nuisance, permit transmission of disease, or create a breeding place for insects or rodents.

6314.11 A provider shall ensure that medical waste is stored, collected, transported, and disposed of in accordance with applicable District and Federal laws and guidelines from the CDC.

6314.12 Each provider shall ensure that its facilities have comfortable lighting, proper ventilation, and moisture and temperature control. Rooms shall be dry and the temperature shall be maintained within a normal comfort range, including bedrooms and activity rooms below ground level.

6314.13 Each facility shall have potable water available for each client.

6314.14 No smoking shall be allowed inside a program's facility.

6314.15 Providers' physical design and structure shall be sufficient to accommodate staff, participants, and functions of the program(s), and shall make available the following:

(a) A reception area;

(b) Private areas for individual treatment services;

(c) A private area(s) for group counseling and other group activities;

(d) An area(s) for dining, if applicable; and

(e) Separate bathrooms and/or toilet facilities in accordance with District law where the:

(1) Required path of travel to the bathroom shall not be through another bedroom;

(2) Windows and doors provide privacy; and

(3) Showers and toilets not intended for individual use provide privacy.

6314.16 If activity space is used for purposes not related to the program's mission, the program shall ensure that:

(a) The quality of services are not reduced;

(b) Activity space in use by other programs shall not be counted as part of the

required activity space; and

(c) Client confidentiality is protected, as required by 42 C.F.R. part 2 and other applicable Federal and District laws and regulations.

6314.17 The use of appliances such as televisions, radios, CD players, recorders and other electronic devices shall not interfere with the therapeutic program.

6314.18 Each facility shall maintain an adequately supplied first-aid kit which:

(a) Shall be maintained in a place known and readily accessible to clients and employees; and

(b) Shall be adequate for the number of persons in the facility.

6314.19 Each provider shall post emergency numbers near its telephones for fire, police, and poison control, along with contact information and directions to the nearest hospital.

6314.20 A provider shall have an interim plan addressing safety and continued service delivery during construction.

6314.21 Residential treatment and recovery programs shall comply with all applicable construction codes and housing codes and zoning requirements applicable to the facility, including all Certificate of Occupancy, Basic Business License (BBL) and Construction Permit requirements.

6314.22 Each newly established Residential treatment and recovery program shall provide proof of a satisfactory pre-certification inspection by DCRA for initial certification, dated not more than forty-five (45) days prior to the date of submission to DBH, for District of Columbia Property Maintenance Code (12-G DCMR) and Housing Code (14 DCMR) compliance, including documentation of the inspection date and findings and proof of abatement certified by DCRA of all deficiencies identified during the inspection. This requirement can be met by submission of a Certificate of Occupancy or a BBL dated within the past six (6) months, provided that that applicant can demonstrate that DCRA performed an onsite inspection of the premises.

6314.23 For existing residential treatment and recovery programs that are applying for re-certification, the applicants shall also provide proof of current BBLs.

6314.24 For both initial certification and re-certification, if the facility has had work done requiring a DCRA building permit or other related permits such as plumbing or electrical within the twelve (12) months prior to application for initial certification or re-certification, the applicant shall also submit copies of the DCRA permits and post-work inspection approvals.

6315 MEDICATION STORAGE AND ADMINISTRATION STANDARDS

6315.1 Controlled substances shall be maintained in accordance with applicable District and Federal laws and regulations.

6315.2 An SUD treatment program shall implement written policies and procedures to govern the acquisition, safe storage, prescribing, dispensing, labeling, administration, and the self-administration of medication, including medications clients may bring into the program.

6315.3 A program shall have a record of the prescribing physician's order or approval prior to the administration or self-administration of medication.

6315.4 Any prescribed medication brought into a facility by a client shall not be administered or self-administered until the medication is identified and the attending practitioner's written order or approval is documented in the client record.

6315.5 Oral orders may only be given by the attending practitioner to another practitioner, physician assistant, nurse, or pharmacist. Oral orders shall be noted in the client's record as such and countersigned and dated by the prescribing practitioner within twenty-four (24) hours.

6315.6 All medication, both prescription and over-the-counter, brought into a facility must be packaged and labeled in accordance with District and Federal laws and regulations.

6315.7 Medication, both prescription and over-the-counter, brought into a facility by a client that is not approved by the attending practitioner shall be packaged, sealed, stored, and returned to the client upon discharge.

6315.8 The administration of medications, excluding self-administration, shall be permitted only by licensed individuals pursuant to applicable District laws and regulations.

6315.9 Medications shall be administered only in accordance with the prescribing practitioner's order.

6315.10 Only a licensed nurse, practitioner, or physician assistant shall administer controlled substances or injectable drugs, excluding insulin.

6315.11 Program staff responsible for supervision of the self-administration of medication shall document consultations with a practitioner, pharmacist, registered nurse, or referral to appropriate reference material regarding the action and possible side effects or adverse reactions of each medication under their supervision.

6315.12 As applicable, a program shall provide training to the staff designated to supervise the self-administration of medication. The training shall include but not be limited to the expected action of and adverse reaction to the self-administered medication.

6315.13 Only trained staff shall be responsible for observing the self-administration of medication.

6315.14 A program shall ensure that medication is available to clients as prescribed.

6315.15 A program shall maintain records that track and account for all medication, ensuring the following:

(a) That each client receiving medication shall have a medication administration record, which includes the individual's name, the name of medication, the type of medication (classification), the amount of medication, the dose and frequency of administration/self-administration, and the name of staff who administered or observed the self-administration of the medication;

(b) That documentation shall include omission and refusal of medication administration;

(c) That the medication administration record shall note the amount of medication originally present and the amount remaining;

(d) That documentation of medication administration shall include over-the-counter drugs administered or self-administered; and

(e) That SUD treatment programs administering controlled substances, including but not limited to methadone, shall follow the requirements of applicable Federal and District laws and regulations.

6315.16 An attending practitioner shall be notified immediately of any medication error or adverse reaction. The staff responsible for the medication error shall complete an incident report, and the practitioner’s recommendations and subsequent actions taken by the program shall be documented in the client record.

6315.17 A program shall have written policies and procedures on how medications are obtained and stored.

6315.18 A program shall ensure that all medications, including those that are self-administered, are secured in locked storage areas.

6315.19 The locked medication area shall provide for separation of internal and external medications.

6315.20 A program shall maintain a list of personnel who have access to the locked medication area and, where applicable, are qualified to administer medication.

6315.21 A program shall comply with all District and Federal laws concerning the acquisition and storage of pharmaceuticals.

6315.22 Each client's medication shall be properly labeled as required by District and Federal laws and regulations, shall be stored in its original container, and shall not be transferred to another container or taken by persons other than the person for whom it was originally prescribed.

6315.23 Medications requiring refrigeration shall be maintained in a separate and secure refrigerator, labeled "FOR MEDICATION ONLY" and shall be maintained at a temperature between thirty-six degrees Fahrenheit (36°F) and forty-six degrees Fahrenheit (46°F). All refrigerators shall have thermometers, which are easily readable, in proper working condition, and accurate within a range of plus or minus two (2) degrees.

6315.24 A program shall conspicuously post in the drug storage area the following information:

(a) Telephone numbers for the regional Poison Control Center;

(b) Antidote charts; and

(c) Metric-apothecaries weight and conversion measure charts.

6315.25 A program shall conduct monthly inspections of all drug storage areas to ensure that medications are stored in compliance with District and Federal regulations. The program shall maintain records of these inspections for verification.

6315.26 Where applicable, the program shall implement written policies and procedures for the control of stock pharmaceuticals.

6315.27 The receipt and disposition of stock pharmaceuticals must be accurately documented as follows:

(a) Invoices from companies or pharmacies shall be maintained to document the receipt of stock pharmaceuticals;

(b) A log shall be maintained for each stock pharmaceutical that documents receipt and disposition; and

(c) At least quarterly, each stock pharmaceutical shall be reconciled as to the amount received and the amount dispensed.

6315.28 A program shall implement written procedures and policies for the disposal of medication.

6315.29 Any medication left by the client at discharge shall be destroyed within forty (40) calendar days after the client has been discharged, with the exception of Methadone and other controlled substances which must be returned to the point of issue or destroyed in accordance with federal regulations.

6315.30 The disposal of all medications shall be witnessed and documented by two (2) staff members.

6316 VEHICLE ENVIRONMENTAL AND SAFETY STANDARDS

6316.1 A provider shall implement measures to ensure the safe operation of its transportation service, if applicable. These measures shall include, but are not limited to:

(a) Automobile insurance with adequate liability coverage;

(b) Regular inspection and maintenance of vehicles, as required by law;

(c) Adequate first aid supplies and fire suppression equipment secured in the vehicles;

(d) Training of vehicle operators in emergency procedures and in the handling of accidents and road emergencies; and

(e) Verification to ensure that vehicles are operated by properly licensed drivers with driving records that are absent of serious moving violations, including but not limited to "Driving under the Influence" (DUI).

6317 FOOD AND NUTRITION STANDARDS

6317.1 The provisions of this section apply to any provider that prepares or serves food.

6317.2 All programs that prepare food shall have a current Certified Food Protection Manager (CFPM) certification from the Department of Health, and the CFPM must be present whenever food is prepared and served.

6317.3 The provider shall require each CFPM to monitor any staff members who are not certified as CFPMs in the storage, handling, and serving of food and in the cleaning and care of equipment used in food preparation in order to maintain sanitary conditions at all times.

6317.4 The kitchen, dining, and food storage areas shall be kept clean, orderly, and protected from contamination.

6317.5 A program providing meals shall maintain a fully equipped and supplied code-compliant kitchen area unless meals are catered by an organization licensed by the District to serve food.

6317.6 A program may share kitchen space with other programs if the accommodations are adequate to perform required meal preparation for all programs using the kitchen.

6317.7 Each food and drink item procured, stored, prepared, or served by the facility shall be clean, free from spoilage, prepared in a manner that is safe for human consumption, and protected from contamination.

6317.8 Dishes, cooking utensils, and eating utensils shall be cleaned after each meal and stored to maintain their sanitary condition.

6317.9 Hot and cold water, soap, and disposable towels shall be provided for hand washing in or adjacent to food preparation areas.

6317.10 Each facility shall maintain adequate dishes, utensils, and cookware in good condition and in sufficient quantity for the facility.

6318 PERSONNEL TRAINING STANDARDS

6318.1 SUD provider staff shall have annual training that meets the Occupational Safety & Health Administration (OSHA) regulations that govern behavioral health facilities and any other applicable infection control guidelines, including information on the use of universal precautions and on reducing exposure to hepatitis, tuberculosis, and HIV/AIDS.

6318.2 A treatment program shall have at least two (2) staff persons, trained and certified by a nationally recognized authority that meets OSHA guidelines for basic first aid and cardiopulmonary resuscitation (CPR), present at all times during the hours of operation of the program. An SUD recovery program shall have at least one (1) staff person trained and certified by a recognized authority that meets OSHA guidelines in basic first aid and cardiopulmonary resuscitation (CPR) present at all times during the hours of operation of the program.

6318.3 A program shall maintain and implement a written plan for staff development (staff development plan) approved by the Department, revised annually, which includes:

(a) Staff orientation, in-service training, and continuing education to include

current methods of substance use disorder training;

(b) Methods to assess the plan's effectiveness;

(c) Training in concepts of quality improvement and outcomes;

(d) Training in trauma-related issues; and

(e) Other training requirements mandated by the Department.

6318.4 Within thirty (30) calendar days of employment, a program shall provide and document orientation for all staff and volunteers who have direct contact with clients. Orientation shall include but not be limited to:

(a) The program's approach to addressing treatment or recovery services (as appropriate to its certification), including philosophy, goals and methods;

(b) The staff member's specific job description and role in relationship to other staff;

(c) The emergency preparedness plan and all safety-related policies and procedures;

(d) The employee's rights and responsibilities;

(e) The personnel policies and procedures;

(f) The proper documentation of services in individual client records, as applicable;

(g) Policies and procedures governing infection control, protection against exposure to communicable diseases, and the use of universal precautions;

(h) Laws and policies governing confidentiality of client information and release of information, including 42 C.F.R. part 2;

(i) Laws and policies governing reporting abuse and neglect; and

(j) Client rights.

6318.5 Each program shall ensure that all staff members have completed basic training about HIV/AIDS within ninety (90) calendar days of employment.

6318.6 All training activities shall be documented and the documentation maintained on-site, including: the training topic, name of instructor, date of activity, duration, skills targeted, objective of skill, sign-in sheet, certification continuing education

units (if any), and location.

6319 CLIENT RIGHTS AND PRIVILEGES

6319.1 A program shall protect the following rights and privileges of each client:

(a) Right to be admitted and receive services in accordance with the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Code §§ 2501 *et seq*.);

(b) Right to make choices regarding provider, treatment, medication, and advance directives, when necessary;

(c) Right to receive prompt evaluation, care, and treatment, in accordance with the highest quality standards;

(d) Right to receive services and live in healthy, safe, and clean place;

(e) Right to be evaluated and cared for in the least restrictive and most integrated environment appropriate to an individual's needs;

(f) Right to participate in the treatment planning process, including decisions concerning treatment, care, and other servicers, and to receive a copy of the treatment plan;

(g) Right to have records kept confidential;

(h) Right to privacy;

(i) Right to be treated with respect and dignity in a humane treatment environment;

(j) Right to be safe from harm and from verbal, physical, or psychological abuse;

(k) Right to be free of discrimination;

(l) Right to be paid commensurate wages for work performed in compliance with applicable local or federal requirements;

(m) Right to own personal belongings;

(n) Right to refuse treatment and/or medication;

(o) Right to give, not give, or revoke already-given consent to treatment, supports and/or release of information;

(p) Right to give, not give, or revoke informed, voluntary, written consent to participate in experimentation of the client or a person legally authorized to act on behalf of the client; the right to protection associated with such participation; and the right and opportunity to revoke such consent;

(q) Right to be informed, in advance, of charges for services;

(r) Right to be afforded the same legal rights and responsibilities as any other citizen, unless otherwise stated by law;

(s) Right to request and receive documentation on the performance track record of a program with regard to treatment outcomes and success rates;

(t) Right to provide feedback on services and supports, including evaluation of providers;

(u) Right to assert grievances with respect to infringement of these rights, including the right to have such grievances considered in a fair, timely, and impartial manner;

(v) Right to receive written and oral information on client rights, privileges, program rules, and grievance procedures in a language understandable to the client;

(w) Right to access services that are culturally appropriate, including the use of adaptive equipment, sign language, interpreter, or translation servers, as appropriate; and

(x) Right to vote.

6319.2 As soon as clinically feasible, the limitation of a client's rights shall be terminated and all rights restored.

6319.3 A program shall post conspicuously a statement of client rights, program rules, and grievance procedures. The grievance procedures must inform clients that they may report any violations of their rights to the Department and shall include the telephone numbers of the Department and any other relevant agencies for the purpose of filing complaints.

6319.4 At the time of admission to a program, staff shall explain program rules, client rights, and grievance procedures. Program staff shall document this explanation by including a form, signed by the client and witnessed by the staff person, within the client’s record.

6319.5 A program shall develop and implement written grievance procedures to ensure a

prompt, impartial review of any alleged or apparent incident of violation of rights or confidentiality. The procedures shall be consistent with the principles of due process and shall include but not be limited to:

(a) Reporting the allegation or incident to the Department within twenty-four (24) hours of it coming to the attention of program staff;

(b) The completion of the investigation of any allegation or incident within thirty (30) calendar days;

(c) Providing a copy of the investigation report to the Department within twenty-four (24) hours of completing the investigation of any complaint; and

(d) Cooperating with the Department in completion of any inquiries related to clients' rights conducted by Department staff.

6320 CLIENT RECORDS MANAGEMENT AND CONFIDENTIALITY

6320.1 A program shall create and maintain an organized record for each person receiving service at the agency or its extended service sites.

6320.2 All records must be secured in a manner that provides protection from unauthorized disclosure, access, use, or damage in accordance with both District and Federal law.

6320.3 All client records shall be kept confidential and shall be handled in compliance with "Confidentiality of Alcohol and Drug Abuse Patient Records" 42 C.F.R. part 2, and both Federal and District laws and regulations regarding the confidentiality of client records.

6320.4 Each provider shall have a designated privacy officer responsible for ensuring compliance with privacy requirements.

6320.5 A program shall ensure that all staff and clients, as part of their orientation, are made aware of the privacy requirements.

6320.6 A decision to disclose protected health information (PHI), under any provisions of District or Federal rules that permit such disclosure, shall be made only by the Privacy Officer or his/her designee with appropriately administered consent procedures.

6320.7 A program shall implement policies and procedures for the release of identifying information consistent with Federal and District laws and regulations regarding the confidentiality of client records including "Confidentiality of Alcohol and Drug Abuse Patient Records" 42 C.F.R. part 2, the District of Columbia Mental

Health Information Act, and the Health Insurance Portability and Accountability Act (HIPAA). A provider with a contract with the Department shall ensure its policies and procedures comply with the Department's Privacy Policy.

6320.8 The program director shall designate a staff member to be responsible for the maintenance and administration of records.

6320.9 A program shall arrange and store records according to a uniform system approved by the Department.

6320.10 A program shall maintain records such that they are readily accessible for use and review by authorized staff and other authorized parties.

6320.11 A program shall organize the content of records so that information can be located easily and so that Department surveys and audits can be conducted with reasonable efficiency.

6321 STORAGE AND RETENTION OF CLIENT RECORDS

6321.1 A program shall retain client records (either original or accurate reproductions) until all litigation, adverse audit findings, or both, are resolved. If no such conditions exist, a program shall retain client records for at least seven (7) years after discharge.

6321.2 Records of minors shall be kept for at least seven (7) years after such minor has reached the age of twenty-one (21) years.

6321.3 The provider shall establish a Document Retention Schedule with all medical records retained in accordance with District and Federal law.

6321.4 The client or legal guardian shall be given a written statement concerning client's rights and responsibilities ("Client's Rights Statement") in the program. The client or guardian shall sign the statement attesting to his or her understanding of these rights and responsibilities as explained by the staff person who shall witness the client's signature. This document shall be placed in the client's record.

6321.5 If the records of a program are maintained on computer systems, the database shall:

(a) Have a backup system to safeguard the records in the event of operator or equipment failure, natural disasters, power outages, and other emergency situations;

(b) Identify the name of the person making each entry into the record;

(c) Be secure from inadvertent or unauthorized access to records in

accordance with 42 C.F.R. part 2 "Confidentiality of Alcohol and Drug Abuse Patient Records," and District laws and regulations regarding the confidentiality of client records;

(d) Limit access to providers who are involved in the care of the client and who have permission from the client to access the record; and

(e) Create an electronic trail when data is released.

6321.6 A program shall maintain records that safeguard confidentiality in the following manner:

(a) Records shall be stored with access controlled and limited to authorized staff and authorized agents of the Department;

(b) Written records that are not in use shall be maintained in either a secured room, locked file cabinet, safe, or other similar container;

(c) The program shall implement policies and procedures that govern client access to their own records;

(d) The policies and procedures of a program shall only restrict a client's access to their record or information in the record after an administrative review with clinical justification has been made and documented;

(e) The policies and procedures of a program shall specify that a staff member must be present whenever a client accesses his or her records. If the client disagrees with statements in the record, the client's objections shall be written in the record;

(f) All staff entries into the record shall be clear, complete, accurate, and recorded in a timely fashion;

(g) All entries shall be dated and authenticated by the recorder with full signature and title;

(h) All non-electronic entries shall be typewritten or legibly written in indelible ink that will not deteriorate from photocopying;

(i) Any documentation error shall be marked through with a single line and initialed and dated by the recorder; and

(j) Limited use of symbols and abbreviations shall be pre-approved by the program and accompanied by an explanatory legend.

6321.7 Any records that are retained off-site must be kept in accordance with this

chapter. If an outside vendor is used, the provider must submit the vendor's name, address, and telephone number to the Department.

6322 CLIENT RECORD CONTENTS

6322.1 At a minimum, all client records shall include:

(a) Documentation of the referral and initial screening interview and its findings;

(b) The individual's consent to treatment;

(c) The Client's Rights Statement;

(d) Documentation that the client received:

(1) An orientation to the program's services, rules, confidentiality, and client's rights;

(2) Notice of privacy practices;

(e) Confidentiality forms and releases signed to permit the facility to obtain and/or release information;

(f) Diagnostic interview and assessment record, including any Department-approved screening and assessment tools;

(g) Evaluation of medical needs and, as applicable, medication intake sheets and special diets which shall include:

(1) Documentation of physician's orders for medication and treatment, change of orders, and/or special treatment evaluation; and

(2) For drugs prescribed following admissions, any prescribed drug product by name, dosage, and strength, as well as date(s) medication was administered, discontinued, or changed;

(h) Assessments and individual treatment plans pursuant to the level of care and the client's needs, including recovery plans, if applicable;

(i) Encounter notes, which provide sufficient written documentation to support each therapy, service, activity, or session for which billing is made that, at a minimum, consists of:

(1) The specific service type rendered;

(2) Dated and authenticated entries with their authors identified, that include the duration, and actual time (beginning and ending as well as a.m. or p.m.), during which the services were rendered;

(3) Name, title, and credentials (if applicable) of the person providing the services;

(4) The setting in which the services were rendered;

(5) Confirmation that the services delivered are contained in the client's treatment or recovery plan and are identified in the encounter note; and

(6) A description of each encounter or intervention provided to the client, which is sufficient to document that the service was provided in accordance with this chapter;

(7) The client's response to the intervention; and

(8) Provider's observations.

(j) Documentation of all services provided to the client as well as activities directly related to the individual treatment or recovery plan that are not included in encounter notes;

(k) Documentation of missed appointments and efforts to contact and re-engage the client;

(l) Emergency contact information of individuals to contact in case of a client emergency with appropriate consent to share information;

(m) Documentation of all referrals to other agencies and the outcome of such referrals;

(n) Documentation establishing all attempts to acquire necessary and relevant information from other sources;

(o) Pertinent information reported by the client, family members, or significant others regarding a change in the individual's condition and/or an unusual or unexpected occurrence in the client's life;

(p) Drug test results and incidents of drug use;

(q) Discharge summary and aftercare plan;

(r) Outcomes of care and follow-up data concerning outcomes of care;

(s) Documentation of correspondence with other medical, community providers, social service, and criminal justice entities as it pertains to a client's treatment and/or recovery; and

(t) Documentation of a client's representative payee or legal guardian, as applicable.

6323 RESIDENTIAL TREATMENT AND RECOVERY PROGRAMS

6323.1 The provisions of this section apply only to residential treatment programs and residential recovery support service (environmental stability) programs, as defined by this chapter.

6323.2 If a facility houses residential programs serving more than one gender, living quarters must be separated by gender and access controlled for members of the opposite gender.

6323.3 Each residential provider shall carry the following types of insurance in at least the following amounts for each residential program:

(a) Hazards (fire and extended coverage) or resident personal effects coverage in the amount of at least five hundred dollars ($500) per resident to protect resident belongings, with aggregate coverage of at least $500 multiplied by the number of residents; and

(b) A commercial policy for general liability and professional liability for at least:

(1) Three hundred thousand dollars ($300,000) per occurrence with a six hundred thousand dollar ($600,000) aggregate for one (1) to eight (8) beds; or

(2) Five hundred thousand dollars ($500,000) per occurrence with a one million dollar ($1,000,000) aggregate for nine (9) or more beds; and

(c) Sexual abuse or molestation coverage to protect clients from abuse or molestation by staff or other persons, for at least one hundred thousand dollars ($100,000) per occurrence.

6323.4 Residential facilities' physical design and structure shall be sufficient to accommodate staff, clients, and functions of the program and shall make available an area(s) for indoor social and recreational activities.

6323.5 A program that provides overnight accommodations shall not operate more beds

than the number for which it is authorized by the Department.

6323.6 Other than routine household duties, no client shall be required to perform unpaid work.

6323.7 Upon admission to a residential program, each client shall be provided a copy of the program's house rules.

6323.8 Each residential program shall have house rules consistent with this chapter and that include, at a minimum, rules concerning:

(a) The use of tobacco;

(b) The use of the telephone;

(c) Viewing or listening to television, radio, CDs, DVDs, or other media;

(d) Movement of clients in and out of the facility; and

(e) The prohibition of sexual relations between staff and clients.

6323.9 Each residential program shall be equipped, furnished, and maintained to provide a functional, safe, and comfortable home-like setting.

6323.10 The dining area shall have a sufficient number of tables and chairs to seat all individuals residing in the facility at the same time. Dining chairs shall be sturdy, non-folding, without rollers unless retractable, and designed to minimize tilting.

6323.11 Each residential program shall permit each client to bring reasonable personal possessions, including clothing and personal articles, to the facility unless the provider can demonstrate that it is not practical, feasible, or safe.

6323.12 Each residential facility shall provide clients with access to reasonable individual storage space for private use.

6323.13 Upon each client's discharge from a residential program, the provider shall return to the client, or the client's representative, any personal articles of the client held by the provider for safekeeping. The provider shall also ensure that the client is permitted to take all of his or her personal possessions from the facility. The provider may require the client or client's representative to sign a statement acknowledging receipt of the property. A copy of that receipt shall be placed in the client's record.

6323.14 Each residential program shall maintain a separate and accurate record of all funds that the client or the client's representative or representative payee deposits with the provider for safekeeping. This record shall include the signature of the

client for each withdrawal and the signature of facility staff for each deposit and disbursement made on behalf of a client.

6323.15 Each residential facility shall be equipped with a functioning landline or mobile telephone for use by clients. The telephone numbers shall be provided to residents and to the Department.

6323.16 Staff bedrooms shall be separate from resident bedrooms and all common living areas.

6323.17 Each facility housing a residential program shall have a functioning doorbell or knocker.

6323.18 Each bedroom shall comply with the space and occupancy requirements for habitable rooms in 14 DCMR § 402.

6323.19 The provider shall ensure each client has the following items:

(a) A bed, which shall not be a cot;

(b) A mattress that was new when purchased by the provider, has a manufacturer's tag or label attached to it, and is in good, intact condition with unbroken springs and clean surface fabric;

(c) A bedside table or cabinet and an individual reading lamp with at least a seventy-five (75) watt rate of capacity;

(d) Storage space in a stationary cabinet, chest, or closet that provides at least one (1) cubic foot of space for each client for valuables and personal items;

(e) Sufficient suitable storage space, including a dresser and closet space, for personal clothing, shoes, accessories, and other personal items; and

(f) A waste receptacle and clothes hamper with lid.

6323.20 Each bed shall be placed at least three (3) feet from any other bed and from any uncovered radiator.

6323.21 Each bedroom shall have direct access to a major corridor and at least one (1) window to the outside, unless DCRA, or a successor agency responsible for enforcement of the D.C. Housing Code, has determined that it otherwise meets the lighting and ventilation requirements of the D.C. Housing Code for habitable rooms.

6323.22 Each facility housing a residential program shall provide one or more bathrooms

for clients that are equipped with the following fixtures, properly installed and maintained in good working condition:

(a) Toilet (water closet);

(b) Sink (lavatory); and

(c) Shower or bathtub with shower, including a handheld shower;

(d) Grab bars in showers and bathtubs.

6323.23 Each residential facility shall provide at least one (1) bathroom for each six (6) occupants in compliance with 14 DCMR § 602.

6323.24 Each bathroom shall be adequately equipped with the following:

(a) Toilet paper holder and toilet paper;

(b) Paper towel holder and paper towels or clean hand towels;

(c) Soap;

(d) Mirror;

(e) Adequate lighting;

(f) Waste receptacle;

(g) Floor mat;

(h) Non-skid tub mat or decals; and

(i) Shower curtain or shower door.

6323.25 Each residential provider shall ensure that properly anchored grab bars or handrails are provided near the toilet or other areas of the bathroom, if needed by any resident in the facility.

6323.26 Adequate provision shall be made to ensure each client's privacy and safety in the bathroom.

6323.27 Each residential program shall promote each client's participation and skill development in menu planning, shopping, food storage, and kitchen maintenance, if appropriate.

6323.28 Each residential program shall provide appropriate equipment (including a

washing machine and dryer) and supplies to ensure sufficient clean linen and the proper sanitary washing and handling of linen and clients' personal clothing.

6323.29 Each program shall ensure that every client has at least three (3) washcloths, two (2) towels, two (2) sheet sets that include pillow cases, a bedspread, a pillow, a blanket, and a mattress cover in good and clean condition.

6323.30 Each blanket, bedspread, and mattress cover shall be cleaned regularly, whenever soiled, and before being transferred from one resident to another.

6323.31 Providers shall ensure that clients are allowed access to all scheduled or emergency medical and dental appointments.

6323.32 Providers serving parents and children must take precautions to ensure child safety, including but not limited to protection for windows, outlets, and stairways.

6323.33 Each facility housing a program that provides services for parents with children shall have extra supplies for babies to include diapers and powdered milk.

6323.34 The following provisions apply only to residential treatment programs, as defined by this chapter. These provisions do not apply to residential recovery support services programs (*i.e.*, environmental stability services):

(a) A program that provides overnight accommodations shall ensure that evening and overnight shifts have at least two (2) staff members on duty that are of the same gender as the program participants;

(b) Children and youth under eighteen (18) may not reside at an adult residential treatment facility or visit overnight at a facility not certified to serve parents and children. This information must be included in the house rules;

(c) Each provider shall maintain a current inventory of each client's personal property and shall provide a copy of the inventory, signed by the client and staff, to the client;

(d) Each provider shall take appropriate measures to safeguard and account for personal property brought into the facility by a resident;

(e) Each provider shall provide the client, or the client's representative, with a receipt for any personal articles to be held by the provider for safekeeping that includes and the date it was deposited with the provider and maintain a record of all articles held for safekeeping;

(f) Each residential treatment program shall have a licensed dietitian or nutritionist available, a copy of whose current license shall be maintained

on file, to provide the following services:

(1) Review and approval of menus;

(2) Education for individuals with nutrition deficiencies or special needs;

(3) Coordination with medical personnel, as appropriate; and

(4) A nutritional assessment for each client within three (3) calendar days of admission unless the client has a current assessment or doctor's order for dietary guidelines;

(g) The provider shall provide at least three (3) meals per day and between meal snacks that:

(1) Provide a nourishing, well-balanced diet in accordance with dietary guidelines established by the United States Department of Agriculture;

(2) Are suited to the special needs of each client; and

(3) Are adjusted for seasonal changes, particularly to allow for the use of fresh fruits and vegetables.

(h) The provider shall ensure that menus are written on a weekly basis, that the menus provide for a variety of foods at each meal, and that menus are varied from week to week and adjusted for seasonal changes. Menus shall be posted for the clients' review;

(i) The provider shall ensure that a copy of each weekly menu is retained for a period of six (6) months. The menus retained shall include special diets and reflect meals as planned and as actually served, including hand-written notations of any substitutions. The provider shall also retain receipts and invoices for food purchases for six (6) months. The records required to be retained by this subsection are subject to review by the Department;

(j) Each meal shall be scheduled so that the maximum interval between each meal is no more than six (6) hours, with no more than fourteen (14) hours between a substantial evening meal and breakfast the following day;

(k) If a client refuses food or misses a scheduled meal, appropriate food substitutions of comparable nutritional value shall be offered;

(l) If a client will be away from the program during mealtime for necessary

medical care, work, or other scheduled appointments, program shall provide an appropriate meal and in-between-meal snack for the client to carry with him or her and shall ensure that the meal is nutritious as required by these rules and suited to the special needs of the client;

(m) Each piece of bed linen, towel, and washcloth shall be changed and cleaned as often as necessary to maintain cleanliness, provided that all towels and bed linen shall be changed at least once each week;

(n) No person who is not a client, staff member, or child of a client (only in the case of programs for parents and children) may reside at a facility that houses a residential treatment program;

(o) A residential treatment program providing meals shall implement a written Nutritional Standards Policy that outlines their procedures to meet the dietary needs of its clients, ensuring access to nourishing, well-balanced, and healthy meals. The policy shall identify the methods and parties responsible for food procurement, storage, inventory, and preparation;

(p) The Nutritional Standards Policy shall include procedures for individuals unable to have a regular diet as follows:

(1) Providing clinical diets for medical reasons, when necessary;

(2) Recording clinical diets in the client's record;

(3) Providing special diets for clients' religious needs; and

(4) Maintaining menus of special diets or a written plan stating how special diets will be developed or obtained when needed.

(q) A residential treatment program shall make reasonable efforts to prepare meals that consider the cultural background and personal preferences of the clients;

(r) Meals shall be served in a pleasant, relaxed dining area that accommodates families and children; and

(s) Under the supervision of a Qualified Practitioner, all Level 3 programs except MMIIWM programs shall:

(1) Provide training in activities of daily living;

(2) Provide therapeutic recreational activities designed to help the client learn ways to use leisure time constructively, develop new personal interests and skills, and increase social adjustment; and

(3) Ensure that staff providing activities listed in subsections (1) and (2) above have a high school degree or a GED and at least twenty (20) hours of in-service training per year regarding issues of substance abuse.

6324 PROGRAMS SERVING PARENTS AND CHILDREN

6324.1 In addition to core requirements and other standards described in this chapter, a program providing SUD treatment services to parents and their children shall comply with the provisions of this section.

6324.2 The provider shall specify in its certification application the age range of the children that will be accepted in the program of parents with children, and ensure that it satisfies all applicable laws and regulations governing care for children including those listed in this section.

6324.3 The Department will include in the program certification a designation as a program serving parents with children, and specify the age range of children that may be accepted when the parents are admitted into the program and ensure that children shall be supervised at all times.

6324.4 Programs shall ensure that parents designate an alternate caretaker who is not in the program to care for the children in case of emergency.

6324.5 Programs serving parents and young children (ages zero [0] to five [5]) shall also serve pregnant women.

6324.6 Programs shall ensure all parents and children are connected to a primary care provider and any other needed specialized medical provider and shall facilitate medical appointments and treatment for parents and children in the program.

6324.7 Programs shall ensure that childcare/daycare is available for children, provided while the parent participates in treatment services either directly or through contractual or other affiliation.

6324.8 A program that directly operates a child development facility shall be licensed in accordance with the District laws and regulations.

6324.9 Programs that serve parents with children shall ensure that school-age children are in regular attendance at a public, independent, private, or parochial school, or in private instruction in accordance with the District law and regulation, and support the parent's engagement with the child's school.

6324.10 Programs that serve parents with children shall ensure that children have access to tutoring programs.

6324.11 Before a parent and child can be admitted to a program serving parents and children, the program shall ensure that it has a copy of the child's immunization records, which must be up to date.

6324.12 Programs that serve parents with children shall record information about the children residing in or attending the program who are not formally admitted for treatment, including but not limited to the following, as applicable:

(a) Individualized education plans (IEPs);

(b) Report cards;

(c) Health records; and

(d) Information linking the child to the course of treatment for the parent, as clinically indicated.

6324.13 Programs shall develop policies and procedures for determining the need to formally admit or refer a child as a discrete client.

6324.14 A program that is also certified to treat children and youth shall establish a separate record for each child when a clinical determination is made to formally admit the child as a discreet client.

6324.15 An individualized treatment plan shall be developed for any child who is formally admitted to the program as a discrete client.

6324.16 The program shall obtain informed consent prior to rendering services.

6324.17 Service delivery and program administration staff shall demonstrate experience and training in addressing the needs of parents and children.

6324.18 All services delivery staff shall receive periodic training regarding therapeutic issues relevant to parents and children. At least two (2) times per year, the program shall provide or arrange training on each of the following topics:

(a) Child development; and

(b) The appropriate care and stimulation of infants, including drug-affected newborn infants.

6324.19 Service delivery staff shall maintain current training in first aid and cardiopulmonary resuscitation for infants and children.

6324.20 Programs shall ensure that an annual medical evaluation is performed for each

parent and child.

6324.21 Programs shall ensure that recommendations by a physician, or licensed APRN, are followed.

6325 PROVIDER REQUIREMENTS FOR MEDICATION ASSISTED TREATMENT

6325.1 In accordance with 42 C.F.R. part 8, Certification of Opioid Treatment Programs, Medication Assisted Treatment (MAT) providers must also be certified by the U.S. Substance Abuse and Mental Health Services Administration (SAMHSA) and accredited by a national accreditation body that has been approved by SAMHSA.

6325.2 SUD treatment programs providing MAT with opioid replacement therapy shall comply with Federal requirements for opioid treatment, as specified in 21 C.F.R. part 291, and shall comply with District and Federal regulations for maintaining controlled substances as specified in Chapter 10, Title 22 of the District of Columbia Municipal Regulations and 21 C.F.R. part 1300, respectively.

6325.3 Each MAT program, whether providing inpatient or outpatient services, shall submit applications to the Department and to the U.S. Food and Drug Administration (FDA), respectively, and shall require the approval of both agencies prior to its initial operation.

6325.4 MAT programs shall submit to the Department photocopies of all applications, reports, and notifications required by Federal laws and regulations.

6325.5 MAT programs shall ensure the following:

(a) That access to electronic alarm areas where drug stock is maintained shall be limited to a minimum number of authorized, licensed personnel;

(b) That each employee shall have his or her own individual code to access alarmed stock areas, which shall be erased upon termination;

(c) That all stored drugs (liquid, powder, solid, and reconstituted), including controlled substances, shall be clearly labeled with the following information:

(1) Name of substance;

(2) Strength of substance;

(3) Date of reconstitution or preparation;

(4) Manufacturer and lot number;

(5) Manufacturer's expiration date, if applicable; and

(6) If applicable, reconstituted/prepared drug's expiration date according to the manufacturer's expiration date or one (1) year from the date of reconstitution or preparation, whichever is shorter;

(d) Take-home medications shall be labeled and packaged in accordance with Federal and District laws and regulations and shall include the following information:

(1) Treatment program's name, address, and telephone number;

(2) Physician's name;

(3) Client's name;

(4) Directions for ingestion;

(5) Name of medication;

(6) Dosage in milligrams;

(7) Date issued; and

(8) Cautionary labels, as appropriate.

6325.6 Containers of drugs shall be kept covered and stored in the appropriate locked safe, with access limited by an electronic alarm system that conforms to the U.S. Drug Enforcement Administration (DEA) and District requirements.

6325.7 The Department shall be notified of any theft, suspected theft, or any significant loss of controlled substances, including spillage. Photocopies of DEA forms 106 and 41 shall be submitted to the Department.

6326 LEVELS OF CARE: ASSESSMENT AND IDENTIFICATION

6326.1 All individuals entering SUD treatment must be assessed and assigned to a particular level of care (LOC) in accordance with the Department-approved assessment tool(s) and the ASAM criteria.

6326.2 Each provider is responsible for ensuring that the client receives treatment in accordance with ASAM LOC requirements and this chapter.

6326.3 Prior to transitioning to a new LOC, at a minimum, an Ongoing Assessment must

be performed to ensure that the client is appropriate for the new LOC.

6326.4 The Clinical Care Coordinator is responsible for ensuring appropriate referral, authorization, and transition to new LOCs.

6327 LEVEL OF CARE 1 – AR: ASSESSMENT AND REFERRAL

6327.1 Level of Care 1–AR involves the assessment and referral of a client to a specific LOC for SUD treatment.

6327.2 Level 1-AR providers shall have the ability to provide the following services:

(a) Initial Assessment;

(b) Case Management;

(c) Crisis Intervention;

(d) Brief Assessment; and

(e) Drug Screening.

6327.3 Level 1-AR providers shall ensure appropriate medical staff is on duty to assess clients for acute withdrawal symptoms in addition to medical screenings.

6328 LEVEL OF CARE 1: OUTPATIENT

6328.1 Level 1 Outpatient requires one (1) to eight (8) hours of treatment services per week, in accordance with this §. Level 1 Outpatient is the appropriate LOC for individuals who are assessed as meeting the ASAM criteria for Level 1 and:

(a) Recognize their SUD and are committed to recovery;

(b) Are transitioning from a higher LOC;

(c) Are in the early stages of change and not yet ready to commit to full recovery;

(d) Have a co-occurring condition that is stable; or

(e) Have achieved stability in recovery and can benefit from ongoing monitoring and disease management.

6328.2 Level I Outpatient providers may also be certified in the specialty service of Adolescent-Community Reinforcement Approach (ACRA) in accordance with § 6344 of this chapter for services to youth and young adults with co-occurring

substance use and mental health disorders ages twelve (12) to twenty-one (21) for youth providers and twenty-two (22) to twenty- four (24) for adult providers.

6328.3 Level 1 Outpatient treatment duration varies but generally lasts up to 180 days for an initial authorization; Level 1 treatment can continue long-term in accordance with the treatment plan, for individuals needing long-term disease management.

6328.4 Level 1 Outpatient services are determined by a Comprehensive Assessment, performed in accordance with § 6336 of this chapter.

6328.5 All providers shall comply with the minimum service requirements. Limitations on services identified in this section are applicable to those providers with a Human Care Agreement with the Department.

6328.6 Case Management does not satisfy the minimum service hour requirements. Case Management shall be provided as clinically appropriate, in accordance with the client's treatment plan, and in accordance with § 6328.7 of this chapter.

6328.7 Level 1 Outpatient shall include the following mix of services in accordance with the client's treatment plan and this chapter (unless the client is receiving ACRA services in which case SUD Counseling, Case Management and Clinical Care Coordination shall be provided in accordance with § 6344):

(a) Assessment/Diagnostic and Treatment Planning in accordance with § 6336 of this chapter:

(1) Comprehensive Assessment: Required if this is the individual's first LOC in a single course of treatment; optional for a new provider if the client has been transferred from another LOC;

(2) Ongoing Assessment: Required within seven (7) calendar days of admission if no comprehensive was performed at intake into Level 1, cannot be billed more than twice within a sixty (60)-day period, cannot occur on the same day as a comprehensive assessment and an ongoing assessment with a corresponding treatment plan update must occur prior to a planned discharge from the LOC;

(3) Brief Assessment: Cannot exceed six (6) occurrences within the period of time that the individual is in Level 1.

(b) SUD Counseling (in accordance with § 6340 of this chapter): A clinically appropriate combination of Individual, Family, Group Counseling, and Group Counseling-Psychoeducation, not to exceed thirty-two (32) units (8 hours) per week. Level 1 requires a minimum of eight (8) units (2 hours) of individual counseling and eight (8) units (2 hours) of (non-psychoeducation) Group Counseling per month.

(c) Clinical Care Coordination (CCC) (in accordance with § 6337 of this chapter): Cannot exceed 192 units (48 hours) during this LOC in a single course of treatment. The Clinical Care Coordinator is responsible for establishing the frequency of the ongoing assessments and must ensure the treatment plan is updated a minimum of every ninety (90) days.

(d) Case Management (in accordance with § 6338 of this chapter): A minimum of four (4) units (1 hour) of Case Management-HIV is required for the duration of the LOC; a minimum of four (4) units (1 hour) of Case Management per month is required during the first six (6) months of the LOC in a single course of treatment; for those individuals in long-term Level 1, after the first year a minimum of eight (8) units (2 hours) annually is required.

(e) Drug Screening (in accordance with § 6341 of this chapter): Required at admission and as clinically indicated throughout the course of treatment.

(f) Crisis Intervention: As required and in accordance with § 6339 of this chapter.

6328.8 Level 1 providers may provide Medication Assisted Treatment (MAT) per § 6343 of this chapter, if so certified.

6329 LEVEL OF CARE 2.1: INTENSIVE OUTPATIENT PROGRAM (IOP)

6329.1 Level 2.1 Intensive Outpatient Program (IOP) shall provide nine (9) to nineteen (19) hours of treatment services per week for adults and six (6) to nineteen (19) hours of treatment services per week for youth. IOP is the appropriate level of care for individuals who are assessed as meeting the ASAM criteria for Level 2.1 and:

(a) Recognize their SUD and are committed to recovery;

(b) Are transitioning from a different LOC; and

(c) Have stable medical or psychiatric co-occurring conditions.

6329.2 Level 2.1 IOP treatment duration varies from thirty (30) to sixty (60) days.

6329.3 All providers shall comply with the minimum service requirements; any limitations on services are applicable to those providers with a Human Care Agreement with the Department.

6329.4 Case Management does not satisfy the minimum service hour requirements. Case Management shall be provided as clinically appropriate, in accordance with the

client's treatment plan, and in accordance with Subsection 6329.5 of this chapter.

6329.5 Level 2.1 IOP includes the following mix of core services, as indicated on the treatment plan and this chapter:

(a) Assessment/Diagnostic and Treatment Planning (§ 6336):

(1) Comprehensive Assessment: Required if this is the individual's first LOC in a single course of treatment; optional for a new provider if the client has been transferred from another LOC;

(2) Ongoing Assessment: Required within seven (7) calendar days of admission if no comprehensive was performed at intake into Level 2.1. Cannot be billed more than twice within a sixty (60)-day period and cannot occur on the same day as a comprehensive assessment. An ongoing assessment with a corresponding treatment plan update must occur prior to a planned discharge from the LOC;

(3) Brief Assessment: Cannot exceed four (4) occurrences within the period of time that the individual is in Level 2.1.

(b) SUD Counseling (in accordance with § 6340 of this chapter): A clinically appropriate combination of Individual, Family, and Group Counseling, including Group Counseling-Psychoeducation. Level 2.1 shall have a minimum of sixteen (16) units (4 hours) per week of SUD counseling. At least four (4) units (1 hour) must be Individual Counseling and no more than eight (8) units (2 hours) may be Group counseling-Psychoeducation.

(c) Clinical Care Coordination (CCC) (in accordance with § 6337 of this chapter): A minimum of four (4) units (1 hour) per week. The Clinical Care Coordinator is responsible for establishing the frequency of the ongoing assessments and updates to the treatment plan.

(d) Case Management (in accordance with § 6338 of this chapter): A minimum of four (4) units (1 hour) of Case Management-HIV is required for the duration of the LOC; a minimum of 4 units (1 hour) of Case Management per week, if indicated on the treatment plan.

(e) Drug Screening (in accordance with § 6341 of this chapter): Required at admission and as clinically indicated throughout the course of treatment.

(f) Crisis Intervention: As required and in accordance with § 6339 of this chapter.

6329.6 Level 2.1 providers may provide Medication Assisted Treatment (MAT) per § 6343

of this chapter, if so certified.

6330 LEVEL OF CARE 2.5: DAY TREATMENT

6330.1 Level 2.5 Day Treatment shall provide twenty (20) or more hours of treatment services per week. Day Treatment providers must also be certified as a mental health provider by the Department or have a psychiatrist on staff. Day Treatment is the appropriate LOC for individuals who are assessed as meeting the ASAM criteria for Level 2.5 and:

(a) Have unstable medical or psychiatric co-occurring conditions; and

(b) Have issues that require daily management or monitoring but can be addressed on an outpatient basis.

6330.2 Level 2.5 Day Treatment generally lasts thirty (30) to sixty (60) days.

6330.3 All providers shall comply with the minimum service requirements. Limitations on services are applicable to those providers with a Human Care Agreement with the Department.

6330.4 Case Management does not satisfy the minimum service hour requirements. Case Management shall be provided as clinically appropriate, in accordance with the client's treatment plan, and in accordance with § 6330.5 of this chapter.

6330.5 Level 2.5 Day Treatment includes the following mix of core services as indicated on the treatment plan and in accordance with this chapter:

(a) Assessment/Diagnostic and Treatment Planning (in accordance with § 6336 of this chapter):

(1) Comprehensive Assessment: Required if this is the individual's first LOC in a single course of treatment; optional if the client has been transferred from another LOC;

(2) Ongoing Assessment: Required within seven (7) days of admission if no comprehensive was performed at intake into Level 2.5. Cannot be billed more than twice within a sixty (60)-day period and cannot occur on the same day as a comprehensive assessment. An ongoing assessment with a corresponding treatment plan update must occur prior to a planned discharge from the LOC;

(3) Brief Assessment: Cannot exceed four (4) occurrences within the period of time that the individual in in Level 2.5.

(b) SUD Counseling (in accordance with § 6340 of this chapter): A minimum

of forty (40) units (10 hours) per week is required unless the Clinical Care Coordinator documents justification for less counseling each week. Of the forty (40) units per week, a minimum of six (6) units (1 ½ hours) must be Individual Counseling and a maximum of twenty (20) units (5 hours) may be for Group Counseling-Psychoeducation.

(c) Clinical Care Coordination (CCC) (in accordance with § 6337 of this chapter): The Clinical Care Coordinator is responsible for establishing the frequency of the ongoing assessments and updates to the treatment plan. CCC shall be provided as clinically appropriate, with a minimum of four (4) units (1 hour) per week.

(d) Case Management (in accordance with § 6338 of this chapter): A minimum of four (4) units (1 hour) of Case Management-HIV is required for the duration of the LOC; a minimum of eight (8) units (2 hours) of Case Management per week is required unless the Clinical Care Coordinator documents justification for a lesser amount.

(e) Drug Screening (in accordance with § 6341 of this chapter): Required at admission and as clinically indicated throughout the course of treatment.

(f) Crisis Intervention: As required and in accordance with § 6339 of this chapter.

6330.6 Level 2.5 providers may provide Medication Assisted Treatment (MAT) per § 6343 of this chapter, if so certified.

6331 LEVEL OF CARE 3.1: CLINICALLY MANAGED LOW-INTENSITY RESIDENTIAL

6331.1 Level 3.1 Clinically Managed Low-Intensity Residential is a residential program that shall provide a minimum of five (5) hours of treatment services per week for a period of up to ninety (90) days. Level 3.1 Clinically Managed Low-Intensity Residential is the appropriate level of care for individuals who are assessed as meeting the ASAM criteria for Level 3.1 and:

(a) Are employed, in school, in pre-vocational programs, actively seeking employment, or involved in structured day program;

(b) Recognize their SUD and are committed to recovery or are in the early stages of change and not yet ready to commit to full recovery but need a stable supportive living environment to support their treatment or recovery; and

(c) May have a stable co-occurring physical or mental illness.

6331.2 Level 3.1 Clinically Managed Low-Intensity Residential generally lasts ninety (90) days.

6331.3 All providers shall comply with the minimum service requirements. Limitations on services are applicable to those providers with a Human Care Agreement with the Department.

6331.4 Case Management does not satisfy the minimum service hour requirements. Case Management shall be provided as clinically appropriate, in accordance with the client's treatment plan, and in accordance with § 6331.5 of this chapter.

6331.5 Level 3.1 Clinically Managed Low-Intensity Residential includes the following mix of core services, as indicated on the treatment plan and in accordance with this chapter:

(a) Assessment/Diagnostic and Treatment Planning in accordance with § 6336 of this chapter:

(1) Comprehensive Assessment: Required if this is the individual's first LOC in a single course of treatment; optional if the client has been transferred from another LOC);

(2) Ongoing Assessment: Required within seven (7) days of admission if no comprehensive was performed at intake into Level 3.1. Cannot be billed more than twice within a sixty (60)-day period and cannot occur on the same day as a comprehensive assessment. An ongoing assessment with a corresponding treatment plan update must occur prior to a planned discharge from the LOC;

(3) Brief Assessment: Cannot exceed three (3) occurrences within the period of time that the individual is in Level 3.

(b) SUD Counseling (in accordance with § 6340 of this chapter): A minimum of four (4) units (1 hour) a week of Individual SUD Counseling and four (4) units (1 hour) of Group (non-psychoeducation) SUD counseling is required.

(c) Clinical Care Coordination (CCC) (in accordance with § 6337 of this chapter): The Clinical Care Coordinator is responsible for establishing the frequency of the ongoing assessments and updates to the treatment plan. A minimum of four (4) units (1 hour) of CCC is required for every twenty-eight (28) days.

(d) Case Management (in accordance with § 6338 of this chapter): A minimum of four (4) units (1 hour) of Case Management-HIV is required for the duration of the LOC; a minimum of 4 units (1 hour) of Case

Management is required every twenty-eight (28) days unless the Clinical Care Coordinator documents justification for a lesser amount.

(e) Drug Screening (in accordance with § 6341 of this chapter): Required at admission and as clinically indicated throughout the course of treatment.

(f) Crisis Intervention: As required and in accordance with § 6339 of this chapter.

(g) Medication Management: As required and in accordance with § 6342 of this chapter.

6331.6 Level 3.1 providers may provide Medication Assisted Treatment (MAT) per § 6343 of this chapter, if so certified.

6332 LEVEL OF CARE 3.3: CLINICALLY MANAGED POPULATION-SPECIFIC HIGH-INTENSITY RESIDENTIAL

6332.1 Level 3.3 Clinically Managed Population-Specific High-Intensity Residential shall provide no less than twenty (20) hours of treatment per week for a period of up to ninety (90) days. Level 3.3 providers must also be certified as a mental health provider by the Department or have a psychiatrist on staff. Level 3.3 Clinically Managed Population-Specific High-Intensity Residential is the appropriate LOC for individuals who are assessed as meeting the ASAM criteria for Level 3.3, need a stable supportive living environment to support their treatment or recovery and:

(a) Have co-occurring or other issues that have led to temporary or permanent cognitive impairments and would benefit from slower-paced repetitive treatment; or

(b) Have unstable medical or psychiatric co-occurring conditions.

6332.2 Level 3.3 Clinically Managed Population-Specific High-Intensity Residential generally last up to ninety (90) days.

6332.3 All providers shall comply with minimum service requirements. Each client must receive daily treatment services. Limitations on services are applicable to those providers with a Human Care Agreement with the Department.

6332.4 Case Management does not satisfy the minimum service hour requirements. Case Management shall be provided as clinically appropriate, in accordance with the client's treatment plan, and in accordance with § 6332.5 of this chapter.

6332.5 Level 3.3 Clinically Managed Population-Specific High-Intensity Residential includes the following mix of services, as indicated on the treatment plan and in

accordance with this chapter:

(a) Assessment/Diagnostic and Treatment Planning in accordance with § 6336 of this chapter:

(1) Comprehensive Assessment: Required if this is the individual's first LOC in a single course of treatment; optional if the client has been transferred from another LOC;

(2) Ongoing assessment: Required within seven (7) days of admission if no comprehensive was performed at intake into Level 3.3. Cannot be billed more than twice within a 60-day period and cannot occur on the same day as a Comprehensive Assessment. An ongoing assessment with a corresponding treatment plan update must occur prior to a planned discharge from the LOC;

(3) Brief assessment: Cannot exceed three (3) occurrences within the period of time that the individual is in Level 3.

(b) SUD Counseling (in accordance with § 6340 of this chapter): A minimum of six (6) units (1.5 hours) per week of Individual Counseling is required; a maximum of twenty (20) units (5 hours) of Group Counseling-Psychoeducation is allowed.

(c) Clinical Care Coordination (CCC) (in accordance with § 6337 of this chapter): The Clinical Care Coordinator is responsible for establishing the frequency of the ongoing assessments and updates to the treatment plan. A minimum of eight (8) units (2 hours) per week is required.

(d) Case Management (in accordance with § 6338 of this chapter): A minimum of four (4) units (1 hour) of Case Management-HIV is required for the duration of the LOC; a minimum of sixteen (16) units (4 hours) of Case Management is required every twenty-eight (28) days unless the Clinical Care Coordinator documents justification for a lesser amount.

(e) Drug Screening (in accordance with § 6341 of this chapter): Required at admission and as clinically indicated throughout the course of treatment.

(f) Crisis Intervention: As required and in accordance with § 6339 of this chapter.

(g) Medication Management: As required and in accordance with § 6342 of this chapter.

6332.6 Level 3.3 providers may provide Medication Assisted Treatment (MAT) per § 6343 of this chapter, if so certified.

6333 LEVEL OF CARE 3.5: CLINICALLY MANAGED HIGH-INTENSITY RESIDENTIAL (ADULT)/ CLINICALLY MANAGED MEDIUM-INTENSITY RESIDENTIAL (YOUTH)

6333.1 Level 3.5 is a residential program that generally provides twenty-five (25) hours of treatment services per week for a period of up to twenty-eight (28) days. Level 3.5 providers shall provide no less than twenty (20) hours of treatment services per week. Level 3.5 is the appropriate level of care for individuals who are assessed as meeting the ASAM placement criteria for Level 3.5, need a 24-hour supportive treatment environment to initiate or continue their recovery process and:

(a) Have co-occurring or severe social/interpersonal impairments due to substance use; or

(b) Significant interaction with the criminal justice system due to substance use.

6333.2 Level 3.5 generally lasts up to twenty-eight (28) days.

6333.3 All providers shall comply with minimum service requirements. Each client must receive treatment services on a daily basis. Limitations on services are applicable to those providers with a Human Care Agreement with the Department.

6333.4 Case Management does not satisfy the minimum service hour requirements. Case managed shall be provided as clinically appropriate, in accordance with the client’s treatment plan, and in accordance with Subsection 6332.6.

6333.5 Level 3.5 includes the following mix of services, as indicated on the treatment plan and in accordance with this chapter:

(a) Assessment/Diagnostic and Treatment Planning in accordance with § 6336 of this chapter:

(1) Comprehensive Assessment: Required if this is the individual’s first LOC in a single course of treatment; optional if the client has been transferred from another LOC;

(2) Ongoing assessment: Required within seven (7) days of admission if no comprehensive was performed at intake into Level 3.5. Cannot be billed more than twice within a sixty (60)-day period and cannot occur on the same day as a Comprehensive Assessment. An ongoing assessment with a corresponding treatment plan update must occur prior to a planned discharge from the LOC;

(3) Brief assessment: Cannot exceed three (3) occurrences within the period of time the individual is in Level 3.

(b) SUD Counseling (in accordance with § 6340 of this chapter): A minimum of twelve (12) units (3 hours) per week of Individual Counseling is required; a maximum of twenty (20) units (5 hours) of Group Counseling-Psychoeducation is allowed.

(c) Clinical Care Coordination (CCC) (in accordance with § 6337 of this chapter): The Clinical Care Coordinator is responsible for establishing the frequency of the ongoing assessments and updates to the treatment plan. A minimum of twelve (12) units (3 hours) per week is required.

(d) Case Management (in accordance with § 6338 of this chapter): A minimum of four (4) units (1 hour) of Case Management-HIV is required for the duration of the LOC; a minimum of sixteen (16) units (4 hours) of Case Management is required every twenty-eight (28) days unless the Clinical Care Coordinator documents justification for a lesser amount.

(e) Drug Screening (in accordance with § 6341 of this chapter): Required at admission and as clinically indicated throughout the course of treatment.

(f) Crisis Intervention: As required and in accordance with § 6339 of this chapter.

(g) Medication Management: As required and in accordance with § 6342 of this chapter.

6333.6 Level 3.5 providers may provide Medication Assisted Treatment (MAT) per § 6343 of this chapter, if so certified.

6334 LEVEL OF CARE 3.7-WM: MEDICALLY MONITORED INTENSIVE INPATIENT WITHDRAWAL MANAGEMENT (MMIIWM)

6334.1 MMIIWM is 24-hour, medically directed evaluation and withdrawal management service. The service is for clients with sufficiently severe signs and symptoms of withdrawal from psychoactive substances such that medical monitoring and nursing care are necessary but hospitalization is not indicated.

6334.2 Clients discharged from MMIIWM treatment shall be directly admitted into a residential SUD treatment program (Level 3.1 – 3.5) through a “bed-to-bed” transfer unless the Department previously authorized an exception or the client refuses admission to a residential program.

6334.3 MMIIWM shall not exceed five (5) days unless prior authorization for a longer

stay is authorized by the Department. The maximum allowable stay is ten (10) days.

6334.4 MMIIWM shall include the following services in accordance with ASAM guidelines, as clinically appropriate:

(a) Medication Management;

(b) Clinical Care Coordination;

(c) Medication Assisted Treatment;

(d) Crisis Intervention;

(e) Case Management;

(f) SUD Counseling, which may be billed separately; and

(g) Comprehensive Assessment/Diagnostic, which may be billed separately.

6334.5 MMIIWM providers shall have a physician on staff that is able to respond within one (1) hour of notification.

6334.6 MMIIWM providers shall have medical staff (MD, PA, APRN, or RN) on duty twenty four (24) hours per day, seven (7) days per week. Medical staff shall have a client-to-staff ratio of 12-to-1 during daytime operating hours, a 17-to-1 ratio during evening hours, and a 25-to-1 ratio during the night shift.

6335 LEVEL OF CARE-R: RECOVERY SUPPORT SERVICES

6335.1 Level-R Recovery Support Services (RSS) covers the provision of non-clinical services for individuals in treatment or in need of supportive services to maintain their recovery.

6335.2 Level-R Recovery Support Service providers shall provide the following core recovery support services:

(a) Recovery Support Evaluation;

(b) Recovery Support Management;

(c) Recovery Coaching;

(d) Life Skills Support Services;

(e) Education Support Services;

(f) Recovery Social Activities; and

(g) Transportation Services (Public).

6335.3 RSS providers may provide the following specialty services, in accordance with their certification:

(a) Spiritual Support Services; and

(b) Environmental Stability.

6335.4 Level-R Recovery Support Services are for individuals who have an identified need for recovery support services and:

(a) Are actively participating in the Department treatment system;

(b) Have completed treatment; or

(c) Have a self-identified substance use issue that is not assessed as needing active treatment.

6335.5 If a recovery client is assessed as needing active treatment and not currently enrolled in treatment, he or she must be referred to an Assessment and Referral Center for treatment and begin receiving treatment services before enrolling in RSS.

6335.6 The duration of Level-R Recovery Support Services varies but lasts as long as needed, with a reassessment every sixty (60) days according to the client's recovery goals.

6335.7 Level-R Recovery Support Services are determined by a Recovery Support Evaluation, performed in accordance with Section 6344 of this chapter.

6335.8 All providers shall comply with the minimum service requirements. Limitations on services are applicable to those providers with a Human Care Agreement with the Department.

6335.9 RSS may not be provided while a client is in a MMIIWM program.

6335.10 Providers who are certified only as Level-R providers may not provide Level 1 through 3 treatment services.

6335.11 Each recovery program must have a recovery program manager and the recovery program manager is responsible for overseeing all services provided within the recovery program.

6335.12 Each recovery program must have a comprehensive curriculum for its Recovery Support Services that has been approved by the Department.

6336 CORE SERVICE: ASSESSMENT/DIAGNOSTIC AND TREATMENT PLANNING

6336.1 Assessment/Diagnostic and Treatment Planning services include two distinct actions: (1) the assessment and diagnosis of the client and (2) the development of the treatment plan. An Assessment/Diagnostic and Treatment Planning Service may be (1) Initial, (2) Comprehensive, (3) Ongoing, or (4) Brief.

6336.2 The assessment/diagnostic portion of this service includes the evaluation and ongoing collection of relevant information about a client to determine or confirm an SUD diagnosis and the appropriate Level of Care (LOC). The assessment shall serve as the basis for the formation of the treatment plan, which is designed to help the client achieve and sustain recovery. The assessment instrument shall incorporate ASAM client placement criteria.

6336.3 Treatment planning services are required each time an Assessment/Diagnostic and Treatment Planning service is performed. Treatment planning services include the development of a treatment plan or a treatment plan update and necessary referrals.

6336.4 Providers shall use a tool(s) approved by the Department for both the assessment and treatment plan.

6336.5 A treatment plan identifies all services considered medically necessary to address the needs of the client as determined by the assessment. The treatment plan must include:

(a) A substance use disorder diagnosis (and any other diagnoses);

(b) Criteria for discharge from the program based on completion of the established course of treatment, and/or transfer to a less intensive/restrictive level of care;

(c) A list of any agencies currently providing services to the individual and family including the type(s) of service and date(s) of initiation of those services;

(d) A list of client strengths and needs;

(e) Specific individualized treatment and recovery goals and objectives for each client;

(f) The treatment regimen, including specific services and activities that will be used to meet the treatment and recovery goals;

(g) An expected schedule for service delivery, including the expected frequency and duration of each type of planned service encounter;

(h) The name and title of personnel who will provide the services;

(i) The name and title of the client's Clinical Care Coordinator, primary substance abuse counselor, and case manager;

(j) A description of the involvement of family members or significant others, where appropriate;

(k) The identification of specific client responsibilities;

(l) The client's identified ASAM Level of Care (LOC);

(m) For children through age twenty (20), services reasonably calculated to promote the development or maintenance of age-appropriate functioning;

(n) The client or legal guardian's signature on the plan; and

(o) Signatures of all interdisciplinary team members participating in the development of the treatment plan. If the client refuses to sign the treatment plan, the Clinical Care Coordinator shall document the reason(s) in the treatment plan.

6336.6 Initial, Comprehensive, Ongoing, and Brief assessments shall be performed by the following Qualified Practitioners, as evidenced by signature and dates on the assessment document and the treatment plan and in accordance with additional provisions of this section:

(a) Qualified Physicians;

(b) Psychologists;

(c) Licensed Independent Clinical Social Workers ("LICSWs");

(d) Licensed Graduate Social Workers ("LGSWs");

(e) Licensed Professional Counselors ("LPCs");

(f) Licensed Marriage and Family Therapists ("LMFTs");

(g) APRNs;

(h) Certified Addiction Counselors II ("CAC IIs") (may not diagnose); or CAC Is (may not diagnose).

6336.7 An Initial Assessment/Diagnostic and Treatment Planning service (Initial Assessment) is a behavioral health screening and assessment that (1) identifies the individuals need for SUD treatment, (2) determines the appropriate level of care of SUD treatment, and (3) initiates the course of treatment. An Initial Assessment may only be provided by a Department-designated Assessment and Referral Center (ARC), with a Level 1-AR certification. The following provisions apply to an Initial Assessment:

(a) The provider shall use and complete a screening and assessment tool approved by the Department. The screening and assessment should result in identification of the necessary Level of Care (LOC) and an appropriate SUD provider referral, documented in the designated electronic record format.

(b) The provider shall record any medications used by the client;

(c) Staff must have an in-person encounter with the client to conduct the initial assessment;

(d) Providers must obtain and document client's understanding and agreement, evidenced by the client's signature, for consent to treatment, assessment, provider choice, the client bill of rights, and release of information; and

(e) For those providers with a Human Care Agreement with the Department, a maximum of one Initial Assessment may be billed within a thirty (30)-day period.

6336.8 The following provisions apply to the Comprehensive Assessment/Diagnostic and Treatment Planning service (CAT):

(a) When a client enters his or her first LOC within a treatment episode, the provider shall perform a CAT to determine his or her treatment and recovery needs. A CAT consists of a comprehensive assessment and the development of a treatment plan.

(b) A Comprehensive Assessment shall include the use of a Department-approved assessment tool and a detailed diagnostic formulation. The comprehensive assessment will document the client's strengths, resources, mental status, identified problems, current symptoms as outlined in the DSM, and recovery support service needs. The Comprehensive Assessment will also confirm the client's scores on the ASAM criteria and

confirm that the assigned LOC is most applicable to the client's needs. The diagnostic formulation shall include presenting symptoms for the previous twelve (12) months, including mental and physical health symptoms, degree of severity, functional status, and differential diagnosis.

(c) The comprehensive assessment is the basis for the development of the individualized treatment plan as defined in § 6336.5 of this chapter.

(d) A CAT must be performed in-person by an interdisciplinary team consisting of the client, a Certified Addictions Counselor (CAC), and at least one Qualified Practitioner with the license and capability to develop a diagnosis. The client's Clinical Care Coordinator and case manager shall also participate in the interdisciplinary team. A completed treatment plan is required to establish medical necessity.

(e) A CAT must be completed within seven (7) calendar days of admission to a provider. Providers at Level 3.7-WM must complete a Comprehensive Assessment within forty-eight (48) hours, or prior to discharge or transfer to another LOC, whichever comes first.

(f) Within twenty-four (24) hours of admission at a new LOC, during the period prior to the completion of the Comprehensive Assessment, the provider shall review the Department-approved assessment tool used during the client's Initial Assessment to develop an Initial Treatment Plan. This Initial Treatment Plan will validate treatment until the Comprehensive Assessment is completed. A Qualified Practitioner as listed in § 6336.6 shall develop the Initial Treatment Plan. The Initial Treatment Plan is considered part of the Comprehensive Assessment and Treatment Planning service.

(g) A Comprehensive Assessment shall take a minimum of three (3) hours to complete.

(h) A comprehensive assessment shall include client understanding and agreement, documented by the client's signature, for consent to treatment, assessment, provider choice, client bill of rights, and release of information.

(i) For those SUD providers with a Human Care Agreement with the Department, no more than one (1) Comprehensive Assessment shall be billed per LOC, and a Comprehensive Assessment cannot be billed on the same day as an Ongoing Assessment.

6336.9 An Ongoing Assessment occurs at regularly scheduled intervals depending on the LOC. The following provisions apply to ongoing assessments:

(a) An Ongoing Assessment, conducted using a tool(s) approved by the Department, provides a review of the client's strengths, resources, mental status, identified problems, and current symptoms as outlined in the DSM.

(b) An Ongoing Assessment will confirm the appropriateness of the existing diagnosis and revise the diagnosis, as warranted. The Ongoing Assessment will also revise the client's scores on all dimensions of the ASAM criteria, as appropriate, to determine if a change in LOC is needed.

(c) An Ongoing Assessment includes a review and update of the treatment plan to reflect the client's progress, growth, and ongoing areas of need.

(d) The Ongoing Assessment is also used prior to a planned transfer to a different LOC and for discharge from a course of service.

(e) The clinical care coordinator shall determine the frequency of ongoing assessments.

(f) An Ongoing Assessment must be completed in-person with the client by an interdisciplinary team, which includes a CAC and at least one Qualified Practitioner with the license and capability to develop a diagnosis. The client's clinical care coordinator and primary counselor shall participate in the interdisciplinary team.

(g) The Ongoing Assessment shall require a minimum of one (1) hour to complete.

(h) The Ongoing Assessment requires documentation of the assessment tools, updated diagnostic formulation, and the treatment plan update. The diagnostic formulation shall include presenting symptoms since previous assessment (including mental and physical health symptoms), degree of severity, functional status, and differential diagnosis. The treatment plan update shall address current progress toward goals for all problematic areas identified in the assessment and adjust interventions and recovery support services as appropriate.

(i) For providers with a Human Care Agreement with the Department, an Ongoing Assessment cannot be billed on the same day as a Comprehensive Assessment. These providers may bill a maximum of two (2) occurrences per sixty (60) days.

6336.10 A Brief Assessment is a review and documentation of a client's physical and mental status for acute changes that require an immediate response, such as a determination of a need for immediate hospitalization. The following provisions apply to brief assessments:

(a) A Brief Assessment may also be used to incorporate minor updates to a client's diagnosis or treatment plan;

(b) A Brief Assessment requires an in-person evaluation of the client by a Qualified Practitioner;

(c) A single service of "Brief Assessment" requires a minimum of one (1) unit (8-22 minutes);

(d) A Brief Assessment requires documentation of assessment tool(s), updated diagnostic formulation, and treatment plan update. The diagnostic formulation shall include presenting symptoms since previous assessment (including mental and physical health symptoms), degree of severity, functional status, and differential diagnosis. The treatment plan update shall address current progress toward goals for all problematic areas identified in the assessment and adjust interventions and recovery support services as appropriate;

(e) Providers should reassess the appropriateness of a client's LOC if frequent brief assessments are needed; and

(f) For providers with a Human Care Agreement with the Department, a Brief Assessment cannot be billed on the same day as Comprehensive Assessment. For these providers, a Brief Assessment must be billed as a minimum of one (1) unit. In addition, these providers may bill a maximum of three (3) occurrences in Level 3; a maximum of four (4) occurrences in Level 2; and a maximum of six (6) occurrences in Level 1.

6337 CORE SERVICE: CLINICAL CARE COORDINATION

6337.1 Clinical Care Coordination (CCC) is the initial and ongoing process of identifying, planning, coordinating, implementing, monitoring, and evaluating options and services to best meet a client's health needs.

6337.2 The Clinical Care Coordinator is responsible for ensuring that the client is at the appropriate level of care. If the client fails to make progress or has met all of his or her treatment goals, it is the Coordinator's responsibility to ensure timely assessment and transfer to a more appropriate level of care.

6337.3 CCC focuses on linking clients as they transition through the levels of care, ensuring that the treatment plan is formulated with the overarching goal of recovery regardless of the client's current status. The Clinical Care Coordinator is responsible for facilitating specified outcomes through recovery that will restore a client's functional status in the community. The Clinical Care Coordinator has the overall responsibility for the development and implementation of the client's treatment plan.

6337.4 CCC also includes oversight of linkages to off-site services to meet additional needs related to a co-occurring medical and/or psychiatric condition, as documented in the treatment plan.

6337.5 The assigned clinical care coordinator in each case will monitor the compliance with, and effectiveness of, services over the treatment period and make a determination of the frequency of ongoing assessments. A clinical care coordinator shall have no more than forty (40) clients assigned to his or her caseload.

6337.6 The CCC service must be provided by a licensed practitioner under Subsection 6337.7 of this chapter and must address the health and behavioral health of the client. CCC shall not include administrative facilitation of the client's service needs, which is the primary purpose of the Case Management service.

6337.7 The CCC service must be documented in an encounter note that indicates the intended purpose of that particular service, the actions taken, and the result(s) achieved.

6337.8 Qualified Practitioners for CCC are:

(a) Qualified Physicians;

(b) Psychologists;

(c) LICSWs;

(d) LGSWs;

(e) APRNs;

(f) RNs;

(g) LISWs;

(h) LPCs; and

(i) LMFTs.

6337.9 For providers with a Human Care Agreement with the Department, the following restrictions apply to CCC:

(a) CCC may not be billed in conjunction with a staff person's clinical supervision or at the same time as any assessment/diagnostic/treatment planning service;

(b) CCC may not be billed separately for a person in MMIWM;

(c) CCC may only be billed by the client's designated clinical care coordinator; and

(d) A maximum of 128 units of CCC are allowed under Level 3, a maximum of 132 units are allowed under Level 2, a maximum of 192 units are allowed under Level 1, and a maximum of 208 units are allowed under Level-1 with MAT.

6338 CORE SERVICE: CASE MANAGEMENT

6338.1 Case Management facilitates implementation of the treatment plan and administrative facilitation of the client's service needs, including but not limited to scheduling of appointments, assisting in completing applications, facilitating transportation, tracking appointments, and collecting information about the client's progress.

6338.2 Case Management also encompasses the coordination of linkages such as vocational/educational services, housing services, legal monitoring entities (*e.g.* probation), childcare, public assistance, and social services. Case Management also includes training in the development of life skills necessary to achieve and maintain recovery.

6338.3 In addition to the case management activities listed below, Case Management-HIV entails providing access to testing and referrals for HIV and infectious diseases and coordination of services with medical care or specialty services related to an infectious disease (an individual does not need to be diagnosed with an infectious disease to receive this service).

6338.4 All Case Management services must be authorized in the individual's treatment plan.

6338.5 Additional key service functions of Case Management in a treatment program include:

(a) Attending interdisciplinary team meetings for assessment/diagnostic services;

(b) Following up on service delivery by providers external to the treatment program and ensuring communication and coordination of services;

(c) Contacting clients who have unexcused absences from program appointments or from other critical off-site service appointments to re-engage them and promote recovery efforts;

(d) Locating and coordinating services and resources to resolve a client's crisis;

(e) Providing training in the development of life skills necessary to achieve and maintain recovery; and

(f) Participating in discharge planning.

6338.6 Each client shall have a case manager designated in his or her treatment plan; each case manager shall be assigned no more than forty (40) clients.

6338.7 All case managers shall be supervised by a CAC II or a licensed practitioner. At least weekly, the case manager's supervisor shall review and approve encounter notes to indicate compliance with treatment plan. At least monthly, the case manager's supervisor shall provide regular case and chart review and meet in-person with the case manager. Providers with a Human Care Agreement with the Department shall comply with the Department policy on supervision.

6338.8 Case Management shall not be considered a counseling service or activity. An individual performing both SUD Counseling and Case Management as part of his or her normal duties shall maintain records that clearly document separate time spent on each of these functions, such as, work logs, encounter notes, and documentation in the client's record.

6338.9 Case Management services shall be provided by:

(a) A Qualified Practitioner;

(b) An individual with at least a bachelor's degree from an accredited college or university in social work, counseling, psychology, or closely related field; or

(c) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship and the ability to negotiate complex service systems to obtain needed services and resources for individuals.

6339 CORE SERVICE: CRISIS INTERVENTION

6339.1 Crisis Intervention is an immediate short-term treatment intervention, which assists a client to resolve an acute personal crisis that significantly jeopardizes the client's treatment, recovery progress, health, or safety. Crisis Intervention does not necessarily lead to a change in LOC or a change to the treatment plan; however, if a change is needed, this service may be followed by a Brief

Assessment.

6339.2 Crisis Intervention is a service available at all levels of care and can be provided to any individual in treatment, even if the service is not included on the treatment plan.

6339.3 Crisis Intervention services must be documented using an encounter note that explains the crisis and the response.

6339.4 The following Qualified Practitioners may perform this service:

(a) Qualified Physicians;

(b) Psychologists;

(c) LICSWs;

(d) LGSWs;

(e) APRNs;

(f) RNs;

(g) LISWs;

(h) LPCs;

(i) LMFTs; and

(j) CAC Is and CAC IIs.

6339.5 For providers with a Human Care Agreement with the Department, Crisis Intervention shall be billed in increments of fifteen (15)-minute units. The following limits shall apply:

(a) Level 1: 80 Units

(b) Level 1 with MAT: 144 Units

(c) Level 2: 120 Units

(d) Level 3: 160 Units.

6340 CORE SERVICE: SUBSTANCE USE DISORDER COUNSELING

6340.1 SUD Counseling includes Individual, Family, Group, and Group-Psychoeducation

Counseling.

6340.2 For providers with a Human Care Agreement with the Department, counseling shall be billed in increments of fifteen (15)-minute units, and a clinically appropriate combination of Individual, Family, Group, and Group-Psychoeducation counseling is limited to the following (the Department can approve additional units with justification):

(a) Level 1: 32 Units per week;

(b) Level 2: 80 Units per week; and

(c) Level 3: 100 Units per week.

6340.3 Individual Substance Use Disorder Counseling (Individual SUD Counseling or Individual Counseling) is a one-on-one, in-person counseling interaction between a client and an authorized Qualified Practitioner for the purpose of supporting the client's recovery. The aim of Individual SUD Counseling is to improve functioning and cultivate the awareness, skills, and supports to facilitate long-term recovery.

6340.4 Individual SUD Counseling addresses the specific issues identified in the treatment plan. Individual counseling:

(a) Shall be documented in an encounter note;

(b) Shall not be conducted within the same or overlapping time period as Medication Management;

(c) Shall not be considered or used as a Case Management service or activity; and

(d) Shall be performed by one of the following Qualified Practitioners:

(1) Qualified Physicians;

(2) Psychologists;

(3) LICSWs;

(4) LGSWs;

(5) APRNs,

(6) RNs;

(7) LISWs;

(8) LPCs;

(9) LMFTs; or

(10) CAC Is and CAC IIs.

6340.5 Group SUD Counseling (Group Counseling) facilitates disclosure of issues that permit generalization to a larger group; promotes help-seeking and supportive behaviors; encourages productive and positive interpersonal communication; and develops motivation through peer support, structured confrontation, and constructive feedback. The aim of counseling is to cultivate the awareness, skills, and supports to facilitate long-term recovery. Group SUD Counseling helps clients develop appropriate psychosocial, personal, parenting, and family skills needed to facilitate long-term recover. The following provisions apply to Group SUD Counseling:

(a) Group SUD Counseling addresses the specific issues identified in the treatment plan;

(b) The focus of the group SUD counseling session shall be driven by the participant;

(c) A maximum of twelve (12) individuals may participate in a single Group SUD Counseling session;

(d) Group SUD Counseling shall not be billed during recreational activities; and

(e) Group SUD Counseling shall be performed by the following Qualified Practitioners:

(1) Qualified Physicians;

(2) Psychologists;

(3) LICSWs;

(4) LGSWs;

(5) APRNs;

(6) RNs;

(7) LISWs;

(8) LPCs;

(9) LMFTs; or

(10) CAC Is and CAC IIs.

6340.6 Group SUD Counseling-Psychoeducation promotes help-seeking and supportive behaviors by working in partnership with clients to impart current information and facilitate group discussion through lecture, audio-visual presentations, handouts, etc. to assist with developing coping skills that support recovery and encourage problem-solving strategies for managing issues posed by SUDs. This service should also address HIV, STDs, and other infectious diseases; clients are not required to have one of these diseases to receive this education. Group Counseling-Psychoeducation requires the following:

(a) The subject of the counseling must be relevant to the client's needs as identified in his or her treatment plan;

(b) This service must include facilitated group discussion of the relevant topic or topics;

(c) An encounter note for each participant shall be completed, which documents the individual's response to the group;

(d) A maximum of thirty (30) clients may participate in a single session; and

(e) Qualified Practitioners authorized to perform the service are:

(1) Qualified Physicians;

(2) Psychologists;

(3) LICSWs;

(4) LGSWs;

(5) APRNs;

(6) RNs;

(7) LISWs;

(8) LPCs;

(9) LMFTs; and

(10) CAC Is and IIs.

6340.7 Family Counseling is a planned, goal-oriented therapeutic interaction between a Qualified Practitioner and the client's family, with or without the client present. The aim of Family Counseling is to improve the individual's functioning with his or her family and cultivate the awareness, skills, and supports to facilitate long-term recovery. Family Counseling must address specific issues identified in the treatment plan. The following provisions apply to Family Counseling:

(a) Family Counseling shall be documented using an encounter note; if the client is not present for the service, the note must explain how the session benefits the client;

(b) A service encounter note documenting Family Counseling shall clearly state the relationship of the participant(s) to the client;

(c) Family Counseling participants other than the client must meet the definition of "family member" in Section 6399; and

(d) Qualified Practitioners authorized to provide Family Counseling must be competent to work with families and must be:

(1) Qualified Physicians;

(2) Psychologists;

(3) LICSWs;

(4) LGSWs;

(5) APRNs;

(6) RNs;

(7) LISWs;

(8) LPCs;

(9) LMFTs; or

(10) CAC Is and IIs.

6341 CORE SERVICE: DRUG SCREENING

6341.1 Drug Screening consists of toxicology sample collection and breathalyzer testing

to determine and detect the use of alcohol and other drugs.

6341.2 Providers reimbursed by the District for Drug Screening must comply with the Department policy on drug screening; those providers not reimbursed by the District must have their own drug screening policy.

6341.3 Toxicology sample collection involves the collection of biological specimens for drug analysis. The following provisions apply to toxicology sample collection:

(a) The handling of biological specimens requires a chain of custody in accordance with District guidelines from the point of collection throughout the analysis process to ensure the integrity of the specimen;

(b) Toxicology sample collection shall be conducted to verify abstinence or use of substances to inform treatment;

(c) Toxicology sample collection shall include an in-person encounter with the client;

(d) Documentation of the toxicology sample collection service requires an encounter note, laboratory request, and recorded laboratory results from an approved laboratory;

(e) Chain of custody for the toxicology specimen must be observed and documented in accordance with District guidelines; and

(f) Individuals collecting the samples must be properly trained to do so.

6341.4 Breathalyzer testing is the collection and documentation of valid breath specimens for alcohol analysis in accordance with Department standards. A Breathalyzer is conducted to test for blood alcohol content to inform treatment for an individual. The following provisions apply to Breathalyzer services:

(a) Breathalyzer testing requires an in-person collection of the sample;

(b) Breathalyzer testing must be documented with an encounter note and recorded results;

(c) The chain of custody must be kept in accordance with District guidelines; and

(d) Individuals collecting the samples must be properly trained to do so.

6342 SPECIALTY SERVICE: MEDICATION MANAGEMENT

6342.1 Medication Management shall include the coordination and evaluation of

medications consumed by clients, monitoring potential side effects, drug interactions, compliance with doses, and efficacy of medications.

6342.2 Medication Management also includes the evaluation of a client's need for Medication Assisted Treatment (MAT), the provision of prescriptions, and ongoing medical monitoring/evaluation related to the use of psychoactive drugs.

6342.3 Medication Management is used to inform treatment and to assist with withdrawal management, as clinically appropriate.

6342.4 All providers certified as MAT or Level 3 providers must be able to provide Medication Management.

6342.5 Medication Management requires in-person interaction with the client and may not be conducted at the same or overlapping times as any other service.

6342.6 The Qualified Practitioner performing the Medication Management service or the clinical care coordinator, if not the same individual, must coordinate with the client's primary care practitioner unless the client's record documents that the client refused to provide consent for the coordination.

6342.7 Documentation of Medication Management services shall include an encounter note and appropriately completed medication fields in the record, if applicable.

6342.8 Medication Management may be provided by the following:

(a) Qualified Physicians;

(b) APRNs;

(c) RNs;

(d) LPNs;

(e) PAs;

(f) LICSWs;

(g) LISWs;

(h) LGSWs;

(i) LPCs; and

(j) CAC Is and IIs, within the scope of their respective licenses.

6342.9 For providers with a Human Care Agreement with the Department, Medication Management shall be billed in increments of fifteen (15)-minute units. No more than ninety-six (96) units may be billed per LOC. Medication Management shall not be billed on the same day as MMIIWM.

6343 SPECIALTY SERVICE: MEDICATION ASSISTED TREATMENT

6343.1 Medication Assisted Treatment (MAT) is the use of pharmacotherapy as long-term treatment for opiate or other forms of dependence. A client who receives MAT must also receive SUD Counseling. Use of this service should be in accordance with ASAM service guidelines and practice guidelines issued by the Department.

6343.2 Individuals appropriate for MAT must have an SUD that is appropriately treated with an MAT in accordance with Federal regulations.

6343.3 MAT providers must ensure that individuals receiving MAT understand and provide written informed consent to the specific medication administered. No person under eighteen (18) years of age may be admitted to MAT unless a parent or legal guardian consents in writing to such treatment.

6343.4 MAT may be administered on an in-office basis or as take-home regimen. Both MAT administrations include the unit of medication and therapeutic guidance. For clients receiving a take-home regimen, therapeutic guidance must include additional guidance related to storage and self-administration.

6343.5 Therapeutic guidance provided during MAT shall include:

(a) Safeguarding medications;

(b) Possible side-effects and interaction with other medications;

(c) Impact of missing doses;

(d) Monitoring for withdrawal symptoms and other adverse reactions; and

(e) Appearance of medication and method of ingestion.

6343.6 For providers with a Human Care Agreement with the Department:

(a) MAT medication is billed on a per-dose basis;

(b) A single fifteen (15)-minute administration session may be billed when an individual is receiving take-home doses in accordance with ASAM criteria and Department policy;

(c) A client can be prescribed a maximum of one dose/unit per day;

(d) An initial and second authorization is for a maximum of ninety (90) days each; subsequent authorizations cannot exceed one hundred and eighty (180) days each; and

(e) The maximum number of MAT services over a twelve (12)-month period is three hundred and sixty five (365) units of medication and up to fifty-two (52) units of administration.

6343.7 Providers shall have medical staff (MD, PA, APRN, or RN) on duty during all clinic hours. A physician shall be available on call during all clinic hours, if not present on site.

6343.8 A member of the medical staff must be available on call twenty-four (24) hours a day, seven (7) days a week.

6343.9 A physician must evaluate the client a minimum of once per month for the first year that a client receives MAT and a minimum of every six (6) months thereafter, in coordination with the treatment plan and as needed.

6343.10 A provider must review the results of a client's physical, which has been completed within the past twelve (12) months, prior to prescribing or renewing a prescription for MAT.

6343.11 Documentation for this service must include medication log updates and an encounter note for each visit, which captures the therapeutic guidance provided.

6343.12 MAT may be provided by the following:

(a) Qualified Physicians;

(b) APRNs;

(c) Physicians Assistants (PAs) (supervised by Qualified Physicians);

(d) RNs; or

(e) LPNs (supervised by an MD, RN, or APRN).

6344 SPECIALTY SERVICE: ADOLESCENT – COMMUNITY REINFORCEMENT APPROACH (ACRA)

6344.1 ACRA is a Level I Outpatient treatment for youth and young adults ages twelve (12) to twenty-four (24) years old with co-occurring mental health and substance use disorders. ACRA services include Counseling, Case Management, and

Clinical Care Coordination when provided in accordance with the requirements of this section and the ACRA evidence-based practice certification model.

6344.2 All providers certified as Level I Outpatient who serve youth up to age twenty-one (21) must also be certified as ACRA providers.

6344.3 The provider must have the following ACRA-certified staff for each ACRA team:

(a) A clinical supervisor, with ACRA clinical supervisor certification, who is also a Master's-level qualified practitioner;

(b) One (1) to four (4) clinicians with ACRA clinician certification who are either Master's-level qualified practitioners or Bachelor's-level qualified practitioners with at least five (5) years' experience working with behaviorally-challenged youth; and

6357.4 ACRA practitioners must comply with the supervision, taping, feedback and coaching requirements of the ACRA certification.

6344.5 A minimum of four units (one hour) of ACRA Counseling services should be provided each week. Additional units of ACRA Case Management and Clinical Care Coordination, and remaining Level 1 services shall be provided as clinically appropriate.

6344.6 ACRA generally lasts up to six (6) months with the first three (3) months of services provided in the office setting and the last three (3) months of service provided in the home or community setting, based on the client's needs and progress.

6344.7 ACRA may be provided by the following qualified practitioners who satisfy the requirements of Subsection 6344.2 above:

(a) Qualified Physicians;

(b) Psychologists;

(c) LICSWs;

(d) LGSWs;

(e) APRNs;

(f) RNs;

(g) LISWs;

(h) LPCs;

(i) LMFTs; or

(j) CAC Is and IIs.

6345 RECOVERY SUPPORT SERVICE: RECOVERY SUPPORT EVALUATION

6345.1 A Recovery Support Evaluation is a process used to evaluate and document a client's individual recovery support service needs, develop a comprehensive individual recovery support plan, and monitor client progress on achievement of goals and objectives every sixty (60) days.

6345.2 The purpose of the Recovery Support Evaluation is to identify domains that require support, using a Department-approved recovery support assessment tool, and to develop a recovery support plan.

6345.3 Recovery Support Evaluation requires an in-person encounter with the client and must be performed by staff trained to use the recovery support assessment tool.

6345.4 Required elements of a Recovery Support Evaluation include the completion of a Department-approved recovery support assessment tool and recovery support plan.

6345.5 Providers must document completion and client signatures for: consents, completion of the recovery support assessment tool and recovery support plan, client bill of rights, and release of information.

6345.6 A maximum of two (2) units of Recovery Support Evaluation are allowed every six (6) months. Additional Recovery Support Evaluations require approval from the Department.

6345.7 The clinical care coordinator is responsible for ensuring coordination if an individual is receiving treatment and recovery services from different providers. An individual receiving treatment and recovery services from different providers may receive the CAT and a separate Recovery Support Evaluation.

6345.8 An individual receiving treatment and recovery services from the same provider shall receive only the CAT and not a separate Recovery Support Evaluation or recovery support plan. The treatment plan developed under the CAT shall include specific recovery goals and identify recovery support services.

6345.9 The following staff may perform this service:

(a) A Qualified Practitioner; or

(b) A Recovery Coach; or

(c) An individual with at least a bachelor's degree from an accredited college or university in social work, counseling, psychology, or closely related field and training or relevant experience in substance use; or

(d) An individual with at least four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationships and the ability to negotiate complex service systems to obtain needed services and resources for individuals.

6346 RECOVERY SUPPORT SERVICE: RECOVERY SUPPORT MANAGEMENT

6346.1 Recovery Support Management assists clients with the implementation of the recovery support plan, including but not limited to:

(a) Scheduling of appointments, assisting in completing applications, facilitating transportation, tracking appointments, and collecting progress report information;

(b) Helping clients access the District service network and other community resources that help sustain recover and coordinating linkages such as vocational/educational services, housing services, judicial entities, childcare, public assistance, and social services.

6436.2 All Recovery Support Management services must be authorized in the individual's recovery support plan or treatment plan (if applicable).

6346.3 Additional key service functions of Recovery Support Management include:

(a) Monitoring service delivery by providers external to the RSS program and ensuring communication and coordination of services;

(b) Contacting individuals who have unexcused absences from program appointments or from other critical off-site service appointments to re-engage the person and promote recovery efforts; and

(c) Locating and coordinating services and resources to resolve a client’s crisis.

6346.4 If the client is also in active treatment, the treatment provider’s staff shall provide these services through Case Management and Clinical Care Coordination.

Recovery Support Management shall not be billed while the client is in active treatment.

6346.5 Each client not in active treatment shall have a designated Recovery Support Manager. One (1) FTE is required for every fifty (50) clients.

6346.6 The recovery support manager's supervisor shall provide regular case and chart review, meet in-person with the case manager, and co-sign chart entries at least monthly to indicate compliance with the recovery support plan.

6346.7 RSS providers with a Human Care Agreement with Department must comply with the Department policy on supervision.

6346.8 An encounter note is required at each provision of Recovery Support Management.

6346.9 SUD Counseling shall not be considered a Recovery Support Management service or activity. An individual performing both SUD Counseling and Recovery Support Management as part of his or her normal duties shall maintain records that clearly document separate time spent on each of these functions, such as, work logs, encounter notes, and documentation in the patients' records.

6346.10 Recovery Support Management services shall be provided by one of the following:

(a) A Qualified Practitioner;

(b) A Recovery Coach;

(c) An individual with a bachelor's degree from an accredited college or university in social work, counseling, psychology, or closely related field; or

(d) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship and the ability to negotiate complex service systems to obtain needed services and resources for individuals.

6347 RECOVERY SUPPORT SERVICE: RECOVERY COACHING

6347.1 Recovery Coaching is provided by a person in recovery from an SUD or another staff member who is familiar with the community's support for persons seeking to live an alcohol- and drug-free life.

6347.2 Recovery Coaching assists clients in reviewing the recovery support plan and

reviewing strategies to achieve the identified goals and support abstinence, and assists the client to overcome barriers that may inhibit their recovery process and develop a network of supportive relationships.

6347.3 Recovery Coaching provides ongoing support to a client in accordance with the recovery support plan.

6347.4 Recovery Coaching requires an in-person or electronic encounter with a client in accordance with 42 C.F.R. part 2, and documentation using an encounter note.

6347.5 Staff eligible to perform this service may be:

(a) A Recovery Coach;

(b) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship and the ability to negotiate complex service systems to obtain needed services and resources for individuals; or

(c) A Qualified Practitioner.

6348 RECOVERY SUPPORT SERVICE: LIFE SKILLS SUPPORT SERVICES

6348.1 Life Skills Support Services help clients develop appropriate psychosocial skills needed to succeed in day-to-day life without the use of alcohol and drugs, including how to plan for and incorporate drug-free social activities into their recovery.

6348.2 The purpose of the Life Skills Support Services is to provide peer-to-peer support in a group setting to promote individual and community change through lived experiences.

6348.3 Life Skills Support Services requires in-person group encounters with clients. A maximum of fifteen (15) clients may participate in a group session.

6348.4 A Life Skills Support Services session must be guided by a curriculum approved by the Department.

6348.5 Life Skills Support Services sessions must be documented using an encounter note.

6348.6 The following staff may perform Life Skills Support Services:

(a) A Recovery Coach;

(b) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship and the ability to negotiate complex service systems to obtain needed services and resources for individuals; or

(c) A Qualified Practitioner.

6349 RECOVERY SUPPORT SERVICE: SPIRITUAL SUPPORT SERVICES

6349.1 Spiritual Support Services shall provide spiritual support, which incorporates faith and religion in the recovery process based on spiritual practices and principles.

6349.2 The purpose of Spiritual Support Services is to provide strategies on how a client can incorporate spirituality into their recovery process.

6349.3 The following provisions apply to Spiritual Support Services:

(a) Provision of the service requires an in-person encounter with the client in a group setting;

(b) Only RSS clients may attend a Spiritual Support Services group session;

(c) The Spiritual Support Services group may not prohibit clients from participation based on spiritual or religious beliefs; and

(d) A maximum of thirty (30) clients may participate in a Spiritual Support Services group.

6349.4 Spiritual Support Services include ongoing support services through persons with lived experiences and similar spiritual beliefs.

6349.5 Spiritual Support Services group sessions must be documented using an encounter note.

6349.6 Staff that performs this service should have a background of study in the spiritual support being provided.

6349.7 The following staff may perform this service:

(a) A Recovery Coach;

(b) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship and the ability to negotiate complex service

systems to obtain needed services and resources for individuals; or

(c) A Qualified Practitioner.

6350 RECOVERY SUPPORT SERVICES: EDUCATION SUPPORT SERVICES

6350.1 Educational Support Services provide individual instruction and tools to expand a client's knowledge in specific recovery topics, including relapse prevention, employment preparation, money management, health and wellness, and family reunification, targeted to improve the client's functioning for substance-free living.

6350.2 The purpose of Education Support Services is to increase the client's ability to sustain long-term recovery.

6350.3 Education Support Services require an in-person encounter with the client.

6350.4 Educational Support Services must be documented using an encounter note.

6350.5 Educational Support Services maybe be provided on an individual or group basis.

6350.6 For individual Educational Support Services, a one-on-one interaction with the client is required.

6350.7 For group Educational Support Services, providers must use a curriculum approved for use in a group setting. Education Support Services groups may serve no more than thirty (30) clients.

6350.8 The following staff may perform this service:

(a) A Recovery Coach; or

(b) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship, and the ability to negotiate complex service systems to obtain needed services and resources for individuals; or

(c) A Qualified Practitioner.

6351 RECOVERY SUPPORT SERVICE: TRANSPORTATION SERVICES (PUBLIC)

6351.1 Transportation Services provide transportation support (Metrobus or Metrorail card) to a client for the purpose of attending RSS and other activities that support the client's recovery.

6351.2 The purpose of the Transportation Services is to provide transportation to help to a client to attend their scheduled appointments.

6351.3 Transportation Services require an in-person encounter to receive the transportation card.

6351.4 Transportation Services must be documented using an encounter note and be signed for by the client receiving the card.

6352 RECOVERY SUPPORT SERVICE: RECOVERY SOCIAL ACTIVITIES

6352.1 Recovery Social Activities provide group drug-free social activities for persons in recovery in order to demonstrate to the client how to maintain their recovery in drug-free environments.

6352.2 Recovery Social Activities require an in-person encounter with the client.

6352.3 Recovery Social Activities require an encounter note describing and documenting the social activity.

6352.4 The following staff may perform this service:

(a) A Recovery Coach;

(b) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship and the ability to negotiate complex service systems to obtain needed services and resources for individuals; or

(c) A Qualified Practitioner.

6353 RECOVERY SUPPORT SERVICE: ENVIRONMENTAL STABILITY

6353.1 The Environmental Stability service provides a structured and stable living environment and recovery support system that includes recovery housing for up to six (6) months. The objective of Environmental Stability is to prepare the client for independent living upon completion of the Environmental Stability Service.

6353.2 Eligible persons for this service must:

(a) Be drug- and alcohol-free (with the exception of prescribed medication) for thirty (30) days prior to admission;

(b) Maintain sobriety throughout the program;

(c) Be in recovery from a diagnosed SUD;

(d) Be employed or in a training program (or both) for a minimum of thirty (30) hours per week or specifically excepted for medical reasons by the Director;

(e) Deposit fifty percent (50%) of net income into the provider's client escrow account for the purposes of post-environmental-stability independent living;

(f) Be enrolled and active in other Department-certified recovery support services; and

(g) Must be prior authorized by the Department.

6353.3 The Environmental Stability provider shall comply with the Department's drug testing policy.

6353.4 Each Environmental Stability facility shall be for a single gender or for single parents with one child.

6353.5 Environmental Stability providers must comply with the applicable of provisions of Section 6323 of this chapter governing residential recovery programs.

6353.6 No Environmental Stability program shall use a name on the exterior of the building or display any logo that distinguishes the facility from any other residence in the neighborhood.

6399 DEFINITIONS

Admission - Entry into the SUD treatment or recovery program after completion of intake, screening, and initial assessment and a determination that§§ an individual is eligible for the program.

Advance Practice Registered Nurse (APRN) - A person who is licensed or authorized to practice as an advanced practice registered nurse pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq*. (2012 Repl. & 2014 Supp.)), and who has particular training and expertise in treating clients with SUD. An APRN is a Qualified Practitioner.

Affiliation Agreement - A legal agreement approved by the Department by and between a provider and another entity that describes how they will work together to benefit clients.

Applicant - A program that has applied to the Department for certification as an SUD treatment or recovery program.

Case Manager - Program staff specially designated to provide Case Management services with or on behalf of a client to maximize the client's adjustment and functioning within the community while achieving sobriety and sustaining recovery. A client's case manager must be designated in his or her treatment plan.

Certification - The process of establishing that standards of care described in this chapter are met; or approval from the Department indicating that an applicant has successfully complied with all requirements for the operation of a substance use disorder treatment or recovery program in the District.

Certified Addiction Counselor (CAC) - A person who is certified to provide SUD counseling services in accordance with District law and regulations. A CAC may be certified as a CAC I or CAC II. A CAC is a Qualified Practitioner.

Child Development Facility - A center, home, or other structure that provides care and other services, supervision, and guidance for children up to fifteen (15) years of age on a regular basis, regardless of its designated name, but does not include a public or private elementary or secondary school engaged in legally required educational and related functions.

Client - A person admitted to an SUD treatment or recovery program who is assessed to need SUD treatment services or recovery services.

Clinical Care Coordinator - A licensed or certified Qualified Practitioner who has the overall responsibility for the development and implementation of the client's treatment plan, is responsible for identification, coordination, and monitoring of non-SUD-treatment clinical services, and is identified in the client's treatment plan.

Clinical Staff - Staff who are licensed, certified, or registered by the District Department of Health, Health Regulation and Licensing Administration (HRLA).

Communicable Disease - Any disease as defined in Title 22-B, § 201 of the District of Columbia Municipal Regulations (DCMR).

Continuity of Care Plan – A plan that provides for the ongoing care of clients in the event that a certified provider is no longer able to provide adequate care. The plan should include provision for the referral and transfer of

clients, as well as for the provision of relevant treatment information, medications, and information to the new provider.

Co-Occurring Disorders - The presence of concurrent diagnoses of substance use disorder and a mental disease or disorder.

Crisis - An event that significantly jeopardizes the client's treatment, recovery progress, health or safety.

Department - The District of Columbia Department of Behavioral Health.

Director - The Director of the District Department of Behavioral Health.

Discharge - The time when a client's active involvement with a program is terminated.

Discharge Planning - Activities with or on behalf of an individual to arrange for appropriate follow-up care to sustain recovery after being discharged from a program, including educating the individual on how to access or reinitiate additional services, as needed.

Discrete Clients - Children accompanied by a parent into a treatment environment that are clinically determined to require admission as a client with their own separate and distinct assessment, treatment plan, course of treatment, and record. Discrete Client does not apply to children who receive services primarily to support a parent's recovery.

District - The District of Columbia.

Drug - Substances that have the likelihood or potential to be misused or abused, including alcohol, prescription drugs, and nicotine.

Facility - Any physical premises which houses one or more SUD treatment or recovery programs.

Family Member - Individual identified by the client as a person with whom the client has a significant relationship and whose participation is important to the client's recovery.

Health Maintenance Organization (HMO) - A private organization which is a qualifying HMO under Federal regulations or has been determined to be an HMO pursuant to rules issued by the D.C. State Health Planning and Development Agency (SHPDA) in accordance with D.C. Official Code §§ 44-401 *et seq*.

Initial Treatment Plan - The treatment plan that is developed in conjunction

with the first (non-comprehensive) diagnostic assessment conducted upon entry to a client's first LOC.

In-service Training - Activities undertaken to achieve or improve employees' competency to perform present jobs or to prepare for other jobs or promotions.

Interdisciplinary Team - Members of the SUD provider staff who provide services to the client. This group shall include the client, the client's CCC, a CAC, the client's case manager, and at least one QP with the license and ability to diagnose.

Licensed Graduate Social Worker (LGSW) – A person licensed as a graduate social worker in accordance with applicable District laws and regulations. An LGSW is a Qualified Practitioner.

Licensed Independent Clinical Social Worker (LICSW) - A person licensed as an independent clinical social worker in accordance with applicable District laws and regulations. An LICSW is a Qualified Practitioner.

Licensed Independent Social Worker (LISW) - A person licensed as a licensed independent social worker in accordance with applicable District laws and regulations. An LISW is a Qualified Practitioner.

Licensed Marriage and Family Therapist (LMFT) – A person licensed as a marriage and family therapist in accordance with applicable District laws and regulations. An LMFT is a Qualified Practitioner.

Licensed Practical Nurse (LPN) - A person licensed as practical nurse in accordance with applicable District laws and regulations.

Licensed Professional Counselor (LPC) - A professional counselor licensed in accordance with applicable District laws and regulations. An LPC is a Qualified Practitioner.

Major Investigations - Refers to the detailed inquiry or systematic examination of deaths related to suicide, unexpected deaths at a facility, death of a child or youth, and any other incident that the Director, DBH or the Deputy Director, OA, determine need a major investigation.

Major Unusual Incidents - Adverse events that can compromise the health, safety, and welfare of persons; employee misconduct; fraud; and actions that are violations of law and policy.

Medicaid - The program described in the District of Columbia State Medicaid Plan, approved by CMS, and administered by the Department of Health

Care (DHCF) to enable the District of Columbia to receive Federal financial assistance for a medical assistance program and other purposes as permitted by law.

Medical Necessity (or Medically Necessary) - Those services contained in an approved treatment plan reasonably calculated to prevent the worsening of, alleviate, correct, cure, or ameliorate an identified substance use disorder. For children through age twenty (20), services reasonably calculated to promote the development or maintenance of age-appropriate functioning are also considered medically necessary.

Medical Waste - Any solid waste that is generated in the diagnosis, treatment, or immunization of human beings or in the testing of biologicals, including but not limited to: soiled or blood-soaked bandages, needles used to give shots or draw blood, and lancets.

Mental Illness - A diagnosable mental, behavioral, or emotional disorder (including those of biological etiology) which substantially impairs the mental health of the person or is of sufficient duration to meet diagnostic criteria specified within the DSM-IV or its ICD-9-CM equivalent (and subsequent revisions) with the exception of DSM-IV "V" codes, substance abuse disorders, mental retardation, and other developmental disorders, or seizure disorders, unless those exceptions co-occur with another diagnosable mental illness.

Notice of Infraction - An action taken by agencies to enforce alleged violations of regulatory provisions.

Opioid - A psychoactive substance in the narcotic class derived from opium, including natural and synthetic compounds. Substances in this class may produce pharmacological effects such as physical withdrawal symptoms when used for non-medicinal purposes.

Outcomes of Care - The results of a course of treatment, including abstinence or reduction of abuse of substances, elimination or reduction of criminal activity, reduction of antisocial activity associated with SUD, reduction in need for medical or mental health services, reduction of need for SUD treatment, increase in pro-social involvement, and increase in productivity and employment.

Outpatient Services - Therapeutic services that are medically or psychologically necessary, provided to a client according to an individualized treatment plan, and do not require the client's admission to a hospital or a non-hospital residential facility. The term "outpatient services" refers to services that may be provided (on an ambulatory basis) in a hospital; a non-hospital residential facility; an outpatient treatment facility; or the

office of a person licensed to provide SUD treatment services.

Outreach - Efforts to inform and facilitate access to a program's services.

Parent - A person who has custody of a child as a natural parent, stepparent, adopted parent, or has been appointed as a guardian for the child by a court of competent jurisdiction.

Postpartum - A period of time for up to twenty-four (24) months after birth of an infant.

Privacy Officer - A person designated by an organization that routinely handles protected health information, to develop, implement, and oversee the organization's compliance with the U.S. Health Insurance Portability and Accountability Act (HIPAA) privacy rules, 42 C.F.R. part 2, and D.C. Mental Health Information Act.

Program - An SUD Treatment or Recovery Program certified by the Department at a specific Level of Care to provide substance use treatment or recovery services.

Program Director - An individual having authority and responsibility for the day-to-day operation of an SUD treatment or recovery program.

Protected Health Information (PHI) - Any written, recorded, electronic (ePHI), or oral information which either (1) identifies, or could be used to identify, a consumer; or (2) relates to the physical or mental health or condition of a consumer, provision of health care to a consumer, or payment for health care provided to a consumer. PHI does not include information in the records listed in 45 C.F.R. § 160.103.

Provider - An entity certified by the Department to provide either SUD treatment or recovery support services or both.

Psychiatrist - A physician licensed in accordance with applicable District laws and regulations who has completed a residency program in psychiatry accredited by the Residency Review Committee for Psychiatry of the Accreditation Council for Graduate Medical Education and is eligible to sit for the psychiatric board examination. A psychiatrist is a Qualified Practitioner.

Psychologist - A person licensed to practice psychology in accordance with applicable District laws and regulations. A psychologist is a Qualified Practitioner.

Qualified Physician - A person who is licensed or authorized to practice

medicine pursuant to the District law and regulations and eligible for a waiver pursuant to the federal Drug Addiction Treatment Act of 2000 or subsequent amendments.

Qualified Practitioner (QP) - Clinical staff authorized to provide treatment and other services. These clinical staff are (i) a qualified physician; (ii) a psychiatrist; (iii) a psychologist; (iv) a licensed independent clinical social worker (LICSW); (v) a licensed graduate social worker (LGSW) (vi) a licensed marriage and family therapist (LMFT); (vii) a physician's assistant (PA); (viii) an advance practice registered nurse (APRN); (ix) a registered nurse (RN); (x) a licensed professional counselor (LPC); (xi) an independent social worker (LISW); and (xii) a certified addiction counselor (CAC).

Recovery Coach - A Recovery Coach is a person that meets the eligibility requirements and provides support to individuals in recovery from an SUD.

Recovery Support Plan - A document developed during a Recovery Support Evaluation that outlines the client's needs, goals, and recovery services to be utilized to achieve those goals.

Recovery Support Services - Non-clinical services provided to a client by a certified RSS provider to assist him or her in achieving or sustaining recovery from an SUD.

Registered Nurse (RN) - A person licensed as a registered nurse in accordance with applicable District laws and regulations. An RN is a Qualified Practitioner.

Representative Payee – An individual or organization appointed by the Social Security Administration to receive Social Security or Supplemental Security Income (SSI) benefits for someone who cannot manage or direct someone else to manage his or her money.

Research - Experiments including new interventions of unknown efficacy applied to clients whether behavioral, psychological, biomedical, or pharmacological.

Residential Program - Any treatment or recovery program which houses clients overnight, including Level III treatment programs and environmental stability programs.

Substance Use Disorder (SUD) - A chronic relapsing disease characterized by a cluster of cognitive, behavioral, and psychological symptoms indicating that the beneficiary continues using a substance despite significant

substance-related problems. A diagnosis of a SUD requires a beneficiary to have had persistent, substance related problem(s) within a twelve (12)-month period.

Treatment - A therapeutic effort to improve a client's cognitive or emotional conditions or the behavior of a client, consistent with generally recognized principles or standards in the SUD treatment field, provided or supervised by a Qualified Practitioner.

Treatment Plan - A document that meets the requirements of Subsection 6335.5 of this chapter and establishes medical necessity for all services identified to address the needs of the client as determined by the assessment.

Withdrawal Management - A program designed to achieve systematic reduction in the degree of physical dependence on alcohol or drugs.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Suzanne Fenzel, Deputy Director, Office of Strategic Planning, Policy and Evaluation, Department of Behavioral Health, at 64 New York Ave., N.E., 2nd Floor, Washington, D.C. 20002, or Suzanne.Fenzel@dc.gov. Copies of the proposed rules may be obtained from www.dbh.dc.gov or from the Department of Behavioral Health at the address above.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2012 Repl. & 2013 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption of a new Section 965 (Optometry Services) of Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The District of Columbia Medicaid program is required to cover certain mandatory benefits, and can choose to provide other optional benefits under federal law. One of these optional benefits is optometry services. Federal law also requires that all Medicaid programs provide services "…sufficient in amount, duration and scope to reasonably achieve their purpose." 42 C.F.R. § 440.230. These rules clarify the coverage and limitations for Medicaid reimbursement of optometry services consistent with the District of Columbia State Plan for Medical Assistance.

The Director also gives notice of 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*.

A new Section 965 of Chapter 9, MEDICAID PROGRAM, of Title 29 DCMR, PUBLIC WELFARE, is adopted as follows:

965 OPTOMETRY SERVICES

965.1 Optometry services related to vision and vision disorders that are obtained for the purpose of diagnosis and treatment, including lenses, frames, other aids to vision, and therapeutic drugs, provided consistent with the requirements set forth in 42 C.F.R. Sections 440.60(a), 440.120(d), and 441.30, shall be eligible for Medicaid reimbursement.

965.2 Medicaid reimbursement of optometry services shall be limited to specific services set forth in this section and any additional optometry services, identified at https://www.dc-medicaid.com, which have received prior authorization by the Department of Health Care Finance (DHCF) or its agent.

965.3 Medicaid reimbursement of eye exams for Medicaid beneficiaries over twenty-one (21) years of age shall be limited in the following manner:

(a) The services shall be medically necessary and required to monitor a chronic condition that could harm a beneficiary's vision; or

(b) The beneficiary has an acute condition that, if left untreated, may cause permanent or chronic damage to the eye.

965.4 Medicaid reimbursement of eye exams for Medicaid beneficiaries from birth through twenty-one (21) years of age shall be based on Early Periodic Screening, Diagnosis, and Treatment program requirements, as set forth in 42 C.F.R. Section 440.40(b).

965.5 Medicaid reimbursement for eyeglasses for Medicaid beneficiaries shall be limited to one (1) complete pair of eyeglasses in a twenty-four (24) month period unless:

(a) The beneficiary is under twenty-one (21) years of age;

(b) The new prescription represents a change of at least +/- 0.50 diopters from the prior prescription;

(c) A prescription represents a change from the prior prescription of at least + 0.75 sphere or – 0.50 sphere, 0.50 cylinder, 1/2 prism diopter vertical, or 3 prism diopter lateral; or

(d) There has been a major change in visual acuity documented by an optometrist licensed pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*), as amended; and the new lenses cannot be accommodated by a beneficiary's existing eyeglasses.

965.6 Medicaid reimbursement for Medicaid beneficiaries under twenty-one (21) years of age shall be limited to one (1) complete pair of eyeglasses in a twelve (12) month period.

965.7 The limitations described at Subsections 965.5 through 965.6 shall apply to new, duplications, and changes in a prescription.

965.8 Medicaid reimbursement for repairs or replacements of eyeglasses, contact lenses, glass lenses, ultraviolet lenses, prosthetic eye, lens that are made of polycarbonate or equal material, any index per lens, tint, and photo chromatic lenses shall require prior authorization from DHCF.

965.9 After receiving written documentation that the repair or replacement is medically necessary and required due to extenuating circumstances beyond a Medicaid beneficiary's control such as fire, theft, or automobile accident, DHCF may provide prior authorization for reimbursement.

965.10 Repairs or replacements of eyeglasses, under Subsection 965.8, shall only be reimbursed if ordered in writing by an optometrist licensed pursuant to the

District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*), as amended.

965.11 Reimbursement of optometry services shall be limited to those services provided by optometrists who are screened and enrolled as a District Medicaid program provider pursuant to Chapter 94 of Title 29 of the District of Columbia Municipal Regulations and who adhere to dispensing procedures in the Vision Billing Manual, published on the Department of Health Care Finance's Provider website at https://www.dc-medicaid.com.

965.99 DEFINITIONS

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

Eyeglasses: Lenses, including frames, contact lenses, and other aids to vision that are prescribed by a physician skilled in diseases of the eye or by an optometrist.

Comments on the proposed rule shall be submitted, in writing, to Claudia Schlosberg, Interim Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, Suite 900S, Washington, D.C. 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rule may be obtained from the above address.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia (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 intent to amend Chapter 95 (Medicaid Eligibility) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR) by adopting a new Section 9510, entitled "Transitional Medicaid".

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 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 proposed rule establishes standards governing TMA eligibility determinations and coverage. Pursuant to the Fiscal Impact Statement, approved by the Office of the Chief Financial Officer on October 20, 2014, the total computed cost of TMA is estimated at $4,444,657 for fiscal years 2015, 2016, 2017, and 2018.

The corresponding amendment to the State Plan requires approval by the Council of the District of Columbia (Council) and the U.S. Department of Health and Human Services, Centers for Medicaid and Medicare Services (CMS). The proposed rule is contingent upon approval of the corresponding State Plan amendment by the Council and by CMS.

The Director also gives notice of the intent to take final rulemaking action to adopt this proposed rule in not less than thirty (30) days from 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.

Comments on these rules should be submitted in writing to Claudia Schlosberg, J.D., Interim Senior Deputy Director/Medicaid Director, Department of Health Care Finance, Government of the District of Columbia, 441 4th Street, NW, Suite 900 South, Washington DC 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these rules are available from the above address.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

FORMAL CASE NO. 945, PHASE II, IN THE MATTER OF THE INVESTIGATION INTO ELECTRIC SERVICE MARKET COMPETITION AND REGULATORY PRACTICES;

AND

RULEMAKING 46-2015-01-E, IN THE MATTER OF THE INVESTIGATION INTO THE PUBLIC SERVICE COMMISSION'S RULES GOVERNING THE LICENSURE AND BONDING OF ELECTRIC SUPPLIERS IN THE DISTRICT OF COLUMBIA

1. The Public Service Commission of the District of Columbia ("Commission"), pursuant to its authority under Sections 34-1501 through 1520 and 34-1671.01 through 1671.14 of the D.C. Code hereby gives notice of the adoption of a new Chapter 46 (Licensure of Electricity Suppliers) of Title 15 (Public Utilities and Cable Television) of the District Code of Municipal Regulations ("DCMR"). Chapter 46 is a new chapter which establishes rules governing the licensure and bonding of Electricity Suppliers in the District of Columbia, pursuant to the Retail Electric Competition and Consumer Protection Act of 1999 ("1999 Act") as codified in Sections 34-1501 through 1520 of the D.C. Code. Currently, the requirements for licensing Electricity Suppliers are set forth in *Formal Case No. 945*, Order No. 11796, rel. September 18, 2000. Bonding requirements for Electric Suppliers are set forth in *Formal Case No. 945*, Order No. 11862, rel. December 18, 2000. This Rulemaking proposes to put the licensing and bonding requirements in a single chapter. This Notice of Proposed Rulemaking ("NOPR") includes the following attachments: (A) Supplier Application; (B) Notice of Application; (C) Form of Customer Payments Bond-Surety Bond; (D) Form of Integrity Bond for Electric Suppliers other than Aggregators and Brokers-Surety Bond; and (E) Form of Integrity Bond for Aggregators and Brokers-Surety Bond;

CHAPTER 46 LICENSURE OF ELECTRICITY SUPPLIERS

4600 APPLICABILITY

4600.1 **Application.** These rules apply to a Person who engages in the business of an Electricity Supplier in the District of Columbia.

4600.2 **Purpose.** These rules provide uniform requirements for obtaining an Electricity Supplier License in the District of Columbia, describe the administrative procedures available to the Applicants and Licensees, outline the grounds for Commission action regarding a Licensee, and describe the sanctions that may be imposed by the Commission.

4600.3 **Restrictions.** No Person shall present itself as a licensed retail Electricity Supplier, accept Deposits or prepayments from retail customers, or contract with retail customers or arrange for contracts for retail customers, prior to receipt of a license from the Commission.

4601 DEFINITIONS

(a) For the Purposes of these rules, the following terms have the meanings indicated.

(b) Terms Defined

(1) Act. "Act" means the "Retail Competition and Consumer Protection Act of 1999."

(2) Affiliate. "Affiliate" means a Person who directly or indirectly, or through one or more intermediaries, controls, is controlled by, or is under common control with, or has, directly or indirectly, any economic interest in another person.

(3) Aggregator. "Aggregator" means a Person that acts on behalf of customers to purchase electricity.

(4) Applicant. "Applicant" means the Person that applies for an Electricity Supplier License required by the Act.

(5) Application. "Application" means the written request by a Person for an Electricity Supplier License in a form specified by the Commission. The Application form for an Electricity Supplier License in the District of Columbia is attached to these rules (See Attachment A).

(6) Broker. "Broker" means a Person who acts as an agent or intermediary in the sale and purchase of electricity but who does not take title to electricity and who is not a Consolidator.

(7) Commission. "Commission" means the Public Service Commission of the District of Columbia.

(8) Competitive Billing. "Competitive Billing" means the right of a Customer to receive a single bill from the Electric Company, a single bill from the Electricity Supplier, or separate bills from the Electric Company and the Electricity Supplier.

(9) Consolidator. "Consolidator" means any owner of, or property manager for multi-family residential, commercial office, industrial, and retail facilities who combines more than one property for the primary purpose of contracting with an aggregator or electric energy service provider for electric energy services for those properties, and who: (A) Does not take title to electric energy; (B) Does not sell electric energy to or purchase electric energy for buildings not owned or managed by such owner or property manager; (C) Does not offer aggregation of electric energy services to other, unrelated end-users; and (D) Arranges for the purchase of electric energy services only from duly licensed Electricity Suppliers or Aggregators.

(10) Customer. "Customer" means a purchaser of electricity for end use in the District of Columbia. The term excludes an occupant of a building where the owner, lessee, or manager manages the internal distribution system serving the building and supplies electricity solely to occupants of the building for use by the occupants.

(11) Customer Payments Bond. "Customer Payments Bond" is a bond or other form of acceptable financial instrument such as a line of credit, sworn letter of guarantee, bank loan approval documents, recent bank statements, vendor financing agreements or underwriting agreements in an amount at least equal to the total amount of Deposits or Prepayments specified in this section.

(12) Deposits. "Deposits" include all payments made by a customer to an Electricity Supplier to secure the receipt of electric energy services from the Electricity Supplier.

(13) District of Columbia Electricity Supplier Coordination Tariff. "District of Columbia Electricity Supplier Coordination Tariff" means the document that sets forth the basic requirements for interaction and coordination between the Electric Company as the Local Distribution Company and each Electricity Supplier necessary for ensuring the delivery of competitive power supply from Electricity Suppliers to their customers via the Company's distribution system.

(14) Electric Company. "Electric Company" includes every corporation, company, association, joint-stock company or association, partnership, or Person doing business in the District of Columbia, their lessees, trustees, or receivers appointed by any court whatsoever, physically transmitting or distributing electricity in the District of Columbia to retail electric customers. The term excludes any building owner, lessee, or manager who, respectively, owns, leases, or manages, the internal distribution

system serving the building and who supplies electricity and other electricity related services solely to the occupants of the building for use by the occupants. The term also excludes a Person or entity that does not sell or distribute electricity and that owns or operates equipment used exclusively for the charging of electric vehicles.

(15) Electricity Supplier. "Electricity Supplier" means a person, including an Aggregator, Broker, or Marketer, who generates electricity; sells electricity; or purchases, brokers, arranges or markets electricity for sale to customers. The term excludes the following:

(A) Building owners, lessees, or managers who manage the internal distribution system serving such building and who supply electricity solely to the occupants of the building for use by the occupants;

(B) Any Person who purchases electricity for its own use or for the use of its subsidiaries or affiliates;

(C) Any apartment building or office building manager who aggregates electric service requirements for his or her building or buildings, and who does not: (I) Take title to electricity; (II) Market electric services to the individually-metered tenants of his or her building; or (III) Engage in the resale of electric services to others;

(D) Property owners who supply small amounts of power, at cost, as an accommodation to leases of the property;

(E) A Consolidator; and

(F) A Community Renewable Energy Facilities ("CREFs") as defined in Subsection 4199.1 and as described in Subsections 4109.1 through 4109.3 pursuant to the Community Renewable Energy Amendment Act of 2013.

(16) Electricity Supplier License. "Electricity Supplier License" means the authority granted by the Commission to a Person to do business as an Electricity Supplier in the District of Columbia.

(17) Electronic Data Interchange Trading Partner Agreement. "Electronic Data Interchange Trading Partner Agreement" means the agreement between the Electric Company and the Electricity Supplier that sets out the terms and conditions between the parties governing Electronic Data Interchange (EDI).

(18) Independent System Operator or **"ISO"**. "Independent System Operator" means an entity authorized by the Federal Energy Regulatory Commission to manage and control the electric transmission grid in a state or region.

(19) Initiating Service in the District. "Initiating Service in the District," means the earliest calendar date on which a licensed Electricity Supplier is contractually obligated to provide electric service to any District of Columbia Customer or Consumer.

(20) Integrity Bond. "Integrity Bond" is a bond that is required of an Electricity Supplier who cannot provide credible evidence that it meets the standards listed in Subsection 4606.2 of this chapter.

(21) Licensee. "Licensee" means an Electricity Supplier who has been granted a valid Electricity Supplier License by the Commission.

(22) Marketer. "Marketer" means a Person who purchases and takes title to electricity in order to resell electricity to Customers.

(23) Market Participant. "Market Participant" means any Electricity Supplier (including an affiliate of the Electric Company) or any Person providing billing services or services declared by the Commission to be potentially competitive services.

(24) Person. "Person" means every individual, corporation, company, association, joint stock company, association, firm, partnership, or other entity.

(25) Prepayments. "Prepayments" include all payments other than a Deposit made by a residential and/or small commercial consumer to an Electricity Supplier for services that have not been rendered at the time of payment, subject to the following:

(A) Where an Electricity Supplier charges for services based on a quantity of electricity, such as a price per kilowatt/hour, then Prepayments include any payments for any quantity that has not been delivered to the Customer or Consumer at the time of payment;

(B) Where an Electricity Supplier charges for services based on a period of time, such as charging a membership fee, initiation fee or other fee for services for a time period, then Prepayments include the amount of the total charges collected by the Electricity Supplier

for the period of time less the prorated value of the period of time for which services have been rendered;

(C) Where an Electricity Supplier charges for services based on a measure other than quantity of electricity delivered or a period of time, the Commission shall determine, on a case-by-case basis, whether the charges involve a prepayment; and

(D) Prepayments do not include any funds received in advance of the services being rendered as a result of the Customer's or Consumer's voluntary participation in a budget billing or level billing plan by which the consumer's anticipated electrical costs are averaged over a period of time.

(26) Regional Transmission Organization or **"RTO". "**Regional Transmission Organization" or "RTO" means an entity designated by the Federal Energy Regulatory Commission to direct operations of the regional electric transmission grid in its area to ensure electric grid reliability.

(27) Regulatory Contact. "Regulatory Contact" means the staff contact for the licensed Electricity Supplier that handles regulatory matters for that company.

(28) R**esidential Customers.** "Residential Customers" mean those customers served under Potomac Electric Power Company ("Pepco") Rate Schedule DC-R, DC-AE, DC-RAD, DC-RAD-AE, DC-R-TM, or DC-MMA, subject to any revisions made to those tariff sheets by the Commission in the latest rate case.

(29) Small Commercial Customers. "Small commercial customers" means those customers served under Pepco Rate schedule DC-GS or DC-GS-3A, subject to any revisions made to those tariff sheets by the Commission in the latest rate case. Small commercial customers exclude accounts on the above rate schedules in: (1) apartment buildings with four or more units; (2) commercial office buildings; or (3) accounts owned or managed by a Consolidator.

(30) Standard Offer Service or SOS. "Standard Offer Service" or SOS" means electricity supply made available to: (1) Customers who contract for electricity with an electricity supplier, but who fail to receive delivery of electricity under such contracts; (2) Customers who cannot arrange to purchase electricity from an electricity supplier; and (3) Customers who do not choose an electricity supplier.

(31) SOS Administrator. "SOS Administrator" means the provider of standard offer service mandated by Section 109 of the Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000 (D.C. Law 13-107; D.C. Official Code § 34-1509).

(32) Supplier Coordination Agreement. "Supplier Coordination Agreement" means the agreement between the Electric Company and the Electricity Supplier whereby the Electric Company agrees to supply, and the Electricity Supplier requests and agrees to take, all "Coordination Services" pursuant to the Company's Electricity Supplier Tariff

(33) Transfer Application. "Transfer Application" means the formal submission by a licensed Electricity Supplier to the Commission to transfer its Electricity Supplier License to another licensed Electricity Supplier in the District.

4602 LICENSING REQUIREMENTS

4602.1 **Persons Subject to Licensing Requirements.** Any Person who engages in the business of an Electricity Supplier in the District of Columbia must hold an Electricity Supplier Lincense issued by the Commission.

4602.2 **Application Information Requirements for Electricity Suppliers.** An Application for an Electricity Supplier License shall include the following information, in a manner and form specified by the Commission:

(a) Proof of technical and managerial competence;

(b) Proof of compliance with all applicable requirements of the Federal Energy Regulatory Commission, and any Independent System Operator, or Regional Transmission Operator to be used by the Applicant;

(c) A sworn verification that the Applicant is currently in compliance with, and will comply with all, applicable federal and District of Columbia environmental laws and regulations;

(d) Proof of compliance with the Bonding Requirements set forth in §§ 4605 and 4606;

(e) Proof that the Applicant has registered with the Department of Consumer and Regulatory Affairs and the Department of Finance and Revenue to do business in the District of Columbia;

(f) A sworn verification that the Applicant is currently in compliance with, and will comply with, all applicable taxes;

(g) A sworn verification that the Applicant is currently in compliance with, and will comply with all of the requirements of the Act and all orders and regulations of the Commission issued under the Act;

(h) Applicant's web-site address;

(i) A sample copy each of the Electricity Supplier's electric supply Customer contracts (*e.g.*, fixed, variable) and a sample bill;

(j) The name and contact information for the Electricity Supplier's designated contact Person for Customer and consumer complaints;

(k) The Trade name(s) or d/b/a ("doing business as name(s)") if the Applicant will be using either while doing business as an Electricity Supplier in the District of Columbia; and

(l) Any other information required by the Commission.

4603 LICENSING PROCEDURES

4603.1 **Scope.** These procedures apply to an Application for an Electricity Supplier License before the Commission.

4603.2 **Form.** An Application for a Electricity Supplier License must be made to the Commission in writing on the applicable form provided by the Commission (See the form set out in Attachment A); be verified by oath or affirmation; and be accompanied by an Application fee of $400.00.

4603.3 **Number of copies; Service.** Each Applicant must file a signed and verified original and fourteen (14) copies and electronic version of their application and attachments.

4603.4 **Change in Application Information.** The Applicant shall immediately inform the Commission of any change in the information provided in the Application during the pendency of the Application process.

4603.5 **Notice of Application and Notice of Incomplete Application (Deficiency Letter).** The Applicant shall provide to the Commission a proposed Notice of Application in the form set out in Attachment B along with its Application. With respect to the Application, the Commission shall review the submitted Application for completeness within fifteen (15) days of receipt of the

Application and inform the Applicant if the Application is either complete or incomplete. If the Application is complete, the Commission shall notify the Applicant in writing that the Application is complete and has been accepted for filing and the Commission shall post the Notice of Application in the *D.C. Register*. If the Application is incomplete, the Commission shall notify the Applicant in writing of the deficiencies in the Application. The Applicant shall have ten (10) days, or such additional time as the Commission may designate if it extends the time period for good cause shown to provide the information requested in the deficiency letter. If the Applicant does not provide the information to the Commission within ten (10) days or within the alternative time period set by the Commission, the Application shall be deemed dismissed without prejudice. Once the deficiency has been cured by the Applicant, the Commission will notify the Applicant in writing that the Application is now complete and has been accepted for filing and the Commission shall post the Notice of Application in the *D.C. Register.*

4603.6 **Comments and Objections Regarding Filed Application.** All persons interested in filing an objection or a comment regarding the filed Application or the licensure of an Applicant may submit written comments or objections to the Commission Secretary and to the Applicant no later than thirty (30) days after the Notice of Application has been published in the *D.C. Register*. An Applicant may file reply comments no later than seven (7) days after objections or comments are filed with the Commission Secretary. The Commission may waive this filing deadline at its discretion.

4603.7 **Review of Complete Application.** Upon determining that an Application is complete, the Commission shall conduct an appropriate investigation of the information provided by the Applicant in the complete Application and of any objections or comments received on the Application. Within fifteen (15) days after the comment period has expired, the Commission shall conclude its investigation and issue a Licensing Order approving or denying the Application if no objections or comments are filed. If an objection to licensure or comments is filed, the Commission shall conclude its investigation and issue a Licensing Order approving or denying the Application within sixty (60) days after the comments or objection period has expired. In the event that the Commission denies a License to an Applicant, the Commission shall state in writing its reasons for such denial. A copy of the Commission determination shall also be served on the Applicant and the Office of the People's Counsel.

4603.8 **Licensee's Update Information.** The licensed Electricity Supplier shall comply with any information update requirements or supplemental information requirements established by Commission rules or in its orders.

4603.9 **Term of Electricity Supplier License.** An Electricity Supplier License is valid until revoked by the Commission or surrendered by the licensed Electricity Supplier.

4603.10 **Transfer of Electricity Supplier License.** An Electricity Supplier License is not transferable without the prior approval of the Commission. To obtain the approval of the Commission, a Licensee must file a Transfer Application with the Commission Secretary. After receiving the Transfer Application, the Commission shall give public notice of the Transfer Application by posting it on its website and in the *D.C. Register*. All Persons interested in filing an objection or a comment regarding the filed Application may submit written comments or objections to the Commission's Secretary no later than thirty (30) days after the posting of the Notice of Application on the Commission's website. The Licensee may file reply comments no later than seven (7) days after objections or comments are filed. The Commission may waive this filing deadline at its discretion. Within thirty (30) days after the comment period has expired, the Commission shall issue an order approving or denying the Transfer Application if no objections or comments are filed. If an objection to a Transfer Application or a comment is filed, the Commission shall conclude its investigation and issue an order approving or denying the Transfer Application within sixty (60) days after the comments or objection period has expired. In the event that the Commission denies a Transfer Application, the Commission shall state in writing its reasons for such denial. A copy of the Commission's determination shall also be served on the Licensee and on the Office of the People's Counsel.

4603.11 **Solicitation of Customers.** A Licensee (both new and existing, if not currently serving customers) is required to notify the Commission no later than ten (10) days before it starts soliciting customers directly or through an authorized representative. The notice shall include the name of the Electricity Supplier's designated contact person for pricing information if the Licensee is serving residential customers and small commercial customers and the URL address of the Electricity Supplier's website. The Licensee shall provide photo identifications for each person who conducts in person Solicitations for the Licensee. The Licensee shall also provide the Commission with a copy of its flyers, consumer pamphlets, scripts and other proposed marketing material at the time of notification.

4603.12 **Electronic Solicitation**. For the purpose of monitoring compliance with 15 DCMR Subsections 327.26, 327.27, 327.30, 327.31, 327.32, 327.33, 327.34 and 327.48 regarding electronic solicitation on the Licensee's website, each Licensee who contracts electronically with customers shall provide the Commission with the electronic capability to initiate and complete its website enrollment process, without creating an actual customer account. Each Licensee shall demonstrate

this capability by providing the Commission with a dedicated (simulated) account number for its use to test and monitor the Licensee's website.

4603.13 **Serving Customers.** A Licensee is required to do the following before it begins to serve customers in the District of Columbia: (a) notify the Commission of the date when it will begin to serve customers in the District of Columbia; and (b) file an affidavit attesting that all sales and marketing and regulatory personnel have been trained in Chapters 3 and 46 of Title 15 of the DCMR before they begin soliciting customers in the District of Columbia.

4603.14 **Cessation of Business in the District of Columbia or Cessation of Business to a Customer Class.** A Licensee shall provide to the Commission at least sixty (60) days prior written notice of the Licensee's intention to cease providing services (a) in the District of Columbia; or (b) to all Customers within a specified Customer class. Upon receipt of such notice, the Commission may order the Licensee to provide such further notice to the public as the Commission deems necessary, and/or take such other action that the Commission deems appropriate.

4603.15 **Electric Company and Licensee Responsibilities in the Event of Default.** A Licensee is considered a defaulted Licensee if it is unable to deliver electricity because: (1) the Commission revokes or suspends the Electric Supplier's retail electricity license; or (2) the Licensee is unable to transact sales through the Regional Transmission Organization designated for the District of Columbia by the Federal Energy Regulatory Commission. In the event of a default, the Licensee and the Electricity Company shall abide by the District of Columbia Electricity Supplier Coordination Tariff. Also, a defaulted Licensee using consolidated billing services remains obligated to provide the Electric Company with information necessary to allow the Electricity Company to continue consolidated billing through the conclusion of the billing cycle in which the default occurred. The defaulted Licensee using consolidated billing services is prohibited from issuing bills to persons who were Customers at the time of the default unless specifically authorized by the Commission. A request to authorize a defaulted Licensee to bill directly may be made to the Commission by the defaulted Licensee or the Electricity Company. In order that a Licensee's charges may be included in Electric Company consolidated billing services, a defaulted Licensee and the Electricity Company shall abide by the District of Columbia Electricity Supplier Coordination Tariff.

4603.16 **Required Notices Upon Default.** Upon default, a Licensee must immediately send written notice to its customers notifying them of its default and send written notice to the Electric Company and Commission notifying them of its default. Upon receipt of notice of a Licensee default from the Licensee or from the Regional Transmission Organization, the Electric Company must immediately provide the defaulting Licensee's customers Standard Offer Service in accordance

with the SOS Administrator's Retail Electric Service Tariff, unless the customers select a new Electricity Supplier.

4603.17 **Accuracy of Information.** Any Applicant who knowingly or in reckless disregard submits misleading, incomplete, or inaccurate information to the Commission may be penalized in accordance with applicable law and the provisions of these rules.

4603.18 **Filing of Electronic Data Interchange Trading Partner Agreement and Supplier Coordination Agreement.** Every Licensee shall execute and file with the Commission Secretary a copy of the Electronic Data Interchange Trading Partner Agreement and Supplier Coordination Agreement entered into with the Electric Company within ten (10) days of execution of such agreements.

4603.19 **Proprietary and Confidential Information.** In its Application, the Applicant may designate as confidential information documents provided in response to Sections 4d and 14 of the Application related to the ownership of the Applicant (to the extent such information is not already public) and financial information If an interested party requests the release of this information, the Applicant shall have the burden of proving the confidential nature of the information. The Commission will notify the Applicant of any request for release of this information and will permit the Applicant to respond to the request through a written motion filed with the Commission prior to the Commission's determination on the request. The Commission may order the release of information if an Applicant does not meet its burden of proving that the information is confidential.

4604 ELECTRICITY SUPPLIER EDUCATION WORKSHOP

4604.1 **Electricity Supplier Education Workshop.** Within one year of licensing or within one year of the adoption of this rule, whichever is later, each Licensee's Regulatory Contact or Licensee's representative responsible for the Licensee's compliance with the Commission's rules shall complete the Electricity Supplier Education Workshop sponsored by the Commission. Successful completion of the workshop by the Licensee shall be evidenced by a certificate awarded by the Commission.

4605 BOND REQUIREMENTS FOR ELECTRICITY SUPPLIERS COLLECTING DEPOSITS OR PREPAYMENTS ("CUSTOMER PAYMENTS BOND")

4605. 1 **Applicability.**

Any Electricity Supplier that states on its Application that it intends to charge Deposits or collect Prepayments or that does in fact require a Deposit or collects any Prepayment, shall post a Customer Payments Bond with the Commission, in addition to any Integrity Bond that may be required or submitted and shall submit the certification described in this section. Any Electricity Supplier that states on its Application that it does not intend to charge Deposits or collect Prepayments and that does not in fact require a Deposit or collect any Prepayment will not be required to post a Customer Payments Bond or provide the certification described below. Any Licensee that actually charges a Deposit or collects a Prepayment without posting the required Customer Payments Bond may be subject to suspension, revocation, or other action against its license, as well as be held liable for restitution to any Customers who paid such Deposits or Prepayments. Any Licensee requiring, charging, collecting or holding Deposits, or Prepayments may not request return of a current Customer Payments Bond (as defined in this Chapter) or waiver of the requirements for a future Customer Payments Bond, unless and until the Licensee returns the Deposits or Prepayments to its Customers or provides the services to which the Deposit or Prepayments applied.

4605.2 Procedure for Determining Amount of a Customer Payments Bond.

(a) **INITIAL BOND:** Before accepting any Deposits or Prepayments, a Licensee shall post an initial Customer Payments Bond of $50,000 in the form as set out in Attachment C (Form of Customer Payments Bond-Surety Bond).

(b) **SIX MONTH CERTIFICATION:** Within six (6) months after the initial Customer Payments Bond is posted, the Licensee shall provide to the Commission (with appropriate confidentiality protections): (1) a certification, subject to review by the Commission, of the amount of the Deposits and Prepayments held by the Licensee, and (2) a Customer Payments Bond in an amount that is at least equal to the amount reflected in that certification.

(c) **ANNUAL CERTIFICATION:** Annually thereafter, coinciding with the annual update requirements of the Commission's Application, the Licensee shall provide to the Commission (with appropriate confidentiality protections): (1) certification of the amount of the Deposits and Prepayments held by the Licensee, and (2) a Customer Payments Bond in an amount that is at least equal to the amount reflected in that certification.

4605.3 **Form of the Bond.** Any Applicant or Licensee required to provide a bond under this section shall provide a bond issued by a company authorized to do business in

the District of Columbia in a form required by the Commission. At a minimum, the bond form shall:

(a) Designate the Commission as the sole beneficiary of the bond;

(b) Be continuous in nature. If a Licensee seeks to cease providing the bond it must seek approval from the Commission at least sixty (60) days prior to the time it wants to discontinue maintaining the bond;

(c) Cover payment of all District of Columbia Deposits and Prepayments of the Licensee that occurred while the bond was in force; as identified by the Commission under these standards, and

(d) State that the proceeds of the bond shall be paid or disbursed as directed by the Commission. See Attachment C (Form of Customer Payments Bond-Surety Bond).

4605.4 **Commission Verification.** Each Licensee shall provide appropriate certification, at the intervals discussed in the above paragraphs of funds collected by the Licensee for Prepayments and/or Deposits. Each Licensee shall certify the amount of funds held for Deposits and Prepayments through a notarized statement, subject to verification by the Commission. The certification and any audit by the Commission will verify the year to date collections and balances of Prepayments and Deposits as of a specific date and will be used to verify whether the Licensee has the appropriate amount of Customer Payments Bond coverage. The Commission reserves the right, in its sole discretion, to order the Licensee to have a Certified Public Accountant review such balances, should conditions warrant such a review.

4605.5 **Compliance Investigations.** The Commission may initiate appropriate investigations if it determines an Electricity Supplier or a Licensee may be collecting Prepayments and/or Deposits from Customers without appropriate Customer Payments Bond coverage. The Commission may utilize appropriate legal remedies both to investigate and, if appropriate, to enforce its requirements for appropriate Customer Payments Bond coverage.

4605.6 **Bond Foreclosure.** The Commission may foreclose upon any bond posted with the Commission when, in the Commission's discretion, foreclosure is necessary to ensure the fair and lawful treatment of the District of Columbia's Residential and/or Small Commercial Customers by a Licensee, to ensure that Deposits and Prepayments collected by a Licensee from a Customer will be paid. In order to draw funds on this Bond, the Commission Secretary shall present an affidavit sworn to and signed by the Commission Secretary to the surety stating that the Commission has determined that the Licensee has not satisfactorily performed its obligations to a Customer who has suffered actual and direct damages or loss of a

Deposit or Prepayment in a specific amount by means of failure, or by reason of breach of contract or violation of the Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000 (D.C. Law 13-107; 47 DCR 1091 (February 25, 2000)) and any orders, regulations, rules or standards promulgated thereto.

4606 BOND REQUIREMENTS FOR FINANCIAL INTEGRITY ("INTEGRITY BOND")

4606.1 Exclusion

(a) An Electricity Supplier or Licensee who cannot provide credible evidence that it meets the standards listed in Subsection 4606.2 below will be required to submit an initial Integrity Bond of $50,000, unless that Electricity Supplier or Licensee is applying to provide service as an Aggregator (as defined in D.C. Official Code § 34-1501 (2) and Section 4601(B) above) who does not take title to electricity or as a Broker (as defined in D.C. Official Code § 34-1501(7) and Section 4601(B) above), in which case a $10,000 Integrity Bond will be required. However, an Electricity Supplier or Licensee that meets the standards listed in Subsection 4606.2 below may still be required to provide a bond to demonstrate financial integrity for the application on a case-by-case basis. This initial Integrity Bond is subject to the update requirements discussed below, except that Aggregators who do not take title and Brokers will not be required to update the initial $10,000 Integrity Bond.

(b) After continuously providing service in the District for two years, any Licensee who has submitted an Integrity Bond to the Commission in compliance with these requirements may request that the Commission return the previously posted Integrity Bond and waive the requirement for a future bond based upon the Licensee's demonstrated record of continuous and high quality service in the District, without meaningful substantiated consumer complaints, as determined by and in the opinion of the Commission, and such other information as the Licensee may choose to present to the Commission. The Commission may accept or reject this request based on a review of information provided by the Licensee and such other information as the Commission may deem appropriate. The Commission retains the discretion to require an Integrity Bond of said Licensee at a later date if circumstances change, or if the Commission otherwise deems the re-institution of an Integrity Bond to be necessary and appropriate.

4606.2 **Applicability.** Any Electricity Supplier or Licensee that can provide credible evidence that it meets the following standards is not required to post an Integrity Bond in the District of Columbia:

(a) A current credit rating of BBB- or higher from a nationally-recognized credit rating service;

(b) A current commercial paper rating of A2 or higher by Standard & Poor's and/or P2 or higher by Moody's or similar rating by another nationally-recognized rating service;

(c) An unused line of bank credit or parent guarantees deemed adequate by the Commission; or

(d) Any other evidence of financial integrity that the Commission may deem appropriate.

4606.3 **Procedure for Determining Amount of a Financial Integrity Bond**

(a) **INITIAL INTEGRITY BOND:** Any Electricity Supplier that cannot meet the above criteria for financial integrity, and that is not applying to provide service as an Aggregator that does not take title to electricity or a Broker, shall post an initial Integrity Bond of $50,000. If the Electricity Supplier is applying to provide service as an Aggregator that does not take title to electricity or as a Broker, the initial required Integrity Bond amount is $10,000.

(b) **FUTURE UPDATES:** The Commission, in its sole discretion, shall determine whether or not to reevaluate the amount of the Integrity Bond in light of any changing conditions in the electricity market at the time that a Licensee submits updated information, taking into consideration the Licensee's past experience with the Commission and with its Customers. The Commission may request such information from the Licensee as may be necessary to make its evaluation.

4606.4 **Form of the Bond.** Any Electricity Supplier or Licensee required to provide a bond under this section shall provide a bond issued by a company authorized to do business in the District of Columbia in a form required by the Commission. At a minimum, this form shall:

(a) Designate the District of Columbia, or the Commission, as the sole beneficiary of the bond;

(b) Be continuous in nature. If any Licensee seeks to cease providing the bond it must seek approval from the Commission at least sixty (60) days prior to the time it wants to discontinue maintaining the bond;

(c) Cover payment of all of the Licensee's District of Columbia Deposits and Prepayments that occurred while the bond was in force as identified by the Commission under these standards, and

(d) State that the proceeds of the bond shall be paid or disbursed as directed by the Commission.

(e) Be in the format set out in Attachment D (Form of Integrity Bond for Electricity Suppliers and Marketers-Surety Bond, or Attachment E (Form of Integrity Bond for Aggregators and Brokers-Surety Bond).

4606.5 **Commission Verification**. Each Licensee shall provide appropriate certification at the intervals discussed in the above paragraphs. The Commission may request such information from the Licensee as is necessary to verify the accuracy of the certification at any time.

4606.6 **Compliance Investigations.** The Commission has the right to initiate appropriate investigations if it has reason to believe that any Licensee may be providing service without appropriate Bond coverage. The Commission will utilize appropriate legal remedies both to investigate and, if appropriate, to enforce its requirements for an appropriate Integrity Bond.

4606.7 **Bond Foreclosure.** The Commission's foreclosure of an Integrity Bond shall be limited to those instances where damages to the Customers by the Licensee are "actual and direct". In order to draw funds on this Bond, the Commission Secretary shall present an affidavit sworn to and signed by the Commission Secretary to the surety stating that the Commission has determined that the Licensee has not satisfactorily performed its obligations to a Customer who has suffered actual and direct damages or loss of a Deposit or Prepayment in a specific amount by means of failure, or by reason of breach of contract or violation of the Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000 (D.C. Law 13-107; 47 DCR 1091 (February 25, 2000)) and any orders, regulations, rules or standards promulgated thereto.

4607 PRIVACY PROTECTION POLICY

4607.1 All Applicants and current Licensees must submit to the Commission Secretary a copy of the company's Privacy Protection Policy that demonstrates compliance with 15 DCMR § 308 (Use of Customer Information) and 15 DCMR § 309 (Privacy Protection Policy) within ninety (90) days of the adoption of this rule, or

within sixty (60) days of receiving their Electricity Supplier License, whichever date is later.

4608 COMMISSION REPORTING REQUIREMENTS

4608.1 **Updates to an Approved Application.** After an Application has been approved, a Licensee must inform the Commission of new information that changes or updates any part of the Application, including but not limited to the averment regarding any civil, criminal, or regulatory penalties imposed on the Licensee, within thirty (30) days of the change or the new information. An Applicant or a Licensee must also inform the Commission of changes to the averment regarding bankruptcy proceedings instituted voluntarily or involuntarily within twenty-four (24) hours of the institution of such proceedings.

(a) If a Licensee changes any of its marketing materials, it shall provide the new materials to the Commission no later than ten (10) days before it starts using the new material to solicit Customers; and

(b) If a Licensee changes its trade name or the d/b/a name that it is using in the District of Columbia, the Licensee shall notify the Commission within ten (10) days and prior to soliciting Customers under that new name.

4608.2 **Annual Reporting Requirements.** The Licensee shall annually review its Application and submit updated information as needed. Annual updates must be filed with the Commission within one hundred twenty (120) days after the anniversary of the grant of the License. The Licensee shall, if it is serving residential customers and small commercial customers, also submit the name of its regulatory contact, website address, the contact for pricing information, copies of its flyers, scripts, pamphlets and other marketing materials. The Licensee shall recertify annually that it has complied with Subsection 4603.12(b) of this chapter. A Licensee shall provide any information required by any other Commission order or regulation. The Licensee shall also provide annually a copy of its Privacy Protection Policy to the Commission.

4609 COMMISSION ACTION REGARDING A LICENSEE

4609.1 **Commission Investigation.** The Commission may initiate an investigation of a Licensee upon its own motion or upon the complaint of the Office of the People's Counsel, the Office of the Attorney General, or any aggrieved party. The Commission shall provide written notice of the investigation to the Licensee, and shall provide the Licensee an opportunity for a hearing in accordance with District of Columbia law and Commission regulations.

4609.2 **Grounds for Commission Action.** The Commission may take action regarding a Licensee for just cause as determined by the Commission. "Just cause" includes, but is not limited to, the following:

(a) Knowingly or with reckless disregard, providing false or misleading information to the Commission;

(b) Switching, or causing to be switched, the electricity supply for a Customer without first obtaining the Customer's permission, a practice commonly known as slamming;

(c) Disclosing information about a Customer supplied to the Licensee by the Customer or using information about a Customer for any purpose other than the purpose for which the information was originally acquired, without the Customer's written consent, unless the disclosure is for bill collection or credit rating reporting purposes or is required by law or an Order of the Commission;

(d) Adding services or new charges to a Customer's existing retail electric service options without the Customer's consent, a practice commonly known as cramming;

(e) Failing to provide adequate and accurate information to each Customer about the Licensee's available services and charges;

(f) Discriminating against any Customer based wholly or partly on the race, color, creed, national origin, sex, or sexual orientation of the Customer or for any arbitrary, capricious, or unfairly discriminatory reason;

(g) Refusing to provide service to a Customer unless the refusal is based on standards reasonably related to the Licensee's economic and business purposes;

(h) Failing to post on the Internet information that is readily understandable about its services and rates for Small Commercial Customers and Residential Customers;

(i) Failing to provide electricity for its Customers;

(j) Committing fraud or engaging in marketing, advertising, or trade practices that are unfair, false, misleading, or deceptive such as engaging in any solicitation that leads the Customer to believe that the Licensee is soliciting on behalf of, or is an agent of, the District of Columbia Electric Utility when no such relationship exists;

(k) Failing to maintain financial integrity;

(l) Violating a Commission regulation or order including, but not limited to engaging in direct Solicitation to Customers without complying with the Commission's solicitation rules as provided in the Consumer Protection Standards Applicable to Energy Suppliers (15 DCMR §§ 327.7 - 327.13);

(m) Failing to pay, collect, remit, or accurately calculate applicable taxes;

(n) Violating an applicable provision of the D.C. Code or any other applicable consumer protection law;

(o) Conviction of the Licensee or any principal of the Licensee (including the general partners, corporate officers or directors, or limited liability managers of offices of the Licensee) for any fraud-related crimes (including, but not limited to, counterfeiting and forgery, embezzlement and theft, fraud and false statements, perjury, and securities fraud);

(p) Imposition of a civil, criminal, or regulatory sanction(s) or penalties against the Licensee or any principal of the Licensee (including the general partners, corporate officers or directors, or limited liability managers or officers of the Company) pursuant to any state or Federal consumer protection law or regulation;

(q) Conviction by the Licensee or principal of the Licensee (including the general partners, corporate officers or directors, or limited liability managers or officers of the Licensee) of any felony;

(r) Filing of involuntary bankruptcy/insolvency proceedings against the Licensee or filing of voluntary bankruptcy/insolvency proceedings by the Licensee;

(s) Suspension or revocation of a license by any state or federal authority, including, but not limited to, suspension or revocation of a license to be a power marketer issued by the Federal Energy Regulatory Commission;

(t) Imposition of any enforcement action by any ISO or RTO used by the Licensee;

(u) Failing to provide annually an updated Privacy Protection Policy that complies with 15 DCMR § 308 (Use of Customer Information);

(v) Failing to notify the Commission no later than ten (10) days before it begins soliciting Customers and thirty (30) days after it begins serving Customers, per Subsections 4603.11 and 4603.12, respectively; and

(w) Failing to comply with any regulation contained in this chapter.

4610 SANCTION AND ENFORCEMENT

4610.1 **Sanctions.** Electricity Suppliers and Licensees are subject to sanctions for violations of the District of Columbia Code, and applicable Commission regulations and orders. The following sanctions may be imposed by the Commission:

(a) **Civil Penalty.** The Commission may impose a civil penalty of not more than $10,000 for each violation. Each day a violation continues shall be considered a separate violation for purposes of this penalty. The Commission shall determine the amount of a civil penalty after consideration of the following:

(1) The number of previous violations on the part of the Licensee;

(2) The gravity and duration of the current violation; and

(3) The good faith of the Licensee in attempting to achieve compliance after the Commission provides notice of the violation.

(b) **Customer Refund or Credit**. The Commission may order a Licensee or an Electricity Supplier to issue a full refund for all charges billed or collected by the Licensee or Electricity Supplier or a credit to the Customer's account. Specifically,

(1) If slamming occurred, the Licensee or the Electricity Supplier shall refund to the Customer all monies paid to the Licensee or the Electricity Supplier; and

(2) If cramming occurred, the Licensee or the Electricity Supplier shall refund to the Customer three times the amount of the unauthorized charges.

(c) **Cease and Desist Order.** The Commission may order the Licensee or the Electricity Supplier to (1) cease adding or soliciting additional customers; (2) cease serving customers in the District of Columbia; and (3) cease any action found to be in violation of District of Columbia law, or Commission rules and regulations.

(d) **Cancellation of a contract or part of a contract between a Customer and a Licensee or an Electricity Supplier**;

(e) **Suspension of a Licensee's License**; and

(f) **Revocation of a Licensee's License**.

4610.2 **Commission Access to Records.** As part of any Commission investigation, the Commission shall have access to any accounts, books, papers, and documents of the Licensee or the Electricity Supplier that the Commission considers necessary in order to resolve the matter under investigation.

4610.3 **Emergency Action by the Commission.** The Commission may temporarily suspend a License, issue a temporary cease and desist order, or take any other appropriate temporary remedial action, pending a final determination after notice and hearing, if the Commission determines that there is reasonable cause to believe that Customers or the reliability of electric supply in the District of Columbia is or will be harmed by the actions of a Licensee or an Electricity Supplier.

4611 COMMISSION ASSESSMENT AND FEES

4611.1 The Licensee or the Electricity Supplier shall pay an assessment for the costs and expenses of the Commission and the Office of the People's Counsel as required by Title 34 of the District of Columbia Code.

4611.2 The Licensee or the Electricity Supplier shall pay any additional fees imposed by the Commission pursuant to the Commission's rules, regulations, or orders.

2. All persons interested in commenting on the subject matter of this NOPR and Attachments may submit written comments and reply comments no later than thirty (30) and forty-five (45) days, respectively, after the publication of this Notice in the *D.C. Register*. Comments may be filed with Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, N.W., 2nd Floor, West Tower, Washington, D.C. 20005 or at the Commission's website at www.dcpsc.org. Persons with questions concerning this Notice should call 202-626-5150.

ATTACHMENT A

APPLICATION FOR LICENSE TO SUPPLY ELECTRICITY OR ELECTRIC GENERATION SERVICES TO THE PUBLIC IN THE DISTRICT OF COLUMBIA

You may use the attached form to submit your application. (Please remove this instruction sheet prior to filing.) If you need more space than is provided on this form, then you can create an attachment to this application. You may also attach exhibits. All attachments/exhibits must be labeled or tabbed to identify the application item to which they respond. You are also required to file an electronic version of this document (excluding "confidential" information) which must be converted to the Portable Document Format ("PDF") before filing.

To file an application with the District of Columbia Public Service Commission ("Commission")**,** file a signed and verified original and 14 copies, an electronic version of your application and attachments, and a nonrefundable license fee of $400.00 (payable to "Public Service Commission") with the Commission Secretary in Washington, D.C.:

Commission Secretary
Public Service Commission of the District of Columbia
1333 H Street, N.W., 2nd Floor, West Tower
Washington, D.C. 20005

Questions pertaining to the completion of this application may be directed to the Commission at the above address or you may call the Commission at the following number: (202) 626-5100. You may reach the Commission electronically at www.dcpsc.org.

If your answer to any of the application questions changes during the pendency of your application, or if the information relative to any item herein changes while you are operating within the District of Columbia, you are under a duty to so inform the Commission immediately. After an Application has been approved a licensee must inform the Commission of changes to all parts of the application and the averment regarding any civil, criminal or regulatory penalties, etc. imposed on Applicant, *et al*. must be updated. A licensee must inform the Commission of changes to the averment regarding bankruptcy proceedings instituted voluntarily or involuntarily within twenty-four (24) hours of the institution of such proceedings. Also, a licensee/Supplier must provide annual updates of all items that have changed in the application. The annual update should be provided to the Commission within 120 days after the anniversary of the grant of the license. A licensee/Supplier also is required to officially notify the Commission if it plans to cease doing business in the District of Columbia 60 days prior to ceasing operations.

Confidentiality: Sections 4d and 14 of this Application related to ownership of the Applicant's corporation (to the extent such information is not already public) and financial information, respectively, will be treated as confidential information by the Commission to the

extent permitted by law if the Applicant requests such treatment by stamping or marking the materials in question as "CONFIDENTIAL." Any interested person may request, however, release of this information by filing such a request with the Commission. If such a request is made, Applicant shall have the burden of proving the confidential nature of the information. The Commission will notify the Applicant of any request for release of this information, and will permit the Applicant the opportunity to respond to the request through written motion filed with the Commission prior to the Commission's determination on the request.

If you are applying to provide service as an aggregator (as defined in the "Retail Electric Competition and Consumer Protection Act of 1999" at Section 101(2) and as defined in Commission regulations) who does not take title to electricity as part of providing that service or if you are providing service as a broker (as defined in the "Retail Electric Competition and Consumer Protection Act of 1999" as Section 101(7) as defined in Commission regulations), you do not need to fill out certain questions in this Application. The exempted questions are marked.

Applicable law: The provisions set forth in this application related to the licensing of electric suppliers and the provision of electricity supply and electricity supply services are addressed in detail in the "Retail Electric Competition and Consumer Protection Act of 1999," and in the Commission's regulations.

Statements made in this Application are made under penalty of perjury (D.C. Official Code Section 22-2402), false swearing (D.C. Official Code Section 22-2404), and false statements (D.C. Official Code Section 22-2405). Perjury is punishable by a fine of up to $5,000 or imprisonment for up to 10 years, or both. False statements are punishable by a fine not more than $1,000 or imprisonment for not more than 180 days, or both. Further amendments to these Code sections shall apply. If the Commission has reliable information that an Applicant has violated any or all of these sections of the Code, the Commission will forward the information to the appropriate law enforcement agency. Statements made in this Application are also subject to Commission regulations, which require the Applicant to certify the truthfulness of the contents of this Application. Any Applicant in violation of these regulations is subject to the penalties found in the "Retail Electric Competition and Consumer Protection Act of 1999," Section 108.

BEFORE THE DISTRICT OF COLUMBIA PUBLIC SERVICE COMMISSION

Application Docket No. ____

Application of _________________________, d/b/a ("doing business as")

____

for approval to offer, render, furnish, or supply electricity or electric generation services as a(n)______________, [specified in item 10 below] to the public in the District of Columbia

To the District of Columbia Public Service Commission:

BUSINESS INFORMATION

1. IDENTITY OF THE APPLICANT:

a. LEGAL NAME____

Current Mailing Address:____

____

____

Street Address (if different): ____

Website URL:____

Other States, including District of Columbia, in which the Applicant is now or has been engaged in the retail sale of electricity or natural gas and the names under which the Applicant is engaged or has been engaged in such business(es):

Name:____

Business Address:____

____

License # State of Issuance:____

Other states in which the Applicant has applied to provide retail electric or natural gas service but has been rejected. Applicant may limit response to the last three (3) years:

State(s):____

Date of Application: ______________________________

Attach additional sheets to the application if necessary.

b. **TRADE NAME** (If Applicant will not be using a trade name, skip to question no. 2.a.):

Trade Name:____

2.a. **CONTACT PERSON-REGULATORY CONTACT:**

Name and Title:____

Address:____

____

____

Telephone: ( )_______________________
Fax: ( )_______________________
e-mail _______________________

b. **CONTACT PERSON-CUSTOMER SERVICE and CONSUMER COMPLAINTS** (not required for aggregators who do not take title and/or brokers):

Name and Title:____

Address:____

Telephone: ( )_______________________
Fax: ( )_______________________
e-mail _______________________

3. **RESIDENT AGENT:**

Name and Title:____

Address:____

Telephone: ( )_______________________
Fax: ( )________________________

e-mail ________________________

4. PRIMARY CORPORATE OFFICERS/GENERAL PARTNERS:

President/General Partners: Name(s)__________________________________

Business Address:____

____

____

CEO Name____

Business Address:____

____

____

Secretary Name: ____

Business Address:____

____

____

Treasurer Name: ____

Business Address:____

____

____

a. APPLICANT'S BUSINESS FORM: (select and complete appropriate statement)

- □ Proprietorship
- □ Corporation
- □ Partnership
- □ Limited Partnership
- □ Limited Liability Company

- □ Limited Liability Partnership
- □ Other:_________________

b. **STATE OF FORMATION:** Applicant's business is formed under the laws of the State

of _________________________

c. **STATUS:** Provide a certificate issued by the state of formation certifying that the Applicant is in good standing and qualified to do business in the state of formation.

If formed under the laws of other than the District of Columbia, provide a certificate issued by the Department of Consumer and Regulatory Affairs certifying that the applicant is registered or qualified, in good standing, to do business in the District of Columbia.

d. **OWNERSHIP:** Provide on a separate sheet the names and addresses of all persons and entities that directly or indirectly own ten percent (10%) or more of the ownership interests in the Applicant, or have the right to vote ten percent (10%) or more in the Applicant's voting securities, or who otherwise have the power to control the Applicant.

5. **AFFILIATES, OR PRECEDECESSOR(S), ENGAGED IN THE SALE OR TRANSPORTATION/TRANSMISSION OF ELECTRICITY OR NATURAL GAS AT WHOLESALE OR RETAIL OR THE PROVISION OF RETAIL TELEPHONE OR CABLE SERVICES TO THE PUBLIC:** (select and complete appropriate statement) (Applicant may limit responses to the last five (5) years)

The Applicant has no such Affiliate(s) or Predecessors(s)

Applicant is an Affiliate of a regulated utility in Pennsylvania, Virginia Delaware, New Jersey or Maryland. Please provide regulated utility's Name:

____

Affiliate(s), or Predecessor(s), other than a regulated utility in Pennsylvania, Virginia, Delaware, New Jersey or Maryland that provides, or provided, sale or transportation/transmission of electricity or natural gas at wholesale or retail to the public:

Name:____

Business Address:____

____

____

License #, State of Issuance:______________________________________

Location of Operations (Utility Service Territory):____________________

Name:____

Business Address:____

____

____

License #, State of Issuance:______________________________________

Location of Operations (Utility Service Territory:____________________

Attach additional sheets to the application if necessary.

6. **ACTIONS AGAINST LICENSEES:** Provide the following information for the Applicant, any Predecessor(s), and any unregulated Affiliate that engages in or engaged in the sale or transportation/transmission of electricity or natural gas at wholesale or retail or the provision of retail telephone or cable services to the public. (Applicant may limit responses to the last five (5) years).

- □ Actions such as Suspensions/Revocations/Limitations/Reprimands/Fines or unregulated affiliate(s), and are described in the attached statement, including docket numbers, offense dates, and case numbers, if applicable. Formal Investigations (defined as those investigations formally instituted in a public forum by way of the filing of a complaint, show cause order, or similar pleading) instituted by any regulatory agency or law enforcement agency relating to the Applicant, Predecessor(s), or unregulated affiliate(s) if, as a result of the investigation, Applicant's/Predecessor's/or affiliate's license to provide service to the public was in jeopardy are also listed. The license number, state of issuance, and name of license are identified below:

State(s):____
Name(s):____
License Number(s) (or other applicable identification):

□ No such action has been taken.

7. FERC FILING: Applicant has:

□ Filed an Application with the Federal Energy Regulatory Commission ("FERC") to be a Power Marketer.

□ Received approval from FERC to be a Power Marketer at Docket or Case Number: __________________

□ Not Applicable.

OPERATIONAL CAPABILITY

8. ISO/RTO AFFILIATION: Provide evidence that the Applicant has met all applicable requirements of any ISO and/or RTO to be used by the Applicant. Indicate the evidence provided (not required for aggregators who do not take title and/or brokers)

Evidence of having met all applicable requirements of the PJM Interconnection, L.L.C. (Attach evidence of being a signatory to all applicable agreements)

9. SOURCE OF SUPPLY: (Check all that apply) (not required for aggregators who do not take title and/or brokers)

□ Not applicable. Applicant will not be supplying retail electricity

□ Applicant owns generation.

□ Applicant contracts for generation.

□ Applicant obtains generation on the spot market.

□ Other – Applicant must attach a statement detailing its source of Generation.

SCOPE OF OPERATIONS

(Check all that apply)

10. APPLICANT'S PROPOSED OPERATIONS: The Applicant proposes to operate as a:

□ Marketer of electricity purchasing and taking title to electricity as an intermediary for sale to customers.

- □ Aggregator acting on behalf of customers to purchase electricity.

- □ Broker acting as an agent or intermediary on behalf of customers in the sale and purchase of electricity and who does not take title to electricity.

Does Applicant intend to offer competitive billing services?:_______________

Is the Applicant proposing to offer any other services?: __________
If so, please provide information regarding the proposed service in an attached statement.

11. **AREA OF OPERATION:** If the Applicant does not intend to offer services throughout the Potomac Electric Power Company territory in the District of Columbia, Applicant must, in an attached statement, describe in detail the area within the Utility's service territory in which Applicant's services will be offered.

- □ Applicant intends to offer service throughout the Potomac Electric Power Company territory in the District of Columbia.

- □ Applicant intends to offer services in only a portion of Potomac Electric Power Company's service territory in the District of Columbia. Please see attached statement.

12. **CUSTOMERS:** Applicant proposes to initially provide services to:

- □ Residential Customers
- □ Commercial Customers
- □ Industrial Customers
- □ Other (Describe in attachment)

Also, Applicant proposes:

- □ Restrictions upon the number of end use customers (Describe in attachment)

- □ No restrictions on the number of end use customers.

- □ Restrictions upon the size of end use customers (Describe in attachment).

- □ No restrictions regarding customers (Describe in attachment).

- □ Other restrictions regarding customers (Describe in attachment).

13. **START DATE:** The Applicant proposes to begin delivering services:

- □ Upon arrival of the Application and license.

- □ Other approximate date of commencement (Also, Applicant to notify the Commission no later than ten (10) days before they start soliciting customers).

FINANCIAL INTEGRITY

14. REQUIRED DOCUMENTATION OF FINANCIAL INTEGRITY:

Check that the documents listed below are attached to the Application.

The Applicant shall provide the most recent versions of the following documents to the extent they are available:

- □ Credit reports or ratings prepared by established credit bureaus or agencies regarding the Applicant's payment and credit history.

- □ Balance sheets, income statements and statements of cash flow for the two (2) most recent 12 month periods for which information is available. Audited financial statements must be provided if they exist. In addition, the Applicant shall provide any financial statements subsequent to the most recent annual financial statements.

- □ In the event that a parent or other corporation or company has undertaken to guarantee the financial integrity of the Applicant, the Applicant must submit such parent's other corporation's or company's balance sheet, income statement and statement of cash flow, together with documentation of such guarantee to insure the financial integrity of the Applicant. Audited financial statements must be provided if they exist. In addition, the Applicant shall provide any available quarterly financial statements subsequent to the most recent annual financial statements.

- □ If the Applicant, parent, or other corporation or company has not been in existence for at least two 12-month periods, it must provide balance sheets, income statements and statements of cash flow for the life of the business. Audited financial statements must be provided if they exist.

- □ Organizational structure of Applicant. Include Applicant's parent, affiliate(s), and subsidiary(ies) if applicable.

- □ Evidence of general liability insurance.

- If the Applicant has engaged in the retail supply of electricity supply services in any other jurisdiction, evidence that the Applicant is a licensed supplier in good standing.

- A current long-term bond rating, or other senior debt rating.

- Any other evidence of financial integrity such as an unused line of bank credit or parent guarantees.

15. BONDING REQUIREMENTS (Note: Underlining below is provided to highlight differences between Integrity Bond and Customer Payments Bond requirements.)

Integrity Bond

An Applicant who cannot provide credible evidence that it meets the financial integrity standards listed in Section 4606 of Chapter 46 of Title 15 DCMR must submit a bond on the form attached to this Application ("Integrity Bond"). The Applicant, if licensed by the Commission as an electricity supplier, may be required to update/revise this initial Integrity Bond, by revising the initial Integrity Bond or posting an additional Integrity Bond, as set forth in Section 4606.

However, an Applicant who can provide credible evidence that it meets the financial integrity standards listed in Section 4606 will not be required to submit an Integrity Bond. (The Applicant may still be required to submit a separate Customer Payments Bond, as discussed below.)

Customer Payments Bond

A separate bond on the appropriate form attached to this Application is mandatory if an Applicant requires prepayments and/or deposits from residential or small commercial customers ("Customer Payments Bond"). Please check one of the boxes below to state whether you, the Applicant, intend to charge, collect, or hold prepayments and/or deposits, as such terms are defined in the Bonding Requirements Addendum attached to this Application:

- Applicant will not accept prepayments or deposits from residential and small commercial customers.

- Applicant intends to accept prepayments or deposits and/or deposits from residential and small commercial customers. Applicant must comply with Bonding Requirements Addendum governing the Customer Payment Bond.

  Further details regarding the District of Columbia's bonding requirements are included in Sections 4605 and 4606 of Chapter 46 of Title 15 DCMR.

16. **NOTICE OF REQUIRED COMPLIANCE:** The Applicant is hereby notified that it is required to comply with the following:

a. The Applicant may be required to submit bond(s), as applicable as described in Section 15 herein.

b. The Applicant must update this application with the Commission immediately if any of the information provided in this Application changes during the pendency of the Application. After an Application has been approved, a Licensee must inform the Commission of changes to all parts of the application and the averment regarding any civil, criminal, or regulatory penalties, etc. imposed on applicant, *et al.* within thirty days of the change. A Licensee must inform the Commission of changes to the averment regarding bankruptcy proceedings instituted voluntarily or involuntarily within Twenty-four (24) hours of the institution of such proceedings.

c. If the Applicant receives a license from the Commission, licensee/Supplier must provide annual updates of all items that have changed in the application. The annual update should be provided to the Commission within 120 days after the anniversary of the grant of the license.

d. Supplement this application in the event the Commission modifies the licensing requirements, or request further information.

e. Agree that it will not present itself as a licensed retail supplier of electricity in the District of Columbia, accept deposits, prepayments, or contract with any end-use customers without a license from the Commission.

f. Pay all fees imposed by the Commission and any applicable taxes.

g. Ensure that a copy of each service agreement entered into with Potomac Electric Power Company is provided to the Commission.

h. Agree that the license to sell electricity and electricity supply services is not transferable without the prior approval of the District of Columbia Public Service Commission.

i. Attend an Electricity Suppliers Education Workshop sponsored by the Commission.

j. If certified, the Applicant agrees to submit a Privacy Protection Policy that complies with 15 DCMR § 308 (Use of Customer Information) within ninety (90) days of the adoption of Chapter 46 of Title 15 District Code of Municipal

Regulations (DCMR) or within sixty (60) days of receiving their Electricity Supplier license, whichever date is later.

k. The Applicant also agrees to abide by 15 DCMR § 308 and not Disclose information about a Customer or the Customer's use of service without the customer's written consent.

l. If the Applicant is certified, but later defaults, the licensee/Supplier agrees to comply with 15 DCMR § 4603.15 Electric Company and Licensee Responsibilities in the event of a default, and the District of Columbia Electricity Supplier Coordination Tariff.

17. **AFFIDAVITS REQUIRED**. The Applicant must supply Affidavits of Tax Compliance and General Compliance to the Commission with the completed Application. The affidavits are included with this Application packet and must be executed by the Applicant or representative with authority to bind the Applicant in compliance with District of Columbia laws.

18. **FURTHER DEVELOPMENTS:** Applicant is under a continuing obligation to amend its application if substantial changes occur in the information upon which the Commission relied in approving the original filing.

19. **FEE:** The Applicant has enclosed the required initial fee of $400.00.

Applicant:______________________________

By:___________________________________

Printed Name:___________________________

Title:__________________________________

AFFIDAVIT TAX COMPLIANCE

State of________________ :
: ss
County of______________ :

________________, Affiant, being duly [sworn/affirmed] according to law, deposes and says that:

That he/she is the____________(office of Affiant) of ______________(Name of Applicant);

That he/she is authorized to and does make this affidavit for said Applicant:

That __________, the Applicant herein, certifies to the Public Service Commission of the District of Columbia ("Commission") that it is subject to, will pay, and in the past has paid, the full amount of taxes imposed by applicable statutes and ordinances, as may be amended from time to time. The Applicant acknowledges that failure to pay such taxes or otherwise comply with the taxation requirements of the District of Columbia, shall be cause for the Commission to revoke the license of the Applicant. The Applicant acknowledges that it shall provide to the Commission it's jurisdictional Gross Receipts and power sales for ultimate consumption, for the previous year or as otherwise required by the Commission.

As provided by applicable Law, Applicant, by filing of this application waives confidentiality with respect to its tax information in the possession of the (appropriate taxing authority), regardless of the source of the information, and shall consent to the (appropriate taxing authority) providing that information to the Commission. The Commission shall retain such information confidentially. This does not constitute a waiver of the confidentiality of such information with respect to any party other than the Commission.

That the facts above set forth are true and correct to the best of his/her present knowledge, information, and belief after due inquiry and that he/she expects said Applicant to be able to prove the same at any hearing hereof.

____
Signature of Affiant

Sworn and subscribed before me this ____ day of _____________,_____.

____
Signature of official administering oath

My commission expires___________________________.

AFFIDAVIT OF GENERAL COMPLIANCE

State of _______ ________________:
: ss
County of______________________:

_______________, Affiant, being duly [sworn/affirmed] according to law, deposes and says that:

He/she is the ____________(Officer/Affiant) of____________________(Name of Applicant).

That he/she is authorized to and does make this affidavit for said Applicant.

That the Applicant herein certifies to the Public Service Commission of the District of Columbia ("Commission") that:

The Applicant agrees to comply with the terms and conditions of Potomac Electric Power's Company's tariff and agreements.

The Applicant is in compliance with and agrees to comply with all applicable Federal and District of Columbia consumer protection and environmental laws and regulations, and Commissions regulations, fees, assessments, order and requirements.

If certified, the Applicant agrees to submit a Privacy Protection Policy that complies with 15 DCMR §308 (Use of Customer Information) within ninety (90) days of the adoption of Chapter 46 of Title 15 District Code of Municipal Regulations or within sixty (60) days of receiving their Electricity Supplier license, whichever date is later.

The Applicant also agrees to abide by 15 DCMR §308 and not Disclose information about a customer or a customer's use of service without the customer's written consent.

Applicant agrees, upon request by the Commission, to provide copies to the Commission, of its consumer forms and/or contracts, its marketing or advertising materials (flyers and solicitation scripts), consumer pamphlets and its consumer education materials.

Applicant agrees to abide by any periodic reporting requirements set by the Commission by regulation, including any required periodic reporting to the (appropriate taxing authority).

Applicant agrees to provide proposed notice of the filing of its Application to the Commission so that it may forward the notice to the *District of Columbia Register* for publication.

The Applicant has obtained all the licenses and permits required to operate the proposed business in the District of Columbia.

The Applicant agrees to comply with power pool, control area, regional transmission operator, and/or ISO standards and requirements, as applicable.

The Applicant agrees that it shall neither disclose nor resell customer data provided to the Applicant by Potomac Electric Power Company.

The Applicant agrees, if the Commission approves its Application, to post an appropriate bond or other form of financial guarantee as required by the Commission and its regulations.

If the Applicant is certified, but later defaults, the licensee/Supplier agrees to comply with 15 DCMR § 4603.15, Electric Company and Licensee Responsibilities in the event of a default, and the District of Columbia Electricity Supplier Coordination Tariff.

The Applicant agrees, that within one (1) year of licensing or within one (1) year of the adoption of Chapter 46 of Title 15 DCMR, whichever is later, each Electricity Supplier shall notify the Commission of the successful completion of the Electricity Supplier Education Workshop sponsored by the Commission by the Licensee's Regulatory Contact or by the individual responsible for the Licensee's compliance with the Commission's rules. Successful completion of the Workshop shall be evidenced by a certificate awarded by the Commission.

The Applicant, including any of its Predecessor(s) and/or affiliate that engages in or engaged in the sale or transportation/transmission of electricity or natural gas at wholesale or retail or the provision of retail telephone or cable services to the public, the general partners, corporate officers or directors, or limited liability company managers or officers of the Applicant, its predecessor(s) or its affiliates:

1. Has had no civil, criminal or regulatory sanctions or Penalties imposed against it within the previous five (5) years pursuant to any state or federal consumer protection law or regulations, has not been convicted of any fraud-related crime (including, but not limited to, counterfeiting and forgery, embezzlement and theft, fraud and false statements, perjury, and securities fraud) within the last five (5) years; and has not ever been convicted of a felony; or alternatively.

2. Has disclosed by attachment all such sanctions, penalties convictions.

The Applicant further certifies that it:

1. Is not under involuntary bankruptcy/insolvency proceedings including but not limited to, the appointment of a receiver, liquidator, or trustee of the

supplier, or a decree by such court adjudging the supplier bankrupt or insolvent or sequestering any substantial part of its property or a petition to declare bankruptcy as to reorganize the supplier; and

2. Has not filed a voluntary petition in bankruptcy under any provision of any Federal or state bankruptcy law, or its consent to the filing of any bankruptcy or reorganization petition against it under any similar law; or without limiting the generality of the foregoing, a supplier admits in writing its inability to pay its debt generally as they become due to consents to the appointment of a receiver, trustee or liquidator of it or of all or any part of its property.

That Applicant possesses the requisite managerial and financial fitness to provide service at retail in the District of Columbia.

That the facts above set forth are true and correct to the best of his/her present knowledge, information, and belief after due inquiry and that he/she expects said Applicant to be able to prove the same at any hearing hereof.

____
Signature of Affiant

Sworn and subscribed before me this _____day of______________, _____.

____
Signature of official administering oath

My commission expires_________________________.

VERIFICATION

State of____________________________ :
: ss
County of__________________________ :

________________, Affiant, being duly [sworn/affirmed] according to law, deposes and says that:

He/she is the__________________ (Officer/Affiant) of _______________________________ (Name of Applicant);

That he/she is authorized to and does make this affidavit for said corporation;

The Applicant understands that the making of a false statement(s) herein may be grounds for denying the Application or, if later discovered, for revoking any authority granted pursuant to the Application. This Application is subject to all applicable sections of the District of Columbia Code as may be amended from time to time relating to perjury and falsification in official matters.

That the Applicant will supplement this Application in the event the Public Service Commission of the District of Columbia ("Commission") modifies the licensing requirements, or requests further information.

That the Applicant agrees that it will not present itself as a licensed retail supplier of electricity in the District of Columbia, accept deposits, prepayments, or contract with any end-use customers without a license from the Commission.

That the Applicant agrees that a license issued pursuant to this Application may not be transferred without prior approval by the Commission.

That the Applicant agrees to update information contained in this Application in accordance with the schedule set forth in the Application.

That the facts above set forth are true and correct to the best of his/her present knowledge, information, and belief after due inquiry and that he/she expects said Applicant to be able to prove the same at any hearing hereof.

____
Signature of Affiant

Sworn and subscribed before me this ______ day of_____________, 20__.

____
Signature of official administering oath

My commission expires_____________________.

APPLICANT'S GENERAL AUTHORIZATION FOR VERIFICATION OF FINANCIAL INFORMATION, ETC.

TO WHOM IT MAY CONCERN:

I/We have applied to the District of Columbia Public Service Commission (the "Commission") for a license to be an Electricity Supplier, or to provide certain Electricity Supply related services, and authorize you to release to the Staff of the Commission and its authorized representatives and agents any information or copies of records requested concerning:

> MY COMPANY OR BUSINESS AND ITS HISTORY, PERFORMANCE, OPERATIONS, CUSTOMER RELATIONS, FINANCIAL CONDITION, INCLUDING BANK ACCOUNT TRANSACTIONS AND BALANCES, PAYMENT HISTORY WITH SUPPLIERS AND OTHER CREDITORS, VERIFICATION OF NET WORTH AND OTHER INFORMATION AND RECORDS WHICH THE COMMISSION REQUIRES TO VERIFY OR MAKE INQUIRY CONCERNING MY/OUR FINANCIAL INTEGRITY AND THE INFORMATION CONTAINED IN MY/OUR LICENSE APPLICATION OR OTHER INFORMATION PROVIDED BY ME/US TO THE COMMISSION OR, STAFF OF THE COMMISSION OR ITS REPRESENTATIVES OR AGENTS.

This Authorization is continuing in nature and includes release of information following issuance of a license, for reverification, quality assurance, internal review, etc. The information is for the confidential use of the Commission and the Staff of the Commission in determining my/our financial integrity for being a licensee or to confirm information I/We have supplied and may not be released by order of the Commission or by order of a court of competent jurisdiction.

A photographic or fax copy of this authorization may be deemed to be the equivalent of the original and may be used as a duplicate original. The original signed form is maintained by the Staff of the Commission.

APPLICANT'S AUTHORIZATION TO RELEASE INFORMATION:

____
APPLICANT (please print)

_____________________________________ ____________________
APPLICANT'S SIGNATURE **DATE**

____
TITLE

ATTACHMENT B

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF APPLICATION

FORMAL CASE NO. EA [Application Number] IN THE MATTER OF THE APPLICATION OF [Application Name] FOR AN ELECTRICITY LICENSE

1. The Public Service Commission of the District of Columbia ("Commission") gives notice that on [Month Day, Year], [Name of Applicant] filed its license application to become a retail electricity supplier in the District of Columbia.

2. All persons interested in filing an objection or comments to the licensure of [Name of Applicant] supplier may submit written and reply comments no later than (30) thirty and thirty-seven (37) days, respectively, after the issuance of this Notice. Comments are to be addressed to Brenda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, N.W., West Tower, Suite 200, Washington, D.C. 20005. Copies of the license application filing may be obtained by visiting the Commission's website at www.dcpsc.org and clicking on the tab, "e-docket system," then click on search current documents and then under the section identified as "select case type" click on Electric Applications ("EA") or at cost, by contacting the Commission Secretary at 202-626-5150 or bwestbrook@psc.dc.gov.

ATTACHMENT C

FORM OF CUSTOMER PAYMENTS BOND-SURETY BOND

Bond No. ___________

We,

____

(Name of supplier)

____

(Address of supplier)

as principal, and

____

(Surety Company)

____

(Address of surety)

as surety authorized to do business in the District of Columbia, are held and firmly bound to the Public Service Commission of the District of Columbia, as obligee for the use and benefit of all persons establishing legal rights hereunder, in the sum of FIFTY THOUSAND AND NO/100 ($50,000) lawful money of the United States of America, to the payments of which sum, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly, severally, and firmly by this document.

WHEREAS, the Principal has applied to the Public Service Commission of the District of Columbia for a license to provide electric service to retail customers in the District of Columbia, and

WHEREAS, pursuant to the Retail Electric Competition and Consumer Protection Act of 1999, D.C. Law 13-107, Section 105, the Public Service Commission of the District of Columbia is authorized to require the Principal to maintain a bond in order to provide retail electric service.

NOW, THEREFORE, if the Principal shall faithfully and truly fulfill all of its service or product contracts and other contractual commitments to deliver retail electric services, and not file for bankruptcy or for similar protection under law, then this obligation shall be void, otherwise to remain in full force and effect as security for the use of the Public Service Commission of the District of Columbia or of any person or entity, who after entering into a service or product contract or third party supplier agreement for service in the District of Columbia with the above

named Principal is damaged or suffers any loss of a deposit or prepayment (as such terms are defined in) (Sections 4605 and 4606 of Chapter 46 of Title 15 DCMR) by reason of failure of service or by other breach or bankruptcy by this Principal.

The aggregate liability of the Surety is limited to the foregoing sum which sum shall be reduced by any payment made in good faith hereunder.

The term of this bond is for the period beginning _________ and terminating ______________, and may continue for an annual period by a Continuation Certificate signed by the Principal and Surety, a copy of which must be served by registered mail upon the Secretary of the Public Service Commission of the District of Columbia.

In order to draw funds on this Bond, the Secretary of the Public Service Commission of the District of Columbia shall present the following document to the Surety, and attach thereto documentation in support thereof:

Affidavit sworn to and signed by the Secretary of the Public Service Commission of the District of Columbia, stating that at the public hearing on, ____, the Public Service Commission of the District of Columbia determined that ______________________________ has not satisfactorily performed its obligations to a person or entity, who has suffered actual and direct damages or loss of a deposit or prepayment (as such terms defined in Sections 4605 and 4606 of Chapter 46 of Title 15 DCMR) in a specific amount by means of failure, or by reason of breach of contract or violation of the Retail Electric Competition and Consumer Protection Act of 1999, D.C. Law 13-107, and/or regulations, rules or standards promulgated pursuant thereto.

SIGNED, SEALED AND DATED this ________ day of ______________________

Principal ____________________________________

By: ______________________________________
(Signatory)

Surety ______________________________________

Address of Surety: ____________________________

____

____

____

By: ______________________________________
(Signatory)

Notary Seal

47

ATTACHMENT D

FORM OF INTEGRITY BOND
FOR ELECTRICITY SUPPLIERS AND MARKETERS
INTEGRITY BOND-SURETY BOND

Bond No. ________

We,

____
(Name of supplier)

____
(Address of supplier)

as principal, and

____
(Surety Company)

____
(Address of surety)

as surety authorized to do business in the District of Columbia, are held and firmly bound to the Public Service Commission of the District of Columbia, as obligee for the use and benefit of all persons establishing legal rights hereunder, in the sum of FIFTY THOUSAND AND 00/100 ($50,000) lawful money of the United States of America, to the payments of which sum, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly, severally, and firmly by this document.

WHEREAS, the Principal has applied to the Public Service Commission of the District of Columbia for a license to provide electric service to retail customers in the District of Columbia, and

WHEREAS, pursuant to the Retail Electric Competition and Consumer Protection Act of 1999, D.C. Law 13-107, Section 105, the Public Service Commission of the District of Columbia is authorized to require the Principal to maintain a bond in order to provide retail electric service.

NOW, THEREFORE, if the Principal shall faithfully and truly fulfill all of its service or product contracts and other contractual commitments to deliver retail electric services, and not file for bankruptcy or for similar protection under law, then this obligation shall be void, otherwise to remain in full force and effect as security for the use of the Public Service Commission of the District of Columbia or of any person or entity, who after entering a service or product contract

or third party supplier agreement for service in the District of Columbia with the above named Principal is actually and directly damaged or suffers any actual or direct loss by reason of failure of service or by other breach or bankruptcy by this Principal.

The aggregate liability of the Surety is limited to the foregoing sum which sum shall be reduced by any payment made in good faith hereunder.

The term of this bond is for the period beginning __________ and terminating ________________________________, and may be continued for an annual period by a Continuation Certificate signed by the Principal and Surety, a copy of which must be served by registered mail upon the Secretary of the Public Service Commission of the District of Columbia.

In order to draw funds on this Bond, the Secretary of the Public Service Commission of the District of Columbia shall present the following document to the Surety, and attach thereto documentation in support thereof:

Affidavit sworn to and signed by the Secretary of the Public Service Commission of the District of Columbia, stating that at the public hearing, on ________________________, the Public Service Commission of the District of Columbia determined that ___________________________ has not satisfactorily performed its obligations to a person or entity, who has suffered actual and direct damages or loss in a specific amount by means of failure, or by reason of breach of contract or violation of the Retail Electric Competition and Consumer Protection Act of 1999, D.C. Law 13-107, and/or regulations, rules or standards promulgated pursuant thereto.

SIGNED, SEALED AND DATED this _____________ day of _____________________

Principal: ______________________________

By: _________________________________
(Signatory)

Surety:_________________________________

Address of Surety: ____________________________

____

____

____

By: ____
(Signatory)

Notary Seal

ATTATCHMENT E

FORM OF INTEGRITY BOND FOR AGGREGATORS AND BROKERS

INTEGRITY BOND-SURETY BOND

Bond No. _______

We,

____
(Name of supplier)

____
(Address of supplier)

as principal, and

____
(Surety Company)

____
(Address of surety)

as surety authorized to do business in the District of Columbia, are held and firmly bound to the Public Service Commission of the District of Columbia, as obligee for the use and benefit of all persons establishing legal rights hereunder, in the sum of TEN THOUSAND 00/100 ($ 10,000) lawful money of the United States of America, to the payments of which sum, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly, severally, and firmly by this document.

WHEREAS, the Principal has applied to the Public Service Commission of the District of Columbia for a license to provide electric service to retail customers in the District of Columbia, and

WHEREAS, pursuant to the Retail Electric Competition and Consumer Protection Act of 1999, D.C. Law 13-107, Section 105, the Public Service Commission of the District of Columbia is authorized to require the Principal to maintain a bond in order to provide retail electric service.

NOW, THEREFORE, if the Principal shall faithfully and truly fulfill all of its service or product contracts and other contractual commitments to deliver retail electric services, and not file for bankruptcy or for similar protection under law, then this obligation shall be void, otherwise to remain in full force and effect as security for the use of the Public Service Commission of the District of Columbia or of any person or entity, who after entering into a service or product contract or third party supplier agreement for service in the District of

Columbia with the above named Principal is actually and directly damaged or suffers any actual or direct loss by reason of failure of service or by other breach or bankruptcy by this Principal.

The aggregate liability of the Surety is limited to the foregoing sum which sum shall be reduced by any payment made in good faith hereunder.

The term of this bond is for the period beginning ________and terminating ___________, and may be continued for an annual period by Continuation Certificate signed by the Principal and Surety, a copy of which must be served by registered mail upon the Secretary of the Public Service Commission of the District of Columbia.

In order to draw funds on this Bond, the Secretary of the Public Service Commission of the District of Columbia shall present the following document to the Surety, and attach thereto documentation in support thereof:

Affidavit sworn to and signed by the Secretary of the Public Service Commission of the District of Columbia, stating that at the public hearing, on ____________________________, the Public Service Commission of the District of Columbia determined that ____________________________________ has not satisfactorily performed its obligations a person or entity; who has suffered actual and direct damages or loss a specific amount by means of failure, or by reason of breach of contract or violation of the Retail Competition and Consumer Protection Act of 1999, D.C. Law 13-107, and/or regulations, rules or standards promulgated pursuant thereto.

SIGNED, SEALED AND DATED this _______ day of ____________________

Principal: ________________________________

By: ____________________________________
(Signatory)

Surety: __________________________________

Address of Surety: _________________________

____

____

____

By: ___________________________________
(Signatory)

Notary Seal

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance ("DHCF"), pursuant to the authority set forth in an Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2014 Repl.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Section 4209 of Chapter 42 (Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Register ("DCMR").

These emergency and proposed rules amend the previously published standards governing reimbursement of providers of personal care services under the Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities ("EPD Waiver") by increasing the rates for services rendered by a personal care aid (PCA) to comply with the Living Wage Act of 2006 ("Living Wage Act"), effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq*. (2012 Repl.)). These rules increase the previous living wage rates by twenty cents (20¢) per hour, or five cents (5¢) per fifteen (15) minute increment. This adjustment was made to comply with the Department of Employment Services' recent increases to the living wage rate effective January 1, 2015.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of EPD Waiver participants who are in need of personal care services. Based upon current reimbursement requirements, payments to home care providers are not adequate to ensure compliance with the Living Wage Act of 2006. By taking emergency action, this rule will ensure that providers of personal care services are compensated for providing personal care services in accordance with the Living Wage Act of 2006. Therefore, in order to ensure that the participants' health, safety, and welfare are not threatened by the lapse of access to personal care aid services provided by qualified and equitably paid providers, it is necessary that these rules be published on an emergency basis.

The emergency rulemaking was adopted on December 31, 2014 and will become effective for services rendered beginning January 1, 2015. The emergency rules shall remain in effect for one hundred and twenty (120) days or until April 30, 2015 unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Section 4209, REIMBURSEMENT RATES: PERSONAL CARE AIDE SERVICES, of Chapter 42, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR PERSONS WHO ARE ELDERLY AND INDIVIDUALS WITH PHYSICAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Subsections 4209.2 and 4209.3 are amended to read as follows:

4209.2 Each Provider shall be reimbursed four dollars and seventy-two cents ($4.72) per fifteen (15) minutes for services rendered by a PCA, of which three dollars and forty-five cents ($3.45) per fifteen (15) minutes shall be paid to the PCA to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.1 *et seq*. (2012 Repl.)).

4209.3 A unit of service for PCA services shall be fifteen (15) minutes spent performing the allowable tasks.

Comments on the emergency and proposed rule shall be submitted, in writing, to Claudia Schlosberg, J.D., Interim Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, Suite 900, Washington, D.C. 20001, via telephone on (202) 442-8742, via email at DHCFPublicComments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rule may be obtained from the above address.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance ("DHCF"), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2014 Repl.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Section 5015 of Chapter 50 (Medicaid Reimbursements for Personal Care Aide Services) of Title 29 (Public Welfare) of the District of Columbia Municipal Register ("DCMR").

These emergency and proposed rules amend the previously published standards governing reimbursement of providers of personal care services under the District of Columbia State Plan for Medical Assistance by increasing the rates for services rendered by a personal care aide ("PCA") to comply with the Living Wage Act of 2006 ("Living Wage Act"), effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq*. (2012 Repl.)). These rules increase the previous living wage rates by twenty cents (20¢) per hour, or five cents (5¢) per fifteen (15) minute increment. This adjustment was made to comply with the Department of Employment Services' recent increases to the living wage rate effective January 1, 2015.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of beneficiaries who are in need of personal care services. Based upon current reimbursement requirements, payments to home care providers are not adequate to ensure compliance with the Living Wage Act of 2006. By taking emergency action, this rule will ensure that providers of personal care services are compensated for providing personal care services in accordance with the Living Wage Act of 2006. Therefore, in order to ensure that the beneficiaries' health, safety, and welfare are not threatened by the lapse of access to personal care services provided by qualified and equitably paid providers, it is necessary that these rules be published on an emergency basis.

The emergency rulemaking was adopted on December 31, 2014 and will become effective for services rendered beginning January 1, 2015. The emergency rules shall remain in effect for one hundred and twenty (120) days, or until April 30, 2015, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Section 5015, REIMBURSEMENT, of Chapter 50, MEDICAID REIMBURSEMENT FOR PERSONAL CARE AIDE SERVICES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Subsection 5015.1 is amended to read as follows:

5015.1 Each Provider shall be reimbursed four dollars and seventy-two cents ($4.72) per fifteen (15) minutes for services rendered by a PCA, of which three dollars and forty-five cents ($3.45) per fifteen (15) minutes shall be paid to the PCA to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq*. (2012 Repl.)).

Comments on the emergency and proposed rule shall be submitted, in writing, to Claudia Schlosberg, J.D. Interim Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, North West, Suite 900, Washington, D.C. 20001, via telephone on (202) 442-8742, via email at DHCFPublicComments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rule may be obtained from the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-049
January 29, 2015

SUBJECT: Delegation – Authority of the Chief Procurement Officer

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(2) and (4) of the District of Columbia Home Rule Act, Pub. L. 93-198, 87 Stat. 790, D.C. Official Code § 1-204.22(2) and (4) (2012 Repl.), it is hereby **ORDERED** that:

1. **NANCY K. HAPEMAN,** general counsel for the Office of Contracting and Procurement, is delegated the powers and duties of the Chief Procurement Officer of the Office of Contracting and Procurement and shall exercise those powers and duties during any absence of the Chief Procurement Officer.

2. The powers and duties delegated herein may, during an absence or disability of the Chief Procurement Officer, be further delegated to a subordinate otherwise under the jurisdiction of the Chief Procurement Officer.

3. **EFFECTIVE DATE**: This Order shall be effective *nunc pro tunc* to January 15, 2015.

MURIEL E. BOWSER
MAYOR

ATTEST:

LAUREN VAUGHAN
ACTING SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-050
January 29, 2015

SUBJECT: Appointment – Acting Director, Department of Human Services

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Repl.), it is hereby **ORDERED** that:

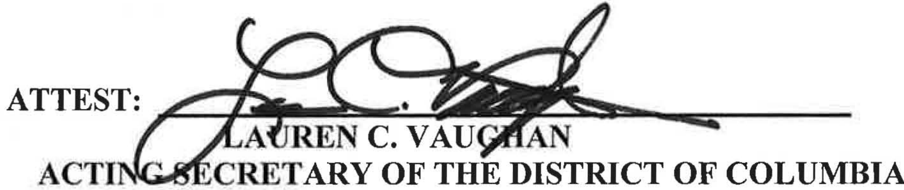
1. **LAURA ZEILINGER** is appointed Acting Director of the Department of Human Services and shall serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2014-173, dated July 22, 2014.

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

MURIEL E. BOWSER
MAYOR

ATTEST:



LAUREN C. VAUGHAN
ACTING SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-051
January 29, 2015

SUBJECT: Reappointment – Director, Office of Unified Communications

ORIGINATING AGENCY: Office of the Mayor

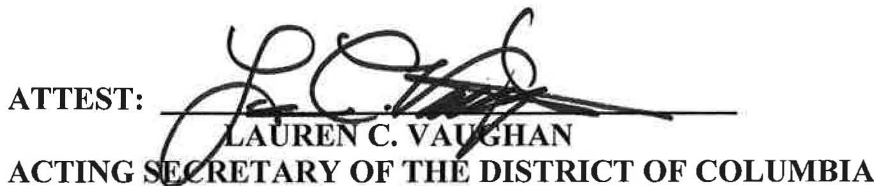
By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Repl.), and pursuant to section 3203(b) of the Office of Unified Communications Establishment Act of 2004, effective December 7, 2004, D.C. Law 15-205, D.C. Official Code § 1-327.52(b) (2012 Repl.) it is hereby **ORDERED** that:

1. **JENNIFER A.J. GREENE** is reappointed Director, Office of Unified Communications, and shall serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2011-194, dated December 15, 2011.

3. **EFFECTIVE DATE**: This Order shall be effective *nunc pro tunc* to January 2, 2015.

MURIEL E. BOWSER
MAYOR



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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-052
January 29, 2015

SUBJECT: Reappointment – Executive Director, Office of Cable Television

ORIGINATING AGENCY: Office of the Mayor

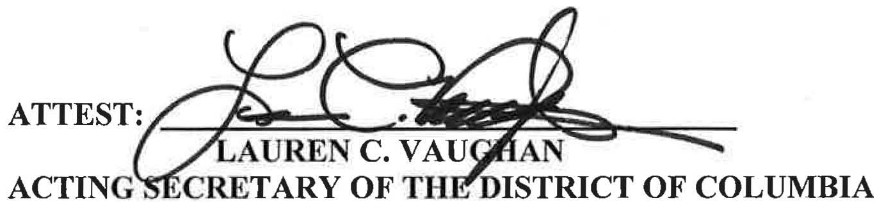
By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat.790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Repl.), and Mayor's Order 2007-204, Re-Designation of the Office of Cablevision and Telecommunications as the District of Columbia Office of Cable Television, dated September 17, 2007, it is hereby **ORDERED** that:

1. **ERIC E. RICHARDSON** is reappointed Executive Director, Office of Cable Television, and shall continue to serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2011-18, dated January 2, 2011.

3. **EFFECTIVE DATE**: This Order shall be effective *nunc pro tunc* to January 2, 2015.

MURIEL E. BOWSER
MAYOR



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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-053
January 29, 2015

SUBJECT: Reappointment – Executive Director, Office of Returning Citizens Affairs

ORIGINATING AGENCY: Office of the Mayor

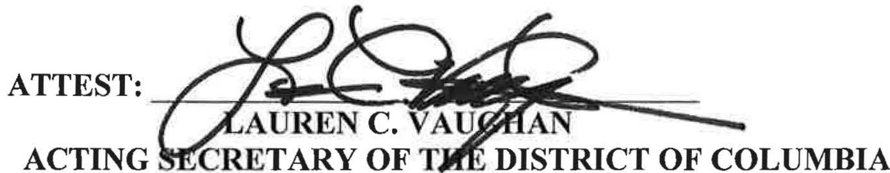
By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code §§ 1-204.22(2) (2012 Repl.), and Mayor's Order 2012-31, dated February 28, 2012, it is hereby **ORDERED** that:

1. **CHARLES THORNTON** is reappointed Executive Director, Office of Returning Citizens Affairs, and shall serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2012-15, dated January 26, 2012.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to January 2, 2015.

MURIEL E. BOWSER
MAYOR



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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-054
January 29, 2015

SUBJECT: Reappointment – Interim Director, Office of Disability Rights

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Repl.), and by section 4(c)(1) of the Disability Rights Protection Act of 2006, effective March 8, 2007, D.C. Law 16-239, D.C. Official Code § 2-1431.03(c)(1) (2012 Repl.), it is hereby **ORDERED** that:

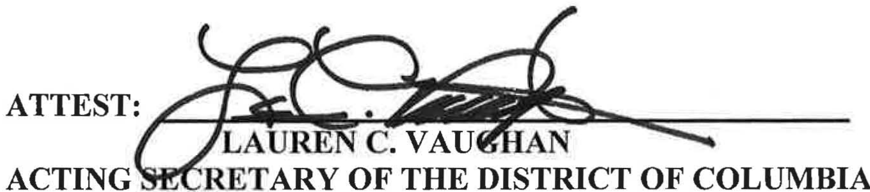
1. **ALEXIS TAYLOR** is reappointed Interim Director, Office of Disability Rights and shall serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Orders 2014-186, dated August 4, 2014.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to January 2, 2015.

MURIEL E. BOWSER
MAYOR

ATTEST:



LAUREN C. VAUGHAN
ACTING SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-055
January 29, 2015

SUBJECT: Reappointment – Director, Office of Human Rights

ORIGINATING AGENCY: Office of the Mayor

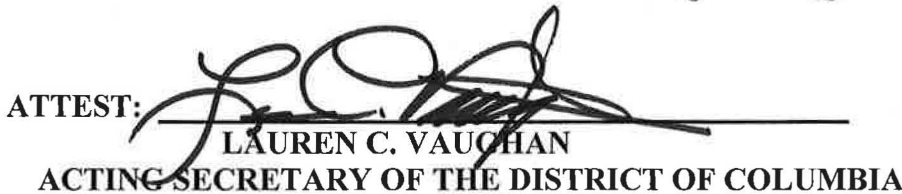
By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Repl.), and pursuant to section 202 of the Office of Human Rights Establishment Act of 1999, effective October 20, 1999, D.C. Law 13-38, D.C. Official Code § 2-1411.01 (2012 Repl.), it is hereby **ORDERED** that:

1. **MONICA PALACIO**, is reappointed as the Director, Office of Human Rights, and shall serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2014-141, dated June 12, 2014.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to January 2, 2015.

MURIEL E. BOWSER
MAYOR



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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-056
January 29, 2015

SUBJECT: Reappointment – Chief Medical Examiner, Office of the Chief Medical Examiner

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) 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(2) and (11) (2012 Repl.), and section 2903 of the Establishment of the Office of the Chief Medical Examiner Act of 2000, effective October 19, 2000, D.C. Law 13-172, D.C. Official Code § 5-1402 (2012 Repl.), it is hereby **ORDERED** that:

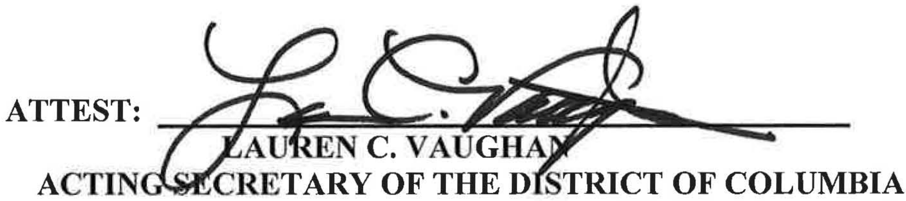
1. **ROGER A. MITCHELL, Jr., M.D., FASCP,** is reappointed Chief Medical Examiner, for a term to end June 3, 2020.

2. This Order supersedes Mayor's Order 2014-145, dated June 16, 2014.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to January 2, 2015.

MURIEL E. BOWSER
MAYOR

ATTEST:



LAUREN C. VAUGHAN
ACTING SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-057
January 29, 2015

SUBJECT: Reappointment – Director/Chief Risk Officer, Office of Risk Management

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Repl.), it is hereby **ORDERED** that:

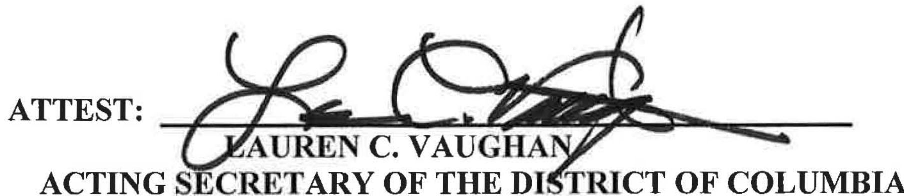
1. **PHILLIP A. LATTIMORE III** is reappointed Director/Chief Risk Officer, Office of Risk Management and shall serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2011-97, dated May 11, 2011.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to January 2, 2015.

MURIEL E. BOWSER
MAYOR

ATTEST:



LAUREN C. VAUGHAN
ACTING SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-058
January 29, 2015

SUBJECT: Reappointment – Director, Department of Forensic Sciences

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Repl.), and pursuant to section 4 of the Department of Forensic Sciences Establishment Act of 2011, effective August 17, 2011, D.C. Law 19-18, D.C. Official Code § 5-1501.03 (2012 Repl.), it is hereby **ORDERED** that:

1. **DR. MAX M. HOUCK** is reappointed Director, Department of Forensic Sciences and shall serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2012-235, dated December 31, 2012.

3. **EFFECTIVE DATE**: This Order shall be effective *nunc pro tunc* to January 2, 2015.

MURIEL E. BOWSER
MAYOR

ATTEST:

LAUREN C. VAUGHAN
ACTING SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-059
January 29, 2015

SUBJECT: Reappointment – Director, Department of Health Care Finance

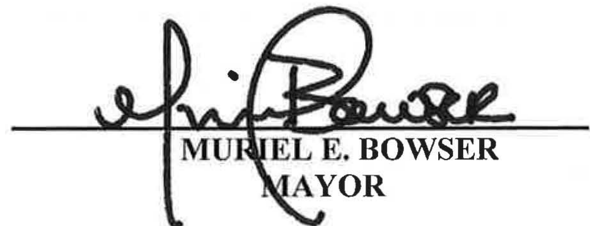
ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Repl.), and pursuant to section 5 of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008, D.C. Law 17-109, D.C. Official Code § 7-771.04 (2012 Repl.), is hereby **ORDERED** that:

1. **WAYNE M. TURNAGE** is reappointed Director, Department of Health Care Finance and shall serve in that capacity at the pleasure of the Mayor.

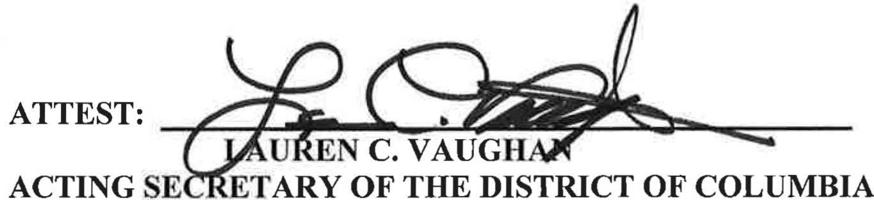
2. This Order supersedes Mayor's Order 2011-82, dated April 22, 2011.

3. **EFFECTIVE DATE**: This Order shall be effective *nunc pro tunc* to January 2, 2015.



MURIEL E. BOWSER
MAYOR

ATTEST:



LAUREN C. VAUGHAN
ACTING SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-060
January 29, 2015

SUBJECT: Reappointment – Director, Department of Public Works

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat.790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Repl.), it is hereby **ORDERED** that:

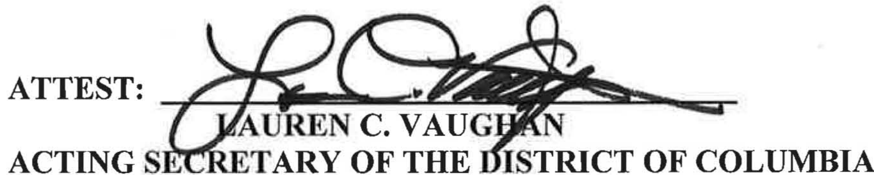
1. **WILLIAM O. HOWLAND** is reappointed Director, Department of Public Works, and shall continue to serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2011-11, dated January 2, 2011.

3. **EFFECTIVE DATE**: This Order shall be effective *nunc pro tunc* to January 2, 2015.

MURIEL E. BOWSER
MAYOR

ATTEST:



LAUREN C. VAUGHAN
ACTING SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-061
January 29, 2015

SUBJECT: Reappointment – Director, Department on Disability Services

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat.790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Repl.), and pursuant to section 103 of the Department on Disability Services Establishment Act of 2006, effective March 14, 2007, D.C. Law 16-264, D.C. Official Code § 7-761.03 (2014 Supp.), it is hereby **ORDERED** that:

1. **LAURA L. NUSS** is reappointed Director, Department on Disability Services, and shall continue to serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2011-34, dated January 19, 2011.

3. **EFFECTIVE DATE**: This Order shall be effective *nunc pro tunc* to January 2, 2015.

MURIEL E. BOWSER
MAYOR

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-062
January 29, 2015

SUBJECT: Reappointment – Director, Homeland Security and Emergency Management Agency

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat.790; Pub. L. 93-198; D.C. Official Code § 1-204.22(2) (2012 Repl.)), and in accordance with section 2 of An Act To authorize the District of Columbia government to establish an Office of Civil Defense, and for other purposes, approved August 11, 1950 (64 Stat. 438; Pub. L. 81-686; D.C. Official Code § 7-2202 (2012 Repl.), it is hereby **ORDERED** that:

1. **CHRISTOPHER T. GELDART** is reappointed Director, Homeland Security and Emergency Management Agency, and shall serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2012-223, dated December 17, 2012.

3. **EFFECTIVE DATE**: This Order shall be effective *nunc pro tunc* to January 2, 2015.

MURIEL E. BOWSER
MAYOR

ATTEST:

LAUREN C. VAUGHAN
ACTING SECRETARY OF THE DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, FEBRUARY 11, 2015
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009

Ruthanne Miller, Chairperson
Members: Nick Alberti, Donald Brooks, Herman Jones
Mike Silverstein, Hector Rodriguez, James Short

Protest Hearing (Status) **9:30 AM**
Case # 15-PRO-00001; Anyado Hospitality Group, LLC, t/a Hush Restaurant & Lounge, 3124 Georgia Ave NW, License #96986, Retailer CT, ANC 1A
Application for a New License

Protest Hearing (Status) **9:30 AM**
Case # 14-PRO-00101; A And A, LLC, t/a Georgia Line Convenience Store
5125 Georgia Ave NW, License #91196, Retailer B, ANC 4D
Petition to Amend or Terminate the Settlement Agreement

Protest Hearing (Status) **9:30 AM**
Case # 14-PRO-00099; A And A, LLC, t/a Georgia Line Convenience Store
5125 Georgia Ave NW, License #91196, Retailer B, ANC 4D
Application to Renew the License

Show Cause Hearing (Status) **9:30 AM**
Case # 14-CC-00151; Etete Ethiopian Cuisine, LLC, t/a Etete Ethiopian Cuisine
1942 9th Street NW, License #70728, Retailer CT, ANC 1B
No ABC Manager on Duty

Fact Finding Hearing **9:30 AM**
Hilton Rodriguez
Application for a Manager's License

Show Cause Hearing **10:00 AM**
Case # 14-CMP-00460; A And A, LLC, t/a Georgia Line Convenience Store
5125 Georgia Ave NW, License #91196, Retailer B, ANC 4D
Operating After Hours, Violation of Settlement Agreement

Board's Calendar
February 11, 2015

Fact Finding Hearing **11:00 AM**
Case # 15-251-00008; MDM, LLC, t/a Takoma Station Tavern, 6914 4th Street NW, License #79370, Retailer CT, ANC 4B
Assault with a Deadly Weapon

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

Fact Finding Hearing **1:30 PM**
RCX, LLC, t/a Stadium; 2127 Queen Chapel Road NE, License #94244, Retailer CN, ANC 5C
Application to Transfer License

Show Cause Hearing **2:30 PM**
Case # 14-CMP-00429; Spo-dee-o-dee, LLC, t/a The Showtime, 113 Rhode Island Ave NW, License #89186, Retailer CT, ANC 5E
Operating After Hours

Show Cause Hearing **3:30 PM**
Case # 14-CC-00141, Kookoovaya, Inc., t/a We, the Pizza, 305 Pennsylvania Ave SE, License #82062, Retailer CR, ANC 6B
Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal Drinking Age, No ABC Manager on Duty

Show Cause Hearing **4:30 PM**
Case # 14-CC-00121; S &W D.C., LLC, t/a Smith & Wollensky, 1112 19th Street NW, License #60001, Retailer CR, ANC 2B
Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal Drinking Age

***The Board will hold a closed meeting for purposes of deliberating these hearings pursuant to D.C. Offical Code §2-574(b)(13).**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
INVESTIGATIVE AGENDA

WEDNESDAY, FEBRUARY 11, 2015
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

On February 11, 2015 at 4:00 pm, the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed "to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations."

1. Case#15-CC-00002 Thomas & Sons, 3425 BENNING RD NE Retailer B Retail - Grocery, License#: ABRA-075185

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2. Case#15-251-00004 Ibiza, 1222 1ST ST NE Retailer C Nightclub, License#: ABRA-074456

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3. Case#14-251-00324 DC 9, 1940 9TH ST NW Retailer C Nightclub, License#: ABRA-071156

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4. Case#15-CMP-00023 Town House Tavern Restaurant, 1637 R ST NW Retailer C Restaurant, License#:ABRA-024682

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5. Case#14-CMP-00699 El Sauce Restaurant And Carry-Out, 1227 11TH ST NW Retailer D Restaurant, License#:ABRA-072654

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6. Case#15-AUD-00004 Otello, 1329 CONNECTICUT AVE NW Retailer C Restaurant, License#: ABRA-020177

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7. Case#15-251-00002 The Bottom Line, 1716 I ST NW A Retailer C Tavern, License#: ABRA-000755

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8. Case#14-251-00348 DC Shenanigans, 2450 18th ST NW Retailer C Tavern, License#: ABRA-088119

Page **1** of **2**

9. Case#14-251-00349 DC Shenanigans, 2450 18th ST NW Retailer C Tavern, License#: ABRA-088119

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10. Case#15-251-00005 Stadium, 2127 QUEENS CHAPEL RD NE Retailer C Nightclub, License#: ABRA-094244

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11. Case#15-CMP-00002 Touche, 1123 H ST NE Retailer C Tavern, License#: ABRA-096779

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12. Case#15-CC-00001 Golden Angel Trading Inc., 914 Rhode Island AVE NE Retailer A Retail - Liquor Store, License#:ABRA-097033

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13. Case#15-AUD-00024 Bon Appetit Management Company, 600 New Jersey AVE NW Retailer D Restaurant, License#: ABRA-071419

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LEGAL AGENDA

WEDNESDAY, FEBRUARY 11, 2015 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Settlement Agreement between ANC 1A and Wonderland Ballroom LLC, dated January 14, 2014. ***Wonderland Ballroom LLC***, 1101 Kenyon Street, NW, Retailer CN, License No.: 071272.

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2. Review of Settlement Agreement between ANC 8A and Good Hope Deli & Market, dated January 27, 2015. ***Good Hope Deli & Market***, 1736 Good Hope Road, SE, Retailer B, License No.: 093974.

*** 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, FEBRUARY 11, 2015 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Request for Change of Hours. ***Approved Hours of Operation:*** Sunday 9am to 12am, Monday-Friday 7am to 12am, and Saturday 8am to 12am. ***Approved Hours of Alcoholic Beverage Sales and Consumption:*** Sunday-Saturday 9am to 12am. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption:*** Sunday-Saturday 7am-12am. ANC 2F. SMD 2F02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Fresh Fields Whole Foods Market***, 1440 P Street NW, Retailer B, License No. 060167.

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2. Review Application to add a Sidewalk Café with 28 seats. ANC 2A. SMD 2A03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***The River Inn/Dish***, 924 25th Street NW, Retailer CH, License No. 001782.

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3. Review Application for Entertainment Endorsement. ANC 2E. SMD 2E08. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Bulldog Tavern***, 3700 O Street NW, Retailer CR, License No. 096001.

***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.**

CENTER CITY PUBLIC CHARTER SCHOOLS, INC.

REQUEST FOR PROPOSAL

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

Center City Public Charter Schools seeks to improve Wi-Fi service for both staff and students in each of its schools and the district central office.

To obtain copies of full RFP's, please visit our website: www.centercitypcs.org. The full RFP's contain guidelines for submission, applicable qualifications and deadlines.

Contact person:

Scott Burns
sburns@centercitypcs.org

CESAR CHAVEZ PUBLIC CHARTER SCHOOLS

REQUEST FOR PROPOSALS

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

Strategic Plan Implementation Support: This work will include designing and developing key components of the network's instructional programming and engaging multiple stakeholders to give feedback on the process. The vendor must have significant experience in school leadership and in strategic planning.

Proposals are due to chavezbids@chavezschools.org no later than 2:00 PM February 6,2015.

Bidding requirements can be obtained by contacting Nicoisa Young at Nicoisa.young@chavezschools.org.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

CONSTRUCTION CODES COORDINATING BOARD

NOTICE OF MEETING

The Construction Codes Coordinating Board will be holding its next meeting on Wednesday, February 18, 2015 at 10:00 a.m. in room 4302.

The meetings will be held at 1100 Fourth Street, SW, Fourth Floor Conference Room, Washington, D.C. 20024. The location is on the Metro Green Line, at the Waterfront/SEU stop. Limited paid parking is available on site.

Board information is available on the website of the Department of Consumer and Regulatory Affairs at dcra.dc.gov, under “Events Calendar”.

E.L. Haynes Public Charter School

REQUEST FOR PROPOSALS – EXECUTIVE SEARCH

E.L. Haynes Public Charter School —a nonprofit, college-preparatory, public charter K-12 school — seeks an experienced executive search firm to provide consulting services to support the recruitment of a new Executive Director.

To obtain an electronic copy of the full Request for Proposal (RFP), send an email to search@elhaynes.org with the subject heading *Haynes Executive Director Search RFP*.

The deadline for full RFP submissions is February 11, 2015, at 5:00 pm EST. Prospective firms should e-mail one electronic submission, including a signed contract with the effective date to be entered by E.L. Haynes, to search@elhaynes.org. Submissions should not exceed 4MB.

By submitting a bid, every bidder affirms that neither the bidder nor its subcontractors (if any) are an excluded party by or disbarred from doing business with/receiving funds from either the U.S. federal government or the government of the District of Columbia. Bidders also agree to the provisions of E.L. Haynes General Conditions and Equal Opportunity Employment Statements, available on the school's website.

For any additional information regarding the RFP, please contact Richard Pohlman at rpohlman@elhaynes.org or (202) 888-2939.

BOARD OF ELECTIONS

CERTIFICATION OF ANC/SMD VACANCY

The District of Columbia Board of Elections hereby gives notice that there is a vacancy in one (1) Advisory Neighborhood Commission office, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 1C01

Petition Circulation Period: **Monday, February 9, 2015 thru Monday, March 2, 2015**
Petition Challenge Period: **Thursday, March 5, 2015 thru Wednesday, March 11, 2015**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

D.C. Board of Elections
441 - 4th Street, NW, Room 250N
Washington, DC 20001

For more information, the public may call **727-2525**.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue air quality permit #6333-R1 to the Department of the Navy, Naval Facilities Engineering Command, Washington to operate one 750 kWe emergency generator set with a 1,005 hp diesel fired engine at the Washington Navy Yard, Building 200, located at 1013 O Street SE, Washington Navy Yard, DC 20374. The contact person for the facility is Erica Belton, Program Manager at (202) 433-2003.

Emissions:

Maximum annual potential emissions from the unit are expected to be as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Total Particulate Matter (PM Total)	0.059
Sulfur Oxides (SOx)	1.028
Nitrogen Oxides (NOx)	2.650
Volatile Organic Compounds (VOC)	2.650
Carbon Monoxide (CO)	0.533

The proposed overall emission limits for the equipment are as follows:

a. Emissions from the unit shall not exceed those in the following table, as measured according to the procedures set forth in 40 CFR 89, Subpart E. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a) and (d)]:

Pollutant Emission Limits (g/HP-hr)		
NOx	CO	VOC
6.4	3.5.	0.20

b. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment. [20 DCMR 606.1]

c. In addition to Condition II(b), exhaust opacity, measured and calculated as set forth in 40 CFR 86, Subpart I, shall not exceed [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.113]:

1. 20 percent during the acceleration mode;

2. 15 percent during the lugging mode;

3. 40 percent during the peaks in either the acceleration or lugging modes. *Note that this condition is streamlined with the requirements of 20 DCMR 606.1.*

d. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The permit application and supporting documentation, along with the draft permit are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a public hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after March 9, 2015 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue Permit #6874 to the District of Columbia Department of General Services to operate one 300 kWe Kohler diesel-fired emergency generator set with a 463 bhp diesel-fired engine, located at the D.C. General Heath Campus, 1900 Massachusetts Avenue SE, Washington, DC. The contact person for the facility is Ricardo Eley, Health and Safety Manager, at (202) 698-5678.

Emergency Generator to be Permitted

Equipment Location	Address	Generator (Engine) Size	Model Number	Permit No.
D.C. General Health Campus, Building 9	1900 Massachusetts Ave. SE Washington, DC 20003	300 kW (463 hp)	Kohler 300REOZJ	6874

The proposed emission limits are as follows:

a. Emissions from this unit shall not exceed those in the following table as measured according to the procedures set forth in 40 CFR 89, Subpart E. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)]:]

Pollutant Emission Limits (g/kW-hr)		
NMHC+NOx	CO	PM
4.0	3.5	0.20

b. Visible emissions shall not be emitted into the outdoor atmosphere from the generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]

c. In addition to Condition (b) above, exhaust opacity, measured and calculated as set forth in 40 CFR 86, Subpart 1, shall not exceed [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.113]:

1. 20 percent during the acceleration mode;

2. 15 percent during the lugging mode;

3. 40 percent during the peaks in either the acceleration or lugging modes. *Note that this condition is streamlined with the requirements of 20 DCMR 606.1.*

d. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated emissions from the emergency generator are as follows:

Pollutant	**Maximum Annual Emissions (tons/yr)**
Carbon Monoxide (CO)	0.059
Oxides of Nitrogen (NO_x)	1.118
Total Particulate Matter (PM Total)	0.006
Volatile Organic Compounds (VOCs)	0.003
Oxides of Sulfur (SO_x)	0.237

The application to operate the emergency generator and the draft permit and supporting documents are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after March 9, 2015 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue Permit #6875 to District of Columbia Department of General Services to operate one Generac 25 kWe diesel-fired emergency generator set with a 51 bhp diesel-fired engine, located at Building 15 of the D.C. General Health Campus at 1900 Massachusetts Avenue SE, Washington, DC. The contact person for the facility is Ricardo Eley, Health and Safety Manager, at (202) 698-5678.

Emergency Generator to be Permitted

Equipment Location	**Address**	**Generator (Engine) Size**	**Model Number**	**Permit No.**
D.C. General Health Campus, Building 15	1900 Massachusetts Ave. SE Washington, DC 20003	25 kW (51 hp)	Generac SD025	6875

The proposed emission limits are as follows:

a. Emissions from this unit shall not exceed those in the following table as measured according to the procedures set forth in 40 CFR 89, Subpart E. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)]:]

Pollutant Emission Limits (g/kW-hr)		
NMHC+NOx	CO	PM
4.7	5.0	0.40

b. Visible emissions shall not be emitted into the outdoor atmosphere from the generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]

c. In addition to Condition (b) above, exhaust opacity, measured and calculated as set forth in 40 CFR 86, Subpart 1, shall not exceed [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.113]:

   1. 20 percent during the acceleration mode;

   2. 15 percent during the lugging mode;

3. 40 percent during the peaks in either the acceleration or lugging modes. *Note that this condition is streamlined with the requirements of 20 DCMR 606.1.*

d. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated emissions from the emergency generator are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.0087
Oxides of Nitrogen (NO_x)	0.1197
Total Particulate Matter , PM (Total)	0.0034
Volatile Organic Compounds (VOCs)	0.0186
Sulfur Dioxide (SO_x)	0.0261

The application to operate the emergency generator and the draft permit and supporting documents are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
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1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after March 9, 2015 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue Permit #6876 to District of Columbia Department of General Services to operate one Caterpillar 300 kWe emergency generator set with a 480 bhp diesel-fired engine, located at the Core Building of the D.C. General Heath Campus at 1900 Massachusetts Avenue SE, Washington, DC. The contact person for the facility is Ricardo Eley, Health and Safety Manager, at (202) 698-5678.

Emergency Generator to be Permitted

Equipment Location	Address	Generator (Engine) Size	Model Number	Permit No.
D.C. General Health Campus, Core Building	1900 Massachusetts Ave. SE Washington, DC 20003	300 kWe (480 bhp)	Cat C9	6876

The proposed emission limits are as follows:

a. Emissions from this unit shall not exceed those in the following table as measured according to the procedures set forth in 40 CFR 89, Subpart E. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)]:]

Pollutant Emission Limits (g/kW-hr)		
NMHC+NOx	CO	PM
4.0	3.5	0.20

b. Visible emissions shall not be emitted into the outdoor atmosphere from the generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]

c. In addition to Condition (b) above, exhaust opacity, measured and calculated as set forth in 40 CFR 86, Subpart 1, shall not exceed [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.113]:

1. 20 percent during the acceleration mode;

2. 15 percent during the lugging mode;

3. 40 percent during the peaks in either the acceleration or lugging modes. *Note that this condition is streamlined with the requirements of 20 DCMR 606.1.*

d. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated emissions from the emergency generator are as follows:

Pollutant	**Maximum Annual Emissions (tons/yr)**
Carbon Monoxide (CO)	0.066
Oxides of Nitrogen (NO_x)	1.090
Total Particulate Matter , PM (Total)	0.009
Volatile Organic Compounds (VOCs)	0.016
Sulfur Dioxide (SO_x)	0.246

The application to operate the emergency generator and the draft permit and supporting documents are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after March 9, 2015 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue Permit #6877 to the District of Columbia Department of General Services to operate one Kato 540 kWe emergency generator set with a 725 bhp diesel-fired engine, located at 1900 Massachusetts Avenue SE, Washington, DC. The contact person for the facility is Ricardo Eley, Health and Safety Manager, at (202) 698-5678.

Emergency Generator to be Permitted

Equipment Location	Address	Generator (Engine) Size	Generator Model Number	Permit No.
DC Jail North Tunnel	1900 Massachusetts Ave. SE Washington, DC 20003	540 kW (725 hp)	Kato540 SR90	6877

The proposed emission limits are as follows:

a. Visible emissions shall not be emitted into the outdoor atmosphere from the generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]

b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions from the emergency generator are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	1.0784
Oxides of Nitrogen (NO_x)	4.35
Total Particulate Matter (PM Total)	0.0787
Volatile Organic Compounds (VOCs)	0.1040
Sulfur Dioxide (SO_x)	0.0022

The application to operate the emergency generator and the draft permit and supporting documents are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after March 9, 2015 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue Permit #6878 to District of Columbia Department of General Services to operate one Kato 540 kWe emergency generator set with a 725 bhp diesel-fired engine, located at 1900 Massachusetts Avenue SE, Washington, DC. The contact person for the facility is Ricardo Eley, Health and Safety Manager, at (202) 698-5678.

Emergency Generator to be Permitted

Equipment Location	Address	Generator (Engine) Size	Generator Model Number	Permit No.
DC Jail South Tunnel	1900 Massachusetts Ave. SE Washington, DC 20003	540 kW (725 hp)	Kato540 SR90	6878

The proposed emission limits are as follows:

a. Visible emissions shall not be emitted into the outdoor atmosphere from the generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]

b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated emissions from the emergency generator are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	1.0784
Oxides of Nitrogen (NO_x)	4.35
Total Particulate Matter (PM Total)	0.0787
Volatile Organic Compounds (VOCs)	0.1040
Oxides of Sulfur (SO_x)	0.0022

The application to operate the emergency generator and the draft permit and supporting documents are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after March 9, 2015 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue Permit #6879 to the District of Columbia Department of General Services to operate one Caterpillar 1,100 kWe emergency generator set with a 1,588 bhp diesel-fired engine, located at 1900 Massachusetts Avenue SE, Washington, DC. The contact person for the facility is Ricardo Eley, Health and Safety Manager, at (202) 698-5678.

Emergency Generator to be Permitted

Equipment Location	Address	Generator (Engine) Size	Engine Serial Number	Permit No.
DC Jail Rooftop	1900 Massachusetts Ave. SE Washington, DC 20003	1,100 kW (1,588 hp)	24Z01670	6879

The proposed emission limits are as follows:

a. Visible emissions shall not be emitted into the outdoor atmosphere from the generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]

b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated emissions from the emergency generator are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	2.3622
Oxides of Nitrogen (NO_x)	9.5280
Total Particulate Matter (PM Total)	0.1723
Volatile Organic Compounds (VOCs)	0.2279
Oxides of Sulfur (SO_x)	0.0048

The application to operate the emergency generator and the draft permit and supporting documents are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after March 9, 2015 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue Permit #6880 to District of Columbia Department of General Services to operate one Cummins 1,500 kWe emergency generator set with a 2,220 bhp diesel-fired engine, located at 1900 Massachusetts Avenue SE, Washington, DC. The contact person for the facility is Ricardo Eley, Health and Safety Manager, at (202) 698-5678.

Emergency Generator to be Permitted

Equipment Location	Address	Generator (Engine) Size	Model Number	Permit No.
DC Jail, IYP Courtyard	1900 Massachusetts Ave., SE Washington, DC 20003	1500 kW (2220 hp)	KTA50-G9	6880

The proposed emission limits are as follows:

a. Visible emissions shall not be emitted into the outdoor atmosphere from the generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]

b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated emissions from the emergency generator are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	1.2236
Oxides of Nitrogen (NO_x)	8.9320
Total Particulate Matter (PM Total)	0.1591
Volatile Organic Compounds (VOCs)	0.2202
Oxides of Sulfur (SO_x)	0.0067

The application to operate the emergency generator and the draft permit and supporting documents are available for public inspection at AQD and copies may be made available

between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after March 9, 2015 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue air quality permit #6967 to Cellco Partnership (DBA Verizon Wireless) to construct and operate a 30 kW emergency generator set with a 66.5 hp natural gas fired engine at 200 K Street NW, Washington DC. The contact person for the facility is Bryan Scallon, Director of Operations, at 800-488-7900.

The proposed emission limits are as follows:

a. Emissions from each unit shall not exceed those in the following table, as measured according to the procedures set forth in 40 CFR 89, Subpart E [40 CFR 60.4233(d), and 40 CFR 60 Subpart JJJJ, Table 1]:

Pollutant Emission Limits (g/HP-hr)	
NOx + HC	CO
10	387

b. Visible emissions shall not be emitted into the outdoor atmosphere from the generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]

c. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions from the emergency generator set are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.60
Oxides of Nitrogen (NO_x) plus Total Hydrocarbons (THC)	0.19
Total Particulate Matter (PM Total)	<0.01
Oxides of Sulfur (SO_x)	<0.01

The application to construct and operate the emergency generator and the draft permit and supporting documents are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested

parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after March 9, 2015 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue air quality permit #6968 to ICG 16th Street Associates, L.L.C. to construct and operate one (1) 500 kW emergency generator set with a 752 HP diesel-fired engine at the property located at 900 16th Street NW, Washington DC. The contact person for the facility is Jonathan Brunelle, Construction Manager, at (240) 333-3742.

The proposed emission limits are as follows:

a. Emissions shall not exceed those found in the following table, as measured according to the procedures set forth in 40 CFR 89, Subpart E. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)]

Pollutant Emission Limits (g/kW-hr)		
NOx	CO	PM
4.0	3.5	0.2

b. Visible emissions shall not be emitted into the outdoor atmosphere from the generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]

c. In addition to Condition II(b), exhaust opacity, measured and calculated as set forth in 40 CFR 86, Subpart 1, shall not exceed [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.113]:

1. 20 percent during the acceleration mode;

2. 15 percent during the lugging mode;

3 40 percent during the peaks in either the acceleration or lugging modes. *Note that this condition is streamlined with the requirements of 20 DCMR 606.1.*

d. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated emissions from the emergency generator are as follows:

Pollutant	**Maximum Annual Emissions (tons/yr)**
Carbon Monoxide (CO)	0.23
Oxides of Nitrogen (NO_x)	2.42
Total Particulate Matter (PM Total)	0.02
Oxides of Sulfur (SOx)	0.002
Volatile Organic Compounds (VOCs)	1.15

The application to operate the emergency generator and the draft permit and supporting documents are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after March 9, 2015 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

NOTICE OF FILING OF A VOLUNTARY CLEANUP ACTION PLAN

Cleanup Action Plan for GW Redevelopment, Square 75/2100 Pennsylvania Ave., NW

Pursuant to § 601(b) of the Brownfield Revitalization Amendment Act of 2000, effective June 13, 2001 (D.C. Law 13-312; D.C. Official Code §§ 8-631 *et seq.*, as amended April 8, 2011, D.C. Law 18-369 (Act)), the Voluntary Cleanup Program in the District Department of the Environment (DDOE), Land Remediation and Development Branch (LRDB), informs the public that it has received a Cleanup Action Plan requesting to perform a remediation action for certain real property identified as GW Redevelopment, Square 75/2100 Pennsylvania Avenue, NW, located at the following contiguous addresses: 2100-W, 2134, 2136, 2138, 2138 ½ , 2140 and 2142 Pennsylvania Avenue, NW, and 2129-2133 I Street, NW. The applicant for the referenced address, Case No. VCP2014-028, is SCD SQUARE 75 LLC, 1776 Wilson Boulevard, Suite 250, Arlington, Virginia 22209. The application identifies the presence of petroleum related compounds in the soil. The applicant proposes to raze all of the current buildings and redevelop the site with a single eleven (11) story office building with ground floor retail space.

Written comments on the proposed Cleanup Action Plan must be received by the VCP program at the address listed below within twenty one (21) days from the date of this publication. DDOE is required to consider all public comments it receives before acting on the application, the Cleanup Action Plan, or a Certificate of Completion for any voluntary cleanup project.

The Cleanup Action Plan and supporting documents are available for public review at the following location:

Voluntary Cleanup Program
District Department of the Environment (DDOE)
1200 First St., NE, Fifth Floor
Washington, DC 20002

Interested parties may also request a copy of the Cleanup Action Plan for a small charge to cover the cost of copying by contacting the Voluntary Cleanup Program at the above address or by calling (202) 535-1771.

Pursuant to § 601(b) of the Act, this notice will also be mailed to the Advisory Neighborhood Commission (ANC) for the area in which the property is located.

Please refer to Case No. VCP2014-028 in any correspondence related to this notice.

KIPP DC PUBLIC CHARTER SCHOOLS

REQUEST FOR PROPOSALS

Technology Equipment & Services

KIPP DC is soliciting proposals for Local Area Network/Internet Access services. A detailed Request for Proposal can be found on KIPP DC's website at http://www.kippdc.org/public-information/ beginning February 6, 2015. Proposals are due no later than 5:00 P.M., EST, Friday, March 6, 2015.

NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT

Professional Development Lodging

KIPP DC intends to enter into a sole source contract with Hilton Anaheim and Marriott Anaheim for the purchase of hotel rooms for the KIPP School Summit Conference. The KIPP School Summit Conference will take place from August 3-6, 2015 in Anaheim. CA. The decision to sole source is due to the fact that these are the two hotels that are within walking distance of the Anaheim Conference Center and where KIPP Foundation has requested that attendees stay for the conference. The cost of lodging per person at both hotels in $149.00 per night.

OPTIONS PUBLIC CHARTER SCHOOL

REQUESTS FOR PROPOSALS

Special Education Services

Options Public Charter School is accepting proposals with references from qualified vendors for special education and therapeutic services, including on-site and off-site instruction and related services, for students demonstrating severe socio-emotional and behavior management needs. Email questions, requests for the full RFP, and proposals to proposals@optionsschool.org with "Special Education Services RFP" in the subject line. Deadline for submissions is 3:00 p.m. on Monday, February 9, 2015. Appointments for presentations or walkthroughs will be scheduled at the discretion of the school. **No phone calls please**.

PAUL PUBLIC CHARTER SCHOOL

NOTICE: FOR PROPOSALS FOR INVESTMENT ADVISORY SERVICES

The Paul Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for the following services:

- Investment Advisory Services

Please contact Karla Maldonado (kmaldonado@paulcharter.org) to request a full RFP offering, with more detail on scope of work and bidder requirements.

Proposals shall be received no later than 5:00 P.M., Friday, February 20, 2015.

Prospective Firms shall submit one electronic submission via e-mail to the following address:

Bid Administrator
kmaldonado@paulcharter.org

Please include the phrase 'Investment Advisory Proposal' as the subject line in your e-mail.

DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD

NOTIFICATION OF CHARTER AMENDMENT

The District of Columbia Public Charter School Board ("PCSB") hereby gives notice, dated Wednesday, January 28, 2015, of Center City Public Charter School's request to amend its charter's goals and academic expectations. PCSB will hold a public hearing during the regularly scheduled board meeting on Monday, March 23, 2015 at 6:30pm. Subsequently, PCSB will hold a vote on the matter during the regularly scheduled board meeting on Monday, April 20, 2015 at 6:30pm. For further information, please contact Ms. Laterica Quinn, Equity and Fidelity Specialist, at 202-328-2660. Please contact 202-328-2660 or email public.comment@dcpcsb.org to submit public comment.

DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD

NOTIFICATION OF PUBLIC MEETING

The District of Columbia Public Charter School Board ("PCSB") hereby gives notice, dated Thursday, January 29, 2015, of PCSB's intent to hold a public meeting on Thursday, February 12, 2015 at 8:30am to vote on Dorothy I. Height Community Academy Public Charter School's charter. The public meeting will take place at PCSB, which is located at 3333 14th Street NW, Washington DC, 20010. If you have any questions, please contact PCSB at 202-328-2660.

TWO RIVERS PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Construction Materials Testing Services

Two Rivers Public Charter School is seeking competitive proposals for Construction Materials Testing Services for a public charter school facility project. For a copy of the RFP, please contact Mr. Ryan Gever of Brailsford & Dunlavey at rgever@programmanagers.com. All proposals must be submitted by 12:00 noon on February 13, 2015.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 18734 of 1815 RIGGS LLC, pursuant to 11 DCMR § 3103.2, for a variance from the nonconforming structure provisions under § 2001.3, a variance from the open court requirements under § 406.1, and a variance from the floor area ratio (FAR) requirements under § 402.4, to allow an addition to an existing building for residential use in the DC/R-5-B District at premises 1815 Riggs Place, N.W. (Square 133, Lot 818).

HEARING DATES: April 8, 2014 and May 20, 2014
DECISION DATE: July 8, 2014

DECISION AND ORDER

This self-certified application was submitted on January 16, 2014 by 1815 RIGGS LLC (the "Applicant"), the owner of the property that is the subject of the application. The application requests variance relief from the nonconforming structure provisions under § 2001.3, the open court requirements under § 406.1, and from the floor area ratio ("FAR") requirements under § 402.4, to allow an addition to an existing building for residential use in the DC/R-5-B District at premises 1815 Riggs Place, N.W. (Square 133, Lot 818) (the "Subject Property"). Following two public hearings, the Board voted to deny the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated January 23, 2014, the Office of Zoning provided notice of the application to the Office of Planning ("OP"); the District Department of Transportation ("DDOT"); the Councilmember for Ward 2; Advisory Neighborhood Commission ("ANC) 2B, the ANC in which the Subject Property is located; and Single Member District/ANC 2B01. Pursuant to § 3113.13, the Office of Zoning mailed letters on February 3, 2014 providing notice of the hearing to the Applicant, ANC 2B, and the owners of all property within 200 feet of the subject property. Notice of hearing was published in the *D.C. Register* on February 7, 2014 at 61 DCR 983.

Party Status. The Applicant and ANC 2B were automatically parties to this proceeding.

Modification to Application. The Applicant originally requested variance relief from the applicability requirements for Inclusionary Zoning ("IZ") under § 2602.1. The Applicant proposed that, with such variance relief, the Applicant could utilize the bonus density permitted by IZ, although the proposed project does not meet the 50% expansion threshold that would ordinarily trigger IZ requirements under the regulations. At the first public hearing, the Board questioned whether its power to "to authorize … a variance from such strict application [of the zoning regulations]" includes the authority to apply additional requirements to which a property would not normally be subject under the regulations. (D.C. Official Code § 6-641.07.) The

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Applicant subsequently amended its application to include a request for variance relief from the FAR requirements in place of its request to apply the IZ requirements under § 2602.1.

Applicant's Case. The Applicant provided evidence and testimony describing the proposed third-story addition and asserted that the application satisfied the requirements for variance relief. The Applicant argued that constructing a smaller, one-unit addition would allow the Applicant to comply with the FAR requirements, but would cause economic hardship, resulting in a loss of profit. Therefore, the Applicant requested that the Board grant variance relief to allow the construction of a larger, economically feasible addition. The Applicant also noted that relief from § 2001.3 and § 406.1 would be necessary regardless of the size of the addition.

After the close of the record, the Applicant submitted a supplemental filing accompanied by a request to waive § 3121.5, which provides that the record of a case is closed after the hearing exception for materials expressly requested by the Board. (Exhibit 42.) At its public meeting on July 8, 2014, the Board found that the Applicant had not demonstrated good cause for the additional submission and therefore denied the request, pursuant to § 3121.9.

OP Report. By memorandum dated March 25, 2014, the Office of Planning indicated that it could not support the request for area variance relief to impose Inclusionary Zoning ("IZ") requirements on the project. (Exhibit 30.) In response to the Applicant's amended application, OP submitted a supplemental report dated May 13, 2014. In this report, OP reiterated that it was still unable to support the requested relief, finding that the Applicant has not demonstrated the existence of an exceptional condition of the property and that even if the condition cited by the Applicant were exceptional, none created a practical difficulty in complying with maximum permitted FAR. OP also noted that, if the Board finds that the Applicant has met the variance test for FAR variance relief, it would have no objection to the relief regarding open court and expansion of a nonconforming structure. (Exhibit 38.)

DDOT Report. By memorandum dated March 20, 2014, the District Department of Transportation indicated that it had no objection to the requested variance. (Exhibit 29.)

ANC Report. By letter dated May 20, 2014, ANC 2B indicated that it discussed the application at its properly noticed meeting on May 19, 2014. With a quorum present, the ANC voted 7-0 in support of the Applicant. (Exhibit 39.)

Persons in support. The adjacent property owner at 1817 Riggs Place, N.W. submitted a letter in support of the proposed addition. (Exhibit 27.)

Persons in opposition. The Board received two letters in opposition from neighbors residing at 1728 18th Street N.W. (Exhibit 23) and 1829 Riggs Place, N.W. (Exhibit 35). Both letters cited concerns regarding increased traffic and inadequate parking in the neighborhood.

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FINDINGS OF FACT

1. The property is located on the north side of Riggs Place, N.W. between 18th Street, N.W. and 19th Street N.W. at 1815 Riggs Place, N.W. at Square 133, Lot 818 (the "Subject Property").

2. The Subject Property is a rectangular lot that includes approximately 3,787 square feet of land area. The Subject Property abuts a public alley to the east and north.

3. The Subject Property measures 42 feet wide along Riggs Place, N.W. The lot is wider than the adjacent properties on the north side of Riggs Place, N.W., but other lots on the south side of Riggs Place, N.W. and elsewhere in Square 133 are of a similar width or wider than the Subject Property.

4. The Subject Property is improved with a two-story plus cellar multi-family dwelling constructed in approximately 1941.

5. The southern portion of the building occupies the entire width of the lot, and the northern portion of the building provides open courts on the east and west, as well as a rear yard to the north. The building measures approximately 29 feet in height and has a FAR of 1.65. The building includes 6,252 square feet of gross floor area devoted to residential use.

6. The Subject Property contains 21 residential units that are fully leased to tenants.

7. The Subject Property is mapped within the R-5-B District and the Dupont Circle Overlay District. The R-5-B District is intended to permit urban residential development of a moderate height and density. (11 DCMR §§ 350.1 & 350.2.)

8. The Subject Property is located within the Dupont Circle Historic District; however, the building is not considered to be a contributing building to the historic district.

9. The surrounding neighborhood includes a range of residential building forms, including one-family row dwellings on the north side of Riggs Place, N.W., as well as two-story and three-story apartment buildings on the south side of Riggs Place, N.W.

10. The Subject Property is nonconforming with regard to lot occupancy, with a lot occupancy of 85% where a maximum of 60% is permitted. (11 DCMR § 403.2.)

11. The Subject Property is also nonconforming in terms of rear yard and open court. The rear yard measures 3.75 feet, where a minimum depth of 15 feet is required by § 404.1. The open court to the east measures two feet and the open court to the west measures seven feet. Subsection 406.1 requires that each court measure four inches per foot of height, with a minimum width of six feet.

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12. The Applicant proposes to construct a partial third-story addition to the existing building. The proposed addition would create three dwelling units, including two rear decks enclosed by railings.

13. The Applicant revised the design of the proposed addition based on comments from the Historic Preservation Review Board ("HPRB"), including removal of the front railing and modification of the setbacks. After the Applicant revised the plan accordingly, HPRB found that the proposed concept was compatible with the character of the historic district.

14. The proposed addition would be set back from the front of the building by six feet and would be built within the existing footprint. Accordingly, the proposed addition would not increase lot occupancy and does not require variance relief from § 403.2.

15. The proposed addition would increase the height of the building to 31 feet, extending the nonconforming open courts to the east and west. Therefore, the proposed addition would require variance relief from the open court requirements of § 406.1 and the regulations regarding enlargement of a nonconforming structure in § 2001.3.

16. The proposed addition would increase the building's FAR from 1.65 to 2.16, where a maximum FAR of 1.8 is permitted under § 402.4. Therefore, variance relief from this provision is required.

17. The Applicant could construct a smaller, one-unit addition measuring 565 square feet that would comply with the FAR limitations of § 402.4.

18. The Applicant plans to continue renting the building to residential tenants while the proposed addition is constructed. The Applicant also notes that, if relief were not granted, the Subject Property could continue to operate as a 21-unit apartment house.

19. When asked by the Board whether any renovation or addition is necessary at this time, the Applicant indicated that the desire for additional units is motivated by the general policy goal of increasing the housing supply in the District of Columbia.

CONCLUSIONS OF LAW AND OPINION

The Applicant requests variance relief from the nonconforming structure provisions under § 2001.3, the open court requirements under § 406.1, and from the floor area ratio ("FAR") requirements under § 402.4, to allow an addition to an existing building for residential use in the DC/R-5-B District at premises 1815 Riggs Place, N.W. (Square 133, Lot 818) (the "Subject Property"). The Board is authorized under § 8 of the Zoning Act of 1938, D.C. Official Code § 6-631.07(g)(3) (2012 Repl.) to grant variance relief from the strict application of the Zoning Regulations. As noted by the District of Columbia Court of Appeals:

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> An applicant must show, first, that the property is unique because of some physical aspect or "other extraordinary or exceptional situation or condition" inherent in the property; second, that strict application of the zoning regulations will cause undue hardship or practical difficulty to the applicant; and third, that granting the variance will do no harm to the public good or to the zone plan.

Capitol Hill Restoration Society v. District of Columbia Bd. of Zoning Adjustment, 534 A.2d 939, 941 (D.C. 1987). When determining whether the property is subject to an exceptional condition, the Board must find that there are "unique circumstances peculiar to the applicant's property" and that these circumstances are not merely "the general conditions of the neighborhood." *Palmer v. District of Columbia Bd. of Zoning Adjustment*, 287 A.2d 535, 539 (D.C. 1972).

For the second aspect of the variance test, the Court of Appeals has held that the more stringent "undue hardship" standard applies to use variances, while an applicant seeking an area variance must show only "practical difficulties." *Id.* at 540-41. The Court did not explicitly define "practical difficulties," but notes that an applicant must show that strict compliance with the Zoning Regulations would be "unnecessarily burdensome." *Id.* at 542. The Court has made clear that the Board may consider economic factors such as increased cost and marketability in determining what constitutes a practical difficulty. *See Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1171 (D.C. 1990); *Wolf v. District of Columbia Bd. of Zoning Adjustment*, 397 A.2d 936, 943 (D.C. 1979). The Court has also held that "[a] variance cannot be granted where property conforming to the regulations will produce a reasonable income but, if put to another use, will yield a greater return." *Palmer*, 287 A.2d at 542.

Exceptional Condition

The Board finds that no exceptional conditions exist on the Subject Property. The Applicant argues that several factors contribute to the exceptional nature of the Subject Property, including the width of lot, the shape of building, the property's location within a historic district, and the nonconforming elements of the existing building. The Board credits OP's testimony and finds that the width of the Subject Property is not exceptional when compared to other lots in Square 133. Also crediting the testimony of OP, the Board finds that the shape of the building is not exceptional when compared to other structures in the vicinity.

Further, the Applicant raises the location of the Subject Property within a historic district; however, in *Application No. 18201 of Ingomar Associates Inc.*, the Board found that a property's location in a historic district is not sufficient grounds to find an exceptional condition. When confronted with a similar argument, the Court of Appeals held: "The inclusion of intervenor's property in the Capitol Hill Historic District is not a condition which uniquely affects the lot at issue. If this fact were sufficient to justify a finding of uniqueness, then each and every parcel of land within the Capitol Hill Historic District would be entitled to a variance on this basis." *Capitol Hill Restoration Society, Inc. v. District of Columbia Bd. of Zoning Adjustment,* 534

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A.2d 939, 942 (D.C. 1987). Therefore, the Board finds that the location of the Subject Property within the Dupont Circle Historic District does not create an exceptional situation.

Finally, the Applicant argues that an exceptional situation is created by the unalterable conditions within the existing building, such as the center staircase and the plumbing stacks, as well as the nonconforming aspects of the existing building. The Board finds this argument unpersuasive. In support of this contention, the Applicant cites cases where the Board has granted variance relief to permit the renovation of nonconforming buildings. The Board notes that, in several cases cited by the Applicant, the exceptional condition of the property was not exclusively based on the presence of an existing nonconforming structure. Rather, the Board considered the nonconforming structure to be one factor that contributed to the property's uniqueness and found other exceptional factors such as fire damage in the case of *Application No. 18421 of 3579 Warder Street LLC*, as well as grade changes and irregular lot shape in the case of *Application No. 18646 of 3053 Q Street LLC*. Because no such confluence of factors exists here, the Board finds that the Subject Property is not subject to an exceptional condition.

Practical Difficulty

Even if the Board were to find that the previously discussed factors create an exceptional condition on the Subject Property, the Applicant fails to demonstrate how these factors create a practical difficulty. The Applicant's argument is based on the economic infeasibility of a smaller, one-unit addition that would conform to the FAR limitation of the R-5-B District. The Court of Appeals has held that economic feasibility is a proper factor for consideration when the Board must determine whether a practical difficulty exists. *See Tyler v. District of Columbia Bd. of Zoning Adjustment*, 606 A.2d 1362, 1366 (D.C. 1992); *Gilmartin*, 579 A.2d at 1171. Accordingly, the Board has considered the factors of increased cost and inconvenience to the Applicant, but finds that these factors do not amount to a practical difficulty in this case.

The Board evaluates these economic factors in light of other Court of Appeals precedent – notably the Court's holding that "[a] variance cannot be granted where property conforming to the regulations will produce a reasonable income but, if put to another use, will yield a greater return." *Palmer,* 287 A.2d at 542. With regard to economic infeasibility, the Board considers whether the condition of the property creates financial difficulties that would prevent the property from generating a reasonable income. *See Wolf*, 397 A.2d at 943 (The Board properly granted an area variance to permit conversion to a three-unit rental apartment where "marketability" of property would otherwise be "unfeasible" and investment would yield loss rather than profit); *Russell v. District of Columbia Bd. of Zoning Adjustment*, 402 A.2d 1231 (D.C. 1979) (The Court held that an area variance was properly granted "where the owner could never sell the unimproved lot for a permitted residential use absent a variance"). In the case at hand, the existing building is a fully leased, 21-unit apartment house. The Applicant has not shown that the current use of the Subject Property fails to produce a reasonable income nor that the Applicant will encounter any practical difficulty should an addition not be constructed.

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Instead, the Applicant seeks to construct a third-floor addition with the asserted goal of increasing the housing stock in the District and wishes for that addition to generate additional profit. The Applicant indicates that a three-unit addition exceeding the FAR limit of 1.8 would be financially feasible, while a one-unit addition conforming to the FAR regulations would be prohibitively costly. Thus, the Applicant's argument hinges on the notion that a property owner is entitled to maximize each metric within the Subject Property's "zoning envelope." In *Application No. 16896 of Randle Heights Manor*, the Board found that "[t]he Zoning Regulations do not guarantee that every lot may be put to every allowable use." Applying this reasoning, the Board finds that the financial hardship associated with maximizing the Subject Property's FAR does not amount to a practical difficulty in this case. Though being unable to expand to the maximum allowable FAR may constitute some loss to the property's utility, the Court of Appeals has held that "a substantial increase in the cost of an intended improvement coupled with some loss in the overall utility of the property was not a practical difficulty that merited an area variance." *Gilmartin*, 579 A.2d at 1170 (discussing *Barbour v. Bd. of Zoning Adjustment*, 358 A.2d 326 (D.C. 1976)). In this case, the Board finds that the Applicant's inability to make use of the currently unrealized .15 FAR permitted under the regulations does not amount to a more significant burden that would justify variance relief. Therefore, the Applicant has not demonstrated that any conditions affecting the Subject Property give rise to a practical difficulty.

Substantial Detriment to the Public Good or Zone Plan

Though the Applicant has not met the first and second prongs of the variance test, the Board notes that the proposed addition would not cause substantial detriment to the public good nor would it substantially impair the zone plan. As indicated by HPRB's support of the project, the proposed design fits within the context of the neighborhood. Additionally, the Board credits the support of ANC 2B and finds that granting variance relief would not negatively affect the public good. Nonetheless, because the Applicant has not shown an exceptional condition on the Subject Property or that any such alleged condition creates a practical difficulty, the Board must deny the request for variance relief.

The Board is required to give "great weight" to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04 (2012 Repl.).) For the reasons discussed, the Board concurs with OP's recommendation to deny the FAR relief requested. As to the open court and expansion of nonconforming structure variances, OP did not separately analyze whether these met the variance tests, but indicated that if the Board were to grant the FAR variance, then OP did not object to the two variances being granted as well. Since the FAR relief was denied, and the OP Report made no recommendation as to the open court and nonconforming structure variances if that were to occur, there is no recommendation to give great weight to.

The Board is also required to give "great weight" to the issues and concerns raised by the affected ANC in its written report. (Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)).) After deliberating on the matter at a regularly scheduled, properly noticed meeting,

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ANC 2B voted in support of the application. The written report does not provide a basis for the ANC's decision, but the Board considered the ANC's support in finding that granting the application would do no harm to the public good. As previously discussed, however, the Board cannot follow the ANC's recommendation to grant the requested variance relief because the first and second prongs of the variance test have not been met.

Based on the findings of fact and conclusions of law, the Board finds that the Applicant has not satisfied the burden of proof with regard to the request for variance relief from the nonconforming structure provisions under § 2001.3, the open court requirements under § 406.1, and the FAR requirements under § 402.4, to allow an addition to an existing building for residential use in the DC/R-5-B District at premises 1815 Riggs Place, N.W. (Square 133, Lot 818). Accordingly, it is **ORDERED** that the application is **DENIED.**

VOTE: **4-0-1** (Peter G. May, Jeffrey L. Hinkle, Lloyd J. Jordan, and Marnique Y. Heath to Deny; S. Kathryn Allen not present, not voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
The majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: January 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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 18855 of David S. and Martha Stracener Dantzic, pursuant to 11 DCMR § 3104.1, for a special exception to allow an addition to a one-family semi-detached dwelling under § 223, not meeting requirements for lot occupancy (§ 403), rear yard (§ 404), closed court (§ 406), and enlargement of a nonconforming structure (§ 2001.3) in the R-4 District at premises 213 11th Street, S.E. (Square 969, Lots 804 and 805).[1]

HEARING DATES: November 18, 2014[2] and January 27, 2015
DECISION DATE: January 13, 2015

SUMMARY ORDER

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 ("Board" or "BZA") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC submitted two reports of support for the application. In its letter to the BZA dated November 17, 2014, the ANC indicated that at a regularly scheduled, properly noticed public meeting on November 12, 2014, with a quorum present, the ANC voted 8-0-0 to support the application. (Exhibit 44.) Another letter from the ANC, dated January 15, 2015, and directed to the Historic Preservation Office, indicated that the ANC, at a regularly scheduled, duly noticed public meeting on January 13, 2015, with a quorum present, voted 10-0 to support the Applicant's application with revised plans. (Exhibit 46B.)

The Office of Planning ("OP") submitted a report in support of the application (Exhibit 41) and testified at the hearing that it remains in support of the application, although its report was submitted before the application was amended and the plans revised. The District Department of Transportation ("DDOT") submitted a timely report of no objection to the application. (Exhibit 28.)

Nine letters of support were filed by neighbors and by the Zoning Committee of the Capitol Hill Restoration Society. (Exhibits 29-38, 45.)

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[1] The Applicant amended the application by revising the plans and added a request for special exception relief from the closed court requirements (§ 406). The caption has been amended accordingly.

[2] The Board postponed the public hearing on November 18, 2014, for the application at the Applicant's request. (Exhibit 43.)

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The Board closed the record at the end of the hearing. As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception to allow an addition to a one-family semi-detached dwelling under § 223, not meeting requirements for lot occupancy (§ 403), rear yard (§ 404), closed court (§ 406), and enlargement of a nonconforming structure (§ 2001.3) in the R-4 District. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, 223, 403, 404, 406, and 2001.3, 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 not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED THAT THIS APPLICATION IS HEREBY GRANTED SUBJECT TO THE APPROVED REVISED PLANS IN THE RECORD AT EXHIBIT 46.**

VOTE: **4-0-1** (Lloyd J. Jordan, Peter G. May, Marnique Y. Heath, and Jeffrey L. Hinkle to APPROVE; S. Kathryn Allen, not present or participating.)

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: January 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

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OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

D.C. Board of Zoning Adjustment

Chairman's Motion and Follow-up Announcement for Closed Meetings for Legal Advice and Deliberating but Not Voting

Month of FEBRUARY 2015 Roll Call Vote

"In accordance with Section 405(c) of the Open Meetings Act, D.C. Official Code Section 2-575(c), I move that the Board of Zoning Adjustment hold closed meetings on the Mondays of:

- **February 2nd;**
- **February 9th; and**
- **February 23rd.**

These meetings start at 4:00 p.m. and are held for the purpose of obtaining legal advice from our counsel and deliberating upon, but not voting on the cases scheduled to be publicly heard or decided by the Board on the day after each such closed meeting. Those cases are identified on the Board's public hearing agendas for February 3rd, February 10th, and February 24th.

A closed meeting for these purposes is permitted by Sections 405(b)(4) and (b)(13) of the Act.

Is there a second?

(Once Seconded): Will the Secretary please take a roll call vote on the motion?

(As it appears the Motion has passed): I request that the Office of Zoning provide notice of these closed meetings in accordance with the Act.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 05-36I
Z.C. Case No. 05-36I
Toll DC II, LP
(Modification to Approved Planned Unit Development
Square 749)
January 12, 2015

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on October 30, 2014, to consider an application filed by Toll DC II, LP ("Applicant"), owner of Lots 826 and 827 in Square 749 ("Phase II Property"), for approval of a modification to a planned unit development ("PUD") approved pursuant to Z.C. Order No. 05-36, as amended. The Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). A public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the modification application.

FINDINGS OF FACT

The Application

1. On April 7, 2014, the Applicant filed an application to modify a PUD in order to make certain design and operational refinements to Phase II of the multi-phase residential development in Square 749 ("Application").

2. The PUD which the Applicant seeks to modify was first approved by the Commission in 2006 in Z.C. Order No. 05-36 (as amended, "Approved PUD") and is structured as a multi-phased residential project to occupy virtually the entirety of Square 749.[1]

3. The Applicant requests modification of the Approved PUD in order to make certain refinements to the Phase II building's layout, façade treatment, and parking and loading operations. No other phase of the Approved PUD is included as part of the modification request.

Background of Approved PUD

4. By Z.C. Order No. 05-36, effective October 10, 2006, the Commission granted first-stage PUD approval and related Zoning Map amendment from C-M-3 and C-2-B to C-3-C for virtually the entirety of Square 749, all to permit construction of a two-phase apartment development around an outdoor central plaza, with a total of approximately 712 dwelling units, including 78 units restricted for affordable housing, ground-floor retail, and

[1] The only lot in Square 749 not included in the Approved PUD is Lot 829, which was created as a result of the closing of the small stub alley in the northeast corner of Square 749 and is owned by Union Place Phase I, LLC, current owner of Lot 828, which property is improved with Phase I of the Approved PUD.

daycare uses with a total gross floor area of approximately 850,000 square feet. At the same time that it granted first-stage approval for the overall project, the Commission granted consolidated approval for Phase I of the total project, to be located in the eastern portion of Square 749 with frontage along 3rd Street, N.E., and consisting of a 10-story apartment building including approximately 202 dwelling units, 3,700 square feet of ground-floor retail, and 177 parking spaces (the "Phase I Building").[2] Construction of this Phase I Building has been completed.

5. By Z.C. Order No. 05-36A, effective November 14, 2008, the Commission granted second-stage approval of Phase II of the project, consisting of a 14-story building containing 500 dwelling units and approximately 14,000 square feet of retail uses and a child care containing approximately 3,500 square feet, to be constructed along the western portion of Square 749 with frontage along 2nd Street as well as K and L Streets, N.E. ("Phase II Building").[3]

6. In Z.C. Order Nos. 05-36B and 05-36C, the Commission approved minor modifications to the Phase I Building, to restrict access for safety purposes to a small portion of the outdoor plaza to project residents only (Z.C. Order No. 05-36B), and to modify the affordable housing proffer slightly to allow prospective tenants to utilize more than 30% of household income for payment of rent in order to accommodate arts professionals (Z.C. Order No. 05-36C).

7. By Z.C. Order No. 05-36D, the Commission extended the validity of the second-stage approval granted for Phase II of the Approved PUD to November 14, 2012, by which time application must be made for a building permit, with construction to commence by November 14, 2013.

8. Pursuant to Z.C. Order No. 05-36E, the Commission approved K Street's phasing plan to allow the Phase II Building to be constructed in two sub-phases (Phase II-A, to include approximately 244 dwelling units, and Phase II-B, to include approximately 256 dwelling units). The modification approved by the Commission with this order also directed that parking shall be provided throughout the Approved PUD at a ratio of 0.71 spaces per dwelling unit. The time extension approved pursuant to Z.C. Order No. 05-36E provided that in order for the PUD to remain valid a building permit application for Phase II-A must be filed by November 14, 2012, and construction commence by November 14, 2013. In order for approval for Phase II-B to remain valid, a permit application must be filed not later than two years following the date of the issuance of a final certificate of occupancy for the residential portion of Phase II-A, with construction to commence within one year thereafter.

[2] The PUD approval was later modified per authority of the Zoning Administrator pursuant to 11 DCMR § 2409.6(b) to permit development of 212 dwelling units in Phase I.

[3] Flexibility granted in this Order allowed up to 525 units to be constructed.

9. Pursuant to Z.C. Order No. 05-36F, approved on July 30, 2012, the Commission granted a further time extension for Phase II of the Approved PUD such that a building permit for Phase II-A must be filed by November 14, 2014, and construction must commence by November 14, 2015, and in order for Phase II-B to remain valid, a permit application must be filed not later than two years following the date of the issuance of the final certificate of occupancy for the residential portion of Phase II-A, with construction of Phase II-B to commence within one year thereafter.

10. Pursuant to Z.C. Order No. 05-36G, effective December 27, 2013, the Commission granted modification of the Approved PUD to include approximately 5,000 square feet of additional land in Square 749 for construction of a free-standing seven-story apartment building containing 41 dwelling units and no vehicular parking, thereby reducing the ratio of parking spaces per unit across the Approved PUD from 0.71 to 0.67 ("Phase III Building").

11. By Z.C. Order No. 05-36H, effective June 21, 2013, the Commission granted minor modification of the Approved PUD to allow the Phase I Building and the Phase II Building to be constructed, occupied, and operated as separate buildings on a single record lot, to be accomplished through the Commission's approval of the removal of all door openings and above-grade connections between the phases.

12. Most recently, pursuant to Z.C. Order No. 05-36J, effective October 24, 2014, the Commission granted the Applicant a one-year time extension for Phase II of the Approved PUD, such that a building permit application for Phase II-A must be filed by November 14, 2015, and construction must commence by November 14, 2016, and in order for Phase II-B to remain valid, a permit application must be filed not later than two years following the date of the issuance of the final certificate of occupancy for the residential portion of Phase II-A, with construction of Phase II-B to commence within one year thereafter.

Procedural Background

13. By report dated May 30, 2014, the District of Columbia Office of Planning ("OP") recommended that the Zoning Commission schedule a public hearing for the Application. (Exhibit [“Ex.”] 12.)

14. At its June 9, 2014, public meeting, the Commission determined to schedule the Application for public hearing.

15. The Applicant filed its supplemental statement including refined architectural drawings, and request for hearing date with the Office of Zoning on July 25, 2014. (Ex. 13.)

16. On October 10, 2014, the Applicant submitted its supplemental prehearing statement, including select revised architectural drawings and a supplemental memorandum prepared at the request of the District of Columbia Department of Transportation

("DDOT") identifying available on-street parking within the neighborhood surrounding Square 749. (Ex. 17-19.)

17. On October 20, 2014, OP submitted its final report to the Commission recommending approval and requested certain additional documentation from the Applicant. (Ex. 21.)

18. On October 20, 2014, DDOT submitted a memorandum to the Commission indicating no objections to the Application. (Ex. 22.)

Public Hearing on Modification Request

19. The Commission held a public hearing for the Application on October 30, 2014. The parties were the Applicant and Advisory Neighborhood Commission ("ANC") 6C. At the hearing, the Applicant presented testimony in support of its applications from Jeff Harris, representative of the Applicant, and from Douglas Carter of Davis Carter Scott Architects, project architects. Based upon his professional experience and qualifications, Mr. Carter was recognized as an expert in architecture.

Office of Planning

20. Through its Setdown Report and its Final Report, and through testimony presented at the public hearing, OP expressed its support for the proposed modification of the approved PUD regarding the Phase II building.

21. In its Setdown Report and its Final Report, OP noted that the Commission has already found the Approved PUD to be not inconsistent with the Comprehensive Plan, and that the proposed modifications would not alter this relationship other than to strengthen the Approved PUD's ability to further promote the following Comprehensive Elements:

    (a) Housing Element: The more efficient layout enabled by the modification would permit the addition of 25 units of housing for balanced, mixed-use growth near certain Metro stations, as encouraged by policies 1.1.3 and 1.1.4. The square footage and numbers of affordable housing units would increase in proportion to the overall residential square footage increase;

    (b) Central Washington Element: The additional housing is responsive to Policy CW 1.1.4's encouragement of denser housing in the central area, particularly in NoMA; and

    (c) Urban Design Element: Phase II's revised design and massing would continue to be integrated with the rest of the Approved PUD, and the relocation of the courtyard's public entrance to K Street is consistent with the emphasis placed on that street by its generous width and the role its landscaping plays in plans for the development of NoMA. With the public space improvements being discussed by

the Applicant and DDOT, the design is becoming more consistent with policy UD 2.2.7's encouragement of appropriately scaled infill, and policy UD 3.3.1's encouragement of quality treatment of public spaces.

22. In its Setdown Report and its Final Report, OP noted that the requested modifications to Phase II would modify the public benefits package in only two ways:

    (a) The proffered daycare would increase from 3,446 square feet up to 6,475 square feet; and

    (b) Phase II's affordable housing proffer would be increased in direct relation to the proposed increase in the residential square footage in Phase II.[4]

23. In its Setdown Report, OP requested that by the public hearing the Applicant provide certain additional materials regarding the loading plan being finalized between the Applicant and DDOT, public space design along K Street, N.E., per approval by the Public Space Committee, and certain additional drawings related to the courtyard and temporary and end wall designs.

24. In its Final Report, OP noted that the Applicant had provided additional materials responsive to the Setdown Report, including a loading plan, approval by the Public Space Committee of the public space design along K Street, end wall designs, and information regarding the proposed reduction of green roof from 16,450 square feet to approximately 13,000 square feet in order to accommodate rooftop mechanical equipment. OP requested the Applicant undertake further study of certain design elements including pedestrian circulation within the courtyard area.

25. In its Final Report, OP noted that the Application included a slight increase in gross floor area and building density from the approved Phase II Building, which would involve a changed reference in the conditions of the Approved PUD but no additional relief.

26. In its Final Report, OP noted that the Application included certain changes to the allocations of gross floor area within the Phase II Building as a result of the more efficient layout of the Phase II Building as modified, which would involve a changed reference in the conditions of the Approved PUD but no additional relief.

27. In its Final Report, OP noted that the Application included a request to reduce the amount of vehicular parking provided within the Phase II Building, from 329 to 240 spaces,

[4] The Setdown and Final Report indicate that the daycare would increase to 6,842 square feet; however, the drawings submitted by the Applicant indicate the daycare will measure approximately 6,475 square feet upon construction of a mezzanine level, if constructed.

which would involve a change to the conditions of the Approved PUD but no additional relief.

28. In its Final Report, OP noted that the Applicant proposed to increase the amount of bicycle parking provided within the Phase II Building from 55 spaces to 175 spaces, which would involve a change to the conditions of the Approved PUD but no additional relief.

29. In its Final Report, OP noted that the Applicant's proposed modification to its loading facilities required relief from the Commission not to provide a berth meeting the required 55-foot depth.

30. The Commission concurs with OP's findings in support of the Application.

Department of Transportation

31. By memorandum dated October 10, 2014, and through testimony presented at the public hearing, DDOT indicated no objection to the Application, including the requested loading variance.

32. DDOT noted that the proposed number of off-street parking spaces is a reasonable supply of parking for the land use and location, given its proximity to the NoMa-Gallaudet Metrorail Station and three Capital BikeShare stations, service by several major Metrobus routes, and an oversupply of off-street parking within Phase I of the Approved PUD. DDOT further noted that, at its request, the Applicant had conducted a field survey of available on-street parking within the neighborhood and determined that at peak demand (between 9:00 p.m. and 10:00 p.m.) on-street parking utilization measured 72%, equating to approximately 249 available on-street parking spaces.

33. DDOT further noted no objection to the Applicant's request to modify the loading facilities for the Phase II building, including consolidation of the loading facilities, reduction in the number of curb cuts along 2nd Street, N.E., and flexibility to reduce the previously approved 55-foot loading berth to a 30-foot loading berth and one service delivery space. DDOT noted that the Applicant's proposed curb cuts and public space design, including consolidation of three curb cuts to two curb cuts, public access to the central courtyard off of K Street, N.E., rather than 2nd Street, N.E., and regarding public space along K Street, were all approved by the Public Space Committee.

34. The Commission concurs with DDOT's findings in support of the Application.

ANC 6C

35. ANC 6C did not appear at the public hearing.

36. By letter dated October 14, 2014, ANC 6C confirmed that the ANC voted unanimously (6-0-0) to support the Application. The ANC noted that in May 2014 the ANC voted to support a formal memorandum of understanding ("MOU") between the ANC and the Applicant concerning denial of Residential Parking Permit ("RPP") registry to residents of the Phase II building. The ANC conditioned its support of the Application upon both parties signing the MOU before the October 30, 2014 public hearing.

Persons in Support or Opposition to the Applications

37. No testimony or submissions were received from any person in support or opposition to the Application.

Conclusion of October 30 Hearing and Closing of Record

38. At the conclusion of the October 30, 2014, public hearing, the Commission took proposed action to approve the Application with a request for the Applicant to submit certain responsive documents to the Commission's questions and requests.

39. The record was left open for the Applicant to provide limited post-hearing submissions consisting of: additional architectural drawings requested by the Commission, a letter from the Applicant detailing its commitment regarding RPP for the Phase II building residents, and proposed findings of fact and conclusions of law. The record was also left open to receive any responsive materials from ANC 6C to the Applicant's post-hearing submissions.

40. By letter dated November 19, 2014, the Applicant requested additional time to provide the materials requested by the Commission.

41. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC's Executive Director, by delegated action dated December 4, 2014, found that the Application would not have any adverse impact on the federal interests.

42. By letter dated December 15, 2014, the Applicant provided the materials requested by the Commission.

43. The Zoning Commission took final action to approve the Application at its public meeting on January 12, 2015.

The Property and Surrounding Area

44. The property now included in the Approved PUD contains a lot area of approximately 101,000 square feet and represents virtually the entirety of land in Square 749.

45. Square 749 is located in the emerging NoMa neighborhood in Northeast Washington and is bounded by 2nd Street to the West, K Street to the South, 3rd Street to the East, and L Street to the North.

Nature of Project and PUD Modification

46. As approved by the Commission in Z.C. Order Nos. 05-36A, 05-36E, and 05-36H, the Phase II Building is a fourteen-story apartment building with ground-level retail and service uses, including a designated child daycare facility. The approved Phase II building footprint occupies essentially the western half of Square 749 with a roughly C-shaped footprint wrapping around a large landscaped central courtyard accessible mid-block from 2nd Street, N.E.

47. The Phase II Building was granted second-stage approval to include a total of 555,545 square feet of gross floor area, including a ground-floor containing 13,801 square feet of retail uses (including a 3,446 square foot daycare center) and approximately 415,307 square feet of gross floor area devoted to residential units. The building was approved for a total of 500 dwelling units, with flexibility granted to provide up to five percent more or fewer units. Ten percent of this residential space was committed to be dedicated to affordable housing pursuant to standards approved by the Commission in Z.C. Case No. 05-36A. These affordable housing units are distributed throughout all but the top four floors of the Phase II building.

48. The Phase II Building was originally approved to include 545 vehicle parking spaces and 45 bicycle parking spaces in below-grade levels, which approval was later reduced to 329 vehicle spaces and 45 bicycle spaces. Given the large size of the Phase II Building and the opening to the courtyard provided mid-block along 2nd Street, N.E., two separate loading areas were provided.

49. In Z.C. Order No. 05-36E, the Commission granted flexibility to allow for the Phase II Building to be constructed in two sub-phases, with the portion of the building at the southwest corner of Square 749, including the daycare, to be constructed first. The overall appearance of the Phase II Building, upon full build-out, was unchanged from the original approval.

50. The Applicant purchased the Phase II Property in April 2013 from the longtime owners of the site, K Street Developers, LLC. After extensive study of the approved Phase II design, the Applicant filed the Application to request modification of the Approved PUD in order to make certain refinements to the Phase II Building's layout, façade treatment, and parking and loading operations, consistent with the Commission's first- and second-stage approvals for Phase II and with § 2403 of the Zoning Regulations.

51. The proposed building remains a 14-story apartment building with ground-floor retail and service uses, including a daycare facility. The footprint remains C-shaped around an expansive landscaped central courtyard that will be publicly accessible. The proposed Phase II building maintains its affordable housing component of 10% of the residential unit gross floor area. Sustainability features that have been enhanced from the approved Phase II Building include reuse of collected storm water from the building roof to irrigate the courtyard as well as the installation of living "green" walls in the courtyard. The Commission finds that the proposed building's façade treatments and materials are also in keeping with the PUD and retain much of the design direction of the approved Phase II Building.

52. The Applicant's refinements to the building include a more efficient building core, yielding approximately 35,000 square feet of additional gross floor area devoted to residential units, 10% of which will be devoted to affordable housing pursuant to the terms included in the Approved PUD. The Applicant has been able to accomplish these increases in residential and retail/service uses with only an overall requested increase of approximately 4,100 square feet of gross floor area in the Phase II Building.

53. The Applicant proposes to relocate the public entrance to the courtyard from 2nd Street, N.E., to mid-block along K Street, N.E., which the Commission finds is a more convenient access point for neighboring residents, most of whom live to the south or east of the site. The relocated courtyard entrance allows the Applicant to consolidate its loading operations from two areas to one and at the same time to align the loading entrance with the parking entrance along 2nd Street, both lessening the number of curb cuts along that block and placing the cuts in the middle of the block rather than close to intersecting streets.

54. As part of its modification request, the Applicant requests flexibility to reduce the amount of loading approved in Z.C. Order No. 05-36A. Specifically, the Applicant proposes to provide a single loading berth at 30 feet deep, a service delivery space at 30 feet deep, and a loading platform measuring 200 square feet. The previously approved loading configuration of two loading areas, each containing a 55-foot berth, 20-foot deep delivery space, and a loading platform, is no longer necessary given the relocated courtyard now allows for a single corridor to access virtually the entirety of the ground floor. Further, the Applicant's loading proposal is in keeping with the regulations applicable to apartment houses with greater than 50 dwelling units, with the exception of the overall depth of the loading berth.

55. The Applicant is proposing to reduce the amount of vehicular parking to be provided within the Phase II building, from 329 parking spaces to 240 spaces, while increasing the number of bicycle parking spaces provided, from 55 spaces to 175 spaces. The resulting ratio of parking spaces to dwelling units within the Phase II Building will be 0.46, which

remains a significant increase over the minimum parking requirements established in the Zoning Regulations for apartment buildings in the C-3-C Zone District (0.25).

56. The Commission finds that all of the proposed refinements are consistent with the spirit of the PUD Approval and improve the operation and design of the building.

Development Incentives and Flexibility Requested

57. As part of the Application, the Applicant requests the following areas of flexibility from the C-3-C requirements and PUD standards to facilitate development of the Project:

    (a) To provide loading not meeting the dimensional requirements;

    (b) To provide approximately 240 vehicular parking spaces and 175 bicycle parking spaces;

    (c) To reduce the amount of green roof space provided to approximately 13,000 square feet;

    (d) To continue to provide multiple penthouse structures on the roof and penthouse structures located less than a distance of 1:1 from the building edge;

    (e) To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the buildings;

    (f) To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of materials;

    (g) To make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Construction Code or that are otherwise necessary to obtain a final building permit; and

    (h) To vary the final selection of landscaping and vegetation types as proposed, based upon availability at the time of construction and finalization of site grading and utility plans.

CONCLUSIONS OF LAW

1. Pursuant to § 2400.1 of the Zoning Regulations, the PUD process is designed to encourage high quality development that provides public benefits. The overall goal of

the PUD process is to permit flexibility of development and other incentives, provided that a 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. The objective of the PUD process is to encourage high quality development that provides public benefits and project amenities by allowing applicants greater flexibility in planning and design than may be possible under conventional zoning procedures. Subsection 2403.9 of the Zoning Regulations provides categories of public benefits and project amenities for review by the Commission. In approving a PUD, the Commission must determine that the impact of a PUD on the surrounding area and on the operation of city services and facilities is either not unacceptable, is capable of being mitigated, or is acceptable given the quality of public benefits provided by said project. (11 DCMR § 2403.3.)

3. The overall PUD, including as modified by the Application, meets the minimum area requirements of § 2401.1 of the Zoning Regulations.

4. The development of the PUD, as modified by the Application, carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development. This application to modify the Approved PUD will achieve the goals of the PUD process by providing additional high quality residential development in coordination with a residential project that has already been reviewed and approved by the Commission, in a neighborhood where infill development, especially of a residential nature, is strongly encouraged by the District, and in close proximity to a Metrorail station. This coordination extends to compatible materials, design elements and treatments, as well as public space landscaping improvements.

5. The PUD's benefits and amenities are reasonable for the development proposed on the Property. The impact of the PUD on the surrounding area is not unacceptable. Accordingly, the Application should be approved.

6. Evaluating the PUD modification according to the standards set forth in § 2403 of the Zoning Regulations, the Commission concludes that the Application qualifies for approval. Judging, balancing, and reconciling the relative value of amenities and benefits in the Application against the nature of the Applicant's request and any potential adverse effects, the Commission is persuaded that the proposed public benefits herein, in conjunction with the amenities discussed above, are appropriate in this case.

7. Approval of this PUD modification is not inconsistent with the Comprehensive Plan.

8. Approval of this PUD modification is not inconsistent with the purposes and objectives of zoning as set forth in the Zoning Enabling Act, D.C. Official Code § 6-641.02.

9. Approval of this PUD modification will promote the general welfare and tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, and civic activity.

10. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, building density, lot occupancy, parking and loading, or for yards and courts. The Commission may also approve uses that would otherwise require approval by the Board of Zoning Adjustment.

12. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the affected ANC's recommendations. The Commission has carefully considered ANC 6C's recommendation in support of the Application. The ANC's support was contingent on the Applicant entering into an agreement concerning the ability of residents of the Phase II Building to receive a residential parking permit ("RPP") from the District of Columbia Department of Motor Vehicles ("DMV"). The Applicant satisfied this contingency. The Commission affords the views of ANC 6C the great weight to which they are entitled.

13. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP's recommendations. For the reasons stated above, the Commission concurs with OP's recommendation for approval and has given the OP recommendation the great weight it is entitled.

14. The Application for a PUD modification is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for modification to an approved planned unit development in Lots 826 and 827 in Square 749. This approval is subject to the following guidelines, conditions, and standards:

The guidelines and conditions established in Z.C. Order No. 05-36A, granting second-stage approval for the Phase II Building, as have been amended by Z.C. Order Nos. 05-36E, 05-36F, 05-36H, and 05-36J, are hereby further amended as follows:

1. The PUD shall be developed in accordance with the architectural plans and elevations dated June 2, 2008 and marked as Exhibit 38 of the record in Z.C. Case No. 05-36A, as may be modified by the revised floor plans shown in the plans marked as Exhibit C to Exhibit 1 of the record in Z.C. Case No. 05-36H, which plans provide no above-grade building connections between Phase I and Phase II of the PUD, **and the plans and elevations dated October 30, 2014 and marked as Exhibit 24 of the record in Case No. 05-36I, as supplemented by the plans and elevations dated December 15, 2014 marked as Exhibit 33_of the record in Z.C. Case No. 05-36I** (**collectively,** the "Final Plans") and as modified by the guidelines, conditions, and standards of this Order. The PUD may be constructed pursuant to the phasing plan shown in the plans marked as Exhibit 2 of the record in Z.C. Case No. 05-36E. The Applicant shall have the flexibility to modify the design of the PUD in the following areas:

   a. To vary the location and design of all interior components including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and bathrooms, provided that the variations do not change the exterior configuration of the building;

   b. To vary the final selection of the exterior materials within the color ranges and material types as proposed based on availability at the time of construction without reducing the quality of the materials;

   c. To make minor refinements to exterior details and dimensions including balcony enclosures, belt courses, sills, bases, cornices, railing and trim, or any other changes to comply with the Construction Codes or that are otherwise necessary to obtain a final building permit;

   d. To modify the design of all landscaping and other streetscape improvements located in public space in order to secure any necessary permits from the District Department of Transportation;

   e. To increase or decrease the overall number of residential units by no more than five percent provided that the percentage of residential gross floor area designated for affordable units shall be no less than 10% of the total gross floor area devoted to residential units and shall be provided consistent with the Commission's approval in Z. C. Corrected Order No 05-36; ~~and~~

   f. To vary the number and location of parking spaces in the underground garage, provided that the total number of parking spaces provided **in Phase II** is no less than ~~545 vehicle spaces~~ **240 vehicle spaces and 175 bicycle spaces; and**

g. **To provide loading facilities within Phase II as provided in the Final Plans, which include one 30-foot-deep loading berth, one 30-foot-deep service delivery space, and one 200-square-foot loading platform.**

2. The Phase II PUD shall have an overall density of no more than ~~5.49~~ **5.26** floor area ratio ("FAR"). The development shall contain approximately ~~555,545~~ **559,678** square feet of gross floor area including ~~13,801~~ **13,369** square feet devoted to retail uses. The retail uses in the building shall include a daycare center containing at least 3,446 square feet of gross floor area.

3. The Phase II PUD shall have a total height of no more than ~~121~~ **130** feet as measured from the measuring point on ~~3rd~~ **L** Street, N.E.~~, identified on Sheet C-6 of the Final Plans~~.

4. The Phase II PUD shall provide a green roof covering at least ~~16,000~~ **13,000** square feet of surface area on the building's roof.

5. The ground-floor retail space in the Phase II PUD shall have a clear floor-to-ceiling height of no less than 14 feet.

6. No less than 10% of the gross floor area devoted to residential units in the Phase II PUD shall be reserved for households earning no more than 80% of Area Median Income ("AMI") and for the time frames set forth in Z. C. Corrected Order No 05-36.

7. The Applicant shall abide by the terms of the executed Memorandum of Understanding with the Department of Small and Local Business Development in order to achieve at a minimum the goal of 35% participation by local small and disadvantaged business enterprises in the contracted development costs associated with the design development, construction and security for the PUD project.

8. The Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services in order to achieve the goal of utilizing District of Columbia residents for at least 51% of the jobs created by the PUD project.

9. The Owner is required to comply fully with the provisions of the D.C. Human Rights Act of 1977, DC Law 2-38, as amended, DC Official Code § 2-1401 et seq. (the "Act"). This Order is conditioned upon full compliance with those provisions. In accordance with the Act, the District of Columbia does not discriminate on the basis of actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is

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.

10. No building permit shall be issued for the construction of any improvements pursuant to this Phase II PUD until the owner of the Subject Property has recorded a covenant in the land records of the District of Columbia between the owner and the District of Columbia which is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs.

11. ~~The PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this order. Within such time, an application must be filed for a building permit as specified m 11 DCMR §§ 2408.8 and 2409.1. Construction shall begin within three (3) years of the effective date of this Order.~~ **In order for this PUD to remain valid, a building permit application for Phase II-A must be filed by November 14, 2015, and construction must start no later than November 14, 2016. In order for approval of Phase II-B to remain valid, a building permit application must be filed not later than two years following the date of the issuance of a final certificate of occupancy for the residential portion of Phase II-A, with construction to commence within one year thereafter.**

12. The Applicant shall take the following steps to restrict residents of the Phase II Building from receiving a residential parking permit ("RPP") from the District of Columbia Department of Motor Vehicles ("DMV"): (i) placing a clause in emphasized typeface in all leases for residential units prohibiting any resident from applying for or obtaining a RPP or using an RPP visitor pass within one mile of the Property, upon pain of mandatory lease termination (following a cure period, not to exceed five business days), to the full extent permitted by law; (ii) formally requesting that DDOT removes the Phase II Building and its street address from the list of properties eligible for RPP, or if presently not on the list, classifying it as ineligible for RPP, and further requesting from DDOT written confirmation that it will not grant RPPs to residents; and (iii) acknowledging that the recordation of the Notice of PUD Modification, which runs with the land, embodies the foregoing commitment.

13. No building permit shall be issued for the Project until the Applicant has recorded a Notice of PUD Modification 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 Notice shall bind the Applicant and all successors in title to construct on and use the Property in accordance with this order or amendment thereof by the Zoning Commission.

On October 30, 2014, upon the motion of Chairman Hood , as seconded by Commissioner May, the Zoning Commission **APPROVED** the application at the close of its public hearing by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On January 12, 2015, upon the motion of Commissioner Miller, as seconded by Chairman Hood, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt)

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on February 6, 2015.

ZONING COMMISSION FOR THE DISTICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 12-05B
Z.C. Case No. 12-05B
Ballpark Square, LLC
(Minor Modification of a Capitol Gateway Overlay Review @ Square 701)
April 28, 2014

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia ("Commission") was held on April 28, 2014. At the meeting, the Commission approved an application of Ballpark Square, LLC ("Applicant") for a minor modification to the approved plans of a Capital Gateway ("CG") Overlay review for property consisting of Lots 169 and 170 in Square 701 ("Property"). Since the modification was deemed minor, a public hearing was not conducted. The Commission determined that this modification request was properly before it under § 3030 of the Zoning Commission's Rules of Practice and Procedure.

FINDINGS OF FACT

By Z.C. Order No. 12-05, dated November 14, 2012, ("Order") the Commission approved a new mixed-use residential, retail, hotel, and office development reviewed pursuant to the CG Overlay District ("Project").

By Z.C. Order No. 12-05A, dated September 30, 2013 ("Second Order"), the Commission approved a modification to the approved plans for the Project. In the Second Order, the Commission approved a revision to the residential portion of the Project, including a new configuration, a reconsidered southern façade wall, an increased unit count, and a reconfiguration of the retail space.

In the instant proceeding, the Applicant requested minor changes and flexibility to alter the design of a portion of the Project's southern façade wall along the Property's southern boundary with another property on which a hotel project will be constructed. The Project and the hotel project on the adjacent property will have simultaneous construction schedules. Accordingly, there would be no value derived from the substantial additional costs of finishing the portions of the Project's southern façade that only will be hidden. The Project's southern party wall would not be visible since it will directly abut the adjacent hotel's party wall. Since the adjacent hotel project is proceeding even before the Project and will hide the Project's southern façade wall, the additional party wall design treatment approved in the Second Order is not necessary. In order to assure that the design of the articulated southern façade wall will be constructed as approved in the Second Order if the adjacent hotel project does not proceed, the Applicant proposed a condition to this effect to be added to the Second Order.

The proposed change and flexibility does not impact the overall height, mass, bulk, or design that was originally approved by the Commission. Rather, it is a minor change that will avoid an unnecessary expenditure of resources and allow the Project to proceed expeditiously, and it is consistent with the purposes and intent of the original approval.

The Applicant served the minor modification request on Advisory Neighborhood Commission ("ANC") 6D, as well as the Office of Planning. The Office of Planning recommended approval of the minor modification subject to the Applicant's proposed condition. (Exhibit 4.)

On April 28, 2014, at its regular monthly meeting, the Commission reviewed the application as a Consent Calendar matter and granted approval of the application for minor modification to the approved plans and associated flexibility. The Consent Calendar permits the Commission to grant modifications without a public hearing where, as here, the change requested is of little or no significance. (11 DCMR § 3030.2.)

CONCLUSIONS OF LAW

Upon consideration of the record in this application, the Commission concludes that the proposed modification is minor and consistent with the intent of the previously approved Z.C. Order Nos. 12-05 and 12-05A. Furthermore, the Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations, and is not inconsistent with the Comprehensive Plan.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for a minor modification and orders that the following condition being added to Z.C. Order No. 12-05A:

10. Applicant shall have the flexibility to design and construct an exterior party wall consisting of EIFS panels on a CMU backup wall for the portion of the Applicant's southern façade shown on Exhibit 1A of the record in Z.C. Case No. 12-05B. This condition shall be subject to the following additional requirements:

    - The building permit allowing for the construction of the party wall on the property (the "Building Permit") must be issued within three years of the building permit issuance for the building approved by Z.C Order No. 12-19 or any subsequent modification Order on Lots 818, 821, 825, 826, and 827 in Square 701 (the "Adjacent Property").

    If the construction of the project on the Adjacent Property does not proceed within one year of issuance of the Building Permit, the south façade originally approved under Z.C. Order No. 12-05A shall be constructed in place of the party wall.

    - Any portion of the southern façade not comprising a party wall shall be designed and constructed as shown on Exhibit 1A of the record in Z.C. Case No. 12-05B.

All other provisions and conditions of Z.C. Order Nos. 12-05 and 12-05A shall remain in effect.

On April 28, 2014, upon the motion of Commissioner Turnbull, as seconded by Vice Chairperson Cohen, this Order was **ADOPTED** by the Zoning Commission at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register*, that is, on February 6, 2015.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONNG COMMISSION ORDER NO. 14-15
Z.C. Case No. 14-15
1244 South Capitol Residential, LLC
(Capitol Gateway Overlay Review@ Square 700, Lots 37-39, 45, 46, and 803 and closed alley)
January 12, 2015

Pursuant to notice, the Zoning Commission of the District of Columbia ("Commission") held a public hearing on November 13, 2014, to consider an application filed by 1244 South Capitol Residential, LLC ("Applicant") for review and approval of a new mixed-use residential and retail/service building pursuant to §§ 1605 and 1610 of the Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"), which apply to new construction within the Capitol Gateway ("CG") Overlay with frontage along South Capitol Street, and to properties within Square 700. The application also included a request for special exception approval of a penthouse not meeting required setback, pursuant to 11 DCMR § 630.4(b), and variance relief from the loading requirements established in 11 DCMR § 2201.1.[1] The special exception relief was made unnecessary as a result of revisions to the roof plans and the Commission approves the withdrawal of that relief through this order. 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

1. On August 6, 2014, the Applicant filed an application for review and approval of a new mixed-use building containing residential and retail/service uses, pursuant to §§ 1605 and 1610 of the Zoning Regulations, which apply to new construction on any lot within the CG Overlay District with frontage along South Capitol Street as well as properties within Squares 700 and 701 north of the Ballpark site. The subject property is located in Square 700 and consists of Lots 37, 38, 39, 45, 46, and 803 and a closed alley ("Property").

2. The Applicant filed a prehearing submission in support of the application on October 24, 2014 (the "Prehearing Submission"). (Exhibits ["Ex."] 17 and 18.) The Prehearing Submission included an additional request for relief from the loading requirements, as established in 11 DCMR § 2201.1. The Applicant requested the loading relief so as not to be required to provide a 55-foot loading berth to address concerns raised by the Department of Transportation ("DDOT") regarding the ability to undertake turning operations onto Van Street, S.E.

3. The Commission held a hearing on the application on November 13, 2014. Parties to the case included the Applicant and Advisory Neighborhood Commission ("ANC") 6D, the

[1] The Application originally included request for variance relief from the court dimension requirements established in 11 DCMR § 638.2(a), which request was later withdrawn by the Applicant by letter dated November 12, 2014 (Exhibit 22).

ANC within which the Property is located. Proper notice of the hearing was provided by the Office of Zoning pursuant to 11 DCMR § 3015.

4. Per letter from ANC 6D dated October 26, 2014, the ANC reported that at its duly noticed meeting on October 20, 2014, ANC 6D voted 7-0-0 to recommend that the Commission approve the proposed apartment building and the requested variance relief and special exception approval. (Ex. 14.) By letter dated December 14, 2014, the ANC reported that at its regularly scheduled meeting on December 8, 2014 at which a quorum was present, the ANC voted 4-0-0 to support the Applicant's proposed revision to the penthouse structure on the building and its request to withdraw that request from its application. (Ex. 26.)

5. Witnesses appearing at the hearing on behalf of the Applicant included Bryan Moll of the JBG Companies, David Pontarini of Hariri Pontarini Architects, Eric Colbert of Eric Colbert and Associates, Architects, and Daniel Van Pelt of Gorove/Slade.

6. At the conclusion of the public hearing on November 13, 2014, the Commission requested that the Applicant further study certain aspects of the project's design, particularly the setback of the penthouse from the central courtyard, and to provide additional information regarding the proposed location of building signage, and to submit revised materials to the record.

7. The Applicant submitted materials responsive to the Commission's comments on December 15, 2014, including select revised architectural drawings to address the Commission's questions and requests raised at the public hearing. The revised sheets were intended to serve as replacement and supplemental sheets to the package of drawings submitted to the record on October 24, 2014 (collectively, the "Final Architectural Drawings"). (Ex. 18, 27.) As a result of the refinements made by the Applicant to the penthouse design pursuant to the Commission's direction, the Applicant requested withdrawal of its court variance request as part of its December 15, 2014, submission to the record. Per the Commission's request, the Applicant submitted proposed findings of fact and conclusions of law, pursuant to 11 DCMR § 3026 on December 22, 2014. (Ex. 28.)

8. At its January 12, 2015, public meeting, the Commission took final action to approve the application. The Commission determined that the project satisfies all applicable requirements of the CG Overlay District, and the application satisfies the burden of proof for variance relief from the loading requirements of the Zoning Regulations.

Project Overview

9. The Property is rectangular in configuration and measures approximately 29,626 square feet of land area in the southern portion of Square 700. Square 700 is bounded by M

Street on the north, South Capitol Street on the west, N Street on the south, and Van Street on the east in southeast Washington, D.C. Nationals Park ballpark is located immediately south of the Property, across N Street, S.E. Except for a canopy remaining from the site's past use as a gas station, the Property is currently vacant and utilized as a temporary seasonal surface parking lot for baseball games.

10. The Applicant intends to construct a mixed-use apartment building with ground- and second-floor retail/service uses on the Property. As shown in the Final Architectural Drawings, the proposed building will have a height of 130 feet and will measure approximately 268,971 square feet of gross floor area for an overall density of approximately 9.08 floor area ratio ("FAR") as permitted pursuant to §§ 1602.1(a) and 1602.1(e) of the Zoning Regulations. The building also will include two below-grade parking levels, including bicycle parking, in full satisfaction of the parking requirements of Chapter 21 of the Zoning Regulations. The building also will comply with all applicable loading requirements of Chapter 22 of the Zoning Regulations, aside from providing a 55-foot loading berth, for which the Applicant has requested variance relief. The building will include a total of four stacked loading berths/delivery spaces (two @ 30 feet deep and two @ 20 feet deep), all accessible from Van Street. The parking and loading facilities will be accessed from Van Street, to the east of the Property. The Applicant requests area variance relief to provide the second 20- and 30-foot berths in lieu of providing one 55-foot berth as required pursuant to Chapter 22 of the Zoning Regulations, given the extreme difficulty of maneuvering a 55-foot truck into the building from Van Street.

11. As shown in the Final Architectural Drawings, the building has been designed to actively engage each of its three street frontages. Along South Capitol, it presents a strong street wall with extensive masonry and a prominent and substantial grid framework above an active and open commercial base, consistent with the policy direction of the CG Overlay to provide for the establishment of South Capitol Street as a monumental civic boulevard. At the same time, at the upper levels of this façade, the building steps back, forming a large central courtyard, and exposing a very different and lighter architectural vocabulary and materials palette, one largely consisting of glass and metal. Using a similar mixture of glass and metal atop a strong masonry grid, the building's N Street frontage incorporates an additional textural layer through the use of balcony projections and metal/steel accents, all floating above the open double-height retail/service, consisting largely of operable and moveable "window walls" and which will be further animated by distinctive tenant signage and treatments in areas identified in the Final Architectural Plans.

12. The Applicant has treated the narrow Van Street façade with a similar level of attention and finish as the two more public street frontages. The same materials and combination of masonry grid topped by more open and light glass and metal can be seen on this frontage as on South Capitol Street. The Applicant also has continued the commercial

uses up the Van Street frontage from its intersection with N Street. This frontage serves as the entry to the residential portion of the building, as demonstrated both by the continued use of high end primary materials and accents as well as innovative landscaping incorporated into the building fabric.

13. The north, at-risk, façade of the building also has been treated with a heightened level of finish, including the large glass-filled break created in the center of the north wall. This break, capped by a trellis, leads to an articulated penthouse structure on the main roof of the building, complete with large louvered openings and a similar grid pattern to that showing on all the street frontages of the building. The roof of the building offers extensive landscaping and recreational amenities for building residents, including multiple green roof and green wall treatments.

14. Pursuant to the Commission's request for further study, the Applicant submitted revised drawings showing the penthouse structure relocated such that it complies with the setback requirements of the Zoning Regulations. As a result, the Applicant requests permission from the Commission to withdraw the request for special exception approval for a penthouse not meeting the required setback dimensions. The Commission approves the Applicant's request to withdraw the penthouse special exception component of the application.

15. The building will incorporate a number of elements to enhance its sustainability, and the Applicant represented that it expects the finished building would qualify for at least LEED Silver NC 2009 certification. To that end, included in the Final Architectural Drawings, the Applicant submitted a draft LEED checklist identifying those elements and features the Applicant may pursue in satisfaction of its sustainability commitment.

Description of the Surrounding Area and Zoning Classification

16. The Property is located in the southern half of Square 700, which is bounded by M Street on the north, South Capitol Street on the west, Van Street on the east, and N Street on the south. The Property is bounded to its north by private property (Lot 44), which is improved with a five-story brick self-storage building. An office building with ground floor retail uses has been proposed for the northern portion of Square 700, fronting on M Street. To the east of the Property, across Van Street, in Square 701, the Commission has approved a mixed-use office, retail, and residential project spanning from M Street to N Street. Nationals Park is located to the immediate south of the Property, across N Street, S.E.

17. The Property is zoned CG/CR (Capitol Gateway Overlay / Commercial Residential), as are all the adjacent properties south of M Street and west of First Street. East of First Street the properties are zoned SEFC/CR (Southeast Federal Capital Overlay), and on the north side of M Street properties are zoned CG/C-3-C.

18. Within the CG Overlay, residential and nonresidential floor area on each individual parcel within the CR Zone District shall not exceed a maximum building density of 8.5 FAR on parcels for which a height of 130 feet is permitted by the General Height Act of 1910, pursuant to 11 DCMR § 1602.1(a). As a result of the Property's frontage on South Capitol Street, 130 feet of height is permitted under the Act.

19. Section 1602 further provides that two or more lots within the CG Overlay may be combined for the purpose of allocating residential and nonresidential uses regardless of the normal limitation on floor area by uses on each lot. This allocation is accomplished by combined lot development covenant approved by the District of Columbia and recorded in the land records.

20. In addition to the amount of density that may be transferred in accordance with 11 DCMR §1602.1(a), the Commission may, at its discretion, grant an additional transfer of density of 1.0 FAR maximum to or within Squares 700, 701, and 702, subject to an applicant addressing to the satisfaction of the Commission the objectives and guidelines of §§ 1601 and 1604-1607, as applicable. To that end, the Applicant submitted this application for Commission review and approval. A combined lot development covenant has been recorded in the land records involving the necessary allocations of use and density to permit construction on the Property totaling up to 9.5 FAR.

Capitol Gateway Overlay District Design Requirements

The Project Meets the Requirements of § 1605

21. The proposed project is subject to the requirements of § 1605 of the Zoning Regulations because the new building will have frontage on South Capitol Street within the CG Overlay. The Commission finds that the project meets the requirements of § 1605.

22. As shown in the Final Architectural Drawings, the building complies with the requirement that each new building or structure located on South Capitol Street shall be set back for its entire height and frontage not less than 15 feet. (§ 1605.2.)

23. As shown in the Final Architectural Drawings, the building complies with the requirement that any portion of a building or structure that exceeds 110 feet in height shall provide an additional one-to-one step-back from the building line along South Capitol Street. (§ 1605.3.)

24. The building complies with the requirement that no private driveway may be constructed or used from South Capitol Street to any parking or loading berth areas in or adjacent to a building or structure constructed after February 16, 2007. As shown in the Final

Architectural Drawings, the below-grade parking garage and the building's loading facilities will be accessed from Van Street, S.E. (§ 1605.4.)

25. As shown in the Final Architectural Drawings, the building complies with the requirement that a minimum of 60% of the street-wall shall be constructed on the setback line for each new building or structure located on South Capitol Street. (§ 1605.5.)

The Project Meets the Requirements of § 1610

26. Subsections 1610.1(c), 1610.1(d), 1610.1(f), and 1610.2 of the Zoning Regulations provide that new construction on a lot located within Square 700 or 701, north of the ballpark site, on a lot abutting South Capitol Street, or on any lot that is the recipient of density through the combined lot provisions of § 1602, require the review and approval of the Commission. Subsection 1610.3 of the CG Overlay provisions provides that in addition to demonstrating that the proposed building meets the standards set forth in § 3104 of the Zoning Regulations, an applicant requesting approval under the CG Overlay provisions must also prove that the proposed building meets the requirements of §§ 1610.3 (a) through 1610.3(f). Subsection 3104.1 of the Zoning Regulations provides that special exceptions should be granted when "the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps." (11 DCMR § 3104.1.)

27. Subsection 1610.3 further provides that the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation of the proposed building must comply with the specific requirements set forth in that section, and must help achieve the objectives of the CG Overlay District as set forth in § 1600.2 of the Zoning Regulations. The Commission finds that the proposed building meets the requirements of § 1610 and is consistent with all of the applicable purposes of the CG Overlay.

28. The proposed building's height and density are allowed at this location, and the proposed use is consistent with the Property's designation on the Future Land Use Map. The residential and retail/service uses contemplated by the project will help foster an appropriate mix of uses within the square and the surrounding area. (§ 1600.2(a).)

29. The proposed building is planned to include significant space devoted to preferred retail or other preferred uses on the ground and second floors, including approximately 16-foot floor-to-floor heights. This space will accommodate precisely the types of retail, service, and entertainment uses encouraged by the CG Overlay. (§ 1600.2(b).)

30. The CG Overlay provides for the establishment of South Capitol Street as a monumental civic boulevard. As shown in the Final Architectural Drawings, the design of the

building, including the geometry, materials, and façade treatment all further the monumental focus of South Capitol Street. (§ 1600.2(g).)

31. The proposed project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to affect adversely the neighboring property in accordance with the Zoning Regulations and Zoning Map. The Commission finds that the project assures development of the area with a mixture of uses and a suitable height, bulk, and design. (§ 1610.3(a).)

32. The proposed building will help achieve the desired mix of uses in the CG Overlay as set forth in §§ 1600.2(a) and (b), with the identified preferred uses specifically being residential, hotel or inn, cultural, entertainment, retail, or service uses. The Commission finds that the ground- and second-level retail/service uses contemplated for the building along its three street frontages, with expansive floor-to-floor heights and façade treatment intended to emphasize the potential preferred uses and human scale, all of which help achieve the goals of the CG Overlay. (§ 1610.3 (b).)

33. The Commission finds that the height, bulk, and architectural design of the proposed building, as shown in the Final Architectural Drawings, will be in harmony with the context of the surrounding neighborhood and will have no effect on the existing street grid. (§ 1610.3 (c).)

34. The Commission finds that the proposed building has been sited to minimize conflicts between vehicles and pedestrians. Access to the building's loading and parking facilities along Van Street will help minimize potential conflicts between vehicles and pedestrians. Further, the Applicant has stacked its loading berths so as to minimize the width of the loading access curb cut and thereby further minimize potential conflicts. The Applicant's traffic impact study confirms that the project minimizes negative impacts to public space. (§ 1610.3 (d).)

35. The Commission finds that the proposed building's façades have been designed to minimize unarticulated walls adjacent to public spaces through façade articulation. Through use of materials, breaks, and fenestration in the at-risk northern elevation of the Building, the Applicant minimizes unarticulated blank walls. (§ 1610.3 (e).)

36. The proposed project will be designed with sustainability features which would qualify as LEED Silver should the Applicant pursue certification, and will have no significant adverse impacts on the natural environment. (§ 1610.3(f).)

37. This application was referred to the Office of Planning ("OP") and the District Department of Transportation ("DDOT") for review. (§ 774.6.)

Loading Variance Request

38. Subsection 1610.7 of the Zoning Regulations states that the Commission may hear and decide any additional requests for special exception or variance relief needed for the Property and that such requests shall be advertised, heard, and decided together with the application for review and approval for compliance with the CG Overlay provisions. Pursuant to this provision, the Applicant requests area variance relief from the loading requirement, set forth in § 2201.1 of the Zoning Regulations. This request is a supplement to the initial application, where the Applicant originally included a 55-foot loading berth in its building plans. As a result of discussions with DDOT and further study regarding necessary turning patterns for a 55-foot truck to access the loading berth, the Applicant has determined that the narrowness of Van Street precludes reasonable access for such large trucks and therefore proposes to substitute a second 30-foot berth and a second 20-foot berth in lieu of the earlier-proposed 55-foot berth. As such, area variance relief is required.

39. Subsection 2201.1 of the Zoning Regulations requires that apartment buildings in all zoning districts with 50 or more dwelling units provide one loading berth measuring 55 feet in depth, along with a service/delivery space measuring 20 feet in depth. The Applicant's project provides a total of four berths/spaces, two of which have a depth of 30 feet and two have a depth of 20 feet, as shown on Sheet A301 of the plans for the building. As a result of further study of the truck turning patterns to allow access from the very narrow Van Street, S.E., the Applicant has determined that access to a 55-foot berth, as required by the Zoning Regulations, would require a turning pattern involving crossing over the sidewalk and public realm in front of the building, or in front of the public space abutting the property to the north. In light of this information, the Applicant proposes to substitute two smaller stacked berths for the required 55-foot berth and is working with DDOT on the terms of a loading management plan to address loading operations in general, and larger trucks specifically.

40. The test for variance relief is three-part: (1) demonstration that a particular piece of property is affected by some exceptional situation or condition; (2) such that, without the requested variance relief, the strict application of the Zoning Regulations would result in some practical difficulty upon the property owner; and (3) that the relief requested can be granted without substantial detriment to the public good or substantial impairment of the zone plan. The Commission finds that variance relief is appropriate in this application.

41. The Commission finds that the Property is exceptional in the CG Overlay in that it fronts on three streets, two of which serve as very public axes of the overlay, leaving only the third frontage, Van Street, which has historically served as an alley and is comparatively very narrow, as a viable location for service and access. With respect to loading and vehicular access, the CG regulations specifically prohibit vehicular access to the Property from its South Capitol Street frontage. Also, given the comparatively long and narrow

configuration of the Property, the site is comparatively constrained in terms of options for providing required loading within the footprint of the building.

42. The strict application of the Zoning Regulations will result in a practical difficulty upon the Applicant. As noted above, the Applicant has determined in discussions with DDOT that the earlier proposed 55-foot loading berth could not practically be accessed and utilized because it would require unacceptable truck turning and maneuvering in the public realm, including across the "public parking" as defined in 24 DCMR, and as a result, create a potential conflict with pedestrian and vehicular traffic. Further, given the limitations on development of the site pursuant to the CG Overlay, there is no practical alternative for the Applicant to provide a compliant 55-foot loading berth with acceptable turning maneuvers from Van Street. If the Applicant were to pursue an angled berth arrangement in order to allow access, such an arrangement would negatively impact the residential lobby access to the building, reduce the amount of preferred commercial uses to be provided in the ground floor, and potentially require larger curb cuts.

43. The requested relief can be granted without substantial detriment to the public good and without substantially impairing the zone plan. As demonstrated in the transportation impact study, the proposed number, size, and arrangement of loading facilities is sufficient to meet the demands of the residential and commercial uses proposed for the building, particularly given industry experience with the size of units proposed for the building, and will minimize any potential negative impacts upon public space. (Ex. 17.) Further, the Applicant proposes several measures to minimize impacts of its loading operations, including: (i) building management requiring that all tenants schedule deliveries in advance to the extent possible; (ii) permitting deliveries between 7:00 a.m. and 4:00 p.m., seven days a week, except for when events occur at Nationals Park, at which time deliveries cannot be scheduled for the period between two hours when an event begins and one hour after an event is completed (including during the event itself); (iii) building management supervising all deliveries to the loading dock, for 30-foot trucks or larger and posting a sign in a highly visible location within the loading area that states that all loading activities must be scheduled through building management; and (iv) building management not allowing trucks using the loading dock to idle and requiring that they follow all District guidelines for heavy vehicle operation.

Office of Planning Report

44. By report dated November 4, 2014, OP indicated strong support for the project and recommended approval of the application. (Ex. 19.) In its report, OP requested that the Applicant commit to achieve a higher LEED rating than the "Certified" level originally proposed and supported the requested loading and penthouse setback relief. OP recommended denial of the court variance request. OP indicated strong support for the overall design and materials palette proposed for the building.

45. As shown in the Final Architectural Drawings, the Applicant modified the architectural treatment along the north elevation to remove the court feature and correspondingly requested withdrawal of the court variance request. As also shown in the Final Architectural Drawings, the Applicant increased its sustainability commitment, as reflected in a revised LEED Scorecard, confirming to include sustainability elements in the project equivalent to a Silver level.

46. The report indicated that the proposed development does not require PUD or rezoning approval, and is generally consistent with most aspects of the zoning regulations, specifically height, density, and use. The proposal is generally consistent with the Comprehensive Plan and would further certain Guiding Principles of the Plan, as outlined in Chapter 2, the Framework Element. The application is also consistent with major policies from various elements of the Comprehensive Plan including the Land Use, Transportation and Economic Development Citywide Elements, and the Lower Anacostia Waterfront/Near Southwest Area Element.

47. The report concluded that the project would generally further the objectives of the CG Overlay. The project would add a mix of uses to the area, including ground-floor retail. The height and bulk of the building would be appropriate and as prescribed by the Comprehensive Plan, and would help establish South Capitol Street as a monumental civic boulevard. The proposal would provide residential and retail, appropriate uses in an area developing as a mixed-use neighborhood with a focus on entertainment and hospitality uses, and the proposed development would respect and enhance the surrounding neighborhood and street patterns while generally helping to minimize conflict between vehicles and pedestrians. OP indicated no objection to the additional transfer of density through combined lot development pursuant to 11 DCMR § 1602.

DDOT Report

48. By report dated November 3, 2014, DDOT provided its analysis regarding the parking, loading, trip generation, and vehicle turning impacts of the project on the District's transportation network. (Ex. 20.) DDOT finds that the site is well served by both Metrorail and Metrobus, residents are likely to heavily utilize non-automobile modes of travel, new pedestrian trips will be introduced to Van Street, which lacks adequate pedestrian facilities, 110 secure, long-term bicycle spaces are proposed, truck access will utilize backing movement in the public space, and an acceptable loading management plan is proposed.

49. DDOT stated no objection to the application, with the condition that the Applicant should undertake the following: (a) complete the missing sidewalk link on the west side of Van Street to M Street; (b) provide a transportation information screen in the lobby displaying real time arrival/availability for nearby buses, trains, carshare, and bikeshare; (c) install 11 short-term bicycle racks, the equivalent of 22 total bicycle spaces near the building's

entrances; and (d) provide at least one parking space with a 240-volt electric car charging station located in the underground parking garage for use by the building's residents. The Applicant has agreed to implement these measures.

50. The Applicant also has committed to implement DDOT's additional proposed Transportation Demand Management ("TDM") strategies set forth in its report, consisting of: (a) complying with the Zoning requirement to provide bicycle parking/storage; (b) identifying a TDM leader for the building; (c) dedicating two parking spaces as available for a car sharing service; and (d) hosting a transportation mobility fair six months after the building's opening.

51. At the public hearing, DDOT indicated its support for the Applicant's request for variance relief from the requirement to provide a 55-foot loading berth based upon the loading proposed for the building and the Applicant's commitment to implement the loading management plan established in the DDOT report, consisting of: (a) requiring all tenants to schedule deliveries in advance to the extent possible; (b) restricting delivery times to between 7:00 a.m. and 4:00 p.m. seven days per week, except for when events occur at Nationals Park; (c) restricting delivery times on event days for the period between two hours before an event begins until one hour after the event ends; (d) assigning a building management representative to supervise all deliveries for trucks 30 feet or longer; (e) posting a sign in a visible location within the building stating that all loading activities must be scheduled through building management; and (f) requiring that trucks using the loading dock not be allowed to idle and must follow all District guidelines for heavy vehicle operation. The Applicant confirmed its agreement to the terms of the loading management plan.

CONCLUSIONS OF LAW

1. The application was submitted pursuant to 11 DCMR §§ 1605 and 1610 for special exception review and approval by the Commission, and pursuant to § 1607 for variance approval.

2. The Commission provided proper and timely notice of the public hearing on the application by publication in the *D.C. Register* and by mail to ANC 6D, the Office of Planning, and owners of property within 200 feet of the site.

3. Pursuant to 11 DCMR §§ 1605.1 and 1610.1, the Commission required the Applicant to satisfy all applicable requirements set forth in 11 DCMR §§ 1605.2 through 1605.5 and §§ 1610.2 through 1610.7. The Commission concludes that the Applicant has met its burden.

4. The proposed development is within the applicable height, bulk, and density standards for the CG/CR (Capitol Gateway Overlay/Commercial Residential) District and will not tend

to affect adversely the use of neighboring property. The overall project is also in harmony with the general intent and purpose of the Zoning Regulations and Map.

5. The Commission concludes that the proposed project will further the objectives of the CG Overlay District as set forth in § 1600.2 and will promote the desired mix of uses set forth therein. The design of the proposed building meets the purposes of the Capitol Gateway Overlay and meets the specific design requirements of § 1605 of the Zoning Regulations.

6. No person or parties appeared at the public hearing in opposition to the application.

7. The Commission is required under D.C. Official Code § 1-309.10(d)(3)(A)(2001) to give "great weight" to the issues and concerns of the affected ANC. The ANC voted 7-0-0 in support of the proposed project and submitted its report supporting the project on October 26, 2014.

8. Based upon the record before the Commission, including witness testimony, the reports submitted by OP, DDOT, and ANC 6D, and the Applicant's submissions, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under 11 DCMR §§ 1605, 1610, 3103.2, and 2200.1.

DECISION

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application consistent with this Order. This approval is subject to the guidelines, standards, and conditions set forth below. For the purposes of these conditions, the term "Applicant" shall mean the person or entity then holding title to the Property. If there is more than one owner, the obligations under the order shall be joint and several. If a person or entity no longer holds title to the Property, that party shall have no further obligations under the Order; however, that party remains liable for any violation of any condition that occurred while an owner.

1. The approval of the proposed development shall apply to Lots 37, 38, 39, 45, 46, and 803 and the closed alley, all in Square 700.

2. The project shall be built in accordance with the Final Architectural Drawings, dated October 24, 2014, as modified by the drawings submitted by the Applicant following the public hearing in response to questions raised by the Commission, and the guidelines, conditions, and standards below. (Ex. 18, 27.)

3. The overall density on the site shall not exceed 9.5 FAR as permitted pursuant to § 1602 of the Zoning Regulations, and pursuant to the Commission's approval of this application.

4. The Applicant shall implement the transportation demand management measures set forth in the DDOT report, as agreed to by the Applicant. (Ex. 20.) Those measures appear as bullet points on page 8 of the report and are incorporated by reference and made part of this condition, except that the words "will", "should", and "agrees to", are replaced with the word "shall."

5. The Applicant shall comply with the following conditions pertaining to the building's loading operations:

   (a) All tenants shall be required schedule deliveries in advance to the extent possible;

   (b) Deliveries shall be permitted between 7:00 a.m. and 4:00 p.m., seven days a week, except for when events occur at Nationals Park, at which time deliveries cannot be scheduled for the period between two hours when an event begins and one hour after an event is completed (including during the event itself);

   (c) Building management shall supervise all deliveries to the loading dock for 30-foot trucks or larger, and shall post a sign in a highly visible location within the loading area that states that all loading activities must be scheduled through building management; and

   (d) Trucks using the loading dock shall not be allowed to idle and shall be required to follow all District guidelines for heavy vehicle operation.

6. The Applicant shall have flexibility with the design of the project in the following areas:

   - To vary the location and design of all interior components, including, but not limited to, partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not materially change the exterior configuration of the buildings;

   - To vary the final selection of the exterior materials within the color ranges and material types (maintaining the same general level of quality) as proposed, based on availability at the time of construction;

   - To make refinements to exterior materials, details, and dimensions, including beltcourses, sills, bases, cornices, railings, and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit or any other applicable approvals; and

   - To vary the exterior design and materials of the ground-floor retail/service space based on the preferences of the individual tenant/occupant. The Applicant will not permit the individual tenant/occupant to modify the building footprint, or reduce

the quality of the materials used on the exterior of the ground floor of the Project, as shown in the plans submitted with this application.

7. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.1 *et seq*. (the "Act"), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violations will be subject to disciplinary action.

On January 12, 2015, upon the motion of Vice Chairperson Cohen, as second by Commissioner Miller, the Zoning Commission **ADOPTED** this Order at is public meeting by a vote of **5-0-0** (Anthony J. Hood**,** Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*, that is on February 6, 2015.

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