

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council schedules a public hearing on Bill 21-736, Improving Access to Identity Documents Act of 2016
- D.C. Council schedules a public oversight roundtable on the review of DCRA operations pertaining to illegal construction inspections, business licensing and permitting, and other issues
- Office of the State Superintendent of Education announces funding for SAT preparation expansion
- Department of Energy and Environment announces funding for programs for reducing trash in the District
- Executive Office of the Mayor bans official travel to the State of Tennessee
- Department of Housing and Community Development schedules a public hearing on the National Housing Trust Fund Allocation Plan
- D.C. Housing Authority changes requirements for reporting increases in household income between recertification
- Department of Human Resources establishes guidelines for implementing government paid family leave
- Department of Human Services announces funding availability for the Homelessness Prevention Program Phase II

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

The District of Columbia Office of Documents and Administrative Issuances publishes the *District of Columbia Register* (ISSN 0419-439X) every Friday under the authority of the *District of Columbia Documents Act*, D.C. Law 2-153, effective March 6, 1979, D.C. Official Code § 611 *et seq.* (2012 Repl.). The policies which govern the publication of the *Register* are set forth in the Rules of the Office of Documents and Administrative Issuances (1 DCMR §§300, *et seq.*). The Rules of the Office of Documents and Administrative Issuances are available online at dcregs.dc.gov. Rulemaking documents are also subject to the requirements of the *D.C. Administrative Procedure Act*, D.C. Official Code §§2-501 *et seq.* (2012 Repl.).

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

Deadlines for Submission of Documents for Publication

The Office of Documents and Administrative Issuances accepts electronic documents for publication using a Web-based portal. To submit documents for publication, agency heads, or their representatives, may obtain a username and password by email at dcdocuments@dc.gov. For guidelines on how to format and submit documents for publication, email dcdocuments@dc.gov.

The deadline for filing documents for publication for District of Columbia Agencies, Boards, Commissions, and Public Charter schools is THURSDAY, NOON of the previous week before publication. The deadline for filing documents for publication for the Council of the District of Columbia is WEDNESDAY, NOON of the week of publication. If an official District of Columbia government holiday falls on Thursday, the deadline for filing documents is Wednesday. Email the Office of Documents and Administrative Issuances at dcdocuments@dc.gov to request the *District of Columbia Register* publication schedule.

Viewing the DC Register

The Office of Documents and Administrative Issuances publishes the *D.C. Register* ONLINE every Friday at www.dcregs.dc.gov. The Office of Documents does not offer paid subscriptions to the *D.C. Register*. Copies of the *Register* from April 2003 through July 2010 are also available online in the *D.C. Register* Archive on the website for the Office of the Secretary at www.os.dc.gov. Hardcopies of the *Register* from 1954 to September 2009 are available at the Martin Luther King, Jr. Memorial Library's Washingtonian Division, 901 G Street, NW, Washington, DC 20001. There are no restrictions on the republication of any portion of the *Register*. News services are encouraged to publish all or part of the *Register*.

Legal Effect of Publication - Certification

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

DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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

MURIEL E. BOWSER
MAYOR

VICTOR L. REID, ESQ.
ADMINISTRATOR

CONTENTS

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

D.C. ACTS

A21-391 Marijuana Possession Decriminalization Clarification
Amendment Act of 2016 [B21-107]..... 007587 - 007588

A21-392 Repeal of Outdated and Unnecessary Audit Mandates
Amendment Act of 2016 [B21-377]..... 007589 - 007593

A21-393 Home Purchase Assistance Program Amendment
Act of 2016 [B21-481] 007594 - 007595

RESOLUTIONS

Res 21-292 Sense of the Council in Support of a "Statehood or Else"
Signature Campaign Resolution of 2015 007596 - 007598

Res 21-472 Modifications to Contract No. CW25933 Approval and
Payment Authorization Emergency Declaration
Resolution of 2016..... 007599 - 007600

Res 21-475 Repeal of Outdated and Unnecessary Audit Mandates
Emergency Declaration Resolution of 2016007601

Res 21-476 Closing of a Public Alley in Square 342, S.O. 14-21629,
Emergency Declaration Resolution of 2016007602

Res 21-477 Franchise Tax Clarification Emergency Declaration
Resolution of 2016.....007603

Res 21-478 School Attendance Clarification Emergency Declaration
Resolution of 2016..... 007604 - 007605

BILLS INTRODUCED AND PROPOSED RESOLUTION

Notice of Intent to Act on New Legislation -
Bills B21-751, B21-752, B21-753 and Proposed Resolution PR21-731.....007606

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

COUNCIL HEARINGS

Notice of Public Hearings -

B21-291 DCRA Infractions Fine Increase Regulation Amendment Act of 2015 007607 - 007608

B21-466 Local Business Support Amendment Act of 2015..... 007607 - 007608

B21-527 Vacant and Blighted Buildings Enforcement Amendment Act of 2016 007607 - 007608

B21-598 Vacant Property Enforcement Amendment Act of 2016..... 007607 - 007608

B21-689 Homeowners Protection from Construction Damage Amendment Act of 2016..... 007607 - 007608

B21-0403 Department of Motor Vehicles Reform Amendment Act of 2016 007609 - 007610

B21-0455 Department of Motor Vehicles International Registration Plan Amendment Act of 2016 007609 - 007610

B21-600 Free Licenses for Veterans Amendment Act of 2016..... 007609 - 007610

B21-736 Improving Access to Identity Documents Act of 2016 007609 - 007610

B21-0738 Driver’s License Fair Access and Equity Amendment Act of 2016 007609 - 007610

Notice of Public Oversight Roundtable -

Review of DCRA Operations Pertaining to Illegal Construction Inspections, Housing Inspections, Business Licensing and Permitting, Zoning Compliance and Availability of Records to the Public 007611 - 007612

Notice of Public Roundtable -

PR21-722 Public Charter School Board Donald Soifer Confirmation Resolution of 2016007613

PR21-669 Board of Library Trustees Kamili Anderson Confirmation Resolution of 2016007613

PR21-624 Board of Library Trustees Karma Cottman Confirmation Resolution of 2016007613

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES

PUBLIC HEARINGS

Alcoholic Beverage Regulation Administration -

100 Montaditos - ANC 6D - Class Change..... 007614

Anxo Cidery Pintxos Bar - ANC 4D - New 007615

Columbia Lodge #85 I.B.P.E.O. Of Wo - ANC 1B - Renewal..... 007616

Filomena - ANC 2E - Renewal - READVERTISEMENT 007617

Filomena - ANC 2E - Renewal - RESCIND 007618

Il Tesoro - ANC 3F - Renewal - READVERTISEMENT 007619

Il Tesoro - ANC 3F - Renewal - RESCIND..... 007620

Italian Pizza Kitchen - ANC 3F - Renewal - READVERTISEMENT 007621

Italian Pizza Kitchen - ANC 3F - Renewal - RESCIND..... 007622

Local 16 - ANC 2B - Termination of Settlement Agreement - CORRECTION 007623

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

PUBLIC HEARINGS CONT'D

Alcoholic Beverage Regulation Administration - cont'd

Local 16 - ANC 2B - Termination of Settlement Agreement - RESCIND.....007624

Nando’s Peri Peri Woodley Park - ANC 3C - New007625

Ping Pong - ANC 2C - Renewal.....007626

Starbucks Coffee #2748 - ANC 2B - New - RESCIND.....007627

Taqueria Habanero - ANC 4C - Sidewalk Cafe.....007628

The Studio Theatre - ANC 2F - Renewal - READVERTISEMENT007629

The Studio Theatre - ANC 2F - Renewal - RESCIND007630

The Studio Theatre - ANC 2F - Termination of Settlement Agreement.....007631

Vintage Cellars - ANC 5D - New007632

Housing and Community Development, Department of -

Notice of Public Hearing and Community Engagement Events -
National Housing Trust Fund Allocation Plan - May 26, 2016.....007633 - 007634

Public Charter School Board, DC - Notice of Charter Amendment -

Monument Academy Public Charter School007635

Small and Local Business Development, Department of -

Notice of Public Hearing and Preliminary Finding -
Recertification Application for Adams Morgan Partnership Inc.....007636

Zoning Adjustment, Board of - July 6, 2016 Hearings -

14096A Wilson NPB LLC - ANC-2C007637 - 007640

19241 Ira L. Hartwell - ANC-7C007637 - 007640

19266 Elonda Edwards - ANC-6C.....007637 - 007640

19282 Teace and John Noel - ANC-1A007637 - 007640

19303 Servant’s Office, LLC - ANC-4C007637 - 007640

19306 Massage Envy - ANC-3E.....007637 - 007640

19311 Manna, Inc. - ANC-8A.....007637 - 007640

19312 Allegro II, LLC - ANC-2B.....007637 - 007640

19315 Associated Catholic Charities - ANC-6E.....007637 - 007640

19316 Dilan Investment, LLC - ANC-5C.....007637 - 007640

19317 Travis Gordon - ANC-2F007637 - 007640

FINAL RULEMAKING

Housing Authority, DC - Amend 14 DCMR (Housing),

Ch. 53 (Recertifications, Housing Quality Standard
Inspections, and Family Moves), Sec. 5310 (Changes in
Family Share and Housing Assistance Payments) and
Sec. 5315 (Changes in Income), to change the requirements
for reporting increases in household income between
recertifications.....007641 - 007642

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

FINAL RULEMAKING CONT'D

Housing Authority, DC - Amend 14 DCMR (Housing), Ch. 83 (Rent and Housing Assistance Payments), Sec. 8304 (Rent Increases to Owner), to change the requirements for approving housing assistance payment increases to Owners.....007643 - 007644

Housing Authority, DC - Amend 14 DCMR (Housing), Ch. 95 (Rent Subsidy Programs: Local Rent Supplement Program), Sec. 9505 (Tenant-Based Housing Assistance), to apply Local Rent Supplement Program (LRSP) Sponsor-based housing assistance eligibility criteria to qualified households 007645

Human Resources, Department of - Amend 6 DCMR (Personnel), Subtitle B (Government Personnel), Ch. 12 (Hours of Work, Legal Holidays and Leave), Sections 1204, 1208 - 1211, 1223, 1261, 1270 - 1274, 1283 - 1288, and 1299, to update guidelines for funeral leave, holidays, declared emergencies, telework, and implement the Government Paid Family Leave Program007646 - 007663

Lottery and Charitable Games Control Board, DC - Amend 30 DCMR (Lottery and Charitable Games), Ch. 12 (Bingo, Raffle, Monte Carlo Night Party and Suppliers' Licenses), Sec. 1204 (Bingo, Raffle and Monte Carlo Night Party Licenses and Fees), Ch. 16 (Monte Carlo Night Parties), to repeal and replace Sec. 1603 (Operation of Monte Carlo Night Party), to clarify Monte Carlo night party license requirements, and update regulations for Monte Carlo night parties that include Texas Hold'em007664 - 007667

Taxicab Commission, DC - Amend 31 DCMR (Taxicabs and Public Vehicles For Hire), Chapters 4 - 10, 12, 13, 14, 15, 16, 18, and 19, to relocate references to civil fines and penalties to a newly-created Ch. 20 (Fines and Civil Penalties), and establish a new schedule of fines007668 - 007688

PROPOSED RULEMAKING

Behavioral Health, Department of - Amend 29 DCMR (Public Welfare), to repeal Ch. 23 (Certification Standards for Substance Abuse Treatment Facilities and Programs) ; Chapter was replaced by Ch. 63 (Certification Standards for Substance Use Disorder Treatment and Recovery Providers) of 22 DCMR (Health), Subtitle A (Mental Health)..... 007689

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

PROPOSED RULEMAKING CONT'D

- Housing Authority, DC - Amend 14 DCMR (Housing), Ch. 53 (Recertifications, Housing Quality Standard Inspections, and Family Moves), Sec. 5300 (Income Considerations and Determination of Total Tenant Payment) and Sec. 5325 (General Policies for Annual Inspections), to allow biennial housing quality standard inspections.....007690 - 007692
- Taxicab Commission, DC - Amend 31 DCMR (Taxicabs and Public Vehicles For Hire), to rename Ch. 5 (Taxicab Companies and Associations) to (Taxicab Owners), to add Sec. 504 (Independent Taxicab Vehicle Businesses) and Ch. 12 (Luxury Class Services – Owners, Operators, and Vehicles), to add Sec. 1221 (Independent Luxury Vehicle Businesses) and Ch. 99 (Definitions), to create a pathway for non-District resident operators to own and operate taxicabs and luxury class vehicles (limousines and black cars) in the District007693 - 007701
- Taxicab Commission, DC - Amend 31 DCMR (Taxicabs and Public Vehicles For Hire), Ch. 6 (Taxicab Parts and Equipment), Sec. 603 (Modern Taximeter Systems), to change the equipment requirements for modern taximeter systems (MTSs) to allow passengers to rate the ride experience through the rear console.....007702
- Taxicab Commission, DC - Amend 31 DCMR (Taxicabs and Public Vehicles For Hire), Ch. 7 (Enforcement), Sec. 714 (Service and Filing), to authorize the in-person service of a notice of infraction (NOI) anywhere within the District of Columbia007703
- Taxicab Commission, DC - Amend 31 DCMR (Taxicabs and Public Vehicles For Hire), Ch. 8 (Operating Rules for Public Vehicles for Hire), Sections 801 and 819 and Ch. 16 (Dispatch Services and District of Columbia Taxicab Industry Co-Op), Sections 1603 and 1612, to allow shared rides to be arranged through digital meters and broaden the definition of electronic refusal to haul007704 - 007705
- Taxicab Commission, DC - Amend 31 DCMR (Taxicabs and Public Vehicles For Hire), Ch. 10 (Public Vehicles for Hire), Sections 1001 and 1008 (Provisional Luxury Class Service Operator’s License), Ch. 12 (Luxury Class Services – Owners, Operators and Vehicles), Sec. 1209, and Ch. 99 (Definitions), to establish requirements for new DCTC operator’s licenses for luxury class service (LCS)007706 - 007707

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

PROPOSED RULEMAKING CONT'D

Zoning Commission - Case No. 14-13C to Amend 11 DCMR (Zoning), Ch. 26 (Inclusionary Zoning), Sec. 2603 (Set-Aside Requirements) and 11 DCMR (Zoning Regulations of 2016), Subtitle C (General Rules), Ch. 10 (Inclusionary Zoning), Sec. 1003 (Set-Aside Requirements), to update the Inclusionary Zoning (IZ) regulations007708 - 007710

Zoning Commission - Case No. 15-09 to Amend 11 DCMR (Zoning), and 11 DCMR (Zoning Regulations of 2016), to update the Zoning Map by moving Squares 2580, 2581, 2582, 2583, 2584, 2586W, 2587, and 2589 from the R-5-B to the R-4 Zone District.....007711 - 007718

EMERGENCY RULEMAKING

Taxicab Commission, DC - Amend 31 DCMR (Taxicabs and Public Vehicles For Hire), Ch. 4 (Taxicab Payment Service Providers), to rename Sec. 403 (Proposed Modern Taximeter Systems – Applications by PSPS) to Sec. 403 (Applications) and establish the amount of the payment service provider (PSP) surcharge bond..... 007719

EMERGENCY AND PROPOSED RULEMAKING

Behavioral Health, Department of - Amend 22 DCMR (Health), Subtitle A (Mental Health), to delete Ch. 36 (Child Choice Providers – Flexible Spending Local Funds Program) in its entirety and replace it with Ch. 36 (Child Choice Providers – Specialized Services and Reimbursement Rates), Sections 3600 - 3607 and Sec. 3699 (Definitions), to set services and reimbursement rates for services provided by Child Choice Providers to children and youth who are in the legal care and custody of the Child and Family Services Agency (CFSA).....007720 - 007725

Education, Office of the State Superintendent of - Amend 5 DCMR (Education), Subtitle A (Office of the State Superintendent of Education), to add Ch. 83 (Delivery of Online Instruction by a Postsecondary Educational Institution), Sections 8300 - 8303 and Sec. 8099 (Definitions), to revise licensing requirements to include distance learning institutions.....007726 - 007731

Health Care Finance, Department of - Amend 29 DCMR (Public Welfare), to add Ch. 101 (Services My Way Program), Sections 10100 - 10113 and Sec. 10199 (Definitions), to set policies and procedures for the District of Columbia Medicaid participant-directed Services My Way Program.....007732 - 007754

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

EMERGENCY AND PROPOSED RULEMAKING CONT'D

Human Resources, Department of - Amend 6 DCMR
 (Personnel), Subtitle B (Government Personnel),
 Ch. 21 (Health Benefits), Sec. 2129 (Optional Health
 Benefits Coverage for Domestic Partners), to require
 an employee who enrolls a domestic partner for health
 insurance coverage under the D.C. Health Benefits
 Program to deduct the health insurance premiums
 on an after tax basis.....007755

University of the District of Columbia - Amend 8 DCMR
 (Higher Education), Subtitle B (University of the District
 of Columbia), Ch. 6 (Campus Life), Sec. 616 (Alcohol and
 Drug Policy), to comply with the requirements of the
 Drug-Free Schools and Communities Act Amendments
 of 1989007756

NOTICES, OPINIONS, AND ORDERS

MAYOR’S ORDERS

2016-081 Ban on Travel to the State of Tennessee.....007757 - 007758

NOTICES, OPINIONS, AND ORDERS CONT'D

BOARDS, COMMISSIONS, AND AGENCIES

Alcoholic Beverage Regulation Administration -
 ABC Board's Agenda for Approval to Rescind 405.1
 Status - May 25, 2016007759
 ABC Board's Calendar - May 25, 2016.....007760 - 007761
 ABC Board's Investigative Agenda - May 25, 2016.....007762 - 007763
 ABC Board's Licensing Agenda - May 25, 2016.....007764

Breakthrough Montessori Public Charter School -
 Request for Proposals - Janitorial Services007765

Carlos Rosario International Public Charter School -
 Intent to Enter a Sole Source Contract - Community Capital Corp.....007766

Center City Public Charter Schools - Request for Proposals -
 School Painting Services007767

D.C. Preparatory Academy Public Charter School - Request for Proposals -
 Information Technology, Audio/Visual, Low Voltage
 Cabling, and Security Systems.....007768

Multiple Services007769

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

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

Education, Office of the State Superintendent of -
 Notice of Funding Availabilities -
 Fiscal Year 2016 and Fiscal Year 2017 - SAT Preparation
 Expansion Grant.....007770 - 007771

Scholarships for Opportunity and Results (SOAR)
 Act Grants007772 - 007773

Elections, Board of -
 Certification of Filling ANC/SMD Vacancy -
 7E06 Lakeshia Lloyd-Lee..... 007774

Monthly Report of Voter Registration Statistics
 as of April 30, 2016.....007775 - 007784

Elsie Whitlow Stokes Community Freedom Public Charter School -
 Request for Proposals - Mechanical, Electrical,
 Roof, and Solar PV Services 007785

Energy and Environment, Department of -
 Notice of Funding Availability -
 Community Solar Demonstration Project 007786

Energy and Environment, Department of -
 Notice of Funding Availability -
 Trash Free Communities: Trash Reduction Through
 Behavioral Change 007787

Health, Department of -
 Board of Medicine Meeting - May 25, 2016..... 007788

Medical Marijuana Scientific Subcommittee
 Meeting - May 26, 2016..... 007789

Human Services, Department of - Funding Availability -
 Homelessness Prevention Program Phase II - Fiscal Year 2016..... 007790

Imagine Hope Community Public Charter School -
 Request for Proposals - Interior Renovation Services..... 007791

Inspired Teaching Demonstration Public Charter School -
 Intent to Enter into a Sole Source Contract -
 Center for Inspired Teaching..... 007792

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

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

KIPP DC Public Charter Schools -
 Request for Proposals -
 Human Resources Legal Services, Landscaping & Snow Removal
 Services, Lockers, and Special Education Consulting Services007793 - 007794

Intent to Enter Sole Source Contracts -
 Professional Development and Curriculum.....007793 - 007794

Lee Montessori Public Charter School - Request for Proposals -
 Various Services..... 007795

Legal Counsel, Mayor's Office of - Freedom of Information Act Appeals -
 2016-16 Flor Maria Palacios Marin.....007796
 2016-17 Anna Maria Agolli.....007797 - 007800
 2016-18 Benjamin Champa007801 - 007803
 2016-19, Chris Moeser007804 - 007807
 2016-21

2016-20 James Sadowski.....007808 - 007811
 2016-22 Will Sommer007812 - 007816
 2016-23 Mark Eckenwiler007817
 2016-24 Will Sommer007818 - 007821
 2016-25 Moses Cook.....007822

2016-26 Mark Eckenwiler007823 - 007827
 2016-27 Michael John Murray007828
 2016-28 Raymond Marshall007829
 2016-29 Scott Cryder.....007830 - 007834
 2016-30 Vaughn Bennett.....007835 - 007837

Maya Angelou Public Charter School - Request for Proposals -
 Assessment Services.....007838 - 007839

Not-For-Profit Hospital Corporation -
 General Board Meeting - May 25, 2016.....007840 - 007841

Public Service Commission -
 Second Notice of Inquiry - RM36-2016-01-E, the Commission's
 Investigation into Electricity Quality of Service Standards
 and Reliability Performance007842 - 007845

Roots Activity Learning Center - Invitation for Bid -
 Food Service Management Services 007846

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

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

Secretary, Office of the -
Recommendations for Appointments as DC Notaries Public -
Effective June 15, 2016 - Corrected Notice007847 - 007853

Small and Local Business Development, Department of -
Funding Availability - DC Clean Team Program007854 - 007855

Washington Convention and Sports Authority (t/a Events DC) -
Rescheduled Public Meeting - June 9, 2016 007856

Washington Leadership Academy Public Charter School -
Request for Proposals - School Related Services.....007857

Zoning Adjustment, Board of - Cases -
18325-B Renaissance Centro Third Street LLC - ANC 2C - Order.....007858 - 007863

19233 824 Varnum LLC - ANC 4C - Order.....007864 - 007866

Zoning Commission - Case -
13-09 Stanton Square, LLC - Order.....007867 - 007903

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-391

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 9, 2016

To amend the Marijuana Possession Decriminalization Amendment Act of 2014 to clarify that, for the purposes of the act, a private club is a place to which the public is invited, but does not include a private residence, and that the prohibition on consumption of marijuana in public is not limited by the Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Initiative of 2014; and to amend section 47-2844 of the District of Columbia Official Code to require the Mayor to revoke any license, certificate of occupancy, or permit held by an entity that knowingly permits a violation of section 301(a) of the Marijuana Possession Decriminalization Amendment Act of 2014 to occur at the specific address or unit identified in the license, certificate of occupancy, or permit.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Marijuana Possession Decriminalization Clarification Amendment Act of 2016”.

Sec. 2. Section 301 of the Marijuana Possession Decriminalization Amendment Act of 2014, effective July 17, 2014 (D.C. Law 20-126; D.C. Official Code § 48-911.01), is amended as follows:

(a) Subsection (a)(3) is amended to read as follows:

“(3) Any place to which the public is invited. For the purposes of this subsection, and notwithstanding any other provision of law, a private club, which includes any building, facility, or premises used or operated by an organization or association for a common avocational purpose, such as a fraternal, social, educational, or recreational purpose, is a place to which the public is invited; provided, that a private club does not include a private residence.”.

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

“(f) No provision of the Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Initiative of 2014, effective February 26, 2015 (D.C. Law 20-153; 62 DCR 880), shall limit or be construed to limit the application of any provision of this section.”.

Sec. 3. Section 47-2844(a-1)(1) of the District of Columbia Official Code is amended as follows:

(a) Subparagraph (B) is amended by striking the phrase “Title 48; or” and inserting the phrase “Title 48;” in its place.

(b) Subparagraph (C) is amended by striking the period at the end and inserting the

ENROLLED ORIGINAL

phrase “; or” in its place.

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

“(D) Conduct that violates section 301(a) of the Marijuana Possession Decriminalization Amendment Act of 2014, effective July 17, 2014 (D.C. Law 20-126; D.C. Official Code § 48-911.01(a)). In addition, the Mayor shall revoke any certificate of occupancy or permit associated with the specific address or unit, whichever is more specific, of the holder of a certificate of occupancy or permit who knowingly permits a violation of section 301(a) of the Marijuana Possession Decriminalization Amendment Act of 2014, effective July 17, 2014 (D.C. Law 20-126; D.C. Official Code § 48-911.01(a)), to occur at the specific address or unit identified in the certificate of occupancy or permit.”.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

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
May 9, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-392

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 10, 2016

To amend various acts to repeal outdated and unnecessary mandates for audits and other reports required of the District of Columbia Auditor.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Repeal of Outdated and Unnecessary Audit Mandates Amendment Act of 2016".

Sec. 2. The Compliance Unit Establishment Act of 2008, effective June 13, 2008 (D.C. Law 17-176; D.C. Official Code § 1-301.181 *et seq.*), is amended as follows:

- (a) Section 2 (D.C. Official Code § 1-301.181) is amended as follows:
 - (1) Subsection (b) is amended as follows:
 - (A) Paragraph (1) is repealed.
 - (B) Paragraph (3) is amended by striking the phrase "sections 2350 and 2353" and inserting the phrase "section 2353" in its place.
 - (2) Subsection (c) is repealed.
 - (3) Subsection (d) is repealed.
- (b) Section 3 (D.C. Official Code § 1-301.182) is amended as follows:
 - (1) Subsection (a) is repealed.
 - (2) Subsection (b) is repealed.
 - (3) Subsection (c) is amended by striking the phrase "sections 2350 and 2353" and inserting the phrase "section 2353" in its place.
- (c) Section 4 (D.C. Official Code § 1-301.183) is repealed.
- (d) Section 4a (D.C. Official Code § 1-301.184) is amended as follows:
 - (1) Subsection (a) is amended by striking the phrase ", and the quarterly reports of each government corporation required by section 2350(f) of the Act".
 - (2) Subsection (b) is amended as follows:
 - (A) Paragraph (1) is amended as follows:
 - (i) Strike the phrase "and the information that each government corporation is required to submit pursuant to section 2350(f) of the Act".
 - (ii) Strike the phrase "or government corporation's".
 - (B) Paragraph (2) is amended by striking the phrase "and government corporations".

ENROLLED ORIGINAL

Sec. 3. Section 10 of An Act To establish a District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 342; D.C. Official Code § 3-310), is repealed.

Sec. 4. Section 8(f) of the District of Columbia Boxing and Wrestling Commission Act, effective October 8, 1975 (D.C. Law 1-20; D.C. Official Code § 3-607(f)), is repealed.

Sec. 5. Section 305(a) of the Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code § 10-1203.05(a)), is repealed.

Sec. 6. Section 126n(d) of the District of Columbia Theft and White Collar Crimes Act of 1982, effective June 8, 2001 (D.C. Law 13-301; D.C. Official Code § 22-3226.14(d)), is repealed.

Sec. 7. The lead-in language of section 16 of the Accrued Sick and Safe Leave Act of 2008, effective May 13, 2008 (D.C. Law 17-152; D.C. Official Code § 32-131.15), is amended as follows:

(a) Strike the phrase “District of Columbia Auditor” both times it appears and insert the phrase “Department of Employment Services” in its place.

(b) Strike the phrase “audit a sample of District businesses” and insert the phrase “obtain a sample of statistics on District businesses” in its place.

Sec. 8. Paragraph 42(a)(6) of section 8 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 984; D.C. Official Code § 34-912(a)(6)), is repealed.

Sec. 9. Section 4(c) of the Eastern Market Real Property Asset Management and Outdoor Vending Act of 1998, effective April 16, 1999 (D.C. Law 12-228; D.C. Official Code § 37-103(c)), is repealed.

Sec. 10. Section 9 of the District of Columbia Public School Food Services Act, approved October 8, 1951 (65 Stat. 370; D.C. Official Code § 38-807), is repealed.

Sec. 11. Section 2407 of the Auditor Personnel and Audit Reform Amendment Act of 2000, effective October 19, 2000 (D.C. Law 13-172; D.C. Official Code § 38-1231.01), is repealed.

Sec. 12. Section 205 of the School Modernization Financing Act of 2006, effective June 8, 2006 (D.C. Law 16-123; D.C. Official Code § 38-2973.05), is amended to read as follows:

ENROLLED ORIGINAL

“Sec. 205. Audit of capital improvement projects.

“(a) No later than September 30, 2020, and every 3 years thereafter until the completion of all school modernization projects in the Capital Improvement Plan, the District of Columbia Auditor shall prepare a report to the public on the use of the capital funds by the District of Columbia Public Schools during the preceding fiscal years. The report shall include a school- and project-specific audit of all expenditures for school facility capital improvements, maintenance, repairs, and operating costs, and an assessment of whether the District has met the process, quality, schedule, and cost objectives of the Capital Improvement Plan and Budget.

“(b) No later than September 30, 2017, and each year thereafter until the completion of all school modernization projects in the Capital Improvement Plan, except in a year where a report is issued pursuant to subsection (a) of this section, the District of Columbia Auditor shall examine not less than a sample of capital projects related to school modernizations and shall determine whether the District has met the process, quality, schedule and cost objectives of sampled projects, and provide a report to the Council and the public on the findings.”.

Sec. 13. Title 47 of the District of Columbia Official Code is amended as follows:

(a) Chapter 1 is amended as follows:

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

(A) Strike the section designation “47-111. Disbursing Officer, appointment; bond; general powers and duties; audit of accounts.” and insert the section designation “47-111. Disbursing Officer; appointment; bond; general powers and duties.” in its place.

(B) Strike the section designation “47-120. Liability of Auditor or employees.” and insert the section designation “47-120. Liability of Auditor or employees. [Repealed].” in its place.

(C) Strike the section designation “47-122. Checks to be countersigned.” and insert the section designation “47-122. Checks to be countersigned. [Repealed].” in its place.

(D) Strike the section designation “47-123. Chief Clerk of Auditor’s office.” and insert the section designation “47-123. Chief Clerk of Auditor’s office. [Repealed].” in its place.

(E) Strike the section designation “47-124. Accounts auditable by Auditor.” and insert the section designation “47-124. Accounts auditable by Auditor. [Repealed].” in its place.

(2) Section 47-111 is amended as follows:

(A) Subsection (b) is amended by striking the phrase “audited and approved by the Auditor of the District of Columbia, and certified by the Mayor as required by § 47-409”.

(B) Subsection (c) is repealed.

(3) Section 47-112 is amended by striking the phrase “nor the Auditor of the District of Columbia or” and inserting the phrase “nor” in its place.

ENROLLED ORIGINAL

(4) Section 47-116 is amended by striking the phrase “the Auditor of the District of Columbia in connection with the Disbursing Officer of the District of Columbia of the grounds of such objections resulting in said suspensions, in order that said Auditor in connection with said Disbursing Officer” and inserting the phrase “the Disbursing Officer of the District of Columbia of the grounds of such objections resulting in said suspensions, in order that said Disbursing Officer” in its place.

(5) Section 47-120 is repealed.

(6) Section 47-122 is repealed.

(7) Section 47-123 is repealed.

(8) Section 47-124 is repealed.

(b) Chapter 4 is amended as follows:

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

(A) Strike the section designation “47-409. Disbursement of taxes and appropriations; settlement of accounts.” and insert the section designation “47-409.

Disbursement of taxes and appropriations; settlement of accounts. [Repealed].” in its place.

(B) Strike the section designation “47-410. Payment of moneys into Treasury; requisitions and expenditures; disbursement accounts.” and insert the section designation “47-410. Payment of moneys into Treasury; requisitions and expenditures; disbursement accounts. [Repealed].” in its place.

(C) Strike the section designation “47-411. Trust fund deposits and disbursements.” and insert the section designation “47-411. Trust fund deposits and disbursements. [Repealed].” in its place.

(2) Section 47-409 is repealed.

(3) Section 47-410 is repealed.

(4) Section 47-411 is repealed.

(c) Chapter 28 is amended as follows:

(1) The table of contents is amended by striking the section designation “47-2851.17. Performance audit.” and inserting the section designation “47-2851.17. Performance audit. [Repealed].” in its place.

(2) Section 47-2851.17 is repealed.

Sec. 14. Applicability.

(a) Section 7 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 section 7.

ENROLLED ORIGINAL

Sec. 15. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 16. 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

UNSIGNED

Mayor
District of Columbia
May 9, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-393

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 9, 2016

To amend the Home Purchase Assistance Fund Act of 1978 to require the Mayor to review and revise the repayment structure of the Home Purchase Assistance Program to include greater flexibility in the program by supplementing the program with additional repayment options for the lowest income loan recipients, and to increase the maximum amount of down payment assistance for the lowest income applicant available under the Program from \$50,000 to \$80,000; and to make conforming amendments to Title 14 of the District of Columbia Municipal Regulations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Home Purchase Assistance Program Amendment Act of 2016”.

Sec. 2. The Home Purchase Assistance Fund Act of 1978, effective September 12, 1978 (D.C. Law 2-103; D.C. Official Code § 42-2601 *et seq.*), is amended by adding a new section 3a to read as follows:

“Sec. 3a. (a) The Mayor shall review and revise the repayment structure of the Home Purchase Assistance Program (“Program”), established by Chapter 25 of Title 14 of the District of Columbia Municipal Regulations, to include greater flexibility in the Program by supplementing the Program with additional repayment options for the lowest income loan recipients.

“(1) Examples of additional repayment options include:

“(A) A graduated repayment system;

“(B) The postponement of the repayment of individual loans until the sale of a home; and

“(C) An exploration of the establishment of an incentive program to forgive a portion of the loan if cash refinancing is carried out within a certain timeframe.

“(2) The maximum amount of down payment assistance for the lowest income applicant available under the Program shall be \$80,000, and shall be adjusted based on the applicant's income according to 14 DCMR § 2503.1(b)(1).

“(b) The Mayor shall submit the revised repayment system to the Council for review, pursuant to section 5(a), within 60 days after the effective date of the Home Purchase Assistance Program Amendment Act of 2016, passed on 2nd reading on April 19, 2016 (Enrolled version of Bill 21-481).”.

ENROLLED ORIGINAL

Sec. 3. The lead-in language of section 14-2503.1(b) of Title 14 of the District of Columbia Municipal Regulations (14 DCMR § 2503.1(b)) is amended by striking the sentence “The maximum amount of down payment assistance for the lowest income applicant shall be \$50,000 and shall be adjusted based on the applicant's income according to subparagraph (1) of this paragraph.”.

Sec. 4. Fiscal impact statement.

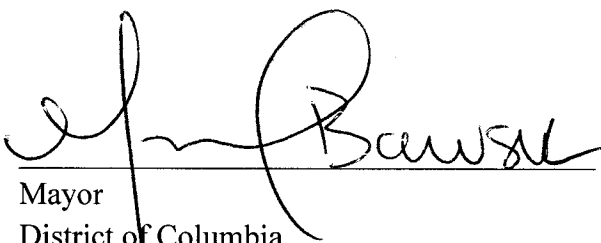
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

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
May 9, 2016

ENROLLED ORIGINAL

A RESOLUTION

21-292

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the sense of the Council in support of the development of a “Statehood or Else” multimedia campaign that produces a petition supporting District of Columbia statehood, collects one million signatures for the petition, and delivers the petition to the White House, to all 535 members of Congress, and to leadership at both the 2016 Republican National Convention and the 2016 Democratic National Convention.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Sense of the Council in Support of a ‘Statehood or Else’ Signature Campaign Resolution of 2015”.

Sec. 2. The Council finds that:

- (1) Without statehood, the District of Columbia will continue to be denied democratic equality and its citizens will continue to suffer taxation without representation;
- (2) Statehood is the most appropriate mechanism to grant the United States citizens who reside in the District of Columbia the full rights and privileges of American citizenship, which include not only equal representation in the United States House of Representatives and the United States Senate, but also full control over local affairs and budget autonomy;
- (3) The District of Columbia, with 658,893 residents, has a larger population than both Vermont and Wyoming;
- (4) The District of Columbia's gross domestic product is larger than that of New Mexico, Hawaii, West Virginia, New Hampshire, Idaho, Delaware, North Dakota, Alaska, Maine, South Dakota, Wyoming, Montana, Rhode Island, and Vermont;
- (5) The District of Columbia's local economy is one of the strongest in the nation with excellent credit ratings from Wall Street;
- (6) District of Columbia residents pay \$1.6 billion a year in federal taxes, more per person than the residents of any state in the United States;
- (7) The District of Columbia has a \$12.5 billion budget, larger than that of 12 states;
- (8) The New Columbia Statehood Commission (“Commission”), which consists of the Mayor, the Chairman of the Council, and the Statehood Delegation, should, within 30 days

ENROLLED ORIGINAL

of the adoption of this resolution or as soon as feasible, create a "Statehood or Else" multimedia campaign and should work with Congresswoman Eleanor Holmes Norton and other individuals in the public and government spheres that the Commission considers necessary or appropriate;

(9) The goals of the "Statehood or Else" multimedia campaign should be to produce a petition supporting District of Columbia statehood and to collect at least one million signatures for the petition;

(10) The 2016 Republican National Convention will convene in Cleveland, Ohio from July 18 to 21, 2016, and the 2016 Democratic National Convention will convene in Philadelphia, Pennsylvania from July 25 to 28, 2016;

(11) Before each party chooses its nominees for President and Vice President of the United States for the 2016 election, copies of the petition supporting District of Columbia statehood should be delivered to the White House, to all 535 members of Congress, and to leadership at both the 2016 Republican National Convention and the 2016 Democratic National Convention to demonstrate the importance of statehood for the District of Columbia;

(12) At a July 21, 2014 town-hall meeting regarding the My Brother's Keeper Initiative at Walker-Jones Education Campus in Washington, D.C., President Barack Obama publicly endorsed statehood for the District of Columbia;

(13) District of Columbia Emancipation Day is the District of Columbia's only legal public holiday and commemorates the signing of the "District of Columbia Compensated Emancipation Act" on April 16, 1862, which ended slavery in Washington, D.C. and freed 3,100 individuals;

(14) District of Columbia Emancipation Day is recognized annually on April 16th and reminds us to reaffirm our commitment to forge a more just and united country that truly reflects the ideals of its founders and instills in its people a broad sense of duty to be responsible and conscientious stewards of freedom and democracy;

(15) In 2016, the entire nation will receive a 3-day tax-filing extension until Monday, April 18th because April 16th falls on a Saturday, causing the District officially to celebrate District of Columbia Emancipation Day on Friday, April 15, 2016. Residents of Maine and Massachusetts will receive an additional one-day tax-filing extension until Tuesday, April 19, 2016, due to the fact that those states celebrate a state holiday on April 18th, known as Patriots' Day, which commemorates the battles of Lexington and Concord in 1775. This nationally recognized tax-filing extension is an opportunity to educate the nation on the importance of District of Columbia Emancipation Day;

(16) President Barack Obama's last day as president will be January 20, 2017, and he should serve as the keynote speaker for the Emancipation Day Prayer Breakfast on Saturday, April 16, 2016, the final District of Columbia Emancipation Day celebration before his departure from office.

Sec. 3. It is the sense of the Council that the District of Columbia should further its efforts to achieve statehood by creating a "Statehood or Else" multimedia campaign that produces a petition supporting District of Columbia statehood, collects one million signatures for

ENROLLED ORIGINAL

the petition, and delivers the petition to the White House, to all 535 members of Congress, and to leadership at both the 2016 Republican National Convention and the 2016 Democratic National Convention.

Sec. 4. The Council shall transmit copies of this resolution, upon its adoption, to the Mayor, the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the District of Columbia Democratic State Committee, and the District of Columbia Republican Party.

Sec. 5. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A RESOLUTION

21-472

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 3, 2016

To declare the existence of an emergency with respect to the need to approve Modification Nos. 0007 and 0008 to Contract No. CW25933 with Public Performance Management, LLC, to provide mission oriented business integrated services (MOBIS) and to authorize payment for the goods and 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. CW25933 Approval and Payment Authorization Emergency Declaration Resolution of 2016”.

Sec. 2. (a) There exists an immediate need to approve Modifications Nos. 0007 and 0008 to Contract No. CW25933 with Public Performance Management, LLC to provide mission oriented business integrated services (MOBIS) and to authorize payment for the goods and services received and to be received under that contract during option year 2, from January 29, 2016 through January 28, 2017.

(b) On January 29, 2014, the Office of Contracting and Procurement (“OCP”) entered into Contract No. CW25933 with Public Performance Management, LLC to provide MOBIS for the base period January 29, 2014 through January 28, 2015, and 4 option years, in the not-to-exceed contract amount of \$950,000.00. On January 29, 2015, by Modification No. 0002, the District partially exercised option year one of the contract for the period January 29, 2015 through March 2, 2015 in the not-to-exceed contract amount of \$500,000.00. On March 3, 2015, by Modification No. 0003, the District exercised the balance of option year one for the period March 3, 2015 through January 28, 2016 and increased the not-to-exceed contract amount for option year one to \$10,000,000.00. On January 28, 2016, by Modification No. 0004, the District partially exercised option year 2 of the contract for the period January 29, 2016 through April 28, 2016. On February 23, 2016, by Modification No. 0005, the District further partially exercised option year 2 for the period April 29, 2016 through May 28, 2016 in the not-to-exceed contract amount of \$500,000.00.

(c) By Modification Nos. 0007 and 0008 to Contract No. CW25933, OCP now desires to exercise the balance of option year 2 for the period May 29, 2016 through January 28, 2017 and to increase the not-to-exceed contract amount for option year 2 from \$500,000.00 to \$10,000,000.00.

ENROLLED ORIGINAL

(d) The aggregate value of Modification Nos. 0007 and 0008 to Contract No. CW25933 exceeds the \$1 million threshold under section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51).

(e) Approval of Modifications Nos. 0007 and 0008 to Contract No. CW25933 is necessary to allow Public Performance Management, LLC to continue to provide these vital services. Without this approval, Public Performance Management, LLC cannot be paid for services provided in excess of \$1million during option year 2.

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. CW25933 Approval and Payment Authorization Emergency Act of 2016 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-475

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 3, 2016

To declare the existence of an emergency with respect to the need to amend various acts to repeal outdated and unnecessary mandates for audits and other reports required of the District of Columbia Auditor.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Repeal of Outdated and Unnecessary Audit Mandates Emergency Declaration Resolution of 2016”.

Sec. 2. (a) There exists a need to approve emergency legislation to repeal and modify several mandates for audits and other reports required of the District of Columbia Auditor.

(b) The permanent version of this legislation, the Repeal of Outdated and Unnecessary Audit Mandates Amendment Act of 2016, passed on 2nd reading on April 19, 2016 (Enrolled version of Bill 21-377) (the “permanent legislation”), has not yet been transmitted for congressional review. Making most provisions of the permanent legislation effective sooner than the time needed for congressional review would allow the District of Columbia Auditor to better plan for audits necessary for the remainder of 2016 and going forward for 2017.

(c) The permanent legislation repeals or modifies numerous statutory mandates, but importantly does not reduce the District of Columbia Auditor’s broad authority and discretion to audit any account, including those affected by the bill.

(d) One of the mandates repealed by the permanent legislation – for the audit of an inactive fund related to telephone solicitations – amends Title 22 of the District of Columbia Official Code, necessitating a 60-day congressional review period for the permanent legislation rather than the 30-day review.

(e) Because 2016 is a presidential election year, Congress is likely to have fewer days in session than usual – pushing the congressional review period for the permanent legislation well in to September.

(f) Making the provisions of the permanent legislation – other than those that are subject to appropriations – effective immediately will enable the District of Columbia Auditor to free up important resources to provide better and more useful work for the Council of the District of Columbia and the public.

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 Repeal of Outdated and Unnecessary Audit Mandates Emergency Amendment Act of 2016 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-476

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 3, 2016

To declare the existence of an emergency with respect to the need to order the closing of a portion of the public alley system in Square 342, bounded by Massachusetts Avenue, N.W., 10th Street, N.W., K Street, N.W., and 11th Street, N.W., in Ward 2.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Closing of a Public Alley in Square 342, S.O. 14-21629, Emergency Declaration Resolution of 2016”.

Sec. 2. (a) There exists an immediate need to approve emergency legislation to close a portion of the public alley system in Square 342, S.O. 14-21629.

(b) The purpose of the alley closing is to facilitate the redevelopment of a parcel of land and the development of a new hotel one block from the Convention Center, in the Mount Vernon neighborhood. Lots 53 and 809, located within Square 342, are currently improved with 2 4-story 19th century buildings. Lots 4 and 5, also located within Square 342, are covered by a surface parking lot. Directly across the street from Square 342, to the west and south, are high-density mixed-use commercial buildings. The applicant is Jemal’s Bulldog LLC.

(c) The proposed hotel will be constructed over the top of the existing alley, making continued access to that alley impossible. However, the alley system in Square 342 also includes a 12-foot-wide through-block public alley running east-west, as well as an 11-foot-wide north-south public alley.

(d) The Council has passed a permanent version of this legislation, the Closing of a Public Alley in Square 342, S.O. 14-21629, Act of 2016, enacted on May 4, 2016 (D.C. Act 21-387; 63 DCR ____). Making the closing effective sooner than congressional review will allow would enable the project to proceed without the risk of delay.

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 Closing of a Public Alley in Square 342, S.O. 14-21629, Emergency Act of 2016 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-477

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 3, 2016

To declare the existence of an emergency with respect to the need to amend Chapter 18 of Title 47 of the District of Columbia Official Code to clarify the franchise tax rates so that they correspond with existing law regarding tax reform procedure and priority.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Franchise Tax Clarification Emergency Declaration Resolution of 2016”.

Sec. 2. (a) As part of the Tax Revision Commission Implementation Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-155; 62 DCR 3601), the District triggered step reductions to the unincorporated and incorporated business franchise tax rate in addition to a number of other revisions to the District’s tax code.

(b) The tax triggers, set forth at D.C. Official Code § 47-181, codified the step reductions and reduced the unincorporated and incorporated business franchise tax rate in 0.2 % increments. Thus, the unincorporated and incorporated business franchise tax rate would reduce from 9.4 % to 9.2 %, and in subsequent triggers from 9.2 % to 9.0 %.

(c) Although the tax reform procedure and priority in D.C. Official Code § 47-181 is clear, a corresponding amendment to the unincorporated and incorporated business franchise tax rate, codified at D.C. Official Code § 47-1807, is necessary to accurately reflect the tax reform procedure and implementation.

(d) The Council adopted an identical fix in the Fiscal Year 2016 Budget Support Clarification Emergency Amendment Act of 2016, effective January 27, 2016 (D.C. Act 21-292; 63 DCR 1211). However, that provision, which went into effect on January 27, 2016, expired on April 26, 2016. As such, it is necessary to pass an emergency measure to continue this clarification until the permanent fix is adopted.

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 Franchise Tax Clarification Emergency Amendment Act of 2016 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-478

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 3, 2016

To declare the existence of an emergency with respect to the need to amend An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes to clarify agency responsibilities with regard to school attendance, to deem an absence of a minor student from a public school unexcused where the school does not obtain an explanation for the absence from the student's parent or guardian verifying the reason for an absence within 5 days after a student's return to school, to prohibit the suspension, expulsion, or unenrollment of a minor from a public school due to an unexcused absence or due to a late arrival to school, to clarify attendance reporting requirements for public, independent, private, and parochial schools, to revise the protocol for a law enforcement officer who comes in contact with a minor and has reasonable grounds to believe the minor is truant, to revise the educational institution referral requirement for the Child and Family Services Administration, the Court Social Services Division of the Superior Court of the District of Columbia, and the Office of the Attorney General Juvenile Section to only include unexcused full school day absences with regard to attendance, to provide educational institutions with discretion on referrals if a student's 10th or 15th unexcused absence is accrued within the final 10 school days of the school year, and to require the State Superintendent of Education to provide written notice to each public, independent, private, or parochial school outlining the attendance and reporting requirements by July 1 of each year; to amend the District of Columbia School Reform Act of 1995 to conform it to the prohibitions against expulsion and suspension provided in An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes and the Pre-k Enhancement and Expansion Amendment Act of 2008; and to amend Chapter 21 of Subtitle A of Title 5 of the District of Columbia Municipal Regulations to repeal the requirement that a public school notify the Metropolitan Police Department after each occurrence of a student's 10th unexcused absence, to require that an educational institution obtain an explanation for a student's absence within 5 days of the student's return to school, and to amend the terms "truancy rate" and "chronic absenteeism."

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "School Attendance Clarification Emergency Declaration Resolution of 2016".

ENROLLED ORIGINAL

Sec. 2. (a) Over the past 5 years, the Council of the District of Columbia has passed 3 laws – D.C. Law 18-242, the Safe Children and Safe Neighborhoods Educational Neglect Mandatory Reporting Amendment Act of 2010; D.C. Law 19-141, the South Capitol Street Memorial Amendment Act of 2012; and D.C. Law 20-17, the Attendance Accountability Amendment Act of 2013 – with the goal of reducing chronic truancy.

(b) Schools have implemented the various mandates from the 3 different bills over the past 2 years and have worked diligently to reduce the truancy epidemic in the District. Such efforts have started to result in an annual reduction in truancy in both public education sectors and has shed light on additional areas that need to be addressed in order to continue in a positive trend.

(c) To address the issues that have been raised through implementation of the 3 laws mentioned above, Chairman Mendelson and Councilmember Grosso introduced Bill 21-508, the School Attendance Clarification Amendment Act of 2015 on December 1, 2015. The various items in Bill 21-508 have been identified through the work of the Truancy Taskforce's policy committee. In some cases, the changes in Bill 21-508 reflect the actual practice occurring in the District, and in other cases the changes allow schools and the various District agencies (e.g. the Child and Family Services Administration, Office of the Attorney General, and the Court Social Services Division) to target resources to those students who need them most as the District continues to identify ways to combat not just truancy but chronic absenteeism.

(d) On January 21, 2016, the Committee of the Whole and the Committee on Education held a joint public hearing on Bill 21-508, and on February 24, 2016, the Committee on Education marked up Bill 21-508. As the bill is a product of collaboration and extensive feedback from the District of Columbia Public Schools, the public charter school sector, the private school sector, and the various District agencies involved with combating truancy in the District, the Committee of the Whole print, which was marked up on April 19, 2016, was virtually identical to the version marked up by the Committee on Education.

(e) On April 19, 2016, Bill 21-508 was adopted unanimously by the Council on first reading and is up for second reading on May 3, 2016. However, the bill will not become law until the summer, making it difficult for schools to plan for the upcoming changes in school year 2016-2017. Various provisions in Bill 21-508 will require schools to make changes to their data systems, parent handbooks, and attendance policies. In order for schools to have these changes in place when school starts, they must have ample notice and implementation time, especially since some of the schools in the District start in early August. Thus, an immediate need exists for this legislation, which mirrors verbatim the language in the permanent version.

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 School Attendance Clarification Emergency Amendment Act of 2016 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

**Council of the District of Columbia
Committee on Business, Consumer, and Regulatory Affairs
Notice of a Public Hearing**

John A. Wilson Building 1350 Pennsylvania Avenue, NW, Suite 119 Washington, DC 20004

**Councilmember Vincent B. Orange, Sr., Chair
Committee on Business, Consumer, and Regulatory Affairs**

Announces a Public Hearing

on

- **B21-291, the “DCRA Infractions Fine Increase Regulation Amendment Act of 2015”**
- **B21-466, the “Local Business Support Amendment Act of 2015”**
- **B21-527, the “Vacant and Blighted Buildings Enforcement Amendment Act of 2016”**
- **B21-598, the “Vacant Property Enforcement Amendment Act of 2016”**
- **B21-689, the “Homeowners Protection from Construction Damage Amendment Act of 2016”**

**Thursday, July 14, 2016, 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 hearing by the Committee on Business, Consumer, and Regulatory Affairs on B21-291, the “DCRA Infractions Fine Increase Regulation Amendment Act of 2015”, B21-466, the “Local Business Support Amendment Act of 2015”, B21-527, the “Vacant and Blighted Buildings Enforcement Amendment Act of 2016”, B21-598, the “Vacant Property Enforcement Amendment Act of 2016”, and B21-689, the “Homeowners Protection from Construction Damage Amendment Act of 2016”. The public hearing is scheduled for Thursday, July 14, 2016 at 10:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Ave., NW, Washington, DC 20004.

B21- 291, the “DCRA Infractions Fine Increase Regulation Amendment Act of 2015” will double the fine amounts for Housing Inspection Division infractions, Building Inspections Divisions infractions, DCRA Fire Protection Division infractions, Housing Inspection Division noise infractions, Vacant Property infractions, and Zoning Division infractions.

B21-466, the “Local Business Support Amendment Act of 2015” creates a local business ombudsman, removes endorsement fees for the issuance and renewal of basic business licenses, and allows for the same registered trade name to be used for multiple business locations. This legislation also amends the District of Columbia Municipal Regulations to reduce the percentage

of funds owed each quarter by D.C. supply schedule vendors who do business with the District government.

B21-527, the “Vacant and Blighted Buildings Enforcement Amendment Act of 2016” requires that the classification of a property as vacant or blighted continues until DCRA changes the classification, requires evidence of a good faith exemption from vacant property registration requirements and that DCRA publish the time periods in which properties were classified as vacant, blighted or exempt.

B21-598, the “Vacant Property Enforcement Amendment Act of 2016” will reduce the maximum duration of vacant property tax exemptions, allow for a partial rebate of vacant property taxes if the property is sold or occupied within a year of being classified as vacant, and increase the maximum fines for noncompliance. Furthermore, the legislation requires that all buildings that have a water meter that is not being used, be investigated as a possible vacant property.

B21-689, the “Homeowners Protection from Construction Damage Amendment Act of 2016” will increase the penalties for violations of the Construction Code or zoning regulations, require an applicant for a construction permit for a residential property to post a payment bond that will go to reimburse a homeowner if the construction damages their home and require DCRA to create a publicly available database that tracks Construction Code violations. The legislation also requires DCRA to complete a study of the agency’s organizational structure and provide that study to the Council.

Individuals and representatives of organizations who wish to testify at the public hearing are asked to contact Faye Caldwell of the Committee on Business, Consumer, and Regulatory Affairs at (202) 727-6683 or by email at fcaldwell@dccouncil.us and provide their name(s), address, telephone number, email address and organizational affiliation, if any, by close of business Tuesday, July 12, 2016. 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 public hearing, 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, July 28, 2016. 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 ON TRANSPORTATION & THE ENVIRONMENT
MARY M. CHEH, CHAIR

NOTICE OF PUBLIC HEARING ON

**B21-0403, the Department of Motor Vehicles Reform Amendment Act of 2016;
B21-0455, the Department of Motor Vehicles International Registration Plan
Amendment Act of 2016;**

**B21-600, the Free Licenses for Veterans Amendment Act of 2016;
B21-736, the Improving Access to Identity Documents Act of 2016; and
B21-0738, the Driver's License Fair Access and Equity Amendment Act of 2016**

Thursday, June 9, 2016
At 11:00 a.m.
in Room 500 of the
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Thursday, June 9, 2016, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public hearing on B21-0403, the Department of Motor Vehicles Reform Amendment Act of 2016; B21-0455, the Department of Motor Vehicles International Registration Plan Amendment Act of 2016; B21-600, the Free Licenses for Veterans Amendment Act of 2016; B21-736, the Improving Access to Identity Documents Act of 2016; and B21-0738, the Driver's License Fair Access and Equity Amendment Act of 2016. The hearing will begin at 11:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

B21-0403, the Department of Motor Vehicles Reform Amendment Act of 2016, would remove the ability to renew a learner permit, and extend the permit from one year to two years. The bill would also make technical changes to the law concerning junk vehicles. B21-0455, the Department of Motor Vehicles International Registration Plan Amendment Act of 2016, would eliminate the current exemption of charter and tour buses from the International Registration Plan agreement. B21-600, the Free Licenses for Veterans Amendment Act, would require the DMV to issue motor vehicle operator's permits or special identification cards free of charge to a veteran who has not been dishonorably discharged, and has completed a form that certifies their veteran status. B21-736, the Improving Access to Identity Documents Act of 2016, would require the DMV to waive the fee for issuance of copies of vital records, motor vehicle operator's permits, and identification cards for residents with gross incomes equal to or less than 200% of the federal poverty guideline. Finally, B21-0738, the Driver's License Fair Access and Equity Amendment Act of 2016, would require the DMV to include oral or written language services to persons with limited or no-English proficiency. The bill would also require the DMV to provide mandatory driver's education to qualified applicants at low or no cost. It

would also provide substantially equivalent procedures for the application of and assessment for limited purpose driver's licenses, permits, and identification cards as used for traditional driver's license and identification cards.

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

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. They may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on June 23, 2016.

**Council of the District of Columbia
Committee on Business, Consumer, and Regulatory Affairs
Notice of a Public Oversight Roundtable**

John A. Wilson Building 1350 Pennsylvania Avenue, NW, Suite 119 Washington, DC 20004

**Councilmember Vincent B. Orange, Sr., Chair
Committee on Business, Consumer, and Regulatory Affairs**

Announces a Public Oversight Roundtable

**Review of DCRA Operations Pertaining to Illegal Construction Inspections,
Housing Inspections, Business Licensing and Permitting, Zoning Compliance and
Availability of Records to the Public**

**Tuesday, July 12, 2016, 10:00 A.M.
John A. Wilson Building, Room 500
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004**

Councilmember Vincent B. Orange, Sr., announces the scheduling of a public oversight roundtable by the Committee on Business, Consumer, and Regulatory Affairs concerning illegal construction and other issues relating to the Department of Consumer and Regulatory Affairs (“DCRA”). The public oversight roundtable is scheduled for Tuesday, July 12, 2016 at 10:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Ave., NW, Washington, DC 20004.

The public oversight roundtable will provide an opportunity for District residents to express their thoughts on various issues involving DCRA. Some topics include illegal construction inspections, housing inspections, business licensing and permitting, zoning regulation compliance and the availability of records to the public. The public oversight roundtable is an opportunity for the Committee to hear the public’s concerns regarding the agency and for DCRA to address these issues and provide information on any updates the agency has made or will be making going forward.

Individuals and representatives of organizations who wish to testify at the public oversight roundtable are asked to contact Faye Caldwell of the Committee on Business, Consumer, and Regulatory Affairs at (202) 727-6683 or by email at fcaldwell@dccouncil.us and provide their name(s), address, telephone number, email address and organizational affiliation, if any, by close of business Friday, July 8, 2016. 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 public oversight 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 Tuesday, July 26, 2016. 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 ON EDUCATION
NOTICE OF PUBLIC ROUNDTABLE**
1350 Pennsylvania Avenue, NW, Washington, DC 20004

**COUNCILMEMBER DAVID GROSSO
COMMITTEE ON EDUCATION
ANNOUNCES A PUBLIC ROUNDTABLE**

on

PR21-722, Public Charter School Board Donald Soifer Confirmation Resolution of 2016

PR21-669, Board of Library Trustees Kamili Anderson Confirmation Resolution of 2016, and

PR21-624, Board of Library Trustees Karma Cottman Confirmation Resolution of 2016

on

**Thursday, June 9, 2016
2:00 p.m., Hearing Room 120, 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 PR21-722, Public Charter School Board Donald Soifer Confirmation Resolution of 2016, PR21-669, Board of Library Trustees Kamili Anderson Confirmation Resolution of 2016, and PR21-624, Board of Library Trustees Karma Cottman Confirmation Resolution of 2016. The roundtable will be held at 2:00 p.m. on Thursday, June 9, 2016 in Hearing Room 120 of the John A. Wilson Building.

The stated purpose of PR21-722 is to confirm the reappointment of Donald Soifer as a member of the Public Charter School Board, for a term to end February 24, 2020. The stated purpose of PR21-669 is to confirm the appointment of Kamili Anderson as a member of the Board of Library Trustees to serve for a term to end on January 5, 2020. The stated purpose of PR21-624 is to confirm the reappointment of Karma Cottman as a member of the Board of Library Trustees to serve for a term to end on January 5, 2021.

Those who wish to testify are asked to telephone the Committee on Education, at (202) 724-8061, or email Jess Giles, Committee Assistant, at jgiles@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Tuesday, June 7. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. 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.

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 June 23, 2016.

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

Posting Date: May 20, 2016
Petition Date: July 5, 2016
Hearing Date: July 18, 2016

License No.: ABRA-094846
Licensee: CM Yards, LLC
Trade Name: 100 Montaditos
License Class: Retailer's Class "D" Restaurant
Address: 300 Tingey Street, S.E.
Contact: Saleh Mohamad: (202) 488-8500

WARD 6

ANC 6D

SMD 6D07

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 1:30pm, 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 has requested to change from Retailer "D" to Retailer "C".

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

Sunday through Thursday 11 am – 10 pm, Friday & Saturday 11 am - 12 am.

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

Posting Date: May 20, 2016
Petition Date: July 5, 2016
Hearing Date: July 18, 2016
Protest Date: September 21, 2016

License No.: ABRA-102866
Licensee: Basque Bar, LLC
Trade Name: Anxo Cidery Pintxos Bar
License Class: Retailer's Class "C" Tavern
Address: 711 Kennedy Street, N.W.
Contact: Rachel Fritz, Member: 202-997-6499

WARD 4

ANC 4D

SMD 4D01

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for 1:30 pm on September 21, 2016.

NATURE OF OPERATION

Bar serving cider with a seating capacity of 49. Total Occupancy Load of 49. Requesting a wine pub endorsement. No entertainment, performances or dancing.

HOURS OF OPERATION

Sunday through Thursday 7 am – 2 am and Friday & Saturday 7 am – 3 am

HOURS OF ALCOHOLIC BEVERAGES SALES/SERVICE/CONSUMPTION

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

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
5/20/2016**

Notice is hereby given that:

License Number: ABRA-000237

License Class/Type: C Club

Applicant: Columbia Lodge #85

Trade Name: Columbia Lodge #85 I.B.P.E.O. Of Wo

ANC: 1B01

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

1844 3RD ST NW

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

7/5/2016

A HEARING WILL BE HELD ON:

7/18/2016

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	2 pm - 12 am	2 pm - 12 am
Monday:	-	-
Tuesday:	-	-
Wednesday:	-	-
Thursday:	8 pm - 12 am	8 pm - 12 am
Friday:	8 pm - 2 am	8 pm - 2 am
Saturday:	8 pm - 2 am	8 pm - 2 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION
ADMINISTRATION
ON**

****5/20/2016**

**** READVERTISEMENT**

Notice is hereby given that:

License Number: ABRA-003618

License Class/Type: C Restaurant

Applicant: Georgetown Restaurant, Corp.

Trade Name: Filomena

ANC: 2E05

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

1063 WISCONSIN AVE NW

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

****7/5/2016**

A HEARING WILL BE HELD ON:

****7/18/2016**

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11:30 am - 1 am	11:30 am - 1 am
Monday:	11:30 am - 1 am	11:30 am - 1 am
Tuesday:	11:30 am - 1 am	11:30 am - 1 am
Wednesday:	11:30 am - 1 am	11:30 am - 1 am
Thursday:	11:30 am - 1 am	11:30 am - 1 am
Friday:	11:30 am - 1 am	11:30 am - 1 am
Saturday:	11:30 am - 1 am	11:30 am - 1 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION
ADMINISTRATION**

ON

****4/15/2016**

**** RESCIND**

Notice is hereby given that:

License Number: ABRA-003618

License Class/Type: C Restaurant

Applicant: Georgetown Restaurant, Corp.

Trade Name: Filomena

ANC: 2E05

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

1063 WISCONSIN AVE NW

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

****5/31/2016**

A HEARING WILL BE HELD ON:

****6/13/2016**

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11:30 am - 1 am	11:30 am - 1 am
Monday:	11:30 am - 1 am	11:30 am - 1 am
Tuesday:	11:30 am - 1 am	11:30 am - 1 am
Wednesday:	11:30 am - 1 am	11:30 am - 1 am
Thursday:	11:30 am - 1 am	11:30 am - 1 am
Friday:	11:30 am - 1 am	11:30 am - 1 am
Saturday:	11:30 am - 1 am	11:30 am - 1 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION
ADMINISTRATION
ON**

****5/20/2016**

****READVERTISEMENT**

Notice is hereby given that:

License Number: ABRA-060244

License Class/Type: C Restaurant

Applicant: RTI, Inc.

Trade Name: Il Tesoro

ANC: 3F06

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

4400 CONNECTICUT AVE NW

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

****7/5/2016**

A HEARING WILL BE HELD ON:

****7/18/2016**

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11 am - 1 am	11 am -1 am
Monday:	11 am - 1 am	11 am - 1 am
Tuesday:	11 am - 1 am	11 am - 1 am
Wednesday:	11 am - 1 am	11 am - 1 am
Thursday:	11 am - 1 am	11 am - 1 am
Friday:	11 am - 2 am	11 am - 2 am
Saturday:	11 am - 2 am	11am - 2 am

ENDORSEMENTS: Sidewalk Cafe

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION
ADMINISTRATION**

ON

****4/15/2016**

****RESCIND**

Notice is hereby given that:

License Number: ABRA-060244

License Class/Type: C Restaurant

Applicant: RTI, Inc.

Trade Name: Il Tesoro

ANC: 3F06

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

4400 CONNECTICUT AVE NW

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

****5/31/2016**

A HEARING WILL BE HELD ON:

****6/13/2016**

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11 am - 1 am	11 am -1 am
Monday:	11 am - 1 am	11 am - 1 am
Tuesday:	11 am - 1 am	11 am - 1 am
Wednesday:	11 am - 1 am	11 am - 1 am
Thursday:	11 am - 1 am	11 am - 1 am
Friday:	11 am - 2 am	11 am - 2 am
Saturday:	11 am - 2 am	11am - 2 am

ENDORSEMENTS: Sidewalk Cafe

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION
ADMINISTRATION
ON**

****5/20/2016**

****READVERTISEMENT**

Notice is hereby given that:

License Number: ABRA-079296

License Class/Type: C Restaurant

Applicant: Gmb food Services, LLC

Trade Name: Italian Pizza Kitchen

ANC: 3F04

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

4483 CONNECTICUT AVE NW

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

****7/5/2016**

A HEARING WILL BE HELD ON:

****7/18/2016**

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

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

ENDORSEMENTS: Sidewalk Cafe

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION
ADMINISTRATION**

ON

****4/15/2016**

****RESCIND**

Notice is hereby given that:

License Number: ABRA-079296

License Class/Type: C Restaurant

Applicant: Gmb food Services, LLC

Trade Name: Italian Pizza Kitchen

ANC: 3F04

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

4483 CONNECTICUT AVE NW

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

****5/31/2016**

A HEARING WILL BE HELD ON:

****6/13/2016**

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

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

ENDORSEMENTS: Sidewalk Cafe

FOR FURTHER INFORMATION CALL: (202) 442-4423

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

****CORRECTION**

Posting Date: May 6, 2016
Petition Date: **June 20, 2016
Hearing Date: July 5, 2016

License No. ABRA-060464
Licensee: 1600 U, Inc.
Trade Name: Local 16
License Class: "C" Restaurant
Address: 1600 U Street, NW

WARD: 2

ANC: 2B

SMD: 2B08

The Alcoholic Beverage Regulation Administration (ABRA) provides notice that the Licensee has filed a Petition to Amend or Terminate the Settlement Agreement(s) attached to its license.

The current parties to the agreement(s) are: February 19, 2002, between Local 16 and ANC 1C, a second entered into February 20, 2007, between Local 16 and ANC 2B, and a third entered into July 20, 2011, between Local 16 and Balfour Condominiums.

A copy of the Petition may be obtained by contacting ABRA's Public Information Office at 202-442-4423.

Objectors are entitled to be heard before the granting of such a request on the Hearing Date, at 2000 14th Street, N.W., 400 South, Washington, D.C., 20002.

Petitions or requests to appear before the Board must be filed on or before the Petition Date.

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

****RESCIND**

Posting Date: May 6, 2016
Petition Date: **May 20, 2016
Hearing Date: July 5, 2016

License No. ABRA-060464
Licensee: 1600 U, Inc.
Trade Name: Local 16
License Class: "C" Restaurant
Address: 1600 U Street, NW

WARD: 2

ANC: 2B

SMD: 2B08

The Alcoholic Beverage Regulation Administration (ABRA) provides notice that the Licensee has filed a Petition to Amend or Terminate the Settlement Agreement(s) attached to its license.

The current parties to the agreement(s) are: February 19, 2002, between Local 16 and ANC 1C, a second entered into February 20, 2007, between Local 16 and ANC 2B, and a third entered into July 20, 2011, between Local 16 and Balfour Condominiums.

A copy of the Petition may be obtained by contacting ABRA's Public Information Office at 202-442-4423.

Objectors are entitled to be heard before the granting of such a request on the Hearing Date, at 2000 14th Street, N.W., 400 South, Washington, D.C., 20002.

Petitions or requests to appear before the Board must be filed on or before the Petition Date.

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

Posting Date: May 20, 2016
Petition Date: July 5, 2016
Hearing Date: July 18, 2016
Protest Hearing: September 21, 2016

License No.: ABRA-102915
Licensee: Nando's of Woodley Park, LLC
Trade Name: Nando's Peri Peri Woodley Park
License Class: Retailer's Class "C" Restaurant
Address: 2631 Connecticut Avenue N.W.
Contact: Sheila Linn: (202) 955-3000

WARD 3

ANC 3C

SMD 3C01

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. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled on September 21, 2016 at 1:30 pm.

NATURE OF OPERATION

New Restaurant. Sidewalk Café with 45 seats. Total Occupancy Load of 192.

HOURS OF OPERATON AND ALCOHOLIC BEVERAGE**SALES/SERVICE/CONSUMPTION INSIDE PREMISES AND IN SIDEWALK CAFE**

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

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
5/20/2016**

Notice is hereby given that:

License Number: ABRA-082097

License Class/Type: C Restaurant

Applicant: Ping Pong One LLC

Trade Name: Ping Pong

ANC: 2C01

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

900 7TH ST NW

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

7/5/2016

A HEARING WILL BE HELD ON:

7/18/2016

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11 am - 1 am	11 am - 1 am
Monday:	11 am - 1 am	11 am - 1 am
Tuesday:	11 am - 1 am	11 am - 1 am
Wednesday:	11 am - 1 am	11 am - 1 am
Thursday:	11 am - 1 am	11 am - 1 am
Friday:	11 am - 2 am	11 am - 2 am
Saturday:	11 am - 2 am	11 am - 2 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

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

Posting Date: May 13, 2016
Petition Date: June 27, 2016
Hearing Date: July 11, 2016
Protest Date: September 14, 2016

License No.: ABRA-102026
Licensee: Coffee House Holding, Inc.
Trade Name: Starbucks Coffee #2748
License Class: Retailer's Class "D" Restaurant
Address: 1600 K Street, N.W.
Contact: Stephen O'Brien: (202) 625-7700

WARD 2

ANC 2B

SMD 2B05

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled on September 14, 2016 at 4:30pm.

NATURE OF OPERATION

A coffee shop that offers breakfast all day, along with savory small plates and desserts paired with wine and beer selections.

HOURS OF OPERATION

Sunday through Saturday 5:00 am – 11:00 pm

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday 12:00 pm – 11:00 pm, Monday through Friday 2:00 pm- 11:00 pm, Saturday 12:00 pm – 11:00 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: May 20, 2016
Petition Date: July 5, 2016
Hearing Date: July 18, 2016

License No.: ABRA-098996
Licensee: A. Montero Food, LLC
Trade Name: Taqueria Habanero
License Class: Retailer's Class "C" Restaurant
Address: 3710 14th Street, N.W.
Contact: Ana De Leon: (202) 246-7601

WARD 4

ANC 4C

SMD 4C04

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 requested a Sidewalk Cafe endorsement with seating for 16.

CURRENT HOURS OF OPERATION ON PREMISE

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

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION ON PREMISE

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

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

Sunday through Saturday 11am – 12 am

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON**

****5/20/2016**

****READVERTISEMENT**

Notice is hereby given that:

License Number: ABRA-025750

License Class/Type: C Multipurpose

Applicant: The Studio Theatre, Inc.

Trade Name: The Studio Theatre

ANC: 2F02

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

1333 P ST NW

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

****7/5/2016**

A HEARING WILL BE HELD ON:

****7/18/2016**

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	9 am - 12 am	10 am - 12 am
Monday:	9 am - 12 am	10 am - 12 am
Tuesday:	9 am - 12 am	10 am - 12 am
Wednesday:	9 am - 12 am	10 am - 12 pm
Thursday:	9 am - 12 am	10 am - 12 am
Friday:	9 am - 12 am	10 am - 1 am
Saturday:	9 am - 12 am	10 am - 1 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
5/13/2016

****RESCIND**

Notice is hereby given that:

License Number: ABRA-025750

License Class/Type: C Multipurpose

Applicant: The Studio Theatre, Inc.

Trade Name: The Studio Theatre

ANC: 2F02

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

1333 P ST NW

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

****6/27/2016**

A HEARING WILL BE HELD ON:

****7/11/2016**

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	9 am - 12 am	10 am - 12 am
Monday:	9 am - 12 am	10 am - 12 am
Tuesday:	9 am - 12 am	10 am - 12 am
Wednesday:	9 am - 12 am	10 am - 12 pm
Thursday:	9 am - 12 am	10 am - 12 am
Friday:	9 am - 12 am	10 am - 1 am
Saturday:	9 am - 12 am	10 am - 1 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

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

Posting Date: May 20, 2016
Petition Date: July 5, 2016
Hearing Date: July 18, 2016

License No. ABRA-025750
Licensee: The Studio Theatre, Inc.
Trade Name: The Studio Theatre
License Class: Retailer's Class "DX" Multi-Purpose Facility
Address: 1333 P Street, N.W.

WARD: 2

ANC: 2F

SMD: 2F02

The Alcoholic Beverage Regulation Administration (ABRA) provides notice that the Licensee has filed a Petition to Amend or Terminate the Settlement Agreement(s) attached to its license.

The current parties to the agreement(s) are: The Studio Theatre, Inc. t/a The Studio Theatre (Applicant) and ANC 2F and Rhode Island West Neighborhood Association (Protestant), dated, April 12, 1998 and June 1, 2005.

A copy of the Petition may be obtained by contacting ABRA's Public Information Office at 202-442-4423.

Objectors are entitled to be heard before the granting of such a request on the Hearing Date, at 2000 14th Street, N.W., 400 South, Washington, D.C., 20002.

Petitions or requests to appear before the Board must be filed on or before the Petition Date.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: May 20, 2016
Petition Date: July 5, 2016
Hearing Date: July 18, 2016
Protest Hearing: September 21, 2016

License No.: ABRA-102895
Licensee: VC Imports, LLC
Trade Name: Vintage Cellars
License Class: Retailer’s Class “A” Liquor Store
Address: 301 New York Avenue N.E., Unit #28107
Contact: Chrissie Chang: (703) 992-3994

WARD 5 ANC 5D SMD 5D01

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. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled on September 21, 2016 at 4:30 pm.

NATURE OF OPERATION

New online-only class A retailer. This location will not be open to the public.

HOURS OF OPERATON AND ALCOHOLIC BEVERAGE SALES/SERVICE

Sunday through Saturday 7 am – 7 pm

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**NOTICE OF PUBLIC HEARING
NOTICE OF COMMUNITY ENGAGEMENT EVENTS****Thursday, May 26, 2016 at 6:30 pm****National Housing Trust Fund Allocation Plan**

The DC Department of Housing and Community Development (DHCD) is charged with developing a National Housing Trust Fund Allocation Plan (“Plan”), which will be incorporated into the Consolidated Plan and Annual Action Plan submission on August 16, 2016. At the May 26, 2016 hearing, DHCD requests public input on the following required plan components: priority housing needs, project-based rental assistance, eligibility requirements for sub-grantees, geographic targeting, funds leveraging, and the duration of the affordability period.

The National Housing Trust Fund (HTF) is a new federal entitlement resource provided by the U.S. Department of Housing and Urban Development (HUD). Funds are distributed to states and the District of Columbia to produce, preserve, rehabilitate, and operate housing affordable to extremely low-income (ELI) households earning less than 30 percent of the area median income.

Funds are distributed to states by formula, including the District of Columbia, which then may distribute the money according to a state plan to state designated entities or sub-grantees for further distribution within a state, or directly to qualified recipients, such as nonprofit and for-profit organizations. The District anticipates receiving \$3 million in HTF monies.

States can use the HTF money for several different types of assistance, including grants, equity investments, loans, advances, interest subsidies, deferred payment loans and other assistance approved by HUD. Eligible project costs include hard development costs, certain soft costs like architectural and engineering fees, acquisition costs, refinancing costs, relocation costs and certain operating costs. No more than one-third of the entire District’s HTF allocation may be spent on operating costs and no more than 10 percent may be spent on administrative and planning activities. Additionally, no more than 10 percent may be used for sustainable homeownership activities, including down payment or closing cost assistance and homeowner counseling.

The Thursday May 26, 2016 hearing will be held at the DC Department of Housing and Community Development’s Housing Resource Center, 1800 Martin Luther King Jr. Avenue SE, at 6:30 pm. Residents who would like to present oral testimony at the public hearing are encouraged to register in advance either by email at dhcd.events@dc.gov or by calling (202)

442-7203. Please provide your name, address, telephone number and organization affiliation, if any.

If you wish to provide written comment for the record, please do so by mail or email by close of business Thursday, June 9, 2016. Written statements should be mailed to: Polly Donaldson, Director, DHCD, Attention: National Housing Trust Fund Allocation Plan Comments, 1800 Martin Luther King, Jr. Avenue SE, Washington, DC 20020. Emailed comments should be submitted to dhcd.events@dc.gov with a subject line, "National Housing Trust Fund Allocation Plan Comments."

Telecommunications Device for the Deaf (TDD) relay service is available by calling (800) 201-7165. A sign language interpreter will be provided upon request by calling (202) 442-7251 five days prior to the event date. Residents who require language interpretation should specify which language (Spanish, Vietnamese, Chinese-Mandarin/Cantonese, Amharic, or French). Interpretation services will be provided to pre-registered persons only. Deadline for requesting services of an interpreter is five days prior to the event date. Bilingual staff will provide services on an availability basis to walk-ins without registration.

DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD**NOTIFICATION OF CHARTER AMENDMENT**

The District of Columbia Public Charter School Board (DC PCSB) hereby gives notice of Monument Academy Public Charter School's (Monument PCS) request to amend its enrollment ceiling. Monument PCS is seeking an enrollment ceiling increase of three additional students per grade level, and, if approved will have authorization to serve 86 students beginning in school year 2016-17, with a maximum enrollment of 172 students in school year 2018-19. A public hearing regarding this item will be held on June 20, 2016 at 6:30 p.m.; a vote will also be held on June 20, 2016 at 6:30 p.m. To submit public comments, you may do so by one of the actions below. All comments must be submitted on or before June 20, 2016 at 4:00pm. For questions, please contact Laterica (Teri) Quinn, Equity and Fidelity Specialist, at 202-328-2660 or lquinn@dcpcsb.org.

Submitting Public Comment:

1. Submit a comment by one of the following actions:
 - a. E-mail: public.comment@dcpcsb.org
 - b. Postal mail: Attn: Public Comment, DC Public Charter School Board, 3333 14th ST. NW., Suite 210, Washington, DC 20010
 - c. Hand Delivery/Courier*: Same as postal address above
 - d. Phone: 202-328-2660

2. Sign up to testify in-person at the public hearing on June 20, 2016, by emailing a request to public.comment@dcpcsb.org by no later than 4 p.m. on Thursday, June 16, 2016.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF PUBLIC HEARING AND PRELIMINARY FINDINGONRECERTIFICATION APPLICATION FOR ADAMS MORGAN PARTNERSHIP INC.

Notice is hereby given that, pursuant to section 6 of the Business Improvement Districts Act of 1996 ("Act"), D.C. Official Code § 2-1215.06, the Department of Small and Local Business Development (DSLBD) will hold a public hearing on the recertification application of the Adams Morgan Partnership Business Improvement District.

The public hearing will be held at 4:00 p.m. Tuesday, June 21, 2016 in Suite 805S, 441 4th Street, N.W., Washington, D.C.

On Tuesday, April 19, 2016, the DSLBD Director Ana R. Harvey sent a letter to the Adams Morgan Partnership Business Improvement District, announcing her preliminary determination that the filing criteria set forth in D.C. Official Code § 2-1215.04 have been met and that the application is otherwise in conformity with the Act.

The public hearing will determine whether the BID plan meets the purposes of the Act, the definition of BID activity set forth in D.C. Official Code § 2-1215.02, and all other BID application requirements.

The BID application is available for review by the public during normal business hours on weekdays at 1640 Columbia Road, N.W., in the offices of the Adams Morgan Partnership Business Improvement District; at 441 4th Street, N.W., Suite 850N, in the offices of DSLBD; and on <http://www.adamsmorganonline.org/about/documents> and <http://dslbd.dc.gov/AMPBID>.

DSLBD invites the public to testify at the public hearing. Witnesses should bring a copy of their written testimony to the public hearing. Additional written statements are encouraged and will be made part of the official record, if received before 5:00 p.m. on Tuesday, June 28, 2016. Written statements may be submitted by e-mail to lincoln.lashley@dc.gov or mailed to: Lincoln Lashley, DSLBD, 441 4th Street, N.W., Suite 850N, Washington, DC 20001.

The public hearing record will close five business days following the conclusion of the hearing, or Tuesday, June 28, 2016. Persons submitting written statements for the record should observe this deadline.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, JULY 6, 2016
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

14096A **Application of Wilson NPB LLC**, pursuant to 11 DCMR § 3104.1, for a
ANC-2C special exception from the unused bonus density requirements under § 768, to
permit the interior renovation of an existing building in the DD/C-5 District at
premises 529 14th Street N.W. (Square 254, Lot 53).

WARD SEVEN

19241 **Application of Ira L. Hartwell**, pursuant to 11 DCMR § 3104.1, for a special
ANC-7C exception under § 223, not meeting the lot occupancy requirements under §
403.2, and the rear yard setback requirements under § 404.1, to construct a
sunroom and expand the porch of an existing one-family dwelling in the R-2
District at premises 852 50th Place N.E. (Square 5177W, Lot 19).

WARD ONE

19282 **Application of Teace and John Noel**, pursuant to 11 DCMR § 3104.1, for
ANC-1A special exceptions from the height requirements under § 400.23, and the rooftop
element requirements under § 400.24, to convert an existing one-family dwelling
into a flat by adding a third story in the R-4 District at premises 1460 Monroe
Street N.W. (Square 2676, Lot 343).

WARD FOUR

19303 **Application of Servant's Office, LLC**, pursuant to 11 DCMR § 3104.1, for
ANC-4C a special exception from the GA overlay design requirements under § 1330.2, to
allow for a floor-to-ceiling height less than 14 feet on the ground level of a
structure in the GA/C-2-A District at premises 4009 Georgia Avenue N.W.
(Square 3026, Lot 45).

BZA PUBLIC HEARING NOTICE

JULY 6, 2016

PAGE NO. 2

WARD THREE

19306 **Application of Massage Envy**, pursuant to 11 DCMR § 3104.1, for a special
ANC-3E exception from the massage establishment requirements under § 731, to operate a
 massage establishment in the C-2-A District at premises 4926 Wisconsin Avenue
 N.W. (Square 1671, Lot 805).

WARD EIGHT

19311 **Application of Manna, Inc.**, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for
ANC-8A variances from the FAR requirements under § 402.4, the lot occupancy
 requirements under § 403.2, and the rear yard requirements under § 404.1, and a
 special exception from the residential development requirements under § 353, to
 construct 12 row dwellings in the R-5-A District at premises 2200-2210 Hunter
 Place S.E. (Square 5812, Lot 118).

WARD TWO

19312 **Application of Allegro II, LLC**, pursuant to 11 DCMR §§ 3103.2, 3104.1,
ANC-2B and 411, for variances from the FAR requirements under § 531.1, and the
 nonconforming structure requirements under § 2001.3, and a special exception
 from the penthouse setback requirements under § 411.18(b), to renovate existing
 offices in the DC/SP-1 District at premises 1714-1716 N Street N.W. (Square
 159, Lots 829-830).

WARD SIX

19315 **Application of Associated Catholic Charities**, pursuant to 11 DCMR §
ANC-6E 3103.2, for variances from the lot dimension requirements under § 401, the lot
 occupancy requirements under § 403.2, the rear yard requirements under § 404.1,
 the flats on alley lot requirements under § 2507.1, and the alley access
 requirements under § 2507.2, to construct three flats in the R-4 District at
 premises (rear) 611-617 Rhode Island Avenue N.W. (Square 442, Lots 49-50).

WARD FIVE

19316 **Application of Dilan Investment, LLC**, pursuant to 11 DCMR § 3104.1, for
ANC-5C a special exception from the residential development requirements under § 353,
 to construct a 12-unit apartment building in the R-5-A District at premises 1904
 Irving Street N.E. (Square 4207, Lot 15).

BZA PUBLIC HEARING NOTICE

JULY 6, 2016

PAGE NO. 3

WARD TWO

19317 **Application of Travis Gordon**, pursuant to 11 DCMR § 3104.1, for a special
ANC-2F exception under § 223, not meeting the lot occupancy requirements under §
 403.2, the open court requirements under § 406.1, and the nonconforming
 structure requirements under § 2001.3, and a special exception from the
 penthouse requirements under § 411.5, to construct a new stairway penthouse to
 an existing one-family dwelling in the R-4 District at premises 1320 10th Street
 N.W. (Square 339, Lot 28).

WARD SIX**THIS CASE WAS POSTPONED FROM THE PUBLIC HEARING OF MAY 24,
2016 AT THE APPLICANT'S REQUEST:**

19266 **Application of Elonda Edwards**, pursuant to 11 DCMR § 3104.1, for a special
ANC-6C exception from the home occupation requirements under § 203.10, to establish a
 childcare center with 12 children and three adults in the R-4 District at premises
 816 6th Street N.E. (Square 832, Lot 45).

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.

BZA PUBLIC HEARING NOTICE

JULY 6, 2016

PAGE NO. 4

**Note that party status is not permitted in Foreign Missions cases.*

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

MARNIQUE Y. HEATH, CHAIRMAN, FREDERICK L. HILL, VICE CHAIRPERSON, JEFFREY L. HINKLE, ANITA BUTANI D'SOUZA, 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 HOUSING AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority (DCHA), pursuant to the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-203 (2012 Repl.)), hereby gives notice of the adoption of the following amendments to Chapter 53 (Recertifications, Housing Quality Standard Inspections, and Family Moves) of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of the amendments is to no longer require Housing Choice Voucher Program participants to report increases in household income between scheduled interims and recertification.

The proposed rulemaking was published in the *D.C. Register* on March 25, 2016, at 63 DCR 4458. This rulemaking was adopted as final at the Board of Commissioners regular meeting on May 11, 2016. The final rules will become effective upon publication of this notice in the *D.C. Register*.

Chapter 53, RECERTIFICATIONS, HOUSING QUALITY STANDARD INSPECTIONS, AND FAMILY MOVES, of Title 14 DCMR, HOUSING, is amended as follows:**Section 5310, CHANGES IN FAMILY SHARE AND HOUSING ASSISTANCE PAYMENTS, is amended to read as follows:****5310 CHANGES IN FAMILY SHARE AND HOUSING ASSISTANCE PAYMENTS**

5310.1 Changes in the Family's TTP and the HAP payment shall be processed in accordance with the following:

- (a) The Family shall report within thirty (30) days any decreases in household income, any removal of a Family member, or other circumstances that may result in a change in the Family TTP;
- (b) If the Family reported in a timely manner:
 - (1) If the reported change results in an increase of the Family's share of rent, the effective date of increase shall be the first of the month following a thirty (30) days' notice of increase to the Family and Owner or
 - (2) If the reported change results in a decrease of the Family's share of rent, the effective date of the decrease shall be the first of the

month after the change has been reported; or

(c) If the Family failed to report the change in a timely manner:

(1) If the change results in an increase of the Family’s share of rent, the effective date shall be the first of the month following the change in Family income or composition; or

(2) If the change results in a decrease in the Family’s share of rent, then DCHA shall not apply the change retroactively and the effective date of the change shall the first of the month following the Family’s report of the change.

5310.2 DCHA shall notify the owner and the Family of any changes in the Family share and HAP by mailing a notice that includes the new amount and effective date of the change in payment.

Section 5315, CHANGES IN INCOME, is amended to read as follows:

5315 CHANGES IN INCOME

5315.1 Families shall not be required to report any increase in household income between scheduled interims or recertification. Any increase in income shall only be included in the determination of annual household income at the next scheduled recertification.

5315.2 With the exception of zero-income households, if the Family adds a Family member with a source of income, DCHA shall only include the income, as applicable, in the determination of annual household income at the next scheduled recertification.

5315.3 Any decreases in income shall be processed in accordance with § 5310.

5315.4 Pursuant to 24 C.F.R. § 5.615, if a Family reports a decrease in income from the loss of welfare benefits due to fraud or noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program, that decrease in income shall not cause a change in the Family’s share of the rent.

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority (DCHA), pursuant to the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-203 (2012 Repl.)), hereby gives notice of the adoption of the following amendments to Chapter 83 (Rent and Housing Assistance Payments) of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendments is to create an exception for when DCHA may grant rent increases to owner.

The proposed rulemaking was published in the *D.C. Register* on March 25, 2016, at 63 DCR 4461. This rulemaking was adopted as final at the Board of Commissioners regular meeting on May 11, 2016. The final rules will become effective upon publication of this notice in the *D.C. Register*.

Chapter 83, RENT AND HOUSING ASSISTANCE PAYMENTS, of Title 14 DCMR, HOUSING, is amended as follows:

Section 8304, RENT INCREASES TO OWNER, is amended to read as follows:

8304 RENT INCREASES TO OWNER

- 8304.1 Written Request Required. Owners may request a rent increase no later than ninety (90) days prior to any Family reexamination month. The request must be in writing.
- 8304.2 Amount of Rent Adjustment Rent. The amount of the rent adjustment to the Owner may be adjusted either up or down. Subject to compliance with § 8304.1 above, the adjusted rent to an Owner who has submitted a written request shall be the LESSER of:
- (a) The current rent multiplied by the applicable annual adjustment factor published by HUD in effect sixty (60) days before the HAP anniversary date; or
 - (b) The reasonable rent as most recently determined (or redetermined) by DCHA; or
 - (c) The amount requested by the Owner.
- 8304.3 Prerequisites to a Rent Increase. The annual lease rent may not be increased unless:

- (a) The Owner has requested a specific increase amount at least ninety (90) days before the Family's reexamination month; and
- (b) The request is made in writing on DCHA provided forms for each unit for which an increase is being requested; and
- (c) In the preceding year, the Owner has complied with all requirements of the HAP contract, including compliance with the Housing Quality Standards.

8304.4 Timing of any Increases to Rent. Housing Assistance Payment increases, if approved by DCHA, shall be effective as of the first day of the first month commencing on or after the Participant's reexamination month.

8304.5 Exception. Notwithstanding § 8304.1 and §§ 8304.3(a) and (b), subject to the availability of funding, at DCHA's discretion, DCHA may approve rent increases to Owners, to be effective within thirty (30) days of approval, without a prior written request from the Owner when contract rents are lower than the DCHA approved maximum rent in a submarket. However, DCHA shall only approve a rent increase to an Owner, without a prior written request from the Owner within ninety (90) days of the Family's reexamination month, when:

- (a) The Family has occupied the unit for at least twelve (12) months;
- (b) The Owner does not have any current landlord-caused HQS inspection violations related to the unit;
- (c) The Owner did not have any HQS landlord-caused final fails related to the unit in the past twelve (12) months; and
- (d) The rent increase does not cause the Family to pay more than their current tenant portion of rent.

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority (DCHA), pursuant to the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-203 (2012 Repl. & 2015 Supp.)), hereby gives notice of the adoption of the following amendments to Chapter 95 (Rent Subsidy Programs: Local Rent Supplement Program) of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendments is to apply Local Rent Supplement Program (LRSP) Sponsor-based housing assistance eligibility criteria to households referred by the Department of Human Services (DHS) to DCHA for LRSP Tenant-based housing assistance.

The emergency and proposed rulemaking was published in the *D.C. Register* on March 25, 2016, at 63 DCR 4498. This rulemaking was adopted as final at the Board of Commissioners regular meeting on May 11, 2016. The final rules will become effective upon publication of this notice in the *D.C. Register*.

Chapter 95, RENT SUBSIDY PROGRAMS: LOCAL RENT SUPPLEMENT PROGRAM, of Title 14 DCMR, HOUSING, is amended as follows:

Section 9505, TENANT-BASED HOUSING ASSISTANCE, is amended to read as follows:

- 9505.1 LRSP Tenant-based housing assistance shall be administered in accordance with the DCHA HCVP rules and regulations except as provided in this chapter.
- 9505.2 Notwithstanding § 9505.1, when determining eligibility to receive LRSP Tenant-based housing assistance for households referred to DCHA by the Department of Human Services, DCHA shall use the eligibility guidelines set forth in § 9508.
- 9505.3 LRSP Voucher shall not be eligible for portability as such term is defined and utilized in 24 C.F.R. §§ 982.351 and 982.353, as amended.
- 9505.4 LRSP Tenant-based funds left “unobligated” at the end of each DCHA fiscal year shall be added to the LRSP funding for the next fiscal year. Funds are left unobligated when there are no Extremely Low Income households who could use LRSP funding.
- 9505.5 Dollars allocated to Tenant-based housing assistance shall be based on a sum of the new fiscal year funding plus any “unobligated” carryover funds from the previous fiscal year.

D.C. DEPARTMENT OF HUMAN RESOURCES**NOTICE OF FINAL RULEMAKING**

The Director of the D.C. Department of Human Resources, with the concurrence of the City Administrator, pursuant to Mayor's Order 2008-92, dated June 26, 2008, and in accordance with Sections 404(a) and 1201 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-604.04(a) (2014 Repl.) and §§ 1-612.01 *et seq.* (2014 Repl.)), hereby gives notice that final rulemaking action was taken to adopt the following rules amending Chapter 12 (Hours of Work, Legal Holidays and Leave) of Title 6 (Personnel), Subtitle B (Government Personnel), of the District of Columbia Municipal Regulations (DCMR).

The purpose of the rulemaking notice is to: (1) reorder, renumber and make minor changes to Sections 1204 (Establishment of Scheduled Tours of Duty), 1208 (Flexible Work Schedule), 1209 (Alternative Work Schedule), 1210 (Compressed Work Schedule); (2) rename Section 1211 from "Telecommuting" to "Telework," and to add provisions on "Situational Telework;" (3) make a change to a subsection number in Subsection 1223.6 of Section 1223 (Effect of Holidays) following amendments to the chapter; (4) amend Subsection 1261.2 of Section 1261 (Funeral Leave) to change the number of additional days of leave an employee can request following the passing of an immediate family member; and (5) move Subsections 1270.3 through 1270.10 of Section 1270 (Declared Emergencies - In General) to Section 1271 (Declared Emergencies - Early Dismissals) and rename Section 1271 to "Declared Emergencies – Emergency and Essential Employees," with a new provision added in Subsection 1270.6. In addition, prior Sections 1271 through 1273 have been renumbered to 1272 through 1274, and clarifying language on the leave status of an employee that uses a full day of leave on a day when a late arrival policy is in effect (§ 1272) has been added. New Sections 1283 through 1288 on the Government Paid Family Leave Program have also been added to the chapter. Section 1299 (Definitions) has been amended to add definitions for the terms "Situational Telework," "Substantially Similar Position," "Telework," "Uniformed Member," and to amend the definition of the term "Unscheduled Telecommuting" and change the term to "Unscheduled Telework."

No comments were received to the Notice of Proposed Rulemaking published in the *D.C. Register* on November 27, 2015 at 62 DCR 015359, and during a notice of extension of the comment period published on January 8, 2016 at 63 DCR 428. However, Sections 1283 through 1288 were renumbered (previously 1282 through 1287 in the proposed rulemaking) to correct a numbering error. The rules were adopted as final on May 6, 2016 and will become effective upon publication of this notice in the *D.C. Register*.

Chapter 12, HOURS OF WORK, LEGAL HOLIDAYS AND LEAVE, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended as follows:

Section 1204, ESTABLISHMENT OF SCHEDULED TOURS OF DUTY, Subsection 1204.1, is amended to read as follows:

1204.1 Agencies shall establish scheduled tours of duty consistent with the provisions of Subsection 1204.2 of this section, except when the Mayor determines that an agency would be seriously handicapped in carrying out its functions, or that costs would be substantially increased, and mandates an alternative work schedule as provided in Section 1208 of this chapter.

Subsection 1204.2 is amended as follows:

The lead-in language of paragraph (b) is amended to read as follows:

- (b) Except when an alternative work schedule has been approved as provided in Section 1208 of this chapter;

Paragraph (d) is amended to read as follows:

- (d) Breaks in working hours of more than one (1) hour shall not be scheduled during the working hours of a basic workday, except when a flexible work schedule has been approved as provided in Section 1209 of this chapter;

Sections 1208 thru 1211 are amended to read as follows:

1208 ALTERNATIVE WORK SCHEDULES

1208.1 An alternative work schedule, as defined in Section 1299 of this chapter, is inclusive of:

- (a) A flexible work schedule, pursuant to Section 1209; and
- (b) A compressed work schedule, pursuant to Section 1210.

1208.2 The Mayor may establish a mandatory alternative work schedule, as provided in Subsection 1204.1.

1208.3 Pursuant to Section 1201(e) of the CMPA (D.C. Official Code § 1-612.01(e) (2014 Repl.)), an agency director may establish an alternative work schedule for employees when such a work schedule is considered practicable and feasible and the costs of the agency will not be substantially increased.

1208.4 Employee participation in an alternative work schedule established by an agency director shall be voluntary.

1208.5 An alternative work schedule, if established, must be offered on an equal basis to all agency employees who are in substantially similar positions.

1208.6 An agency head's decision to exclude classes of positions from participating in an alternative work schedule shall be final and not subject to appeal or grievance.

- 1208.7 The basic requirements for establishing an alternative work schedule shall be as follows:
- (a) The basic forty (40)-hour workweek may be scheduled on fewer than five (5) days;
 - (b) The working hours in each day of the basic workweek need not be the same; and
 - (c) The basic non-overtime workday may exceed eight (8) hours.
- 1208.8 Independent agencies may develop an alternative work schedule policy that differs from the provisions in Section 1208 through 1210 of this chapter.

1209 FLEXIBLE WORK SCHEDULE

- 1209.1 Pursuant to Section 1201(e) of the CMPA (D.C. Official Code § 1-612.01(e) (2014 Repl.)), a flexible work schedule may be established by an agency for employees when:
- (a) Such a work schedule is considered both practicable and feasible in terms of increased employee morale, increased productivity, and improved service to the public; and
 - (b) Agency management determines that the schedule will not have an adverse impact on service to the public, and that costs to the agency will not increase substantially.
- 1209.2 A flexible work schedule, as defined in Section 1299 of this chapter, allows an employee to determine his or her own schedule within designated hours set by the employing agency, subject to certain core hours set by the agency during which the employee must work.
- 1209.3 The basic requirements for a flexible work schedule shall include the following:
- (a) The designation of core hours during which all employees are required to be present, except for authorized lunch periods;
 - (b) The designation of flexible time periods during which the employee has the option of selecting and varying his or her starting and end time but such flexible time periods may not commence prior to 6:00 a.m., nor end after 6:00 p.m.;
 - (c) The maintenance of accurate time and attendance controls must be in place to ensure that each employee works or otherwise accounts for eight (8) hours per day, five (5) days per week; and

- (d) Prior approval must be obtained by the agency head or the appropriate personnel authority before an employee may participate in a flexible work schedule.

1210 COMPRESSED WORK SCHEDULE

1210.1 Pursuant to Section XII of the CMPA (D.C. Official Code § 1-612.01 (2014 Repl.)), a compressed work schedule may be established by an agency for employees when:

- (a) Such a work schedule is considered both practicable and feasible in terms of increased employee morale, increased productivity, and improved service to the public; and
- (b) If agency management determines that the schedule will not have an adverse impact on public service, and that costs will not increase substantially.

1210.2 A compressed work schedule, as defined in Section 1299 of this chapter, allows a full-time or part-time employee to work an eighty (80)-hour biweekly schedule or a less than eighty (80)-hour biweekly schedule, respectively, in fewer than ten (10) workdays.

1210.3 In accordance with Section 6 of the 2004 District of Columbia Omnibus Authorization Act, approved October 30, 2004 (Pub. L. 108-386, 118 Stat. 2228; D.C. Official Code § 1-510), an employee shall not be eligible earn overtime during his or her regular tour of duty in a compressed work schedule even if such tour of duty exceeds eight (8) hours.

1210.4 The tour of duty for each employee under a compressed work schedule program shall be defined by a fixed schedule established by the agency.

1210.5 The established work schedule of an employee working a compressed work schedule may not exceed ten (10) hours for any workday.

1211 TELEWORK

1211.1 Telework is an arrangement in which an employee routinely, during a declared emergency (if directed to do so), or in situational cases as specified in this section, performs officially assigned duties at his or her home address of record.

1211.2 Based on the needs of the organization, and to the extent possible without diminishing employee performance, each agency is authorized to establish telework for eligible employees of the agency, except as provided in Subsection 1211.10 of this section.

- 1211.3 Telework, as provided in this section, must be offered on an equal basis to all agency employees who are in substantially similar positions.
- 1211.4 Telework shall be part of a scheduled tour of duty, subject to a written agreement between the agency and employee, and only permitted after an employee has completed any telework training required by the District of Columbia Department of Human Resources.
- 1211.5 Requests to engage in telework must:
- (a) Be signed by the employee;
 - (b) Be approved in writing and in advance by the employee's supervisor and the agency head (or his or her designee); and
 - (c) Verify that the position, during the period which an employee will telework, and the telework arrangement comply with the conditions set forth in Subsection 1211.7 of this section.
- 1211.6 Unless otherwise approved by the agency head and personnel authority, an employee shall be limited to two (2) days per workweek of telework.
- 1211.7 Positions best suited for telework are those that:
- (a) Have job tasks that are quantifiable, primarily project-oriented or case-work-oriented, telephone intensive, or computer-oriented; or have work activities that can be accommodated working away from the current work location with equal efficiency as if being performed at the official work site;
 - (b) Do not require daily unscheduled face-to-face contact with other employees, supervisors, or the public in the current work location; and
 - (c) Allow meetings to be scheduled without inconveniencing or impairing the performance of co-workers.
- 1211.8 An employee, who has been approved in writing to telework, may periodically request authorization to utilize situational telework on a temporary basis for the following circumstances:
- (a) When an employee has a short-term need for uninterrupted time to complete work on a complex project or report. In such cases, the employee must provide twelve (12)-hour advance written notification to his or her immediate supervisor, and obtain the written approval from the immediate supervisor and agency head (or his or her designee);
 - (b) When an employee is recovering from an illness or an injury and is

temporarily unable to physically report to his or her official work site, but is physically and mentally able to perform his or her official duties from a remote location. When possible, the employee must provide a twenty-four (24) hour advance written notice and must in all circumstances obtain approval from his or her immediate supervisor; or

- (c) When, due to the occurrence of a home repair emergency, the employee is prevented from reporting to his or her official work site.

- 1211.9 An employee's use of situational telework as provided in Subsections 1211.8(a) through (c), shall not exceed three (3) consecutive workdays.
- 1211.10 Notwithstanding the provisions of Subsections 1211.8(a) through (c), and on a case-by-case basis, an agency head may authorize the use of situational telework in other circumstances.
- 1211.11 An employee's approval and use of situational telework, as provided in Subsections 1211.8(a) through (c) of this section, is at the discretion and approval of the agency head or the employee's immediate supervisor.
- 1211.12 An employee shall not be eligible to participate in telework as provided in this section if:
- (a) The employee's performance rating for the most recent rating period is Marginal Performer (Level 2) (or equivalent) or lower as provided in Chapter 14 of these regulations; or
 - (b) The employee is on a Performance Improvement Plan (PIP) as provided in Chapter 14.
- 1211.13 Authorization to engage in telework, as provided in this section, may be rescinded by the agency head (or designee) or the immediate supervisor for reasons that include, but are not limited to, a determination that the employee has failed to accomplish the work as prescribed or due to the agency's organizational or operational needs.
- 1211.14 Whenever an agency head (or designee) or immediate supervisor determines that the approval for telework is to be rescinded pursuant to Subsection 1211.13 of this section, the employee shall be given, where practicable, at least two (2) weeks' notice prior to the rescission.
- 1211.15 Upon termination of a telework agreement, the employee shall return to the duty station and tour of duty that existed prior to receiving approval to engage in telework, unless the duty station or tour of duty has been changed by the employee's supervisor in accordance with applicable rules.

- 1211.16 Failure of an employee to return to his or her original duty station with the same tour of duty upon rescission of an authorization to engage in telework, shall result in the forfeiture of the employee's opportunity to engage in telework for a period of three (3) years and, if appropriate, may result in disciplinary action.
- 1211.17 By October 1 of each year, subordinate agencies shall submit a report to DCHR covering the agency's telework program activities for the prior fiscal year. The report shall include:
- (a) The name, grade, step, and position title of each employee approved to telework;
 - (b) The total number of days each employee is authorized to telework per workweek;
 - (c) The total number of employees working under an approved telework agreement;
 - (d) The number of employees that completed the required telework training;
 - (e) The number of telework agreements terminated and the reason(s) for the termination;
 - (f) The number of telework applications denied and the reason(s) for each denial; and
 - (g) A description of any employee or group of employees excluded from participating in telework and the reasons for such exclusions.
- 1211.18 The D.C. Department of Human Resources shall conduct periodic audits of subordinate agency telework programs for the purpose of ensuring compliance with the District's personnel regulations and human resource procedures. The audit may also cover PeopleSoft actions that the agency inputs relative to telework.

Section 1223, EFFECT OF HOLIDAYS, Subsection 1223.6, is amended to read as follows:

- 1223.6 An employee under an alternative work schedule pursuant to Section 1208 of this chapter who performs work on a holiday shall be entitled to holiday premium pay as provided in Section 1132 of Chapter 11 of these regulations.

Section 1261, FUNERAL LEAVE, is amended to read as follows:

- 1261.1 In accordance with the Funeral and Memorial Service Leave Amendment Act of 2013, effective February 22, 2014 (D.C. Law 20-83; D.C. Official Code § 1-612.03(n) (2014 Repl.)), an employee shall be entitled to not more than three (3)

days of authorized absence without loss of or reduction in pay, leave to which otherwise entitled, or credit for time or service, to make arrangements for or attend the funeral or memorial service of an immediate relative, as defined in Section 1299 of this chapter.

- 1261.2 In addition to the three (3) days of authorized absence as provided in Subsection 1261.1 of this section, unless the mission of the agency would be seriously impaired, an agency shall grant an employee's request for annual leave, sick leave, exempt time off, or compensatory time for an additional two (2) days upon the death of an immediate relative.
- 1261.3 The days requested for funeral leave need not be consecutive, but if they are not consecutive, the employee shall furnish to the approving authority satisfactory reasons justifying the granting of funeral leave for nonconsecutive days.
- 1261.4 When approved, an employee shall receive funeral leave for all previously scheduled hours during the leave period, including previously scheduled overtime hours. However, an employee shall not be eligible for overtime premiums for the same hours he or she receives funeral leave.

Sections 1270 thru 1274 are amended to read as follows:

1270 DECLARED EMERGENCIES—IN GENERAL

- 1270.1 During a declared emergency, the following situations may occur:
- (a) In response to circumstances that develop while employees are at work, employees may be dismissed early as provided in Section 1272 of this chapter;
 - (b) In response to circumstances that develop prior to normal duty hours, employees may be authorized to take unscheduled leave, unscheduled telework, or arrive late to work, as provided in Section 1273 of this chapter; and
 - (c) In response to circumstances that arise prior to normal duty hours, there may be a shut-down of District government operations as provided in Section 1274 of this chapter.
- 1270.2 The Mayor may declare an emergency whenever he or she deems it to be appropriate and in the public interest.

1271 DECLARED EMERGENCIES—EMERGENCY AND ESSENTIAL EMPLOYEES

- 1271.1 For the purposes of this section as well as Sections 1272 through 1274 of this

chapter, certain District government employees shall be designated as “essential” or “emergency” employees.

- 1271.2 Critical District government operations cannot be suspended or interrupted during emergency situations such as those described in Subsection 1270.1 of this section. Agencies shall identify each agency position with duties that are vital to the continuity of medical facilities, public safety, emergency services, or other crucial operations, and shall designate employees occupying such positions as “essential employees.” Employees designated as “essential” shall be required to be at work regardless of the emergency situation declared.
- 1271.3 The position description with duties as described in Subsection 1271.2 of this section shall state that the incumbent of the position shall be considered an essential employee required to be at work when an emergency is declared, regardless of the emergency situation declared.
- 1271.4 An employee designated as an “essential employee” under the provisions of Subsection 1271.2 of this section shall be identified by position title or other appropriate means, and shall be notified in writing of his or her designation as an essential employee and the specific requirements placed upon the employee in emergency situations. The written notification shall occur within thirty (30) days of the agency determination for current employees, or at the time of hire or appointment to the essential position for new employees, as applicable. The required thirty (30)-day notification period may be suspended during a period of a declared emergency.
- 1271.5 An emergency employee is an employee whose services are necessary for the continuity of operations during a declared emergency. An emergency employee typically provides advice, recommendations, or specific functional support.
- 1271.6 An emergency employee may be designated from any employment status category (including, but not limited to: Management Supervisory Service, Excepted Service, Legal Service, Career Service, Education Services, etc.).
- 1271.7 An employee designated as an “emergency employee” under the standards of Subsection 1271.5 of this section shall be informed of the designation in writing within thirty (30) days of such designation. The required thirty (30)-day notification period and the requirement that notification be in writing may be suspended during a period of a declared emergency or during the period of time preceding an expected declaration of an emergency. A written notification shall follow a verbal notification.
- 1271.8 An agency head may activate an employee designated as an “emergency employee” based on the nature and circumstances of a particular declared emergency. An emergency employee who has been designated and activated will be called in to work, required to stay at work, or required to telework, if approved

to do so, during the particular emergency situation.

- 1271.9 Upon determination by an agency head that an employee's position designation as an emergency employee is no longer applicable, the agency head shall notify the employee, in writing, within thirty (30) days of such determination.
- 1271.10 Essential and emergency employees who are required to work during a declared emergency when non-essential and non-emergency employees are on administrative leave shall be entitled to compensation as provided in Section 1135 of Chapter 11 of these regulations.

1272 DECLARED EMERGENCIES—EARLY DISMISSALS

- 1272.1 The Mayor may, whenever he or she deems it to be appropriate in the public interest, authorize the early dismissal of employees, whereupon he or she shall notify agencies to dismiss, for a specified period of time, and grant administrative leave to, as many employees as the agency head determines to be practicable.
- 1272.2 Agency heads and other personnel authorities may dismiss, and grant administrative leave to, employees due to the breakdown of heating or air conditioning equipment and other similar situations within one or more of the agency's or personnel authority's facilities.
- 1272.3 Except as provided in Subsection 1272.5 of this section, whenever early dismissal has been authorized, all employees, except essential employees and emergency employees who have been activated subject to the provisions of Section 1271 of this chapter, shall be permitted to leave their assigned duty stations prior to the close of the normal workday, on administrative leave, if the following conditions are met:
- (a) They are in a duty status when the notice of early dismissal is received; and
 - (b) Their regular tour of duty ends after the hour given as the authorized time for early departure.
- 1272.4 An employee who previously requested and was granted leave for the entire day shall be charged leave for the entire day, regardless of the early dismissal.
- 1272.5 If, after the notice of early dismissal, an employee requests and is granted leave, the employee shall be charged leave only for that period when leave commences, to the hour that early dismissal is authorized.
- 1272.6 If, prior to the notice of early dismissal, an employee requests and is granted leave, but otherwise makes known his or her intention of returning to duty status at a time that precedes the end of his or her regular tour of duty, the employee

shall be charged leave only for the period of time specified.

1273 DECLARED EMERGENCIES—LATE ARRIVAL, UNSCHEDULED LEAVE, OR UNSCHEDULED TELEWORK POLICY

1273.1 The Mayor may, whenever he or she deems it to be appropriate and in the public interest, authorize one or all of the following:

- (a) A late arrival policy authorizing a designated number of hours of excused absence;
- (b) An unscheduled leave policy; or
- (c) An unscheduled telework policy.

1273.2 Each employee shall be responsible for reporting for duty at the late arrival time, even upon the occurrence of conditions beyond the control of an employee, such as inclement or hazardous weather or a transportation disruption.

1273.3 Whenever the Mayor determines that a late arrival policy is in effect in accordance with Subsection 1273.1(a) of this section, an employee, other than an essential or emergency employee subject to the provisions of Section 1271 of this chapter, shall be authorized to arrive late, up to the number of hours specified by the Mayor, without loss of pay. An employee who utilizes leave for the entire day when a late arrival policy is in effect shall be charged the appropriate leave for the entire day.

1273.4 Whenever the Mayor determines that an unscheduled leave policy is in effect in accordance with Subsection 1273.1(b) of this section, an employee, other than an essential or emergency employee subject to the provisions of Section 1271 of this chapter, shall be permitted to utilize annual leave, compensatory time, exempt time off, or leave without pay, for all or part of that day, up to a maximum of eight (8) hours or hours worked under a compressed work schedule, if applicable, without obtaining advance approval or providing detailed justification. The use of sick leave must be approved in accordance with Section 1243 of this chapter.

1273.5 Whenever the Mayor determines that an unscheduled telework policy is in effect in accordance with Subsection 1273.1(c) of this section, an employee on a telework agreement may telework. An employee must inform his or her supervisor and timekeeper (or equivalent) of any unscheduled telework day(s) taken pursuant to this section.

1273.6 Whenever the Mayor determines that an unscheduled telework policy is in effect, an employee designated as an emergency employee who is activated is required to report to work unless he or she is directed to telework.

1273.7 An employee who does not report to work (or who does not telework, when authorized to do so) and does not request leave during a period when an unscheduled leave or unscheduled telework policy is in effect, and refuses to consent to any type of leave upon return to duty, shall be charged with absence without official leave.

1274 DECLARED EMERGENCIES—SHUT-DOWN

1274.1 The Mayor may, whenever he or she deems it to be appropriate and in the public interest, authorize the shut-down of all non-essential District government operations prior to the commencement of normal duty hours.

1274.2 Agency heads and other personnel authorities may authorize the shut-down of one or more of their facilities due to a breakdown of heating or air conditioning equipment or other similar situations, and shall ensure that all affected employees are promptly notified.

1274.3 Except as provided in Subsections 1274.4 and 1274.5 of this section, employees shall be given administrative leave for the entire day of shut-down.

1274.4 Each essential employee subject to the provisions of Section 1271 of this chapter shall still be required to report for duty even upon the occurrence of conditions beyond the control of an employee, such as inclement or hazardous weather or a transportation disruption.

1274.5 Each emergency employee subject to the provisions of Section 1271 of this chapter shall be required to report for duty or telework, if activated, even upon the occurrence of conditions beyond the control of an employee, such as inclement or hazardous weather or transportation disruption.

1275 - 1278 [RESERVED]

New Sections 1283 thru 1288 are added to the chapter to read as follows:

1283 GOVERNMENT FAMILY LEAVE PROGRAM – GENERAL PROVISIONS

1283.1 Eligible District government employees are entitled to up to eight (8) workweeks of paid family leave within a twelve (12) month period for a single qualifying event. Qualifying events are described in Subsection 1284.2.

1283.2 For the purposes of determining the number of hours of paid family leave to which an employee may be entitled, a workweek shall be calculated as the average weekly hours paid within the preceding six (6) months, excluding overtime, or, if reliable historical data is not available, the number of hours scheduled for an employee's typical tour of duty.

1283.3 An eligible employee shall receive paid family leave for only one (1) qualifying event within a twelve (12) month period.

1283.4 For purposes of Sections 1283 through 1288, the following meanings apply:

- (a) **“Child”** means a person under twenty-one (21) years of age; an individual, regardless of age, who is substantially dependent upon the employee due to physical or mental disability; or a person under twenty-three (23) years of age who is a full-time student at an accredited college or university.
- (b) **“Conditional approval”** means the temporary approval of an application when the employee cannot provide the required documentary proof prior to the qualifying event, including in instances of an emergency.
- (c) **“Eligible employee”** means a District government employee, other than a temporary employee appointed for less than ninety (90) days, an intermittent employee, and any other employee who is not eligible to accrue annual leave.
- (d) **“Family member”** means an individual related to the employee by blood, marriage, domestic partnership, or legal custody (including foster care); a child who lives with the employee and for whom the employee has permanently assumed and discharges parental responsibility; and an individual with whom the employee shares or has shared, within the last year, a mutual residence and with whom the employee maintains a committed relationship.
- (e) **“Serious health condition”** means a physical or mental illness, injury, or impairment that involves inpatient care in a hospital, hospice, or residential health care facility; or continuing treatment, or supervision at home by a health care provider or other competent individual, as defined in Section 2(9) of the District of Columbia Family and Medical Leave Act of 1990 (Act), effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-501(9)).

1284 GOVERNMENT FAMILY LEAVE PROGRAM – ELIGIBILITY

1284.1 To be eligible for the paid family leave program, the employee must meet the following criteria:

- (a) The employee must not be a temporary employee appointed for less than ninety (90) days; or
- (b) The employee must not be an intermittent employee, as defined in Section 1299;

- (c) The employee must not have received (or been paid) paid family leave benefits for another qualifying in the twelve (12) months preceding the start date for the new qualifying event; and
- (d) The qualifying event experienced by the employee must have occurred within twelve (12) months before the start date of the employee's paid family leave.

1284.2 An employee may be eligible for paid leave under this section for any of the following qualifying events:

- (a) The birth of a child of the employee;
- (b) The legal placement of a child with the employee (such as through adoption, guardianship, or foster care);
- (c) The placement of a child with the employee, when the employee permanently assumes and discharges parental responsibility for that child; or
- (d) When a family member suffers from a serious health condition, as defined in Section 1283 of this chapter that requires the employee's care.

1284.3 An eligible employee shall provide proof that a qualifying event has occurred within the last twelve (12) months, or will likely occur in the next twelve (12) weeks, by submitting one (1) of the following:

- (a) For the birth of a child, a certificate of live birth listing the employee as a legal parent or other reliable documentation evidencing the birth of the employee's child (unless waived by the agency);
- (b) For legal placement of a child, a certified copy of the court order granting the employee legal custody of the child;
- (c) For non-legal placements of a child, two (2) official records establishing the employee as a named caregiver to the child (such as school enrollment, insurance records, or medical records); and reliable documentation as to the date when the placement occurred (such as insurance records and certificates of death); or
- (d) For the care of a family member with a serious health condition:
 - (1) Government or other reliable documentation establishing a family relationship (including but not limited to, birth certificate, marriage

license, court order, joint lease, and joint bank account statement);
and

- (2) A completed Certification of Health Care Provider for Family Member's Serious Health Condition, on a form supplied by the personnel authority.

1284.4 A child returning from residing away from the employee while attending an accredited college or university, summer school, or any other routine or temporary relocation, including visits with relatives or friends, shall not constitute placement with the employee under the paid family leave program.

1285 GOVERNMENT FAMILY LEAVE PROGRAM – APPLICATION

1285.1 To apply for paid family leave, an employee shall submit the District of Columbia Family and Medical Leave Act (DCFMLA), Request for Family and Medical Leave and Government Family Leave application and provide any required additional documentation to his or her agency FMLA Coordinator.

1285.2 Application materials shall be submitted to the agency FMLA Coordinator at least thirty (30) days prior to the qualifying event, if possible. Absent good cause, a failure to provide the requisite notice may result in delaying a decision on the requested leave until the required certification is provided.

1285.3 If an agency has reason to doubt the validity of the medical documentation provided by the employee, the agency shall consult with its agency counsel prior to requesting that the employee obtain a second opinion from another health care provider.

1285.4 The application materials shall be reviewed by the FMLA Coordinator for a determination of eligibility. The FMLA components of the application, if applicable, shall be reviewed and processed in accordance with the rules established by the Office of Human Rights.

1285.5 If the employee cannot provide the required documentary proof prior to the qualifying event, the application may be conditionally approved. In such a case, the necessary documentation must be received by the agency FMLA Coordinator no more than four (4) weeks following the qualifying event.

1285.6 Following a review of the application for paid family leave, the FMLA Coordinator shall approve, conditionally approve, or deny the application. An application may only be denied when the employee fails to provide the required proof (requisite documentation), or is otherwise ineligible.

- 1285.7 If the application is approved, the employee shall be credited with a family leave balance equal to the time needed for the qualifying event, up to eight (8) workweeks as specified in Subsections 1283.1 and 1283.2.
- 1285.8 Credited paid family leave may be used in increments for an approved qualifying event, but each increment shall not be less than one (1) day. When used intermittently, the agency may require additional documentation to verify the leave is used for the qualifying event.
- 1285.9 When paid family leave is used intermittently as provided in this chapter, such usage shall be requested in the same manner as sick leave as provided in Subsection 1242.5 of this chapter.
- 1285.10 Employees needing intermittent leave for foreseeable medical treatment must work with their employers to schedule leave so as not to unduly disrupt the employer's operations, subject to the approval of the employee's health care provider.
- 1285.11 Leave credited under this section shall expire on the earlier of:
- (a) The length of the leave period approved in the application; or
 - (b) Twelve (12) months following the date of the qualifying event.

1286 GOVERNMENT FAMILY LEAVE PROGRAM – PROTECTIONS AND LIMITATIONS

- 1286.1 An employee who seeks or exercises his or her right to paid family leave shall enjoy the same employment and benefits protections afforded under DCFMLA (D.C. Official Code §§ 32-501 *et seq.*) and federal FMLA (29 U.S.C. §§ 2601 *et seq.*).
- 1286.2 An employee's use of paid family leave shall count against the sixteen (16) workweeks of family leave under Section 3 of the DCFMLA (D.C. Official Code 32-502) and, against the twelve (12) workweeks under the federal FMLA.
- 1286.3 An employee approved for paid family leave shall:
- (a) Retain his or her employment, seniority, and group health plan coverage while on paid family leave; and
 - (b) Be returned to the same position that he or she held prior to commencing paid family leave, or to a substantially similar position, upon returning to work.
- 1286.4 An employee shall accrue annual and sick leave while on paid family leave.

- 1286.5 Paid family leave shall only be used for the purposes outlined in Sections 1283 and 1284 and only for the qualifying event for which approved.
- 1286.6 An employee may not expand his or her DCFMLA protections beyond sixteen (16) weeks by applying for paid family leave for the same qualifying event in which the DCFMLA was previously approved.
- 1286.7 An employee on paid family leave may not engage in outside employment if that employment would conflict with the employee's typical tour of duty with the District of Columbia government.
- 1286.8 An employee on paid family leave must provide care to the child or family member for whom the leave was approved on each day for which paid family leave is used. An employee shall not receive paid family leave when the qualifying child or family member is entrusted to the care of another for four (4) or more hours during the employee's typical tour of duty.
- 1286.9 A probationary employee who receives paid family leave shall have their probationary period extended by the length of the paid family leave.
- 1286.10 The maximum amount of time a probationary period can be extended, as provided in Subsection 1286.9 of this section, is eight (8) workweeks.

1287 GOVERNMENT FAMILY LEAVE PROGRAM – PREMIUM PAY

- 1287.1 A District government employee who qualifies for and has been approved for paid family leave shall not be entitled to receive premium pay, as provided in Chapter 11 of the regulations, during hours that an employee receives paid family leave.

1288 GOVERNMENT FAMILY LEAVE PROGRAM – MISUSE OF PAID FAMILY LEAVE

- 1288.1 When an agency head (or his or her designee) has determined that an employee has used paid family leave for a purpose other than that specified in supporting documentation submitted by the employee, or as provided in this chapter, the application shall be void and the action considered fraud against the District government, and the employee may be subject to disciplinary action in accordance with Chapter 16.
- 1288.2 Upon determination that fraud has been committed as provided in Subsection 1288.1, the inappropriate usage of paid family leave shall be counted as a debt to the District government as provided in Chapter 29.

Section 1299, DEFINITIONS, is amended to insert the following definitions, and to remove the definition for the term “Unscheduled telecommuting” and replace it with the definition for the term “Unscheduled telework”, as follows:

District of Columbia Family and Medical Leave Act (DCFMLA) – refers to the District of Columbia Family and Medical Leave Act of 1990 (Act), effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code §§ 32-501, *et seq.*)

Situational telework – a temporary arrangement approved, in writing, in advance, in which the employee is authorized to telework for, but not limited to, the completion of a project or report, due to an injury or illness which prevents the employee from physically reporting to his or her official worksite, or due to a home repair emergency.

Substantially similar position – employees in an agency with the same grade, location, tour of duty, and with like duties and responsibilities.

Telework – an arrangement in which an employee regularly, or during a declared emergency, performs officially assigned duties at home or other worksites geographically convenient to the employee’s residence, and which is approved, in advance and in writing, by the employee’s immediate supervisor and agency head.

Uniformed member – for purposes of this chapter, the term uniformed member refers to a sworn employee of the Metropolitan Police Department or an employee who is a firefighter, emergency medical technician, or paramedic with the Fire and Emergency Medical Services Department.

Unscheduled telework – an employee who is on an approved telework agreement may telework without obtaining advance approval when a declared emergency is in effect on a day or during a period during which the employee was not previously scheduled to telework.

**THE DISTRICT OF COLUMBIA
LOTTERY AND CHARITABLE GAMES CONTROL BOARD**

NOTICE OF FINAL RULEMAKING

The Interim Executive Director of the District of Columbia Lottery and Charitable Games Control Board, pursuant to the authority set forth in Section 424a of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 790, Pub. L. 93-198; D.C. Official Code § 1-204.24(a) (2014 Repl.)), as amended by the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (Pub. L. No. 109-356, § 201, 120 Stat. 2019; D.C. Official Code §§ 1-204.24a(c)(6) (2014 Repl.)); Section 4 of the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Official Code §§ 3-1306(a), 3-1322.01, 3-1323, 3-1327, and 3-1332 (2012 Repl.)); District of Columbia Financial Responsibility and Management Assistance Authority Order, issued September 21, 1996; the Office of the Chief Financial Officer Financial Management Control Order No. 96-22, issued November 18, 1996; the Office of the Chief Financial Officer Financial Management Control Orders No. 97-15, issued May 15, 1997, and No. 96-16, issued September 24, 1996; and the Office of the Chief Financial Officer Financial Management Control Order No. 15-11, issued April 14, 2015 (appointing Tracey Cohen Interim Executive Director of the District of Columbia Lottery and Charitable Games Control Board); hereby adopts amendments of Chapters 12 (Bingo, Raffle, Monte Carlo Night Party and Suppliers' Licenses) and 16 (Monte Carlo Night Parties) of Title 30 (Lottery and Charitable Games) of the District of Columbia Municipal Regulations (DCMR).

The purpose of these amendments is to clarify Monte Carlo night party license requirements, and to repeal and replace Section 1603 in order to ensure proper regulation and operation of Monte Carlo night parties that include Texas Hold'em.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on March 18, 2016, at 63 DCR 4093. No comments were received, and no changes have been made from the last proposed rulemaking. These rules were adopted as final on May 5, 2016, and will become effective upon publication of this notice in the *D.C. Register*.

Chapter 12, BINGO, RAFFLE, MONTE CARLO NIGHT PARTY AND SUPPLIERS' LICENSES, of Title 30 DCMR, LOTTERY AND CHARITABLE GAMES, is amended as follows:

Section 1204, BINGO, RAFFLE AND MONTE CARLO NIGHT PARTY LICENSES AND FEES, Subsection 1204.16, is amended to read as follows:

1204.16 The Agency shall issue the following two (2) classes of Monte Carlo Night Party licenses:

- (a) A Class 1 Monte Carlo Night Party license shall allow for the operation of a Monte Carlo Night Party in accordance with the provisions of Chapter

16. A Class 1 Monte Carlo Night Party license shall not include more than (1) Texas Hold'em card game. The application fee for a Class 1 Monte Carlo Night Party license shall be one hundred dollars (\$100); and

- (b) A Class 2 Monte Carlo Night Party or Charitable Texas Hold'em Tournament license shall allow for the operation of a Texas Hold'em Tournament with multiple Texas Hold'em games at a Monte Carlo Night Party in accordance with the provisions of Chapter 16. The application fee for a Class 2 Monte Carlo Night Party license shall be one hundred dollars (\$100). A Class 2 Monte Carlo Night Party license shall be required for a Charitable Texas Hold'em Tournament.

Chapter 16, MONTE CARLO NIGHT PARTIES, is amended as follows:

Section 1603, OPERATION OF MONTE CARLO NIGHT PARTY, is repealed and replaced as follows:

1603 OPERATION OF MONTE CARLO NIGHT PARTY

- 1603.1 Licensed organizations holding a Monte Carlo night party shall conduct only the types of games and use only the equipment authorized by this chapter.
- 1603.2 At the entrance to the premises, a licensed organization shall post rules governing the method of playing Monte Carlo night party games and a list of the prizes to be awarded.
- 1603.3 The licensed organization shall provide the Agency with a certified accounting of the number of attendees of the Monte Carlo night event and the total amount of gross receipts generated for the organization's charitable purpose per attendee.
- (a) This section does not prohibit non-charitable entities from providing a charitable donation to a licensed organization in return for the licensed organization pairing with the non-charitable entity to host or co-sponsor a Monte Carlo night party.
- (b) Nothing in this section is intended nor does it allow Monte Carlo night parties where the licensed organization receives no monetary charitable benefit or merely token charitable benefit from hosting or co-sponsoring of the Monte Carlo night party.
- 1603.4 Each participant purchasing admission to a Monte Carlo night party shall pay by United States currency or coin.
- 1603.5 In accordance with D.C. Official Code § 3-1322(b), participants of a Monte Carlo night party shall use imitation money or chips monogrammed with the logo of the licensed organization or licensed supplier.

- 1603.6 Upon admission each participant shall be given the same amount in value of imitation money or chips that other participants are given.
- 1603.7 In accordance with D.C. Official Code § 3-1322(c), there shall be no direct correlation between the amount of imitation money or chips presented to participants and the participant's donation to the event.
- 1603.8 During the event, imitation money or chips may be sold only by cashiers at authorized sales areas and shall not be sold at individual gaming tables.
- 1603.9 During the event there shall be no exchange of real money for any purpose at the gaming table or on the floor.
- 1603.10 Imitation money or chips shall be used for gambling or redemption purposes only and shall have no other monetary purpose.
- 1603.11 Imitation money or chips shall not be used for the purchase of food, beverages, or non-gambling items.
- 1603.12 At the place of play, bet limitations shall be posted.
- 1603.13 When a Monte Carlo night party is conducted on premises licensed by the Alcohol Beverage Control Board the dispensing of alcohol beverages and the use of property related to dispensing of alcoholic beverages are under the jurisdiction of the ABC Board.
- 1603.14 Persons under eighteen (18) years of age shall not be permitted to wager, or assist in any manner in the gambling activity.
- 1603.15 A wager shall not be placed upon an event or upon a game involving personal skill except that Texas Hold'em may be played as authorized by this chapter.
- 1603.16 A wager shall not be placed on a contest other than a game of chance taking place at the location during the time approved for the event.
- 1603.17 A player shall not be permitted to sell or exchange imitation money or chips for legal currency with another player.
- 1603.18 For purposes of Monte Carlo night parties or Charitable Texas Hold'em Tournaments where Texas Hold'em is played, the following rules shall also apply to the Texas Hold'em games:
- (a) Texas Hold'em shall not be conducted outside the hours listed on the license.

- (b) Texas Hold'em shall be conducted as a tournament where all players pay the established entry fee for the same amount of chips.
- (c) Texas Hold'em shall not be conducted in any manner that assigns a cash redemption value to the chips.
- (d) Texas Hold'em shall be played with a standard fifty-two (52)-card deck without jokers.
- (e) Texas Hold'em shall be played at tables large enough to accommodate a dealer and up to seven (7) players in such a manner as to ensure that the players may examine their cards without disclosing their value to other players.
- (f) All cards shall be dealt by a Monte Carlo night party worker.
- (g) The order of finish for the tournament shall be determined by one of the following methods:
 - (1) If play continues until all but one player is eliminated, the order of finish shall be the order of elimination from last to first. The last remaining player shall be declared the winner.
 - (2) If play stops at a set time as defined in the house rules, the order of finish shall be determined by ranking the value of chips held by each player at the end of play from highest to lowest. The player having the highest value of chips shall be declared the winner.
- (h) Prizes not exceeding five hundred dollars (\$500) per player per day may be awarded based on the method used for determining the order of finish.
- (i) A player shall not bet on more than one hand in any round of play.
- (j) Wild cards are prohibited.
- (k) Hi/Lo games are prohibited. Winners shall be determined by the highest ranking Texas Hold'em combination.
- (l) Re-buys are prohibited.
- (m) Texas Hold'em shall not be played through the use of any electronic device, electromechanical device, or video terminal.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF FINAL RULEMAKING

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c) (2), (3), (5), (7), and (19), 14, and 20 of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c) (2) (3), (5), (7), and (19), 50-313, and 50-319 (2014 Repl. & 2015 Supp.)), and D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Repl. & 2014 Supp.)), hereby adopts amendments to Chapter 4 (Taxicab Payment Service Providers), Chapter 5 (Taxicab Companies and Associations), Chapter 6 (Taxicab Parts and Equipment), Chapter 7 (Enforcement), Chapter 8 (Operating Rules for Public Vehicles for Hire), Chapter 9 (Insurance Requirements for Public Vehicles-for-Hire), Chapter 10 (Public Vehicles for Hire), Chapter 12 (Luxury Class Services – Owners, Operators, and Vehicles), Chapter 13 (Licensing and Operation of Taxi Meter Companies), Chapter 14 (Operation of Black Cars), Chapter 15 (Licensing and Operation of Dome Light Installation Companies), Chapter 16 (Dispatch Services and District of Columbia Taxicab Industry Co-op), Chapter 18 (Wheelchair Accessible Paratransit Taxicab Service), and Chapter 19 (Private Vehicles-for-Hire) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR). The Commission also gives notice of the adoption of a new Chapter 20, entitled “Fines and Civil Penalties” to Title 31 DCMR.

This final rulemaking relocates references to civil fines and penalties to a newly-created Chapter 20, which also lowers many fines, and creates four uniform schedules of civil fines for violations of the provisions of Title 31. Violations that do not have corresponding, enumerated fines in these schedules will be subject to a fine of twenty five dollars (\$25) for an operator and one hundred dollars (\$100) for an entity or owner. All scheduled fines will be Schedule 1, 2, 3, or 4 violations. This rulemaking is necessary to streamline and categorize fines into a single, easily-referenced chapter of Title 31.

The proposed rulemaking was adopted by the Commission on August 12, 2015, and published in the *D.C. Register* on October 16, 2015 at 62 DCR 013526. The Commission received comments from a digital dispatch service (DDS) during the comment period, which expired on November 15, 2015, suggesting that the fines associated with both private sedan businesses and DDSs under the final rules to conform Title 31 to the requirements of the Vehicle for Hire Innovation Amendment Act of 2015, effective March 10, 2015 (D.C. Law 6-97), approved by the Commission as final on November 18, 2015 (“Title 31 conforming amendments”), should be lower, and more in line with the proposed fines for the legacy taxicab industry. The Commission, however, did not make changes in response to these comments because it believes that higher fines for private sedan businesses and DDSs are necessary in order to account for the greater risk profile of these industries relative to the taxicab industry.

The Commission also received comments from a taxicab operators’ representative suggesting that all fines for taxicab operators be capped at \$250. The Commission has already proposed capping operator fines at \$500 as part of this rulemaking, which is half of the maximum operator fines of \$1,000 under the existing regulations; it believes a further reduction is not appropriate.

The Commission corrected three drafting errors in this final rulemaking, relative to the proposed rulemaking, by clarifying that: (1) the fine amounts for the failure by a DDS to transmit one percent (1%) of its gross receipts to the Chief Financial Officer each quarter or for the failure of a DDS to provide the accompanying certification of its payment; for the failure by a private sedan business to maintain adequate insurance coverage; and for the failure by a payment service provider to maintain integration are per day, consistent with the Title 31 conforming amendments previously approved as final by the Commission; (2) the fine amounts may be tripled for third and also for any subsequent violations of the provisions listed in Schedules 1, 2, 3, or 4; and (3) the fines associated with dome light installation businesses would be relocated to Chapter 20 along all other fines in Title 31, although no changes to them have been proposed or made. Finally, the provisions from Section 702 of Chapter 7 have been removed from this rulemaking as needlessly duplicative of the provisions approved in the Title 31 conforming amendments. Changes were also made to correct grammar, clarify initial intent, clarify proposed procedures, or lessen the burdens established by the proposed rules. No substantial changes were made.

The Commission voted to adopt this rulemaking as final on December 9, 2015, and it will become effective upon publication in the *D.C. Register*.

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

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

Subsection 408.16, paragraph (b), is amended to read as follows:

- 408.16 (b) Each PSP that fails to integrate or maintain integration as required by this subsection shall be subject to a civil fine in accordance with Chapter 20 in addition to any other penalty available under Chapter 7.

Section 411, PENALTIES, is amended to read as follows:

- 411.1 A PSP or DDS that violates this chapter or an applicable provision of another chapter of this title is subject to:
- (a) Suspension, revocation, or non-renewal of the Office's approval of its MTS (if a PSP) or modification, suspension, revocation, or non-renewal of its registration under Chapter 16 (if a DDS);
 - (b) Civil fines as set forth in Chapter 20; or
 - (c) Any combination of the sanctions listed in (a) through (b) of this subsection.

Chapter 5, TAXICAB COMPANIES AND ASSOCIATIONS, is amended as follows:

Section 509, PROMPT PAYMENT TO TAXICAB OPERATORS, is amended as follows:

Subsection 509.2 is amended to read as follows:

509.2 A taxicab company shall be subject to civil fines for violations of this section as set forth in Chapter 20.

Section 518, PENALTY, is amended as follows:

Subsection 518.1 is amended to read as follows:

- 518.1 A violation of this chapter shall be subject to:
- (a) The civil fines as set forth in Chapter 20 of this title;
 - (b) Impoundment of the vehicle pursuant to the provisions of the Impoundment Act as defined in Chapter 99;
 - (c) License suspension, revocation, or non-renewal; or
 - (d) Any combination of the sanctions, fines, or enforcement action under this title.

Chapter 6, TAXICAB PARTS AND EQUIPMENT, is amended as follows:

Section 611, PENALTIES, is amended to read as follows:

611 PENALTIES

- 611.1 Each violation of this chapter by a taxicab company, independent owner, or taxicab operator shall subject the violator to:
- (a) The civil fines and penalties set forth in Chapter 20;
 - (b) Impoundment of a vehicle operating in violation of this chapter;
 - (c) Confiscation of an MTS unit or unapproved equipment used for taxi metering in violation of this chapter;
 - (d) Suspension, revocation, or non-renewal of such person’s license or operating authority; or
 - (e) Any combination of the sanctions listed in (a)-(d) of this subsection.

611.2 A PSP that violates a provision of this chapter shall be subject to the penalties set forth in Chapter 20.

Chapter 7, ENFORCEMENT, is amended as follows:

Section 702, COMPLIANCE ORDERS, is amended as follows:

Subsection 702.5 is amended to read as follows:

702.5 The civil penalties for failure to comply with a compliance order are set forth in Chapter 20.

Section 714, SERVICE AND FILING, is amended as follows:

Subsection 714.3 is amended to read as follows:

714.3 An individual licensed by the Commission who defaces, alters, or removes a document posted without the approval of the Office shall be subject to a fine as specified in Chapter 20.

Subsection 714.4, is amended to read as follows:

714.4 An entity licensed by the Commission that allows or induces an individual to deface, alter, or remove a document posted pursuant to § 712.1(b), without the approval of the Office, shall be subject to a civil fine as set forth in Chapter 20.

Chapter 8, OPERATING RULES FOR OF PUBLIC VEHICLES-FOR-HIRE, is amended as follows:

Section 800, APPLICATION AND SCOPE, is amended as follows:

Subsection 800.7 is amended to read as follows:

800.7 An owner or operator that violates this subsection shall be subject to a civil fine as set forth in Chapter 20.

Section 802, TAXICAB OPERATOR SURCHARGE ACCOUNTS, is amended as follows:

Subsection 802.12, is amended to read as follows:

802.12 An operator who fails to open an account as required by § 802.1, fails to maintain the minimum account balance as required by § 802.4, willfully fails to pay a passenger surcharge owed to the District through an account under Section 802, or violates any other provision of this section shall be subject to fines as set forth in Chapter 20.

Section 808, GROUP RIDING AND SHARED RIDING, is amended to read as follows:

808 GROUP RIDING AND SHARED RIDING

- 808.1 Group riding for pre-formed groups, as defined in § 899, is permitted at all times. No operator shall refuse to transport a pre-formed group at any time. Fares for group riding shall be calculated in accordance with § 801.8.
- 808.2 Shared riding, as defined in § 9901.1 is authorized under this chapter only at a shared riding location designated by the Chief of the Office in an administrative issuance issued pursuant to Chapter 7. An operator shall not pick up a passenger at a designated shared riding location except at the designated taxi stand nor discharge a passenger except at the designated discharge stand. Violations of this subsection are subject to a civil fine as set forth in Chapter 20.
- 808.3 Where shared riding is authorized in this chapter for Nationals Park, an operator shall not pick up a passenger except at the designated taxi stand nor discharge a passenger except at the designated discharge stand. Nationals Park shall conspicuously post the designated taxi stand and discharge stands. Violations of this subsection are subject to a civil fine as set forth in Chapter 20.

Section 816, STANDARDS OF CONDUCT; UNLAWFUL ACTIVITIES PROHIBITED, is amended as follows:

Subsection 816.15, paragraph (a), is amended to read as follows:

- (a) The fines set forth in Chapter 20;

Section 817, THREATENING, HARASSING, OR ABUSIVE CONDUCT PROHIBITED, is amended as follows:

Subsection 817.6, paragraph (a), is amended to read as follows:

- (a) The civil fine as set forth in Chapter 20;

Section 821, TAXICAB STANDS, is amended as follows:

Subsection 821.5 is amended to read as follows:

- 821.5 No public vehicle for hire shall loiter in front of a hotel, theater, public building or place of public gathering, or in the vicinity of a taxicab stand which is occupied to full capacity. Specifically, there shall be no stopping, except to either take on or discharge a passenger, or unnecessarily slow driving. A public vehicle for hire operator shall be subject to a fine as provided in Chapter 20.

Subsection 821.6 is amended to read as follows:

821.6 No keeper or proprietor of a licensed hotel in the District of Columbia, or a person employed by or acting on his or her behalf, shall exclude a District-licensed taxicab operator from picking up passengers at a taxicab stand or other location where taxicabs are regularly allowed to pick up passengers on the hotel premises.

Section 822, OPERATION OF PUBLIC VEHICLES FOR HIRE, is amended as follows:

Subsection 822.2 is amended to read as follows:

822.2 Face cards.

- (a) No person shall counterfeit, make, duplicate, obtain, purchase, possess, display, or present a counterfeit, false, or altered official government issued operator identification (Face) card; a counterfeit, false, or altered official government issued public vehicle for hire identification (DCTC) card; or a temporary license issued pursuant to § 822.1. Penalties for a violation of this provision may include license suspension, revocation, or non-renewal, a fine as provided in Chapter 20, or both.
- (b) An operator may make, and keep secured, a personal copy of his or her official government issued operator identification (Face) card or official government issued public vehicle for hire identification (DCTC) card in his or her personal files. This personal copy may not be carried in the vehicle or presented or displayed as proof of licensure.

Subsection 822.9 is amended to read as follows:

822.9 Duty to update DCTC with current information.

- (a) Every person holding an identification card shall maintain at the Office of Taxicabs their correct name, residence address and telephone number, and if affiliated with a company or association, the association, company, organization or owner for which they drive. In the event of any change in this information, the licensee shall inform the Office of the change within five (5) business days. The licensee may elect to provide this information by certified mail with return receipt requested or by hand delivery to the Office.
- (b) If the licensee delivers the information by hand delivery, the Office shall provide proof of filing to the licensee.

Section 823, MANIFEST RECORD, is amended as follows:

Subsection 823.1 is amended to read as follows:

823.1

- (a) An operator of a public vehicle-for-hire shall maintain a daily log record (manifest) of all trips made by the vehicle while under his or her control. A manifest may be in the format as provided for in Appendix 8-3 if in paper form, or electronic as part of a digital payment solution for taxicab dispatch and payment, or a digital payment solution for sedans.
- (b) An electronic manifest shall contain, at a minimum, all the information required by § 823.2, all information required for each receipt by § 803, and all information required by Chapter 16.
- (c) An electronic manifest for a taxicab must be capable of providing a printed record immediately upon demand by a District enforcement official.

Subsection 823.2 is amended to read as follows:

823.2

The manifest should contain, but not be limited to, the following:

- (a) The date, operator's identification card number, taxicab company, vehicle number, and license plate number;
- (b) The interstate mileage at the beginning and ending of an interstate trip;
- (c) The time and place of origin and time and place of destination of each trip;
- (d) The number of passengers and fare charged for each trip; and
- (e) The time and interstate mileage at the end of the workday.

Subsection 823.5 is amended to read as follows:

823.5

The daily manifest shall not be altered in any manner. Evidence of alternation may include, but is not limited to, changing or striking out any of the information required by § 823.2, attempting to manipulate the manifest provided by the Taxi Smart Meter System or completing the manifest with false information after it has been requested by a Hack Inspector, law enforcement personnel, or other Commission personnel. An altered manifest represents a failure to properly complete and maintain a manifest and any corresponding violation represented by the actual alteration, such as a failure to charge proper fare or a failure to haul when on duty. However, when applicable a correction of a written, rather than an electronic, manifest by an operator is permitted when a mistake or error is struck out, initialed, and dated by the operator.

Section 824, SANCTIONS AND PENALTIES, is amended as follows:

Subsection 824.1 is amended to read as follows:

824.1 A person that violates a Commission rule may, upon determination of liability, be subject to civil fines pursuant to Chapter 20 of this title or other sanctions pursuant to the Establishment Act as defined in Chapter 99 of this title and other applicable District of Columbia laws and regulations.

Subsection 824.5, paragraph (a), is amended to read as follows:

(a) The civil fines as set forth in Chapter 20 of this title;

Section 825, TABLE OF CIVIL FINES AND PENALTIES, is DELETED and RESERVED.**Section 828, RECIPROCITY WITH SURROUNDING JURISDICTIONS, is amended as follows:****Subsection 828.8 is amended to read as follows:**

828.8 An individual who has been issued a public vehicle-for-hire license by a jurisdiction within the Washington Metropolitan Area other than the District ("non-District operator"), or any unlicensed individual, who violates a provision of this section is subject to fine and penalty for unlicensed operator (non-resident) and unlicensed vehicle (non-resident) and is subject to the fine and penalty set forth in Chapter 20, impoundment of the vehicle or, upon conviction, imprisonment for not more than ninety (90) days pursuant to D.C. Official Code § 47-2846. A non-District operator whose privilege to operate in the District within the limited authority provided by this section has been suspended or revoked under § 710 shall be considered an unlicensed operator who is operating an unlicensed vehicle.

Chapter 9, INSURANCE REQUIREMENTS FOR PUBLIC VEHICLES-FOR-HIRE, is amended as follows:**Section 900, APPLICATION AND SCOPE, is amended as follows:****Subsection 900.11 is amended to read as follows:**

900.11 Failure of a taxicab operator or operator of a passenger vehicle for hire to have current insurance is an offense subject to a civil fine as set forth in Chapter 20 and impoundment of the taxicab vehicle pursuant to the Taxicab and Passenger Vehicle for Hire Impoundment Act of 1992, effective March 16, 1993 (D.C. Law 9-199; D.C. Official Code § 50 -331 (2014 Repl. & 2015 Supp.)).

Subsection 900.12 is amended to read as follows:

900.12 Each operator of a taxicab or a passenger vehicle for hire shall carry an insurance identification card or insurance policy in his or her name, as proof of current insurance, in each vehicle he or she operates that is licensed under the provisions of D.C. Official Code §§ 47-2829 (d) and (h) (2015 Repl.) at all times. A failure to have current proof of insurance in his or her possession is a violation of this section and is subject to the penalties and fines provided in § 907 of this chapter and Chapter 20.

Section 907, PENALTY, is amended as follows:

Subsection 907.1, paragraph (a), is amended to read as follows:

- (a) The fines as set forth in Chapter 20;

Chapter 10, PUBLIC VEHICLES FOR HIRE, is amended as follows:

Subsection 1000.8 is amended to read as follows:

1000.8 Any person who violates a provision of this chapter shall, upon conviction, be subject to the fine or penalty as provided in Section 1017 of this chapter and Chapter 20.

Section 1017, PENALTY, is amended as follows:

Subsection 1017.1 is amended to read as follows:

1017.1 A violation of this chapter shall be subject to:

- (a) The fine or penalty set forth in Chapter 20 of this title;
- (b) Impoundment of the vehicle pursuant to the provisions of the Taxicab and Passenger Vehicle for Hire Impoundment Act of 1992, effective March 16, 1993 (D.C. Law 9-199; D.C. Official Code § 50 -331 (2014 Repl. & 2015 Supp.));
- (b) License suspension, revocation, or non-renewal; or
- (c) Any combination of the sanctions listed in this subsection.

Chapter 12, LUXURY SERVICES – OWNERS, OPERATORS, AND VEHICLES, is amended as follows:

Section 1201, GENERAL REQUIREMENTS, is amended as follows:

Subsection 1201.6 is amended to read as follows:

1201.6 The penalty for a violation of § 1201.4(i) by an operator providing LCS shall be a civil fine as set forth in Chapter 20.

Section 1202, LICENSING OF VEHICLE OWNERS, is amended as follows:

Subsection 1202.9 is amended to read as follows:

1202.9 Any LCS organization that fails to timely file information as required in § 1202.2 shall be subject to a civil fine as set forth in Chapter 20.

Subsection 1202.10 is amended to read as follows:

1202.10 Each vehicle owner that fails to timely renew its license under this section shall be subject to a civil fine as set forth in Chapter 20.

Section 1218, PENALTIES, is amended as follows:

Subsection 1218.1, paragraph (a), is amended to read as follows:

1218.1 Each violation of this chapter by an operator shall subject the violator to:
(a) Fines as provided by Chapter 20 of this title;

Subsection 1218.2, paragraph (a), is amended to read as follows:

1218.2 Each violation of this chapter by an LCS organization shall subject the violator to:
(a) Fines as provided by Chapter 20 of this title;

Chapter 13, LICENSING AND OPERATIONS OF TAXI METER COMPANIES, is amended as follows:

Section 1331, TAXIMETER BUSINESS -- PENALTIES FOR VIOLATIONS, is DELETED and RESERVED.

Chapter 14, OPERATION OF BLACK CARS, is amended as follows:

Section 1401, GENERAL PROVISIONS, is amended as follows:

Subsection 1401.2 is amended to read as follows:

1401.2 No person shall participate in providing black car service in the District without first having procured all applicable licenses and met all requirements of this title and other applicable laws. A violation of this subsection shall subject the violator to civil fines as provided under Chapter 20 of this title and any other penalty authorized by the Act or an applicable provision of this title.

Section 1402, OPERATING REQUIREMENTS, is amended is follows:

Subsection 1402.3 is amended to read as follows:

1402.3 Each operator and owner shall cooperate with the Office and District enforcement officials, including complying with all compliance orders issued orally and in writing. Failure to timely and fully comply with a compliance order shall subject the operator or owner to the civil penalties provided in Chapter 20.

Section 1404, PENALTIES, is amended as follows:

Subsection 1404.1, paragraph (a), is amended to read as follows:

1404.1 Each violation of this chapter by a black car owner or operator shall subject the owner or operator to:

- (a) Civil fines as provided under Chapter 20 of this title;

Subsection 1404.2 is DELETED.

Chapter 15, LICENSING AND OPERATIONS OF DOME LIGHT INSTALLATION COMPANIES, is amended as follows:

Section 1531, DOME LIGHT INSTALLATION BUSINESS -- PENALTIES FOR VIOLATIONS, is DELETED and RESERVED.

Chapter 16, DISPATCH SERVICES AND DISTRICT OF COLUMBIA TAXICAB INDUSTRY CO-OP, is amended as follows:

Section 1608, PENALTIES, is amended as follows:

Subsection 1608.1, paragraph (a), is amended to read as follows:

1608.1 A dispatch service that violates this chapter shall be subject to:

- (a) Civil fines as provided by Chapter 20 of this title;

Subsection 1608.2 is DELETED.

Chapter 18, WHEELCHAIR ACCESSIBLE PARATRANSIT TAXICAB SERVICE, is amended as follows:

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

Subsection 1806.18 is amended to read as follows:

- 1806.18 Where a vehicle dispatched to pick up a CAPS-DC passenger is unable to render service for any reason, including the passenger's inability to pay or equipment (vehicle or MTS unit) malfunction, the following provisions shall apply:
- (a) The operator shall immediately notify the passenger and the company of the circumstances;
 - (b) If the passenger is unable to pay, the operator shall provide service and the company shall promptly notify the Office and make appropriate arrangements for payment; and
 - (c) If there has been an equipment malfunction, the company shall immediately dispatch another vehicle to that location. The passenger may choose to wait inside the first vehicle until the second vehicle arrives, at no charge to the passenger. The operator shall comply with the requirements in Chapter 6 concerning equipment malfunctions.

Section 1808, PENALTIES, is amended to read as follows:

- 1808.1 Each violation of this chapter by a company or operator shall subject the company or operator to a civil fine and/or other penalty as provided under Chapter 20, provided however, that any pattern of noncompliance with the provisions of this chapter by a company shall also subject the company to the suspension, revocation, and/or non-renewal of its CAPS-DC approval.
- 1808.2 The enforcement of any provision of this chapter shall be governed by the applicable procedures of Chapters 7 and 20.

Chapter 19, PRIVATE VEHICLES-FOR-HIRE, is amended as follows:**Section 1907, PENALTIES, is created and reads as follows:****1907 PENALTIES**

- 1907.1 Each violation of this chapter by a private sedan operator shall subject the operator to:
- (a) A civil fine established by Chapter 20 of this title;
 - (b) Impoundment pursuant to the Impoundment Act, where a vehicle is operated without a document required by § 1904.1(e);
 - (c) Enforcement action other than a civil fine, as provided in Chapter 7; or

(d) A combination of the sanctions enumerated in parts (a) through (c).

1907.2 Each violation of this chapter by a private sedan business shall subject the business to:

(a) A civil fine established by Chapter 20 of this title;

(b) Enforcement action other than a civil fine, as provided in Chapter 7; or

(c) A combination of the sanctions enumerated in parts (a) and (b).

1907.3 The civil fines for violations of this chapter by a private sedan business or private sedan operator are set forth in Chapter 20 of this title.

1907.4 An operator charged with a violation of § 1906.7 for false dispatch may be adjudicated liable for the lesser-included violation of solicitation or acceptance of a street hail, in the discretion of the trier of fact based on the evidence presented, but shall not be held liable for both violations.

1907.5 In addition to any other penalty or action authorized by a provision of this title, the Office may report violations to another government agency for appropriate action which may include the denial, revocation or suspension of any license that may be issued by the other agency.

Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended by adding a new Chapter 20, FINES AND CIVIL PENALTIES, to read as follows:

2000 FINES AND CIVIL PENALTIES

2000.1 The schedules of fines established in this section shall apply to all violations of Title 31. For violations of any provision of Title 31 for which a civil fine is not specified, the fine shall be \$25 for operators and \$100 for entities.

2000.2 All fines enumerated in § 2000.8 shall be doubled for the second violation, and tripled for the third and any subsequent violation within any twenty four (24) month period. All fines in § 2000.8 are maximum amounts to be assessed based upon the circumstances.

2000.3 A District enforcement official shall have discretion to issue a warning in lieu of a fine for any first violation in Schedule 4.

2000.4 The Office shall have discretion to offer an operator the operator’s choice of a notice of proposed suspension of the operator’s license in lieu of a scheduled fine for any infraction enumerated in Schedule 4, as follows:

- (a) Where the fine exceeds two hundred fifty dollars (\$250): a proposed suspension of the operator’s license for seven (7) days; and
- (b) Where the fine is two hundred fifty dollars (\$250) or less: a proposed suspension of the operator’s license for two (2) days.

2000.5 The Office may through an administrative issuance establish procedures regarding offers of proposed suspensions under § 2000.4, including, but not limited to, the time within which an operator must respond to an offer of a proposed suspension in lieu of a fine.

2000.6 An operator shall not waive any appeal rights under this title or under the APA by accepting an offer of a proposed suspension in lieu of a fine under § 2000.4.

2000.7 Manifest violations under § 823 including: failure to have in an approved form; failure to have possession of a manifest; failure to properly complete and maintain a manifest; and failure to provide a manifest to District enforcement official, are subject to a letter of reprimand for the first infraction in a twenty-four (24)-month period.

2000.8 The schedules of fines for civil infractions under Title 31 are established as follows:

Schedule 1 Fines For Entities Maximum Fines Based On Circumstances	
<p style="text-align: center;">Digital Dispatch Services</p> <ul style="list-style-type: none"> • Failure to transmit one percent (1%) of gross receipts to OCFO (§ 1604.7) • Failure to provide required certification (§ 1605.4(e)) 	<p>\$25,000 per day</p>
<p style="text-align: center;">Taximeter Businesses</p> <ul style="list-style-type: none"> • Fraud by taximeter business (§ 1313) • Bribery by taximeter business (§ 1317.1) • Acceptance of bribe by taximeter business (§ 1317.3) 	<p>\$25,000</p>
<p style="text-align: center;">Dome Light Installation Businesses</p> <ul style="list-style-type: none"> • Fraud (§ 1513) • Unlawful Activities (§ 1514) • Bribery of Commission (§ 1517.1) • Acceptance of bribe (§ 1517.3) 	<p>\$25,000 and business license revocation</p>
<p style="text-align: center;">Dome Light Installation Businesses</p> <ul style="list-style-type: none"> • Threats, harassment, and abuse (§ 1518) 	<p>\$10,000 and business license revocation</p>

<p style="text-align: center;">Dome Light Installation Businesses</p> <ul style="list-style-type: none"> • Failure to report (§ 1517.2) • Failure to notify Commission (§ 1517.4) 	\$10,000
<p style="text-align: center;">Dome Light Installation Businesses</p> <ul style="list-style-type: none"> • Failure to notify Commission (§ 1507.1) • Unauthorized work (§ 1525) 	\$5,000
<p style="text-align: center;">Private Sedan Businesses</p> <ul style="list-style-type: none"> • Failure to maintain adequate insurance coverage (§ 1905) 	\$25,000 per day
<p style="text-align: center;">Taximeter Businesses</p> <ul style="list-style-type: none"> • Failure to report to Commission acceptance of unauthorized gratuity or bribe (§ 1317.2) 	\$10,000
<p style="text-align: center;">Taximeter Businesses</p> <ul style="list-style-type: none"> • Allowing the registration of an operator where the private sedan business knew or should have known the operator was ineligible for registration (§ 1903.16) • Failure to conduct background check (§ 1903.16) 	\$7,500
<p style="text-align: center;">Taximeter Businesses</p> <ul style="list-style-type: none"> • Failure by taximeter business to notify Commission of change in ownership (§ 1307.1) 	\$5,000
<p style="text-align: center;">Private Sedan Businesses</p> <p>Failure of a private sedan business to:</p> <ul style="list-style-type: none"> • Maintain a required zero tolerance policy (§§ 1903.9, 1903.11) • Investigate an alleged violation of these rules by a passenger (§ 1903.10) • Suspend an operator when required to do so under applicable law or regulation (§ 1903.10) • Maintain adequate business records (§ 1903.15) • Maintain a current and accurate registration of operators and vehicles associated with the business (§ 1903.15) • Prevent a private sedan operator from logging into the app of the private sedan business’s associate or affiliated digital dispatch service while the operator is suspended or after s/he has been terminated (§ 1906.4) • Notify the Office upon suspension or termination of an operator (§ 1903.20) • Providing service while under the influence of intoxicants (§ 1906.5) • Maintain 24/7/365 communication for enforcement and compliance purposes (§ 1903.21) • Conduct an appropriate motor vehicle safety inspection or failure to verify that such an inspection has been completed (§ 1903.4) 	\$3,000

Schedule 2 Fines For Entities And Owners Maximum Fines Based On Circumstances	
Fraudulent Actions Company allowing or inducing an individual to deface, alter, or remove a document posted pursuant to (§ 714.3)	\$2,500
Payment Service Providers (Chapter 4) Failure to do any of the following: <ul style="list-style-type: none"> • Submit electronic trip data to the TCIS every twenty-four (24) hours; • Verify operator credentials through a required login process; • Submit updated vehicle and operator inventories to the TCIS every twenty-four (24) hours; • Pay each taxicab company or independent owner with which it is associated the portion of such PSP's revenue to which the taxicab company or independent owner is entitled within twenty-four (24) hours or one (1) business day of when such revenue is received by the PSP; • Ensure that the passenger surcharge is collected and paid to the District for each trip; • Maintain integration 	\$1,000 Per occurrence; Per day for failure to maintain integration
Taximeter Business Violations <ul style="list-style-type: none"> • Unauthorized work (§ 1322) 	\$5,000
Taximeter Business Violations <ul style="list-style-type: none"> • Failure to notify Commission of conviction or license suspension/revocation (§§ 1315, 1316) • Failure to notify Commission of occurrences specified in §§ 1322, 1324 • Defective certification/inspection/repair work (§§ 1322, 1324) • Inspection without certification or inspection (§ 1324) 	\$1,000
Digital Dispatch Services <ul style="list-style-type: none"> • Failure to ensure private sedan operator who is suspended or terminated is unable to log into app (§ 1604.8) • Failure to provide required certification (§ 1605.4) 	\$2,500 per day
Dome Light Installation Businesses <ul style="list-style-type: none"> • Failure to notify (§§ 1515, 1516, 1522) • Installation without inspection (§ 1524) • Defective certification/inspection (§ 1526) • Requiring repair work (§ 1527) 	\$1,000
Any violation of Chapter 16 not specifically enumerated	\$1,000
Dome Light Installation Businesses <ul style="list-style-type: none"> • Change in fee schedule without notification (§ 1509) • Installation, adjustment, correction or repair of dome light outside 	\$500

of premises of licensed dome light installation business (§ 1510.3) <ul style="list-style-type: none"> • Failure to cooperate with Commission (§ 1519) • Work by Non-Certified Technician (§ 1520) • Sale of unapproved dome light for installation on a taxicab licensed by DCTC (§ 1529) 	
<p style="text-align: center;">Dome Light Installation Businesses</p> <ul style="list-style-type: none"> • Failure to pay biannual license fee 	\$500 and suspension after 30 days overdue
False Dispatch (§ 1404.2)	\$500
Unauthorized or unlicensed provision of L-class service (Chapter 12)	\$500
Violations not otherwise specified by LCS Organizations (Chapter 12)	\$500

Schedule 3 Fines For Entities, Owners, and Operators Maximum Fines Based On Circumstances	
<p style="text-align: center;">Fraudulent actions</p> <ul style="list-style-type: none"> • Falsifying or tampering with manifest (§ 823) • Displaying, possessing, or presenting a fraudulent copy or altered government issued operator identification (Face) card or vehicle inspection (DCTC) card (§ 814.7) • Tampering with meter or meter seals (§ 1323) • Knowingly operating with non-functioning meter or operating without a meter • Improperly sealed meter (§ 1321) 	\$500
<p style="text-align: center;">License, Registration, and Insurance</p> <ul style="list-style-type: none"> • Unlicensed District resident or non-resident operator (§ 828) • Operating without a valid Face card or permitting operation without possession of a valid Face card (§ 814) • Logging into a private vehicle for hire app if known that the app is not lawfully in operation (§ 1906.4) • Operating without insurance (§ 1905) • Fail to timely renew license (LCS vehicle owner) (§ 1202.9) • Providing black car service without license (§1401.2) 	\$500
<p>Operating without a special event vehicle for hire permit (§ 1016)</p>	\$500
<p style="text-align: center;">Taximeter Business (Chapter 13)</p> <ul style="list-style-type: none"> • Installation, adjustment, correction, calibration, or repair of taximeter outside of premises of licensed taximeter business • Change in fee schedule without notification • Failure to pay biannual license fee • Unlicensed business activity • Failure to cooperate with Commission • Work by non-certified technician 	\$500
<p>Failure to comply with compliance order (§ 702)</p>	\$500
<p>Violations of Chapter 18 by entities or owners (wheelchair accessible paratransit taxicab service)</p>	\$500
<p>Failure to timely renew vehicle license (§ 501)</p>	\$500
<p>Failure to report an accident to insurance company within a timely manner or to the Office of Taxicabs within 3 business days (§ 906)</p>	\$500

<ul style="list-style-type: none"> • Use, threaten, or attempt physical force (§§ 817.1 and 1906.2) • Threatening, harassing, or engaging in abusive conduct toward a District enforcement official (§ 817) • to haul/discrimination (§§ 818, 819.4) • Private vehicle-for-hire operator using taxicab stand (§ 1906.6) • Accepting a street hail (§ 1906.7) 	\$500
Operating with off size wheels or tires (Chapter 6)	\$500
Operating without meter or with nonfunctional meter (§ 602)	\$500
Transport DC violations by companies not otherwise specified (§ 1808.2)	\$500
Failure to decommission public vehicle-for-hire when operating under exclusive time contract (§ 800)	\$500
Digital Dispatch Service Violations not specified by Chapter 16 (§ 1607)	\$500
<ul style="list-style-type: none"> • Unlawful discrimination by black car operator (§ 1404) • Conduct preventing surcharge from being collected (§ 1404) 	\$500
Exclusion by a keeper or proprietor of a licensed hotel of District-license taxicab operator from picking a passenger at a taxicab stand or other location where taxicabs are regularly allowed; exclusion of DCTC licensed taxicab by proprietor, owner, or agent (§ 821)	\$300
<p style="text-align: center;">Dome Light Installation Businesses</p> <ul style="list-style-type: none"> • Unlicensed business activity (§ 1501) • Failure to comply with signage requirements (§ 1512) • Overcharge (§ 1528) 	\$250
<p style="text-align: center;">Black Car Violations (§ 1402)</p> <ul style="list-style-type: none"> • Failure to cooperate with Commission • Failure to comply with documentation requirements • Unlawful gratuity 	\$100

Schedule 4 Fines for Owners and Operators Maximum Fines Based On Circumstances	
Violations of Chapter 18 by operators (wheelchair accessible paratransit taxicab service)	\$250
Smoking while transporting passengers (§ 807.1)	\$250
Failure to render service to a Transport DC passenger (§ 1806.18)	\$250
Failure by a private sedan operator to: <ul style="list-style-type: none"> • Display trade address while providing service (§ 610.1) • Maintain proof of insurance (§ 1904.1) • Notify the Office within 3 business days where there has been an accident accompanied by the loss of human life or by serious personal injury (§ 1904.1) • Charge an unlawful fare or require an unlawful gratuity (§ 1604.4) 	\$250
Violations of Chapter 6 (Taxicab Parts and Equipment)	\$250
Taximeter business violations (Chapter 13) <ul style="list-style-type: none"> • Failure to comply with signage requirements • Overcharge • Failure to keep appropriate records 	\$250 for first two violations; \$100 for recordkeeping violations
Defective speedometer/odometer or operating without a meter (§§ 601.7 & 608)	\$250
Operating with an expired inspection sticker (Chapter 6)	\$150
Cruising Lights (Chapter 8) <ul style="list-style-type: none"> • Failure to have • Broken • Failure to use properly 	\$150 for failure to have \$50 for failure to use properly or broken
Improperly operating heating or A/C system (§ 601)	\$125
Transport D.C. (CAPS-DC)	\$100
Any violation of Chapter 18	\$100
Service Animal violations (§ 801.10)	\$100

Failure to: <ul style="list-style-type: none"> • Display current inspection sticker or operate with valid sticker (Chapter 6) • Display face card (§ 814) • Report and deliver property left in vehicle to the Office of Taxicabs (§ 602) • Operate safe vehicle (§ 608) • Pick up or drop off at designated taxi or discharge stand (shared riding) (§§ 808.2 and 803.3) • Maintain correct/current information (§ 822.1) • Report accident to insurance carrier within specified time (§ 906) • Provide proof of insurance (§ 900.12) 	\$100
Improper Use of “On Call” or “Off Duty” Signs (§ 820)	\$100
Asking for destination (§ 819.9)	\$100
<ul style="list-style-type: none"> • Failure to report for inspection (Chapter 8) • Failure to replace lost/mutilated sticker • Failure to display current sticker 	\$75
Failure to Obey Compliance Order (§ 702)	\$50
Illegal Shared Ride (§ 808)	\$50
Loitering/Limousine parked on hack stand (§ 821)	\$50

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 the intent to repeal Chapter 23 (Certification Standards for Substance Abuse Treatment Facilities and Programs) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The Department established a new Chapter 63, “Certification Standards for Substance Use Disorder Treatment and Recovery Providers” of Subtitle A (Mental Health) of Title 22 (Health) of the DCMR, effective September 4, 2015. The purpose of the new rule was to: 1) update the substance use disorder treatment and recovery service requirements to reflect improvements in the American Society of Addiction Medicine (“ASAM”) practice guidelines, including the addition of clinical care coordination services and the requirement that treatment services be performed by qualified practitioners; 2) establish new levels of care that improve person-centered, individualized treatment; 3) align the certification requirements with other certified programs within the authority of the Department of Behavioral Health; and 4) incorporate the requirements of the Adult Substance Abuse Rehabilitation Services (“ASARS”) State Plan Amendment (“SPA”), which allows Medicaid reimbursement for services falling within the ASARS requirements. Substance use disorder providers that were certified pursuant to Chapter 23 of Title 29 (Public Welfare), and other eligible providers, are required to become certified under the new Chapter 63 in order to continue to provide substance use disorder services. Providers certified pursuant to Chapter 23 were notified that Chapter 23 would be repealed effective May 31, 2016, and have therefore had a period of nine (9) months in order to ensure the new certifications standards were met if they wished to continue to provide services. Until this rulemaking is effective, to the extent that there is any conflict between the provisions of Chapter 23, Title 29 DCMR and Chapter 63, Title 22-A DCMR, the latter will govern.

The Director also gives notice of intent to take final rulemaking action in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*. The repeal of Chapter 23 will be effective on that date.

Chapter 23, CERTIFICATION STANDARDS FOR SUBSTANCE ABUSE TREATMENT FACILITIES AND PROGRAMS, of Title 29 DCMR, PUBLIC WELFARE, is repealed in its entirety and reserved.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the Suzanne Fenzel, Deputy Director, Office of Strategic Planning, Policy and Evaluation, Department of Behavioral Health, at 64 New York Ave., NE, 3rd Floor, Washington, D.C. 20002, or e-mailed to Suzanne.Fenzel@dc.gov. Copies of the proposed rules may be obtained from dbh.dc.gov or from the Department of Behavioral Health at the address above.

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY**NOTICE OF PROPOSED RULEMAKING**

The Board of Commissioners of the District of Columbia Housing Authority (DCHA), pursuant to the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-203 (2012 Repl.)), hereby gives notice of its intent to adopt the following proposed amendments to Chapter 53 (Recertifications, Housing Quality Standard Inspections, and Family Moves) of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of the proposed amendments are to allow for biennial housing quality standard inspections.

Chapter 53, RECERTIFICATIONS, HOUSING QUALITY STANDARD INSPECTIONS, AND FAMILY MOVES, of Title 14 DCMR, HOUSING, is amended as follows:

Section 5300, INCOME CONSIDERATIONS AND DETERMINATION OF TOTAL TENANT PAYMENT, is amended to read as follows:

5300 INCOME CONSIDERATIONS AND DETERMINATION OF TOTAL TENANT PAYMENT

5300.1 Once a participant is receiving assistance, the following regularly scheduled events shall occur;

- (a) Biennial recertification, in which income is calculated and total tenant payment is determined;
- (b) Interim recertification when necessary; and
- (c) Housing Quality Standard inspections.

Section 5325, GENERAL POLICIES FOR ANNUAL INSPECTIONS, is amended to read as follows:

5325 GENERAL POLICIES FOR ANNUAL INSPECTIONS

5325.1 Units that do not meet the criteria for biennial Housing Quality Standard inspections as set forth in § 5325.5 shall be subject to annual HQS inspections.

5325.2 If the tenant or Owner complains that the unit does not meet Housing Quality Standards, DCHA shall conduct a complaint inspection. DCHA shall only inspect violations subject to the complaint from the Owner or Family, but if other

violations are noticed during the inspection, DCHA shall also note those violations and require the Owner or Family to repair the violations.

5325.3 The Owner or Family shall be given time to correct the failed violations pursuant to the following guidelines:

- (a) If the violation is listed in the emergency repair items list as set forth in § 5326, the Owner or Family shall be given twenty-four (24) hours to correct the violation after being notified; or
- (b) For all other cited violations, the Owner or Family shall be given thirty (30) days to correct the violation.

5325.4 Minor violations that are listed as “Passed with Comments” on the inspection report shall not be re-inspected on site. Instead the tenant and Owner will be given a self-certification form, whereby they can certify that the violations have been repaired.

- (a) If the Family does not repair the minor violations attributable to the Family, the Family will not be approved for a transfer voucher except in emergency circumstances as set forth in § 8500.1; or
- (b) If the Owner does not repair the minor violations attributable to the Owner, the Owner will not be approved for an annual rent increase.

5325.5 Criteria for Biennial HQS Inspections:

- (a) Units that receive DCHA Moderate Rehabilitation Program assistance, Single Room Occupancy Program assistance, Federal Project-based assistance, or Local Project-based assistance shall automatically qualify for biennial HQS inspections.
- (b) DCHA may approve units that receive Federal Tenant-based assistance or Local Tenant-based assistance for biennial HQS inspections when the units have not had a final failed inspection due to a Family or Owner violation in the past two (2) years from the date of DCHA approval.
- (c) DCHA will conduct a higher percentage of annual Quality Assurance HQS inspections on any unit qualified for biennial HQS inspections.
- (d) DCHA has the right to reinstitute annual HQS inspections for units that were previously approved for biennial HQS inspections if there is a pattern of HQS non-compliance for either the Family or Owner.

- (e) Approval of a unit for biennial HQS inspection does not waive the right of DCHA to inspect the unit at any time, or the rights of the Owner or Family to have DCHA conduct a complaint or compliance inspection.

Interested persons are encouraged to submit comments regarding this Proposed Rulemaking to DCHA's Office of General Counsel. Copies of this Proposed Rulemaking can be obtained at www.dcregs.gov, or by contacting Chelsea Johnson at the Office of the General Counsel, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599, or via telephone at (202) 535-2835. All communications on this subject matter must refer to the above referenced title and must include the phrase "Comment to Proposed Rulemaking" in the subject line. There are two methods of submitting Public Comments:

1. Submission of comments by mail: Comments may be submitted by mail to the Office of the General Counsel, Attn: Chelsea Johnson, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599.
2. Electronic Submission of comments: Comments may be submitted electronically by submitting comments to Chelsea Johnson at: PublicationComments@dchousing.org.
3. No facsimile will be accepted.

Comments Due Date: June 20, 2016

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF PROPOSED RULEMAKING

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8 (c) (2), (3), (7), (12), (13), and (19); 14; and 20 of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c)(2), (3), (7), (12), (13), and (19); 50-313; and 50-319 (2014 Repl. & 2015 Supp.)), hereby gives notice of its intent to adopt amendments to Chapter 5 (Taxicab Companies and Associations), Chapter 12 (Luxury Class Services – Owners, Operators, and Vehicles), and Chapter 99 (Definitions) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

The proposed amendments to Chapter 5 would create a pathway for non-District resident operators to own and operate taxicabs and luxury class vehicles (limousines and black cars) in the District. The rules would authorize the licensing of independent taxicab vehicle businesses (“ITVBs”) and independent luxury vehicle businesses (“ILVBs”), which would co-own vehicles with these operators. The operators would then be eligible to register their vehicles with the D.C. Department of Motor Vehicles (“DMV) and receive DMV “H-tags” and “L-tags”, as appropriate.

No individual seeking to operate a taxicab in the District would be eligible to receive operating authority for an ITVB except when the Office of Taxicabs makes DCTC taxicab vehicle licenses (and corresponding DMV “H-tags”) available. Each ITVB and ILVB would be a District-based company, licensed and regulated by the D.C. Department of Consumer and Regulatory Affairs, and responsible for paying all applicable fees and taxes to the District. This proposed rulemaking would also add new definitions to Chapter 99.

The Commission also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice of proposed rulemaking in the *D.C. Register*. Directions for submitting comments may be found at the end of this notice.

Chapter 5, TAXICAB COMPANIES AND ASSOCIATIONS, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows.

The title of Chapter 5 is amended to read as follows:

Chapter 5 TAXICAB OWNERS

A new Section 504 is added to read as follows:

504 INDEPENDENT TAXICAB VEHICLE BUSINESSES

504.1 An individual not domiciled in the District (“applicant”) may apply pursuant to this section for an initial certificate of operating authority to operate an independ-

ent taxicab vehicle business (“ITVB”), during such times when the Office makes new DCTC vehicle licenses available. This section does not authorize the issuance of new DCTC vehicle licenses or DMV “H tags”. Existing ITVBs may apply pursuant to this section to renew their ITVB operating authority provided they meet all requirements for ITVBs in effect at that time. An applicant may register a taxicab vehicle in the District, with the ITVB as co-owner and co-registrant, as required by the rules and regulations of DMV and other applicable laws. The operating authority required by this section shall be in addition to any other operating required by this chapter for independent owners.

504.2 Applicants may be required by the Office as a condition for the issuance of operating authority to:

- (a) Purchase or lease a vehicle which has electric propulsion;
- (b) Purchase or lease a vehicle which is wheelchair accessible;
- (c) Provide service in underserved areas of the District, as identified by the Office;
- (d) Obtain additional training to improve customer service levels, including training for wheelchair service and disability sensitivity; and
- (e) Meet other reasonable requirements to enhance safety and consumer protection, to improve customer service, and to achieve other lawful purposes within the jurisdiction of the Commission, as determined by the Office in an administrative issuance.

504.3 For all purposes of this title, the Establishment Act, the Impoundment Act, and other applicable laws (excluding the regulations and laws applicable to DMV):

- (a) The ITVB shall be considered and treated by the Commission and the Office as the legal *alter ego* of the individual for all purposes of this title, with the effect of imposing upon the individual all obligations applicable to the ITVB under this title, provided however that where a provision of this title authorizes the imposition of a civil penalty upon either the ITVB or the individual, either penalty may be applied upon the individual; and
- (b) Notwithstanding any contrary provision of Chapter 7, notice of any action including without limitation any enforcement action or legal proceeding by the Office, the Commission, the Office of Administrative Hearings, or the District, shall be valid, binding, and fully enforceable against either or both the individual and the ITVB, provided it is otherwise properly served upon either the individual or the ITVB pursuant to Chapter 7.

504.4 Nothing in this chapter shall be construed to alter the legal rights or obligations of

any person under any provision of the D.C. Municipal Regulations or District law other than the rules and regulations of this title.

504.5 An individual (“applicant”) shall be eligible to apply for an initial or renewed certificate of operating authority under this section where:

- (a) The individual is not domiciled in the District;
- (b) The individual holds a DCTC vehicle operator’s license (Face card) to operate a taxicab;
- (c) The individual:
 - (1) Holds a current DCTC vehicle license as an independent owner-operator, for a vehicle titled and registered with DMV;
 - (2) Is a co-owner of a vehicle with a taxicab company or association and has obtained a release of the company’s or association’s interests in the vehicle; or
 - (3) Owns or agrees in writing to purchase a new vehicle or a vehicle which is not required to be replaced within two (2) years from the date of the application;
- (d) Consistent with the prohibition in § 504.12, no person other than the applicant has acquired, or is designated to receive, a legal or beneficial interest in the ITVB, in any contract, will, or other legal document, and the applicant has not become domiciled in the District, requirements which shall appear in the charter documents filed with DCRA;
- (e) The ITVB is a District-based business with a bona fide place of business in the District, registered with DCRA and subject to all other requirements for a District-based business, and eligible under all applicable District regulations and laws (other than those in this title) to appear on the title as co-owner of the vehicle for which the application is filed;
- (f) The individual and the vehicle are in full compliance with all other requirements of this title, including all applicable licensing and operating requirements;
- (g) The individual is in good standing with the Office, including having no pending enforcement actions;
- (h) The individual is in compliance with the Clean Hands Act; and
- (i) For renewal applications: such additional information and documentation

as may be required by the Office, including information and documentation showing the ITVB is in compliance with all operating requirements.

- 504.6 Each application for operating authority shall:
- (a) Contain such supporting information and documentation as may be required by the Office, including information and documentation about the applicant, the vehicle, and the business;
 - (b) Be accompanied by the original charter documents for the ITVB which demonstrate compliance with this section;
 - (c) Be provided under penalty of perjury and notarized before a notary public;
 - (d) Be filed not later than any deadline stated in an applicable administrative issuance; and
 - (e) Be accompanied by an application fee of one hundred fifty dollars (\$150) for an initial application.
- 504.7 The Office shall issue a decision to grant or deny an application for an initial or renewed certificate of operating authority within thirty (30) days.
- 504.8 Operating authority for the ITVB shall be effective for twelve (12) months. The Office may establish a uniform renewal date through an administrative issuance.
- 504.9 At the time an applicant is issued a certificate of operating authority, the applicant shall also be issued a DCTC vehicle license in the name of the applicant and the ITVB under § 1010, which shall be automatically suspended or revoked if the ITVB's operating authority or the applicant's DCTC operator's license (face card) is suspended or revoked.
- 504.10 Failure to file an application to renew ITVB operating authority within the time established by the Office shall result in the loss of the operating authority. The application deadline shall not be extended.
- 504.11 Each ITVB shall comply with § 812 for leasing the vehicle co-titled in its name. A lease executed in violation of this requirement shall be null and void.
- 504.12 An ITVB operating authority shall be null and void, and thereby subject to immediate suspension, proposed suspension, and proposed revocation, if any time:
- (a) A person other than the applicant acquires, or is designated to receive, a legal or beneficial interest in the ITVB, in any contract, will, or other legal document; or

- (b) The applicant becomes domiciled in the District, provided however that in the event ITVB operating authority becomes null and void for this reason, the applicant shall be entitled to be issued a DCTC vehicle license as the exclusive owner of the vehicle where the applicant notifies the Office of the change in domicile within thirty (30) days of the change.

504.13 Tags issued by DMV based on a DCTC vehicle license issued pursuant to this section shall be immediately surrendered to DMV if any of the following licenses are suspended (other than an immediate suspension), revoked, or not renewed:

- (a) The applicant’s DCTC operator’s license;
- (b) The vehicle’s DCTC vehicle license; or
- (c) The ITVB operating authority

504.14 Tags required to be surrendered pursuant to § 504.13 shall not be reissued, re-claimed, restored, or returned.

504.15 The Office may deny any license issued under this title to any person the issuance of which would perpetuate a violation of this section.

Chapter 12, LUXURY CLASS SERVICES – OWNERS, OPERATORS, AND VEHICLES, is amended as follows:

A new Section 1221 is added to read as follows:

1221 INDEPENDENT LUXURY VEHICLE BUSINESSES

1221.1 An individual not domiciled in the District (“applicant”) may apply for a certificate of operating authority to operate an independent luxury vehicle business (“ILVB”). An ILVB shall allow the applicant to register a luxury class vehicle (limousine or black car) in the District, with the ILVB as co-owner and co-registrant of the vehicle, as required by the rules and regulations of DMV, and other applicable laws.

1221.2 Applicants who apply for certificates of operating authority under this section may be required to:

- (a) Purchase or lease a vehicle which has electric propulsion;
- (b) Purchase or lease a vehicle which is wheelchair accessible;
- (c) Provide service in underserved areas of the District, as identified by the Office;

- (d) Obtain additional training to improve customer service levels, including training for wheelchair service and disability sensitivity; and
- (e) Meet other reasonable requirements to enhance safety and consumer protection, to improve customer service, and to achieve other lawful purposes within the jurisdiction of the Commission, as determined by the Office in an administrative issuance.

1221.3 For all purposes of this title, the Establishment Act, the Impoundment Act, and other applicable laws (excluding the regulations and laws applicable to DMV):

- (a) The ILVB shall be considered and treated by the Commission and the Office as the legal *alter ego* of the individual for all purposes of this title, with the effect of imposing upon the individual all obligations applicable to the ILVB under this title, provided however that where a provision of this title authorizes the imposition of a civil penalty upon either the ILVB or the individual, either penalty may be applied upon the individual; and
- (b) Notwithstanding any contrary provision of Chapter 7, notice of any action, including without limitation any enforcement action or legal proceeding by the Office, the Commission, the Office of Administrative Hearings, or the District, shall be valid, binding, and fully enforceable against either or both the individual and the ILVB, provided it is otherwise properly served upon either the individual or the ILVB pursuant to Chapter 7.

1221.4 Nothing in this chapter shall be construed to alter the legal rights or obligations of any person under any provision of the D.C. Municipal Regulations or District law other than the rules and regulations of this title.

1221.5 An individual (“applicant”) shall be eligible to apply for an initial or renewed certificate of operating authority under this section where:

- (a) The individual is not domiciled in the District;
- (b) The individual holds a DCTC vehicle operator’s license (Face card) to operate a luxury class vehicle;
- (c) The individual owns or agrees in writing to purchase a new vehicle or a vehicle which is not required to be replaced within two (2) years from the date of application under this title or other applicable law;
- (d) Consistent with the prohibition in § 1221.12, no person other than the applicant has acquired, or is designated to receive, a legal or beneficial interest in the ILVB, in any contract, will, or other legal document, and the applicant has not become domiciled in the District, requirements which shall appear in the charter documents from DCRA;

- (e) The ILVB is a District-based business with a bona fide place of business in the District, registered with DCRA and subject to all other requirements for a District-based business, and eligible under all applicable District regulations and laws (other than those in this title) to appear on the title as co-owner of the vehicle for which the application is filed;
- (f) The individual and the vehicle are in full compliance with all other requirements of this title, including all applicable licensing and operating requirements, as may be amended from time-to-time;
- (g) The individual is in good standing with the Office, including having no pending enforcement actions;
- (h) The individual is in compliance with the Clean Hands Act; and
- (i) For renewal applications: such additional supporting information and documentation as may be required by the Office, including information and documentation showing the ILVB is in compliance with all operating requirements.

1221.6 Each application for operating authority shall:

- (a) Contain such information and documentation as may be required by the Office, including information and documentation about the applicant, the vehicle, and the business;
- (b) Be accompanied by the original charter documents for the ILVB demonstrating compliance with this section;
- (c) Be provided under penalty of perjury and notarized before a notary public;
- (d) Be filed not later than any deadline stated in an applicable administrative issuance; and
- (e) Be accompanied by an application fee of two hundred fifty dollars (\$250)

1221.7 The Office shall issue a decision to grant or deny an application for an initial or renewed certificate of operating authority within thirty (30) days.

1221.8 Operating authority for the ILVB shall be effective for twelve (12) months. The Office may establish a uniform renewal date through an administrative issuance.

1221.9 At the time an applicant is issued a certificate of operating authority, the applicant shall also be issued a DCTC vehicle license in the name of the applicant and the ILVB under §§ 1010 and 1204, which shall be automatically suspended or re-

voked if the ILVB's operating authority or the applicant's DCTC operator's license (face card) is suspended or revoked.

- 1221.10 Failure to file an application to renew ILVB operating authority within the time established by the Office shall result in the loss of the operating authority. The application deadline shall not be extended.
- 1221.11 Each ILVB shall comply with § 812 for leasing the vehicle co-titled in its name. A lease executed in violation of this requirement shall be null and void.
- 1221.12 An ILVB operating authority shall be null and void, and thereby subject to immediate suspension, proposed suspension, and proposed revocation, if any time:
- (a) A person other than the applicant acquires, or is designated to receive, a legal or beneficial interest in the ILVB, in any contract, will, or other legal document; or
 - (b) The applicant becomes domiciled in the District, provided however that in the event ILVB operating authority becomes null and void for this reason, the applicant shall be entitled to be issued a DCTC vehicle license as the exclusive owner of the vehicle where the applicant notifies the Office of the change in domicile within thirty (30) days of the change.
- 1221.13 Tags issued by DMV based on a DCTC vehicle license issued pursuant to this section shall be immediately surrendered to DMV if any of the following licenses are suspended (other than an immediate suspension), revoked, or not renewed:
- (a) The applicant's DCTC operator's license;
 - (b) The vehicle's DCTC vehicle license; or
 - (c) The ILVB operating authority
- 1221.14 Tags required to be surrendered pursuant to § 1221.13 shall not be reissued, reclaimed, restored, or returned.
- 1221.15 The Office may deny any license issued under this title to any person the issuance of which would perpetuate a violation of this section.

Chapter 99, DEFINITIONS, is amended as follows:

Subsection 9901.1, of Section 9901, DEFINITIONS, is amended to add definitions as follows:

"ILVB" – An independent taxicab business, as defined in this chapter.

"Independent luxury vehicle business" – A District-based business which ap-

appears as co-owner and co-registrant of a vehicle owned by an individual who is not domiciled in the District, for the purpose of allowing the individual to register a public vehicle-for-hire in the District pursuant to all applicable District laws and regulations.

“Independent taxicab business” – A District-based business which appears as co-owner and co-registrant of a taxicab vehicle owned by an individual who is not domiciled in the District, for the purpose of allowing the individual to register a public vehicle-for-hire in the District pursuant to all applicable District laws and regulations.

“TTVB” – An independent taxicab business, as defined in this chapter.

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

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF PROPOSED RULEMAKING

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c)(2), (3), (5), (7), and (19), 14, and 20 of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c) (2) (3), (5), (7), and (19), 50-313, and 50-319 (2014 Repl. & 2015 Supp.)), and D.C. Official Code §§ 47-2829(b), (d), (e), (e-1), and (i) (2015 Repl.)), hereby gives notice of its intent to adopt amendments to Chapter 6 (Taxicab Parts and Equipment) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This proposed rulemaking would amend the equipment requirements for modern taximeter systems (MTSs) in § 603 to require each MTS to allow the passenger to rate the ride experience through the rear console. The rule would facilitate real-time passenger feedback about the use of the District’s taxicabs, as part of the Commission’s ongoing efforts to enhance customer service and improve the competitive position of taxicabs in the vehicle-for-hire ecosystem.

The Commission also hereby gives notice of its intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register*. Directions for submitting comments may be found at the end of this notice.

Chapter 6, TAXICAB PARTS AND EQUIPMENT, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 603, MODERN TAXIMETER SYSTEMS, is amended as follows:

Subsection 603.8, MTS EQUIPMENT REQUIREMENTS, is amended to add a new paragraph (o), to read as follows:

- (o) Each MTS shall allow the passenger to rate the ride experience through the rear console in a manner set forth in an administrative issuance.

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

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF PROPOSED RULEMAKING

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c) (7) and (19), 14, and, 20j of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c) (7) and (19), 50-313, and 50-329 (2014 Repl. & 2015 Supp.)), hereby gives notice of its adoption of amendments to Chapter 7 (Enforcement) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This proposed rulemaking would amend Chapter 7 to authorize the in-person service of a notice of infraction (NOI) anywhere within the District of Columbia. The current regulations only provide for personal service of an NOI upon the respondent or respondent’s agent at the respondent’s or respondent’s agent’s last known home or business address; by posting the NOI in a conspicuous place in or about the location of the respondent’s place of business; or by sending the NOI by first-class U.S. Mail to the last known home or business address of the respondent, or respondent’s agent. The amendment would increase efficiencies and lower costs to the Office by also allowing service of an NOI at any location where the respondent may be found within the District.

The Commission also hereby gives notice of its intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register*. Directions for submitting comments may be found at the end of this notice.

Chapter 7, ENFORCEMENT, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 714, SERVICE AND FILING, is amended as follows:

A new Subsection 714.6 is added to read as follows:

714.6 In addition to the methods of service available under § 714.1, a notice of infraction may be served by in-person service upon the respondent at any location where the respondent may be found within the District of Columbia.

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

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF PROPOSED RULEMAKING

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c) (2), (3), and (19), and 14 of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c) (2) (3), and (19), and 50-313 (2014 Repl. & 2015 Supp.)) hereby gives notice of its intent to adopt amendments to Chapters 8 (Operating Rules for Public Vehicles for Hire) and 16 (Dispatch Services and District of Columbia Taxicab Industry Co-Op) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This proposed rulemaking would: (1) support the growth of taxicab service by allowing shared rides to be arranged through digital meters approved by the Office of Taxicabs, for vehicles that are equipped with such meters; and (2) broaden the definition of electronic refusal to haul.

The Commission also hereby gives notice of its intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register*. Directions for submitting comments may be found at the end of this notice.

Chapter 8, OPERATING RULES FOR PUBLIC VEHICLES FOR HIRE, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 801, PASSENGER RATES AND CHARGES, is amended as follows:

Subsection 801.8 is amended to read as follows:

801.8 Charges for group and shared rides shall be assessed as follows, and in the manner set forth in an applicable administrative issuance:

- (a) For shared rides, only one flag drop rate shall be charged, without regard to the number of destinations. Shared rides may be arranged through digital meters approved by the Office pursuant to § 602, which shall allow passengers to apportion the total fare in a manner that maximizes consumer choice and operator income pursuant to an administrative issuance.
- (b) For group rides booked by street hail, telephone dispatch, or digital dispatch, and paid through in-vehicle payment, the metered fare, including the additional passenger fee under § 801.7(c)(2)(E), shall be paid by the last passenger(s) leaving the taxicab.
- (c) For group rides booked by digital dispatch and paid through digital payment, the fare shall be charged and paid consistent with all applicable requirements of this title applicable to a trip which is not a group ride.

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

A new Subsection 819.11 is added to read as follows:

819.11 Proof that an operator has failed to accept two (2) or more requests for service transmitted to the operator through the app of any DDS registered with the Office under Chapter 16, including but not limited to the DC TaxiApp, during the same two (2) hour period of any tour of duty, shall be treated as a refusal to haul under §§ 818.2 or 819.5.

Chapter 16, DISPATCH SERVICES AND DISTRICT OF COLUMBIA TAXICAB INDUSTRY CO-OP, is amended as follows:

Section 1603, TELEPHONE DISPATCH SERVICES – OPERATING REQUIREMENTS, is amended as follows:

Subsection 1603.6 is amended by adding a new paragraph (f) to read as follows:

- (f) Process shared rides in accordance with § 801 and any applicable administrative issuance.

Section 1612, DISTRICT OF COLUMBIA UNIVERSAL TAXICAB APP, is amended as follows:

Subsection 1612.1 is amended to read as follows:

- 1612.1 Not later than one hundred eighty (180) days after the effective date of this section (“implementation date”), each DCTC taxicab operator shall at all times throughout each tour of duty:
- (a) Be logged into the District of Columbia Universal Taxicab App (“DC TaxiApp”); and
 - (b) Be able to timely receive and accept all requests for service.

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

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF PROPOSED RULEMAKING

The District of Columbia Taxicab Commission (“Commission” or “DCTC”), pursuant to the authority set forth in Sections 8(c)(2), (3), (10), (19), and (20) and 14, 20, and 20j of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c) (2), (3), (10), (19), and (20), 50-313, 50-319 and 50-329 (2014 Repl. & 2015 Supp.)), hereby gives notice of its intent to adopt amendments to Chapter 10 (Public Vehicles for Hire), Chapter 12 (Luxury Class Services – Owners, Operators and Vehicles) and Chapter 99 (Definitions) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This proposed rulemaking would: (1) authorize the Office of Taxicabs to issue provisional licenses to applicants seeking new DCTC operator’s licenses for luxury class service (LCS), in order to expedite the licensing process for this public vehicle-for-hire service, which includes black cars and limousines, and (2) require that all applicants seeking new DCTC operator’s licenses successfully complete disability sensitivity training prior to being licensed. This proposed rulemaking would also add new necessary definitions to Chapter 99.

The Commission also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice of proposed rulemaking in the *D.C. Register*. Directions for submitting comments may be found at the end of this notice.

Chapter 10, PUBLIC VEHICLES FOR HIRE, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:**Section 1001, ELIGIBILITY FOR A HACKER’S LICENSE, is amended as follows:****A new Subsection 1001.17 is added to read as follows:**

1001.17 The Office shall not issue a new or renewal DCTC operator’s license to an applicant who has not successfully completed disability sensitivity training that is available online or other disability sensitivity training approved by the Office.

A new Section 1008 is added to read as follows:**1008 PROVISIONAL LUXURY CLASS SERVICE OPERATOR’S LICENSE**

1008.1 The Office may issue a provisional DCTC operator’s luxury class service license (provisional LCS operator’s license) consistent with the requirements of § 1209 and pursuant to an administrative issuance.

Chapter 12, LUXURY CLASS SERVICES – OWNERS, OPERATORS AND VEHICLES, is amended as follows:**Section 1209, LICENSING OF LCS VEHICLE OPERATORS – ISSUANCE OF LICENSES, is amended as follows:**

New Subsections 1209.5 and 1209.6 are added to read as follows:

- 1209.5 The Office may issue a provisional DCTC operator's luxury class service license (provisional LCS operator's license) pursuant to an administrative issuance provided that each applicant:
- (a) Meets the requirements of §§ 1205 and 1207;
 - (b) Submits an application pursuant to § 1206;
 - (c) Completes the training and education requirements of § 1208; and
 - (d) Complies with such additional terms and conditions for provisional licensing as may be set forth in the administrative issuance, including requirements related to:
 - (1) Passenger, operator, and public safety;
 - (2) Consumer protection; and
 - (3) Any other purpose within the jurisdiction of the Commission.
- 1209.6 The total application fees for a provisional LCS operator's license, including fees for fingerprinting and testing, shall not exceed the total fees for a full (non-provisional) DCTC operator's license.

Chapter 99, DEFINITIONS, is amended as follows:**Section 9901, DEFINITIONS, is amended as follows:****Subsection 9901.1 amended to add the following:**

“Provisional DCTC luxury class service operator’s license” – a DCTC operator’s license issued to an operator of a luxury class service vehicle which, following its issuance, may be subject to additional requirements or conditions, including the completion of a background check by the Federal Bureau of Investigation, prior to full licensing consistent with the requirements of this title and other applicable laws.

“Provisional LCS operator’s license” – a provisional DCTC luxury class service operator’s license as defined in this section.

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

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING**Z.C. Case No. 14-13C****(Text Amendment - 11 DCMR)****Technical Corrections to Z.C. Order No. 14-13 (Penthouse Regulations)**

The Zoning Commission for the District of Columbia, (Commission) pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2012 Rep1.)), hereby gives notice of its intent to amend the current and newly adopted versions of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (DCMR)) to make a technical correction to amendments made by Z.C. Order No. 14-13 (Order). The Order, which took the form of a Notice of Final Rulemaking, adopted amendments to the currently effective version of the Zoning Regulations (Current Regulations) governing rooftop penthouses as well as conforming amendments to other provisions, including the provisions of Chapter 26 (Inclusionary Zoning). The substance of the amendments was later included by the Commission in the version of Title 11 DCMR, Subtitle C (General Rules), that will become effective on September 6, 2016 (2016 Regulations), which was adopted by the Commission through a Notice of Final Rulemaking published in Part II of the March 4, 2016 edition of the *District of Columbia Register*.

The Current Regulations provide, and the 2016 Regulation will provide, that properties that are subject to the Inclusionary Zoning (IZ) regulations must set-aside a certain amount of gross floor area for IZ units. The regulations also allow certain of these properties to increase matter-of-right density by up to twenty percent (20%).

The amount of the IZ set-aside is (depending on the constriction type or zone) the greater of eight percent (8%) or ten percent (10%) of the gross floor area of the building devoted to residential use **including habitable penthouse space**, or fifty percent (50%) or seventy-five percent (75%) of the bonus density utilized. The insertion of the reference to penthouse habitable space was added by the Order to ensure that the construction of such space would add to the amount of the required set-aside.

In beginning to apply this revised formula, the Department of Consumer and Regulatory Affairs noticed that when a set-aside was based upon percentage of bonus density used, the resulting set-aside was no greater than what would have been required prior to the amendment. This was clearly contrary to the Commission's intent. The Office of Planning, through a report dated May 2, 2016, requested a technical correction to the Order to eliminate this anomaly. The report recommended, and the Commission proposes, that when the set-aside is based upon the percentage of the bonus density utilized, an additional set-aside equal to eight percent (8%) or ten percent (10%) of any penthouse habitable space be added.

Final rulemaking action shall be taken in not less than fourteen (14) days from the date of publication of this notice in the *D.C. Register*, which is less than the thirty (30) day period ordinarily required. A reduced comment period is permitted by D.C. Official Code § 2-505(a) when "good cause" to do so is found and stated in the notice. As noted, this amendment is a

technical correction intended to match the words of the prior amendment with the Commission's intent. Since the public already has been afforded a full opportunity to comment on the principle that penthouse habitable space should increase to the IZ set-aside, good cause exists for a reduced period to comment on text to assure that this increase will result in all instances.

The following amendments to the Current Regulations are proposed:

Chapter 26, INCLUSIONARY ZONING, of Title 11 DCMR, ZONING, § 2603, SET-ASIDE REQUIREMENTS, is amended as follows:

Subsection 2603.1 is amended by adding the phrase “plus an area equal to ten percent (10%) of the penthouse habitable space as described in § 2602.1(d)” after the phrase “of the bonus density being utilized for inclusionary units”, so that the entire provision reads as follows:

2603.1 Except as provided in § 2603.8, an inclusionary development for which the primary method of construction does not employ steel and concrete frame structure located in an R-2 through an R-5-B Zone District or in a C-1, C-2-A, W-0, or W-1 Zone District shall devote the greater of ten percent (10%) of the gross floor area being devoted to residential use including penthouse habitable space as described in § 2602.1(d), or seventy-five percent (75%) of the bonus density being utilized for inclusionary units plus an area equal to ten percent (10%) of the penthouse habitable space as described in § 2602.1(d).

Subsection 2603.2, is amended by adding the phrase “plus an area equal to eight percent (8%) of the penthouse habitable space as described in § 2602.1(d)” after the phrase “of the bonus density being utilized for inclusionary units”, so that the entire provision reads as follows:

2603.2 An inclusionary development of steel and concrete frame construction located in the zone districts stated in § 2603.1 or any development located in a C-2-B, C-2-B-1, C-2-C, C-3, CR, R-5-C, R-5-D, R-5-E, SP, USN, W-2, or W-3 Zone District shall devote the greater of eight percent (8%) of the gross floor area being devoted to residential use including floor area devoted to penthouse habitable space as described in § 2602.1(d), or fifty percent (50%) of the bonus density being utilized for inclusionary units plus an area equal to eight percent (8%) of the penthouse habitable space as described in § 2602.1(d).

The following amendments to the 2016 Regulations are proposed:

Chapter 10, INCLUSIONARY ZONING, of Title 11-C DCMR, GENERAL RULES, is amended as follows:

§ 1003, SET-ASIDE REQUIREMENTS, § 1003.1, is amended by adding the phrase “plus an area equal to ten percent (10%) of the penthouse habitable space as described in

Subtitle C § 1001.2(d)” after the phrase “of its achievable bonus density to inclusionary units”, so that the entire provision reads as follows:

1003.1 An inclusionary residential development for which the primary method of construction does not employ steel or steel and concrete frame structure and which is located in a zone with a by-right height limit of fifty feet (50 ft.) or less shall set aside the greater of ten percent (10%) of the gross floor area dedicated to residential use including penthouse habitable space as described in Subtitle C § 1001.2(d), or seventy-five percent (75%) of its achievable bonus density to inclusionary units plus an area equal to ten percent (10%) of the penthouse habitable space as described in Subtitle C § 1001.2(d).

§ 1003, SET-ASIDE REQUIREMENTS, § 1003.2, is amended by adding the phrase “plus an area equal to eight percent (8%) of the penthouse habitable space as described in Subtitle C § 1001.2(d)” after the phrase “of its achievable bonus density to inclusionary units”, so that the entire provision reads as follows:

1003.2 An inclusionary residential development of steel or steel and concrete frame construction shall set aside the greater of eight percent (8%) of the gross floor area dedicated to residential use including penthouse habitable space as described in Subtitle C § 1001.2(d), or fifty percent (50%) of its achievable bonus density to inclusionary units plus an area equal to eight percent (8%) of the penthouse habitable space as described in Subtitle C § 1001.2(d).

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than fourteen (14) days after the date of publication of this notice in the *D. C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001, or electronic submissions may be submitted in PDF format through the Interactive Zoning Information System (IZIS) at <http://app.dcoz.dc.gov/Login.aspx> or to zcsubmissions@dc.gov. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

Z.C. Case No. 15-09

(Residents of Lanier Heights & ANC 1C)

Map Amendment @ Squares 2580-2584, 2586W, 2587, and 2589

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01), hereby gives notice of its intent to amend the Zoning Map incorporated by reference in Title 11 (Zoning) of the District of Columbia Municipal Regulations (DCMR). The Zoning Map currently reflects that portions of Squares 2580, 2581, 2582, 2583, 2584, 2586W, 2587, and 2589 are zoned in the R-5-B Zone District. The Commission is proposing to rezone those portions to the R-4 Zone District.

In addition, the Commission, through a Notice of Final Rulemaking (Notice) published in Part II of the March 4, 2016 edition of the *District of Columbia Register*, adopted a replacement version of Title 11 DCMR, as well as implementing amendments to the Zoning Map, which are to become effective September 6, 2016 (Future Zoning Map Amendments). Among those amendments were that any properties zoned in the R-5-B District would be rezoned to the RA-2 District. The Commission is proposing to modify that amendment, so that portions of Squares 2580, 2581, 2582, 2583, 2584, 2586W, 2587, and 2589 that are now in the R-5-B District would be rezoned to the RF-1 District.

Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The Zoning Map is proposed to be amended as follows:

Rezone the portions of Squares 2580, 2581, 2582, 2583, 2584, 2586W, 2587, and 2589 that are currently zoned in the R-5-B Zone District to the R-4 Zone District.

The Future Zoning Map Amendments adopted by the Notice are modified as follows:

The table that appears in page 30 of the Notice is modified as follows:

The portions of the table that states:

R-4	RF-1
-----	------

Is modified to state:

R-4 and those portions of Squares 2580, 2581, 2582, 2583, 2584, 2586W, 2587, and 2589 referenced as R-5-B.	RF-1
--	------

The portion of the table that states:

R-5-B	RA-2
-------	------

Is modified to state:

R-5-B except those portions of Squares 2580, 2581, 2582, 2583, 2584, 2586W, 2587, and 2589.	RA-2
---	------

A complete list of the properties included in this map amendment is attached to the end of this notice.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001, or electronic submissions may be submitted in PDF format to zcsubmissions@dc.gov. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

Square	Lot	Address
2580	0354	1756 Lanier Place, NW
2580	0359	1746 Lanier Place, NW
2580	0360	1744 Lanier Place, NW
2580	0386	1788 Lanier Place, NW
2580	0387	1786 Lanier Place, NW
2580	0417	1730 Lanier Place, NW
2580	0418	2724 Ontario Road, NW
2580	0419	2722 Ontario Road, NW
2580	0420	2720 Ontario Road, NW
2580	0421	2718 Ontario Road, NW
2580	0422	2716 Ontario Road, NW
2580	0432	1740 Lanier Place, NW
2580	0432	1742 Lanier Place, NW
2580	0433	1738 Lanier Place, NW
2580	0434	1736 Lanier Place, NW
2580	0435	1734 Lanier Place, NW
2580	0436	1732 Lanier Place, NW
2580	0449	1784 Lanier Place, NW
2580	0480	1768 Lanier Place, NW
2580	0481	1766 Lanier Place, NW
2580	0482	1764 Lanier Place, NW
2580	0483	1762 Lanier Place, NW
2580	0484	1760 Lanier Place, NW
2580	0485	1758 Lanier Place, NW
2580	0513	1776 Lanier Place, NW
2580	0824	1748 Lanier Place, NW
2580	0840	1752 Lanier Place, NW
2580	0841	1750 Lanier Place, NW
2581	0290	2719 Ontario Road, NW
2581	0291	2721 Ontario Road, NW
2581	0292	2723 Ontario Road, NW
2581	0293	2725 Ontario Road, NW
2581	0294	2727 Ontario Road, NW
2581	0295	2729 Ontario Road, NW
2581	0296	2731 Ontario Road, NW
2581	0297	2733 Ontario Road, NW
2581	0298	2735 Ontario Road, NW
2581	0441	1726 Lanier Place, NW
2581	0442	1724 Lanier Place, NW
2581	0443	1722 Lanier Place, NW
2581	0444	1720 Lanier Place, NW

Square	Lot	Address
2581	0445	1718 Lanier Place, NW
2581	0446	1716 Lanier Place, NW
2581	0447	1714 Lanier Place, NW
2581	0464	1704 Lanier Place, NW
2581	0465	1706 Lanier Place, NW
2581	0466	1708 Lanier Place, NW
2581	0467	1710 Lanier Place, NW
2581	0468	1712 Lanier Place, NW
2581	0472	1702 Lanier Place, NW
2581	0473	1700 Lanier Place, NW
2581	0474	1698 Lanier Place, NW
2581	0475	1696 Lanier Place, NW
2581	0476	1694 Lanier Place, NW
2582	0172	1741 Lanier Place, NW
2582	0173	2803 Ontario Road, NW
2582	2040	2803 Ontario Road, NW
2582	2041	2803 Ontario Road, NW
2582	2042	2803 Ontario Road, NW
2582	2043	2803 Ontario Road, NW
2582	2044	2803 Ontario Road, NW
2582	2045	2803 Ontario Road, NW
2582	0191	2801 18 th Street, NW Unit B
2582	0192	2803 18 th Street, NW Unit 1B
2582	0193	2805 18 th Street, NW Unit 1A
2582	0194	2807 18 th Street, NW Unit 2A
2582	0195	2815 18 th Street, NW Unit 2B
2582	0196	2817 18 th Street, NW Unit 3
2582	0353	2809 Ontario Road, NW
2582	0376	1729 Lanier Place, NW
2582	0377	1731 Lanier Place, NW
2582	0378	1733 Lanier Place, NW
2582	0379	1735 Lanier Place, NW
2582	0380	1737 Lanier Place, NW
2582	0381	1739 Lanier Place, NW
2582	0401	1719 Lanier Place, NW
2582	0402	1717 Lanier Place, NW
2582	0403	1715 Lanier Place, NW
2582	0404	1713 Lanier Place, NW
2582	0405	1711 Lanier Place, NW
2582	0406	1709 Lanier Place, NW
2582	0407	1707 Lanier Place, NW
2582	0408	2805 Ontario Road, NW

Square	Lot	Address
2582	0409	2807 Ontario Road, NW
2582	0827	2809 Ontario Road, NW
2582	0828	2819 18 th Street, NW
2583	0334	1779 Lanier Place, NW
2583	0335	1781 Lanier Place, NW
2583	0336	1783 Lanier Place, NW
2583	0337	1785 Lanier Place, NW
2583	2108	1785 Lanier Place, NW Unit 1
2583	2109	1785 Lanier Place, NW Unit 2
2583	2110	1785 Lanier Place, NW Unit 3
2583	2111	1785 Lanier Place, NW Unit 4
2583	0338	1787 Lanier Place, NW
2583	0343	1850 Ontario Place, NW
2583	0344	1848 Ontario Place, NW
2583	0345	1846 Ontario Place, NW
2583	0346	1844 Ontario Place, NW
2583	0347	1842 Ontario Place, NW
2583	0348	1840 Ontario Place, NW
2583	0349	1838 Ontario Place, NW
2583	0350	1836 Ontario Place, NW
2583	0351	1834 Ontario Place, NW
2583	0352	1832 Ontario Place, NW
2583	0356	1775 Lanier Place, NW
2583	0357	1777 Lanier Place, NW
2583	0361	1882 Ontario Place, NW
2583	0362	1880 Ontario Place, NW
2583	0363	1878 Ontario Place, NW
2583	0389	1892 Ontario Place, NW
2583	0390	1890 Ontario Place, NW
2583	0391	1888 Ontario Place, NW
2583	0392	1886 Ontario Place, NW
2583	0393	1884 Ontario Place, NW
2583	0394	1824 Ontario Place, NW
2583	0395	1822 Ontario Place, NW
2583	0396	1820 Ontario Place, NW
2583	0397	1858 Ontario Place, NW
2583	0398	1856 Ontario Place, NW
2583	0399	1854 Ontario Place, NW
2583	0400	1852 Ontario Place, NW
2583	0414	1812 Ontario Place, NW
2583	0415	1810 Ontario Place, NW
2583	0416	1808 Ontario Place, NW

Square	Lot	Address
2583	0437	1830 Ontario Place, NW
2583	0438	1828 Ontario Place, NW
2583	0439	1826 Ontario Place, NW
2583	0450	1818 Ontario Place, NW
2583	0451	1816 Ontario Place, NW
2583	0452	1814 Ontario Place, NW
2583	0454	1745 Lanier Place, NW
2583	0455	1747 Lanier Place, NW
2583	0456	1749 Lanier Place, NW
2583	0457	1751 Lanier Place, NW
2583	0458	1753 Lanier Place, NW
2583	0459	1755 Lanier Place, NW
2583	0460	1757 Lanier Place, NW
2583	0461	1759 Lanier Place, NW
2583	0462	1761 Lanier Place, NW
2583	0486	1769 Lanier Place, NW
2583	0487	1771 Lanier Place, NW
2583	0512	1793 Lanier Place, NW
2583	2097	1793 Lanier Place, NW Unit 1
2583	2098	1793 Lanier Place, NW Unit 2
2583	2099	1793 Lanier Place, NW Unit 3
2583	2100	1793 Lanier Place, NW Unit 4
2583	2101	1793 Lanier Place, NW Unit 5
2583	2102	1793 Lanier Place, NW Unit 6
2583	2103	1793 Lanier Place, NW Unit 7
2583	2104	1793 Lanier Place, NW Unit 8
2583	0856	1767 Lanier Place, NW
2583	0857	
2584	0310	1841 Ontario Place, NW
2584	0311	1843 Ontario Place, NW
2584	0312	1845 Ontario Place, NW
2584	0313	1847 Ontario Place, NW
2584	0314	1849 Ontario Place, NW
2584	0315	1851 Ontario Place, NW
2584	0316	1853 Ontario Place, NW
2584	0365	1823 Ontario Place, NW
2584	0366	1825 Ontario Place, NW
2584	0367	1827 Ontario Place, NW
2584	0368	1829 Ontario Place, NW
2584	0373	1817 Ontario Place, NW
2584	0374	1819 Ontario Place, NW
2584	0375	1821 Ontario Place, NW

Square	Lot	Address
2584	0504	1839 Ontario Place, NW
2584	0505	1837-1839 Ontario Place, NW
2584	0818	1835 Ontario Place, NW
2584	0822	1857 Ontario Place, NW
2584	0823	1855 Ontario Place, NW
2584	0825	1831 Ontario Place, NW
2584	0828	1833 Ontario Place, NW
2587	0489	2922 18 th Street, NW
2587	2001	2922 18 th Street, NW Unit 1
2587	2002	2922 18 th Street, NW Unit 2
2587	2003	2922 18 th Street, NW Unit 3
2587	2004	2922 18 th Street, NW Unit 4
2587	2005	2922 18 th Street, NW Unit 5
2587	0490	2920 18 th Street, NW
2587	0491	2918 18 th Street, NW
2587	0492	2916 18 th Street, NW
2587	0493	2914 18 th Street, NW
2587	0494	2912 18 th Street, NW
2587	0495	2910 18 th Street, NW
2587	0496	2908 18 th Street, NW
2587	0497	2906 18 th Street, NW
2587	2009	2906 18 th Street, NW Unit 1
2587	2010	2906 18 th Street, NW Unit 2
2587	0498	2904 18 th Street, NW
2587	0499	2902 18 th Street, NW
2587	0500	2900 18 th Street, NW
2589	0452	1652 Argonne Place, NW
2589	0453	1650 Argonne Place, NW
2589	0454	1648 Argonne Place, NW
2589	0455	1646 Argonne Place, NW
2589	0456	1644 Argonne Place, NW
2589	0457	1642 Argonne Place, NW
2589	0458	1640 Argonne Place, NW
2589	0459	1638 Argonne Place, NW
2589	0460	1636 Argonne Place, NW
2589	0461	1634 Argonne Place, NW
2589	0462	1632 Argonne Place, NW
2589	0463	1630 Argonne Place, NW
2589	0464	1628 Argonne Place, NW
2589	0465	1626 Argonne Place, NW
2589	0466	1624 Argonne Place, NW
2589	0467	1622 Argonne Place, NW

Square	Lot	Address
2589	0468	1620 Argonne Place, NW
2586W	0806	2800 Adams Mill Road, NW
2586W	0805	2810 Adams Mill Road, NW
2586W	0412	2812 Adams Mill Road, NW
2586W	0411	2814 Adams Mill Road, NW

DISTRICT OF COLUMBIA TAXICAB COMMISSION**NOTICE OF EMERGENCY RULEMAKING**

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c) (3), (7), (19) and (20), 20a, and 20g, of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986, as amended by the Vehicle-for-Hire Innovation Amendment Act of 2014 (“Vehicle-for-Hire Act”), effective March 10, 2015 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c) (3), (7), (19) and (20), 50-320, and 50-326 (2014 Repl. & 2015 Supp.)), hereby gives notice of the adoption, on an emergency basis, of amendments to Chapter 4 (Taxicab Payment Service Providers) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking establishes the amount of the payment service provider (PSP) surcharge bond; it is identical in language to an upcoming proposed rulemaking adopted by the Commission on October 14, 2015. Current regulations require PSPs to maintain a bond to ensure the payment to the District of the passenger surcharges collected through approved modern taximeter systems (MTSs). The regulations do not establish, however, the amount of the bond. There is an immediate need to preserve and promote the safety and welfare of District residents by ensuring that the amount of the bond is clearly established in the Commission’s regulations, to eliminate the possibility of confusion among these stakeholders about this requirement for both: (1) renewal applications of all current PSPs are currently pending before the Office of Taxicabs; and (2) new applicants may submit applications as PSPs at any time.

This emergency rulemaking was adopted by the Commission on December 9, 2015 and took effect immediately. This emergency rulemaking remained in effect for one hundred and twenty (120) days after the date of adoption, expiring April 7, 2016. An identical second emergency rulemaking was adopted on April 13, 2016 and became effective immediately, expiring August 11, 2016.

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

Section 403, PROPOSED MODERN TAXIMETER SYSTEMS – APPLICATIONS BY PSPS, is amended as follows:

The title of Section 403, PROPOSED MODERN TAXIMETER SYSTEMS – APPLICATIONS BY PSPS, is amended to read as follows:

403 APPLICATIONS

Subsection 403.3 is amended to read as follows:

403.3 Each application shall be made under penalty of perjury, and shall be accompanied by an application fee of five thousand dollars (\$5,000) and by a surcharge bond of one hundred thousand dollars (\$100,000).

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF EMERGENCY AND 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. & 2015 Supp.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Chapter 36 (Child Choice Providers – Flexible Spending Local Funds Program) of Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

The purpose of these proposed and emergency rules is to set forth the services and reimbursement rates for services provided by Child Choice Providers to children and youth who are in the legal care and custody of the Child and Family Services Agency (CFSA). Child Choice Providers are providers certified pursuant to Chapters 34 and 35 of Title 22-A DCMR, which have demonstrated key core competencies with respect to delivering high-quality, culturally-competent, evidence-based mental health services for children and youth. Children and youth with mental health issues who are in the legal care and custody of CFSA because they have been removed from their parents’ or guardian’s care may need additional services not provided through regular Mental Health Rehabilitation Services (MHRS). This rule defines the locally-funded services and supports that will augment the clinical services and increase the therapeutic benefit to the child and youth consumers in the legal care and custody of CFSA and that will be reimbursed pursuant to a Human Care Agreement (HCA) with the Department.

Issuance of these rules on an emergency basis is necessary to ensure the continued provision of these services to very vulnerable children and youth. Delay in promulgating the published reimbursement rates would result in an interruption of these supportive services. Therefore, emergency action is necessary for the immediate preservation of services to ensure the health, welfare, and safety of children and youth with mental health issues who are in the legal care and custody of CFSA.

The emergency rulemaking was adopted on and became effective for services rendered on or after May 2, 2016, by a provider certified pursuant to Chapters 34 and 35 of this title with a HCA with the Department. The emergency rules will remain in effect for one hundred twenty (120) days or until August 30, 2016, unless superseded by publication of another rulemaking notice in the *D.C. Register*.

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

Chapter 36, CHILD CHOICE PROVIDERS – FLEXIBLE SPENDING LOCAL FUNDS PROGRAM, of Title 22-A DCMR, MENTAL HEALTH, is amended by deleting it in its entirety and replacing it with the following:

CHAPTER 36 CHILD CHOICE PROVIDERS – SPECIALIZED SERVICES AND REIMBURSEMENT RATES

3600 PURPOSE

- 3600.1 This chapter establishes the specialized services and reimbursement rates for services provided by Child Choice Providers (CCPs) to children and youth in the legal care and custody of the Child and Family Services Agency (CFSA).
- 3600.2 Nothing in this chapter grants a Child Choice Provider agency the right to reimbursement for costs of providing these services. Eligibility for reimbursement for these services is determined solely by the Human Care Agreement (HCA) between the Department and the Child Choice Provider and is subject to the availability of appropriated funds.
- 3600.3 No reimbursement under this rule shall be made for services that qualify for and can be claimed as a Medicaid-reimbursable service pursuant to the HCA.

3601 ELIGIBILITY FOR SERVICES

- 3601.1 Children and youth in the legal care and custody of Child and Family Services Agency (CFSA) are eligible for these services if they:
- (a) Are identified by a Mental Health Rehabilitation Services (MHRS) provider as needing mental health services;
 - (b) Are eligible to receive services pursuant to Section 3403 of Chapter 34 of this title; and
 - (c) Have been referred to a Child Choice Provider for receipt of mental health services.
- 3601.2 These services may be provided to a child or youth, and his or her family, for a maximum of thirty (30) days prior to the child's or youth's enrollment for services, and after enrollment as needed.
- 3601.3 All specialized services offered by a Child Choice must receive prior approval internally from the designated qualified practitioner within the Child Choice Provider agency before services are rendered, purchased, or provided.
- 3601.4 Specialized services offered by a Child Choice Provider include Choice Care Coordination, Flexible Spending Child Choice Services and Travel/Transportation.
- 3601.5 Child Choice Providers are providers certified pursuant to Chapters 34 and 35 of Title 22-A DCMR, which have demonstrated key core competencies with respect to delivering high-quality, culturally-competent, evidence-based mental health services for children and youth.

3602 CHOICE CARE COORDINATION

3602.1 Choice Care Coordination is care coordination provided by a Child Choice Provider to a child or youth in the legal care and custody of CFSA.

3602.2 Choice Care Coordination is the implementation of the comprehensive care plan through appropriate linkages, referrals, coordination, consultation and follow-up to needed services and support. Care Coordination consists of the following services:

- (a) Attending interdisciplinary team meetings for ongoing assessment and diagnostic services;
- (b) Providing telephonic consults and outreach;
- (c) Following up on service delivery by providers, both internal and external to the treatment program, and ensuring communication and coordination of services;
- (d) Contacting consumers who have unexcused absences from program appointments or from other critical off-site service appointments to re-engage them and promote recovery efforts;
- (e) Making appointments and providing telephonic reminders of appointments;
- (f) Assisting with arrangements such as transportation;
- (g) Providing individual and family training to consumers to develop necessary coping skills to achieve and maintain recovery and support stability in placements within the community; and
- (h) Engaging in measures that ensure that services are delivered in a manner that is culturally and linguistically competent.

3602.3 Choice Care Coordination may be provided by credentialed staff supervised by a qualified practitioner in accordance with the Department of Behavioral Health policy on supervision, or by a qualified practitioner.

3603 FLEXIBLE SPENDING CHILD CHOICE SERVICES

3603.1 Flexible Spending Child Choice Services (FLEXN Services) are non-Medicaid services and supports that are provided by a Child Choice Provider intended to augment, and thereby increase the therapeutic benefit of, clinical services provided to the consumers. These services and supports are resources and tools identified during therapeutic sessions to promote positive outcomes for the child or youth. These services may also be used with the child or youth and his or her family to support engagement and enhance coping skills. These resources may include but are not limited to:

- (a) Incentives and rewards to reinforce positive clinical outcomes achieved by children and youth in treatment;
- (b) Engagement efforts for encouraging children, youth, and their families to participate in treatment;
- (c) Social network supports such as a non-treatment parent/child activity that is deemed therapeutically appropriate and should lead to a positive outcome; and
- (d) Mental health modeling and training including purchasing items or services used to enhance self-esteem or to improve child safety.

3603.2 FLEXN services provided directly by the Child Choice Provider may be provided by a credentialed staff person under the supervision of a qualified practitioner in accordance with the Department’s policy on supervision. Should the Child Choice Provider utilize a vendor to purchase FLEXN services in the best interest and therapeutic need of the youth, the vendor must be provided by a business licensed to do business in the District of Columbia or neighboring jurisdiction.

3604 TRAVEL/TRANSPORTATION

3604.1 Child Choice Providers utilize travel/transportation service as mileage reimbursement for travel services used for engagement activities to prevent placement disruption and promote positive outcomes with children or youth and their families placed in the care and custody of CFSA.

3604.2 Travel/transportation reimbursement is available to support services provided pursuant to this Chapter and MHRS provided in accordance with Chapter 34 of Title 22-A DCMR.

3604.3 Actual transportation shall be provided by an authorized staff according to the policies and procedures of the Child Choice Provider.

3605 SERVICE CODES AND RATES

3605.1 Service codes and rates for the Choice Care Coordination, FLEXN Services, and Travel/Transportation are set forth below:

SERVICE	CODE	RATE
Choice Care Coordination	H0006HU	\$21.97
FLEXN Services	FLEXN	\$0.01
Travel/Transportation	DBH-MILN	GSA Per Diem Schedule

3606 RECORDS AND DOCUMENTATION REQUIREMENTS

- 3606.1 Each Child Choice Provider shall utilize the Department's data management system for documenting and billing all services provided pursuant to this chapter.
- 3606.2 Each Child Choice Provider shall maintain all documentation and records in accordance with the Department standards in Chapter 34 of this title, federal and District privacy laws, and the Department's Privacy Manual.
- 3606.3 Child Choice Providers shall document each service and activity provided pursuant to this Chapter in the consumer's record in the Department's data management system. Any claim for services shall be supported by written documentation which clearly identifies the following:
- (a) The specific service type rendered;
 - (b) The date, duration, and actual time, a.m. or p.m. (beginning and ending), during which the services were rendered;
 - (c) Name, title, and credentials of the person who provided the services;
 - (d) The setting in which the services were rendered;
 - (e) Identification of any further actions required for the consumer's well-being raised as a result of the service provided;
 - (f) A description of each encounter or service by the Child Choice Provider which clearly documents how the service was provided in accordance with this chapter; and
 - (g) Dated and authenticated entries, with their authors identified, which are legible and concise, including the printed name and the signature of the person rendering the service, diagnosis, and clinical impression recorded in the terminology of the International Statistical Classification of Diseases and Related Health Problems-10 (ICD-10 CM) or subsequent revisions, and the service provided.
- 3606.4 No Child Choice Provider shall be reimbursed for a claim for services that does not meet the requirements of this section or is not documented in accordance with this section.
- 3606.5 Only a Child Choice Provider that has incurred expenses eligible for reimbursement in accordance with its contract with the Department may bill the Department under this regulation.

3607 SUBMISSION OF CLAIM; PAYMENT OF VOUCHER

- 3607.1 The Child Choice Provider shall submit all claims for services rendered pursuant to this chapter through the Department's data management system.

- 3607.2 The Child Choice Provider shall submit appropriate documentation to support all claims under the HCA and upon request of the Department shall cooperate in any audit or investigation concerning this program.
- 3607.3 The Department will reimburse a Child Choice Provider for a claim that is determined by the Department to be eligible for reimbursement pursuant to the terms of the HCA between the Department and the Child Choice Provider, subject to the availability of appropriated funds.

3699 DEFINITIONS

When used in this chapter, the following terms shall have the meaning ascribed:

Child Choice Provider - a Mental Health Rehabilitation Service (MHRS) Core Services Agency (CSA) certified as a Child Choice Provider pursuant to Chapter 35 of this title with demonstrated ability to provide quality, evidence-based, innovative services and interventions to meet the most complex and changing needs of children, youth, and their families in the District, particularly those who have histories of abuse or neglect.

Core Services Agency or “CSA” - a Department-certified community-based MHRS provider that has entered into a Human Care Agreement with the Department to provide specified MHRS. A CSA shall provide at least one core service directly and may provide up to three core services via contract with a sub-provider or subcontractor.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the Suzanne Fenzel, Deputy Director, Office of Strategic Planning, Policy and Evaluation, Department of Behavioral Health, at 64 New York Ave., N.E., 3rd Floor, Washington, D.C. 20002, or e-mailed to SuzanneM.Fenzel@dc.gov. Copies of the proposed rules may be obtained from dbh.dc.gov or from the Department of Behavioral Health at the address above.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Higher Education Licensure Commission (HELC or Commission), pursuant to the authority set forth in the Education Licensure Commission Act of 1976 (the Act), effective April 6, 1977 (D.C. Law 1-104; D.C. Official Code § 38-1306(b)(3), 38-1309, and 38-1311 (2012 Repl. & 2015 Supp.)), and Mayor's Order 89-120, dated May 31, 1989; and the State Superintendent of Education, pursuant to Section (3)(b)(6) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)(6) (2012 Repl. & 2015 Supp.)); hereby gives notice of the adoption, on an emergency basis, of a new Chapter 83 (Delivery of Online Instruction by a Postsecondary Educational Institution) of Title 5 (Education), Subtitle A (Office of the State Superintendent of Education) of the District of Columbia Municipal Regulations (DCMR), in no less than thirty (30) days after the date of the publication of this notice in the *D.C. Register*, or the completion of the fourteen (14) day Council review period for these rules, whichever is later.

The Office of the State Superintendent of Education is responsible for overseeing the functions and activities of the Commission. In this regard the Superintendent has reviewed this proposal.

The purpose of the emergency and proposed rules is to revise licensing requirements for postsecondary degree-granting and non-degree-granting educational institutions by adding procedures and standards for distance learning institutions. The emergency rulemaking action is necessary for OSSE to ensure timely application to the State Authorization Reciprocity Agreement (SARA). Without this emergency rulemaking, the District will not be able to demonstrate that it meets the standards established for participation in the interstate reciprocity agreement.

This Emergency and Proposed Rulemaking will be submitted to the Council of the District of Columbia for a fourteen (14) day review period. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within the fourteen (14) day review period, the proposed rules will be deemed approved by the Council.

This emergency rulemaking was adopted on April 29, 2016 and became effective on that date. The emergency rulemaking will remain in effect for up to one hundred twenty (120) days after the date of adoption, expiring on August 29, 2016, or upon earlier amendment or repeal by the State Superintendent of Education or publication of a final rulemaking in the *D.C. Register*, whichever occurs first, following completion of the Council's review.

Title 5-A DCMR, OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION, is amended to add a new Chapter 83 to read as follows:

**CHAPTER 83 DELIVERY OF ONLINE INSTRUCTION BY A
POSTSECONDARY EDUCATIONAL INSTITUTION**

8300 PURPOSE

8300.1 The purpose of this chapter is to establish standards and procedures governing the provision of online instruction to District of Columbia residents by postsecondary educational institutions and schools.

8301 APPLICABILITY

8301.1 Any postsecondary educational institution seeking to provide online instruction to a District resident through an online presence shall be deemed to be operating in the District, as defined in this chapter, whether or not the institution has a physical presence in the District.

8301.2 Prior to providing online instruction to a District resident, advertising online instruction to a District resident, or enrolling a District resident as a student for online instruction, an institution shall either be:

- (a) Licensed by the Commission in accordance with this chapter; or
- (b) Authorized to operate in the District in accordance with this chapter.

8301.3 This chapter is not limited to institutions that solely provide online instruction.

8301.4 A new applicant for licensure that has a physical presence and is seeking to provide online instruction shall submit to the Commission, either:

- (a) An Application for Provisional Licensure that meets the requirements of Chapter 80 of Subtitle A of Title 5 of the D.C. Municipal Regulations and the Standards for Online Instruction in Section 8302 of this chapter; or
- (b) An Application for Initial Licensure that meets the requirements of Chapter 81 of Subtitle A of Title 5 of the D.C. Municipal Regulations and the Standards for Online Instruction in Section 8302 of this chapter.

8301.5 A new applicant for licensure that does not have a physical presence and is seeking to provide online instruction shall submit to the Commission, either:

- (a) An Application for Provisional Licensure that meets the requirements of Chapter 80 of Subtitle A of Title 5 of the D.C. Municipal Regulations and the Standards for Online Instruction in Section 8302 of this chapter; or
- (b) An Application for Initial Licensure that meets the requirements of Chapter 81 of Subtitle A of Title 5 of the D.C. Municipal Regulations and the Standards for Online Instruction in Section 8302 of this chapter.

8301.6 A current licensee seeking to expand its existing program of instruction to include online instruction shall submit to the Commission, either:

- (a) An Application for License Amendment that meets the requirements of Section 8010 of Chapter 80 of Subtitle A of Title 5 of the D.C. Municipal Regulations and the Standards for Online Instruction in Section 8302 of this chapter; or
- (b) An Application for License Amendment that meets the requirements of Section 8123 of Chapter 81 of Subtitle A of Title 5 of the D.C. Municipal Regulations and the Standards for Online Instruction in Section 8302 of this chapter, as applicable.

8301.7 A congressionally chartered postsecondary educational institution whose home state is the District of Columbia and that is seeking to expand its existing program of instruction to include online instruction shall execute a memorandum of understanding with the Commission to facilitate institutional participation in State Authorization Reciprocity Agreement.

8302 STANDARDS FOR LICENSING OF POSTSECONDARY EDUCATIONAL INSTITUTION OFFERING ONLINE INSTRUCTION

8302.1 In order to qualify for a license, a postsecondary degree granting institution seeking to provide online instruction to a District resident shall demonstrate that it meets each standard for licensure in 5-A DCMR § 8004 and shall also demonstrate that the institution meets the following requirements related to online instruction in a form specified by the HELC:

- (a) Online learning is appropriate to the institution's mission and purposes;
- (b) The institution's plans for developing, sustaining, and, if appropriate, expanding online learning offerings are integrated into its regular planning and evaluation processes;
- (c) Online learning is incorporated into the institution's systems of governance and academic oversight;
- (d) Curricula for the institution's online learning offerings are coherent, cohesive, and comparable in academic rigor to programs offered in traditional instructional formats;
- (e) The institution evaluates the effectiveness of its online learning offerings, including the extent to which the online learning goals are achieved, and uses the results of its evaluations to enhance the attainment of the goals;
- (f) Faculty responsible for delivering the online learning curricula and evaluating the students' success in achieving the online learning goals are appropriately qualified and effectively supported;

- (g) The institution provides effective student and academic services to support students enrolled in online learning offerings; and
- (h) The institution provides sufficient resources to support and, if appropriate, expand its online learning offerings.

8302.2

In order to qualify for a license, a postsecondary non-degree granting institution seeking to provide online instruction to a District resident shall demonstrate that it meets each standard for licensure in Chapter 81 of 5-A DMCR and shall also meet the following requirements related to online instruction:

- (a) Online learning is appropriate to the institution's mission and purposes;
- (b) The institution's plans for developing, sustaining, and, if appropriate, expanding online learning offerings are integrated into its regular planning and evaluation processes;
- (c) Online learning is incorporated into the institution's systems of governance and academic oversight;
- (d) Curricula for the institution's online learning offerings are coherent, cohesive, and comparable in academic rigor to programs offered in traditional instructional formats;
- (e) The institution evaluates the effectiveness of its online learning offerings, including the extent to which the online learning goals are achieved, and uses the results of its evaluations to enhance the attainment of the goals;
- (f) Faculty responsible for delivering the online learning curricula and evaluating the students' success in achieving the online learning goals are appropriately qualified and effectively supported;
- (g) The institution provides effective student and academic services to support students enrolled in online learning offerings; and
- (h) The institution provides sufficient resources to support and, if appropriate, expand its online learning offerings.

8303**PARTICIPATION IN THE STATE AUTHORIZATION RECIPROCITY AGREEMENT**

8303.1

This section shall be effective upon the approval of District of Columbia as a member state of the State Authorization Reciprocity Agreement (SARA).

- 8303.2 The following institutions are eligible to become an approved SARA institution, subject to the policies and standards of SARA and approval pursuant to this chapter:
- (a) Postsecondary degree granting institution whose home state is the District of Columbia; or
 - (b) A conditionally exempt and congressionally chartered educational institution whose home state is the District of Columbia and who has executed a memorandum of understanding with the Commission to facilitate institutional participation in SARA.
- 8303.4 An application to become an approved SARA institution shall be submitted to and approved by the Commission to confirm the institution's compliance with SARA policies and standards and affirm the institution's willingness and ability for future compliance.
- 8303.4 An educational institution shall be assessed fees by the Commission and SARA to participate as an approved SARA institution. The fee to the Commission shall be determined annually.
- 8303.5 A postsecondary educational institution that has been authorized to provide online instruction by the duly authorized licensing body of a State that is a member of SARA, to which the District of Columbia is also a member, shall be authorized to operate in the District and provide online instruction to a District resident in accordance with SARA policies and standards.

8099 DEFINITIONS

“Home State” – a member state where the institution holds its legal domicile, in which the institution's principal campus holds its institutional accreditation.

“Higher Education Licensure Commission” or “Commission” – the body established by the Education Licensure Commission Act of 1976, effective April 6, 1977 (D.C. Law 1-104; D.C. Official Code §§ 38-1301 *et seq.*).

“License” or “to license” – the granting of approval to operate by the Commission to any educational institution covered under this chapter. Such approval shall be contingent upon said educational institution's compliance with all rules, regulations and criteria promulgated by the Commission, as well as compliance with all other applicable D.C. laws and regulations.

“Online Instruction” – education, whether known as “Virtual Class,” “Correspondence Course,” “Distance Learning” or a like term, where the

learner and instructor are not physically in the same place at the same time, in whatever electronic medium such as, but not limited to, the Internet, Web-based, real time or recorded video or digital form, offered or provided by an educational institution to District residents who are physically present in the District.

“Online Presence” – a connection to the District of Columbia created by the provision of online instruction by a postsecondary institution that is physically located outside of the District of Columbia, which gives rise to the requirement to obtain licensure from the Higher Education Licensure Commission or authorization to operate in the District pursuant to this chapter.

“Physical Presence” – an institution has established one of the following in the District of Columbia:

- (a) A physical location for students to receive instruction;
- (b) An administrative office;
- (c) A physical site operated by or on behalf of the institution that provides information to students for the purpose of enrolling students or provides student support services; or
- (d) Office space for instructional and non-instructional staff.

“To operate” or “operating” – when applied to an educational institution means to establish, keep, or maintain any facility or location in the District, or to establish, keep, or maintain any facility or location organized or chartered in the District where from or through which education is offered or given, or educational credentials are offered or granted, and includes contracting with any person, group, or entity to perform any such act.

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* via email addressed to: ossecomments.proposedregulations@dc.gov; or by mail or hand delivery to the Office of the State Superintendent of Education, Attn: Jamai Deuberry re: *HELC Delivery of Online Instruction*, 810 First Street, N.E., 9th Floor, Washington D.C. 20002. Additional copies of this rule are available from the above address and on the Office of the State Superintendent of Education website at www.osse.dc.gov.

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 (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 (2014 Repl. & 2015 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, on an emergency basis, of a new Chapter 101 (*Services My Way* Program) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These rules codify the program policies and procedures for the District of Columbia Medicaid participant-directed *Services My Way* program, offered under the Home and Community-Based Services Waiver for the Elderly and Persons with Physical Disabilities (EPD Waiver).

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of EPD Waiver beneficiaries who are in need of EPD Waiver services through the participant-directed services program. The EPD Waiver serves some of the District's most vulnerable residents. Furthermore, the Centers for Medicare and Medicaid Services (CMS) has directed that the District implement its participant-directed services program immediately in order to provide these services to vulnerable beneficiaries. These rules will provide guidance to providers, beneficiaries, and other stakeholders as the District implements this new program, and clarify program requirements that will assist in preserving the health, safety and welfare of these EPD Waiver beneficiaries.

The emergency rulemaking was adopted on May 11, 2016, and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days until September 8, 2016, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

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

A new Chapter 101, *SERVICES MY WAY PROGRAM*, is added to Title 29 DCMR, PUBLIC WELFARE, to read as follows:

CHAPTER 101 *SERVICES MY WAY PROGRAM***10100 GENERAL PROVISIONS**

10100.1 The *Services My Way* program shall be established as the Medicaid participant-directed services (PDS) program in the District of Columbia to afford persons enrolled in the Home and Community-Based Services Waiver for the Elderly and Persons with Physical Disabilities (EPD Waiver) the opportunity to self-direct certain EPD Waiver services.

- 10100.2 Participation in the *Services My Way* program shall be limited to beneficiaries enrolled in the EPD Waiver who live in their own private residence or in the home of a family member.
- 10100.3 The *Services My Way* program shall include the following services:
- (a) Participant-directed community support (PDCS) services as described in § 10102; and
 - (b) Individual-directed goods and services as described in § 10104.
- 10100.4 PDCS services and individual-directed goods and services shall only be available to EPD Waiver beneficiaries enrolled as participants in the *Services My Way* program.
- 10100.5 *Services My Way* participants shall be afforded the following self-direction opportunities:
- (a) The opportunity to exercise “employer authority” to recruit, hire, supervise and discharge qualified participant-directed workers (PDWs) who provide PDCS services to them; and
 - (b) The opportunity to exercise “budget authority” to purchase allowable and approved individual-directed goods and services using a participant-directed services (PDS) budget.
- 10100.6 The *Services My Way* participant or the participant’s authorized representative, if designated by the participant, shall serve as a “common law employer” of all PDWs hired by the participant.
- 10100.7 Financial management services and information and assistance services, as set forth in § 10106.4 and § 10106.6, respectively, shall be provided to *Services My Way* participants through the Vendor Fiscal/Employer Agent (VF/EA) Financial Management Services (FMS)-Support Broker entity selected by the Department of Health Care Finance (DHCF) through a competitive procurement process.
- 10100.8 *Services My Way* participants shall not receive agency-based personal care aide services offered under Chapter 42 or Chapter 50 of Title 29 DCMR.
- 10100.9 *Services My Way* participants shall be eligible to receive all services offered under the EPD Waiver except for agency-based personal care aide services.
- 10100.10 *Services My Way* participants shall not serve as PDWs.

10101 OUTREACH AND ENROLLMENT

- 10101.1 Both current EPD Waiver beneficiaries and new EPD Waiver enrollees who meet the requirements of § 10100.2 may elect to enroll in the *Services My Way* program.
- 10101.2 DHCF or its agent shall provide information regarding self-direction and the *Services My Way* program to all current EPD Waiver beneficiaries and to new EPD Waiver enrollees at the time of EPD Waiver enrollment.
- 10101.3 EPD Waiver case managers shall provide information regarding self-direction and the *Services My Way* program to all EPD Waiver beneficiaries who are not enrolled as *Services My Way* participants each time a beneficiary is reassessed for EPD Waiver services, each time a beneficiary's person-centered plan (PCP) is updated, and upon a beneficiary's request.
- 10101.4 If an EPD Waiver beneficiary expresses interest in the *Services My Way* program, the beneficiary's EPD Waiver case manager shall assist the beneficiary in completing all required inquiry forms and submit the forms to the *Services My Way* Program Coordinator.
- 10101.5 All EPD Waiver case managers shall be required to complete a standardized training course on self-direction and the *Services My Way* program conducted by DHCF prior to the date enrollment begins for the *Services My Way* program, as well as all ongoing training required by DHCF.
- 10101.6 EPD Waiver case managers shall be responsible for providing an overview of *Services My Way* program requirements to interested beneficiaries and overseeing the beneficiary's completion of all forms required to initiate *Services My Way* program enrollment. EPD Waiver case managers shall also be responsible to assist the beneficiary in revising an existing PCP or develop an initial PCP to include the *Services My Way* program.
- 10101.7 Upon completion of the documents referenced in § 10101.6, the EPD Waiver case manager shall submit all required documents to the *Services My Way* Program Coordinator for approval.
- 10101.8 Enrollment in the *Services My Way* program shall only occur following the *Services My Way* Program Coordinator's approval of the beneficiary's PDS budget as described in § 10107 and issuance of a prior authorization for all PDCS services and individual-directed goods and services included in the approved budget.
- 10101.9 Beneficiaries shall be notified at the time of enrollment in the *Services My Way* program that participation in the program is conditional upon compliance with all

program rules and the terms of the Participant/Representative-Employer Agreement.

**10102 PARTICIPANT-DIRECTED COMMUNITY SUPPORT SERVICES:
SERVICE DESCRIPTION**

- 10102.1 PDCS services shall be available only to EPD Waiver beneficiaries enrolled as participants in the *Services My Way* program.
- 10102.2 PDCS services shall be detailed in the participant's PCP and PDS budget and shall be designed to promote independence and ensure the health, welfare, and safety of the participant.
- 10102.3 The participant or his/her authorized representative, as applicable, shall serve as a "common law employer" of the PDW providing services. In the role of "common law employer," the participant or authorized representative shall be responsible for recruiting, hiring, supervising and discharging PDWs providing PDCS services.
- 10102.4 Supports shall be available to assist the participant/representative-employer with his or her own employer-related responsibilities as described in § 10102.3 through the VF/EA FMS-Support Broker entity.
- 10102.5 PDCS services shall include cueing and assistance with activities of daily living and instrumental activities of daily living.
- 10102.6 All PDCS services provided by a PDW shall be prior authorized by DHCF or its agent in order to be reimbursed under the *Services My Way* program.
- 10102.7 To be eligible for PDCS services, a participant shall be in receipt of a service authorization for personal care aide services from DHCF or its designated agent that specifies the amount, duration, and scope of services authorized to be provided to the beneficiary, in accordance with 29 DCMR § 5003.
- 10102.8 Payment for PDCS services shall be provided in accordance with the participant's PDS budget, at an hourly wage set by the participant/representative-employer which falls within the wage range established by DHCF as set forth in § 10102.9.
- 10102.9 The hourly wage paid to a PDW shall be no lower than the living wage in the District, set in accordance 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.*), and no higher than the wage paid by DHCF for services provided by a personal care aide in accordance with Chapter 42 of Title 29 DCMR.
- 10102.10 PDCS services shall not include the following:

- (a) Services that require the skills of a licensed professional, as defined in 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.*); or
- (b) Tasks usually performed by chore workers or homemakers, such as cleaning of areas not occupied by the participant, laundry for family members, shopping for items not used by the participant, or money management.

10102.11 An agency-based provider of personal care aide services shall not be designated as an emergency back-up provider of PDCS services.

**10103 PARTICIPANT-DIRECTED COMMUNITY SUPPORT SERVICES:
PROVIDER REQUIREMENTS**

10103.1 PDCS services shall be provided only to EPD Waiver beneficiaries enrolled as participants in the *Services My Way* program.

10103.2 Qualified PDWs shall provide PDCS services as employees of *Services My Way* participants.

10103.3 PDCS services may be provided by family members and individuals other than a participant's spouse, other legally responsible relative, or court-appointed guardian. A legally responsible relative does not include parents of adult children, so parents of adult children are not precluded from providing PDCS services. Each family member providing PDCS services shall comply with the requirements set forth in these rules.

10103.4 All PDWs shall meet the following qualifications:

- (a) Be at least eighteen (18) years of age;
- (b) Complete and pass a criminal background check in accordance with the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 13, 2002 (D.C. Law 14-98; D.C. Official Code §§ 44-551 *et seq.*);
- (c) Receive customized training provided by the participant and/or the participant's authorized representative that is related to the participant's functional needs and goals as outlined in the PCP;
- (d) Be able and willing to perform the service-related responsibilities outlined in the participant's PCP; and
- (e) Be certified in cardiopulmonary resuscitation (CPR) and First Aid and maintain current certifications.

- 10103.5 *Services My Way* participants shall not serve as PDWs.
- 10103.6 The VF/EA FMS-Support Broker entity shall be responsible for collecting criminal background check fees from prospective PDWs, performing criminal background checks on all prospective PDWs in accordance with § 10103.4(b), and providing participants, authorized representatives, prospective PDWs, and the *Services My Way* Program Coordinator with the results of all criminal background checks performed on prospective PDWs.
- 10103.7 The participant, or the participant's authorized representative if designated as the "common law employer" of the PDW, shall verify that a prospective PDW meets all qualifications set forth in § 10103.4 prior to hiring the PDW to provide PDCS services.
- 10103.8 The VF/EA FMS-Support Broker entity shall verify that a PDW meets all qualifications set forth in § 10103.4 prior to enrolling the PDW into its payroll system.
- 10103.9 The VF/EA FMS-Support Broker entity shall execute a Medicaid provider agreement with each PDW on behalf of DHCF at the time a PDW is enrolled into its payroll system.

10104 INDIVIDUAL-DIRECTED GOODS AND SERVICES: SERVICE DESCRIPTION

- 10104.1 Individual-directed goods and services are only available to EPD Waiver beneficiaries who are enrolled as participants in the *Services My Way* program, and are purchased from the participant's PDS budget.
- 10104.2 Individual-directed goods and services are services, equipment or supplies not otherwise provided through the EPD Waiver or the Medicaid State Plan that address an identified need in the participant's PCP, including improving and maintaining the participant's opportunities for full membership in the community. Individual-directed goods and services shall meet the following requirements:
- (a) The requested item or service would decrease the participant's need for other Medicaid services;
 - (b) The requested item or service would promote the participant's inclusion in the community; or
 - (c) The requested item or service would increase the participant's safety in the home environment.
- 10104.3 Allowable goods and services shall include, but not be limited to, the following:

- (a) Cleaning services from firms or individuals to clean the participant's personal areas including bedroom, bathroom, kitchen, etc., only if necessary in addition to those services otherwise available through the EPD Waiver;
- (b) Food preparation and delivery services, including grocery delivery and delivery of prepared foods (but not payment for the food itself);
- (c) Transportation services not currently available under Medicaid or the District's accessible transportation programs or through natural supports that are related to activities of daily living, and meet an objective outlined in the participant's PCP;
- (d) Small electric appliances which allow the individual to safely prepare meals;
- (e) Laundry services; and
- (f) The cost of changing locks at the participant's home, as necessary, when a PDW stops working for the participant.

10104.4 Payment for allowable transportation services shall only be made in the form of reimbursement for mileage documented on a Mileage Reporting Form provided by DHCF or its agent and submitted to the VF/EA FMS-Support Broker entity.

10104.5 Non-allowable goods and services shall include, but not be limited to, the following:

- (a) Gifts for PDWs, family or friends, including bonus payments to PDWs;
- (b) Loans to PDWs, family or friends;
- (c) Food, beverages and nutritional supplements;
- (d) Entertainment equipment or supplies such as videos, VCRs, televisions, stereos, CDs, DVDs, audio/video tapes, etc.;
- (e) Air conditioners, heaters, fans and similar items;
- (f) Electronic devices that do not meet the requirements of § 10104.2 and do not meet an objective outlined in the participant's PCP;
- (g) Illegal drugs;
- (h) Alcoholic beverages;
- (i) Tobacco products;

- (j) Costs associated with travel (airfare, lodging, meals, etc.) for vacations or entertainment;
- (k) Utility, rent or mortgage payments;
- (l) Clothing or shoes;
- (m) Comforters, towels, linens or drapes;
- (n) Paint or related supplies;
- (o) Furniture or other household furnishings;
- (p) Cleaning or laundry for other household members or areas of a home that are not used as part of the participant's personal care;
- (q) Large household or kitchen appliances such as washers, dryers, dishwashers, refrigerators, or freezers;
- (r) Exercise equipment;
- (s) Medications, vitamins or herbal supplements;
- (t) Experimental or prohibited treatments;
- (u) Laundry detergent and household cleaning supplies;
- (v) Vehicle expenses, including routine maintenance, repairs, or insurance costs;
- (w) Transportation services that are otherwise available under Medicaid or the District's accessible transportation programs or through natural supports or that are not related to activities of daily living;
- (x) Landscaping and yard work;
- (y) Pet care and supplies, except when provided for service animals; and
- (z) Massages, manicures or pedicures.

10104.6 Participants in the *Services My Way* program may purchase individual-directed goods and services that are included in their PCP, meet the requirements of §§ 10104.2 and 10104.3, and are within their PDS budget to purchase.

10104.7 Individual-directed goods and services shall be documented in the participant's PDS budget and PCP. The participant's support broker shall assist participants to

revise their PDS budgets, as necessary, to account for new, appropriate individual-directed goods and services they would like to purchase. All revisions to a participant's PDS budget to account for new, appropriate individual-directed goods and services shall be accompanied by justification supporting the revision.

10104.8 Upon revising a PDS budget to reflect a new individual-directed good or service, the support broker shall submit the revised PDS budget and justification to the *Services My Way* Program Coordinator for approval.

10104.9 The *Services My Way* Program Coordinator shall review all requested individual-directed goods and services.

10104.10 The VF/EA FMS-Support Broker entity shall only authorize payment of invoices submitted for individual-directed goods and services that are included in the participant's PCP and PDS budget and that have been approved by the *Services My Way* Program Coordinator.

10105 INDIVIDUAL-DIRECTED GOODS AND SERVICES: PROVIDER REQUIREMENTS

10105.1 Individual-directed goods and services shall be provided only to EPD Waiver beneficiaries enrolled as participants in the *Services My Way* program.

10105.2 All individuals and vendors providing individual-directed goods and services shall meet the following minimum qualifications:

- (a) All individuals providing individual-directed goods and services shall be at least eighteen (18) years of age;
- (b) All individuals and vendors providing individual-directed goods and services shall be able to demonstrate to the participant that:
 - (1) The individual/vendor has the capacity to perform the requested work;
 - (2) The individual/vendor has the ability to successfully communicate with the participant; and
 - (3) The individual/vendor has all the necessary professional and/or commercial licenses required by federal and District law.

10105.3 Individuals and vendors providing non-medical transportation as an individual-directed service shall meet the following additional qualifications:

- (a) The individual/vendor shall have a valid driver's license; and

- (b) The individual/vendor shall have the minimum amounts of property damage liability, third party personal liability, uninsured motorist bodily injury, and uninsured motorist property damage insurance coverage required by the District of Columbia for the type of vehicle used to provide the transportation, in accordance with the Compulsory/No-Fault Motor Vehicle Insurance Act, effective September 18, 1982 (D.C. Law 4-155; D.C. Official Code §§ 31-2401 *et seq.*).

10105.4 No individual or vendor shall provide any individual-directed good or service that is not:

- (a) Documented in the participant's PCP and PDS budget; and
- (b) Approved by the *Services My Way* Program Coordinator.

10105.5 An individual or vendor selected by a participant to provide individual-directed goods or services on a recurrent basis may be required to enter into a Medicaid provider agreement with DHCF prior to providing the goods or services. The Medicaid provider agreement shall be executed by the VF/EA FMS-Support Broker entity supporting the *Services My Way* program on behalf of DHCF.

10105.6 The VF/EA FMS-Support Broker entity shall verify that an individual or vendor selected by the participant to provide individual-directed goods and services meets all applicable requirements set forth in §§ 10105.2 and 10105.3 at the time of enrollment into the VF/EA FMS-Support Broker entity's provider payment system and thereafter, as necessary.

10106 VENDOR FISCAL/EMPLOYER AGENT FINANCIAL MANAGEMENT SERVICES-SUPPORT BROKER ENTITY FUNCTIONS

10106.1 *Services My Way* participants shall receive financial management services and information and assistance services through the VF/EA FMS-Support Broker entity selected by DHCF through a competitive procurement process.

10106.2 The VF/EA FMS-Support Broker entity shall operate in accordance with 26 U.S.C. § 3504 and Rev. Proc. 70-6, as modified by REG-137036 and Rev. Proc. 2013-39, as well as all applicable federal and District labor, citizenship and immigration, and workers compensation requirements.

10106.3 The VF/EA FMS-Support Broker entity shall consist of the following two (2) divisions:

- (a) The Financial Management Services Division; and
- (b) The Support Broker Division.

10106.4 The VF/EA FMS-Support Broker entity's Financial Management Services Division shall provide the following services to *Services My Way* participants:

- (a) Assist participants in verifying citizenship status of prospective PDWs;
- (b) Report PDWs in the District New Hire Reporting System;
- (c) Collect and process timesheets for PDWs;
- (d) Process payroll, withholding, filing and payment of applicable federal and District employment-related taxes and insurance for PDWs;
- (e) Manage the receipt and renewal of workers' compensation insurance policies for participants' PDWs;
- (f) Track and report participant funds, disbursements, and the balance of participant funds;
- (g) Process and pay invoices for individual-directed goods and services outlined in the participant's PCP and approved PDS budget;
- (h) Provide participants with periodic reports of expenditures and the status of their PDS budgets, as described in § 10113.2;
- (i) Provide customer service, including toll-free phone numbers, written translation and oral language services in accordance with the Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code §§ 2-1931 *et seq.*); and
- (j) Any other services specified in the VF/EA FMS-Support Broker entity contract and accompanying documents.

10106.5 The VF/EA FMS-Support Broker entity's Financial Management Services Division shall execute the following tasks on behalf of DHCF:

- (a) Execute Medicaid provider agreements for PDWs and individual-directed goods and services vendors providing goods or services on a recurrent basis and maintaining such agreements as authorized under a written agreement with DHCF;
- (b) Process returned PDW payroll checks and returned payments to individual-directed goods and services vendors in accordance with the District Unclaimed Property Law, effective March 5, 1981 (D.C. Law 3-160; D.C. Official Code §§ 41-101 *et seq.*); and
- (c) Any other tasks specified in the VF/EA FMS-Support Broker entity contract and accompanying documents.

10106.6 The VF/EA FMS-Support Broker entity's Support Broker Division shall provide each *Services My Way* participant with a support broker to furnish information and assistance services. Support brokers shall provide the following services to *Services My Way* participants:

- (a) Assist participants in designating an authorized representative, if participants choose to do so;
- (b) Provide initial orientation to participants and authorized representatives, as appropriate, on participating in the *Services My Way* program, including the role and responsibilities of acting as a "common law employer" and the VF/EA FMS-Support Broker entity, the exercise of employer and budget authority, and management of the PDS budget;
- (c) Provide initial and ongoing skills training to participants and authorized representatives, as appropriate, on performing as a common law employer, utilizing financial management and information and assistance services provided by the VF/EA FMS-Support Broker entity, and managing the PDS budget;
- (d) Assist participant/representative-employers in developing, implementing, and revising, as needed, emergency back-up and natural support plans;
- (e) Receive participants' monthly PDS allocation amount from DHCF and assist participants and authorized representatives, as appropriate, in developing initial and revised PDS budgets using allocation amounts;
- (f) Conduct monthly phone calls and quarterly in-home visits with all participants and authorized representatives, as appropriate;
- (g) Communicate with EPD Waiver case managers to address any health and safety concerns identified for participants; and
- (h) Any other services specified in the VF/EA FMS-Support Broker entity contract and accompanying documents.

10107 PARTICIPANT-DIRECTED SERVICES BUDGET FORMULATION

10107.1 To be eligible for PDCS services, a *Services My Way* participant shall be in receipt of a service authorization for personal care aide services that specifies the amount, duration, and scope of services authorized to be provided, in accordance with 29 DCMR § 5003.

10107.2 A PDS budget shall be developed based on the following methodology:

- (a) The participant's total assessed hours per week for personal care aide services is determined through the assessment process as set forth in 29 DCMR § 5003.3 and converted to hours per month;
 - (b) The total number of personal care aide services hours per month is multiplied by the hourly rate paid by DHCF for personal care aide services; and
 - (c) The total amount computed in (b) above is reduced by a pre-determined percentage to reflect the administrative overhead amount included in the hourly rate paid by DHCF for personal care aide services.
- 10107.3 The amount resulting from the calculation described in § 10107.2 shall represent the *Services My Way* participant's monthly PDS allocation amount, which shall be used to compute the participant's PDS budget.
- 10107.4 A PDS budget shall be developed by the participant and authorized representative, as appropriate, with assistance from the participant's support broker.
- 10107.5 A PDS budget shall contain the following two (2) cost components:
- (a) PDCS services; and
 - (b) Individual-directed goods and services.
- 10107.6 Participant/representative-employers shall set the hourly wage rate paid to their PDWs within the wage range established by DHCF as set forth in § 10102.9.
- 10107.7 Funds available for purchase of individual-directed goods and services shall be those funds, if any, remaining in the PDS budget after the amount for PDCS services has been determined.
- 10107.8 Support brokers shall be responsible for explaining the method used to develop the monthly PDS allocation amount to *Services My Way* participants.
- 10107.9 DHCF shall calculate the monthly PDS allocation amount for all *Services My Way* participants.
- 10107.10 DHCF or its agent shall notify all *Services My Way* participants each time PDS allocation amounts are adjusted as a result of a change to the hourly rate paid by DHCF for personal care aide services.
- 10107.11 The participant and the authorized representative, if applicable, shall work with the support broker to develop the participant's PDS budget based on the allocation amount.

- 10107.12 The participant's support broker shall submit the participant's completed PDS budget to the *Services My Way* Program Coordinator for approval within the timeframe established by DHCF.
- 10107.13 The *Services My Way* Program Coordinator shall review all PDCS services and individual-directed goods and services requested in a participant's PDS budget.
- 10107.14 If the *Services My Way* Program Coordinator denies any PDCS services or individual-directed good or service requested in a participant's PDS budget, the Program Coordinator shall send written notice of the denial to the participant, authorized representative as appropriate, and the participant's support broker. The notice shall contain information on the reconsideration process, as described in § 10108, and the participant's appeal rights.
- 10107.15 Once a participant's PDS budget is approved by the *Services My Way* Program Coordinator, the Program Coordinator shall provide the approved PDS budget to the VF/EA FMS-Support Broker entity.
- 10107.16 The VF/EA FMS-Support Broker entity shall only release payment for PDCS services and individual-directed goods and services included in the participant's approved PDS budget and for which prior authorizations have been issued.

10108 RECONSIDERATION PROCESS

- 10108.1 If the *Services My Way* Program Coordinator denies any PDCS services or individual-directed good or service requested in a participant's PDS budget, the participant may request reconsideration of the denial in accordance with § 10108.2.
- 10108.2 If the participant wishes to request reconsideration of the denial, the following steps shall occur:
- (a) The participant shall submit a written request for reconsideration to DHCF within twenty-one (21) days of the postmark date on the notice of denial, containing the following elements:
 - (1) The reason the participant believes the denial decision should not be upheld; and
 - (2) Any additional information and/or documentation the participant believes is relevant to the reconsideration decision;
 - (b) The Director of DHCF or a designee shall issue a reconsideration decision within forty-five (45) days of the date the reconsideration request was received, containing the following elements:

- (1) An explanation of the reason the PDS budget denial was upheld or overturned; and
- (2) Information regarding the participant's right to appeal the reconsideration decision by filing a notice of appeal with the Office of Administrative Hearings.

10108.3 A *Services My Way* participant shall not be required to request reconsideration of the denial and may appeal the PDS budget denial decision directly by filing a notice of appeal with the Office of Administrative Hearings.

10109 AUTHORIZED REPRESENTATIVES

10109.1 A *Services My Way* participant may designate an authorized representative to exercise employer-related responsibilities in the *Services My Way* program.

10109.2 An authorized representative is an individual who willingly accepts responsibility for performing employer and PDS budget management tasks that a participant is unable to perform without the assistance of a representative.

10109.3 An individual shall execute a Designation of Authorized Representative form in order to be recognized as a *Services My Way* participant's authorized representative.

10109.4 A *Services My Way* participant may designate one (1) of the following three (3) types of authorized representative:

- (a) Pre-Determined Representative: A legal guardian or other court-appointed representative in place at the time of the participant's enrollment in the *Services My Way* program;
- (b) Voluntary Representative: An individual twenty-one (21) years of age or older who is actively engaged in the participant's life and lives in the participant's community; or
- (c) Mandated Representative: An individual who meets the criteria of (b) above who is designated by the participant if DHCF or its agent determines that the participant requires an authorized representative in order to continue participation in the *Services My Way* program.

10109.5 A *Services My Way* participant shall only have one (1) authorized representative at any time.

10109.6 No individual shall receive any monetary compensation for acting as an authorized representative for a *Services My Way* participant.

- 10109.7 No individual acting as an authorized representative for a *Services My Way* participant shall serve as a PDW for that participant.
- 10109.8 All authorized representatives shall be responsible for working collaboratively with *Services My Way* participants to ensure that:
- (a) The participant receives all needed PDCS services from qualified PDWs; and
 - (b) PDCS services and individual-directed goods and services are provided in accordance with the participant's PCP and PDS budget.
- 10109.9 *Services My Way* participants may revoke an authorized representative designation at any time by notifying the support broker, who shall assist the participant to complete any required forms.
- 10109.10 DHCF may determine that a participant requires an authorized representative to continue participation in the *Services My Way* program if the participant has demonstrated an inability to self-direct their services after additional counseling, information, training or assistance.
- 10109.11 If DHCF determines that a participant requires an authorized representative to continue participation in the *Services My Way* program in accordance with § 10109.10, DHCF shall issue written notice to the participant, support broker and EPD Waiver case manager which shall:
- (a) Inform the participant that designation of an authorized representative is required in order to continue participation in the *Services My Way* program;
 - (b) Detail the reasons that designation of an authorized representative is required;
 - (c) Provide instructions on designating an authorized representative; and
 - (d) Provide information regarding the participant's right to appeal the determination by filing a notice of appeal with the Office of Administrative Hearings.

10110 MANDATORY REPORTING

- 10110.1 All EPD Waiver case managers, authorized representatives, and employees of the VF/EA FMS-Support Broker entity shall be required to report any suspected instance of abuse, neglect, or exploitation of a *Services My Way* participant to DHCF and Adult Protective Services.

10111 VOLUNTARY TERMINATION OF PROGRAM PARTICIPATION

- 10111.1 *Services My Way* participants may decide at any time to voluntarily terminate their participation in the *Services My Way* program.
- 10111.2 A *Services My Way* participant shall indicate the decision to voluntarily terminate participation in the program by completing and submitting any required voluntary termination forms to the *Services My Way* Program Coordinator. The participant's authorized representative and/or support broker shall assist the participant to complete the forms as necessary.
- 10111.3 Upon receipt of the participant's voluntary termination forms, the *Services My Way* Program Coordinator shall inform the participant's EPD Waiver case manager and support broker of the participant's decision to terminate program participation.
- 10111.4 EPD Waiver case managers shall be responsible for assisting participants to transition to agency-based personal care aide services. EPD Waiver case managers shall ensure that there is no break in service provision during the transition period and shall coordinate the approval by DHCF or its designee of the request to initiate agency-based personal care aide services.

10112 INVOLUNTARY TERMINATION OF PROGRAM PARTICIPATION

- 10112.1 Participant/representative-employers shall be required to comply with all program rules and terms of the Participant/Representative-Employer Agreement executed at the time of enrollment in the *Services My Way* program.
- 10112.2 Non-compliance with program rules or the terms of the Participant/Representative-Employer Agreement shall result in referral of the participant to the Remediation, Training and Termination Protocol established by DHCF.
- 10112.3 Non-compliance with the terms of the Participant/Representative-Employer Agreement may be identified by the VF/EA FMS-Support Broker entity, the participant's support broker, the participant's EPD Waiver case manager, or DHCF staff.
- 10112.4 If a *Services My Way* participant is found to be non-compliant with the terms of the Participant/Representative-Employer Agreement three (3) times within a twelve (12) month period, the third episode of non-compliance shall necessitate termination from the program and transition to agency-based personal care aide services.
- 10112.5 When a participant/representative-employer is found to be out of compliance with the Participant/Representative-Employer Agreement for the first time, the following steps shall occur:

- (a) The *Services My Way* Program Coordinator shall issue a notice of non-compliance to the participant/representative-employer, the support broker, and the EPD Waiver case manager, which shall:
- (1) Identify the issue of non-compliance and request that the issue be corrected, if possible, and not repeated;
 - (2) Detail requirements of the Corrective Action Plan (CAP) the participant shall create to address the issue;
 - (3) Offer training and/or technical assistance;
 - (4) Encourage the participant/representative-employer to direct questions to the support broker regarding the issue of non-compliance, including requesting training, obtaining assistance in preparing the CAP, and designating an authorized representative;
 - (5) Identify consequences of further non-compliance with the Participant/Representative-Employer Agreement; and
 - (6) Provide information on the participant's appeal rights for termination from the program should three (3) episodes of non-compliance occur in a twelve (12) month period.
- (b) Within five (5) business days of issuing the notice of non-compliance, the support broker shall contact the participant/representative-employer to discuss the episode of non-compliance;
- (c) Within five (5) business days of the contact described in (b) above, the participant shall, with the assistance of the authorized representative and/or the support broker, if needed, draft and sign a written CAP regarding the issue of non-compliance; and
- (d) The support broker shall provide copies of the participant's signed CAP to the participant's EPD Waiver case manager and the VF/EA FMS-Support Broker entity.

10112.6 The participant's support broker shall be responsible for monitoring the participant's adherence to the CAP.

10112.7 If the participant or authorized representative, as applicable, fails to implement all or a portion of the CAP, this failure shall be considered an episode of non-compliance with the terms of the Participant/Representative-Employer Agreement and shall be reported to the *Services My Way* Program Coordinator.

10112.8 If a participant/representative-employer is found to be out of compliance with the Participant/Representative-Employer Agreement a second time, the following steps shall occur:

- (a) The *Services My Way* Program Coordinator shall issue a second notice of non-compliance to the participant/representative-employer, the support broker, and the EPD Waiver case manager, which shall meet all requirements described in § 10112.5(a);
- (b) Within five (5) business days of issuing the notice of non-compliance, the support broker shall contact the participant/representative-employer to discuss the episode of non-compliance;
- (c) Within five (5) business days of the contact described in (b) above, the participant shall, with the assistance of the authorized representative and/or the support broker, if needed, draft and sign a written CAP regarding the issue of non-compliance; and
- (d) The support broker shall provide copies of the participant's signed CAP to the participant's EPD Waiver case manager and the VF/EA FMS-Support Broker entity.

10112.9 If a participant/representative-employer is found to be out of compliance with the Participant/Representative-Employer Agreement a third time, the following steps shall occur:

- (a) The *Services My Way* Program Coordinator shall issue a third notice of non-compliance to the participant, the support broker, and the EPD Waiver case manager, which shall:
 - (1) Identify the three (3) episodes of non-compliance;
 - (2) Clearly state that DHCF is terminating the participant's enrollment in the *Services My Way* program, per notice provided in the first and second notifications of non-compliance;
 - (3) Inform the participant that he/she will be transitioned to agency-based personal care aide services, per notice provided in the first and second notifications of non-compliance; and
 - (4) Provide information regarding the participant's right to appeal the *Services My Way* program termination decision by filing a notice of appeal with the Office of Administrative Hearings;
- (b) The support broker shall provide copies of the termination notice to the participant's EPD Waiver case manager and the VF/EA FMS-Support Broker entity;

- (c) Within five (5) business days of issuing the termination notice, the support broker shall contact the participant/ representative-employer and address the following topics:
- (1) Reference to the first and second notices of non-compliance and the termination notice;
 - (2) Review of the consequences of three (3) episodes of non-compliance within a twelve (12) month period;
 - (3) Explanation of the process to transition the participant to agency-based personal care aide services; and
 - (4) Explanation of the participant's right to appeal the *Services My Way* program termination decision and the appeal process; and
- (d) Within five (5) business days of the contact described in (c) above, the support broker shall complete all required participant termination forms and submit them to the *Services My Way* Program Coordinator.

10112.10 If a participant files a notice of appeal with the Office of Administrative Hearings within thirty (30) days of the date on the *Services My Way* program termination notice, the participant shall remain enrolled in the *Services My Way* program and continue to receive PDCS services and individual-directed goods and services included in the participant's approved PDS budget while the participant's appeal is pending.

10112.11 EPD Waiver case managers shall be responsible for transitioning participants to agency-based personal care aide services. EPD Waiver case managers shall ensure that there is no break in service provision during the transition period and shall coordinate the approval by DHCF or its designee of the request to initiate agency-based personal care aide services.

10112.12 Nothing in this section shall be construed to limit the District's authority to investigate and prosecute a *Services My Way* program participant for criminal acts including but not limited to theft and fraud.

10113 EXPENDITURE SAFEGUARDS

10113.1 DHCF shall implement all safeguards described in this section to prevent premature depletion of *Services My Way* participants' PDS budgets and address potential service delivery issues associated with budget underutilization.

10113.2 The Financial Management Services Division of the VF/EA FMS-Support Broker entity shall prepare and issue a monthly PDS budget report to all participant/representative-employers, their support brokers, EPD Waiver case

managers, and the *Services My Way* Program Coordinator. The monthly PDS budget report shall include the following elements:

- (a) The participant's monthly PDS budget amount, services used, and expenses incurred for both the current month and the year to date; and
- (b) The remaining balance of the participant's PDS budget amount.

10113.3 Support brokers shall review the monthly PDS budget report with participant/representative-employers during their monthly phone contact.

10113.4 The Financial Management Services Division of the VF/EA FMS-Support Broker entity shall monitor PDCS services utilization and provide written notice to the participant/representative-employer, the support broker, the EPD Waiver case manager, and the *Services My Way* Program Coordinator of any over- or under-utilization of PDCS services.

10113.5 If the Financial Management Services Division of the VF/EA FMS-Support Broker entity discovers over-utilization of PDCS services, the participant/representative-employer shall be referred to the Remediation, Training and Termination Protocol described in § 10112.

10113.6 If the Financial Management Services Division of the VF/EA FMS-Support Broker entity discovers under-utilization of PDCS services, the support broker shall address the issue with the participant/representative-employer and develop a corrective action plan as necessary to remedy the issue.

10199 DEFINITIONS

Activities of Daily Living (ADLs) - The ability to bathe, transfer, dress, eat and feed oneself, engage in toileting, and maintain bowel and bladder control (continence).

Authorized Representative - An individual who willingly accepts responsibility for performing employer and PDS budget management tasks that a participant is unable to perform without the assistance of a representative, and who has been designated by the participant in writing by executing a Designation of Authorized Representative form.

Budget Authority - The authority granted to *Services My Way* program participants and their authorized representatives, as applicable, to develop and manage their own PDS budget with the assistance of the support broker and the approval of the *Services My Way* Program Coordinator. This authority allows participants to set the wage rate for their own participant-directed workers within the range prescribed by DHCF, and to allocate funds in their own PDS budget to individual-directed goods and services.

Common Law Employer - A person for whom the services are being performed who has the right to direct and control the actions of the individual who performs the services, not only as to the result to be accomplished by the work, but also as to the details and the means by which the result is accomplished, and who is responsible for payment of wages and employment taxes to its employees and all federal, state and local government agencies.

District New Hire Reporting System - The electronic system in which all District employers are required to enter new employees within twenty (20) days of hire, per 42 U.S.C. § 653A.

Employer Authority - The authority granted to *Services My Way* program participants and their authorized representatives, as applicable, to recruit, hire, supervise, and discharge their own qualified participant-directed workers who provide participant-directed community support services to program participants, with the assistance of the VF/EA FMS-Support Broker entity.

Fraud - An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person, including any act that constitutes fraud under federal or District law.

Instrumental Activities of Daily Living (IADLs) - The ability to perform activities not necessary for day-to-day functioning, but which allow an individual to live independently in the community, such as telephone use and medication administration.

Participant-Directed Worker - An individual meeting the qualifications set forth in § 10103 who is hired by the participant/representative employer to provide PDCS services.

Participant/Representative-Employer - The *Services My Way* participant or the participant's authorized representative, as applicable, who performs employer-related duties including recruiting, hiring, supervising and discharging participant-directed workers.

Person-Centered Plan - An individualized service plan developed by the EPD Waiver case manager that identifies the supports and services to be provided to the person enrolled in the EPD Waiver and the evaluation of the person's progress on an ongoing basis to assure that the person's needs and desired outcomes are being met.

Self-Direction - The ability of program participants, or their representatives if applicable, to exercise decision-making authority over certain services and

take direct responsibility to manage their services with the assistance of a system of available supports.

Support Broker - An employee of the VF/EA FMS-Support Broker entity who provides information and assistance services to *Services My Way* participants to enable participants and authorized representatives, as appropriate, to independently direct and manage their participant-directed services.

Theft - To wrongfully obtain or use the property of another with intent to deprive the other of a right to the property or a benefit of the property or to appropriate the property to an individual's own use or to the use of a third person.

Vendor - A corporate entity providing individual-directed goods or services.

Vendor Fiscal/Employer Agent (VF/EA) Financial Management Services (FMS)-Support Broker Entity - An entity operating in accordance with 26 USC § 3504 and Rev. Proc. 70-6, as modified by REG-137036 and Rev. Proc. 2013-39, which provides financial management services and information and assistance services to *Services My Way* participants and their authorized representatives, as appropriate.

Wrongfully Obtain or Use - Taking or exercising control over property; making an unauthorized use, disposition, or transfer of an interest in or possession of property; or obtaining property by trick, false pretense, false token, tampering, or deception. The term "wrongfully obtain or use" includes conduct previously known in the District as larceny, larceny by trick, larceny by trust, embezzlement, and false pretenses.

Comments on the proposed rule shall be submitted, in writing, to Claudia Schlosberg, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, N.W., 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.

D.C. DEPARTMENT OF HUMAN RESOURCES**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Director of the D.C. Department of Human Resources, with the concurrence of the City Administrator, pursuant to Mayor's Order 2008-92, dated June 26, 2008, and in accordance with Title XXI of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-620.01 *et seq.* (2014 Repl.)), and the Health Care Benefits Expansion Amendment Act of 2005, effective April 4, 2006 (D.C. Law 16-82; D.C. Official Code § 32-706 (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Section 2129, entitled "Optional Health Benefits Coverage for Domestic Partners," of Chapter 21 (Health Benefits), of Title 6 (Personnel), Subtitle B (Government Personnel) of the District of Columbia Municipal Regulations (DCMR).

This rule will require an employee who enrolls a domestic partner for health insurance coverage under the D.C. Health Benefits Program to deduct the health insurance premiums on an after tax basis, pursuant to 26 U.S.C. § 125. The utilization of emergency rulemaking is the only available means of complying with this requirement and, thereby, providing for the payment of health insurance premiums on an after-tax basis, as required by the IRS. Therefore, to ensure that the health insurance premium payments are in compliance with federal law, action was taken on February 25, 2016 to adopt the following rules on an emergency basis effective February 26, 2016. These rules will remain in effect for up to one hundred twenty (120) days from February 25, 2016 unless earlier superseded by another rulemaking notice.

The Director also gives notice of the intent to adopt this rule in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. Upon adoption, this rule will amend Chapter 21 (Health Benefits), of Title 6-B DCMR, published at 50 DCR 3027 (April 18, 2003) and 56 DCR 003667 (May 8, 2009).

D.C. PERSONNEL REGULATIONS

Chapter 21, HEALTH BENEFITS, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended as follows:

Subsection 2129.7 of Section 2129, OPTIONAL HEALTH BENEFITS COVERAGE FOR DOMESTIC PARTNERS, is amended to read as follows:

2129.7 Any health insurance premiums pursuant to this section shall be deducted on an after-tax basis directly from the employee's paycheck.

Comments on this emergency and proposed regulation should be submitted, in writing, within thirty (30) days of the date of the publication of this notice, to Mr. Justin Zimmerman, Associate Director, Policy and Compliance Administration, D.C. Department of Human Resources, 441 4th Street, N.W., Suite 330S, Washington D.C. 20001, or via email at justin.zimmerman@dc.gov. Additional copies of this proposed regulation is available at the above address.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Board of Trustees of the University of the District of Columbia, pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (“Act”) effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§38-1202.01(a); 38-1202.06 (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of amendments to Chapter 6 (Campus Life) of Title 8 (Higher Education), Subtitle B (University of the District of Columbia), of the District of Columbia Municipal Regulations (DCMR).

The Board intends to formally adopt a University Alcohol Policy to supersede existing alcohol policies. The purpose of the proposed rule is to comply with the requirements of the Drug-Free Schools and Communities Act Amendments of 1989. This policy expands the current University Alcohol Policy statement as it exists in the Student Code of Conduct.

Per 1 DCMR § 311.5(d), a rulemaking may be published as an emergency when action is necessary for the immediate preservation or promotion of the public peace, health, safety, welfare, or morals. The Board of Trustees considers ensuring that the University is in full compliance with applicable laws and Department of Education guidelines regarding alcohol on campus an emergency, and that the failure of such compliance would jeopardize the health, safety, or general welfare of the University community. These emergency rules were adopted by the Board May 5, 2016, became effective immediately, and will expire one hundred twenty (120) days after adoption by the Board of Trustees, or September 2, 2016, or upon adoption of a final regulation, whichever shall first occur.

The Board also gives notice of the intent to finalize this policy in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 6, CAMPUS LIFE, of Title 8-B DCMR, UNIVERSITY OF THE DISTRICT OF COLUMBIA, is amended as follows:

Section 616, ALCOHOL AND DRUG POLICY, Subsection 616.11, is amended as follows:

616.11 The sale of alcoholic beverages on University property shall be strictly limited to approved locations with special permission from the Office of the President.

All persons desiring to comment on the subject matter of the proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the Office of General Counsel, Building 39-Room 301Q, University of the District of Columbia, 4200 Connecticut Avenue, N.W. Washington D.C. 20008. Comments may also be submitted by email to smills@udc.edu. Individuals wishing to comment by email must include the phrase "Comment to Proposed Rulemaking" in their subject line. Copies of the proposed rules may be obtained from the Office of General Counsel at the address set forth above.

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

Mayor's Order 2016-081
May 11, 2016

SUBJECT: Ban on Travel to the State of Tennessee

ORIGINATING AGENCY: Office of the Mayor

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

I. BACKGROUND AND PURPOSE:

WHEREAS, the state of Tennessee recently enacted Senate Bill 1556/House Bill 1840 (the "**Bill**"), which provides counselors and therapists immunity from liability if they decline to serve a client whose goals, outcomes, or behaviors conflict with their "sincerely held principles";

WHEREAS, the legislation allows therapists to discriminate against persons seeking professional counseling, and could be particularly harmful for the lesbian, gay, bi-sexual, transgender and questioning (LGBTQ) communities;

WHEREAS, protecting the civil rights and liberties of all people, including those in LGBTQ communities, is a compelling government interest; and

WHEREAS, the laws and public policies of the District of Columbia should support the values of inclusiveness and respect for all.

II. PROHIBITION:

To ensure a constant voice in policy and practice in the District of Columbia in favor of equal treatment for all, including members of the LGBTQ communities, no officer or employee of the District of Columbia is authorized to approve any official travel to Tennessee until such time that the Bill is permanently enjoined, repealed or amended..

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


MURIEL BOWSER
MAYOR

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
AGENDA FOR APPROVAL TO RESCIND 405.1 STATUS

WEDNESDAY, MAY 25, 2016 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Request to Rescind Approval of 405.1 Establishment due to failure to renew license. ANC 1A. SMD 1A05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *TGI Fridays*, 3334 14th Street NW, Retailer CR, License No. 092827.

2. Request to Rescind Approval of 405.1 Establishment due to failure to renew license. ANC 2B. SMD 2B09. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Art Soiree House*, 1832 14th Street NW, Retailer CX, License No. 096150.

3. Request to Rescind of 405.1 Establishment due to failure to renew license. ANC 6D. SMD 6D04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. License No. *The Sequoia Presidential Yacht Group, LLC*, 600 Water Street SW, Retailer C Marine Vessel, 090850.

4. Request to Rescind Approval of 405.1 Establishment due to failure to renew license. ANC 6A. SMD 6A02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *A Spot on H*, 1255 H Street NE, Retailer CR, License No. 089941.

***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.**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, MAY 25, 2016
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009

Donovan W. Anderson, Chairperson
Members: Nick Alberti, Mike Silverstein,
Ruthanne Miller, James Short

Show Cause Hearing (Status) Case # 15-CMP-00762; 888 Incorporated, t/a The Front Page Restaurant, 1333 New Hampshire Ave NW, License #1910, Retailer CR, ANC 2B Substantial Change in Operation Without Board Approval, Failed to Post License Conspicuously in the Establishment	9:30 AM
Fact Finding Hearing* Queen of the Moon, Inc., t/a TBD; 1815 Columbia Road NW, License #83118 Retailer A, ANC 1C License in Safekeeping	9:30 AM
Fact Finding Hearing* Jin Woo Her, t/a Fairmont Market; 2628 11th Street NW; License #77898 Retailer B, ANC 1B Request to Extend Safekeeping	9:30 AM
Fact Finding Hearing* Staples Beer & Wine Grocery, LLC, t/a Staples Beer & Wine Grocery, 1364 Florida Ave NE, License #96294, Retailer A, ANC 5D License in Safekeeping	9:30 AM
Show Cause Hearing* Case # 15-CMP-01011; Alexander Market, Inc., t/a Newton Food Mart, 3600 12th Street NE, License #94313, Retailer B, ANC 5B No ABC Manager on Duty	10:00 AM

Board's Calendar

May 25, 2016

Show Cause Hearing*

11:00 AM

Case # 15-CMP-00913; Adams Restaurant Group, Inc., t/a Claudia's
Steakhouse, 1501 K Street NW, License #95922, Retailer CR, ANC 2B
No ABC Manager on Duty

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

Fact Finding Hearing*

1:30 PM

Case # 15-CC-00086; E.Z. LLC, t/a Brookland Market, 3736 10th Street NE
License #88495, Retailer B, ANC 5B
**Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal
Drinking Age, Interfered with an Investigation**

Fact Finding Hearing*

2:00 PM

Ephraim, Inc., t/a Roxanne/Peyote; 2296 Champlain Street NW, License #60338
Retailer CR, ANC 1C
Request to Extend Safekeeping

Show Cause Hearing*

2:30 PM

Case # 15-CMP-00715; Nispero, LLC, t/a El Nuevo Migueleno, 1721 Columbia
Road NW, License #75403, Retailer CR, ANC 1C
No ABC Manager on Duty, Licensee Under the Influence of Alcohol

Show Cause Hearing*

3:30 PM

Case # 14-CMP-00740; Lydia Assefa, t/a Super Saver Grocery & Deli, 4413
14th Street NW, License #11247, Retailer B, ANC 4C
Sold Go-Cups

Fact Finding Hearing*

4:30 PM

Kimberly, Inc., t/a Mr. Smith's, 3104 M Street NW, License #864, Retailer CR
ANC 2A
Request to Extend Safekeeping

***The Board will hold a closed meeting for purposes of deliberating these
hearings pursuant to D.C. Official Code §2-574(b)(13).**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
INVESTIGATIVE AGENDA

WEDNESDAY, MAY 25, 2016
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

On May 25, 2016 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#16-CMP-00330 Senart's Oyster & Chop House, 520 8TH ST SE, Retailer C Restaurant , License#: ABRA-086142

2. Case#16-CMP-00332 Garrison, 524 8TH ST SE, Retailer C Restaurant , License#: ABRA-098736

3. Case#16-CC-00052 Maggiano's, 5333 WISCONSIN AVE NW, Retailer C Restaurant , License#: ABRA-072256

4. Case#16-CC-00048 Magruder's, 5618 CONNECTICUT AVE NW, Retailer A Retail - Liquor Store , License#: ABRA-000067

5. Case#16-CC-00049 M & S Market, 213 UPSHUR ST NW, Retailer A Retail - Liquor Store , License#: ABRA-079795

6. Case#16-CMP-00331 Nooshi Capitol Hill, 524 8TH ST SE, Retailer C Restaurant , License#: ABRA-085618

7. Case#16-251-00027 Touche, 1123 H ST NE, Retailer C Tavern , License#: ABRA-096779

8. Case#16-251-00075 El Pulgarcito, 5313 GEORGIA AVE NW, Retailer C Tavern , License#: ABRA-095249

9. Case#16-CMP-00340 Green Island Cafe/Heaven & Hell (The), 2327 18TH ST NW, Retailer C Tavern , License#:ABRA-074503

10. Case#16-CMP-00329 Ambar, 523 8th ST SE, Retailer C Restaurant , License#: ABRA-090240

11. Case#16-CMP-00334 Cava Restaurant, 527 8TH ST SE, Retailer C Tavern , License#: ABRA-081014

12. Case#16-CMP-00336 Margaret River Import, , Retailer A Wholesaler , License#: ABRA-089286

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, MAY 25, 2016 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 and Alcoholic Beverage Sales and Consumption:* Sunday 10:30am to 2am, Monday-Thursday 11am to 2am, Friday-Saturday 11am to 3am. *Approved Hours of Live Entertainment:* Sunday-Thursday 6pm to 1:30am, Friday-Saturday 6pm to 2:30am. *Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption:* Sunday-Thursday 9am to 2am, Friday-Saturday 9am to 3am. ANC 1C. SMD 1C03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Perry's Restaurant*, 1811 Columbia Road NW, Retailer CR, License No. 007053.

2. Review Request to increase seating from 18 to 32 seats on the first floor of establishment. ANC 6A. SMD 6A06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Dangerously Delicious DC*, 1339 H Street NE, Retailer CR, License No. 087422.

3. Review Request to Expand Total Occupancy Load of Summer Garden from 24 to 50. ANC 1B. SMD 1B01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Half Smoke*, 651 Florida Avenue NW, Retailer CR, License No. 100855.

4. Review Request for refund of annual license payment for license that was not issued. ANC 4B. SMD 4B06. *The VIP Room*, 6201 Third Street NW, Retailer CT, License No. 094561.

5. Review Application for Manager's License. *Daryl E. Wilson*-ABRA 102891.

***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.**

BREAKTHROUGH MONTESSORI PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Janitorial Services**

Breakthrough Montessori PCS (BMPCS) is seeking a competitive bid for janitorial services commencing August 1, 2016 for our new charter school facility.

BMPCS is seeking competitive bids for Janitorial Services at its Taylor St. campus, including but not limited to: day porter cleaning services of facilities on a daily basis during operational hours (7:30am-6:00pm), general housekeeping of facilities on a daily basis after operation hours, “deep cleaning” services to occur on scheduled breaks during which school programming is not occurring (i.e. scheduled school closures), provisioning and procurement of all required materials and equipment.

To Obtain a full copy of the RFP, please contact Dillon Clark at 202-246-2539 or dillon.clark@breakthroughmontessori.org .

Bids must include evidence of experience in field, qualifications and estimated fees. Please send proposals to dillon.clark@breakthroughmontessori.org and include “RFP Janitorial Services” in the heading.

Proposals must be received no later than Friday, July 1, 2016

CARLOS ROSARIO INTERNATIONAL PUBLIC CHARTER SCHOOL

NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT

The Carlos Rosario International Public Charter School is contracting with Community Capital Corp., as a sole source contractor to renovate at 1100 Harvard Street NW, Washington, DC 20009

CENTER CITY PUBLIC CHARTER SCHOOLS**REQUEST FOR PROPOSALS**

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

Center City PCS would like to engage one or more contractors to provide touch-up painting services for summer 2016.

To obtain copies of full RFPs, please visit our website: www.centercitypcs.org/contact/request-for-proposal. The full RFPs contain guidelines for submission, applicable qualifications, and deadlines.

Contact Person:

Natasha Harrison
nharrison@centercitypcs.org

D.C. PREPARATORY ACADEMY PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Information Technology, Audio/Visual, Low Voltage Cabling, and Security Systems**

D.C. Preparatory Academy Public Charter School (DC Prep) is seeking competitive proposals for Information Technology systems, Audio/Visual systems, Low Voltage Cabling, and Security systems for a public charter school real estate project. Bids do not need to aggregate the above services and will be considered separately. For a copy of the RFP, please contact Mr. Ryan Aurori at bids@dcprep.org. Please specify which RFP you are interested in receiving. All proposals must be submitted by **5:00 pm** on **Tuesday, May 31st, 2016**.

D.C. PREPARATORY ACADEMY PUBLIC CHARTER SCHOOL**REQUESTS FOR PROPOSALS**

D.C. Preparatory Academy, in accordance with section 2204(c)(XV)(A) of the District of Columbia School Reform Act of 1995, hereby solicits proposals to provide:

- Accounting services
- Advertising and marketing services
- Assessment and instructional data support and services
- Banking/Procurement card services
- Business insurance
- Classroom furniture, fixtures, and equipment
- Computer hardware and software
- Construction/General Contractor services
- Copy machine services
- Curriculum materials
- Employee medical benefits
- Facility management services
- Financial audit services
- Food & School lunch services
- HR consulting services
- HR information systems
- Instructional support services
- Insurance services
- IT management services
- Janitorial services and supplies
- Legal services
- Mechanical services (Boiler, HVAC, etc.)
- Music and Art instructional services
- Office furniture, fixtures, and equipment
- Office supplies
- Payroll services
- Printing and duplication services
- Professional development and consulting services
- Project management consulting services
- Security services
- Special education services
- Strategic planning and consulting services
- Student data management systems
- Student transportation services
- Talent recruitment and development services
- Temporary staffing services
- Waste management services

Please email bids@dcprep.org for more details about requirements.

Bids are DUE BY JUNE 10, 2016.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FUNDING AVAILABILITY (NOFA)

FISCAL YEAR 2016 and FISCAL YEAR 2017

SAT Preparation Expansion Grant 2016-17

Request for Application (RFA) Release Date: June 17, 2016**Grant Application Submission Deadline: July 18, 2016**

The Office of the State Superintendent of Education (OSSE) - Division of Postsecondary and Career Education, is soliciting grant applications for the District of Columbia SAT Preparation Expansion Grant 2016-17. The goal of the SAT Preparation Expansion Grant is to increase the number of District high school students receiving high quality test preparation services in school year 2016-17. Additionally, OSSE seeks to understand which type or types of SAT preparation programs have the greatest positive impact on student scores for the greatest number of District students as well as which type or types of SAT preparation programs may be most effective for specific student populations. The grant is supported through local funds as part of a strategic citywide effort to ensure all District students are college and career ready.

Eligibility: OSSE will make these grants available through a competitive process. Eligible applicants include SAT preparation companies, in partnership with District of Columbia local education agencies (LEAs), who shall provide professional development and planning services between August 1, 2016 and September 30, 2016 (FY16):

- *Teacher/leadership professional development:* OSSE will fund professional development and training programs for teachers, administrators, and counselors at partner LEAs and schools. Professional development and planning should be directly connected to planned school year programs (program option 1 or program option 2, as detailed below).
- *School Year Planning:* OSSE will fund planning and preparation time by test preparation companies, for SAT related programs that will take place during school year 2016-17. Planning and preparation time should include collaboration with partner LEAs. Planning can include purchase of supplies and materials for 2016-17 planned programs.

Additionally, between October 1, 2016 and June 30, 2017 (FY 17), partnerships shall provide one or more of three specific SAT preparation program options:

- *Option 1: Curriculum Integration:* OSSE will fund programs that train academic subject area teachers to integrate SAT strategies and content into pre-existing classroom curriculum.
- *Option 2: LEA-provided SAT Test Preparation Course:* OSSE will fund programs that support school-employed staff to teach a standalone SAT course or courses as part of the school day.

- *Option 3: Company-provided SAT Preparation Course:* OSSE will fund programs that provide an external instructor or instructors directly from the test preparation company to teach a standalone SAT preparation and strategy course for students. Applicants interested in option three must provide a funding match of 2:1, with the applicant providing the 1/3 portion.

SAT preparation companies may choose to apply for as many options as they see fit in partnership with one or more LEAs. Eligible applicants shall offer the SAT preparation course during the school day and for credit (at least ½ credit).

Local Educational Agencies (LEA) are not eligible for this funding, however eligible applicants must secure partnerships with the LEAs with which they intend to work and will be required to verify these partnerships through a signed Partnership Agreement that details the parameters of the partnership and demonstrates each partner's role in the planning and implementation of programs and services. Any qualified test preparation company may serve as the lead applicant for funding and will be fully responsible for fiscal management of funds awarded by OSSE.

OSSE will be holding information session to answer questions about the RFA and grant competition. Please see the full RFA for a detailed timeline of events.

Length of Award: The FY16 grant award period is from August 1, 2016 – September 30, 2016. The FY17 grant award period is October 1, 2016 – June 30, 2017.

Available Funding for Award: The total funding available for the FY16 award period is \$35,000. The total funding available for the FY17 award period is \$225,000. Eligible applicants may apply for any amount up to the full amount but may be awarded amounts less than requested.

An external review panel or panels will be convened to review, score, and rank each application. The review panel(s) will be composed of neutral, qualified, professional individuals selected for their expertise, knowledge or related experiences. The application will be scored against a rubric and each application will have multiple reviewers to ensure accurate scoring. Upon completion of its review, the panel(s) shall make recommendations for awards based on the scoring rubric(s). OSSE's Division of Postsecondary and Career Education will make all final award decisions.

For additional information regarding this grant competition, please contact:

Amelia Hogan
Coordinator, Early College and Career Awareness
Division of Postsecondary and Career Education
810 First Street NE, Third Floor, Washington, DC 20002
Phone: (202) 481-3481
Email: Amelia.Hogan@dc.gov

The RFA will be available on www.osse.dc.gov/sat-preparation-grant. Applications will be submitted through the [Enterprise Grants Management System](#) (EGMS).

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**NOTICE OF FUNDING AVAILABILITY (NOFA)****SCHOLARSHIPS FOR OPPORTUNITY AND RESULTS (SOAR) ACT GRANTS****CFDA: 84.370C and FAIN: U370C150002****Request for Application (RFA) Release Date: June 6, 2016****Grant Applications Submission Deadline: July 15, 2016**

The Office of the State Superintendent of Education (OSSE) will issue a Request for Applications to support District of Columbia public charter schools and third-party non-profit charter support organizations that have a substantial impact on the DC public charter school sector. The purpose of funds provided under the Scholarships for Opportunity and Results (SOAR) Act is to improve school performance and educational outcomes for public charter school students in the District and to provide facility financing in order to increase the number of high-quality public charter school seats. Unless specified, all funds will be awarded through competitive grant competitions. At least \$14.09 million in grant funds will be available for these grants. The following competitive funding opportunities are available:

Academic Quality Grants to Charter Support Organizations

Eligible applicants include non-profit third party organizations and charter school support organizations that have a demonstrated history of success working with DC charter schools on similar projects. Applicants must use funds to support direct and rapid impact on overall charter school academic achievement or on the achievement of historically underperforming subgroups. Up to \$2,500,000.00 is expected to be available.

Academy Quality Grants to Public Charter Schools

Eligible applicants will be DC public charter schools. Applicants must use funds to increase the proficiency rates and success of public charter school students, either school-wide or for specific subgroups. Project plans must be tailored to meet the specific needs of each charter school and the proposed theory of action must be supported by data. Proposals must also align with the needs identified in the Elementary and Secondary Education Act (ESEA) Waiver and the Individuals with Disabilities Education Act (IDEA) State Systemic Improvement Plan (SSIP). Up to \$6,200,000.00 is expected to be available.

Investing in Public Facility Projects

Eligible applicants will be DC public charter schools seeking funds to support the renovation or reconstruction of a former District of Columbia Public School (DCPS) or other District-owned facility released by the District for lease by public charter schools or to renovate a facility owned by the charter school; eligible applicants must provide documentation of site control. Renovations/reconstruction must be for academic and/or physical fitness space. Up to \$4,086,685.66 is expected to be available.

Influencing Replication and Growth

Eligible applicants must be seeking to expand into a new campus and cannot be eligible for or be a current Title V, Part B Charter Schools Programs Planning and Implementation subgrantee. Applicants must be a DC public charter school ranked Tier 1 and Tier 2 with a DC Public Charter School Board (PCSB) Performance Management Framework score of 50 or above. Funds must be used to support the replication and expansion of new charter schools by funding planning and development of a new facility to increase the number of high-quality seats available to students. Up to \$700,000 is expected to be available.

In addition, the following non-competitive funding opportunity is available:

Academic Quality Grants to Support Early Childhood Education

Eligible applicants will be DC Public Charter School LEAs serving 3- and 4-year-olds. Formula-based funding will be available to support LEAs that serve 3- and 4-year-olds to assist with implementation of supplementary activities that enhance the quality of preschool or pre-k programming. Eligible LEAs will be pre-identified by OSSE and must have at least a 40 percent enrollment of students in preschool and/or pre-k programs and have met the Title I poverty threshold. Up to \$603,314.34 is expected to be available.

Determinations regarding the number of competitive grant awards will be based on the quality and number of applications received and available funding. Successful applicants may be awarded amounts less than requested.

A review panel or panels will be convened to review, score, and rank each application for a competitive grant. The review panel(s) will be composed of external neutral, qualified, professional individuals selected for their expertise, knowledge or related experiences. Each application will be scored against a rubric and applications will have multiple reviewers to ensure accurate scoring. Upon completion of its review, the panel(s) shall make recommendations for awards based on the scoring rubric(s). The State Superintendent or her designee will make all final award decisions.

To receive more information on these grants, please contact:

Katherine Cox
Office of the State Superintendent of Education
810 First Street, NE, Eighth Floor, Washington, D.C. 20002
Email: katherine.cox@dc.gov

The Requests for Applications (RFAs) for the competitive grant programs as well as the instructions for completing the Early Childhood formula grant application will be available on OSSE's website at www.osse.dc.gov. All applications will be submitted through the Enterprise Grants Management System (EGMS) at grants.osse.dc.gov.

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

Certification of Filling a Vacancy
In Advisory Neighborhood Commissions

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

Lakeshia Lloyd-Lee
Single-Member District 7E06

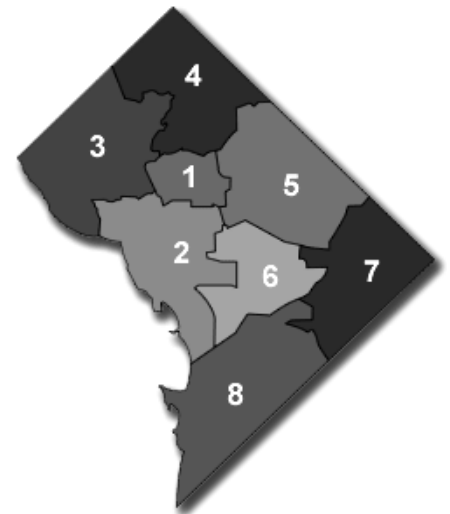
**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION SUMMARY
As Of APRIL 30, 2016**

WARD	DEM	REP	STG	OTH	N-P	TOTALS
1	40,478	2,663	631	273	10,373	54,418
2	26,904	5,300	202	272	9,312	41,990
3	34,361	6,366	331	233	9,951	51,242
4	45,951	2,205	498	201	8,551	57,406
5	47,301	2,097	522	240	8,176	58,336
6	49,079	6,343	455	358	11,972	68,207
7	44,280	1,190	385	150	6,278	52,283
8	42,325	1,223	383	168	6,980	51,079
Totals	330,679	27,387	3,407	1,895	71,593	434,961
Percentage By Party	76.02%	6.30%	.78%	.44%	16.46%	100.00%

**DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF
VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS
AS OF THE END OF APRIL 30, 2016**

COVERING CITY WIDE TOTALS BY:
WARD, PRECINCT AND PARTY

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



**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 1 REGISTRATION SUMMARY
As Of APRIL 30, 2016**

PRECINCT	DEM	REP	STG	OTH	N-P	TOTALS
20	1,289	29	8	9	212	1,547
22	3,493	337	25	25	908	4,788
23	2,525	185	37	20	678	3,445
24	2,280	246	31	20	696	3,273
25	3,336	392	47	14	963	4,752
35	3,066	186	51	20	752	4,075
36	3,915	249	62	18	1,000	5,244
37	3,039	142	49	19	716	3,965
38	2,602	113	51	27	667	3,460
39	3,859	207	69	19	899	5,053
40	3,661	183	88	28	971	4,931
41	3,204	184	58	29	943	4,418
42	1,639	71	32	11	427	2,180
43	1,620	56	17	7	338	2,038
137	950	83	6	7	203	1,249
TOTALS	40,478	2,663	631	273	10,373	54,418

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 2 REGISTRATION SUMMARY
As Of APRIL 30, 2016

PRECINCT	DEM	REP	STG	OTH	NP	TOTALS
2	726	164	10	21	449	1,370
3	1,456	363	19	18	615	2,471
4	1,597	470	4	15	657	2,743
5	1,915	580	10	21	682	3,208
6	2,059	822	19	23	1,127	4,050
13	1,148	219	5	6	367	1,745
14	2,543	434	20	22	793	3,812
15	2,645	352	23	26	765	3,811
16	3,247	394	25	24	824	4,514
17	4,081	571	32	35	1,206	5,925
129	2,103	338	13	19	767	3,240
141	2,072	274	10	24	571	2,951
143	1,312	319	12	18	489	2,150
TOTALS	26,904	5,300	202	272	9,312	41,990

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 3 REGISTRATION SUMMARY
As Of APRIL 30, 2016**

PRECINCT	DEM	REP	STG	OTH	N-P	TOTALS
7	1,180	369	16	5	511	2,081
8	2,277	617	28	11	714	3,647
9	1,079	502	5	18	444	2,048
10	1,652	394	16	13	622	2,697
11	3,064	896	37	31	1,156	5,184
12	424	179	1	5	188	797
26	2,577	322	25	15	750	3,689
27	2,338	247	21	12	563	3,181
28	2,174	489	32	14	679	3,388
29	1,230	236	11	14	352	1,843
30	1,236	206	11	8	271	1,732
31	2,226	307	18	14	518	3,083
32	2,519	293	19	8	556	3,395
33	2,641	293	25	10	605	3,574
34	3,146	396	29	26	910	4,507
50	1,910	254	14	9	422	2,609
136	717	105	6	3	243	1,074
138	1,971	261	17	17	447	2,713
TOTALS	34,361	6,366	331	233	9,951	51,242

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 4 REGISTRATION SUMMARY
As Of APRIL 30, 2016

PRECINCT	DEM	REP	STG	OTH	N-P	TOTALS
45	2,074	67	28	11	360	2,540
46	2,688	87	37	16	520	3,348
47	2,963	153	35	19	711	3,881
48	2,650	135	28	11	526	3,350
49	819	44	18	4	188	1,073
51	3,185	511	25	13	619	4,353
52	1,208	170	5	2	220	1,605
53	1,165	70	20	5	239	1,499
54	2,290	83	24	6	451	2,854
55	2,363	77	17	11	419	2,887
56	2,906	93	30	14	608	3,651
57	2,346	74	35	20	438	2,913
58	2,141	55	17	9	361	2,583
59	2,488	84	28	12	411	3,023
60	2,001	65	20	7	579	2,672
61	1,500	50	11	3	257	1,821
62	3,089	123	27	5	361	3,605
63	3,392	127	53	14	630	4,216
64	2,210	65	17	12	318	2,622
65	2,473	72	23	7	335	2,910
Totals	45,951	2,205	498	201	8,551	57,406

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 5 REGISTRATION SUMMARY
As Of APRIL 30, 2016**

PRECINCT	DEM	REP	STG	OTH	N-P	TOTALS
19	3,953	186	65	18	897	5,119
44	2,554	217	27	25	621	3,443
66	4,204	98	36	13	508	4,859
67	2,731	98	21	8	369	3,227
68	1,739	156	22	15	335	2,267
69	1,954	66	14	11	248	2,293
70	1,383	78	20	4	196	1,681
71	2,250	65	23	10	302	2,650
72	3,929	119	33	19	653	4,753
73	1,792	84	24	13	313	2,226
74	4,065	208	54	18	798	5,143
75	3,320	183	46	21	716	4,286
76	1,287	53	14	6	259	1,619
77	2,586	98	22	14	413	3,133
78	2,742	90	33	14	457	3,336
79	1,894	76	17	13	334	2,334
135	2,788	174	40	13	521	3,536
139	2,130	49	11	5	236	2,431
TOTALS	47,301	2,097	522	240	8,176	58,336

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 6 REGISTRATION SUMMARY
As Of APRIL 30, 2016

PRECINCT	DEM	REP	STG	OTH	N-P	TOTALS
1	4,042	504	45	29	1,069	5,689
18	4,363	337	42	30	952	5,724
21	1,109	55	10	4	247	1,425
81	4,312	352	35	27	875	5,601
82	2,390	238	29	18	529	3,204
83	4,258	575	32	32	1,112	6,009
84	1,888	400	18	13	490	2,809
85	2,557	484	17	23	664	3,745
86	2,011	232	26	14	421	2,704
87	2,547	249	17	15	523	3,351
88	2,018	270	13	10	475	2,786
89	2,402	638	19	18	708	3,785
90	1,471	232	13	16	456	2,188
91	3,723	373	36	30	900	5,062
127	3,743	272	41	26	761	4,843
128	2,262	199	30	16	586	3,093
130	728	285	6	4	255	1,278
131	1,891	485	12	24	579	2,991
142	1,364	163	14	9	370	1,920
TOTALS	49,079	6,343	455	358	11,972	68,207

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 7 REGISTRATION SUMMARY
As Of APRIL 30, 2016

PRECINCT	DEM	REP	STG	OTH	N-P	TOTALS
80	1,388	81	12	5	232	1,718
92	1,523	33	12	7	226	1,801
93	1,419	41	20	7	200	1,687
94	1,889	54	17	3	293	2,256
95	1,474	43	15	3	250	1,785
96	2,196	61	19	8	346	2,630
97	1,350	41	15	6	198	1,610
98	1,731	44	22	6	239	2,042
99	1,301	43	14	8	206	1,572
100	2,067	41	12	7	248	2,375
101	1,494	24	14	6	170	1,708
102	2,220	52	19	6	298	2,595
103	3,271	75	34	14	506	3,900
104	2,687	71	23	15	388	3,184
105	2,264	60	21	7	351	2,703
106	2,651	52	16	8	374	3,101
107	1,580	47	13	5	222	1,867
108	1,042	29	7	1	114	1,193
109	887	33	4	1	84	1,009
110	3,515	89	20	12	394	4,030
111	2,453	70	22	7	390	2,942
113	1,954	54	19	6	242	2,275
132	1,924	52	15	2	307	2,300
TOTALS	44,280	1,190	385	150	6,278	52,283

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 8 REGISTRATION SUMMARY
As Of APRIL 30, 2016

PRECINCT	DEM	REP	STG	OTH	N-P	TOTALS
112	1,984	61	11	6	281	2,343
114	3,138	108	27	20	538	3,831
115	2,722	69	20	12	624	3,447
116	3,814	91	35	17	613	4,570
117	1,913	43	18	9	320	2,303
118	2,526	66	24	8	413	3,037
119	2,731	109	38	12	521	3,411
120	1,817	34	18	5	295	2,169
121	3,070	73	26	10	453	3,632
122	1,590	40	16	8	226	1,880
123	2,062	119	27	17	324	2,549
124	2,411	56	16	4	336	2,823
125	4,231	100	32	11	684	5,058
126	3,421	117	35	13	644	4,230
133	1,210	39	10	2	160	1,421
134	1,964	41	25	6	282	2,318
140	1,721	57	5	8	266	2,057
TOTALS	42,325	1,223	383	168	6,980	51,079

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

For voter registration activity between 3/31/2016 and 4/30/2016

NEW REGISTRATIONS	DEM	REP	STG	OTH	N-P	TOTAL
Beginning Totals	327,361	27,094	3,419	1,851	71,133	430,858
BOEE Over the Counter	38	3	0	0	8	50
BOEE by Mail	157	11	0	0	5	224
BOEE Online Registration	814	45	8	3	116	986
Department of Motor Vehicle	1,711	228	17	27	673	2,656
Department of Disability Services	1	0	1	0	0	2
Office of Aging	0	0	0	0	0	0
Federal Postcard Application	0	0	0	0	0	0
Department of Parks and Recreation	0	0	0	0	0	0
Nursing Home Program	0	0	0	0	0	0
Dept, of Youth Rehabilitative Services	0	0	0	0	0	0
Department of Corrections	6	1	1	0	1	9
Department of Human Services	27	0	0	1	2	30
Special / Provisional	0	0	0	0	0	0
All Other Sources	144	7	3	1	45	200
+Total New Registrations	2,898	295	30	38	896	4,157

ACTIVATIONS	DEM	REP	STG	OTH	N-P	TOTAL
Reinstated from Inactive Status	472	41	1	4	80	598
Administrative Corrections	0	0	0	13	249	262
+TOTAL ACTIVATIONS	472	41	1	17	329	860

DEACTIVATIONS	DEM	REP	STG	OTH	N-P	TOTAL
Changed to Inactive Status	12	0	0	0	2	14
Moved Out of District (Deleted)	0	0	0	0	0	0
Felon (Deleted)	0	0	0	0	0	0
Deceased (Deleted)	5	0	0	0	0	5
Administrative Corrections	685	80	8	6	101	880
-TOTAL DEACTIVATIONS	702	80	8	6	103	899

AFFILIATION CHANGES	DEM	REP	STG	OTH	N-P	N-P
+ Changed To Party	940	138	24	27	265	1,394
- Changed From Party	-290	-101	-59	-32	-927	-1,409
ENDING TOTALS	330,679	27,387	3,407	1,895	71,593	434,961

**ELSIE WHITLOW STOKES COMMUNITY FREEDOM
PUBLIC CHARTER SCHOOL**

REQUEST FOR PROPOSALS

Mechanical, Electrical, Roof, and Solar PV Services

Elsie Whitlow Stokes Community Freedom PCS invites all interested parties to submit proposals to provide either mechanical, electrical, roof, solar PV services. Proposals are due no later than 5:00 PM on June 10, 2016. There will be a site walk-through May 24th-25th. All responses, inquiries, and the complete RFP can be obtained by contacting ThinkBox Group:

Jim Maclay, Ph.D., CEM

jmaclay@alturaassociates.com

Mobile: 949-296- 5341 | main: 877-572- 6590

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FUNDING AVAILABILITY**Community Solar Demonstration Project**

The Department of Energy and Environment (the Department) seeks eligible entities to develop a model for financing and building Community Solar Projects (CSPs) that can be replicated and used to catalyze the District's community solar market. The model proposed by potential applicants must be financially sustainable and must clearly demonstrate how private properties can be used to transfer the benefits of renewable energy to low-income District residents. The amount available for the project is approximately \$100,000.00.

Beginning 5/20/2016, the full text of the Request for Applications (RFA) will be available on the Department's website. A person may obtain a copy of this RFA by any of the following means:

Download from the Department's website, www.doe.dc.gov. Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to the announcement for this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

Email a request to 2016csdpdoerfa.grants@dc.gov with "Request copy of RFA 2016-1607-EA" in the subject line.

Pick up a copy in person from the Department reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call Lance Loncke at (202) 671-3306 and mention this RFA by name.

Write the Department at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Lance Loncke RE:2016-1607-EA" on the outside of the envelope.

The deadline for application submissions is 6/20/2016, at 5:00 p.m. Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to 2016csdpdoerfa.grants@dc.gov.

Eligibility: The following institutions may apply for these grants:

- Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;
- Private Enterprises.

For additional information regarding this RFA, write to: 2016csdpdoerfa.grants@dc.gov.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FUNDING AVAILABILITY**Trash Free Communities: Trash Reduction Through Behavioral Change**

The Department of Energy and Environment (the Department) seeks eligible entities to implement an education and outreach program focused on reducing litter in the District's waterbodies. This project will be integral to the District's efforts to improve local environmental health by reducing littering behavior. The amount available for the project is approximately \$375,000.00. This amount is subject to availability of funding and approval by the appropriate agencies.

Beginning 5/20/2016, the full text of the Request for Applications (RFA) will be available on the Department's website. A person may obtain a copy of this RFA by any of the following means:

Download from the Department's website, www.doe.dc.gov. Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to the announcement for this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

Email a request to 2016trashfreecommunities@dc.gov with "Request copy of RFA 2016-1608-SWMD" in the subject line.

Pick up a copy in person from the Department reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call Lillian Power at (202) 671-0080 and mention this RFA by name.

Write The Department at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Lillian Power RE:2016-1608-SWMD" on the outside of the envelope.

The deadline for application submissions is 6/20/2016, at 4:30 p.m. Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to 2016trashfreecommunities@dc.gov.

Eligibility: All the checked institutions below may apply for these grants:

- Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;
- Faith-based organizations;
- Government agencies
- Universities/educational institutions; and
- Private Enterprises.

For additional information regarding this RFA, write to: 2016trashfreecommunities@dc.gov.

DEPARTMENT OF HEALTH
HEALTH PROFESSIONAL LICENSING ADMINISTRATION

NOTICE OF MEETING

Board of Medicine
May 25, 2016

On MAY 25, 2016 at 8:30 am, the Board of Medicine will hold a meeting to consider and discuss a range of matters impacting competency and safety in the practice of medicine.

The meeting will be open to the public from 8:30 am to 9:30 am to discuss various agenda items and any comments and/or concerns from the public.

In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will then move to Closed Session from 9:30 am until 2:00 pm to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

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

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

Interim Executive Director for the Board – Robin Y. Jenkins

DEPARTMENT OF HEALTH**NOTICE OF PUBLIC MEETING**

The Director of the Department of Health hereby gives the following notice pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2012 Repl.); Section 14 of the Legalization of Marijuana for Medical Treatment Amendment Act of 2010 (Act), effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code §§ 7-1671.01, *et seq.* (2012 Repl.)), and Mayor's Order 2013-201, dated October 28, 2013.

The District of Columbia Medical Marijuana Scientific Subcommittee of the Medical Marijuana Advisory Committee ("Subcommittee") will hold a public meeting on:

Thursday, May 26, 2016, 1:00 p.m. to 2:30 p.m.
At 899 North Capitol St, NE, 2nd Floor, Room 216
Washington, D.C. 20002

The purpose of this meeting is to discuss whether to recommend that the Director of the Department of Health increase the amount of medical marijuana a patient may receive within a thirty (30) day period from two (2) ounces to four (4) ounces. The Subcommittee will further discuss whether the recommendation should apply to all forms of medical marijuana or only certain forms.

DEPARTMENT OF HUMAN SERVICES
NOTICE OF FUNDING AVAILABILITY (NOFA)
FISCAL YEAR 2016

Homelessness Prevention Program Phase II

Funding Opportunity Number: **DHS-FSA-HPP-2016**

Announcement Date: **May 20, 2016**

RFA Release Date: **May 20, 2016**

Pre-application Conference Date: **June 2, 2016**

Application Submission Deadline: **June 24, 2016**

The District of Columbia, Department of Human Services (DHS) invites the submission of applications for funding through the Homeless Services Reform Act of 2005 to establish Phase II of the District's Homelessness Prevention Program.

Target Population: District of Colombia families who are experiencing homelessness.

Eligible Organizations/Entities: Local private or non-profit organizations based in and serving the target communities in the District of Columbia.

Award Period: From date awardee(s) receive Notice of Grant Agreement through September 30, 2017.

Grant Amount: Up to five hundred thousand dollars and zero cents (\$500,000.00)

Deadline for submission of applications is Monday, June 24, 2016. Late or incomplete applications will not be forwarded for review.

The RFA and applications will be posted at: <http://opgs.dc.gov/page/opgs-district-grants-clearinghouse>

For further information, please contact:

Tiffany Tyler, Policy Analyst
DC Department of Human Services
Family Services Administration
64 New York Avenue, N E, 6th Floor
Washington, DC 20002
202-741-5237

IMAGINE HOPE COMMUNITY PUBLIC CHARTER SCHOOL
REQUEST FOR PROPOSALS

Imagine Hope Community Charter School is seeking proposals from individuals or companies to provide the following services:

INTERIOR RENOVATION SERVICES at the Lamond Campus located at: 6200 Kansas Avenue NE, Washington, DC 20011. The deadline for submissions is Friday, June 10, 2016 by 12:00 pm. Bids received after this date and time will not be considered.

Imagine Hope PCS reserves the right to cancel this RFP at any time.

Please e-mail proposals and supporting documents to:

Trina Williams

hope.rfp@imageschools.org

INSPIRED TEACHING DEMONSTRATION PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER INTO A SOLE SOURCE CONTRACT**

The Inspired Teaching Demonstration Public Charter School intends to enter into a Sole Source Contract with Center for Inspired Teaching to select, place, and train Teaching Residents in its classrooms. As outlined in its charter, the Inspired Teaching School serves as a training site for teachers in Center for Inspired Teaching's Inspired Teacher Certification Program; the Teaching Residents are a critical component of the school's mission and academic program. The cost of the contract for 2016-17 is expected to be \$300,000 for fourteen (10) Teaching Residents.

KIPP DC PUBLIC CHARTER SCHOOLS**REQUEST FOR PROPOSALS****Human Resources Legal Services**

KIPP DC is soliciting proposals from qualified law firms for Legal Services related to human resources issues. The RFP can be found at <https://www.kippdc.org/procurement>. Proposals should be uploaded to the website no later than 5:00 PM EST, on May 27th, 2016. Questions can be addressed to katie.cole@kippdc.org.

Landscaping & Snow Removal Services

KIPP DC is soliciting proposals from qualified vendors for Landscaping & Snow Removal Services. The RFP can be found at <http://www.kippdc.org/procurement>. All proposals should be uploaded to the website no later than 5:00 PM EST, on June 20th, 2016. Questions can be addressed to jsalsbury@pmmcompanies.com.

Lockers

KIPP DC is soliciting proposals from qualified vendors for Lockers. The RFP can be found at <http://www.kippdc.org/procurement>. All proposals should be uploaded to the website no later than 5:00 PM EST, on May 27th, 2016. Questions can be addressed to nate.schwartz@kippdc.org.

Special Education Consulting Services

KIPP DC is soliciting proposals from qualified vendors for Special Education Consulting/Professional Development Services. The RFP can be found at <http://www.kippdc.org/procurement>. All proposals should be uploaded to the website no later than 5:00 PM EST, on May 27th, 2016. Questions can be addressed to melissa.kim@kippdc.org.

NOTICE OF INTENT TO ENTER SOLE SOURCE CONTRACTS**Professional Development**

KIPP DC intends to enter into a sole source contract with Relay Graduate School of Education. The decision to sole source is due to the fact that Relay/GSE is the exclusive provider of the training curriculum provided in the National Principals Academy Fellowship for current school leaders. The cost of the contract will be \$66,000.

Curriculum

KIPP DC intends to enter into a sole source contract with Wilson Language Training Group for curriculum. The decision to sole source is due to the fact that this vendor is the exclusive provider of this curriculum upon which the instructional model is built. The estimated cost of the contract will be approximately \$25,000.

LEE MONTESSORI PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Various Services**

Lee Montessori Public Charter School, an approved 501(c)3 organization, requests proposals for the following school related services:

1. Before and/or Aftercare Services
2. Association Montessori International approved Montessori Primary Classroom Materials
3. Association Montessori International approved Montessori Elementary Classroom Materials
4. Classroom Furniture
5. Computers/Tablets for staff
6. Computers/Tablets for students
7. Data Analysis and Management
8. Financial Management and Analysis, including bookkeeping
9. Furniture Movers
10. Information Technology Maintenance / Support Services
11. Janitorial and Facilities Maintenance
12. Office Furniture
13. Special Education Contracted Services

Lee Montessori Public Charter School is seeking qualified professionals for the above services. Applications must include references, resumes exhibiting experience in said field, and estimated fees. Please email proposals to procurement@leemontessori.org and include the service in the heading. Proposals must be submitted as PDF or Microsoft Word documents and will be accepted until 5pm, June 15, 2016.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-16**

December 2, 2015

VIA ELECTRONIC MAIL

Flor Maria Palacios Marin

RE: FOIA Appeal 2016-16

Dear Ms. Marin:

I am writing in response to the appeal you sent to the Mayor under the Freedom of Information Act. It appears that you sent your appeal to the Mayor in error, as it is addressed to a FOIA appeals branch of U.S. Customs and Border Protection ("CBP") and concerns CBP's partial denial of a previous FOIA request you submitted to CBP.

The Mayor has jurisdiction to review FOIA decisions issued by District agencies; however, CBP is a federal agency. As a result, the Mayor has no authority to adjudicate your appeal. This Office recommends that you forward your correspondence to the CBP at the address provided in CBP's initial response to your request.

Based on the foregoing, we hereby dismiss your appeal. This constitutes the final decision of this office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker
Associate Director

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-17**

December 15, 2015

Ms. Anna Maria Agolli

RE: FOIA Appeal 2016-17

Dear Ms. Agolli:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”). In your appeal, you assert that the Office of Unified Communications (“OUC”) did not adequately respond to your request under the DC FOIA.

Background

In April 2015, you contacted OUC’s acting FOIA officer and requested records related to certain 9-1-1 and 3-1-1¹ calls made in March and April of 2013. On May 11, 2015, OUC responded by providing unredacted copies of Background Event Chronologies pertaining to the telephone calls you requested. OUC determined that with respect to the audio recordings associated with the phone calls, one was exempt from disclosure under DC FOIA because you were not the individual who placed the 9-1-1 call. OUC provided you with an audio recording of the 9-1-1 call you placed.

In October 2015, you contacted OUC’s FOIA officer and asked her to essentially create a record of your request on the District’s computerized FOIA intake system, FOIAxpress, and close the request so that you could obtain “a formal document page” that refers to and “ties together” the response letter OUC provided you in connection with your request for records and audio recordings.

Subsequently, you created an account on FOIAxpress and submitted a request for the same OUC records you previously sought. In December 2015, you submitted an appeal to the Mayor. The substance of your appeal appears to be your contention that you would like a “more formal release” than OUC provided with respect to the Background Event Chronologies and audio recordings. In specific, you are seeking a letter that is “actually signed hard copy PDF’d if electronic,” and that contains a reference number. In addition, you would like the audio recordings to be sent to you in a different electronic format than was released, as well as a “certified courtworthy release.”

¹ 3-1-1 is a toll-free telephone number that allows individuals in the District to request assistance with city services and information. The OUC oversees the designated call center for 3-1-1 and 9-1-1 telephone calls.

OUC's acting general counsel provided this Office with a substantive response to your appeal on December 9, 2015. In summary, OUC contends that its responses to you request are fully compliant with DC FOIA and applicable regulations, and OUC is not obligated to provide you with a "certified courtworthy release" or otherwise provide you with a denial letter that conforms to your specifications.

Discussion

It is the public policy of the District of Columbia that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right "to inspect . . . and . . . copy any public record of a public body . . ." D.C. Official Code § 2-532(a). The right created under the DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request. *See* D.C. Official Code § 2-534. Under the DC FOIA, an agency is required to disclose materials only if they were "retained by a public body." D.C. Official Code § 2-502(18).

The DC FOIA was modeled on the corresponding federal Freedom of Information Act. *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

The crux of this matter appears to be whether OUC is required under DC FOIA to provide you with a response to your FOIA request that conforms to your specifications.²

Section 407.1 of Title 1 of the District of Columbia Municipal Regulations addresses the elements that a District agency must include in its response to a FOIA request. This regulation states, in relevant part:

407.1 When a requested record has been identified and is available, the agency shall notify the requester where and when the record will be made available for inspection or copies will be made available. The notification shall also advise the requester of any applicable fees.

407.2 A response denying a written request for a record shall be in writing and shall include the following information:

(a) The identity of each person responsible for the denial, if different from that of the person signing the letter of denial;

² We say "appears to be" because your appeal seems to focus on the technicalities of OUC's response (e.g., its lack of a FOIAexpress reference number) as opposed to the legal bases for its response.

(b) A reference to the specific exemption or exemptions authorizing the withholding of the record with a brief explanation how each exemption applies to the record withheld. Where more than one record has been requested and is being withheld, the foregoing information shall be provided for each record or portion of a record withheld; and

(c) A statement of the appeal rights provided by the Act and this chapter.

1 D.C.M.R. § 407.1.

A denial letter issued by a District agency in response to a FOIA request must also comply with D.C. Official Code § 2-533(a) by including, at minimum, the following:

(1) The specific reasons for the denial, including citations to the particular exemption(s) under § 2-534 relied on as authority for the denial;

(2) The name(s) of the public official(s) or employee(s) responsible for the decision to deny the request; and

(3) Notification to the requester of any administrative or judicial right to appeal under § 2-537.

D.C. Official Code § 2-533(a).

Under these requirements, an agency that responds to a FOIA request and does not withhold any records need notify the requester only as to where and when the records will be available. When an agency denies a request, it must identify the individual or employee responsible for issuing the decision, provide the specific DC FOIA exemption under which the record is being withheld, and notify the requester of his or her appellate rights under DC FOIA.

Here, with respect to the records to which OUC granted you access, the agency satisfied its obligations under District law and regulation by providing you with copies of two responsive Background Chronology Events, and one of two responsive audio recordings.

With respect to the 9-1-1 audio recording you requested that OUC did not disclose to you, OUC's May 26, 2015 letter does not satisfy the requirements set forth in D.C. Official Code § 2-533 and 1 D.C.M.R. § 407.1. In specific, the letter states "The information you requested is attached and consists of 4 total pages with 0 fully withheld pages and 0 partially withheld pages, along with 2 wave files containing 911 calls," though the OUC produced only one of the files and declined to produce the other. Although OUC explained to you in subsequent exchanges its reason for withholding one of the audio recordings, for the sake of clarity, we conclude that OUC shall provide you with a revised, comprehensive letter explaining what it produced to you, what

Ms. Anna Maria Agolli
Freedom of Information Act Appeal 2016-17
December 15, 2015
Page 4

it withheld from you, and the legal reasoning for the withholding. In addition, the letter should identify the individual responsible for issuing the decision.³

Finally, an agency does not have a duty to create a document in response to a FOIA request. *See Forsham v. Harris*, 445 U.S. 169, 186 (1980) (citing *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 161-62 (1975)); *accord Yeager v. DEA*, 678 F.2d 315, 321, (D.C. Cir. 1982) (“It is well settled that an agency is not required by FOIA to create a document that does not exist in order to satisfy a request.”). As a result, OUC is not required to create what you have deemed a “certified courtworthy release.”

With respect to the audio recording that OUC already disclosed, it provided you with an electronic copy, as required under D.C. Official Code § 2-532(a-2). You have indicated that you prefer that the recording be transmitted in a different electronic format. OUC represents that “[a]t this time, OUC possesses no software that allows it to manipulate audio records extracted from the CAD system.”⁴ This Office is not aware of any authority for the proposition that FOIA obligates an agency to acquire new technological capacity to comply with a FOIA records request. *See Milton v. United States DOJ*, 842 F. Supp. 2d 257, 260 (D.D.C. 2012).

Conclusion

Based on the foregoing, we affirm OUC’s decision in part and remand it in part. Within five (5) business days from the date of this decision, OUC shall reissue a denial letter in accordance with the guidance in this decision.

This constitutes the final decision of this office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Adrienne Day, Acting General Counsel, OUC (via email)

³ This method would comply with applicable law and regulation, whereas OUC’s previous letter to you was signed “Sincerely, Office of Unified Communications.”

⁴ *See* OUC response, attached hereto.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-18**

December 18, 2015

Mr. Benjamin Champa

RE: FOIA Appeal 2016-18

Dear Mr. Champa:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”). In your appeal, you assert that the District of Columbia Public Schools (“DCPS”) did not adequately respond to your request under the DC FOIA.

Background

On November 2, 2015, DCPS received your FOIA request for DCPS lottery results for the past ten years, provided in Excel format. After conducting searches for the responsive documents, on November 19, 2015, DCPS provided you with PDF versions of DCPS lottery results for the 2009/2010, 2013/2014, 2014/2015, and 2015/2016 school years.

You appeal DCPS’s response as inadequate on the grounds that DCPS produced records for four years rather than the ten years you requested, and the records were produced in PDF format rather than the Excel format that you requested.

On December 14, 2015, DCPS sent you an amended response and provided you with the lottery results for the 2013/2014, 2014/2015, and 2015/2016 school years in Excel format. Additionally, DCPS re-sent the lottery results for the 2009/2010 school year, again in PDF format, stating that an Excel version of the document did not exist. On December 14, 2015, DCPS also provided this Office with a response to your appeal.¹ In its response, DCPS identifies the location where the responsive records would be located and the employee who conducted the searches. DCPS asserts that two searches were conducted, and all of the responsive lottery results that were found were provided to you. DCPS acknowledges that the records were requested in Excel format but states that the only record DCPS has of the 2009/2010 school year exists in PDF format.

Discussion

It is the public policy of the District of Columbia that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Official Code § 2-531. In aid of that

¹ A copy of DCPS’s response is attached for your reference.

Mr. Benjamin Champa
Freedom of Information Act Appeal 2016-18
December 18, 2015
Page 2

policy, DC FOIA creates the right “to inspect . . . and . . . copy any public record of a public body . . .” D.C. Official Code § 2-532(a). The right created under the DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request. *See* D.C. Official Code § 2-534. Under the DC FOIA, an agency is required to disclose materials only if they were “retained by a public body.” D.C. Official Code § 2-502(18).

The DC FOIA was modeled on the corresponding federal Freedom of Information Act. *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm’n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

Your appeal raises two issues: the adequacy of DCPS’s search for responsive records, and whether DCPS’s response to your FOIA request must conform to your formatting specifications. Regarding the adequacy of DCPS’s search, DC FOIA requires that a search be reasonably calculated to produce the relevant documents. The test is not whether any additional documents might conceivably exist, but whether the government’s search for responsive documents was adequate. *Weisberg v. United States DOJ*, 705 F.2d 1344, 1351 (D.C. Cir. 1983). Speculation unsupported by any factual evidence that records exist is not enough to support a finding that full disclosure has not been made. *Marks v. United States DOJ*, 578 F.2d 261 (9th Cir. 1978).

To establish the adequacy of a search,

‘the agency must show that it made a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested.’ [*Oglesby v. United States Dep’t of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990)]. . . The court applies a ‘reasonableness test to determine the ‘adequacy’ of a search methodology, *Weisberg v. United States DOJ*, 705 F.2d 1344, 1351 (D.C. Cir. 1983) . . .

Campbell v. United States DOJ, 164 F.3d 20, 27 (D.C. Cir. 1998).

To conduct an adequate search, an agency must make reasonable determinations as to the location of records requested and search for the records in those locations. *Doe v. D.C. Metro. Police Dep’t*, 948 A.2d 1210, 1220-21 (D.C. 2008) (citing *Oglesby*, 920 F.2d at 68). The determinations as to likely locations of records would involve knowledge of the agency’s record creation and maintenance practices. *See Pub. Emps. for Env’tl. Responsibility v. U.S. Section Int’l Boundary and Water Comm’n.*, 839 F. Supp. 2d 304, 317-18 (D.D.C. 2012). Generalized and conclusory allegations cannot suffice to establish an adequate search or the availability of exemptions. *See In Def. of Animals v. NIH*, 527 F. Supp. 2d 23, 32 (D.D.C. 2007).

In its response to your appeal, DCPS indicated that the records would be located in its Office of the Chief Operation Officer (“OCO”). An OCO employee conducted two searches for records of school lottery results. The searches revealed lottery results for four school years, which were provided to you. Based on the DCPS’s description of its search, we find that DCPS’s search was adequate under the DC FOIA.

Mr. Benjamin Champa
Freedom of Information Act Appeal 2016-18
December 18, 2015
Page 3

Regarding the issue of formatting, the only record that DCPS did not provide in your requested format is for the 2009/2010 school year. DCPS asserts that the lottery results for the 2009/2010 school year are available only in PDF format and not in your requested Excel format. Under DC FOIA, an agency does not have a duty to create a document in response to a FOIA request. *See Forsham v. Harris*, 445 U.S. 169, 186 (1980) (citing *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 161-62 (1975)); *accord Yeager v. DEA*, 678 F.2d 315, 321, (D.C. Cir. 1982) (“It is well settled that an agency is not required by FOIA to create a document that does not exist in order to satisfy a request.”).

Here, converting an electronic document from PDF to Excel is not as simple as saving the document into a different format. DCPS would have to recreate the document manually or use a third party program for the conversion. This Office is not aware of any authority for the proposition that FOIA obligates an agency to acquire new technological capacity to comply with a FOIA records request. *See Milton v. United States DOJ*, 842 F. Supp. 2d 257, 260 (D.D.C. 2012). As a result, DCPS is not required to create an Excel version of the lottery results for the 2009/2010 school year.

Conclusion

Based on the foregoing, we affirm DCPS’s amended response to your request and dismiss your appeal. This constitutes the final decision of this office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Eboni J. Govan, Attorney Advisor, DCPS (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-19 & 2016-21**

December 23, 2015

VIA ELECTRONIC MAIL

Mr. Chris Moeser

RE: FOIA Appeal 2016-19 and 2016-21

Dear Mr. Moeser:

This letter responds to your administrative appeals to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”). In your appeals, you assert that the Office of the Chief Financial Officer (“OCFO”) improperly withheld records your client requested under the DC FOIA.

Background

Due to the similar nature of the two appeals you recently filed with this Office, we have consolidated them and address both in this decision. The procedural history of the appeals is as follows.

FOIA Appeal 2016-19

On October 20, 2015, your client submitted a request under the DC FOIA to the OCFO seeking “access to comments, reports, and analysis submitted to the Agency by its employees, concerning lottery security procedures or improper purchase or redemption of lottery tickets.” On November 10, 2015, the OCFO issued a letter denying the request on the grounds that responsive documents are protected by the deliberative process privilege exemption under D.C. Official Code § 2-534(a)(4) (“Exemption 4”) and the personal privacy exemption under D.C. Official Code § 2-534(a)(2) (“Exemption 2”).

On appeal, you challenge the OCFO’s response, contending that neither privilege protects the emails, and even if one or both privileges applied, the documents should be reasonably redacted and produced.

On December 16 and 22, 2015, the OCFO provided this Office with responses to your appeal. Therein, the OCFO explained the applicability of Exemptions 2 and Exemption 4 to the three emails it withheld. Additionally, the OCFO provided this Office with the emails for our *in camera* review.

FOIA Appeal 2016-21

On November 18, 2015, your client submitted a request under the DC FOIA to the OCFO seeking “access to comments, reports, and analysis submitted to the Agency from January 1, 2013 through the present at the request of the Agency’s Chief Financial Officer Jeffrey Dewitt.” On December 1, 2015, the OCFO issued a letter denying the request on the grounds that responsive documents are protected by Exemptions 2 and 4 of the DC FOIA.

On appeal, you challenge OCFO’s response to the request, contending that the responsive emails are protected by neither privilege, and even if either privilege applied, the documents should be reasonably redacted and produced.

The OCFO provided this Office with a response to your appeal on December 22, 2015. Therein, the OCFO explained the applicability of both Exemption 2 and Exemption 4 to the thirty-nine emails it withheld. Additionally, the OCFO provided this Office with the emails for our *in camera* review.

Discussion

It is the public policy of the District of Columbia that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right “to inspect . . . and . . . copy any public record of a public body . . .” *Id.* at § 2-532(a). The right created under the DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request. D.C. Official Code § 2-534.

Exemption 4 of the DC FOIA vests public bodies with discretion to withhold “inter-agency or intra-agency memorandums and letters which would not be available by law to a party other than an agency in litigation with the agency[.]” One of the privileges that falls under the umbrella of Exemption 4 is the deliberative process privilege.

The deliberative process privilege protects agency documents that are both predecisional and deliberative. *Coastal States Gas Corp. v. Dep’t of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). A document is predecisional if it was generated before the adoption of an agency policy and a document is deliberative if it “reflects the give-and-take of the consultative process.” *Id.*

The exemption thus covers recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency. Documents which are protected by the privilege are those which would inaccurately reflect or prematurely disclose the views of the agency, suggesting as agency position that which is as yet only a personal position. To test whether disclosure of a document is likely to

adversely affect the purposes of the privilege, courts ask themselves whether the document is so candid or personal in nature that public disclosure is likely in the future to stifle honest and frank communication within the agency . . .

Id.

Generally, intra-agency memoranda or similar communication from subordinates to superiors on an agency ladder are more likely to be deliberative than those flowing in the opposite direction. *Schlefer v. United States*, 702 F.2d 233, 238 (D.C. Cir. 1983); *Coastal States Gas Corp.*, 617 F.2d at 868 (“The identity of the parties to the memorandum is important; a document from a subordinate to a superior official is more likely to be predecisional, while a document moving in the opposite direction is more likely to contain instructions to staff explaining the reasons for a decision already made.”).

Having reviewed *in camera* review the emails that the OCFO withheld, this Office concludes that these messages are the type of records intended to be protected under the deliberative process privilege, as they consist of candid thoughts of government employees transmitted to the head of an agency in an attempt to assist in the formation of agency policy. Further, the forty-two emails in question are protected in their entirety by the deliberative process privilege and cannot be reasonably redacted.

Based on the OCFO’s representation, as well as our own review, it is evident that all of the emails were created by agency employees and were transmitted only to other agency employees. Accordingly, they constitute intra-agency documents under Exemption 4. We also accept OCFO’s representation that the responsive emails were solicited to assist the District’s chief financial officer in making policy decisions related to the OCFO, such that the emails are predecisional. Lastly, the emails are communications containing the candid thoughts of employees that were transmitted to the head of the agency to address how the agency could better function. This is the sort of communication which, if released, would chill intra-agency communication and discourage employees from being frank with their employers. *FOP v. District of Columbia*, 79 A.3d 347, 355 (D.C. 2013) (“In ascertaining whether the documents are deliberative, the ‘key question . . . is whether disclosure of the information would discourage candid discussion within the agency.’ As a rule, to be deliberative, the document must ‘reflect the personal opinions of the writer rather than the policy of the agency.’”) Accordingly, this Office concludes that the release of the personal anecdotes and suggestions contained in the emails would chill employees from participating in future similar programs, thereby stifling honest and frank communication within the agency. *Coastal States Gas Corp.*, 617 F.2d at 866.

We find persuasive your reliance on *District of Columbia v. FOP*, 75 A.3d 259 (D.C. 2013) for the proposition that under Exemption 2 the emails should be redacted only to the extent that they protect personal privacy of individuals. Nevertheless, *FOP* did not

address the deliberative process privilege; it addressed the “Chief Concerns” email account only in the context of Exemption 2.

In *Judicial Watch, Inc. v. U.S. Dep’t of Treasury*, 796 F. Supp. 2d 13, 28 (D.D.C. 2011), the court held that “[a]lthough purely factual information is generally not protected under the deliberative process privilege, such information can be withheld when ‘the material is so inextricably intertwined with the deliberative sections of documents that its disclosure would inevitably reveal the government’s deliberations.’” (quoting *In re Sealed Case*, 121 F.3d 729, 737 (D.C. Cir. 1997)). In these instances, factual information is protected when disclosing the information would reveal an agency’s decision-making process in a way that would have a chilling effect on discussion within the agency and inhibit the agency’s ability to perform its functions. *Id.* Our review of the emails here leads to the conclusion that they are not reasonably segregable. The limited portions of the emails that could be considered factual are inextricably intertwined with the portions that are clearly deliberative (e.g., an employee’s perception of a particular policy of the OCFO and her corresponding opinion of the policy). Thus, although we agree with you that under DC FOIA purely factual information should be segregated and disclosed, disclosing the questionably factual contents of the emails here would have the type of chilling effect on speech that the deliberative process privilege is intended to prevent.

Conclusion

Based on the foregoing, we affirm the OCFO’s responses to your FOIA requests. This constitutes the final decisions of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Ridgely C. Bennett, Assistant General Counsel, OCFO (via email)
Charles Barbera, Assistant General Counsel, OCFO (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-20**

January 8, 2016

VIA ELECTRONIC MAIL

Mr. James Sadowski

RE: FOIA Appeal 2016-20

Dear Mr. Sadowski:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”). In your appeal, you assert that the District of Columbia Housing Authority (“DCHA”) improperly withheld records you requested under the DC FOIA.

Background

On November 10, 2015, you submitted a FOIA request to DCHA for four categories of records. The first two categories involve names and addresses of participants in the Housing Choice Voucher Program (“HCVP”). The second two categories involve names and addresses of participants qualifying for a Low Income Housing Tax Credit (“LIHTC”).

DCHA responded to your request On December 4, 2015. In its response, DCHA stated that it is the District agency responsible for the administration of the HCVP on behalf of the U.S. Department of Housing and Urban Development (“HUD”), but that DCHA could not disclose the HCVP records sought. DCHA indicated that according to HUD guidance, personal information related to the administration of HCVP is protected from disclosure under the Privacy Act of 1974.¹ DCHA further asserted that the names and addresses of HCVP participants are protected under D.C. Official Code § 2-534(a)(2) (“Exemption 2”).² Regarding your request for LIHTC records, DCHA stated that the LIHTC program is administered by the District of Columbia Department of Housing and Community Development (“DHCD”). DCHA provided you with a phone number to contact DHCD for LIHTC records.

On appeal, you assert that the records at issue do not involve privacy interests. In support of your assertion, you distinguish your request from the FOIA request at issue in *Padou v. District of Columbia*, 29 A.3d 973 (D.C. 2010). You assert that similar information was allowed to be withheld in *Padou* only because the records involved protecting the privacy interests of mentally

¹ 5 U.S.C. §552a

² Exemption 2 protects “[i]nformation of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.”

Mr. James Sadowski
Freedom of Information Act Appeal 2016-20
January 8, 2016
Page 2

ill individuals. Further, you argue that DCHA cannot withhold addresses because DCHA and HUD websites provide address information for some properties. Your appeal does not expressly assert any public interest in disclosure.

On December 22, 2015, DCHA provided this Office with a response to your appeal, in which it reaffirmed and explained its withholding under Exemption 2 and the Privacy Act of 1974.³ DCHA asserts that *Padou* is instructive for the application of Exemption 2 because impoverished individuals receiving HCVP assistance have similar privacy interests to avoid unwarranted harassment, ridicule, or embarrassment. DCHA also elaborates on the federal privacy statutes that it asserts prevent disclosure of the requested records. To provide further guidance on the relevant federal privacy statutes, DCHA's response includes Notice PIH-2014-10 on Privacy Protection Guidance issued by HUD, and an advisory letter issued by HUD regarding disclosure of housing records. Finally, DCHA reiterates that DHCD administers the LIHTC program.

Discussion

It is the public policy of the District of Columbia that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right "to inspect . . . and . . . copy any public record of a public body . . ." D.C. Official Code § 2-532(a). The right created under the DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request. *See* D.C. Official Code § 2-534.

The DC FOIA was modeled on the corresponding federal Freedom of Information Act. *See Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

This appeal addresses only the categories of your request related to HCVP since DCHA indicated in both its initial response and its response to your appeal that DHCD administers the LIHTC program.

Under Exemption 2, determining whether disclosure of a record would constitute an invasion of personal privacy requires a balancing of the individual privacy interest against the public interest in disclosure. *See Department of Justice v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 762 (1989). The first part of the analysis is determining whether a sufficient privacy interest exists. *Id.*

A privacy interest is cognizable under DC FOIA if it is substantial, which is anything greater than *de minimis*. *Multi AG Media LLC v. Dep't of Agric.*, 515 F.3d 1224, 1229 (D.C. Cir. 2008). In general, there is a sufficient privacy interest in personal identifying information. *Skinner v. U.S. Dep't. of Justice*, 806 F. Supp. 2d 105, 113 (D.D.C. 2011). Information such as names,

³ A copy of DCHA's response is attached for your reference.

Mr. James Sadowski
Freedom of Information Act Appeal 2016-20
January 8, 2016
Page 3

phone numbers, and home addresses are considered to be personally identifiable information and are therefore exempt from disclosure. *See, e.g., Department of Defense v. FLRA*, 510 U.S. 487, 500 (1994).

In addition to the baseline privacy interests in individual names and addresses involved, we agree with DCHA that there is a heightened privacy interest for individuals participating in the HCVP due to the stigma and embarrassment that could be associated with one's status as a recipient of public assistance. As DCHA indicates, one of the functions of the HCVP is to allow housing subsidy recipients the flexibility to rent in the private housing market among mixed-income communities and eliminate the concentration of poverty typically found in public housing. The fact that DCHA's website provides addresses of some public and affordable housing in the District is not relevant because there is no indication that the listed properties are affiliated with the HCVP. The listings on DCHA's website do not diminish the privacy rights of participants in the HCVP. *Id.* ("An individual's interest in controlling the dissemination of information regarding personal matters does not dissolve simply because that information may be available to the public in some form.").

The second part of the Exemption 2 analysis examines whether the individual privacy interest is outweighed by the public interest. *See Reporters Comm. for Freedom of Press*, 489 U.S. at 772-773. Aside from contesting the existence of privacy interests associated with the HCVP, you have not asserted any public interest in favor of disclosure of the names and addresses of HCVP participants. When there is a privacy interest in a record and no countervailing public interest, the record may be withheld from disclosure. *See, e.g. Beck v. Department of Justice*, 997 F.2d 1489, 1494 (D.C. Cir. 1993). As a result, we find that DCHA properly withheld records reflecting HCVP participants under Exemption 2.

With respect to the federal statutes incorporated under Exemption 6, DCHA represents that it administers HCVP on behalf of HUD. As indicated by DCHA and in HUD guidance, disclosure of the HCVP records is subject to the requirements of 5 U.S.C. §552a, and records maintained by DCHA for HCVP participants cannot be disclosed except in accordance with 5 U.S.C. §552a. We concur with DCHA that the requirements of 5 U.S.C. §552a for disclosure have not been met here; therefore, DCHA properly withheld the HCVP records under Exemption 6.

Conclusion

Based on the foregoing, we affirm DCHA's decision. This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director

**Mr. James Sadowski
Freedom of Information Act Appeal 2016-20
January 8, 2016
Page 4**

/s John A. Marsh*

John A. Marsh
Legal Fellow

cc: Qwendolyn Brown, Associate General Counsel, DCHA (via email)

*Admitted in Maryland; license pending in the District of Columbia; practicing under the supervision of members of the D.C. Bar

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-22**

January 11, 2016

VIA ELECTRONIC MAIL

Mr. Will Sommer

RE: FOIA Appeal 2016-22

Dear Mr. Sommer:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”). In your appeal, you assert that the Executive Office of the Mayor (“EOM”) improperly withheld records you requested under the DC FOIA.

Background

On November 12, 2015, you submitted a request to the EOM for “All emails and attachments sent or received by the following EOM accounts: - john.falcicchio@dc.gov, - michael.czin@dc.gov, -latoya.foster@dc.gov, -beverly.perry@dc.gov and all email accounts associated with Muriel Bowser that contain the phrases ‘FreshPAC,’ ‘Soto,’ ‘Horton,’ ‘Binitie,’ ‘Buwa,’ or were received or sent from the following email addresses: - chico@ghajifirm.com, -bsoto@premiumtitlellc.com.”

On December 3, 2015, EOM provided you with 154 unredacted pages and 28 partially redacted pages of documents. EOM withheld 116 pages in their entirety. The 116 withheld pages consist of 34 documents, all of which are email messages or email chains.

Subsequently you appealed to the Mayor, asserting that EOM’s withholding of emails under D.C. Official Code § 2-534(e) was overbroad.¹ You explain that you are unable to offer a more substantial argument because EOM did not provide you with an explanation or *Vaughn* index describing the documents it withheld.

EOM provided this Office with a response to your appeal on January 8, 2016.² EOM’s response included a *Vaughn* index describing the 34 withheld documents. EOM also provided copies of the emails for our *in camera* review. In its response, EOM partly revised its initial position and stated that by January 11, 2016, it would release to you the following documents: 1, 2, 3, 4, 8, 9,

¹ D.C. Official Code § 2-534(e) is not an exemption under DC FOIA itself, but D.C. Official Code § 2-534(e) illustrates some of the exemptions available under D.C. Official Code § 2-534(a)(4).

² A copy of the response and *Vaughn* index EOM provided to this Office are attached for your reference.

13, 14, 21, 22, 23, 24, 26, 30, and 32. EOM defended its withholding of documents: 5, 6, 7, 10, 11, 12, 15, 16, 17, 18, 19, 20, 25, 27, 28, 29, 31, 33, and 34.

Discussion

It is the public policy of the District of Columbia that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right “to inspect . . . and . . . copy any public record of a public body . . .” *Id.* at § 2-532(a). The right created under the DC FOIA to inspect a public record is subject to various exemptions that may form the basis for denial of a request.

The DC FOIA was modeled on the corresponding federal Freedom of Information Act. *See Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm’n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

D.C. Official Code § 2-534(a)(4) (“Exemption 4”), vests public bodies with discretion to withhold “[i]nter-agency or intra-agency memorandums or letters . . . which would not be available by law to a party other than a public body agency in litigation with the public body.” One of the privileges that falls under the umbrella of Exemption 4 is the deliberative process privilege. *See* D.C. Official Code § 2-534(e).

The deliberative process privilege protects an agency document that is both predecisional and deliberative. *Coastal States Gas Corp. v. Dep’t of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). A document is predecisional if it was generated before the adoption of an agency policy, and a document is deliberative if it “reflects the give-and-take of the consultative process.” *Id.*

The exemption thus covers recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency. Documents which are protected by the privilege are those which would inaccurately reflect or prematurely disclose the views of the agency, suggesting as agency position that which is as yet only a personal position. To test whether disclosure of a document is likely to adversely affect the purposes of the privilege, courts ask themselves whether the document is so candid or personal in nature that public disclosure is likely in the future to stifle honest and frank communication within the agency . . .

Id.

Generally, intra-agency memoranda or similar communication from subordinates to superiors on an agency ladder are more likely to be deliberative than those flowing in the opposite direction.

Mr. Will Sommer
Freedom of Information Act Appeal 2016-22
January 11, 2016
Page 3

Schlefer v. United States, 702 F.2d 233, 238 (D.C. Cir. 1983); *Coastal States Gas Corp.*, 617 F.2d at 868 (“The identity of the parties to the memorandum is important; a document from a subordinate to a superior official is more likely to be predecisional, while a document moving in the opposite direction is more likely to contain instructions to staff explaining the reasons for a decision already made.”).

When an agency establishes that it has properly withheld a document under an asserted exemption, it must still disclose all reasonably segregable, nonexempt portions of the document. *See, e.g., Roth v. U.S. Dep’t of Justice*, 642 F.3d 1161, 1167 (D.C. Cir. 2011). “To demonstrate that it has disclosed all reasonably segregable material, ‘the withholding agency must supply a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.’” *Judicial Watch, Inc. v. U.S. Dep’t of Treasury*, 796 F. Supp. 2d 13, 29 (D.D.C. 2011) (quoting *Jarvik v. CIA*, 741 F. Supp. 2d 106, 120 (D.D.C. 2010)).

In light of EOM’s revised position that it will release to you documents 1, 2, 3, 4, 8, 9, 13, 14, 21, 22, 23, 24, 26, 30, and 32, we shall limit our analysis to the remaining documents that EOM continues to withhold. Our analysis of these documents corresponds to the *Vaughn* index EOM provided this Office.

Documents 5, 6, 7, and 29

The EOM withheld 4 emails sent between EOM staff discussing the events of a hearing held by the Council of the District of Columbia and debating how the Mayor’s Administration should respond to these events. This is the type of communication which, if released, would chill intra-agency discussion and discourage employees from being frank with their employers. *FOP v. District of Columbia*, 79 A.3d 347, 355 (D.C. 2013) (“In ascertaining whether the documents are deliberative, the ‘key question . . . is whether disclosure of the information would discourage candid discussion within the agency.’ As a rule, to be deliberative, the document must ‘reflect the personal opinions of the writer rather than the policy of the agency.’”). The emails were clearly intended to be deliberative, as evidenced by the fact that they all contain the phrase “Deliberative and Confidential” in their subject line. Although labeling a record “deliberative” or “confidential” does not automatically protect it from disclosure under FOIA, we conclude that documents 5, 6, 7, and 29 were properly withheld under the deliberative process privilege.

Documents 10 and 11

Documents 10 and 11 consist of an email chain that is partially responsive to your request. The portion of the emails that is responsive to your request involves a senior EOM staff member commenting on a news article and directing a subordinate to take certain action. This exchange is not deliberative, as there is no consultation or back-and-forth discussion; rather, the senior official is directing a subordinate to perform a task within the subordinate’s duties. Accordingly, this discussion should be released.

Mr. Will Sommer
Freedom of Information Act Appeal 2016-22
January 11, 2016
Page 4

The exchange that occurs at the end of the email chain, which EOM describes as including “discussions among a senior official and several subordinate officials, including an attorney to the senior official,” is not exempt under the deliberative process privilege. Although the exchange is a back-and-forth discussion between EOM staff members, the discussion does not relate to official action, decisions, or policy-making. The discussion also has nothing to do with the portion of the email chain containing one of your search terms and may therefore be withheld on the grounds that it is not responsive to your request.

Documents 12, 15, 16, 17, 18, 27, 31, 33, and 34

The EOM withheld 9 emails related to the drafting of a press release by EOM staff regarding the Mayor’s delegation to China. The email messages in documents 12, 15, 16, 17, 18, 27, and 31 consist of back-and-forth exchanges between EOM staff attempting to refine a document before its public release. Therefore, these emails are intra-agency documents. The emails are also predecisional, in that they constitute the process used to reach a final agency position: the official message the Mayor’s communications director issued to the public. The emails are not reasonably segregable, and releasing any portion of them would reveal EOM’s decision-making process and inhibit its ability to perform its functions.

With respect to Documents 33 and 34, this Office is unable to discern if the draft of the press release discussed in these documents was ultimately deemed the final press release. Document 33 contains an intra-agency discussion of the press release, whereas document 34 contains only text of the press release. Accordingly, EOM should determine if either email contains the version of the Mayor’s press release that was ultimately considered final. If the final version is contained in Documents 33 or 34, the text of the final version should be released.

Documents 19 and 20

Documents 19 and 20 consist of an email chain. The chain begins with exchanges between an EOM staff member and an individual outside of the District government. These communications do not constitute inter or intra-agency documents and are therefore not protected by the deliberative process privilege. With the exception of redacting personally identifying information pursuant to D.C. Official Code § 2-534(a)(2), the content of these exchanges should be disclosed.

The other portion of Documents 19 and 20 involves a conversation solely between EOM staff members discussing their thoughts about an event the Mayor will be attending. These messages were properly withheld under Exemption 4 as deliberative, intra-agency documents.

Documents 25 and 28

Mr. Will Sommer
Freedom of Information Act Appeal 2016-22
January 11, 2016
Page 5

Documents 25 and 28 consist of a back-and-forth exchange between two EOM staff members discussing draft talking points for the Mayor. The exchange is clearly intra-agency and pre-decisional, and release of any portion would reveal strategy and deliberation. Accordingly, EOM properly withheld documents 25 and 28 under Exemption 4.

Conclusion

Based on the foregoing, we affirm in part and remand in part EOM's response to your request. EOM shall, within 5 business days of the date of this decision, disclose portions of documents 10, 11, 19, and 20 and review documents 33 and 34 for disclosure in accordance with the guidance in this decision.

This constitutes the final decision of this office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Jim Slattery, FOIA Officer, EOM (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-23

January 6, 2016

VIA ELECTRONIC MAIL

Mr. Mark Eckenwiler

RE: FOIA Appeal 2016-23

Dear Mr. Eckenwiler:

This letter responds to the administrative appeal you filed with the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"), which this Office received on December 21, 2015. In your appeal you assert that the Department of Consumer and Regulatory Affairs ("DCRA") failed to respond to a request you submitted to DCRA on November 25, 2015.

This Office notified the DCRA of your FOIA appeal on December 21, 2015. On January 6, 2015, DCRA responded indicating that DCRA had provided you with responsive documents today *via* FOIAXpress.

Based on the foregoing, we consider your appeal to be moot and it is dismissed; provided, that the dismissal shall be without prejudice to you to assert any challenge, by separate appeal, to DCRA's substantive response.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Brandon Bass, FOIA Officer, DCRA (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-24**

January 8, 2016

VIA ELECTRONIC MAIL

Mr. Will Sommer

RE: FOIA Appeal 2016-24

Dear Mr. Sommer:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”). In your appeal, you assert that the Metropolitan Police Department (“MPD”) improperly withheld records you requested under the DC FOIA.

Background

On March 13, 2015, you submitted a request to MPD seeking “all surveillance footage held by the Metropolitan Police Department related to the January 2015 arrest of Marion C. ‘Christopher’ Barry at the PNC Bank in Chinatown.” MPD denied your request, asserting privacy exemptions under DC FOIA related to investigatory records and personal privacy.

You appealed MPD’s denial, contending that release of the requested footage would not violate Mr. Barry’s privacy because he was a candidate for public office at the time the video was recorded. MPD responded to your appeal by email to this Office on December 29, 2015. Therein, MPD reasserted exemptions under D.C. Official Code §§ 2-534(a)(2) and (a)(3)(C), and argued that Mr. Barry’s well known status does not amount to a public interest in the context of FOIA.

Discussion

It is the public policy of the District of Columbia that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right “to inspect . . . and . . . copy any public record of a public body . . .” *Id.* at § 2-532(a). The right created under DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request.

The crux of this matter is whether the video you requested is exempt from disclosure under DC FOIA because it contains material which, if released, would constitute an invasion of privacy.

Exemption 2

D.C. Official Code § 2-534(a)(2) (“Exemption 2”) provides an exemption from disclosure for “[i]nformation of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.” Determining whether disclosure of a record would constitute an invasion of personal privacy requires a balancing of the individual privacy interest against the public interest in disclosure. *See Department of Justice v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 762 (1989). The first part of the analysis determining whether a sufficient privacy interest exists. *Id.*

A privacy interest is cognizable under DC FOIA if it is substantial, which is anything greater than *de minimis*. *Multi AG Media LLC v. Dep’t of Agric.*, 515 F.3d 1224, 1229 (D.C. Cir. 2008). In general, there is a sufficient privacy interest in personal identifying information. *Skinner v. U.S. Dep’t. of Justice*, 806 F. Supp. 2d 105, 113 (D.D.C. 2011).

In light of the applicable case law, we find that Mr. Barry has more than a *de minimis* privacy interest in a video capturing his unlawful or embarrassing conduct, regardless of where the conduct occurred or whether he plead guilty to any offense captured in the video.

The second part of a privacy analysis examines whether the individual privacy interest is outweighed by the public interest. The Supreme Court has stated that this analysis must be conducted with respect to the central purpose of FOIA, which is

‘to open agency action to the light of public scrutiny.’” *Department of Air Force v. Rose*, 425 U.S., at 372 . . . This basic policy of ‘full agency disclosure unless information is exempted under clearly delineated statutory language,’ *Department of Air Force v. Rose*, 425 U.S., at 360-361 (quoting S. Rep. No. 813, 89th Cong., 1st Sess., 3 (1965)), indeed focuses on the citizens’ right to be informed about “what their government is up to.” Official information that sheds light on an agency’s performance of its statutory duties falls squarely within that statutory purpose. That purpose, however, is not fostered by disclosure of information about private citizens that is accumulated in various governmental files but that reveals little or nothing about an agency’s own conduct.

Reporters Comm. for Freedom of Press, 489 U.S. at 772-773.

On appeal you argue that releasing the video at issue would not violate the privacy of Mr. Barry or anyone else because “Mr. Barry, as a candidate for public office at the time the video was taken, was a public figure. Additionally – and most importantly – the footage was taken in a bank, a place that is open to the public.” We glean from this statement your position that the public interest in disclosure is Mr. Barry’s former status as a candidate for public office when the video was recorded.

Courts have consistently held that the purpose of FOIA is to inform citizens of “what their government is up to.” *Id.* “This inquiry . . . should focus not on the general public interest in the subject matter of the FOIA request, but rather on the incremental value of the specific information being withheld.” *Schrecker v. United States Dep’t of Justice*, 349 F.3d 657, 661

Mr. Will Sommer
Freedom of Information Act Appeal 2016-24
January 8, 2016
Page 3

(D.C. Cir. 2003) (internal citations omitted). Information is deemed valuable under FOIA when it would permit public scrutiny of an agency's behavior or performance. *Id.* at 666.

In this instance, there has been no claim that the video would provide insight into the behavior or performance of a District agency. Your view of the public interest in the video does not comport with the standard under applicable case law, in that disclosure of the video would not contribute significantly to public understanding of the operations or activities of the government, which is "the only relevant public interest" to be weighed. *Reporters Comm.*, 489 U.S. at 775.

When there is a *de minimis* privacy interest in a record and no countervailing public interest, the record may be withheld from disclosure. *See, e.g. Beck v. Department of Justice*, 997 F.2d 1489, 1494 (D.C. Cir. 1993) ("In the usual case, we would first have identified the privacy interests at stake and then weighed them against the public interest in disclosure . . . In this case, however, where we find that the request implicates no public interest at all, 'we need not linger over the balance; something . . . outweighs nothing every time.'"). *See also, Bartko v. United States Dep't of Justice*, 79 F. Supp. 3d 167, 173 (D.D.C. 2015) ("In an ultimate balancing, something in the privacy bowl outweighs nothing in the public-interest bowl every time.").

Having found no public interest in disclosure of the video of Mr. Barry's conduct, this Office concludes that MPD's denial of your request was proper.

Exemption 3

In light of our finding that the video at issue was properly withheld under Exemption 2 proper, we shall not engage in a substantive analysis of whether it was properly withheld under D.C. Official Code § 2-534(a)(3)(C) ("Exemption 3"). The standard for withholding a record under Exemption 2 is higher than the standard under Exemption 3. A record is exempt from disclosure if releasing it would constitute a "*clearly* unwarranted invasion of privacy" under Exemption 2 (emphasis added). The standard under Exemption 3 is that a record may be withheld if its release would constitute an "unwarranted invasion of privacy." Since we have determined that release of the video would constitute a "clearly unwarranted invasion of person privacy," we necessarily find that its release would amount to an "unwarranted invasion of privacy."

Body-Worn Camera Regulations

We acknowledge your position that under body-worn camera regulations the outcome of this appeal might be different; however, the video in question was not obtained from a body-worn camera issued to MPD. Since body-worn camera regulations do not apply to your request, we have adjudicated your appeal under the relevant DC FOIA exemptions.

Conclusion

Based on the foregoing, we affirm MPD's decision. This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with DC FOIA.

Mr. Will Sommer
Freedom of Information Act Appeal 2016-24
January 8, 2016
Page 4

Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Ronald Harris, Deputy General Counsel, MPD (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-25**

January 4, 2016

VIA ELECTRONIC MAIL

Mr. Moses Cook

RE: FOIA Appeal 2016-25

Dear Mr. Cook:

This letter responds to the administrative appeal you filed with the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"), which this Office received on December 23, 2015. In your appeal you assert that the Metropolitan Police Department ("MPD") failed to respond to a request you submitted to MPD on November 4, 2015.

This Office notified the MPD of your FOIA appeal on December 23, 2015. On December 29, 2015, MPD responded that the FOIA specialist handling your request would be returning to MPD on January 4, 2016, and that MPD intends to provide you with responsive documents shortly thereafter.

Based on the foregoing, we consider your appeal to be moot and it is dismissed; provided, that the dismissal shall be without prejudice to you to assert any challenge, by separate appeal, to MPD's substantive response.

Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Ronald Harris, Deputy General Counsel, MPD (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-26**

February 8, 2016

VIA ELECTRONIC MAIL

Mr. Mark Eckenwiler

RE: FOIA Appeal 2016-26

Dear Mr. Eckenwiler:

This letter responds to the administrative appeal you filed with the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”). In your appeal you assert that the Department of Consumer and Regulatory Affairs (“DCRA”) improperly responded to a request you submitted.

On November 25, 2015, you asked DCRA for records related to a particular address and building permit. DCRA responded on January 6, 2016, providing you with 206 pages of responsive documents. Subsequently you filed an administrative appeal consisting of four issues: (1) one of the 206 pages produced by DCRA was illegible; (2) one document was redacted based on an improper use of D.C. Official Code § 2-534(a)(2) (“Exemption 2”); (3) DCRA unlawfully refused to produce building permit documents that are required to be made available on the internet or by other electronic means under D.C. Official Code § 2-536; and (4) DCRA failed to conduct an adequate search in response to your request. In support of the fourth assertion you provided thirteen examples of partial emails that you claim would have been fully produced if DCRA had conducted an adequate search.

On January 21, 2016, DCRA provided this Office with a response to your appeal.¹ DCRA responded as follows: (1) DCRA acknowledged that the illegible document was mistakenly formatted and created a legible copy of the document; (2) DCRA determined that the use of Exemption 2 was erroneously applied and created an unredacted version of the document in question²; (3) DCRA reasserted its position that the permit file, which is publicly available in its Permit Center Records Room, need not be produced under DC FOIA, and that all the documents relevant to your request are available in the permit file; (4) DCRA asserted that no documents were missing or withheld in their entirety, and that the documents you claim it failed to produce were produced in redacted form pursuant to D.C. Official Code § 2-534(a)(4) (“Exemption 4”).³

¹ A copy of DCRA’s response is attached.

² Your appeal states that you suspect DCRA made an additional unidentified redaction; however, after comparing the original document with the copy DCRA provided you, we did not find unidentified redactions.

³ DCRA cites Exemption 2 in its response but confirmed with this Office that the redactions were made pursuant to Exemption 4. Exemption 4 vests public bodies with discretion to withhold “[i]nter-agency or

Mr. Mark Eckenwiler
Freedom of Information Act Appeal 2016-26
February 8, 2016
Page 2

DCRA also described the way in which it conducted its search for responsive documents. On February 1, 2016, DCRA provided this Office with copies of the redacted documents that you received and with 9 unredacted files that correspond to some of the documents you allege were inadequately produced.

Discussion

It is the public policy of the District of Columbia that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right “to inspect . . . and . . . copy any public record of a public body . . .” *Id.* at § 2-532(a). The right created under the DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request. D.C. Official Code § 2-534.

DCRA agreed to remedy the first two issues presented in your appeal by providing you with a legible version of the illegible document at issue and an unredacted version of the document that was redacted pursuant to Exemption 2. Therefore, this decision shall address only the third and fourth issues you raise.

Production of Records Related to Permitting

In accordance with the plain language of D.C. Official Code § 2-536(a)(8A) and (b), building permit files are required to be made available on a District website or “by other electronic means.” Here, DCRA has failed to post permit files onto its agency website. DCRA advised you that the records you are seeking are available in the agency’s Permit Center Records Room; however, we find that DCRA’s lack of compliance with D.C. Official Code § 2-536 constitutes an improper withholding. Because DCRA has demonstrated that it is unable to post permit files on its website, it must provide you with an electronic copy of the file you have requested in order to satisfy its obligations under DC FOIA.

It is our understanding that while this appeal was pending you received a copy of the permit file. Whether the file you received satisfies your FOIA request remains disputed. You assert that you are seeking permit records that exist beyond the contents of the permit file. DCRA claims that all documents related to a permit are contained in the permit file. Therefore, DCRA shall contact you to determine if the documents you received constitute all available responsive documents, and if you require additional documents, DCRA shall provide you them in an electronic format.

Documents Redacted Pursuant to Exemption 4

intra-agency memorandums and letters . . . which would not be available by law to a party other than a public body in litigation with the public body.”

Mr. Mark Eckenwiler
Freedom of Information Act Appeal 2016-26
February 8, 2016
Page 3

The fourth issue you raise concerns whether DCRA conducted a proper search to respond to your request. To address this allegation, we compared a copy of the documents DCRA provided you with unreacted versions of some of the thirteen emails you listed in your appeal.⁴ We were unable to find evidence of missing documents. Further, DCRA's FOIA officer satisfactorily described the locations and methods involved in his search.⁵ As a result, we find, based on selected emails we were able to review, that DCRA conducted an adequate search.

We also analyzed DCRA's application of Exemption 4 on pages 76, 77, 127, 172, 182, 183, and 184 of the documents you received to determine whether DCRA's redactions were proper.

Exemption 4: Deliberative Process Privilege

To withhold information based on the deliberative process privilege, the information must be contained in an inter- or intra-agency document. Therefore, the deliberative process privilege is typically limited to documents transmitted within or among government agencies. *See Dep't of Interior v. Klamath Water Users Protective Ass'n*, 532 U.S. 1, 10-11 (U.S. 2001) (noting that the deliberative process privilege may apply when documents provided by outside consultants "played essentially the same part in an agency's process of deliberation as documents prepared by agency personnel might have done"). In addition to being contained in an inter- or intra-agency document, the information must also be predecisional and deliberative to qualify for protection under the deliberative process privilege. *Coastal States Gas Corp., v. Dep't of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). A document is predecisional if it was generated before the adoption of an agency policy and it is deliberative if it "reflects the give-and-take of the consultative process." *Id.*

The exemption thus covers recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency. Documents which are protected by the privilege are those which would inaccurately reflect or prematurely disclose the views of the agency, suggesting an agency position that which is as yet only a personal position. To test whether disclosure of a document is likely to adversely affect the purposes of the privilege, courts ask themselves whether the document is so candid or personal in nature that public disclosure is likely in the future to stifle honest and frank communication within the agency . . .

Id.

Of the documents this Office reviewed, it appears that DCRA invoked the deliberative process privilege on pages 76, 77, and 127. These emails exclusively involve government personnel; therefore, the threshold for protection as inter- or intra-agency documents has been met. To be redacted, the emails must also contain information that is both predecisional and deliberative. None of the emails we reviewed on these pages reflects the give and take process of

⁴ The emails were provided to us in varying formats, and for technical reasons we were unable to view all of them.

⁵ See page 2 of DCRA's response.

deliberation.⁶ Instead, the documents contain informational statements and descriptions of determinations. For example, the email dated November 9, 2015, sent from R. Woodard to F. Gamboa at 1:06 p.m. requests further action based on a prior determination.

Moreover, none of the emails is clearly predecisional. For example, the email dated November 20, 2015, sent from M. LeGrant to M. Bolling at 4:12 p.m. states that a response will be provided later. This statement is not predecisional in itself. If the email contained a draft response for comments and revisions, the communication might qualify as predecisional, but simply stating that a response might be sent later is not protected under the deliberative process privilege. We therefore direct DCRA to review the documents it redacted under the deliberative process privilege of Exemption 4 and release unredacted versions of communications that are not predecisional or deliberative.

Exemption 4: Attorney-Client Privilege

The attorney-client privilege exists to protect open and frank communication between counsel and client. *See Harrison v. BOP*, 681 F. Supp. 2d 76, 82 (D.D.C. 2010). The attorney-client privilege does not protect every communication between counsel and client; it protects “confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice.” *Mead Data Cent. Inc. v. U.S. Dep’t of the Air Force*, 566 F.2d 242, 252 (D.C. Cir. 1977); *see also Rein v. U.S. Patent and Trademark Office*, 553 F. 3d 353, 377 (4th Cir. 2009). The privilege also applies to facts divulged by a client to an attorney. *Vento v. IRS*, 714 F. Supp. 2d 137, 151 (D.D.C. 2010). In addition, it “encompasses any opinions given by an attorney to his client based upon, and thus reflecting, those facts.” *Elec. Privacy Info. Ctr. v. DHS*, 384 F. Supp. 2d 100, 114 (D.D.C. 2005).

Of the documents this Office reviewed, it appears that DCRA applied the attorney-client privilege on pages 172, 182, 183, and 184. Pages 172 and 184 contain the same email dated November 23, 2015 from M. LeGrant to M. Bolling sent at approximately 5:49 p.m.⁷ One of the recipients of the email on pages 172 and 184 is a DCRA attorney. Although multiple individuals are included in the email, an attorney-client relationship exists between the attorney and agency employees. While the communications on pages 172 and 184 do not expressly request legal advice, it appears that the attorney’s response contains advice on page 183. As a result, most of the back and forth exchange on pages 182 and 183 are protected by the attorney-client privilege of Exemption 4. The only email message that is clearly not protected is the message on page 182 from M. Tondro to M. LeGrant sent on November 24, 2015 at 10:43 a.m. because it involves neither facts nor legal advice. Accordingly, DCRA should review the documents it redacted pursuant to the attorney-client privilege of Exemption 4 and release unredacted versions of those messages that do not solicit or provide legal advice.

Conclusion

⁶ Page 76 contains two redactions made pursuant to Exemption 4. Based on the unredacted documents we received, we were able to review only the second redaction in the email from Woodard to Gamboa sent on November 9, 2015, at 1:06 p.m.

⁷ Page 172 states the time of the email as 5:48:54 p.m., and page 184 states the time as 5:49 p.m.

Mr. Mark Eckenwiler
Freedom of Information Act Appeal 2016-26
February 8, 2016
Page 5

Based on the foregoing, we remand your request to DCRA. DCRA shall, within 5 business days of the date of this decision: (1) contact you to determine whether you are still seeking an electronic copy of the permit file at issue; and (2) review the documents it redacted pursuant to Exemption 4 for disclosure in accordance with the guidance in this decision.

This constitutes the final decision of this office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker
Associate Director

/s John A. Marsh

John A. Marsh
Legal Fellow

cc: Brandon Bass, FOIA Officer, DCRA (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-27**

January 15, 2016

VIA ELECTRONIC MAIL

Mr. Michael John Murray

RE: FOIA Appeal 2016-27

Dear Mr. Murray:

This letter responds to the administrative appeal you filed with the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). In your appeal you assert that the Office of the Chief Financial Officer ("OCFO") insufficiently responded to a request you submitted to OCFO on November 21, 2015.

On January 15, 2016, you called this Office and withdrew your appeal, noting that OCFO had provided you with the location of the records you seek.

Based on the foregoing, we consider your appeal to be moot and it is dismissed.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Charles Barbera, Deputy General Counsel, OCFO (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-28

January 27, 2016

VIA ELECTRONIC MAIL

Mr. Raymond Marshall

RE: FOIA Appeal 2016-28

Dear Mr. Marshall:

This letter responds to the administrative appeal you filed with the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). In your appeal you assert that the Department of Energy & Environment ("DOEE") failed to respond to a request you submitted on July 29, 2015 and to subsequent inquiries you made regarding your request.

Upon receiving your appeal, this Office requested a response from DOEE. On January 22, 2016, DOEE informed us that it provided you with all responsive documents on the same date, including one record that was redacted in part pursuant to the attorney-client and attorney-work product privileges under D.C. Official Code § 2-534(a)(4).¹

Since your appeal was based on DOEE's failure to respond to your FOIA request, we consider it to be moot and it is dismissed; however, the dismissal shall be without prejudice to you to assert any challenge, by separate appeal, to DOEE's substantive response.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Ibrahim Bullo, FOIA Officer, DOEE (via email)

¹ DOEE's response is attached for your reference.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-29**

February 8, 2016

VIA ELECTRONIC MAIL

Mr. Scott Cryder

RE: FOIA Appeal 2016-29

Dear Mr. Cryder:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”). In your appeal, you assert that the Office of Tax and Revenue (“OTR”) improperly withheld records you requested under the DC FOIA.

Background

On November 20, 2015, you submitted a request to OTR for “any documents relating to the ‘Cap Rate Study: District of Columbia,’ . . . dated January 9, 2015 and prepared by Delta Associates.” On December 28, 2015, OTR informed you that it was withholding responsive documents under D.C. Official Code § 2-534(a)(3) and (4).

You contend that OTR misapplied the FOIA exemptions, and as a result improperly withheld documents to which you are entitled. You argue that: (1) the report is not an interagency document because it involves a non-governmental actor; and (2) tax enforcement is not a law enforcement activity covered by the investigatory records exemption of DC FOIA.

OTR provided this Office with a response to your appeal on February 3, 2016. Therein, OTR reiterated its position that the responsive documents (a draft report and related emails) were properly withheld because they are deliberative and predecisional. Additionally, on February 4, 2016, OTR provided this Office with a copy of the withheld documents for our *in camera* review.

Discussion

It is the public policy of the District of Columbia that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right “to inspect . . . and . . . copy any public record of a public body . . .” D.C. Official Code § 2-532(a). The right created under the DC FOIA to inspect public

Mr. Scott Cryder
Freedom of Information Act Appeal 2016-29
February 8, 2016
Page 2

records is subject to various exemptions that may form the basis for denial of a request. *See* D.C. Official Code § 2-534.

The DC FOIA was modeled on the corresponding federal Freedom of Information Act. *See Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

The crux of this matter is OTR's withholding of responsive records under a privilege encompassed by D.C. Official Code § 2-534(a)(4): the deliberative process privilege ("Exemption 4"). Exemption 4 vests public bodies with discretion to withhold "inter-agency or intra-agency memorandums and letters which would not be available by law to a party other than an agency in litigation with the agency[.]" This exemption has been construed to "exempt those documents, and only those documents, normally privileged in the civil discovery context." *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 149 (1975). Privileges in the civil discovery context include the deliberative process privilege. *McKinley v. Bd. of Governors of the Fed. Reserve Sys.*, 647 F.3d 331, 339 (D.C. Cir. 2011).

Exemption 4

Inter-Agency Document Requirement

On appeal, you argue that the "documents are not protectable under the applicable privileges" because the draft study was prepared by Delta Associates, which is a non-governmental entity. This Office disagrees.

As we explained in DC FOIA Appeal No. 2013-11R, communications with parties outside the government may still qualify as "inter-agency" communications for the purposes of the deliberative process privilege. *See, e.g. Dep't of Interior v. Klamath Water Users Protective Ass'n*, 532 U.S. 1 (2001).

When interpreted in light of its purpose, . . . the language of Exemption [4] clearly embraces this situation. The exemption was created to protect the deliberative process of the government, by ensuring that persons in an advisory role would be able to express their opinions freely to agency decision-makers without fear of publicity. In the course of its day-to-day activities, an agency often needs to rely on the opinions and recommendations of temporary consultants, as well as its own employees. Such consultations are an integral part of its deliberative process; to conduct this process in public view would inhibit frank discussion of policy matters and likely impair the quality of decisions.

Nat'l Inst. of Military Justice v. U.S. Dep't of Def., 512 F.3d 677, 680 (D.C. Cir. 2008) (quoting *Ryan v. Department of Justice*, 617 F.2d 781 (D.C. Cir. 1980))

Communications from consultants are not considered inter-agency communications when they are made by “an interested party seeking a Government benefit at the expense of other applicants.” *Klamath Water Users Protective Ass'n*, 532 U.S. at 12. Delta Associates is not a self-interested party here. OTR hired Delta Associates to prepare a report for OTR to assist the agency in developing capitalization rates used in valuating commercial real property. Delta Associates does not appear to have a financial interest in the conclusions of the study. As a result, Delta Associates’ communications with OTR are protected from disclosure under Exemption 4.

Pre-decisional and Deliberative Requirements

Having determined that the draft study and emails at issue are inter-agency records under Exemption 4, we examine whether they otherwise qualify for protection under Exemption 4. The deliberative process privilege protects agency documents that are both predecisional and deliberative. *Coastal States Gas Corp., v. Dep’t of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). A document is predecisional if it was generated before the adoption of an agency policy and it is deliberative if it “reflects the give-and-take of the consultative process.” *Id.*

The exemption thus covers recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency. Documents which are protected by the privilege are those which would inaccurately reflect or prematurely disclose the views of the agency, suggesting as agency position that which is as yet only a personal position. To test whether disclosure of a document is likely to adversely affect the purposes of the privilege, courts ask themselves whether the document is so candid or personal in nature that public disclosure is likely in the future to stifle honest and frank communication within the agency . . .

Id.

While the ability to pinpoint a final decision or policy may bolster the claim that an earlier document is predecisional, courts have found that an agency does not necessarily have to point specifically to an agency’s final decision to demonstrate that a document is predecisional. *See e.g., Gold Anti-Trust Action Comm. Inc. v. Bd. of Governors of the Fed. Reserve Sys.*, 762 F. Supp. 2d 123, 136 (D.D.C. 2011) (rejecting plaintiff’s contention that “the Board must identify a specific decision corresponding to each [withheld] communication”); *Techserve Alliance v. Napolitano*, 803 F. Supp. 2d 16, 26-27 (D.D.C. 2011).

As discussed in the cases cited above, draft reports are generally protected under the deliberative process privilege. The document at issue – a capitalization rate study - is a draft report that was later supplanted by a final report. Therefore, the report is predecisional. Additionally, the version OTR withheld is a draft that was prepared to inform OTR’s decision making process; the numbers and conclusions within the report are a cross-section of preliminary determinations. As a result, the document is deliberative, and its release might “inaccurately reflect or prematurely disclose the views of the agency, suggesting as agency position that which is as yet only a personal position.” *Coastal States Gas Corp.*, 617 F.2d at 866.

For the same reasons, many of the email messages OTR withheld are also predecisional and deliberative, insofar as they reflect back-and-forth communications in a decision making process. Complete release of the emails would have the effect of chilling candor in future similar processes.

Reasonable Segregability

Under DC FOIA, even when an agency establishes that it has properly withheld a document, the agency must disclose all reasonably segregable, nonexempt portions of the document. *See, e.g., Roth v. U.S. Dep't of Justice*, 642 F.3d 1161, 1167 (D.C. Cir. 2011). “To demonstrate that it has disclosed all reasonably segregable material, ‘the withholding agency must supply a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.’” *Judicial Watch, Inc. v. U.S. Dep't of Treasury*, 796 F. Supp. 2d 13, 29 (D.D.C. 2011) (quoting *Jarvik v. CIA*, 741 F. Supp. 2d 106, 120 (D.D.C. 2010)).

In *Judicial Watch*, the court held that “[a]lthough purely factual information is generally not protected under the deliberative process privilege, such information can be withheld when ‘the material is so inextricably intertwined with the deliberative sections of documents that its disclosure would inevitably reveal the government’s deliberations.’” *Id.* at 28. (quoting *In re Sealed Case*, 121 F.3d 729, 737 (D.C. Cir. 1997)). In these instances, factual information is protected when disclosing the information would reveal an agency’s decision-making process in a way that would have a chilling effect on discussion within the agency and inhibit the agency’s ability to perform its functions. *Id.*

Here, we find that the draft study is not subject to reasonable redaction. While the study contains figures, tables, and charts containing numerical values, this information is deliberative given its context. This conclusion is articulated in FOIA Appeal, 2014-82, in which a requester seeking the worksheets that were used to derive capitalization rates was denied on the basis that “[t]he derivation of a capitalization rates involves judgments and evaluations as to the selection and application of data, which judgments and evaluations result in the proposed rates which are submitted for review.” Accordingly, OTR was justified in withholding the draft study in its entirety.

Our *in camera* review of the email messages OTR withheld leads to a different conclusion with respect to reasonable segregability: not all of the withheld emails are deliberative. For example, there is no privilege associated with an email message that merely states that a particular document is attached. Similarly, an email message thanking the recipient for sending a report, without any actual discussion or opinion of the contents of the report, is not deliberative. While release of the non-deliberative emails we reviewed may be of dubious value to the requester, reasonable segregation should be utilized when possible. Accordingly, OTR shall review the withheld emails and redact only those that are deliberative.

Mr. Scott Cryder
Freedom of Information Act Appeal 2016-29
February 8, 2016
Page 5

Exemption 3

In addition to Exemption 4, OTR has asserted that the draft report and associated email communications are exempt from disclosure under D.C. Official Code § 2-534(a)(3) (“Exemption 3”). Because we find that the draft study and certain deliberative email communications were properly withheld under Exemption 4, we need not consider whether the documents are protected under Exemption 3. With respect to the non-deliberative email messages between OTR and Delta Associates, no exemption under DC FOIA protects them from disclosure.

Conclusion

Based on the foregoing, we affirm in part and remand in part this matter to OTR. We affirm OTR’s decision to withhold the draft study in its entirety. With respect to the withheld email messages, OTR shall, within 5 business days of this decision, review the withheld email messages and disclose them in accordance with the guidance in this decision.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Bazil Facchina, Assistant General Counsel, OTR (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-30**

February 9, 2016

Mr. Vaughn Bennett

RE: FOIA Appeal 2016-30

Dear Mr. Bennett:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). In your appeal, you assert that the Office of the State Superintendent of Education ("OSSE") improperly withheld records you requested under the DC FOIA.

Background

On November 24, 2015, you submitted two requests under the DC FOIA to OSSE seeking a range of documents relating to a chess tournament held at Woodrow Wilson High School on April 25, 2015.

OSSE granted your request and provided you with two responsive documents. In its response, OSSE stated that the agency was not withholding any documents and that the remainder of the records you requested do not exist.

Subsequently, you appealed to this Office challenging the adequacy of OSSE's search, as you believe further responsive documents exist that have not been provided to you.

OSSE responded to your appeal in a February 1, 2016 letter to this Office, in which it reiterated that the agency provided you with all responsive documents. Additionally, OSSE explained that there is "no formal Chess Committee or a State Chess Committee Board."

Discussion

It is the public policy of the District of Columbia that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right "to inspect . . . and . . . copy any public record of a public body . . ." D.C. Official Code § 2-532(a). The right created under the DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request. *See* D.C. Official Code § 2-534. Under the DC FOIA, an agency is required to disclose materials only if they were "retained by a public body." D.C. Official Code § 2-502(18).

Mr. Vaughn Bennett
Freedom of Information Act Appeal 2016-30
February 9, 2016
Page 2

The DC FOIA was modeled on the corresponding federal Freedom of Information Act, *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987), and decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

The crux of this matter is the adequacy of OSSE's search and your belief that more records exist. DC FOIA requires only that, under the circumstances, a search is reasonably calculated to produce the relevant documents. The test is not whether any additional documents might conceivably exist, but whether the government's search for responsive documents was adequate. *Weisberg v. U.S. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983).

In order to establish the adequacy of a search,

'the agency must show that it made a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested.' [*Oglesby v. United States Dep't of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990)]. . . The court applies a 'reasonableness test to determine the 'adequacy' of a search methodology, *Weisberg v. United States Dep't of Justice*, 227 U.S. App. D.C. 253, 705 F.2d 1344, 1351 (D.C. Cir. 1983) . . .

Campbell v. United States DOJ, 164 F.3d 20, 27 (D.C. Cir. 1998).

To conduct a reasonable and adequate search, an agency must: (1) make a reasonable determination as to the locations of records requested; and (2) search for the records in those locations. *Doe v. D.C. Metro. Police Dep't*, 948 A.2d 1210, 1220-21 (D.C. 2008) (citing *Oglesby*, 920 F.2d at 68). This first step may include a determination of the likely electronic databases where such records are to be located, such as email accounts and word processing files, and the relevant paper-based files that the agency maintains. *Id.* An agency can demonstrate that these determinations have been made by a "reasonably detailed affidavit, setting forth the search terms and the type of search performed, and averring that all files likely to contain responsive materials (if such records exist) were searched" *Id.* Conducting a search in the record system most likely to be responsive is not by itself sufficient; "at the very least, the agency is required to explain in its affidavit that no other record system was likely to produce responsive documents." *Id.* (internal quotations omitted).

Here, OSSE has indicated that its search generated only two responsive documents.

OSSE has not provided this Office with a detailed written description of how the search was conducted. OSSE's FOIA officer represented to us that her initial search was limited to records maintained by OSSE staff members who were involved with the Chess Tournament; the initial search did not include a search of OSSE's email system. We find that a reasonable search in this instance should have included such an email search.

Conclusion

Based on the foregoing, we remand this matter to OSSE. Within 7 days from the date of this decision, OSSE shall: (1) conduct a second search for responsive documents, including

Mr. Vaughn Bennett
Freedom of Information Act Appeal 2016-30
February 9, 2016
Page 3

responsive email messages; and (2) provide this Office with a declaration describing how and where it conducted its second search. If further responsive documents are located, OSSE shall disclose them to you, subject to any applicable FOIA exemptions.

This constitutes the final decision of this office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Mona Patel, FOIA Officer, OSSE (via email)

MAYA ANGELOU PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Assessment Services****1. Overview**

Maya Angelou Public Charter School (the “School”) is located at 5600 East Capital Street NE, Washington DC 20019. Our mission is to create learning communities in lower income urban areas where all students, particularly those who have not succeeded in traditional schools, can succeed academically and socially. The requested services would serve two of our schools – Maya Angelou Public Charter High School and Maya Angelou Young Adult Learning Center. Both schools are located at the above mentioned address.

2. RFP Process and Instructions

Interested vendors will respond to the advertised Notice of RFP via upload to SmartSheet.com. <http://bit.ly/24zKfAh>

2.1 Submission of Proposals

Proposals must be submitted using the Response Format provided, and must be received by **8 am on June 3, 2016. All proposals must include sample report.** Proposals received later than the date and time specified will not be considered. Proposals will be accepted through SmartSheet upload only. The contracts will be executed by 5pm June 17, 2016.

2.2 Evaluation of Proposals

Qualified vendors will be evaluated using the following criteria:

- Price for Services
- Responsiveness to the Proposed Scope of Work
- References

2.3 Questions

Vendors must submit any and all questions on the scope of work to sped-rfp@seeforever.org

3. Scope of Work

We request that the contractor will perform the following:

I. Responsibilities:

- Administers psychological, educational, clinical, and functional behavioral assessments to secondary students with IEPs or suspected of needing special education services
- Completes projectives/adaptives, as necessary, based on core assessment results
- Works in collaboration with staff and parents to collect accurate academic and personal history
- Respond to referrals and completes required assessments within timelines as outlined in the IDEA

- Provides reports, dated and signed, at least five days prior to scheduled IEP meeting
- Attends annual/reevaluation/manifestation IEP meetings, in person or by phone, to report on assessments, observations and recommendations
- Completes 2 classroom observations with each assessment referral
- Confers with special education staff to ensure assessment consideration in thorough and appropriate

II. REPORTS AND EMERGENCIES. Any emergencies will be reported by the evaluators to the appropriate individual or individuals of Client or Contractor.

III. HIRING BY CLIENT. Provide adequate physical space for employees and agents of Contractor to complete relevant documentation and/or provide services to students.

IV. HOURS OF OPERATION. The hours shall be as follows:

- A. Site: 5600 East Capitol Street NE, Washington, DC 20019
1. Monday - Friday - 8:00 AM to 5:00 PM

V. EXPECTATIONS

Carry out and perform all duties, task, functions, and procedures required by Maya Angelou Public Charter School administration to include:

1. Report on time mentally and physically fit for daily tasks.
2. Do not report for work under the influence of, or smell of, any alcoholic beverages, controlled substances, or intoxicants of any kind.
3. Be alert and attentive at all times and limit conversation with students. No fraternization will be allowed.
4. Do not have in your possession, or use while on duty:
 - a) Any alcoholic beverages, controlled substances, or intoxicants of any kind.
 - b) At no time are headphones to be worn while on duty.
5. Contractor must conduct themselves lawfully, and in a manner to gain respect, and cooperation.
6. Uphold the standards of the profession and the MAPCS norms.
7. Be cooperative with MAPCS management/supervision, co-workers, client representatives, and the public.
8. Do not use abusive, indecent, profane, or argumentative language or gesture while on duty or on school property.
9. Operate properly, and respond to emergencies appropriately.
10. Do not utilize equipment or telephone(s) for other than official or authorized reasons. Personal phone calls on equipment or telephone(s) is prohibited
11. Do not visit, socialize, or fraternize with others (including /especially students while on duty).
12. Do not be in any unauthorized area(s).
13. The following activities are prohibited unless authorized by proper authority.
 - a) Do not smoke, eat, or drink in any unauthorized areas of the school.
 - b) Do not use or read unauthorized materials.
14. Maintain a neat and clean appearance.

THE NOT-FOR-PROFIT HOSPITAL CORPORATION**BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING**

The monthly Governing Board meeting of the Board of Directors of the Not-For-Profit Hospital Corporation, an independent instrumentality of the District of Columbia Government, will be held at 9:00am on Wednesday, May 25, 2016. The meeting will be held at 1310 Southern Avenue, SE, Washington, DC 20032, in Conference Room 2/3. Notice of a location, time change, or intent to have a closed meeting will be published in the D.C. Register, posted in the Hospital, and/or posted on the Not-For-Profit Hospital Corporation's website (www.united-medicalcenter.com).

DRAFT AGENDA**I. CALL TO ORDER****II. DETERMINATION OF A QUORUM****III. APPROVAL OF AGENDA****IV. BOARD EDUCATION**

New Board Portal Rollout – Thomas E. Hallisey, CIO
Ethics Training - District of Columbia Office of Open Government and Board of Ethics and Government Accountability (BEGA)

V. CONSENT AGENDA**A. READING AND APPROVAL OF MINUTES**

1. April 23, 2016 – General Board Meeting

B. EXECUTIVE REPORTS

1. Dr. Julian Craig, Chief Medical Officer
2. Thomas E. Hallisey, Chief Information Officer
3. Eric Johnson, Manager of Human Resources
4. Pamela R. Lee, EVP Hospital Operations & CQO
5. David Thompson, Director of Public Relations and Communications
6. Maribel Torres, Chief Nursing Officer
7. Charletta Y. Washington, VP of Ambulatory & Ancillary Services

VI. NONCONSENT AGENDA**A. CHIEF EXECUTIVE REPORTS**

1. Andrew L. Davis, CEO
2. Finance Report – Steve Lyons, Finance Committee Chair

B. MEDICAL STAFF REPORT

1. Dr. Raymond Tu, Medical Chief of Staff

C. COMMITTEE REPORTS

1. Governance Committee Report
2. Patient Safety & Quality Committee

D. OTHER BUSINESS

1. Old Business
2. New Business

E. ANNOUNCEMENT

Next Meeting – Wednesday, June 22, 2016 at 9:00am in Conference Rooms 2/3 on the ground level.

F. ADJOURNMENT

NOTICE OF INTENT TO CLOSE. The NFPHC Board hereby gives notice that it may close the meeting and move to executive session to discuss collective bargaining agreements, personnel, and discipline matters. D.C. Official Code §§2 - 575(b)(2)(4A)(5),(9),(10),(11),(14).

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

SECOND NOTICE OF INQUIRYRM36-2016-01-E, THE COMMISSION'S INVESTIGATION INTO ELECTRICITY QUALITY OF SERVICE STANDARDS AND RELIABILITY PERFORMANCE

1. By this Second Notice of Inquiry (“NOI”), the Public Service Commission of the District of Columbia (“Commission”) is superseding its prior Notice of Inquiry in this matter, published in the May 6, 2016, edition of the *D.C. Register*.¹ This second NOI extends the due date for responses to the questions posed herein and the due date for filing replies to such responses. In addition, this NOI provides additional information that facilitates the filing process and assists interested persons in obtaining copies of this NOI. The questions posed below concern potential improvements to the Commission’s least performing feeder program² and related changes to the reporting by the Potomac Electric Power Company (Pepco) on least performing feeders in its future Annual Consolidated Reports.

2. This NOI is a companion to the Commission’s order in Formal Case No. 1076, in which the Commission addressed certain conclusions reached and the recommendation made by Siemens Industry, Inc. (“Siemens”) in its “*Final Report: Siemens Management Audit of Pepco System Reliability*” concerning Pepco’s worst performing feeders.³ Specifically, Siemens concluded that Pepco’s past corrective action plans (2009-2013) were effective at relieving reliability problems on the Company’s 2% least performing feeders.⁴ However, Siemens expressed repeated concern that the selection criteria for designating Pepco’s least performing feeders, though adequate, could be improved.⁵ Thus, Siemens recommended that Pepco’s current feeder selection criteria should be expanded.⁶

3. In Order No. 18167⁷ the Commission rejected Siemens’ conclusions regarding the effectiveness of Pepco’s corrective action plans for priority feeders and found, instead, that

¹ 63 *D.C. Reg.* 7020 (May 6, 2016).

² See 15 DCMR §§ 3603.1 – 3603.6 (2012).

³ *Formal Case No. 1076, In the Matter of the Application of the Potomac Electric Power Company for Authority to Increase Existing Retail Rates and Charges for Electric Distribution Service, Order No. 18167* (“Order No. 18167”) (rel. April 27, 2016).

⁴ Order No. 18167 at ¶ 4.

⁵ See, e.g., Siemens Audit Report at p. 3-32.

⁶ Siemens Audit Report, Executive Summary at 1-5, Recommendation 3.1.

⁷ Order No. 18167 at ¶ 68.

Pepco's 2% Least Performing Feeder Program has been unable to improve feeder reliability performance on identified problematic feeders to a meaningful degree in a significant number of instances over a multi-year period. The Commission concluded, therefore, that fundamental changes in the program are necessary in order to achieve desired reliability performance improvements.

4. In that order, the Commission stated its intention to amend the Commission Rules to put into place a prioritized Feeder Reliability Improvement Program to replace the current 2% Least Performing (High Priority) Feeder Program. Further, the Commission stated it would issue a Notice of Inquiry soliciting comments from Pepco and the Office of the People's Counsel ("OPC"), and inviting comments from interested persons, concerning questions addressing a number of elements that could potentially appear in a new program, including selection criteria, performance targets, corrective action plans and reporting.

5. Accordingly, the Commission invites interested persons to file with the Commission initial comments responding to the questions posed below, no later than 45 days from the date of this Notice of Inquiry; replies to those comments may be filed no later than 75 days from the date of this Notice of Inquiry:

A. Least Performing Feeder Performance Improvement Standard(s):

1. Assuming that Least Performing Feeders should be improved to a specified performance standard:
 - a. Should that standard use feeder SAIDI as the metric by which to measure reliability performance improvement? If not, what other metric should be used for this purpose (explain your choice)?
 - b. Comment upon the potential use of Pepco's District-wide SAIDI, averaged over three calendar years, as the feeder improvement standard. Under such a standard, should the required improvement be capped at the EQSS SAIDI value appearing in the Commission's rules? Given your responses to the foregoing, what different feeder improvement performance standard, if any, do you recommend and what feeder improvement results and corrective action plan costs do you anticipate occurring should that alternate standard be adopted by the Commission?
2. Comment upon the suitability of requiring that improved Least Performing Feeder reliability performance be maintained at no less than the reliability standard for a period of five years, following completion of a feeder corrective action plan. Do you recommend a longer or shorter time period and if so, reconcile your recommended improvement period with the need to provide customers with value commensurate with the costs of feeder improvements.
3. Should a Least Performing Feeder improvement performance standard be uniform for all feeders? If not, should the performance standard vary by construction type (*e.g.*, overhead versus underground, networked versus

non-networked) and vary by geographic location within the District? What other criteria, if any, might support differing feeder improvement performance standards among the feeders selected?

B. Feeder Corrective Action Plans:

4. Address the following:
 - a. Should corrective action plans be subject, either individually or in the aggregate, to an annual or other cost cap?
 - b. Should individual feeder corrective action plans be allowed to extend over multiple years and, if so, what criteria should be applied to determine the length of an individual feeder's corrective action plan?
 - c. When a least performing feeder selected for prioritized reliability enhancement work has also been identified in a triennial Underground Infrastructure Improvement Projects Plan⁸ as a candidate for undergrounding, with construction to begin within three years of the priority feeder selection date, should that identification also absolve the utility from the obligation to design and implement a corrective action plan for the feeder, pending its undergrounding? (Explain your response.)

C. Least Performing Feeder Selection Method:

5. Comment upon the following potential changes in selecting underperforming feeders for prioritized reliability enhancements:
 - a. Expanding the percentage of District feeders selected from 2% to 3%;
 - b. Adopting, as selection criteria, the primary selection criteria applicable to Pepco's undergrounding choices made pursuant to section 308(a)(2) of the Electric Company Infrastructure Improvement Financing Act of 2014 - the most recent three calendar years' average of the following, weighted equally: number of feeder outages; the duration of those outages; and feeder CMI; and
 - c. Inserting a predictive element into the feeder selection criteria, for example, weighting the selection score upwards or downwards to reflect the trend in a feeder's recent SAIDI performance. If trending is to be considered in weighting feeder selection scores, how many consecutive years of consistent upward or downward movement in SAIDI is sufficient to establish a trend?

⁸ See D.C. Code Sections 34-1313.07 through 34-1313.10 (2014).

D. Other Indicia of Compromised Feeder Reliability:

6. Assuming a feeder is identified by its CEMI₃ index value as requiring prioritized reliability enhancement work,⁹ should the feeder be included as a priority feeder under the Local Feeder Reliability Improvement Program or should the work be performed under its own or some other Pepco reliability or capital infrastructure improvement plan? Is there a need to rank feeders identified under the CEMI₃ threshold and if so, what ranking criteria should be employed?
7. What relationship, if any, exists between multiple operations of interruption, segmentation or load shifting devices on a particular feeder and the need for preventive or remedial maintenance, or other reliability enhancement work on the feeder? Should multiple operations of such devices require Pepco to conduct a survey of the feeder and if so, what should the survey be designed to reveal, what consequences should attend the completion of the survey, and at what level of device operations should the survey requirement be triggered?

E. Blending Most Susceptible Neighborhood Feeders into Local Feeder Improvement Program:

8. Comment upon the potential inclusion of the least performing feeder in each Ward (most susceptible neighborhood feeder) on the list of feeders to receive reliability enhancement work under a prioritized Feeder Reliability Improvement Program.

6. Interested persons may file initial comments with the Commission no later than 45 days from the publication date of this Second Notice of Inquiry; reply comments should be filed no later than 75 days from the publication date of this Second Notice of Inquiry.

7. All filings should be addressed to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005. Copies of this Second Notice of Inquiry may be obtained by visiting the Commission's website at www.dcpsec.org or, at cost, by contacting the Commission Secretary at (202) 626-5150 or psc-commissionsecretary@dc.gov.

⁹ CEMI₃ refers to the number of customers on each feeder that have experienced multiple (in this example, at least three) interruptions over a defined period of time (typically, annually).

ROOTS ACTIVITY LEARNING CENTER**INVITATION FOR BID****Food Service Management Services**

Roots ALC is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2016-2017 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Invitation for Bid (IFB) such as; student data, days of service, meal quality, etc. may be obtained beginning on **May 16, 2016** from **Roseanna Nwaogu at 202-841-6699 or rofoegbu@msn.com** Proposals will be accepted at 6222 North Capitol Street, NW, Washington, DC 20011 on **June 15, 2016**, not later than **12 noon**. **All bids not addressing all areas as outlined in the IFB will not be considered.**

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA**CORRECTED NOTICE**

This notice corrects the notice published at 63 DCR 007432 on May 13, 2016.

RECOMMENDATIONS FOR APPOINTMENTS AS NOTARIES PUBLIC

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after June 15, 2016.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on May 13, 2016. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

D.C. Office of the Secretary
Recommendations for appointment as DC Notaries PublicEffective: June 15, 2016
Page 2

Aguero	Michael	Department of Justice 601 D Street, NW	20004
Alfaro	Sandra A.	Bank Fund Staff Federal Credit Union 1725 I Street, NW, Suite 150	20006
Andre	Ryan L.	Williams Law + Policy 1800 K Street, NW, Suite 714	20006
Angus	Todd C	Morgan, Lewis & Bockius, LLP 1111 Pennsylvania Avenue, NW	20004
Bailey	Shermel E.	George Washington University Hospital 900 23rd Street, NW, Suite G-2036	20037
Bassey	Lasheka Brown	D.C. Office of Employee Appeals 1100 4th Street, SW, Suite 620 East	20024
Belken	Adrienne	Vanda Pharmaceuticals 2200 Pennsylvania Avenue, NW, Suite 300E	20037
Bell	Stacy Queen	Georgetown University Law Library 111 G Street, NW	20001
Bennett	Laura Angle	The Bernstein Company 3299 K Street, NW, Suite 700	20007
Brennan II	Edward G.	Public Properties, LLC 3210 Grace Street, NW, Suite 100	20007
Brown	Kelli	National Education Association 1201 16th Street, NW	20036
Calvit	Samuel	La Clinica Del Pueblo Inc. 2831 15th Street, NW	20009
Campbell	Karlene	Capital Reporting Company 1821 Jefferson Place, NW	20036
Cardone	Frances	Self 1064 Papermill Road, NW	20007

D.C. Office of the Secretary
 Recommendations for appointment as DC Notaries Public

Effective: June 15, 2016

Page 3

Caskie	Dawn T.	John Deere Public Affairs 801 17th Street, NW, Suite 200	20006
Clark	Breana	B'nai B'rith International 1120 20th Street, NW, Suite 300N	20036
Collins	Michelle A.	Association of Corporate Counsel 1025 Connecticut Avenue, NW, Suite 200	20036
Conde	Marilena	Edlow International Company 1666 Connecticut Avenue, NW, Suite 201	20009
Cook	Ebony J.	Thompson Coburn, LLP 1909 K Street, NW, Suite 600	20006
Cook	Maria B.	(Self) Dual 1833 Jackson Street, NE	20018
Davis	Richard O.	Chemonics International 1717 H Street, NW	20006
Duong	Nam	Charles Schwab 1845 K Street, NW	20006
Edwards	Judy M.	Dr. Mark A Tromblay 2440 M Street, NW, Suite 601	20037
Estep	Cynthia J.	Arent Fox LLP 1717 K Street, NW	20006
Feinhaus	Vera D.	Great Jones Capital II LLC 1710 Connecticut Avenue, NW, 3rd Floor	20009
Fsahaye	Yonas	Society for Women's Health Research 1025 Connecticut Avenue, NW, Suite 601	30036
Ganthier	Gina A.	Ammengency Construction Group, LLC 22 Kennedy Street, NW	20011
Gassaway	Cory	Bank Fund Staff Federal Credit Union 1725 I Street, NW	20006
Gilbert	Angelica Aida	Hilton Grand Vacations 1250 22nd Street, NW	20037

D.C. Office of the Secretary
Recommendations for appointment as DC Notaries PublicEffective: June 15, 2016
Page 4

Goettge	Kathryn L.	Capital Caring 50 F Street, NW, Suite 3300	20001
Graziano	Elyse K.	The Headfirst Companies 2639 Connecticut Avenue, NW, Suite 250	20008
Greene	Linda I.	Self (Dual) 77 58th Street, SE	20019
Groguhet	Zekeu	Top Flite Legalization 777 7th Street, NW, Suite 710	20001
Hakil Jacinto	Sophie	Travisa 1731 21st Street, NW	20009
Haley	Monica R.	Beltway Cleaning Services DC, LLC 1731 Connecticut Avenue, NW, 2nd Floor	20009
Harper	Helena S.	Self 5111 Chillum Place, NE	20011
Hawa	Ramsey	Urgent Passport and Visa Services 1050 17th Street, NW, Suite 1000	20036
Hepner	Jordan	Evergreen Private Finance 1710 Connecticut Avenue, NW, Third Floor	20009
Holmes	Tamela	Hellmuth, Oates and Kassabaum, Inc 3223 Grace Street, NW	20007
Hutchinson	Brianne B.	Congressional Budget Office Ford House Office Building, 2nd and D Streets, SW	20515
Hyde	Katherine Eileen	Bromberg, Kohler Maya & Maschle, PLLC 2011 Pennsylvania Avenue, NW, #500	20006
Jauhar	Madeeha	JDOS International, Inc 4506 14th Street, NW	20011
Jaziri	Rania	Self (Dual) 43 K Street, NW, #613	20001

D.C. Office of the Secretary
Recommendations for appointment as DC Notaries PublicEffective: June 15, 2016
Page 5

Johnson	Bryant L.	National Gallery of Art Fourth Street and Constitution Avenue, NW	20565
Johnson	Trina S.	McDermott Will & Emery LLP 500 North Capital Street, NW	20001
Jones	Marvin L.	Bank Fund Staff Federal Credit Union 1725 I Street, NW, Suite 150	20006
Jordan	Lloyd J.	Motley Waller LLP 1155 F Street, NW, Suite 1050	20004
Larry	Minnie	Self 425 8th Street, NW, Apt. 841	20004
Leftwich	Kiristan M.	Family Matters of Greater Washington 425 Eye Street, NW	20001
Litmans	Lys	Chevy Chase-Bethesda Community Children's Center 5671 Western Avenue, NW	20015
Lynch	Caitlyn	Hilton Grand Vacations 1250 22nd Street, NW	20037
Mimi	Shieh	Avascent 1615 L Street, NW, Suite 1200	20009
Mohn	Richard A	National LGBTQ Task Force 1325 Massachusetts Avenue, NW, Suite 600	20005
Namata	Irene R.	Axinn, Veltrop & Harkrider, LLP 950 F Street, NW	20004
Nedelcovic	Maria Zelmira	Organization of American States/Federal Credit Union 1886 F Street, NW	20006
Page	Meredith C.	Department of Veterans Affairs 50 Irving Street, NW	20422

D.C. Office of the Secretary
 Recommendations for appointment as DC Notaries Public

Effective: June 15, 2016
 Page 6

Pendleton	Brian Wayne	Crown Agents USA, Inc 1129 20th Street, NW	20036
Pilato	Thomas G.	Chicago Title Insurance/Capitol Settlements Agent 2000 M Street, NW, #610	20036
Richardson	Jet	International Crisis Group 1629 K Street, NW, Suite 450	20006
Roach	Raquel	Self 1651 Fort Dupont Street, SE	20020
Rolle II	Christopher M.	Skadden Arps Slate Meagher & Flom, LLP 1440 New York Avenue, NW	20005
Saltibus	Jelani Sherhyse Janae	American University - AU Center 4400 Massachusetts Avenue, NW	20016
Soriano	Nancy	Aveda Institute 713 7th Street, NW	20001
Stancik	Ashley Elaine	Hogan Lovells US LLP Columbia Square 555 13th Street, NW	20004
Suissa	Jimmy	Self (Dual) 4624 Albemarle Street, NW	20016
Sullivan	Judith E.	Self 3001 Veazey Terrace, NW, Unit 1223	20008
Telliga	Lisa E.	Gelman Management Company 2120 L Street, NW	20037
Wells	William Scott	Sunlight Foundation 1818 N Street, NW, Suite 300	20036
Wetter	Jennifer	Population Institute 107 2nd Street, NE	20002
White	Zaneta T.	State Department Federal Credit Union 301 4th Street, SW	20547
Wilkins	Alphonso L.	Crescent Property Management 2647 Connecticut Avenue, NW, #200	20016

D.C. Office of the Secretary
Recommendations for appointment as DC Notaries Public

Effective: June 15, 2016
Page 7

Williams	Leandra	Dr. Mark A Tromblay 2440 M Street, NW, Suite 601	20037
Worrells	Andrea D.	Department of Agriculture Forest Service 201 14th Street, SW	20250

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY (NOFA)

DC Clean Team Program

The Department of Small and Local Business Development (DSLBD) is soliciting applications from eligible applicants to manage a **DC Clean Team Program** (“the Program”) in ten service areas (listed below). **The submission deadline is Friday, July 8, 2016 at 2:00 p.m.**

Through this grant, DSLBD will fund clean teams, which will achieve the following objectives.

- Improve commercial district appearance to help increase foot traffic, and consequently, opportunity for customer sales.
- Provide jobs for DC residents.
- Reduce litter, graffiti, and posters which contribute to the perception of an unsafe commercial area.
- Maintain a healthy tree canopy, including landscaping, along the corridor.
- Support Sustainable DC goals by recycling, mulching street trees, using eco-friendly supplies, and reducing stormwater pollution generated by DC’s commercial districts.

Eligible applicants are DC-based nonprofit organizations which are incorporated in the District of Columbia and which are current on all tax liabilities. Applicants should have a demonstrated capacity with the following areas of expertise.

- Providing clean team services or related services to commercial districts or public spaces.
- Providing job-training services to its employees.
- Providing social support services to its Clean Team employees.

DSLBD will **award** one grant for **each** of the following **service areas** (i.e., a total of ten grants).

The size of grant is noted for each district.

- 12th Street, NE - \$100,618
- Benning Road - \$107,000
- Connecticut Avenue, NW - \$101,982
- Georgia Avenue, NW - \$101,982
- Kennedy Street, NW - \$100,618
- Minnesota Avenue, NE - \$101,982
- New York Avenue, NE - \$113,521
- Pennsylvania Avenue SE - \$107,000
- Ward 1 - \$100,618
- Wisconsin Avenue - \$113,521

The **grant performance period** to deliver clean team services is October 1, 2016 through September 30, 2017.

The **Request for Application** (RFA) includes a detailed description of clean team services, service area boundaries,, and selection criteria. DSLBD will post the RFA on or before **Friday, May 20, 2016** at www.dslbd.dc.gov. Click on the *Our Programs* tab and then *Solicitations and Opportunities* on the left navigation column.

Application Process: Interested applicants must complete an online application on or before **Friday, July 8, 2016 at 2:00 p.m.** DSLBD will not accept applications submitted via hand delivery, mail or courier service. **Late submissions and incomplete applications will not be forwarded to the review panel.**

The online application will be live **Friday, May 20, 2016**. To access the online application, an organization must complete and submit an online **Expression of Interest** (Registration) form at <https://octo.quickbase.com/db/bks6qx66x> . DSLBD will activate their online access within two business days and notify them via email.

Selection Criteria for applications will include the following criteria.

- Applicant Organization's demonstrated capacity to provide clean team or related services, and managing grant funds.
- Proposed service delivery plan for basic clean team services.
- Proposed service delivery plan for additional clean team services.

Selection Process: DSLBD will select grant recipients through a competitive application process that will assess the Applicant's eligibility, experience, capacity, service delivery plan, and, budget. Applicants may apply for one or more service areas by submitting a separate application for each service area. DSLBD will determine grant award selection and notify all applicants of their status via email on or before August 3, 2016.

Funding for this award is contingent on continued funding from the DC Council. The RFA does not commit the Agency to make an award.

DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.

All applicants must attest to executing DSLBD grant agreement as issued (sample document will be provided with the online application) and to starting services on October 1, 2015.

For more information, contact Camille Nixon at the Department of Small and Local Business Development at (202) 727-3900 or camille.nixon@dc.gov.

**WASHINGTON CONVENTION AND SPORTS AUTHORITY
(T/A EVENTS DC)**

NOTICE OF RESCHEDULED PUBLIC MEETING

The Board of Directors of the Washington Convention and Sports Authority (t/a Events DC), in accordance with the District of Columbia Self-Government and Governmental Reorganization Act of 1973, D.C. Official Code §1-207.42 (2006 Repl., 2011 Supp.), and the District of Columbia Administrative Procedure Act of 1968, as amended by the Open Meetings Amendment Act of 2010, D.C. Official Code §2-576(5) (2011 Repl., 2011 Supp.), hereby gives notice that a previously announced meeting scheduled for June 9, 2016, beginning at 10 a.m., will instead take place at 4 p.m. on the same day and at a different location.

The meeting will take place at Gateway DC, 2700 Martin Luther King Jr. Avenue, S.E., Washington, D.C. 20032. The Board's agenda includes reports from its Standing Committees.

For additional information, please contact:

Sean Sands
Chief of Staff
Washington Convention and Sports Authority
t/a Events DC

(202) 249-3012
sean.sands@eventsdc.com

WASHINGTON LEADERSHIP ACADEMY PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****School Related Services**

Washington Leadership Academy Public Charter School, an approved 501(c)3 organization, requests proposals for the following school related products and services:

- High school classroom furniture
- Computers/tablets for staff
- Computers/tablets for students
- Office furniture
- Copiers and printers
- Security services
- Accounting services

Washington Leadership Academy Public Charter School is seeking qualified professionals for the above services. Applications must include references, resumes exhibiting experience in said field, and estimated fees. Please email proposals to bids@wlapcs.org and include the service in the heading.

We request proposals by May 27, 2016.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18325-B of Renaissance Centro Third Street LLC, pursuant to 11 DCMR § 3130, for a second two-year extension of BZA Order No. 18325.

The original application was pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a variance from the lot occupancy requirements under § 772, a variance from the rear yard requirements under § 774, a variance from the off-street parking requirements under § 2101.1, and a special exception to allow a roof structure with walls of unequal heights under § 411.11, to allow an addition to an existing building in the DD/C-2-C District at premises 704 3rd Street, N.W. (Square 529, Lots 802, 803, 845, and 847).

HEARING DATE (Original Application):	March 20, 2012
DECISION DATE (Original Application):	March 20, 2012
FINAL ORDER ISSUANCE DATE (Order No. 18325):	March 28, 2012
DECISION ON 1ST TIME EXTENSION (Order No. 18325-A):	May 6, 2014
DECISION ON 2ND TIME EXTENSION:	May 10, 2016

**SUMMARY ORDER ON 2ND MOTION TO EXTEND
THE VALIDITY OF BZA ORDER NO. 18325**

The Underlying BZA Order

On March 20, 2012, the Board of Zoning Adjustment (the "Board") approved the Applicant's request for variances from the lot occupancy requirements under § 772, from the rear yard requirements under § 774, from the off-street parking requirements under § 2101.1, and a special exception to allow a roof structure with walls of unequal heights under § 411.11, to allow an addition to an existing building in the DD/C-2-C District at premises 704 3rd Street, N.W. (Square 529, Lots 802, 803, 845, and 847) (the "Site"). The Applicant sought variance and special exception relief in order to renovate and expand a historic building for use as an apartment building and/or hotel. The Board issued its written order ("Order") on March 28, 2012. Pursuant to 11 DCMR §§ 3125.6 and 3125.9, the Order became final on March 28, 2012 and took effect 10 days later.

Under the Order and pursuant to § 3130.1 of the Zoning Regulations, the Order was valid for two years from the time it was issued -- until March 28, 2014.¹ (Exhibit 4.)

¹ Subsection 3130.1 states:

No order authorizing the erection or alteration of a structure shall be valid for a period longer than two (2) years, or one (1) year for an Electronic Equipment Facility (EEF), unless, within such period, the plans for the erection or alteration are filed for the purposes of securing a building permit, except as permitted in § 3130.6.

First Motion to Extend Order for Two Years

On March 27, 2014, the Applicant requested, pursuant to 11 DCMR § 3130.6, the first two-year extension of Order No. 18325, which was due to expire on March 28, 2014. On May 6, 2014, the Board granted a two-year time extension by Order No. 18325-A. That Order was valid until March 28, 2016. (Exhibit 5.) In the first request for a time extension, the Applicant submitted a statement and exhibits including a notarized affidavit from the Applicant's Founder and Principal indicating that the reasons for the request to extend the validity of the order were based on the Applicant's inability to secure the necessary project financing and commitment for the project from a hotel company, despite diligently pursuing these, due to the current overall economic conditions and the current hotel market conditions. While the Applicant encountered some difficulty obtaining project financing, its primary difficulty was from circumstances that were beyond its reasonable control and not easily understood at the time the project was approved, as described in the Applicant's affidavit. (Exhibit 6.)

The Applicant explained that it discovered the extraordinary cost of preserving the historic building after the Board's approval, leading it to seek alternative ways to absorb this cost. The Applicant indicated that it actively pursued both the hotel and residential alternatives for the project, but had been unable to secure the necessary commitments and funding to proceed with either alternative for the project. According to the Applicant, while a hotel is the most viable alternative for absorbing this extraordinary cost, hotel operators thus far had not been willing to commit to this location because of market uncertainties and the unclear status of the Capitol Crossing project across the street. Consequently, the Applicant began to study expanding and modifying to an all-residential project as a possible means to defray the preservation costs, but it needed additional time to make a determination and requested the extension. The Applicant expected either to vest the Order as approved or apply to the Board for approval of modified plans. (Exhibit 6.)

Second Motion to Extend Validity of the Order Pursuant to 11 DCMR § 3130.6

On March 25, 2016, the Applicant sent a letter requesting that the Board, pursuant to 11 DCMR § 3130.6, grant a second two-year extension of Order No. 18325, which was due to expire on March 28, 2016. This request for extension is pursuant to § 3130.6 of the Zoning Regulations, which permits the Board to extend the time periods in § 3130.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval.

Criteria for Evaluating Motion to Extend

Subsection 3130.6 of the Zoning Regulations authorizes the Board to extend the time periods for good cause provided: (i) the extension request is served on all parties to the application by the

applicant, and all parties are allowed 30 days in which to respond; (ii) there is no substantial change in any of the material facts upon which the Board based its original approval; and (iii) the applicant demonstrates there is good cause for such extension. Pursuant to 11 DCMR § 3130.6(c)(1), good cause is established through the showing of substantial evidence of one or more of the following criteria:

1. An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control;
2. An inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or
3. The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

Pursuant to § 3130.6(a), the record reflects that the Applicant served on all parties to the application and all parties were allowed 30 days to respond. The parties to the original application included the affected Advisory Neighborhood Commission (“ANC”) which is ANC 2C (formerly 6C). The extension request also was submitted to the Office of Planning (“OP”). The Applicant stated further that as when the Board approved the project, there are no neighboring properties that would be adversely affected as a result of the relief granted in Order No. 18325. (Exhibit 3.)

Pursuant to § 3130.6(b), the Applicant indicated in its request that there has been no substantial change in any of the material facts upon which the Board based its original approval of the application. (Exhibit 3.)

The Applicant further noted that under the recently adopted 2016 Zoning Regulations, which are due to become effective on September 6, 2016, none of the above variance relief would be required. The Applicant stated that a rear yard is not required for a historic landmark under Subtitle I § 205.3; there is no lot occupancy requirement under Subtitle I § 202; and no parking is required under Subtitle I § 212. Further, under the newly adopted penthouse regulations, the project's non-uniform height penthouse walls are also permitted under § 411.9. Accordingly, the special exception relief is also no longer required. The Applicant stated that the primary purpose of this second extension request is to ensure that the project's entitlements are kept in place until the effective date of the 2016 Zoning Regulations.

Under § 3130.6(c), good cause for the extension must be demonstrated with substantial evidence of one or more of the following criteria: (1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control; (2) an inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or (3) the existence of

pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

The Applicant's good cause for delay is based on criteria numbers 1 and 3. The Applicant's prior submission for the first extension request provided a detailed summary of compliance with criteria 1 and 3 for the period of 2012-2014. That submission described in detail the huge preservation costs of the development and the difficulties in the hotel and residential markets particularly given the uncertainty over the timing of the massive Capitol Crossing project right across the street. The Applicant stated that these circumstances have not changed, particularly because the Capitol Crossing project is more than a year away from completion. (Exhibit 6.) In addition, the Applicant submitted a *Washington Business Journal* article on Capitol Crossing to establish good cause. (Exhibit 7.)

In its request for a second extension of the Order, the Applicant indicated that while it is not able to proceed with the project at this time, it is diligently pursuing site preparations, having recently repaired the building façade and is preparing a permit application package to pursue the alterations allowed by the Historic Preservation Review Board.

The Merits of the Request to Extend the Validity of the Order Pursuant to 11 DCMR § 3130.6

The Board finds that the motion has met the criteria of § 3130.6 to extend the validity of the underlying order. To meet the burden of proof, the Applicant submitted supporting documents and information that described its efforts and difficulties either in obtaining a commitment from a hotel company or, alternatively, completing a design for an all-residential project suitable to offset the high preservation costs and commencing construction. Since the Board issued Order No. 18325 in March of 2012, the Applicant has been working diligently to secure the necessary commitments and other approvals to move forward with the project approved by the Board. (Exhibits 3-7.)

Given the totality of the conditions and circumstances described above and in the supplemental information that was provided, the Board found that the Applicant satisfied the "good cause" required under the third prong of § 3130.6. Moreover, despite the challenges the Applicant described in its submissions for the extension, the Applicant demonstrated that it has acted diligently, prudently, and in good faith to proceed towards the implementation of the Order.

The Board found that the Applicant has met the criteria set forth in 11 DCMR § 3130.6. The reasons given by the Applicant were beyond the Applicant's reasonable control within the meaning of § 3130.6(c)(3) and constitute "good cause" required under § 3130.6(c)(1). In addition, as required by § 3130.6(b), the Applicant demonstrated that there is no substantial change in any of the material facts upon which the Board based its original approval in Order No. 18325. There have also been no changes to the Zone District classification applicable to the Site or to the Comprehensive Plan affecting the Site since the issuance of the Board's order.

The Office of Planning ("OP"), in its report dated May 3, 2016, reviewed the application for the second extension of the Order for "good cause" pursuant to 11 DCMR § 3130.6 and recommended approval of the request for a second extension of Order 18325. OP recommended that the Order be extended to the later of September 6, 2016 or the effective date of Zoning Commission Order 08-06A. (Exhibit 8.) The Board in granting the request for a second time extension determined to grant the motion for a two-year time extension as originally requested by the Applicant in the event that the 2016 Zoning Regulations did not become effective on September 6, 2016, as planned.

In reviewing the second extension request, OP noted that between the Order's previous extension and this second request, the 2016 Zoning Regulations were adopted by the Zoning Commission, under which the proposed building massing, siting and use would be permitted by right. OP also noted that since the previous extension there have been significant impacts on the surroundings from work associated with the Capitol Crossing PUD to the east. There has also been a large-scale apartment building completed immediately north of the Applicant's property. OP indicated that the Applicant stated that these do not impact the form of the proposed development directly, but they make obtaining necessary financing more difficult. OP stated that the Applicant has indicated that no changes to the approved development are currently proposed. In support of the good cause element, OP noted that for the previous extension request the Applicant demonstrated good cause, based on the first and third of the above criteria. For this extension request, OP noted that the Applicant resubmitted documentation that supported the first extension request and stated that the short and mid-term transportation and quality-of-life impacts of Capitol Crossing's construction phase had made investors wary of investing in development on the Applicant's site at this time.

The Site is within the boundaries of ANC 2C.² ANC 2C submitted a written report dated May 9, 2016 that indicated that at a regularly scheduled, duly noticed meeting of the ANC at which a quorum was present, it voted 3:0:0 to support the application with two conditions:

1. To improve the conditions of the sidewalk. (The ANC stated that currently, the proposed construction is encroaching on the sidewalk making it hazardous for pedestrians.)
2. The two-year extension may be the limit after which the owner is expected to start construction into Hotel or Residential building. (Exhibit 9.)

In its deliberations on the request for a second time extension, the Board noted that the first condition deals with construction and the second condition will be addressed by the 2016 Zoning Regulations, and therefore determined not to adopt either condition. Nonetheless, the Board requested that the Applicant make an effort to resolve the sidewalk construction issue the ANC raised in its report.

The motion for the time extension was served on all the parties to the application and those parties were given 30 days in which to respond under § 3130.6(a). No party to the application

² The Site was in ANC 6C at the time of the underlying approval and Order, but after redistricting, it is now in ANC 2C.

objected to an extension of the Order. The Board concludes that extension of the relief is appropriate under the current circumstances.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirements of 11 DCMR § 3125.3, which required that the order of the Board be accompanied by findings of fact and conclusions of law. Pursuant to 11 DCMR § 3130, the Board of Zoning Adjustment hereby **ORDERS APPROVAL** of Case No. 18325-B for a second two-year time extension of Order No. 18325, which Order shall be valid until **March 28, 2018**, within which time the Applicant must file plans for the proposed project with the Department of Consumer and Regulatory Affairs for the purpose of securing a building permit.

VOTE: **5-0-0** (Marnique Y. Heath, Frederick L. Hill, Anita Butani D'Souza, Jeffrey L. Hinkle, and Robert E. Miller, to APPROVE).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: May 11, 2016

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. 19233 of 824 Varnum LLC, pursuant to 11 DCMR § 3104.1, for a special exception from the use requirements under § 336, to convert an existing two-story dwelling into a three-unit apartment house in the R-4 District at premises 824 Varnum Street N.W. (Square 3024, Lot 50).

HEARING DATES: March 29, and April 19, 2016¹
DECISION DATE: May 10, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 3.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 4C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4C, which is automatically a party to this application. The ANC submitted a report in support of the application, dated April 14, 2016, indicating that at a duly noticed and scheduled public meeting on April 13, 2016, at which a quorum was in attendance, ANC 4C voted 5-4 in support of the application. (Exhibit 24.) In its report, the ANC raised concerns about inaccuracies in the Office of Planning ("OP") report, including the report's indication that the ANC voted to support the application, although OP's report was submitted to the record in advance of the ANC meeting and decision on the application. ANC 4C also noted that OP's analysis failed to include multiple commercial corridors within two blocks of the property and several multi-unit buildings within the same block as the Subject Property. ANC 4C requested that OP withdraw its report and correct the substantive issues in a new report.

Taalib-Din Uqdah, ANC Commissioner for Single Member District 4C01, filed a letter in opposition to the record, providing further detailed concerns about the inaccuracies in OP's

¹ The hearing was originally scheduled for March 29, 2016 and postponed at the Applicant's request to allow ANC 4C to consider the application at their April meeting. (Exhibit 19.)

report and raising additional concerns about the cumulative impact of residential conversions on the neighborhood. (Exhibit 25.) Commissioner Uqdah also testified at the public hearing on April 19, 2016 in opposition to the application.

OP submitted a timely report, dated April 11, 2016, recommending approval of the application. (Exhibit 21.) OP also testified at the hearing in support of the application. In response to the concerns raised by the ANC and the ANC SMD 4C01 Commissioner, OP testified about the inaccuracies in its report and indicated that a prior version of the report, submitted in advance of the ANC meeting and incorrectly noting that the ANC had already voted to support the application, had been withdrawn and corrected as to that issue. With regard to the ANC's concern that OP failed to consider multiple commercial corridors and multi-unit buildings within the block in its analysis of the site and surrounding character, OP noted that the Location and Site Description section in its report provides only general context and that the further analysis provided in other sections of its report offer a more complete and accurate discussion of the neighborhood character and surrounding properties. In addition, the Board requested that OP submit a supplemental report, containing its written response to the ANC and the ANC SMD 4C01 Commissioner's concerns. OP submitted its supplemental report under Exhibit 28. Based on OP's testimony and supplemental report, the Board determined that OP had adequately addressed the concerns raised by the ANC.

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 22.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under § 336, to convert an existing two-story dwelling into a three-unit apartment house in the R-4 District. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 336, 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 § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 20.**

**BZA APPLICATION NO. 19233
PAGE NO. 2**

VOTE: 5-0-0 (Marnique Y. Heath, Jeffrey L. Hinkle, Anita Butani D'Souza, Frederick L. Hill, and Robert E. Miller, to APPROVE.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: May 11, 2016

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

BZA APPLICATION NO. 19233

PAGE NO. 3

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 13-09**

Z.C. Case No. 13-09

Stanton Square, LLC

**(Consolidated and First-Stage Planned Unit Development and Related Zoning Map
Amendment @ Square 5877, Lot 122)**

April 11, 2016

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on January 7, 2016 to consider an application from Stanton Square, LLC (“Applicant”) for consolidated review and approval of a planned unit development (“PUD”), first-stage PUD approval, and approval for a related Zoning Map amendment. The Commission considered the application pursuant to Chapters 1, 24, and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. The project site consists of Lot 122 in Square 5877 (“Subject Property” or “Property”). On May 31, 2013, the Applicant filed a PUD (consolidated and first-stage) and Zoning Map amendment application with the Commission. The proposed PUD project included a mixed-income residential community on the lower five acres of the Subject Property (which included approximately 203 residential units in six multi-family buildings), and a community service center campus on the upper three acres of the Subject Property. In response to comments that the Applicant received from representatives of the community and ANC 8B, the Applicant decided not to move forward with the project as originally filed with the Commission. (Exhibit [“Ex.”] 2; Ex. 11, p. v.)
2. On June 3, 2015, the Applicant filed an updated and amended application that included changes to the residential unit-mix and inclusion of for-sale townhouses in the residential community, a change to one of the proposed zone districts, and more detailed information on the anchor partners for the community service center campus. The Applicant continued to propose the development of a project that included a mixed-income residential community on the lower five acres of the Subject Property, and a community service center campus on the upper three acres of the Subject Property. (Ex. 11, p. v.)
3. The Applicant proposed a consolidated PUD application and Zoning Map amendment for the residential community (rezoning this portion of the Subject Property to the R-5-B Zone District, the initial Zoning Map amendment sought to rezone this portion of the Subject Property to the R-5-A Zone District). The Applicant also proposed a consolidated and first-stage PUD application and Zoning Map amendment for the community service center campus (rezoning this portion of the Subject Property to the SP-1 Zone District). (Ex. 11, p. 1.)

4. The Applicant's written submission noted that this project, to be called The Commons at Stanton Square, is guided by the following vision, mission, and goals:
- VISION - The Commons is a welcoming place, which supports families living at and near Stanton Square to celebrate and care for their children.
 - MISSION - The mission of the Commons is to support the healthy development of infants and toddlers and their families.
 - GOALS -
 - Mothers experience healthy pregnancies and births.
 - Infant and toddlers enter preschool demonstrating appropriate levels of development for their age and stage.
 - Parents enjoy tangible supports, role models, education, and feelings of acceptance and well-being that assist them to support their children's healthy development.
 - Families have a safe and stable place to live and thrive.
 - Young people have the healthy food, knowledge and skills they need to succeed in life.

In order to achieve these goals, the lead partners of the project (Horning Family Fund, Horning Brothers, Martha's Table, and Community of Hope) have created a project that includes the following components:

- Mixed-income rental and for-sale housing that includes permanent supportive housing for families;
 - High quality, developmentally appropriate child development services for children under the age of three; and
 - Two-generation services that are connected with the housing, the early childhood development center, and/or benefit the local neighborhood. (Examples include: home-based supportive services for families in the housing units, connection to health care including prenatal services, mentoring, job training, space for use by community organizations, etc.) (Ex. 11, pp. v-vi.)
5. The residential community will consist of approximately 120 residential units included in three multi-family buildings and 42 townhouses. The multi-family residential units will vary in size from one to three bedrooms and the townhouses will have three bedrooms.

Twelve of the multi-family residential units will be reserved as permanent supportive housing units. (Exhibit 11, p. 1)

6. The community service center campus was part of a consolidated PUD application and a first-stage PUD application. The consolidated PUD application for the Commons will include an approximately 54,000-square-foot building that will be occupied by Martha's Table and Community of Hope. Martha's Table will use approximately 42,000 square feet of the building for early childhood programming, nutrition and wellness services, and after-school programming. Community of Hope and other complementary non-profit organizations will use approximately 12,000 square feet of the building for employment and behavioral services counseling. (Ex. 11, p. 2.)
7. The first-stage PUD application for the Commons will include a building with a height of approximately 45 feet. This building is expected to have a density of approximately 0.92 floor area ration ("FAR"). The first-stage PUD application will also include a surface parking lot with approximately 24 parking spaces. (Ex. 11, p. 2.)
8. The Commission set the application down for a public hearing at its July 27, 2015 public meeting. The Applicant filed a pre-hearing statement on October 19, 2015 which responded to the comments made at the Commission's July 27, 2015 public meeting, and a public hearing was timely scheduled for January 7, 2016. Prior to the public hearing, the Applicant supplemented its application with additional information on December 18, 2015. (Ex. 18, 31.)
9. A public hearing was held on January 7, 2016. Testimony was presented by the Applicant's project team, including representatives of the Applicant (including representatives of Horning Brothers, Martha's Table, and Community of Hope), the project architects, and the project's traffic engineer.
10. Advisory Neighborhood Commission ("ANC") 8B submitted a resolution in support of the application, dated December 31, 2015, into the record. Numerous letters in support of the project were submitted into the record. Ward 8 Councilmember LaRuby May presented testimony at the public hearing. There were no parties in support or opposition to this application. (Ex. 42, 60.)
11. In response to questions and issues that were raised at the January 7, 2016 public hearing, the Applicant submitted a post-hearing submission which addressed the following issues: increased width of the private alleys; reconfiguration of the front-loaded townhouses; elevations of the front-loaded townhouses and deck/attic options; updated elevations of multi-family Building B; an image of the project in the surrounding neighborhood context; stormwater management¹; additional information on the maintenance and

¹ The Applicant noted that the first phase of construction activity on the Subject Property will entail the grading of the entire site and the construction of the retaining walls. The Applicant does not anticipate that a stormwater management permit will be required from the Department of Energy and Environment ("DOEE") for this work. The Applicant anticipates that a stormwater management permit will be required from DOEE once construction

longevity of the private street; a commitment to providing electronic displays of real time transit arrival and transportation options in the lobbies of each multi-family building; a construction management plan; additional information on the partnership with the Anacostia Economic Development Corporation and other public benefits and project amenities; and information on the Applicant's additional outreach and discussion with the Chairman of ANC 8A regarding the project. (Ex. 63.)

12. At a regularly scheduled public meeting on February 29, 2016, the Commission considered proposed action on the application. The Commission requested that the Applicant conduct additional outreach with Ward 8 Councilmember May, asked for additional information regarding storm water management including improved drawings showing the downspouts, and encouraged the Applicant to enhance is the LEED rating of the community service center building. The Commission then took proposed action to approve the application.
13. On March 7, 2016, the Applicant submitted information into the record in satisfaction of 11 DCMR § 2403.16-2403.18, (Ex. 67), and attached a chart summarizing the affordable housing provided in the project. (Ex. 68.)
14. On March 14, 2016, the Applicant responded to the requests by the Commission made when it took proposed action. The response included a revised, complete set of plans, additional information about downspouts, minor revisions to the side facades of Multi-Family Buildings A and C, a statement that it was not enhancing the LEED commitment because of financial constraints, a correction regarding the height of a retaining wall, and additional information about its outreach to Councilmember May. (Ex. 69, 70A1-70A7.)
15. On March 21, 2016, the Applicant submitted its final proffers and conditions. The Applicant revised its affordable housing proffer in response to a comment from the Office of Attorney General. The Applicant has consistently proposed that 10% of the residential units in the multi-family buildings would be reserved as Inclusionary Zoning ("IZ") units. Half of those units (five percent) would be reserved for families earning up to 50% of the area median income ("AMI"), and half would be reserved for families earning up to 60% of AMI. The comment was that the Department of Housing and Community Development does not have the ability to administer IZ units at the 60% of AMI level, only 50% of AMI and 80% of AMI. In response, the Applicant revised its proffer so that all of the proffered IZ units would be reserved for families with incomes at the 50% of AMI. The Applicant stated that it was making no other changes to its affordable housing proffer. (Ex. 71.)
16. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to the District of Columbia Home Rule Act. In a letter dated March 4, 2016, NCPC's Executive Director informed the Commission that in a

activity begins, which will include construction of the site infrastructure, the private road and alleys, the parking lots, and the vertical construction of the buildings.

delegated action dated February 26, 2016 he found that the proposed PUD would not be inconsistent with the Comprehensive Plan for the National Capital.

17. The Commission took final action to approve the application in Z.C. Case No. 13-09 on April 11, 2016.

The Subject Property and the Surrounding Area

18. The Subject Property is located in the Hillside neighborhood approximately one-half mile north of the Suitland Parkway. The Subject Property is irregularly shaped and is bound by Stanton Road to the west, Elvans Road to the south and east, the former Wilkinson Elementary School directly to the north, and Pomeroy Road to the northwest. The Subject Property is currently undeveloped and heavily wooded with steep topography. The upper portion of the Subject Property, along Elvans Road, is at an elevation that is approximately 72 feet above the elevation of the lower portion of the Subject Property. A number of institutional uses (Moten/Wilkinson Education Campus, Our Lady of Perpetual Help Church, Kipp DC Aim Academy) surround the Subject Property. (Ex. 11, p. 5.)
19. There are numerous parks and recreational facilities located in close proximity to the Subject Property. These include: Fort Stanton Park (approximately 0.25 miles to the east of the Subject Property); Douglass Park (approximately 0.5 miles to the southeast of the Subject Property); and Barry Farms Park (approximately 0.5 miles to the northwest of the Subject Property). All of these parks have recreation centers, outdoor pools, and tennis courts (except for Barry Farms, which does not have tennis courts). (Ex. 11, p. 5.)

Existing and Proposed Zoning

20. The Subject Property is currently included in the R-3 Zone District. In November of 2007, the Commission approved a PUD project and Zoning Map Amendment application (Z.C. Case No. 05-35) which authorized the construction of 187 townhouses on the Subject Property and re-zoned the Subject Property to the R-5-A Zone District. The Applicant returned to the Commission in November of 2010 seeking an extension of the time in which it was required to start construction activity for the approved PUD project. That extension was granted in Z.C. Case No. 05-35A. However, despite the Applicant spending in excess of \$1.5 million in moving the PUD approved plans from a design/development stage, to a construction drawing stage, to the filing of numerous building permit applications and the payment of significant fees to the District of Columbia, the Applicant was not able to make the approved townhouse project a reality. The Applicant was not able to commence construction activity by November 23, 2012 and the Commission's approval of Z.C. Case No. 05-35 lapsed. Therefore, the Subject Property returned to the underlying R-3 Zone District. (Ex. 11, pp. 6-7.)

Development Team

21. The Applicant's development team includes; Horning Brothers, Horning Family Fund, Martha's Table, and Community of Hope. Horning Brothers has served the Washington, D.C., metropolitan area with high-quality residential communities and commercial properties for more than 50 years.
22. Martha's Table works to strengthen children, families, and community by making healthy food and quality learning more accessible. For 35 years, Martha's Table has served as an important community partner, expanding access to a range of skills and resources needed to earn, learn and lead through life.
23. Founded in 1980, Community of Hope's mission is to improve the health and quality of life of low-income, homeless, and underserved families and individuals in the District of Columbia by providing healthcare, housing with supportive services, educational opportunities, and spiritual support.

Description of the PUD Project

Residential Component – Site Layout

24. The Primary access to the residential portion of the project will occur via a private street that will have one entry/exit point on Stanton Road, S.E. and one entry/exit point on Pomeroy Road, S.E. The overall width of this street has been limited to a 52-foot right-of-way that will allow for six-foot-wide sidewalks, and six-foot-wide tree boxes, and parallel parking on one side of the private street. These dimensions create a new street with strong pedestrian friendly characteristics. A series of 20-foot-wide private alleys are also proposed to provide access to the rear-loaded townhouses. (Ex. 11, pp. 6-7; Ex. 18A; Ex. 63A.)
25. An entry plaza with a grove of trees will be created at the corner of Stanton Road, S.E. and Pomeroy Road, S.E. This entry plaza will create a welcoming public feature at the residential site's most visible corner, adjacent to an existing bus stop. The common lobby and amenity spaces for the multi-family buildings, whose entrance is articulated with a tower feature, will be located immediately adjacent to the plaza. The plaza space will be equipped with fixed seating and additional landscape features that will encourage interaction among residents. A pocket park is located along the private street, at the base of the Smart Slope retaining walls. Located at the curve of the new street, the pocket park will provide a green feature that will be seen from the street. The pocket park includes significant landscape features and distinct seating areas – one adjacent to the sidewalk and others near play structures, and will create a common space usable by all ages. (Ex. 11, p. 7; Ex. 18, pp. 3-4; Ex. 18A.)
26. The significant grade change between the residential portion of the project and the community service center campus is addressed through a series of landscaped retaining walls, a portion of which is a Smart Slope, a vegetated retaining wall system that will be

covered with vegetation upon grow out. Enclosing the pocket park in the residential portion and just below the overlook in the community service center campus, the Smart Slope visually links the two uses with a highly sustainable green feature. The SmartSlope is a vegetated retaining wall system, comprised of open celled pre-cast concrete modules, anchored with polymeric reinforcement straps. Each module is stacked in a staggered pattern that creates a battered wall with integral planting pockets. The pockets are filled with growth media and planted. The entire face of the wall will be covered with vegetation upon grow out, and will provide an attractive enclosure to the pocket park located on the new public street. The retaining wall along the alley behind the townhouses varies from four feet (where the retaining wall meets Stanton Road) to a maximum height of 22 feet. A landscaped area is provided between the retaining wall and the private alley. The Applicant noted that since the property at the top of this retaining wall is not owned by the Applicant, it is not possible to create a stepped or tiered retaining wall in this location. The Applicant noted that the views of this retaining wall will be obscured from the new public street, as the townhouses block most of the views of this retaining wall. (Ex. 11, p. 7; Ex. 18, pp.1-2; Ex. 18A.)

27. Pedestrian linkage between the residential uses and the community service center campus will be provided through new and existing sidewalks along perimeter roads. Pedestrian activity along the new and existing roads will create the activity that promotes a safe and secure public realm. All of the existing adjacent streets (Stanton, Pomeroy, and Elvans Roads) have right-of-way widths of 50 feet. There are no planting strips adjacent to the sidewalks along these roads, thus no street trees along these roads, and the sidewalk abuts the travelway. In discussions with DDOT representatives, the Applicant was asked if it would be possible to provide a planting strip of at least four feet wide against the Stanton or Pomeroy Road travelway (which would allow for the planting of street trees and also create a “shy” zone that separates pedestrians from vehicles), and then a sidewalk of at least six feet wide. In response to the DDOT request, the Applicant has revised the treatment of the space adjacent to the property along Stanton and Pomeroy Roads to allow for a six-foot-wide sidewalk and a continuous three-foot-wide planting strip (or “shy zone”) in the areas where there are no street trees. In the areas where the Applicant is providing street trees (five street trees along Pomeroy Road and 11 street trees along Stanton Road), the width of the sidewalk is five feet and the width of the planting strip has been increased to four feet. The public space adjacent to the property along Elvans Road will include a six-foot-wide sidewalk with a continuous five-foot-wide planting strip that will include 16 street trees. The Applicant will also construct a three-foot-wide planting strip and a six-foot-wide sidewalk in the Elvans Road public right-of-way that will connect the housing portion of the project with the community service center portion of the project. This portion of the sidewalk and planting strip is not adjacent to the Applicant’s property. In order to provide this treatment of the “public” space, the sidewalk along Pomeroy Road is entirely on the Applicant’s private property, the sidewalk along Stanton Road varies from 2.3 feet to 2.9 feet on the Applicant’s private property, and the sidewalk along Elvans Road varies from 2.2 feet to 4.8 feet on the Applicant’s private property. The Applicant will grant a public use easement on these portions of its property to allow the public to use the newly created sidewalks and planting strips. (Ex. 11, pp. 21-22; Ex. 31, pp. 1-2; Ex. 31A.)

28. A surface parking lot, which provides parking for a portion of the multi-family buildings, is located in the interior of the residential portion of the site and will be visually buffered from the perimeter public streets by buildings and landscaping. The parking lot, as well as the entry plaza, will be entirely surfaced with pervious paving. The parking lot paving has the articulated texture and pattern of paving stones such as brick or cobblestone, and does not have the monolithic appearance and quality of an asphalt or concrete parking lot. The pervious paving, along with other landscape elements, will transform the surface parking lot from an automobile dominated environment to a pleasant, human-scaled open space. The pervious paving is also an integral factor in the project's satisfaction of the Green Area Ratio ("GAR") and stormwater requirements for the multi-family portion of the project, as well as a significant sustainable site feature. The surface parking lot will meet the Zoning Regulations' landscape standards and the lighting of the parking lot will be designed to provide an appropriate amount of light for safety, but not be a nuisance to future residents of the project or the surrounding neighbors. (Ex. 11, p. 8; Ex. 18 pp.3-4; Ex. 18A.)

Residential Component - Multi-Family Buildings

29. All of the multi-family buildings will include elevators and the exterior treatment of the buildings will include predominately brick and masonry façades with cementitious siding articulating an upper fourth-floor story, in order to establish a scale appropriate to the surroundings. Substantial embellishments, including bay windows, and gabled roofs with deep overhangs and brackets are proposed for these buildings in order to enliven the architecture of the buildings and create a scale of elements in keeping with the character and scale of the surrounding community. (Ex. 11, p. 9; Ex. 18A)
30. The first multi-family building, Building A, is located at the intersection of Stanton and Pomeroy Roads, S.E. This building will include a total of 38 units, with a mix of one-bedroom, two-bedroom, and three-bedroom units. This building includes a lobby with security desk, leasing center, and mail room which will serve all of the multi-family buildings. The lobby's location provides visibility to the corner entry plaza as well as to the parking lot entries of the other two multi-family buildings, providing for additional security. Access to the lobby will occur from the entry plaza (which will include a tower element), the surface parking lot, or from a pedestrian walkway that runs perpendicular to Stanton Road, S.E. The elevator and one of the stairs for Building A are located immediately adjacent to the lobby. A second stair is located at the southern end of the internal corridor and permits controlled building access from Stanton Road, S.E. The three-bedroom units located along Stanton Road, SE have direct independent access to Stanton Road, S.E., as well as from the internal building corridor. Building A will include amenity space for all of the multi-family buildings on the first floor, located directly below the lobby. The amenity space will include a fitness center and a business center. The first floor of Building A also includes office and meeting space for on-site services provided by Community of Hope for the residents of the PSH units. Direct access to these spaces is provided from a small court located off of Stanton Road, S.E. This building will

have a measured building height of approximately 50 feet and will include four stories. (Ex. 11, pp. 9-10; Ex. 18A.)

31. The second multi-family building, Building B, is located along Pomeroy Road, S.E. This building will also be four stories tall with a measured building height of approximately 48 feet, six inches. It will include 38 units with a mix of one and two bedrooms. Access to this building is provided from Pomeroy Road, S.E. and the internal parking lot. (Ex. 11, p. 10; Ex. 63A.)
32. The last multi-family building, Building C, is located off the private street on the interior of the Subject Property. This building will have a measured building height of approximately 52 feet, six inches. Due to the grade change on this portion of the site, Building C will include one below-grade level of parking that will include 28 parking spaces and four stories above the grade of the new private street. Building C will include a total of 44 units with a mix of one and two bedrooms. Access to this building is provided from the internal surface parking lot, the lower level parking garage, and the new private street. (Ex. 11, p. 10.)

Residential Component - Townhouses

33. The residential component of the project also includes 42 for-sale townhouses (that are 16 and 20 feet wide) that each include three bedrooms. Four of the townhouses have frontage along Stanton Road, S.E., while the remainder of the townhouses have frontage along the private street. The owners of the individual townhouses will have the option to include rear decks off of the kitchen, and an attic loft (except for the end units, which will not be permitted to have attic loft options). The fronts of all of townhouses will include brick and masonry elements, gable roofs with dormers, and occasional bay windows. The style of the townhouses is derived from a colonial vernacular style found throughout the District. Rowhouse building strings are composed as formal assemblages with variety created through different façade types, façade arrangements within the string, responses to topography, as well as the introduction of some townhouse fronts with cementitious siding to create additional variety. (Ex. 11, pp. 10-11; Ex. 63, p. 2; Ex. 63A.)
34. All of the townhouses will have internal parking garages for one parking space. Most of the townhouses will have vehicular access from private alleys to the rear of the townhouses. In response to comments from DC Water, the width of the proposed private alleys was increased to 20 feet. Due to the topography along the northeastern edge of the Subject Property, seven of the townhouses will have vehicular entrances at the front of the townhouses. Allowing these townhouses to have front entry for vehicles significantly reduces the height of the retaining wall that is needed in the rear of these properties. (Ex. 11, p. 11; Ex. 63, pp. 1-2; Ex. 63A.)

Permanent Supportive Housing Units and Affordable Housing Provided

35. This project includes a significant affordable housing component. Ten percent of the for-sale townhouses (approximately 10% of the total gross floor area) will be set aside as the

required IZ units, half of these IZ townhouses will be reserved for those making up to 50% of AMI and the other half for those making up to 80% of AMI. Each of the multi-family buildings will satisfy the Inclusionary Zoning minimum gross floor area requirements of providing 10% of the units (in perpetuity) to residents making up to 50% of AMI. All of the remaining residential units in the multi-family buildings will be reserved for residents making up to 60% AMI for a period of 40 years. (Ex. 11, pp. 11-12, 71.)

36. Permanent Supportive Housing (“PSH”) is targeted towards families and individuals who have been homeless in the past, have barriers to finding housing such as poor credit history, and often include a family member with disabilities which makes it difficult for them to find employment. Families hold leases in their own names and are expected to comply with all terms of the lease, including paying rent monthly. Rent is often set at about 30% of income and the subsidy covers the balance. Families stay in their units for as long as they wish to. A client in PSH has the same rights and responsibilities as any other tenant, with the added help of supportive services. The supportive services provided by Community of Hope include regular face-to-face meetings in the home to help families set and achieve goals that they set for themselves. Goals usually revolve around maintaining housing (i.e. paying rent, communicating with the landlord if there are any problems, making sure tenants know lease requirements, etc), increasing income through maximizing benefits or finding employment for members of the family as applicable, and strengthening the family. Examples of family goals might be making sure children are doing well in school, making sure the family is getting needed healthcare, working with an employment specialist on a resume, connecting children to summer camp or after-school programs, etc. Historically, Community of Hope has one case manager assigned to only 12 families, with supplemental assistance from an Employment Specialist, Wellness Coordinator, Youth Specialist, and a Housing Specialist. Interested children are also connected with volunteer mentors. (Ex. 11, pp. 12-13.)
37. This project will include 12 PSH units in the multi-family buildings which will be located throughout those buildings. The 12 PSH units are a social service benefit of this project and will be reserved in the project for a period of 40 years. Creating more permanent supportive housing is consistent with the DC Interagency Council on Homelessness’ Homeward DC Strategic Plan for the next five years. (Ex. 11, p. 13.)

Community Service Center Campus - Consolidated PUD Application

38. The community service center campus is divided into two parts. The western portion of the campus is part of the consolidated PUD application and it will include a single building that will house Martha’s Table and Community of Hope programs. The eastern portion of the campus is being reserved as a first-stage PUD. At the present time the Applicant envisions a single building and a surface parking lot will ultimately be developed on this portion of the campus. The Applicant seeks to rezone the community service center campus portion of the Subject Property to the SP-1 Zone District. (Ex. 11, p. 13.)

Martha's Table

39. Martha's Table will be using approximately 42,000 square feet of the proposed new building. Martha's Table will be using this space for three different programs:

Healthy Start (Early Childhood Education and After-School Programming)

- For families struggling against poverty, Martha's Table provides academic, health and life supports to children beginning at 12 weeks old to ensure a great start to a successful life. Its work includes intensive, full-day early childhood programming in the earliest years followed by dedicated out-of-school time academic and social supports during elementary school years.

Healthy Eating

- For over 17,000 children whose families are battling economic hardship and hunger, Martha's Table plans to provide healthy food access and healthy eating knowledge and motivation to eliminate hunger and create more joyful connection to food and eating. They do this through a multi-partner initiative led by Martha's Table and Capital Area Food Bank to bring healthy groceries via monthly Joyful Food Markets (each family receives 23 lbs of free healthy groceries per child) which occur at dismissal times at every public and charter school in Wards 7 & 8. In addition, Martha's Table also maintains its current 15 Martha's Markets across D.C. Martha's Table also offers quality children's meals for all students enrolled in on-site education programs.

Healthy Connections (After-school care and life support programming)

- As its children progress through middle school, high school, and college, Martha's Table supports them with service leadership and service learning opportunities to help them mature into their future as learners, earners, and leaders. At the same time, Martha's Table works with the parents of Healthy Start students to become family visionaries and leaders on their family's path toward a self-defined vision of success. (Ex. 11, pp. 13-14.)

Community of Hope

40. Community of Hope will utilize a portion of the remaining 12,000 square feet of space in the building to provide behavioral health services, per the community-identified need, that addresses the needs of the whole family, with a focus on depression, trauma and anxiety. Additional services may include employment support, enrollment in insurances, health education sessions, and social service supports. Office space will also be available for other non-profits with complementary services. (Ex. 11, pp. 14-15.)

Design of the Building

41. The building that will house these uses, as well as the outside facilities surrounding the building, have been developed based on 11 design guidelines. Those guidelines are:

- The building engages long distance views of the monumental core of DC; The site design minimizes impacts to current habitat and ecologies and enhances natural conditions;
 - The scale of Stanton Square addresses and enhances the neighborhood context and the varied program elements;
 - The design celebrates the rich history of the local community;
 - Site and building design promote inquiry and encourage healthy living, “doing”, and environmental stewardship among all users;
 - The building program and experience flows seamlessly from interior to exterior;
 - The “hub” is the heart of the Commons, a space that engages all aspects of the program;
 - Materials evoke a sense of comfort and warmth. Natural and regional materials are used wherever possible;
 - Access to natural light and views are available in all occupied spaces;
 - The kitchen is a central focus of the facility, is safe for employees as well as a welcoming and multi-functional learning and gathering space for the community; and
 - All spaces throughout the building encourage and support personal interaction and multiple uses. (Ex. 11, p. 15.)
42. The main entrance to the Martha’s Table/Community of Hope building is accessed from a vehicular drop-off loop from Elvans Road, S.E., or from the upgraded sidewalks along Elvans Road, S.E. The first floor of the Martha’s Table space includes a kitchen and food prep space, the “hub”, and classrooms and activity space that will be utilized for each of the three programs described in detail above. The second floor includes additional classroom spaces and administrative offices. The ground-floor space, which is actually located at the same grade level as the adjacent surface parking lot due to the grade change of the site, includes warehouse/storage space and building utilities. (Ex. 11, p. 15.)
43. The Applicant stated that the building program and experience flows from the interior spaces to the exterior spaces. The yard/gardens and outdoor play spaces have been specifically designed to meet different programmatic needs. Some of the outdoor spaces are more defined, while some are purposefully intended to be more “natural”. The Applicant stated that the exterior materials of the building include a variety of textures, patterns, and colors that will animate the building and help present itself as a warm and inviting space. (Ex. 11, p. 16.)

44. The Applicant's transportation engineering firm, Gorove/Slade Associates, filed a Comprehensive Transportation Review ("CTR") with the District Department of Transportation ("DDOT") on November 23, 2015. The CTR included the following Summary and Mitigations:
- "Overall, the PUD will not generate significant transportation demand during peak hours, and this demand can be accommodated within the local roadway, transit and parking systems. The one aspect of the surrounding network that cannot accommodate anticipated demand is the pedestrian infrastructure near and adjacent to the site. The Applicant has committed to improving sidewalks adjacent to the site and between the two portions of the PUD property;"
 - The Applicant proposes the following Transportation Demand Management ("TDM") measures:
 - The Applicant will identify TDM Leaders (for planning, construction, and operations). The TDM Leaders will work with residents to distribute and market various transportation alternatives and options;
 - The Applicant will establish a TDM marketing program that provides detailed transportation information and promotes walking, cycling, and transit. An effective marketing strategy should consist of a multi-modal access guide that provides comprehensive transportation information. This information can be compiled in a brochure for distribution. The marketing program should also utilize and provide website links to CommuterConnections.com and goDCgo.com, which provide transportation information and options for getting around the District;
 - The Applicant will install Transportation Information Center Displays (with electronic screens) within the lobbies of all three residential multi-family buildings and the community serving building;
 - The Applicant will encourage all alternative transportation modes including bicycling. Bicycling will be promoted with the provision of on-site outdoor temporary bicycle parking spaces; and
 - The CTR recommended additional improvements to help the pedestrian environment near the site. The additional improvements recommended in the CTR focus on two nearby intersections on the expected pedestrian walking routes:
 - Improved marking and signage, including stop bars, crosswalks, and curb ramps at the intersection of Elvans Road and Gainesville Street so that they meet DDOT and ADA standards;

- Improved marking and signage, including stop bars, crosswalks, and curb ramps at the intersection of Elvans Road and Morris Road so that they meet DDOT and ADA standards; and
 - The CTR concluded that with these pedestrian improvements in place and the implementation of the TDM plan outlined in the CTR, the PUD will not have a detrimental impact on the surrounding transportation network. (Ex. 31B.)
45. The residential portion of the PUD project is designed to be able to achieve Green Communities certification. The community service center (the Commons) is designed to achieve at least a LEED-Silver certification. Preliminary GAR calculations for the multi-family buildings and the Commons (the GAR calculations are not applicable to the townhouse portions of the project, per 11 DCMR § 3401.3(a)) were provided in the record and the applicable GAR standards are satisfied. No adverse environmental impact will result from the construction of this project. The project's proposed stormwater management and erosion control plans will minimize impact on the adjacent properties and existing stormwater systems. The requisite erosion control procedures stipulated by the District will be implemented during construction of the project.

Applicant's Testimony

46. At the public hearing, David Roodberg – CEO and President of Horning Brothers, testified on behalf of the Applicant. Mr. Roodberg introduced the members of the development team and provided an overview of the project. In addition, Mr. Roodberg discussed the community engagement process that the Applicant pursued throughout this PUD application process and the additional benefits that the Applicant is proposing in this application. Mr. Roodberg also noted that this project is being funded with over \$20 million of private investment. (January 7, 2016 Public Hearing Transcript [“Tr”] pp. 12-13, pp. 61-64.)
47. Patty Stonesifer, CEO of Martha's Table, provided testimony about the history of Martha's Table and the pop-up food markets that Martha's Table currently provides throughout the city, including pop-up food markets (Joyful Food Markets) in Ward 8. Ms. Stonesifer also testified about the programs that would be provided by Martha's Table at the community service center and throughout Wards 7 and 8 starting in 2018. (Tr. pp. 13-18; Ex. 56A.)
48. Kelly Sweeney McShane, CEO of Community of Hope, testified about the healthcare and supportive services that Community of Hope provides. Community of Hope will also be providing the supportive services for the families living in the Permanent Supportive Housing units in the residential portion of the project. (Tr. pp.18-21.)
49. Cheryl O'Neill, of Torti Gallas Urban – admitted as an expert in architecture, the project architect for the residential component of the project, provided detailed testimony regarding the site planning for the entire project, including a description of the topography of the site and the surrounding institutional and residential uses, and the

architecture for the multi-family buildings and the townhouses. Ms. O'Neill also presented testimony regarding how the site plan and various building types were modulated to account for the significant topographical changes that occur through the site. Ms. O'Neill also discussed the landscape characteristics of the project, including the introduction of the "shy zone" and street trees along the adjacent public streets. Ms. O'Neill also discussed the smart slope, vegetated retaining wall, and the actions that were taken to minimize the size of the retaining walls and obscure their appearance through landscaping. (Tr. pp. 21-30, 49-51.)

50. Matt Bell, of Perkins-Eastman Architects – admitted as an expert in architecture, testified about the design principles and goals for the development of the Commons, the community service center building. Mr. Bell discussed the interior and exterior features of the site and the materials that will be used on the exterior of the building. (Tr. pp. 51-59.)
51. Robert Schiesel, of Gorove-Slade Associates – admitted as an expert in traffic engineering, testified about the transportation study that Gorove-Slade Associates performed for this application. Mr. Schiesel noted that the new vehicular and pedestrian transit trips to and from the project, as well as the new parking demand, can be accommodated without any negative impacts on the surrounding neighborhood, provided the TDM plan was followed and off-site pedestrian improvements are made. (Tr. pp. 59-61.)

Density Proposed and Flexibility Requested

52. The total gross floor area included in the residential portion of the project will be approximately 219,000 – 238,000 square feet depending on whether or not the individual townhouses include certain upgraded features (such as bay windows or attic lofts). The total FAR for the residential portion of the project will be approximately 1.29-1.412. The maximum measured height of the proposed multi-family buildings will be approximately 50 feet and the maximum height of the townhouses will range from approximately 50 feet. The R-5-B Zone District permits a maximum density of 1.8 FAR as a matter of right and a maximum density of 3.0 FAR in a PUD project. The maximum height allowed as a matter-of-right in the R-5-B Zone District is 50 feet. A PUD project in the R-5-B Zone District is permitted a maximum building height of 60 feet. (Ex. 11, p. 16.)
53. The building on the Commons that will include the Martha's Table and Community of Hope uses will include approximately 54,000 square feet of gross floor area. This building will be approximately 32 feet tall, will have a FAR of approximately 0.66, and will include approximately 37 parking spaces. The lot occupancy of this building will be 32%. The SP-1 Zone District permits a maximum density of 4.0 FAR for residential use and 2.5 FAR for other uses as a matter of right. A PUD project in the SP-1 Zone District is permitted a maximum FAR of 4.5 for residential use and 3.5 for other uses. The

² Consistent with the recent practice of the Commission, the land area of the private streets and alleys have been removed from the calculation of the project's FAR.

maximum height allowed as a matter-of-right in the SP-1 Zone District is 65 feet. A PUD project in the SP-1 Zone District permits a maximum height of 75 feet. (Ex. 11, p. 17.)

54. The total gross floor area of the building proposed for the First Stage PUD approval is approximately 46,200 square feet for a total FAR of 0.92. The height of the proposed building will be approximately 45 feet and the building will have a lot occupancy of approximately 30%. A surface parking lot with approximately 24 parking spaces is proposed. (Ex. 11, p. 17.)
55. The Applicant requested flexibility from the following requirements of the Zoning Regulations: (i) the rear yard requirements for 35 of the townhouse lots (§ 404); (ii) the side yard requirements for four of the townhouse lots and one of the multi-family buildings (§ 405); (iii) the lot occupancy requirement for 19 of the townhouse lots (§ 403); (iv) relief from the driveway spacing requirement for the front-loaded townhouse lots (§ 2117.9); and (v) multiple buildings on a record lot (§ 2516). The Commission has the authority to grant this flexibility pursuant to §§ 2405.4, 2405.5, 2405.6, and 2405.7 of the Zoning Regulations. (Ex. 11, p. 18; Ex. 18, p. 5; Ex. 39.)

Benefits and Amenities

56. The Applicant, in its written submissions and testimony before the Commission, noted that the following benefits and amenities will be created as a result of the project, in satisfaction of the enumerated PUD standards in 11 DCMR § 2403.
 - a. Housing and Affordable Housing: Pursuant to § 2403.9(f) of the Zoning Regulations, the PUD guidelines state that the production of housing and affordable housing is a public benefit that the PUD process is designed to encourage. This project provides both for-sale and rental residential units (42 for-sale townhouses and 120 units in the multi-family buildings). This project will create approximately 162 residential units on a five-acre parcel that is currently unimproved. Ten percent of the for-sale townhouses will be set aside as the required IZ units, half of these IZ townhouses will be reserved for those making up to 50% of AMI, and the other half for those making up to 80% of AMI. Each of the multi-family buildings will satisfy the minimum Inclusionary Zoning gross floor area requirements by providing 10% of the units (in perpetuity) to residents making up to 50% of AMI. All of the remaining residential units in the multi-family building will be reserved for residents making up to 60% AMI for a period of 40 years; (Ex. 11, pp. 19-20; Ex. 18, pp. 6; Ex.18C, Ex. 71.)
 - b. Social Services/Facilities: Subsection 2403.9(g) lists social services/facilities as public benefits and project amenities for a PUD project. This project will include 12 PSH units and related social services, as well as an entire community service center campus. The programs offered by Martha's Table and Community of Hope are tailored to meeting the needs of the surrounding community. Early childhood education, after-school programming, parent engagement, healthy eating and nutrition, employment opportunities, and employment and behavioral counseling

are social services programs that will benefit residents of the surrounding neighborhood, as well as the residents of this project; (Ex. 11, p. 20; Ex. 18, pp. 6-7.)

- c. Urban Design, Architecture, Landscaping, or Creation of Open Spaces: Subsection 2403.9(a) lists urban design and architecture as categories of public benefits and project amenities for a PUD. The Applicant stated that the project exhibits all of the characteristics of exemplary urban design and architecture. The massing, height, and articulation of the residential buildings have been carefully studied in order to create a project that provides new housing opportunities for the surrounding community, yet is also in keeping with the surrounding buildings and uses. The buildings on the community service center campus have been located and designed to take advantage of the unique topography of the site and will provide the users of the Martha's Table and Community of Hope building with stunning views of downtown Washington and the monumental core. The landscape plan for the entire site has been carefully crafted to create a series of spaces, of varying sizes, to allow for passive recreation uses; (Ex. 11, pp. 20-21.)
- d. Site Planning, and Efficient and Economical Land Uses: Pursuant to § 2403.9(b) of the Zoning Regulations, "site planning, and efficient and economical land utilization" are public benefits and project amenities to be evaluated by the Zoning Commission. The Applicant testified that the proposed site plan effectively utilizes the significant grades on the site to create a significant number of new residential units and allow for a distinct campus for the Commons. The Applicant believes that the mix of for-sale townhouses and multi-family buildings are entirely appropriate for this large undeveloped property. The project incorporates the significant grade changes into the siting of the proposed buildings as well as the unit types, specifically the front-loaded townhouses. The series of landscaped retaining walls have been designed in a manner to minimize their overall appearance; (Ex. 11, p. 21; Ex. 18A, Ex. 31A, Ex. 63A.)
- e. Effective and Safe Vehicular and Pedestrian Access: The Zoning Regulations, pursuant to § 2403.9(c), state that "effective and safe vehicular and pedestrian access" can be considered public benefits and project amenities. The proposed residential community will only require one curb cut along Stanton Road, S.E. and one curb cut along Pomeroy Road, S.E. The internal private street system has been designed to have sidewalks and street tree boxes of appropriate width in order to encourage pedestrian activity. The private alley system provides most of the townhouses with rear access to their parking spaces in order to minimize conflicts with pedestrians. The upgrades and improvements to the adjacent public streets, including the introduction of shy zones and street trees, as well as the improvements to the pedestrian experience at nearby intersections are a significant public benefit and amenity of this project; (Ex. 11, pp. 21-22; Ex. 31, pp. 1-2; Ex. 31A.)

- f. Uses of Special Value: According to § 2403.9(i), “uses of special value to the neighborhood or the District of Columbia as a whole” are deemed to be public benefits and project amenities. The Applicant has agreed to provide the following public benefits and amenities as part of this project:
- The Applicant has entered into an Advisory Development Services Agreement with the Anacostia Economic Development Corporation (“AEDC”). Pursuant to this Agreement, AEDC will:
 - Help the Applicant identify areas of small business participation in the project;
 - Provide advice and recommendations on Development Team participation;
 - Assist in the formulation of project marketing and community outreach activities; and
 - Participate in the development of community engagement activities and other similar efforts on behalf of the Applicant;
 - The community service center campus will include space to hold community meetings;
 - The community service center will include flex-office space for use by Ward 8 non-profits; and
 - The Applicant will include a Ward 8 development partner in the construction of the rental housing component of the project; (Ex. 63, p. 4.)
- g. Comprehensive Plan: According to § 2403.9(j), public benefits and project amenities include “other ways in which the proposed planned unit development substantially advances the major themes and other policies and objectives of any of the elements of the Comprehensive Plan.” The Applicant noted that the proposed PUD is consistent with and furthers many elements and goals of the Comprehensive Plan; and (Ex. 11, pp. 24-28.)
- h. Public Benefits of the Project: Subsections 2403.12 and 2403.13 require the Applicant to show how the public benefits offered are superior in quality and quantity to typical development of the type proposed. This PUD project will include many, if not all, of the attributes of PUD projects that have been recently approved by the Commission, including:
- Affordable housing;
 - Permanent Supportive Housing;
 - Social services and health education;

- Exemplary/superior architecture; and
- Community service uses. (Ex. 11, p. 24.)

Comprehensive Plan

57. The Comprehensive Plan's Housing Element includes the following policies that are supported by this project:

- Policy H-1.1 - Expanding Housing Supply: Expanding the housing supply is a key part of the District's vision to create successful neighborhoods. Along with improved transportation and shopping, better neighborhood schools and parks, preservation of historic resources, and improved design and identity, the production of housing is essential to the future of our neighborhoods. It is also a key to improving the city's fiscal health. The District will work to facilitate housing construction and rehabilitation through its planning, building and housing programs, recognizing and responding to the needs of all segments of the community. The first step toward meeting this goal is to ensure that an adequate supply of appropriately zoned land is available to meet expected housing needs;
- Policy H-1.1.3 - Balanced Growth: Strongly encourage the development of new housing on surplus, vacant and underutilized land in all parts of the city. Ensure that a sufficient supply of land is planned and zoned to enable the city to meet its long-term housing needs, including the need for low-and moderate-density single family homes as well as the need for higher-density housing; and
- Policy H-1.2.1 - Affordable Housing Production as a Civic Priority: Establish the production of housing for low and moderate income households as a major civic priority, to be supported through public programs that stimulate affordable housing production and rehabilitation throughout the city.

The Applicant stated that this project complies with these Policies of the Housing Element by providing 162 residential units which are predominantly reserved as affordable housing units, and by meeting the needs of some of the District's most vulnerable population. Twelve of the multi-family residential units in this project are PSH units that are reserved for people that have a history of homelessness. Although families living in these units are not technically defined as "special needs", the families in this project and those of special needs share many similarities. The Housing Element stresses that housing for special needs should be permanent, integrated throughout the city instead of segregated and accompanied by services that support the population being housed (H-4.1). This project meets each of those requirements. It is permanent, it is inconspicuously integrated into the other multi-family residential units, and the services that the residents need will be provided directly on the Subject Property.

The proposed uses are strongly supported by the Housing, Economic Development, and Community Services and Facilities Elements of the Comprehensive Plan. The Housing Element states that development should take a whole neighborhood approach by ensuring that construction of housing is accompanied by concurrent programs to improve neighborhood services (H-1.4.6). The Community Services and Facilities Element has a goal of providing high quality, accessible, efficiently managed community facilities that enhance the well being of current and future District residents. It specifically highlights the importance of affordable health services and permitting new early childhood development centers (CSF 2.1/2.2). Additionally, the Economic Development Element focuses on the future of the District's economy and the importance of workforce development (ED-4.2). This project will be successful in accomplishing each of these Elements' goals. (Ex. 11, pp. 25-26.)

58. The Comprehensive Plan's Land Use Element includes the following policies that are supported by this project:

- Policy LU-1.4.1: Infill Development: Encourage infill development on vacant land within the city, particularly in areas where there are vacant lots that create "gaps" in the urban fabric and detract from the character of a commercial or residential street. Such development should complement the established character of the area and should not create sharp changes in the physical development pattern.

The Applicant's written statement noted that the proposed development will turn an undeveloped, overgrown and foreboding part of the Hillside neighborhood into a vibrant and active part of the community. The redevelopment of the site will help in stabilizing the overall community by providing a variety of unit types, sizes and affordability and would be a significant contribution to the District's housing stock. In addition, the proposed community service center campus is consistent with the numerous other institutional uses found in the immediate neighborhood. (Ex. 11, p. 26.)

59. The Comprehensive Plan's Urban Design Element includes the following policies which are furthered by the PUD project:

- Policy UD-2.2.5; Creating Attractive Façades: Create visual interest through well-designed building facades, storefront windows, and attractive signage and lighting. Avoid monolithic or box-like building forms, or long blank walls which detract from the human quality of the street.

The high levels of architectural design and quality of materials used in this project will serve as the standard for future development in the area. The quality and breadth of different materials on the Commons building will create significant visual interest for this new community service use in the neighborhood. (Ex. 11. p. 26.)

60. This project is located in the Far Southeast/Southwest area and is consistent with the Comprehensive Plan's goals and policies. The Comprehensive Plan's Far

Southeast/Southwest Area Element includes the following policies that are supported by this project:

- Policy FSS-1.1.4: Infill Housing Development: Support infill housing development on vacant sites within Far Southeast/Southwest, especially in Historic Anacostia, and in the Hillside, Fort Stanton, Bellevue, Congress Heights and Washington Highlands neighborhoods;
- Policy FSS-1.1.11: Workforce Development Centers: Support the development of additional vocational schools, job training facilities, and workforce development centers. Encourage the retention of existing job training centers, and the development of new centers on such sites as the St. Elizabeth's Campus and DC Village to increase employment opportunities for local residents;
- Policy FSS-1.1.12: Increasing Home Ownership: Address the low rate of home ownership in the Far Southeast/Southwest by providing more owner-occupied housing in new construction of single family homes, and by supporting the conversion of rental apartments to owner-occupied housing, with an emphasis on units that are affordable to current tenants;
- Policy FSS-1.2.1: Health Care Facilities: Sustain and support existing health care facilities in Far Southeast/Southwest and develop additional health care and social service facilities to respond to the urgent unmet need for primary care, pre- and post-natal care, child care, youth development, family counseling, and drug and alcohol treatment centers. Pursue co-location or consolidation of these facilities with other public facilities where possible, and where the uses are compatible;
- Policy FSS-1.2.4: Designing with Nature: Protect and enhance the wooded ridges and slopes of the Far Southeast/Southwest, particularly views of the monumental core of the city from the major north-south ridge that crosses the area. Development should be particularly sensitive to environmental features along Oxon Run Parkway, Shepherd Parkway (along I-295), and on the St. Elizabeths and DC Village sites; and
- Policy FSS-23.2: Housing Opportunities: Encourage compatible infill development on vacant and underutilized land within the Hillside and Fort Stanton neighborhoods, with an emphasis on low to moderate density housing designed for families. Special care should be taken to respect the area's topography, avoid erosion, improve the street and circulation system, and mitigate any traffic increases caused by new development.

The Applicant proposed that this project is consistent with all of these Policies. The Applicant is proposing to create 162 residential units on an 8.1-acre vacant property located in the Hillside neighborhood. The creation of 42 for-sale townhouses with 10% of those units reserved as IZ units is consistent with Policy FSS-1.1.12. The

Comprehensive Plan also supports the inclusion of workforce development centers and additional health care and social service facilities. This project is in compliance with these goals. The services provided in the Commons by Martha's Table and Community of Hope are entirely consistent with these policies. (Ex. 11, pp.27-28.)

Government Agency Reports

61. By report dated December 28, 2015, the Office of Planning ("OP") recommended approval of the proposed consolidated PUD, first-stage I PUD, and related Zoning Map amendment application. In its report, OP discussed the amenities and benefits that the consolidated PUD application will provide related to: Urban Design, Architecture, and Landscaping; Site Planning and Efficient and Economical Land Utilization; Housing; Environmental Benefits; and Uses of Special Value to the Neighborhood or the District of Columbia as a whole. (Ex. 39, pp. 17-19.)
62. In regard to the Consolidated PUD's benefits and amenities related to Urban Design, Architecture and Landscaping, the OP report noted:

The proposed PUD would significantly enhance the character of Stanton Road by removing a large vacant parcel from the neighborhood's fabric. The proposed development would introduce a residential use and accessory services currently absent in the immediate neighborhood. The buildings' massing and scale would be appropriate within the context of the Comprehensive Plan and the existing neighborhood. Building materials would include a mixture of brick and cementitious siding, which would be carried throughout the site. The façade details are integral to ensuring variety in the streetscape. The proposed architecture would be similar to recently completed residential development in the immediate area. The architecture would complement that of the surrounding neighborhoods, which have a variety of architectural styles, materials and designs. Connectivity between both portions of the site would enhance Stanton Road through the proposed new sidewalk along the street to Elvans Road. This would also be an important safety feature for the neighborhood, through improved lighting and pedestrian safety along Stanton Road. (Ex. 39, pp. 17-18.)

63. In regard to the consolidated PUD's benefits and amenities related to Uses of Special Value, the OP report also noted:

The affordable and supportive housing units proposed by this project should help the District towards meeting its goal of housing low income and homeless families. The introduction of a community service center to support residents of the immediate and surrounding development in an underutilized site is consistent with planning goals for the neighborhood and is a public benefit and amenity of the project. The non-profit Community of Hope provides supportive services to low-income and homeless adults and children in D.C for the past 35 years. Twenty-one residents were hired as staff members and 18 Ward 8 residents were hired during construction. Their headquarters, health center and two permanent

supportive apartment buildings are located in Ward 8. Martha's Table operates the Joyful Food Markets and Martha's Markets in seven Ward 8 schools and community centers. Forty percent of families in their Healthy Start program are Ward 8 residents. Twenty percent of employees hired in 2015 also reside East of the River. (Ex. 39, p. 19.)

64. In regard to the consistency of the proposed Zoning Map Amendment with the Comprehensive Plan, the OP Report noted that:

The Comprehensive Plan designates the site for moderate density residential uses. The proposed development would be characteristic of the surrounding neighborhood's existing and more recent development in its scale and massing, including the townhomes, smaller apartment buildings and nearby institutional uses. Therefore, the proposed PUD-related map amendment from R-3 to R-5-B (for the lower residential portion) and SP-1 (for the upper community services portion), would be not inconsistent with the Comprehensive Plan, particularly when read in conjunction with the referenced policies from the Plan. The SP District permits any use permitted as a matter of right in the R-5 District, as well as any other accessory use and building customarily incidental to the authorized uses. The institutional wrap-around services and programming proposed by the non-profit groups that would locate within the development would be accessory and incidental to the residential uses proposed within the R-5-B portion of the site, and would directly serve the surrounding residential community. Therefore, the SP-1 District would be the appropriate designation for the administrative and office uses proposed. (Ex. 39, p. 11.)

65. By its report dated December 28, 2015, the District Department of Transportation ("DDOT") reviewed the project's site design and travel assumptions and provided an analysis of the transportation impacts of the project. The DDOT report concluded that DDOT has no objection to the application with the following conditions:

- Install an electronic display in the lobbies of all three multi-family buildings and the community service building to display real-time transit arrival and transportation options information;
- Reserve a parking space in Stanton Square for a car sharing service which may revert to general use if no car sharing company expresses interest;
- Host annual transportation fairs for both Stanton Square and Stanton Commons to educate all users about available transportation options; and
- Provide at least 14 short-term bicycle parking spaces, including eight in Stanton Square and six in Stanton Commons. (Ex. 41, p. 2.)

66. The DDOT report also noted that:

To remedy substandard conditions adjacent to the site, the Applicant has agreed to install a minimum three foot planting strip on all streets adjacent to the site with a six foot wide sidewalk. Where there are street trees, the planting strip will widen to a 4 foot by 9 foot tree box and the adjacent sidewalk will narrow to 5 feet wide. The Applicant will also continue this treatment to the west of the Stanton Commons portion of the development where the sidewalk is currently missing in order to connect Stanton Commons to Stanton Square. This area is not adjacent to property owned by the Applicant.

The Applicant proposes mitigations to improve substandard pedestrian facilities at two off-site intersections — Elvans Road & Gainesville Street and Elvans Road & Morris Road & Erie Street. Specifically, the Applicant proposes improved marking and signage, including stop bars, crosswalks, and curb ramps to meet DDOT and ADA standards. The Applicant cautions that improvements have not been designed and complications in design could stem from non-transportation issues such as utility pole relocation costs, conflicts with sewer/stormwater infrastructure, and/or right-of-way limitations. DDOT understands the possibility of high-cost complications and will work with the Applicant through the public space permitting process to focus on high-impact, lower-cost improvements that can be made to these intersections. If acceptable designs for one or both of the highlighted intersections cannot be developed, the Applicant should ensure that at least two study area intersections are improved.

DDOT considers the proposed pedestrian improvements to be a substantial contribution to improving the pedestrian environment in the area and commends the Applicant for dedicating private property to achieve these important improvements. (Ex. 41, pp. 13-14.)

ANC 8B Report

67. ANC 8B submitted a resolution in support of the application on December 31, 2015. The letter stated that, on December 15, 2015, the ANC voted to approve a resolution in support of the PUD and related Zoning Map amendment application by a vote of 3 in favor and 1 against. The resolution noted that the Applicant agreed to partner with the Anacostia Economic Development Corporation to identify opportunities for Ward 8 businesses and jobs for Ward 8 residents and the Applicant agreed to partner with a Ward 8 developer on the construction of 120 affordable rental housing units. The resolution noted the commitments of Martha's Table and Community of Hope to provide services in the project and the contributions that the Horning Family Fund has made to nonprofits that serve Ward 8. The resolution also stated that the Applicant held many community discussions over the years regarding the project and presented the project at duly noticed ANC 8B meetings on March 17, 2015, April 21, 2015, and December 15, 2015. (Ex. 42.)

Parties and Persons in Support

68. There were no parties in support of the application.
69. The Ft. Stanton Civic Association submitted a letter of support of the application into the record of this case. The Ft. Stanton Civic Association noted that it felt the proposed residential uses in the project provide the proper mix of rental and for-sale housing with affordable and market-rate units, and the community service center part of the project will have a positive impact on the community. The Ft. Stanton Civic Association also commended the applicant for its outreach to the community and its responsiveness to comments that were raised about the project. (Ex. 59.)
70. Over 20 additional letters in support of the project were submitted into the record of this case. (Ex. 32, 34-38, 40, 43-52, 54-55.)

Party Status Requests

71. There were no requests for Party Status in this application.

Persons in Opposition

72. Ward 8 Councilmember LaRuby May presented testimony in opposition to the application at the public hearing. Councilmember May noted her concerns that she had relayed to the Applicant about having Ward 8 participation on every level, including developer, on this project in order to help the capacity building of Ward 8 businesses. Councilmember May also noted that her office has received some complaints from residents of other properties managed by members of the Applicant. Councilmember May also questioned the amount of community outreach that the Applicant had done, including outreach to residents and representatives of ANC 8A. (Ex. 60; Tr. pp. 31-37.)
73. Noreen Dziekety and Benjamin Dziekety, owners of 2728 Stanton Road, S.E., presented written and oral testimony in opposition to the project. They noted that their opposition to the project was based on the increased traffic that will result from the project, the inadequate number of parking spaces provided in the project, the inclusion of front-loaded townhouses in the project, the oversaturation of apartments and low income housing currently existing within a two-block radius of the property; and the inconsistency of the application with the National Capital Region Commission Master Plan. (Ex. 30; Ex. 57.)
74. Paul Trantham, the Single Member District Commissioner for ANC 8B02, provided testimony in opposition to the project. Mr. Trantham's opposition was based on his view that the community was not actively involved in this case.

Satisfaction of the PUD and Zoning Map Amendment Approval Standards

75. In evaluating a PUD application, the Commission must “judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested and any potential adverse effects.” (11 DCMR § 2403.8.) The Commission finds that the mix of housing types provided in this application (both for-sale and rental), the large amount of affordable housing provided, the inclusion of the PSH units in the multi-family building, and the community service center and social service uses provided in this project are significant amenities of the project. In addition, the Commission finds that the proposed improvements to the public space and pedestrian environment, adjacent to and nearby the property, are significant public benefits of the project. Given the significant amount and quality of the project amenities and public benefits included in this PUD and related Zoning Map amendment application, the Commission finds that the development incentives to be granted for the project and the related rezoning are appropriate. The Commission also finds that the requested areas of flexibility from the requirements are consistent with the purpose and evaluation standards of Chapter 24 of the Zoning Regulations and are fully justified by the superior benefits and amenities offered by this project.
76. The Commission finds that the project is acceptable in all proffered categories of public benefits and project amenities and is superior in public benefits and project amenities relating to affordable housing, social services/facilities, landscaping and open space, site planning, and effective and safe vehicular and pedestrian access.
77. The Commission credits the written submissions and testimony of the Applicant and OP that the proposed PUD and rezoning to the R-5-B and SP-1 Zone Districts is appropriate and that the proffered amenities and benefits are acceptable. The Commission also credits the testimony of the Applicant and OP that the proposed PUD project and rezoning of the Subject Property are not inconsistent with the Comprehensive Plan. In this case, the Commission finds that the proposed PUD and related map amendment of the Subject Property to the R-5-B and SP-1 Zone District is appropriate given the Future Land Use Map designation of the Subject Property (moderate density residential), the surrounding institutional uses, and the project’s satisfaction of numerous policies enumerated in the Comprehensive Plan. The Commission’s conclusion is consistent with OP’s recommendations to approve the project and the PUD-related Zoning Map amendment.
78. The Commission has accorded ANC 8B the “great weight” to which it is entitled. The Commission finds that the Applicant did engage in substantive and extensive dialogue with ANC 8B and the surrounding community regarding this project. The Commission finds that the Applicant made modifications and enhancements to the project in response to comments that were provided by the ANC, Ward 8 Councilmember May, and members of the community.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process provides a means for creating a “well-planned development.” The objectives of the PUD process are to promote “sound project planning, efficient and economical land utilization, attractive urban design and the provision of desired public spaces-and other amenities.” (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” (11 DCMR § 2400.2.)
2. Under the PUD process, the Commission has the authority to consider this application as a consolidated PUD (11 DCMR § 2402.5). The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, yards, and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment. (11 DCMR § 2405.)
3. The development of the project will implement the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design and that would not be available under matter-of-right development.
4. The application meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
5. The application meets the contiguity requirements of § 2401.3.
6. The proposed height and density of the buildings in the project will not cause a significant adverse effect on any nearby properties. The benefits and amenities provided by the project are significant and appropriate.
7. The application seeks a PUD-related zoning map amendment to the R-5-B and SP-1 Zone Districts. The application also seeks limited flexibility from the Zoning Regulations regarding rear yard, side yard, and lot occupancy requirements for some of the proposed lots; relief from the driveway spacing requirements for the front-loaded townhouses; and the permission to build multiple buildings on a single record lot. The Commission finds the requested relief to be appropriate and allows for the creation of a project that has numerous benefits and amenities.
8. The Commission finds that rezoning the site is consistent with the Comprehensive Plan. The PUD is fully consistent with and fosters the goals and policies stated in the elements of the Comprehensive Plan. The project is consistent with the major themes and city-wide elements of the Comprehensive Plan, including the Housing, Land Use, and Urban

Design Elements. The PUD is also consistent with the more specific goals and policies of the Far Southeast/Southwest Area Element.

9. 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 ANCs. As is reflected in the Findings of Fact, ANC 8B voted to support the application.
10. The Commission is also required to give great weight to the recommendations of OP (See D.C. Official Code § 6-623.04 (2001)). The Commission gives OP’s recommendation to approve the application great weight, and concurs with OP’s conclusions.
11. The PUD project and the rezoning of the Subject Property will promote orderly development of the Property in conformance with the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
12. The Applicant 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 this application for consolidated PUD, first-stage PUD, and related Zoning Map amendment to the R-5-B and SP-1 Zone Districts for the Subject Property (Square 5877, Lot 22). The approval of this PUD is subject to the following guidelines, conditions, and standards:

A. PROJECT DEVELOPMENT

1. The PUD project shall be developed in accordance with the plans marked as Exhibits 70A1-70A7 of the record (“Approved Plans”), as modified by guidelines, conditions, and standards herein.

B. PUBLIC BENEFITS

1. The Applicant shall provide the following housing and affordable housing:
 - (a) Multi-family Building A:
 - (i) Four units comprising 4,574 square feet (gross floor area) IZ units at 50% AMI;
 - (ii) Four units comprising 5,792 square feet (gross floor area) non-IZ affordable units at 30% AMI (PSH Units); and
 - (iii) 30 units comprising 35,370 square feet (gross floor area) non-IZ affordable units at 60% AMI;

- (b) Multi-family Building B:
 - (i) Four units comprising 3,949 square feet (gross floor area) IZ units at 50% AMI;
 - (ii) Four units comprising 3,949 square feet (gross floor area) non-IZ affordable units at 30% AMI (PSH Units); and
 - (iii) Thirty units comprising 31,584 square feet (gross floor area) non-IZ affordable units at 60% AMI;
- (c) Multi-family Building C:
 - (i) Four units comprising 5,233 square feet (gross floor area) IZ units at 50% AMI;
 - (ii) Four units comprising 5,233 square feet (gross floor area) non-IZ affordable units at 30% AMI (PSH Units); and
 - (iii) Thirty-six units comprising 41,856 square feet (gross floor area) non-IZ affordable units at 60% AMI; and
- (d) Townhouses
 - (i) Two units comprising 3,872 square feet (gross floor area) IZ units at 50% AMI;
 - (ii) Three units comprising 5,808 square feet (gross floor area) IZ units at 80% AMI; and
 - (iii) Thirty-seven units comprising 90,426 square feet (gross floor area) market rate.

The IZ units shall be set aside **for so long as the project exists**. The term IZ signifies that the units are subject to the Inclusionary Zoning regulations currently codified at Chapter 26 of Title 11 DCMR. The term PSH signifies “permanent supportive housing units.” The non-IZ affordable units and the PSH units shall be **set aside for a period of 40 years** (from the date of the issuance of the Certificate of Occupancy for each multi-family building).

2. The multi-family buildings will include a total of 12 PSH units, operated by Community of Hope, **for a period of 40 years (from the date of the issuance of the Certificate of Occupancy** for the multi-family building). If Community of Hope can no longer provide the required services to the PSH units, the Applicant will find a replacement service provider.

3. The project shall include 42 for-sale townhouses. All of the townhouses, except for those located at the end of a string of townhouses, shall be permitted the option to include a loft/attic. Ten percent of the for-sale townhouses will be set aside as required by 11 DCMR § 2603 for low- and moderate-income households, as those households are defined by 11 DCMR § 2601.
4. The Applicant shall provide evidence that the multi-family buildings will be designed to achieve Green Communities certification, **prior to the issuance of a Certificate of Occupancy for the multi-family buildings**. The community service center building will be designed to achieve at least LEED-Silver certification. There is no requirement that the Applicant complete the LEED or Green Communities commissioning process.
5. The Applicant shall complete the public space improvements along Stanton, Elvans, and Pomeroy Roads, noted on pages 11-16 of Exhibit 70A7 **prior to the issuance of a Certificate of Occupancy** for the structure that abuts that portion of Stanton, Elvans, or Pomeroy Road.
6. The Applicant shall implement the following Transportation Demand Management (“TDM”) programs:
 - The Applicant shall identify TDM Leaders (for planning, construction, and operations). The TDM Leaders shall work with residents to distribute and market various transportation alternatives and options;
 - The Applicant shall establish a TDM marketing program that provides detailed transportation information and promotes walking, cycling, and transit. An effective marketing strategy should consist of a multi-modal access guide that provides comprehensive transportation information. This information can be compiled in a brochure for distribution. The marketing program should also utilize and provide website links to CommuterConnections.com and goDCgo.com, which provide transportation information and options for getting around the District;
 - Applicant shall install electronic displays in the lobbies of all three multi-family buildings and the community service center building to display real-time transit arrival and transportation options information;
 - The Applicant shall reserve a parking space in the project for a car sharing service which may revert to general use if no car sharing company expresses interest;
 - The Applicant shall host annual transportation fairs for both Stanton Square and Stanton Commons to educate all users about available transportation options; and

- The project shall include at least 14 short-term bicycle parking spaces, including eight in Stanton Square and six in Stanton Commons.

The installation of the electronic displays shall be **completed prior to the issuance of a Certificate of Occupancy** for each of the multi-family buildings and the community service center building. The Applicant shall provide evidence that it has reserved a parking space for a car sharing company and shall identify the location of the required short-term bicycle parking spaces in the plans that are submitted for a building permit for the multi-family buildings and/or the community service center building. The Applicant shall provide evidence of the TDM marketing plan and the identification of the TDM Leaders to the Zoning Administrator **prior to the issuance of a Certificate of Occupancy** for each of the multi-family buildings or the community service center building. The Applicant shall provide the Zoning Administrator, DDOT, and the Office of Zoning with an annual report, once a certificate of occupancy has been issued for the community service center building, which notes when the annual transportation fair was held.

7. Pursuant to DDOT approval, the Applicant shall be responsible for the design and cost of improving marking and signage, including stop bars, crosswalks, and curb ramps at the intersection of Elvans Road and Gainesville Street so that they meet DDOT and ADA standards; and the design and cost of improving marking and signage, including stop bars, crosswalks, and curb ramps at the intersection of Elvans Road and Morris Road so that they meet DDOT and ADA standards. The Applicant shall not be responsible for any costs associated with non-transportation issues such as utility pole relocation costs, conflicts with sewer/stormwater infrastructure, and/or right-of-way limitations. The Applicant shall provide evidence that these marking and signage improvements have been completed **prior to the issuance of a Certificate of Occupancy** for the community service center building.
8. **For the life of the project**, the Applicant shall include space in the community service center campus building that shall be made available for community organizations to hold meetings. Reservations for the use of such space shall be made through a designated representative of the Applicant.
9. **For the life of the project**, the community service center shall include flex-office space for use by Ward 8 non-profits. Reservations for the use of such space shall be made through a designated representative of the Applicant.
10. The Applicant shall include a Ward 8 development partner in the construction of the rental housing component of the project. The Applicant shall provide evidence to the Zoning Administrator of the identity of the Ward 8 development partner **prior to the issuance of a building permit** for any of the multi-family buildings in the project.

11. **Prior to the issuance of a Certificate of Occupancy** for the first multi-family building or prior to the occupancy of the first townhouse, the Applicant shall make an initial capital contribution to the reserve fund for the Stanton Square Homeowners' Association (which will include the owner of the multi-family buildings). This capital contribution shall be \$250 for each approved townhouse unit, and \$250 for each of the multi-family buildings.
12. **Prior to the occupancy of the first townhouse or issuance of the Certificate of Occupancy** for the first multi-family building, the Applicant shall provide evidence to the Zoning Administrator that the Stanton Square Homeowners' Association by-laws and regulations shall require that the Homeowners' Association shall maintain, repair, and replace the common areas of the project (which includes the private street and alleys) and all improvements and facilities in the common areas, in good order at all times. This obligation shall include without limitation, the maintenance, repair, and, as necessary, replacement of the private street, alleys and parking areas within the common areas.
13. The Applicant shall abide by the following Construction Management Plan terms and conditions:
 - (a) **Traffic and Construction Control Plan:** Vehicular ingress and egress will be only through approved, permitted construction entrances. At no time are trucks permitted to queue (which is deemed to be waiting for more than 15 minutes) or idle on the adjacent streets. Nor are workers allowed to individually congregate, queue, or idle in the surrounding residential areas before the 7:00 a.m. or 8:00 a.m. start of the construction day. Flagmen will be positioned as necessary, to direct the flow of construction traffic and to maintain the public's safety in this residential area. Throughout construction, the Applicant agrees to ensure safe pedestrian access around the perimeter of the site. The Applicant agrees to develop and implement (after approval by DDOT) a plan for temporary pedestrian and vehicular circulation during construction. At a minimum, the plan shall identify temporary sidewalks, interim lighting, construction vehicle routes, and any other features necessary to ensure safe pedestrian and vehicular travel around the site during construction;
 - (b) **Construction Parking:** Parking for construction workers will be provided within the boundaries of the construction site. Construction personnel will be encouraged to utilize mass transit, including Metro rail and Metro bus;
 - (c) **Site Management:**
 - (i) **Trailers and Materials:** All construction trailers, all construction materials and all equipment, and portable toilets will be located

- and always retained on the Applicant's property for the duration of the construction;
- (ii) Odors: There will be no noxious odors emanating from the construction site;
 - (iii) Lighting: Ongoing temporary on-site lighting during construction will be erected for the site to provide lighting for safety and security. No generators will be used at night to provide temporary site lighting. The Applicant will keep the lighting directed into the site only and not impact the surrounding community;
 - (iv) Electrical Generators: All electrical generators and compressors will be turned off at the end of each day's construction activities, i.e., by 7:00 p.m.; and
 - (v) Stormwater Management: The Applicant will maintain temporary stormwater management systems throughout the Project's construction until such time as the permanent facilities are constructed, approved, and functioning such that there shall be no adverse water impacts on the adjacent neighborhood;
- (d) Excavation and Rodent Infestation: The Applicant will enact a substantive rodent abatement/rodent control program during pre-construction and while construction activity is occurring. Rodents are deemed to include rats, possums, raccoons, snakes, etc. Upon receipt of any rodent complaint, rodent damage and/or rodent issues, the Applicant will immediately resolve any problems and inconvenience resulting from rodent infestation;
- (e) Cleanliness: The Applicant will require the continuous removal of rubbish and construction debris during the normal construction day and during any other periods of work. During construction activities, there will be a dumpster on-site for the removal of trash and construction debris. The dumpster will remain covered at all times and will never overflow onto the ground. The removal and replacement of the dumpster will take place during normal working hours on Monday through Saturday. All excavation or back-fill trucks will be covered before proceeding from the Applicant's property onto city streets. The Applicant shall ensure the following:
- (i) The areas adjacent to the site will be policed daily by the contractor and will always remain clean of any trash or debris resulting from construction activities;

- (ii) At the end of each work day during construction, the Applicant agrees to ensure that any streets used for hauling construction materials and the entrance to the construction site are free of mud, dirt, trash, dust and debris and that all streets adjacent to the construction site are free of trash and debris; and
 - (iii) The Applicant agrees to maintain street surfaces adjacent to the site in a clean, smooth condition devoid of potholes at all times during the construction period;
- (f) Work Hours and Workers: The normal construction work-week will be Monday through Friday, 7:00 a.m. to 7:00 p.m., and Saturday, 8:00 a.m. to 6:00 p.m. The Applicant will make good faith efforts to limit the work that could disturb the residents of the surrounding neighborhood to weekdays. No Sunday work hours will be utilized. The Applicant shall ensure the following:
- (i) Trucks: All trucks for delivery of materials, construction or otherwise, will arrive, depart and operate on the Applicant's property during the foregoing hours;
 - (ii) Workers: Workers will not be on Applicant's property prior to stated work hours; and
 - (iii) Noise: There will be no noise generating activities prior to the start of the work day. There will be no start-up or idling of equipment prior to the start of the work day. Indoor construction activity, defined as activity occurring entirely within a structure fully enclosed on all sides by insulated exterior walls, windows and or doors shall end at midnight each day, and any such activity that occurs after 7:00 p.m. shall not annoy or disturb reasonable persons of normal sensitivities. The Applicant agrees to place a minimum of one sign per street-front around the perimeter indicating the permissible hours of construction, to place additional signage within construction field offices, and to provide a written copy of the permissible hours and rules of construction to all subcontractors prior to the start of their work;
- (g) Communication: The Applicant shall designate a representative ("Representative") to be the key contact for interaction with members of the community regarding construction. The Representative will have a local office, cell, fax and voice mail and be accessible during all business hours. The Representative will respond to all community queries within the same business day (Monday-Saturday). In addition, the Applicant will provide an emergency point of contact who can be reached 24 hours a day for construction concerns. The name of the key contact and his or her telephone numbers will be conspicuously posted on the Applicant's

property at all times. The Applicant will work with neighboring residents and the surrounding community to designate a single contact person (“Neighborhood Contact Person”), who may change from time to time, to represent the surrounding community. The initial Neighborhood Contact Person shall be designated by the community and will be determined prior to the start of construction activity on the Property. The Neighborhood Contact Person will receive and disseminate information from the Applicant to the community. The Applicant shall provide to the Neighborhood Contact Person, and keep updated, the names of and pertinent information about the Representative, the designee and emergency contact, including their home phone numbers and beeper numbers, as appropriate. In the event that a single Neighborhood Contact Person cannot be agreed upon, the Applicant shall provide the information described in this Plan to the ANC 8B Single-Member District Commissioner for the Property. The Applicant shall ensure that:

- (i) The Applicant’s designated Representative shall: (1) receive notice of violations of the Construction Management Agreement; (2) respond to the person who reported the violation within the same business day (Monday-Saturday); (3) act to remedy the violation as soon as possible; (4) correspond with the Neighborhood Contact Person to explain the complaint, proposed remedy, and timeframe for resolution of the problem; and (5) maintain a log of all complaints received and the steps taken to address the complaints;
- (ii) Before commencing any clearing, grading, or demolition activities, the Applicant shall hold a meeting with the neighboring community to review the construction hauling route, location of construction worker parking, plan for temporary pedestrian and vehicular circulation, and hours and overall schedule for construction. The Applicant further agrees to meet with the neighboring community should the exigencies of construction require modifications to any details specified herein. In addition, the Applicant shall meet with the neighboring community periodically during the construction activities and shall meet with the neighboring community, at a minimum, once every three months in order to address any construction related issues; and
- (iii) Copies of the plan shall be posted on the construction site and provided to each subcontractor before its work commences;
- (h) Contractors: The Applicant will enforce contractor compliance with all rules and regulations described herein with all such conditions included in all general and sub-contractor oral and written contracts. The Applicant will require that all contractors and subcontractors use only licensed vehicles and that they comply with all DC traffic laws and regulations; and

- (i) Permits. All plans and permits will be on-site as required under the DC Construction Code and available for inspection by the community.

C. MISCELLANEOUS

1. The Commission grants the requested flexibility from the Zoning Regulations with regard to:
 - (a) Side yards for four of the townhouse lots and for one of the multi-family buildings (§ 405);
 - (b) Rear yard for 35 of the townhouse lots (§ 404);
 - (c) Lot occupancy for 19 of the townhouse lots (§ 403);
 - (d) Multiple buildings on a single record lot (§ 2516); and
 - (e) The driveway spacing requirements for the front-loaded townhouse lots (§ 2117.9).
2. The Applicant shall have flexibility with the design of the PUD in the following areas:
 - (a) To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration of the structures;
 - (b) To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction; and
 - (c) To make minor refinements to exterior details and dimensions, including balcony enclosures, trash enclosures, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit.
3. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs (“DCRA”). Such covenant shall bind the Applicant and all successors in title to construct and use the Property in accordance with this Order, or amendment thereof by the Zoning Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.

4. The change of zoning from the R-3 Zone District to the R-5-B and SP-1 Zone Districts shall be effective upon the recordation of the covenant discussed in Condition No. C.3, pursuant to 11 DCMR § 3028.9.
5. The consolidated PUD shall remain valid for two years from the effective date of this Order, during which the Applicant must file for a building permit for any of the multi-family buildings or for any of the townhouses, and construction must begin within three years after the effective date of this Order for the PUD to remain valid. Thereafter, for the PUD to remain valid the Applicant must file for a building permit or permits for all of the remaining buildings within five years after the effective date of this Order, and construction must begin within six years after the effective date of this Order. The PUD shall be vested as to any building or buildings for which construction has timely begun.
6. The first-stage PUD approval shall be valid for a period of one year from the effective date of this Order.
7. The Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of this Order at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning.
8. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On February 29, 2016, upon the motion of Commissioner Miller, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On April 11, 2016, upon the motion of Vice Chairperson Cohen, 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 approve).

In accordance with the provisions of 11 DCMR § 2038, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on May 20, 2016.

District of Columbia REGISTER – May 20, 2016 – Vol. 63 - No. 22 007587 – 007903