

***District of Columbia***

**REGISTER**

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**HIGHLIGHTS**

- D.C. Council enacts Act 21-412, Homeless Shelter Replacement Act of 2016
- D.C. Council schedules a public hearing on Bill 21-0152, Prohibition Against Selling Tobacco Products to Individuals Under 21 Amendment Act of 2015
- D.C. Council schedules a public oversight roundtable on the “Review of DCRA Operations Pertaining to Illegal Construction Inspections, Housing Inspections, Business Licensing and Permitting, Zoning Compliance and Availability of Records to the Public”
- Department of Energy and Environment solicits comments on the Fiscal Year 2017 Project Priority List for the District of Columbia’s Clean Water Construction Grants Program
- Board of Ethics and Government Accountability publishes list of the 2015 ANC Financial Disclosure Certification Filers
- Department of Health Care Finance solicits comments on the Proposed Medical Care Advisory Committee By-Laws
- Department of Human Services announces the availability of the Community Services Block Grant State Plan and Application for Fiscal Years 2017 and 2018

# DISTRICT OF COLUMBIA REGISTER

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ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-412**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JUNE 13, 2016**

To authorize the Mayor to use designated funds, appropriated for the purpose of developing replacement shelter facilities for the DC General Family Shelter and for the apartments used for temporary shelter at 1433 and 1435 Spring Road, N.W., to acquire specified parcels of land, including through the use of eminent domain, and to construct 7 new facilities, in Wards 1, 3, 4, 5, 6, 7, and 8, to provide temporary shelter for families experiencing homelessness.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Homeless Shelter Replacement Act of 2016".

Sec. 2. The Council finds that:

- (1) On a given night in the District, more than 7,000 men, women, and children experience homelessness.
- (2) Each day, the DC General Family Shelter houses approximately 250 families experiencing homelessness.
- (3) The DC General Family Shelter is antiquated and inadequate, and its current conditions limit the District's ability to provide necessary services and support to families experiencing homelessness.
- (4) Best practices suggest that children and families do best when short-term housing is provided in smaller-scale, service-enriched, community-based settings, and it is therefore in the best interest of the District to replace the DC General Family Shelter with a series of facilities throughout the District that provide temporary shelter.
- (5) The apartments used by the District to provide temporary shelter to families experiencing homelessness at 1433 and 1435 Spring Road, N.W. (the "Spring Road Shelter"), are antiquated and in need of replacement, and the District's lease of those apartments is expiring.
- (6) In order to close the DC General Family Shelter and replace the Spring Road Shelter, the District needs to construct new facilities that are safe and dignified spaces for families experiencing homelessness.

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(7) It is in the best interest of the District to construct these new temporary-shelter facilities on District-owned land, in part to avoid the disruption to the provision of services in the continuum of care that would accompany the eventual expiration of leases.

(8) The new shelter facilities will be constructed on District-owned land; however, for 2 sites, the District will need to acquire the necessary property; doing so will advance the important goals of ensuring that the District owns the land on which each of the facilities is constructed and that each of the facilities is located in a different Ward, which in turn will allow the District to provide small-scale, community-based temporary housing services throughout the District.

Sec. 3. (a) The Council authorizes the Mayor to use designated funds, as provided in this section, to provide temporary shelter for families experiencing homelessness by acquiring land, including through the use of eminent domain if necessary, and constructing 6 facilities containing DC General Family Shelter replacement units, as defined in section 2(11A) of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-25; D.C. Official Code § 4-751.01(11A)), to replace the DC General Family Shelter, and one facility containing apartment-style units, as defined in section 2(3) of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-25; D.C. Official Code § 4-751.01(3)), as follows:

(1) The Mayor is authorized to use funds appropriated for capital project HSW01C – Ward 1 Shelter to:

(A) Acquire parcels of land located at 2105 and 2107 10th Street, N.W., and 933 V Street, N.W., Square 358, Lots 5, 6, and 802, including, if necessary, through the exercise of eminent domain in accordance with the procedures set forth in subchapter II of Chapter 13 of Title 16 of the District of Columbia Official Code, after the owner of the site pays any funds owed to the District government due to misclassification of that property that led to lost tax revenue; and

(B) Construct a facility to provide temporary shelter for families experiencing homelessness containing 29 2- and 3-bedroom apartment-style units on the land to be acquired by the District pursuant to subparagraph (A) of this paragraph; provided, that, notwithstanding the requirements of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 *et seq.*), the District may contract with the current property owner for the construction of the facility specified in this subparagraph as part of an agreement to acquire the land; provided further, that if no agreement can be reached with the current property owner for the construction of the facility specified in this subparagraph, the contract for the construction of the facility shall be awarded pursuant to a request for proposals to be issued by the Department of General Services;

(2) The Mayor is authorized to use funds appropriated for capital project HSW03C – Ward 3 Shelter to construct a facility to provide temporary shelter for families experiencing homelessness containing up to 50 DC General Family Shelter replacement units on

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District-owned land at 3320 Idaho Avenue, N.W., Square 1818, Lot 849; provided, that the contract for the construction of the facility shall be awarded pursuant to a request for proposals to be issued by the Department of General Services;

(3) The Mayor is authorized to use funds appropriated for capital project HSW04C – Ward 4 Shelter to:

(A) Acquire the parcel of land located at 5505 Fifth Street, N.W., Square 3260, Lot 54, including, if necessary, through the exercise of eminent domain in accordance with the procedures set forth in subchapter II of Chapter 13 of Title 16 of the District of Columbia Official Code; and

(B) Construct a facility to provide temporary shelter for families experiencing homelessness containing 49 DC General Family Shelter replacement units on the land to be acquired by the District pursuant to subparagraph (A) of this paragraph; provided, that, notwithstanding the requirements of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 *et seq.*), the District may contract with the current property owner for the construction of the facility specified in this subparagraph as part of an agreement to acquire the land; provided further, that if no agreement can be reached with the current property owner for the construction of the facility specified in this subparagraph, the contract for the construction of the facility shall be awarded pursuant to a request for proposals to be issued by the Department of General Services;

(4) The Mayor is authorized to use funds appropriated for capital project HSW05C – Ward 5 Shelter to construct a facility to provide temporary shelter for families experiencing homelessness containing up to 50 DC General Family Shelter replacement units on District-owned land at 1700 Rhode Island Avenue, N.E., Square 4134, Lot 800; provided, that the contract for the construction of the facility shall be awarded pursuant to a request for proposals to be issued by the Department of General Services;

(5) The Mayor is authorized to use funds appropriated for capital project HSW06C – Ward 6 Shelter to construct a facility to provide temporary shelter for families experiencing homelessness containing 50 DC General Family Shelter replacement units on District-owned land at 850 Delaware Avenue, S.W., Square 590E, Lot 800; provided, that the contract for the construction of the facility shall be awarded pursuant to a request for proposals to be issued by the Department of General Services; and further provided, that the site also may be utilized to locate a health-services facility serving families experiencing homelessness and to locate an intake center to replace the services provided at the Virginia A. Williams Family Resource Center;

(6) The Mayor is authorized to use funds appropriated for capital project HSW07C – Ward 7 Shelter to construct a facility to provide temporary shelter for families experiencing homelessness containing 35 DC General Family Shelter replacement units on District-owned land at 5004 D Street, S.E., Square 5322, Lot 32; provided, that the contract for the construction of the facility shall be awarded pursuant to a request for proposals to be issued by the Department of General Services; and

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(7) The Mayor is authorized to use funds appropriated for capital project HSW08C – Ward 8 Shelter to construct a facility to provide temporary shelter for families experiencing homelessness containing 50 DC General Family Shelter replacement units on District-owned land at 4200 (assumed) 6th Street, S.E., Square 6207, Lots 53, 54, 55, and 56; provided, that the contract for the construction of the facility shall be awarded pursuant to a request for proposals to be issued by the Department of General Services.

(b) There is authorized to be appropriated sums of money not exceeding \$100 million for the purposes set forth in subsection (a) of this section.

(c) The Mayor is authorized to use funds appropriated for capital project THK16C – Temporary and Permanent Supportive Housing Pool Project for any acquisition or construction authorized by subsection (a) of this section, the cost of which exceeds the amounts appropriated for capital projects HSW01C – Ward 1 Shelter, HSW03C – Ward 3 Shelter, HSW04C – Ward 4 Shelter, HSW05C – Ward 5 Shelter, HSW06C – Ward 6 Shelter, HSW07C – Ward 7 Shelter, or HSW08C – Ward 8 Shelter. There is authorized to be appropriated sums of money not exceeding \$25 million for the purposes of this subsection.

(d) Consistent with section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), the Mayor shall submit to the Council for its approval any contract entered into pursuant to this act involving expenditures in excess of \$1 million during a 12-month period.

(e) Any use of funds appropriated for capital projects HSW01C – Ward 1 Shelter, HSW03C – Ward 3 Shelter, HSW04C – Ward 4 Shelter, HSW05C – Ward 5 Shelter, HSW06C – Ward 6 Shelter, HSW07C – Ward 7 Shelter, HSW08C – Ward 8 Shelter, or THK16C – Temporary and Permanent Supportive Housing Pool Project inconsistent with this act is prohibited.

(f) The District shall seek to issue tax-exempt bonds to finance these projects such that the Chief Financial Officer of the District shall be satisfied that the proposed business arrangements with respect to the use and user of a proposed project shall not create a private business use within the meaning of the applicable Internal Revenue Service rules and regulations.

#### 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.

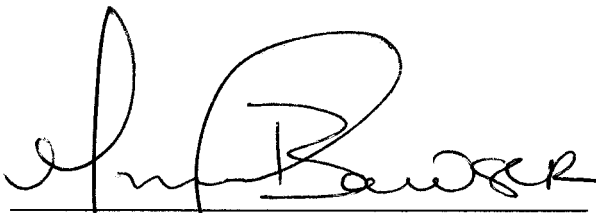
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
June 13, 2016

## ENROLLED ORIGINAL

## A RESOLUTION

21-500

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 7, 2016

To authorize and provide for the issuance, sale, and delivery in an aggregate principal amount not to exceed \$52 million of District of Columbia revenue bonds in one or more series and to authorize and provide for the loan of the proceeds of such bonds to assist International Spy Museum in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “International Spy Museum Revenue Bonds Project Approval Resolution of 2016”.

Sec. 2. Definitions.

For the purposes of this resolution, the term:

(1) “Authorized Delegate” means the Mayor or the Deputy Mayor for Planning and Economic Development, or any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated or to whom the foregoing individuals have subdelegated any of the Mayor’s functions under this resolution pursuant to section 422(6) of the Home Rule Act.

(2) “Bond Counsel” means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(3) “Bonds” means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this resolution.

(4) “Borrower” means the owner, operator, manager, and user of the assets to be financed, refinanced, or reimbursed with proceeds from the Bonds, which shall be the International Spy Museum, a corporation organized under the laws of the State of Ohio, and exempt from federal income taxes under 26 U.S.C § 501(a) as an organization described in 26 U.S.C. § 501(c)(3).

(5) “Chairman” means the Chairman of the Council of the District of Columbia.

(6) “Closing Documents” means all documents and agreements other than Financing Documents that may be necessary and appropriate to issue, sell, and deliver the Bonds and to make the Loan contemplated thereby, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(7) “District” means the District of Columbia.

(8) “Financing Documents” means the documents other than Closing Documents



## ENROLLED ORIGINAL

that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the Bonds and the making of the Loan, including any offering document, and any required supplements to any such documents.

(9) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

(10) "Issuance Costs" means all fees, costs, charges, and expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of the Bonds and the making of the Loan, including, but not limited to, underwriting, legal, accounting, rating agency, and all other fees, costs, charges, and expenses incurred in connection with the development and implementation of the Financing Documents, the Closing Documents, and those other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of the Bonds and the making of the Loan contemplated thereby, together with financing fees, costs, and expenses, including program fees and administrative fees charged by the District, fees paid to financial institutions and insurance companies, initial letter of credit fees (if any), compensation to financial advisors and other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents for the District.

(11) "Loan" means the District's lending of proceeds from the sale, in one or more series, of the Bonds to the Borrower.

(12) "Project" means the financing, refinancing, or reimbursing of all or a portion of the Borrower's costs of:

(A) Acquiring and constructing a new museum facility of approximately 110,000 square feet (together with associated parking facilities and other property, real and personal, functionally related and subordinate thereto) on certain air rights above a portion of the vacant land commonly known as the Center Parcel of L'Enfant Plaza, located at 900 L'Enfant Plaza, S.W., Washington, D.C. 20024 (Lot 7003, Square 387) to house the International Spy Museum;

(B) Paying certain working capital expenditures associated with the foregoing, to the extent financeable; and

(C) Paying allowable Issuance Costs.

### Sec. 3. Findings.

The Council finds that:

(1) Section 490 of the Home Rule Act provides that the Council may by resolution authorize the issuance of District revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance, refinance, or reimburse and to assist in the financing, refinancing, or reimbursing of undertakings in certain areas designated in section 490 and may effect the financing, refinancing, or reimbursement by loans made directly or indirectly to any individual or legal entity, by the purchase of any mortgage, note, or other security, or by the purchase, lease, or sale of any property.

(2) The Borrower has requested the District to issue, sell, and deliver revenue

## ENROLLED ORIGINAL

bonds, in one or more series, in an aggregate principal amount not to exceed \$52 million, and to make the Loan for the purpose of financing, refinancing, or reimbursing costs of the Project.

(3) The Project is located in the District and will contribute to the health, education, safety, or welfare of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District.

(4) The Project is an undertaking in the area of elementary, secondary and college and university facilities within the meaning of section 490 of the Home Rule Act.

(5) The authorization, issuance, sale, and delivery of the Bonds and the Loan to the Borrower are desirable, are in the public interest, will promote the purpose and intent of section 490 of the Home Rule Act, and will assist the Project.

#### Sec. 4. Bond authorization.

(a) The Mayor is authorized pursuant to the Home Rule Act and this resolution to assist in financing, refinancing, or reimbursing the costs of the Project by:

(1) The issuance, sale, and delivery of the Bonds, in one or more series, in an aggregate principal amount not to exceed \$52 million; and

(2) The making of the Loan.

(b) The Mayor is authorized to make the Loan to the Borrower for the purpose of financing, refinancing, or reimbursing the costs of the Project and establishing any fund with respect to the Bonds as required by the Financing Documents.

(c) The Mayor may charge a program fee to the Borrower, including, but not limited to, an amount sufficient to cover costs and expenses incurred by the District in connection with the issuance, sale, and delivery of each series of the Bonds, the District's participation in the monitoring of the use of the Bond proceeds and compliance with any public benefit agreements with the District, and maintaining official records of each bond transaction and assisting in the redemption, repurchase, and remarketing of the Bonds.

#### Sec. 5. Bond details.

(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this resolution in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the Bonds of each series, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the Bonds, including a determination that the Bonds may be issued in certificated or book-entry form;

(2) The principal amount of the Bonds to be issued and denominations of the Bonds;

(3) The rate or rates of interest or the method for determining the rate or rates of interest on the Bonds;

(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on the Bonds, and the maturity date or dates of the Bonds;

(5) The terms under which the Bonds may be paid, optionally or mandatorily

## ENROLLED ORIGINAL

redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

(6) Provisions for the registration, transfer, and exchange of the Bonds and the replacement of mutilated, lost, stolen, or destroyed Bonds;

(7) The creation of any reserve fund, sinking fund, or other fund with respect to the Bonds;

(8) The time and place of payment of the Bonds;

(9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure that the proceeds are properly applied to the Project and used to accomplish the purposes of the Home Rule Act and this resolution;

(10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the Bonds are marketed; and

(11) The terms and types of credit enhancement under which the Bonds may be secured.

(b) The Bonds shall contain a legend, which shall provide that the Bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve the faith and credit or the taxing power of the District, do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary of the District of Columbia's manual or facsimile signature. The Mayor's execution and delivery of the Bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the Bonds.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds.

(e) The Bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee to be selected by the Borrower subject to the approval of the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act.

(f) The Bonds may be issued at any time or from time to time in one or more issues and in one or more series.

#### Sec. 6. Sale of the Bonds.

(a) The Bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interest of the District.

(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the Bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters and may authorize the distribution of the documents in connection with the sale of the

## ENROLLED ORIGINAL

Bonds.

(c) The Mayor is authorized to deliver the executed and sealed Bonds, on behalf of the District, for authentication, and, after the Bonds have been authenticated, to deliver the Bonds to the original purchasers of the Bonds upon payment of the purchase price.

(d) The Bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the Bonds of such series and, if the interest on the Bonds is expected to be exempt from federal income taxation, the treatment of the interest on the Bonds for purposes of federal income taxation.

Sec. 7. Payment and security.

(a) The principal of, premium, if any, and interest on, the Bonds shall be payable solely from proceeds received from the sale of the Bonds, income realized from the temporary investment of those proceeds, receipts and revenues realized by the District from the Loan, income realized from the temporary investment of those receipts and revenues prior to payment to the Bond owners, other moneys that, as provided in the Financing Documents, may be made available to the District for the payment of the Bonds, and other sources of payment (other than from the District), all as provided for in the Financing Documents.

(b) Payment of the Bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the Bond owners of certain of its rights under the Financing Documents and Closing Documents, including a security interest in certain collateral, if any, to the trustee for the Bonds pursuant to the Financing Documents.

(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the Bonds pursuant to the Financing Documents.

Sec. 8. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents that may be necessary or appropriate to issue, sell, and deliver the Bonds and to make the Loan to the Borrower.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Financing Documents and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the Bonds, and to ensure the due performance of the obligations of the District contained

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in the executed, sealed, and delivered Financing Documents and Closing Documents.

Sec. 9. Authorized delegation of authority.

To the extent permitted by District and federal laws, the Mayor may delegate to any Authorized Delegate the performance of any function authorized to be performed by the Mayor under this resolution.

Sec. 10. Limited liability.

(a) The Bonds shall be special obligations of the District. The Bonds shall be without recourse to the District. The Bonds shall not be general obligations of the District, shall not be a pledge of or involve the faith and credit or the taxing power of the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(b) The Bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the Bonds.

(c) Nothing contained in the Bonds, in the Financing Documents, or in the Closing Documents shall create an obligation on the part of the District to make payments with respect to the Bonds from sources other than those listed for that purpose in section 7.

(d) The District shall have no liability for the payment of any Issuance Costs or for any transaction or event to be effected by the Financing Documents.

(e) All covenants, obligations, and agreements of the District contained in this resolution, the Bonds, and the executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this resolution.

(f) No person, including, but not limited to, the Borrower and any Bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District or any of its elected or appointed officials, officers, employees, or agents to perform any covenant, undertaking, or obligation under this resolution, the Bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

Sec. 11. District officials.

(a) Except as otherwise provided in section 10(f), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the Bonds or be subject to any personal liability by reason of the issuance, sale, or delivery of the Bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this resolution, the Bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of

**ENROLLED ORIGINAL**

any official appearing on the Bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the Bonds, the Financing Documents, or the Closing Documents.

Sec. 12. Maintenance of documents.

Copies of the specimen Bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

Sec. 13. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the Bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

Sec. 14. Disclaimer.

(a) The issuance of Bonds is in the discretion of the District. Nothing contained in this resolution, the Bonds, the Financing Documents, or the Closing Documents shall be construed as obligating the District to issue any Bonds for the benefit of the Borrower or to participate in or assist the Borrower in any way with financing, refinancing, or reimbursing the costs of the Project. The Borrower shall have no claims for damages or for any other legal or equitable relief against the District, its elected or appointed officials, officers, employees, or agents as a consequence of any failure to issue any Bonds for the benefit of the Borrower.

(b) The District reserves the right to issue the Bonds in the order or priority it determines in its sole and absolute discretion. The District gives no assurance and makes no representations that any portion of any limited amount of bonds or other obligations, the interest on which is excludable from gross income for federal income tax purposes, will be reserved or will be available at the time of the proposed issuance of the Bonds.

(c) The District, by adopting this resolution or by taking any other action in connection with financing, refinancing, or reimbursing costs of the Project, does not provide any assurance that the Project is viable or sound, that the Borrower is financially sound, or that amounts owing on the Bonds or pursuant to the Loan will be paid. Neither the Borrower, any purchaser of the Bonds, nor any other person shall rely upon the District with respect to these matters.

Sec. 15. Expiration.

If any Bonds are not issued, sold, and delivered to the original purchaser within 3 years of the date of this resolution, the authorization provided in this resolution with respect to the issuance, sale, and delivery of the Bonds shall expire.

Sec. 16. Severability.

If any particular provision of this resolution, or the application thereof to any person or circumstance is held invalid, the remainder of this resolution and the application of such provision

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to other persons or circumstances shall not be affected thereby. If any action or inaction contemplated under this resolution is determined to be contrary to the requirements of applicable law, such action or inaction shall not be necessary for the purpose of issuing the Bonds, and the validity of the Bonds shall not be adversely affected.

**Sec. 17. Compliance with public approval requirement.**

This approval shall constitute the approval of the Council as required in section 147(f) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2635; 26 U.S.C. § 147(f)), and section 490(k) of the Home Rule Act, for the Project to be financed, refinanced, or reimbursed with the proceeds of the Bonds. This resolution approving the issuance of the Bonds for the Project has been adopted by the Council after a public hearing held at least 14 days after publication of notice in a newspaper of general circulation in the District.

**Sec. 18. Transmittal.**

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

**Sec. 19. 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. 20. Effective date.**

This resolution shall take effect immediately.

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A RESOLUTION

21-501

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 7, 2016

To authorize and provide for the issuance, sale, and delivery in an aggregate principal amount not to exceed \$7.5 million of District of Columbia revenue bonds in one or more series and to authorize and provide for the loan of the proceeds of such bonds to assist Integrated Design and Electronics Academy Public Charter School in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Integrated Design and Electronics Academy Public Charter School Revenue Bonds Project Approval Resolution of 2016”.

Sec. 2. Definitions.

For the purposes of this resolution, the term:

(1) “Authorized Delegate” means the Mayor or the Deputy Mayor for Planning and Economic Development, or any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated or to whom the foregoing individuals have subdelegated any of the Mayor’s functions under this resolution pursuant to section 422(6) of the Home Rule Act.

(2) “Bond Counsel” means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(3) “Bonds” means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this resolution.

(4) “Borrower” means the owner of the assets financed, refinanced, or reimbursed with proceeds from the Bonds, which shall be Integrated Design and Electronics Academy Public Charter School, a nonprofit corporation organized under the laws of the District of Columbia, which is exempt from federal income taxes under 26 U.S.C § 501(a) as an organization described in 26 U.S.C. § 501(c)(3) and organized under the laws of the District and which is liable for the repayment of the Bonds.

(5) “Chairman” means the Chairman of the Council of the District of Columbia.

(6) “Closing Documents” means all documents and agreements, other than Financing Documents, that may be necessary and appropriate to issue, sell, and deliver the Bonds and to make the Loan, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.



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(7) "District" means the District of Columbia.

(8) "Financing Documents" means the documents, other than Closing Documents, that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the Bonds and the making of the Loan, including any offering document, and any required supplements to any such documents.

(9) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

(10) "Issuance Costs" means all fees, costs, charges, and expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of the Bonds and the making of the Loan, including, but not limited to, underwriting, legal, accounting, rating agency, and all other fees, costs, charges, and expenses incurred in connection with the development and implementation of the Financing Documents, the Closing Documents, and those other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of the Bonds and the making of the Loan, together with financing fees, costs, and expenses, including program fees and administrative fees charged by the District, fees paid to financial institutions and insurance companies, initial letter of credit fees (if any), and compensation to financial advisors and other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents for the District.

(11) "Loan" means the District's lending of proceeds from the sale, in one or more series, of the Bonds to the Borrower.

(12) "Mayor" means the Mayor of the District of Columbia.

(13) "Project" means the financing, refinancing, or reimbursing of all or a portion of the Borrower's costs of:

(A) The acquisition, development, construction and renovation of a public charter high school campus located at 1027 45<sup>th</sup> Street, N.E., Washington, D.C. 20019 (Lot 0169, Square 5155) ("Facility"), including the refinancing of certain existing debt related to the Facility;

(B) The purchase of equipment and furnishings, together with other property, real and personal, functionally related and subordinate thereto;

(C) Funding certain working capital costs directly related to the Facility, to the extent financeable;

(D) Funding any credit enhancement costs, liquidity costs, or debt service reserve fund; and

(E) Paying Issuance Costs and other related costs to the extent permissible.

### Sec. 3. Findings.

The Council finds that:

(1) Section 490 of the Home Rule Act provides that the Council may, by resolution, authorize the issuance of District revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance, refinance,

**ENROLLED ORIGINAL**

or reimburse costs, and to assist in the financing, refinancing, or reimbursing of, the costs of undertakings in certain areas designated in section 490 and may effect the financing, refinancing, or reimbursement by loans made directly or indirectly to any individual or legal entity, by the purchase of any mortgage, note, or other security, or by the purchase, lease, or sale of any property.

(2) The Borrower has requested the District to issue, sell, and deliver revenue bonds, in one or more series pursuant to a plan of finance, in an aggregate principal amount not to exceed \$7.5 million, and to make the Loan for the purpose of financing, refinancing, or reimbursing costs of the Project.

(3) The Project is located in the District and will contribute to the health, education, safety, or welfare of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District.

(4) The Project is an undertaking in the area of elementary and secondary school facilities, within the meaning of section 490 of the Home Rule Act.

(5) The authorization, issuance, sale, and delivery of the Bonds and the Loan to the Borrower are desirable, are in the public interest, will promote the purpose and intent of section 490 of the Home Rule Act, and will assist the Project.

**Sec. 4. Bond authorization.**

(a) The Mayor is authorized pursuant to the Home Rule Act and this resolution to assist in financing, refinancing, or reimbursing the costs of the Project by:

(1) The issuance, sale, and delivery of the Bonds, in one or more series, in an aggregate principal amount not to exceed \$7.5 million; and

(2) The making of the Loan.

(b) The Mayor is authorized to make the Loan to the Borrower for the purpose of financing, refinancing, or reimbursing the costs of the Project and establishing any fund with respect to the Bonds as required by the Financing Documents.

(c) The Mayor may charge a program fee to the Borrower, including, but not limited to, an amount sufficient to cover costs and expenses incurred by the District in connection with the issuance, sale, and delivery of each series of the Bonds, the District's participation in the monitoring of the use of the Bond proceeds and compliance with any public benefit agreements with the District, and maintaining official records of each bond transaction, and assisting in the redemption, repurchase, and remarketing of the Bonds.

**Sec. 5. Bond details.**

(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this resolution in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the Bonds of each series, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the Bonds, including a determination that the Bonds may be issued in certificated or book-entry form;

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- Bonds;
- (2) The principal amount of the Bonds to be issued and denominations of the Bonds;
  - (3) The rate or rates of interest or the method for determining the rate or rates of interest on the Bonds;
  - (4) The date or dates of issuance, sale, and delivery of, and the payment of interest on, the Bonds, and the maturity date or dates of the Bonds;
  - (5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;
  - (6) Provisions for the registration, transfer, and exchange of the Bonds and the replacement of mutilated, lost, stolen, or destroyed Bonds;
  - (7) The creation of any reserve fund, sinking fund, or other fund with respect to the Bonds;
  - (8) The time and place of payment of the Bonds;
  - (9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure that the proceeds are properly applied to the Project and used to accomplish the purposes of the Home Rule Act and this resolution;
  - (10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the Bonds are marketed; and
  - (11) The terms and types of credit enhancement under which the Bonds may be secured.
- (b) The Bonds shall contain a legend, which shall provide that the Bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve the faith and credit or the taxing power of the District, do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.
- (c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary of the District of Columbia's manual or facsimile signature. The Mayor's execution and delivery of the Bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the Bonds.
- (d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds.
- (e) The Bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee to be selected by the Borrower subject to the approval of the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act.
- (f) The Bonds may be issued at any time or from time to time in one or more issues and in one or more series.

**ENROLLED ORIGINAL**

## Sec. 6. Sale of the Bonds.

(a) The Bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interest of the District.

(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the Bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters and may authorize the distribution of the documents in connection with the sale of the Bonds.

(c) The Mayor is authorized to deliver the executed and sealed Bonds, on behalf of the District, for authentication, and, after the Bonds have been authenticated, to deliver the Bonds to the original purchasers of the Bonds upon payment of the purchase price.

(d) The Bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the Bonds of such series and, if the interest on the Bonds is expected to be exempt from federal income taxation, the treatment of the interest on the Bonds for purposes of federal income taxation.

## Sec. 7. Payment and security.

(a) The principal of, premium, if any, and interest on, the Bonds shall be payable solely from proceeds received from the sale of the Bonds, income realized from the temporary investment of those proceeds, receipts and revenues realized by the District from the Loan, income realized from the temporary investment of those receipts and revenues prior to payment to the Bond owners, other moneys that, as provided in the Financing Documents, may be made available to the District for the payment of the Bonds, and other sources of payment (other than from the District), all as provided for in the Financing Documents.

(b) Payment of the Bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the Bond owners of certain of its rights under the Financing Documents and Closing Documents, including a security interest in certain collateral, if any, to the trustee for the Bonds pursuant to the Financing Documents.

(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the Bonds pursuant to the Financing Documents.

## Sec. 8. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the Bonds and to make the Loan to the Borrower. Each of the Financing Documents and each of the Closing Documents to which the District is not a party shall be approved, as to form and content, by the Mayor.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

**ENROLLED ORIGINAL**

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Financing Documents and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the Bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

**Sec. 9. Authorized delegation of authority.**

To the extent permitted by District and federal laws, the Mayor may delegate to any Authorized Delegate the performance of any function authorized to be performed by the Mayor under this resolution.

**Sec. 10. Limited liability.**

(a) The Bonds shall be special obligations of the District. The Bonds shall be without recourse to the District. The Bonds shall not be general obligations of the District, shall not be a pledge of, or involve the faith and credit or the taxing power of, the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(b) The Bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the Bonds.

(c) Nothing contained in the Bonds, in the Financing Documents, or in the Closing Documents shall create an obligation on the part of the District to make payments with respect to the Bonds from sources other than those listed for that purpose in section 7.

(d) The District shall have no liability for the payment of any Issuance Costs or for any transaction or event to be effected by the Financing Documents.

(e) All covenants, obligations, and agreements of the District contained in this resolution, the Bonds, and the executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this resolution.

(f) No person, including, but not limited to, the Borrower and any Bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District or any of its elected or appointed officials, officers, employees, or agents to perform any covenant, undertaking, or obligation under this resolution, the Bonds, the Financing Documents, or the Closing

**ENROLLED ORIGINAL**

Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

**Sec. 11. District officials.**

(a) Except as otherwise provided in section 10(f), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the Bonds or be subject to any personal liability by reason of the issuance, sale, or delivery of the Bonds or for any representations, warranties, covenants, obligations, or agreements of the District contained in this resolution, the Bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the Bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the Bonds, the Financing Documents, or the Closing Documents.

**Sec. 12. Maintenance of documents.**

Copies of the specimen Bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

**Sec. 13. Information reporting.**

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the Bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

**Sec. 14. Disclaimer.**

(a) The issuance of Bonds is in the discretion of the District. Nothing contained in this resolution, the Bonds, the Financing Documents, or the Closing Documents shall be construed as obligating the District to issue any Bonds for the benefit of the Borrower or to participate in or assist the Borrower in any way with financing, refinancing, or reimbursing the costs of the Project. The Borrower shall have no claims for damages or for any other legal or equitable relief against the District, its elected or appointed officials, officers, employees, or agents as a consequence of any failure to issue any Bonds for the benefit of the Borrower.

(b) The District reserves the right to issue the Bonds in the order or priority it determines in its sole and absolute discretion. The District gives no assurance and makes no representations that any portion of any limited amount of bonds or other obligations, the interest on which is excludable from gross income for federal income tax purposes, will be reserved or will be available at the time of the proposed issuance of the Bonds.

(c) The District, by adopting this resolution or by taking any other action in connection with financing, refinancing, or reimbursing costs of the Project, does not provide any assurance

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that the Project is viable or sound, that the Borrower is financially sound, or that amounts owing on the Bonds or pursuant to the Loan will be paid. Neither the Borrower, any purchaser of the Bonds, nor any other person shall rely upon the District with respect to these matters.

**Sec. 15. Expiration.**

If any Bonds are not issued, sold, and delivered to the original purchaser within 3 years of the date of this resolution, the authorization provided in this resolution with respect to the issuance, sale, and delivery of the Bonds shall expire.

**Sec. 16. Severability.**

If any particular provision of this resolution or the application thereof to any person or circumstance is held invalid, the remainder of this resolution and the application of such provision to other persons or circumstances shall not be affected thereby. If any action or inaction contemplated under this resolution is determined to be contrary to the requirements of applicable law, such action or inaction shall not be necessary for the purpose of issuing of the Bonds, and the validity of the Bonds shall not be adversely affected.

**Sec. 17. Compliance with public approval requirement.**

This approval shall constitute the approval of the Council as required in section 147(f) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2635; 26 U.S.C. § 147(f)), and section 490(k) of the Home Rule Act, for the Project to be financed, refinanced, or reimbursed with the proceeds of the Bonds. This resolution approving the issuance of the Bonds for the Project has been adopted by the Council after a public hearing held at least 14 days after publication of notice in a newspaper of general circulation in the District.

**Sec. 18. Transmittal.**

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

**Sec. 19. 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. 20. Effective date.**

This resolution shall take effect immediately.

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**NOTICE OF INTENT TO ACT ON NEW LEGISLATION**

The Council of the District of Columbia hereby gives notice of its intention to consider the following legislative matters for final Council action in not less than **15 days**. Referrals of legislation to various committees of the Council are listed below and are subject to change at the legislative meeting immediately following or coinciding with the date of introduction. It is also noted that legislation may be co-sponsored by other Councilmembers after its introduction.

Interested persons wishing to comment may do so in writing addressed to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, NW, Room 5, Washington, D.C. 20004. Copies of bills and proposed resolutions are available in the Legislative Services Division, 1350 Pennsylvania Avenue, NW, Room 10, Washington, D.C. 20004 Telephone: 724-8050 or online at [www.dccouncil.us](http://www.dccouncil.us).

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**COUNCIL OF THE DISTRICT OF COLUMBIA**

**PROPOSED LEGISLATION**

**PROPOSED RESOLUTION**

PR21-801      West Dupont Circle Moratorium Zone Approval Resolution of 2016

Intro. 6-7-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs

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**Council of the District of Columbia  
COMMITTEE ON THE JUDICIARY AND COMMITTEE ON  
HEALTH AND HUMAN SERVICES  
NOTICE OF JOINT PUBLIC HEARING  
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

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**COUNCILMEMBER KENYAN R. McDUFFIE, CHAIRPERSON  
COMMITTEE ON THE JUDICIARY**

**AND**

**COUNCILMEMBER YVETTE ALEXANDER, CHAIRPERSON  
COMMITTEE ON HEALTH AND HUMAN SERVICES**

**ANNOUNCE A JOINT PUBLIC HEARING ON**

**BILL 21-0152, THE “PROHIBITION AGAINST SELLING TOBACCO PRODUCTS TO  
INDIVIDUALS UNDER 21 AMENDMENT ACT OF 2015”**

**AND**

**BILL 21-0686, THE “SPORTING EVENTS SMOKING AND SMOKELESS TOBACCO  
RESTRICTION AMENDMENT ACT OF 2016”**

**Thursday, July 7, 2016, 2:00 p.m.  
Room 412, John A. Wilson Building  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004**

On Thursday, July 7, 2016, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on the Judiciary, and Councilmember Yvette Alexander, Chairperson of the Committee on Health & Human Services, will hold a joint public hearing on Bill 21-0152, the “Prohibition Against Selling Tobacco Products to Individuals Under 21 Amendment Act of 2015”, and Bill 21-0686, the “Sporting Events Smoking and Smokeless Tobacco Restriction Amendment Act of 2016”. The hearing will be held in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 2:00 p.m.

The stated purpose of Bill 21-0152 is to amend District law to prohibit (1) the sale of tobacco to individuals under the age of 21; and (2) the issuance of vending machine operator’s licenses for the sale of tobacco products in an establishment that admits persons under the age of 21.

The stated purpose of Bill 21-0686 is to amend the District of Columbia Smoking Restriction Act of 1979 to prohibit smoking and the use of smokeless tobacco at organized sporting events. The bill also requires that signage be posted at organized sporting events to reflect that smokeless tobacco is prohibited and to clearly state the maximum fine for violation.

The Committees invite the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact the Committee on the Judiciary at (202) 724-7808, or via e-mail at [judiciary@dccouncil.us](mailto:judiciary@dccouncil.us), and provide their name, telephone number, organizational affiliation, and title (if any) **by close of business, July 1, 2016**. Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witnesses should bring **twenty, single-sided copies** of their written testimony and, if possible, also submit a copy of their testimony electronically to [judiciary@dccouncil.us](mailto:judiciary@dccouncil.us).

For witnesses who are unable to testify at the hearing, written statements will be made part of the official record. Copies of written statements should be submitted either to the Committee on the Judiciary or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. **The record will close at the end of the business day on July 21, 2016.**

**Council of the District of Columbia  
Committee on Finance and Revenue  
Notice of Joint Public Hearing**

John A. Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004

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**REVISED/ABBREVIATED**

**COUNCILMEMBER JACK EVANS, CHAIR  
COMMITTEE ON FINANCE AND REVENUE  
And  
CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE**

**ANNOUNCE A JOINT PUBLIC HEARING ON:**

**Bill 21-635, the “Washington Metropolitan Area Transit Authority Compact Amendment Act of 2016”**

**Thursday, June 30, 2016**

**10:30 a.m.**

**Room 412 - John A. Wilson Building**

**1350 Pennsylvania Avenue, NW, Washington, D.C. 20004**

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, and Chairman Phil Mendelson, Chairman of the Committee of the Whole announce a joint public hearing to be held on Thursday, June 30, 2016 at 10:30 a.m. in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

Bill 21-635, the “Washington Metropolitan Area Transit Authority Compact Amendment Act of 2016”, would amend Title III of the Washington Metropolitan Area Transit Regulation Compact to clarify that members of the Board of Directors representing the federal government shall be appointed by the Secretary of the U.S. Department of Transportation, and not the Administrator of the U.S. General Services Administration.

The Committees invite the public to testify at the hearing. Those who wish to testify should contact Sarina Loy, Committee Aide, Committee on Finance and Revenue, at (202) 724-8058 or [sloy@dccouncil.us](mailto:sloy@dccouncil.us), and provide your name, organizational affiliation (if any), and title with the organization by 10:30 a.m. on Wednesday, June 29, 2016. Witnesses should bring 15 copies of their written testimony to the hearing. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to [sloy@dccouncil.us](mailto:sloy@dccouncil.us) or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004. **This hearing notice has been revised/abbreviated to reflect a change in date, time and room location.**

**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE ON EDUCATION  
NOTICE OF PUBLIC HEARING**  
1350 Pennsylvania Avenue, NW, Washington, DC 20004

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

on the

**B21-777, “Planning Actively for Comprehensive Education Facilities  
Amendment Act of 2016”**

on

**Monday, July 11, 2016  
1:00 p.m., Hearing Room 412, John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004**

Councilmember David Grosso announces the scheduling of a public hearing of the Committee on Education on B21-777, the “Planning Actively for Comprehensive Education Facilities Amendment Act of 2016.” The hearing will be held at 1:00 p.m. on Monday, July 11, 2016 in Room 412 of the John A. Wilson Building.

The stated purpose of B21-777 is to amend the School Based Budgeting and Accountability Act of 1998 to require a 10-year Master Facilities Plan and bi-annual supplement which considers the facility planning needs of each local education agency in the District of Columbia. The legislation also amends the requirements for the formulation of the 6-year DCPS capital improvement plan.

Those who wish to testify may sign-up online at <http://bit.do/educationhearings> or call the Committee on Education at (202) 724-8061 by 5:00pm Thursday, July 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 July 25, 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  
*Revised*

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**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**

**Wednesday, July 13, 2016, 10:00 A.M.  
John A. Wilson Building, Room 500  
1350 Pennsylvania Avenue, N.W.  
Washington, DC 20004**

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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 Wednesday, July 13, 2016 at 10:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Ave., NW, Washington, DC 20004. *The notice is being updated to reflect the change of the date of the public oversight roundtable from Tuesday, July 12, 2016 to Wednesday, July 13, 2016. The change of date is necessary since an additional legislative meeting has been called on Tuesday, July 12, 2016.*

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](mailto:fcaldwell@dccouncil.us) and provide their name(s), address, telephone number, email address and organizational affiliation, if any, by close of business Monday, July 11, 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 Wednesday, July 27, 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

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**NOTICE OF PUBLIC ROUNDTABLE ON**

- PR 21-0674, the Food Policy Council Alexandra Ashbrook Confirmation Resolution of 2016,**  
**PR 21-0675, the Food Policy Council Christopher Bradshaw Confirmation Resolution of 2016,**  
**PR 21-0677, the Food Policy Council Caesar Layton Confirmation Resolution of 2016,**  
**PR 21-0678, the Food Policy Council Alexander Moore Confirmation Resolution of 2016,**  
**PR 21-0679, the Food Policy Council Paula Reichel Confirmation Resolution of 2016,**  
**PR 21-0680, the Food Policy Council Joelle Robinson Confirmation Resolution of 2016,**  
**and**  
**PR 21-0681, the Food Policy Council Tambra Raye Stevenson Confirmation Resolution of 2016**

Wednesday, June 29, 2016  
at 11:00 a.m.  
in Room 500 of the  
John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

On Wednesday, June 29, 2016, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public roundtable on PR 21-0674, the Food Policy Council Alexandra Ashbrook Confirmation Resolution of 2016, PR 21-0675, the Food Policy Council Christopher Bradshaw Confirmation Resolution of 2016, PR 21-0677, the Food Policy Council Caesar Layton Confirmation Resolution of 2016, PR 21-0678, the Food Policy Council Alexander Moore Confirmation Resolution of 2016, PR 21-0679, the Food Policy Council Paula Reichel Confirmation Resolution of 2016, PR 21-0680, the Food Policy Council Joelle Robinson Confirmation Resolution of 2016, and PR 21-0681, the Food Policy Council Tambra Raye Stevenson Confirmation Resolution of 2016. This legislation would confirm Alexandra Ashbrook, Christopher Bradshaw, Caesar Layton, Alexander Moore, Paula Reichel, Joelle Robinson, and Tambra Raye Stevenson as voting members of the Food Policy Council. The roundtable will begin at 11:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official Hearing Record. Anyone wishing to testify should contact Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, at (202) 724-8062 or via e-mail at [abenjamin@dccouncil.us](mailto: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](mailto: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](mailto:abenjamin@dccouncil.us) or faxed to (202) 724-8118. The record will close at the end of the business day on July 6, 2016.



**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**Notice of Reprogramming Requests**

Pursuant to DC Official Code Sec 47-361 et seq. of the Reprogramming Policy Act of 1990, the Council of the District of Columbia gives notice that the Mayor has transmitted the following reprogramming request(s).

A reprogramming will become effective on the 15th day after official receipt unless a Member of the Council files a notice of disapproval of the request which extends the Council's review period to 30 days. If such notice is given, a reprogramming will become effective on the 31st day after its official receipt unless a resolution of approval or disapproval is adopted by the Council prior to that time.

Comments should be addressed to the Secretary to the Council, John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Room 5 Washington, D.C. 20004. Copies of reprogrammings are available in Legislative Services, Room 10.  
Telephone: 724-8050

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**Reprog. 21-192:** Request to reprogram \$2,950,000 of Capital funds budget authority and allotment within the Department of General Services (DGS) was filed in the Office of the Secretary on June 8, 2016. This reprogramming is needed to support these existing and active D.C. public Schools (DCPS) modernization projects: Stanton Elementary School, for which the façade is being reconstructed; J.O. Wilson Elementary School, for which the cafeteria is being modified; and playgrounds for Truman, Dorothy Height, and Seaton Elementary Schools.

RECEIVED: 14 day review begins June 9, 2016

**Reprog. 21-193:** Request to reprogram \$1,436,507 of Capital funds budget authority and allotment from the District of Columbia Public Schools (DCPS) to the Department of Parks and Recreation (DPR) was filed in the Office of the Secretary on June 8, 2016. This reprogramming is needed for the construction of the new playground at Joy Evans Recreation center for use by the students at Van Ness Elementary.

RECEIVED: 14 day review begins June 9, 2016

**Reprog. 21-194:** Request to reprogram \$1,399,939 of Fiscal Year 2016 Local funds budget authority within the Department of Forensic Sciences (DFS) was filed in the Office of the Secretary on June 8, 2016. This reprogramming ensures that DFS will meet its public safety duties by realigning the budget for forensic science salaries, Fringe Benefits, equipment, supplies and contractual costs across agency programs.

RECEIVED: 14 day review begins June 9, 2016

**Reprog. 21-195:** Request to reprogram \$632,323 of Pay-As-You-Go (Paygo) Capital Funds budget authority and allotment from the Department of General Services (DGS) to the Local funds budget of DGS was filed in the Office of the Secretary on June 8, 2016. This reprogramming will ensure that the budget is disbursed from the appropriate fund.

RECEIVED: 14 day review begins June 9, 2016

**Reprog. 21-196:** Request to reprogram \$1,500,000 of Pay-As-You-Go (Paygo) Capital Funds budget authority and allotment from the Department of General Services (DGS) to the Local funds budget of DGS was filed in the Office of the Secretary on June 8, 2016. This reprogramming will ensure that the budget is disbursed from the appropriate fund.

RECEIVED: 14 day review begins June 9, 2016

**Reprog. 21-197:** Request to reprogram \$172,337 of Pay-As-You-Go (Paygo) Capital Funds budget authority and allotment from the Department of General Services (DGS) to the Local funds budget of DGS was filed in the Office of the Secretary on June 13, 2016. This reprogramming is needed for the purchase of security cameras, servers and equipment.

RECEIVED: 14 day review begins June 14, 2016

**Reprog. 21-198:** Request to reprogram \$137,748 of Pay-As-You-Go (Paygo) Capital Funds budget authority and allotment from the Department of General Services (DGS) to the Local funds budget of DGS was filed in the Office of the Secretary on June 13, 2016. This reprogramming is needed for the purchase of computers, Audio Visual equipment, and security cameras for the Van Ness Elementary School modernization project.

RECEIVED: 14 day review begins June 14, 2016

**Reprog. 21-199:** Request to reprogram \$1,910,000 of Fiscal Year 2016 Local funds budget authority within the Office of the Chief Financial Officer (OCFO) was filed in the Office of the Secretary on June 13, 2016. This reprogramming support a major replacement of aging computer network infrastructure, the Integrated Data Capture System, which supports the front-end processing of tax returns.

RECEIVED: 14 day review begins June 14, 2016

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

Posting Date: June 17, 2016  
Petition Date: August 1, 2016  
Hearing Date: August 15, 2016

License No.: ABRA-093103  
Licensee: 1001 H Street, LLC  
Trade Name: Ben's Chili Bowl/Ben's Upstairs/Ten 01  
License Class: Retailer's Class "C" Restaurant  
Address: 1001 H Street, N.E.  
Contact: Kamal Ali: (202) 420-0453

WARD 6

ANC 6A

SMD 6A01

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

**NATURE OF SUBSTANTIAL CHANGE**

Request to add Entertainment Endorsement that will include live entertainment.

**CURRENT HOURS OF OPERATION FOR INSIDE PREMISES AND SUMMER GARDEN**

Sunday through Thursday 6:00 am to 2:00 am, Friday and Saturday 6:00 am to 3:00 am

**CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION FOR INSIDE PREMISES AND SUMMER GARDEN**

Sunday through Thursday 8:00 am to 2:00 am, Friday and Saturday 8:00 am to 3:00 am

**CURRENT HOURS OF OPERATION/ ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION FOR SIDEWALK CAFE**

Sunday through Saturday 8:00 am to 10:00 pm

**PROPOSED HOURS OF LIVE ENTERTAINMENT**

Sunday through Thursday 6 pm to 2:00 am, Friday and Saturday 6 pm to 3:00 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: June 17, 2016
Petition Date: August 1, 2016
Hearing Date: August 15, 2016
License No.: ABRA-008949
Licensee: HLS, INC.
Trade Name: Dupont Italian Kitchen
License Class: Retailer's Class "C" Restaurant
Address: 1637 17th Street, N.W.
Contact: Vahid Askarian: 202-328-3222

WARD 2 ANC 2B SMD 2B04

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 new Summer Garden with seating for 15 patrons.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION ON PREMISE AND SIDEWALK CAFE

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

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

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

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**

**NOTICE OF PUBLIC HEARING**

Posting Date: June 17, 2016  
Petition Date: August 1, 2016  
Hearing Date: August 15, 2016  
Protest Hearing: October 19, 2016

License No.: ABRA-103164  
Licensee: Fino Tavern, LLC  
Trade Name: Fino Tavern  
License Class: Retailer’s Class “C” Restaurant  
Address: 1230 9<sup>th</sup> Street, N.W. Unit B  
Contact: Seyed A. Beheshtian: 202-746-1330

WARD 2

ANC 2F

SMD 2F06

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14<sup>th</sup> 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 for 1:30pm on October 19, 2016.

**NATURE OF OPERATION**

New restaurant serving Italian food. Total Occupancy Load: 75.

**HOURS OF OPERATON AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION**

Sunday 11am – 1am, Monday through Thursday 11am – 2am, Friday and Saturday 11am – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: June 17, 2016
Petition Date: August 1, 2016
Hearing Date: August 15, 2016

License No.: ABRA-076649
Licensee: Par Bar, LLC
Trade Name: H Street Country Club
License Class: Retailer's Class "C" Tavern
Address: 1335 H Street, N.E.
Contact: Blair Zervos: (202) 399-4722

WARD 6

ANC 6A

SMD 6A06

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

NATURE OF SUBSTANTIAL CHANGE

Applicant requests a Change of Hours of live entertainment.

CURRENT HOURS OF OPERATION

Sunday through Thursday 11:00 am – 2:00 am, Friday and Saturday 11:00 am – 3:00 am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION

Sunday through Thursday 11:00 am – 1:45 am, Friday 11:00 am – 3:00 am Saturday 11:00 am – 2:45 am

CURRENT HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday No Live Entertainment, Friday and Saturday 6:00 pm – 2:00 am

PROPOSED HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday 6 pm- 1:00 am, Friday and Saturday 6 pm – 2:00 am

**ALCOHOLIC BEVERAGE REGULATION  
ADMINISTRATION  
ON  
6/17/2016**

Notice is hereby given that:

License Number: ABRA-060811 License Class/Type: C Hotel

Applicant: Portals Hotelsite, LLC

Trade Name: Mandarin Oriental Wash DC Hotel

ANC: 6D01

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

**1330 MARYLAND AVE SW**

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

**8/1/2016**

**A HEARING WILL BE HELD ON:**

**8/15/2016**

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

<b>Days</b>	<b>Hours of Operation</b>	<b>Hours of Sales/Service</b>
Sunday:	24 hours -	10 am - 2 am
Monday:	24 hours -	10 am - 2 am
Tuesday:	24 hours -	10 am - 2 am
Wednesday:	24 hours -	10 am - 2 am
Thursday:	24 hours -	10 am - 2 am
Friday:	24 hours -	10 am - 3 am
Saturday:	24 hours -	10 am - 3 am

**ENDORSEMENT(S): Dancing Entertainment Sidewalk Cafe Summer Garden**

FOR FURTHER INFORMATION CALL: (202) 442-4423



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

Posting Date: June 17, 2016  
Petition Date: August 1, 2016  
Hearing Date: August 15, 2016  
Protest Hearing: October 19, 2016

License No.: ABRA-103238  
Licensee: Pansaari, LLC  
Trade Name: Pansaari  
License Class: Retail Class "C" Tavern  
Address: 1603 17<sup>th</sup> Street, N.W.  
Contact: Sujata Singh: 202-847-0115

WARD 2

ANC 2B

SMD 2B04

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 14<sup>th</sup> 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 for 4:30pm on October 19, 2016

**NATURE OF OPERATION**

New restaurant. Neighborhood chai bar, Indian market and café. Cooking classes. Total Occupancy Load: 60.

**HOURS OF OPERATON AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION**

Sunday through Saturday 9 am – 11 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: June 17, 2016
Petition Date: August 1, 2016
Hearing Date: August 15, 2016

License No.: ABRA-076801
Licensee: The Art of Lounge, LLC
Trade Name: Town
License Class: Retailer's Class "C" Nightclub
Address: 2009 8th Street, N.W.
Contact: John Guggenmos: (202) 234-8636

WARD 1 ANC 1B SMD 1B01

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

NATURE OF SUBSTANTIAL CHANGE

Applicant requests a Change of Hours of operation and alcoholic beverage sales and consumption for Summer Garden.

CURRENT HOURS OF OPERATION ON PREMISE

Sunday through Thursday 12:00 pm - 2:00 am, Friday and Saturday 12:00 pm -5:00 am

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

Sunday through Thursday 12:00 pm - 2:00 am, Friday and Saturday 12:00 pm -3:00 am

CURRENT HOURS OF OPERATION/ ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SUMMER GARDEN

Sunday through Thursday 12:00 pm - 1:00 am, Friday and Saturday 12:00 pm -2:00 am

PROPOSED HOURS OF OPERATION FOR SUMMER GARDEN

Sunday through Thursday 12:00 pm - 2:00 am, Friday and Saturday 12:00 pm -5:00 am

PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SUMMER GARDEN

Sunday through Thursday 12:00 pm - 2:00 am, Friday and Saturday 12:00 pm -3:00 am

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

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

**Case No. 09-08:**      **Brookland Bowling Alleys**  
                             **3726 10<sup>th</sup> Street NE**  
                             **Square 3822, Lot 805**  
                             **Applicant: D.C. Preservation League**  
                             **Affected Advisory Neighborhood Commission: 5B**

**Case No. 11-03:**      **B.F. Saul Building**  
                             **925 15<sup>th</sup> Street NW**  
                             **Square 218, Lot 75**  
                             **Applicant: D.C. Preservation League**  
                             **Affected Advisory Neighborhood Commission: 2F**

**Case No. 14-14:**      **Davidson Building**  
                             **927 15<sup>th</sup> Street NW**  
                             **Square 218, Lot 67**  
                             **Applicant: D.C. Preservation League**  
                             **Affected Advisory Neighborhood Commission: 2F**

**Case No. 16-13:**      **Concord Apartments**  
                             **5805-5825 (odd numbers) 14<sup>th</sup> Street NW**  
                             **Square 2794, Lots 18 and 19**  
                             **Applicant: Hampstead Brightwood Partners LP (owner)**  
                             **Affected Advisory Neighborhood Commission: 4A**

The Board will also hear an application amend the designation of the Fifteenth Street Financial Historic District. The affected properties, most of which are already within the historic district, are listed below. The amendment proposes three significant changes to the original nomination of the 1980s. First, it would include neighboring buildings that are related to the neighborhood's historic concentration of important financial and commercial institutions. Many of these have since been designated historic landmarks or are pending consideration for landmark status. An expanded boundary would add seventeen buildings, two of which would be considered non-contributing, plus McPherson Square, which many of the buildings face. The nomination would also shorten the name of the district to the "Financial Historic District," reflecting the more complete representation of the financial district. Finally, the amendment would establish a clear period of significance for the historic district, of 1820 to 1950.

**Case No. 16-12:**      **Financial Historic District amendment**  
                             **Affected Advisory Neighborhood Commissions: 2A, 2B, 2C and 2F**

Including the following present lots and reservations: Square 187S, Lot 802; Square 198, Lot 846; Square 199, Lots 821, 832, 834 and part of 835; Square 216, Lots 27, 33 and 800; Square 218, Lots 9, 67, 74, 75 and 80; Square 218W, Lot 800 (Reservation 11); Square 219, Lots 18 and 810; Square 220, Lots 44 and 67; Square 221, Lots 29, 37, 809, 810 and 818; Square 222, Lots 12, 19, 20, 22 and part of 814; Square 223, Lots 24, 25 and 26; Square 224, part of Lot 22; Square 225, Lot 803; Square 252, Lots 60 and 837; and Square 253, Lot 67;

also presently known by the following street addresses (although there are additional and alternate addresses for some properties):

619 14th Street NW; 613, 725, 727, 729, 730, 733, 734, 750, 806, 875, 900, 901, 915, 923, 925, 927, 1015 15th Street NW; 1434 F Street NW; 1341, 1401 and 1435 G Street NW; 1425 H Street NW; 1555 I Street NW; 1500, 1501 and 1518 K Street NW; 1400 and 1445 New York Avenue NW; 1500 (1600), 1501, 1503 and 1505 Pennsylvania Avenue NW; 811, 1000 and 1010 Vermont Avenue NW; and McPherson Square

The hearing will take place at **9:00 a.m. on Thursday, July 28, 2016**, at 441 Fourth Street, NW (One Judiciary Square), in Room 220 South. It will be conducted in accordance with the Review Board's Rules of Procedure (10C DCMR 2). A copy of the rules can be obtained from the Historic Preservation Office at 1100 4<sup>th</sup> Street SW, Suite E650, Washington, DC 20024, or by phone at (202) 442-8800, and they are included in the preservation regulations which can be found on the Historic Preservation Office website.

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

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

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

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

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

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

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

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

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF PUBLIC HEARING**

**TIME AND PLACE:**                      **Thursday, September 8, 2016, @ 6:30 p.m.**  
**Jerrily R. Kress Memorial Hearing Room**  
**441 4<sup>th</sup> Street, N.W., Suite 220-South**  
**Washington, D.C. 20001**

**FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:**

**CASE NO. 15-21 (Kenilworth Revitalization I JV, LLC & DCHA – Planned Unit Development & Related Map Amendment @ Square 5113, 5114, & 5116)**

**THIS CASE IS OF INTEREST TO ANC 7D**

On August 31, 2015, the Office of Zoning received an application from the Kenilworth Revitalization I JV, LLC and the District of Columbia Housing Authority (the “Applicants”). The Applicants are requesting approval for the first stage and consolidated review and approval of a planned unit development (“PUD”) and a related zoning map amendment. The Office of Planning provided its report on November 13, 2015, and the case was set down for hearing on December 15, 2015. The Applicants provided their prehearing statement on April 29, 2016.

The property that is the subject of this application consists of approximately 766,650 square feet of land area and is located at Kenilworth Avenue, N.E., the northside of Douglas Street, N.E. and the east side of Anacostia Avenue, N.E. (Lots 5 through 9 of Square 5113; Lot 10 of Square 5114; and Lots 164, 165, 172 through 180, and 186 of Square 5116). The subject property is zoned R-5-A, except for Lots 164, 165 and 172 of Square 5116, which are zoned R-1-B.

The Applicants propose to construct a mixed-use, mixed-income development composed of up to 530 residential units, including public housing replacement units, tax credit rental units, and market rate units for rent and sale (the “Project”). The Project will also include approximately 4,500 square feet of non-residential space, which may include office space, community service space, or new retail space. The buildings will range in height from two to four stories and from 30 to 50 feet. The proposed project will have an aggregate floor area ratio (“FAR”) of approximately 1.64.

The Applicants will also seek a PUD related amendment to the Zoning Map to have all of the lots in the Property rezoned to the R-5-B District, with the exception of a portion of Square 5116 which is to be rezoned to the C-2-A District.

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Regulations, 11 DCMR § 3022.

**How to participate as a witness.**

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written

testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

**How to participate as a party.**

Any person who desires to participate as a party in this case must so request and must comply with the provisions of 11 DCMR § 3022.3.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Zoning Regulations. If you are still unsure of what it means to participate as a party and would like more information on this, please contact the Office of Zoning at [dcoz@dc.gov](mailto:dcoz@dc.gov) or at (202) 727-6311.

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 Commission, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning's website at: <http://dcoz.dc.gov/services/app.shtm>.** This form may also be obtained from the Office of Zoning at the address stated below.

**If an affected Advisory Neighborhood Commission (ANC), pursuant to 11 DCMR § 3012.5, intends to participate at the hearing, the ANC shall also submit the information cited in § 3012.5 (a) through (i). The written report of the ANC shall be filed no later than seven (7) days before the date of the hearing.**

All individuals, organizations, or associations wishing to testify in this case are encouraged to inform the Office of Zoning their intent to testify prior to the hearing date. This can be done by mail sent to the address stated below, e-mail ([donna.hanousek@dc.gov](mailto:donna.hanousek@dc.gov)), or by calling (202) 727-0789.

The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

- |    |                                   |                         |
|----|-----------------------------------|-------------------------|
| 1. | Applicants and parties in support | 60 minutes collectively |
| 2. | Parties in opposition             | 60 minutes collectively |
| 3. | Organizations                     | 5 minutes each          |
| 4. | Individuals                       | 3 minutes each          |

Pursuant to § 3020.3, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Written statements, in lieu of oral testimony, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at <http://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4<sup>th</sup> Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to [zcsubmissions@dc.gov](mailto:zcsubmissions@dc.gov); or by fax to (202) 727-6072. Please include the case number on your submission. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

**ANTHONY J. HOOD, MARCIE I. COHEN, ROBERT E. MILLER, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.**





of four buildings (Buildings “A-D”), which will include residential, retail, office, and possibly hotel uses. The project will be constructed in two phases. The consolidated PUD will include (i) the southern portion of Building A (“Building A1”), designated for residential use with ground floor retail; (ii) Building B, designated for residential use with ground floor retail; and (iii) the southern portion of Building C (“Building C1”) designated for office use with ground floor retail. The first-stage PUD will include (i) the northern portion of Building A (“Building A2”), designated for residential use with ground floor retail, and the option for hotel use instead of residential use; (ii) The northern portion of Building C (“Building C2”), designated for residential use with ground floor retail; and (iii) Building D, designated for residential use with ground floor retail.

The overall project will consist of approximately 1,371,258 square feet of gross floor area (6.4 FAR) and will have an overall lot occupancy of 80.5%. Buildings A, C, and D will have a maximum height of 130 feet; Building B will have a maximum height of 78 feet.

The public hearing will be conducted in accordance with the contested case provisions of Subtitle Z § 408 of 2016 Regulations.

#### **How to participate as a witness.**

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

#### **How to participate as a party.**

Any person who desires to participate as a party in this case must so request and must comply with the provisions of the Zoning Regulations.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Subtitle Z § 403, of the 2016 Regulations. If you are still unsure of what it means to participate as a party and would like more information on this, please contact the Office of Zoning at [dcoz@dc.gov](mailto:dcoz@dc.gov) or at (202) 727-6311.

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 Commission, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning’s website at: <http://dcoz.dc.gov/services/app.shtm>.** This form may also be obtained from the Office of Zoning at the address stated below.

**If an affected Advisory Neighborhood Commission (ANC) intends to participate at the hearing, the ANC shall submit the written report described in the Zoning Regulations no later than seven (7) days before the date of the hearing. The report shall contain the information indicated in § 3012.5(a) through (i).**

All individuals, organizations, or associations wishing to testify in this case are encouraged to inform the Office of Zoning their intent to testify prior to the hearing date. This can be done by mail sent to the address stated below, e-mail (donna.hanousek@dc.gov), or by calling (202) 727-0789.

The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

- |    |                                  |                         |
|----|----------------------------------|-------------------------|
| 1. | Applicant and parties in support | 60 minutes collectively |
| 2. | Parties in opposition            | 60 minutes collectively |
| 3. | Organizations                    | 5 minutes each          |
| 4. | Individuals                      | 3 minutes each          |

Pursuant to Subtitle Z § 408.4 of the 2016 Regulations, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Written statements, in lieu of oral testimony, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at <http://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4<sup>th</sup> Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to [zcsubmissions@dc.gov](mailto:zcsubmissions@dc.gov); or by fax to (202) 727-6072. Please include the case number on your submission. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

**ANTHONY J. HOOD, MARCIE I. COHEN, ROBERT E. MILLER, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.**

## DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health (“Department”), pursuant to the authority set forth in the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-903.01 (2014 Repl.)); Section 4902 of the Fiscal Year 2002 Budget Support Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731 (2012 Repl.)); Section 15 of the District of Columbia Drug Manufacture and Distribution Licensure Act of 1990, effective June 13, 1990 (D.C. Law 8-137; D.C. Official Code § 48-714(a) (2014 Repl.)); and Mayor’s Order 98-88, dated May 29, 1998; hereby gives notice of the adoption of the following amendment to Chapter 4 (Drug Manufacture and Distribution) of Title 22 (Health), Subtitle B (Public Health and Medicine), of the District of Columbia Municipal Regulations (DCMR).

The purpose of these amendments is to ensure that out-of-state drug manufacturers, distributors, repackagers, and wholesalers, that conduct distribution activities within the District of Columbia, are required to maintain a registered agent in the District.

This rulemaking was published in the *D.C. Register* on October 9, 2015 at 62 DCR 013320. The Department did not receive any comments in response to this notice. Therefore, no changes have been made to the rulemaking.

These rules were adopted as final on May 12, 2016 and will be effective upon publication of this notice in the *D.C. Register*.

**Chapter 4, DRUG MANUFACTURE AND DISTRIBUTION, of Title 22-B DCMR, PUBLIC HEALTH AND MEDICINE, is amended as follows:**

**Section 404, APPLICATION FOR OUT-OF-STATE REGISTRATION, is amended as follows:**

**Subsection 404.3 is repealed.**

**Subsection 404.4 is amended to read as follows:**

- 404.4 An applicant for an out-of-state registration shall submit the following:
- (a) A completed application on the required form provided by the Director;
  - (b) The required registration fee;
  - (c) A certificate of good standing in the state where the principal place of business is located;
  - (d) A copy of the most recent inspection report resulting from an inspection

conducted by the regulatory or licensing agent of the state in which the principal place of business is located;

- (e) Proof of current approval by the United States Food and Drug Administration for registration of producers of drugs and medical devices;
- (f) Proof of current registration with the United States Drug Enforcement Administration for controlled substances, where applicable;
- (g) The name and address of the Applicant's designated registered agent in the District of Columbia;
- (h) Proof of registration, and of good standing status, in the District of Columbia as a foreign filing entity as defined by Title 29 of the District of Columbia Official Code, if applicable; and
- (i) Proof of "Clean Hands" as defined by the District of Columbia Tax and Revenue.

**Section 405, RENEWAL OF REGISTRATION FOR OUT-OF-STATE DRUG MANUFACTURERS, DISTRIBUTORS, REPACKAGERS, AND WHOLESALERS, is amended as follows:**

**Subsection 405.3 is amended to read as follows:**

- 405.3 An applicant for renewal of an out- of -state registration shall submit the following:
- (a) A completed renewal application on the required form provided by the Director;
  - (b) The required renewal fee;
  - (c) A certificate of good standing in the state where the principal place of business is located;
  - (d) A copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agent of the state in which the principal place of business is located;
  - (e) Proof of current approval by the United States Food and Drug Administration for registration of producers of drugs and medical devices;
  - (f) Proof of current registration with the United States Drug Enforcement Administration for controlled substances, where applicable;

- (g) The name and address of the Applicant's designated registered agent in the District of Columbia;
- (h) Proof of registration, and of good standing status, in the District of Columbia as a foreign filing entity as defined by Title 29 of the District of Columbia Official Code, if applicable; and
- (i) Proof of "Clean Hands" as defined by the District of Columbia Tax and Revenue.

## DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Directors (Board) of the District of Columbia Water and Sewer Authority (DC Water), pursuant to the authority set forth in Sections 203(3) and (11) and 216 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111, §§ 203(3), (11) and 216; D.C. Official Code §§ 34-2202.03(3) and (11), and § 34-2202.16 (2012 Repl.)); and Section 6(a) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(a) (2012 Repl.)), hereby gives notice that at its regularly scheduled meeting on May 5, 2016, took final action, through adoption of Board Resolution #16-39, to amend Sections 112 (Fees) and 199 (Definitions) of Chapter 1 (Water Supply) of Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendments is to add the System Availability Fee and relevant definitions.

Pursuant to Board Resolution #16-10, dated January 7, 2016, a Notice of Proposed Rulemaking was published in the *D.C. Register* (DCR) on January 22, 2016 at 63 DCR 918, requesting public comments within thirty (30) days of publication. On February 23, 2016, the DC Water Retail Water and Sewer Rates Committee met and agreed to extend the public comment period an additional fifteen days through March 11, 2016. Accordingly, a Notice of Extension of Public Comment Period was published in the *D.C. Register* on March 4, 2016 at 63 DCR 2379, extending the public comment period to March 11, 2016. On April 26, 2016, the DC Water Retail Water and Sewer Rates Committee met to consider the comments offered during the public comment period and recommendations from the DC Water General Manager.

On May 5, 2016, the Board, through Resolution #16-39, after consideration of all comments received and the report of the Retail Water and Sewer Rates Committee, voted to amend the DCMR and implement the System Availability Fee (SAF) and relevant definitions. No changes were made to the substance of the proposed regulations. Revisions were made to delay the effective date of the rulemaking from April 1, 2016 to January 1, 2018; to extend the inactive account period for properties under renovation or redevelopment that have been inactive prior to DC Water's issuance of the Certificate of Approval from 12 months to 24 months; and to extend the SAF installment payment plan period from December 31, 2019 to December 31, 2020.

This final rulemaking will become effective upon publication in the *DC Register*.

**Chapter 1, WATER SUPPLY, of Title 21 DCMR, WATER AND SANITATION, is amended as follows:**

**Section 112, FEES, is amended by adding a new Subsection 112.11 to read as follows:**

112.11           Effective January 1, 2018, DCRA Construction Permit Applicants and federal facilities shall be assessed a System Availability Fee (SAF) for new water and sewer connections and renovation or redevelopment projects for existing

connections to the District’s potable water and sanitary sewer systems based on the SAF meter size in accordance with the following fee schedule and requirements:

- (a) Residential customers shall be charged a System Availability Fee based on the SAF meter size as listed below:

SAF Meter Size (inches)	Water System Availability Fee	Sewer System Availability Fee	Total System Availability Fee
5/8”	\$ 1,135	\$ 2,809	\$ 3,944
3/4”	\$ 1,135	\$ 2,809	\$ 3,944
1”	\$ 1,135	\$ 2,809	\$ 3,944
1”x1.25”	\$ 2,047	\$ 5,066	\$ 7,113
1.5”	\$ 5,491	\$ 13,591	\$ 19,082
2”	\$ 11,125	\$ 27,536	\$ 38,661

- (b) Multi-Family and all Non-Residential customers shall be charged a System Availability Fee based on the SAF meter size as listed below:

SAF Meter Size (inches)	Water System Availability Fee	Sewer System Availability Fee	Total System Availability Fee
1” or smaller	\$ 1,282	\$ 3,173	\$ 4,455
1”x1.25”	\$ 2,047	\$ 5,066	\$ 7,113
1.5”	\$ 5,491	\$ 13,591	\$ 19,082
2”	\$ 11,125	\$ 27,536	\$ 38,661
3”	\$ 32,500	\$ 80,442	\$ 112,942
4”	\$ 83,388	\$ 206,394	\$ 289,782
6”	\$ 229,246	\$ 567,408	\$ 796,654
8”	\$ 229,246	\$ 567,408	\$ 796,654
8”x2”	\$ 229,246	\$ 567,408	\$ 796,654
8”x4”x1”	\$ 229,246	\$ 567,408	\$ 796,654
10”	\$ 229,246	\$ 567,408	\$ 796,654
12”	\$ 229,246	\$ 567,408	\$ 796,654
16”	\$ 229,246	\$ 567,408	\$ 796,654

- (c) The SAF meter size shall be computed for the peak water demand, excluding fire demand in accordance with D.C. Construction Codes Supplement, as amended, Chapter 3 (Water Meters) of this title, and DC Water Standard Details and Guideline Masters.
- (d) The System Availability Fee shall be assessed for any new premises, building or structure that requires a metered water service connection to the District’s potable water and/or sanitary sewer systems.
- (e) The System Availability Fee shall be assessed for renovation or redevelopment projects for any premises, building or structure that



requires a metered water service connection to the District's potable water and/or sanitary sewer systems.

- (f) For a renovation or redevelopment project on a property that already had/has a DC Water meter(s) and account(s), DC Water shall determine the net System Availability Fee based on the difference between the property's new System Availability Fee determined by the SAF meter size(s) and the System Availability Fee determined by the old meter size(s) for the meters(s) being removed from the system.
- (g) If the net System Availability Fee is zero or less, no System Availability Fee shall be charged.
- (h) If the net System Availability Fee is greater than zero, DC Water shall provide System Availability Fee credits for the removed capacity and assess the net System Availability Fee.
- (i) Properties under renovation or redevelopment shall not receive a System Availability Fee credit for the DC Water account(s) that have been inactive for more than twenty-four (24) months prior to DC Water's issuance of the Certificate of Approval.
- (j) For DCRA Construction Permit applicants, payment of the System Availability Fee shall be a condition for DC Water's issuance of the Certificate of Approval.
- (k) DCRA Construction Permit applicants that submitted plans and specifications to DC Water prior to the effective date of these regulations, shall not be subject to the System Availability Fee provided:
  - (1) The DC Water Engineering Review fee(s) has been paid;
  - (2) The plans, specifications and other information conform to the requirements of the D.C. Construction Codes Supplement, as amended, and are sufficiently complete to allow DC Water to complete its Engineering Review without substantial changes or revisions; and
  - (3) DC Water issues the Certificate of Approval within one year after the effective date of these regulations.
- (l) For federal facilities, payment of the System Availability Fee shall be a condition of DC Water's issuance of the Certificate of Approval.
- (m) After the effective date of these regulations to December 31, 2020, the property owner may request to pay the System Availability Fee in four

equal installments, with the final payment due on or before one year after the execution date of a Payment Plan Agreement. Execution of a Payment Plan Agreement and payment of the first installment payment, shall be a condition of DC Water's issuance of the Certificate of Approval.

- (n) In the case that the DCRA Construction Permit is not issued or is revoked or the construction project is abandoned or discontinued, upon written request from the property owner, DC Water shall issue the property owner a refund of the System Availability Fee.

**Section 199, DEFINITIONS, is amended by adding the following terms and definitions to read as follows:**

**Development** – the construction of a premises, building or structure that establishes a new water and/or sewer connection.

**Redevelopment** – the renovation or alteration of a premises, building or structure or reconstruction of a property that increases or decreases the water supply demand or drainage, waste, and vent (DWV) system load. Redevelopment shall not include the up-sizing of a water service or sewer lateral to comply with the D.C. Construction Codes Supplement, provided the water supply demand and DMV system load remain the same.

**System Availability Fee** – A one-time fee assessed to a property owner of any premises, building or structure to recover the cost of system capacity put in place to serve all metered water service and sanitary sewer connections and renovation or redevelopment projects that require an upsized meter service connection to the District's potable water system. The fee is assessed based on the peak water demand, excluding fire demand, for new meter water service connection and renovation or redevelopment projects that increase the peak water demand and associated SAF meter size for the property.

## DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of the intent to take proposed rulemaking action by adopting the following amendments to Chapter 72 (Recreation Therapy) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from date of publication of this notice in the *D.C. Register*.

The purpose of this rulemaking is to update and modernize the rules applicable to recreational therapists registered in the District and set standards for professional practice as well as continuing professional competency.

**Chapter 72, RECREATION THERAPY, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended to read as follows:**

**CHAPTER 72 RECREATIONAL THERAPY****7200 APPLICABILITY**

- 7200.1 This chapter applies to applicants and holders of a registration to practice recreational therapy. This chapter applies only to persons practicing under the title Recreational Therapist or Certified Therapeutic Recreation Specialist.
- 7200.2 Chapter 40 (General Rules) and Chapter 41 (Administrative Procedures) of this title shall supplement this chapter.

**7201 TERM OF REGISTRATION**

- 7201.1 Subject to § 7201.2, a registration issued pursuant to this chapter shall expire at 12:00 Midnight on February 28<sup>th</sup> of each even numbered year.
- 7201.2 If the Director changes the renewal system pursuant to § 4006.3 of Chapter 40 of this title, a registration issued pursuant to this chapter shall expire at 12:00 midnight of the last day of the month of the birthdate of the holder of the registration, or other date established by the Director.

**7202 EDUCATION, TRAINING, AND EXPERIENCE REQUIREMENTS FOR RECREATIONAL THERAPISTS**

- 7202.1 An applicant for registration to practice as a recreational therapist shall meet the education, training, and experience requirements by furnishing to the Director satisfactory proof that the applicant has been certified by the National Council for

Therapeutic Recreation Certification (NCTRC) at the professional level of Certified Therapeutic Recreation Specialist (CTRS).

7202.2 The requirement of § 7202.1 shall not apply to recreational therapists who were registered in the District as of December 31, 1995 and maintain continuous registration without interruption.

**7203 SCOPE OF PRACTICE OF REGISTERED RECREATIONAL THERAPIST OR CERTIFIED THERAPEUTIC RECREATION SPECIALIST**

7203.1 An individual registered under this chapter as a recreational therapist may engage in the "practice of recreational therapy" as defined in this section.

7203.2 As used in this chapter, the "practice of recreational therapy" means the use of the title Recreational Therapist by persons who meet the education, training, and experience requirements of § 7202.1; or the use of the title Certified Therapeutic Recreation Specialist by persons who meet the education and training requirements of § 7202.1. All persons registered pursuant to the Act and these rules are entitled to use the title Recreational Therapist.

7203.3 The practice of recreational therapy shall include the following:

- (a) All direct patient or client services of assessment;
- (b) Planning;
- (c) Design;
- (d) Implementation;
- (e) Evaluation;
- (f) Documentation of specific interventions;
- (g) Management;
- (h) Consultation;
- (i) Research; and
- (j) Education for either individuals or groups that require specific therapeutic recreation or recreational therapy intervention with such services being provided for recreation resources and opportunities to improve health and well-being.

**7204           LAWFUL PRACTICE**

- 7204.1           Any person who practices or offers to practice recreational therapy in the District of Columbia as defined by § 7203.2 shall be registered pursuant to these rules.
- 7204.2           Except those who obtained registration to practice recreational therapy pursuant to § 7202.2, any person who practices or offers to practice recreational therapy in the District shall maintain, without interruption, his or her certification as CTRS by the NCTRC.
- 7204.3           A recreational therapist registered in the District shall use the letters “RRT” or “CTRS/RRT” in connection with the recreational therapist’s name or place of business to denote registration pursuant to the Act.

**7205           CONTINUING EDUCATION REQUIREMENTS**

- 7205.1           This section shall apply to applicants for a renewal, reactivation, or reinstatement of a registration for the term expiring February 28, 2018 and for all subsequent terms. This section shall not apply to applicants for an initial registration or applicants seeking a renewal of their registration for the first time after the initial registration.
- 7205.2           A continuing education contact hour shall be valid only if it is part of a program or activity that the Board approves in accordance with § 7206 and § 7207.
- 7205.3           An applicant for registration renewal shall complete a minimum of twenty (20) contact hours of approved continuing education in accordance with § 7206 and § 7207 during the two (2) year period preceding the date the registration expires.
- 7205.4           The Board may require proof of completion of the required continuing education. Such proof shall include the following information:
- (a)           The name and address of the sponsor of the program;
  - (b)           The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
  - (c)           The date and time of attendance;
  - (d)           The number of contact hours claimed;
  - (e)           Verification by the sponsor of the person’s completion, by signature or stamp of the sponsor; and
  - (f)           The name of the person completing the program.

- 7205.5 If the registration of a recreational therapist expires while serving in the military whenever the United States is engaged in active military operations against any foreign power or hostile force, and if the required continuing education hours were not earned during the earning period, the recreational therapist shall be required to complete the required continuing education hours needed no later than six (6) months after discharge from active service, return to inactive military status, or return to the United States from an active war zone.
- 7205.6 The continuing education contact hours completed to satisfy the requirement of § 7205.5 shall not be counted toward meeting the continuing education requirement for the next or subsequent registration term.
- 7205.7 The credits received for each approved continuing education program shall be applied in full toward meeting the continuing education requirements for each registration term. The proration of continuing education credits over more than one (1) registration term shall not be allowed.
- 7205.8 A recreational therapist who is licensed, registered, or certified to practice in a jurisdiction other than the District shall meet the requirements of this section in order to be eligible for registration renewal in the District.

**7206 APPROVED CONTINUING EDUCATION PROGRAMS AND ACTIVITIES**

- 7206.1 The Board may approve continuing education programs and activities that contribute to the professional competence in the practice of recreational therapy and meet the other requirements of this section.
- 7206.2 The Board may approve continuing education programs and activities that are relevant to the practice or education of recreational therapists based on the following information:
- (a) Current subject matter with course description;
  - (b) Content focus;
  - (c) Learning outcomes;
  - (d) Target audience;
  - (e) Satisfactory completion of the course by the course participant; and
  - (f) The number of contact hours or continuing education units.
- 7206.3 The Board may approve the following types of programs or activities provided that they are consistent with the requirements of this chapter:

- (a) Programs or activities sponsored by the state or local recreational therapy organizations, such as the Chesapeake Area Recreational Therapy Association (CHARTRA);
- (b) Programs or activities sponsored, offered, or certified by the American Therapeutic Recreation Association (ATRA);
- (c) Programs or activities approved for continuing education credit by boards of allied health;
- (d) Programs or activities sponsored by disability-specific advocacy groups;
- (e) Programs or activities sponsored by an accredited healthcare facility; or
- (f) Programs or activities sponsored by an accredited college or university.

7206.4 The following programs or activities shall not meet the requirement of § 7206.1 and shall not be approved as continuing education required under this chapter:

- (a) Mandatory non-clinical in-service competency or education programs including, but not limited to, Basic Cardiac Life Support (BCLS) or Cardiopulmonary Resuscitation (CPR), first aid, infection control, emergency preparedness, or documentation update; and
- (b) Mandatory organization-specific trainings or programs required as part of job performance or development.

7206.5 The Board may grant continuing education credits for the following activities:

- (a) Serving as an author of self-study article or series;
- (b) Serving as an instructor or speaker at a conference program or an academic course;
- (c) Serving as an instructor at a peer-reviewed or non-peer-reviewed seminar, workshop, or in-service training, whether in-person or web-based;
- (d) Serving as supervisor for persons authorized to practice pursuant to § 7211.2(c);
- (e) Serving as a clinical instructor for students of recreational therapy or students of any other health occupation;
- (f) Authoring or editing a published book, a published chapter in a book, or a published article in a professional journal or other nationally recognized publication;

- (g) Participating as a primary clinical internship educator for recreational therapy students;
- (h) Participating in board or committee work in connection with an agency or a non-profit organization whose mission is to promote and enhance the practice of recreational therapy; or
- (i) Participating in research as a principal investigator or research assistant.

7206.6 The person seeking continuing education credit shall bear the burden of establishing to the Board's satisfaction that any supervisory activities, professional volunteer activities, or services as an instructor, speaker, publisher or editor are eligible for continuing education credit and approval in accordance with § 7206.1.

## **7207 CONTINUING EDUCATION CREDITS**

7207.1 The Board may grant continuing education credit for whole hours only, with a minimum of fifty (50) minutes constituting one (1) contact hour.

7207.2 For approved undergraduate or graduate courses, each semester hour of credit shall constitute fifteen (15) contact hours of continuing education, and each quarter hour of credit shall constitute ten (10) contact hours of continuing education.

7207.3 The Board may grant continuing education credit for the activities described in §§ 7206.5(a), (b), or (c) subject to the following restrictions:

- (a) The maximum amount of credit which may be granted for preparation time is twice the amount of the associated presentation time or twice the amount of contact hours awarded for participants;
- (b) The maximum amount of credit which may be granted pursuant to this subsection is fifty percent (50%) of an applicant's continuing education requirement;
- (c) If an applicant had previously received credit in connection with a particular presentation, the Board shall not grant credit in connection with a subsequent presentation unless it involves either a different or a substantially modified program; and
- (d) The presentation shall have been completed during the period for which credit is claimed and the applicant shall include documentation of the following:
  - (1) A copy of the official program or syllabus;



- (2) The presentation title;
- (3) The date of the presentation;
- (4) The hours of the presentation;
- (5) The type of audience addressed; and
- (6) A verification of attendance signed by the sponsor.

7207.4 The Board may grant up to four (4) continuing education contact hours per renewal period for the activities described in § 7206.5(d). The supervisor shall submit a copy of the supervised practice letter and verification of supervision to receive continuing education credits.

7207.5 The Board may grant one (1) continuing education contact hour for each hour of clinical instruction, up to a maximum of six (6) contact hours per renewal period for the activities described in § 7206.5(e), with the following documentation:

- (a) Name of student as verified by the school;
- (b) Name of the school;
- (c) Dates and duration of instruction; and
- (d) Signature of the program director.

7207.6 The Board may grant up to six (6) continuing education contact hours per renewal period for the activities described in § 7206.5(f), if the book, chapter, or article was published or accepted for publication during the period for which credit is claimed, and satisfactory proof is submitted to the Board.

7207.7 The Board may grant up to six (6) continuing education contact hours per renewal period for the activities described in § 7206.5(g), with the following documentation:

- (a) Name of student as verified by the school;
- (b) Name of the school;
- (c) Dates of the internship; and
- (d) Signature page of student evaluation excluding evaluation scores and comments on student.

7207.8 The Board may grant up to three (3) continuing education contact hours for the activities described in § 7206.5(h), provided that such participation totaled no less than eighteen (18) hours during a registration term. The applicant shall provide the following documentation:

- (a) Name of the committee, board, agency or organization;
- (b) Purpose for service;
- (c) Description of duties and roles; and
- (d) Validation of service by an officer or representative of the organization.

7207.9 The Board may grant up to six (6) continuing education contact hours for the activities described in § 7206.5(i), provided that such participation is sufficiently documented.

7207.10 The Board may require proof of a recreational therapist's completion of continuing education at the completion of a renewal period. A recreational therapist shall:

- (a) Maintain the required proof of completion for each continuing competence activity as specified in these regulations; and
- (b) Retain documentation of a continuing competence activity for a minimum of two (2) years following the last day of the registration term for which the continuing competence activity was completed.

## **7208 CONTINUING EDUCATION AUDIT**

7208.1 The Board may audit up to twenty percent (20%) of the number of registered recreational therapists to determine compliance with the continuing education contact hour requirements.

7208.2 Upon notification by the Board that a registrant has been selected for an audit, the registrant shall submit the required documentation within thirty (30) days of receipt of the notice.

7208.3 A registrant who fails to provide proof of continuing education compliance during an audit may be subject to an audit in the subsequent registration term.

## **7209 REACTIVATION**

7209.1 The requirements of this section shall apply to persons whose registration under this chapter has been placed in inactive status and seeks reactivation of their registration in accordance with § 511 of the Act, D.C. Official Code § 3-1205.11.

- 7209.2 An applicant for reactivation of a recreational therapy registration who has been inactive five (5) years or less and does not hold a registration or equivalent in any other jurisdiction shall submit proof pursuant to § 7205 of having completed ten (10) continuing education contact hours in clinical coursework in an approved continuing education program for each year that the applicant was not registered, up to a maximum of fifty (50) hours. The applicant shall also submit proof that he or she possesses a current CTRS certification or that he or she met the requirement of § 7202.2.
- 7209.3 A reactivation applicant who has been inactive for more than 5 (five) years and who does not hold an active registration or equivalent in any other jurisdiction shall submit proof pursuant to § 7205 of having completed the following:
- (a) Ten (10) contact hours in clinical coursework in an approved continuing competence program for each year that the applicant was not registered, up to a maximum of fifty (50) hours. Twenty (20) of those contact hours shall have been completed within two (2) years prior to the date the application is submitted; and
  - (b) One hundred sixty (160) hours of clinical training supervised by a registered recreational therapist within the two (2) months prior to the date the application is submitted.
- 7209.4 A reactivation applicant who holds an active registration or equivalent in any other jurisdiction shall not be required to submit proof of continuing education contact hours with the reactivation application.

## **7210 REINSTATEMENT**

- 7210.1 The requirements of this section shall apply to persons with expired registration who seek reinstatement within five (5) years in accordance with § 512(a) of the Act, D.C. Official Code § 3-1205.12(a).
- 7310.2 A person may not apply for reinstatement if his or her registration has expired for more than five (5) years.
- 7310.3 A reinstatement applicant may be eligible for reinstatement of his or her registration only if he or she holds a current, active certification as a Certified Therapeutic Recreation Specialist (CTRS) issued by the National Council for Therapeutic Recreation Certification (NCTRC) and submits satisfactory proof of ten (10) continuing education contact hours in clinical coursework in an approved continuing competence program for each year that the applicant was not registered, up to a maximum of fifty (50) hours. Twenty (20) of those contact hours shall have been completed within two (2) years prior to the date the application is submitted

**7211 PRACTICE OF RECREATIONAL THERAPY BY A STUDENT OR PERSON SEEKING REGISTRATION**

7211.1 A student of recreational therapy or a person seeking registration may practice only under the general supervision of a recreational therapist with valid, unrestricted registration in the District and in accordance with this section.

7211.2 Only the following person may practice under this section:

- (a) A student whose practice fulfills their educational requirements as described in § 103(c) of the Act, D.C. Official Code § 3-1201.03(c);
- (b) An applicant for registration whose application has been properly filed with the Board and is pending final approval by the Board; or
- (c) A person seeking reactivation of registration in accordance with § 7209.3(b) or a person seeking reinstatement of registration in accordance with § 7210.4(b).

7211.3 A supervisor of a person described in § 7211.2(b) or (c) shall, no less than two (2) weeks prior to the supervision begins, seek the authorization of the Board by providing the following information:

- (a) The supervisor's name and address;
- (b) The name of the person seeking registration;
- (c) The expected period of supervision;
- (d) The nature and location of the practice of the person registration; and
- (e) The attestation that the supervisor understands and intends to comply with the supervisory requirements under this chapter.

7211.4 A person seeking to practice under supervision may begin the supervised practice after the Board has approved and authorized the practice.

7211.5 Supervised practice authorized in accordance with this section shall not exceed sixty (60) days.

7211.6 A person engaged in supervised practice under this section shall identify himself or herself as a student or person practicing under supervision at all times including prior to the initiation of any practice with a client.

7211.7 Any of the following events shall result in an automatic and immediate termination of the authorized supervised practice:

(a) The supervision is terminated for any reasons by either the supervisor or the supervisee; or

(b) An arrest or charge for a felony.

7211.8 A person practicing under supervision in accordance with this section shall not receive any compensation of any nature, directly or indirectly, from a patient but may receive a salary or other form of compensation from his or her supervisor based on the hours of practice performed.

7211.9 The supervisor shall be fully responsible for all supervised practice by the supervisee during the period of supervision and shall be subject to disciplinary action for any violation of the Act or this chapter by the supervisee.

7211.10 A person authorized to practice under supervision pursuant to this section shall be subject to all applicable provisions of the Act and this chapter. The Board may deny his or her application for license or take any disciplinary action against him or her in accordance with Chapter 41 of this title if he or she has been found to have violated the Act or this chapter.

## 7212 CODE OF ETHICS

7212.1 A certified therapeutic recreation specialist or recreational therapist registered to practice in the District of Columbia shall adhere to the Code of Ethics established by the American Therapeutic Recreation Association as they may be amended from time to time.

## 7299 DEFINITIONS

7299.1 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

**Act** - District of Columbia Health Occupations Revision Act of 1985, D.C. Official Code §§ 3-1201 *et seq.*

**Board** - The Board of Occupational Therapy, established by § 206 of the Act, D.C. Official Code § 3-1202.06.

**Boards of allied health** – Boards as defined in D.C. Official Code § 3-1201.01(1A), or their equivalents in other jurisdictions.

**Contact hour** - At least fifty (50) minutes of continuing education credit.

**Director** – The Director of the Department of Health or any successor or assignee.

**Recreational Therapy** – Treatment services designed to restore, remediate, and rehabilitate a person’s level of functioning and independence in life activities, to promote health and wellness, as well as to reduce or eliminate the activity limitations and restrictions to participation in life situations caused by illness or disabling conditions. Recreational therapy also means “recreation therapy” as used in D.C. Official Code § 3-1209.02.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5<sup>th</sup> Floor, Washington, D.C. 20002, or by email to [Angli.Black@dc.gov](mailto:Angli.Black@dc.gov). Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays.

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

SECOND EXTENSION OF COMMENT PERIOD**RM27-2016-01, IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO THE RULES GOVERNING LOCAL EXCHANGE CARRIER QUALITY OF SERVICE STANDARDS FOR THE DISTRICT**

1. By this Public Notice, the Public Service Commission of the District of Columbia ("Commission") informs interested persons of a second extension of time to file comments and reply comments in response to a Notice of Proposed Rulemaking ("NOPR") published in this proceeding on April 15, 2016 in *D.C. Register*.<sup>1</sup> The proposed amendments to Chapter 27 (Regulation of Telecommunications Service Providers), Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (DCMR), in this NOPR add a new section, Section 2725, that requires telecommunications service providers that provide regulated local exchange service to customers using facilities that are not powered by the telecommunications service provider to provide a standby backup power unit. The proposed rules also require these telecommunications service providers to inform customers of the need for a standby backup power unit when the customer purchases regulated local exchange service provided over these facilities as well as annually.

2. Through this Public Notice, the Commission extends the comment period from June 27, 2016 to July 25, 2016 and the reply comment period from July 11, 2016 to August 15, 2016.<sup>2</sup>

3. All persons interested in filing comments and reply comments on the subject matter of the NOPR shall file these comments and reply comments with 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 the NOPR may be obtained by visiting the Commission's website at [www.dcpsc.org](http://www.dcpsc.org) or at cost, by contacting the Commission Secretary at the above address.

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<sup>1</sup> 63 DCR 5771 (April 15, 2016).

<sup>2</sup> The first extension of time was published as a Public Notice on May 6, 2016. *See*, 63 DCR 7024. That Public Notice was subsequently corrected by an Erratum published May 13, 2016. *See*, 63 DCR 7291.

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

SECOND EXTENSION OF COMMENT PERIOD**RM27-2016-02, IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO THE RULES GOVERNING LOCAL EXCHANGE CARRIER QUALITY OF SERVICE STANDARDS FOR THE DISTRICT**

1. By this Public Notice, the Public Service Commission of the District of Columbia ("Commission") informs interested persons of a second extension of time to file comments and reply comments in response to a Notice of Proposed Rulemaking ("NOPR") published in this proceeding on April 15, 2016 in *D.C. Register*.<sup>1</sup> The proposed amendments to Chapter 27 (Regulation of Telecommunications Service Providers), Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (DCMR), update Section 2706 (Abandonment of Service to the Local Exchange Voice Services Market) in this NOPR to require that all telecommunications service providers, not just competitive local exchange carriers, that are withdrawing services to the local exchange market, comply with the requirements of Section 2706. The proposed amendments also add a new Section 2707 (Abandonment of Copper Facilities) to include notice requirements for telecommunications service providers that are abandoning copper facilities in the District of Columbia. Finally, the proposed amendments renumber the current Section 2707 (Reports) to Section 2710 and makes amendments to the reporting requirements.

2. Through this Public Notice, the Commission extends the comment period from June 27, 2016 to July 25, 2016 and the reply comment period from July 11, 2016 to August 15, 2016.<sup>2</sup>

3. All persons interested in filing comments and reply comments on the subject matter of the NOPR shall file these comments and reply comments with 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 the NOPR may be obtained by visiting the Commission's website at [www.dcpsc.org](http://www.dcpsc.org) or at cost, by contacting the Commission Secretary at the above address.

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<sup>1</sup> 63 DCR 5773 (April 15, 2016).

<sup>2</sup> The first extension of time was published as a Public Notice on May 6, 2016. *See*, 63 DCR 7025. That Public Notice was subsequently corrected by an Erratum published May 13, 2016. *See*, 63 DCR 7292.



## 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), (10), and (19), 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), (7), (10), and (19), 50-313, 50-319 and 50-329 (2012 Repl. & 2015 Supp.)), hereby gives notice of its intent to adopt amendments to Chapter 10 (Public Vehicles for Hire) and Chapter 18 (Wheelchair Accessible Paratransit Taxicab Service) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

This proposed rulemaking would amend Chapters 10 and 18 to provide a new pathway for licensed taxicab operators who lost their DCTC taxicab vehicles licenses when they surrendered their “H” tags to the Department of Motor Vehicles in the period two years prior to and one year after the imposition of the “H tag moratorium.” *See* Final Report of the Panel on Industry: Findings and Recommendations on DCTC Policy on the Issuance of New Vehicle Licenses for Taxicabs (The H-Tag Report) (available at: <http://dctaxi.dc.gov/page/panel-industry>). The proposed rulemaking would effectively end the moratorium by allowing these licensed operators – identified in the Report – to establish *bona fide* bases for the issuance of new vehicle licenses, while also imposing reasonable conditions responsive to the current concerns of passengers and the industry (not those existing when the moratorium was imposed), including (1) purchasing either a wheelchair accessible vehicle two model years old or an electric vehicle, or (2) participating in Transport DC for three years.

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

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

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

**Subsection 1010.20 is amended to read as follows:**

1010.20 A new DCTC taxicab vehicle license (and corresponding set of DMV “H” tags) shall be issued to each applicant who meets all the following requirements and all other applicable requirements of this title and other applicable laws and regulations of the District, pursuant to an applicable administrative issuance.

- (a) The applicant proves to the satisfaction of the Office that:
  - (1) The applicant surrendered his or her “H” tags to DMV as follows:
    - (A) During the three (3) year period beginning on July 6, 2007, through and including July 6, 2010;

- (B) In good faith compliance with § 506 (taxicab removal from service); and
  - (C) For a *bona fide* reason identified in an administrative issuance, such as a family or personal health need, a unaffordable vehicle failure or accident, a legal obligation, and *not* merely to engage in other economic or non-economic activity, such as travel or working in another industry; and
- (2) The applicant either:
- (A) Has never made a request to the Office for a new or “returned” DCTC taxicab vehicle license or to DMV for new or “returned” H tags because the applicant reasonably believed the request would have been futile; or
  - (B) If the applicant made a request to the Office for a new or “returned” DCTC taxicab vehicle license or to DMV for new or “returned” H tags, the applicant did so within the twelve (12) month period ending on the latest date by which the Office determines that the *bona fide* reason, identified in subpart (1) (C) of this part, would have no longer have prevented the applicant from operating a taxicab;
- (b) The applicant has possessed a current and valid DCTC taxicab operator’s license continuously and without interruption since at least the earliest date by which the Office determines that the *bona fide* reason, identified in subpart (1)(C) of this part, would have no longer have prevented the applicant from operating a taxicab, through the date of the application;
- (c) The applicant participates in Transport DC (CAPS-DC) for a period of not less than three (3) years from the date the license is issued, and executes a written a dispatch agreement with a taxicab company participating in Transport DC, during which period the vehicle shall be in continuous active service and available for dispatch in accordance with all of the applicable operating requirements of § 1806;
- (d) The applicant uses the DCTC taxicab vehicle license to operate vehicles as follows, which the applicant shall acknowledge in writing:
- (1) At the time the license is issued, the applicant shall place into service a new electric vehicle;
  - (2) At the time the license is issued, the applicant shall place into service, notwithstanding any contrary provision of § 609 or

- Chapter 18, a wheelchair accessible vehicle not more than two (2) model years older than the current calendar year, or such earlier model year, as the Office may establish in an administrative issuance; or
- (3) At the time the license is issued, the applicant shall place into service any vehicle which complies with § 609.7, provided however, that when the applicant has completed three thousand (3,000) Transport DC trips among any number of vehicles, the applicant shall purchase and place into service a new wheelchair accessible vehicle.
- (e) If the applicant is not a District resident, the applicant shall form and maintain an independent vehicle business, if such a business is then authorized by the provisions of this title, in order to comply with the DMV requirements for registering the vehicle in the District;
- (f) The Office shall deny the application of an applicant who, in connection with an application under this subsection, makes a written or oral material misrepresentation to the Office or who fails to cooperate fully with the Office. "Cooperate" means timely and fully answer the Office's questions and timely provide additional information and documentation required by the Office;
- (g) The Office shall make a decision to grant or deny an application within twenty one (21) calendar days of the date on which the application is filed, provided however, that the failure to comply with this deadline shall not be a ground for the issuance of any DCTC license to any person; and
- (h) A license issued under this subsection shall be subject to suspension or revocation if, at any time or for any reason, the vehicle or applicant fails to comply with the provisions of subparts (c), (d), (e), or (f) (only as to written or oral material misrepresentations, not for lack of cooperation).

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

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

**Subsection 1806.8, is amended to read as follows:**

- 1806.8 Each company shall maintain with the Office a current and accurate inventory of all active operators and vehicles approved for and providing CAPS-DC service, including all vehicles associated with the company pursuant to a dispatch agreement under § 505.11 or § 1010.17, updated in such manner and at such times as determined by the Office, with the following information:

- (a) For each operator: name, cellular telephone number, DCTC operator's license number, and an indication of whether the operator has completed the wheelchair service training pursuant to § 1806.6, and, if so, the date of completion; and
- (b) For each vehicle: year, make, model, color, PVIN, tag number, and an indication of whether the vehicle is wheelchair accessible.

Copies of this proposed rulemaking can be obtained at [www.dcregs.dc.gov](http://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](mailto: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. 14-11A****(Text Amendment — 11 DCMR)****Minor Modification to Z.C. Order No. 14-11****(Text Amendment to Chapters 1, 3, 4, 26, 31, and 32, Maximum Height and Minimum Lot Dimension Requirements and Use Permissions in the R-4 District)**

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 Repl.)), 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 minor modifications to certain amendments made by Z.C. Order No. 14-11 (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) concerning the maximum height, minimum lot dimension requirements, and use permissions in the R-4 Zone District. The substance of the amendments was later included by the Commission in the version of Title 11 DCMR 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*.

Among other things, the Order amended the R-4 regulations to require special exception approval to convert buildings existing prior to May 12, 1958 to apartment houses. The proposed minor modification would add a special exception condition prohibiting an addition from extending further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjacent property. The modification also adds this condition to the three (3) existing conditions that may be waived, and increases the number of such waivable conditions from two (2) to three (3).

The Commission proposed this modification in response to a January 13, 2016 correspondence from six (6) individuals, which noted that the condition appeared in the notice of proposed rulemaking for the case, but did not appear in the final rulemaking notice. At its public meeting of March 28, 2016, the Commission, after reviewing a report submitted by the Office of Planning, voted to propose this modification. In doing so, the Commission noted that the Notice of Proposed Rulemaking included the condition as part of a provision that would have permitted the conversion of residential buildings to apartment houses as a matter of right. At final action, the Commission decided that such conversions should only be permitted by special exception. The Commission chose not to add the condition to the special exception criteria because it believed that the Board of Zoning Adjustment would be required to consider the adverse impact of an addition that extended past the furthest rear wall of an adjacent building. However, the Commission concluded that it now would be appropriate to add the condition, subject to the waiver discussed above.

Because the Zoning Commission is merely adding a waivable standard for the Board of Zoning Adjustment to apply in these circumstance, the Commission concluded that the modification is minor and therefore could be made without a hearing as provided by § 3030 of the Commission's rules.

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

The following amendment to the Current Regulations is proposed:

**Title 11 DCMR, ZONING, is amended as follows:**

**Chapter 3, R-2, R-3, R-4, AND R-5 RESIDENCE DISTRICT USE REGULATIONS, § 336, CONVERSION OF A RESIDENTIAL BUILDING EXISTING PRIOR TO MAY 12, 1958, TO APARTMENT HOUSES (R-4), is amended to prohibit an addition from extending further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjacent property, to allow the prohibition to be modified or waived, to increase the number of waivable conditions from two (2) to three (3), and to make other conforming changes including the renumbering of subsections, so that the entire section reads as follows:**

**336 CONVERSION OF A RESIDENTIAL BUILDING EXISTING PRIOR TO MAY 12, 1958, TO APARTMENT HOUSES (R-4)**

- 336.1 Conversion of an existing residential building existing prior to May 12, 1958, to an apartment house shall be permitted as a special exception in the R-4 District if approved by the Board of Zoning Adjustment under § 3104, subject to §§ 336.2 through 336.14.
- 336.2 The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft.), except that the Board of Zoning Adjustment may grant a special exception from this limit under § 3104, subject to §§ 336.3 through 336.14.
- 336.3 The fourth (4<sup>th</sup>) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Chapter 26 (Inclusionary Zoning), including the set aside requirement set forth at § 2603.9.
- 336.4 There must be an existing residential building on the property at the time of filing an application for a building permit.
- 336.5 There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit.

- 336.6 Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code.
- 336.7 Any addition, including a roof structure or penthouse, shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow, shade, or other reputable study acceptable to the Board of Zoning Adjustment.
- 336.8 A roof top architectural element original to the house such as a turret, tower, or dormers shall not be removed or significantly altered, including changing its shape or increasing its height, elevation, or size.
- 336.9 An addition shall not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjacent property.
- 336.10 Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:
- (a) The light and air available to neighboring properties shall not be unduly affected;
  - (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and
  - (c) The conversion and any associated additions, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street or alley.
- 336.11 In demonstrating compliance with § 336.10 the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways.
- 336.12 The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties, or to maintain the general character of a block.
- 336.13 The Board of Zoning Adjustment may modify or waive not more than three (3) of the requirements specified in §§ 336.6 through 336.9; provided, that any modification or waiver granted pursuant to this section shall not be in conflict with § 336.10.

336.14 An apartment house in an R-4 Zone District, converted from a residential building prior to June 26, 2015, or converted pursuant to §§ 3202.8, 3202.9, or 3202.10, shall be considered a conforming use and structure, but shall not be permitted to expand either structurally or through increasing the number of units, unless approved by the Board of Zoning Adjustment pursuant to §§ 3104.1 and 3104.3 and this section.

**The following amendment to the 2016 Regulations is proposed:**

**Subtitle U, USE PERMISSIONS, of Title 11 DCMR, ZONING REGULATIONS OF 2016, is amended as follows:**

**Section 320, SPECIAL EXCEPTION USES (RF), of Chapter 3, USE PERMISSIONS RESIDENTIAL FLATS (RF) ZONES, § 320.2, is amended to prohibit an addition from extending further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjacent property, to allow the prohibition to be modified or waived, to increase the number of waivable conditions from two (2) to three (3), and to make other conforming changes including the renumbering of subsections and corrections to align the language with the text approved by of Zoning Commission Case No. 14-11 so that the entire subsection reads as follows:**

- 320.2 Conversion of an existing residential building existing prior to May 12, 1958, to an apartment house shall be permitted as a special exception in an RF-1, RF-2, or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following conditions:
- (a) The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft.), except that the Board of Zoning Adjustment may grant a special exception from this limit to a maximum height of forty feet (40 ft.) provided the additional five feet (5 ft.) is consistent with Subtitle U §§ 320.2(f) through 320.2(i);
  - (b) The fourth (4<sup>th</sup>) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Subtitle C, Chapter 10 (Inclusionary Zoning), including the set aside requirement set forth at Subtitle C § 1003.6;
  - (c) There must be an existing residential building on the property at the time of filing an application for a building permit;
  - (d) There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit;
  - (e) An addition shall not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjacent property;



- (f) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code;
- (g) Any addition, including a roof structure or penthouse, shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow, shade, or other reputable study acceptable to the Board of Zoning Adjustment;
- (h) A roof top architectural element original to the house such as a turret, tower, or dormers shall not be removed or significantly altered, including changing its shape or increasing its height, elevation, or size;
- (i) Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:
  - (1) The light and air available to neighboring properties shall not be unduly affected;
  - (2) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and
  - (3) The conversion and any associated additions, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street or alley;
- (j) In demonstrating compliance with Subtitle U § 320.2(i) the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways;
- (k) The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties, or to maintain the general character of a block;
- (l) The Board of Zoning Adjustment may modify or waive not more than three (3) of the requirements specified in Subtitle U §§ 320.2(e) through § 320.2(h) provided, that any modification or waiver granted pursuant to this section shall not be in conflict with Subtitle U § 320.2(i); and
- (m) An apartment house in an RF-1, RF-2 or RF-3 zone, converted from a residential building prior to June 26, 2015, or converted pursuant to Subtitle A §§ 301.9, 301.10, or 301.11 shall be considered a conforming use and structure, but shall not be permitted to expand either structurally

or through increasing the number of units, unless approved by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, and this section.

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 4<sup>th</sup> 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](mailto:zcsubmissions@dc.gov). Ms. Schellin may be contacted by telephone at (202) 727-6311 or by email at [Sharon.Schellin@dc.gov](mailto:Sharon.Schellin@dc.gov). Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

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

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in Title 25, D.C. Code Enactment and Related Amendments Act of 2001, effective May 3, 2001 (D.C. Law 13-298; D.C. Official Code § 25-351(a) (2012 Repl.)), hereby gives notice of the adoption of emergency rules that amend Section 307 (West Dupont Circle Moratorium Zone) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR).

In summary, these rules renew the existing West Dupont Circle Moratorium Zone (WDCMZ) with certain modifications for a period of three (3) years. Specifically, the rules amend Section 307 to maintain the current limit on the number of retailer's Class CN and DN licenses, and remove the previous limitation on all other retailer class licenses in the WDCMZ.

The Board originally adopted Emergency and Proposed Rules extending the WDCMZ on August 12, 2015. Those rules were published in the *D.C. Register* on September 4, 2015, at 62 DCR 12241 [EXPIRED]. On December 9, 2015, the Board adopted Emergency Rules which extended the proposed amendments previously adopted by the Board. The emergency rules, which were published in the *D.C. Register* on March 11, 2016, at 63 DCR 3782, expired on April 9, 2016.

These emergency rules, which mirror the previous two rulemakings the Board adopted, extend the proposed amendments adopted on August 12, 2015, and December 9, 2015.

By way of background, the existing moratorium expired on May 17, 2015. Prior to the expiration, on February 23, 2015, the Board received a request from Advisory Neighborhood Commission (ANC) 2B for a one hundred twenty (120) day extension of the existing moratorium. The ANC requested the extension in order to analyze the impact of a potential request for renewal of the moratorium on the peace, order and quiet of the neighborhood.

Earlier this year, the ANC formed a working group tasked with engaging the public and receiving feedback on the future of the moratorium. The working group consisted of current commissioners, one (1) former commissioner, and the ANC's liquor liaison for ANC 2B06. The working group held three (3) public meetings from January through April 2015, and published an on-line questionnaire for additional public comments. The working group voted to allow the existing moratorium to expire across all licenses. This recommendation was not adopted by the full ANC and a resolution to support a modified moratorium was forwarded to the Board on a 4-2-1 vote.

On May 13, 2015, the Board adopted emergency rules to preserve the existing moratorium for one hundred twenty (120) days in order to maintain the moratorium's status quo while the Board considered the ANC proposal and take testimony from members of the community who had a different view.

On July 22, 2015, the Board held a public hearing on the request of ANC 2B to renew a modified moratorium. ANC 2B was represented by Commissioner Daniel Warwick, who testified in support of the renewal of a modified moratorium for a three (3) year period. The ANC resolution proposal retains the cap on retailer class CN licenses at zero (0) and eliminates the cap on all other retailer's class licenses. Furthermore, the ANC recommended that it works collaboratively with ABRA, the Joint Noise Force Task Force, MPD, DCRA, the D.C. Zoning Commission, neighbors, businesses, and other stakeholders to codify a city-wide restriction on locating nightclubs next to residential buildings.

Commissioner Warwick testified to the history of West Dupont Circle, and noted that his ANC first petitioned the Board for a moratorium on all liquor-selling establishments over twenty (20) years ago. Over the intervening years, the moratorium has renewed, and many of the renewals have loosened the restrictions to fit the changing needs of the neighborhood. By way of example, in 2006 the total number of licenses increased from twenty-nine (29) to thirty (30), and in 2008, the number increased to thirty-four (34). In 2009, the moratorium zone carved out the 1500 block of Connecticut Avenue N.W., and in 2011, the restrictions on restaurants was lifted.

Commissioner Warwick described West Dupont Circle as a thriving, mixed-use historic neighborhood where many businesses and thousands of residents are located. While the amenities of late-night retail and entertainment contribute to the livelihood of the neighborhood, problems also stem from late-night activity. For example, the neighborhood has taverns located next to residential buildings which can be heard in residential units.

Commissioner Warwick noted that not all businesses are appropriate for the neighborhood, and thus the ANC seeks to retain the cap on nightclub licenses. Lifting the moratorium in its entirety, as the working group suggested, would be disruptive to the peace, order and quiet of any mixed-use neighborhood. It would also impair the public safety of the neighborhood for residents and other pedestrians. He further noted that of the six (6) permitted CT/DT licenses located in the moratorium zone, two (2) continue to present problems so that retaining the cap on tavern licenses will not eliminate the concerns.

He explained that the current moratorium limits healthy competition for existing businesses and it restricts new licenses for art galleries, distilleries, breweries, wineries or multi-purpose facilities. The only way for new businesses to enter into the neighborhood is to purchase existing licenses and those may not be available. The ANC is concerned that this type of structure leads to the creation of a secondary market that serves as a barrier to entry for new businesses.

The ANC desires to create and maintain a vibrant mixed-use neighborhood that offers amenities to businesses and residents alike. However, leaving the restrictions on certain licenses in place impairs the ANC's ability to review the merits of new applications on a case by case basis, which may drive good businesses away.

Karyn Siobhan Robinson is a former ANC Commissioner who has lived at the corner of 22<sup>nd</sup> and O Streets NW since 1991. She also served on the ANC's working group. She supports

eliminating the moratorium in its entirety, to include the cap on nightclub licenses, because the existing moratorium has outlived its usefulness.

Specifically, Ms. Robinson addressed the concerns of peace, order and quiet, and noted that noise from night life activity comes with living in the city and is a part of an urban environment. She further noted that urban living is not for everybody. It is her belief that the Board and the neighborhood should not bend to the whims of a small vocal minority. The neighborhood brings in many different people and businesses, and noise is a part of that life. She acknowledged that streets adjacent to 22<sup>nd</sup> and P Streets N.W. are where many of the patrons park and congregate, but she is willing to drive around the neighborhood to find available parking.

Ms. Robinson also supports eliminating the cap on nightclubs because market forces make it unrealistic for a nightclub to locate to West Dupont. She also noted that maintaining the moratorium keeps rents artificially high and chokes out viable retailers who can't afford to enter the neighborhood.

She believes that concerns regarding peace, order and quiet, and public safety can be adequately addressed in individual settlement agreements. Furthermore, she points out that ANC 2B and the Board are well equipped and experienced to handle ABC licensed establishments on a case by case basis should there be any concerns regarding their operations.

Mr. Pellegrini testified as a resident of Dumbarton Place located at 1414 22<sup>nd</sup> Place N.W., and on behalf of the other thirty six (36) residents in his building. He stated that his fellow residents enjoy living in a vibrant neighborhood, but there are a couple of existing establishments that affect their quality of life. The residents are not concerned with routine noise from living in the city nor are they concerned with the noise produced in the interior of the establishments.

Mr. Pellegrini stated that the problems in the neighborhood that concern the residents the most stem from the patrons who congregate outside after closing time. The drinking continues in and outside the parked vehicles, the patrons are disorderly and verbally abusive to the residents, and the encounters can be alarming. Additionally, residents wake up to litter, garbage, broken bottles, and used condoms tossed in common areas, and the smell of human urination.

Residents spend their weekends cleaning up after the establishments and their patrons. The residents call MPD, who try to be responsive, but by the time MPD arrives the behavior has curtailed or moved onward. He also appreciates that enforcement by ABRA investigators may be difficult. He believes that stricter enforcement of the settlement agreements and employment of MPD Reimbursable Detail would help to mitigate the bad patron behavior. A third measure of enforcement would be monitoring by the United States Park Police.

Additionally, Mr. Pellegrini does not believe that it is necessary to lift the cap on tavern licenses when the existing cap has not been reached. Of the six (6) permitted licenses, only four (4) are in use. There is no logic to compounding the already challenging issue of tavern licenses by allowing more of them to locate in the neighborhood. Moreover, he argues that there is little distinction between nightclubs and taverns, especially those taverns that offer entertainment.

Mr. Pellegrini suggested that the Board take a pragmatic approach and lift the moratorium on all license classes with the exception of taverns and nightclubs. The residents of his condominium building fully support the removal of the cap on CX and off-premises licenses. With this incremental modification, the community and ABRA can continue to work together for better solutions over the next moratorium period to mitigate or minimize the illegal behavior that stems from the bad operators. This compromise solution would be a win-win for the neighborhood and the businesses.

Judith Snyder appeared on behalf of Dupont West Condominium located at 2141 P Street N.W., Jonathan Padget is also a resident of Dupont West, and stated that about 150 to 175 residents live in the condominiums. He listed Westpark Apartments, located at 2130 P Street N.W., with its 200 to 300 residents, and Georgetown Gate Condominiums, located 1511 22<sup>nd</sup> Street N.W. as nearby residences. He also noted that hotel guests are affected by the disorderly nightlife generated by some of the establishments and their patrons.

Jessie Vasquez is also a resident of Dumbarton Place Condominium. She testified regarding the noncompliance of the establishments with the terms of their settlement agreements. One establishment in particular is required to have a doorman, who is supposed to traverse the area and encourage patrons to disperse once they've left the club. She has observed the doorman's presence but she has not observed that he carries out his duties as set forth in the settlement agreement.

Mr. Padget further noted that the residents have difficulty with the patrons' use of the alleyways that serve as a part of the residential space. His balcony overlooks one alleyway and he has witnessed patrons using illegal drugs, urinating, and fornicating outside his window. He believes that the taverns contribute to this detrimental behavior and that eliminating the cap on tavern licenses is not the answer.

Indeed, all of the representatives from the condominium associations noted that the tavern licenses are the primary source of problems for the neighborhood. Maintaining the existing cap on these license classes would help to ensure that these problems are not exacerbated. They urged the Board to leave the cap on the six (6) tavern licenses and the prohibition on nightclub licenses.

In addition to the testimony received by those in attendance at the public hearing, the Board also received written comments from several parties.

Robert Oaks, President of the Dupont West Condominium (Dupont West) located at 2141 P Street N.W., submitted written comments on behalf of the Board of Directors who voted unanimously to recommend continuation of the West Dupont Circle Moratorium. It strongly urges the Board to do the same. Dupont West is a 95-unit building whose owners and residents appreciate the thriving neighborhood, but are regularly disturbed by the patrons of a few licensed establishments. Dupont West actively supports the settlement agreements and cooperates with MPD, ABRA and other civic organizations to no avail. The taverns in the neighborhood operate in reality as nightclubs. They serve alcohol but not food, offer entertainment at levels that can be heard outside their premises, and release patrons in large rowdy crowds onto the streets in the

early morning hours. For these reasons, Dupont West does not support the ANC Resolution to lift the cap on tavern licenses.

Glenn M. Engelmann resides at 1412 Hopkins Street N. W. He requested that the Board leave the existing moratorium in place because the neighborhood is currently vibrant with a good mixture of restaurants and other retail establishments. He credits the moratorium with enabling a strong business climate while preserving the significant residential character of the neighborhood. At a minimum, Mr. Engelmann asks the Board to maintain the moratorium on prohibiting nightclubs as the ANC proposes.

Skip Perry has resided at 1400 20<sup>th</sup> Street N.W. for six (6) years. He supports Ms. Robinson and the working group's position that the moratorium should expire in its entirety. He believes the vibrancy and attractiveness of the neighborhood has atrophied and continues to do so. There is a noticeable decline in foot traffic and former ABC licensed locations sit empty. Mr. Perry observes that the moratorium has loosened since its inception over the years with no apparent negative impact on the neighborhood. It is his opinion that new businesses should be permitted to apply and then be vetted by ABRA for their appropriateness.

Alan Rueckgauer has been President of the Westpark Tenant Association (WTA) since 2007. He has resided at the Westpark Apartments, located at 2130 P Street N. W. for over twenty-five (25) years. The Westpark has two hundred fifty (250) units containing 300-350 individual residents. The WTA surveyed its members in April 2015 and more than eighty-five percent (85%) of the membership supported maintaining the current moratorium. The unanimous concern is the demonstrated inability of the District to address complaints, public safety issues, and the ongoing problems with bad operators. There are countless altercations, fights and assaults, some with deadly weapons, centered on the corner of 22<sup>nd</sup> and P Streets, N.W. The WTA has been actively engaged with the ANC, MPD and ABRA for many years to address these concerns, yet the noise and bad, if not illegal behavior, continues. For these reasons, the WTA urges the Board to maintain the moratorium on tavern and nightclub licenses.

The Georgetown Gate Condominium located at 1511 22<sup>nd</sup> Street, N.W. offered similar written comments requesting the Board to keep the moratorium on taverns and nightclubs intact. Their members have had their fill of fights, vandalism, rowdy and unsavory behavior, all of which is carried out on public and private property. The Georgetown Gate is concerned that the attitude of the ANC and District officials appears to favor the business interests over the residential interests.

Lastly, residents of Dumbarton Place Condominium supplemented the testimony of Mr. Pellegrini and Ms. Vazquez with written comments. The residents requested the Board to keep the existing moratorium in place for taverns and nightclubs. They raise three (3) points in support of their position: 1) the existing taverns cause disorderly conduct, public safety issues, and excessive noise in the neighborhood; 2) the owners of the taverns have exhibited no interest in being good neighbors; and 3) the ANC's recommendation is inconsistent with the will and desire of the greater residential neighborhood. The residents support allowing the moratorium to expire for restaurants and multi-purpose facilities.

Decision of the Board

The Board took the views of ANC 2B and all other witnesses and written comments into consideration. The Board determined that the ANC proposal to lift the moratorium on all license classes with the exception of CN/DN licenses constitutes a reasonable, measured, and appropriate solution for the West Dupont neighborhood.

In reaching its decision, the Board gave great weight to the written recommendations of ANC 2B as required by Section 13(d)(3) of the Advisory Neighborhood Commissions Act of 1975, effective October 10, 1975 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3) (2014 Repl. & 2015 Supp.)), and D.C. Official Code § 25-609 (2012 Repl. & 2015 Supp.). After evaluating all of the testimony and comments, the Board finds that ANC 2B's proposal is appropriate. Specifically, the Board agrees that maintaining the current cap on nightclub licenses is warranted to ensure that problems in the neighborhood are not exacerbated.

Pursuant to D.C. Official Code § 25-351 (2012 Repl. & 2015 Supp.), the Board determined that it was in the public's interest to renew the moratorium with certain modifications, and in doing so, the Board based its decision upon the appropriateness standards set forth in D.C. Official Code §§ 25-313 (b)(2) and (b)(3) (2012 Repl. & 2015 Supp.). In reviewing a moratorium request, the Board must "consider the extent to which the testimony and comments show that the requested moratorium is appropriate under at least two (2) of the appropriateness standards set forth in subchapter II of this chapter." D.C. Official Code § 25-354(d) (2012 Repl. & 2015 Supp.); *see also* D.C. Official Code § 25-351(a) (2012 Repl. & 2015 Supp.).

With regard to peace, order and quiet, the testimony presented at the hearing as well as the proposal submitted by ANC 2B revealed that there are significant problems in the West Dupont neighborhood with regard to peace, order, and quiet, particularly with regard to late night noise, litter, and public urination.

Additionally, the Board concluded that issues with vehicular and pedestrian safety continue to exist in the WDMZ. Specifically, the testimony of Mr. Pellegrini revealed that patrons are drinking inside and outside of parked vehicles and congregating outside the establishment after closing time. Thus, the Board concluded that maintaining a modified moratorium is in the public interest as determined by the appropriateness standards set forth in D.C. Official Code §§ 25-313 (b)(2) and (b)(3) (2012 Repl. & 2015 Supp.).

As noted above, the Board agrees with and adopts the ANC's proposal. Specifically, the Board agrees to: (1) renew a modified moratorium; (2) lift the restrictions on all license classes with the exception of the number of Retailer Class CN/DN licenses; (3) retain the existing language pertaining to the transfer of ownership; (4) retain the prohibition on the transfer of Retailer Class CN/DN from outside the moratorium zone to inside the moratorium zone; and (5) retain the prohibition restricting the change of license class to all CN/DN licenses.

The Board rejects modifications to the ANC proposal suggested by the various condominium residents regarding retaining the cap on tavern licenses. The Board believes that there are enough safeguards in place to protect the neighborhood as discussed more fully below. The Board also



notes that the current cap on tavern licenses has not been reached so clearly the demand to locate new taverns in the neighborhood may be overestimated.

While it is sympathetic to their concerns about the social ills that accompany a vibrant nightlife, the Board would encourage the condominium residents to participate fully in the protest process when the tavern licenses are scheduled for renewal in 2016. Additionally, the Board would encourage the neighborhood to utilize the ABRA hotline in the evenings and early morning hours. The agency has recently deployed additional investigators whose duty hours now cover seven (7) nights of the week. Lastly, the residents are encouraged to access the ABRA electronic complaint form on the agency website anytime they witness a breach in the establishments' settlement agreements. The Board assures the community that complaints submitted telephonically or electronically will be investigated.

The Board also believes that limiting the modified moratorium to three (3) years will allow the Board, the ANC, and the community to assess the effectiveness of the proposed changes. Additionally, this timeframe allows the community the greatest degree of flexibility to adapt and adjust the moratorium to respond to the changing needs of the neighborhood. The Board too, will have an opportunity to reevaluate the effectiveness of the limited moratorium, and to explore solutions that will balance, not inhibit, the neighborhood's ability to pursue economic opportunities.

In removing the cap on tavern licenses, the Board makes clear that it will not tolerate tavern licensees who operate in such a manner that their operations create a nightclub atmosphere. It cautions all licensees to understand that West Dupont is a unique neighborhood. As such, the Board will give great scrutiny to any licensing request that profoundly changes the nature and character of the neighborhood.

Additionally, the Board recognizes that enforcement and compliance efforts both safeguard and enhance neighborhoods. In any regulatory environment, some licensees will comply voluntarily, some will not comply, and some will comply only if they see that others receive a sanction for non-compliance. The Board's recent expansion of the Civil Penalty Schedule gives greater discretion to the Board and to ABRA investigators with regard to enforcing laws and regulations. Investigators can now issue Warnings for a greater range of offenses; thus, ensuring that their response to violations is immediate and predictable. The civil penalty regulations also grant the Board more appropriate sanctions that are commensurate with the offense. Where Warnings put licensees on notice for a first offense, the Board can now levy a heavier penalty for second and third offenses.

The Board appreciates the balance that must be struck between the interests of the residents in the neighborhood, and the interests that promote a nightlife economy. The Board recognizes that a diverse, dynamic and safe dining and entertainment environment is part of the fabric of the District, and yet, nightlife activity needs to be carefully managed in order to reduce antisocial behavior, noise, public disturbance, and other problems.

The Board applauds the ANC's efforts to solicit the community members' perspectives on positive steps to transform the West Dupont's neighborhood and improve urban vibrancy. Like

the ANC, the Board believes that if managed properly, a thriving and safe nightlife can act as an economic engine by attracting new businesses and restaurants, diversifying the range of cultural offerings, creating employment opportunities, and increasing tourism. To this end, the Board is in agreement with the ANC that a new direction for the West Dupont moratorium that allows for responsible growth is warranted.

The statements set forth above reflect the written reasons for the Board's decision as required by 23 DCMR § 303.1.

Emergency rulemakings are used only for the immediate preservation of the public peace, health, safety, welfare, or morals, pursuant to 1 DCMR § 311.4(e). The existing WDMZ expired on September 13, 2015, requiring the Board to make a determination regarding the future of the WDMZ. The emergency action is necessary for the preservation of the health, safety and welfare of the District residents in order to ensure that the prohibitions provided in the modified moratorium are maintained.

The current emergency rules expired on April 9, 2016. Because the emergency rules have not been superseded by a final rulemaking, it is necessary for the Board to re-adopt the rules on an emergency basis in order to avoid the expiration of the moratorium. The Board adopted these emergency rules on March 30, 2016, by a five (5) to zero (0) vote and they became effective on that date. The emergency rules, which supersede the emergency rules the Board adopted on December 9, 2015, will expire on July 28, 2016; one hundred twenty (120) days after going into effect.

The Board also gives notice of its intent to adopt these rules as final in not less than thirty (30) days from the date of publication in the *D.C. Register*. Pursuant to D.C. Official Code § 25-211(b)(2), these rules will be submitted to the Council for a mandatory ninety (90) day review period. The rules may not be finalized before the expiration of the ninety (90)-day Council review period, unless earlier superseded by Council resolution.

**Chapter 3, LIMITATIONS ON LICENSES, of Title 23 DCMR, ALCOHOLIC BEVERAGES, is amended as follows:**

**Section 307 is amended to read as follows:**

**307 WEST DUPONT CIRCLE MORATORIUM ZONE**

307.1 A limit shall exist on the number of retailer's licenses issued in the area that extends approximately six hundred feet (600 ft.) in all directions from the intersection of 21<sup>st</sup> and P Streets, N.W., Washington, D.C., as follows: Class CN or DN - Zero (0). This area shall be known as the West Dupont Circle Moratorium Zone.

307.2 The West Dupont Circle Moratorium Zone is more specifically described as the area bounded by a line beginning at 22<sup>nd</sup> Street and Florida Avenue, N.W.; continuing north on Florida Avenue, N.W., to R Street, N.W.; continuing east on

R Street, N.W., to 21<sup>st</sup> Street, N.W.; continuing south on 21<sup>st</sup> Street, N.W., to Hillyer Place, N.W.; continuing east on Hillyer Place, N.W., to 20<sup>th</sup> Street, N.W.; continuing south on 20<sup>th</sup> Street, N.W., to Q Street, N.W.; continuing east on Q Street, N.W., to Connecticut Avenue, N.W.; continuing southeast on Connecticut Avenue, N.W., to Dupont Circle; continuing southwest around Dupont Circle to New Hampshire Avenue, N.W.; continuing southwest on New Hampshire Avenue, N.W., to N Street, N.W.; continuing west on N Street, N.W., to 22<sup>nd</sup> Street, N.W.; and continuing north on 22<sup>nd</sup> Street, N.W., to Florida Avenue, N.W. (the starting point).

- 307.3 All hotels, whether present or future, shall be exempt from the West Dupont Circle Moratorium Zone. The 1500 block of Connecticut Avenue, N.W., shall be exempt from the West Dupont Circle Moratorium Zone. Establishments located in, or to be located in, the New Hampshire side of One Dupont Circle, N.W., shall be exempt from the West Dupont Circle Moratorium Zone.
- 307.4 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a retailer's license Class A, B, CR, CT, CX, DR, DT, or DX located within the West Dupont Circle Moratorium Zone, subject to the requirements of the Act and this title.
- 307.5 Nothing in this section shall prohibit the Board from approving the transfer of a license from a location within the West Dupont Circle Moratorium Zone to a new location within the West Dupont Circle Moratorium Zone.
- 307.6 A CN/DN license holder outside the West Dupont Circle Moratorium Zone shall not be permitted to transfer its license to a location within the West Dupont Circle Moratorium Zone.
- 307.7 Subject to the limitation set forth in Subsection 307.8, nothing in this section shall prohibit the filing of a license application or a valid protest of any transfer or change of license class.
- 307.8 No licensee in the West Dupont Circle Moratorium Zone shall be permitted to request a change of license class to CN, or DN.
- 307.9 A current holder of a retailer's license Class A, B, C, or D within the West Dupont Moratorium Zone shall not be permitted to apply to the Board for expansion of service or sale of alcoholic beverages into any adjoining or adjacent space, property, or lot, unless:
- (a) The prior owner or occupant has held within the last five (5) years a retailer's license Class A, B, C, or D; or
  - (b) The applicant is a Class CR or DR licensee and the prior owner or occupant has held during the last three (3) years, and continues to hold at

the time of application, a valid restaurant license from the Department of Consumer and Regulatory Affairs.

- 307.10 The number of substantial change applications approved by the Board for expansion of service or sale of alcoholic beverages into an adjoining or adjacent space, property, or lot, as allowed under Subsection 307.9, shall not exceed three (3) during the three (3) year period of the West Dupont Circle Moratorium Zone.
- 307.11 Nothing in this section shall prohibit holders of a retailer's license Class C or D from applying for outdoor seating in public space.
- 307.12 This section shall expire three (3) years after the date of publication of the notice of final rulemaking.

Copies of the proposed rulemaking can be obtained by contacting Martha Jenkins, General Counsel, Alcoholic Beverage Regulation Administration, 2000 14<sup>th</sup> Street, N.W., 4<sup>th</sup> Fl., Washington, D.C. 20009. All persons desiring to comment on the emergency and proposed rulemaking must submit their written comments, no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to the above address or via e-mail to [Martha.Jenkins@dc.gov](mailto:Martha.Jenkins@dc.gov).

## DEPARTMENT OF HEALTH

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Director of the Department of Health (Director), pursuant to the authority set forth in § 201(a) of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-902.01 (2014 Repl. & 2015 Supp.)), and Mayor's Order 98-49, dated April 15, 1998, hereby gives notice of the adoption, on an emergency basis, of the following amendments to Chapter 12 (Controlled Substances Act Rules) of Title 22 (Health), Subtitle B (Public Health and Medicine) of the District of Columbia Municipal Regulations (DCMR).

The emergency and proposed rules would update the list of Schedules I, II, and IV drugs, and were adopted after considering the eight (8) factors set forth in Section 201(a) of the Act (D.C. Official Code § 48-902.01 (2014 Repl. & 2015 Supp.)).

Emergency action is necessary because the updated list includes cannabimimetic drugs that have no legitimate medical use, are readily available, and pose an immediate risk to public health and safety because of their harmful effects when abused. This rulemaking incorporates substances identified with the cooperation of the government of China. Those effects of abuse include vomiting, anxiety, agitation, irritability, seizures, hallucinations, tachycardia, elevated blood pressure, and loss of consciousness.

The Emergency rules were adopted by the Director on May 9, 2016, became effective immediately, and shall expire on September 6, 2016.

The Director also gives notice of the intent to take final rulemaking action in not less than thirty (30) days after the date of publication of this notice in the *District of Columbia Register*.

**Chapter 12, CONTROLLED SUBSTANCES ACT RULES, of Title 22-B DCMR, PUBLIC HEALTH AND MEDICINE, is amended as follows:**

**Section 1201, SCHEDULE I ENUMERATED, is amended as follows:**

**Subsection 1201.1(c) is amended by striking the word “and” at the end of paragraph (45) and adding new paragraphs to be numbered (47) through (227) as follows:**

- (47) (2C-T) 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine; OR 4-methylthio-2,5-dimethoxyphenethylamine;
- (48) 4- methylthio-2,5-dimethoxyphenethylamine;
- (49) (2C-B-butterFLY) 2-(10-Bromo-2,3,4,7,8,9 hexahydropyrano[2,3-g]chromen-5-yl)ethanamine;
- (50) (2C-B-FLY) 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4- yl)ethanamine;
- (51) (2C-B-hemiFLY, 2CB-5- hemiFLY) 2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4- yl)ethanamine;

- (52) (2C-B-FLY-NBOMe) N-(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7-tetrahydrobenzo[1,2-b:4,5-b']difuran-4-yl)-2-aminoethane;
- (53) (2C-B-NBOMe, 2,5B-NBOMe) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine; OR 2,5-Dimethoxy-4-bromo-N-(2-methoxybenzyl)phenethylamine
- (54) 2CBCB-NBOMe N-(2-methoxybenzyl)-1-[(7R)-3-bromo-2,5-dimethoxybicyclo[4.2.0]octa-1,3,5-trien-7-yl]methanamine;
- (55) 2C-C-NBOMe, 2,5C-NBOMe 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine; OR 2,5-Dimethoxy-4-chloro-N-(2-methoxybenzyl)phenethylamine;
- (56) 2C-H-NBOMe, 2,5H-NBOMe 2-(2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine;
- (57) 2C-I-NBOH, 2,5I-NBOH N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine;
- (58) 2C-I-NBOMe, 2,5INBOMe, 2,5I-NBOMe, 25I-NBOMe, NBOMe-2C-I, BOM-CI 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine; OR 2,5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)phenethylamine;
- (59) (2CBCB-NBOMe) N-(2-methoxybenzyl)-1-[(7R)-3-bromo-2,5-dimethoxybicyclo[4.2.0]octa-1,3,5-trien-7-yl]methanamine
- (60) (2C-H-NBOMe, 2,5H-NBOMe) 2-(2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine
- (61) (2C-I-NBOH, 2,5I-NBOH) N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine;
- (62) 2C-TFM-NBOMe 2-(4-trifluoromethyl-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine;
- (63) (25I-NBF) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-fluorophenyl)methyl]ethanamine;
- (64) (25I-NBMD, NBMD-2C-I, Cimbi-29) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2,3-ethylenedioxyphenyl)methyl]ethanamine;
- (65) (3C-B-FLY) 2-(4-bromo-2,3,6,7-tetrahydrofurobensofuran-8-yl)-1-methyl-ethylamine;

- (66) (4-CAB, AEPCA) 4-Chlorophenylisobutylamine; OR 1-(4-chlorophenyl)butan-2-amine; OR 4-chloro- $\alpha$ -ethylphenethylamine;
- (67) (4-FA, PAL-303, Flux, Flits, R2D2) para-fluoroamphetamine; OR 4-fluoroamphetamine; OR (RS)-1-(4-Fluorophenyl)propan-2-amine;
- (68) (5-APB) 5-(2-Aminopropyl)benzofuran;
- (69) (5-APDB) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran; 1-(2,3-dihydro-1-benzofuran-5-yl)propan-2-amine; 5-(2-Aminopropyl)-2,3-dihydrobenzofuran (3-Desoxy-MDA, EMA-4)
- (70) (6-APB; Benzofury) 6-(2-aminopropyl)benzofuran; OR 1-benzofuran-6-ylpropan-2-amine;
- (71) (6-APDB) 6-(2-Aminopropyl)-2,3,-dihydrobenzofuran;
- (72) (APB) ((2-aminopropyl)benzofuran); OR [(2-aminopropyl)benzofuran]; OR (2-aminopropyl)benzofuran;
- (73) (APDB) ((2-aminopropyl)-2,3-dihydrobenzofuran); OR [(2-aminopropyl)-2,3-dihydrobenzofuran]; OR (2-aminopropyl)-2,3-dihydrobenzofuran;
- (74) (bromo-dragonFLY) 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine; OR bromo-benzodifuranyl-isopropylamine;
- (75) (DOB) 2,5-Dimethoxy-4-bromoamphetamine; OR 1-(4-Bromo-2,5- dimethoxyphenyl)-2-aminopropane;
- (76) (DOC) 2,5-Dimethoxy-4-chloroamphetamine; OR 1-(4-chloro-2,5- dimethoxy-phenyl)propan-2-amine; OR 4-chloro-2,5-dimethoxyamphetamine;
- (77) (DOI) 2,5-dimethoxy-4-iodoamphetamine; OR 1-(2,5-dimethoxy-4- iodophenyl)-propan-2-amine; OR 4-iodo-2,5-dimethoxyamphetamine;
- (78) DOM, STP 4-methyl-2,5-dimethoxy-amphetamine; OR 4-methyl-2,5-dimethoxy-a-methylphenethylamine;
- (79) (Fluoroamphetamine);
- (80) MDA 3,4-methylenedioxy amphetamine;
- (81) MDMA 3,4-methylenedioxymethamphetamine;

- (82) MDE, MDEA 3,4-methylenedioxy-N-ethylamphetamine; OR N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine;
- (83) Mescaline 3,4,5-trimethoxyphenethylamine;
- (84) (Mescaline-NBOMe) N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine; OR 3,4,5-trimethoxy-N-(2-methoxybenzyl)phenethylamine;
- (85) (PMMA, 4-MMA) para-Methoxy-N-methylamphetamine; OR 4-methoxy-N-methylamphetamine; OR 1-(4-methoxyphenyl)-N-methylpropan-2-amine;
- (86) TMA, 3,4,5-trimethoxyamphetamine;
- (87) 2,5-Dimethoxy-4-ethylamphetamine, (DOET, DOE);
- (88) Eticyclidine (PCE, CI-400);
- (89) N-Ethyl-mda; Eve (amphetamine); 3,4-Methylenedioxyethylamphetamine; 3,4-Methylenedioxy-N-ethylamphetamine;
- (90) 4-Methylthioamphetamine (4-MTA);
- (91) 2-(4-Bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine, (2C-B-NBOMe);
- (92) 4-Methyl-2,5-dimethoxyphenethylamine, (2C-D);
- (93) 2-(4-Methyl-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine, (2C-D-NBOMe);
- (94) 4-Ethyl-2,5-dimethoxyphenethylamine, (2C-E);
- (95) 2-5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)ethanamine, (2C-I-NBOMe);
- (96) 1-(Benzofuran-5-yl)-N-methylpropan-2-amine, (5-MAPB) (1-(benzofuran-5-yl)-N-methylpropan-2-amine);
- (97) N-Methyl-(6-bromo-3,4-methylenedioxyphenyl)propan-2-amine, (6-Br-MDMA);
- (98) 1-(6-chloro-1,3-benzodioxol-5-yl)-N-methylpropan-2-amine, 6-Chloro-MDMA (6-Cl-MDMA, 2-Cl-4,5-MDMA);
- (99) (AB-FUBINACA) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide;



- (100) (ADB-PINACA) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide;
- (101) (ADBICA) N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3-carboxamide;
- (102) (APICA) N-(1-adamantyl)-1-pentylindole-3-carboxamide;
- (103) (CUMYL-THPINACA) N-(2-Phenylpropan-2-yl)-1-(tetrahydropyran 4-ylmethyl)-1H-indazole-3-carboxamide;
- (104) (EAM-22001); (5"-fluoro-JWH-210) (1-(5-Fluoropentyl)-1H-indol-3-yl)(4-ethylnaphthalen-1-yl)methadone;
- (105) (FUB-JWH-018) (1-(4-Fluorobenzyl)-1H-indol-3-yl)(naphthalene-1-yl)methadone;
- (106) (FUB-PB-22); (UNII-DS46154N3F); (DS46154N3F) quinolin-8-yl 1-[(4-fluorophenyl)methyl]indole-3-carboxylate;
- (107) (MDMB-CHMICA) N-(1-Methoxy-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indole-3-carboxamide;
- (108) (MDMB-FUBINACA) N-(1-Methoxy-3,3-dimethyl-1-oxobutan-2-yl)-1(4-fluorobenzyl)-1H-indazole-3-carboxamide;
- (109) (PX-2) N-(1-Amino-1-oxo-3-phenylpropan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide;
- (110) (2-FMC) 1-(2-fluorophenyl)-2-methylaminopropan-1-one;
- (111) (2-MMC) 1-(2-methylphenyl)-2-methylaminopropan-1-one;
- (112) (3,3-DMMC) 1-(3,4-dimethylphenyl)-2-methylaminopropan-1-one;
- (113) (3-CMC) 1-(3-chlorophenyl)-2-methylaminopropan-1-one;
- (114) (3-MeOMC) 1-(3-methoxyphenyl)aminopropan-1-one;
- (115) (3-MMC) 1-(3-methylphenyl)-2-methylaminopropan-1-one;
- (116) (4-BMC) 1-(4-bromophenyl)-2-methylaminopropan-1-one;
- (117) (4-CMC) 1-(4-chlorophenyl)-2-methylaminopropan-1-one;
- (118) (4-MMC) 4-methyl methcathinone or 4-methyl ephedrone;
- (119) (1-butyl-1H-indol-3-yl)(4-methylnaphthalen-1-yl)methanone;

- (120) [1-[(1-methyl-2-piperidinyl)methyl]-1H-indol-3-yl]-1-naphthalenyl-methanone;
- (121) 3-(4-methoxyphenyl)-2-methyl-1-[(2-(4-morpholinyl)ethyl)-1H-indol-3-yl]-methanone;
- (122) 2-(3-methoxyphenyl)-1-(1-pentyl-1H-indol-3-yl)-ethanone;
- (123) (2-iodophenyl)[1-[(1-methyl-2-piperidinyl)methyl]-1H-indol-3-yl]-methanone;
- (124) [1-[(1-methyl-2-piperidinyl)methyl]-1H-indol-3-yl]tricyclo[3.3.1.1<sup>3,7</sup>]dec-1-yl-methanone;
- (125) 1-naphthalenyl(1-propyl-1H-indol-3-yl)-methanone;
- (126) 5-[3-(1-naphthoyl)-1H-indole-1-yl]pentanenitrile;
- (127) 3-(1-naphthenylmethyl)-1-pentyl-1H-indole;
- (128) (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone;
- (129) 1-naphthalenyl[1-(4-penten-1-yl)-1H-indol-3-yl]-methanone;
- (130) (4-bromonaphthalen-1-yl)(1-pentyl-1H-indol-3-yl)methanone;
- (131) (4-fluoronaphthalen-1-yl)(1-pentyl-1H-indol-3-yl)methanone;
- (132) (2-methyl-1-phenyl-1H-indol-3-yl)-1-naphthalenyl-methanone;
- (133) 2-(2-chlorophenyl)-1-(1-pentyl-1H-indol-3-yl)-ethanone;
- (134) [1-(5-chloropentyl)-1H-indol-3-yl](2-iodophenyl)-methanone;
- (135) (adamantan-1-yl)(1-pentyl-1H-indol-3-yl)-methanone;
- (136) (2-iodo-5-nitrophenyl)-[1-(1-methylpiperidin-2-ylmethyl)-1H-indol-3-yl]-methanone;
- (137) (1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone;
- (138) [1-(5-fluoropentyl-1H-indol-3-yl)](2,2,3,3-tetramethylcyclopropyl)methanone;
- (139) [1-(2-morpholinoethyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone;
- (140) 1-[(tetrahydro-2H-pyran-4-yl)methyl]-1H-indol-3-yl-(2,2,3,3-tetramethylcyclopropyl)methanone;

- (141) 1-pentyl-N-tricyclo[3.3.1.1<sup>3,7</sup>]dec-1-yl-1H-indole-3-carboxamide;
- (142) 1-pentyl-N-tricyclo[3.3.1.1<sup>3,7</sup>]dec-1-yl-1H-indazole-3-carboxamide;
- (143) 1-(5-fluoropentyl)-N-tricyclo[3.3.1.1<sup>3,7</sup>]dec-1-yl-1H-indole-3-carboxamide;
- (144) [1-(5-chloropentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone;
- (145) (1-isopentyl-1H-indol-3-yl)(naphthalen-1-yl)methanone;
- (146) 1-(5-fluoropentyl-N-tricyclo[3.3.1.1<sup>3,7</sup>]dec-1-yl-1H-indazole-3-carboxamide);
- (147) (1-pentyl-1H-indol-3-yl)(4-propyl-1-naphthalenyl)-methanone;
- (148) [1-(5-chloropentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone;
- (149) (4-methyl-naphthalen-1-yl)[1-(pent-4-en-1-yl)-1H-indol-3-yl]methanone;
- (150) (2-methoxy-1-naphthalenyl)(1-pentyl-1H-indol-3-yl)methanone;
- (151) (3-methoxy-phenyl)(1-pentyl-1H-indol-3-yl)methanone;
- (152) [1-(5-fluoropentyl)-1H-indol-3-yl](4-ethyl-1-naphthalenyl)-methanone;
- (153) quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate;
- (154) quinolin-8-yl 1-(5-fluoropentyl-1H-indole-3-carboxylate);
- (155) 1-(cyclohexylmethyl)-8-quinolinyl-ester-1H-indole-3-carboxylic acid;
- (156) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide;
- (157) 1-(5-fluoropentyl)-N-(naphthalene-1-yl)-1H-indole-3-carboxamide;
- (158) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide;

- (159) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide;
- (160) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3-carboxamide;
- (161) 2-iodophenyl(1-pentyl-1H-indol-3-yl)methanone;
- (162) [5-(2-methylphenyl)-1-pentyl-1H-pyrrol-3-yl]-1-naphthalenyl-methanone;
- (163) 1-pentyl-N-(naphthalene-1-yl)-1H-indole-3-carboxamide;
- (164) 1-(5-chloropentyl)-1H-indol-3-yl(4-methyl-1-naphthalenyl)-methanone;
- (165) (4-methyl-naphthalen-1-yl)[2-methyl-1-(pent-4-en-1-yl)-1H-indol-3-yl]methanone;
- (166) [1-(5-fluoropentyl)-1H-indol-3-yl](o-tolyl)methanone;
- (167) (2-ethylphenyl)(1-(5-fluoropentyl)-1H-indol-3-yl)methanone;
- (168) [1-(5-chloropentyl)-1H-indol-3-yl](naphthalen-1-yl)methanone;
- (169) [1-(5-bromopentyl)-1H-indol-3-yl](naphthalen-1-yl)methanone;
- (170) (1-(5-fluoropentyl)-1H-indazol-3-yl)(naphthalene-1-yl)methanone;
- (171) 1-[(1-methyl-2-piperidinyl)methyl]-1H-indol-3-yl(2,2,3,3-tetramethylcyclopropyl)methanone;
- (172) (1-(1-methylazepan-2-yl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone;
- (173) 4-hydroxy-3,3,4-trimethyl-1-(1-pentyl-1H-indol-3-yl)pentan-1-one;
- (174) [1-(4-fluoropentyl)-1H-indol-3-yl]-1-naphthenyl-methanone;
- (175) 2-(2-iodophenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone;
- (176) (1-hexyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone;
- (177) (2,2,3,3-tetramethylcyclopropyl)[1-(4,4,4-trifluorobutyl)-1H-indol-3-yl]methanone;

- (178) 7-methoxy-1-(2-morpholinoethyl)-N-((1S,4R)-1,3,3-trimethylbicyclo[2.2.1]heptan-2-yl)-1H-indole-3-carboxamide;
- (179) (4-fluorobenzyl)-1H-indole-3-quinolin-8-yl Carboxylate;
- (180) 1-(4-fluorobenzyl)-1H-indole-3-naphthalen-1-yl Carboxylate;
- (181) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide;
- (182) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide;
- (183) (1-(4-fluoropentyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone;
- (184) 1-naphthalenyl(1-pentyl-1H-indazol-3-yl)methanone;
- (185) N-naphthalenyl-1-pentyl-1H-indazole-3-carboxamide;
- (186) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide;
- (187) naphthalene-1-yl(9-pentyl-9H-carbazol-3-yl)methanone;
- (188) naphthalene-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate;
- (189) methyl 3-methyl-2-(1-pentyl-1H-indazole-3-carboxamido);
- (190) methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-caboxamido) methylbutanoate;
- (191) N-benzyl-1-pentyl-1H-indole-3-carboxamide;
- (192) N-benzyl-1-(5-fluoropentyl)-1H-indole-3-carboxamide;
- (193) methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3-methylbutanoate;
- (194) quinolin-8-yl 1-pentyl-1H-indazole-3-carboxylate;
- (195) quinolin-8-yl 1-(5-fluoropentyl)-1H-indazole-3-carboxylate;
- (196) naphthalene-2-yl 1-(2-fluorophenyl)-1H-indazole-3-carboxylate;
- (197) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-

- (cyclohexylmethyl)-1H-indazole-3-carboxamide;
- (198) (1-(4-fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone;
- (199) N-(1-amino-1-oxo-3-phenylpropan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide;
- (200) N-(1-amino-1-oxo-3-phenylpropan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide;
- (201) methyl (1-(cyclohexylmethyl)-1H-indazole-3-carbonyl-L-valinate);
- (202) N-[(1-(cyclohexylmethyl)-1H-indazole-3-yl)carbonyl]-3-methyl-L-valine, methyl ester;
- (203) methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate;
- (204) (1-(5-fluoropentyl)-1H-benzo[d]imidazole-2-yl)(naphthalene-1-yl)methanone;
- (205) (1-(4-fluorobenzyl)-1H-indol-3-yl)(naphthalen-1-yl)methanone;
- (206) methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate;
- (207) quinolin-8-yl-(4-fluorobenzyl)-1H-indazole-3-carboxylate;
- (208) N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide;
- (209) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide;
- (210) 2-[(1S,3R)-3-hydroxycyclohexyl]-5-(2-methylheptyl-2-yl)phenol;
- (211) 3-hydroxy-2-[3-methyl-6-(1-methylethyenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione;
- (212) 4-[4-(1,1-dimethylheptyl)-2,6-dimethoxyphenyl]-6,6-dimethylbicyclo[3.1.1]hept-2-ene-2-methanol;
- (213) 1-naphthalenyl[4-(pentyl)-1-naphthalenyl]-methanone;
- (214) 3-(2-(hydroxymethyl)-2,3-dihydro-1H-inden-4-yloxy)phenyl 4,4,4-trifluorobutane-1-sulfonate;

- (215) N-(benzo[1,3]dioxol-5-ylmethyl)-7-methoxy-2-oxo-8-pentyloxy-1,2-dihydroquinoline-3-carboxamide;
- (216) N-[3-(2-methoxyethyl)-4,5-dimethylthiazol-2-ylidene]-2,2,3,3-tetramethylcyclopropane-carboxamide;
- (217) 5-chloro-3-ethyl-N-[4-(piperidin-1-yl)phenethyl]-1H-indole-2-carboximide;
- (218) N-[4-(dimethylamino)phenethyl]-3-ethyl-5-fluoro-1H-indole-2-carboximide;
- (219) N-(1-benzylpyrrolidin-3-yl)-5-chloro-3-ethyl-1H-indole-2-carboxamide;
- (220) [5-(2-fluorophenyl)-1-pentyl-1H-pyrrol-3-yl](naphthalene-1-yl)methanone;
- (221) (3'-(aminocarbonyl)[1,1'-biphenyl]-3-yl)-cyclohexylcarbamate;
- (222) 5-(biphenyl-4-ylmethyl)-N,N-dimethyl-1H-tetrazole-1-carboxamide;
- (223) 6-methyl-2-(p-tolylamino)-4H-benzo[d][1,3]oxazin-4-one;
- (224) [1,1'-biphenyl]-3-yl-carbamic acid, cyclohexyl ester;
- (225) 4-hydroxy-N-(4-hydroxyphenethyl)-3-(pentylamino)-benzamide; and
- (226) 3'-carbamoyl-6-hydroxy-[1,1'-biphenyl]-3-ylcyclohexylcarbamate;

**Subsection 1201.1(d) is amended to read as follows:**

- (d) Depressants: Unless specifically excepted or unless listed in another schedule, any material, compound, or mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system including its salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible, within the specific chemical designation:
  - (1) Cyclobarbital; Hexemal; Cyclobarbitone;
  - (2) Etaqualone; Athinazone; Ethinazone; 3-(2-ethylphenyl)-2-methylquinazolin-4-one;
  - (3) Gamma-Hydroxybutyric Acid [other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-

hydroxybutanoic acid; sodium oxybate; sodium xybutyrate];

- (4) Mecloqualone; and
- (5) Methaqualone;

**Subsection 1201.1(e) is amended to read as follows:**

- (e) Stimulants: Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:
  - (1) Alpha-ethyltryptamine;
  - (2) Alpha-methyltryptamine;
  - (3) Aminorex;
  - (4) Brolamfetamine, bromo-DMA, 2,5-Dimethoxy-4-bromoamphetamine, Dimethoxybromoamphetamine (DOB);
  - (5) 1,4-dibenzylpiperazine;
  - (6) 1-(4-bromo-2,5-dimethoxybenzyl)-piperazine;
  - (7) 1-(4-fluorophenyl)-piperazine;
  - (8) 1-(2-methoxyphenyl)-piperazine;
  - (9) 1-(4-chlorophenyl)-piperazine;
  - (10) 1-(4-methoxyphenyl)-piperazine;
  - (11) 1-(3-methylbenzyl)piperazine;
  - (12) 1-benzyl-4-methylpiperazine;
  - (13) 8-methyl-8-azabicyclo[3.2.1]octan-3-yl 4-fluorobenzoate;
  - (14) methyl 3-(4-fluorophenyl)-8-methyl-8-azabicyclo[3.2.1]octane-2-carboxylate;
  - (15) Cathinone; Any compound (not being bupropion) structurally derived from 2-amino-1-phenyl-1-propanone by modification in any of the following ways:
    - (A) By substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl or halide



- substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents;
- (B) By substitution at the 3-position with an alkyl substituent; or
- (C) By substitution at the nitrogen atom with alkyl or dialkyl groups, or by inclusion of the nitrogen atom in a cyclic structure;
- (16) 2-diphenylmethylpyrrolidine, including 2-Benzylhydrilpyrrolidin, (S)-(-)-2-(diphenylmethyl)pyrrolidine, (S)-2-diphenylmethylpyrrolidine; (2S)-2-Benzylhydrilpyrrolidine; (2S) diphenylmethylpyrrolidine;
- (17) Fenethylamine;
- (18) Mephedrone (4-methyl-N-methylcathinone), BZ-6378, 4-methylephedrone;
- (19) Methcathinone, including 4-MEC 4-methyl-N-ethylcathinone, 4-methylethcathinone, para-methyl-N-ethylcathinone, para-methylethcathinone, 4-methyl-ethylcathinone;
- (20) Methylenedioxypropylamphetamine (MDPV);
- (21) Methylone;
- (22) N-Benzylpiperazine, (BZP) benzylpiperazine, N-benzylpiperazine;
- (23) N-ethylamphetamine;
- (24) N-Hydroxy-3, 4-methylenedioxyamphetamine;
- (25) N, N-Dimethylamphetamine;
- (26) 4-methyl-N-ethylcathinone (“4-MEC”);
- (27) 4-methyl-alpha-pyrrolidinopropylphenone (“4-MePPP”);
- (28) Alpha-pyrrolidinopentylphenone (“ $\alpha$ -PVP”), (a-PVP, alpha-PVP), a-Pyrrolidinopentylphenone, 1-phenyl-2-(1-pyrrolidinyl)-1-pentanone, alpha-pyrrolidinopentylphenone, a-pyrrolidinopentylphenone;
- (29) 1-(1, 3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (“butylone”);

- (30) 2-(methylamino)-1-phenylpentan-1-one (“pentedrone”);
- (31) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (“pentylone”);
- (32) 4-fluoro-N-methylcathinone (“4-FMC”), including 4-ethylmethcathinone, 4-ethyl-methcathinone, Flephedrone, 4-fluoromethcathinone;
- (33) 3-fluoro-N-methylcathinone (“3-FMC”), 3-fluoromethcathinone;
- (34) 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (“naphyrone”);
- (35) Alpha-pyrrolidinobutiophenone (“ $\alpha$ -PBP”) (a-PBP, alpha-PBP) alpha-Pyrrolidinobutiophenone, a-Pyrrolidinobutiophenone, (RS)1-phenyl-2-(1-pyrrolidinyl)-1-pentanone;
- (36) 2-DPMP, including desoxypipradrol, diphenylprolinol, 2-Diphenylmethylpiperidine, 2-benzhydrylpiperidine;
- (37) 2-FMC, 2-fluoromethcathinone;
- (38) 3,4-DMMC, 3,4-dimethylmethcathinone;
- (39) 4-MBC, Bazedrone, ( $\pm$ )-1-(4-methylphenyl)-2-(benzylamino)propan-1-one, 4-methyl-N-benzylcathinone, N-benzyl-4-methylcathinone, 1-(4-methylphenyl)-2-benzylaminopropan-1-one;
- (40) 4-MeMABP, 4-methylbuphedrone, (2-Methylamino-1-(4-methylphenyl)butan-1-one), 2-methylamino-1-(4-methylphenyl)butan-1-one;
- (41) a-PPP, alpha-PPP, alpha-pyrrolidinopropiophenone, a-pyrrolidinopropiophenone;
- (42) Buphedrone, a-methylamino-butyrophenone, 2-(methylamino)-1-phenylbutan-1-one, alpha-methylamino-butyrophenone;
- (43) Butylone, bk-MBDB, beta-Keto-N-methylbenzodioxolylpropylamine, beta-Keto-N-methyl-3,4-benzodioxolybutanamine;
- (44) D2PM, diphenyl-2-pyrrolidinyl-methanol;
- (45) Dimethocaine, (3-diethylamino-2,2-dimethylpropyl)-4-aminobenzoate;

- (46) DMBDB, bk-DMBDB, dibutylone, 1-(Benzo[d][1,3]dioxol-5-yl)-2-(dimethylamino)butan-1-Dibutylone) one;
- (47) DMEC, dimethylethcathinone;
- (48) DMMC, dimethylmethcathinone;
- (49) Ephedrone (sometimes used as another name for methcathinone)  
2-(methylamino)-1-phenylpropan-1-one; OR 2-methylamino-1-phenylpropan-1-one;
- (50) Ethcathinone, 2-ethylamino-1-phenyl-propan-1-one;
- (51) Ethylethcathinone;
- (52) Ethylmethcathinone;
- (53) Ethylone 3,4-methylenedioxy-N-ethylcathinone; OR 3,4-methylenedioxyethylcathinone; OR 3,4-methylenedioxyethylcathinone; OR 3,4-methylenedioxyethcathinone;
- (54) Eutylone beta-Keto-Ethylbenziodioxolylbutanamine;
- (55) Fluorococaine;
- (56) Fluoroethcathinone;
- (57) Fluoroisocathinone;
- (58) Fluoromethcathinone;
- (59) HMMC 3-methoxymethcathinone;
- (60) Isopentedrone;
- (61) MaPPP, 4-MePPP, MPPP 4-methyl-alpha-pyrrolidinopropiophenone; OR 4-methyl-alpha-pyrrolidinopropiophenone; OR methylpyrrolidinopropiophenone; OR Methylpyrrolidinopropiophenone;
- (62) MBP Methylbuphedrone;
- (63) MBZP 1-methyl-4-benzylpiperazine;
- (64) MDAI methylenedioxy-aminoindane; OR 5,6-methylenedioxy-2-aminoindane;

- (65) MDAT 6,7-methylenedioxy-2-aminotetralin;
- (66) MDDMA Dimethylone;
- (67) MDMC Methylenedioxy-methcathinone;
- (68) MDPBP 3,4-methylenedioxy- $\alpha$ -pyrrolidinobutiophenone; OR 3,4-methylenedioxy- $\alpha$ -pyrrolidinobutiophenone;
- (69) MDPPP 3,4-methylenedioxy- $\alpha$ -pyrrolidinopropiophenone; OR (RS)-1-(3,4-methylenedioxyphenyl)-2-(1-pyrrolidinyl)-1-propanone; OR 3,4-methylenedioxy- $\alpha$ -pyrrolidinopropiophenone;
- (70) MDPV, MDPK 3,4-methylenedioxy-pyrovalerone; OR methylenedioxy-pyrovalerone;
- (71) MEC Methylethcathinone;
- (72) Mephedrone, 4-MMC 4-methylmethcathinone; OR 4-methylephedrone; OR (RS)-2-methylamino-1-(4-methylphenyl)propan-1-one;
- (73) Metamfepramone, N,N-DMMC N,N-dimethylcathinone;
- (74) Methedrone, Bk-PMMA, PMMC para-methoxymethcathinone; OR 4-methoxymethcathinone; OR methoxyphedrine; OR (RS)-1-(4-methoxyphenyl)-2-(methylamino)propan-1-one;
- (75) Methylmethcathinone;
- (76) Methylone, bk-MDMA, MDMC 3,4-methylenedioxy-N-methylcathinone; OR 3,4-methylenedioxy-methcathinone; OR 3,4-methylenedioxy-methylcathinone;
- (77) MOMC Methoxymethcathinone;
- (78) MOPPP 4-methoxy- $\alpha$ -pyrrolidinopropiophenone; OR 4-methoxy- $\alpha$ -pyrrolidinopropiophenone;
- (79) MPBP 4-methyl- $\alpha$ -pyrrolidinobutyrophenone; OR 4-methyl- $\alpha$ -pyrrolidinobutyrophenone; OR 4-methyl- $\alpha$ -pyrrolidinobutiophenone; OR 4-methyl- $\alpha$ -pyrrolidinobutiophenone;
- (80) NRG-1, Naphyrone naphthylpyrovalerone;
- (81) NRG-2;
- (82) Pentedrone  $\alpha$ -methylamino-Valerophenone; OR 2-

- (methylamino)-1-phenyl-1-pentanone; OR 2-methylamino-1-phenyl-1-pentanone;
- (83) Pentylone beta-Keto-N-methylbenzodioxolypentanamine; OR beta-keto-ethylbenzodioxolypentanamine;
- (84) 1-(2-Fluorophenyl)propan-2-amine, (2-FA);
- (85) N-Methyl-1-(benzofuran-2-yl)propan-2-amine, (2-MAPB);
- (86) 1-(3-Fluorophenyl)propan-2-amine, (3-FA), (RS)-1-(3-Fluorophenyl)propan-2-amine;
- (87) (RS)-1-(3-fluorophenyl)-N-methylpropan-2-amine, (3-FMA);
- (88) 1-(4-Chlorophenyl)propan-2-amine, para-Chloroamphetamine (PCA), 4-chloroamphetamine (4-CA);
- (89) Levmetamphetamine or (-)-Methamphetamine; L-Methylamphetamine or (-)-Deoxyephedrine or R(-)-N-Methylamphetamine;
- (90) 1-(3-fluorophenyl)-2-(methylamino)-1-propanone;
- (91) 1-(4-fluorophenyl)-2-(methylamino)-1-propanone;
- (92) 1-(4-methoxyphenyl)-2-(methylamino)-1-propanone;
- (93) 2-(ethylamino)-1-(4-methoxyphenyl)-1-propanone;
- (94) 1-(2-naphthalenyl)-2-(1-pyrrolidinyl)-1-pentanone;
- (95) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)-1-butanone;
- (96) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)-1-pentanone;
- (97) 2-(ethylamino)-1-phenyl-1-propanone;
- (98) 1-phenyl-2-(1-pyrrolidinyl)-1-propanone;
- (99) 1-(4-methylphenyl)-2-(1-pyrrolidinyl)-1-propanone;
- (100) 1-(4-methoxyphenyl)-2-(1-pyrrolidinyl)-1-propanone;
- (101) 1-(1,3-benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-propanone;
- (102) 1-phenyl-2-(1-pyrrolidinyl)-1-pentanone;
- (103) 2-amino-1-(4-fluoro)-1-propanone;

- (104) 2-(ethylamino)-1-(4-ethylphenyl)-1-propanone;
- (105) 2-(dimethylamino)-1-phenyl-1-propanone;
- (106) 1-(1,3-benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-butanone;
- (107) 1-(methylphenyl)-2-(1-pyrrolidinyl)-1-hexanone;
- (108) 1-(methylphenyl)-2-(1-pyrrolidinyl)-1-hexanone;
- (109) 2-(methylamino)-1-phenyl-1-butanone;
- (110) 2-(methylamino)-1-p-tolyl-1-butanone;
- (111) 1-(4-methylphenyl)-2-(1-pyrrolidinyl)-1-butanone;
- (112) 1-(3,4-dimethylphenyl)-2-(methylamino)-1-propanone;
- (113) 1-phenyl-2-(1-pyrrolidinyl)-1-butanone;
- (114) 1-(1,3-benzodioxol-5-yl)-2-(dimethylamino)-1-propanone;
- (115) 1-(4-methylphenyl)-2-(benzylamino)-1-propanone;
- (116) 1-(1-naphthyl)-2-(1-pyrrolidinyl)-1-pentanone;
- (117) 1-(1,3-benzodioxol-5-yl)-2-(benzylamino)-1-propanone;
- (118) 1-(1,3-benzodioxol-5-yl)-2-(benzylamino)-1-butanone;
- (119) 1-(1,3-benzodioxol)-2-[hydroxy(methyl)-amino]-1-propanone;
- (120) 1-(1,3-benzodioxol-5-yl)-2-(dimethylamino)-1-butanone;
- (121) 2-(ethyl(methyl)amino)-1-phenyl-butanone;
- (122) 2-(ethyl(methyl)amino)-1-phenyl-1-propanone;
- (123) 2-(methylamino)-1-m-tolyl-1-propanone;
- (124) 2-(pyrrolidin-1-yl)-1-(thiophen-2-yl)-1-pentanone;
- (125) 1-(4-fluorophenyl)-2-(methylamino)-1-butanone;
- (126) 1-(4-methoxyphenyl)-2-(pyrrolidin-1-yl)-1-butanone;
- (127) 1-(4-ethylphenyl)-2-(pyrrolidin-1-yl)-1-butanone;
- (128) 1-(4-methoxy-3-methylphenyl)-2-(methylamino)-1-propanone;

- (129) 2-(ethylamino)-1-(3-methylphenyl)-1-propanone;
- (130) 2-amino-(1H-indol-5-yl)propan-1-one;
- (131) 1-phenyl-2-(piperidin-1-yl)butan-1-one;
- (132) 2-methylamino-1-(2,4,5-trimethylphenyl)-propan-1-one);
- (133) 1-(4-fluorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one;
- (134) 1-(benzo[d][1,3]dioxol-5-yl)-2-(dimethylamino)pentan-1-;
- (135) 1-(2-fluorophenyl)-N-methyl-propan-2-amine;
- (136) 1-(2-fluorophenyl)-propan-2-amine;
- (137) 1-(3-fluorophenyl)- propan-2-amine;
- (138) 1-(3-fluorophenyl)-N-methyl-propan-2-amine;
- (139) N-ethyl-N-methyl-1-phenylpropan-2-amine;
- (140) 1-(benzofuran-4-yl)propan-2-amine;
- (141) 1-(2,3-dihydrobenzofuran-5-yl)proan-2-amine;
- (142) 1-(2,3-dihydrobenzofuran-6-yl)proan-2-amine;
- (143) N,N-dimethyl-1-phenylpropan-2-amine;
- (144) 5,6,7,8-tetrahydrobenzo[1,3]-benzodioxol-7-amine;
- (145) a-methyl-4-(methylthio)-benzene-ethanamine;
- (146) 1-(4-chlorophenyl)-propan-2-amine;
- (147) 1-(2,4,6-trimethoxyphenyl)-propan-2-amine;
- (148) 1-(2,4,5-trimethoxyphenyl)-propan-2-amine;
- (149) 1-(2,5-dimethylphenyl)-propan-2-amine;
- (150) 1-(3,4-dimethylphenyl)-propan-2-amine;
- (151) N-(1-phenylpropan-2-yl)propan-1-amine;
- (152) 4-(2-aminopropyl)phenol;
- (153) 3,4-methylenedioxy-N,N-dimethyl-amphetamine;

- (154) N-ethyl-1-(4-methoxyphenyl)propan-2-amine;
- (155) 6,7-dihydro-5H-inden[5,6-d][1,3]dioxol-6-amine;
- (156) 5-methoxy-6-methyl-2,3-dihydro-1H-inden-2-amine;
- (157) N-methyl-6,7-dihydro-5H-cyclopenta[1,3]-benzodioxol-6-amine;
- (158) N-methyl-2,3-dihydro-1H-inden-2-amine;
- (159) 2-[4-(2-fluoroethylthio)-2,5-dimethoxyphenyl]ethanamine;
- (160) 8-bromo-2,3,6,7-tetrahydro-benzo[1,2-b;4,5-b']difuran-4-ethanamine;
- (161) 4-iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)-methyl]benzene-ethanamine;
- (162) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)-ethanamine;
- (163) 2-(2,5-dimethoxy-3,4-dimethylphenyl)-ethanamine;
- (164) 2-(4-ethyl-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)-ethanamine;
- (165) 2-(2,5-dimethoxy-3,4-dimethylphenyl)-N-(2-methoxybenzyl)-ethanamine;
- (166) 2-(2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)-ethanamine;
- (167) 2-(2,5-dimethoxyphenyl-4-nitro)-N-[(2-methoxyphenyl)methyl]-ethanamine;
- (168) 1-(4-iodo-2,5-dimethoxyphenyl)propan-2-amine;
- (169) 1-(4-chloro-2,5-dimethoxyphenyl)propan-2-amine;
- (170) 1-(4-bromo-2,3,6,7-tetrahydrofuro[2,3-f]benzofuran-8-yl)propan-2-amine;
- (171) (2,5-dimethoxyphenyl)-propan-2-amine;
- (172) 1-[4-(ethylthio)-2,5-dimethoxyphenyl]propan-2-amine;
- (173) 1-(4-ethoxy-2,5-dimethoxyphenyl)propan-2-amine;
- (174) 1-[2,5-dimethoxy-4-(propylthio)phenyl]propan-2-amine;



- (175) 1-(4-ethyl-2,5-dimethoxyphenyl)propan-2-amine;
- (176) N-benzyl-2-phenylethanamine;
- (177) N,N-dimethyl-2-phenylethanamine;
- (178) 6-chloro-aminotetralin;
- (179) 2-phenethylamine;
- (180) 2-phenyl-propan-1-amine;
- (181) 1-methylamino-1-(3,4-methylenedioxy-phenyl)propane;
- (182) N-methyl-3-phenylbicyclo[2.2.1]heptan-2-amine;
- (183) 1-(2-methoxyphenyl)-N-methylpropan-2-amine;
- (184) 2-(4-(allyloxy)-3,5-dimethoxyphenyl)ethanamine;
- (185) 4-methylhexan-2-amine;
- (186) 4-methyl-5-phenyl-2-amino-oxazoline;
- (187) (3-dimethylamino-2,2-dimethylpropyl)-4-aminobenzoate;
- (188) 1-(4-fluorophenyl)-2-(methylamino)-propan-1-ol;
- (189) 4-methyl-5-p-tolyl-4,5-dihydrooxazol-2-amine;
- (190) 1-phenyl-2-(pyrrolidin-1-yl)propan-1-ol;
- (191) 1-(3-methoxyphenyl)-N-propylcyclohexan-amine;
- (192) 2-(ethylamino)-2-(3-methoxyphenyl)cyclohexanone;
- (193) 1-phenylcyclohexan-amine;
- (194) 1-[1-(benzothiophen-2-yl)cyclohexyl]piperidine;
- (195) 1-(1-p-tolylcyclohexyl)-piperidine;
- (196) 1-(4-methoxyphenyl)-N-propylcyclohexan-amine;
- (197) 1-[1-(4-methoxyphenyl)cyclohexyl]-piperidine;
- (198) 1-[1-(3-methoxyphenyl)cyclohexyl]-piperidine;
- (199) 1-phenyl-N-propylcyclohexanamine;

- (200) N-(2-methoxyethyl)-1-phenylcyclohexan-amine;
- (201) N-(2-ethoxyethyl)-1-phenylcyclohexan-amine;
- (202) N-(3-methoxypropyl)-1-phenylcyclohexan-amine;
- (203) 3-[1-(piperidin-1-yl)cyclohexyl]-phenol;
- (204) 2-(methoxyphenyl)-2-(methylamino)cyclohexanone;
- (205) N-ethyl-1-(thiophen-2-yl)cyclohexanamine;
- (206) (2-(2-chlorophenyl)-2-(ethylamino)-cyclohexanone);
- (207) 2-(diphenylmethyl)-piperidine;
- (208) 2-benzhydrylpyrrolidine;
- (209) a,a-diphenyl-(pyrrolidin-2-yl)methanol;
- (210) methyl 2-(3,4-dichlorophenyl)-2-(piperidin-2-yl)acetate;
- (211) methyl 2-(3-chlorophenyl)-2-(piperidin-2-yl)acetate;
- (212) methyl 2-(piperidin-2-yl)-2-p-tolylacetate; and
- (213) ethyl 2-phenyl-2-(piperidin-2-yl)acetate;

**Subsection 1201.1(f)(2) is amended to read as follows:**

- (2) Unclassified Synthetic Cannabinoids:
  - (A) AM-087 (6aR,10aR)-3-(2-methyl-6-bromohex-2-yl)-6,6,9-trimethyl-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;
  - (B) AM-356 (methanandamide); (5Z,8Z,11Z,14Z)-N-[(1R)-2-hydroxy-1-methylethyl] icosa-5,8,11,14-tetraenamide; or arachidonyl-1'-hydroxy-2'-propylamide;
  - (C) (5Z,8Z,11Z,14Z)-N-[(1R)-2-hydroxy-1-methylethyl] icosa-5,8,11,14-tetraenamide; or arachidonyl-1'-hydroxy-2'-propylamide;
  - (D) AM-411(6aR,10aR)-3-(1-adamantyl)-6,6,9-trimethyl-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;
  - (E) AM-855(4aR,12bR)-8-hexyl-2,5,5-trimethyl-1,4,4a,8,9,10,11,12b-octahydronaphtho[3,2-c]isochromen-12-ol;

- (F) AM-905(6aR,9R,10aR)-3-[(E)-hept-1-enyl]-9-(hydroxymethyl)-6,6-dimethyl-6a,7,8,9,10,10a-hexahydrobenzo[c]chromen-1-ol;
- (G) AM-906(6aR,9R,10aR)-3-[(Z)-hept-1-enyl]-9-(hydroxymethyl)-6,6-dimethyl-6a,7,8,9,10,10a-hexahydrobenzo[c]chromen-1-ol;
- (H) AM-2389(6aR,9R,10aR)-3-(1-hexyl-cyclobut-1-yl)-6a,7,8,9,10,10a-hexahydro-6,6-dimethyl-6H-dibenzo[b,d]pyran-1,9 diol;
- (I) BAY38-7271(-)-(R)-3-(2-Hydroxymethylindanyl-4-oxy)phenyl-4,4,4-trifluorobutyl-1-sulfonate;
- (J) CP 50,556-1 (Levonantradol);
- (K) 9-hydroxy-6-methyl-3-[5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl]acetate; or [(6S,6aR,9R,10aR)-9-hydroxy-6-methyl-3-[(2R)-5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-;
- (L) octahydrophenanthridin-1-yl] acetate; or [9-hydroxy-6-methyl-3-[5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl]acetate;
- (M) HU-210(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-;
- (N) (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol; or [(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol; or 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol;
- (O) HU-211 (Dexanabinol);
- (P) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol; or (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;
- (Q) HU-2433-dimethylheptyl-11-hydroxyhexahydrocannabinol;
- (R) HU-308[(91R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl]methanol;

- (S) HU-3313-hydroxy-2-[(1R,6R)-3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione;
- (T) JTE-907N-(benzol[1,3]dioxol-5-ylmethyl) -7-methoxy-2-oxo-8-pentyloxy-1,2-dihydroquinoline-3-carboxamide;
- (U) JWH-051((6aR,10aR)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-9-yl)methanol;
- (V) JWH-057(6aR,10aR)-3-(1,1-dimethylheptyl) -6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-Dibenzo[b,d]pyran;
- (W) JWH-133(6aR,10aR)-3-(1,1-Dimethylbutyl) -6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran;
- (X) JWH-359 (6aR,10aR)- 1-methoxy- 6,6,9-trimethyl- 3-[(2R)-1,1,2-trimethylbutyl]- 6a,7,10,10a-tetrahydrobenzo[c]chromene;
- (Y) URB-597[3-(3-carbamoylphenyl)phenyl] -N-cyclohexylcarbamate;
- (Z) URB-602 [1,1'-Biphenyl]-3-yl-carbamic acid, cyclohexyl ester; or cyclohexyl [1,1'-biphenyl]-3-ylcarbamate;
- (AA) URB-7546-methyl-2-[(4-methylphenyl)amino] -4H-3,1-benzoxazin-4-one;
- (BB) URB-937 3'-carbamoyl-6-hydroxy-[1,1'-biphenyl]-3-yl cyclohexylcarbamate;
- (CC) WIN 55,212-2(R)-(+)-[2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone; or [2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[(1,2,3-de)-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone;
- (DD) AM-2201 (1-(5-fluoropentyl)-3-(1-naphthoyl)indole);
- (EE) AM-694 (1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole);
- (FF) Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate ("PB-22"; QUPIC);

- (GG) Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (“5-fluoro-PB-22”; 5F-PB-22);
- (HH) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (“AB-FUBINACA”);
- (II) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (“ADB-PINACA”);
- (JJ) THJ-2201 [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone;
- (KK) (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (“AB-CHMINACA”);
- (LL) (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide) (“AB-PINACA”);
- (MM) N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-(5-fluoropentyl)-1H-indazole-3-carboxamide, (5F-AB-PINACA);
- (NN) N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide, (5F-ADBICA or 5F-ADB-PICA);
- (OO) (S)-methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate, (5F-AMB or 5F-MMB-PINACA or 5F-AMB-PINACA); and
- (PP) N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide, N-(1-Adamantyl)-1-(5-fluoropentyl)-1 H-indazole-3-carboxamide, (5F-APINACA or 5F-AKB48);

**Subsection 1201.1 is amended by adding two new paragraphs (g) and (h) to read as follows:**

- (g) Substituted tryptamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from 2-(1H-indol-3-yl) ethanamine (*i.e.*, tryptamine) by mono- or di-substitution of the amine nitrogen with alkyl or alkenyl groups or by inclusion of the amino nitrogen atom in a cyclic structure regardless of whether the compound is further substituted at the alpha position with an alkyl group or further substituted on the indole ring to any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy groups. Examples include the following:

- (1) (4-AcO-DET) 3-(2-Diethylaminoethyl)-1H-indol-4-yl acetate (DET);
- (2) (4-AcO-DMT, OAcetylpsilocin) 4-acetoxy-N,N-dimethyltryptamine;
- (3) (4-AcO-DPT) 4-acetoxy-N,N-dipropyltryptamine;
- (4) (4-HO-DiPT) 4-Hydroxy-di-isopropyl-tryptamine; OR 3-[2-(diisopropylamino)ethyl]-1H-indol-4-ol; OR 4-Hydroxy- N,N-diisopropyltryptamine;
- (5) (4-HO-MET) 4-hydroxy-N-methyl-N-ethyltryptamine;
- (6) (4-HO-MiPT) 3-(2-[Isopropyl(methyl)amino]ethyl)-1H-indol-4-ol;
- (7) (4-HO-MPMI) (R)-3-(N-methylpyrrolidin-2-ylmethyl)-4-hydroxyindole;
- (8) (4-HO-MPT) 3-{2-[methyl(propyl)amino]ethyl}-1H-indol-4-ol; OR 4- hydroxy-N-methyl-N-propyltryptamine;
- (9) (4-MeO-MiPT) 4-methoxy-N-methyl-N-isopropyltryptamine; OR 3-[2 (Isopropylmethylamino)ethyl]-4-methoxyindole;
- (10) 4-methyl-aET 4-Methyl- $\alpha$ -ethyltryptamine; OR 1-ethyl-2-(4-methyl-1H- indol-3-yl)-ethylamine;
- (11) (5-MeO-AMT) 1-(5-methoxy-1H-indol-3-yl)propan-2-amine;
- (12) (5-MeO-DALT) N,N-diallyl-5-methoxytryptamine; OR N-allyl-N-[2-(5- methoxy-1H-indol-3-yl)ethyl]prop-2-en-1-amine;
- (13) (5-MeO-DET) N,N-Dethyl-5-Methoxytryptamine;
- (14) (5-MeO-DPT) N-[2-(5-methoxy-1H-indol-3-yl)ethyl]-N-propylpropan-1- amine;
- (15) (5-MeO-MiPT, Moxy, Moxie) N-[2-(5-methoxy-1H-indol-3-yl)ethyl]-N-methylpropan-2-amine;
- (16) (5-MeO-MPMI) (R)-3-(N-methylpyrrolidin-2-ylmethyl)-5-methoxyindole;
- (17) (DPT) N,N-Dipropyltryptamine; OR Dipropyltryptamine; OR 3-[2-(dipropylamino)ethyl]indole;
- (18) (Methyltryptamine, NMT) N-methyltryptamine; OR 2-(1H-

- Indol-3-yl)-N-methylethanamine; and
- (19) (MiPT) N-isopropyl-N-methyltryptamine;
  - (20) 2-(1H-indol-3-yl)-N-methyl-ethanamine;
  - (21) N-(2-(1H-indol-3-yl)ethyl)-N-methylpropan-2-amine;
  - (22) N-[2-(1H-indol-3-yl)ethyl]-N-isopropylpropan-2-amine;
  - (23) N,N-dipropyl-1H-indole-3-ethanamine;
  - (24) 3-[2-(diethylamino)ethyl]-1H-4-yl acetate;
  - (25) 3-(2-[isopropyl(methyl)amino]ethyl)-1H-indol-4-ol;
  - (26) 3-[2-(bis[1-methylethyl]amino)ethyl]-1H-indol-4-ol acetate;
  - (27) 3-(2-[isopropyl(methyl)amino]ethyl)-1H-indol-4-ol acetate;
  - (28) 3-[2-(dimethylamino)ethyl]-1H-indol-4-yl acetate;
  - (29) 4-hydroxy-N,N-diethyl-1H-indole-ethanamine;
  - (30) 4-methoxy-N,N-dimethyl-1H-indole-3-ethanamine;
  - (31) 3-(2-(diisopropylamino)ethyl)-1H-indol-4-ol;
  - (32) 3-[2-(ethyl[methyl]amino)ethyl]-1H-indol-4-yl acetate;
  - (33) 3-(2-(dipropylamino)ethyl)-1H-indol-4-ol;
  - (34) 3-[2-(dipropylamino)ethyl]-1H-indol-4-yl acetate;
  - (35) 4-acetoxy-N,N-di-2-propen-1-yl-1H-indole-3-ethanamine;
  - (36) 5-methoxy-N,N-di-2-propen-1-yl-1H-indole-3-ethanamine;
  - (37) 3-(2-(dimethylaminoethyl)-1H-indol-5-ol;
  - (38) 2-(5-methoxy-1H-indol-3-yl)-N,N-dimethylethanamine;
  - (39) N-[2-(5-methoxy-1H-indol-3-yl)ethyl]-N-methylpropyl;
  - (40) 1-(5-methoxy-1H-indol-3-yl)propan-2-amine;
  - (41) 3-[2-(dimethylamino)-ethyl]-1H-indol-5-yl acetate;
  - (42) N-[2-(5-methoxy-1H-indol-3-yl)ethyl]-N-propylpropan-1-amine;

- (43) N,N-diethyl-2-(5-methoxy-1H-indol-3-yl)ethanamine; and
- (44) N-ethyl-2-(5-methoxy-1H-indol-3-yl)-N-methyl-ethanamine;
- (h) Unclassified novel psychoactive substances
  - (1) (2-AI, 2-aminoindane) 2,3-dihydro-1H-inden-2-amine;
  - (2) (2-FMA) 2-fluoromethamphetamine; OR (RS)-1-(2-fluorophenyl)-N-methylpropan-2-amine; N-Methyl-1-(3-fluorophenyl)propan-2-amine;
  - (3) (2-MeO-ketamine) methoxyketamine;
  - (4) (3-HO-PCE) 3-[1-(ethylamino) cyclohexyl]phenol;
  - (5) (3-HO-PCP) 3-hydroxyphencyclidine (3-MeO-PCE) 3-Methoxyeticyclidine;
  - (6) (3-MeO-PCP) 1-[1-(3-methoxyphenyl)cyclohexyl]-piperidine; OR 3-methoxyphencyclidine;
  - (7) (4-FMA) 4-fluoromethamphetamine; OR (RS)-1-(4-fluorophenyl)-N-methylpropan-2-amine; N-Methyl-1-(4-fluorophenyl)propan-2-amine;
  - (8) (4-MeO-PCP, methoxydine) 4-Methoxyphencyclidine; OR 1-[1-(4-methoxyphenyl)cyclohexyl]-piperidine;
  - (9) (5-IAI) 5-Iodo-2-aminoindane; OR 5-iodo-2,3-dihydro-1H-inden-2-amine;
  - (10) (5-ME) 5-methyl-ethylone;
  - (11) (BTCP) Benzothiophenylcyclohexylpiperidine;
  - (12) (DBP, DBZP) 1,4-Dibenzylpiperazine;
  - (13) (Ethyl-ketamine) 2-(2-chlorophenyl)-2-(ethylamino)cyclohexanone;
  - (14) (Fluoromethamphetamine);
  - (15) (Fluorophenylpiperazine; pFPP; 4-FPP; fluoperazine; fliperazine) Para-fluorophenylpiperazine; OR 1-(4-fluorophenyl)piperazine;
  - (16) (Kratom) 7-hydroxymitragynine;



- (17) (MCP) 1-(3-Chlorophenyl)piperazine, OR Chlorophenylpiperazine, OR meta chlorophenylpiperazine; OR 1-(3-chlorophenyl)piperazine; OR 3-chlorophenylpiperazine;
- (18) (Methiopropamine, MPA) 1-(thiophen-2-yl)-2-methylaminopropane; N-Methyl-1-(thiophen-2-yl)propan-2-amine;
- (19) (Methoxetamine, MXE, 3 MeO-2-Oxo-PCE) (RS)2-(3-methoxyphenyl)-2-(ethylamino)cyclohexanone;
- (20) (MPHP) Methyl-alpha-pyrrolidinohexiophenone; OR Methyl-pyrrolidino-hexanophenone;
- (21) (O-desmethyltramadol, O-DT) 3-[2-(1-Amino-1-methylethyl)-1-hydroxycyclohexyl]phenol;
- (22) (Phenazepam) 7-Bromo-5-(2-chlorophenyl)-1,3-dihydro-2H-1,4-benzodiazepin-2-one;
- (23) (pMeOPP, MeOPP) 1-(4-Methoxyphenyl) piperazine;
- (24) (pTFMPP) 1-[4-(trifluoromethylphenyl)] piperazine;
- (25) (TFMPP) 3-trifluoromethylphenylpiperazine; OR 1-[3-(trifluoromethyl)phenyl]piperazine; OR 1-(3-trifluoromethylphenyl) piperazine; OR 1-(3-trifluoromethylphenyl)piperazine; OR 1-(3-trifluoromethylphenyl)piperazine.
- (26) ( $\pm$ )-2,5-Dimethoxy-alpha-methylphenethylamine, (DMA);
- (27) 6,6,9-Trimethyl-3-(3-methyl-2-octanyl)-7,8,9,10-tetrahydro-6H-benzo[c]chromen-1-ol, (DMHP), Dimethylheptylpyran;
- (28) 3-(2-(Dimethylamino)ethyl)indole, (DMT);
- (29) P-methoxy-alpha-methylphenethylamine, (PMA);
- (30) Methylenedioxyamphetamine, 3,4-methylenedioxy-amphetamine, MDA, tenamfetamine (INN), Sally, Sass, Sass-a-frass;
- (31) Tenocyclidine (TCP);
- (32) N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide, (5F-ABICA);
- (33) [1-(2-morpholin-4-ylethyl)-1H-indol-3-yl]-(2,2,3,3-tetramethylcyclopropyl) methanone, (A-796,260);

- (34) N-[(1S)-1-(Aminocarbonyl)-2-methylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide, (AB-CHMINACA);
- (35) (4-F-a-PVP) 1-(4-fluorophenyl)-2-(1-pyrrolidinyl)pentan-1-one;
- (36) (4-MeBP) 1-(4-Methylphenyl)-2-methylaminobutan-1-one;
- (37) (4-MeO-a-PVP) 1-(4-methoxyphenyl)-2-(1-pyrrolidinyl)pentan-1-one;
- (38) (NEB) 1-phenyl-2-ethylaminobutan-1-one;
- (39) (a-PHP) 1-phenyl-2-(1-pyrrolidinyl)hexan-1-one;
- (40) (a-PHPP) 1-phenyl-2-(1-pyrrolidinyl)heptan-1-one;
- (41) (a-PVT) 1-(thiophen-2-yl)-2-(1-pyrrolidinyl)pentan-1-one;
- (42) (NENK) 2-(2-chlorophenyl)-2-(ethylamino)cyclohexanone;
- (43) (5-MeO-DMT) 5-methoxy-N,N-dimethyltryptamine;
- (44) (AMT) alpha-methyltryptamine;
- (45) (3,4-CTMP) methyl 2-(3,4-dichlorophenyl)-2-(piperidin-2-yl);
- (46) (AH-7921) 3,4-dichloro-N-((1-(dimethylamino)cyclohexyl)methyl)benzamide;
- (47) (4-ethyl-1-naphthalenyl)(1-pentyl-1H-indol-3-yl)methanone;
- (48) 2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-yl)-ethanone;
- (49) 1-[1-(2-cyclohexylethyl)-1H-indol-3-yl]-2-(2-methoxyphenyl)-Ethanone;
- (50) [1-(5-fluoropentyl)-1H-indol-3-yl](2-iodophenyl)methanone;
- (51) (2-methyl-1-[(1-methylpiperidin-2-yl)methyl]-6-nitro-1H-indol-3-yl)methanone; and
- (52) (1-butyl-1H-indol-3-yl)(4-methoxyphenyl)-methanone.

**Section 1202, SCHEDULE II ENUMERATED, is amended as follows:**

**Subsection 1202.1(b) is amended to read as follows:**

- (b) Opiates: Unless specifically excepted or unless listed in another

schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan excepted:

- (1) 4-anilino-N-phenethyl-4-piperidine (ANPP);
- (2) Alfentanil;
- (3) Alphaprodine;
- (4) Anileridine;
- (5) Bezitramide;
- (6) Bulk Dextropropoxyphene (non-dosage form);
- (7) Carfentanil;
- (8) Dihydrocodeine;
- (9) Dihydroetorphine;
- (10) Diphenoxylate;
- (11) Fentanyl;
- (12) Isomethadone;
- (13) Levo-alphaacetylmethadol [Some other names: levo-alpha-acetylmethadol, levomethadyl acetate, LAAM];
- (14) Levomethorphan;
- (15) Levorphanol;
- (16) Metazocine;
- (17) Methadone;
- (18) Methadone-intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (19) Moramide-intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;
- (20) Pethidine (meperidine);
- (21) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine; (Meperidine intermediate-A)

- (22) Pethidine-Intermediate-B,ethyl-4-phenylpiperidine-4-carboxylate; (Meperidine intermediate-B);
- (23) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine- 4-carboxylic acid; (Meperidine intermediate-C)
- (24) Phenazocine;
- (25) Piminodine;
- (26) Racemethorphan;
- (27) Racemorphan;
- (28) Remifentanyl;
- (29) Sufentanyl;
- (30) Tapentadol;
- (31) (Acetylfentanyl) N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide
- (32) (Butyrylfentanyl) N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide;
- (33) (Fluorobutylylfentanyl) N-(4-Fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide;
- (34) (Hydroxythiofentanyl) N-( 1-(2-Hydroxy-2-(thiophen-2-yl)ethyl)piperidin-4-yl)-N-phenylpropanamide;
- (35) (Isobutyrfentanyl) N-(1-Phenethylpiperidin-4-yl)-N-phenylisobutyramide;
- (36) (Ocfentanyl) N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl)acetamide; N-(2-Fluorophenyl)-2-methoxy-N-(1-(2-phenylethyl)-4-piperidinyl)acetamide;
- (37) 2-(1,3-dimethoxybuta-1,3-dien-2-yl)-3-ethyl-8-methoxy-1,2,3,4,6,7,12,12b-octahydroindolo[2,3-a]quin olizine;
- (38) (2a,4aR,6aR,7R,9S,10aS10bR)-methyl-9-acetoxy-2-(furan-3-yl)-6a,10b-dimethyl-4,10-dioxododecahydro-1H-benzo[f]isochromene-7-carboxylate;
- (39) 4,5-epoxy-17-methylmorphinan-3-ol;
- (40) N-phenyl-N-[1-(2-phenethyl)-4-piperidinyl] acetamide;

- (41) N-(1-benzylpiperidin-4-yl)-N-(x-fluorophenyl)-butanamide;
- (42) 2-methyl-N-phenyl-N-[1-(1-phenylpropan-2-yl)piperidin-4-yl]propanamide;
- (43) 1-cyclohexyl-4-(1,2-diphenylethyl)-piperazine;
- (44) N-phenyl-N-(1-(2-(thiophen-2-yl)ethyl)piperidin-4-yl)acetamide;
- (45) 4-chloro-N-(1-phenethylpiperidin-2-ylidene)benzenesulfonamide; and
- (46) 4-chloro-N-(1-(4-nitrophenethyl)piperidin-2-ylidene)benzenesulfonamide;

**Subsection 1202.1(c) is amended to read as follows:**

- (c) Stimulants: Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system:
  - (1) Amphetamines, its salts, optical isomers, and salts of its optical isomers;
  - (2) Biphphetamine
  - (3) Eskatrol;
  - (4) (Ethylphenidate) ethyl 2-phenyl-2-(piperidin-2-yl)acetate;
  - (5) Lisdexamfetamine;
  - (6) Methylphenidate and its salts;
  - (7) Methamphetamine, its salts, isomers, and salts of isomers; and
  - (8) Phenmetrazine and its salts;

**Section 1204, SCHEDULE IV ENUMERATED, is amended to read as follows:**

**1204 SCHEDULE IV ENUMERATED**

1204.1 The controlled substances listed in this section are included in Schedule IV of the Act unless removed therefrom pursuant to Section 201 of the Act. Schedule IV shall consist of the following controlled substances:

- (a) Depressants: Unless specifically excepted or unless listed in another

schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Alfaxalone;
- (2) Alprazolam;
- (3) Barbital;
- (4) Bromazepam;
- (5) Camazepam;
- (6) Chloral betaine;
- (7) Chloral hydrate;
- (8) Chlordiazepoxide;
- (9) Clobazam;
- (10) Clonazepam;
- (11) Clorazepate;
- (12) Clotiazepam;
- (13) Cloxazolam;
- (14) Delorazepam;
- (15) Diazepam;
- (16) Dichloralphenazone;
- (17) Estazolam;
- (18) Ethyl loflazepate;
- (19) Ethchlorvynol;
- (20) Ethinamate;
- (21) Fludiazepam;
- (22) Flunitrazepam;
- (23) Flurazepam;

- (24) Fospropofol;
- (25) Halazepam;
- (26) Haloxazolam;
- (27) Ketazolam;
- (28) Loprazolam;
- (29) Lorazepam;
- (30) Lormetazepam;
- (31) Mebutamate;
- (32) Medazepam;
- (33) Meprobamate;
- (34) Methohexital;
- (35) Methylphenobarbital (mephobarbital);
- (36) Midazolam;
- (37) Nimetazepam;
- (38) Nitrazepam;
- (39) Nordiazepam;
- (40) Oxazepam;
- (41) Oxazolam;
- (42) Paraldehyde;
- (43) Petrichloral;
- (44) Phenobarbital;
- (45) Pinazepam;
- (46) Prazepam;
- (47) Quazepam;
- (48) Temazepam;

- (49) Tetrazepam; and
- (50) Triazolam;
- (b) Fenfluramine: Any material, compound, mixture, or preparation that contains any quantity of the following substances, including its salts, isomers, (whether optical, position, or geometric), and salts of such isomers, whenever the existence of the salts, isomers, and salts of isomers is possible: Fenfluramine;
- (c) Stimulants: Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of the salts, isomers and salts of isomers is possible within the specific chemical designation:
  - (1) Cathine;
  - (2) Clortermine;
  - (3) Dexfenfluramine;
  - (4) Diethylpropion;
  - (5) Fencamfamin;
  - (6) Fenproporex;
  - (7) Lorcaserin;
  - (8) Mazindol;
  - (9) Mefenorex;
  - (10) Modafinil;
  - (11) Pemoline (including organometallic complexes and chelates thereof);
  - (12) Phentermine;
  - (13) Pipradrol;
  - (14) Sibutramine; and
  - (15) SPA;



- (d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation that contains any quantity of the following substances, including its salts:
- (1) Butorphanol;
  - (2) Dextropropoxyphene (Alpha-(+)-4-demethylamino-1), 2-diphenyl-1-3-methyl-2-propionoxybutane; and
  - (3) Pentazocine;
- (e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof of not more than one (1) milligram of difenoxin and not less than twenty-five (25) micrograms of atropine sulfate per dosage unit;
- (f) Carisoprodol;
- (g) Zaleplon;
- (h) Zolpidem;
- (i) Zopiclone;
- (j) Suvorexant;
- (k) Tramadol;
- (l) Brotizolam; 3-(2-bromophenyl)-4-[(3-chlorophenyl)methylideneamino]-1H-1,2,4-triazole-5-thione;
- (m) Vinylbital; (Vinylbitone; Vinylbitalum;);
- (n) Mesocarb;
- (o) Dezocine;
- (p) Allobarbitol; Allobarbitone;
- (q) (Phenazepam) 7-bromo-5-(2-chlorophenyl)-1,3-dihydro-2H-1,4-benzodiazepin-2-one;
- (r) 4-(2-chlorophenyl)-2-ethyl-9-methyl-6H-thieno-[3,2-f][1,2,4]triazolo[4,3-a][1,4]diazepine(#)-7-bromo-5-(2-chlorophenyl)-1H-benzo[e][1,4]diazepin-2(3H)-one(#)-8-bromo-1-methyl-6-phenyl-4H-[1,2,4]triazolo[4,3a][1,4]benzodiazepine;
- (s) 3-methyl-6-[3-(trifluoromethyl)phenyl][1,2,4]triazol[4,3-b]pyridazine; and

- (t) 6-(5-chloro-2-pyridyl)-6,7-dihydro-7-oxo-5H-pyrrolo[3,4- b]pyrazin-5-yl 4-methylpiperazine-1-carboxylate.

Comments on the emergency and proposed rules should be sent in writing to the Department of Health, Office of the General Counsel, 5<sup>th</sup> Floor, 899 North Capitol Street, N.E., Washington, D.C. 20002, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules may be obtained Monday through Friday, except holidays, between the hours of 8:15 A.M. and 4:45 P.M. at the same address. Questions concerning the rulemaking should be directed to Angli Black, Administrative Assistant, at [Angli.Black@dc.gov](mailto:Angli.Black@dc.gov) or (202) 442-5977.

**DEPARTMENT OF INSURANCE, SECURITIES AND BANKING****NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Commissioner of the Department of Insurance, Securities and Banking (“DISB”), pursuant to the authority set forth in Section 105(c) of the 21<sup>st</sup> Century Financial Modernization Act of 2000, effective June 9, 2001 (D.C. Law 13-308; D.C. Official Code § 26-551.05(c) (2012 Repl. & 2015 Supp.)), hereby gives notice of the adoption, on an emergency basis, the following amendments to Chapter 29 (State Small Business Credit Initiative) of Subtitle C (Banking and Financial Institutions), Title 26 (Insurance, Securities, and Banking) of the District of Columbia Municipal Regulations (“DCMR”).

The proposed amendments will permit DISB to implement changes to the District of Columbia Innovation Finance Program (“Innovation Finance Program”) and clarify the guidelines for the District of Columbia Collateral Support Program (“Collateral Support Program”) and the District of Columbia Loan Participation Program (“Loan Participation Program”).

This emergency rulemaking is necessary because the District State Small Business Credit Initiative (“SSBCI”) Programs advance a critical public purpose that must be met before September 30, 2016, to avoid the loss of additional funds from the U.S. Treasury. In advancing its public purpose the District, through the SSBCI, helps small businesses, that in turn serve an important function in the District’s economy by providing a continuing source of increasing tax revenues and job opportunities. District small businesses and entrepreneurs have been adversely affected by the economic recession of 2008 and the credit crisis that followed. District small businesses continue to encounter reductions in the availability of credit and heightened requirements to obtain financing for working capital, expansion, and other business needs. The SSBCI comprises several financing programs as a response to the financing needs of District small businesses and entrepreneurs. The SSBCI seeks to catalyze the amount of capital that is invested in District small businesses and entrepreneurs, and, thereby, to enhance the District’s business activity, improve the District’s tax base, and promote the creation and retention of District jobs. To date, the District of Columbia has received \$8.6 million dollars from the U.S. Treasury of which eighty percent (80%) must be disbursed before September 30, 2016 to avoid losing the final \$4.3 million dollar tranche allocated to the District. Because of these imperatives, this emergency and proposed rulemaking is necessary for the immediate preservation of the public’s safety and welfare.

The emergency rulemaking was adopted on May 16, 2016, and became effective on that date. The emergency rules shall remain in effect for not longer than one hundred and twenty (120) days from the date of adoption, expiring September 13, 2016, unless earlier superseded by publication of a Notice of Final Rulemaking. The Commissioner also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

**Chapter 29, STATE SMALL BUSINESS CREDIT INITIATIVE, of Title 26-C DCMR, BANKING AND FINANCIAL INSTITUTIONS, is amended as follows:**

Section 2903 is amended to read as follows:

**2903 ELIGIBLE RECIPIENTS – COLLATERAL SUPPORT PROGRAM**

2903.1 An Eligible Recipient under the Collateral Support Program shall:

- (a) Be a non-public company that is registered in the District and is subject to be taxed under the laws of the District, and continues as such as long as the loan is supported by the District's collateral support;
- (b) Have at closing, or sign an agreement pledging that it will have within six (6) months after funding:
  - (1) Its principal offices within the District, demonstrated by a lease or a deed; and
  - (2) At least seventy-five percent (75%) of its employees working in the District, and who continue as such as long as the loan is supported by the District's collateral support;
- (c) Have less than seven hundred and fifty (750) existing employees, including those of its affiliates and subsidiaries.

2903.2 To qualify for Collateral Support, an Eligible Recipient may also be subject to at least one of the following requirements:

- (a) Provide proof by the time of funding that District residents are employed in at least fifty percent (50%) of its W-2 and 1099 employee positions;
- (b) Sign an agreement by the time of funding pledging that at least fifty percent (50%) of its W-2 and 1099 employee positions will be occupied by District residents within six (6) months of funding;
- (c) Provide proof by the time of funding that the Eligible Recipient is at least fifty percent (50%) owned by District residents and provides at least twenty-five percent (25%) of its W-2 and 1099 employee positions to District residents; or
- (d) Demonstrate by the time of funding that the Eligible Recipient will, within six months of funding, create or retain at least one District resident job for every one hundred thousand dollars (\$100,000) in collateral support that the District provides.

2903.3 If the funding from the District of Columbia to an Eligible Recipient that is not a Certified Business Enterprise is three hundred thousand dollars (\$300,000) or

more, the Eligible Recipient shall execute a First Source Agreement if District law requires.

- 2903.4 The Commissioner may waive the provisions in § 2903.1 and, where applicable § 2903.2, and may extend the deadlines, in whole or in part, if the Eligible Recipient demonstrates a reasonable need for waiver, the waiver will not violate the U.S. Department of the Treasury's SSBCI Guidelines, and the waiver is in the best interest of the District.
- 2903.5 The Eligible Recipient, and any owner of the Eligible Recipient that has at least a twenty percent (20%) interest in the Eligible Recipient, shall execute covenants pledging to continue to comply with Collateral Support Program requirements of maintaining its principal offices within the District and maintaining the requisite number of its W-2 and 1099 employee positions occupied by District residents.
- 2903.6 An Eligible Recipient shall not be:
- (a) An executive officer, director, or principal shareholder of the financial institution or qualified non-profit organization enrolling the loan;
  - (b) A member of the immediate family of an executive officer, director, or principal shareholder of the financial institution or qualified non-profit organization enrolling the loan;
  - (c) A related interest of such an executive officer, director, principal shareholder, or member of the immediate family;
  - (d) A business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil or dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business;
  - (e) A business that earns more than half of its annual net revenue from lending activities, unless the business is a non-bank or non-bank holding company or Community Development Financial Institution;
  - (f) A business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants; or
  - (g) A business engaged in activities that are prohibited by federal or District of Columbia law.

- 2903.7 For the purpose of these Eligible Recipient restrictions, as described in § 2903.6 (a), (b) and (c) above, the terms “executive officer,” “director,” “principal shareholder,” “immediate family,” and “related interest” refer to the same relationship to a financial institution lender or qualified non-profit organization as the relationship described in 12 C.F.R. part 215, or any successor to such part.
- 2903.8 An Eligible Recipient under the Collateral Support Program shall certify that no principal of the Eligible Recipient has been convicted of a sex offense against a minor as such term is defined in Section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. § 16911).
- 2903.9 For the purposes of the certifications required under § 2902.2(d) and § 2903.8, “principal” is defined as:
- (a) If a sole proprietorship, the proprietor;
  - (b) If a partnership, each managing partner and each partner who holds twenty percent (20%) or more ownership interest in the partnership; or
  - (c) If a corporation, limited liability company, association, or a development company, each director, each of the five (5) most highly compensated executives, officers, or employees of the entity, and each direct or indirect holder of twenty percent (20%) or more of the ownership stock or stock equivalent of the entity.
- 2903.10 An Eligible Recipient’s breach of the continuing eligibility requirements in § 2903.1 and, where applicable § 2903.2, may result in a penalty being assessed to the Eligible Recipient not to exceed the amount of the initial collateral support provided at funding.
- 2903.11 An Eligible Recipient’s breach of the continuing eligibility requirements in § 2903.1 and, where applicable § 2903.2, that occurred without the Eligible Lender’s assistance shall not impact the cash collateral account pledged to the Lender.
- 2903.12 An Eligible Lender shall be required to return the cash collateral provided by the District if at the time of funding the Eligible Recipient failed to meet the eligibility criteria in § 2903.1 and, where applicable § 2903.2, and the Eligible Lender knew that the Eligible Recipient failed to meet the eligibility criteria at the time of funding.

**Section 2904 is amended to read as follows:**

**2904 LOAN REQUIREMENTS – COLLATERAL SUPPORT PROGRAM**

- 2904.1 Loans or investments facilitated by the Collateral Support Program shall be used for a business purpose, including working capital, inventory, expansion, renovations, start-up costs, and refinancing. The entire proceeds of the loan or investment shall be used within the District.
- 2904.2 The loan proceeds from the Collateral Support Program shall not be used:
- (a) To repay delinquent federal or District of Columbia income taxes unless the Eligible Recipient has a payment plan in place with the relevant taxing authority;
  - (b) To repay taxes held in trust or escrow; for example, payroll or sales taxes;
  - (c) To reimburse funds owed to any owner, including any equity injection or injection of capital for the business's continuance;
  - (d) To purchase any portion of the ownership interest of any owner of the business;
  - (e) To acquire or hold passive investments;
  - (f) For refinancing of existing debt, other than a refinancing permitted by § 2904.9;
  - (g) For legal or illegal gambling; or
  - (h) For evangelizing, proselytizing, or lobbying.
- 2904.3 Personal guarantees must be given by any individual holding twenty percent (20%) or more ownership interest in the Eligible Recipient.
- 2904.4 An Eligible Lender shall apply to file a loan for enrollment in the Collateral Support Program by:
- (a) Delivering to DISB a copy of the District SSBCI Program Enrollment Form executed by an authorized officer of the Eligible Lender;
  - (b) Delivering to DISB documentation of the residency of the Eligible Recipient's employees;
  - (c) Providing DISB with any other documentation and information related to the loan that DISB requires; and
  - (d) Complying with any other enrollment procedures that DISB may reasonably require in writing.

- 2904.5 DISB shall review the loan and related transaction documents that memorialize the terms and conditions of the loan, and DISB shall issue a final approval if the loan, Eligible Lender, Eligible Recipient, and other aspects of the transaction are determined to comply and satisfy all applicable requirements.
- 2904.6 If DISB issues a final approval of the loan, the Eligible Lender and Eligible Recipient shall execute all documentation requested by DISB to memorialize the terms and conditions of the loan to be enrolled in the Collateral Support Program.
- 2904.7 The Eligible Lender, Eligible Recipient, and all other parties to the transaction shall execute all of the documents required to close or settle the transaction. The terms, conditions, and material language of the executed documents shall be consistent with those upon which DISB issued a final approval.
- 2904.8 The loan shall be considered enrolled in the Collateral Support Program when DISB receives copies of all executed transaction documents that it previously approved and submits a funding request to the Office of the Chief Financial Officer.
- 2904.9 A loan or line of credit refinanced from a different lender may be enrolled in the Collateral Support Program. Loans or lines of credit with the same lender or its affiliate may be refinanced and enrolled in the Collateral Support Program if the loans and lines of credit meet the following conditions:
- (a) The new loan or line of credit includes the advancement of new monies to a small business borrower (excluding closing costs);
  - (b) The new credit supported with Collateral Support Program funding is based on new underwriting of the small business's ability to repay and a new approval by the Eligible Lender;
  - (c) The proceeds from the new credit are only used to satisfy the outstanding balance of a loan or line of credit that has already matured or otherwise termed and the prior debt was used for an eligible business purpose, as defined above; and
  - (d) The new credit has not been extended for the sole purpose of refinancing existing debt owed to the same financial institution lender.
- 2904.10 If the outstanding balance of a loan that is not a line of credit is reduced to zero (0), that loan shall no longer be considered an Enrolled Loan in the Collateral Support Program.
- 2904.11 If a loan that is a line of credit has an outstanding balance of zero (0) for twelve (12) consecutive months, it will no longer be considered an Enrolled Loan in the



Collateral Support Program, unless, before the expiration of the twelve (12) month period, the Eligible Lender has reaffirmed in writing to the Eligible Recipient that the line of credit will remain open and the Eligible Recipient has acknowledged that reaffirmation in writing to the Eligible Lender and DISB.

- 2904.12 To renew an enrolled line of credit or extend the maturity date of an enrolled line of credit the following shall occur:
- (a) An Eligible Lender shall send notice to DISB of the renewal or extension;
  - (b) The Eligible Recipient shall consent to the extension in writing;
  - (c) DISB shall receive a new enrollment form; and
  - (d) DISB shall approve the extension.
- 2904.13 If an enrolled line of credit is not renewed or extended, it shall no longer be considered enrolled in the Collateral Support Program after its maturity date has passed.
- 2904.14 If an enrolled line of credit has an outstanding balance of zero (0) for twelve (12) consecutive months, it shall no longer be enrolled in the Collateral Support Program, unless, before the expiration of the twelve (12) month period, the Eligible Lender has reaffirmed in writing to the Eligible Recipient that the line of credit shall remain open and the Eligible Recipient has acknowledged that reaffirmation in writing to the Eligible Lender and DISB.

**Section 2912 is amended to read as follows:**

**2912 ELIGIBLE RECIPIENTS – LOAN PARTICIPATION PROGRAM**

- 2912.1 An Eligible Recipient under the Loan Participation Program shall:
- (a) Be a non-public company that is registered in the District and is subject to tax under the laws of the District and continues as such as long as the Loan Participation Program supports the loan;
  - (b) Have at closing, or sign an agreement pledging that it will have within six (6) months after funding:
    - (1) Its principal offices within the District, demonstrated by a lease or a deed; and
    - (2) At least seventy-five percent (75%) of its employees working in the District and who continue as such as long as the District's portion of the loan participation is outstanding; and

- (c) Have less than seven hundred and fifty (750) existing employees, including those of its affiliates and subsidiaries.

2912.2 To qualify for Loan Participation, an Eligible Recipient may also be subject to at least one of the following requirements:

- (a) Provide proof by the time of funding that District residents are employed in at least fifty percent (50%) of its W-2 and 1099 employee positions;
- (b) Sign an agreement by the time of funding pledging that at least fifty percent (50%) of its W-2 and 1099 employee positions will be occupied by District residents within six (6) months of funding;
- (c) Provide proof by the time of funding that the Eligible Recipient is at least fifty percent (50%) owned by District residents and provides at least twenty-five percent (25%) of its W-2 and 1099 employee positions to District residents; or
- (d) Demonstrate by the time of funding that the Eligible Recipient will, within six months of funding, create or retain at least one District resident job for every \$100,000 in loan participation that the District provides.

2912.3 If the funding from the District of Columbia to an Eligible Recipient that is not a Certified Business Enterprise is three hundred thousand dollars (\$300,000) or more, the Eligible Recipient shall execute a First Source Agreement if District law requires.

2912.4 The Commissioner may waive the provisions of §§ 2911.1 – 2912.3 and may extend the deadlines, in whole or in part if the Eligible Recipient demonstrates a reasonable need for waiver, if such waiver will not violate the U.S. Department of the Treasury's SSBCI Guidelines, and the waiver is in the best interest of the District.

2912.5 The Eligible Recipient and any owner of the Eligible Recipient that has at least a twenty percent (20%) interest in the Eligible Recipient shall execute covenants pledging to continue to comply with Loan Participation Program requirements of maintaining its principal offices within the District and maintaining the requisite number of its W-2 and 1099 employee positions occupied by District residents.

2912.6 An Eligible Recipient shall not be:

- (a) An executive officer, director, or principal shareholder of the financial institution or qualified non-profit organization enrolling the loan;

- (b) A member of the immediate family of an executive officer, director, or principal shareholder of the financial institution or qualified non-profit organization enrolling the loan;
- (c) A related interest of such an executive officer, director, principal shareholder, or member of the immediate family;
- (d) A business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil or dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business;
- (e) A business that earns more than half of its annual net revenue from lending activities, unless the business is a non-bank or non-bank holding company or Community Development Financial Institution;
- (f) A business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants; or
- (g) A business engaged in activities that are prohibited by federal or District of Columbia law.

2912.7 For the purpose of these Eligible Recipient restrictions, as described in §§ 2912.6 (a), (b) and (c) above, the terms “executive officer,” “director,” “principal shareholder,” “immediate family,” and “related interest” refer to the same relationship to a financial institution lender or qualified non-profit organization as the relationship described in 12 C.F.R. part 215, or any successor to such part.

2912.8 Eligible Recipients under the Loan Participation Program shall certify that no principal of the Eligible Recipient has been convicted of a sex offense against a minor as such term is defined in Section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. § 16911).

2912.9 For the purposes of the certification required in § 2911.2(d) and § 2912.8, “principal” is defined as:

- (a) If a sole proprietorship, the proprietor;
- (b) If a partnership, each managing partner and each partner who holds twenty percent (20%) or more ownership interest in the partnership; or
- (c) If a corporation, limited liability company, association, or a development company, each director, each of the five (5) most highly compensated

executives, officers, or employees of the entity, and each direct or indirect holder of twenty percent (20%) or more of the ownership stock or stock equivalent of the entity.

- 2912.10 An Eligible Recipient's breach of the continuing eligibility requirements in § 2912.1 and, where applicable § 2912.2, may result in a penalty being assessed to the Eligible Recipient not to exceed the amount of the District's participation in the Eligible Recipient's loan.
- 2912.11 A breach by the Eligible Recipient of the continuing eligibility requirements in § 2912.1 and, where applicable § 2912.2, that occurred without the Eligible Lender's assistance shall not impact the District's participation in the loan pledged to the Lender.
- 2912.12 An Eligible Lender shall be required to repurchase the District's participation in the loan if at the time of funding the Eligible Recipient failed to meet the eligibility criteria in § 2912.1, and where applicable § 2912.2, and the Eligible Lender knew that the Eligible Recipient failed to meet the eligibility criteria at the time of funding.

**Section 2913 is amended to read as follows:**

**2913 LOAN REQUIREMENTS – LOAN PARTICIPATION PROGRAM**

- 2913.1 Loans facilitated by the Loan Participation Program shall be used for a business purpose, including working capital, inventory, expansion, renovations, start-up costs, and refinancing. The entire proceeds of the loan or investment shall be used within the District.
- 2913.2 The loan proceeds from the Loan Participation Program shall not be used:
- (a) To repay delinquent federal or District of Columbia income taxes unless the Eligible Recipient has a payment plan in place with the relevant taxing authority;
  - (b) To repay taxes held in trust or escrow, for example, payroll or sales taxes;
  - (c) To reimburse funds owed to any owner, including any equity injection or injection of capital for the business's continuance;
  - (d) To purchase any portion of the ownership interest of any owner of the business;
  - (e) To acquire or hold passive investments;

- (f) For refinancing of existing debt, other than a refinancing permitted by § 2914.13;
  - (g) For legal or illegal gambling; or
  - (h) For evangelizing, proselytizing, or lobbying.
- 2913.3 Personal guarantees are required from any individual holding twenty percent (20%) or more ownership interest in the Eligible Recipient.
- 2913.4 An Eligible Lender shall apply to file a loan for enrollment in the Loan Participation Program by:
- (a) Delivering to DISB, a copy of the District SSBCI Program Enrollment Form executed by an authorized officer of the Eligible Lender;
  - (b) Delivering to DISB documentation of the residency of the Eligible Recipient's employees;
  - (c) Providing DISB with any other documentation or information related to the loan that DISB requires; and
  - (d) Complying with any other enrollment procedures that DISB may reasonably require in writing.
- 2913.5 DISB shall review the loan and related transaction documents that memorialize the terms and conditions of the loan, and DISB shall issue a final approval if the loan, Eligible Lender, Eligible Recipient, and other aspects of the transaction are determined to comply and satisfy all applicable requirements.
- 2913.6 If DISB issues a final approval of the loan, the Eligible Lender and Eligible Recipient shall execute all documentation requested by DISB to memorialize the terms and conditions of the loan to be enrolled in the Loan Participation Program.
- 2913.7 The Eligible Lender, Eligible Recipient, and all other parties to the transaction shall execute all of the documents required to close or settle the transaction. The terms, conditions, and material language of the executed documents shall be consistent with those upon which DISB issued a final approval.
- 2913.8 The loan shall be considered enrolled in the Loan Participation Program when DISB receives copies of all executed transaction documents that it previously approved and submits a funding request to the Office of the Chief Financial Officer.

**Section 2914 is amended to read as follows:**

**2914 PARTICIPATION REQUIREMENTS – LOAN PARTICIPATION PROGRAM**

- 2914.1 To enroll a loan in the Loan Participation Program, the Eligible Lender shall elect on the prescribed District SSBCI Enrollment Form, or such other form required by DISB, the applicable Loan Participation Program category.
- 2914.2 Under the Standard Loan Participation category, DISB acquires a percentage participation of the Enrolled Loan from the Eligible Lender to an Eligible Recipient in consideration for DISB receiving interest accruing at a rate equal to the rate at which an Eligible Recipient pays an Eligible Lender pursuant to the terms of the Loan Participation Program documents.
- 2914.3 If the Eligible Recipient defaults in payment to the Eligible Lender, or to DISB pursuant to the terms of the Loan Participation Program documents for a Standard Loan Participation, DISB shall receive the proportional benefit of all amounts received from the Eligible Recipient or realized from the Eligible Recipient's collateral following the default.
- 2914.4 To qualify for a Standard Loan Participation category, an Eligible Recipient need not meet any of the five (5) additional enrollment criteria described in § 2914.8.
- 2914.5 A loan may also be enrolled under the Enhanced Loan Participation category, whereby DISB acquires a percentage participation of the Enrolled Loan from an Eligible Lender to an Eligible Recipient in consideration for DISB receiving interest accruing at a rate not to exceed half of the percentage per annum charged by the Eligible Lender on the Enrolled Loan to the Eligible Recipient.
- 2914.6 If the Eligible Recipient defaults in payment to the Eligible Lender, or to DISB pursuant to the terms of the Loan Participation Program documents for an Enhanced Loan Participation, the amounts owed by the Eligible Recipient to DISB with respect to a loan participation may be subordinated to amounts owed by the Eligible Recipient to the Eligible Lender.
- 2914.7 To qualify for an Enhanced Loan Participation, an Eligible Recipient shall meet at least two (2) and up to five (5) of the additional enrollment criteria described in § 2914.8. Qualification under this category may be subject to additional criteria, as determined by the Commissioner, and may include:
- (a) A minimum equity contribution of ten percent (10%), which may not be borrowed;
  - (b) A debt service coverage ratio of one and two-tenths (1.2) (a lower minimum debt service coverage ratio may be allowed with reasonable explanation);

- (c) Financial statements for the three (3) immediately preceding fiscal years, demonstrating at least one (1) year of profitability; and
- (d) A credit score of six hundred and forty (640) or higher (lower credit scores may be allowed with a reasonable explanation).

2914.8 Additional enrollment criteria for qualification under the enrollment categories described in §§ 2914.1 – 2914.7 above are as follows:

- (a) An Eligible Recipient shall sign an agreement to allocate at least ten percent (10%) of all new and future hires to be targeted new hires as defined by the Federal Work Opportunities Tax Credit, 26 U.S.C. § 51(d). The agreement shall endure for the duration of the Enrolled Loan.
- (b) An Eligible Recipient shall be a Certified Business Enterprise or pledge to become a Certified Business Enterprise within six (6) months of funding;
- (c) An Eligible Recipient shall be a business enterprise that is more than 50% woman or minority owned.
- (d) An Eligible Recipient shall have its principal office located in a census tract where the poverty rate exceeds twenty percent (20%).
- (e) A loan will be made to an Eligible Recipient that has its principal office located in a retail priority area as identified under D.C. Official Code § 2-1217.73.

2914.9 The Eligible Recipient and any owner of the Eligible Recipient that has at least a twenty percent (20%) interest in the Eligible Recipient shall execute covenants, pledging to continue to comply with each additional enrollment criteria as described under § 2914.8 for the enrollment option chosen by the Eligible Recipient.

2914.10 A loan or line of credit refinanced from a different lender may be enrolled in the Loan Participation Program provided that the original use of proceeds was for an eligible business purpose. Loans or lines of credit with the same lender or its affiliate may be refinanced and enrolled in the Loan Participation Program if such loans and lines of credit meet the following conditions:

- (a) The new loan or line of credit includes the advancement of new monies to a small business borrower (excluding closing costs);
- (b) The new credit supported with Loan Participation Program funding is based on new underwriting of the small business's ability to repay and a new approval by the Eligible Lender;

- (c) The proceeds from the new credit is only to be used to satisfy the outstanding balance of a loan or line of credit that has already matured or otherwise termed and the prior debt was used for an eligible business purpose, as defined by above; and
  - (d) The new credit has not been extended for the sole purpose of refinancing existing debt owed to the same financial institution lender.
- 2914.11 If the loan is not a line of credit and has no outstanding balance, that loan will no longer be considered an Enrolled Loan in the Loan Participation Program.
- 2914.12 To renew an enrolled line of credit or extend the maturity date of an enrolled line of credit the following shall occur:
  - (a) An Eligible Lender shall send notice to DISB of the renewal or extension;
  - (b) The Eligible Recipient shall consent to the extension in writing;
  - (c) DISB shall receive a new enrollment form; and
  - (d) DISB shall approve the extension
- 2914.13 If an enrolled line of credit is not renewed or extended it shall no longer be considered enrolled in the Loan Participation Program after its maturity date has passed.
- 2914.14 If an enrolled line of credit has no outstanding balance for twelve (12) consecutive months, it will no longer be enrolled in the Loan Participation Program unless, before the expiration of the twelve (12) month period, the Eligible Lender has reaffirmed in writing to the Eligible Recipient that the line of credit will remain open and the Eligible Recipient has acknowledged that reaffirmation in writing to the Eligible Lender and DISB.
- 2914.15 DISB shall be the legal and equitable owner of the DISB share of a loan enrolled in the Loan Participation Program and all security and documents related to the DISB share of the loan.
- 2914.16 The enrollment of a loan by the Eligible Lender in the Loan Participation Program constitutes a sale by the Eligible Lender to DISB of the DISB share in the Enrolled Loan and security and related documents. This sale is not, however, an extension of credit by DISB to the Eligible Lender.
- 2914.17 DISB shall not disburse monies related to its purchase of a portion of a loan enrolled in the Loan Participation Program at or prior to the closing of the loan by an Eligible Lender and Eligible Recipient. Monies DISB pays to the Eligible Lender shall not be disbursed by the Eligible Lender to an Eligible Recipient



without the Eligible Recipient's full execution of all of the Loan Participation Program documents.

2914.18 For each Enrolled Loan for which DISB owns a participation share the Eligible Lender shall:

- (a) Negotiate, control, manage and service the Enrolled Loan;
- (b) Enforce or refrain from enforcing the loan documents;
- (c) Give consents, approvals or waivers in connection with the loan documents;
- (d) Acquire additional security for the Enrolled Loan; and
- (e) Take or refrain from taking any action and make any determination provided for in the loan documents.

2914.19 The Eligible Lender and DISB shall share all principal and interest payments and other collections under any loan enrolled by the Eligible Lender in the Loan Participation Program in proportion to their respective percentage interests in the loan, with appropriate provisions made for any differences in interest rates and payment schedules of the Eligible Lender and DISB.

2914.20 The Eligible Lender shall collect all payments made under any loan enrolled by the Eligible Lender in the Loan Participation Program and remit the principal and interest amounts due to DISB within ten (10) business days following the Eligible Lender's receipt of such payments from the Eligible Recipient.

2914.21 The remittance shall be paid by certified check or money order payable by the Eligible Lender to DISB. The Eligible Lender shall provide all detail reasonably requested by DISB regarding the breakdown of individual payments, including itemization of the principal and interest.

**Section 2920 is amended to read as follows:**

**2920 INNOVATION FINANCE PROGRAM**

2920.1 The Innovation Finance Program shall provide capital to Eligible Recipients either (1) through a co-investment with an Innovation Finance Company into an Eligible Recipient; or (2) by investing as a Limited Partner in an Innovation Finance Company that shall then make an investment into an Eligible Recipient.

2920.2 A co-investment with an Innovation Finance Company shall not exceed fifty percent (50%) of the total investment in the Eligible Recipient and no more than five hundred thousand dollars (\$500,000).

- 2920.3 The District may fully or partially subordinate its investment to the co-investment by the Innovation Finance Company.
- 2920.4 An investment as a Limited Partner in a Limited Partnership managed by an Innovation Finance Company shall not exceed the amount allocated to the Innovation Finance Program by the U.S. Department of the Treasury, and the resulting total investment in the Eligible Recipient shall be comprised of fifty percent (50%) or less in capital from the Innovation Finance Program and no more than five hundred thousand dollars (\$500,000).
- 2920.5 The District may fully or partially subordinate its investment to the investment of the other Limited Partners in the Limited Partnership managed by the Innovation Finance Company.
- 2920.6 Where applicable, principal and interest repayments on an investment in an Innovation Finance Company and an Eligible Recipient may be deferred until the occurrence of a liquidity event, as described in §§ 2920.7 – 2920.9.
- 2920.7 A liquidity event shall occur in any transaction in which the Innovation Finance Company receives: cash or equity securities having a “readily determinable fair value,” as defined by the Financial Accounting Standards Board Accounting Standards Codification, as amended (“marketable securities”), in exchange for securities of the Eligible Recipient (or any securities into which the securities are converted or for which the securities are exchanged).
- 2920.8 Any payment to an Innovation Finance Company, including dividends and payments of principal or interest, shall be considered a liquidity event.
- 2920.9 Share exchanges and other similar transactions shall not be considered liquidity events to the extent that DISB’s interest in the Eligible Recipient is not tendered for cash or a marketable security. The liquidity horizon shall not exceed ten (10) years.
- 2920.10 An Innovation Finance Company’s failure to liquidate its investment in an Eligible Recipient and to pay the District its pro-rata share of the initial investment and return on investment shall be included in the loan documents or limited partnership agreement between DISB and the Innovation Finance Company as an event of default. The investment documents shall set forth the remedy or penalty for the default. The remedy or penalty for a default may include, without limitation, payment of additional interest by the Innovation Finance Company to the District. Where the failure continues for more than thirty (30) days beyond the date that the payment was to be made, forfeiture or recoupment of all or a portion of the amount allowed to the Innovation Finance Company may be required pursuant to § 2922.6 or § 2922.12.

Section 2921 is amended to read as follows:

**2921 INNOVATION FINANCE COMPANY - INNOVATION FINANCE PROGRAM**

2921.1 An Innovation Finance Company shall demonstrate to the Commissioner that it has a track record of positive return on investment and be an entity in one of the following categories:

- (a) Certified by the U.S. Department of the Treasury's CDFI Fund as a Community Development Financial Institution;
- (b) Registered as a Business Development Company, as defined under the Investment Company Act of 1940;
- (c) Certified by the U.S. Small Business Administration as a Small Business Investment Company (SBIC), New Market Venture Capital Company, or Rural Business Investment Company; or
- (d) Any other entity that has at least five million dollars (\$5,000,000) of assets under management or an Accredited Investor within the meaning of the Federal Securities laws, both of which must demonstrate to the Commissioner that it has qualified management and staff.

2921.2 An Innovation Finance Company may also include Angel Investor Networks, which shall be defined as: (1) a group of investors where all members meet all requirements as "Accredited Investors" within the meaning of the Federal securities laws; and (2) a group of investors that has been operating as a group for a minimum of five (5) years and has made cumulative yearly investments as a network of no less than five hundred thousand dollars (\$500,000) per year and average investment of no less than one hundred twenty-five thousand dollars (\$125,000) per investee company. All members of the Angel Investor Networks shall meet the certification requirements of the SSBCI program, including but not limited to the Sex Offender Certifications.

2921.3 An Innovation Finance Company shall enroll in the Innovation Finance Program by providing to DISB:

- (a) An application for enrollment;
- (b) A signed Innovation Finance Program Participation Agreement with DISB which, after DISB's execution, may be used by the Innovation Finance Company for subsequent investments in subsequent Eligible Recipients provided that (1) DISB has not amended or otherwise revised the form of Participation Agreement and (2) the Innovation Finance Company has been re-certified as set forth in § 2921.2;

- (c) A certification that it is in compliance with the requirements of the District of Columbia and federal securities laws;
- (d) A certification that, consistent with OMB Circular A-129, it has or will have at the time DISB makes any investment, at least twenty percent (20%) of its own capital at risk in any investment enrolled in the Innovation Finance Program, unless a waiver is granted;
- (e) A certification that no principal of the Innovation Finance Company has been convicted of a sex offense against a minor as the term is defined in Section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. § 16911);
- (f) A certification in the form to be provided to the Innovation Finance Company by DISB providing that the Innovation Finance Company has complied with the Conflicts of Interests for Venture Capital Programs set forth in the current SSBCI National Standards;
- (g) A certification from the proposed Eligible Recipient in the form to be provided by DISB regarding certification of the Use of Proceeds and that the proceeds are for a permitted Business Purpose within the meaning of the SSBCI Guidelines and the Small Business Jobs Act of 2010 (the “Act”);
- (h) A certification from the proposed Eligible Recipient in the form to be provided by DISB regarding the SSBCI Sex Offender Rules and the Act; and
- (i) Any other document DISB determines is necessary for the administration of the District SSBCI Programs or for compliance with the U.S. Department of the Treasury’s SSBCI.

2921.4 Once enrolled and certified as an Innovation Finance Company, the Company may present subsequent Eligible Recipients to the Innovation Finance Company using the following procedure:

- (a) The Innovation Finance Company shall re-certify it meets the requirements in § 2921.1; and
- (b) The Innovation Finance Company and the Eligible Recipient as the case may be, shall each submit the relevant Certifications set forth in §§ 2921.3 (a) – (i).

**Section 2922 is amended to read as follows:**

**2922 ELIGIBLE RECIPIENTS AND INVESTMENT REQUIREMENTS – INNOVATION FINANCE PROGRAM**

- 2922.1 To qualify for an Investment, an Eligible Recipient shall:
- (a) Be a non-public company that is registered in the District and is subject to tax under the laws of the District;
  - (b) Have at closing, or sign an agreement pledging that it will have within six (6) months after funding:
    - (1) Its principal offices within the District, demonstrated by a lease or a deed; and
    - (2) At least seventy-five percent (75%) of its employees working in the District; and
  - (c) Have less than seven hundred and fifty (750) existing employees, including those of its affiliates and subsidiaries
- 2922.2 To qualify for an Investment, an Eligible Recipient may also be subject to at least one of the following requirements:
- (a) Provide proof by the time of funding that District residents are employed in at least fifty percent (50%) of its W-2 and 1099 employee positions;
  - (b) Sign an agreement by the time of funding pledging that at least fifty percent (50%) of its W-2 and 1099 employee positions will be occupied by District residents within six (6) months of funding;
  - (c) Provide proof by the time of funding that the Eligible Recipient is at least fifty percent (50%) owned by District residents and provides at least twenty-five percent (25%) of its W-2 and 1099 employee positions to District residents; or
  - (d) Demonstrate by the time of funding that the Eligible Recipient will, within six months of funding, create or retain at least one District resident job for every one hundred thousand dollars (\$100,000) in investment support that the District provides.
- 2922.3 If the funding from the District of Columbia to an Eligible Recipient that is not a Certified Business Enterprise is three hundred thousand dollars (\$300,000) or more, the Eligible Recipient shall execute a First Source Agreement if District law requires.

- 2922.4 The provisions of § 2922.1 and, where applicable § 2922.2, may be waived, and the deadlines extended, in whole or in part, by the Commissioner if the Eligible Recipient demonstrates a reasonable need for waiver, if the waiver will not violate the SSBCI Guidelines of the U.S. Department of the Treasury, and if the waiver is in the best interest of the District.
- 2922.5 The Eligible Recipient and any owner of the Eligible Recipient that has at least a twenty percent (20%) interest in the Eligible Recipient shall execute covenants, pledging to continue to comply with the Program requirements from § 2922.1 and, where applicable § 2922.2, for the later of (i) a Liquidation Event or (ii) ten (10) years.
- 2922.6 In addition to its own pro rata share in the total return on investment (ROI) on a performing investment, the Innovation Finance Company may receive a maximum of twenty-five percent (25%) carried interest of DISB's pro rata share of the total ROI. The Parties agree that the twenty-five percent (25%) share of DISB's pro rata share as set forth in this section is specifically in lieu of the payment of any Innovation Finance management fees or administrative fees that may be assessed to DISB pro rata with other investors, if any, in respect of an investment in an Eligible Recipient.
- 2922.7 If the District's investment involves a Limited Partnership interest in a Fund where at least two thirds of the capital is from the private sector, the DISB may agree to pay a maximum annual management fee of two percent (2%) of assets under management in addition to a maximum of twenty percent (20%) carried interest on DISB's pro rata share of the total ROI provided the carried interest and management fee are deferred and only paid from the total ROI.
- 2922.8 Under the Enhanced Investment category, an Eligible Recipient of an Enhanced Investment shall also sign an agreement to comply with at least one (1) of the following additional enrollment criteria for which an enhanced investment return of five percent (5%) shall be provided to the Eligible Recipient for each:
- (a) The Eligible Recipient shall sign an agreement to allocate at least ten percent (10%) of all new and future hires to be targeted new hires as defined by the Federal Work Opportunities Tax Credit Act, 26 U.S.C. § 51(d) for the duration of the Enrolled Investment;
  - (b) The Eligible Recipient shall meet at least one (1) of the following:
    - (1) Be a Certified Business Enterprise or pledge to become a Certified Business Enterprise within six (6) months of funding; or
    - (2) Be a business enterprise more than fifty percent (50%) woman or minority owned.

- (c) The Eligible Recipient shall have its principal office located in a census tract where the poverty rate exceeds twenty percent (20%); and
- (d) The Eligible Recipient shall have its principal office located on retail priority areas as identified under D.C. Official Code § 2-1217.73.

2922.9 The Eligible Recipient of an Enhanced Investment, and any owner of the Eligible Recipient that has at least a twenty percent (20%) interest in the Eligible Recipient shall execute covenants pledging to continue to comply with the additional enrollment criteria as described under § 2922.8 for the enrollment category chosen by the Eligible Recipient.

2922.10 The Eligible Recipient of an Enhanced Investment may receive five percent (5%) of DISB's pro rata share of the total ROI for meeting each of the economic development goals stated in § 2922.8, up to a total of fifteen percent (15%).

2922.11 In both categories of enrollment, DISB shall receive the proportional benefit of all amounts received from the Eligible Recipient or realized from the Eligible Recipient's collateral following default or loss.

2922.12 An Enrolled Investment may be used to refinance a loan or line of credit from a different lender under the Innovation Finance Program.

2922.13 An Eligible Recipient shall not be:

- (a) An executive officer, director, or principal shareholder of the Innovation Finance Company enrolling the investment;
- (b) A member of the immediate family of an executive officer, director, or principal shareholder of the Innovation Finance Company enrolling the investment;
- (c) A related interest of an executive officer, director, principal shareholder, or member of the immediate family;
- (d) A business engaged in speculative activities that develop profits from fluctuations in price rather than through the normal course of trade, such as wildcatting for oil or dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business;
- (e) A business that earns more than half of its annual net revenue from lending activities, unless the business is a non-bank or non-bank holding company or community development financial institution;

- (f) A business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants; or
- (g) A business engaged in activities that are prohibited by federal or District of Columbia law.

2922.14 For the purpose of these Eligible Recipient restrictions, as described in § 2922.13(a), (b), and (c) above, the terms “executive officer,” “director,” “principal shareholder,” “immediate family,” and “related interest” refer to the same relationship to an Innovation Finance Company as the relationship described in 12 C.F. R. part 215 or any successor to such part.

2922.15 An Eligible Recipient under the Innovation Finance Program shall certify that no principal of the Eligible Recipient has been convicted of a sex offense against a minor as such term is defined in Section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. § 16911).

2922.16 For the purposes of the certification required under § 2921.3(e) and § 2922.15, “principal” is defined as:

- (a) If a sole proprietorship, the proprietor;
- (b) If a partnership, each managing partner and each partner who holds twenty percent (20%) or more ownership interest in the partnership; or
- (c) If a corporation, limited liability company, association or a development company, each director, each of the five (5) most highly compensated executives, officers, or employees of the entity, and each direct or indirect holder of twenty percent (20%) or more of the ownership stock or stock equivalent of the entity.

2922.17 An Eligible Recipient shall use the investments facilitated by the Innovation Finance Program for a business purpose, including working capital, inventory, expansion, renovations, start-up costs, and refinancing. The entire proceeds of the investment shall be used within the District.

2922.18 The investment from the Innovation Finance Program shall not be used:

- (a) To repay delinquent federal or District of Columbia income taxes unless the Eligible Recipient has a payment plan in place with the relevant taxing authority;
- (b) To repay taxes held in trust or escrow, for example, payroll or sales taxes;



- (c) To reimburse funds owed to any owner, including any equity injection or injection of capital for the business's continuance;
- (d) To purchase any portion of the ownership interest of any owner of the business;
- (e) To acquire or hold passive investments;
- (f) For legal or illegal gambling; or
- (g) For evangelizing, proselytizing, or lobbying.

2922.19 An Innovation Finance Company shall file an investment for enrollment in the Innovation Finance Program by:

- (a) Delivering to DISB a copy of the District SSBCI Program Enrollment Form executed by an authorized officer of the Innovation Finance Company;
- (b) Providing DISB with any other documentation and information related to the investment that DISB requires; and
- (c) Complying with any other enrollment procedures that DISB may reasonably require in writing.

2922.20 The filing of an investment for enrollment shall be considered to occur on the date on which the Innovation Finance Company submits to DISB the documentation requested by DISB in § 2922.21 and, where applicable, § 2922.22.

2922.21 DISB shall review the investment and related transaction documents that memorialize the terms and conditions of the investment, and DISB shall issue a final approval if the investment, Innovation Finance Company, Eligible Recipient, and other aspects of the transaction, are determined to comply and satisfy all applicable requirements.

2922.22 The Innovation Finance Company and Eligible Recipient shall execute all documentation requested by DISB to memorialize the terms and conditions of the investment to be enrolled in the Innovation Finance Program.

2922.23 The Innovation Finance Company, Eligible Recipient, and all other parties to the transaction, shall execute all of the documents required to close or settle the transaction. The terms, conditions, and material language of the executed documents shall be consistent with those upon which DISB issued a final approval.

- 2922.24 The investment shall be considered enrolled in the Finance Innovation Program when DISB receives copies of all executed transaction documents that it previously approved and submits a funding request to the Office of the Chief Financial Officer.
- 2922.25 DISB shall not commit capital from SSBCI Program Funds to an Innovation Finance Company until the Innovation Finance Company has met all requirements set forth in § 2922.1 and, where applicable, § 2922.22.

**Section 2923 is amended to read as follows:**

**2923 REPORTING REQUIREMENTS – INNOVATION FINANCE PROGRAM**

- 2923.1 Each Eligible Recipient under the Innovation Finance Program shall annually submit the following information to DISB within sixty (60) days after the year-end and at any other time DISB reasonably requests:
- (a) The Eligible Recipient’s annual revenues, if any, in the prior fiscal year;
  - (b) The number of the Eligible Recipient’s full-time and part-time equivalent employees, including those who are District residents by ward, and the number of jobs created and retained as a result of the investment for the Eligible Recipient; and
  - (c) Any additional documentation and information DISB reasonably requires.
- 2923.2 Failure to file a complete annual report may result in a fine of twenty-five dollars (\$25.00) per day for each violation. This fine shall not exceed one percent (1%) of the Enrolled Investment for each violation. It shall be payable by the Eligible Recipient and any owner of the Eligible Recipient, that has at least a twenty percent (20%) interest in the Eligible Recipient.
- 2923.3 Failure to comply with any required covenants under §§ 2920.1 – 2923 of this chapter may result in a fine not to exceed the amount invested by DISB in the Eligible Recipient. This fine shall be payable by the Eligible Recipient and any owner of the Eligible Recipient, who has at least twenty percent (20%) interest in the Eligible Recipient.

**Section 2924 is added as follows:**

**2924 TERMINATION OF INVESTMENT – INNOVATION FINANCE PROGRAM**

- 2924.1 DISB may terminate its obligation to enroll investments under the Innovation Finance Program by issuing a notice of termination to an Innovation Finance

Company. The termination shall apply on the effective date specified in the notice of termination.

2924.2 The termination shall not apply to any Enrolled Loan or Enrolled Investment that is made on or before the date on which the notice of termination is received by the Innovation Finance Company.

**Sections 2925-2998 are amended to read as follows:**

**2925-2998 [RESERVED]**

**Section 2999, DEFINITIONS, is amended by adding the following definitions:**

**Certified Business Enterprise:** A local business enterprise as defined in D.C. Official Code § 2-218.02 (1D).

**First Source Agreement:** An agreement with the District governing certain obligations of the Eligible Recipient, pursuant to Section 4 of the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.03), and Mayor's Order 83-265, dated November 9, 1983, regarding job creation and employment generated as a result of the District's investment.

**Section 2999 is amended by amending the following definition:**

**Innovation Finance Company:** Any Community Development Financial Institution, Business Development Company, Small Business Investment Company, New Market Venture Capital Company, Rural Business Investment Company, private sector venture capital fund, angel investor network, seed capital fund, or entity that has five million dollars (\$5,000,000) of assets under management and can demonstrate qualified management and staff.

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 J. Carl Wilson, Acting General Counsel, Department of Insurance, Securities and Banking, 810 First Street, N.E., Suite 701, Washington D.C. 20002, or [carl.wilson@dc.gov](mailto:carl.wilson@dc.gov). Copies of the proposed rules may be obtained from DISB at the address stated above.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

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**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2016-087  
June 8, 2016


**SUBJECT:** Designation — Special Event Areas — Beat the Streets


**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(11) (2014 Repl.), and pursuant to 19 DCMR § 1301.8, it is hereby **ORDERED** that:

1. The following public space areas shall be designated as Special Event Areas to accommodate activities associated with Beat the Streets, a program directed by the Metropolitan Police Department to build strong relationships with the community and prevent and deter crime. Activities may include a moon bounce, a rock climbing wall, food pantry distribution, and music:
  - a. On Wednesday, June 22, 2016, commencing at 11:00 a.m. and continuing until 9:00 p.m., the 1300 block of Congress Street, S.E., shall be closed to vehicular traffic;
  - b. On Friday, June 24, 2016, commencing at 11:00 a.m. and continuing until 9:00 p.m., the 600 block of Morton Street, N.W., shall be closed to vehicular traffic;
  - c. On Wednesday, June 29, 2016, commencing at 11:00 a.m. and continuing until 9:00 p.m., the 200 block of N Street, S.W., shall be closed to vehicular traffic;
  - d. On Wednesday, July 6, 2016, commencing at 11:00 a.m., and continuing until 9:00 p.m., the 5200 block of Foote Street, N.E., shall be closed to vehicular traffic;
  - e. On Wednesday, July 13, 2016, commencing at 11:00 a.m. and continuing until 9:00 p.m., the 1700 block of 8<sup>th</sup> Street, N.W., shall be closed to vehicular traffic;
  - f. On Wednesday, July 20, 2016, commencing at 11:00 a.m. and continuing until 9:00 p.m., the 600 block of Evarts Street, N.E., shall be closed to vehicular traffic;
  - g. On Friday July 22, 2016, commencing at 11:00 a.m. and continuing until 9:00 p.m., the 1700 block of F Street N.E., shall be closed to vehicular traffic;
  - h. On Wednesday July 27, 2016, commencing at 11:00 a.m. and continuing until 9:00 p.m., the 4100 block of 9<sup>th</sup> Street, N.W., shall be closed to vehicular traffic;

- i. On Wednesday August 3, 2016, commencing at 11:00 a.m. and continuing until 9:00 p.m., the 1200 block of I Street, S.E., shall be closed to vehicular traffic;
  - j. On Thursday, August 11, 2016, commencing at 11:00 a.m. and continuing until 9:00 p.m., the 1400 block of Clifton Street, N.W. shall be closed to vehicular traffic.
- 2. The designated areas shall be operated and overseen by the Metropolitan Police Department.
  - 3. This Order is authorization for the use of the designated streets and curb lanes only, and the operating entities shall secure and maintain all other licenses and permits applicable to the activities associated with the operation of the event. All building, health, life, safety, and use of public space requirements shall remain applicable to the Special Event Area designated by this Order.
  - 4. **EFFECTIVE DATE:** This Order shall become effective immediately.

  
MURIEL BOWSER  
MAYOR

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

## ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-088  
June 8, 2016

**SUBJECT:** Appointment — Executive Director, Office on Aging


**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat.790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), pursuant to section 302 of the District of Columbia Act on the Aging, effective October 29, 1975, D.C. Law 1-24, D.C. Official Code § 7-503.02 (2012 Repl.), in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1- 523.01 (2014 Repl. and 2015 Supp.), and pursuant to the Executive Director of the Office on Aging Laura Newland Confirmation Resolution of 2016, effective April 5, 2016, Res. 21-0447, it is hereby **ORDERED** that:

1. **LAURA NEWLAND** is appointed Executive Director, Office on Aging, and shall continue to serve in that capacity at the pleasure of the Mayor.
2. This Order supersedes Mayor's Order 2016-023, dated February 8, 2016.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to April 5, 2016.

  
MURIEL BOWSER  
MAYOR

ATTEST:

  
LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

## ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-089  
June 8, 2016

**SUBJECT:** Appointment — Director, Office of Unified Communications


**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), pursuant to section 3203(b) of the Office of Unified Communications Establishment Act of 2004, effective December 7, 2004, D.C. Law 15-205, D.C. Official Code § 1-327.52(b) (2014 Repl.), in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01 (2014 Repl. and 2015 Supp.), and pursuant to the Office of Unified Communications Karima Holmes Confirmation Resolution of 2016, deemed approved on May 13, 2016, PR21-0545, it is hereby **ORDERED** that:

1. **KARIMA HOLMES** is appointed Director, Office of Unified Communications, and shall serve in that capacity at the pleasure of the Mayor.
2. This Order supersedes Mayor's Order 2016-018, dated February 8, 2016.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to May 13, 2016.

  
MURIEL BOWSER  
MAYOR

ATTEST:

  
LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

## GOVERNMENT OF THE DISTRICT OF COLUMBIA

## ADMINISTRATIVE ISSUANCE SYSTEM

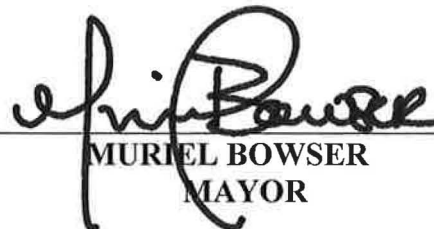
Mayor's Order 2016-090  
June 8, 2016

**SUBJECT:** Appointment — Chief Technology Officer, Office of the Chief Technology Officer

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1- 523.01 (2014 Repl. and 2015 Supp.), and pursuant to the Chief Technology Officer Archana Vemulapalli Confirmation Resolution of 2016, effective April 5, 2016, Res. 21-0446, it is hereby **ORDERED** that:

1. **ARCHANA VEMULAPALLI** is appointed Chief Technology Officer, Office of the Chief Technology Officer, and shall serve in that capacity at the pleasure of the Mayor.
1. This Order supersedes Mayor's Order 2016-019, dated February 8, 2016.
2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to April 5, 2016.

  
MURIEL BOWSER  
MAYOR

ATTEST:

  
LAUREN C. VAUGHAN

SECRETARY OF THE DISTRICT OF COLUMBIA



GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-091  
June 8, 2016

**SUBJECT:** Appointment — Mayor's Office of Community Relations and Services

**ORIGINATING AGENCY:** Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), it is hereby **ORDERED** that:

1. **TOMMIE JONES, JR.** is appointed Interim Director, and shall serve in that capacity at the pleasure of the Mayor.
2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to May 7, 2016.




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MURIEL BOWSER  
MAYOR

ATTEST: 

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LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-092  
June 8, 2016

**SUBJECT:** Appointment – Interim Director, Office of Communications


**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), it is hereby **ORDERED** that:

1. **CHRISTINA HARPER** is appointed Interim Director, Office of Communications, and shall serve in that capacity at the pleasure of the Mayor.
2. This Order supersedes Mayor's Order 2015-020, dated January 8, 2015.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to May 26, 2016.



MURIEL BOWSER  
MAYOR

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-093  
June 9, 2016

**SUBJECT:** Appointments – Metropolitan Washington Regional Ryan White Planning Council

**ORIGINATING AGENCY:** Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), (11) (2014 Repl.), and pursuant to §§ 2602(a)(1) and (b)(1) of the Public Health Service Act, as amended by § 101 of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, approved August 18, 1990, 104 Stat. 576, 42 U.S.C. 300ff-12(a)(1) and (b)(1), it is hereby **ORDERED** that:

1. The following persons are appointed to the Washington Metropolitan Regional Ryan White Planning Council ("**Council**"):
  - a. **SHERLA CANNON** replacing John Higgs, for a term to end April 30, 2018.
  - b. **ALTMANN PANNELL** replacing Kenneth Chandler, for a term to end November 5, 2018.
  - c. **MELISSA TURNER** replacing Renee Kelly, for a term to end May 15, 2018.
  - d. **DUSTIN BAKER-HOLLEY** replacing Donna Marschall, for a term to end April 30, 2018.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.




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MURIEL BOWSER  
MAYOR

ATTEST: 

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LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

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

Mayor's Order 2016-094  
June 9, 2016

**SUBJECT:** Establishment – Open Government Advisory Group

**ORIGINATING AGENCY:** Office of the Mayor

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

**I. ESTABLISHMENT**

There is hereby established the Open Government Advisory Group (“**Advisory Group**”) within the executive branch of the government of the District of Columbia.

**II. PURPOSE**

A. The Advisory Group shall:

1. Evaluate the District government’s progress on making the District government more open, transparent, participatory, and collaborative;
2. Make specific recommendations for improving the openness and transparency of the District government’s operations and the participatory and collaborative nature of its decision-making; and
3. Specifically with respect to open data:
  - a. Evaluate the District’s progress towards meeting the requirements of the District’s open data policy; and
  - b. Make recommendations for improving the openness and transparency of District government data.

### III. FUNCTIONS

- A. The Advisory Group shall:
1. Provide a forum for agencies and the public to share best practices to promote openness and transparency in the operations of the District government and to increase public participation, and collaboration in the District government's decision-making processes;
  2. Provide a public forum for receiving input on the goals of the District's open government policies, including input from the general public, information technology entities, nonprofit organizations, and individuals that use government data;
  3. Specifically with respect to open data:
    - a. Identify and recommend additional categories and types of government data that should be published online;
    - b. Make recommendations to the Mayor, the Chief Technology Officer, and Chief Data Officer regarding:
      - i. Criteria for agency identification of datasets to be published online and criteria for prioritizing their publication;
      - ii. Categories of data that should be restricted from disclosure because such data, if disclosed, could raise substantial privacy, confidentiality, or security concerns or could jeopardize the public health, safety, or welfare, or for other reasons;
      - iii. Methods to ensure that datasets are regularly updated and archived; and
      - iv. The types of open formats that should be used for published data; and
  4. Undertake other duties as assigned by the Mayor or the City Administrator.
- B. The Chairperson of the Advisory Group shall publish the recommendations of the Advisory Group on the District's Open Government website.

#### IV. MEMBERSHIP

- A. The Advisory Group shall consist of the following twenty-four (24) voting members, who shall be appointed by the Mayor:
1. The City Administrator, or his or her designee;
  2. The Chief Technology Officer, or his or her designee;
  3. The Chief Data Officer of the Office of the Chief Technology Officer, or his or her designee;
  4. A representative of the Executive Office of the Mayor;
  5. Each of the five (5) Deputy Mayors, or their designees;
  6. The Chairman of the Council of the District of Columbia, or his or her designee;
  7. The Director of the Office of Open Government within the Board of Ethics and Government Accountability, or his or her designee;
  8. The Chief Financial Officer of the District of Columbia, or his or her designee;
  9. The Mayor's General Counsel, or his or her designee;
  10. The Director of the Mayor's Office of Legal Counsel, or his or her designee;
  11. The Attorney General of the District of Columbia, or his or her designee;
  12. The Chief Librarian of the District of Columbia Public Library, or his or her designee; and
  13. Eight (8) public members who have an interest in government transparency, open data, and enhancing the public's access to government data.

#### V. TERMS

- A. Public members of the Advisory Group shall be appointed to serve a term of three (3) years, except as provided in paragraph B of this section, and shall serve until their successor is appointed.

- B. A public member appointed to fill a vacancy in an unexpired term shall be appointed for the remainder of the unexpired term and shall serve thereafter until his or her successor is appointed.
- C. A public member of the Advisory Group may be reappointed but may serve no more than two (2) consecutive terms. For the purposes of this provision, a member appointed to fill a vacancy for an unexpired term of more than two (2) years shall be deemed to have served a full term.
- D. Members who are appointed based on their positions within the District government shall serve only during their tenure in those positions.
- E. The Chairman of the Council of the District of Columbia, or his or her designee, shall serve at the pleasure of the Chairman.
- F. The Director of the Office of Open Government, or his or her designee, shall serve at the pleasure of the Director of the Office of Open Government.
- G. The Chief Financial Officer of the District of Columbia, or his or her designee, shall serve at the pleasure of the Chief Financial Officer of the District of Columbia.
- H. The Chief Librarian of the District of Columbia Public Library, or his or her designee, shall serve at the pleasure of the Chief Librarian of the District of Columbia Public Library.
- I. The Mayor may remove any member of the Advisory Group for failure to attend three (3) consecutive meetings of the Advisory Group.

## VI. ORGANIZATION

- A. The Mayor shall appoint the Chairperson of the Advisory Group, from among the voting members, who shall serve in that capacity at the pleasure of the Mayor.
- B. The Mayor shall also appoint a Vice Chairperson of the Advisory Group, who shall be responsible for the open data purposes and functions of the Advisory Group and who shall serve as the acting Chairperson of the Advisory Group in the absence of the Chairperson;
- C. The Advisory Group may elect other officers as it may deem necessary, and may determine its own bylaws and rules of procedure, subject to the approval of the Mayor or his or her designee.
- D. The Advisory Group may establish such subcommittees as it deems appropriate. Any subcommittee must be chaired by a member of the Advisory Group although

it may include members of the public and District government employees who are not members of the Advisory Group.

## VII. MEETINGS; QUORUM

- A. The Advisory Group shall establish its own meeting schedule, but the Advisory Group shall meet not fewer than four (4) times a year. Meetings of the Advisory Group shall be held in the District at such times and locations as are designated by the Chairperson.
- B. Each meeting of the Advisory Group shall be open to the public and shall include a period of time for the public to comment on issues being considered by the Advisory Group.
- C. The Advisory Group may utilize telephone or video conferencing technologies to satisfy the District's Open Meetings Act requirements.
- D. The Advisory Group shall, when practicable, webcast live on the Internet all of its meetings and archive its meetings on its own website or another District government website.
- E. A quorum for the purposes of conducting business shall be a majority of the voting members of the Advisory Group.

## VIII. ADMINISTRATION

- A. The Office of the City Administrator and the Office of the Chief Technology Officer shall provide technical and administrative support to the Advisory Group.
- B. The Advisory Group may, at the request of the Chairperson, request information or technical support from any District government agency.

## IX. COMPENSATION

The members of the Advisory Group shall serve without compensation. However, reasonable expenses of the Commission may be paid from the budget of the Office of the City Administrator or the Office of the Chief Technology Officer, when approved in advance by the Office of the City Administrator or the Office of the Chief Technology Officer, respectively, subject to the availability of appropriations for that purpose, and shall become obligations against funds designated for that purpose, when sufficient budget authority exists to allow payment.



**X. CONFLICTS OF INTEREST**

The Advisory Group shall develop procedures to guard against conflicts of interest for its members. These procedures must guarantee that no member of the Advisory Group shall participate in any way in the consideration of decisions that are likely to provide a direct financial benefit to that member or otherwise give the appearance of a conflict of interest under District law or regulations.

**XI. RESCISSIONS**


Mayor's Order 2014-250, dated October 29, 2014, is rescinded.

**XII. EFFECTIVE DATE**

This Order shall become effective *nunc pro tunc* to January 12, 2016.

  
\_\_\_\_\_  
MURIEL BOWSER  
MAYOR

ATTEST:

  
\_\_\_\_\_  
LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

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**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2016-095  
June 9, 2016

**SUBJECT:** Appointments — Open Government Advisory Group

**ORIGINATING AGENCY:** Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(11) (2014 Repl.), and in accordance with Mayor's Order 2016-094, dated June 9, 2016, it is hereby **ORDERED** that:

1. The following persons are appointed as voting public members, who have an interest in government transparency, open data, and enhancing the public's access to access to government data, of the Open Government Advisory Group ("**Advisory Group**"), for a term to end three (3) years from the effective date of this order:
  - a. **ROBERT BECKER**
  - b. **JUSTIN GRIMES**
  - c. **SANDRA MOSCOSO**
  - d. **KAREN PETTIT**
  - e. **ALIYA RAHMAN**
  - f. **JOSH TAUBERER**
  - g. **SHANNON TURNER**
  - h. **CLARENCE WARDELL**
2. The following persons are appointed as voting members of the Advisory Group and shall serve at the pleasure of the Mayor:
  - a. **JENNIFER REED**, as the designee of the City Administrator;
  - b. **JULIE KANZLER**, as the designee of the Chief Technology Officer;
  - c. **BARNEY KRUCOFF**, the Chief Data Officer of the Office of the Chief Technology Officer;


- d. **LINDSEY PARKER**, as the representative from the Executive Officer of the Mayor;
  - e. **RACHEL JOSEPH**, as the designee of the Deputy Mayor for Health and Human Services;
  - f. **JENNIFER COMEY**, as the designee of the Deputy Mayor for Education;
  - g. **JORHENA THOMAS**, as the designee of the Deputy Mayor for Public Safety and Justice;
  - h. **TIMOTHY WHITE**, as the designee of the Deputy Mayor for Planning and Economic Development;
  - i. **FAITH LEACH**, as the designee of the Deputy Mayor for Greater Economic Opportunity;
  - j. **ELIZABETH CAVENDISH** as the designee of the Mayor's General Counsel; and
  - k. **MELISSA TUCKER**, as the designee of the Director of the Mayor's Office of Legal Counsel;
3. **TRACI HUGHES**, the Director of the Office of Open Government within the Board of Ethics and Government Accountability, is appointed to the Advisory Group and shall serve at the pleasure of the Director of the Office of Open Government.
  4. **MANYA SHORR**, Director of Public Services of the District of Columbia Public Library, is appointed to the Advisory Group, as the designee of the Chief Librarian of the District of Columbia and shall serve at the pleasure of the Chief Librarian of the District of Columbia.
  5. **V. DAVID ZVENYACH** is appointed to the Advisory Group as the designee of the Chairman of the Council and shall serve at the pleasure of the Chairman of the Council.
  6. **DAVID TSENG** is appointed to the Advisory Group as the designee of the Chief Financial Officer for the District of Columbia and shall serve at the pleasure of the Chief Financial Officer for the District of Columbia.
  7. **JENNIFER REED** is appointed as chairperson of the Advisory Group and shall serve in that capacity at the pleasure of the Mayor.
  8. **BARNEY KRUCOFF** is appointed as the vice chairperson of the Advisory Group and shall serve in that capacity at the pleasure of the Mayor.

9. **EFFECTIVE DATE:**

This Order shall become effective immediately.

  
MURIEL BOWSER  
MAYOR

ATTEST:

  
LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

**ACHIEVEMENT PREPARATORY ACADEMY PUBLIC CHARTER SCHOOL****INVITATION FOR BID****Food Service Management Services**

Achievement Prep Academy 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 **June 17, 2016** from Tanya Tilghman at **(202) 562-1214** or **[ttilghman@achievementprep.org](mailto:ttilghman@achievementprep.org)**:

Proposals will be accepted at 908 Wahler Place, Washington DC 20032 on July 14, 2016 not later than **12:00 PM**

**OFFICE OF ADMINISTRATIVE HEARINGS****DISTRICT OF COLUMBIA COMMISSION ON SELECTION AND TENURE OF  
ADMINISTRATIVE LAW JUDGES****PUBLIC NOTICE OF MEETING**

In accordance with D.C. Code § 2-576(1), the District of Columbia Commission on Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings (Commission) hereby gives notice that it will meet in order to hold a hearing.

The hearing will be held on Wednesday, July 13, 2016 at 10:30am at the following location:

Office of Administrative Hearings  
441 Fourth Street NW, Suite 450 North  
Washington, DC 20001

For further information, please contact Shauntinique Steele at [nikki.steele@dc.gov](mailto:nikki.steele@dc.gov) or 202-741-5303.

**AGENDA**

- I. Call to Order (Board Chair)**
- II. Roll Call**
- III. Hearing on status of Administrative Law Judge Claudia Barber**
- IV. Adjournment (Board Chair)**

**OFFICE OF ADMINISTRATIVE HEARINGS**  
**DISTRICT OF COLUMBIA COMMISSION ON SELECTION AND TENURE OF**  
**ADMINISTRATIVE LAW JUDGES**

**PUBLIC NOTICE OF MEETING**

In accordance with D.C. Code § 2-576(1), the District of Columbia Commission on Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings (Commission) hereby gives notice that it will meet in order to consider the reappointment of four Administrative Law Judges. The members will vote to close a portion of the meeting pursuant to D.C. Code § 2-575(b)(10), which permits closed meetings in order to “discuss the appointment, employment, assignment, performance evaluation, compensation, discipline, demotion, removal, or resignation of government appointees, employees, or officials.”

The meeting will be held on Tuesday, June 21, 2016 at 2pm at the following location:

Office of Administrative Hearings  
441 Fourth Street NW, Suite 450 North  
Washington, DC 20001

For further information, please contact Shauntinique Steele at [nikki.steele@dc.gov](mailto:nikki.steele@dc.gov) or 202-741-5303.

**AGENDA**

- I. Call to Order (Board Chair)**
- II. Roll Call**
- III. Vote to Close Remainder of Meeting Pursuant D.C. Code § 2-575(c)(1).**
- IV. Consideration of the Reappointment of Administrative Law Judges**
  - a. Ann Yahner**
  - b. Paul Handy**
  - c. Eli Bruch**
  - d. Sherri Beatty-Arthur**
  - e. Bernard Weberman**
  - f. Leslie Meek**
  - g. Caryn Hines**
- V. Adjournment (Board Chair)**

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

**NOTICE OF PUBLIC HEARINGS  
CALENDAR**

**WEDNESDAY, JUNE 22, 2016  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S  
WASHINGTON, D.C. 20009**

**Donovan W. Anderson, Chairperson  
Members: Nick Alberti, Mike Silverstein,  
Ruthanne Miller, James Short**

- |                                                                                                                                                                                                                                                                                                                                                                         |                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| <b>Protest Hearing (Status)</b><br><b>Case # 16-PRO-00022;</b> BCI Food Services, LLC t/a Garden District, 1801 14th Street NW, License #83769, Retailer CR, ANC 1B<br><b>Application to Renew the License</b>                                                                                                                                                          | <b>9:30 AM</b> |
| <b>Protest Hearing (Status)</b><br><b>Case # 16-PRO-00021;</b> Chaplin Restaurant DC, LLC, t/a Chaplin, 1501 9th Street NW, License #95700, Retailer CR, ANC 6E<br><b>Application to Renew the License</b>                                                                                                                                                              | <b>9:30 AM</b> |
| <b>Show Cause Hearing (Status)</b><br><b>Case # 16-CC-00016;</b> L Street Market, Inc., t/a 7th L Street Market, 700 L Street SE, License #88611, Retailer B, ANC 6B<br><b>Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal Drinking Age</b>                                                                                                  | <b>9:30 AM</b> |
| <b>Show Cause Hearing (Status)</b><br><b>Case # 15-CMP-00992;</b> Shophouse, LLC, t/a Shophouse Southeast Asian Kitchen, 50 Massachusetts Ave NE, License #97214, Retailer DR, ANC 6C<br><b>No ABC Manager on Duty, Failed to Post Correct Name, Class and License Number on the Front Window or Front Door</b>                                                         | <b>9:30 AM</b> |
| <b>Show Cause Hearing (Status)</b><br><b>Case # 15-CC-00145;</b> Parkside Associates, LP, t/a Circle 7 Market, 740 Kenilworth Ave NE, License #14581, Retailer B, ANC 7D<br><b>Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal Drinking Age, No ABC Manager on Duty, Substantial Change in Operation Without Board Approval (Two Counts)</b> | <b>9:30 AM</b> |



Board's Calendar  
June 22, 2016

**Show Cause Hearing (Status) 9:30 AM**  
**Case # 16-CMP-00010;** Y & J Chung, Corp, t/a Log Cabin Liquor, 1748 7th Street NW, License #82040, Retailer A, ANC 6E  
**A Sealed Bottle of Alcohol Was Opened and Consumed at the Establishment, Sold Individual Containers**

**Show Cause Hearing (Status) 9:30 AM**  
**Case # 16-CMP-00039;** The Griffin Group, LLC, t/a Policy, 1904 14th Street NW, License #76804, Retailer CR, ANC 2B  
**Provided Entertainment Without an Entertainment Endorsement,**

**Show Cause Hearing\* 10:00 AM**  
**Case # 15-CMP-00800;** Desales Restaurant Group, LLC, t/a Parley, 1827 M Street NW, License #97074, Retailer CT, ANC 2B  
**Operating After Board Approved Hours**

**Show Cause Hearing\* 11:00 AM**  
**Case # 15-CMP-00915;** American City Diner, Inc., t/a American City Diner 5532 Connecticut Ave NW, License #94922, Retailer DR, ANC 3G  
**No ABC Manager on Duty**

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

**Show Cause Hearing\* 1:30 PM**  
**Case # 15-CMP-00869;** Yetenbi, Inc., t/a Noble Lounge, 1915 9th Street NW License #85258, Retailer CT, ANC 1B  
**Interfered with an Investigation, Operating After Board Approved Hours, No ABC Manager on Duty, Failed to Post License Conspicuously in the Establishment**

**Show Cause Hearing\* 3:30 PM**  
**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**

**Show Cause Hearing\* 4:30 PM**  
**Case # 15-CMP-00606;** HSR, Inc., t/a New Dodge Market, 3620 14th Street NW, License #99565, Retailer B, ANC 1A  
**No ABC Manager on Duty**

**\*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, JUNE 22, 2016  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

**On June 22, 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-00470 Noble Lounge, 1915 9TH ST NW, Retailer C Tavern , License#: ABRA-085258

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2. Case#16-251-00125 Rosebar, 1215 CONNECTICUT AVE NW, Retailer C Tavern , License#: ABRA-077883

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3. Case#16-CC-00056 El Chucho - Cocina Superior, 3313 11TH ST NW, Retailer C Restaurant , License#: ABRA-085471

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4. Case#16-AUD-00043 Al Tiramisu, 2014 P ST NW, Retailer C Restaurant , License#: ABRA-075870

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ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
LICENSING AGENDA

WEDNESDAY, JUNE 22, 2016 AT 1:00 PM  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Class Change from Retailer DR to Retailer CR. ANC 6C. SMD 6C04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Toscana Café*, 601 2<sup>nd</sup> Street NE, Retailer DR, License No. 097558.

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2. Review Application for Summer Garden with seating for 42. *Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption for Summer Garden*: Saturday and Sunday 11am to 10pm, Monday-Friday 4pm to 10pm. ANC 4C. SMD 4C07. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *The Twisted Horn*, 819 Upshur Street NW, Retailer CT, License No. 098175.

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3. Review Request for decrease of Total Occupancy Load from 138 to 78 and removal of Summer Garden endorsement. ANC 1B. SMD 1B12. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Sala Thai*, 1301 U Street NW, Retailer CR, License No. 071866.

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4. Review Application for Manager's License. *Jeffery M. Alexander*-ABRA 103187.

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5. Review Application for Manager's License. *Mohammad J. Hosseini*-ABRA 103199.

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**\*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.**

**APPLETREE EARLY LEARNING PUBLIC CHARTER SCHOOL****INVITATION FOR BID****Food Service Management Services**

AppleTree PCS 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 June 17, 2016 from: Tony Taylor, [tony.taylor@appletreepcs.org](mailto:tony.taylor@appletreepcs.org), 202-813-3598. Proposals will be accepted at 415 Michigan Ave. NE, Washington, DC 20017 on July 14, 2016, not later than 5pm.

**CARLOS ROSARIO INTERNATIONAL PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****SQL Software Engineer**

Carlos Rosario School is requesting proposals for a SQL Software Engineer. The qualified candidate will be certified in MSSQL and be knowledge with SIS systems and reporting. RFP responses are due June 22<sup>nd</sup>, 2016 by email to [gviteri@carlosrosario.org](mailto:gviteri@carlosrosario.org). Any questions also send by email to [gviteri@carlosrosario.org](mailto:gviteri@carlosrosario.org).

**CENTER CITY PUBLIC CHARTER SCHOOLS**

**INTENT TO AWARD A SOLE SOURCE CONTRACT**

Center City Public Charter Schools states it's Intent to Award a Sole Source Contract for the following:

**Center City PCS intends to award a sole source contract to Apple, Inc. for the purposes of purchasing computers for the 2016-2017 School Year.**

To obtain copies of full Notice of Intent, please visit our website:

<http://www.centercitypcs.org/contact/requests-for-proposal>

Contact Person:

Scott Burns

[sburns@centercitypcs.org](mailto:sburns@centercitypcs.org)

**COMMUNITY COLLEGE PREPARATORY ACADEMY  
PUBLIC CHARTER SCHOOL**

**REQUEST FOR PROPOSALS**

The Community College Preparatory Academy Public Charter School solicits expressions of interest in the form of proposals with references from qualified vendors for each of the 7 services listed below.

Business Services:

1. Building Cleaning and Maintenance

Other Services:

2. Employee Benefits – provide health and life insurance for 30 employees
3. Business Insurance – business insurance coverage for public charter school
4. Banking

Questions and proposals may be e-mailed to [rfp@ccprep-academy.org](mailto:rfp@ccprep-academy.org) with the type of service in the subject line. Deadline for submissions is **12:00 pm Friday June 24, 2016**. No phone calls please.

E-mail is the preferred method for responding but you can also mail proposals and supporting documents to the following address:

Community College Preparatory Academy Public Charter School  
2405 Martin Luther King Ave., SE, Washington, DC 20020  
Attn: Business Office

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

**NOTICE OF PUBLIC MEETING**

**Board of Real Estate Appraisers  
1100 4<sup>th</sup> Street SW, Room E380  
Washington, DC 20024**

**MEETING AGENDA**

**June 22, 2016  
10:00 AM**

1. Call to Order – 10:00 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Draft Minutes, May 11, 2016
7. Executive Session (Closed to the Public)
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting – July 27, 2016 at 10:00 a.m.



**CREATIVE MINDS INTERNATIONAL PUBLIC CHARTER SCHOOL**  
**NOTICE OF INTENT TO ENTER INTO SOLE SOURCE CONTRACTS**

Pursuant to the School Reform Act, D.C. 38-1802 (SRA) and the D.C. Public Charter Schools procurement policy, Creative Minds International Public Charter School (CMIPCS) hereby submits this notice of intent to award the following four sole source contracts:

- 1). Apple Inc. - CMIPCS intends to enter into a sole source contract with Apple Inc. for computers (with 3 year extended warranties), Ipads and relevant accessories amounting to over \$25,000 during school year 2016-17. CMIPCS is an Apple product based school and uses these products for administrative and instructional purposes. Apple Inc. constitutes the sole source for all Apple products with available discounts for educational institutions.
  
- 2). The Achievement Network (A-NET) - CMIPCS intends to enter into a sole source firm fixed price contract with A-NET amounting to over \$25,000 during school year 2016-17. This fixed price contract with A-NET is entered into based on their role as a unique niche provider of interim assessments that give the school timely, actionable and student-specific data. This data combined with the professional development associated with A-NET creates unique support to teachers and students not found in other vendors.
  
- 3). Center for Inspired Teaching (Fellow Program) - CMIPCS intends to enter into a sole source firm fixed price contract with Inspired Teaching amounting to over \$25,000 during school year 2016-17. This fixed price contract with Center for Inspired Teaching is entered into based on their role as a unique niche provider of a nationally recognized intensive 2-year teacher-training program specific to Inspired Teaching in Washington, D.C.
  
- 4). Fieldwork Education - CMIPCS intends to enter into a sole source contract with Fieldwork Education for International Primary and International Middle School curricula, teacher and staff professional development and accreditation services amounting to over \$25,000 during school year 2016-17. CMIPCS will utilize the services listed above, and provided by Fieldwork Education in its elementary and middle school programs, and uses these products for administrative and instructional purposes. Fieldwork Education constitutes the sole source for all Fieldwork Education products.

For further information regarding these four notices please contact James Lafferty-Furphy no later than 1:00 pm June 30th, 2016.

James Lafferty-Furphy, Director of Operations  
Creative Minds International Public Charter School  
3700 N Capitol Street NW Sherman Building  
Washington, D.C. 20011  
tel: 202-588-0370 x112  
fax: 202-588-0263  
[james.lafferty-furphy@creativemindspcs.org](mailto:james.lafferty-furphy@creativemindspcs.org)  
[www.creativemindspcs.org](http://www.creativemindspcs.org)

**CREATIVE MINDS INTERNATIONAL PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Aftercare Services**

Creative Minds International Public Charter School (CMIPCS) is a District of Columbia public charter school that opened in August 2012. The school will be serving 339 students from preschool to 6th grade during school year 2016-17.

CMIPCS, in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995, solicits proposals from all interested and qualified vendors for aftercare services for SY2016-17.

**Requested Services**

CMIPCS is seeking competitive bids for aftercare and related services including but not limited to supervising and caring for students, maintaining safety regulations and a professional attitude at all times, and reporting to admin team daily.

Aftercare service providers will be required to work with the aftercare coordinator, students and other staff at the school as assigned. These services are to be provided at CMIPCS during afterschool hours from 3:30pm till 6:00pm to all students in the aftercare program.

**Assumptions and Agreements**

Proposals will not be returned. CMIPCS reserves the right to dismiss a proposal without providing a reason. CMIPCS reserves the right to terminate a contract at any time. CMIPCS reserves the right to renew a contract if mutually agreed by both parties.

**Basis for Award of Contract**

CMIPCS reserves the right to award a contract as it determines to be in the best interest of the school.

**Submission Information**

Bids must include evidence of experience in the field, qualifications and estimated fees. Questions and proposals, please email [james.lafferty-furphy@creativemindspcs.org](mailto:james.lafferty-furphy@creativemindspcs.org). Proposals are due no later than 1:00 pm June 30th, 2016.

**CREATIVE MINDS INTERNATIONAL PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Information Technology Services**

Creative Minds International Public Charter School (CMIPCS) is a District of Columbia public charter school that opened in August 2012. The school will be serving 339 students from preschool to 6th grade during school year 2016-17.

CMIPCS, in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995, solicits proposals from all interested and qualified vendors for information technology services for SY2016-17.

**Requested Services**

The successful bidder will be responsible managing all aspects of IT, wifi, computing, state testing infrastructure and telephone requirements for CMIPCS. Ongoing on-site maintenance is required including supplying and installing dedicated chromebook laptop cart(s) for mobile classroom use. Please provide costs for this with this proposal. The school building is covered by wi-fi. Teachers and administrative staff use macbooks with the most up-to-date versions of OS and Microsoft Office. Classrooms are equipped with imac desktop computers (a working knowledge of set-up and maintenance is required). Please also include fee proposals for on-site and on-call services, as well as time commitment.

**Assumptions and Agreements**

Proposals will not be returned. CMIPCS reserves the right to dismiss a proposal without providing a reason. CMIPCS reserves the right to terminate a contract at any time. CMIPCS reserves the right to renew a contract if mutually agreed by both parties.

**Basis for Award of Contract**

Creative Minds International PCS reserves the right to award a contract as it determines to be in the best interest of the school.

**Submission Information**

Bids must include evidence of experience in the field, qualifications and estimated fees. Questions and proposals, please email [james.lafferty-furphy@creativemindspcs.org](mailto:james.lafferty-furphy@creativemindspcs.org). Proposals are due no later than 1:00 pm June 30th, 2016.

**CREATIVE MINDS INTERNATIONAL PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Janitorial and Cleaning Services**

Creative Minds International Public Charter School (CMIPCS) is a District of Columbia public charter school that opened in August 2012. The school will be serving 339 students from preschool to 6th grade during school year 2016-17.

CMIPCS, in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995, solicits proposals from all interested and qualified vendors for janitorial and cleaning services for SY2016-17.

**Requested Services**

The vendor will be required to clean approximately 43,000 sq. ft. of school use space during, and after school hours, with varying hours of work on non-school days for additional cleaning projects, as well as performing maintenance projects when necessary. Proposals must include evidence of experience and estimated fees. Substitute teachers will be required to work with students and staff at the school as assigned by the Director of Instruction. These services are to be offered at CMIPCS during normal school hours.

**Assumptions and Agreements**

Proposals will not be returned. CMIPCS reserves the right to dismiss a proposal without providing a reason. CMIPCS reserves the right to terminate a contract at any time. CMIPCS reserves the right to renew a contract if mutually agreed by both parties.

**Basis for Award of Contract**

CMIPCS reserves the right to award a contract as it determines to be in the best interest of the school.

**Submission Information**

Bids must include evidence of experience in the field, qualifications and estimated fees. Questions and proposals, please email [james.lafferty-furphy@creativemindspcs.org](mailto:james.lafferty-furphy@creativemindspcs.org). Proposals are due no later than 1:00 pm June 30th, 2016.

**CREATIVE MINDS INTERNATIONAL PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Substitute Teacher Services**

Creative Minds International Public Charter School (CMIPCS) is a District of Columbia public charter school that opened in August 2012. The school will be serving 339 students from preschool to 6th grade during school year 2016-17.

CMIPCS, in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995, solicits proposals from all interested and qualified vendors for substitute teacher services for SY2016-17.

**Requested Services**

CMIPCS is seeking competitive bids for substitute teachers and related staffing provision to support teaching staff in the classroom including but not limited to, lead teachers, assistant and aide teachers. Substitute teachers are required to have knowledge of classroom SPED requirements.

Substitute teachers will be required to work with students and staff at the school as assigned by the Director of Instruction. These services are to be offered at CMIPCS during normal school hours.

**Assumptions and Agreements**

Proposals will not be returned. CMIPCS reserves the right to dismiss a proposal without providing a reason. CMIPCS reserves the right to terminate a contract at any time. CMIPCS reserves the right to renew a contract if mutually agreed by both parties.

**Basis for Award of Contract**

Creative Minds International PCS reserves the right to award a contract as it determines to be in the best interest of the school.

**Submission Information**

Bids must include evidence of experience in the field, qualifications and estimated fees. Questions and proposals, please email [james.lafferty-furphy@creativemindspcs.org](mailto:james.lafferty-furphy@creativemindspcs.org). Proposals are due no later than 1:00 pm June 30th, 2016.

**E.L. HAYNES PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Translation and Interpretation Services**

E.L. Haynes Public Charter School is accepting proposals to provide a variety of translation and interpretation services throughout the school year. Languages may include: Amharic, Chinese, French, Korean, and Spanish. Services will largely be focused on our Spanish speaking families. Proposals may respond to any component of the scope of work.

Proposals are due via email to Kristin Yochum no later than 5:00 PM on Friday, July 1, 2016. We will notify the final vendor of selection following the review process. The full RFP with bidding requirements can be obtained by contacting:

Kristin Yochum  
E.L. Haynes Public Charter School  
Phone: 202.667-4446 ext 3504  
Email: [kyochum@elhaynes.org](mailto:kyochum@elhaynes.org)

**DISTRICT OF COLUMBIA  
BOARD OF ELECTIONS**

**Certification of Filling Vacancies**  
In Advisory Neighborhood Commissions

Pursuant to D.C. Official Code §1-309.06(d)(6)(D), If there is only one person qualified to fill the vacancy within the affected single-member district, the vacancy shall be deemed filled by the qualified person, the Board hereby certifies that the vacancies have been filled in the following single-member districts by the individuals listed below:

Amy S. Johnson  
Single-Member District 2B01

Mara Goldman  
Single-Member District 2E04

Daniel Yi- Han Chiu  
Single-Member District 2F02

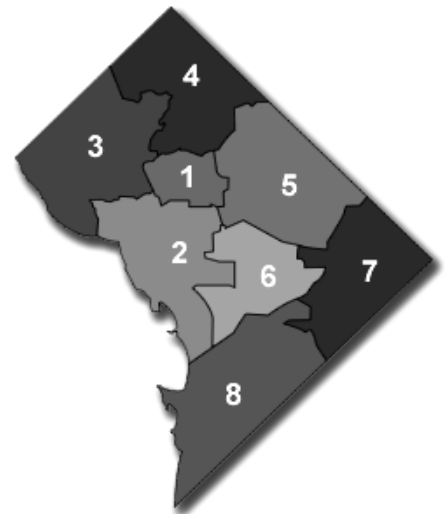
**D.C. BOARD OF ELECTIONS  
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS  
CITYWIDE REGISTRATION SUMMARY  
As Of MAY 31, 2016**

WARD	DEM	REP	STG	OTH	N-P	TOTALS
1	41,226	2,699	610	265	10,436	55,236
2	27,387	5,338	200	272	9,426	42,623
3	35,008	6,395	322	242	9,998	51,965
4	46,585	2,220	494	200	8,574	58,073
5	47,959	2,123	521	241	8,265	59,109
6	49,867	6,411	450	367	12,094	69,189
7	44,901	1,207	387	157	6,346	52,998
8	43,072	1,245	391	175	7,087	51,970
<b>Totals</b>	336,005	27,638	3,375	1,919	72,226	441,163
<b>Percentage By Party</b>	<b>76.16%</b>	<b>6.26%</b>	<b>.77%</b>	<b>.43%</b>	<b>16.37%</b>	<b>100.00%</b>

DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF  
**VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS**  
AS OF THE END OF MAY 31, 2016

COVERING CITY WIDE TOTALS BY:  
**WARD, PRECINCT AND PARTY**

ONE JUDICIARY SQUARE  
441 4<sup>TH</sup> 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 MAY 31, 2016**

<b>PRECINCT</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTALS</b>
<b>20</b>	1,291	29	8	9	215	<b>1,552</b>
<b>22</b>	3,552	348	25	23	915	<b>4,863</b>
<b>23</b>	2,572	187	37	21	685	<b>3,502</b>
<b>24</b>	2,327	246	29	20	705	<b>3,327</b>
<b>25</b>	3,410	399	47	14	971	<b>4,841</b>
<b>35</b>	3,152	194	48	19	750	<b>4,163</b>
<b>36</b>	3,994	246	63	18	998	<b>5,319</b>
<b>37</b>	3,100	148	43	18	730	<b>4,039</b>
<b>38</b>	2,636	115	50	24	674	<b>3,499</b>
<b>39</b>	3,903	205	68	19	909	<b>5,104</b>
<b>40</b>	3,730	185	83	27	957	<b>4,982</b>
<b>41</b>	3,255	187	57	29	952	<b>4,480</b>
<b>42</b>	1,687	71	30	10	426	<b>2,224</b>
<b>43</b>	1,642	55	17	7	343	<b>2,064</b>
<b>137</b>	975	84	5	7	206	<b>1,277</b>
<b>TOTALS</b>	<b>41,226</b>	<b>2,699</b>	<b>610</b>	<b>265</b>	<b>10,436</b>	<b>55,236</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 2 REGISTRATION SUMMARY**  
**As Of MAY 31, 2016**

<b>PRECINCT</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>OTH</b>	<b>NP</b>	<b>TOTALS</b>
<b>2</b>	729	164	10	21	451	<b>1,375</b>
<b>3</b>	1,473	368	20	18	621	<b>2,500</b>
<b>4</b>	1,633	470	5	16	665	<b>2,789</b>
<b>5</b>	1,940	590	10	21	686	<b>3,247</b>
<b>6</b>	2,086	825	18	24	1,134	<b>4,087</b>
<b>13</b>	1,170	222	6	7	372	<b>1,777</b>
<b>14</b>	2,625	433	19	22	803	<b>3,902</b>
<b>15</b>	2,690	350	23	26	772	<b>3,861</b>
<b>16</b>	3,284	400	25	24	825	<b>4,558</b>
<b>17</b>	4,161	574	31	35	1,235	<b>6,036</b>
<b>129</b>	2,135	342	12	18	788	<b>3,295</b>
<b>141</b>	2,111	276	10	23	575	<b>2,995</b>
<b>143</b>	1,350	324	11	17	499	<b>2,201</b>
<b>TOTALS</b>	<b>27,387</b>	<b>5,338</b>	<b>200</b>	<b>272</b>	<b>9,426</b>	<b>42,623</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 3 REGISTRATION SUMMARY**  
**As Of MAY 31, 2016**

PRECINCT	DEM	REP	STG	OTH	N-P	TOTALS
7	1,195	376	16	5	515	2,107
8	2,299	620	28	11	716	3,674
9	1,092	503	5	19	450	2,069
10	1,674	401	16	14	624	2,729
11	3,127	903	37	33	1,156	5,256
12	434	180	0	5	185	804
26	2,648	323	24	15	759	3,769
27	2,367	246	20	12	568	3,213
28	2,218	488	31	14	685	3,436
29	1,250	238	11	15	356	1,870
30	1,249	205	11	8	272	1,745
31	2,261	310	17	15	513	3,116
32	2,564	294	20	8	556	3,442
33	2,690	295	23	9	611	3,628
34	3,231	396	28	27	911	4,593
50	1,949	254	13	10	423	2,649
136	742	106	7	3	247	1,105
138	2,018	257	15	19	451	2,760
<b>TOTALS</b>	<b>35,008</b>	<b>6,395</b>	<b>322</b>	<b>242</b>	<b>9,998</b>	<b>51,965</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 4 REGISTRATION SUMMARY**  
**As Of MAY 31, 2016**

PRECINCT	DEM	REP	STG	OTH	N-P	TOTALS
45	2,108	66	28	11	362	2,575
46	2,744	86	36	16	511	3,393
47	3,030	154	35	21	719	3,959
48	2,681	134	28	11	526	3,380
49	838	44	18	4	189	1,093
51	3,235	517	24	12	611	4,399
52	1,221	171	5	2	224	1,623
53	1,177	70	20	5	240	1,512
54	2,321	84	23	6	456	2,890
55	2,398	77	17	10	424	2,926
56	2,944	92	31	14	614	3,695
57	2,382	74	34	20	442	2,952
58	2,162	56	17	9	364	2,608
59	2,508	84	28	12	412	3,044
60	2,032	65	20	8	579	2,704
61	1,523	53	12	3	258	1,849
62	3,113	124	28	5	358	3,628
63	3,431	130	49	13	629	4,252
64	2,229	67	18	12	318	2,644
65	2,508	72	23	6	338	2,947
<b>Totals</b>	<b>46,585</b>	<b>2,220</b>	<b>494</b>	<b>200</b>	<b>8,574</b>	<b>58,073</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 5 REGISTRATION SUMMARY**  
**As Of MAY 31, 2016**

PRECINCT	DEM	REP	STG	OTH	N-P	TOTALS
19	4,016	185	62	17	896	5,176
44	2,583	219	27	25	624	3,478
66	4,237	97	37	14	513	4,898
67	2,751	98	21	9	370	3,249
68	1,772	156	22	16	337	2,303
69	1,973	66	14	11	253	2,317
70	1,394	79	21	4	201	1,699
71	2,267	64	23	10	307	2,671
72	3,965	122	33	19	658	4,797
73	1,808	83	23	13	320	2,247
74	4,128	213	57	18	805	5,221
75	3,394	187	48	19	728	4,376
76	1,312	54	14	6	262	1,648
77	2,645	101	20	15	415	3,196
78	2,784	89	33	13	460	3,379
79	1,934	81	16	13	348	2,392
135	2,822	178	40	14	528	3,582
139	2,174	51	10	5	240	2,480
<b>TOTALS</b>	<b>47,959</b>	<b>2,123</b>	<b>521</b>	<b>241</b>	<b>8,265</b>	<b>59,109</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 6 REGISTRATION SUMMARY**  
**As Of MAY 31, 2016**

<b>PRECINCT</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTALS</b>
<b>1</b>	4,128	517	46	32	1,089	<b>5,812</b>
<b>18</b>	4,423	339	41	29	965	<b>5,797</b>
<b>21</b>	1,128	54	10	5	251	<b>1,448</b>
<b>81</b>	4,376	358	37	26	877	<b>5,674</b>
<b>82</b>	2,435	237	29	18	525	<b>3,244</b>
<b>83</b>	4,360	594	30	34	1,139	<b>6,157</b>
<b>84</b>	1,910	399	19	13	495	<b>2,836</b>
<b>85</b>	2,576	497	14	23	668	<b>3,778</b>
<b>86</b>	2,039	234	26	14	423	<b>2,736</b>
<b>87</b>	2,574	252	17	14	536	<b>3,393</b>
<b>88</b>	2,037	269	13	11	474	<b>2,804</b>
<b>89</b>	2,433	636	18	18	711	<b>3,816</b>
<b>90</b>	1,499	238	13	16	459	<b>2,225</b>
<b>91</b>	3,774	377	35	31	896	<b>5,113</b>
<b>127</b>	3,795	272	42	28	768	<b>4,905</b>
<b>128</b>	2,315	197	28	16	590	<b>3,146</b>
<b>130</b>	743	290	6	4	258	<b>1,301</b>
<b>131</b>	1,937	492	11	25	600	<b>3,065</b>
<b>142</b>	1,385	159	15	10	370	<b>1,939</b>
<b>TOTALS</b>	<b>49,867</b>	<b>6,411</b>	<b>450</b>	<b>367</b>	<b>12,094</b>	<b>69,189</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 7 REGISTRATION SUMMARY**  
**As Of MAY 31, 2016**

<b>PRECINCT</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTALS</b>
<b>80</b>	1,430	79	12	6	238	<b>1,765</b>
<b>92</b>	1,532	33	12	7	227	<b>1,811</b>
<b>93</b>	1,443	39	20	6	211	<b>1,719</b>
<b>94</b>	1,919	54	17	3	295	<b>2,288</b>
<b>95</b>	1,488	45	15	3	250	<b>1,801</b>
<b>96</b>	2,224	63	19	9	347	<b>2,662</b>
<b>97</b>	1,373	42	16	6	199	<b>1,636</b>
<b>98</b>	1,755	45	22	6	242	<b>2,070</b>
<b>99</b>	1,344	45	15	8	205	<b>1,617</b>
<b>100</b>	2,105	42	12	7	257	<b>2,423</b>
<b>101</b>	1,505	24	14	7	174	<b>1,724</b>
<b>102</b>	2,250	53	18	6	302	<b>2,629</b>
<b>103</b>	3,327	76	32	14	509	<b>3,958</b>
<b>104</b>	2,735	72	25	17	392	<b>3,241</b>
<b>105</b>	2,302	60	21	8	355	<b>2,746</b>
<b>106</b>	2,669	56	16	9	374	<b>3,124</b>
<b>107</b>	1,609	49	13	5	224	<b>1,900</b>
<b>108</b>	1,054	28	6	1	116	<b>1,205</b>
<b>109</b>	891	33	4	1	83	<b>1,012</b>
<b>110</b>	3,536	90	20	12	396	<b>4,054</b>
<b>111</b>	2,479	70	22	7	394	<b>2,972</b>
<b>113</b>	1,983	55	20	6	244	<b>2,308</b>
<b>132</b>	1,948	54	16	3	312	<b>2,333</b>
<b>TOTALS</b>	<b>44,901</b>	<b>1,207</b>	<b>387</b>	<b>157</b>	<b>6,346</b>	<b>52,998</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 8 REGISTRATION SUMMARY**  
**As Of MAY 31, 2016**

PRECINCT	DEM	REP	STG	OTH	N-P	TOTALS
112	2,026	64	13	6	283	2,392
114	3,217	112	29	20	542	3,920
115	2,743	70	20	12	628	3,473
116	3,872	92	36	18	622	4,640
117	1,945	44	17	11	328	2,345
118	2,601	71	25	8	418	3,123
119	2,761	110	38	13	523	3,445
120	1,838	34	18	4	304	2,198
121	3,129	75	27	10	463	3,704
122	1,612	37	17	8	228	1,902
123	2,110	123	27	18	331	2,609
124	2,452	56	18	5	345	2,876
125	4,293	100	32	11	697	5,133
126	3,487	118	36	15	650	4,306
133	1,237	41	10	2	163	1,453
134	2,007	42	23	6	290	2,368
140	1,742	56	5	8	272	2,083
<b>TOTALS</b>	<b>43,072</b>	<b>1,245</b>	<b>391</b>	<b>175</b>	<b>7,087</b>	<b>51,970</b>



**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**CITYWIDE REGISTRATION ACTIVITY**

*For voter registration activity between 4/30/2016 and 5/31/2016*

<b>NEW REGISTRATIONS</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTAL</b>
<b>Beginning Totals</b>	<b>330,679</b>	<b>27,387</b>	<b>3,407</b>	<b>1,895</b>	<b>71,593</b>	<b>434,961</b>
BOEE Over the Counter	116	3	1	0	17	<b>137</b>
BOEE by Mail	317	23	4	4	64	<b>412</b>
BOEE Online Registration	1,461	64	7	18	235	<b>1,785</b>
Department of Motor Vehicle	1,943	239	20	22	659	<b>2,883</b>
Department of Disability Services	4	0	0	0	3	<b>7</b>
Office of Aging	0	0	0	0	0	<b>0</b>
Federal Postcard Application	1	0	0	0	3	<b>4</b>
Department of Parks and Recreation	0	0	0	0	0	<b>0</b>
Nursing Home Program	34	10	0	0	5	<b>49</b>
Dept, of Youth Rehabilitative Services	0	0	0	0	0	<b>0</b>
Department of Corrections	28	2	0	0	7	<b>37</b>
Department of Human Services	89	1	0	1	18	<b>109</b>
Special / Provisional	0	0	0	0	0	<b>0</b>
All Other Sources	236	11	3	0	41	<b>291</b>
<b>+Total New Registrations</b>	<b>4,229</b>	<b>353</b>	<b>35</b>	<b>45</b>	<b>1,052</b>	<b>5,714</b>

<b>ACTIVATIONS</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTAL</b>
Reinstated from Inactive Status	718	44	5	2	103	<b>872</b>
Administrative Corrections	12	0	4	0	237	<b>253</b>
<b>+TOTAL ACTIVATIONS</b>	<b>730</b>	<b>44</b>	<b>9</b>	<b>2</b>	<b>340</b>	<b>1,125</b>

<b>DEACTIVATIONS</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTAL</b>
Changed to Inactive Status	2	0	0	0	0	<b>2</b>
Moved Out of District (Deleted)	1	0	0	0	2	<b>3</b>
Felon (Deleted)	0	0	0	0	0	<b>0</b>
Deceased (Deleted)	85	12	0	1	11	<b>109</b>
Administrative Corrections	835	52	9	4	145	<b>1,045</b>
<b>-TOTAL DEACTIVATIONS</b>	<b>923</b>	<b>64</b>	<b>9</b>	<b>5</b>	<b>158</b>	<b>1,159</b>

<b>AFFILIATION CHANGES</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>OTH</b>	<b>N-P</b>	<b>N-P</b>
+ Changed To Party	1,773	179	27	41	699	2,719
- Changed From Party	-483	-261	-94	-59	-1,300	-2,197
<b>ENDING TOTALS</b>	<b>336,005</b>	<b>27,638</b>	<b>3,375</b>	<b>1,919</b>	<b>72,226</b>	<b>441,163</b>

## DEPARTMENT OF ENERGY AND ENVIRONMENT

**NOTICE OF PUBLIC HEARING AND  
SOLICITATION OF PUBLIC COMMENT****Fiscal Year 2017 Project Priority List**

The Department of Energy and Environment (the Department) invites the public to present its comments at a public hearing on the fiscal year (FY) 2017 Project Priority List (PPL) for the District of Columbia's Clean Water Construction Grants Program. The PPL identifies and ranks projects eligible to receive Federal and District funds to construct or improve green infrastructure, wastewater treatment facilities, and other related infrastructure for FY 2017 and in future years.

**Public Hearing: Monday, July 18, 2016**

**HEARING DATE:** Monday, July 18, 2016  
**TIME:** 5:00 – 7:00 pm  
**PLACE:** Department of Energy and Environment  
1200 First Street, NE, Washington, DC 20002  
5th Floor  
NOMA Gallaudet (Red Line) Metro Stop

Beginning 6/17/2016, the full text of the **FY 2017 PPL** will be available online at the Department's website. A person may obtain a copy of the FY 2017 PPL by any of the following means:

**Download** from the Department's website, [www.doe.dc.gov](http://www.doe.dc.gov). Select the *Laws and Regulations* tab. Cursor over the pull-down list and select *Public Notices and Hearings*. On the new page, cursor down to the announcement for this Notice. Click on *Read More* and download this Notice and related information from the *Attachments* section.

**Email** a request to [suzanne.wald@dc.gov](mailto:suzanne.wald@dc.gov) with "Request copy of FY 2017 PPL" in the subject line.

**Pick up a copy in person** from the Department's reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call the Department's reception at (202) 535-2600 and mention this Notice by name.

**Write** the Department at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Suzanne Walk, RE: FY 2017 PPL" on the outside of the envelope.

**The deadline for comments is 7/18/2016 at 5:00 P.M.** All persons present at the hearing who wish to be heard may testify in person. All presentations shall be limited to five minutes. Persons are urged to submit duplicate copies of their written statements.

Persons may also submit written testimony by email, with a subject line of “PPL Public Hearing 2017”, to the attention of Suzy Wald at [suzanne.wald@dc.gov](mailto:suzanne.wald@dc.gov). Comments clearly marked “PPL Public Hearing 2017” may also be hand delivered or mailed to the Department’s offices at the address listed above. All comments should be received no later than the conclusion of the public hearing on Monday, July 18, 2016. The Department will consider all comments received in its final decision.

**BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY****2015 ANC Financial Disclosure Certification Filers**

<i>FDS ID</i>	<i>Incumbent</i>		<i>Agency Name</i>
FDS000162885	Anderson	Donovan	Advisory Neighborhood Commissioner
FDS000162946	Batchelor	Markus	Advisory Neighborhood Commissioner
FDS000162912	Bent	Rochelle AC	Advisory Neighborhood Commissioner
FDS000162795	Blacknell	Bernice S.	Advisory Neighborhood Commissioner
FDS000162668	Blumenthal	Jackie	Advisory Neighborhood Commissioner
FDS000162588	Boese	Kent	Advisory Neighborhood Commissioner
FDS000162674	Bole	Gwendolyn	Advisory Neighborhood Commissioner
FDS000162761	Branton	Krystal	Advisory Neighborhood Commissioner
FDS000162591	Brown	Rashida	Advisory Neighborhood Commissioner
FDS000162881	Butler	Gary E.	Advisory Neighborhood Commissioner
FDS000162869	Chapple	Kevin	Advisory Neighborhood Commissioner
FDS000162627	Coder	Rebecca	Advisory Neighborhood Commissioner
FDS000162956	Diop	Monique T.	Advisory Neighborhood Commissioner
FDS000162852	Eckenwiler	Mark	Advisory Neighborhood Commissioner
FDS000162601	Ferreyros	Nicolas	Advisory Neighborhood Commissioner
FDS000162746	Galloway	Vann-Di M.	Advisory Neighborhood Commissioner
FDS000162617	Gambrell	Alan	Advisory Neighborhood Commissioner
FDS000162710	Garfield	Chanda Tuck	Advisory Neighborhood Commissioner
FDS000162687	Gates	Alma H.	Advisory Neighborhood Commissioner
FDS000162585	Goldschmidt	Matthew	Advisory Neighborhood Commissioner
FDS000162611	Green	John C.	Advisory Neighborhood Commissioner
FDS000162908	Green	Linda S.	Advisory Neighborhood Commissioner
FDS000162706	Gresham	Sally W.	Advisory Neighborhood Commissioner
FDS000162743	Halpern	Michael	Advisory Neighborhood Commissioner
	Hammond		
FDS000162883	Marlin	Robin	Advisory Neighborhood Commissioner
FDS000162904	Hazel	Janis D.	Advisory Neighborhood Commissioner
	Howard-		
FDS000162879	Chittams	Patricia	Advisory Neighborhood Commissioner
FDS000162614	Huezo	Hector	Advisory Neighborhood Commissioner
FDS000162735	Jones	Judi	Advisory Neighborhood Commissioner
FDS000162581	L. Johnson	Marvin	Advisory Neighborhood Commissioner
FDS000162662	Lamare	Jim	Advisory Neighborhood Commissioner
FDS000162906	Lini	Justin A.	Advisory Neighborhood Commissioner
FDS000162780	Looper, III	Robert	Advisory Neighborhood Commissioner
FDS000162874	Maceda	Marge	Advisory Neighborhood Commissioner
FDS000162888	Malloy	Patricia	Advisory Neighborhood Commissioner
FDS000162827	Malone	Patrick M.	Advisory Neighborhood Commissioner
FDS000162643	Mann	Nicole	Advisory Neighborhood Commissioner

FDS000162679	May	Catherine	Advisory Neighborhood Commissioner
FDS000162699	McHugh	Jonathan	Advisory Neighborhood Commissioner
FDS000162902	McKay	Claude B.	Advisory Neighborhood Commissioner
FDS000162622	McKay	Jack	Advisory Neighborhood Commissioner
FDS000162854	Miller	Chris	Advisory Neighborhood Commissioner
FDS000162860	Moffatt	Roger	Advisory Neighborhood Commissioner
FDS000162616	Mossi	Gabriela	Advisory Neighborhood Commissioner
FDS000162598	Muhammad	Sedrick	Advisory Neighborhood Commissioner
FDS000162905	Muhammad	Sherice A.	Advisory Neighborhood Commissioner
FDS000162807	Pinkney	Sylvia M.	Advisory Neighborhood Commissioner
FDS000162931	Prestwood	Troy Donte	Advisory Neighborhood Commissioner
FDS000162763	Quirk	Bill	Advisory Neighborhood Commissioner
FDS000162606	Ranslem	Mark	Advisory Neighborhood Commissioner
FDS000162673	Reba	Lee Brian	Advisory Neighborhood Commissioner
FDS000162623	Rivas	Rosa	Advisory Neighborhood Commissioner
FDS000162657	Roache	Monica L.	Advisory Neighborhood Commissioner
FDS000162755	Roth	Nancy E.	Advisory Neighborhood Commissioner
FDS000162583	Salmeron	Josue	Advisory Neighborhood Commissioner
FDS000162849	Schiffman	Daniele Megan	Advisory Neighborhood Commissioner
FDS000162760	Sheon	David	Advisory Neighborhood Commissioner
FDS000162949	Shields	Brenda E.	Advisory Neighborhood Commissioner
FDS000162791	Shropshire	Keisha L.	Advisory Neighborhood Commissioner
FDS000162930	Simms	Cynthia W.	Advisory Neighborhood Commissioner
FDS000162618	Simpson	William (Billy)	Advisory Neighborhood Commissioner
FDS000162721	Singleton	Patience R.	Advisory Neighborhood Commissioner
FDS000162605	Smith	Jessica Laura	Advisory Neighborhood Commissioner
FDS000162910	Smith	Myron	Advisory Neighborhood Commissioner
FDS000162646	Smith	Noah	Advisory Neighborhood Commissioner
FDS000162711	Speck	Randy	Advisory Neighborhood Commissioner
FDS000162682	Spencer	William Spence	Advisory Neighborhood Commissioner
FDS000162745	Teutsch	Zach	Advisory Neighborhood Commissioner
FDS000162938	Trantham	Paul	Advisory Neighborhood Commissioner
FDS000162672	Turmail	Brian	Advisory Neighborhood Commissioner
FDS000162607	Turner	James A.	Advisory Neighborhood Commissioner
FDS000162871	Wiggins	Frank S.	Advisory Neighborhood Commissioner
FDS000162936	Williams	Natalie	Advisory Neighborhood Commissioner
FDS000162933	Wilson	Charles E.	Advisory Neighborhood Commissioner
FDS000162850	Wirt	Karen J.	Advisory Neighborhood Commissioner
FDS000162892	Woods	Catherine A.	Advisory Neighborhood Commissioner
FDS000162669	Zenner	Abigail	Advisory Neighborhood Commissioner
FDS000162829	Zimny	Stephanie	Advisory Neighborhood Commissioner
FDSOOO164405	Ackerman	Nathan	Advisory Neighborhood Commissioners
FDSOOO164410	Adelstein	Shirley	Advisory Neighborhood Commissioners

FDS000162620	Agbro	Frank	Advisory Neighborhood Commissioner
FDS000162770	Alston	Angel Sherri	Advisory Neighborhood Commissioner
FDS000162717	Anderson	Acqunetta	Advisory Neighborhood Commissioner
FDS000162734	Austin	Ronald (Ron)	Advisory Neighborhood Commissioner
FDS000164387	Barnes	Dianne	Advisory Neighborhood Commissioners
FDS000162876	Barnes	Antonio D.	Advisory Neighborhood Commissioner
FDS000164404	Barry	Maria	Advisory Neighborhood Commissioners
FDS000162651	Bender	David R.	Advisory Neighborhood Commissioner
FDS000162696	Bender	Jonathan	Advisory Neighborhood Commissioner
FDS000162663	Bengel	Charlie	Advisory Neighborhood Commissioner
FDS000162725	Black	Gale	Advisory Neighborhood Commissioner
FDS000162757	Bowser	Renee L	Advisory Neighborhood Commissioner
FDS000162715	Bradfield	Dan	Advisory Neighborhood Commissioner
FDS000162723	Braxton	Karrye Y.	Advisory Neighborhood Commissioner
FDS000162777	Brevard	Gail	Advisory Neighborhood Commissioner
FDS000162880	Brown	Tiffany L.	Advisory Neighborhood Commissioner
FDS000164429	Brown	Lakisha	Advisory Neighborhood Commissioner
FDS000164397	Buffa	JonMarc	Advisory Neighborhood Commissioners
FDS000162800	Buggs	H. Yvonne	Advisory Neighborhood Commissioner
FDS000162843	Burger	Nick	Advisory Neighborhood Commissioner
FDS000164392	Burroughs	Isaiah	Advisory Neighborhood Commissioners
FDS000162726	Carley	Andre R.	Advisory Neighborhood Commissioner
FDS000162953	Carmon	Patricia Pat	Advisory Neighborhood Commissioner
FDS000162844	Chao	Daniel	Advisory Neighborhood Commissioner
FDS000162884	Chisholm	Mark	Advisory Neighborhood Commissioner
FDS000162929	Clark	Barbara J.	Advisory Neighborhood Commissioner
FDS000162648	Closter	Harold A.	Advisory Neighborhood Commissioner
FDS000164421	Cloyd	Stacy	Advisory Neighborhood Commissioner
FDS000162758	Colbert	Lisa	Advisory Neighborhood Commissioner
FDS000162709	Cook	Carolyn "Callie"	Advisory Neighborhood Commissioner
FDS000162964	Dailey	Anthony (Jamaal)	Advisory Neighborhood Commissioner
FDS000162665	Deeley	Kevin	Advisory Neighborhood Commissioner
FDS000162779	Deleon	Walter	Advisory Neighborhood Commissioner
FDS000162691	DeWitte, Jr.	Conrad J.	Advisory Neighborhood Commissioner
FDS000164413	Dyson	Thea	Advisory Neighborhood Commissioners
FDS000162767	Edwards	Ronnie	Advisory Neighborhood Commissioner
FDS000162661	Fanning	John	Advisory Neighborhood Commissioner
FDS000162864	Fascett	Meredith	Advisory Neighborhood Commissioner
FDS000162935	Fletcher	Tina L.	Advisory Neighborhood Commissioner
FDS000162595	Footer	Brian	Advisory Neighborhood Commissioner
FDS000162716	Fromboluti	Chris	Advisory Neighborhood Commissioner
FDS000162587	Frost	Darwain	Advisory Neighborhood Commissioner
FDS000162895	Gaffney	Mary L.	Advisory Neighborhood Commissioner

FDS000162689	Gardner	Stephen	Advisory Neighborhood Commissioner
FDS000162690	Gold	Mike N.	Advisory Neighborhood Commissioner
FDS000164390	Goldstein	Ellen	Advisory Neighborhood Commissioners
FDS000162855	Goodman	Tony T	Advisory Neighborhood Commissioner
FDS000164415	Gordon	Tom	Advisory Neighborhood Commissioners
FDS000162625	Griffiths	Arturo	Advisory Neighborhood Commissioner
FDS000162615	Guthrie	Ted	Advisory Neighborhood Commissioner
FDS000162839	Hagedorn	Steve	Advisory Neighborhood Commissioner
FDS000162695	Hall	Amy B.	Advisory Neighborhood Commissioner
FDS000162772	Hall-Carley	Gayle	Advisory Neighborhood Commissioner
FDS000162861	Hamilton	Rhonda Natalie	Advisory Neighborhood Commissioner
FDS000162882	Hammond	Phillip J.	Advisory Neighborhood Commissioner
FDS000162632	Harmon	Florence E.	Advisory Neighborhood Commissioner
FDS000162796	Henderson	Kathy	Advisory Neighborhood Commissioner
FDS000162954	Henderson	Olivia L.	Advisory Neighborhood Commissioner
FDS000162650	Higgins	Jeffrey	Advisory Neighborhood Commissioner
FDS000162773	Higgins	Ursula	Advisory Neighborhood Commissioner
FDS000162818	Hobaugh	Sally	Advisory Neighborhood Commissioner
FDS000162621	Hoey	Adam	Advisory Neighborhood Commissioner
FDS000162814	Holliday	Bertha	Advisory Neighborhood Commissioner
FDS000162897	Holmes	Antawan	Advisory Neighborhood Commissioner
FDS000162834	Hoskins	K. Diane	Advisory Neighborhood Commissioner
FDS000162610	Hudson	Robb	Advisory Neighborhood Commissioner
FDS000162593	Hundley	Margaret	Advisory Neighborhood Commissioner
FDS000164406	Jakopcheck	Patrick	Advisory Neighborhood Commissioners
FDS000162785	James	Regina	Advisory Neighborhood Commissioner
FDS000162845	Jayaraman	Chander	Advisory Neighborhood Commissioner
FDS000162654	Jones	Jeffrey L.	ANC Candidate
FDS000162749	Jones	Timothy A.	Advisory Neighborhood Commissioner
FDS000162728	Jones, III	Frank	Advisory Neighborhood Commissioner
FDS000162853	Kazmierczak	Mark	Advisory Neighborhood Commissioner
FDS000162626	Kennedy	Patrick	Advisory Neighborhood Commissioner
FDS000162848	Krepp	Denise	Advisory Neighborhood Commissioner
FDS000164428	Kupcinski	John	Advisory Neighborhood Commissioner
FDS000162825	Levy	Matt	Advisory Neighborhood Commissioner
FDS000162765	Lewis	Grace J.	Advisory Neighborhood Commissioner
FDS000162789	Lewis	Peta-Gay S.	Advisory Neighborhood Commissioner
FDS000162653	Lewis	Ron	Advisory Neighborhood Commissioner
FDS000162856	Lightman	Marjorie	Advisory Neighborhood Commissioner
FDS000162859	Litsky	Andy	Advisory Neighborhood Commissioner
FDS000162837	Loots	James M.	Advisory Neighborhood Commissioner
FDS000162692	Lucero	Silvia	Advisory Neighborhood Commissioner
FDS000162680	MacWood	Nancy J.	Advisory Neighborhood Commissioner

FDS000162637	Maltz	Stephanie	Advisory Neighborhood Commissioner
FDS000162783	Manning	Jacqueline	Advisory Neighborhood Commissioner
FDS000162752	Martin	Joseph	ANC Candidate
FDS000162712	Maydak	Rebecca	Advisory Neighborhood Commissioner
FDS000164409	McBroom	Shekita	Advisory Neighborhood Commissioners
FDS000162666	Mladinov	Ann	Advisory Neighborhood Commissioner
FDS000162774	Morrison	Michael Ian	Advisory Neighborhood Commissioner
FDS000162927	Muhammad	Holly	Advisory Neighborhood Commissioner
FDS000164414	Nguyen	Thu	Advisory Neighborhood Commissioners
FDS000162639	Nichols	Abigail C.	Advisory Neighborhood Commissioner
FDS000162707	Nugent	Malachy	Advisory Neighborhood Commissioner
FDS000162838	Oldenburg	Kirsten Alexander M.	Advisory Neighborhood Commissioner
FDS000162866	Padro	"Alex"	Advisory Neighborhood Commissioner
FDS000162731	Parks	Brenda	Advisory Neighborhood Commissioner
FDS000163236	PATZELT	ANC CRISTINA	Commissioner
FDS000162830	Phillips-Gilbert	Sondra	Advisory Neighborhood Commissioner
FDS000162851	Price	Scott	Advisory Neighborhood Commissioner
FDS000162812	Quinn	Teri Janine TJ	Advisory Neighborhood Commissioner
FDS000162697	Quinn	Tom	Advisory Neighborhood Commissioner
FDS000162705	Ray	Mary Beth	Advisory Neighborhood Commissioner
FDS000162619	Reynolds	Wilson	Advisory Neighborhood Commissioner
FDS000162793	Roberts	Adam	Advisory Neighborhood Commissioner
FDS000162677	Roller	Carl	Advisory Neighborhood Commissioner
FDS000162957	Ruffin, Jr.	Thomas	Advisory Neighborhood Commissioner
FDS000162832	Samolyk	Jennifer E.	Advisory Neighborhood Commissioner
FDS000162630	Schrefer	Philip J.	Advisory Neighborhood Commissioner
FDS000162942	Scippio	Betty	Advisory Neighborhood Commissioner
FDS000164398	Seiwell	Julie	Advisory Neighborhood Commissioners
FDS000162713	Shapiro	Peter	Advisory Neighborhood Commissioner
FDS000162676	Siegel	Margaret A.	Advisory Neighborhood Commissioner
FDS000162678	Silveira	Victor	Advisory Neighborhood Commissioner
FDS000162737	Sloan	Douglass	Advisory Neighborhood Commissioner
FDS000162786	Smith	Monique C.	Advisory Neighborhood Commissioner
FDS000162683	Smith	Thomas "Tom"	Advisory Neighborhood Commissioner
FDS000162628	Smith	William K.	Advisory Neighborhood Commissioner
FDS000162652	Solomon	Ed	Advisory Neighborhood Commissioner
FDS000162732	Speaks	Brenda	Advisory Neighborhood Commissioner
FDS000164418	Starrels	William	Advisory Neighborhood Commissioners
FDS000162802	Steiner	Deborah	Advisory Neighborhood Commissioner
FDS000162890	Stewart	Gregori	Advisory Neighborhood Commissioner
FDS000162596	Sullivan	Ellen Nedrow	Advisory Neighborhood Commissioner
FDS000164400	Sylvester	Kevin	Advisory Neighborhood Commissioners



FDS000162809	Thomas	Bradley Ashton	Advisory Neighborhood Commissioner
FDS000162647	Tinpe	John	Advisory Neighborhood Commissioner
FDS000162719	Toliver	Dwayne M.	Advisory Neighborhood Commissioner
FDS000162823	Toomajian	Phil	Advisory Neighborhood Commissioner
FDS000164431	Tope	Adam	Advisory Neighborhood Commissioner
FDS000164389	Travers	Elizabeth	Advisory Neighborhood Commissioners
FDS000162788	Treadway	Nolan	Advisory Neighborhood Commissioner
FDS000164407	Tuma	Pepin	Advisory Neighborhood Commissioners
FDS000164433	Tyler	Zaneta	Advisory Neighborhood Commissioner
FDS000162638	Upright	Michael	Advisory Neighborhood Commissioner
FDS000164438	Uqdah	Taalib-Din	Advisory Neighborhood Commissioners
FDS000162675	Valdez	David S.	Advisory Neighborhood Commissioner
FDS000162693	Wallace	Anne	Advisory Neighborhood Commissioner
FDS000162636	Warwick	Daniel	Advisory Neighborhood Commissioner
FDS000162769	Washington	Sandi	Advisory Neighborhood Commissioner
FDS000162937	Watson	Khadijah	Advisory Neighborhood Commissioner
FDS000162684	Wells	Nan S. Stephen A.	Advisory Neighborhood Commissioner
FDS000162720	Whatley	"Steve"	Advisory Neighborhood Commissioner
FDS000162768	White	Jasmine N.	Advisory Neighborhood Commissioner
FDS000162764	Wilds	Frank	Advisory Neighborhood Commissioner
FDS000162724	Wilson	Dave	Advisory Neighborhood Commissioner
FDS000162670	Young	Mary C.	Advisory Neighborhood Commissioner
FDS000164391	Zhurbinskiy	Eve	Advisory Neighborhood Commissioners

**BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY****Required (2015) ANC Filers Who Failed To File**

<i>FDS ID</i>	<i>Incumbent</i>	<i>Title</i>	<i>Agency Name</i>
FDS000162966	Armstead, Karlene (K.)	Advisory Neighborhood Commissioner	ANC 8E
FDS000162923	Armstrong, Yolanda	Advisory Neighborhood Commissioner	ANC 7F
FDS000164383	Barkmann, Arthur	Advisory Neighborhood Commissioner	ANC 3C
FDS000164420	Barrios, Joe	Advisory Neighborhood Commissioner	ANC 5B
FDS000162660	Berry, Karin	Advisory Neighborhood Commissioner	ANC 2F
FDS000164416	Birch, Tom	Advisory Neighborhood Commissioner	ANC 2E
FDS000164380	Bonam, Amanda	Advisory Neighborhood Commissioner	ANC 1B
FDS000162858	Carroll, Rachel Reilly	Advisory Neighborhood Commissioner	ANC 6D
FDS000162922	Carson Carr, Sheila M.	Advisory Neighborhood Commissioner	ANC 7F
FDS000164399	Clausen, Kendyl	Advisory Neighborhood Commissioner	ANC 2E
FDS000162899	Coomber, Bob	Advisory Neighborhood Commissioner	ANC 7D
FDS000164422	Crowley, Kathleen	Advisory Neighborhood Commissioner	ANC 4C
FDS000162945	Cuthbert, Mary J.	Advisory Neighborhood Commissioner	ANC 8C
FDS000164423	Davis, Christy	Advisory Neighborhood Commissioner	ANC 5E
FDS000162901	Douglas, Dorothy	Advisory Neighborhood Commissioner	ANC 7D
FDS000162950	Edwards-Hines, Rhonda L.	Advisory Neighborhood Commissioner	ANC 8C
FDS000164395	Feeley, John	Advisory Neighborhood Commissioner	ANC 5B
FDS000164417	Felder, Wendell	Advisory Neighborhood Commissioner	ANC 7C
FDS000164424	Flahaven, Brian	Advisory Neighborhood Commissioner	ANC 6B
FDS000164425	Flynn, Patrick	Advisory Neighborhood Commissioner	ANC 1A
FDS000164426	Forster, Dyana	Advisory Neighborhood Commissioner	ANC 1B
FDS000164427	Gordon, Katherine	Advisory Neighborhood Commissioner	ANC 2F

FDS000162941	Green, Anthony Lorenzo	Advisory Neighborhood Commissioner	ANC 8B
FDS000162909	Hamlett, Rosa A.	Advisory Neighborhood Commissioner	ANC 7E
FDS000164411	Hasan, Sirraaj	Advisory Neighborhood Commissioner	ANC 7D
FDS000162965	Hawthorne, Christopher L.	Advisory Neighborhood Commissioner	ANC 8E
FDS000162590	Holmes, Bobby	Advisory Neighborhood Commissioner	ANC 1A
FDS000162917	Holmes, Linda	Advisory Neighborhood Commissioner	ANC 7E
FDS000164408	Howard, Scott	Advisory Neighborhood Commissioner	ANC 2E
FDS000164403	Humphrey, Lynnell	Advisory Neighborhood Commissioner	ANC 7B
FDS000164388	Irwin, Elisa	Advisory Neighborhood Commissioner	ANC 4C
FDS000164402	Jenkins, Leniqua'dominique	Advisory Neighborhood Commissioner	ANC 7C
FDS000162958	Jones, Theresa H.	Advisory Neighborhood Commissioner	ANC 8D
FDS000162955	Jordan, Absalom	Advisory Neighborhood Commissioner	ANC 8D
FDS000162877	Judd, Alfreda S.	Advisory Neighborhood Commissioner	ANC 6E
FDS000164386	Lee, Clarence	Advisory Neighborhood Commissioner	ANC 5D
FDS000162960	Lee, Marvin S.	Advisory Neighborhood Commissioner	ANC 8E
FDS000162805	Lewis, Renee T.	Advisory Neighborhood Commissioner	ANC 5E
FDS000162592	Love Wade, Dotti	Advisory Neighborhood Commissioner	ANC 1A
FDS000164430	Maloney, Joseph	Advisory Neighborhood Commissioner	ANC 4C
FDS000162943	McCoy, Jeffrey	Advisory Neighborhood Commissioner	ANC 8C
FDS000164401	McIntosh-McEwen, Kevin	Advisory Neighborhood Commissioner	ANC 7E
FDS000164381	Molod, Andrea	Advisory Neighborhood Commissioner	ANC 3F
FDS000162872	Nigro, Rachelle P.	Advisory Neighborhood Commissioner	ANC 6E
FDS000164393	Patterson, Jacque	Advisory Neighborhood Commissioner	ANC 8B
FDS000162815	Pearl, Austin L.	Advisory Neighborhood Commissioner	ANC 5E
FDS000162919	Rhodes, Edward	Advisory Neighborhood Commissioner	ANC 7F
FDS000164384	Rogers, Barbara	Advisory Neighborhood	ANC 4B

FDS000162685	Ross, Stu	Commissioner Advisory Neighborhood Commissioner	ANC 3D
FDS000162925	Settles, Karen	Advisory Neighborhood Commissioner	ANC 7B
FDS000162968	Slaughter, Stephen A.	Advisory Neighborhood Commissioner	ANC 8E
FDS000164412	Stith, Teresa	Advisory Neighborhood Commissioner	ANC 8C
FDS000162921	Thompson, Eboni-Rose	Advisory Neighborhood Commissioner	ANC 7F
FDS000164432	Turner, Marcus	Advisory Neighborhood Commissioner	ANC 7B
FDS000162940	Vaughan, Kevin	Advisory Neighborhood Commissioner	ANC 8B
FDS000162831	Ward, Calvin	Advisory Neighborhood Commissioner	ANC 6A
FDS000164434	Ward, Chris	Advisory Neighborhood Commissioner	ANC 6A
FDS000164394	Williams, John	Advisory Neighborhood Commissioner	ANC 2A
FDS000164435	Williams, Rickey	Advisory Neighborhood Commissioner	ANC 4C
FDS000162775	Woodland, Rayseen	Advisory Neighborhood Commissioner	ANC 5B
FDS000162722	Worthy, Kimberly A.	Advisory Neighborhood Commissioner	ANC 4A

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

Excel Academy Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for the following services:

- Legal Services
- Staffing Services
- Technology Support Services

Please email [bids@excelpcs.org](mailto:bids@excelpcs.org) to have a full RFP offering emailed to you, with more detail on scope of work and bidder requirements.

Proposals shall be received no later than 5:00 P.M., Friday, June 24, 2016.

No phone submissions or in person submissions please. Interviews, samples, demonstrations and school visits will be scheduled at our request after the review of the proposals only. Prospective Firms shall submit one electronic submission via e-mail to the following address:

Bid Administrator  
[bids@excelpcs.org](mailto:bids@excelpcs.org)

Please include the bid category for which you are submitting as the subject line in your e-mail (e.g. Staffing Services). Respondents should specify in their proposal whether the services they are proposing are only for a single year or will include a renewal option.

**DEPARTMENT OF HEALTH****PUBLIC NOTICE**

The District of Columbia Board of Psychology (“Board”) hereby gives notice of its regular meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, D.C. Official Code § 3-1204.05 (b)) (2012 Repl.).

The Board’s next regular meeting will be held on Thursday, July 14, 2016 from 4:00 PM to 6:30 PM. The meeting will be open to the public from 4:00 PM until 4:30 PM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Act of 2010, D.C. Official Code § 2-574(b), the meeting will be closed from 4:30 PM to 6:30 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 will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health’s Events webpage at [www.doh.dc.gov/events](http://www.doh.dc.gov/events) to view the agenda.

**DEPARTMENT OF HEALTH****MARIJUANA PRIVATE CLUB TASK FORCE****NOTICE OF TASK FORCE MEETING**

Pursuant to Mayor's Order 2016-032, dated March 3, 2016, the Director of the Department of Health, as Chairperson of the Marijuana Private Club Task Force (Task Force), will hold its monthly meeting to provide a report making recommendations regarding the potential licensing and operation of venues at which marijuana may be consumed that are within the lawful parameters for the possession, use, and transfer of marijuana set forth in section 401(a)(1) of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-904.01(a)(1)). The meeting will be held on Friday, June 24, 2016, from 10:00 a.m. to 11:30 am at 899 North Capitol Street, N.E., 2<sup>nd</sup> Floor, Room 216, Washington, D.C. 20002.

The Task Force consists of the Directors of the Department of Health, Department of Consumer and Regulatory Affairs, and Alcoholic Beverage Regulation Administration, the Chief of the Metropolitan Police Department, the Attorney General, two members of the Council of the District of Columbia, or their designees. The agenda for the meeting is as follows:

1. Defining a Private Club in the District of Columbia

What does it mean to be a Private Club?

What are the not-for-profit considerations?

Defining temporary vs. permanent establishments.

What are the requirements for ownership and employment?

How is membership defined; what are the criteria for membership?

Other considerations.

-Department of Consumer and Regulatory Affairs

-Alcohol Beverage Regulation Administration

-Office of the Attorney General (Internal Revenue Service Regulations)

2. Identify agencies with a role in licensure/enforcement of these entities

3. Identify agencies with regulatory authority over Private Clubs and their regulatory mandate

4. Agenda for Next Meeting

The Task Force will not be preparing an annual schedule of its meetings because its mandate is to provide a report of recommendations to the Council within 120 days after first convening.

**DEPARTMENT OF HEALTH CARE FINANCE****PUBLIC NOTICE OF PROPOSED MEDICAL CARE  
ADVISORY COMMITTEE BY-LAWS**

The Department of Health Care Finance (DHCF) is seeking public comments on proposed new by-laws for the Medical Care Advisory Committee (MCAC). MCAC is charged with advising the Medicaid agency about health and medical care services, and is required by federal regulation for each State Medicaid program.

The by-laws were developed by a work group composed of the following:

- DHCF representatives
  - Claudia Schlosberg
  - Dena Hasan
  - Keith Parsons
  - Trina Dutta
  
- MCAC representatives
  - HyeSook Chung
  - Jackie Bowens
  - Justin Palmer

The MCAC By-Laws Workgroup has been meeting since early February, and is pleased to share its final draft of the MCAC By-Laws for consideration by DHCF's stakeholders. These By-Laws build upon the prior experiences of this MCAC body, by-laws from other state Medicaid programs, and relevant District laws.

Of particular interest to the public are substantive changes made to the breadth and scope of the By-Laws, including:

- MCAC's role in advising DHCF leadership on the DC Healthcare Alliance Program, insofar as it interacts with Medicaid
- Requirement for MCAC to publish and submit an annual report to the Mayor and/or the DC City Council
- Guidance on appointments to the MCAC, term-limits, and MCAC composition (i.e., healthcare providers, beneficiaries and beneficiary advocates, and ex-officio members from sister agencies in District government)
- Detailed requirements around conflict of interest and associated disclosures, recusals, and resignation/dismissal

Written comments on the proposed MCAC by-laws shall be submitted to Ms. Trina Dutta, Special Projects Officer, D.C. Department of Health Care Finance, 441 Fourth Street NW, 922a, Washington, DC 20001, or via e-mail at [dhcfpubliccomments@dc.gov](mailto:dhcfpubliccomments@dc.gov), by Friday, July 15, close of business.



Copies of this notice and the proposed MCAC by-laws will be published on the DHCF website at <http://dhcf.dc.gov>. For further information or to request copies of the proposed by-laws, please contact Trina Dutta, Special Projects Officer, D.C. Department of Health Care Finance, (202) 719-6632 or [trina.dutta@dc.gov](mailto:trina.dutta@dc.gov).

**DEPARTMENT OF HUMAN SERVICES  
FAMILY SERVICES ADMINISTRATION  
COMMUNITY SERVICES BLOCK GRANT**

**NOTICE OF AVAILABILITY OF  
COMMUNITY SERVICES BLOCK GRANT STATE PLAN AND APPLICATION FOR  
FISCAL YEARS 2017 AND 2018**

The Director of the District of Columbia (District) Department of Human Services (DHS), pursuant to the requirement of the Community Services Block Grant (CSBG) Act of 1998, as amended (42 U.S.C. §9908 (e)) announces the availability of the CSBG State Plan and Application for Fiscal Years (FY) 2017 and 2018 (State Plan) for public inspection, review and comment. The state plan presents an approach to reduce poverty within the District through the provision of a wide range of services and activities that assist low-income families and individuals to:

- Remove obstacles and solve problems which inhibit the attainment of self-sufficiency;
- Secure and retain meaningful employment;
- Attain an adequate education;
- Make better use of available income;
- Obtain and maintain adequate housing and a suitable living environment;
- Obtain emergency assistance to meet immediate or urgent needs; and
- Achieve greater participation in the affairs of the communities in which they live.

A community meeting on the State Plan will be held at 6:00 p.m. on Wednesday, July 6, 2016 at the Department of Employment Services, 4058 Minnesota Avenue, N.E., Community Room #1, Washington, DC 20019. Copies of the State Plan will be available for inspection, review and comment from Monday, June 27, through Friday, August 5, 2016, at the locations listed below:

Department of Human Services  
Family Services Administration  
Community Services Block Grant  
64 New York Avenue, N.E., 6<sup>th</sup> Floor  
Washington, DC 20002  
[www.dhs.dc.gov](http://www.dhs.dc.gov)

United Planning Organization  
301 Rhode Island Avenue, N.W.  
Washington, DC 20001  
[www.upo.org](http://www.upo.org)

Martin Luther King, Jr. Memorial Library  
Public Comments Section, 3<sup>rd</sup> Floor  
901 G Street, N.W.  
Washington, DC 20001

Department of Human Services  
Anacostia Services Center  
2100 Martin Luther King, Jr. Avenue, S.E.  
Washington, DC 20020

Persons requesting special accommodations and those who wish to speak at the community meeting should contact Betty Ervin, CSBG Secretary, DHS via e-mail: [betty.ervin@dc.gov](mailto:betty.ervin@dc.gov) or by telephone at (202) 698-4301 by Wednesday, June 29, 2016. Please include the following information: Full Name, Title, Residential ward, and Organizational affiliation or Interest group

(if any). Witnesses should bring three (3) copies of their written statement to the community meeting. Speaking times will be limited to a maximum of three (3) minutes per person or five (5) minutes for two or more persons.

Written statements may also be submitted for the record by close of business on Friday, August 12, 2016, and should be submitted by mail to the attention of Betty Ervin, CSBG Secretary, DC Department of Human Services, 64 New York Avenue, NE, 6<sup>th</sup> Floor, Washington, DC 20002 or by email to: [betty.ervin@dc.gov](mailto:betty.ervin@dc.gov).

**IMAGINE HOPE COMMUNITY PUBLIC CHARTER SCHOOL****INVITATION FOR BID****Food Service Management Services**

**Hope Community PCS** is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2015-2016 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Invitation for Bid (IFB) such as; student data, days of service, meal quality, etc. may be obtained beginning on **June 17, 2016** from **Trina Williams at 202.722.4421 or [trina.williams@imageschools.org](mailto:trina.williams@imageschools.org)**

Proposals will be accepted at [hope.rfp@imageschools.org](mailto:hope.rfp@imageschools.org) on **July 18, 2016**, not later than **12 Noon**.

**All bids not addressing all areas as outlined in the IFB will not be considered.**

**KIPP DC PUBLIC CHARTER SCHOOLS**  
**REQUEST FOR PROPOSALS**

**School Books**

KIPP DC is soliciting proposals from qualified vendors for School Books. 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 June 24th, 2016. Questions can be addressed to [elizabeth.striebel@kippdc.org](mailto:elizabeth.striebel@kippdc.org).

**Financial Reporting & Analysis Software**

KIPP DC is soliciting proposals from qualified vendors for Financial Reporting & Analysis Software. The RFP can be found at <https://www.kippdc.org/procurement>. Proposals should be uploaded to the website no later than 5PM EST, on June 24. Questions can be addressed to [kyle.stewart@kippdc.org](mailto:kyle.stewart@kippdc.org).

**Kitchen Refrigerators and Food Warmers**

KIPP DC is soliciting proposals from qualified vendors for Kitchen Refrigerators and Food Warmers. The RFP can be found at <https://www.kippdc.org/procurement>. Proposals should be uploaded to the website no later than 5PM EST, on June 24. Questions can be addressed to [lazette.Wells@kippdc.org](mailto:lazette.Wells@kippdc.org).

**NOTICE OF INTENT TO ENTER SOLE SOURCE CONTRACTS**

**Curriculum & Instructional Services**

KIPP DC intends to enter into a sole source contract for instructional services with Lindamood-Bell Learning Processes. The decision to sole source is due to the fact that this vendor is the exclusive provider of desired curricula upon which the instructional model is built. The estimated cost of this contract will be approximately \$57,750.

**Professional Development**

KIPP DC intends to enter into a sole source contract with the Center for Inspired Teaching for professional development. The decision to sole source is based on the specific alignment of this exclusive professional development with our new science curriculum. The cost of this contract will be approximately \$25,000.

**LATIN AMERICAN MONTESSORI BILINGUAL  
PUBLIC CHARTER SCHOOL**

**INVITATION FOR BID**

**Food Service Management Services**

LAMBPCS is advertising the opportunity to bid on the delivery of breakfast, lunch, and snack 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, and Afterschool Snack 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 **June 17, 2016** from **Betsy Romero at 202.726.6200 or [betsy@lambpcs.org](mailto:betsy@lambpcs.org)**

Proposals will be accepted at **1375 Missouri Avenue, NW Washington, DC 20011** on **July 14, 2016**, not later than **3 p.m.**

**All bids not addressing all areas as outlined in the IFB will not be considered.**

**PAUL PUBLIC CHARTER SCHOOL****INVITATION FOR BID****Food Service Management Services**

Paul Public Charter School is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2015-2016 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Invitation for Bid (IFB) such as; student data, days of service, meal quality, etc. may be obtained beginning on **June 17, 2016** from **William Henderson at 202-378-2260 or [whenderson@paulcharter.org](mailto:whenderson@paulcharter.org)**

Proposals will be accepted at 5800 8<sup>th</sup> St., NW Washington, DC 20011 on July 21, 2016, not later 3:00 P.M.

**All bids not addressing all areas as outlined in the IFB will not be considered.**

**OFFICE OF THE DEPUTY MAYOR FOR  
PLANNING AND ECONOMIC DEVELOPMENT**

**NOTICE OF PUBLIC MEETING**

The District will conduct a public meeting through the Mayor's "Our RFP" process to receive public input on the future redevelopment of District property at 1010 North Capitol Street, NW and 33 K Street, NW in the Northwest One neighborhood. The date, time and location shall be as follows:

**Date:** Tuesday, June 21, 2016

**Time:** 6:30p.m.-8:30 p.m.

**Location:** RH Terrell Recreation Center  
155 L Street, NW  
Washington, D.C. 20001

**Contact:** Lee Goldstein, lee.goldstein@dc.gov  
(202) 729-2159



**OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA**  
**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 July 15, 2016.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4<sup>th</sup> Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on June 17, 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](http://www.os.dc.gov).

**D.C. Office of the Secretary  
Recommendations for appointment as DC Notaries Public**

**Effective: July 15, 2016**

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Ahmed	Prianka	TD Bank 905 Rhode Island Avenue, NE	20018
Ali	Noshien	Capital One Bank 4860 Massachusetts Avenue, NW	20016
Allen	Beverly J.	Gibson Dunn & Crutcher, LLP 1050 Connecticut Avenue, NW	20036
Arrington	Veronika	Carnegie Endowment for International Peace 1779 Massachusetts Avenue, NW	20036
Babbitt	Cindy Z.	Alan Wurtzel 2134 R Street, NW	20008
Babu	Pearly	Bank Fund Staff Federal Credit Union 1725 I Street, NW	20006
Bah	Mariama	Capital One Bank 4860 Massachusetts Avenue, NW	20016
Barrett	Betty Lee	Office of Disciplinary Counsel 515 Fifth Street, NW, Room 117	20001
Batoula	Yannick	TD Bank, NA 1489 P Street, NW	20005
Blair	Rhonda	Signal Financial Federal Credit Union 1391 Pennsylvania Avenue, SE	20003
Bliss	Kevin J.	Self 1235 4th Street, SW	20024
Brown-Curtis	Denise	National Governors Association 444 North Capitol Street, NW, Suite 267	20001
Budway	Kathleen A.	Gerald R. Belton 1101 L Street, NW	20005
Bussard	David Spencer	Taylor Gourmet/East Coast Management 1418 14th Street, NW, 3rd Floor	20005
Butz	Debra J.	Chicago Title Insurance Company 2000 M Street, NW, Suite 610	20036

**D.C. Office of the Secretary  
Recommendations for appointment as DC Notaries Public**

**Effective: July 15, 2016**

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Cable	Wendie S.	U.S. Grains Council 20 F Street, NW, Suite 600	20001
Castleberry	Mary Grace	Alderson Reporting Company 1155 Connecticut Avenue, NW	20036
Coley	Letetia H.	Department of Homeland Security/Immigration and Customs Enforcement/Office of the Chief Information Officer 801 I Street, NW	20536
Conley	Paula	Quadrangle Development Corporation 1001 G Street, NW, Suite 700W	20001
Cummings	Stacey R.	Planned Parenthood Federation of America 1110 Vermont Avenue, NW	20005
Davis	Nia T.	Jones Lang LaSalle 1801 K Street, NW, Suite 1000	20006
Densua	Y. Opare	Self (Dual) 4124 5th Street, NW	20011
Dickens	Lakisha S.	District of Columbia Office of Human Rights 441 4th Street, NW, Suite 570N	20001
Duggan	Kenneth	JCR Companies 1010 Wisconsin Avenue, NW, Suite 600	20007
Duncan	Cherie	Self 620 Randolph Street, NW	20011
Eagle	Cynthia	Answer Title 10 G Street, NE, Suite 460	20002
Edison	Tessasoniquea	Answer Title 10 G Street, NE, Suite 460	20002
Farrar	Carolyn J.	Nave & Associates, PLLC 1405 Florida Avenue, NW	20009
Foster	Jill Morgan	Foundry United Methodist Church 1500 16th Street, NW	20036

**D.C. Office of the Secretary  
Recommendations for appointment as DC Notaries Public****Effective: July 15, 2016  
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Freeman-Johnson	Brandon	Comcast 900 Michigan Avenue, NE	20017
Frisby-Spencer	Cheremie	WinnResidential 4319 3rd Street, SE, Suite 200	20032
Garcia	Randi J.	Digital Evidence 1730 M Street, NW, 8th Floor	20036
Gibson	Constance	PNC Bank NA 5530 Connecticut Avenue, NW	20015
Gilcrest	Martha Emily	US Department of Housing and Urban Development 451 7th Street, SW	20410
Glasgow	Marcia Anne	Self (Dual) 820 Madison Street, NW	20011
Goodman	David	Akin Gump Strauss Hauer & Feld, LLP 1333 New Hampshire Avenue, NW	20036
Gray	Kiviette D.	US Department of Justice 20 Massachusettes Avenue, NW	20530
Gray	TaWanda	Akin Gump Strauss Hauer & Feld, LLP 1333 New Hampshire Avenue, NW	20036
Griffin	Aimee	The Griffin Law Firm, PLLC 5335 Wisconsin Avenue, NW, Suite 440	20015
Grodi	Melissa	PilieroMazza PLLC 888 17th Street, NW, 11th Floor	20006
Guggenheim	Nathan Julian	Anne and Nate, LLC 935 25th Street, NW	20037
Gundotra	Rita	Brennan Title Company 5100 Wisconsin Avenue, NW	20016
Hadzic	Zlatan	Wells Fargo 1804 Adams Mill Road, NW	20009

**D.C. Office of the Secretary  
Recommendations for appointment as DC Notaries Public**

**Effective: July 15, 2016**

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Hassett	James Daniel	Neal R. Gross & Company 1323 Rhode Island Avenue, NW	20005
Henderson	Angela V.	Law Offices of Angela V. Henderson 3509 Connecticut Avenue, NW	20008
Henderson	Kiaria D.	DCRA 1100 4th Street, SW, Suite 500E	20024
Henry	Kenya E.	Orrick, Herrington & Sutcliffe, LLP 1152 15th Street, NW, Columbia Center	20005
Herrera Medina	Jessica L.	TD Bank 801 17th Street, NW	20006
Hesson	Gregory	Marriott Vacation Club 1130 Connecticut Avenue, NW, #700	20036
Holland	Danette A.	Providence Hospital 1150 Varnum Street, NE	20017
Horton	A. Benjamin	Monarch Title, Inc. 5151 Wisconsin Avenue, NW, Suite 350	20016
Howell	Timothy Duane	Nave & Associates, PLLC 1405 Florida Avenue, NW	20009
Jackson	James Najji	University of the District of Columbia 801 North Capitol Street, NE	20002
Jackson II	Reginald Leonard	Wells Fargo 3700 Calvert Street, NW	20007
Johnson	Pamela	International Finance Corporation (IFC) 2121 Pennsylvania Avenue, NW	20433
Kaounas	Sophia Lua	Morris Manning & Martin, LLP 1401 Eye Street, NW, Suite 600	20005
Korang	Desmond	District Legal Services 1605 7th Street, NW, B2	20001

**D.C. Office of the Secretary  
Recommendations for appointment as DC Notaries Public****Effective: July 15, 2016  
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Krudys	Suzanne	Jesuit Conference 1016 16th Street, NW, Suite 400	20036
Louttit	Dana M.	Latham & Watkins, LLP 555 11th Street, NW, Suite 1000	20004
Love	Monique S.	American Federation of Government Employees Local 476 Department of Housing and Urban Development, 451 7th Street, SW, Room 3142	20410
Lyle	Sharita A.	Self 1503 Underwood Street, NW	20012
Matthes	M. Kathleen	Cassidy Levy Kent (USA), LLP 2000 Pennsylvania Avenue, NW, Suite 3000	20006
McDaniel	Kathy E.	Akridge 601 13th Street, NW, Suite 300	20005
McLaughlin	Rachael A.	NeighborWorks America 999 North Capital Street, NE, Suite 900	20002
McNair, Jr	Erick Donnell	Veritext/Capital Reporting Company 1250 Eye Street, NW	20005
Miller	Shawn	U.S. House of Representatives B227 Longworth HOB	20515
Murray	Deborah Sure	Airlines for America 1275 Pennsylvania Avenue, NW	20004
Nguyen	Hanh	Charles Schwab 1845 K Street, NW	20006
Noel	Leonara D.	Department of Housing and Urban Development 451 7th Street, SW, B133	20410
Orozco	Arika	CASA for Children of DC 515 M Sreet, SE, Building 74, Suite 201	20003

**D.C. Office of the Secretary  
Recommendations for appointment as DC Notaries Public**

**Effective: July 15, 2016**

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Osborne	O. Ozzie	Self 5300 Central Avenue, SE	20019
Patnogic	Miroslava	Wells Fargo Bank, NA 1850 M Street, NW	20036
Paul	John C.	United States Court of Appeals for the Federal Court 717 Madison Place, NW	20439
Penden	Kunchok	International Finance Corporation (IFC) 2121 Pennsylvania Avenue, NW	20433
Pickens	Jennifer A.	King & Spalding, LLP 1700 Pennsylvania Avenue, NW, Suite 200	20006
Pierini	Kathleen	Mowry & Grimson, PLLC 5335 Wisconsin Avenue, NW, Suite 810	20015
Poulakos	Steven	Gore Reporting & Videoconferencing 1025 Connecticut Avenue, NW	20036
Proctor	Charnita	Self 4020 Southern Avenue, SE	20020
Quander	Rohulamin	Self 1703 Lawrence Street, NW	20018
Reynoso	Ruth J.	Self 1426 Clifton Street, NW, Apt 1	20009
Robinson	Catherine Bernasco	Savills Studley, Inc 1201 F Street, NW, Suite 500	20004
Rodriguez	Catherine M.K.	Cozen O'Conner 1200 19th Street, NW, Suite 300	20036
Ross	Ryan	TD Bank 905 Rhode Island Avenue, NE	20018
Santana-Valera	Robelys	Wells Fargo Bank, NA 2119 Bladensburg Road, NE	20018

**D.C. Office of the Secretary  
Recommendations for appointment as DC Notaries Public**

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Saturria-Feliz	Atoya Meshia	Medstar Washington Hospital Center 110 Irving Street, NW, Room 6A-126	20010
Schilling	Katherine	Planet Depos, LLC 1100 Connecticut Avenue, NW, Suite 950	20036
Sensing	Gregory	DC Brau Brewing, LLC 3178-B Bladensburg Road, NE	20018
St. Clair	Tamara K.	Thornton Tomasetti 2000 L Street, NW, Suite 600	20036
Sterling	Kareem J.	District of Columbia Office of Human Rights 441 4th Street, NW	20001
Suranna	Christopher	Real Living at Home 11 Dupont Circle, NW, Suite 650	20036
Tapscott	Pamela L.	Mathematica Policy Research 1100 1st Street, NE, 12th Floor	20002
Taylor	Jeanine	Medstar NRH 102 Irving Street, NW	20010
Taylor	Shirley A.	Smoot Gilbane JV 5335 Wisconsin Avenue, NW, Suite 940	20015
Templeton	Colleen A.	Robison International, Inc. One Massachusetts Avenue, NW, Suite 880	20001
Thompson	Amber C.	Self 2950 Van Ness Street, NW, #829	20008
Torrance	Kimberly L.	Epstein Becker & Green, P.C. 1227 25th Street, NW, Suite 700	20037
Trinh	Chi	OSI-MB. Inc. 801 17th Street, NW, Suite 430	20006
Tyler	Chantell	Self 1609 Fort Dupont Street, SE	20020



**D.C. Office of the Secretary  
Recommendations for appointment as DC Notaries Public****Effective: July 15, 2016****Page 9**

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Uddin	Mahfuja	Wells Fargo Bank 1447 P Street, NW	20005
Whittaker	Laura A.	United States Court of Appeals for the Federal Court 717 Madison Place, NW	20439
Williams	Mi-Chele L.	Cohen & Gresser LLP 1707 L Street, NW, Suite 550	20036
Wright	Janie L.	National Treasury Employees Union 1750 H Street, NW	20006
Yee	Kayla	Self 415 L Street, NW, Apt. 144	20001
Young	Danielle	United States Justice Department 1100 L Street, NW	20005

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DC TAXICAB COMMISSION**

**NOTICE OF GENERAL COMMISSION MEETING**

The District of Columbia Taxicab Commission will hold its regularly scheduled General Commission Meeting on Thursday, June 23, 2016 at 1:00 pm. The meeting will be held at our new office location: 2235 Shannon Place, SE, Washington, DC 20020, inside the Hearing Room, Suite 2032. Visitors to the building must show identification and pass through the metal detector. Allow ample time to find street parking or to use the pay-to-park lot adjacent to the building.

The final agenda will be posted no later than seven (7) days before the General Commission Meeting on the DCTC website at [www.dctaxi.dc.gov](http://www.dctaxi.dc.gov).

Members of the public are invited to participate in the Public Comment Period. You may present a statement to the Commission on any issue of concern; the Commission generally does not answer questions. Statements are limited to five (5) minutes for registered speakers. Time and agenda permitting, nonregistered speakers may be allowed 2 minutes to address the Commission. To register, please call 202-645-6002 no later than 3:30 p.m. on June 22, 2016. Registered speakers will be called first, in the order of registration. **Registered speakers must provide ten (10) printed copies of their typewritten statements to the Secretary to the Commission no later than the time they are called to the podium.**

**DRAFT AGENDA**

- I. Call to Order
- II. Commission Communication
- III. Commission Action Items
- IV. Government Communications and Presentations
- V. General Counsel's Report
- VI. Staff Reports
- VII. Public Comment Period
- VIII. Adjournment

**WASHINGTON GLOBAL PUBLIC CHARTER SCHOOL****INVITATION FOR BID****Food Service Management Services**

Washington Global PCS 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 **June 17, 2016** from **Byron Brown** at [\*\*\(609\) 346-7794\*\*](tel:6093467794) or [\*\*bids@washingtonglobal.org\*\*](mailto:bids@washingtonglobal.org)

Proposals will be accepted at 1611 Connecticut Ave NW, Washington, DC 20009 on July 18, 2016, not later than 3 p.m.

**All bids not addressing all areas as outlined in the IFB will not be considered.**

WASHINGTON MATHEMATICS SCIENCE TECHNOLOGY  
PUBLIC CHARTER HIGH SCHOOL

INVITATION FOR BID

Food Service Management Services

WMST PCHS 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 June 17, 2016 from Dr. N'Deye Diagne at 202-636-8011 or [ndiagne@wmstpchs.net](mailto:ndiagne@wmstpchs.net)

Proposals will be accepted at 1920 Bladensburg Road, NE, Washington, DC 20002 on **July 14, 2016**, not later than **4:00 p.m.**

**All bids not addressing all areas as outlined in the IFB will not be considered.**

WASHINGTON MATHEMATICS SCIENCE TECHNOLOGY  
PUBLIC CHARTER HIGH SCHOOL

REQUEST FOR PROPOSALS/QUOTATIONS

In Compliance with Section 2204 (c) of the District of Columbia School Reform Act of 1995, Washington Mathematics Science Technology Public Charter High School hereby solicits proposals/quotations for 100 Laptops:

Lenovo ThinkPad

Brand: Lenovo

Series: ThinkPad

Model: Edge E550 or better

Type: Laptop

Processor: Intel Core i3-5005U 2.0GHz or better

Memory: at least 4 GB DDR

Storage: at least 500 GB

Optical Drive: at least 8x DVD+/-RW

Operating System: 64-bit Windows 7 Professional (Includes Windows 10 Pro License)

Display Screen Size: 15.6 inches

Please contact Ton at [cboontawee@wmstpchs.net](mailto:cboontawee@wmstpchs.net) for more details about requirements. **Bids are due no later than 5:00pm on July 1, 2016.**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 18511-A of Alleyoop LLC**, pursuant to 11 DCMR § 3130, for a two-year extension of BZA Order No. 18511.

The original application was pursuant to 11 DCMR § 3103.2, for a variance from the use provisions under § 330.4, the alley lot height requirements (§ 2507), the nonconforming structure requirements (§ 2001), the lot area and width requirements (§ 401), rear yard requirements (§ 404), and side yard requirements (§ 405) to allow the Applicant to subdivide an alley lot into three separate lots and convert an existing automotive repair shop to an office use and two artist studios in the R-4 District at premises rear 1018 Irving Street, N.W. (Square 2851, Lot 837).

<b>HEARING DATES (Original Application):</b>	March 5 and April 2, 2013
<b>DECISION DATES (Original Application):</b>	April 30 and July 23, 2013
<b>FINAL ORDER ISSUANCE DATE (Order No. 18511):</b>	January 13, 2014
<b>DECISION ON TIME EXTENSION:</b>	January 26 and May 24,
2016 <sup>1</sup>	

**SUMMARY ORDER ON MOTION TO EXTEND  
THE VALIDITY OF BZA ORDER NO. 18511**

The Underlying BZA Order

On July 23, 2013, the Board of Zoning Adjustment (the "Board") approved the Applicant's request for variances from the use provisions under § 330.4, the alley lot height requirements under § 2507, the nonconforming structure requirements under § 2001, the lot area and width requirements under § 401, rear yard requirements under § 404, and side yard requirements under § 405, to allow the Applicant to subdivide an alley lot into three separate lots and convert an existing automotive repair shop to an office use and two artist studios in the R-4 District. The Board issued its written order ("Order") on January 13, 2014. Pursuant to 11 DCMR §§ 3125.6 and 3125.9, the Order became final on January 13, 2014 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 January 13, 2016.<sup>2</sup> (Exhibit 5.)

<sup>1</sup> The request was first considered at the public meeting of January 26, 2016 and postponed to May 24, 2016.

<sup>2</sup> Subsection 3130.1 states:

Motion to Extend Validity of the Order Pursuant to 11 DCMR § 3130.6

On January 7, 2016, the Applicant sent a letter requesting that the Board grant a two-year extension of Order No. 18511. 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.

On March 9, 2016, the Board received a party status request in opposition from Frank Proschan. (Exhibit 10.) The Board denied the request at its public meeting on May 24, 2016, noting that the regulations provide that party status requests are to be considered at the time of the hearing on an application and that Mr. Proschan did not request party status to the underlying hearing proceedings for Application No. 18511.

Criteria for Evaluating Motion to Extend

Pursuant to § 3130.6(a), the Applicant shall serve on all parties to the application and all parties shall be allowed 30 days to respond. The record reflects that the Applicant served all parties at least 30 days in advance of the public meeting. The parties to the original application included the affected Advisory Neighborhood Commission (“ANC”) which is ANC 1A and Adetokunbo Ladejobi, party in opposition. The extension request also was submitted to the Office of Planning (“OP”). (Exhibit 6.)

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 6.)

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 submitted a letter arguing that it has encountered difficulties in finding tenants for the two artist studios, noting that the “demand for artist studios is relatively small” and that there

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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.

is “good cause for the extension due to the inability to secure a tenant due to the current economic and market conditions.” (Exhibit 6.) In advance of the public meeting on May 24, 2016, the Applicant submitted supplemental documentation to indicate that the property cannot be subdivided into lots and the development cannot move forward unless the D.C. Council passes a resolution to name the alley on which the site is located. (Exhibits 16 and 19.) Specifically, the Applicant identified new rules in the Building Code Supplement (11 DCMR 12A) that require every lot legally capable of supporting a building or structure to have an address and a related requirement that no street number shall be assigned to a premises that has as its only access only an unnamed street or alley. The Applicant notes that the alley upon which the property is located is in the process of being named, pursuant to D.C. Bill No. 21-421. During the public meeting, the Applicant also testified to provide further information about the current status of the project and about the filing of Application No. 18511-B, which requests variance and special exception relief to pursue alternative plans for the property.

*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 requirements of § 3130.6(a), the record reflects that the Applicant served the parties to the application and all parties were allowed at least 30 days to respond. As a party to the proceedings, ANC 1A submitted a written report dated March 9, 2016 that indicated that at a regularly scheduled, duly noticed meeting of the ANC at which a quorum was present, it voted 8-2-0 to support the request for a time extension. (Exhibit 11.) No party to the application objected to an extension of the Order.

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. 18511. 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.

To meet the burden of proof for "good cause" required under § 3130.6(c), the Applicant provided supplemental information and testimony regarding its efforts to find tenants for its artist studios and the difficulties associated with subdividing the property located on a currently unnamed alley. (Exhibits 16 and 19.) Given the totality of the conditions and circumstances described above and in the supplemental information that was provided, the Board finds that the Applicant satisfied the “good cause” requirement under § 3130.6(c), specifically meeting the criteria for §§ 3130.6(c)(1) and 3130.6(c)(3). The Board finds that the delay in naming the alley is beyond the Applicant’s reasonable control and that the Applicant demonstrated that it has acted diligently, prudently, and in good faith to proceed towards the implementation of the Order.

OP, in its report dated January 19, 2016, reviewed the application for the extension of the Order for "good cause" pursuant to 11 DCMR § 3130.6, and noted that additional information would be required to support the Applicant’s request. OP noted that, if the Applicant submitted a more robust indication of their efforts to lease the space as permitted, it would support the request. (Exhibit 8.) Having reviewed the Applicant’s filings made after the submission of OP’s January 19 report, and hearing the Applicant’s testimony, OP testified at the public meeting on May 24,



2016 that it now supports the request to extend Order No. 18511. 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 § 3125.5, which requires 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. 18511-A for a two-year time extension of Order No. 18511, which Order shall be valid until **January 13, 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, Anthony J. Hood, Anita Butani D'Souza, Frederick L. Hill, and Jeffrey L. Hinkle, 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:** June 8, 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.

**BZA APPLICATION NO. 18511-A  
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**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 19130 of the Embassy of the Russian Federation**, pursuant to 11 DCMR § 1002 of the Foreign Missions Act, to allow the construction of a security fence at an existing embassy in the R-5-D District at premises 2001 Connecticut Avenue, N.W. (Square 2536, Lot 308).

**HEARING DATES:** October 20, 2015, November 10, 2015, January 12, 2016, March 1, 2016, and April 12, 2016<sup>1</sup>

**DECISION DATE:** April 12, 2016

**NOTICE OF FINAL RULEMAKING**

**and**

**DETERMINATION AND ORDER**

The Board of Zoning Adjustment (“Board”), pursuant to the authority set forth in § 306 of the Foreign Missions Act, approved August 24, 1982 (96 Stat. 283; D.C. Official Code, § 6-1306 (2012 Repl.)) and Chapter 10 of the Zoning Regulations of the District of Columbia, Title 11 DCMR, and after public hearings on November 10, 2015, January 12, 2016, March 1, 2016, and April 12, 2016, hereby gives notice that it took final action not to disapprove the application of The Embassy of the Russian Federation (“Applicant”) to allow the construction of a security fence at an existing embassy in the R-5-D District at premises 2001 Connecticut Avenue N.W. (Square 2536, Lot 308) (the “Subject Property”).

A Notice of Proposed Rulemaking was published in the September 4, 2015 edition of the *D.C. Register*. (62 DCR 12313.) In accordance with 11 DCMR §§ 3113.13 and 3134.9(c), the Board provided written notice to the public more than 40 days in advance of the public hearing. On August 27, 2015, the Office of Zoning (“OZ”) provided notice of the filing of the application to the United States Department of State, the District of Columbia Office of Planning (“OP”), Advisory Neighborhood Commission (“ANC”) 1C, whose boundaries encompass the Subject Property, the Single Member District Commissioner for ANC 1C01, the District Department of Transportation (“DDOT”), and the Councilmember for Ward One.

OZ scheduled a public hearing on the application for October 20, 2015 and provided notice of the hearing by mail to the Applicant, ANC 1C, and the owners of all property within 200 feet of the subject property, as well as to the Department of State, the National Capital Planning Commission, and the Commission of Fine Arts. A notice of the public hearing was published in

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<sup>1</sup> This case was originally scheduled for public hearing on October 20, 2015 and administratively postponed to November 10, 2015. The public hearing was continued to January 12, 2016, March 1, 2016, and April 12, 2016.

the September 4, 2015 edition of the *D.C. Register*. (62 DCR 12052.) The hearing was administratively postponed from October 20, 2015 to November 10, 2015. The postponement and rescheduling of this case was announced on the record at the Board's public meetings on October 20, 2015 and October 27, 2015.

The Applicant proposes to construct a security fence. Specifically, the Applicant's final revised plan includes the alteration of the existing balustrade along the south elevation and parts of the Connecticut Avenue side elevation, installation of a strip of limestone at the base of the balustrade, and installation of a new fence behind the balustrade on Connecticut Avenue where the existing balustrade does not provide sufficient height to serve as a security barrier. The new fence portion would align with and match the existing decorative fence at the vehicular entrance. The revised plans were developed through the Applicant's work with OP and the Historic Preservation Office ("HPO"), based on the agencies' opposition to the Applicant's initial proposal. Based on the revised plans, OP submitted a supplemental report indicating that it recommends that the Board not disapprove the application and confirms that the revised proposal "satisfies the primary goal of the Historic Preservation Review Board to retain the open view of the mansion as seen from the south." (Exhibit 44.)

Pursuant to § 406(d) of the Foreign Missions Act, D.C. Official Code § 6-1306(d), the Board must consider six enumerated criteria when reviewing a chancery application. The provision further dictates who is to make the relevant finding for certain factors. The factors and relevant findings are as follows:

**1. The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital.**

In a letter dated September 29, 2015, the Department of State determined that favorable action on this application would fulfill the international obligation of the United States to facilitate the provision of adequate and secure premises for the Government of the Russian Federation. (Exhibit 31.)

**2. Historic preservation, as determined by the Board of Zoning Adjustment in carrying out this section; and in order to ensure compatibility with historic landmarks and districts, substantial compliance with District of Columbia and federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.**

The building on the Subject Property is listed as a contributing building in the Kalorama Triangle Historic District and is designated as an individual landmark in the D.C. Inventory and National Register. Initially, OP and HPO recommended to disapprove the application, finding that the original proposal was incompatible with the historic landmark designation and Kalorama Triangle historic district. (Exhibit 33.)

Based on discussions between the Applicant, OP, and the HPO, as well as comments from the Board during the public hearings, the Applicant revised its proposed plans to minimize the visual impact of the fence and to preserve the open view of the historic structure from the south. OP, including OP's Associate Director of Historic Preservation, supported the revised plan in a supplemental report and recommended that the Board not disapprove the application. (Exhibit 26.) Accordingly, the Board finds that no historic preservation basis exists for it to disapprove this application.

**3. The adequacy of off-street or other parking and the extent to which the area will be served by public transportation to reduce parking requirements, subject to such special security requirements as may be determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.**

The Board concurs with the findings of OP and DDOT that no alteration would be made to affect the adequacy of on-site parking in this case. (Exhibits 32 and 33.) The Department of State, after consulting with the Federal agencies authorized to perform protective services, determined that there exist no special security requirements relating to parking in this case. (Exhibit 31.)

**4. The extent to which the area is capable of being adequately protected, as determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.**

After consulting with the Federal agencies authorized to perform protective services, the Department of State determined that the subject site and area are capable of being adequately protected. (Exhibit 31.) The Board finds that this criterion has been met.

**5. The municipal interest, as determined by the Mayor.**

OP, on behalf of the Mayor of the District of Columbia, determined that approving the modified proposal is in the municipal interest and is generally consistent with the Comprehensive Plan for the Nation's Capital and the Zoning Regulations. (Exhibit 44.) Accordingly, the Board finds that the application has met this criterion.

**6. The federal interest, as determined by the Secretary of State.**

The Department of State determined that there is federal interest in this project. Specifically, the Department of State acknowledged the Government of the Russian Federation recently granted design approval for the U.S. Government's construction project in Moscow. Such cooperation was essential for successfully achieving the Federal Government's mission for providing safe, secure, and functional facilities for the conduct of U.S. diplomacy and the promotion of U.S. interests worldwide. (Exhibit 31.)

The Board is required under § 13(d) of the Advisory Neighborhood Commission Act of 1975,

effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001) to give great weight to the issues and concerns raised in the written report of the affected ANC which is ANC 1C. The ANC did not submit a written report for this application; therefore, the Board has no recommendation to afford great weight.

Based upon its consideration of the six criteria discussed above, and having given great weight to OP's written reports, the Board has decided not to disapprove this application. As a result, the Applicant will be permitted to allow the construction of a security fence at an existing embassy in the R-5-D District at premises 2001 Connecticut Avenue N.W.

Accordingly, it is hereby **ORDERED** that the application is **NOT DISAPPROVED, SUBJECT TO THE APPROVED PLANS UNDER EXHIBIT 46 – REVISED FENCE PLANS & ELEVATIONS.**

Vote of the Board of Zoning Adjustment taken at its public hearing on April 12, 2016, to Not Disapprove the application:

**VOTE:**           **4-0-1** (Marnique Y. Heath, Peter G. May, Frederick L. Hill, and Marcel C. Acosta to Not Disapprove; Anita Butani D'Souza not participating.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** June 8, 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.

APPROVAL OF THIS 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. THE 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

BZA APPLICATION NO. 19130

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APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 13-14B  
Z.C. Case No. 13-14B**

**JAIR LYNCH Development Partners, on behalf of Vision McMillan Partners and the  
Office of the Deputy Mayor for Planning and Economic Development  
(Modification to Consolidated Planned Unit Development @ Square 3128)  
April 11, 2016**

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on March 10, 2016, to consider an application from JAIR LYNCH Development Partners, on behalf of Vision McMillan Partners and the Office of the Deputy Mayor for Planning and Economic Development (collectively, the "Applicant") for approval of a modification to a consolidated planned unit development (the "Modified PUD," the "Application") for development of Parcel 4 of the McMillan Reservoir Slow Sand Filtration Site, as approved in Z.C. Order No. 13-14 (corrected), dated November 10, 2014, and effective April 17, 2015, under Chapter 24 of the District of Columbia Zoning Regulations, 11 DCMR ("Zoning Regulations"). The Commission considered the Application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). 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**

**Application, Parties, and Hearing**

1. Pursuant to Z.C. Order No. 13-14, the Commission granted approval of a first-stage and consolidated planned unit development (the "Approved PUD") and zoning map amendment for development of the McMillan Reservoir Slow Sand Filtration Site (Square 3128, Lot 800) (the "Overall PUD Site"), which is bounded by North Capitol Street to the east, Michigan Avenue to the north, First Street to the west, and Channing Street to the south, all in the northwest quadrant of Washington, D.C., and which contains approximately 1,075,356 square feet (24.69 acres) of land area.
2. The Zoning Map amendment related to the Approved PUD rezoned the northern portion of the Overall PUD Site from unzoned to the C-3-C Zone District for a depth of 277 feet, as measured from the center of the curb at Michigan Avenue, N.W., and the remainder of the Overall PUD Site from unzoned to the CR Zone District.
3. The Approved PUD divides the Overall PUD Site into seven distinct parcels. Parcel 1 encompasses the northern portion of the Overall PUD Site and consists of the land area located to the north of the Overall PUD Site element known as the North Service Court. Parcels 2 through 5 are located within the center portion of the Overall PUD Site between the North Service Court and the South Service Court. Parcel 6 encompasses the southern portion of the Overall PUD Site and consists of the land area located to the south of the

South Service Court, as well as the South Service Court itself. Parcel 7 encompasses the area of North Service Court.

4. The first-stage portion of the Approved PUD includes approval of the master plan for the Overall PUD Site (the “Master Plan”), as well as Parcels 2 and 3 (the “First-Stage PUD”). Parcel 2 was approved for a mixed-use, multi-family building containing ground-floor retail, and Parcel 3 was approved for a mixed-use commercial building containing healthcare uses and ground-floor retail
5. Parcel 1 and Parcels 4 through 7 comprise the consolidated portion of the Approved PUD (the “Consolidated PUD”). Parcel 1 will be developed with a health care facility with ground-floor retail and a park above a preserved water filtration cell ("Cell 14"). Parcel 4, the subject of the Application, will be developed with a mixed-use, multi-family residential building with a ground-floor grocery store. Parcel 5 will be developed with approximately 146 individual row dwellings, Parcel 6 will be developed as a 6.2-acre park and community center and include the existing historic structures of the South Service Court which will be retained and restored. Lastly, Parcel 7 (North Service Court) will be developed as the primary retail “main street” of the Overall PUD Site and include the existing historic structures of North Service Court which will be retained and restored.
6. Collectively, the development approved for the Overall PUD Site consists of a mixed-use development made up of office, retail and service, apartment house, attached one-family dwelling, community center, and open space uses. The Approved PUD contains approximately 2,070,753 square feet of gross floor area of development, and an overall density of 1.92 floor area ratio (“FAR”) (2.36 FAR when based on the land area excluding easements and private rights-of-way). (See Z.C. Order No. 13-14, p. 54.)
7. The Approved PUD prescribes maximum building heights for Parcels 1–6. Pursuant to Z.C. Order No. 13-14, Condition A.3, the maximum building height for Parcel 4 is 77 feet. However, the Applicant is requesting to modify this condition as part of the Modified PUD to correct a technical error that was identified subsequent to the final issuance of Z.C. Order No 13-14. As described below, the need for this technical correction is solely a result of a graphic error made on the plans of the Approved PUD.
8. On October 13, 2015, the Applicant filed the Application, including architectural plans and drawings, for modifications to the approved plans for Parcel 4 of the Consolidated PUD, as approved by Z.C. Order No. 13-14. (Exhibits ["Ex."] 1-3.)
9. Parcel 4 is located on the east side of the Overall PUD Site, and is bounded by North Service Court to the north, Evarts Street to the south, North Capitol Street to the east, and Quarter Street to the west. North Service Court, Quarter Street, and Evarts Street will be constructed as part of the Master Plan.



10. Parcel 4 has an actual land area of approximately 95,984 square feet, including the area of private streets and easements. Excluding private streets and easements, Parcel 4 has an effective land area of 71,909 square feet.
11. As approved under the Consolidated PUD, the mixed-use residential/grocery building on Parcel 4 (the "Parcel 4 Building") is authorized to consist of approximately 305,847 square feet of gross floor area, or a maximum density of 3.21 FAR on its own site, including private streets and easements, of which approximately 55,567 square feet of gross floor area would be devoted to a grocery store use and approximately 258,235 square feet of gross floor area would be devoted to multi-family residential uses, equating to approximately 196 market-rate units and approximately 85 senior affordable units. (See Z.C. Order No. 13-14, Condition B.2.)
12. Pursuant to Z.C. Order No. 13-14, Condition A.3, the Parcel 4 Building has a maximum approved building height of 77 feet. As part of this Modified PUD, the Applicant is requesting to correct a technical error regarding the approved height of the Parcel 4 Building contained in the Approved PUD plans and as stated in Z.C. Order No. 13-14, Condition A.3. As described below, the need for the requested technical correction is solely a result of a graphic mislabelling on the Approved PUD plans and does not result in an actual change to the height of the Parcel 4 Building as it was initially reviewed by the Commission. The correctly stated height of the Parcel 4 Building is 78 feet, eight inches.
13. As part of the Approved PUD's public benefits and project amenities, the Parcel 4 Building is required to provide a minimum of 67,018 square feet of gross floor area of the total new housing provided, or approximately 85 residential units, as senior affordable housing (55 years of age or older) to households earning between 50% to 60% of the area median income ("AMI"). (See Z.C. Order No. 13-14, Condition C.6.)
14. At its December 14, 2015 public meeting, the Commission set the case for public hearing.
15. The Applicant filed a Prehearing Submission on December 30, 2015, including a Prehearing Statement and supporting exhibits. (Ex. 15-15I.) The Applicant then filed additional materials in its Supplemental Prehearing Submission on February 18, 2016, (the "Supplemental Prehearing Submission") (Ex. 27-27.) The Supplemental Prehearing Submission also included a transportation statement containing, among other things, the Applicant's proposed Loading Management Plan. (Ex. 27B.)
16. A Notice of Public Hearing was published in the *D.C. Register* on January 29, 2016. The Notice of Public Hearing was mailed to all property owners within 200 feet of the Overall PUD Site, as well as to Advisory Neighborhood Commissions ("ANC") 5A, 5E, and 1B.

17. The Commission held a public hearing on the Application on March 10, 2016. The parties to the case were the Applicant as well as ANC 5E, the ANC within which Parcel 4, and the Overall PUD Site, is located.
18. The Applicant presented the following witnesses: Jair Lynch, representing the Applicant; Jim Voelzke, architect with the firm of MV+A; Rob Schiesel, traffic consultant with the firm of Gorove/Slade Associates, Inc.; and Shane L. Dettman, land use planner with Holland & Knight LLP. Messrs. Voelzke, Schiesel, and Dettman were accepted as experts in their respective fields.
19. The Office of Planning (“OP”) submitted a report dated February 25, 2016, (“OP Report”), in support of the Application. (Ex. 29.) The OP Report stated that the proposed modification is not inconsistent with the Comprehensive Plan, and is consistent with the Master Plan. OP recommended approval of the Application.
20. In its testimony at the hearing, OP reiterated its support for the Application.
21. The District Department of Transportation (“DDOT”) submitted a report dated February 29, 2016, (“DDOT Report”) stating that it objected to the Application, and specifically to the requested modification to the approved Loading Management Plan to remove the prohibition on deliveries between 7:00 a.m.-8:30 a.m., due to the expected queuing that will negatively impact traffic operations on North Capitol Street. (Ex. 30.)
22. In response to the DDOT Report, the Applicant continued to work with DDOT prior to the public hearing to identify additional loading measures and/or restrictions that could be incorporated into the Revised Loading Management Plan that would address the concerns expressed by DDOT in its report.
23. Prior to the public hearing, the Applicant submitted a Revised Loading Management Plan, dated March 10, 2016, which was prepared in close consultation with DDOT, containing additional loading restrictions that would be implemented on weekdays between 7:00 a.m.-8:30 a.m. (Ex. 40.) These additional restrictions were agreeable to DDOT.
24. At the public hearing, DDOT acknowledged the Applicant’s Revised Loading Management Plan, and stated that the additional loading restrictions contained in the Revised Loading Management Plan, and the Applicant’s additional commitment to prohibit residential loading (move-ins, move-outs, and trash) from occurring both in the loading dock area and curbside along Evarts Street, on weekdays during the time period between 7:00 a.m.-8:30 a.m., successfully addressed the concerns expressed in the DDOT Report. As such, DDOT testified in support of the Application.
25. ANC 5E submitted a letter dated October 20, 2015, indicating that with a quorum present, ANC 5E voted 6-0-2 to support the Application. (Ex. 31). At the public hearing, Commissioner Dianne Barnes, Single Member District (“SMD”) 5E09, testified on behalf of ANC 5E.

26. There were no requests for party status filed in the record and no parties in opposition to the Application.
27. Five individuals and local organizations submitted letters in opposition to the Application. (Ex. 32, 33, 35, 36, 37, 42, 43.)
28. A letter in support for the Application was submitted by Frank Mowitz, Director of Real Estate, Harris Teeter. (Ex. 38.)
29. A letter in support for the Application was submitted by Ward 5 Councilmember, Kenyan McDuffie. (Ex. 41.)
30. At the public hearing, one person testified in support of the Application. The person in support of the Application was Rashida Brown, representing SMD 1A10. (*See* Transcript [“Tr.”], March 10, 2016, pp. 24-25.)
31. At the public hearing, two persons testified in opposition to the Application. The persons in opposition of the Application were Chris Otten, representing DC for Reasonable Development, and Abigail DeRoberts. (*See* Tr., March 10, 2016, pp. 26-33.)
32. At the conclusion of the hearing, the Commission took proposed action to approve the Modified PUD and requested the Applicant to: (a) submit information confirming whether the Applicant is required to install transit information screens within the market-rate and senior-affordable residential lobbies pursuant to Z.C. Order No. 13-14; (b) provide confirmation that the Harris Teeter loading dock manager will be properly trained and have the authority to enforce the Revised Loading Management Plan approved by the Commission; and (c) confirm that the intersection of Evarts Street and Quarter Street will continue to be a two-way stop controlled intersection.
33. On March 11, 2016, a request to reopen the record was submitted by Bertha Holliday, as a resident of the Bloomingdale neighborhood, to allow a submission of written testimony. In her request, Ms. Holliday stated that she had intended to provide verbal testimony at the public hearing, but that the hearing had concluded before her arrival. (Ex. 46.)
34. At its March 14, 2016, public meeting, the Commission voted to grant the request to reopen the record submitted by Bertha Holliday.
35. On March 15, 2017, Ms. Holliday submitted her written testimony wherein she raises three primary concerns regarding the project as follows: (a) parking fees that may be charged to patrons of the Harris Teeter grocery store; (b) the loading dock management strategy for the Parcel 4 Building; and (c) the proposed configuration and location of the senior affordable housing within the Parcel 4 Building (Ex. 46A, 46B.)
36. On March 17, 2016, the Applicant was informed by Office of Zoning staff that Ms. Holliday’s testimony had been entered into the record and that the Applicant had seven days to provide its response.

37. On March 24, 2016, the Applicant submitted its post-hearing submission (the "Post-Hearing Submission"), as well as its response to the written testimony submitted by Ms. Holliday. (Ex. 51, 53.)
38. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. NCPC, by delegated action dated March 31, 2016, found that the Modified PUD would not be inconsistent with the Federal Elements of Comprehensive Plan for the National Capital. (Ex. 54.)
39. The Commission took final action to approve the Application at its public meeting held on April 11, 2016.

### **Summary of Modifications**

40. The Applicant is requesting approval of the Modified PUD to accommodate programmatic requirements that are specific to the grocery store tenant that has been identified since the Commission's initial approval, and which could not have been anticipated during the initial review of the Approved PUD.
41. Since the initial approval, the Applicant has executed a Letter of Intent with Harris Teeter to be the operator of the grocery store located within the Parcel 4 Building. Now that a grocery store operator has been identified, the plans approved for the Parcel 4 Building pursuant to Z.C. Order No. 13-14 need to be modified to accommodate aspects of Harris Teeter's specific operation.
42. The requested modifications include: (a) the introduction of a modest-sized interior mezzanine and outdoor terrace to support an accessory café space; (b) modifications to the location and configuration of the parking garage entrance and loading facilities; (c) revisions to the previously approved loading management plan to adjust loading hours and other restrictions; (d) modification to the approved roof plan to accommodate the grocery store mechanical penthouses; and (e) other minor architectural and plan refinements.
43. The Applicant is also requesting to modify Z.C. Order No. 13-14 to correct a technical error regarding the approved height of the Parcel 4 Building as it is labeled in the previously approved plans and stated in Conditions A.3 and B.2 of the Order. The need for this correction is solely a result of a labeling error made on the plans that were approved during the initial review of the Approved PUD. The height of the Parcel 4 Building as it was initially reviewed by the Commission has not changed.

### **Interior Mezzanine and Outdoor Terrace**

44. The proposed interior mezzanine will be located in the northeast corner of the grocery store and will accommodate a small accessory café use. The mezzanine will consist of

approximately 3,300 gross square feet. The new outdoor terrace will be located adjacent to the mezzanine and consists of approximately 1,000 square feet. The mezzanine and outdoor terrace will be available to café/grocery store patrons.

45. To accommodate the outdoor terrace, one of the previously approved residential terraces located on the north side of the Parcel 4 Building has been eliminated. In addition, modifications to the design of the east and north façades of the Parcel 4 Building plinth have been made to allow light and air into the new café terrace, and provide views from the terrace out toward North Service Court, the Olmstead Walk and Cell 14, and along North Capitol Street. The modifications to the plinth wall include additional glazing at the street-level to provide light and views into the ground-floor café space, and two new openings into the north and east façades at the mezzanine level.

### **Parking Garage Entrance and Loading Facilities**

46. To accommodate the loading and unloading operations that are specific to Harris Teeter, and to avoid potential conflicts between the loading facilities and motorists accessing the parking garage, the Applicant is requesting to modify the size and configuration of the parking garage entrance and loading facilities located along Evarts Street.
47. Under the Approved PUD, the entrance to the parking garage is located west of the loading facilities, adjacent to the senior affordable residential lobby and is 24 feet wide. To the east of the parking garage entrance are the loading facilities for the residential and grocery store uses. According to Z.C. Order No. 13-14, the Parcel 4 Building will provide two large loading berths, for use by the grocery store, and one smaller loading berth to be shared between the residential and grocery store uses, and one service delivery space.
48. As shown in the modified plans submitted by the Applicant, the parking garage entrance is relocated to the east of the loading facilities. (Ex. 27A1-27A2) In addition, the size and configuration of the loading berths have been modified. Rather than providing two larger loading berths for the grocery store and one smaller loading berth shared between the residential and grocery store uses, the Applicant proposes to provide four loading berths, each with a depth of 40 feet. Three of the loading berths would be devoted to the grocery store, with the fourth berth shared between the residential and grocery store uses. There will also continue to be a shared 20-foot service delivery space.

### **Loading Management Plan**

49. Pursuant to Z.C. Order No. 13-14, Condition D.1(b), the Applicant is required to implement a loading and curbside management plan (*See* Z.C. Case No. 13-14, Ex. 832F3.)
50. The loading and curbside management plan includes, among other things, a restriction on large truck deliveries, defined in Z.C. Order No 13-14 as those that require backing maneuvers into the loading dock from Evarts Street, on weekday mornings between 7:00 a.m.-8:30 a.m. to avoid conflicts with high-volume commuter traffic.

51. At the time the loading and curbside management plan was developed during the initial PUD, a grocery store tenant had not been identified. Therefore, the loading and curbside management plan was based upon several conservative assumptions drawn from the Applicant's transportation consultant's experience working on similar grocery store projects.
52. Now that a grocery store tenant has been identified, Harris Teeter, the Applicant is requesting to revise the loading and curbside management to remove the loading restriction on weekday mornings between 7:00 a.m.-8:30 a.m., and allow loading to occur on weekdays between 6:00 a.m.-10:00 p.m.

### **Penthouses**

53. The Applicant is requesting to modify the approved roof plan for the Parcel 4 Building to add three new mechanical penthouses to serve the grocery store. The main grocery mechanical penthouse will be located on the north-south portion of the building along Quarter Street, with two other smaller mechanical penthouses located toward the east ends of the northern and central bars of the building. (Ex. 27A2, Sheet 23.) As shown on the modified roof plan, the main grocery mechanical penthouse will have a height of 14 feet, and the two other proposed penthouses will both have a height of 11 feet. All three of the new grocery store mechanical penthouses will meet or exceed the 1:1 setback requirements. The Applicant has requested flexibility to allow penthouse mechanical space with unequal heights.
54. In addition to the three new grocery store mechanical penthouses, modifications have been made to the height and footprints of the previously approved market-rate and senior-affordable residential penthouses. Regarding height, both residential penthouses have been reduced from 16 feet to 14 feet. In addition, minor changes have been made to the footprints of both residential penthouses. Notwithstanding these changes, the residential penthouses, continue to meet or exceed the 1:1 setback requirements, with the exception of a portion of the east façade of the market-rate penthouse for which the Commission has previously granted flexibility to provide a noncompliant setback of 5 feet, six inches. As shown on the modified roof plan, the previously approved noncompliant setback is not proposed to be reduced or extended in any way as a result of the Modified PUD.
55. The grocery and residential penthouses proposed on the Parcel 4 Building will be clad in a charcoal metal panel material.

### **Building Height Technical Correction**

56. As the design of the Parcel 4 Building progressed, the Applicant identified a technical error regarding the approved building height as it is shown in the Approved PUD plans and stated in Z.C. Order No. 13-14, Conditions A.3 and B.2, which state that the Parcel 4 Building has an approved height of 77 feet, as measured from North Capitol Street.

57. The need for the requested technical correction is a result of a graphic mislabeling on the Approved PUD plans.
58. As shown in the plans submitted for the Modified PUD, the Approved PUD plans incorrectly labeled the building height on the zoning diagram and on the sections and elevations. On the zoning diagram, the building height was shown as being 77 feet from the measuring point located at the midpoint of the building along North Capitol Street. On the sections and elevations, the Approved PUD plans showed the Parcel 4 Building height as being 75 feet, eight inches, which reflects the height of the building measured from the finished floor of the grocery store rather than from the elevation of the measuring point along North Capitol Street. The height of the Parcel 4 Building when correctly measured from the elevation of the measuring point along North Capitol Street is 78 feet, eight inches.

### **Architectural Design and Plan Refinements**

59. The following architectural design and plan refinements have been made to the Parcel 4 Building as a result of the Applicant's requested modifications, and the normal course of design development.

#### **Grocery Store Entrance and Signage**

60. As a result of discussions with Harris Teeter, the main grocery store entrance, entry sign, and canopy have been shifted east to a more central location along the Parcel 4 Building's north façade. In addition, to accommodate the new outdoor terrace, the main grocery store signage previously shown on the northeast corner of the building has been relocated to the northwest corner near the intersection of North Service Court and Quarter Street. The Commission finds the relocation of the main grocery store signage to be consistent with the previously granted flexibility to vary the final design of retail frontages and signage. (See Order No. 13-14, Conditions B.6(l) and B.6(m).)

#### **Plinth Wall and Base Treatment**

61. To accommodate the outdoor terrace, the Applicant has made design refinements to the massing, geometry, and articulation of the plinth wall along North Service Court. In addition, the Applicant has slightly modified the base of the metal fin cladding system along Quarter Street. While previously the fins were shown touching the ground, they are now proposed to terminate at a dark granite base. The Commission finds these design refinements to be aesthetically appropriate, more durable, and consistent with the exterior design flexibility granted by the Commission under Z.C. Order No. 13-14.

#### **Residential Lobbies and Entrance Treatment**

62. As the design of the Parcel 4 Building has been further developed since the Commission's initial approval, and as a result of modifications to the parking and loading configuration and treatment of the plinth wall, the Applicant has made adjustments to the

residential lobbies along Quarter Street.

63. Due to the relocation of the parking entrance and reconfiguration of the loading facilities, both residential lobbies have grown in size. The market-rate residential lobby has been expanded from the previously approved 4,130 square feet to approximately 5,265 square feet; while the senior residential lobby increased from 3,281 square feet to 4,746 square feet. In addition, the amount of senior residential lobby street frontage increased along Evarts Street. This increase in active street frontage combined with the six-foot recess of the parking entry and loading doors helps deemphasize the utilitarian function of the Evarts Street elevation.
64. Refinements to the market-rate residential entrance are also proposed in order to increase its presence. The size of the entry canopy has been increased, and the width of the dark stone element surrounding the entrance has been increased, providing a solid surface for signage. The Commission finds these changes to be acceptable, and consistent with the exterior design flexibility granted by the Commission under Z.C. Order No. 13-14.

#### Parking Garage Configuration

65. The Applicant had to make several adjustments to the configuration of the below-grade parking garage in response to the modifications to the location of the parking garage entrance and grocery store entrance. These adjustments include shifting the garage access ramps to the east side of the garage to connect to the revised parking garage entrance, relocation of the retail and residential bike storage locations to remain in proximity to the access ramps, and adjustments to the residential and retail parking spaces. The adjustments to the parking spaces resulted in slight increases in the number of parking spaces for both the residential and retail uses. (Ex 27A1, Sheet 2.)

#### Compliance with PUD Standards

66. The Application complies with the standards for a PUD modification set forth in Chapter 24 of the Zoning Regulations.
67. The overall development of the Approved PUD, including Parcel 4, provides important public benefits and project amenities which are set forth in detail in Z.C. Order No. 13-14. These public benefits and project amenities have not changed with this Application. Accordingly, the Commission's finding in the original PUD approval that the relative value of the project amenities and public benefits offered is sufficient given the degree of development incentives requested and any potential adverse effects of the Approved PUD, including the Parcel 4 Building, does not change.
68. The modifications to the Parcel 4 Building have been evaluated under the PUD guidelines for the CR Zone District. The density proposed on Parcel 4 remains well below what is permitted under a PUD in the CR Zone District, and is consistent with what was approved in Z.C. Order No. 13-14. Notwithstanding the requested technical correction to Z.C. Order No. 13-14 to remedy the erroneously stated approved height of



the Parcel 4 Building, the actual height of the Parcel 4 Building has not changed as a result of the proposed modifications. Furthermore, the maximum height is within that permitted as a matter of right and for a PUD in the CR Zone District.

69. The Application has been evaluated by the relevant District agencies and has been found to have no unacceptable adverse impacts. The Commission finds that the modifications to the Parcel 4 Building will have a positive impact on the city and will have no unacceptable adverse impacts. The Approved PUD includes conditions which adequately mitigate any potential adverse effects of the project.

### **Compliance with the Comprehensive Plan**

70. The Commission finds that the proposed modifications to the Parcel 4 Building, continue to: (a) be consistent with the District of Columbia Comprehensive Plan Future Land Use Map and the Generalized Policy Map; (b) help implement many of the guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, connecting the city, and building green and healthy communities; and (c) further the objectives and policies of the Comprehensive Plan's major elements, as set forth in the OP Report (Ex. 29) and as previously found by the Commission in Findings of Fact Nos. 159-173 of Z.C. Order No. 13-14. (Ex. 2C.)

### **Office of Planning**

71. By report dated February 25, 2016, and through testimony presented at the public hearing, OP recommended approval of the Application, contingent upon the condition that all entrances to the supermarket should be open to the public whenever the supermarket is open. (Ex. 29). The Applicant has agreed to this condition.
72. In its report and testimony at the public hearing, OP concluded that the proposed modification is not inconsistent with the Comprehensive Plan, and is consistent with the Master Plan. OP recommended approval of the Application.

### **District Department of Transportation**

73. By report dated February 29, 2016, DDOT summarized its assessment of the Modified PUD, including the Applicant's proposed Loading Management Plan, on the District's transportation network and stated that it objected to the Applicant's request to remove the prohibition on deliveries between 7:00 a.m.-8:30 a.m. due to the expected vehicle queuing that would negatively impact traffic operations on North Capitol Street. DDOT stated that it did not object to any of the other proposed Loading Management Plan changes proposed by the Applicant. (Ex. 30.)
74. As testified to by the Applicant and DDOT at the public hearing, in response to the DDOT report, the Applicant and DDOT worked closely to identify additional loading measures and/or restrictions that could be incorporated into the Applicant's Loading Management Plan that would address the concerns expressed by DDOT in its report.

75. Prior to the public hearing, the Applicant submitted a Revised Loading Management Plan, dated March 10, 2016, which was prepared in close consultation with DDOT. The Amended Loading Management included additional loading restrictions that would be implemented on weekdays between 7:00 a.m.-8:30 a.m. (Ex. 40.) These additional restrictions were agreeable to DDOT.
76. At the public hearing, DDOT acknowledged the Applicant's Amended Loading Management Plan, and stated that the additional loading restrictions contained in the Amended Loading Management Plan, and the Applicant's additional commitment to prohibit residential loading (move-ins, move-outs, and trash) from occurring both in the loading dock area and curbside along Evarts Street, on weekdays during the time period between 7:00 a.m.-8:30 a.m., successfully addressed the concerns expressed in the DDOT Report. As such, DDOT testified in support of the Application.

### **ANC 2C Report**

77. By letter dated October 20, 2015, ANC 5E indicated it voted to support the Application by a vote of 6-0-2. (Ex. 31.)
78. The Commission afforded the views of ANC 5E the "great weight" to which they are entitled.

### **Contested Issues**

79. The testimony provided at the public hearing by the persons appearing in opposition raised issues related to the process by which the developer of the Overall PUD Site was selected and was approved; impacts of the Approved PUD and Modified PUD to the historic character and features of the Overall PUD Site and on views of the surrounding neighborhood and from Lincoln's Cottage; consistency with the historic preservation covenant on the Overall PUD Site; impacts of the Approved PUD and Modified PUD on traffic and loading; and the status of the appeals related to the Commission's initial approval of the PUD that are currently before the District of Columbia Court of Appeals.
80. The Commission finds that the testimony relating to the process by which the developer of the Overall PUD Site was selected is outside of the Commission jurisdiction, and not relevant to the scope of review that the Commission must carry out as part of the requested PUD modification. The Commission finds that the process carried out for the Approved PUD, and for the requested PUD modification, is consistent with the requirements of Chapters 24 and 30 of the Zoning Regulations
81. The Commission finds that the testimony relating to the appeals that are currently before the District of Columbia Court of Appeals are not germane to consideration of the subject Application. The Court has not yet taken any action on these appeals, and has not stayed the effect of the previous approval. Therefore, Z.C. Order No. 13-14 remains in full force and effect.

82. With respect to the issues raised regarding general impacts on traffic, historic resources, and views, the Commission finds that these issues were thoroughly addressed during the Approved PUD process, and that the proposed Modified PUD does not change any of the Commission's prior findings relating to these issues.
83. With respect to the testimony relating to the potential impacts of the proposed modifications to the Parcel 4 Building loading facilities, and to the approved loading and curbside management plan, the Commission finds the modified design of the loading facilities and parking garage entrance along Evarts Street to be an acceptable solution that results in aesthetic and safety improvements to the streetscape, operational improvements to the loading facilities, and improvements to the design of the residential lobbies. Further, based on the transportation analysis submitted by the Applicant, and the testimony provided at the public hearing by DDOT and the Applicant's transportation expert, the Commission finds that the Applicant's Revised Loading Management Plan will effectively mitigate potential impacts to vehicular circulation along Evarts Street and North Capitol Street. (Ex. 40.)
84. Regarding the written testimony submitted by Bertha Holliday following the March 10, 2016, public hearing, the Commission finds that it is best left to Harris Teeter, based on its experience, to devise a parking fee and enforcement strategy that is the most effective at providing convenient parking for grocery store patrons while discouraging non-patron usage of the grocery store parking spaces. Further, with respect to the concerns raised by Ms. Holliday regarding the configuration and location of affordable senior housing within the Parcel 4 Building, the Commission finds that this question was previously addressed during the Approved PUD process, and is related to federal Fair Housing Act requirements that are required in order to set aside dwelling units for the exclusive use by seniors. The proposed Modified PUD does not change any of Commission's prior findings relating to this issue.

### CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider and approve this Application for a modification to the approved Consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, yards, or courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.

3. The development of Parcel 4, as modified, carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The Consolidated PUD as modified by the Application continues to meet the minimum area requirements of § 2401.1 of the Zoning Regulations. The Modified PUD, as approved by the Commission, complies with the applicable height, bulk, and density standards of the Zoning Regulations. The Parcel 4 Building, as modified, will deliver a full service grocery store to a neighborhood that is underserved with regard to this type of neighborhood-serving retail. In addition, the Parcel 4 Building will contain both market-rate and affordable senior dwelling units, which will help address the continued growing demand for housing in the District, and in particular, the demand for affordable housing. The Commission finds that the impacts of the project are not unacceptable.
5. The Application can be approved with conditions to ensure that the potential adverse effects on the surrounding area from the development will be mitigated.
6. Approval of the Application is not inconsistent with the Comprehensive Plan, and is consistent with the Approved PUD, as set forth in Z.C. Order No. 13-14.
7. The flexibility requested by the Applicant to allow mechanical penthouses of unequal heights is a reasonable tradeoff compared to the public benefits and project amenities that will be provided as part of the Approved PUD, including those that are specific to Parcel 4.
8. The number and quality of the project benefits and amenities offered, as evaluated and approved by the Commission as part of the Approved PUD, as set forth Z.C Order No. 13-14, are a more than sufficient trade-off for the flexibility and development incentives requested.
9. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the affected ANC's recommendations. The Commission has carefully considered ANC 5E's support for the project and has given that support great weight.
10. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP recommendations. The Commission has carefully considered

OP's support for the project and has given that support great weight. The Commission agrees with OP's requested condition that the proposed grocery store should be open to the public whenever the grocery store is open.

11. The approval of the Application will promote the orderly development of Parcel 4 and the Overall PUD Site in conformity with the entirety of the District of Columbia Zone Plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.
12. Notice was provided in accordance with the Zoning Regulations and applicable case law.
13. The Application is subject to compliance with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended.

### DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission **ORDERS APPROVAL** of the Application for modifications to a Consolidated PUD for Parcel 4 of the McMillan Reservoir Sand Filtration Site. The Commission hereby approves the following modifications to Z.C. Order No. 13-14, all other provisions of the order, including the public benefits and amenities listed in Conditions C-1 to C-12, remain in effect:

1. **Condition B.2 "Consolidated PUD Parameters" for "Parcel 4" is deleted in its entirety and replaced with the following:**
2. Parcel 4:
  - a. The Parcel 4 Building shall be developed substantially in accordance with the plans dated October 12, 2015 (Ex. 2D1 & 2D2), as updated by the plans dated February 18, 2016, submitted with the Applicant's supplemental pre-hearing statement (Ex. 27A1, 27A2) (collectively, the "Parcel 4 Building Modification Plans"), all as modified by the guidelines, conditions, and standards herein;
  - b. The Parcel 4 Building shall have an approximate total gross floor area of 310,283 square feet, or an approximate density of 3.23 FAR based on the land area of Parcel 4 (4.31 FAR not including private streets or easements), with approximately 251,578 square feet of gross floor area devoted to residential use, including the residential loading area, and approximately 58,705 square feet of gross floor area devoted to retail use (grocery store), including the grocery store loading area;
  - c. The maximum height of the Parcel 4 Building shall be 78 feet, eight inches, measured from the level of the curb opposite the middle of the front of the building along North Capitol Street, as shown on the Parcel 4 Building Modification Plans;

- d. The Parcel 4 Building shall contain approximately 329 off-street parking spaces, with approximately 154 spaces devoted to the grocery store, approximately 175 space devoted to the residential uses, and a minimum of 101 secure bicycle parking or storage spaces provided in the below-grade garage; and
- e. Loading shall be provided as shown on the “proposed design” on Sheet 19 of the Parcel 4 Building Modification Plans, and shall contain a total of four, 30-foot loading berths and one, 20-foot service delivery space. Three of the 30-foot loading berths shall be devoted to the grocery store, with the fourth loading berth being shared between the market-rate and affordable senior residential and grocery store components of the Parcel 4 Building.

**2. Condition 6 of Z.C. Order No. 13-14, which lists the areas of flexibility of design permitted for the PUD, is modified by adding the following paragraph (q) to the end of the listed paragraphs (a) through (p):**

- q. The Applicant shall have flexibility with the design of the Parcel 4 Building from the uniform height requirement for penthouse mechanical space, consistent with the proposed roof plan included in Ex. 27A2 of Z.C. Case No. 13-14B.

**3. Condition D.1 “Transportation Mitigation Measures” paragraph (b) is deleted in its entirety and replaced with the following:**

- b. **For the life of the Project**, the Applicant shall implement the following loading and curbside management plan:
  - i. The Applicant shall implement the Amended Loading Management Plan, as set forth in Exhibit 40 of the record for Z.C. Case No. 13-14B, notwithstanding the statement in Exhibit 40 that coordination with the property manager for the senior and multi-family residential buildings for scheduling use of the shared dock for resident move-in and move-out was removed from the Amended Loading Plan;
  - ii. The Amended Loading Management Plan shall include “Coordination with the Property Manager for the senior and multi-family residential buildings for scheduling use of the shared dock for resident move-in and move-out”;
  - iii. The Applicant shall prohibit residential loading (move-ins, move-outs, and trash) from occurring both in the loading dock area and curbside along Evarts Street, on weekdays during the time period between 7:00 a.m.-8:30 a.m.; and

- iv. The Applicant shall require all entrances to the supermarket to be open to the public whenever the supermarket is open.

**The Zoning Commission's approval of this Application is subject to the following conditions:**

1. No building permit shall be issued for the Modified PUD until the Applicant has recorded a Notice of Modification in the land records of the District of Columbia.
2. The Applicant is required to comply fully with the provisions the D.C. Human Rights Act of 1977, D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”). This Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. (Act), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination 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.

On March 10, 2016, upon the motion of Vice Chairperson Cohen, as seconded by Commissioner Miller, the Zoning Commission **APPROVED** the Application at the conclusion of the public hearing by a vote of **4-0-1** (Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; Anthony J. Hood, not present, not voting).

On April 11, 2016, upon the motion of Vice Chairperson Cohen, as seconded by Commissioner Miller, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **4-0-1** (Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt; Anthony J. Hood, not having participated, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on June 17, 2016.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 15-20**

**Z.C. Case No. 15-20**

**Sursum Corda Cooperative Association, Inc.  
(First-Stage PUD and Related Map Amendment  
@ Square 620, Lots 248, 249, 250, 893, 894, and 895)  
May 9, 2016**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on February 11, 2016, to consider an application for a first-stage planned unit development (“PUD”) and related Zoning Map amendment filed by Sursum Corda Cooperative Association, Inc. (“Applicant”). The Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). 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**

**A. The Applications, Parties, Hearings, and Post-Hearing Filings**

1. On August 17, 2015, the Applicant filed an application with the Commission for review of a first-stage PUD and a related Zoning Map amendment from the R-4 Zone District to the C-3-C Zone District for the approximately 6.7 acres bounded by M, First, and L Streets and First Place, N.W., and which is more particularly described as Square 620, Lots 248, 249, 250, 893, 894, and 895 (collectively, the “Property”).
2. The Applicant owns Lots 248-250, which consists of a total of 5.62 acres. Lot 893 is owned by 76 M, Inc. and consists of 4,950 square feet. Lots 894 and 895 are owned by the District of Columbia (“District”) and consists of a total of 3,763 square feet. 76 M, Inc. and the District have joined in the application.
3. The Applicant proposes to redevelop the Property with five buildings on five theoretical lots, to be constructed in two phases.
4. Overall, the Property will be redeveloped with approximately 1,269,165 square feet of residential use, generating approximately 1,131 dwelling units, and approximately 49,420 square feet of non-residential uses. The building heights will range from 62.5 feet to 110 feet. The overall density of the PUD will be 4.62 floor area ratio (“FAR”) including the area for Pierce Street, which is a private street, or 5.24 FAR excluding said street. A density of 8.0 FAR is permitted for a PUD in the C-3-C Zone District.
5. The Applicant requests flexibility from the following requirements of the Zoning Regulations: (a) from § 2201 to have a total of five 30-foot loading berths where



three 55-foot loading berths and two 30-foot loading berths are required; (b) for Building 1B, from § 775.5 to have a side yard of 12 feet, one inch where a side yard of 13 feet is required; (c) from § 2516 to have five buildings on a single record lot; (d) from § 2101 and 2201 to construct Building 1C without parking or loading facilities; and (e) a waiver from compliance with the Inclusionary Zoning Regulations of Chapter 26..

6. By report dated October 30, 2015, the District of Columbia Office of Planning (“OP”) recommended that the application be set down for a public hearing. (Exhibit [“Ex.”] 12.) At its public meeting held on November 9, 2015, the Commission voted to schedule a public hearing on the application.
7. The Applicant submitted its prehearing statement for the application on November 24, 2015, and a hearing was timely scheduled for the matter for February 11, 2016. (Ex. 18-18M.) A description of the proposed development and the notice of the public hearing in this matter were published in the *D.C. Register* on December 25, 2015. (Ex. 20.) The notice of public hearing was mailed to all owners of property located within 200 feet of the Property and to Advisory Neighborhood Commission (“ANC”) 6E on December 18, 2015. (Ex. 21.)
8. At its regularly scheduled public meeting on December 1, 2015, for which notice was properly given and a quorum was present, ANC 6E voted unanimously 7-0-0 to support the application, finding that the building heights, density, massing, and site layout are appropriate for the Property. (Ex. 28C.) At its regularly scheduled public meeting on January 5, 2016, for which notice was properly given and a quorum was present, ANC 6E voted 4-2-1 to support the PUD benefits and amenities package. (Ex. 31.)
9. On January 21, 2015, the Applicant submitted a supplemental prehearing statement. (Ex. 28-28C.) The supplemental statement included updated architectural drawings; information on the current Sursum Corda households and the PUD units reserved for the households; the proposed phasing of development; transportation demand measures; the updated PUD benefits and amenities; and information on the proposed improvement and maintenance of a park on Lot 896 in Square 620 near First and L Streets.
10. On February 1, 2016, OP submitted a report to the Commission recommending approval of the application and the requested areas of zoning flexibility. (Ex. 29.)
11. On February 1, 2016, the District Department of Transportation (“DDOT”) submitted a report finding no objection to the requested PUD subject to the mitigations listed on pages three and four of the report. (Ex. 31.)
12. On February 11, 2016, the District Department of Energy and Environment (“DOEE”) submitted a report expressing support for the PUD. (Ex. 39.)

13. The parties to the case were the Applicant and ANC 6E.
14. The Commission held a public hearing on the application on February 11, 2016. At the hearing, Mr. Lonnie Duren, President of the Board of Directors for Susrum Corda Cooperative Association, Inc.; Christopher W. Horning, of Klein Horning LLP; Mike Patton, AIA, of Boggs & Partners Architects; Trini M. Rodriguez, of Parker Rodriguez, Inc.; and Daniel VanPelt, P.E., PTOE, of Gorove/Slade Associates testified in support of the Application. Ms. Rodriguez and Mr. VanPelt testified as expert witnesses. Norman M. Glasgow, Jr., Esq. and Leila Batties, Esq. served as counsel to the Applicant.
15. At the public hearing, the Applicant submitted revised sheets for the architectural plans. (Ex. 35A1–35A7.) The revised sheets depict the bifurcation of Theoretical Lot 3, the phasing of the perimeter improvements, and provide the calculation of the PUD open space.
16. OP and DDOT testified in support of the application at the public hearing.
17. The record includes letters of support from the DC Housing Authority (Ex. 4F), Mount Airy Baptist Church (Ex. 4G), Southern Baptist Church (Ex. 4H), NoMA Bid (Ex. 4I), Ward 6 Councilmember Charles Allen (Ex. 37), and Mary Ann Henderson, U.S. Department of Housing and Urban Development (“HUD”) (Ex. 38).
18. At the public hearing on the application, Stephanie Tyler, Bernice Ivery, and Barbara Wood, all of whom reside at 76 M Street, N.W., testified in opposition to the application, as did the representative for the tenants at 76 M Street, Amber Gruner, with Housing Counseling Services. Sara Pratt and Randall Kessler, representing the Holy Redeemer Catholic Church, also testified in opposition to the application.
19. The record was closed at the conclusion of the public hearing, except to receive additional submissions from the Applicant, as requested by the Commission, and responses thereto from ANC 6E.
20. On March 3, 2016, the Applicant submitted its post-hearing submission in response to the Commission’s comments at the public hearing. (Ex. 48-48E.)
21. The Commission took proposed action to approve the application on March 28, 2016.
22. The proposed action was referred to the National Capital Planning Commission (“NCPC”) on March 31, 2016, pursuant to § 492 of the Home Rule Act. (Ex. 53.)
23. NCPC did not submit a report or comment to the Commission. Thus, after 30 days from the date the Commission sent its referral to NCPC, the Commission

was authorized to proceed without further comment from NCPC by § 492 of the District of Columbia Home Rule Act.

24. On April 4, 2016, the Applicant submitted its list of proffers and draft conditions pursuant to 11 DCMR § 2403.16. (Ex. 54.)
25. On April 26, 2016, the Applicant submitted a consolidated final set of plans, (Ex. 56A1-56A5), and its final list of proffers and draft conditions pursuant to 11 DCMR § 2403.20. (Ex. 58)
26. The Commission took final action to approve the PUD on May 9, 2016.

**B. The PUD Site and Surrounding Area**

27. The Property consists of approximately 6.7 acres bounded by M, First, and L Streets and First Place, N.W., and which is more particularly described as Square 620, Lots 248, 249, 250, 893, 894, and 895.
28. The majority of the Property (Lots 248-250) is improved with the Sursum Corda residential community. The parcel at 76 M Street (Lot 893) is improved with a four-story apartment house. The apartment house is flanked on both sides by vacant parcels (Lots 894 and 895).
29. The Property is within the boundaries of the Mid-City East Small Area Plan (“SAP”).

**C. Mid-City East Small Area Plan (“SAP”)**

30. The SAP was adopted by the Council of the District of Columbia on November 18, 2014. Among the redevelopment opportunities and housing goals in the SAP is support of the redevelopment of Sursum Corda by changing the future land use designation of the Property from Moderate-Density Residential and Low-Density Commercial to High-Density Residential and Medium-Density Commercial.
31. The SAP also states that the redevelopment of Sursum Corda should be achieved through a PUD and should meet the following criteria and encourage the development of a mixed-income neighborhood through:
  - The provision of 199 affordable units within the project at varying levels and types of subsidies not to exceed 60% of the area median income (“AMI”);
  - The addition of market rate units that will represent at least 66% of the total units developed on site;
  - Reflect the height and scale of existing neighborhood developments, including the recently constructed SeVerna. Development on the Sursum

Corda site should step down towards First Street and towards the Mount Airy Baptist Church, and step up towards North Capitol Street;

- Extend the street grid, including L Street from First Street to North Capitol Street and Pierce Streets between First Street and First Place; and
- Include sustainable development components such as green/park space and other community amenities.

**D. The Applicant**

32. Sursum Corda Cooperative Association, Inc. (“Sursum Corda”) is a private, resident-owned, housing cooperative, managed by a board of directors elected by the residents. The Sursum Corda residential community consists of 199 units constructed in 1968 as an experiment in cooperatively managed low-income housing. Of the 199 units, 136 are currently occupied. Sursum Corda’s development partner for this application is Winn Development Company Limited Partnership, an affiliate of the Winn Companies (“Winn”). Founded in 1971, today, Winn is one of the largest multi-family property owners in the country, having acquired and developed in excess of \$2,500,000,000 of real estate holdings.

**E. Existing and Proposed Zoning**

33. The Property is presently in the R-4 Zone District. The R-4 Zone District includes the following development requirements:

- A maximum matter-of-right height of 40 feet and a maximum of three stories; (§ 400.1.)
- For the conversion of a building or structure to an apartment house, a lot occupancy that is the greater of 60% or the lot occupancy as of the date of the conversion; (§ 403.2.)
- A minimum rear yard depth of 20 feet; (§ 404.1.)
- A side yard is not required (except as provided in §§ 405.1 and 405.2), but if provided it shall be at least three inches wide per foot of height building, but not less than eight feet wide; (§ 405.6.)
- Where an open court is provided for other than a one family dwelling, the width of the court shall be a minimum of four inches per foot of height of court, but not less than 10 feet; (§ 406.1.)
- Where a closed court is provided for other than a one family dwelling, it shall have a minimum width of four inches per foot of height of court but not less than 15 feet wide; and (§ 406.1.)

- A closed court shall have an area at least twice the square of the width of court dimension based upon the height of court, but not less than 350 square feet. (§ 844.4.)
34. The Applicant requests a map amendment to rezone the Property to the C-3-C Zone District. The C-3-C Zone District includes the following development requirements:
- A maximum matter-of-right height of 90 feet with no limit on the number of stories. (§ 770.1) A PUD in the C-3-C Zone District is permitted a maximum building height of 130 feet; (§ 2405.1.)
  - A maximum matter-of-right FAR of 6.5 which may be devoted entirely to a residential or non-residential use or a mix of uses. (§ 771.2.) A PUD in the C-3-C Zone District is permitted a maximum density of 8.0 FAR; (§ 2405.1.)
  - A maximum lot occupancy of 100%; (§ 772.1.)
  - A minimum rear yard depth of two and one-half inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12 feet; (§ 774.1.)
  - If provided, a side yard at least two inches wide per foot of building height, but not less than six feet; (§ 775.5.)
  - Where a court is provided for a building or a portion of a building devoted to non-residential uses, at any elevation in the court, the width of the court shall be a minimum of three inches per foot of height, measured from the lowest level of the court to that elevation; provided that in no case shall the width of the court be less than 12 feet; (§ 776.1.)
  - In the case of a closed court for a building or portion of a building devoted to non-residential uses, the minimum area shall be at least twice the square of the width of court based upon the height of court, but not less than 250 square feet; (§ 776.2.)
  - Where a court is provided for a building or portion of building devoted to residential uses, at any elevation in the court, the width of court must be a minimum of four inches per foot of height, measured from the lowest level of the court to that elevation, but not less than 15 feet; (§ 776.3.)
  - In the case of a closed court for a building or portion of a building devoted to residential uses, the minimum area must be at least twice the square of

the width of court based upon the height of court, but not less than 350 square feet; (§ 776.4.)

- For an apartment house or multiple dwelling, parking is required at a ratio of one space for each four dwelling units; (§ 2101.1.)
- For a retail or service establishment (except gasoline service station and repair garage), parking is required at a ratio of one space for each 750 square feet of gross floor area, in excess of 3,000 square feet; (§ 2101.1.)
- For loading, an apartment house or multiple dwelling with 50 or more units is required to have one berth at 55 feet deep, one loading platform at 200 square feet, and one service delivery space at 20 feet deep; and (§ 2201.1.)
- For loading, a retail or service establishment (other than a grocery store or drug store) with 5,000 to 20,000 square feet of gross floor area is required to have one berth at 30 feet deep and one loading platform at 100 square feet. (§ 2201.1)

**F. Description of the PUD Development**

35. The Applicant seeks approval of a first-stage PUD and related Zoning Map amendment in order to redevelop the Property with an affordable mixed-income residential community consisting of five buildings on five lots, to be constructed in two phases. Overall, the Property will be redeveloped with approximately 1,296,165 square feet of residential use, generating approximately 1,131 dwelling units, and approximately 49,420 square feet of non-residential uses.
36. In accordance with the SAP, the PUD will provide 199 dwelling units at varying income levels and types of subsidies with a blended affordability limits within the PUD not exceeding 60% of the AMI. The affordable units represent approximately 18% of the overall number of units for the PUD. The affordable units will have a blended affordability level not exceeding 60% AMI for the life of the project.
37. The first phase of the PUD will include 136 units on the South Parcel reserved for the Sursum Corda households currently residing at the Property.
38. The PUD will be serviced by five 30-foot loading berths, five 200-square foot loading platforms and five 20-foot delivery spaces. Flexibility is required to have five 30-foot loading berths where three 55-foot loading berths and two 30-foot loading berths are required.
39. The PUD will have a maximum 746 below-grade parking spaces, representing a parking ratio of 0.6 space per residential unit.

40. The number of long-term bicycle parking spaces for the PUD will be at a ratio of one space for each three residential units.
41. The PUD will have an overall density of 4.62 FAR. Excluding the area for Pierce Street, which will be a private street, the FAR for the PUD is 5.24. The building heights for the project will range from 62.5 feet to 110 feet.
42. As part of the development, and as recommended in the SAP, Pierce Street will be extended through the Property dividing the Property into a North Parcel and a South Parcel. The South Parcel will be developed as the first phase of the PUD, and will be improved with Lot/Building 1A, Lot/Building 1B, and Lot/Building 1C (Phase 1). The North Parcel will be improved with Lot/Building 2A/2B and Lot/Building 2C/2D (Phase 2). The development program for each building is as follows:
  - a. Lot/Building 1A. Theoretical Lot 1A has approximately 44,725 square feet of land area. It will be improved with Building 1A, which has approximately 184,775 square feet of residential floor area, generating approximately 176 dwelling units. Building 1A has eight stories and a building height of 72.45 feet as measured from First Street, N.W. The density for this lot will be 4.13;
  - b. Lot/Building 1B. Theoretical Lot 1B has approximately 39,607 square feet of land area. It will be improved with Building 1B, which has approximately 194,900 square feet of residential floor area, generating approximately 182 dwelling units. Building 1B has eight stories and a building height of 78 feet as measured from First Place, N.W. The density for this lot will be 4.92 FAR;
  - c. Lot/Building 1C. Theoretical Lot 1C has approximately 27,139 square feet of land area. It will be improved with Building 1C, which has approximately 92,910 square feet of residential floor area, generating approximately 63 dwelling units and approximately 8,315 square feet of non-residential uses. Building 1C has six stories and a height of 65.75 feet as measured from First Place, N.W. The density for this lot will be 3.73 FAR;
  - d. Lot/Building 2A/2B. Theoretical Lot 2A/2B has approximately 65,395 square feet of land area. It will be improved with Building 2A/2B, which has approximately 404,385 square feet of residential use, generating approximately 348 dwelling units, and approximately 20,840 square feet of non-residential uses. Building 2A/2B has six to 11 stories and a height of 110 feet as measured from M Street, N.W. The density for this lot will be 6.50 FAR; and

e. Lot/Building 2C/2D. Theoretical Lot 2C/2D has approximately 62,261 square feet of land area. It will be developed with Building 2C/2D, which has approximately 419,195 square feet of residential use, generating approximately 362 dwelling units, and approximately 20,265 square feet of non-residential uses. Building 2C/2D has six to 10 stories and a height of 106.93 feet as measured from M Street, N.W. The FAR for this lot will be 7.06.

43. In the event the Applicant is unable to acquire Lot 893, which is owned by 76 M, Inc., the PUD may be developed in accordance with the alternate plans on Sheet A-42 to A-53 of the architectural drawings at Exhibit 56A2 of the record.

**G. Sursum Corda Households**

44. The 136 households currently residing in the Sursum Corda Community, have the following income levels: 88 households at 30% of AMI or lower; 31 households between 31% and 50% AMI; two households between 51% and 60% AMI; two households on the Property between 61 and 80% AMI; and 13 households over 80% AMI.

45. The currently occupied dwellings on the Property have the following unit mix:

Existing Sursum Corda Units			Number of Persons in Unit								
			1	2	3	4	5	6	7	8	9
No. of Units	No. of Bedrooms	Approximate Unit Size (square feet)									
17	Studio		14	3	—	—	—	—	—	—	—
7	1 bdrm	434 s.f.	5	2	—	—	—	—	—	—	—
20	2 bdrm	878 s.f.	8	7	4	1	—	—	—	—	—
34	3 bdrm	1,093 s.f.	7	10	9	3	4	—	1	—	—
31	4 bdrm	1,287 s.f.	9	8	4	5	3	1	1	—	—
13	5 bdrm	1,445 s.f.	1	2	3	3	1	1	1	—	1
14	6 bdrm	1,639 s.f.	2	1	4	4	2	1	—	—	

46. The first phase of the PUD will include 136 units and reserved for the households residing at the Property (“Sursum Corda Households”) (“Reserved Units”). The Reserved Units will be dispersed throughout the South Parcel and will include the following unit mix:



Reserved Sursum Corda Units		
No. of Units	No. of Bedrooms	Approximate Unit Size
5	Studio	545 s.f.
31	1 bdrm	715 s.f.
53	2 bdrm	1,100 s.f.
27	3 bdrm	1,390 s.f.
10	4 bdrm	1,580 s.f.

The unit mix may be adjusted to reflect the actual number of Sursum Corda Households, changes in the composition of the Sursum Corda Households, the number of households that elect not to occupy a reserved unit, and/or HUD standards relating to the number of bedrooms required for each household.

In the event that a Sursum Corda Household: (a) elects not to return to the Property to occupy a Reserved Unit, or (b) fails to timely enter into an agreement for the occupancy of its Reserved Unit that is also an affordable unit, said unit may be converted to a market rate unit so long as the Applicant sets aside a corresponding amount of gross floor area for affordable units on the North Parcel.

#### **H. Project Phasing and Duration of First-Stage Approval**

47. As noted in Finding of Fact No. 44, the PUD will be developed in phases. Phase 1 consists of the South Parcel and Phase 2 consists of the North Parcel, application for the second-stage PUD for the South Parcel will be filed with the Commission no later than June 30, 2017. The application for the second-stage PUD for the North Parcel will be filed no later than June 30, 2023. Therefore, the term of this first-stage PUD approval will be until June 30, 2023, except that the PUD will expire if the Applicant fails to file a second-stage PUD application for the South Parcel by June 30, 2017.

#### **I. Development Incentives and Flexibility**

48. The Applicant requested flexibility from the following areas of the Zoning Regulations:
- a. Loading. The Applicant requested flexibility from § 2201 to have a total of five 30-foot loading berths where three 55-foot loading berths and two 30-foot loading berths are required. Given the mix of unit types and the amount of retail/commercial uses programmed for the development, the proposed loading facilities are adequate;
  - b. Side Yard Width Requirements. For Building 1B, the Applicant requested flexibility from § 775.5 to have a side yard of 12 feet, one inch where a side yard of 13 feet is required;

- c. Multiple Buildings on a Single Record Lot. The Applicant requested flexibility to have five buildings on a single record lot in accordance with § 2516;
  - d. Parking and Loading for Building 1C. The Applicant requested flexibility from §§ 2101 and 2201 to construct Building 1C without parking or loading facilities. The building will have direct access to the parking and loading facilities that will be constructed for the project overall. The amount of parking provided for the PUD, and the number and size of the loading facilities are sufficient to service the overall development; and
  - e. Relief from the Inclusionary Zoning Requirements. The Applicant requested relief from an obligation to comply with the Inclusionary Zoning requirements of Chapter 26 of the Zoning Regulations (“IZ”). The project will include units reserved for households earning less than 60% and 30% of the AMI and those will be reserved for the life of each building within which the units will be located. The Department of Housing and Community Development only administers Inclusionary Units for households earning 50% or 80% of AMI. In lieu of the IZ requirements, the PUD will include 199 affordable units for households with incomes not exceeding 80% of AMI, and with a maximum blended affordability limit for the affordable units within the PUD of 60% of AMI, for the life of the project. Further, the Applicant shall reserve 136 units in the first phase of the PUD from the current households residing at the Property, which alone will constitute approximately 210% of the residential gross floor area of the entire PUD. The rent level for the reserved units will be in accordance with the HUD payment standards, based on a household’s then current income, as certified by HUD. The gross floor area of the 136 reserved units will be approximately 10% of the PUD’s total residential gross floor area, which exceeds the minimum eight percent that would have been required had this PUD been subject to IZ.
49. The Applicant also requested flexibility in the following areas of the PUD’s design:
- a. To be able to provide a range in the number of residential units of plus or minus 10% from the 1,131 proposed for the development;
  - b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, amenity spaces, and mechanical rooms, provided that the variations do not materially change the exterior configuration of the building;

- c. To vary the number, location, and arrangement of parking spaces, provided that the total is not reduced below the number required under the Zoning Regulations;
- d. To vary the sustainable design features of the building, provided the project meets a minimum of LEED-Silver certification;
- e. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details, locations, and dimensions, including curtainwall mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings and trim; and any other changes to comply with all applicable District of Columbia laws and regulations that are otherwise necessary to obtain a final building permit;
- f. To vary the final selection of all exterior signage on the building; and
- g. To vary the location and design of the ground-floor components of the building in order to comply with any applicable District of Columbia laws and regulations, including the D.C. Department of Health, that are otherwise necessary for licensing and operation of any retail or service use.

The Commission finds that it is premature to grant all the design flexibility suggested by the Applicant given that this is a first-stage PUD application and the Applicant has not submitted plans showing the interior features, exterior materials, and the location and design of ground-floor components.

## **J. Project Benefits and Amenities**

### 50. Affordable Housing

The PUD will include the construction of 199 new affordable housing units. Affordable units will be reserved for and available to households with incomes not exceeding 80% AMI, provided that the blended affordability limits for the affordable units within the PUD shall not exceed 60% AMI. The PUD will maintain an overall blended affordability level of 60% AMI for the life of the project.

### 51. Landscape and Open Space Improvements

The Applicant will seek approvals from the National Park Service, its designee, or the agency with jurisdiction over Lots 896 in Square 620, for the construction and long-term maintenance of park space at the corner of First and L Streets, as depicted on the plans. If approved, the park space will be constructed during Phase 1 of the PUD. The estimated cost of the construction of the park areas at

the corner of First and L Streets and along the eastern boundary of the Property is \$620,000.

52. Effective and Safe Vehicular and Pedestrian Access

- a. The Applicant will create a new pedestrian promenade through the center of the Property from M Street to L Street as shown on the Plans. The southern half of the promenade will be constructed during Phase 1 of the PUD. The northern half of the promenade will be constructed during Phase 2 of the PUD. The estimated cost of the construction of the new pedestrian promenade through the center of the site, from M Street to L Street, is \$725,000;
- b. During Phase 1 of the PUD, the Applicant will construct the extension of Pierce Street, from First Street to First Place. The Applicant will be responsible for the maintenance of the road for the life of the project. The estimated cost of the construction of Pierce Street is \$475,000;
- c. During Phase 1 of the PUD, the Applicant will improve a 30-foot-wide strip of the Property frontage along First Street in order to effectively modify the existing sidewalk from a variable six to eight feet in width to a sidewalk that is a minimum of six feet with landscaping and street trees. The segment of the frontage from Pierce Street south shall be improved during Phase 1 of the PUD; the segment from Pierce Street north shall be improved during Phase 2 of the PUD. The Applicant shall maintain said improvements for the life of the project, or so long as they are owned/controlled by the Applicant. The estimated cost of said improvement is \$370,000;
- d. During Phase 1 of the PUD, the Applicant will construct the extension of First Place from M Street to L Street. The estimated cost of said improvement is \$575,000;
- e. During Phase 1 of the PUD, the Applicant will improve the north side of L Street in between First Street and First Place in order for it to function as a two-way drive. The estimated cost of said improvement is \$275,000; and
- f. The Applicant will cause the installation of a Capital Bikeshare Station in proximity to the Property as part of Phase 1 of the PUD and fund the first year operation of the station. The estimated cost for the installation and the first year of operation is \$92,000.

53. Environmental Benefits

- a. The PUD will achieve a minimum of LEED-Silver certification;

- b. Phase 1 of the PUD will include two parking spaces reserved for a car-sharing service. The estimate cost of the reserved parking spaces is \$50,000; and
- c. Phase 1 of the PUD will also include two electric car charging stations in the parking garage. The estimated cost of the car charging stations is \$110,000.

54. Employment and Training Opportunities

Prior to the issuance of a building permit for Phase 1 of the PUD, the Applicant shall enter into a First Source Agreement with the Department of Employment Services.

55. Uses of Special Value to the Neighborhood or the District of Columbia

The Applicant shall construct 136 units on the South Parcel during the first phase of development for the PUD, which shall be reserved for the Sursum Corda Households. The Reserved Units will be dispersed throughout the South Parcel as set forth in Finding of Fact No. 46.

56. Other Public Benefits and Development Amenities

- a. The Applicant agrees to contribute \$222,000 to the Boys and Girls Club #2 to support the operation of its programs;
- b. Subject to approval by the National Park Service or agency having jurisdiction over Lots 896 in Square 620, the Applicant agrees to: (1) contribute \$28,000 for the installation of playground equipment in the park area near the corner of First and L Streets, or (2) install playground equipment valued at said amount in the park area;
- c. The Applicant agrees to contribute to \$60,000 to the Perry School Community Services Center, Inc. to support the operation of its programs;
- d. The Applicant agrees to contribute \$25,000 to the Walker-Jones Parent Teacher Association to assist with funding for school activities and the purchase of classroom equipment;
- e. The Applicant agrees to contribute \$15,000 to the Girls in Action at the Sursum Corda Youth Center, 1175 First Terrace, N.W., to support the operation of its programs;
- f. The Applicant agrees to contribute \$25,000 to the Dunbar High School Parent Teacher to assist with funding for school activities and the purchase of classroom equipment;

- g. The Applicant agrees to donate equipment and uniforms valued at approximately \$10,000 to support programming at the RH Terrell Recreation Center; and
- h. The Applicant agrees to donate \$15,000 to support programming at the Northwest One Library.

**K. Comprehensive Plan**

- 57. The Future Land Use Map designates the Property for Moderate-Density Residential and Low-Density Commercial.
- 58. The Mid-City East Small Area Plan recommends that the Property be designated High-Density Residential and Medium-Density Commercial for the Property. As specified in the Comprehensive Plan, Small Area Plans supplement the Comprehensive Plan by providing detailed direction for focused areas. (10 DCMR § 104.8.)
- 59. The High-Density Residential designation is used to define neighborhoods and corridors where high-rise (eight stories or more) apartment buildings are the predominant use. Pockets of less dense housing may exist within these areas. The corresponding zone districts are generally R-5-D and R-5-E, although other zones may apply. (10 DCMR § 225.6.)
- 60. As specified in the city's municipal code, Small Area Plans provide supplemental guidance to the Comprehensive Plan and are not part of the legislatively adopted document. (10 DCMR § 104.2.) Small Area Plans supplement the Comprehensive Plan by providing detailed direction for areas ranging in size from a few city blocks to entire neighborhoods or corridors. Small Area Plans are prepared for areas in the city where District action was necessary to manage growth, promote revitalization, or to achieve other long-range planning goals. Small Area Plans are adopted by the DC Council by resolutions. (10 DCMR § 104.8.)
- 61. The Implementation Element of the Comprehensive Plan outlines where and under what conditions such plans should be undertaken:

IM-1.2 Small Area Planning

Small Area Plans cover defined geographic areas that require more focused direction than can be provided by the Comprehensive Plan. The intent of such plans is to guide long-range development, stabilize and improve neighborhoods, achieve citywide goals, and attain economic and community benefits. The Comprehensive Plan Area Elements identify where Small Area Plans should be prepared, with an emphasis on the Land Use Change Areas, Enhancement Areas, and business districts shown on the Comprehensive Plan's Generalized Policies Map. As these Small Area Plans are completed, future amendments to the Comprehensive Plan should identify subsequent generations of small area plans.

ANC and public involvement in the development of Small Area Plans is desired and expected; and (10 DCMR § 2503.1.)

IM-1.2.1: Small Area Plans

Prepare Small Area Plans and other planning studies for parts of the city where detailed direction or standards are needed to guide land use, transportation, urban design, and other future physical planning decisions. The focus should be on areas that offer opportunities for new residential, commercial, and mixed-use development, or areas with problems or characteristics requiring place-specific planning actions. Use the Comprehensive Plan Area Elements, the Generalized Policies Map, and land use monitoring activities to identify areas in the city where such plans are needed. Citizens shall have the right to petition or suggest small area plans to be proposed by the Mayor. (10 DCMR § 2503.2.)

62. Based on these recommendations, the Mid-City East Element of the Comprehensive Plan recommended the preparation of a small area plan for the area around the North Capitol Street/Florida Avenue business district, Mid-City East. Neighborhood groups advocated for the small area plan also to include their residential neighborhoods to guide future redevelopment.

**L. Mid-City East Small Area Plan**

63. The Mid-City East Small Area Plan encompassed neighborhoods around the North Capitol Street/Florida Avenue business district. Sursum Corda, which was addressed in the Northwest One Plan, was also included. In implementing the recommendation of Comprehensive Plan, the Mid-City East Small Area Plan recognized the existing Moderated-Density Residential and foresaw its redevelopment by recommending it as a Land Use Change Area on the Generalized Policy Map and written policies with the appropriate density recommendation left to be determined by further studies with community involvement through a Small Area Plan.

**M. Generalized Policy Map**

64. The Generalized Policy Map designates the area as being within the NOMA/New York Avenue Metro Land Use Change Area. The Plan designates Land Use Change Areas as “area where change to a different land use from what exists today is anticipated. In some cases, the Future Land Use Map depicts the specific mix of uses expected for these areas. (10 DCMR § 223.9.)
65. The guiding philosophy in the Land Use Change Areas is to encourage and facilitate new development and promote the adaptive reuse of existing structures. Many of these areas have the capacity to become mixed-use communities containing housing, retail shops, services, workplaces, parks, and civic facilities. The Comprehensive Plan’s Area Elements provide additional policies to guide

development and redevelopment within the Land Use Change Areas, including the desired mix of uses in each area. (10 DCMR § 223.11.)

**N. Office of Planning Reports**

66. On October 30, 2015, OP submitted a report recommending set down of the application. (Ex. 12.) The OP report stated that the application meets the specific recommendations outlined in the SAP for the revitalization and redevelopment of Sursum Corda. The report also recommended that the Applicant provide the following information: (a) detail of the phasing plan, including approximate scheduling and development priorities; (b) details regarding proposed green building initiatives; (c) details of the affordable housing program, including a detailed relocation plan; and (d) transportation plan and TDM measure specifics.
67. On February 1, 2006, OP submitted a report recommending approval of the application, subject to certain conditions. (Ex. 29.) The report stated that the redevelopment would benefit the existing residents and the neighborhood and would continue the revitalization and economic development that has begun in the neighborhood. The proposal is not inconsistent with the Comprehensive Plan and meets the specific recommendations outlined in the SAP.
68. On March 3, 2016, OP filed a post-hearing report, which included information on: (a) the former Temple Courts residential community; (b) the Metropolitan Police Department's recommendations to the proposed development; and (c) excerpts from the SAP, as requested by the Commission. (Ex. 49.)

**O. DDOT Report**

69. On February 1, 2016, DDOT submitted a report finding no objection to the application, subject to numerous conditions. (Ex. 30.) The Applicant is in agreement with the DDOT conditions, and they have been incorporated as conditions of this Order.

**P. DOEE Report**

70. On February 11, 2016, DDOE submitted a report expressing support for the project and listed a number additional suggestions on pages 1-2 of the report. (Ex. 39.)

**Q. ANC Support**

71. By letter dated December 1, 2015, ANC 6E voted unanimously to support the application, finding that the building heights, density, massing, and site layout are appropriate for the Property. (Ex. 26.) By letter dated February 8, 2016, ANC 6E voted in support of the PUD Benefits and Amenities package. (Ex. 31.)



**R. Applicant's Post-Hearing Submissions**

72. On March 3, 2016, the Applicant submitted its post-hearing submission. (Ex. 48.) The post-hearing submission addressed the following in response to the Commission's comments at the public hearing: (a) status on 76 M Street property; (b) LEED certification; (c) proposed parking count; (d) schedule of development; (e) amount of affordable housing and affordability levels; (f) massing and height of PUD, particularly along First Place; (g) reservation of units for Sursum Corda households and the plan for communicating with Sursum Corda households during the redevelopment of the Property; and (h) pedestrian safety. The post-hearing submission also included a copy of a report of the inventory of affordable units prepared by Housing Opportunities Unlimited; a copy of the First Source Agreement signed by the Applicant; and the estimated costs of the various improvements proffered in the PUD benefits and amenities package.

**CONCLUSIONS OF LAW**

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD development "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a first-stage PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. Development of the Property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
5. The PUD, as approved by the Commission, complies with the applicable height, bulk, and density standards of the Zoning Regulations. The mixed-use proposed for this development is appropriate for the Property. The impact of the development on the surrounding area is not unacceptable. Accordingly, the PUD should be approved.
6. The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.

7. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the development's benefits and amenities are reasonable tradeoffs for the requested development flexibility.
8. Approval of the PUD is appropriate because the proposed development is consistent with the present character of the area and is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the PUD site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
9. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)), to give great weight to OP recommendations. The Commission carefully considered the OP report and, as explained in this decision, finds its recommendation to grant the applications persuasive.
10. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. The Commission carefully considered ANC 7C's recommendation for approval and concurs in its recommendation.
11. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401 et seq. (2007 Repl.)).

### DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for first-stage approval of a planned unit development and related Zoning Map amendment from the R-4 Zone District to the C-3-C Zone District for the approximately 6.7 acres of land between First Street, First Place, L Street, and M Street, N.W. (Square 620, Lots 248-250 and 893-895), and commonly known as "Sursum Corda". The approval of this PUD is subject to the guidelines, conditions, and standards set forth below. Several of the conditions stated in Part B below reference future building permits or certificates of occupancy. Such references should not be construed to indicate the Commission's predisposition to grant a future second-stage application. If such an application is made, it must be consistent with all of the conditions stated below and referenced plans unless a modification to this order is requested. And any order approving a second-stage PUD will contain conditions requiring the delivery of all of the public benefits and transportation related measures applicable to it. The Commission therefore reserves the right to revise any or all of the following conditions to be consistent with any second-stage PUD approval, provide greater specificity and uniformity of terminology and to ensure consistency with § 2403.6, particularly with regard to those conditions requiring contributions.

**A. Project Development**

1. The PUD shall be developed in accordance with the plans titled “Sursum Corda Cooperative,” prepared by Boggs & Partners Architects, dated April 15, 2016, and marked as Exhibits 56A1-56A5 of the record (the “Plans”).
2. In accordance with the Plans, the PUD will have an overall density of 4.62 FAR, including the area for Pierce Street, and 5.24 FAR excluding the area for Pierce Street. The building heights for the project will range from 62.5 feet to 110 feet.
3. The Applicant is granted flexibility from the loading requirements (11 DCMR § 2201.1); the side yard width requirements (11 DCMR § 775.5); the requirements for the number of buildings on a single record lot (11 DCMR § 2516) consistent with the Plans and as discussed in the Development Incentives and Flexibility section of this Order, and a waiver from compliance with the Inclusionary Zoning Regulations set forth in Chapter 26.
4. The Applicant shall also have flexibility with the design of the PUD in the following areas:
  - a. To be able to provide a range in the number of residential units of plus or minus 10% from the 1,131 proposed for the development;
  - b. To vary the number, location, and arrangement of parking spaces, provided that the maximum number of parking spaces for the PUD does not exceed 746 parking spaces and the minimum number of parking spaces is not reduced below the number required under the Zoning Regulations; and
  - c. To vary the sustainable design features of the building, provided the project meets a minimum of LEED-Silver certification.

**B. Public Benefits****1. Affordable Units**

**For the life of the project**, the PUD shall include 199 affordable housing units on-site, which includes those units reserved for the current Sursum Corda Households with incomes up to 80% AMI. The affordable units for the PUD shall be reserved for and available to households with incomes not exceeding 80% AMI, provided that the overall blended affordability limits for the affordable units within the PUD shall not exceed 60% AMI. Further, the PUD shall maintain an overall blended affordability level of 60% AMI for the life of the project.

2. Sursum Corda Households

**Prior to the issuance of a Certificate of Occupancy for the South Parcel**, the Applicant shall provide evidence to the Zoning Administrator that it has completed the following:

- a. **Reserved Units.** **The Applicant shall construct 136 residential units on the South Parcel during the first phase of development for the PUD,** which shall be reserved for current Sursum Corda households currently residing at the Property (“Sursum Corda Households”) (the “Reserved Units”). Upon application of a raze permit for any of the existing structures on the Property, the Applicant shall certify to the DCRA the list of Sursum Corda Households and their contact information;
- b. **Affordability Level.** The Reserved Units shall be made available to Sursum Corda Households at their respective income eligibility levels. For those households who qualify for Section 8 vouchers, the household’s contribution to the rent shall be based on the household income and/or changes resulting from the annual income recertification process with the U.S. Department of Housing and Urban Development (“HUD”) and/or the D.C. Housing Authority; and
- c. **The Reserved Unit Mix.** The Reserved Units shall be dispersed throughout the South Parcel and shall include the following unit mix:

<b>Reserved Sursum Corda Units</b>		
<b>No. of Units</b>	<b>No. of Bedrooms</b>	<b>Approximate Unit Size</b>
15	Studio	545 s.f.
31	1 bdrm	715 s.f.
53	2 bdrm	1,100 s.f.
27	3 bdrm	1,390 s.f.
10	4 bdrm	1,580 s.f.

The unit mix may be adjusted to reflect the actual number of Sursum Corda Households, changes in the composition of the Sursum Corda Households, the number of households that elect not to occupy a reserved unit, and/or HUD standards relating to the number of bedrooms required for each household.

- d. **Communication Plan.** The Applicant shall implement the communication plan in Exhibit 48B of the record.

- e. Notice for Sursum Corda Households. **During construction of the first phase of development of the PUD,** the Applicant, or its representative, shall maintain updated contact information for each Sursum Corda Household and shall provide notice, via certified mail or hand delivery, to each household as follows:
- i. Demolition of Existing Structures. **Within 10 days of applying for a raze permit for any structure on the Property,** the Applicant shall notify the Sursum Corda Households of its raze permit application. Certification of said notice, including a copy of same, **shall be furnished to DCRA prior to the issuance of a raze permit for any structure of the Property;**
  - ii. Issuance of a Building Permit. **Within seven days of the issuance of the first building permit for the above grade construction** (the “Building Permit”), the Applicant shall notify the Sursum Corda Households that the Building Permit has been issued and the date it was issued. Certification of said notice, include a copy of same, **shall be submitted to DCRA within 14 days of the issuance of the Building Permit;**
  - iii. Assignment of Units. **No more than 12 months from the issuance of the Building Permit,** the Applicant shall notify Sursum Corda Households of the estimated completion date of the first phase of the PUD and the unit that has been assigned to their individual household (including number of bedrooms and unit size). Said notice shall include renderings and floor plans for the development. Each head of household, or designated household member, **shall have 90 days from the date of receiving notice of their assigned unit** to inform the Applicant of its intention to occupy the Reserved Unit. Certification of said notice, including copies of same, shall be furnished to DCRA **no later than 14 months from the issuance of obtaining the Building Permit;** and
  - iv. Occupancy Date. After issuance of the Building Permit, the Applicant shall notify those Sursum Corda Households that elect to return to the Property of the occupancy date for their Reserved Unit (the “Occupancy Date Notice”). Each Sursum Corda Household **shall have at least one year from the date of the Occupancy Date Notice to:** (a) walk through a model unit, and (b) enter into an agreement for the occupancy of their Reserved Unit. Certification of the Occupancy Date Notice, including copies of same, shall be furnished to DCRA **prior to the issuance of a certificate of occupancy for the first building within the PUD;**

- f. Report to DCRA. **Prior to the issuance of the first certificate of occupancy for the PUD**, the Applicant shall submit to DCRA a list of the Sursum Corda Households that elected to occupy a Reserved Unit, the type/size of unit and unit number, and the affordability level for said household; and
  - g. Conversion of Reserved Units. In the event that a Sursum Corda Household: (i.) elects not to return to the Property to occupy a Reserved Unit or (ii.) fails to timely enter into an agreement for the occupancy of its Reserved Unit that is also an affordable unit, said unit may be converted to a market rate unit so long as the Applicant sets aside a corresponding amount of gross floor area for affordable units on the North Parcel.
3. Landscape and Open Space Improvements

**Prior to the issuance of a Certificate of Occupancy for the South Parcel**, the Applicant shall seek approvals from the National Park Service, its designee, or the agency with jurisdiction over Lot 896 in Square 620, for the construction and long-term maintenance of park space at the corner of First and L Streets, as depicted on Sheets A-16, A-17, L-6, and L-7 of the Plans, and if approved, shall construct the park space.
  4. Transportation and Pedestrian Improvements
    - a. The Applicant shall create a new pedestrian promenade through the center of the site from M Street to L Street as shown on the plans. **Prior to the issuance of a Certificate of Occupancy for the South Parcel**, the Applicant shall construct the southern half of the promenade. The northern half of the promenade shall be constructed during Phase 2 of the PUD;
    - b. **Prior to the issuance of a Certificate of Occupancy for the South Parcel**, the Applicant shall construct the extension of Pierce Street, from First Street to First Place. The Applicant shall be responsible for the maintenance of the road for the life of the project;
    - c. The Applicant shall improve a 30-foot-wide strip of the Property frontage along First Street in order to effectively modify the existing sidewalk from a variable six to eight feet in width to a sidewalk that is a minimum of six feet with landscaping and street trees. **Prior to the issuance of a Certificate of Occupancy for the South Parcel**, the Applicant shall improve the segment of the frontage from Pierce Street south shall be improved during Phase 1 of the PUD. **Prior to the issuance of a Certificate of Occupancy for the North Parcel**, the Applicant shall improve the segment from Pierce Street north. The Applicant shall maintain said improvements for the life of the project;

- d. **Prior to the issuance of a Certificate of Occupancy for the South Parcel**, the Applicant shall construct the extension of First Place from M Street to L Street;
  - e. **Prior to the issuance of a Certificate of Occupancy for the South Parcel**, the Applicant shall improve the north side of L Street in between First Street and First Place in order for it to function as a two-way drive; and
  - f. **Prior to the issuance of a Certificate of Occupancy for the South Parcel**, the Applicant shall cause the installation of a Capital Bikeshare station in proximity to the Property.
5. Employment and Training Opportunities
- Prior to the issuance of a building permit for Phase 1 of the PUD**, the Applicant shall enter into a First Source Agreement with the Department of Employment Services.
6. Environmental Benefits
- a. **Prior to the issuance of the first certificate of occupancy for each phase of the PUD**, the Applicant shall furnish a copy of its LEED certification application to the Green Building Certification Institute. The PUD shall fulfill or exceed LEED-Silver Certification;
  - b. **Prior to the issuance of a certificate of occupancy for Phase 1 of the PUD**, the Applicant shall install two parking spaces reserved for a car-sharing service; and
  - c. **Prior to the issuance of a certificate of occupancy for Phase 1 of the PUD**, the Applicant shall install two electric car charging stations in the parking garage.
7. Support of Neighborhood Uses and Organizations
- a. **Prior to the issuance of a building permit for the PUD**, the Applicant shall contribute \$222,000 to the Boys and Girls Club #2 to support the operation of its programs;
  - b. **Prior to the issuance of a building permit for the PUD**, and subject to approval by the National Park Service or agency having jurisdiction over Lots 896 and 897 in Square 620, the Applicant shall install playground equipment valued at \$28,000 on Lot 896, subject to approval of the National Park Service or the agency having jurisdiction over Lot 896. If the Applicant is unable to obtain approval to install the playground equipment, it shall contribute \$28,000 to the National Park Service or the

agency having jurisdiction over Lot 896 to install playground equipment at that location;

- c. **Prior to the issuance of a building permit for the PUD**, the Applicant shall contribute to \$60,000 to the Perry School Community Services Center, Inc. to support the operation of its programs;
- d. **Prior to the issuance of a building permit for the PUD**, the Applicant shall contribute \$25,000 to the Walker-Jones Parent Teacher Association to assist with funding for school activities and the purchase of classroom equipment;
- e. **Prior to the issuance of a building permit for the PUD**, the Applicant shall contribute \$15,000 to the Girls in Action at the Sursum Corda Youth Center, 1175 First Terrace, N.W., to support the operation of its programs;
- f. **Prior to the issuance of a building permit for the PUD**, the Applicant shall contribute \$25,000 to the Dunbar High School Parent Teacher to assist with funding for school activities and the purchase of classroom equipment;
- g. **Prior to the issuance of a building permit for the PUD**, the Applicant shall donate equipment and uniforms valued at approximately \$10,000 to support programming at the RH Terrell Recreation Center; and
- h. **Prior to the issuance of a building permit for the PUD**, the Applicant shall donate \$15,000 to support programming at the Northwest One Library.

**C. Transportation Mitigation Measures**

**1. TDM Measures**

The Applicant shall do the following **for the life of the project**:

- a. Designate a TDM coordinator;
- b. Establish a TDM Marketing program that provides detailed transportation information and promotes walking, cycling, and transit;
- c. Unbundle all parking costs from the cost of the lease and set the cost at no less than the charges of the lowest fee garage located within a quarter-mile of the site;
- d. Dedicate two parking spaces in each garage for car sharing services to use with right of first refusal;



- e. Install electronic displays in each residential building lobbies and the community service building lobby that will display real-time transit availability;
- f. Provide at least 183 and 270 long-term bicycle parking spaces in Phases 1 and 2 respectively, and short-term bicycle parking long the interior and perimeter of the site that exceed zoning requirements; and
- g. Install a Capital Bikeshare station within the site.

Additional TDM measures may be required as a result of subsequent second-stage reviews.

## 2. Other Mitigations

- a. **Prior to DDOT agreeing to changes to the roadway network**, the Applicant shall consider reducing vehicle parking as a means to reduce intersection impacts. All assessments of impacts shall be addressed during the Stage 2 PUD process;
- b. All analysis for Stage 2 PUD applications should consider both the application at hand and the project as a whole so as not to overlook potential impacts;
- c. Further TDM Measures may be required based on the outcome of the previously noted Stage 2 PUD review;
- d. All impacted public infrastructure in the DDOT ROW due to project construction, the addition of new transportation facilities, or upgrades to public space facilities, including facilities in private space which are typical to the public space, should be mitigated at the expense of the Applicant;
- e. Identify and commit to implementation of pedestrian improvements on the north side of L Street between 1<sup>st</sup> Place and North Capitol Street;
- f. DDOT is planning improvements to the signal at North Capitol and L Street. The Applicant should be prepared to re-evaluate this location as part of subsequent Stage 2 PUD applications and may be required to perform other pedestrian or geometric mitigations;
- g. The Applicant has agreed to install curbs and gutters along with typical “public space” along the east side of 1<sup>st</sup> Street in the area that is at least partially privately owned. A cross-section of 1<sup>st</sup> Street which sets the east side curb in the appropriate location consistent with adjacent sections of 1<sup>st</sup> Street and DDOT standards should be identified and approved by

DDOT. Typical public space elements, trees, sidewalks, lights, greenspace, etc., should be designed consistent with DDOT standards;

- h. Intersection control at the intersection of Pierce Street and 1<sup>st</sup> Street should be determined and the Applicant should commit to implement the appropriate control;
- i. In addition to funding installation of a standard 50-foot-long Capital Bikeshare Station, **the Applicant should also commit to funding one year of operations; and**
- j. Install at least 23 and 41 short-term bicycle parking spaces in Phases 1 and 2, respectively.

**D. Miscellaneous**

1. This first-stage approval shall be valid until June 30, 2023 provided that a second-stage PUD application for the South Parcel is filed by June 30, 2017.
2. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On March 28, 2016, upon the motion of Commissioner Miller, as seconded by Commissioner May, the Zoning Commission **APPROVED** the application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; Marcie I. Cohen, not present, not voting).

On May 9, 2016, upon the motion of Commissioner Turnbull, as seconded by Vice Chairperson Cohen, this the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *DC Register*, that is on June 17, 2016.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 15-22**  
**Z.C. Case No. 15-22**  
**301 FL MANAGER, LLC**  
**(CONSOLIDATED PUD AND RELATED MAP AMENDMENT @ SQUARE 772N)**  
**May 12, 2016**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on February 22, 2016, to consider applications for a consolidated planned unit development (“PUD”) and related Zoning Map amendment filed by 301 FL Manager, LLC (“Applicant”). The Commission considered the applications pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby **APPROVES** the applications.

**FINDINGS OF FACT**

**The Applications, Parties, Hearings, and Post-Hearing Filings**

1. On September 4, 2015, the Applicant filed applications with the Commission for consolidated review of a PUD and a related Zoning Map amendment from the C-M-1 Zone District to the C-3-C Zone District for property located at 301 Florida Avenue, N.E. (Lot 803 in Square 772N) (“PUD Site”).
2. The PUD Site has a land area of approximately 8,720 square feet and is a triangular lot with approximately 203.7 linear feet of frontage on Florida Avenue, N.E. to the northeast, approximately 178.8 linear feet of frontage on N Street, N.E. to the south, and approximately 97.5 linear feet of frontage on 3<sup>rd</sup> Street, N.E. to the west. The PUD Site is the only lot in Square 772N.
3. The PUD Site is presently improved with a one-story building and associated surface parking, and is surrounded by a variety of uses including low- to high-density residential, industrial warehouse, and commercial uses. The Applicant proposes to raze the existing building in connection with redevelopment of the PUD Site, and to construct a mixed-use building composed of retail and residential uses (“Project”).
4. The Project will have approximately 66,010 square feet of gross floor area (7.57 floor area ratio (“FAR”)) and a maximum building height of 101 feet. Approximately 61,173 square feet of gross floor area will be devoted to residential use (approximately 56 units, plus or minus 10%) and approximately 4,837 square feet of gross floor area will be devoted to retail use. The Applicant will dedicate eight percent of the residential gross floor area as Inclusionary Zoning (“IZ”) units, consistent with Chapter 26 of the Zoning Regulations. Approximately three percent of the Project’s residential gross floor area (two units) will be set aside for households earning up to 50% of the area medium income

- (“AMI”) and approximately five percent of the Project’s residential gross floor area (two units) will be set aside for households earning up to 80% of the AMI.
5. By report dated November 13, 2015, the District of Columbia Office of Planning (“OP”) recommended that the application be set down for a public hearing. (Exhibit [“Ex.”] 15.) At its public meeting on November 3, 2015, the Commission voted to schedule a public hearing on the application.
  6. The Applicant submitted a prehearing statement on December 2, 2015 and a public hearing was timely scheduled for the matter. (Ex. 17-17I.) On December 18, 2015, the notice of public hearing was mailed to all owners of property located within 200 feet of the PUD Site; Advisory Neighborhood Commission (“ANC”) 6C, the ANC in which the PUD Site is located; ANC 5D, the ANC located across Florida Avenue to the north of the PUD Site; and to Commissioner Tony Goodman, the single-member district commissioner for 6C06. A description of the proposed development and the notice of the public hearing in this matter were published in the *D.C. Register* on December 25, 2015.
  7. On February 2, 2016, the Applicant submitted a supplemental prehearing statement in response to comments raised by the Commission and at the setdown meeting. (Ex. 26-26C.) The supplemental submission included the following materials: (a) revised architectural plans and elevations; (b) a comprehensive transportation review (“CTR”) report prepared by Gorove/Slade Associates and submitted to the District Department of Transportation (“DDOT”) on January 8, 2016; and (c) a draft escrow agreement that detailed the Applicant’s proposal to contribute \$125,000 to an escrow account for public space improvements adjacent to the PUD Site on N Street, N.E.<sup>1</sup>
  8. On February 12, 2016, OP and DDOT each submitted a report on the application. The OP report recommended approval of the application and provided a list of additional information to be submitted by the Applicant before the public hearing. (Ex. 28.) The DDOT report indicated no objection to the application with the following conditions: (i) the Applicant limit the financial incentive as part of the Transportation Demand Management (“TDM”) plan to bikeshare and carshare memberships only and offer annual memberships to all new tenants for a period of five years; and (ii) install a transit information screen in the residential lobby. (Ex. 27.)
  9. The Metropolitan Police Department (“MPD”) also submitted a memo (Attachment I to the OP report), in which MPD indicated that the PUD would increase pedestrian and vehicular traffic, but that MPD had no objection to the Project.

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<sup>1</sup> The Applicant subsequently amended its proffer so that it is obligated to pay for the installation of all of the improvements (or be in the process of paying) prior to the issuance of a Certificate of Occupancy for the Project regardless of cost.

10. At its regularly scheduled public meeting on February 13, 2016, for which notice was properly given and a quorum was present, ANC 6C voted unanimously 5:0:0 to support the application, subject to conditions. (Ex. 25.)
11. The parties to the case were the Applicant and ANC 6C.
12. The Commission convened a public hearing on February 22, 2016, which was concluded that same evening. At the hearing, the Applicant presented four witnesses in support of the applications: Martin Ditto on behalf of the Applicant; Chuong Cao of DEP Designs, architect for the Project; Erwin Andres of Gorove/Slade Associates, Inc., transportation consultant for the Project; and David Landsman of CAS Engineering, civil engineer for the Project. Based upon their professional experience and qualifications, the Commission qualified Mr. Cao as an expert in architecture, Mr. Andres as an expert in transportation planning and engineering, and Mr. Landsman as an expert in civil engineering.
13. At the public hearing, the Applicant submitted the following supplemental materials: (a) a chart responding to each of the issues raised by OP and DDOT in their hearing reports; (b) a copy of the Applicant's PowerPoint presentation presented at the public hearing; and (c) photographs of the materials board and renderings of the scaled architectural model, which were presented at the public hearing. (Ex. 30-30C.)
14. Stephen Gyor and Joel Lawson of OP testified in support of the application at the public hearing. Jonathan Rogers of DDOT also testified in support of the application.
15. Commissioner Tony Goodman of ANC 6C06 testified in support of the application. Commissioner Goodman noted that the Applicant had met with the ANC on numerous occasions and that the ANC appreciates the design of the building and the positive impact it will have on the surrounding neighborhood. Commissioner Goodman asserted that the ANC's vote in support of the application was contingent on the following items: (a) greater clarity on the relevance of the Applicant's proffer for N Street and the scope of work likely to be covered by the proffer; (b) a more definite statement of specific TDM measures; and (c) careful examination of the potential for providing more convenient bicycle storage facilities in the building's ground floor or upper residential floors. Commissioner Goodman indicated that the Applicant provided the requested information to the ANC and satisfactorily addressed the ANC's concerns. Commissioner Goodman's testimony was submitted to the record at Ex. 31.
16. The record was closed at the conclusion of the hearing except to receive additional submissions from the Applicant, DDOT, and the ANC, and to receive the Applicant's proposed findings of fact and conclusions of law.
17. On March 1, 2016, DDOT submitted a supplemental report, which provided additional information requested by the Commission regarding the status of DDOT's Florida Avenue Multimodal Safety Study and the NoMA-Gallaudet University Metrorail station east entrance. (Ex. 34.)

18. On March 7, 2016, the Applicant submitted a post-hearing submission, which included the following materials and information requested by the Commission at the public hearing: (a) a detailed site plan showing specific public space improvements for N Street, N.E., including two-foot offset curb extensions, bulb outs, parklets with seating, expanded green areas, enhanced landscaping, and additional short-term bicycle parking spaces; (b) information regarding the building projections on Florida Avenue, N.E., including a site plan, sections, and perspectives showing the bay windows, as well as a copy of DCRA's approval of the projections; (c) information regarding the cost to certify the building as LEED-Gold; (d) a revised drawing showing a proposed bike gutter along the stair between the building's ground and cellar levels; and (e) a request for flexibility as to the color of the brick veneer proposed for the building. (Ex. 35-35D.)
19. On March 11, 2016, DDOT submitted a second supplemental report, which provided information requested by the Commission about the status of DDOT's Florida Avenue Multimodal Safety Study and the NoMa-Gallaudet University Metro Station east entrance.
20. On March 14, 2016, the Applicant submitted its proposed findings of fact and conclusions of law. (Ex. 37.)
21. On March 15, 2016, ANC 6C submitted a report stating that the ANC supported the application with conditions. (Ex. 38.) A discussion of the contents of the report and the conditions is below.
22. At the public meeting of March 28, 2016, the Commission reviewed the additional materials submitted by the Applicant. At the close of the meeting, the Commission took proposed action to approve the application. The Commission requested (a) information about the cost of the linear park improvements to understand how much of the park will be constructed by the Applicant's expense; (b) information about the ways the Applicant has addressed the ANC's issues regarding bicycle access and programming flexibility; (c) information about the bay projections on the Florida Avenue façade; and (d) information about DDOT's Florida Avenue plan to see if the sidewalk will be widened. The proposed action was referred to the National Capital Planning Commission ("NCPC") on March 31, 2016, pursuant to § 492 of the Home Rule Act.
23. On April 11, 2016, the Applicant submitted a supplemental post-hearing submission. (Ex. 40-40F.)
24. On April 27, 2016, the Applicant submitted its revised proffers and draft conditions pursuant to 11 DCMR § 2403.20. (Ex. 41.)
25. The Executive Director of NCPC, by delegated action dated April 28, 2016, found that the PUD and related map amendment would not be inconsistent with the Comprehensive Plan for the National Capital or any other federal interests.

26. At the public meeting of May 9, 2016, the Commission reviewed the additional materials submitted by the Applicant and requested that the Applicant confirm that it was responsible for paying for the installation of all of the proposed public space improvements on the north side of N Street, N.E. between 3<sup>rd</sup> and 4<sup>th</sup> Streets, N.E., (“N Street Improvements”) regardless of cost.
27. On May 10, 2016, the Applicant submitted an additional supplemental post-hearing submission. (Ex. 42-42A.) The Applicant confirmed that it would pay for the installation of all of the N Street Improvements regardless of cost.
28. The Commission took final action to approve the PUD on May 12, 2016.

### **The PUD Site and Surrounding Area**

29. The PUD Site is located at 301 Florida Avenue, N.E., more specifically described as Lot 803 in Square 772N. The PUD Site has a land area of approximately 8,720 square feet and is a triangular lot with approximately 203.7 linear feet of frontage on Florida Avenue to the northeast, approximately 178.8 linear feet of frontage on N Street to the south, and approximately 97.5 linear feet of frontage on 3<sup>rd</sup> Street to the west. The PUD Site is the only lot in Square 772N and is presently improved with a one-story building and associated surface parking. The PUD Site is surrounded by a variety of uses including low- to high-density residential, industrial warehouse, and commercial uses.
30. The PUD Site is presently zoned C-M-1. The Applicant is seeking to rezone the PUD Site to the C-3-C Zone District in connection with this application. The requested map amendment is consistent with the Council-adopted NoMa Small Area Plan, which recommends developing the PUD Site with a high-rise residential building. The map amendment is consistent with the Comprehensive Plan's Future Land Use Map designation of the PUD Site as mixed-use: Medium Density Residential and Production, Distribution, and Repair (“PDR”). The requested map amendment is also consistent with the Comprehensive Plan's Generalized Policy Map designation of the PUD Site as a Land Use Change Area.

### **Existing and Proposed Zoning**

31. The PUD Site is currently zoned C-M-1. The C-M Zone Districts are "intended to provide sites for heavy commercial and light manufacturing activities employing large numbers of people and requiring some heavy machinery under controls that minimize any adverse effect on other nearby, more restrictive districts." (11 DCMR § 800.1.) The Zoning Regulations note that "heavy truck traffic and loading and unloading operations are expected to be characteristic of C-M Districts." (11 DCMR § 800.2.) The C-M-1 Zone District prohibits residential development except as otherwise specifically provided. (11 DCMR § 800.4.) As a matter of right, property in the C-M-1 Zone District can be developed with a maximum density of 3.0 FAR. 11 DCMR § 841.1. The maximum

permitted building height in the C-M-1 Zone District is 40 feet and three stories. (11 DCMR § 840.1.)

32. The Applicant proposes to rezone the PUD Site to C-3-C in connection with this application. The C-3-C Zone District permits medium-high density development, including office, retail, housing, and mixed-use development. (11 DCMR § 740.8.) The C-3-C Zone District permits, as a matter-of-right, a maximum building height of 90 feet with no limit on the number of stories (11 DCMR § 770.1), a maximum height of 130 feet as a PUD (11 DCMR § 2405.1), and a maximum density of 6.5 FAR for any permitted use, but a density of 7.8 FAR for projects subject to IZ. 11 DCMR (§§ 771.2 and 2604.1.) The maximum percentage of lot occupancy in the C-3-C Zone District for all uses is 100%. (11 DCMR § 772.1.) Rear yards in the C-3-C Zone District must have a minimum depth of two and one-half inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12 feet. (11 DCMR § 774.1.) In the case of a corner lot abutting three or more streets, the depth of rear yard may be measured from the center line of the street abutting the lot at the rear of the building. (11 DCMR § 774.11.) A side yard is not required in the C-3-C Zone District; however, when a side yard is provided, it must have a minimum width of two inches per foot of height of building, but not less than six feet. (11 DCMR § 775.5.)
33. Parking and loading requirements are based upon the proposed use of the property. An apartment house or multiple dwelling in the C-3-C Zone District requires one parking space for each four dwelling units. (11 DCMR § 2101.1.) Retail or service establishments in the C-3-C Zone District are required to provide one parking space for each additional 750 square feet of gross floor area over 3,000 square feet. (*Id.*) An apartment house or multiple dwelling with 50 or more units in all zone districts is required to provide one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery space at 20 feet deep. (11 DCMR § 2201.1.)
34. Consistent with the C-3-C development parameters, the Applicant will develop the PUD Site with a mix of residential and retail uses. A tabulation of the PUD's development data is included on Sheet A.01 of the Architectural Plans and Elevations dated February 22, 2016, and included in the record at Exhibit 26A ("Plans").

### **Description of the PUD Project**

35. As shown on the Plans, the Applicant is seeking consolidated PUD approval and a Zoning Map amendment to redevelop the PUD Site with a mixed-use residential and retail building. The building will contain approximately 66,010 square feet of gross floor area (7.57 FAR) and a maximum building height of 101 feet. Approximately 61,173 square feet of gross floor area will be devoted to residential use (approximately 56 units, plus or minus 10%) and approximately 4,837 square feet of gross floor area will be devoted to retail use. The Project incorporates a high number of large three- and four-



bedroom units (42 three-bedroom units and 7 four-bedroom units) in order to provide housing that can accommodate families.

36. The Project is sensitive to its varied context and responds in size, form, and in its use of materials. The ground level is programmed with retail uses that will activate the surrounding streets and encourage the use of public transportation, particularly given the PUD Site's location one block away from the NoMa-Gallaudet Metrorail station. The Project includes significant public space improvements, including curb extensions, bulb outs, parklets with seating, expanded green areas, enhanced landscaping, and additional short-term bicycle parking spaces. The Project also includes the closure of four curb cuts.
37. The building design incorporates the synergy of the diverse city scales, contexts, and uses of its unique location. Surrounded by relatively new residential high-rise development of NoMa to the west and southwest, historic Gallaudet University to the east, and light-scale industrial and commercial market development to the north, the Project integrates with the surrounding urban fabric to create a dynamic and harmonious architectural design. The building's massing maintains the appealing proportions of its triangular site, rising from the street level up to eight stories. It is defined by two major massing components: the ground floor base and the seven-story residential top.
38. The ground floor base is largely retail, occupying most of the Florida Avenue and N Street frontages and part of the 3<sup>rd</sup> Street frontage. The retail will be composed of glass storefronts from sidewalk to ceiling, and will have colorful signs and lighting, landscaping, pedestrian amenities, and sidewalk pavers abutting the retail glass line, all helping to engage the interior use with the exterior and to promote street vitality. Masonry plinths along Florida Avenue, 3<sup>rd</sup> Street, and N Street are used to separate the building's ground-floor residential components from the retail. Masonry plinths and exterior sculptural steel truss columns at the corners of Florida Avenue and N Street and Florida Avenue and 3<sup>rd</sup> Street anchor and tie the seven-story building top to the ground floor base. At the corner of Florida Avenue and 3<sup>rd</sup> Street, the connection of the upper story to the street is enhanced by an eight-story tower-like bay window that defines the building's lobby entrance as well the arrival point to the 3<sup>rd</sup> Street retail corridor.
39. The articulation of the upper building massing is a weaving of vertical and horizontal elements and a play on negative and positive building fenestrations. Punch windows for bedroom spaces are carved into the masonry wall, flanked by projecting bay windows that house living spaces; elongated masonry units, concrete precast bands, and horizontally articulated fiber cement panels are juxtaposed with the vertical window articulations. These design gestures create a balanced scale and rhythmic facade composition to the seven-story building top. The importance of the Florida Avenue façade is highlighted by the layering of a fiber cement panel frame over the masonry facade, creating greater visual depth and interest.
40. The building is designed to achieve LEED-Gold equivalent status under the LEED for Homes Rating System, Multi-family Mid-rise, October, 2010. The Project will integrate

a host of sustainable features, including street tree planting, landscaping, energy and water efficient systems, construction waste management techniques, methods to reduce stormwater runoff, and ample bicycle parking.

41. The Project will comply with those requirements of the IZ regulations set forth in Chapter 26 of the Zoning Regulations that require that eight percent of the residential gross floor area of the Project be set-aside for households earning up to 80% of the area median income (“AMI”). As indicated in the IZ Calculation Chart shown below, the Applicant will set aside no less than eight percent of the residential gross floor area, as computed by DCRA’s Certificate of Inclusionary Zoning Compliance (“CIZC”) Form, to IZ units. Approximately five percent of the building’s residential gross floor area will be devoted to households earning up to 80% of the AMI (two units), and approximately three percent of the building’s residential gross floor area will be devoted to households earning up to 50% of the AMI (two units). The Applicant is requesting relief from the requirement of 11 DCMR § 2605.2, which provides that the proportion of the studio, efficiency, and one-bedroom IZ units shall not exceed the proportion of market rate studio, efficiency, and one-bedroom units. As discussed further below, the Commission grants this relief because in this case the Applicant is providing a greater percentage of larger units than is required.

Residential Unit Type	GFA/Percentage of Total	Units	Income Type	Affordable Control Period	Affordable Unit Type
<b>Total</b>	61,173 sf of GFA (approx. 52,171 sf of net residential area) (100%)	56	NA	NA	NA
<b>Market Rate</b>	56,267 sf of GFA (92%) (approx. 47,987 sf of net residential area)	52	Market Rate	NA	NA
<b>IZ</b>	2,829 sf of GFA (2,413 net sf) (5%)	2	80% AMI	For the life of the project	Rental
<b>IZ</b>	2,077 sf of GFA (1,771 net sf) (3%)	2	50% AMI	For the life of the project	Rental

**Zoning Flexibility**

42. The Applicant requested the following areas of flexibility from the Zoning Regulations:
43. ***Flexibility from the Off-street Parking Requirements.*** Pursuant to 11 DCMR § 2101.1, one parking space is required for each four dwelling units (14 spaces), and one parking space is required for each 750 square feet of gross floor area in excess of 3,000 square feet devoted to retail space (two spaces), for a total of 16 required parking spaces for the Project. However, as shown on the Plans, the Project will not provide any on-site parking spaces, due to the PUD’s triangular shape, lack of alley access, and location at the intersection of two major streets and a third street that will be devoted to community purposes.

44. The Commission finds that the characteristics of the PUD Site significantly limit the potential locations for vehicular ingress and egress. It is practically difficult to construct a ramp providing access to below-grade parking, since the PUD Site is too small and narrow to fit a ramp with a zoning-compliant slope and width, and with enough space to provide the required turning movements to allow vehicles to access a below-grade garage.
45. The Commission also finds that parking cannot be located on the surface of the PUD Site, because doing so would require setting the building back and eliminating significant retail and residential space. To provide the required 16 parking spaces, approximately 4,560 square feet of surface space would be required to comply with 11 DCMR § 2115.10, which requires a minimum of 285 square feet for each parking space. The PUD Site only has 8,720 square feet of land area, such that providing 4,560 square feet for surface parking would take up approximately 52% of the PUD Site. If this amount of surface space was provided along Florida Avenue, the building would have to be set back approximately 22 feet; if it was provided along N Street, the building would have to be set back approximately 25.5 feet; and if it was provided along 3<sup>rd</sup> Street, the building would have to be set back approximately 46.6 feet. Providing surface parking in any of these locations would result in a major detriment to the building design and program and would eliminate significant retail and residential space. Given the PUD Site's triangular shape and limited dimensions, the Commission finds that providing more than 50% of the lot area for surface parking would limit developable area and adversely impact the siting and construction of the Project.
46. Moreover, the Commission finds that the lack of on-site parking will not result in any adverse impacts. Given the location of the PUD Site in a walkable, mixed-use neighborhood with convenient access to multiple public transportation options, bicycle lanes, car- and bike-share facilities, and an extensive pedestrian network, future residents and retail employees/patrons will not need to use a vehicle to access the PUD Site. The Commission also notes that the OP report indicated that it had no concerns with the parking variance, given the proximity of the PUD Site to mass transit. (*See Ex. 28, p. 8.*)
47. Finally, the Commission finds that the Project's lack of parking is consistent with the Comprehensive Plan's goals of investing in transit-oriented development, improving pedestrian facilities, and transforming key District arterials into multi-modal corridors that incorporate and balance a variety of mode choices, including public transportation, bicycle, pedestrian, and automobile. The Project will provide on-site bicycle parking and provide a variety of extensive TDM measures. Together, these measures and the ample nearby public transportation options will help further the Comprehensive Plan's goals of connecting District neighborhoods by creating more direct links between the various transit modes and managing the automobile capacity of principle arterials.
48. ***Flexibility from the Loading Requirements.*** The Applicant requests flexibility from the loading requirements of 11 DCMR § 2201.1, which require one loading berth at 55 feet

deep, one loading platform at 200 square feet, and one service/delivery space at 20 feet deep for the residential use. Loading for the retail use is not required.

49. The Commission finds that due to the PUD Site's small size, irregular shape, and location at the intersection of three streets, two of which are major thoroughfares, the Applicant cannot provide any on-site loading facilities. The required loading facilities and associated access aisles, driveways, curb cuts, and maneuvering areas would take up a substantial portion of the PUD Site's land area, would eliminate a large portion of the building's ground floor area, and would significantly impair the ability to provide a viable building footprint, adequate retail space, a residential lobby, and required trash rooms, service corridors, and core elements.
50. The Commission finds that the lack of on-site loading facilities will not result in any adverse impacts. The Applicant will coordinate loading activities through a loading management plan, which will ensure that conflicting deliveries are scheduled appropriately and do not result in any on- or off-street conflicts. Moreover, if six residential units were eliminated from the Project, on-site loading would not be required for the building at all. Finally, the Commission notes that OP had no concerns with the loading variance request (*see Ex. 28, p. 8*) and that DDOT had no objection to the variance, finding that the loading management plan will sufficiently address loading impacts. (*See Ex. 27, p. 5.*)
51. ***Flexibility from the Land Area Requirements for a PUD.*** Pursuant to 11 DCMR § 2401.1(c), a minimum land area of 15,000 square feet is required for a PUD in the C-3-C Zone District. The PUD Site has a land area of approximately 8,720 square feet and therefore does not meet the minimum area requirement of 11 DCMR § 2401.1. Pursuant to 11 DCMR § 2401.2, the Commission may waive up to 50% of the minimum area requirement, provided that the Commission finds, after a public hearing, that the project is of exceptional merit and in the best interest of the city or country.
52. The Commission finds that the Project is of exceptional merit and in the best interest of the city. The Project will incorporate approximately 61,173 square feet of gross floor area devoted to new residential use. Approximately eight percent of the residential gross floor area will be set aside as affordable, with two units devoted to households earning up to 80% of the AMI and two units devoted to households earning up to 50% of the AMI. The Project will provide new ground floor retail and eliminate four existing curb cuts, which will activate the street, improve the pedestrian experience, enhance safety, and help to revitalize the neighborhood. Moreover, the Project will include a variety of sustainable features and materials, and will be designed to achieve LEED-Gold equivalent status. Finally, the Commission finds that the Project will significantly improve the PUD Site and the surrounding area by replacing an outdated one-story building and surface parking with a high-quality, mixed-use building with exceptional architectural design and public space improvements that are consistent with the surrounding uses and overall urban context.

53. *Flexibility from the IZ Proportionality Requirement.* The Applicant requests flexibility from the proportionality requirement of 11 DCMR § 2605.2, which requires that the proportion of studio, efficiency, and one-bedroom IZ units to all IZ units shall not exceed the proportion of market-rate studio, efficiency, and one-bedroom units to all market-rate units. The Project includes approximately 61,173 square feet of gross floor area devoted to residential use, and is therefore required to provide approximately 4,969 square feet of gross floor area devoted to IZ units. The Project includes a total of 56 residential units. The proposed IZ units include one studio unit, one three-bedroom unit, and two four-bedroom units, such that at least one IZ unit will be provided from each unit type in the building. In doing so, the Project's proportion of IZ studio and one-bedroom units to all IZ units (1:4 = 25%) will exceed the proportion of market-rate studio and one-bedroom units to all market rate units (6:52 = 12%).
54. The Commission finds that the unequal proportionality is due to the relatively few number of total units in the Project and because the Project includes many larger units that are built to accommodate families. There is only one studio/one-bedroom IZ unit in the Project, and the rest of the IZ units are three- and four-bedroom units. The Commission notes that OP supported the inclusion of affordable family-sized units and had no concerns with the request for flexibility, since the Applicant's provision of IZ units is "exceeding the intent" of IZ by providing family-sized units. (*See Ex. 28, p. 9.*) Overall, the Commission finds that the provision of large IZ units is a benefit of the Project and will help increase the District's inventory of large affordable housing for families.

### **Development Flexibility**

55. The Applicant also requests flexibility in the following additional areas:
- a. To be able to provide a range in the number of residential units of plus or minus 10%;
  - b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration of the structure;
  - c. To vary the sustainable design features of the Project, provided the total number of LEED points achievable for the Project does not decrease below the LEED-Gold equivalent designation;
  - d. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details, including window frames, doorways, railings, and trim; and other

changes to comply with applicable District of Columbia laws and regulations that are necessary to obtain a final building permit;

- e. To use either the Light Pumice or Dark Pumice for the building's brick veneer color, as shown on Sheet A-1.5 of Exhibit 35A.
- f. To vary the location and design of the ground floor components of the Project in order to comply with any applicable District of Columbia laws and regulations, including the D.C. Department of Health, that are otherwise necessary for licensing and operation of any retail or service use and to accommodate any specific tenant requirements; and to vary the size of the retail area;
- g. To vary the final selection of exterior signage on the building consistent with the Building Code; and
- h. To vary the features, means and methods of achieving (i) the code-required Green Area Ratio ("GAR") of 0.2, and (ii) stormwater retention volume and other requirements under 21 DCMR Chapter 5 and the 2013 Rule on Stormwater Management and Soil Erosion and Sediment Control.

### **Project Benefits and Amenities**

- 56. Urban Design, Architecture, and Open Space (11 DCMR § 2403.9(a)). The Project will have a positive impact on the visual and aesthetic character of the immediate neighborhood and will further the goals of urban design while enhancing the streetscape. The Project includes a significant amount of new public space features, including new curb extensions, bulb outs, parklets with seating, expanded green areas, enhanced landscaping, and additional short-term bicycle parking spaces. Moreover, with respect to site planning and efficient and economical land utilization, the Applicant's proposal to replace the existing one-story building and surface parking with a new mixed-use, mixed-income building constitutes a significant urban design benefit. The Project will eliminate four existing curb cuts, thus minimizing pedestrian/vehicle conflicts and improving the pedestrian experience. This is particularly significant given the PUD Site's location immediately across Florida Avenue from Union Market.
- 57. Housing and Affordable Housing (11 DCMR § 2403.9(f)). The Project will create new housing and affordable housing consistent with the goals of the Zoning Regulations, the Comprehensive Plan, and the Mayor's housing initiative. The Project will include a total of approximately 61,173 square feet of residential gross floor area (approximately 56 units). As a result of the PUD-rezoning, the property will now be subject to the inclusionary Zoning Regulations. As a result, the property must set aside a minimum of eight percent of its residential gross floor area to households earning up to 80% of the AMI. In this instance, the Applicant will meet the minimum set-aside requirement but provide deeper affordability by proffering to reserve approximately three percent of the residential gross floor area to households earning up to 50% of the AMI. Given that the

PUD Site's existing zoning does not permit any residential use as a matter of right, all of the housing and affordable housing proposed for the PUD Site is treated as a project amenity pursuant to 11 DCMR § 2403.9(f). However, in this case the Applicant has also enhanced the level of affordability otherwise required. Moreover, the majority of the residential units are anticipated to be larger three- and four-bedroom units to accommodate families, which will result in an important amenity to the District's housing supply.

58. Environmental Benefits (11 DCMR § 2403.9(h)). The Applicant will ensure environmental sustainability through the implementation of sustainable design features and strategies to enhance the sustainable nature of the PUD Site's mixed-use, transit-rich location, and to promote a healthy lifestyle that will holistically benefit the Project's residents while minimizing impact on the environment. The Project provides a host of environmental benefits consistent with recommendations of 11 DCMR § 2403.9(h), which include street tree planting, landscaping, energy and water efficient systems, construction waste management techniques, methods to reduce stormwater runoff, and ample bicycle parking. Moreover, the Project will be designed to achieve the equivalent of LEED-Gold under the LEED for Homes Rating System, Multi-family Mid-rise, October, 2010.
59. Transportation Benefits (11 DCMR § 2403.9(c)). The Applicant incorporated a number of elements designed to promote effective and safe access to the PUD Site, convenient connections to public transit services, and onsite amenities such as bicycle parking. The Applicant will implement the following TDM strategies:
- a. Designate a Transportation Management Coordinator responsible for organizing and marketing the TDM plan;
  - b. Include in its residential leases a provision that prohibits tenants from obtaining a Residential Parking Permit ("RPP"), under penalty of lease termination;
  - c. Develop a marketing program detailing transportation information;
  - d. Provide 56 long-term (secure, interior) and 18 short-term (exterior) bicycle parking spaces;
  - e. Install a bicycle maintenance facility in the bicycle room;
  - f. Provide a bicycle gutter along the stair between the ground and cellar levels for ease of bicycle access to the bicycle storage room;
  - g. Provide ridesharing information through Commuter Connections to retail employees;
  - h. Install a transit information screen in the residential lobby;

- i. Install an automatic push-button door opener on one of the building's egress doors onto N Street, N.E., so that cyclists can more easily enter and exit the building with their bikes;
  - j. For the first three years of the Project, offer an in-unit bicycle rack for each residential unit; and
  - k. For the first five years of the Project, offer each residential unit the option of either a one-time annual car-sharing membership and application fee or a one-time annual Capital Bikeshare membership.
60. Uses of Special Value to the Neighborhood and the District of Columbia as a Whole (11 DCMR § 2403.9(i)). The Applicant will pay for the following design, permitting, and construction work on the north side of N Street, N.E., between 3<sup>rd</sup> and 4<sup>th</sup> Streets, N.E.: (a) extend the sidewalk width by a minimum of two feet, with the final sidewalk width to be subject to DDOT and utility agency approvals; (b) install enhanced landscaping, which will include oak trees, landscaped beds, drought-tolerant shrubs, ornamental grasses, and perennials, with the final design and location of the enhanced landscaping to be subject to DDOT and utility agency approvals; (c) install short-term bike racks, with the final design and location of the bike racks to be subject to DDOT and utility agency approvals; (d) install parklets that will expand public space along the N Street sidewalk and provide seating areas for pedestrians, with the final design and location of the parklets to be subject to DDOT and utility agency approvals; (e) install bulb-outs to discourage vehicular traffic on N Street, with the final design and location of the bulb-outs to be subject to DDOT and utility agency approvals; and (f) decrease the cart path width of N Street, N.E., with the final design and dimension of the cart path width subject to DDOT and utility agency approvals.
61. In addition, the Applicant is committed to creating a vibrant mix of retail and service uses in the Project. The Applicant will market the retail space in the building to a variety of potential tenants and will take the following actions to help attract "maker" uses as tenants:
- a. Retain a retail broker with experience marketing to and securing a variety of tenant types, including makers;
  - b. Sponsor a workshop that encourages the maker movement and sponsor a job fair that targets the maker movement;
  - c. Market the retail space to retail tenants within Union Market; and
  - d. Market the retail space to retail tenants operating in Union Kitchen.



The final selection of retailers for the Project will be a function of market demands, but the Applicant believes that these steps will assist in attracting “maker” retail uses to the project.

### Comprehensive Plan

62. The Commission finds that the PUD advances the purposes of the Comprehensive Plan, is consistent with the Future Land Use Map and Generalized Policy Map, complies with the guiding principles in the Comprehensive Plan, and furthers a number of the major elements of the Comprehensive Plan and the NoMa Small Area Plan. The PUD significantly advances these purposes by promoting the social, physical, and economic development of the District through the provision of a high-quality residential development with ground-floor retail on the PUD Site, without generating any adverse impacts. The Project will create new neighborhood-serving retail opportunities to meet the demand for basic goods and services, and will promote the vitality, diversity, and economic development of the surrounding area.
63. The District of Columbia Comprehensive Plan Future Land Use Map designates the PUD as mixed-use: Medium-Density Residential and PDR land use categories.
64. The Medium-Density Residential designation is used to define neighborhoods or areas where mid-rise (four-seven stories) apartment buildings are the predominant use. Pockets of low- and moderate-density housing may exist within these areas. The Medium-Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. The R-5-B and R-5-C Zone Districts are generally consistent with the medium-density designation, although other zones may apply in some locations.
65. The PDR category is used to define areas characterized by manufacturing, warehousing, wholesale, and distribution centers; transportation services; food services; printers and publishers; tourism support services; and commercial, municipal, and utility activities which may require substantial buffering from noise, air pollution, and light-sensitive uses such as housing. The PDR designation is not associated with any industrial zone and therefore permits a building height of up to 90 feet and density of 6.0 FAR.
66. The Commission finds that although the C-3-C Zone District is not specifically listed among the corresponding land use categories for the PUD Site’s applicable designations, the C-3-C Zone District designation is not inconsistent with the Future Land Use Map. The Framework Element of the Comprehensive Plan provides that the Land Use Map is not a zoning map. (*See* 10A DCMR § 226.1(a); Z.C. Order No. 14-08; Z.C. Order No. 11-13; and Z.C. Order No. 10-28.) Whereas zoning maps are parcel-specific and establish detailed requirements for setback, height, use, parking, and other attributes, the Future Land Use Map does not follow parcel boundaries and its categories do not specify allowable uses or dimensional standards. (10A DCMR § 226.1(a).) By definition, the Map is to be interpreted broadly. (*Id.*) Furthermore, the land use category definitions

describe the general character of development in each area, citing typical building heights (in stories) as appropriate. The granting of density bonuses (for example, through PUDs) may result in heights that exceed the typical ranges cited here. (*Id.* at § 226.1(c).) The zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the citywide elements and the area elements, as well as approved Small Area Plans. (*Id.* at § 266.1(d).) Therefore, the Commission finds that the proposed map amendment is not inconsistent with the Future Land Use Map.

67. The Commission further finds that in evaluating the map amendment, the PUD Site should be viewed as a whole, not as a specific parcel. The Commission notes that when taken in context with the surrounding neighborhood, the PUD Site is in the center of a highly dynamic area that is quickly expanding and growing taller. The proposed C-3-C zoning classification will enable the PUD Site to be developed as a mixed-use development built to a maximum density of approximately 7.57 FAR, which is consistent with the amount of density permitted in medium density commercial zones. For example, the C-2-C Zone District permits 6.0 FAR as a base and up to 7.2 FAR utilizing the IZ bonus.
68. The PUD Site is also located within Neighborhood Transition Area B of the NoMa Vision Plan and Development Strategy (“NoMa Plan”), which encourages a “[m]ix of diverse residential and non-residential uses, with greatest height and density along rail tracks, Florida Avenue and N Street, transitioning to lower density along streets facing existing rowhouses.” (*See* NoMa Plan, p. 5.12.) Based on this context and other approved developments in the surrounding area, the Commission finds that the proposed C-3-C zoning classification and PUD will enable the PUD Site to be developed as a mixed-use project built to a maximum density of approximately 7.57 FAR and a maximum height of 101 feet, which are consistent with the density and height permitted in medium density zones and are appropriate given the location of the PUD Site and other recent developments in the surrounding area.
69. The District of Columbia Comprehensive Plan Generalized Policy Map designates the PUD Site in a Land Use Change Area category. The guiding philosophy in the Land Use Change Areas is to encourage and facilitate new development and to promote the adaptive reuse of existing structures. Many of the Land Use Change Areas have the capacity to become mixed-use communities containing housing, retail shops, services, workplaces, parks, and civic facilities. As Land Use Change Areas are redeveloped, the District aspires to create high quality environments that include exemplary site and architectural design and that are compatible with and do not negatively impact nearby neighborhoods.
70. The Commission finds that the proposed rezoning and PUD redevelopment of the PUD Site is consistent with the policies indicated in the Land Use Change Area. The existing C-M-1 Zone District is inconsistent with the Policy Map's designation of the PUD Site since C-M Zone Districts are "intended to provide sites for heavy commercial and light

manufacturing activities employing large numbers of people and requiring some heavy machinery under controls that minimize any adverse effect on other nearby, more restrictive districts." (11 DCMR § 800.1.) In contrast, the proposed mix of new residential and retail uses in the Project will help to improve the overall neighborhood fabric and bring new residents and retail uses to the area.

71. The Commission finds that the PUD is also consistent with many guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, and building green and healthy communities, as discussed in the paragraphs below.
72. ***Managing Growth and Change.*** In order to manage growth and change in the District, the Comprehensive Plan encourages, among other factors, the growth of both residential and non-residential uses. The Comprehensive Plan also states that redevelopment and infill opportunities along corridors are an important part of reinvigorating and enhancing neighborhoods. The Commission finds that the Project is fully consistent with each of these goals. Redeveloping the PUD Site as a vibrant mixed-use development with residential and retail uses will further the revitalization of the surrounding neighborhood. The proposed retail spaces will create new jobs for District residents, further increase the city's tax base, and help reinvigorate the existing neighborhood fabric.
73. ***Creating Successful Neighborhoods.*** One of the guiding principles for creating successful neighborhoods is getting public input in decisions about land use and development; from development of the Comprehensive Plan to implementation of the plan's elements. The Project furthers this goal, since as part of the PUD process the Applicant worked closely with ANC 6C to ensure that the development provides a positive impact on the immediate neighborhood.
74. ***Building Green and Healthy Communities.*** One of the guiding principles for building green and healthy communities is that building construction and renovation should minimize the use of non-renewable resources, promote energy and water conservation, and reduce harmful effects on the natural environment. (10A DCMR § 221.3.) The Project will include a significant number of sustainable design features and is located in a transit-rich environment, reducing the need to use private vehicles to access the PUD Site. Moreover, the Project will achieve LEED-Gold equivalent status.
75. The Commission also finds that the PUD furthers the objectives and policies of many of the Comprehensive Plan's major elements as set forth in the Applicant's Statement in Support and in the OP reports. (Ex. 6, 15, 28.)

#### **Office of Planning Report**

76. On November 13, 2015, OP submitted a report recommending setdown of the application. (Ex. 15.) The OP report stated that the Project is not inconsistent with the Comprehensive Plan's objectives for the area, is consistent with the Future Land Use and

Generalized Policy maps, and would contribute to the redevelopment of the neighborhood. The OP report noted that it would work with the Applicant to ensure that the additional information listed on page 1 of the report would be submitted prior to the public hearing.

77. On February 12, 2016, OP submitted a second report recommending approval of the application. (Ex. 28.) This OP report restated that the Project conforms to the Comprehensive Plan's objectives for the area and to the Land Use and Policy Maps, and would contribute to the redevelopment of the neighborhood. The OP hearing report requested that the Applicant clarify two items: (a) the lack of certainty related to the proposal for public space improvements to N Street, N.E.; and (b) the benefits and amenities package. The Applicant provided the requested information in its letter submitted to the Commission on February 22, 2016, in which it clarified its position regarding the N Street improvements and further described the proposed benefits and amenities. (Ex. 30A.) The Applicant further refined this information in its post-hearing submission dated March 7, 2016, in which it submitted a site plan and explanation regarding the specific improvements to N Street, N.E. (Ex. 35-35D.) Based on the additional information submitted by the Applicant, as well as the Applicant's testimony at the public hearing, the Commission finds that the Applicant adequately addressed OP's outstanding concerns.
78. The OP hearing report also included a memorandum from the Metropolitan Police Department indicating that the Project would increase pedestrian and vehicular traffic, but otherwise noting no objection to the Project.

### **DDOT Reports**

79. On February 12, 2016, DDOT submitted a report indicating that it had no objection to the application with the following conditions: (a) limit the financial incentive as part of the TDM plan to bikeshare and carshare memberships only and offer annual memberships to all new tenants for a period of five years; and (b) install a transit information screen in the residential lobby. (Ex. 27.) At the public hearing, the Applicant agreed to both of DDOT's conditions.
80. On March 1, 2016, DDOT submitted a supplemental report, which provided additional information requested by the Commission at the public hearing regarding the status of DDOT's Florida Avenue Multimodal Safety Study and the NoMa-Gallaudet University Metrorail station east entrance. (Ex. 34.) The supplemental DDOT report indicated that the preferred alternative for Florida Avenue, as set forth in the Florida Avenue Multimodal Safety Study, includes wider sidewalks, bicycle lanes, two vehicle travel lanes in each direction, and a center turn lane in the segment of Florida Avenue adjacent to the PUD Site. DDOT indicated that preliminary engineering and design work for the preferred alternative began in February, 2016, and is expected to take approximately 12 months to complete. DDOT also stated that approximately \$11 million in construction

funding is identified for 2021 in DDOT's State Transportation Improvement Program, which is the District's prioritized funding program for transportation projects.

81. As requested by the Commission, the supplemental DDOT report also described findings from WMATA's NoMA Pedestrian Tunnel Feasibility Study, which was conducted to determine the feasibility of the construction of a new pedestrian tunnel under the Metrorail and Amtrak tracks to provide improved access to the Metrorail station from the east. The DDOT report indicated that such construction is feasible.
82. On March 11, 2016, DDOT submitted a second supplemental report, which provided information requested by the Commission about the status of DDOT's Florida Avenue Multimodal Safety Study and the NoMa-Gallaudet University Metro Station east entrance.

### ANC Reports

83. ANC 6C submitted a report dated March 15, 2016. (Ex. 38.) The report stated the ANC considered the application at a properly noticed public meeting held on March 9, 2016, and approved the report. The report stated the ANC supports efforts to make the 300 block of N Street, N.E. more pedestrian-friendly through the addition of curb extensions and parklets, and efforts to improve conditions for bicyclists in the area. The ANC recommended approval of the application with three qualifications: (1) allow flexibility for the locations and programming of the parklet spaces between the sidewalk and curb, and include art sculptures and seating which are attractive and fun for children to sit and play; (2) add public outdoor bicycle racks near the corner of 3<sup>rd</sup> and N Street, N.E.; and (3) make internal improvements to the building to ease bicycle flow into the storage room, such as relocating some interior bicycle parking to the first floor or adding an additional elevator door to the basement storage room.
84. The Commission finds that the Applicant has adequately addressed the issues and concerns of ANC 6C. This Order has conditions that allow flexibility for the location and programming of the parklet spaces. While the Applicant's plans do not include public art in these spaces, nothing in the plans prohibits the future addition of art to the parks, and the design of the plans is sufficient to address the ANC's first condition. This Order requires the installation of bike racks on the north side of N Street to address the ANC's second condition. The Applicant added an automatic push button door on one of the building's external doors so that cyclists can more easily access the bike storage room. This feature, combined with the project's other bicycle-friendly features, sufficiently addresses the ANC's third condition.

### Post-Hearing Submissions

85. On March 7, 2016, the Applicant submitted a post-hearing submission, which included the following materials and information requested by the Commission at the public hearing: (a) a detailed site plan showing specific public space improvements for N Street,

N.E., including two-foot offset curb extensions, bulb outs, parklets with seating, expanded green areas, enhanced landscaping, and additional short-term bicycle parking spaces; (b) information regarding the building projections on Florida Avenue, N.E., including a site plan, sections, and perspectives showing the bay windows, as well as a copy of DCRA's approval of the projections; (c) information regarding the cost to certify the building as LEED-Gold; (d) a revised drawing showing a proposed bike gutter along the stair between the building's ground and cellar levels; and (e) a request for flexibility as to the color of the brick veneer proposed for the building. (Ex. 35-35D.)

86. On April 11, 2016, the Applicant submitted a supplemental post-hearing submission, which included the following: (a) a budget indicating the cost of the proposed public space improvements on N Street, N.E. between 3<sup>rd</sup> and 4<sup>th</sup> Streets, N.E.; (b) a letter from Foulger-Pratt Development, LLC, the owner of neighboring property at 301-331 N Street, N.E. which is the subject of another pending PUD application stating that Foulger-Pratt promises to develop and install a matching streetscape adjacent to its property as part of its PUD application; (c) the Applicant's response to the issues and concerns stated in ANC 6C's report; (d) additional renderings showing the sidewalk conditions adjacent to the building's Florida Avenue façade in light of the building's bay window projections; (e) a letter from a District of Columbia Code Official related to the bay projections; and (f) the Applicant's draft list of proffers and draft conditions required by 11 DCMR § 2403.16. (Ex. 40-40F.)
87. On April 27, 2016, the Applicant submitted it revised proffers and draft conditions pursuant to 11 DCMR § 2403.20. (Ex. 41.)
88. On May 10, 2016, the Applicant submitted an additional supplemental post-hearing submission. (Ex. 42.) The Applicant confirmed that it would pay for the installation of all of the N Street Improvements regardless of cost.

### CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, density, 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.

3. Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The PUD does not meet the minimum area requirements of 11 DCMR § 2401.1. However, the Commission finds that the Project is of exceptional merit and in the best interests of the city or country, and pursuant to 11 DCMR § 2401.2 hereby waives approximately 42% of the minimum area requirement.
5. The PUD, as approved by the Commission, complies with the applicable height, bulk, and density standards of the Zoning Regulations. The mixed uses for the Project are appropriate for the PUD Site. The impact of the Project on the surrounding area is not unacceptable. Accordingly, the Project should be approved.
6. The applications can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
7. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the Project's benefits and amenities are reasonable tradeoffs for the requested development flexibility.
8. Approval of the PUD is appropriate because the Project is consistent with the present character of the area and is not inconsistent with the Comprehensive Plan. In addition, the Project will promote the orderly development of the PUD Site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
9. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)), to give great weight to OP recommendations. The Commission carefully considered the OP report and, as explained in this decision, finds its recommendation to grant the applications persuasive.
10. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. The Commission carefully considered the ANC 6C's recommendation for approval and concurs in its recommendation. The Commission notes the ANC report contained three conditions, which the Commission finds the Applicant has satisfactorily addressed.

11. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401 et seq. (2007 Repl.)).

### DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the applications for consolidated review and approval of a planned unit development and related Zoning Map amendment from the C-M-1 Zone District to the C-3-C Zone District for property located at 301 Florida Avenue, N.E. (Lot 803 in Square 772N). The approval of this PUD is subject to the guidelines, conditions, and standards set forth below.

#### **A. Project Development**

1. The Project shall be developed in accordance with the Architectural Plans and Elevations dated February 22, 2016, (Ex. 26A1-26A6) as modified by the supplemental architectural drawings submitted on March 7, 2016 (Ex. 35A), and the additional supplemental architectural drawings submitted on April 11, 2016 (Ex. 40C-D) (the “Plans”), and as modified by the guidelines, conditions, and standards of this Order.
2. In accordance with the Plans, the PUD shall be a mixed-use project consisting of approximately 66,010 square feet of gross floor area (7.57 FAR), with approximately 61,173 square feet of gross floor area devoted to residential use and approximately 4,837 square feet of gross floor area devoted to retail use. The Project shall have 56 residential units, plus or minus 10%, and shall have a maximum height of 101 feet.
3. The Applicant is granted flexibility from the off-street parking requirements of § 2101.1; the loading requirements of § 2201.1; the PUD minimum land area requirements of § 2401.1(c); and the IZ proportionality requirement of § 2605.2, consistent with the approved Plans and as discussed in the Development Incentives and Flexibility section of this Order.
4. The Applicant shall also have flexibility with the design of the PUD in the following areas:
  - a. To be able to provide a range in the number of residential units of plus or minus 10%;
  - b. 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 structure;



- c. To vary the sustainable design features of the Project, provided the total number of LEED points achievable for the Project does not decrease below the LEED-Gold equivalent designation;
- d. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details, including window frames, doorways, railings, and trim;
- e. To use either the Light Pumice or Dark Pumice for the building's brick veneer color, as shown on Sheet A-1.5 of Exhibit 35A;
- f. To vary the location and design of the ground-floor components of the Project in order to comply with any applicable District of Columbia laws and regulations, including the D.C. Department of Health, that are otherwise necessary for licensing and operation of any retail or service use and to accommodate any specific tenant requirements; and to vary the size of the retail area;
- g. To vary the final selection of exterior signage on the building consistent with the Building Code; and
- h. To vary the features, means and methods of achieving: (i) the code-required Green Area Ratio ("GAR") of 0.2, and (ii) stormwater retention volume and other requirements under 21 DCMR Chapter 5 and the 2013 Rule on Stormwater Management and Soil Erosion and Sediment Control.

## B. Public Benefits

1. **Prior to the issuance of a Certificate of Occupancy for the building, and for the life of the Project,** the Applicant shall dedicate: (a) a minimum of five percent of the building's residential gross floor area to households earning up to 80% of the AMI, and (b) a minimum of three percent of the building's residential gross floor area to households earning up to 50% of the AMI. The IZ units shall maintain affordability in accordance with all applicable requirements of Chapter 26 of the Zoning Regulations.
2. **Prior to the issuance of a building permit, and for the life of the Project,** the Applicant shall provide proof to the Zoning Administrator that the building has been designed to include no fewer than the minimum number of points necessary to be the equivalent of a LEED-Gold designation under the LEED for Homes Rating System, Multi-family Mid-rise, October, 2010. The Applicant shall put forth its best efforts to design the PUD so that it may satisfy such LEED

standards, but the Applicant shall not be required to register or to obtain the certification from the United States Green Building Council.

3. **Prior to the issuance of a certificate of occupancy for the building**, the Applicant shall demonstrate to the Zoning Administrator that it has expended, or is otherwise in the process of expending, funds necessary for completion of the design, permitting, and construction of all of the improvements on the north side of N Street, N.E., between 3<sup>rd</sup> and 4<sup>th</sup> Streets, N.E., consistent with the N Street Improvements plan marked as Exhibits 35A and 42A in the record of this case. The N Street Improvements shall include:
  - a. Extend the sidewalk width along the north side of N Street, N.E., between 3<sup>rd</sup> and 4<sup>th</sup> Streets, N.E., a minimum of two feet, with the final sidewalk width to be subject to DDOT and utility agency approvals;
  - b. Install enhanced landscaping along the north side of N Street, N.E., between 3<sup>rd</sup> and 4<sup>th</sup> Streets, N.E., which will include oak trees, landscaped beds, drought-tolerant shrubs, ornamental grasses, and perennials, with the final design and location of the enhanced landscaping to be subject to DDOT and utility agency approvals;
  - c. Install short-term bike racks on the north side of N Street, N.E., between 3<sup>rd</sup> and 4<sup>th</sup> Streets, N.E., with the final design, number, and location of the bike racks to be subject to DDOT and utility agency approvals;
  - d. Install parklets along the north side of N Street, N.E., between 3<sup>rd</sup> and 4<sup>th</sup> Streets, N.E., that will expand public space along the N Street sidewalk and provide seating areas for pedestrians, with the final design, programming, and location of the parklets to be subject to DDOT and utility agency approvals;
  - e. Install bulb-outs or other comparable traffic calming features on the north side of N Street, N.E., between 3<sup>rd</sup> and 4<sup>th</sup> Streets, N.E. to discourage vehicular traffic on N Street, with the final design and location of the bulb-outs or other traffic calming features to be subject to DDOT and utility agency approvals; and
  - f. Decrease the cart path width of N Street, N.E., between 3<sup>rd</sup> and 4<sup>th</sup> Streets, N.E., or install comparable cart path design features having the same effect, with the final design and dimension of the cart path width subject to DDOT and utility agency approvals.
4. **Prior to the issuance of a certificate of occupancy for the retail component of the building**, the Applicant shall provide evidence to the Zoning Administrator confirming that it has and/or is in the process of marketing the retail space in the

building to a variety of potential tenants and has taken the following actions to help attract “maker” uses as tenants:

- a. Retain a retail broker with experience marketing to and securing a variety of tenant types, including makers;
- b. Sponsor a workshop that encourages the maker movement and sponsor a job fair that targets the maker movement;
- c. Market the proposed retail space to retail tenants within Union Market; and
- d. Market the proposed retail space to retail tenants operating in Union Kitchen.

### C. Transportation Incentives

1. **Prior to issuance of a Certificate of Occupancy for the building and for the life of the Project**, the Applicant shall provide the following TDM strategies:

- a. Designate a TDM Coordinator responsible for organizing and marketing the TDM plan;
- b. Include in its residential leases a provision that prohibits tenants from obtaining an RPP under penalty of lease termination;
- c. Develop a marketing program detailing transportation information;
- d. Provide 56 long-term (secure, interior) and 18 short-term (exterior) bicycle parking spaces;
- e. Install a bicycle maintenance facility in the bicycle storage room that includes a bike pump and tool set;
- f. Provide a bicycle gutter along the stair between the ground and cellar levels for ease of bicycle access to the bicycle storage room;
- g. Provide ridesharing information through Commuter Connections to retail employees;
- h. Install a transit information screen in the residential lobby; and
- i. Install an automatic push-button door opener on one of the building’s egress doors onto N Street, N.E., so that cyclists can more easily enter and exit the building with their bikes.

2. **Prior to the issuance of Certificate of Occupancy for the building and for the first three years of operation of the Project**, offer an in-unit bicycle rack for each residential unit.
3. **Prior to the issuance of Certificate of Occupancy for the building and for the first five years of operation of the Project**, offer each residential unit the option of either a one-time annual car-sharing membership and application fee or a one-time annual Capital Bikeshare membership.

**D. Miscellaneous**

1. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct and use the PUD Site in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
2. The PUD shall be valid for a period of two years from the effective date of Z.C. Order No. 15-22. Within such time, an application must be filed for a building permit, with construction to commence within three years of the effective date of this Order.
3. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.
4. 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.

On March 28, 2016, 2016, upon a motion by Chairman Hood, as seconded by Commissioner Miller, the Zoning Commission **APPROVED** the application by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; Marcie I. Cohen, not present, not voting).

On May 12, 2016, upon the motion of Chairman Hood, as seconded by Commissioner Miller, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on June 17, 2016.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 16-01**  
**Z.C. Case No. 16-01**  
**TMASSHLDG, LLC**  
**(Capitol Gateway Overlay Review @ Square 656, Lot 813)**  
**March 17, 2016**

Pursuant to notice, the Zoning Commission of the District of Columbia ("Commission") held a public hearing on March 17, 2016, to consider an application filed by TMASSHLDG, LLC ("Applicant") for review and approval of a new residential building pursuant to §§ 1610 and 3104 of the Zoning Regulations, Title 11 DCMR ("Zoning Regulations"), which apply to new construction within the Capitol Gateway Overlay and for an area variance for required parking spaces, pursuant to §§ 1610.7, 3104, and 2101.1. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

**FINDINGS OF FACT**

1. On January 8, 2016, the Applicant filed an application for review and approval of a new residential building pursuant to §§ 1610 of the Zoning Regulations, which apply to new construction on any lot within Square 656 within the Capitol Gateway ("CG") Overlay District. The subject property consists of Lot 813 in Square 656 ("Property"). The application included a request for area variance relief approval of a reduction in required parking, pursuant to §§ 3104 and 2101.1 of the Zoning Regulations.
2. The Applicant filed a preliminary statement in support of the application on January 8, 2016. (Exhibits ["Ex"] 2-2I.) The statement in support included a summary of the application's compliance with the applicable provisions of the CG Overlay District and justification for the requested area variance for parking reduction. This statement in support also included architectural drawings, detailed material samples, and a public space plan.
3. On February 20, 2016, the Applicant submitted a supplemental pre-hearing statement, which included updated architectural drawings, statement of intended use, building materials clarification, a Transportation Assessment Memo for DDOT review prepared by the Applicant and including a parking assessment report from Wells and Associates, Proposed Design Flexibility Parameters, and letters of support. (Ex. 11.)
4. The Commission held a hearing on the application on March 17, 2016. Parties to the case included the Applicant and Advisory Commission ("ANC") 6D. Proper notice of the hearing was provided by the Office of Zoning and the Applicant, pursuant to 11 DCMR § 3015.
5. Appearing at the hearing on behalf of the Applicant were Tyler C. Merkeley and Aubrey Jason Grant of Emotive Architecture. The Commission accepted Mr. Grant as an expert in architecture

6. At the conclusion of the public hearing on March 17, 2016, the Commission took final action to approve the application. The Commission determined that the project satisfies all applicable requirements of the CG Overlay District and the application satisfies the burden of proof for area variance relief for the requested parking reduction.

### **PROJECT OVERVIEW**

7. The property that is the subject of this application is known as Lot 813 in Square 656 (the "Property") and consists of approximately 3,000 square feet of land area within a lot that is 24 feet wide and 125 feet deep. The property is located in the southwest corner of the square and bounded on the west by 1<sup>st</sup> Street, S.W. and lies just north of Q Street, S.W.
8. The Applicant proposes to develop a new four-story multiple dwelling building containing eight residential units to be known as the Stadium District Lofts. There will be no retail/commercial uses, and there will be no on-site parking spaces provided. Overall building height will be approximately 55 feet and the total gross floor area for the building will total approximately 10,040 square feet.
9. Centered in the middle of Buzzard Point, Stadium District Lofts will likely be one of the first "standard setting" smaller infill developments in sync with the "Buzzard Point Vision Framework & Implementation Plan (Public Draft)" as it provides a transition from the higher-density development south of Q Street, S.W. to the existing lower-density residential developments in the R-4 Zone District to the north.
10. The building has been designed to mirror the industrial texture of Buzzard Point's historical use pattern with brick clad exteriors on the east and west walls and Exterior Insulation and Finishing System ("EIFS") finishes emulating brick façade with textures/patterns on the common walls expected to be some day hidden by adjacent parcel development. Aluminum doors and windows will reflect the existing warehouse style glazing typical in Buzzard Point and prominent in the "in development" Pepco Waterfront Substation project directly located southwest across Q Street from Stadium District Lofts.
11. The building will incorporate a number of elements to enhance its sustainability, and the Applicant represented that it expects the finished building would qualify for at least a LEED-Silver Homes Multi-Family Mid-Rise 2010 certification. To that end, included in the Applicant's PowerPoint Presentation, the Applicant submitted a draft LEED checklist identifying those elements and features the Applicant may pursue in satisfaction of its sustainability commitment, including an expansive green roof, bio retention garden and permeable pavers.

**DESCRIPTION OF THE SURROUNDING AREA AND ZONING CLASSIFICATION**

12. The Property is located two blocks west of South Capitol Street in southwest Washington. It fronts west onto 1<sup>st</sup> Street, S.W., has no rear alley access to the east, High Road Middle School on its North Boundary, and the Shulman Liquor Mart complex and five row houses on its south boundary just north of Q Street, S.W. Fort McNair and National Defense University are located two blocks to the west of the Property and the Syphax Gardens housing complex lies north of the Property. Nationals Stadium is approximately two blocks northeast of the Property and the area in between the stadium and the property is a mix of commercial and residential (approximately nine row houses) uses. The area south of Q Street, S.W. includes numerous industrial uses, vacant properties, 11 single-family row houses and the “in development” Pepco Waterfront Substation, and DC United Stadium Complex.
13. The Property is included in the Mixed-Use Commercial Residential (“CR”) Zone District and is located in the CG Overlay District. The Property is vacant but had been occupied by a one family dwelling that was recently razed.
14. There are no existing curb cuts or alley access.
15. The Stadium District Lofts satisfies the area requirements for a building located in a CR Zone District. The project will have a density of 3.35 floor area ratio (“FAR”), a maximum building height of 54 feet, six inches, and lot occupancy of 75%. However, the project will have no onsite parking spaces, thus necessitating the need for an area variance.

**CAPITOL GATEWAY OVERLAY DISTRICT DESIGN REVIEW REQUIREMENTS****Satisfaction of CG Overlay District Criteria**

16. The Applicant is required to prove that the Project is consistent with the requirements of §§ 1610 and 3104. The following paragraphs address the Applicant’s satisfaction of these criteria.
17. The purposes and objectives of the CG Overlay District, as enumerated in §1600.2, that are relevant to the proposed development include:

Assuring development of the area with a mixture of residential and commercial uses, and a suitable height, bulk, and design of buildings, as generally indicated in the Comprehensive Plan and recommended by planning studies of the area.

(11 DCMR § 1600.2(a).)



18. Pursuant to §§ 1610.3(a) and (b), the Applicant is required to prove that the Project will achieve the objectives of the CG Overlay District as set forth in § 1600.2. See paragraph 17 above.) The Applicant, in its written statement and testimony at the public hearing, noted that the Project will achieve the objectives of the CG Overlay District through the following:
- The height and density of the proposed residential structure is significantly less than what is permitted in the CG/CR Zone District as a matter of right. The proposed building will have a building height of approximately 55 feet compared to the 90 feet permitted in the CR Zone District as a matter of right;
  - Similarly, the proposed density of 3.35 FAR is less than 60% of the 6.0 FAR which residential buildings are permitted to achieve as a matter of right in the CR Zone District;
  - The proposed height and bulk of the project is generally consistent with the scale of development in the surrounding neighborhood;
  - The Stadium District Lofts will introduce a style of multi-story, multi-family market rate housing use on the Property that does not currently exist anywhere else in the surrounding neighborhood—a new smaller mid-rise contemporary design and amenity package building oriented to the walk, live, and work neighborhood lifestyle;
  - This proposed use is ideally suited for this Property, which can be considered to be a transitional area located between the residential uses to the north of the Property, the industrial uses to the south, and the institutional uses to the west; and
  - The proposed building will provide market rate housing to DC residents wanting to embrace a lifestyle less dependent upon personal vehicle ownership and more dependent upon, Metro, bicycle, car/ride share, and walking to travel within their neighborhood and city.
19. Pursuant to § 1610.3(c), the proposed building must be in context with the surrounding neighborhood and street patterns. The Applicant noted that the Property is surrounded by industrial, institutional, and residential (multi-family and single-family) uses. As demonstrated in the Architectural Drawings, the project is contextual to the surrounding neighborhood and street patterns; offering distinct façade designs for each of the building's elevations and providing an innovative design to connect to the distinct characters of each of the street frontages as well as immediately neighboring buildings. (Ex. 2E1-2E2.)

20. Satisfaction of § 1610.3(d) requires that the proposed building minimize conflict between vehicles and pedestrians. The proposed design promotes a safe pedestrian experience along 1<sup>st</sup> Street, S.W. Currently there are no curb cuts on the Property. As noted in the written submission and testimony at the public hearing, the Applicant consulted with representatives of the District Department of Transportation (“DDOT”). Based on consultation with representatives of DDOT, the Applicant has agreed to widen the existing sidewalk and align to the forthcoming new DDOT Buzzard Point Guidelines for Streetscape when publicly released. A widened sidewalk along 1<sup>st</sup> Street will provide more pedestrian capacity in anticipation of “game day” foot and bicycle traffic along 1<sup>st</sup> Street, S.W. accessing both DC United’s new stadium one block south and Nationals Stadium two blocks east. The Applicant has also agreed to the Office of Planning’s (“OP”) and DDOT’s request to develop the “Public Space” along 1<sup>st</sup> Street to provide eight new bicycle parking spaces adjacent to the new six-foot-wide sidewalk for daily and game day use. The Applicant’s Pre-Hearing Transportation Assessment Memo included the Applicant’s Transportation Demand Management (“TDM”) plan which also included several items developed in discussions with DDOT to reduce vehicle traffic and loading activity associated with these residential units. (Ex. 11.) The Proposed Public Space Perspective Drawings (SD-0.091) in the Architectural Drawings provide a good vision of these components implemented in the project. (Ex. 2E1-2E2.) These steps agreed to by the property owner will allow for unimpeded flow of pedestrian activity along 1<sup>st</sup> Street, S.W.
21. In accordance with § 1610.3(e), the proposed building should minimize unarticulated blank walls adjacent to public spaces through façade articulation. The elevations and perspectives included in the Architectural Drawings depict the proposed building façades. (Ex. 2E1-2E2.) The proposed design includes full height glazing for both the east and west faces of the building which are likely to have long term exposure to public spaces. Both the east and west façades of the building will have a brick finish to them which will also continue a minimum of 24 inches around to the longer north and south façades of the building. The north and south façades are longer and are most likely to eventually be hidden from public view by anticipated development on the two adjacent parcels which are significantly larger (6,138 sf and 13,026 sf, respectively) than this property. At least one of these properties is currently for sale and being evaluated for significant development by larger established regional developers looking to maximize the CR/CG development potential of the corner lot to the south and/or the larger lot to the north which also has existing alley access. The size of this project and the likelihood that the longer walls are most likely to be hidden from public view strongly suggested the use of EIFS for their siding finish to provide texture and color compatible with the brick facades on the east and west faces of the building. The two tone three vertical band EIFS pattern is similar to another building in the Navy Yard (e.g. Parc Riverside 1011 1<sup>st</sup> Street, S.W.) and ensures no “unarticulated Blank Walls.” The Applicant has proposed the use of two tones, “327 Mocha” which will cover two-thirds of the wall to pull out the warmer tones

of the brick section and “305 Plum” which will cover one-third of the wall to pull out the cooler slate tones of the brick section. The cost of other siding alternatives is not feasible on a project of this size, especially when as shown in the building perspective views in the Architectural Drawings, these walls will most likely be hidden from public view in the near future as the neighborhood develops to its full potential under the CR/CG zoning.

22. Subsection 1610.3(f) requires that the proposed building will minimize impact on the environment, as demonstrated through the provision of an evaluation of the proposal against LEED certification standards. The Project has been designed to qualify for a LEED Homes Multi-Family Mid-Rise 2010 certification level of at least “Silver”. The Applicant submitted a preliminary LEED checklist for the Project into the record at the public hearing in its PowerPoint Presentation. (Ex. 18.) The checklist shows that a LEED-Silver Certification level is very likely achievable and the Applicant expects to pursue this level of certification so long as it is both practical and feasible economically. In any event, a green roof, Bio Garden, and green area ratio exceeding the minimum requirements are all not only feasible but desirable components for this project. As an expected long-term owner of the property, the Applicant finds most of the LEED requirements not only increase the desirability of the project in D.C. to renters, but also provides for both lower operating costs as well as lower maintenance costs over the long term.
23. The Applicant is also required by § 3104.1 to show that the proposed development will not affect adversely the use of neighboring property. In 2005, the Property was rezoned from the Industrial C-M-2 Zone District to the CG/CR Zone District. This application will allow for the removal of a vacant dilapidated residence and its replacement by a new residential apartment building use that will add vibrancy and activity to the area, without overwhelming the adjacent residential use. The existing house has been vacant for many years and suffered at least two significant fire events. It has been an ongoing source of problems in the neighborhood with individuals loitering around and in the property with some engaging in both illegal and bothersome activities. This was having a very strong negative impact on neighboring properties. The Applicant’s purchase of this property immediately decreased the negative impacts of the property and the raze of the dilapidated building removed this eyesore, thereby benefiting the community. The design of the new structure and proposed use will minimize any adverse impacts on the adjacent properties. The existence in the current design of a front yard “public space,” a rear yard private space and a roof top deck will evenly distribute any outdoor activity on the parcel in order to minimize the impact on the neighboring properties.

#### Area Variance Relief – Number of Parking Spaces

24. The Project will provide no parking spaces. The Zoning Regulations require three parking spaces for the proposed use. The Property is exceptional in that it is extremely

narrow – 24 feet wide and 125 feet deep. It also has neither an alley access nor existing curb cuts, and the strict application of the Zoning Regulations will result in a practical difficulty upon the Applicant in that it will significantly constrain the Applicant's efforts to provide three on-site parking spaces. With no way to access the lot, there is no ability to provide grade-level parking on the property. Because of the extremely narrow width of the property, there is no feasible way to provide either above- ground or below-ground parking within the building footprint. Absent relief from the on-site parking requirement, the Applicant will not be able to develop this building. The requested relief can be granted without substantial detriment to the public good and without substantially impairing the zone plan. The existing on-street parking capacity, as demonstrated by the Parking Assessment Study – 30% Peak Occupancy – provides sufficient unused prime time spaces to handle the additional parking created by this Property being granted 100% relief from the requirement for three on-site parking spaces. (Ex. 10.) The lack of existing traffic congestion in the neighborhood, along with the relative close proximity to public transportation, particularly the two Metrorail stations (both within seven blocks), and the availability of public transportation services in the area suggests that the incremental impact of granting this relief will have no impact on the public good and surrounding neighborhood. The Applicant's Traffic Demand Management plan provides additional measures which will also reduce the demand for on-street parking space.

## **GOVERNMENT REPORTS**

### **Office of Planning Report**

25. In its March 7, 2016 report, OP noted that it is very supportive of the Project and can recommend approval of the application “pending the applicant's” further study of the materials and design of the party walls, as well as examination of whether the green features of the building can be enhanced. OP encouraged the Applicant to examine again what alternative design options are possible for party walls so that the exposed surface can present the most pleasing possible view. OP concluded that the Applicant had satisfied the standards for area variance relief of the required off-street parking spaces. OP noted that approval of the application would be in harmony with the intent of the Zoning Regulations, citing § 600.3, which provides that the CR Zone District is designed to “help create major new residential and mixed use areas in planned locations at appropriate densities, heights and mixture of uses.”
26. OP determined that the application would generally further the objectives of the Capitol Gateway Overlay. The OP report stated that:

The project would enhance the walkability of the neighborhood – a key goal of the overlay – by replacing a blighted building, improving landscaping, and replacing and widening the sidewalk.

(Ex. 15.)

DDOT Report

27. By the report dated March 3, 2016, DDOT stated that it has no objection to the application. DDOT noted the following: that the Application provided for no curb cuts; preliminary public space plans are consistent with DDOT Standards, and primary residential access from 1<sup>st</sup> Street. The Applicant used sound methodology and assumptions to perform analysis, future residents are likely to use auto and non-auto options at approximately equal shares; and the site is served by Metrorail and Metrobus. The TDM measures are appropriate and will serve to encourage non-auto use; existing transit service should have capacity to accommodate future demand; the Applicant shows long-term and short-term bicycle parking facilities; and curbside parking is sufficient to accommodate increase demand. (Ex. 14.)
28. The Applicant proposed the following TDM measures:
- (a) As a one-time incentive, up to eight bicycle helmets (one per unit) for distribution to new residents;
  - (b) Provide new residents with an information packet regarding available transportation choices and links to resources that provide real-time transportation updates for smart phones, computers, etc.;
  - (c) Offer an annual Capital Bikeshare or car share membership at lease signing or unit purchase for new residents up to five years after the building is completed;
  - (d) Provide a new resident with a \$30.00 credit towards on-demand car services (e.g., UberX) for each unit at initial lease or sale of unit in the building up to five years after the building is completed;
  - (e) Install a minimum of four short term parking spaces subject to DDOT guidelines; and
  - (f) Post all TDM commitments on-line for a one-year period.
- (Ex. 11.)
28. In testimony at the March 17, 2016 public hearing, Jonathan Rogers, representative of DDOT, noted that the Applicant had worked in close coordination with DDOT on this project and that they appreciated the Applicant's incorporating DDOT's Public Space Plan suggestions into the design of the project. He also mentioned that the Buzzard Point Public Space Plan would be released in the near future. In response to a Commissioner's question on existing residential permit parking ("RPP") on 1<sup>st</sup> Street, S.W., Mr. Rodgers

acknowledged the current RPP zones in the neighborhood will be subject to changes and modifications as the DC United Stadium Traffic Management Plan is released.

#### ANC Report

29. On February 8, 2016, ANC 6D held its regularly scheduled and properly noticed monthly public meeting. At that meeting, ANC 6D voted 6-0-1 to support the application. The ANC noted that its support of the application is based on the Applicant's satisfaction of the Design Review Standards for the CG Overlay District and for the area variance standards for the reduction in the amount of parking spaces provided for the project. The ANC also voted to provide a "special exception" to their long standing policy of not supporting RPP on new multi-family projects. The ANC also supported the public space plan in front of the building along with the planned use of building materials that reflect the industrial heritage of the community. The ANC also noted the Applicant is a nine-year resident of the neighborhood and small business owner and has a track record of hiring neighbors in maintaining his rental properties. (Ex. 9.)
30. In testimony at the public hearing, ANC Single-Member District (6D06) Commissioner Rhonda Hamilton testified as to the ANC's support for the proposal and noted the ANC appreciated the Applicant meeting with the ANC prior to the February 8, 2016 meeting to discuss any questions and issues the ANC 6D members had regarding the project. She also noted that as a long-time resident of the community the Applicant was considered a local who has been actively involved in supporting the community as well as employing several neighbors on a part time basis for various projects.

#### PARTIES/PERSONS IN SUPPORT OR OPPOSITION

31. There were no parties or persons that testified in support or opposition to the project.

#### CONCLUSIONS OF LAW

1. The Commission finds that, pursuant to 11 DCMR § 1610, the Applicant is required to satisfy the burden of proving the elements that are necessary to approve the overall project under § 3104, as well as the specifically delineated requirements of the CG Overlay District. In addition, the Applicant must establish the case for area variance relief and the parking space requirements of § 2101.1.
2. The Commission provided proper and timely notice of the public hearing on this application, by publication in the *D.C. Register*, and by mail to ANC 6D, OP, and to owners of property within 200 feet of the site.
3. The proposed development is within the applicable height, bulk, and density standards of the Zoning Regulations, and the height and density will not cause a significant adverse

effect on any nearby properties. The proposed residential building use is appropriate for the site, which is located in the CG/CR Zone District. The impact of the Project on the surrounding area is not unacceptable. The proposed development has been appropriately designed to complement existing and proposed buildings adjacent to the site, with respect to height and mass.

4. Approval of the proposed development is not inconsistent with the Comprehensive Plan.
5. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001)) to give “great weight” to the issues and concerns raised in the written report of the affected ANC. As is reflected in the Findings of Fact, at its duly noticed meeting held on February 8, 2016, ANC 6D, the ANC within which the Subject Property is located, voted 6-0-1 in support of the application for CG Overlay District Review. The ANC noted that it believed the Applicant had satisfied the standards of review of the CG Overlay District and the area variance standards for the proposed reduction in the number of parking spaces provided in the Project. The Commission found the ANC’s advice to be persuasive.
6. Based upon the record before the Commission, having given great weight to the views of the ANC and having considered the reports and testimonies that OP and DDOT provided in this case, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under 11 DCMR §§ 1610 and 3104 and the independent burden for the area variance relief. The Commission finds that the Project fully satisfies the goals and objectives of the CG Overlay District. The proposed structure is consistent in height and bulk with other structures in the area and has been designed to minimize unarticulated blank walls. The Applicant has submitted a LEED Homes Multi-Family Mid-Rise 2010 checklist for this Project and intends to achieve LEED-Silver certification. The Commission notes that the Applicant’s proposal to install short and long term bicycle parking spaces in the Project and the Project’s TDM plan will minimize impacts on the environment.
7. The Commission finds that the original two color three vertical band design for the party walls on the proposed structure is appropriate. The Commission notes that the Applicant has used exterior materials and finishes which reflect the industrial heritage of the community and are contextual to the neighborhood.
8. The Commission has the authority to grant a variance from the minimum number of parking spaces required for residential uses provided the requirements of § 3103.2 are satisfied. The Commission finds the property is affected by exceptional size, shape, topography, or other extraordinary or exceptional situation or conditions and that practical difficulties would make it impossible to develop the site if the required three on-site parking spaces were required for approval. The Commission further concluded that

the granting of this variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. The Commission also finds that the Applicant's Parking Assessment Report indicated only a 30% peak occupancy for neighborhood on-street parking spaces and that approving the area variance for 100% on-site parking relief will not have a negative impact on the neighborhood's available parking capacity.

9. The application for CG Overlay District Review will promote the orderly development of the site in conformity within the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and the Map of the District of Columbia.

### DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL**, consistent with this Order, of the application for CG Overlay District review and area variance relief. For the purposes of the following conditions, the term "Applicant" shall be the person holding title to the property. If there is more than owner, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the property, that party shall have no further obligations under this Order; however, that party remains liable for any violation of any condition that occurred while an owner. This approval is subject to the following guidelines, standards, and conditions:

1. The project shall be built in accordance with the architectural plans, elevations, and materials submitted in the record of Z.C. Case No. 16-01 as Exhibits 2E1-2E2, 11, and 18, as modified by the guidelines, conditions, and standards below.
2. The Applicant shall have flexibility with the design of the project in the following areas:
  - a) To vary the location and design of all interior components, including but not limited to partitions, structural slabs, doors, hallways, columns, windows, stairways, bicycle/trash storage rooms, shower and changing room, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
  - b) To make refinements to the floor-to-floor heights, so long as the maximum height (+/- 7.5%) and total number of stories as shown on the plans do not change;
  - c) To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on cost, availability and market trends at the time of construction, provided that there is no reduction in quality;



- d) To make minor refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit or any other applicable approvals;
  - e) To adjust the placement of windows, balconies, balcony railings, and privacy screens as necessary based upon the final unit count and layout of demising walls, so long as the adjustments do not materially change the exterior appearance of the building; and
  - f) Exceed by not more than two percent of lot occupancy or gross floor area of the Project.
3. The Commission's Order approving the Project shall be valid for a period of three years from the date of the Order, by which time construction of the project must begin.
  4. The Applicant shall:
    - (a) Distribute up to eight bicycle helmets (one per unit) for distribution to new residents;
    - (b) Provide new residents with an information packet regarding available transportation choices and links to resources that provide real-time transportation updates for smart phones, computers, etc.;
    - (c) Offer an annual Capital Bikeshare or car share membership at lease signing or unit purchase for new residents up to five years after the building is completed;
    - (d) Provide a new resident with a \$ 30.00 credit towards on-demand car services (e.g., UberX, Lyft) for each unit at initial lease or sale of unit in the building up to five years after the building is completed;
    - (e) Install a minimum of four short term parking spaces subject to DDOT guidelines; and
    - (f) Post all TDM commitments on-line for a one-year period.
  5. Subject to the approval of DDOT, the Applicant shall widen the existing sidewalk along 1<sup>st</sup> Street and align it to the forthcoming new DDOT Buzzard Point Guidelines for Streetscape when publicly released and provide eight new bicycle parking spaces adjacent to the new six-foot-wide sidewalk for daily and game day use.

6. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. (Act), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is 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.

On March 17, 2016, upon the motion of Commissioner Turnbull as seconded by Vice Chairperson Cohen, the Zoning Commission **APPROVED** the Application and **ADOPTED** this Order at the conclusion of its public hearing by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Michael G. Turnbull, and Peter G. May to approve).

In accordance with the provisions of 11 DCMR 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on June 17, 2016.

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