

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council enacts A21-52, Child and Youth, Safety and Health Omnibus Temporary Amendment Act of 2016
- D.C. Council enacts Act 21-529, Fiscal Year 2017 Budget Support Clarification Emergency Amendment Act of 2016
- D.C. Council passes Resolution 21-621, “Constitution and Boundaries for the State of Washington, D.C. Approval Resolution of 2016,” including the text of the Constitution and the Boundary specifications for the State of Washington, D.C., for transmittal to Congress
- Office of the City Administrator establishes emergency regulations for quasi-exterior signage in the District
- Department of For-Hire Vehicles schedules a public hearing on the proposed Digital Taxicab Solutions
- Department of Health solicits applications for the FY 2017 Ryan White HIV/AIDS Program Parts A & B Funds
- Office of Tax and Revenue proposes updates to the District’s tax withholding requirements

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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MAYOR

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ADMINISTRATOR

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-508

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 27, 2016

To amend, on a temporary basis, the Police Officer and Firefighter Cadet Programs Funding Authorization and Human Rights Act of 1977 Amendment Act of 1982 to change the age eligibility requirements for the police officer cadet program.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Law Enforcement Career Opportunity Temporary Amendment Act of 2016".

Sec. 2. Section 2(a) of the Police Officer and Firefighter Cadet Programs Funding Authorization and Human Rights Act of 1977 Amendment Act of 1982, effective March 9, 1983 (D.C. Law 4-172; D.C. Official Code § 5-109.01(a)), is amended by striking the number "21" and inserting the number "25" in its place.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

(a) 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

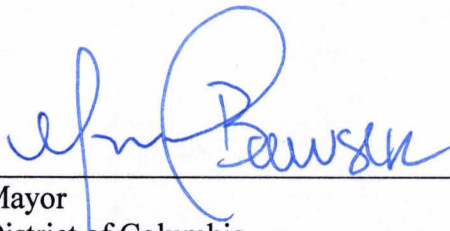
ENROLLED ORIGINAL

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

(b) This act shall expire after 225 days of its having taken effect.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 27, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-509

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 27, 2016

To amend, on a temporary basis, the Retired Police Officer Redeployment Amendment Act of 1992 to authorize the Chief of the Metropolitan Police Department to pay Metropolitan Police Department police officers who retired at a rank other than Officer and who are rehired a salary of not more than the salary paid for specified service steps.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Senior Law Enforcement Officer Temporary Amendment Act of 2016".

Sec. 2. Section 2 of the Retired Police Officer Redeployment Amendment Act of 1992, effective September 29, 1992 (D.C. Law 9-163; D.C. Official Code § 5-761), is amended by adding a new subsection (h) to read as follows:

"(h) Notwithstanding subsection (d) of this section, a police officer who retired at a rank other than Officer who is rehired under subsection (a) of this section shall be eligible to be paid for the duration of rehire a salary of no more than the salary paid at the following service steps:

"(1) Class 1 (Officer) – Step 5;

"(2) Class 3 (Detective Grade 1) – Step 4; or

"(3) Class 4 (Sergeant) – Step 3."

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director 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. 4. Effective date.

(a) 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

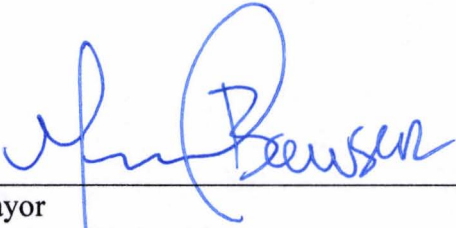
ENROLLED ORIGINAL

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

(b) This act shall expire after 225 days of its having taken effect.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 27, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-510

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 27, 2016

To amend, on a temporary basis, section 47-825.01a of the District of Columbia Official Code to provide 80 days for the Real Property Tax Appeals Commission to decide a residential real property case involving a residential real property with 5 or more dwelling units.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Real Property Tax Appeals Commission Review Clarification Temporary Amendment Act of 2016”.

Sec. 2. Section 47-825.01a(e)(7)(B) of the District of Columbia Official Code is amended to read as follows:

“(B) Subject to subparagraph (A) of this paragraph, after the completion of the hearing, the Commission shall have 30 days to decide a residential real property case involving a single family residential property or a residential real property consisting of 4 or fewer dwelling units and 80 days to decide a residential real property case involving a residential real property with 5 or more dwelling units or a commercial real property case.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director 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. 4. Effective date.

(a) 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

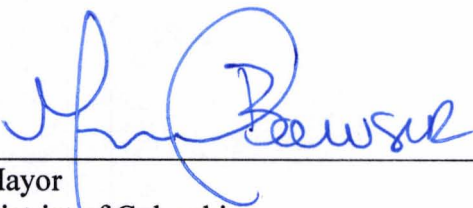
ENROLLED ORIGINAL

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

(b) This act shall expire after 225 days of its having taken effect.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 27, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-511

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 27, 2016

To approve, on an emergency basis, Modification Nos. 3 and 4 to Contract No. CW22866 with Advance Employee Intelligence, LLC to provide Mission Oriented Business Integrated Services, and to authorize payment in the not-to-exceed amount of \$10,000,000.00 for the goods and services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Modifications to Contract No. CW22866 Approval and Payment Authorization Emergency Act of 2016”.

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 3 and 4 to Contract No. CW22866 with Advance Employee Intelligence, LLC to provide Mission Oriented Business Integrated Services, and authorizes payment in the not-to-exceed amount of \$10,000,000.00 for the goods and services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

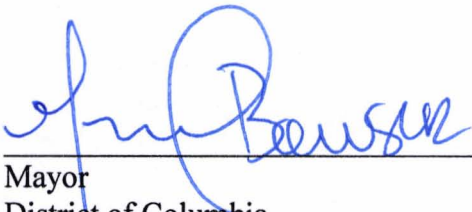
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than

ENROLLED ORIGINAL

90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 27, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-512

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 27, 2016

To amend, on an emergency basis, due to congressional review, An Act To provide for the payment and collection of wages in the District of Columbia to clarify who may bring an action on behalf of an employee and when a general contractor and subcontractor or a general contractor and temporary staffing firm will be jointly and severally liable for violations, to revise criminal penalties for violations of the act, and to authorize the Mayor to issue rules to implement the provisions of the act; to amend the Minimum Wage Act Revision Act of 1992 to clarify the time period for retention of payroll records, when a general contractor and subcontractor or a general contractor and temporary staffing firm will be jointly and severally liable for violations, and how the Mayor shall make certain information available to employers; and to amend the Wage Theft Prevention Amendment Act of 2014 to repeal a retroactive applicability provision.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Wage Theft Prevention Correction and Clarification Second Congressional Review Emergency Amendment Act of 2016”.

Sec. 2. An Act To provide for the payment and collection of wages in the District of Columbia, approved August 3, 1956 (70 Stat. 976; D.C. Official Code § 32-1301 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Official Code § 32-1303) is amended as follows:

(1) Paragraph (5) is amended as follows:

(A) Strike the word “alleged” and insert the word “found” in its place.

(B) Strike the phrase “Act.” and insert the phrase “Act, except as

otherwise provided in a contract between the contractor and subcontractor in effect on the effective date of the Wage Theft Prevention Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-157; 61 DCR 10157).” in its place.

(2) Paragraph (6) is amended by striking the phrase “District.” and inserting the phrase “District, except as otherwise provided in a contract between the temporary staffing firm and the employer in effect on the effective date of the Wage Theft Prevention Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-157; 61 DCR 10157).” in its place.

(b) Section 7(a) (D.C. Official Code § 32-1307(a)) is amended to read as follows:

“(a)(1) Any employer who negligently fails to comply with the provisions of this act or the Living Wage Act shall be guilty of a misdemeanor and, upon conviction, shall be fined:

ENROLLED ORIGINAL

“(A) For the first offense, an amount per affected employee of not more than \$2,500;

“(B) For any subsequent offense, an amount per affected employee of not more than \$5,000.

“(2) Any employer who willfully fails to comply with the provisions of this act or the Living Wage Act shall be guilty of a misdemeanor and, upon conviction, shall:

“(A) For the first offense, be fined not more than \$5,000, or imprisoned not more than 30 days, or both; or

“(B) For any subsequent offense, be fined not more than \$10,000, or imprisoned not more than 90 days, or both.

“(3) The fines set forth in paragraphs (1) and (2) of this subsection shall not be limited by section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01).”.

(c) Section 8(a) (D.C. Official Code § 32-1308(a)) is amended by striking the phrase “, or any entity a member of which is aggrieved by a violation of this act, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act”.

(d) A new section 10b is added to read as follows:

“Sec. 10b. Rules.

“The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1068 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this act.”.

Sec. 3. The Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1001 *et seq.*), is amended as follows:

(a) Section 9(a)(1) (D.C. Official Code § 32-1008(a)(1)) is amended by striking the phrase “3 years or whatever the prevailing federal standard is, whichever is greater” and inserting the phrase “3 years or the prevailing federal standard, if identified in regulations issued pursuant to this act, whichever is greater” in its place.

(b) Section 10(c) (D.C. Official Code § 32-1009(c)) is amended to read as follows:

“(c) The Mayor shall make copies or summaries of this act publicly available on the District government’s website or by some other appropriate method within 60 days of the effective date of the Wage Theft Prevention Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-157; 61 DCR 10157). An employer shall not be liable for failure to post notice if the Mayor has failed to provide to the employer the notice required by this section.”.

(c) Section 12(d)(1)(C) (D.C. Official Code § 32-1011(d)(1)(C)) is amended by striking the phrase “3 years or whatever the prevailing federal standard is, whichever is greater” and inserting the phrase “3 years or the prevailing federal standard, if identified in regulations issued pursuant to this act, whichever is greater” in its place.

(d) Section 13 (D.C. Official Code § 32-1012) is amended as follows:

(1) Subsection (c) is amended by striking the phrase “act.” and inserting the phrase “act, except as otherwise provided in a contract between the contract and subcontractor in

ENROLLED ORIGINAL

effect on the effective date of the Wage Theft Prevention Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-157; 61 DCR 10157).” in its place.

(2) Subsection (f) is amended by striking the phrase “District.” and inserting the phrase “District, except as otherwise provided in a contract between the temporary staffing firm and the employer in effect on the effective date of the Wage Theft Prevention Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-157; 61 DCR 10157).” in its place.

Sec. 4. Section 7 of the Wage Theft Prevention Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-157; 61 DCR 10157), is repealed.

Sec. 5. Applicability.

This act shall apply as of October 19, 2016.

Sec. 6. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director 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. 7. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
October 27, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-513

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 27, 2016

To approve, on an emergency basis, Modification Nos. 5 and 6 to Contract No. CW22527 with National Associates, Inc. to provide Temporary Support Services, and to authorize payment in the not-to-exceed amount of \$10,000,000.00 for the goods and services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modifications to Contract No. CW22527 Approval and Payment Authorization Emergency Act of 2016".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 5 and 6 to Contract No. CW22527 with National Associates, Inc. to provide Temporary Support Services, and authorizes payment in the not-to-exceed amount of \$10,000,000.00 for the goods and services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

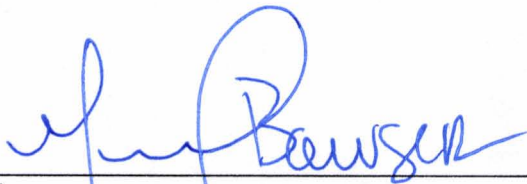
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than

ENROLLED ORIGINAL

90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
October 27, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-514

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 27, 2016

To approve, on an emergency basis, Modification Nos. 2 and 3 to Contract No. CW28635 with Midtown Personnel, Inc. to provide Temporary Support Services, and to authorize payment in the not-to-exceed amount of \$10,000,000.00 for the goods and services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modifications to Contract No. CW28635 Approval and Payment Authorization Emergency Act of 2016".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 2 and 3 to Contract No. CW28635 with Midtown Personnel, Inc. to provide Temporary Support Services, and authorizes payment in the not-to-exceed amount of \$10,000,000.00 for the goods and services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than

ENROLLED ORIGINAL

90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 27, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-515

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 27, 2016

To approve, on an emergency basis, Modification Nos. 3, 4, and 5 to Contract No. CW28642 with AmeriNational Community Services, Inc. to provide loan services, loan collection, lease services, lease collection, and foreclosure services, and to authorize payment in the aggregate amount of \$2,358,868.11 for the goods and services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Modifications to Contract No. CW28642 Approval and Payment Authorization Emergency Act of 2016”.

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 3, 4, and 5 to Contract No. CW28642 with AmeriNational Community Services, Inc. to provide loan services, loan collection, lease services, lease collection, and foreclosure services for the Department of Housing and Community Development, and authorizes payment in the aggregate amount of \$2,358,868.11 for the goods and services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

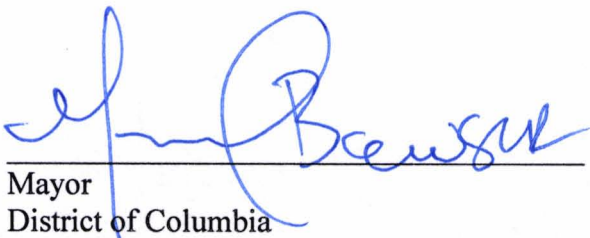
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override that veto), and shall remain in effect for no longer than

ENROLLED ORIGINAL

90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 27, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-516

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 27, 2016

To approve, on an emergency basis, Modification Nos. 8, 9, and 10 to Contract No. GAGA-2014-C-0029 with Leading Educators to provide Teacher Leadership Development Services, and to authorize payment in the not-to-exceed amount of \$2,909,565.00 for the goods and services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Modifications to Contract No. GAGA-2014-C-0029 Approval and Payment Authorization Emergency Act of 2016”.

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 8, 9, and 10 to Contract No. GAGA-2014-C-0029 with Leading Educators to provide Teacher Leadership Development Services, and authorizes payment in the total not-to-exceed amount of \$2,909,565.00 for the goods and services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.


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

Sec. 4. Effective date.

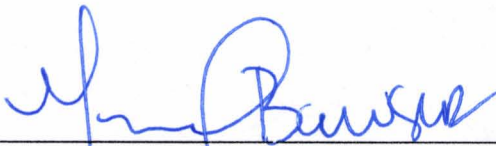
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than

ENROLLED ORIGINAL

90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 27, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-517

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 27, 2016

To approve, on an emergency basis, the Credible Messenger Initiative Grant, and Modification No. 1 to the Credible Messenger Initiative Grant, to The Community Foundation for the National Capital Region for the purpose of providing Court-Involved Youth Services, and to authorize payment in the aggregate amount of \$2,300,000.00 for the goods and services provided and to be provided under the grant and modification.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Credible Messenger Initiative Grant and Modification No. 01 Approval and Payment Authorization Emergency Act of 2016".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202(a) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02(a)), the Council approves the Credible Messenger Initiative Grant and Modification No. 01 to the Credible Messenger Initiative Grant, awarded to The Community Foundation for the National Capital Region for the purpose of providing Court-Involved Youth Services, and authorizes payment in the aggregate amount of \$2,300,000.00 for the goods and services provided and to be provided under the grant and modification.

Sec. 3. Fiscal impact statement.


The Council adopts the fiscal statement of the Chief Financial Officer 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. 4. Effective date.

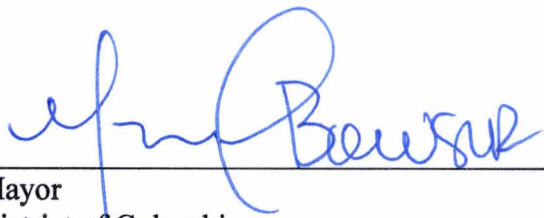
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 27, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-518

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 27, 2016

To establish, on a temporary basis, a moratorium on the issuance of permits for the construction or operation of automobile paint spray booths in Ward 5; provided, that the moratorium shall not apply to permits for automobile paint spray booths that meet certain conditions.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Ward 5 Paint Spray Booth Conditional Moratorium Temporary Amendment Act of 2016”.

Sec. 2. Paint spray booth moratorium.

(a) The Mayor shall not issue a permit for the construction or operation of an automobile paint spray booth in Ward 5.

(b) The Mayor shall not issue a renewal permit for the operation of an automobile paint spray booth in Ward 5.

(c) For the purposes of this act, the term “automobile paint spray booth” means a facility related to an auto body paint shop for which the applicant must obtain a minor source air pollutant permit from the Department of Energy and Environment.

Sec. 3. Scope of moratorium.

(a) Section 2 shall not apply to a permit for the construction of or the operation of, or a renewal permit for the operation of, an automobile paint spray booth that contains conditions at least as restrictive as the following:

(1) Automobile coating for motor vehicle and mobile equipment non-assembly line refinishing and recoating, as applied, shall not contain volatile organic compounds in excess of the specified limit for each of the following coating types:

(A) Adhesion promoters: 540 grams per liter (4.5 pounds per gallon);

(B) Automotive pretreatment coating: 660 grams per liter (5.5 pounds per gallon);

(C) Automotive primer: 250 grams per liter (2.1 pounds per gallon);

(D) Clear coating: 250 grams per liter (2.1 pounds per gallon);

(E) Color coating, including metallic/iridescent color coating: 420 grams per liter (3.5 pounds per gallon);

(F) Multicolor coating: 680 grams per liter (5.7 pounds per gallon);

ENROLLED ORIGINAL

(G) Other automotive coating type: 250 grams per liter (2.1 pounds per gallon);

(H) Single-stage coating, including single-stage metallic/iridescent coating: 340 grams per liter (2.8 pounds per gallon);

(I) Temporary protective coating: 60 grams per liter (0.50 pounds per gallon);

(J) Truck bed liner coating: 200 grams per liter (1.7 pounds per gallon); and

(K) Underbody coating: 430 grams per liter (3.6 pounds per gallon); and

(2) Cleaning solvent used shall not exceed a volatile organic compound content of 25 grams per liter (0.21 pounds per gallon) except for:

(A) Cleaning solvent used as a bug and tar remover; provided, that the volatile organic compound content of the cleaning solvent shall not exceed 350 grams per liter (2.9 pounds per gallon), and usage shall be limited as follows:

(i) No more than 20 gallons in any consecutive 12-month period for facilities and operations using 400 gallons or more of coating during the 12-month period ending at the end of the previous calendar month;

(ii) No more than 15 gallons in any consecutive 12-month period for facilities and operations using 150 gallons or more, but less than 400 gallons, of coating during the 12-month period ending at the end of the previous calendar month; or

(iii) No more than 10 gallons in any consecutive 12-month period for facilities and operations using less than 150 gallons of coating during the 12-month period ending at the end of the previous calendar month.

(B) Cleaning solvent used to clean plastic parts immediately before coating or for the removal of wax and grease; provided, that:

(i) Non-aerosol, hand-held spray bottles are used to apply the cleaning solvent;

(ii) The volatile organic compound content of the cleaning solvent shall not exceed 780 grams per liter (6.51 pounds per gallon); and

(iii) No more than 20 gallons of the cleaning solvent are used in any consecutive 12-month period in any one business location;

(C) Aerosol cleaning solvent; provided, that 160 ounces or less are used per day per business location; or

(D) Cleaning solvent with a volatile organic compound content no greater than 350 grams per liter (2.92 pounds per gallon), used at a volume equal to or less than 2.5% of the preceding calendar year's annual coating usage, up to a maximum of 15 gallons per calendar year.

(b) The limits in subsection (a)(1) of this section shall represent the weight of volatile organic compound per volume of coating, prepared to the manufacturer's recommended maximum volatile organic compound content, exclusive of water and non-volatile organic compound solvents.

ENROLLED ORIGINAL

(c) The Mayor shall refer to the Ozone Transport Commission’s “Model Rule 2009-12-Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations Alternate Technical Revisions” for calculation methodologies and definitions.

Sec. 4. Sunset.

This act shall expire upon the promulgation of rules by the Mayor that revise section 718 of Chapter 20 of the District of Columbia Municipal Regulations (20 DCMR § 718).

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director 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. 6. Effective date.

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

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED

October 27, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-519

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2016

To amend, on a temporary basis, An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes to extend the time in which the Mayor may dispose of certain District-owned real property commonly referred to as the R.L. Christian Community Library, located at 1300 H Street, N.E., known for tax and assessment purposes as Lots 97, 98, 99, 100, 101, 102, and 103 in Square 1026.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Extension of Time to Dispose of 1300 H Street, N.E., and Approval of Amended Term Sheet Temporary Amendment Act of 2016".

Sec. 2. Section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801), is amended by adding a new subsection (d-8) to read as follows:

"(d-8) Notwithstanding subsection (d) of this section, the time period within which the Mayor may dispose of District-owned real property located at 1300 H Street, N.E., known for tax and assessment purposes as Lots 97, 98, 99, 100, 101, 102, and 103 in Square 1026, for the construction of a mixed-use residential and retail development pursuant to the 1300 H Street, N.E. Disposition Approval Resolution of 2014, effective September 23, 2014 (Res. 20-600; 61 DCR 10470), and section 3 of the Extension of Time to Dispose of 1300 H Street, N.E., and Approval of Amended Term Sheet Emergency Amendment Act of 2016, effective October 12, 2016 (D.C. Act 21-502; 63 DCR ___), is extended to March 23, 2017."

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

(a) 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

ENROLLED ORIGINAL

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

(b) This act shall expire after 225 days of its having taken effect.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 31, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-520

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2016

To amend, on a temporary basis, the Recreation Act of 1994 to require the Department of Parks and Recreation to issue a grant to an organization to provide programming to low-income children at the Fort Dupont Ice Arena.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fort Dupont Ice Arena Programming Temporary Amendment Act of 2016".

Sec. 2. Section 3 of the Recreation Act of 1994, effective March 23, 1995 (D.C. Law 10-246; D.C. Official Code § 10-302), is amended by adding a new subsection (e) to read as follows:

“(e) Beginning in Fiscal Year 2017, and on an annual basis thereafter, the Department shall issue a \$235,000 grant to an organization to provide programming for low-income children at Fort Dupont Ice Arena. The grantee shall have experience in providing such programming and shall not charge a participation fee to low-income residents.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director 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. 4. Effective date.

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

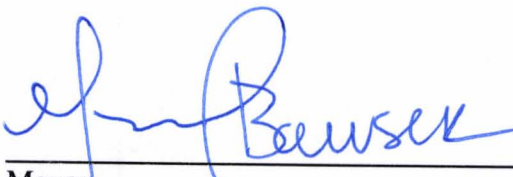
ENROLLED ORIGINAL

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

(b) This act shall expire after 225 days of its having taken effect.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 31, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-521

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2016

To amend, on an temporary basis, the Child and Youth, Safety and Health Omnibus Amendment Act of 2004 to define “covered child or youth services provider” to include any private entity that is licensed by the District government to provide direct services to children or youth or for the benefit of children or youth.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Child and Youth, Safety and Health Omnibus Temporary Amendment Act of 2016”.

Sec. 2. Section 202(3) of the Child and Youth, Safety and Health Omnibus Amendment Act of 2004, effective April 13, 2005 (D.C. Law 15-353; D.C. Official Code § 4-1501.02(3)), is amended by striking the phrase “any private entity that contracts with” and inserting the phrase “any private entity that is licensed by the District government or contracts with” in its place.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director 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. 4. Effective date.

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

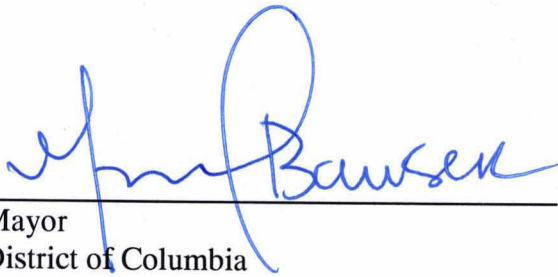
ENROLLED ORIGINAL

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

(b) This act shall expire after 225 days of its having taken effect.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 31, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-522

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2016

To order the closing of a portion of 14th Street, N.E., adjacent to Squares 3954 and 4024 and Parcel 143/45, and to accept the dedication of portions of land in Squares 3953, 3954, 4024, and 4025 and Parcel 143/45 for public street and alley purposes, in Ward 5.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Closing of Public Streets and Dedication of Land for Street and Alley Purposes in and abutting Squares 3953, 3954, 4024, 4025, and Parcel 143/45, S.O. 14-20357, Act of 2016".

Sec. 2. (a) Pursuant to section 404 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-204.04), and consistent with the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-201.01 *et seq.*) ("Act"), the Council finds that those portions of 14th Street, N.E., as shown by the hatch-marks on the Surveyor's plat filed under S.O. 14-20357, are unnecessary for street purposes and orders them closed with title to the land to vest as shown on the Surveyor's plat.

(b) Pursuant to sections 302 and 401 of the Act (D.C. Official Code §§ 9-203.02 and 9-204.01), and notwithstanding the requirements set forth in sections 303, 304, and 402 of the Act (D.C. Official Code §§ 9-203.03, 9-203.04, and 9-204.02), the Council accepts the dedication of the alley adjacent to and in Square 3953 and the dedication and designation of the extension of 14th and 15th Streets, N.E., adjacent to and in Squares 3954, 4024, and 4025 and Parcel 143/45 as shown on the Surveyor's plat filed under S.O. 14-20357.

Sec. 3. The approval of the Council of the closing in section 2(a) and the dedications and designation in section 2(b) is contingent upon:

(1) The satisfaction of all the conditions set forth in the official file, S.O. 14-20357, including that the applicant shall obtain District of Columbia Water and Sewer Authority approval of the proposed relocation or abandonment of the existing 8-inch water main and 10-inch sewer main in 14th Street, N.E., before the recordation of the plat by the Surveyor; and

(2) For so long as the project exists, affordable housing shall be provided as specified in Zoning Commission Order No. 14-18, effective November 6, 2015 (62 DCR 14533).

ENROLLED ORIGINAL

Sec. 4. Transmittal.

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

Sec. 5. Fiscal impact statement.

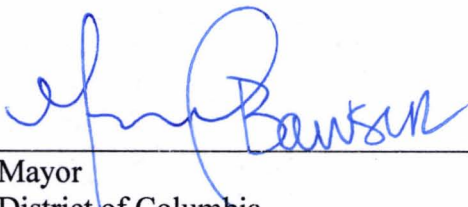
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1983 (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
October 31, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-523

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2016

To approve, on an emergency basis, proposed Modification No. 2 to Contract No. CW30750 with Cisco System Inc. to provide data communications equipment and services related to enterprise communications and information technology, and to authorize payment in the not-to-exceed amount of \$7,000,000 for the goods and services received and to be received under the modification.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modification No. 2 to Contract No. 30750 Approval and Payment Authorization Emergency Act of 2016".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves proposed Modification No. 2 to Contract No. CW30750 with Cisco System Inc. to provide data communications equipment and services related to enterprise communications and information technology, and authorizes payment in the not-to-exceed-amount of \$7,000,000 for goods and services received and to be received under Modification No. 2 to Contract No. CW30750.

Sec. 3. Fiscal impact statement.


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

Sec. 4. Effective date.


This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than

ENROLLED ORIGINAL

90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 31, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-524

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2016

To approve, on an emergency basis, multiyear Contract No. DCKA-2012-C-0110 with Outfront Media VW Communications LLC for advertising for the Capital Bikeshare Program, and to authorize payment in the total amount of \$3,050,000 for the goods and services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contract No. DCKA-2012-C-0110 Approval and Payment Authorization Emergency Act of 2016".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Contract No. DCKA-2012-C-0110 with Outfront Media VW Communications LLC for advertising for the Capital Bikeshare Program, and authorizes payment in the total amount of \$3,050,000 for the goods and services received and to be received under the contract.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

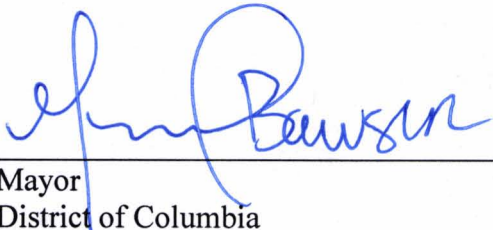
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

ENROLLED ORIGINAL

section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 31, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-525

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2016

To amend, on an emergency basis, due to congressional review, section 3209 of Title 17 of the District of Columbia Municipal Regulations to create an exemption to the requirement that an individual engaged in the practice of interior design be licensed for individuals participating in certain charitable fundraising events.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Interior Design Charitable Event Regulation Congressional Review Emergency Amendment Act of 2016".

Sec. 2. Section 3209 of Title 17 of the District of Columbia Municipal Regulations (17 DCMR § 3209) is amended by adding a new subsection 3209.4 to read as follows:

"3209.4 (a) This chapter shall not require a license for, or restrict or prohibit an individual from engaging in, any activity or service described in § 3209.1 of this chapter, if:

"(1) The individual is participating in a nonprofit organization's fundraising event;

"(2) The fundraising event is managed by at least one licensed interior designer;

"(3) At least 85% of the funds raised at the fundraising event support a charitable activity; and

"(4) The individual participates in the fundraising event without compensation.

"(b) An individual may rely on the exemption provided by paragraph (a) of this subsection no more than once per calendar year."

Sec. 3. Applicability.

This act shall apply as of October 19, 2016.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director 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).

ENROLLED ORIGINAL

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 31, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-526

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2016

To approve, on an emergency basis, the salary for the Executive Director of the Criminal Code Reform Commission.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Criminal Code Reform Commission Executive Director Salary Approval Emergency Act of 2016".

Sec. 2. Pursuant to section 3122(c)(1) of the Criminal Code Reform Commission Establishment Act of 2016, effective October 8, 2016 (D.C. Law 21-160; 63 DCR 10775), the Council approves an annual salary of \$160,587.59 for Richard Schmechel, as Executive Director of the Criminal Code Reform Commission.

Sec. 3. Applicability.

This act shall apply as of October 1, 2016.

Sec. 4. Fiscal impact statement.


The Council adopts the fiscal impact statement of the Budget Director 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.

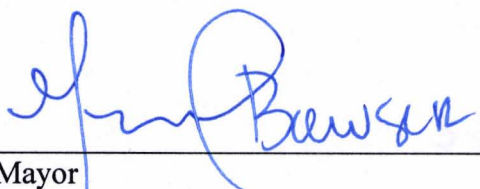
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than

ENROLLED ORIGINAL

90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 31, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-527

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2016

To amend, on an emergency basis, the Student Access to Treatment Act of 2007 to authorize employees and agents of public schools certified under the Office of the State Superintendent of Education's epinephrine administration training program to administer a designated epinephrine auto-injector to a student to whom it is prescribed.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Access to Emergency Epinephrine in Schools Clarification Emergency Amendment Act of 2016".

Sec. 2. The Student Access to Treatment Act of 2007, effective February 2, 2008 (D.C. Law 17-107; D.C. Official Code § 38-651.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 38-651.01) is amended as follows:

(1) The existing paragraph (1) is redesignated as paragraph (1A).

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

"(1) "Designated epinephrine auto-injector" means a disposable drug delivery system with a spring-activated needle, which is obtained with a prescription for a particular person, that is designed for the emergency administration of epinephrine to a person suffering an episode of anaphylaxis."

(b) Section 5a (D.C. Official Code § 38-651.04a) is amended as follows:

(1) Subsection (b)(2) is amended by striking the phrase "an undesignated" and inserting the phrase "a designated or undesignated" in its place.

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

"(e) An employee or agent of a public school who is certified pursuant to this section may administer a designated epinephrine auto-injector to the student to whom it is prescribed, who the employee or agent believes in good faith to be suffering or about to suffer an anaphylactic episode."

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director 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).

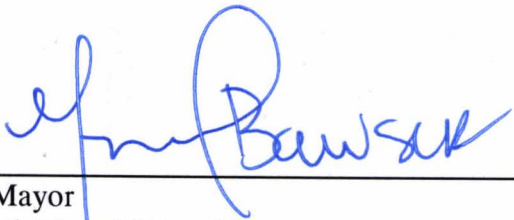
ENROLLED ORIGINAL

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
October 31, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-528

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2016

To order, on an emergency basis due, to congressional review, the closing of a portion of 14th Street, N.E., adjacent to Squares 3954 and 4024 and Parcel 143/45, and to accept the dedication of portions of land in Squares 3953, 3954, 4024, and 4025 and Parcel 143/45 for public street and alley purposes, in Ward 5.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Closing of Public Streets and Dedication of Land for Street and Alley Purposes in and abutting Squares 3953, 3954, 4024, 4025, and Parcel 143/45, S.O. 14-20357, Congressional Review Emergency Act of 2016".

Sec. 2. (a) Pursuant to section 404 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-204.04), and consistent with the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-201.01 *et seq.*) ("Act"), the Council finds that those portions of 14th Street, N.E., as shown by the hatch-marks on the Surveyor's plat filed under S.O. 14-20357, are unnecessary for street purposes and orders them closed with title to the land to vest as shown on the Surveyor's plat.

(b) Pursuant to sections 302 and 401 of the Act (D.C. Official Code §§ 9-203.02 and 9-204.01), and notwithstanding the requirements set forth in sections 303, 304, and 402 of the Act (D.C. Official Code §§ 9-203.03, 9-203.04, and 9-204.02), the Council accepts the dedication of the alley adjacent to and in Square 3953 and the dedication and designation of the extension of 14th and 15th Streets, N.E., adjacent to and in Squares 3954, 4024, and 4025 and Parcel 143/45 as shown on the Surveyor's plat filed under S.O. 14-20357.

Sec. 3. The approval of the Council of the closing in section 2(a) and the dedications and designation in section 2(b) is contingent upon:

(1) The satisfaction of all the conditions set forth in the official file, S.O. 14-20357, including that the applicant shall obtain District of Columbia Water and Sewer Authority approval of the proposed relocation or abandonment of the existing 8-inch water main and 10-inch sewer main in 14th Street, N.E., before the recordation of the plat by the Surveyor; and

(2) For so long as the project exists, affordable housing shall be provided as specified in Zoning Commission Order No. 14-18, effective November 6, 2015 (62 DCR 14533).

ENROLLED ORIGINAL

Sec. 4. Transmittal.

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

Sec. 5. Applicability.


This act shall apply as of October 19, 2016.

Sec. 6. Fiscal impact statement.

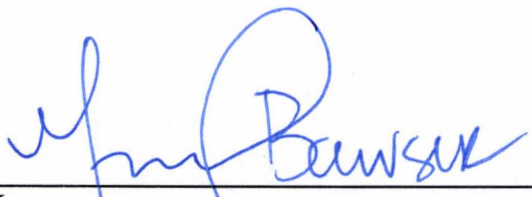
The Council adopts the fiscal impact statement in the committee report for the Closing of Public Streets and Dedication of Land for Street and Alley Purposes in and abutting Squares 3953, 3954, 4024, 4025, and Parcel 143/45, S.O. 14-20357, Act of 2016, passed on 2nd reading on October 11, 2016 (Enrolled version of Bill 21-445), as the fiscal impact statement required by section 4a of the General Legislative Procedures Act, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 7. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 31, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-529

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 1, 2016

To amend, on an emergency basis, the Fiscal Year 2017 Budget Support Act of 2016 to clarify provisions supporting the Fiscal Year 2017 budget.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Fiscal Year 2017 Budget Support Clarification Emergency Amendment Act of 2016”.

Sec. 2. The Fiscal Year 2017 Budget Support Act of 2016, effective October 8, 2016 (D.C. Law 21-160; 63 DCR 10775), is amended as follows:

(a) Section 2152(4) is amended by striking the phrase “a theatre in the Central Business District that” and inserting the phrase “capital improvements for a historic theatre on Pennsylvania Avenue, N.W., that produces primarily Broadway-style musical theatrical performances and”.

(b) A new section 4153 is added to read as follows:

“Sec. 4153. In Fiscal Year 2018 and each fiscal year thereafter, of the funds allocated to the Non-Departmental agency, \$500,000 shall be transferred to the University of the District of Columbia for elder-law programming.”.

(c) Section 8002 is amended as follows:

(1) Subsection (a) is amended by striking the figure \$180,809,546” and inserting the figure “\$180,909,957” in its place.

(2) The tabular arrays identified as Table A and Table B are amended to read as follows:

“

TABLE A.

Owner Agency Name	Project Number	Implementing Agency	Bond Issuance Series	Amount
Office of the Chief Financial Officer	BF2	OCFO	2010A	140,465
Department of General Services	BC1	DGS	2012C I.T.	113,644

ENROLLED ORIGINAL

Department of Parks and Recreation	BSM	DGS	2012C I.T.	3,124,785
Department of Parks and Recreation	QH7	DPR	2012C I.T.	393,520
Department of Parks and Recreation	QJ8	DGS	2012C I.T.	529,131
Department of Parks and Recreation	QN4	DGS	2012C I.T.	334,244
District Department of Transportation	ED1	DDOT	2012C I.T.	599,509
District Department of Transportation	EDS	DDOT	2012C I.T.	292,359
District Department of Transportation	STC	DDOT	2012C I.T.	43,409
District of Columbia Public Schools	MO3	DGS	2012C I.T.	1,565,607
District of Columbia Public Schools	ND4	DGS	2012C I.T.	11,664
District of Columbia Public Schools	NJ8	DGS	2012C I.T.	11,442
District of Columbia Public Schools	PE3	DGS	2012C I.T.	39,641
Fire and Emergency Management Services	LB7	FEMS	2012C I.T.	2,268,528
Metropolitan Police Department	ECS	MPD	2012C I.T.	300,000
Office of the Chief Technology Officer	N60	OCTO	2012C I.T.	481,728
Department of Behavioral Health	XA6	OCTO	2013A G.O.	81,575
Department of Behavioral Health	XA8	DBH	2013A G.O.	150,119
Department of Corrections	CRF	DOC	2013A G.O.	508,089
Department of Healthcare Finance	MPM	DHCF	2013A G.O.	1,330,140
Department of Parks and Recreation	QE5	DGS	2013A G.O.	75,757
Department of Parks and Recreation	QJ8	DGS	2013A G.O.	351,837
Department of Parks and Recreation	RE0	DGS	2013A G.O.	1,265
Department of Public Works	FS1	DPW	2013A G.O.	76,846
Deputy Mayor for Planning and Economic Development	AWR	DMPED	2013A G.O.	1,546,808
District Department of Employment Services	UIM	DOES	2013A G.O.	2,354,064
District Department of Transportation	BRI	DDOT	2013A G.O.	1,678,669
District Department of Transportation	ED1	DDOT	2013A G.O.	500,000
District Department of Transportation	FLD	DDOT	2013A G.O.	39,030
District Department of Transportation	PM0	DDOT	2013A G.O.	150,941
District of Columbia Public Schools	PK3	DGS	2013A G.O.	538,150
Fire and Emergency Management Services	LD2	DGS	2013A G.O.	34,362
Office of the Chief Technology Officer	EQ1	OCTO	2013A G.O.	83,199
Office of the Chief Technology Officer	N60	OCTO	2013A G.O.	140,419

ENROLLED ORIGINAL

D.C. Public Library	WOD	DCPL	2013A GO	791,863
Office of the Secretary	AB1	DGS	2013A GO	784,215
Department of General Services	BC1	DGS	2014 A/B GO	25,054
D.C. Public Library	WOD	DCPL	2014C G.O.	2,300,000
Department of Corrections	CEV	DOC	2014C G.O.	1,566,292
Department of Corrections	CRF	DOC	2014C G.O.	1,500,000
Department of General Services	BC1	DGS	2014C G.O.	950,000
Department of Parks and Recreation	QS5	DGS	2014C G.O.	3,927,608
Deputy Mayor for Planning and Economic Development	EB0	DMPED	2014C G.O.	9,000,000
District Department of Employment Services	UIM	DOES	2014C G.O.	2,500,000
District Department of Transportation	6EQ	DDOT	2014C G.O.	3,526,564
District Department of Transportation	BRI	DDOT	2014C G.O.	8,000,000
District Department of Transportation	FLD	DDOT	2014C G.O.	1,469,644
Office of the Secretary	AB1	DGS	2014C G.O.	2,500,000
Office of the Chief Financial Officer	BF2	OCFO	2015A G.O.	429,148
D.C. Public Library	CAV	DCPL	Pending	4,500,000
D.C. Public Library	CPL	DCPL	Pending	4,125,000
D.C. Public Library	PAL	DCPL	Pending	5,700,000
Department of Corrections	CEV	DGS	Pending	33,708
Department of Healthcare Finance	HI1	DHCF	Pending	3,145,040
Department of Healthcare Finance	MPM	DHCF	Pending	2,300,000
Department of Parks and Recreation	FTD	DGS	Pending	2,000,000
Department of Parks and Recreation	IVY	DGS	Pending	1,925,000
Department of Parks and Recreation	Q10	DGS	Pending	1,000,000
Department of Parks and Recreation	Q11	DGS	Pending	1,500,000
Department of Parks and Recreation	QF4	DGS	Pending	1,400,000
Department of Parks and Recreation	WBR	DGS	Pending	14,000,000
Deputy Mayor for Planning and Economic Development	STH	DMPED	Pending	1,000,000
District Department of Employment Services	UIM	DOES	Pending	2,500,000
District Department of Transportation	AW0	DDOT	Pending	40,000,000
District Department of Transportation	CDT	DDOT	Pending	10,340
District Department of Transportation	PLU	DDOT	Pending	4,000,000

ENROLLED ORIGINAL

District Department of Transportation	TRF	DDOT	Pending	1,500,000
District of Columbia Public Schools	JOH	DGS	Pending	2,886,000
District of Columbia Public Schools	NX8	DGS	Pending	3,000,000
District of Columbia Public Schools	SG3	DGS	Pending	7,738,513
Fire and Emergency Management Services	LC4	DGS	Pending	3,000,000
Fire and Emergency Management Services	LC4	DGS	Pending	2,000,000
Metropolitan Police Department	PEQ	MPD	Pending	2,000,000
Office of the Chief Technology Officer	N90	OCTO	Pending	3,000,000
Office of the Chief Technology Officer	N91	OCTO	Pending	1,500,000
Office of the Chief Technology Officer	N92	OCTO	Pending	445,022
Special Education Transportation	BU4	SET	Pending	2,740,000
Special Education Transportation	BU5	SET	Pending	1,000,000
State Superintendent of Education	SIS	OSSE	Pending	1,800,000
TOTAL				\$180,909,957

TABLE B.

Owner Agency Name	Project Number	Implementing Agency	Bond Issuance Series	Amount
District of Columbia Public Schools	BRK	DGS	N/A	8,200,000
District of Columbia Public Schools	GM1	DGS	N/A	6,200,411
District of Columbia Public Schools	GM3	DGS	N/A	5,000,000
District of Columbia Public Schools	NA6	DGS	N/A	20,100,000
District of Columbia Public Schools	NR9	DGS	N/A	15,500,000
State Superintendent of Education	SFF	OSSE	N/A	2,000,000
Deputy Mayor for Economic Development	AMS	DMPED	N/A	1,467,000
WMATA	SA5	DDOT	N/A	693,923
Fire and Emergency Management Services	LF2	DGS	Pending	2,275,000
Department of Parks and Recreation	WBR	DGS	Pending	14,000,000
Department of Parks and Recreation	QE2	DGS	Pending	9,730,000
Department of Parks and Recreation	QN7	DPR	Pending	19,000,000
Department of Human Services	CMS	DHS	Pending	14,000,000
District Department of Transportation	CEL	DDOT	Pending	3,000,000

ENROLLED ORIGINAL

WMATA	SA3	DDOT	Pending	20,000,000
WMATA	SA5	DDOT	Pending	39,743,623
TOTAL				\$180,909,957

”
 Sec. 3. Applicability.


This act shall apply as of October 1, 2016.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director 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), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



 Chairman
 Council of the District of Columbia

 UNSIGNED

Mayor
 District of Columbia
 October 31, 2016

ENROLLED ORIGINAL

A RESOLUTION

21-621

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 18, 2016

To approve a proposed constitution for the State of Washington, D.C. and a proposed boundary between the federal enclave and the State of Washington, D.C. for transmittal to Congress by the Council consistent with the Advisory Referendum on the State of New Columbia Admission Act Resolution of 2016.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Constitution and Boundaries for the State of Washington, D.C. Approval Resolution of 2016”.

Sec. 2. Constitution for the State of Washington, D.C.

Pursuant to section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)), the Council hereby approves the document entitled “The Constitution of the State of Washington, D.C.” dated October 18, 2016, attached and made part of this resolution, for transmittal to Congress by the Council consistent with the Advisory Referendum on the State of New Columbia Admission Act Resolution of 2016, effective July 22, 2016 (Res. 21-570; 63 DCR 9627).

Sec. 3. Specific description of metes and bounds for federal enclave.

(a) Pursuant to section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)), the Council hereby approves for transmittal to Congress by the Council the proposed boundary between the federal enclave and the State of Washington, D.C. as recommended by the New Columbia Statehood Commission, as amended by the Council, to read as set forth in subsection (b).

(b)(1) Beginning at the intersection of the southern right-of-way of F Street, N.E., and the eastern right-of-way of 2nd Street, N.E.;

(2) Thence south along the said eastern right-of-way of 2nd Street, N.E., to the eastern right-of-way of 2nd Street, S.E.;

(3) Thence south along the said eastern right-of-way of 2nd Street, S.E., to its intersection with the northern property boundary of the John Adams Building of the Library of Congress;

(4) Thence east along the said northern property boundary of the John Adams Building of the Library of Congress to its intersection with the western right-of-way of 3rd Street, S.E.;

(5) Thence south along the said western right-of-way of 3rd Street, S.E., to its

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intersection with the northern right-of-way of Independence Avenue, S.E.;

(6) Thence west along the said northern right-of-way of Independence Avenue, S.E., to its intersection with the eastern right-of-way of 2nd Street, S.E.;

(7) Thence south along the said eastern right-of-way of 2nd Street, S.E., to its intersection with the southern right-of-way of C Street, S.E.;

(8) Thence west along the said southern right-of-way of C Street, S.E., to its intersection with the eastern right-of-way of 1st Street, S.E.;

(9) Thence south along the said eastern right-of-way of 1st Street, S.E., to its intersection with the southern right-of-way of D Street, S.E.;

(10) Thence west along the said southern right-of-way of D Street, S.E., to its intersection with the western right-of-way of South Capitol Street;

(11) Thence south along the said western right-of-way of South Capitol Street to its intersection with a line extending northwestward the southwestern right-of-way of Canal Street, S.E.;

(12) Thence southeast along the said line extending northwestward the southwestern right-of-way of Canal Street, S.E., to the southwestern right-of-way of Canal Street S.E.;

(13) Thence southeast along the said southwestern right-of-way of Canal Street, S.E., to its intersection with the southern right-of-way of E Street, S.E.;

(14) Thence east along the said southern right-of-way of said E Street, S.E., to its intersection with the western right-of-way of 1st Street, S.E.;

(15) Thence south along the said western right-of-way of 1st Street, S.E., to its intersection with the southern property boundary of the former Congressional House Page Dormitory;

(16) Thence west along the said boundary of the former Congressional House Page Dormitory to its intersection with the southwestern right-of-way of New Jersey Avenue, S.E.;

(17) Thence southeast along the said southwestern right-of-way of New Jersey Avenue, S.E., to its intersection with the northeastern right-of-way of Virginia Avenue, S.E.;

(18) Thence northwest along the said northeastern right-of-way of Virginia Avenue, S.E., to its intersection with the eastern right-of-way of South Capitol Street;

(19) Thence north along the said eastern right-of-way of South Capitol Street to its intersection with the southern right-of-way of E Street, S.E.;

(20) Thence west along a line extending westward the said southern right-of-way of E Street, S.E., to its intersection with the western right-of-way of South Capitol Street;

(21) Thence north along the said western right-of-way of South Capitol Street to its intersection with the southwestern right-of-way of Washington Avenue, S.W.;

(22) Thence northwest along the said southwestern right-of-way of Washington Avenue, S.W., to its intersection with the northern boundary of the railroad track right-of-way;

(23) Thence generally west along the said northern boundary of the railroad track right-of-way to its intersection with the eastern right-of-way of the D Street exit ramp from Interstate 395;

(24) Thence north then northeast along the said eastern right-of-way of the D

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Street exit ramp from Interstate 395 to its intersection with the southwestern right-of-way of Washington Avenue, S.W.;

(25) Thence northwest along the said southwestern right-of-way of Washington Avenue, S.W., to its intersection with the eastern right-of-way of 2nd Street, S.W.;

(26) Thence south along the said eastern right-of-way of 2nd Street, S.W., to its intersection with the southern right-of-way of the D Street entry ramp to Interstate 395;

(27) Thence east along the said southern right-of-way of the D Street entry ramp to Interstate 395 to its intersection with the western right-of-way of the Virginia Avenue exit ramp from Interstate 395;

(28) Thence generally south then west along the said western then northern right-of-way of the Virginia Avenue exit ramp from Interstate 395 to its intersection with the eastern right-of-way of 2nd Street, S.W.;

(29) Thence south along the said eastern right-of-way of 2nd Street, S.W., to its intersection with a line extending southeastward the southwestern right-of-way of Virginia Avenue, S.W.;

(30) Thence northwest along the said line extending southeastward the southwestern right-of-way of Virginia Avenue, S.W., to the southwestern right-of-way of Virginia Avenue, S.W.;

(31) Thence northwest along the said southwestern right-of-way of Virginia Avenue, S.W., to its intersection with the western right-of-way of 3rd Street, S.W.;

(32) Thence north along the said western right-of-way of 3rd Street, S.W., to its intersection with the northern right-of-way of D Street, S.W.;

(33) Thence west along the said northern right-of-way of D Street, S.W., to its intersection with the eastern right-of-way of 4th Street, S.W.;

(34) Thence north along the said eastern right-of-way of 4th Street, S.W., to its intersection with the northern right-of-way of C Street, S.W.;

(35) Thence west along the said northern right-of-way of C Street, S.W., to its intersection with the eastern right-of-way of 6th Street, S.W.;

(36) Thence north along the said eastern right-of-way of 6th Street, S.W., to its intersection with the northern right-of-way of Independence Avenue, S.W.;

(37) Thence west along the said northern right-of-way of Independence Avenue, S.W., to its intersection with the western right-of-way of 12th Street, S.W.;

(38) Thence south along the said western right-of-way of 12th Street, S.W., to its intersection with the northern right-of-way of D Street, S.W.;

(39) Thence west along the said northern right-of-way of D Street, S.W., to its intersection with the western right-of-way of 14th Street, S.W.;

(40) Thence south then southwest along the said western then northwestern right-of-way of 14th Street, S.W., to the northwestern right-of-way of Interstate 395;

(41) Thence southwest along the said northwestern right-of-way of Interstate 395 to its intersection with the eastern shore of the Potomac River;

(42) Thence generally northwest along the said eastern shore of the Potomac River to its intersection with a line extending westward the northern property boundary of the John F. Kennedy Center for the Performing Arts;

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(43) Thence east along the said line extending westward the northern property boundary of the John F. Kennedy Center for the Performing Arts to the northern property boundary of the John F. Kennedy Center for the Performing Arts;

(44) Thence east along the said northern property boundary of the John F. Kennedy Center for the Performing Arts to the northeast corner of the property;

(45) Thence east along a line extending eastward the said northern property boundary of the John F. Kennedy Center for the Performing Arts to its intersection with the eastern right-of-way of Interstate 66;

(46) Thence south along the said eastern right-of-way of Interstate 66 to the eastern right-of-way of the E Street entrance ramp to Interstate 66;

(47) Thence south then east along the said eastern then northern right-of-way of the E Street entrance ramp to Interstate 66 to the point where the said northern right-of-way of the E Street entrance ramp to Interstate 66 becomes the northern right-of-way of E Street, N.W.;

(48) Thence south across said E Street, N.W., to the southern right-of-way of E Street, N.W.;

(49) Thence east along the said southern right-of-way of E Street, N.W., to its intersection with the western right-of-way of 20th Street, N.W.;

(50) Thence south along the said western right-of-way of 20th Street, N.W., to its intersection with a line extending westward the southern right-of-way of the portion of E Street, N.W., north of Walt Whitman Park;

(51) Thence east along the said line extending westward the southern right-of-way of the portion of E Street, N.W., north of Walt Whitman Park to the southern right-of-way of the portion of E Street, N.W., north of Walt Whitman Park;

(52) Thence east along the said southern right-of-way of the portion of E Street, N.W., north of Walt Whitman Park to its intersection with the western right-of-way of 18th Street, N.W.;

(53) Thence south along the said western right-of-way of 18th Street, N.W., to its intersection with the southwestern right-of-way of Virginia Avenue, N.W.;

(54) Thence southeast along the said southwestern right-of-way of Virginia Avenue, N.W., to its intersection with the southern right-of-way of Constitution Avenue, N.W.;

(55) Thence east along the said southern right-of-way of Constitution Avenue, N.W., to its intersection with the eastern right-of-way of 17th Street, N.W.;

(56) Thence north along the said eastern right-of-way of 17th Street, N.W., to its intersection with the southern right-of-way of H Street, N.W.;

(57) Thence east along the said southern right-of-way of H Street, N.W., to its intersection with the eastern boundary of the unnamed alley on the southern side of the 1500 block of H Street, N.W.;

(58) Thence generally south along the eastern boundary of the said unnamed alley to its southern boundary;

(59) Thence west along the southern boundary of the said unnamed alley to its intersection with the westernmost boundary of the property designated as Lot 810 in Square 221;

(60) Thence south along the said westernmost boundary of the property designated as Lot 810 in Square 221 to its intersection with the northern right-of-way of

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Pennsylvania Avenue, N.W.;

(61) Thence east along the said northern right-of-way of Pennsylvania Avenue, N.W., to its intersection with the western right-of-way of 15th Street, N.W.;

(62) Thence south along the said western right-of-way of 15th Street, N.W., to its intersection with a line extending westward the southern right-of-way of the portion of Pennsylvania Avenue, N.W., north of Pershing Square;

(63) Thence east along the said line extending the southern right-of-way of the portion of Pennsylvania Avenue, N.W., north of Pershing Square to the southern right-of-way of the portion of Pennsylvania Avenue, N.W., north of Pershing Square;

(64) Thence east then southeast along the said southern right-of-way of Pennsylvania Avenue, N.W., to its intersection with the western right-of-way of 14th Street, N.W.;

(65) Thence south along the said western right-of-way of 14th Street, N.W., to its intersection with a line extending westward the southern right-of-way of D Street, N.W.;

(66) Thence east along the said line extending westward the southern right-of-way of D Street, N.W., to the southern right-of-way of D Street, N.W.;

(67) Thence east along the said southern right-of-way of D Street, N.W. to its intersection with the eastern right-of-way of 13½th Street, N.W.;

(68) Thence north along the said eastern right-of-way of 13½th Street, N.W., to its intersection with the southern right-of-way of Pennsylvania Avenue, N.W.;

(69) Thence east then southeast along the said southern then southwestern right-of-way of Pennsylvania Avenue, N.W., to its intersection with the western right-of-way of 12th Street, N.W.;

(70) Thence south along the said western right-of-way of 12th Street, N.W., to its intersection with a line extending westward the southern boundary of the property designated as Lot 809 in Square 324;

(71) Thence east along the said line extending westward the southern boundary of the property designated as Lot 809 in Square 324 to the southwest corner of the said property designated as Lot 809 in Square 324;

(72) Thence northeast along the southern boundary of the said property designated as Lot 809 in Square 324 to its intersection with the southern boundary of the property designated as Lot 802 in Square 323;

(73) Thence northeast then east along the southern boundary of the said property designated as Lot 802 in Square 323 to a point where it meets the southern boundary of the property designated as Lot 808 in Square 324;

(74) Thence east along the southern boundary of the said property designated as Lot 808 in Square 324 to the southeast corner of the said property designated as Lot 808 in Square 324;

(75) Thence generally north along the eastern boundary of the said property designated as Lot 808 in Square 324 to its intersection with the southern right-of-way of Pennsylvania Avenue, N.W.;

(76) Thence southeast along the said southern right-of-way of Pennsylvania Avenue, N.W., to its intersection with the eastern right-of-way of 4th Street, N.W.;

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(77) Thence north along a line extending northward the said eastern right-of-way of 4th Street, N.W., to its intersection with the southern right-of-way of C Street, N.W.;

(78) Thence east along the said southern right-of-way of C Street, N.W., to its intersection with the eastern right-of-way of 3rd Street, N.W.;

(79) Thence north along the said eastern right-of-way of 3rd Street, N.W., to its intersection with the southern right-of-way of D Street, N.W.;

(80) Thence east along the said southern right-of-way of D Street, N.W., to its intersection with the western right of way of 1st Street, N.W.;

(81) Thence south along the said western right-of-way of 1st Street, N.W., to its intersection with the northern right-of-way of C Street, N.W.;

(82) Thence west along the said northern right-of-way of C Street, N.W., to its intersection with the western right-of-way of 2nd Street, N.W.;

(83) Thence south along the said western right-of-way of 2nd Street, N.W., to its intersection with the northern right-of-way of Constitution Avenue, N.W.;

(84) Thence east along the said northern right-of-way of Constitution Avenue, N.W., to its intersection with the northwestern right-of-way of Louisiana Avenue, N.W.;

(85) Thence northeast along the said northwestern right-of-way of Louisiana Avenue, N.W., to its intersection with the southwestern right-of-way of New Jersey Avenue, N.W.;

(86) Thence northwest along the said southwestern right-of-way of New Jersey Avenue, N.W., to its intersection with the northern right-of-way of D Street, N.W.;

(87) Thence east along the said northern right-of-way of D Street, N.W., to its intersection with the northwestern right-of-way of Louisiana Avenue, N.W.;

(88) Thence northeast along the said northwestern right-of-way of Louisiana Avenue, N.W., to its intersection with the western right-of-way of North Capitol Street;

(89) Thence north along the said western right-of-way of North Capitol Street to its intersection with the southwestern right-of-way of Massachusetts Avenue, N.W.;

(90) Thence southeast along the said southwestern right-of-way of Massachusetts Avenue, N.W. to the southwestern right-of-way of Massachusetts Avenue, N.E.;

(91) Thence southeast along the said southwestern right-of-way of Massachusetts Avenue, N.E. to the southwestern right-of-way of Columbus Circle, N.E.;

(92) Thence counter-clockwise along the said southwestern, then southern, southeastern, and eastern right-of-way of Columbus Circle, N.E., to its intersection with the southern right-of-way of F Street, N.E.;

(93) Thence east along the said southern right-of-way of F Street, N.E., to the point of beginning.

Sec. 4. Transmittal.

The Council shall transmit a copy of this resolution, upon its becoming effective, to the New Columbia Statehood Commission, the Speaker of the United States House of Representatives, and the President of the United States Senate.

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Sec. 5. Effective date.

This resolution shall take effect only upon certification by the District of Columbia Board of Elections of a plurality vote of “yes” on the question of whether the Council should petition Congress to enact a statehood admission act, which shall be asked of the electorate on November 8, 2016 pursuant to the Advisory Referendum on the State of New Columbia Admission Act Resolution of 2016, effective July 22, 2016 (Res. 21-570; 63 DCR 9627), and publication in the District of Columbia Register.

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The Constitution of the State of Washington, D.C.

Approved by the Council of the District of Columbia
October 18, 2016

PREAMBLE

Whereas, We the people of the District of Columbia desire to become a state of the United States of America, where, like citizens of the other states, we will enjoy the full rights of citizenship of the United States of America: to democracy and a republican form of government, to enact our own laws governing state affairs, and to voting representation in the United States Congress.

Now, Therefore, We the People of the District of Columbia do adopt this Constitution, to be known as the Constitution of the State of Washington, D.C. (D.C. meaning “Douglass Commonwealth”), to establish the means of self- governance of the State of Washington, D.C. and to take our place, irrevocably, as a state among the states comprising the United States of America.

BILL OF RIGHTS

I. Freedom of religion, of speech, and of the press

The State of Washington, D.C. shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

II. Right to keep and bear arms

A well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

III. Quartering of soldiers

No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

IV. Security from unwarrantable search and seizure

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but

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upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

V. Rights of accused in criminal proceedings

No person shall be held to answer for a felony offense, unless on a presentment or indictment of a grand jury; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against oneself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

VI. Right to a speedy jury trial, witnesses, assistance of counsel

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against the accused; to have compulsory process for obtaining witnesses in favor of the accused, and to have the assistance of counsel for defense of the accused. Where the potential sentence exceeds 180 days, the accused shall enjoy the right to trial by an impartial jury.

VII. Trial by jury in civil cases

In suits at common law, where the value in controversy shall exceed five thousand dollars or such greater amount as set by the Superior Court of the State of Washington, D.C., the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the State of Washington, D.C., than according to the rules of the common law.

VIII. Bails, fines, and punishments

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

IX. Reservation of the rights of the people

The enumeration in this Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

X. Equal protection

The State of Washington, D.C. shall not deny to any person the equal protection of the laws.

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ARTICLE I
THE LEGISLATIVE BRANCH

Section

1. Legislative power
2. Composition; election of members; vacancies
3. Qualifications for holding office
4. Acts; resolutions; procedures; and specific authorities
5. Speaker of the Legislative Assembly
6. Legislative districts
7. Advisory Neighborhood Commissions
8. Auditor

Sec. 1. Legislative power

The legislative power of the State of Washington, D.C. shall be vested in a legislature to be known as the Legislative Assembly, and shall extend to all rightful subjects of legislation within the State of Washington, D.C., consistent with the Constitution of the United States of America and the provisions of this Constitution.

Sec. 2. Composition; election of members; vacancies

- a. The Legislative Assembly shall consist of 21 members:
 1. The Speaker of the Legislative Assembly, who shall be elected on a partisan basis at large by the qualified voters of the State of Washington, D.C.
 2. Four members shall be elected on a partisan basis at large by the qualified voters of the State of Washington, D.C.
 3. Sixteen members shall be elected on a partisan basis, 2 by the qualified voters of each of the 8 legislative districts of the State of Washington, D.C.
- b. A member of the Legislative Assembly shall be known as a Representative.
- c. The term of office for Representatives shall be 4 years, and shall begin at noon on January 2nd of the year following a Representative's election. Representatives shall be elected in accordance with the schedule established pursuant to Article VIII, Sec. 1(b) of this Constitution.
- d. The Legislative Assembly may establish its committee structure by Resolution.
- e. By a 4/5 vote of its Representatives, the Legislative Assembly may adopt a Resolution of expulsion of one of its Representatives, if it finds, based on substantial evidence, that the

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Representative took an action that amounts to a gross failure to meet the applicable standards of personal and professional conduct.

- f. (1) In the event of a vacancy in the Legislative Assembly of a Representative elected from a legislative district, the Board of Elections shall hold a special election in the district. The person elected as a Representative to fill a vacancy in the Legislative Assembly shall take office not later than the second day following the day on which the Board of Elections certifies the election, and shall serve as a Representative of the Legislative Assembly only for the remainder of the term during which such vacancy occurred, unless re-elected in a subsequent election. (2) In the event of a vacancy in the Office of Speaker of the Legislative Assembly not caused by a vacancy in the Office of Governor, the Legislative Assembly shall select by majority vote a Representative elected at large who shall serve as Speaker of the Legislative Assembly, until certification by the Board of Elections of the election of a successor in a special election to fill such vacancy. (3) In the event of a vacancy in the Legislative Assembly of a Representative elected at large who is affiliated with a political party, the state committee of such political party shall appoint a person to fill such vacancy until certification by the Board of Elections of the election of a successor in a special election to fill such vacancy. The person appointed to fill such vacancy shall take office within 2 days of the appointment. With respect to a vacancy of a Representative elected at large who is not affiliated with any political party, the Legislative Assembly shall appoint a similarly non-affiliated person to fill such vacancy until certification by the Board of Elections of the election of a successor in a special election to fill such vacancy. Such person appointed by the Legislative Assembly shall take office within 2 days of the appointment.

Sec. 3. Qualifications for holding office

- a. No person shall hold the office of Representative of the Legislative Assembly, unless that person: (1) is a qualified voter of the State of Washington, D.C.; (2) resides in and is domiciled in the State of Washington, D.C. and if nominated for election from a particular legislative district, resides in the district from which that person is nominated; (3) has resided and been domiciled in the State of Washington, D.C. for one year immediately preceding the day on which the general or special election for such office is to be held; and (4) holds no public office (other than Representative of the Legislative Assembly), for which that person is compensated in an amount in excess of actual expenses incurred in connection therewith. Nothing in this clause shall prohibit any person, while a Representative of the Legislative Assembly, from serving as an official or delegate to a convention of a political party.
- b. The Speaker of the Legislative Assembly shall not engage in any outside employment, whether as an employee or through self-employment, or hold any position, other than Speaker of the Legislative Assembly, for which that person is compensated in excess of actual expenses incurred in connection therewith.

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- c. A Representative of the Legislative Assembly shall forfeit the office upon failure to maintain the qualifications required by this section or upon conviction of a felony.

Sec. 4. Acts; resolutions; procedures; specific authorities

- a. (1) The Legislative Assembly, to discharge the powers and duties imposed herein, shall pass Acts, adopt Resolutions, and adopt rules, upon a vote of a majority of the members of the Legislative Assembly present and voting, unless a greater proportion of members is required by this Constitution.
- (2) Except as provided in paragraph (4) of this subsection, the Legislative Assembly shall use Acts for all legislative purposes.
- (3) The Legislative Assembly shall hold 2 readings for all Acts, except upon declaration by two-thirds of its members of exigent circumstances, in which case such Act shall only be effective for a period not to exceed 90 days.
- (4) Resolutions shall be used: (A) to express simple determinations, decisions, or directions of the Legislative Assembly of a special or temporary character; and (B) to approve or disapprove proposed actions as authorized by an Act of the Legislative Assembly or of a kind historically or traditionally transmitted to the Council of the District of Columbia under the laws of the former District of Columbia. Such Resolutions must be specifically authorized by Act and must be designed to implement that Act.
- (5) Resolutions may be approved upon a single reading and may take effect immediately upon such approval.
- b. Proposed Acts and proposed Resolutions shall be made promptly available to the public. Every Act shall be published upon becoming law, and Resolutions shall be published promptly after approval by the Legislative Assembly. The Legislative Assembly shall adopt and publish rules of procedure which shall include provision for adequate public notice of intended actions of the Legislative Assembly.
- c. An Act adopted by the Legislative Assembly shall be presented by the Speaker of the Legislative Assembly to the Governor, who shall, within 10 calendar days after the Act is presented, either approve or disapprove such Act. To approve an Act, the Governor shall affix the Governor's signature to it, and such Act shall become law. To disapprove such Act, the Governor shall, within 10 calendar days after it is presented to the Governor, return such Act to the Legislative Assembly setting forth in writing the reasons for such disapproval. If any Act so adopted shall not be returned to the Legislative Assembly by the Governor within 10 calendar days after being presented to the Governor, the Governor shall be deemed to have approved it, and such Act shall become law unless the Legislative Assembly, when in a recess of 10 days or more, prevents its return, in which case it shall not become law.

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- d. If, within 30 calendar days after an Act has been timely returned by the Governor to the Legislative Assembly with the Governor's disapproval, two-thirds of the members of the Legislative Assembly present and voting vote to reenact such Act, the Act shall become law without the Governor's signature.
- e. (1) In the case of any Budget Act adopted by the Legislative Assembly and submitted to the Governor, the Governor shall have power to disapprove any items or provisions, or both, and approve the remainder. To exercise such disapproval, the Governor shall append to the signed Act a statement indicating the items or provisions that the Governor disapproves, and shall, within such 10-day period, return a copy of the Act and statement to the Legislative Assembly. If the Governor fails to return any such item or provision so disapproved to the Legislative Assembly within such 10-day period, such item or provision shall be deemed approved.
- (2) If, within 30 calendar days after any such Budget Act has been timely returned by the Governor to the Legislative Assembly, two-thirds of the members of the Legislative Assembly present and voting vote to reenact any such item or provision, it shall become law.
- f. All Acts shall become effective and enforceable 60 days after enactment unless another date is specified in the Act or other law.
- g. By Act, the Legislative Assembly shall have authority to create or abolish any office, agency, department, or instrumentality of the State of Washington, D.C. not established in this Constitution, and to define the powers, duties, and responsibilities of any such office, agency, department, or instrumentality.
- h. The Legislative Assembly, or any Committee or person authorized by it, shall have the power, as otherwise authorized by the rules of the Legislative Assembly, to investigate any matter relating to the affairs of the State of Washington, D.C., and for that purpose may issue subpoenas and administer oaths to require the attendance and testimony and the production of evidence. In conducting a lawful investigation, the Legislative Assembly or one of its Committees may seek enforcement of any subpoena it issues in the Superior Court of the State of Washington, D.C.
- i. The Legislative Assembly may, by Resolution, call for an advisory referendum upon any matter upon which the Legislative Assembly desires to take action.
- j. A majority of the number of non-vacant seats of the Legislative Assembly shall constitute a quorum for the transaction of business.
- k. The Legislative Assembly may establish by its rules what number of members constitutes a quorum for holding hearings or voting in a committee of the Legislative Assembly.

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1. Each 10 calendar day period referenced in this section excludes Saturdays, Sundays, and legal holidays.

Sec. 5. Speaker of the Legislative Assembly

- a. The Speaker of the Legislative Assembly shall be the presiding officer and chief executive officer of the Legislative Assembly.
- b. When the Office of Governor is vacant, the Speaker of the Legislative Assembly shall act in the Governor's stead. While acting as Governor, the Speaker of the Legislative Assembly shall not exercise any authority as Speaker of the Legislative Assembly or as a member of the Legislative Assembly. While the Speaker of the Legislative Assembly is acting as Governor, the Legislative Assembly shall select one of the elected at-large members of the Legislative Assembly to serve as Speaker, until the return of the elected Speaker of the Legislative Assembly.

Sec. 6. Legislative districts

The boundaries of the legislative districts shall be established from time to time, at least decennially, by an Act of the Legislative Assembly. Each legislative district shall consist of contiguous territory, be compact in form, and be of substantially equal population to the other legislative districts.

Sec. 7. Advisory Neighborhood Commissions

- a. The Legislative Assembly shall by Act divide the State of Washington, D.C. into neighborhood commission areas, which areas shall be represented by an elected advisory neighborhood commission. Members of each advisory neighborhood commission shall be known as Advisory Neighborhood Commissioners and shall be elected from a single-member district on a nonpartisan basis.
- b. No person shall hold the office of Advisory Neighborhood Commissioner unless that person: (1) is domiciled in the State of Washington, D.C. and resides in the single-member district from which that person is nominated; (2) is a qualified voter of the State of Washington, D.C.; and (3) has resided and been domiciled in the State of Washington, D.C. for 1 year immediately preceding the day on which the general or special election for such office is to be held.
- c. Each advisory neighborhood commission may: (1) advise the Legislative Assembly and the Executive Branch on matters of public policy, which advice shall be given great weight; (2) employ staff and expend public funds as authorized by the annual budget for the State of Washington, D.C. for public purposes within its neighborhood commission

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area; and (3) have such other advisory powers and responsibilities as the Legislative Assembly may establish by Act.

- d. An Advisory Neighborhood Commissioner shall not be compensated in excess of actual expenses incurred in connection with the discharge of his or her duties.

Sec. 8. Auditor

- a. There is established for the State of Washington, D.C. the Office of the Auditor to be headed by an Auditor who shall be appointed by the Speaker of the Legislative Assembly, subject to the approval of a majority of the Legislative Assembly. The Auditor shall serve for a term of 6 years and shall be paid at a rate of compensation as may be established from time to time by the Legislative Assembly, not to exceed the rate of pay of the Speaker of the Legislative Assembly.
- b. The Auditor may conduct audits and investigations of the accounts and operations of the government of the State of Washington, D.C. in accordance with such principles and procedures and under such rules and regulations as the Auditor may prescribe. Such audits and investigations shall include those required by law and such others as may be referred to it by the Legislative Assembly. In the determination of the auditing procedures to be followed and the extent of the examination of vouchers and other documents and records, the Auditor shall give due regard to generally accepted principles of auditing including the effectiveness of the accounting organizations and systems, internal audit and control, and related administrative practices.
- c. The Auditor shall have access to all books, accounts, records, reports, findings and other papers, things, or property belonging to or in use by any department, agency, or other instrumentality of the State of Washington, D.C. necessary to facilitate the audit. Release of information by the Auditor shall be subject to the restrictions as are applicable to the agency from which the Auditor obtained the information.
- d. The Auditor shall submit audit reports to the Legislative Assembly, the Governor, and other independent executive offices. Such reports shall set forth the scope of the audit and shall include such comments and information as the Auditor may deem necessary to keep the Legislative Assembly, Governor, and independent executive offices informed of the operations to which the reports relate, together with such recommendations with respect thereto as the Auditor may deem advisable.
- e. The Auditor shall make such reports, together with such other material as the Auditor deems pertinent thereto, available for public inspection.

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- f. The Governor or independent executive offices shall state in writing to the Legislative Assembly, within an appropriate time, what action has been taken to effectuate the recommendations made by the Auditor.
- g. The Auditor may be removed for cause by two-thirds vote of the Legislative Assembly. The appointment of a successor, or to otherwise fill a vacancy, shall be for a term of 6 years.

ARTICLE II
THE EXECUTIVE BRANCH

Part 1. Executive power

Part 2. The Governor

Section

- 1. Election of Governor
- 2. Qualifications for holding office; vacancy; compensation
- 3. Powers and duties of the Governor

Part 3. Independent executive entities.

Section

- 1. Office of Attorney General
- 2. Office of the Chief Financial Officer
- 3. State Board of Education
- 4. Board of Elections.

Part 1. Executive power

The executive power of the State of Washington, D.C. shall be vested in the Governor and the independent executive offices established herein.

Part 2. The Governor

Sec. 1. Election of Governor

The Governor shall be elected on a partisan basis by the qualified voters of the State of Washington, D.C. for a term of 4 years beginning at noon on January 2nd of the year following that person's election. The Governor shall be elected in even years, when there is no federal presidential election.

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Sec. 2. Qualifications for holding office; vacancy; compensation

- a. (1) No person shall hold the Office of Governor unless that person: (A) is a qualified voter of the State of Washington, D.C.; (B) resides in and is domiciled in the State of Washington, D.C.; (C) has resided and been domiciled in the State of Washington, D.C. for 1 year immediately preceding the day on which the general or special election for Governor is to be held; and (D) is not engaged in any employment (whether as an employee or as a self-employed individual) and holds no public office or position (other than employment as Governor), for which that person is compensated in an amount in excess of actual expenses incurred in connection therewith, except that nothing in this clause shall be construed as prohibiting such person, while holding the Office of Governor, from serving as an official or delegate of a political party.
- (2) To fill a vacancy in the Office of Governor, the Board of Elections shall hold a special election at least 70 days, and not more than 174 days, after such vacancy occurs, unless it determines that such vacancy could be more practicably filled in a special election held on the same day as the next general election to be held in the State of Washington, D.C. The person elected Governor to fill a vacancy in the Office of Governor shall take office on the day the Board of Elections certifies the election, and shall serve as Governor for the remainder of the term during which such vacancy occurred unless re-elected in a subsequent election. When the Office of Governor becomes vacant, the Speaker of the Legislative Assembly shall become acting Governor and shall serve from the date such vacancy occurs until the date on which the Board of Elections certifies the election of the new Governor, at which time the acting Governor shall again become Speaker of the Legislative Assembly. While the Speaker of the Legislative Assembly is acting Governor, that person shall receive the compensation regularly paid the Governor, and shall receive no compensation as Speaker or Representative of the Legislative Assembly.
- b. Should vacancies arise simultaneously for both the Speaker of the Legislative Assembly and the Governor, the order of succession shall be the at-large members of the Legislative Assembly in order of seniority of continuous service, followed by the Attorney General. Temporary or partial incapacity, or short periods of unavailability, shall not constitute a vacancy nor trigger a special election.
- c. The Governor shall receive compensation, payable in equal installments, at a rate of pay established by Act. The Legislative Assembly shall not reduce the salary of an incumbent Governor. Any changes in the Governor's compensation, upon enactment by the Legislative Assembly, shall apply beginning with the next gubernatorial term after the effective date of such Act.

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- d. The Governor shall forfeit the office upon failure to maintain qualifications required by this section or upon conviction of a felony.

Sec. 3. Powers and duties of the Governor

The Governor shall be the chief executive officer of the State of Washington, D.C. government. The Governor shall be responsible for the faithful execution of the laws of the State of Washington, D.C. and for the proper administration of the affairs of the State of Washington, D.C. coming under the Governor's jurisdiction or control, including but not limited to the following powers, duties, and functions:

- a. The Governor may appoint an Administrator and Chief Operating Officer, who shall serve at the pleasure of the Governor, who shall assist the Governor in carrying out the Governor's functions under this Constitution, and whose salary shall be set by the Governor consistent with any applicable law.
- b. The Governor may designate the officer or officers of the executive branch of the State of Washington, D.C., who may, during periods of the Governor's absence from the State of Washington, D.C., or due to the temporary or partial incapacity of the Governor, execute and perform the powers and duties of the Governor.
- c. The Governor shall administer the personnel functions of the executive branch of the State of Washington, D.C. except for the independent executive entities, including all laws relating to the appointment, promotion, duties, discipline, separation, and other conditions of employment of personnel in the Office of the Governor, personnel in departments of the State of Washington, D.C., and members and employees of boards, offices, commissions, and other agencies.
- d. The Governor shall, through the heads of administrative boards, offices, commissions, and agencies, supervise and direct the activities of such boards, offices, commissions, and agencies.
- e. The Governor may submit proposed Acts and Resolutions to the Legislative Assembly.
- f. The Governor may delegate any of the Governor's functions (other than the function of approving or disapproving Acts passed by the Legislative Assembly or the power to grant pardons) to any officer, employee, or agency of the executive office of the Governor, or to any director of an executive department who may, with the approval of the Governor, make a further delegation of all or a part of such functions to subordinates under that person's jurisdiction.
- g. The Governor shall be the custodian of the corporate seal of the State of Washington, D.C. and shall use and authenticate it in accordance with law.

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- h. The Governor shall have the right to be heard by the Legislative Assembly or any of its committees under rules to be adopted by the Legislative Assembly.
- i. The Governor may issue and enforce administrative orders, not inconsistent with this Constitution or with any statute, to carry out the Governor's functions and duties.
- j. The Governor may, by reorganization order, reorganize the offices, agencies, and other entities within the executive branch of the government of the State of Washington, D.C. except where such reorganization is inconsistent with statute.
- k. The Governor shall have plenary power to grant pardons, commutations, and reprieves, and to remit, forgive, or reduce fines and forfeitures, for all offenses against the laws of the State of Washington, D.C.
- l. To advance the general welfare and provide for public safety, and consistent with federal law, the Governor may enter into compacts and agreements with other states and localities, the federal government, and federal instrumentalities; and may enter into agreements with foreign nations, cities, or businesses; provided, that any financial obligations of such compacts and agreements shall be approved by the Legislative Assembly under rules to be adopted by the Legislative Assembly.
- m. The Governor shall be the primary planning authority for the State of Washington, D.C.
- n. The Governor shall be the Commander-in-Chief over the National Guard of the State of Washington, D.C.
- o. The Governor shall have charge of the administration of the financial affairs of the State of Washington, D.C., except authority assigned by this Constitution to the Chief Financial Officer, and shall have authority to examine and approve all contracts, orders, and other documents by which the State of Washington, D.C. incurs financial or other obligations.

Part 3. Independent executive agencies.

Sec. 1. Office of Attorney General

- a. There is established within the executive branch of the State of Washington, D.C. government an independent Office of the Attorney General for the State of Washington, D.C. headed by an Attorney General. The Attorney General shall be elected by the qualified voters of the State of Washington, D.C., on a partisan basis, for a term of 4 years beginning at noon on January 2 of the year following that person's election. The

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term of office of the Attorney General shall coincide with the term of office of the Governor.

- b. (1) When the position of Attorney General becomes vacant, the Chief Deputy Attorney General shall become the Acting Attorney General and shall serve until the date the Board of Elections certifies the election of the new Attorney General, at which time the Acting Attorney General shall again become the Chief Deputy Attorney General. While the Chief Deputy Attorney General is Acting Attorney General, that person shall receive the compensation regularly paid the Attorney General, and shall receive no compensation as Chief Deputy Attorney General. (2) To fill a vacancy in the position of Attorney General, the Board of Elections shall hold a special election at least 70 days, and not more than 174 days, after such vacancy occurs, unless it determines that such vacancy could be more practicably filled in a special election held on the same day as the next general election to be held in the State of Washington, D.C. The person elected Attorney General to fill a vacancy in the Office of the Attorney General shall take office on the day on which the Board of Elections certifies the election, and shall serve as Attorney General for the remainder of the term during which such vacancy occurred.
- c. The Attorney General is the chief law officer of the State of Washington, D.C. and shall have charge and conduct of all criminal prosecutions of the State of Washington, D.C. and all suits instituted by and against the government thereof. The Attorney General shall possess all powers afforded the Attorney General by the common and statutory law of the State of Washington, D.C., and shall be responsible for upholding the public interest. The Attorney General shall have the power to control litigation and appeals, as well as the power to intervene in legal proceedings on behalf of the public interest.
- d. The Attorney General may furnish opinions in writing on the Attorney General's initiative or when requested to do so by the Governor or the Legislative Assembly.
- e. The administration, organization, and operation of the Office of the Attorney General shall be under the jurisdiction and control of the Attorney General. The Attorney General's duties shall include supervising and directing the activities of the Office, administering the personnel functions of the Office (including all laws relating to the appointment, promotion, duties, discipline, separation, and other conditions of employment of personnel), reorganizing the Office, and approving contracts, orders, and other documents by which the State of Washington, D.C. incurs financial or other obligations for the Office of the Attorney General.
- f. The Attorney General shall receive compensation, payable in equal installments, at a rate of pay established by Act. The Legislative Assembly shall not reduce the salary of an incumbent Attorney General. Any changes in the Attorney General's compensation, upon enactment by the Legislative Assembly, shall apply beginning with the next Attorney General's term after the effective date of such Act.

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Sec. 2. Office of the Chief Financial Officer

- a. There is established within the executive branch of the State of Washington, D.C. government an independent Office of the Chief Financial Officer for the State of Washington, D.C. headed by the Chief Financial Officer of the State of Washington, D.C.
- b. The Chief Financial Officer for the State of Washington, D.C. shall be appointed by the Governor with the advice and consent, by Resolution, of the Legislative Assembly. The Chief Financial Officer shall be appointed for a term of 5 years. Any Chief Financial Officer may continue to serve beyond the appointed term until a successor takes office.
- c. If there is a vacancy in the Office of the Chief Financial Officer as a consequence of resignation, permanent disability, death, or other reason, the Governor shall appoint one of the Deputy Chief Financial Officers to serve as the Chief Financial Officer in an acting capacity. The Governor shall promptly nominate a person to serve as Chief Financial Officer, for the remainder of the term during which the vacancy occurred; provided, that the Governor shall submit the nomination to the Legislative Assembly for its approval as provided in subsection (b) of this section.
- d. The Chief Financial Officer may be removed only for cause by the Governor, subject to the approval of the Legislative Assembly by a Resolution approved by not fewer than 2/3 of the members of the Legislative Assembly present and voting.
- e. The administration, organization, and operation of the Office of the Chief Financial Officer shall be under the jurisdiction and control of the Chief Financial Officer. The Chief Financial Officer's duties shall include supervising and directing the activities of the Office, administering the personnel functions of the Office (including all laws relating to the appointment, promotion, duties, discipline, separation, and other conditions of employment of personnel), and reorganizing the Office.
- f. The Chief Financial Officer shall, under the direction of the Governor, prepare the budgets and financial plans for the State of Washington, D.C. for submission by the Governor to the Legislative Assembly.
- g. The Chief Financial Officer shall: (1) assure that all financial information submitted by the Governor to the Legislative Assembly or for any other official purpose is accurate and complete; (2) prepare and submit to the Governor and the Legislative Assembly and make public annual fiscal-year estimates of all revenue for the State of Washington, D.C. and quarterly re-estimates of the revenues of the State of Washington, D.C. during the fiscal year; (3) supervise and assume responsibility for financial transactions to ensure adequate control over revenues and resources; (4) maintain systems of accounting and internal controls designed to provide full disclosure of the impact of the activities of the

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State of Washington, D.C. government, adequate financial information necessary for management purposes, effective control over and accountability for all funds, property, and other assets of the State of Washington, D.C., and reliable accounting results to serve as the basis for preparing and supporting agency budget requests and controlling the execution of the budget; (5) submit to the Legislative Assembly a financial statement containing such details and at such times as the Legislative Assembly may specify; (6) supervise and assume responsibility for the assessment of all property subject to assessments and taxes, which includes preparing tax maps, and providing notice of taxes and special assessments; (7) supervise and assume responsibility for the levying and collection of all taxes, special assessments, licensing fees, and other revenues of the State of Washington, D.C. and receiving all amounts paid to it; (8) maintain custody of all public funds; (9) apportion funds made available so as to prevent deficiencies or a need for supplemental appropriations; (10) certify all contracts and leases prior to execution as to the availability of funds; (11) determine the regularity, legality, and correctness of bills, invoices, payrolls, claims, demands, or charges; (12) supervise and administer all borrowing programs; (13) administer the cash management program of the State of Washington, D.C.; (14) administer such payroll and retirement systems as the Legislative Assembly may by Act assign to it; (15) govern the accounting policies and systems of the State of Washington, D.C.; (16) timely prepare yearly, quarterly, and monthly financial reports of the accounting and financial operations of the State of Washington, D.C.; (17) prepare fiscal impact statements on such regulations, multiyear contracts, agreements, and proposed legislation as the Governor and Legislative Assembly may require by request or Act; (18) certify all collective bargaining agreements and nonunion pay proposals as to the availability of funds before submission to the Legislative Assembly, and prepare any financial analysis requested by the Governor of proposed terms or agreements.

Sec. 3. The State Board of Education

a. Composition; elections

1. The State Board of Education shall consist of one member elected from each legislative district and one elected at large. By Act, the length of terms and provisions for addressing vacancies may be established.
2. A President and Vice President of the State Board of Education shall be elected from among the members of the State Board of Education.

b. Powers

1. The State Board of Education shall be responsible for advising the Governor and Legislative Assembly on educational matters, including state standards, state policies, including those governing special, academic, vocational, charter, and other schools, state objectives, and state regulations.

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- 2. By Act, the Legislative Assembly may establish which educational matters shall be subject to the approval of the State Board of Education.

Sec. 4. Board of Elections

The authority to manage and supervise elections, initiatives, referenda, and recalls provided under this constitution shall be vested in the Board of Elections. The Legislative Assembly shall, by Act, provide for the composition, method of selection, and procedures for the Board of Elections to use in carrying out its duties.

ARTICLE III
THE JUDICIAL BRANCH

Section

- 1. Judicial power
- 2. Nomination and appointment to the State of Washington, D.C. Courts
- 3. Qualification for nomination and appointment; removal; compensation
- 4. Powers of the State of Washington, D.C. Courts
- 5. Designation of Chief Judges

Sec. 1. Judicial power

The judicial power of the State of Washington, D.C. is vested in the State of Washington, D.C. Court of Appeals, the Superior Court of the State of Washington, D.C., and such other courts as may be established by Act. The jurisdiction of the courts shall be established by Act. Collectively these shall be referred to as the State of Washington, D.C. Courts.

Sec. 2. Nomination and appointment to the State of Washington, D.C. Courts

- a. The Governor shall nominate, from the list of persons recommended by the State of Washington, D.C. Judicial Nomination Commission, and, by and with the advice and consent of the Legislative Assembly, by Resolution, appoint all judges of the State of Washington, D.C. Courts.
- b. A judge appointed to the State of Washington, D.C. Courts shall be appointed for a term of 15 years, unless removed or suspended, and upon completion of such term, such judge shall continue to serve until reappointed or a successor is appointed and is sworn in. A judge who is found well-qualified by the Commission on Judicial Disabilities and Tenure shall be reappointed.

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- c. The Legislative Assembly shall, by law, provide for the composition, method of selection, and procedures for the State of Washington, D.C. Judicial Nomination Commission to use in carrying out its duties under this Article.

Sec. 3. Qualification for nomination and appointment; removal; compensation

- a. No person may be nominated or appointed as a judge of the State of Washington, D.C. Courts unless that person:
 - 1. Has resided and been domiciled in the State of Washington, D.C. for at least 1 year prior to nomination;
 - 2. Is an active member of the unified bar created pursuant to the rules of the State of Washington, D.C. Court of Appeals and has been active in that bar for at least 5 years; and
 - 3. Is recommended to the Governor, for such nomination and appointment, by the State of Washington, D.C. Judicial Nomination Commission.
- b. Judges may not be removed or sanctioned for the good-faith legal determinations they render. A judge of the State of Washington, D.C. Courts shall be removed from office upon a final judgment of conviction of a crime that is punishable as a felony under federal law or that would be a felony in the State of Washington, D.C. or a determination, following a process established by law, of:
 - 1. Willful misconduct in office;
 - 2. Willful and persistent failure to perform judicial duties;
 - 3. Any other conduct that is prejudicial to the administration of justice or that brings the judicial office into disrepute;
 - 4. Failure to maintain residency in the State of Washington, D.C.; or
 - 5. A mental or physical incapacity (including habitual intemperance) that is or is likely to become permanent and that prevents, or seriously interferes with, the proper performance of that person's judicial duties.
- c. The authority to reappoint, remove, or sanction a judge of the State of Washington, D.C. Courts as provided in this Article shall be vested in a Commission on Judicial Disabilities and Tenure. The Legislative Assembly shall, by law, provide for the composition, method of selection, and procedures for the Commission on Judicial Disabilities and Tenure to use in carrying out its duties under this Article.
- d. All Judges of the State of Washington, D.C. Courts shall receive compensation, payable in equal installments, at a rate of pay established by Act. The Legislative Assembly shall not reduce the salary of Judges. Any changes in the Judges' compensation, upon enactment by the Legislative Assembly, shall apply after the effective date or the applicability date of such Act, whichever is later.

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Sec. 4. Powers of the State of Washington, D.C. Courts

The Superior Court of the State of Washington, D.C. shall have jurisdiction of any civil action or other matter at law or in equity brought in the State of Washington, D.C. and of any criminal case under the law of the State of Washington, D.C. The State of Washington, D.C. Court of Appeals shall have jurisdiction of appeals from the Superior Court or an intermediate appellate court established by statute and, to the extent provided by law, to review orders and decisions of the Governor, the Legislative Assembly, or any agency of the State of Washington, D.C. The State of Washington, D.C. Courts shall also have jurisdiction over any other matters granted to the State of Washington, D.C. Courts by other provisions of law.

Sec. 5. Designation of Chief Judges

All Chief Judges of the State of Washington, D.C. Courts shall be designated by the State of Washington, D.C. Judicial Nomination Commission from among the judges of their respective courts in regular active service, and shall serve as Chief Judge for a term of 4 years or until a successor is designated, except that a term as Chief Judge shall not extend beyond the Chief Judge's term as a judge of a State of Washington, D.C. Courts. A Chief Judge shall be eligible for re-designation as Chief Judge.

ARTICLE IV
BUDGET AND FINANCIAL MANAGEMENT

Section

- 1. Fiscal year
- 2. Submission of annual budget
- 3. Adoption of budget by Legislative Assembly
- 4. Annual financial statements and audits
- 5. Balanced budget
- 6. Review of Contracts by the Legislative Assembly
- 7. Emergency and contingency reserve funds

Sec. 1. Fiscal year

The Legislative Assembly shall establish by Act the fiscal year of the State of Washington, D.C.

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Sec. 2. Submission of annual budget

- a. The Governor shall prepare and submit to the Legislative Assembly each year, at such time as the Legislative Assembly shall direct, and shall make available to the public, a proposed annual budget for the State of Washington, D.C. government. It shall:
 1. (A) Reflect the actual financial condition of the State of Washington, D.C. government; (B) Specify the agencies and purposes for which funds are being requested; and (C) Be prepared on the assumption that proposed expenditures for such fiscal year shall not exceed estimated resources from existing sources and proposed resources.
 2. Be accompanied by: (A) An annual budget message that shall include supporting financial and statistical information for the forthcoming fiscal year and information on the approved budgets and expenditures for the immediately preceding 3 fiscal years; (B) A multiyear financial plan of revenues and expenses, including multiyear operating and capital improvement plans for all agencies; and (C) A summary of the budget for distribution to the general public.
 3. The proposed budget and financial plan shall be certified by the Chief Financial Officer as balanced and the Governor shall not forward to the Legislative Assembly a budget that is not balanced. The budget shall identify any new sources of revenue that shall be necessary to balance the budget as submitted.
- b. The budget prepared and submitted by the Governor shall include, but not be limited to, recommended expenditures at a reasonable level for agencies under the authority of the Governor, and expenditures for the Legislative Assembly, the State of Washington, D.C. court system, the Office of the Attorney General, the Office of the Chief Financial Officer, the State Board of Education, and the Board of Elections for each such entity.
- c. The Governor may prepare and submit to the Legislative Assembly such supplemental or deficiency budget proposals as are necessary, including proposals to increase revenues to meet any such increased expenditure, and may prepare and submit to the Legislative Assembly for approval, by Resolution, proposed reprogrammings of budgeted amounts. The Legislative Assembly may by Act designate categories and classes of supplemental and deficiency budget modifications and reprogrammings for which approval by the Legislative Assembly is not required or for which approval of the Legislative Assembly will be deemed to have occurred upon the expiration of a specified period of time after the Governor submits the proposal to the Legislative Assembly.

Sec. 3. Adoption of budget by Legislative Assembly

The Legislative Assembly, within 77 calendar days after receipt of the budget proposal from the Governor, and after a public hearing, shall adopt by Act the annual budget for the State of Washington, D.C. government. No amount may be obligated or expended by any officer or employee of the State of Washington, D.C. government unless such

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amount has been approved by Act of the Legislative Assembly, and then only according to such Act, or as otherwise provided in section 2(c) of this Article.

Sec. 4. Annual financial statement and audits

Within 123 days following the close of the fiscal year, the Governor shall submit to the Legislative Assembly a complete and audited financial statement and report for the preceding fiscal year.

Sec. 5. Balanced budget

The Legislative Assembly shall not approve any budget that would result in expenditures being in excess of all resources that the Chief Financial Officer estimates will be available from all funds available to the State of Washington, D.C. for such fiscal year.

Sec. 6. Review of Contracts by the Legislative Assembly

By Act, the Legislative Assembly may establish which contracts shall be subject to its review and approval; provided, that the scope of contracts subject to the review of the Legislative Assembly shall not exceed the scope of those contracts that were subject to approval of the former Council of the District of Columbia.

Sec. 7. Emergency and contingency reserve funds

- a. 1. The Governor shall deposit into an emergency cash reserve fund not later than the first day of each fiscal year such an amount as may be required to maintain a balance in the fund of at least 2 percent of the operating expenditures of the government of the State of Washington, D.C.; provided, that if the Governor uses money from the fund during a fiscal year, the State of Washington, D.C. shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the emergency reserve fund during the preceding fiscal years so that not less than 50 percent of any amount allocated in the preceding fiscal year or the amount necessary to restore the emergency reserve fund to the 2 percent required balance, whichever is less, is replenished by the end of the first fiscal year following each such allocation and 100 percent of the amount allocated or the amount necessary to restore the emergency reserve fund to the 2 percent required balance, whichever is less, is replenished by the end of the second fiscal year following each such allocation; provided further, that if an amount is allocated from the emergency cash reserve fund for cash-flow management purposes, the Governor shall fully replenish the fund in the amount allocated not later than the earlier of the expiration of the 9-month period that begins on the date the allocation is made or the last day of the fiscal year.

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2. The Governor may use the emergency cash reserve fund to provide for unanticipated and nonrecurring extraordinary needs of an emergency nature, including for expenses associated with a natural disaster or calamity or a state of emergency as declared by the Governor, for unexpected obligations of federal law, and for cash-flow management purposes in an amount of not more than 50 percent of the balance of the fund.
- b.
 1. The Governor shall deposit into a contingency cash reserve fund not later than the first day of each fiscal year such amount as may be required to maintain a balance in the fund of at least 4 percent of the operating expenditures of the government of the State of Washington, D.C.; provided, that the government of the State of Washington, D.C. shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the contingency reserve fund during the preceding fiscal years so that not less than 50 percent of any amount allocated in the preceding fiscal year or the amount necessary to restore the contingency reserve fund to the 4 percent required balance, whichever is less, is replenished by the end of the first fiscal year following each such allocation and 100 percent of the amount allocated or the amount necessary to restore the contingency reserve fund to the 4 percent required balance, whichever is less, is replenished by the end of the second fiscal year following each such allocation; provided further, that if an amount is allocated from the contingency cash reserve fund for cash-flow management purposes, the Governor shall fully replenish the fund in the amount allocated not later than the earlier of the expiration of the 9-month period that begins on the date the allocation is made or the last day of the fiscal year.
 2. The Governor may use the contingency cash reserve fund to provide for nonrecurring or unforeseen needs that arise during the fiscal year, including for expenses associated with unforeseen weather or other natural disasters, unexpected obligations created by federal law or new public safety, health, welfare, or education needs or requirements that have been identified after the budget process has occurred, for opportunities to achieve cost savings, to cover revenue shortfalls experienced by the District government for 3 consecutive months (based on a 2-month rolling average) that are 5 percent or more below the budget forecast, and for cash-flow management purposes in an amount of not more than 50 percent of the balance of the fund.

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ARTICLE V BORROWING

Section

- 1. Authority to issue and redeem general obligation bonds for capital projects
- 2. Contents of borrowing legislation on issuing general obligation bonds
- 3. Issuance of general obligation bonds
- 4. Borrowing to meet appropriations and in anticipation of revenues
- 5. Special tax
- 6. Full faith and credit of State of Washington, D.C. pledged
- 7. Payment of general obligation bonds and notes
- 8. Revenue bonds and other obligations
- 9. Limitations on borrowing and spending
- 10. Tax exemption
- 11. Legal investment

Sec. 1. Authority to issue and redeem general obligation bonds for capital projects

- a. The State of Washington, D.C. may incur indebtedness by issuing general obligation bonds to refund indebtedness of the State of Washington, D.C. at any time outstanding and to provide for the payment of the cost of acquiring or undertaking its various capital projects, including paying its share of regional transportation projects. Such bonds shall bear interest, payable on such dates, at such rate or rates and at such maturities as the Governor, subject to the provisions of section 2, may determine to be necessary to make such bonds marketable.
- b. The State of Washington, D.C. may reserve the right to redeem any or all of its obligations before maturity in such manner and at such price as may be fixed by the Governor prior to the issuance of such obligations.
- c. For purposes of section 1, capital projects means any physical public betterment or improvement, the acquisition of property of a permanent nature, or the purchase of equipment or furnishings.

Sec. 2. Contents of borrowing legislation and elections on issuing general obligation bonds

- a. The Legislative Assembly may by Act authorize the issuance of general obligation bonds for the purposes specified in section 1. Such an Act shall contain, at least, provisions: (1) briefly describing each project to be financed by the Act; (2) identifying the Act authorizing each such project or category of projects; (3) setting forth the maximum amount of debt principal that may be incurred for the projects; (4) setting forth the maximum rate of interest to be paid on such indebtedness; (5) setting forth the maximum allowable maturity for the issue and the maximum debt service payable in any year; (6)

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authorizing the bonds to be sold at public sale or at private sale on a negotiated basis, as determined by the Governor to be in the public interest; (7) authorizing the Governor to enter into and amend agreements in connection with the bond issue, including a trust indenture; (8) vesting in the trustee under such a trust indenture such properties, rights, powers, and duties in trust as may be necessary, convenient, or desirable; (9) authorizing the creation of a security interest in State of Washington, D.C. revenues as additional security for the payment of the bonds; (10) describing the particular State of Washington, D.C. revenues that are subject to such security interest; (11) prescribing the validity of such security interest; (12) prescribing remedies of the bondholders in the event of a default; and (13) specifying such other covenants, provisions and conditions necessary to issue the additional bonds as parity bonds.

- b. The Governor shall publish the enacted Act in at least one newspaper of general circulation within the State of Washington, D.C. with the notification that the time within which a suit, action, or proceeding questioning the validity of such bonds may be commenced expires at the end of the 20-day period beginning on the date of the first publication of the notice.
- c. Failure to publish the notice or any error in any publication shall not impair the effect of the Act or the validity of the bonds issued pursuant to the Act.

Sec. 3. Issuance of general obligation bonds

- a. After an Act of the Legislative Assembly authorizing the issuance of general obligation bonds has taken effect, the Governor may issue such general obligation bonds. An issue of general obligation bonds may be all or any part of the aggregate principal amount of bonds authorized by such Act.
- b. The principal amount of the general obligation bonds of each issue shall be payable in annual installments beginning not later than 3 years after the date of such bonds and ending not later than 30 years after such date.

Sec. 4. Borrowing to meet appropriations and in anticipation of revenues

- a. In the absence of unappropriated revenues available to meet appropriations, the Legislative Assembly may by Act authorize the issuance of general obligation notes.
- b. In anticipation of the collection or receipt of revenues for a fiscal year, the Legislative Assembly may by Act authorize the issuance of revenue anticipation notes.
- c. The total amount of any general obligation notes originally issued during a fiscal year shall not exceed 2 percent of the total appropriations for the State of Washington, D.C. for such fiscal year, and the total amount of all revenue anticipation notes outstanding at

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any time during a fiscal year shall not exceed 20 percent of the total anticipated revenue of the State of Washington, D.C. that the Governor estimates, and the Chief Financial Officer certifies, will be credited to the State of Washington, D.C. during the fiscal year in which the bonds will be issued.

- d. Any general obligation note issued under subsection (a) of this section, or any revenue anticipation note issued under subsection (b) of this section, as authorized by an Act of the Legislative Assembly, may be renewed. Any such note, including any renewal of such note, shall be due and payable not later than the last day of the fiscal year occurring immediately after the fiscal year during which the Act authorizing the original issuance of such note takes effect.

Sec. 5. Special tax

Any Act of the Legislative Assembly authorizing the issuance of general obligation bonds shall provide for the annual levy of a special tax or charge, if necessary. Such tax or charge shall be levied, without limitation as to rate or amount, in amounts that, together with other State of Washington, D.C. revenues available and applicable, will be sufficient to pay the principal of and interest on such general obligation bonds as they become due and payable.

Sec. 6. Full faith and credit of State of Washington, D.C. pledged

The full faith and credit of the State of Washington, D.C. is pledged for the payment of the principal of and interest on any general obligation bond or note issued under this Article, whether or not such pledge is stated in such bond or note or in the Act authorizing the issuance of such bond or note.

Sec. 7. Payment of general obligation bonds and notes

- a. In each annual budget, the Legislative Assembly shall provide sufficient funds to pay the principal of and interest on all general obligation bonds or notes due and payable during such fiscal year.
- b. The Governor shall ensure that the principal and interest on all general obligation bonds and notes issued under this Article are paid when due, including by paying such principal and interest from funds not otherwise legally committed.
- c. All amounts obligated or expended by the State of Washington, D.C. for the payment of principal of, interest on, or redemption premium for any general obligation bonds issued under this Article or issued before the effective date of this Constitution are not subject to appropriation.

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Sec. 8. Revenue bonds and other obligations

- a. (1) The Legislative Assembly may by Act or Resolution authorize the issuance of revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance, or assist in the financing or refinancing of undertakings in the areas of: housing; health; transit; utilities; preschool, primary, secondary, vocational, adult, rehabilitative, re-entry, and higher education; educational loans; facilities for culture, sports, mass commuting, sewage disposal, solid waste disposal, recycling or reuse, hazardous waste disposal, or local district heating or cooling; or the local furnishing of energy or water; manufacturing; and any other undertaking that the Legislative Assembly determines will contribute to the health, education, safety, or welfare of, or the creation or preservation of jobs for, the residents of the State of Washington, D.C., or to the economic development of the State of Washington, D.C., and any facilities or property, real or personal, used in connection with or supplementing any of the foregoing. Any such financing or refinancing may be effected 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) Any revenue bond, note, or other obligation issued under paragraph (1) of this subsection shall be a special obligation of the State of Washington, D.C. and shall be a negotiable instrument.
- (3) Any revenue bond, note, or other obligation issued under paragraph (1) of this subsection shall be paid and secured (as to principal, interest, and any premium) as provided by the Act or Resolution of the Legislative Assembly authorizing the issuance of such bond, note, or other obligation. Any Act of the Legislative Assembly authorizing the issuance of such bond, note, or other obligation, or any delegation of such authority, may provide for: (A) The payment of such bond, note, or other obligation from any available revenues, assets, or property; and (B) The securing of such bond, note, or other obligation by the mortgage of real property or the creation of any security interest in available revenues, assets, or other property.
- (4) (A) In authorizing the issuance of any revenue bond, note, or other obligation under paragraph (1) of this subsection, the Legislative Assembly may authorize the Governor to enter into any agreement concerning the acquisition, use, or disposition of any funds or property. Any such agreement may create any security interest in any funds or property; may provide for the custody, collection, security, investment, and payment of any funds (including any funds held in trust) for the payment of such bond, note, or other obligation; may mortgage any property; may provide for the acquisition, construction, maintenance, and disposition of the undertaking financed or refinanced using the proceeds of such bond, note, or other obligation; and may provide for the doing of any act (or the

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refraining from doing any act) that the State of Washington, D.C. has the right to do in the absence of such agreement. Any such agreement may be assigned for the benefit of, or made a part of any contract with, any holder of such revenue bond, note, or other obligation issued under paragraph (1) of this subsection. (B) Any security interest created under subparagraph (A) of this paragraph shall be valid, binding, and perfected from the time such security interest is created, with or without the physical delivery of any funds or any other property and with or without any further action. Such security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to such security interest is recorded or filed. The lien created by such security interest is valid, binding, and perfected with respect to any individual or legal entity having claims against the State of Washington, D.C., whether or not such individual or legal entity has notice of such lien. (C) Any funds of the State of Washington, D.C. held for the payment or security of any revenue bond, note, or other obligation issued under paragraph (1) of this subsection, whether or not such funds are held in trust, may be secured in the manner agreed to by the State of Washington, D.C. and any depository of such funds. Any depository of such funds may give security for the deposit of such funds.

- (5) The following obligations and expenditures by the State of Washington, D.C. shall not be subject to appropriations: (A) All amounts (including the amount of any accrued interest or premium) obligated or expended from the proceeds of the sale of any revenue bond, note, or other obligation issued under this section, or issued before the effective date of this Constitution; (B) All amounts obligated or expended for the payment of principal of, interest on, or redemption premium for, or to secure, any bonds issued under this section or issued before the effective date of this Constitution; and (C) All amounts obligated or expended pursuant to commitments made in connection with the issuance of a revenue bond, note, or other obligation for repair, maintenance, and capital improvements relating to undertakings financed through any revenue bond, note, or other obligation issued under this section or issued before the effective date of this Constitution.
- b. Any and all such bonds, notes, or other obligations shall not be general obligations of the State of Washington, D.C., shall not be a pledge of or involve the faith and credit or the taxing power of the State of Washington, D.C., shall not constitute a debt of the State of Washington, D.C., and shall not constitute lending of the public credit for private undertakings.
- c. Any and all such bonds, notes, or other obligations shall be issued pursuant to an Act or Resolution of the Legislative Assembly without the necessity of submitting the question of such issuance to the registered qualified voters of the State of Washington, D.C. for approval or disapproval.

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- d. Any Act or Resolution of the Legislative Assembly authorizing the issuance of revenue bonds, notes, or other obligations under paragraph (1) of subsection (a) of this section may: (1) Briefly describe the purpose for which such bonds, notes, or other obligations are to be issued; (2) Prescribe the form, terms, provisions, manner, and method of issuing and selling (including sale by negotiation or by competitive bid) such bonds, notes, or other obligations; (3) Provide for the rights and remedies of the holders of such bonds, notes, or other obligations upon default; (4) Prescribe any other details with respect to the issuance, sale, or securing of such bonds, notes, or other obligations; and (5) Authorize the Governor to take any actions in connection with the issuance, sale, delivery, security, and payment of such notes, bonds, or other obligations, including the prescribing of any terms or conditions not contained in such Act or Resolution of the Legislative Assembly.
- e. The Legislative Assembly may by Act delegate to any independent instrumentality of Washington, D.C. the authority of the Legislative Assembly under subsection (a) of this section to issue revenue bonds, notes, and other obligations to borrow money for the purposes described in subsection (a) of this section.

Sec. 9. Limitations on borrowing and spending

- a. No general obligation bonds (other than bonds to refund outstanding indebtedness) shall be issued during any fiscal year in an amount that would cause the amount of principal and interest required to be paid both serially and into a sinking fund in any fiscal year on the aggregate amounts of all outstanding general obligation bonds and such Treasury loans, to exceed 17% of the State of Washington, D.C. revenues (less any fees or revenues directed to servicing revenue bonds, any revenues, charges, or fees dedicated for the purposes of water and sewer facilities (including fees or revenues directed to servicing or securing revenue bonds issued for such purposes), retirement contributions, revenues from retirement systems, and revenues derived from the sale of general obligation or revenue bonds) that the Governor estimates, and the Chief Financial Officer certifies, will be credited to the State of Washington, D.C. during the fiscal year in which the bonds will be issued.
- b. The 17% limitation specified in subsection (a) of this section shall be calculated in the following manner:
 - (1) Determine the dollar amount equivalent to 17% of the State of Washington, D.C. revenues as specified in subsection (a) of this section;
 - (2) Determine the actual total amount of principal and interest to be paid in each fiscal year for all outstanding general obligation bonds (less the allocable portion of principal and interest to be paid during the year on general obligation bonds of the District of Columbia issued prior to October 1, 1996, for the financing of Department of Public Works, Water, and Sewer Utility Administration capital projects) and such Treasury loans;

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- (3) Determine the amount of principal and interest to be paid during each fiscal year over the term of the proposed general obligation bond or such Treasury loan to be issued; and
- (4) If in any one fiscal year the sum arrived at by adding paragraphs (2) and (3) of this subsection exceeds the amount determined under paragraph (1) of this subsection, then the proposed general obligation bond or such Treasury loan in paragraph (3) of this paragraph cannot be issued.

Sec. 10. Tax exemption

Bonds and notes issued pursuant to this Article and the interest thereon shall be exempt from all taxes of the State of Washington, D.C., except estate, inheritance, and gift taxes.

Sec. 11. Legal investment

Notwithstanding any restriction on the investment of funds by fiduciaries contained in any other law, all domestic insurance companies, domestic insurance associations, executors, administrators, guardians, trustees, and other fiduciaries within the State of Washington, D.C. may legally invest any sinking funds, moneys, trust funds, or other funds belonging to them or within their control in any bonds issued pursuant to this title, it being the purpose of this section to authorize the investment in such bonds or notes of all sinking, insurance, retirement, compensation, pension, and trust funds.

ARTICLE VI INITIATIVE; REFERENDUM; RECALL

Section

- 1. Definitions
- 2. Process
- 3. Submission of measure at election
- 4. Rejection of measure
- 5. Approval of measure
- 6. Short title and summary
- 7. Recall process
- 8. Time limits on initiation of recall process
- 9. When an official is removed; filling of vacancies

Sec. 1. Definitions

- a. The term "initiative" means the process by which the registered qualified electors of the State of Washington, D.C. may propose laws (except laws appropriating funds or having the effect of authorizing discrimination) and present such proposed laws directly to the

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registered qualified electors of the State of Washington, D.C. for their approval or disapproval.

- b. The term "referendum" means the process by which the registered qualified electors of the State of Washington, D.C. may repeal or ratify acts of the Legislative Assembly (except emergency acts, acts levying taxes, acts appropriating funds, acts having the effect of prohibiting discrimination, or advisory referenda).
- c. The term "recall" means the process by which the registered qualified electors of the State of Washington, D.C. may call for the holding of an election to remove or retain an elected official prior to the expiration of that official's term.

Sec. 2. Process

- a. An initiative or referendum may be proposed by the presentation to the Board of Elections of a petition containing the signatures of 5 percent of the registered voters in the State of Washington, D.C.; provided, that the total signatures submitted shall include 5 percent of the registered voters in a majority of the legislative districts.
- b. The latest official count of registered voters by the Board of Elections that was issued 30 or more days prior to submission of the signatures for any particular initiative, referendum, or recall petition shall be used for computing the signature requirements of this Article.

Sec. 3. Submission of measure at election

- a. The Board of Elections shall submit an initiative or referendum measure without alteration at the next statewide general, primary, or special election held at least 90 days after the measure is received.
- b. The Board of Elections shall hold an election on a recall petition within 114 days of its receipt of a petition. If a previously scheduled general, primary, or special election will occur between 54 and 114 days of its receipt of a recall petition, the Board of Elections may present the recall petition at that election.

Sec. 4. Rejection of measure

If a majority of the registered qualified electors voting on a referred act vote to disapprove the Act, such action shall be deemed a rejection of the Act or that portion of the Act on the referendum ballot. No action may be taken by the Legislative Assembly with regard to the matter presented at referendum for 365 days following the date of the Board of Election's certification of the vote concerning the referendum.

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Sec. 5. Approval of measure

If a majority of the registered qualified electors voting in a referendum approve of an Act or adopt legislation by initiative, then the adopted initiative or Act approved by referendum shall become law upon the certification of the vote by the Board of Elections on such initiative or Act.

Sec. 6. Short title and summary

The Board of Elections shall propose a short title and summary of the initiative and referendum matter that shall accurately reflect the intent and meaning of the proposed referendum or initiative.

Sec. 7. Recall process

Any elected official of the State of Washington, D.C. government, elected on a partisan basis, may be recalled by the registered qualified electors of the election district or districts from which that official was elected. A recall shall be proposed by the filing with the Board of Elections of a petition demanding the recall of the elected official, signed by 10 percent of the registered qualified electors in the elected official’s election district or districts, including 10 percent of the registered qualified electors in a majority of the election districts for a statewide elected official.

Sec. 8. Time limits on initiation of recall process

The process of recalling an elected official may not be initiated within the first 365 days nor the last 365 days of the official’s term of office. Nor may the process be initiated within one year after a recall election has been determined in the official’s favor.

Sec. 9. When an official is removed; filling of vacancies

An elected official is removed from office if a majority of the qualified electors voting in the election vote to remove the official. The vacancy created by such recall shall be filled in the same manner as other vacancies as provided in this Constitution.

ARTICLE VII MISCELLANEOUS

Section

- 1. Openness and transparency
- 2. Construction of Constitution

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3. Constitution amending procedure
4. Constitutional convention
5. Oath of office.
6. Effective date

Sec. 1. Openness and transparency

The government of the State of Washington, D.C. shall operate on principles of openness, transparency, and democratic participation. Specific obligations regarding participation and transparency may be established by Act of the Legislative Assembly and administrative orders of the Governor.

Sec. 2. Construction of Constitution

- a. To the extent that any provisions of this Constitution are inconsistent with the provisions of any other laws of the State of Washington, D.C., the provisions of this Constitution shall prevail and shall be deemed to supersede the provisions of such laws.
- b. The use of partisan or nonpartisan with respect to elections under Articles I and II shall determine only whether the name of a political party may appear next to the name of a candidate on the ballot but shall not limit the authority of the Legislative Assembly to establish any type of primary or runoff system it may find appropriate.
- c. In interpreting this Constitution, the courts are not bound by the interpretation given by federal courts to identical or similar language in the United States Constitution, but shall interpret this Constitution in light of its purposes and the laws, values, and traditions of the State of Washington, D.C.

Sec. 3. Constitution amending procedure

- a. The Constitution may be amended by an Act passed by the affirmative vote of 2/3 of the members of the Legislative Assembly and ratified by a majority of the qualified voters who vote in a ratification referendum.
- b. Ratified constitutional amendments take effect either on the date the Board of Elections certifies the ratification, or the date prescribed by the amendment, whichever is later.

Sec. 4. Constitutional convention

- a. No later than the second anniversary of the date of admission of the State of Washington, D.C. as a member of the Union, the Legislative Assembly shall call for a Constitutional

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Convention to assess the functionality of this Constitution in the transition from a federal district to statehood.

- b. The Legislative Assembly shall, by Act, establish for the Constitutional Convention procedures for the convention that shall include the election process for delegates to the Constitutional Convention, to be comprised of an equal number of delegates from each legislative district.
- c. The Legislative Assembly shall appoint a Constitutional Convention Commission comprised of legal and subject matter experts with the purpose of preparing comprehensive recommendations and advice to the Constitutional Convention delegates on the subjects established by the Legislative Assembly.
- d. Any amendment resulting from such a Constitutional Convention shall be ratified by a majority of the qualified voters who vote in a ratification referendum.

Sec. 5. Oath of office

The Representatives of the Legislative Assembly, the Governor, all Executive and Judicial offices, and the Advisory Neighborhood Commissioners shall be bound by Oath or Affirmation to support this Constitution, the laws of the State of Washington, D.C., and the Constitution of the United States of America.

Sec. 6. Effective date

This Constitution shall take effect upon passage of an Admission Act to admit Washington, D.C. as a state of the United States of America with the same rights as other states, unless otherwise provided therein.

ARTICLE VIII TRANSFER OF OFFICES

Section

- 1. Transfer of offices
- 2. Continuation of State of Washington, D.C. court system
- 3. Pending actions and proceedings
- 4. Laws in force and prior powers
- 5. Personnel rights
- 6. Debts; assets; records
- 7. Residency and qualifications
- 8. Adjustments
- 9. Voting rights

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Sec. 1. Transfer of offices

- a. The Council of the District of Columbia and the offices of Councilmembers, Chairman of the Council, and Mayor are abolished as of the effective date of this Constitution.
- b. To provide continuity during the transition from the government of the District of Columbia to the State of Washington, D.C., the members of the Council, the Chairman of the Council, the Mayor, the Attorney General, and members of the State Board of Education and Advisory Neighborhood Commissions in office as of the effective date of this Constitution shall be deemed Representatives of the Legislative Assembly, Speaker of the Legislative Assembly, Governor, Attorney General, and members of the State Board of Education and Advisory Neighborhood Commissions, respectively (in accordance with current boundaries), until the expiration of the term of office each such individual held immediately prior to the effective date of this Constitution. Vacancies in these offices occurring during the holdover term shall be filled as provided in Articles I, II, and VI.
- c. New Representatives of the Legislative Assembly shall be elected on the same schedule as existing Councilmembers of the District of Columbia. The Board of Elections shall hold elections for newly created positions in the Legislative Assembly at least 60 days and not more than 120 days after the effective date of this Constitution, unless it determines that such positions could be more practicably filled in a special election held on the same day as the next primary or general election to be held in the State of Washington, D.C. The Legislative Assembly shall, by Act, establish the election schedule for all newly created positions; provided, that such Act ensures a staggered schedule, including between Representatives from the same legislative district.
- d. The individual serving as District of Columbia Auditor as of the effective date of this Constitution shall be deemed to have been appointed as Auditor under Article I for a term to expire as of the date of expiration of the term to which he or she was appointed.
- e. Positions previously held on boards, commissions, and regional bodies by members of the Council of the District of Columbia, the Chairman of the Council, or the Mayor shall be held after the effective date of this Constitution by Representatives of the Legislative Assembly, the Speaker of the Legislative Assembly, and the Governor, respectively, to the extent consistent with this Constitution.
- f. For boards and commissions, members not federally appointed and in office as of the effective date of this Constitution shall continue to serve until the expiration of that term of office held on the effective date of this Constitution.
- g. The terms of federally appointed members to any District of Columbia board or commission shall expire on the 90th day from the effective date of this Constitution

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unless otherwise provided by law, and no vacancies shall be deemed to be created by the abolition of these positions unless the Governor or Legislative Assembly creates a new position on the board or commission.

- h. The individual serving as Chief Financial Officer as of the effective date of this Constitution shall be deemed to have been appointed as Chief Financial Officer under Article II, for a term to expire on July 1 of the year in which that individual's previously extant term would have expired.

Sec. 2. Continuation of State of Washington, D.C. court system

- a. To provide continuity during the transition from the government of the District of Columbia and the State of Washington, D.C., the judges of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals appointed as of the effective date of this Constitution shall be deemed judges of the Superior Court of the State of Washington, D.C. and the State of Washington, D.C. Court of Appeals, respectively, until the expiration of that term of office held immediately prior to the effective date of this Constitution.
- b. The District of Columbia Court of Appeals, the Superior Court of the District of Columbia, the Judicial Nomination Commission, and the Commission on Judicial Disability and Tenure shall continue subject to the provisions of Article III of this Constitution. Any changes in the judges' compensation, upon enactment by the Legislative Assembly, shall apply after the effective date or the applicability date of such Act, whichever is later.
- c. The term and qualifications of any judge of any District of Columbia court appointed prior to the effective date of this Constitution shall not be affected by the provisions of Article III of this Constitution. No provision of this Constitution shall be construed to extend the term of any such judge. Judges of the State of Washington, D.C. courts appointed after the effective date of this Constitution shall be appointed according to Article III.
- d. Nothing in this Constitution shall be construed to amend, repeal, or diminish the duties, rights, privileges, or benefits accruing under sections 1561 through 1571 of title 11 of the District of Columbia Code, dealing with retirement, or to authorize a decrease in the level of compensation of the judges of the District of Columbia courts as of the effective date of this Constitution. The compensation received by judges of the State of Washington, D.C. courts shall not be diminished during their continuance in office.

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Sec. 3. Pending actions and proceedings

All existing writs, actions, suits, judicial and administrative proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles, and rights shall continue unaffected except as may be modified in accordance with the provisions of this Constitution. The State of Washington, D.C. shall be the legal successor to the District of Columbia in all matters.

Sec. 4. Laws in force and prior powers

- a. Acts of the Council of the District of Columbia preceding the effective date of this Constitution and the convening of the Legislative Assembly shall be considered valid as if they were enacted by the Legislative Assembly.
- b. Upon the effective date of this Constitution, all of the laws then in force in the District of Columbia, including regulations and Mayor's Orders, shall become the laws of the State of Washington, D.C. and continue in force and effect throughout the State of Washington, D.C., except as modified by the State of Washington, D.C. Admission Act, or by this Constitution, or as thereafter modified in accordance with this Constitution.
- c. All powers previously vested in the Council of the District of Columbia by Congress through the District of Columbia Home Rule Act, to the extent not inconsistent with this Constitution and to the extent not thereafter having been transferred or repealed, shall be vested in the Legislative Assembly in accordance with the provisions of this Constitution.
- d. The powers possessed by the respective Advisory Neighborhood Commissions for the District of Columbia on the day prior to the effective date of this Constitution shall be possessed by the Advisory Neighborhood Commissions for the State of Washington, D.C. on the effective date of this Constitution, to the extent not inconsistent with this Constitution, and to the extent not thereafter modified or repealed in accordance with this Constitution.
- e. Except as otherwise provided in this Constitution, all functions previously granted to or vested in the Mayor of the District of Columbia through the District of Columbia Home Rule Act, to the extent not inconsistent with this Constitution and to the extent not thereafter having been transferred or repealed, shall be vested in the Office of the Governor in accordance with the provisions of this Constitution.
- f. The annual compensation of the Speaker of the Legislative Assembly and Representatives, the Governor, the Attorney General, the Chief Financial Officer, and the

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judges of the Superior Court of the State of Washington, D.C. and the State of Washington, D.C. Court of Appeals on the effective date of this Constitution shall be the annual compensation provided to the Chairman and members of the Council, the Mayor, the Attorney General, the Chief Financial Officer, and the judges of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals immediately prior to the effective date of this Constitution.

- g. The powers possessed by the Attorney General for the District of Columbia on the day prior to the effective date of this Constitution shall be possessed by the Attorney General for the State of Washington, D.C. upon the effective date of the Constitution, to the extent not inconsistent with this Constitution, and to the extent not thereafter having been transferred or repealed.

Sec. 5. Personnel rights

Nothing in this Constitution shall be construed as affecting the rights under District of Columbia law of employees of the State of Washington, D.C. who were employed by the District of Columbia government prior to the effective date of this Constitution to personnel benefits, including, but not limited to pay, tenure, leave, retirement, health and life insurance, and employee disability and death benefits, or regulations adopted pursuant thereto, and applicable to such officers and employees immediately prior to the effective date of this Constitution; provided, that all such benefits shall thereafter be subject to modification by Act or regulation.

Sec. 6. Debts; assets; records

The debts and liabilities of the District of Columbia as of the effective date of this Constitution shall be assumed by the State of Washington, D.C., and debts owed to the District of Columbia shall be collected by the State of Washington, D.C. Assets and records of the District of Columbia shall become the property of the State of Washington, D.C.

Sec. 7. Residency and qualifications

Residence, voter registration, or other qualifications under the District of Columbia may be used toward the fulfillment of corresponding qualifications required by this Constitution.

Sec. 8. Adjustments

The Governor is authorized and empowered to enter into an agreement or agreements concerning the manner and method by which amounts owed by the State of Washington,

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D.C. to the United States or by the United States to the State of Washington, D.C., shall be ascertained and paid.

Sec. 9. Voting rights

Any person who resides in any area which was a part of the District of Columbia immediately prior to the admission of the State of Washington, D.C. but which is not included within the boundaries of the State of Washington, D.C. may, at that person's option, be deemed to be a resident of the State of Washington, D.C. for purposes of voting in a State of Washington, D.C. election, unless that person claims residency in another state for voting purposes.

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A CEREMONIAL RESOLUTION

21-253

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 20, 2016

To recognize L. S. Caldwell & Associates, Inc. located at 5427 14th Street, N.W., and its contributions to the Ward 4 community, and to commemorate its 25 years of successful contracting, employment, and community awareness participation compliance services.

WHEREAS, Loretta S. Caldwell and C. Eugene Harvey, President and Vice President of L.S. Caldwell & Associates, Inc., respectively, are responsible for developing and implementing contracting, employment, and community participation awareness compliance programs for government, private sector firms, and nonprofit organizations;

WHEREAS, throughout the past 25 years, L. S. Caldwell & Associates, Inc. has been responsible for successfully implementing compliance projects in excess of \$25 billion for the development of buildings, bridges, highways, and airports; including the District of Columbia Water and Sewer Authority, the Hines CityCenter DC, the Fort Lincoln Development, the Washington Gas Energy Services' St. Elizabeths Project, the Woodrow Wilson Bridge, and many other projects;

WHEREAS, L. S. Caldwell & Associates, Inc. has been a steward for the vibrancy of small business by ensuring that small business owners, disadvantaged business owners, businesses located in the HUBZone, and minority-owned, women-owned, and veteran-owned businesses have a seat at the contracting table;

WHEREAS, the company has created and partnered with job training programs to ensure Ward 4 residents have access to viable employment opportunities and strive to ensure all contracting opportunities are communicated to Ward 4 businesses;

WHEREAS, Loretta S. Caldwell has been an Executive Board Member of the Greater Washington Urban League for over 20 years; Co-Chair of Ward 4 Business and Economic Advisory Board; S.H.A.P.P.E representative on the Wilson Senior High School Board of Directors; is the past Board Chair of Adoptions Together; has served on multiple Mayoral Task Force projects; and as a member of the DC Chamber and the Associated Building and Contractors;

ENROLLED ORIGINAL

WHEREAS, Eugene Harvey is a life member of the Greater Washington Urban League and Omega Psi Phi; a member of the DC Chamber and the Associated Building and Contractors; previous Board member and past Chairman of the Greater Washington Urban League/Nations Bank-Community Loan Review Board; recipient of the Top 100 MBEs Minority and Women Entrepreneurs in 2010; member of the DC Department of Small and Local Business Development's Construction Industry Advisory Council; and a member of the Montgomery County Chamber of Commerce;

WHEREAS, L. S. Caldwell & Associates, Inc. is responsible for development and implementation of contracting and employment compliance programs for major companies and municipalities and subsequent contract awards to certified business entities;

WHEREAS, L. S. Caldwell & Associates, Inc. has been recognized by the federal government, New York, Maryland, Virginia, and the District for its economic development achievements and contributions; and

WHEREAS, 2016 marks the 25th anniversary for L. S. Caldwell & Associates, Inc.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "25 years of Service L. S. Caldwell & Associates, Inc., Recognition Resolution of 2016".

Sec. 2. The Council of the District of Columbia recognizes and congratulates L. S. Caldwell & Associates, Inc. located at 5427 14th Street, N.W., on its 25th anniversary.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

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

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

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

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

B21-932 Georgia Avenue Retail Priority Area Amendment Act of 2016

Intro. 11-1-16 by Councilmember Nadeau and referred to the Committee of the Whole

PROPOSED RESOLUTIONS

PR21-996 District of Columbia Health Benefit Exchange Authority Executive Board
Nathaniel Beers Confirmation Resolution of 2016

Intro. 10-24-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services

PR21-997 Department of Consumer and Regulatory Affairs Construction Codes
Exemption Harmonization Approval Resolution of 2016

Intro. 10-24-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole, Subcommittee on Consumer Affairs

- PR21-1002 District of Columbia Commission on Human Rights Timothy Thomas
Confirmation Resolution of 2016

Intro. 10-26-16 by Chairman Mendelson at the request of the Mayor and
referred to the Committee on Judiciary
-
- PR21-1003 District of Columbia Commission on Human Rights Mark Herzog
Confirmation Resolution of 2016

Intro. 10-26-16 by Chairman Mendelson at the request of the Mayor and
referred to the Committee on Judiciary
-
- PR21-1004 Board of Real Estate Appraisers Todd Canterbury Confirmation Resolution of
2016

Intro. 10-26-16 by Chairman Mendelson at the request of the Mayor and
referred to the Committee of the Whole, Subcommittee on Boards and
Commissions
-
- PR21-1005 Board of Real Estate Appraisers Tamora Papas Confirmation Resolution of
2016

Intro. 10-26-16 by Chairman Mendelson at the request of the Mayor and
referred to the Committee of the Whole, Subcommittee on Boards and
Commissions
-
- PR21-1006 Commission on the Arts and Humanities Alma Gates Confirmation Resolution
of 2016

Intro. 10-26-16 by Chairman Mendelson at the request of the Mayor and
referred to the Committee on Finance and Revenue
-

PR21-1007 Board of Trustees of the University of the District of Columbia Charlene Drew Jarvis Confirmation Resolution of 2016

Intro. 10-26-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

PR21-1008 Board of Trustees of the University of the District of Columbia Esther Barazzone Confirmation Resolution of 2016

Intro. 10-26-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
COMMITTEE ON TRANSPORTATION AND THE ENVIRONMENT
NOTICE OF JOINT PUBLIC HEARING
1350 Pennsylvania Avenue, NW, Washington, DC 20004

**CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE**

**COUNCILMEMBER MARY CHEH
COMMITTEE ON TRANSPORTATION AND THE ENVIRONMENT
ANNOUNCES A JOINT PUBLIC HEARING**

on

PR 21-904, the “South Dakota Avenue Riggs Road Excess Property Surplus Declaration Approval Resolution of 2016”

PR 21-905, the “South Dakota Avenue Riggs Road Excess Property Surplus Disposition Approval Resolution of 2016”

**PR 21-906, the “Capitol Vista Surplus Declaration and Approval Resolution of 2016”
PR 21-907, the “Capitol Vista Disposition Approval Resolution of 2016”**

**PR 21-908, the “Bruce Monroe Surplus Declaration and Approval Resolution of 2016”
PR 21-909, the “Bruce Monroe Disposition Approval Resolution of 2016”**

on

**Tuesday, November 29, 2016
10:00 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson and Councilmember Mary Cheh announce a joint public hearing before the Committee of the Whole and the Committee on Transportation and the Environment on PR 21-904, the “South Dakota Avenue Riggs Road Excess Property Surplus Declaration Approval Resolution of 2016”; PR 21-905, the “South Dakota Avenue Riggs Road Excess Property Surplus Disposition Approval Resolution of 2016”; PR 21-906, the “Capitol Vista Surplus Declaration and Approval Resolution of 2016”; PR 21-907, the “Capitol Vista Disposition Approval Resolution of 2016”; PR 21-908, the “Bruce Monroe Surplus Declaration and Approval Resolution of 2016”; and PR 21-909, the “Bruce Monroe Disposition Approval Resolution of 2016.” The hearing will be held at 10:00 a.m. on Tuesday, November 29, 2016 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of **PR 21-904** is to declare and approve as surplus the District-owned real property located at the southeast intersection of South Dakota Avenue, N.E. and Riggs Road, N.E., known for tax and assessment purposes as Parcel 125-30 (the “Fort Totten Triangle property”). The stated purpose of **PR 21-905** is to approve the disposition of the Fort Totten Triangle property. The development plan for the property proposes a mixed-used development in Ward 4 that will include 180 residential units, as well as 25,000 square feet of ground floor retail and 270 parking spaces. Of the 180 residential units 29 units will be affordable at 50% and 80% AMI.

The stated purpose of **PR 21-906** is to declare and approve as surplus the District-owned real property located at 113 H Street, N.W., known for tax and assessment purposes as Lots 2, 3, 4, 5, 6, 800, 801, 802, 803, 804 and 805 in Square 563N (the “Capitol Vista property”). The stated purpose of **PR 21-907** is to approve the disposition of the Capitol Vista property. The development plan for the property proposes a mixed-used development in Ward 6 that will include 100 affordable housing units at 30%, 50% and 60% AMI and will also have 2,700 square feet of ground floor retail.

The stated purpose of **PR 21-908** is to declare and approve as surplus the District-owned real property located at 3012 Georgia Avenue N.W., known for tax and assessment purposes as Lot 849 in Square 2890 (the “Bruce Monroe property”). The stated purpose of **PR 21-909** is to approve the disposition of the Bruce Monroe property. The development plan for the property proposes 273 residential units, of which 90 will be replacement Park Monroe public housing units and 72 market rate residential units. In addition to the development of the property, the District will retain 44,404 square feet of the Bruce Monroe site for use as a public park.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or email Randi Powell, Legislative Policy Advisor at cow@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Thursday, November 25, 2016. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on November 25, 2016 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. Copies of PR 21-904, 21-905, 21-906, 21-907, 21-908 and 21-909 can be obtained on <http://lims.dccouncil.us>, or through the Legislative Services Division (Room 10) of the Secretary of the Council’s office.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Monday, December 5, 2016.

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

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

**COUNCILMEMBER JACK EVANS, CHAIR
COMMITTEE ON FINANCE AND REVENUE**

ANNOUNCES A PUBLIC ROUNDTABLE ON:

PR 21-993, the “Commission on the Arts and Humanities Haili Francis Confirmation Resolution of 2016”

PR 21-1006, the “Commission on the Arts and Humanities Alma Gates Confirmation Resolution of 2016”

Wednesday, November 16, 2016

10:55 a.m.

Room 120 - John A. Wilson Building

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

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public roundtable to be held on Wednesday, November 16, 2016 at 10:55 a.m. in Room 120, of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

PR21-993, the “Commission on the Arts and Humanities Elvie Moore Confirmation Resolution of 2016” would confirm the appointment of Ms. Haili Francis as a member of the Commission on the Arts and Humanities for a term to end June 30, 2019.

PR 21-1006, the “Commission on the Arts and Humanities Alma Gates Confirmation Resolution of 2016” would confirm the reappointment of Ms. Alma Gates as a member of the Commission on the Arts and Humanities for a term to end June 30, 2019.

The Committee invites the public to testify at the roundtable. Those who wish to testify should contact Sarina Loy, Committee Assistant at (202) 724-8058 or sloy@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization by 10:55 a.m. on Tuesday, November 15, 2016. Witnesses should bring 15 copies of their written testimony to the roundtable. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to sloy@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004.

COUNCIL OF THE DISTRICT OF COLUMBIA
CONSIDERATION OF TEMPORARY LEGISLATION

B21-927, Stevens School Disposition Extension Temporary Act of 2016, **B21-929**, Revised Wage Theft Prevention Clarification Temporary Amendment Act of 2016, and **B21-934**, Public School Nurse Assignment Temporary Amendment Act of 2016 and **B21-936**, Georgia Avenue Retail Priority Area Temporary Amendment Act of 2016 were adopted on first reading on November 1, 2016. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on November 15, 2016.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON

**11/4/2016

****READVERTISEMENT**

Notice is hereby given that:

License Number: ABRA-072472

License Class/Type: C Tavern

Applicant: Pilar Hospitality Group, LLC

Trade Name: Bar Pilar

ANC: 1B12

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

1833 14TH ST NW, Washington, DC 20009

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

**12/19/2016

A HEARING WILL BE HELD ON:

**1/2/2017

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

ENDORSEMENT(S): Entertainment Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Monday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Tuesday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Wednesday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Thursday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Friday:	11 am - 3 am	11 am - 3 am	6 pm - 3 am
Saturday:	11 am - 3 am	11 am - 3 am	6 pm - 3 am

Hours Of Sidewalk Cafe Operation

Hours Of Sales Sidewalk Cafe

Sunday:	11 am - 2 am	11 am - 2 am
Monday:	11 am - 2 am	11 am - 2 am
Tuesday:	11 am - 2 am	11 am - 2 am
Wednesday:	11 am - 2 am	11 am - 2 am
Thursday:	11 am - 2 am	11 am - 2 am
Friday:	11 am - 3 am	11 am - 3 am
Saturday:	11 am - 3 am	11 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON

**10/21/2016

****RESCIND**

Notice is hereby given that:

License Number: ABRA-072472

License Class/Type: C Tavern

Applicant: Pilar Hospitality Group, LLC

Trade Name: Bar Pilar

ANC: 1B12

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

1833 14TH ST NW, Washington, DC 20009

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

**12/5/2016

A HEARING WILL BE HELD ON:

**12/19/2016

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

ENDORSEMENT(S): Entertainment Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Monday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Tuesday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Wednesday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Thursday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Friday:	11 am - 3 am	11 am - 3 am	6 pm - 3 am
Saturday:	11 am - 3 am	11 am - 3 am	6 pm - 3 am

Hours Of Sidewalk Cafe Operation

Hours Of Sales Sidewalk Cafe

Sunday:	11 am - 2 am	11 am - 2 am
Monday:	11 am - 2 am	11 am - 2 am
Tuesday:	11 am - 2 am	11 am - 2 am
Wednesday:	11 am - 2 am	11 am - 2 am
Thursday:	11 am - 2 am	11 am - 2 am
Friday:	11 am - 3 am	11 am - 3 am
Saturday:	11 am - 3 am	11 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: November 4, 2016
Petition Date: December 19, 2016
Hearing Date: January 2, 2017

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: Kemal Ben Ali: (202) 667-6608

WARD 6 ANC 6A SMD 6A01

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 is requesting an Entertainment Endorsement to offer live entertainment.

HOURS OF OPERATION

Sunday through Thursday 6 am - 2 am, Friday & Saturday 6 am - 3 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

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

PROPOSED HOURS FOR LIVE ENTERTAINMENT

Sunday through Thursday 6:00 pm - 2 am, Friday & Saturday 6 pm - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
11/4/2016

Notice is hereby given that:

License Number: ABRA-090597

License Class/Type: C Tavern

Applicant: TK Restaurant Mgmt. Inc.

Trade Name: Catch 15

ANC: 2B05

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

1518 K ST NW, WASHINGTON, DC 20005

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

12/19/2016

A HEARING WILL BE HELD ON:

1/2/2017

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
Monday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
Tuesday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
Wednesday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
Thursday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
Friday:	10 am - 3 am	10 am - 3 am	6 pm - 3 am
Saturday:	10 am - 3 am	10 am - 3 am	6 pm - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
11/4/2016

Notice is hereby given that:

License Number: ABRA-014272

License Class/Type: C Tavern

Applicant: Cafe Dallul, Inc.

Trade Name: Rendezvous Lounge

ANC: 1C03

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

2226 18TH ST NW, WASHINGTON, DC 20009

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

12/19/2016

A HEARING WILL BE HELD ON:

1/2/2017

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

ENDORSEMENT(S): Entertainment Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 2 am	10 am - 2 am	9 pm - 2 am
Monday:	10 am - 2 am	10 am - 2 am	9 pm - 2 am
Tuesday:	10 am - 2 am	10 am - 2 am	9 pm - 2 am
Wednesday:	10 am - 2 am	10 am - 2 am	9 pm - 2 am
Thursday:	10 am - 2 am	10 am - 2 am	9 pm - 2 am
Friday:	10 am - 3 am	10 am - 3 am	9 pm - 3 am
Saturday:	10 am - 3 am	10 am - 3 am	9 pm - 3 am

Hours Of Sidewalk Cafe Operation

Hours Of Sales Sidewalk Cafe

Sunday:	10 am - 12 am	10 am - 12 am
Monday:	10 am - 12 am	10 am - 12 am
Tuesday:	10 am - 12 am	10 am - 12 am
Wednesday:	10 am - 12 am	10 am - 12 am
Thursday:	10 am - 1 am	10 am - 1 am
Friday:	10 am - 2 am	10 am - 2 am
Saturday:	10 am - 2 am	10 am - 2 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
11/4/2016

Notice is hereby given that:

License Number: ABRA-070520

License Class/Type: C Tavern

Applicant: Billy Goat DC, Inc.

Trade Name: Billy Goat Tavern & Grill

ANC: 6C02

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

500 NEW JERSEY AVE NW, Washington, DC 20001

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

12/19/2016

A HEARING WILL BE HELD ON:

1/2/2017

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

ENDORSEMENT(S): Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	8 am - 2 am	10 am - 2 am	-
Monday:	8 am - 2 am	8 am - 2 am	-
Tuesday:	8 am - 2 am	8 am - 2 am	-
Wednesday:	8 am - 2 am	8 am - 2 am	-
Thursday:	8 am - 2 am	8 am - 2 am	-
Friday:	8 am - 3 am	8 am - 3 am	-
Saturday:	8 am - 3 am	8 am - 3 am	-

Hours Of Sidewalk Cafe Operation

Hours Of Sales Sidewalk Cafe

Sunday:	8 am - 12 am	10 am - 12 am
Monday:	8 am - 12 am	8 am - 12 am
Tuesday:	8 am - 12 am	8 am - 12 am
Wednesday:	8 am - 12 am	8 am - 12 am
Thursday:	8 am - 12 am	8 am - 12 am
Friday:	8 am - 12 am	8 am - 12 am
Saturday:	8 am - 12 am	8 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
11/4/2016

Notice is hereby given that:

License Number: ABRA-097367

License Class/Type: C Tavern

Applicant: Precious Pies and Catering LLC

Trade Name: Layla Lounge

ANC: 5D01

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

501 MORSE ST NE, WASHINGTON, DC 20002

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

12/19/2016

A HEARING WILL BE HELD ON:

1/2/2017

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

ENDORSEMENT(S): Cover Charge Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	24 hours -	10 am - 2 am	6 pm - 2 am
Monday:	24 hours -	8 am - 2 am	6 pm - 2 am
Tuesday:	24 hours -	8 am - 2 am	6 pm - 2 am
Wednesday:	24 hours -	8 am - 2 am	6 pm - 2 am
Thursday:	24 hours -	8 am - 2 am	6 pm - 3 am
Friday:	24 hours -	8 am - 3 am	6 pm - 4 am
Saturday:	24 hours -	8 am - 3 am	6 pm - 4 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
11/4/2016

Notice is hereby given that:

License Number: ABRA-091602

License Class/Type: C Tavern

Applicant: Three Chords, LLC

Trade Name: Eat The Rich/Southern Efficiency

ANC: 1B01

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

1839 - 1841 7TH ST NW, WASHINGTON, DC 20001

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

12/19/2016

A HEARING WILL BE HELD ON:

1/2/2017

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	8 am - 2 am	10 am - 2 am	-
Monday:	8 am - 2 am	10 am - 2 am	-
Tuesday:	8 am - 2 am	10 am - 2 am	-
Wednesday:	8 am - 2 am	10 am - 2 am	-
Thursday:	8 am - 2 am	10 am - 2 am	-
Friday:	8 am - 3 am	10 am - 3 am	-
Saturday:	8 am - 3 am	10 am - 3 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
11/4/2016

Notice is hereby given that:

License Number: ABRA-009267

License Class/Type: C Tavern

Applicant: TCR Inc

Trade Name: Jr's Bar and Grill

ANC: 2B05

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

1519 17TH ST NW, Washington, DC 20036

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

12/19/2016

A HEARING WILL BE HELD ON:

1/2/2017

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

ENDORSEMENT(S): Cover Charge Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	12: 30 pm - 2 am	12: 30 pm - 2 am	6 pm - 2 am
Monday:	2 pm - 2 am	2 pm - 2 am	6 pm - 2 am
Tuesday:	2 pm - 2 am	2 pm - 2 am	6 pm - 2 am
Wednesday:	2 pm - 2 am	2 pm - 2 am	6 pm - 2 am
Thursday:	2 pm - 2 am	2 pm - 2 am	6 pm - 2 am
Friday:	2 pm - 3 am	2 pm - 3 am	6 pm - 3 am
Saturday:	1 pm - 3 am	1 pm - 3 am	6 pm - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
11/4/2016

Notice is hereby given that:

License Number: ABRA-086424

License Class/Type: C Tavern

Applicant: RA - IY LLC

Trade Name: Sankofa Cafe

ANC: 1B09

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

2714 Georgia AVE NW, WASHINGTON, DC 20001

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

12/19/2016

A HEARING WILL BE HELD ON:

1/2/2017

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

ENDORSEMENT(S): Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7am - 2 am	12 pm - 2 am	2pm - 9 am
Monday:	7am - 2am	3 pm - 2 am	-
Tuesday:	7 am - 2am	3 pm - 2 am	-
Wednesday:	7am - 2am	3 pm - 2 am	-
Thursday:	7am - 2am	3 pm - 2 am	2 pm - 9pm
Friday:	7 am - 3 am	12 pm - 3 am	2 pm - 9 pm
Saturday:	7 am - 3 am	12 pm - 3 am	2 pm - 9 pm

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	7 am - 2 am	12 pm - 12 am
Monday:	7 am - 2 am	3 pm - 12 am
Tuesday:	7 am - 2 am	3 pm - 12 am
Wednesday:	7 am - 2 am	3 pm - 12 am
Thursday:	7 am - 2 am	3 pm - 12 am
Friday:	7 am - 3 am	12 pm - 12 am
Saturday:	7 am - 3 am	12 pm - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
11/4/2016

Notice is hereby given that:

License Number: ABRA-071753

License Class/Type: C Tavern

Applicant: Kennedy Warren Club, LLC

Trade Name: Kennedy Warren Club LLC

ANC: 3C01

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

3133 CONNECTICUT AVE NW, Washington, DC 20008

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

12/19/2016

A HEARING WILL BE HELD ON:

1/2/2017

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

ENDORSEMENT(S): Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 11 pm	10 am - 10 pm	6 pm - 10 pm
Monday:	10 am - 11 pm	10 am - 10 pm	6 pm - 10 pm
Tuesday:	10 am - 11 pm	10 am - 10 pm	6 pm - 10 pm
Wednesday:	10 am - 11 pm	10 am - 10 pm	6 pm - 10 pm
Thursday:	10 am - 11 pm	10 am - 10 pm	6 pm - 10 pm
Friday:	10 am - 1 am	10 am - 12 am	6 pm - 11 pm
Saturday:	10 am - 1 am	10 am - 12 am	6 pm - 11 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
11/4/2016

Notice is hereby given that:

License Number: ABRA-073443

License Class/Type: C Tavern

Applicant: Kovaler, LLC

Trade Name: Veranda

ANC: 2F04

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

1100 P ST NW, Washington, DC 20005

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

12/19/2016

A HEARING WILL BE HELD ON:

1/2/2017

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

ENDORSEMENT(S): Sidewalk Cafe Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 12 am	11 am - 12 am	-
Monday:	11 am - 12 am	11 am - 12 am	-
Tuesday:	11 am - 12 am	11 am - 12 am	-
Wednesday:	11 am - 12 am	11 am - 12 am	-
Thursday:	11 am - 12 am	11 am - 12 am	-
Friday:	11 am - 1:30 am	11 am - 1:30 am	-
Saturday:	11 am - 1:30 am	11 am - 1:30 am	-

	Hours Of Sidewalk Cafe Operation	Hours of Summer Garden Operation
Sunday:	11 am - 10:30 pm	11 am - 10:30 pm
Monday:	11 am - 10:30 pm	11 am - 10:30 pm
Tuesday:	11 am - 10:30 pm	11 am - 10:30 pm
Wednesday:	11 am - 10:30 pm	11 am - 10:30 pm
Thursday:	11 am - 10:30 pm	11 am - 10:30 pm
Friday:	11 am - 10:30 pm	11 am - 10:30 pm
Saturday:	11 am - 10:30 pm	11 am - 10:30 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
11/4/2016

Notice is hereby given that:

License Number: ABRA-087727

License Class/Type: C Tavern

Applicant: Gin Rummy Group, Inc.

Trade Name: Gin Rummy

ANC: 5B02

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

3522 12TH ST NE, WASHINGTON, DC 20017

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

12/19/2016

A HEARING WILL BE HELD ON:

1/2/2017

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON

**11/4/2016

****READVERTISEMENT**

Notice is hereby given that:

License Number: ABRA-099684

License Class/Type: C Tavern

Applicant: TDJ LLC

Trade Name: Left Door

ANC: 1B12

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

1345 S ST NW, WASHINGTON, DC 20009

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

**12/19/2016

A HEARING WILL BE HELD ON:

**1/2/2017

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 2 am	11 am - 2 am	-
Monday:	11 am - 2 am	11 am - 2 am	-
Tuesday:	11 am - 2 am	11 am - 2 am	-
Wednesday:	11 am - 2 am	11 am - 2 am	-
Thursday:	11 am - 2 am	11 am - 2 am	-
Friday:	11 am - 3 am	11 am - 3 am	-
Saturday:	11 am - 3 am	11 am - 3 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON

****10/21/2016**

****RESCIND**

Notice is hereby given that:

License Number: ABRA-099684

License Class/Type: C Tavern

Applicant: TDJ LLC

Trade Name: Left Door

ANC: 1B12

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

1345 S ST NW, WASHINGTON, DC 20009

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

****12/5/2016**

A HEARING WILL BE HELD ON:

****12/19/2016**

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 2 am	11 am - 2 am	-
Monday:	11 am - 2 am	11 am - 2 am	-
Tuesday:	11 am - 2 am	11 am - 2 am	-
Wednesday:	11 am - 2 am	11 am - 2 am	-
Thursday:	11 am - 2 am	11 am - 2 am	-
Friday:	11 am - 3 am	11 am - 3 am	-
Saturday:	11 am - 3 am	11 am - 3 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: November 4, 2016
 Petition Date: December 19, 2016
 Hearing Date: January 2, 2017
 Protest Date: March 1, 2017

License No.: ABRA-104228
 Licensee: 2335, LLC
 Trade Name: TBD
 License Class: Retailer’s Class “C” Tavern
 Address: 2335 Bladensburg Road, N.E.
 Contact: Andrew Kline: (202) 686-7600

WARD 5 ANC 5C SMD 5C04

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for March 1, 2017 at 4:30 pm.

NATURE OF OPERATION

New C Tavern serving Ethiopian Cuisine with a Total Occupancy Load of 299. Request made for an Entertainment Endorsement.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

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

HOURS OF LIVE ENTERTAINMENT

Monday through Thursday 6 pm – 2 am, Friday and Saturday 6 pm – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON

**10/21/2016

****CORRECTION**

Notice is hereby given that:

License Number: ABRA-075548

License Class/Type: C Nightclub

Applicant: Park Place, Inc.

Trade Name: The Park Place at 14th

ANC: 2F05

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

920 14TH ST NW, WASHINGTON, DC 20005

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

**12/5/2016

A HEARING WILL BE HELD ON:

**12/19/2016

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

ENDORSEMENT(S): Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	8 am - 3 am	8 am - 2 am	-
Monday:	8 am - 3 am	8 am - 2 am	-
Tuesday:	8 am - 3 am	8 am - 2 am	-
Wednesday:	8 am - 3 am	8 am - 2 am	-
Thursday:	8 am - 3 am	8 am - 2 am	-
Friday:	8 am - 4 am	8 am - 3 am	-
Saturday:	8 am - 4 am	8 am - 3 am	-

Hours of Sidewalk Cafe Operation

Hours of Sales Sidewalk Cafe

Sunday:	8 am - 2 am	8 am - 2 am
Monday:	8 am - 2 am	8 am - 2 am
Tuesday:	8 am - 2 am	8 am - 2 am
Wednesday:	8 am - 2 am	8 am - 2 am
Thursday:	8 am - 2 am	8 am - 2 am
Friday:	8 am - 3 am	8 am - 3 am
Saturday:	8 am - 3 am	8 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON

**10/7/2016

****RESCIND**

Notice is hereby given that:

License Number: ABRA-075548

License Class/Type: C Nightclub

Applicant: Park Place, Inc.

Trade Name: The Park Place at 14th

ANC: 2F05

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

920 14TH ST NW, WASHINGTON, DC 20005

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

**11/21/2016

A HEARING WILL BE HELD ON:

**12/5/2016

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

ENDORSEMENT(S): Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	8 am - 3 am	8 am - 2 am	-
Monday:	8 am - 3 am	8 am - 2 am	-
Tuesday:	8 am - 3 am	8 am - 2 am	-
Wednesday:	8 am - 3 am	8 am - 2 am	-
Thursday:	8 am - 3 am	8 am - 2 am	-
Friday:	8 am - 4 am	8 am - 3 am	-
Saturday:	8 am - 4 am	8 am - 3 am	-

Hours of Sidewalk Cafe Operation

Hours of Sales Sidewalk Cafe

Sunday:	8 am - 2 am	8 am - 2 am
Monday:	8 am - 2 am	8 am - 2 am
Tuesday:	8 am - 2 am	8 am - 2 am
Wednesday:	8 am - 2 am	8 am - 2 am
Thursday:	8 am - 2 am	8 am - 2 am
Friday:	8 am - 3 am	8 am - 3 am
Saturday:	8 am - 3 am	8 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/21/2016

****RESCIND**

Notice is hereby given that:

License Number: ABRA-100573

License Class/Type: C Tavern

Applicant: Passenger II,LLC

Trade Name: The Passenger

ANC: 6E02

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

1539 7TH ST NW, WASHINGTON, DC 20001

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

12/5/2016

A HEARING WILL BE HELD ON:

12/19/2016

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

ENDORSEMENT(S): Cover Charge Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7am - 2am	8am - 2am	6pm - 2am
Monday:	7am - 2am	8am - 2am	6pm - 2am
Tuesday:	7am - 2am	8am - 2am	6pm - 2am
Wednesday:	7am - 2am	8am - 2am	6pm - 2am
Thursday:	7am - 2am	8am - 2am	6pm - 2am
Friday:	7am - 3am	8am - 3am	6pm - 3am
Saturday:	7am - 3am	8am - 3am	6pm - 3am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/21/2016

****RESCIND**

Notice is hereby given that:

License Number: ABRA-098042

License Class/Type: C Tavern

Applicant: I Before E LLC

Trade Name: Trinity

ANC: 6E01

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

1606 7TH ST NW, WASHINGTON, DC 20001

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

12/5/2016

A HEARING WILL BE HELD ON:

12/19/2016

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

ENDORSEMENT(S): Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10AM - 2AM	10AM - 145AM	10AM - 10PM
Monday:	4PM - 2AM	4PM - 1:45AM	NONE -
Tuesday:	4PM - 2AM	4PM - 1:45AM	NONE -
Wednesday:	4PM - 2AM	4PM - 1:45AM	NONE -
Thursday:	4PM - 2AM	4PM - 1:45AM	NONE -
Friday:	11AM - 3AM	11AM - 2:45AM	11AM - 10PM
Saturday:	10AM - 3AM	10AM - 2:45AM	10AM - 10PM

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	-	10AM - 145AM
Monday:	-	4PM - 1:45AM
Tuesday:	-	4PM - 1:45AM
Wednesday:	-	4PM - 1:45AM
Thursday:	-	4PM - 1:45AM
Friday:	-	11AM - 2:45AM
Saturday:	-	10AM - 2:45AM

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****READVERTISEMENT**

Posting Date: **November 4, 2016
 Petition Date: **December 19, 2016
 Hearing Date: **January 2, 2017
 Protest Date: **March 1, 2017

License No.: ABRA-104498
 Licensee: Whole Food Market Group, Inc.
 Trade Name: Whole Foods Market
 License Class: Retailer’s Class “D” Restaurant
 Address: 600 H Street, N.E.
 Contact: **Andrew Kline: (202) 686-7600

WARD 6 ANC 6C SMD 6C05

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled on **March 1, 2017 at 1:30pm.

NATURE OF OPERATION

A market that will serve hot and cold meals which includes salads, sandwiches, pizza, sushi, baked goods, and non-alcoholic beverages. Total Occupancy Load of 139 seats inside café. Summer Garden with seating for 85.

HOURS OF OPERATION INSIDE PREMISES AND FOR SUMMER GARDEN

Sunday through Saturday 8:00 am – 10:30 pm

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

Sunday through Saturday 9:00 am – 10:30 pm

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

Posting Date: **October 28, 2016
Petition Date: **December 12, 2016
Hearing Date: **December 27, 2016
Protest Date: **February 22, 2017

License No.: ABRA-104498
Licensee: Whole Food Market Group, Inc.
Trade Name: Whole Foods Market
License Class: Retailer's Class "D" Restaurant
Address: 600 H Street, N.E.
Contact: **Amy Veloz: (202) 686-7600

WARD 6

ANC 6C

SMD 6C05

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled on **February 22, 2017 at 1:30pm.

NATURE OF OPERATION

A market that will serve hot and cold meals which includes salads, sandwiches, pizza, sushi, baked goods, and non-alcoholic beverages. Total Occupancy Load of 139 seats inside café. Summer Garden with seating for 85.

HOURS OF OPERATION INSIDE PREMISES AND FOR SUMMER GARDEN

Sunday through Saturday 8:00 am – 10:30 pm

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

Sunday through Saturday 9:00 am – 10:30 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: November 4, 2016
Petition Date: December 19, 2016
Hearing Date: January 2, 2017
Protest Date: March 1, 2017

License No.: ABRA-104505
Licensee: Whole Foods Market Group, Inc.
Trade Name: Whole Foods Market
License Class: Retailer’s Class B Full-Service Grocery
Address: 600 H Street, N.E.
Contact: Andrew Kline: (202) 686-7600

WARD 6

ANC 6C

SMD 6C05

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled on March 1, 2017 at 1:30pm.

NATURE OF OPERATION

A market that will serve hot and cold meals which includes salads, sandwiches, pizza, sushi, baked goods, and non-alcoholic beverages.

HOURS OF OPERATION INSIDE PREMISES AND FOR SUMMER GARDEN

Sunday through Saturday 8:00 am – 10:30 pm

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

Sunday through Saturday 9:00 am – 10:30 pm

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF FOR-HIRE VEHICLES**

NOTICE OF PUBLIC HEARING

**Proposed Amendments to Chapters 4, 5, 6, 8, 15, 20 and
99 of Title 31 (Taxicabs and Public Vehicles for Hire)
of the District of Columbia Municipal Regulations -
Digital Taxicab Solutions**

**Thursday, November 10, 2016
2:00 PM**

The Department of For-Hire Vehicles (“DFHV”) has scheduled a Public Hearing at 2:00 pm on Thursday, November 10, 2016 at 2235 Shannon Place, SE, Washington, DC 20020, inside the Hearing Room, Suite 2032 regarding the proposed rulemaking to amend Chapters 4, 5, 6, 8, 15, 20 and 99 of Title 31 of the District of Columbia Municipal Regulations – Digital Taxicab Solutions.

Those interested in speaking at the hearing should register by calling 202-645-6002 not later than Wednesday, November 9, 2016 at 4:00 pm. Testimony will be limited to the specific subject matter of this public hearing. Each participant will allotted up to five (5) minutes to present. Participants must submit ten (10) copies of his or her written testimony to the Secretary of the Department, Department of For-Hire Vehicles, 2235 Shannon Place SE, Suite 3001, Washington, D.C. 20020, in advance of the hearing. All speakers should be prepared to answer questions that may be posed by the Department during the hearing.

The proposed rulemaking is available on the DFHV website at www.dfhv.dc.gov or by contacting the Secretary to the Department, Juanda Mixon, at 202-645-6002. This public hearing is for the purpose of gaining advance public and industry feedback on the proposed rules, and is not for seeking comments under the Administrative Procedures Act (D.C. Code § 2-501 *et seq.*).

The public hearing will take place at the following time and location:

THURSDAY, NOVEMBER 10, 2016 AT 2:00 PM

**2235 SHANNON PLACE, S.E.
WASHINGTON, DC 20020
HEARING ROOM, SUITE 2032**

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, DECEMBER 21, 2016
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

TO CONSIDER THE FOLLOWING: The Board of Zoning Adjustment will adhere to the following schedule, but reserves the right to hear items on the agenda out of turn.

TIME: 9:30 A.M.

WARD ONE

19388
ANC-1A **Application of Hope and a Home**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the RF-use requirements of Subtitle U § 320, to operate a community service center in the cellar of an existing flat in the RF-1 Zone at premises 1236 Columbia Road N.W. (Square 2853, Lot 51).

WARD FOUR

19389
ANC-4C **Application of 4328 Georgia, LLC**, pursuant to 11 DCMR Subtitle X, Chapters 9 and 10, for a special exception under the minimum parking requirements of Subtitle C § 701.5, and a variance from the rear yard requirements of Subtitle G § 405.2, to permit the construction of a four-story, mixed-use building in the MU-4 Zone at premises 4328 Georgia Avenue N.W. (Square 2914, Lot 10).

WARD TWO

19390
ANC-2D **Application of Jason Burnett**, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the penthouse setback requirements of Subtitle C § 1500.4, and the penthouse setback requirements of Subtitle C § 1502.1, to allow the addition of a penthouse and roof deck to an existing three-story, one-family dwelling in the R-1-B Zone at premises 2316 Tracy Place N.W. (Square 2520, Lot 31).

WARD SIX

19391
ANC-6C **Application of Katherine O'Connor**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201, from the lot occupancy requirements of Subtitle E § 304.1, to allow the addition of a one-story sunroom to an existing one-family dwelling in the RF-1 Zone at premises 725 L Street N.E. (Square 887, Lot 70).

BZA PUBLIC HEARING NOTICE

DECEMBER 21, 2016

PAGE NO. 2

WARD ONE

19392 ANC-1C **Application of Revana, LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the MU-use requirements of Subtitle U § 513.1(a), to allow the operation of an animal care and boarding use in the MU-4 Zone at premises 2222-2224 18th Street N.W. (Square 2553, Lot 829).

WARD TWO

19397 ANC-2B **Application of KHP IV DC, LLC**, pursuant to 11 DCMR Subtitle X, Chapter 10, for a variance from the RA-accessory use requirements of Subtitle U § 410.1(d), to permit the conversion of an existing ground-floor office area into a café and add new signage to an existing hotel in the RA-10 Zone at premises 1515 Rhode Island Avenue N.W. (Square 195, Lot 149).

PLEASE NOTE:

Failure of an applicant or appellant to appear at the public hearing will subject the application or appeal to dismissal at the discretion of the Board.

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person’s interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. **Persons seeking party status shall file with the Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application Form.*** This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning’s website at: www.dcoz.dc.gov. All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

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

Do you need assistance to participate?

Amharic
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BZA PUBLIC HEARING NOTICE
DECEMBER 21, 2016
PAGE NO. 3

የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጓሚ) ካስፈለገዎት እባክዎን ከስብሰባው አገልግሎት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነዚህ አገልግሎቶች የሚሰጡት በነጻ ነው።

Chinese

您需要有人帮助参加活动吗?

如果您需要特殊便利设施或语言协助服务（翻译或口译），请在见面之前提前五天与 Zee Hill 联系，电话号码 (202) 727-0312，电子邮件 Zelalem.Hill@dc.gov。这些是免费提供的服务。

French

Avez-vous besoin d'assistance pour pouvoir participer ? Si vous avez besoin d'aménagements spéciaux ou d'une aide linguistique (traduction ou interprétation), veuillez contacter Zee Hill au (202) 727-0312 ou à Zelalem.Hill@dc.gov cinq jours avant la réunion. Ces services vous seront fournis gratuitement.

Korean

참여하시는데 도움이 필요하세요?

특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면, 회의 5일 전에 Zee Hill 씨께 (202) 727-0312로 전화 하시거나 Zelalem.Hill@dc.gov 로 이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

Spanish

¿Necesita ayuda para participar?

Si tiene necesidades especiales o si necesita servicios de ayuda en su idioma (de traducción o interpretación), por favor comuníquese con Zee Hill llamando al (202) 727-0312 o escribiendo a Zelalem.Hill@dc.gov cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

Vietnamese

Quý vị có cần trợ giúp gì để tham gia không?

Nếu quý vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc Zelalem.Hill@dc.gov trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

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

FREDERICK L. HILL, CHAIRPERSON
ANITA BUTANI D'SOUZA, VICE CHAIRPERSON
JEFFREY L. HINKLE, NATIONAL CAPITAL PLANNING COMMISSION
A PARTICIPATING MEMBER OF THE ZONING COMMISSION
CLIFFORD W. MOY, SECRETARY TO THE BZA
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF RESCHEDULED¹ PUBLIC HEARING**

TIME AND PLACE: Monday, November 28, 2016, @ 6:30 p.m.
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220-South
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 16-02 (DC Stadium, LLC – Consolidated Review and Approval of a Planned Unit Development @ Squares 603S, 605, 607, 661, & 665)

THIS CASE IS OF INTEREST TO ANC 6D

On January 19, 2016, the Office of Zoning received an application from DC Stadium, LLC (the “Applicant”). The Applicant is requesting approval of a consolidated planned unit development (“PUD”) to allow the development of a soccer stadium. The Office of Planning provided its report on March 4, 2016, and the case was set down for hearing on March 14, 2016. The Applicant provided its prehearing statement on August 23, 2016.

The property that is the subject of this application consists of approximately 429,084 square feet of land area and is roughly located between Potomac Avenue and R Street, S.W. to the north, T Street, S.W. to the south, Half Street, S.W. to the east, and 2nd Street, S.W. to the west (Square 603S, Lot 800; Square 605, Lots 7 & 802; Square 607, Lot 13; Square 661, part of Lots 804 and 805; and Square 665, Lot 25). The subject property is zoned CG-4.

The Applicant proposes to construct a new 19,000-seat soccer stadium, accessory facilities, and adjacent public plaza for the D.C. United professional soccer team. The overall FAR of the project will be approximately 0.84, and the maximum building height will be approximately 98.06 feet.

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Regulations, 11 DCMR Subtitle Z, Chapter 4.

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

¹ This case was previously scheduled for hearing on Wednesday, November 2, 2016.

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 Subtitle Z § 404.1.

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 or at (202) 727-6311.

Except for an 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, or 14 days prior to a scheduled public meeting if seeking advanced party status consideration, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning’s website at: <https://app.dcoz.dc.gov/Help/Forms.html>.** This form may also be obtained from the Office of Zoning at the address stated below.

Subtitle Z § 406.2 provides that the written report of an affected ANC shall be given great weight if received at any time prior to the date of a Commission meeting to consider final action, including any continuation thereof on the application, and sets forth the information that the report must contain. Pursuant to Subtitle Z § 406.3, if an ANC wishes to participate in the hearing, it must file a written report at least seven days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at 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), 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, 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 4th Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to 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, 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.

Do you need assistance to participate? If you need special accommodations or need language assistance services (translation or interpretation), please contact Zee Hill at (202) 727-0312 or Zelalem.Hill@dc.gov five days in advance of the meeting. These services will be provided free of charge.

¿Necesita ayuda para participar? Si tiene necesidades especiales o si necesita servicios de ayuda en su idioma (de traducción o interpretación), por favor comuníquese con Zee Hill llamando al (202) 727-0312 o escribiendo a Zelalem.Hill@dc.gov cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

Avez-vous besoin d'assistance pour pouvoir participer ? Si vous avez besoin d'aménagements spéciaux ou d'une aide linguistique (traduction ou interprétation), veuillez contacter Zee Hill au (202) 727-0312 ou à Zelalem.Hill@dc.gov cinq jours avant la réunion. Ces services vous seront fournis gratuitement.

참여하시는데 도움이 필요하세요? 특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면, 회의 5일 전에 Zee Hill 씨께 (202) 727-0312 로 전화 하시거나 Zelalem.Hill@dc.gov 로 이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

您需要有人帮助参加活动吗?如果您需要特殊便利设施或语言协助服务(翻译或口译)·请在见面之前提前五天与 Zee Hill 联系·电话号码 (202) 727-0312, 电子邮件 Zelalem.Hill@dc.gov 这些是免费提供的服务。

Quý vị có cần trợ giúp gì để tham gia không? Nếu quý vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc Zelalem.Hill@dc.gov trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

ለመተኛ ዕርዳታ ያስፈልግዎታል? የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማተራትጎም) ካስፈለገዎት እባክዎን ከስብሰባው አዎንታዊ ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኚህ አገልግሎቶች የሚጠቅ በነጻ ነው።

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health (Department), pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.)), Mayor's Order 98-140, dated August 20, 1998, and the Omnibus Health Regulation Amendment Act of 2014, effective March 26, 2014 (D.C. Law 20-0096; 61 DCR 3751(April 11, 2014)) (the Act), hereby gives notice of the adoption of the following new Chapter 92 (Teaching Licenses for Dentistry and Dental Hygiene) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

The adoption of Chapter 92 is necessary to implement Section 508b of the Act, D.C. Official Code § 3-1205.08b, which authorizes the Board of Dentistry to issue teacher’s licenses in dentistry and dental hygiene.

The Notice of Proposed Rulemaking was published in the *D.C. Register* on May 27, 2016 at 63 DCR 7975. 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 September 29, 2016 and will be effective upon publication of this notice in the *D.C. Register*.

Chapter 92, TEACHING LICENSES FOR DENTISTRY AND DENTAL HYGIENE, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is added as follows:

CHAPTER 92 TEACHING LICENSES FOR DENTISTRY AND DENTAL HYGIENE

- Secs.**
- 9200 General Provisions**
- 9201 Licensure Required to Teach Dentistry or Dental Hygiene**
- 9202 Term of License**
- 9203 Eligibility Requirements for a Teacher’s License in Dentistry**
- 9204 Education and Professional Prerequisites for a Teacher’s License in Dentistry**
- 9205 Application for a Teacher’s License in Dentistry**
- 9206 Eligibility Requirements for a Teacher’s License in Dental Hygiene**
- 9207 Education and Professional Prerequisites for a Teacher’s License in Dental Hygiene**
- 9208 Application for a Teacher’s License in Dental Hygiene**
- 9209 Scope of Practice for a Teacher’s License in Dentistry**
- 9210 Scope of Practice for a Teacher’s License in Dental Hygiene**
- 9299 Definitions**

9200 GENERAL PROVISIONS

- 9200.1 This chapter shall apply to applicants for and holders of a teacher's license in dentistry or dental hygiene.
- 9200.2 Chapters 40 (Health Occupations: General Rules), 41 (Health Occupations: Administrative Procedures), 42 (Dentistry), and 43 (Dental Hygiene) of Title 17 of the District of Columbia Municipal Regulations shall supplement this chapter.
- 9200.3 A holder of a teacher's license in dentistry shall comply with all the requirements for the practice of dentistry under this chapter and the Act.
- 9200.4 A holder of a teacher's license in dental hygiene shall comply with all the requirements for the practice of dental hygiene under this Act.

9201 LICENSURE REQUIRED TO TEACH DENTISTRY OR DENTAL HYGIENE

- 9201.1 No person unlicensed to practice dentistry or dental hygiene in the District of Columbia shall be permitted to teach dentistry or dental hygiene, respectively, within the District, without a teacher's license.
- 9201.2 For a period of one year after the effective date of these regulations an applicant who is not eligible to teach dentistry under § 9203 of this chapter, or is not eligible to teach dental hygiene under § 9206 of this chapter, may engage in the teaching of dentistry or dental hygiene, respectively, if the applicant:
- (a) Has received training to enable him or her to competently and safely teach dentistry; and
 - (b) Engages in dental or dental hygiene teaching under the general supervision of a licensed dentist.

9202 TERM OF LICENSE

- 9202.1 A teacher's license in dentistry and a teacher's license in dental hygiene shall expire on the earlier of:
- (a) The date set in § 9202.3, unless the license is renewed for an additional term; or
 - (b) The date when the licensee ceases to be a full-time or part-time faculty member at the institution named on the license.

- 9202.2 The holder of a teacher's license in dentistry or dental hygiene shall surrender the license to the Board within thirty (30) days of ceasing to be a full-time or part-time faculty member at the institution named on the license.
- 9202.3 Subject to § 9202.4, a teacher's license in dentistry and a teacher's license in dental hygiene issued pursuant to this chapter shall expire at 11:59 PM of December 31st of each odd-numbered year.
- 9202.4 If the Director changes the renewal system pursuant to § 4006.3 of Chapter 40 of this title, a teacher's license in dentistry and a teacher's license in dental hygiene 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.

9203 ELIGIBILITY REQUIREMENTS FOR A TEACHER'S LICENSE IN DENTISTRY

- 9203.1 To be eligible for a teacher's license in dentistry, an applicant shall:
- (a) Have an appointment or a promise of an appointment as a full-time or part-time faculty member at an accredited dental school located in the District of Columbia and the institution where the dentist is appointed shall provide documentation satisfactory to the Board of the appointment;
 - (b) Meet the education and professional prerequisites set forth under § 9204.1, or § 9204.2;
 - (c) Have successfully completed Part I and Part II of the examination of the Joint Commission on National Dental Examinations;
 - (d) Be at least twenty-one (21) years of age;
 - (e) Be of good moral character and professionally competent;
 - (f) Not have failed the ADEX clinical examination, or its successor, for a license to practice dentistry in the District of Columbia, unless having subsequently passed;
 - (g) Be a United States citizen or an alien lawfully admitted to the United States;
 - (h) Not be currently under investigation or pending charges by any state licensing board, peer review authority, or law enforcement authority;

- (i) Not have a health professional license that is suspended, revoked, or otherwise not in good standing, as determined by the Board, in another state or jurisdiction; and
- (j) Not have been convicted or disciplined by a court of any state or country for a crime involving moral turpitude or that bears directly upon the fitness of the applicant to be licensed.

9204 EDUCATION AND PROFESSIONAL PREREQUISITES FOR A TEACHER'S LICENSE IN DENTISTRY

9204.1 Except as otherwise provided in § 9204.2, an applicant shall furnish proof satisfactory to the Board that the applicant:

- (a) Has successfully completed an educational program in the practice of dentistry at an institution accredited by the Commission on Dental Accreditation of the American Dental Association ("CODA"), and holds a Degree of Doctor of Dental Surgery (DDS), Doctor of Dental Medicine (DMD), or its equivalent, from a college or university that is authorized by any state of the United States or any province of Canada to grant a degree and is recognized by the Board of Dentistry as requiring adequate professional collegiate training and as maintaining an acceptable course of dental instruction; and
- (b) Is licensed to practice dentistry, in good standing, in any other state.

9204.2 An applicant that does not meet the requirements set forth in § 9204.1, may be granted licensure if the dean of the dental school where the dentist will practice requests that the dentist be granted the license, circumstances exist that justify granting the request, and the applicant furnishes proof satisfactory to the Board that the applicant:

- (a) Holds a DDS or DMD degree, or an equivalent degree from a school, college, or faculty of dentistry, recognized by the appropriate civil authorities of the jurisdiction in which the institution is located, which includes completion of a total of not less than six (6) total academic years of pre-professional and professional education, including courses in general chemistry, organic chemistry, biology or zoology, and physics, and for which at least four (4) academic years shall be professional dental education; and
- (a) Has at least two (2) years of clinical dental experience.

9205 APPLICATION FOR A TEACHER'S LICENSE IN DENTISTRY

9205.1 To apply for a teacher's license in dentistry an applicant shall:

- (a) Submit a completed application to the Board on the required forms and include:
 - (1) The applicant's social security number on the application. If the applicant does not have a social security number, the applicant shall:
 - (i) Submit with the application a sworn affidavit, under penalty of perjury, stating that he or she does not have a social security number; and
 - (ii) Submit proof acceptable to the Board that he or she is legally authorized to be in the United States, such as a Resident Alien Card, a valid foreign passport with a visa, or a work permit card from the Department of Homeland Security (I-766 or I-688B);
 - (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2"), which clearly expose the area from the top of the forehead to the bottom of the chin; and
 - (3) One (1) clear photocopy of a U.S. government-issued photo ID, such as a driver's license, as proof of identity; and
- (b) Submit a formal request for licensure and promise of appointment or confirmation of appointment from the Dean of the dental school where the applicant will be appointed. The request shall be submitted in a sealed envelope bearing the seal of the institution;
- (c) Submit an official transcript mailed directly from the educational institution(s) in a sealed envelope, which shall verify that the applicant has successfully met the education requirements set forth in § 9204.1 or § 9204.2 of this chapter;
- (d) Submit the applicant's examination results, which have been certified or validated by the Joint Commission of National Dental Examiners;
- (e) Submit proof acceptable to the Board that the applicant has not failed the ADEX clinical examination, or its successor, or proof that the applicant subsequently passed the examination which shall be certified or validated by the ADEX or its successor;
- (f) Submit a copy of his or her current dental license; or if not licensed in another state, proof acceptable to the Board of having two (2) years of active clinical practice;

- (g) Obtain verification from each state in which the applicant holds or has ever held a professional health occupation license, if applicable, that the license is current and in good standing, or if the license is no longer active, that it was in good standing immediately prior to its expiration. The licensure verification form shall be sent directly to the Board by the verifying board;
- (h) Pass the District of Columbia Dental Law Examination;
- (i) Submit two letters of recommendation from the applicant's clinical colleagues, which shall certify to the board the good moral character of the applicant, and the applicant's qualifications, background, and experience.
- (j) Undergo a criminal background check; and
- (k) Pay all required fees.

9206 ELIGIBILITY REQUIREMENTS FOR A TEACHER'S LICENSE IN DENTAL HYGIENE

9206.1 To be eligible for a teacher's license in dental hygiene, an applicant shall:

- (a) Have an appointment or a promise of an appointment as a full-time or part-time faculty member in a dental hygiene program at an accredited dental school located in the District of Columbia and the institution where the dental hygienist is appointed provides documentation satisfactory to the Board of the appointment.
- (b) Meet the education and professional prerequisites set forth under § 9207.1;
- (c) Have successfully completed the National Board of Dental Hygiene Examination;
- (d) Be of good moral character and professionally competent;
- (e) Not have failed the ADEX clinical examination, or its successor, unless having subsequently passed;
- (f) Be a United States citizen or an alien lawfully admitted to the United States;
- (g) Not be currently under investigation or pending charges by any state licensing board, peer review authority, or law enforcement authority;

- (h) Not have a health professional license that is suspended, revoked, or otherwise not in good standing, as determined by the Board, in another state or jurisdiction; and
- (i) Not have been convicted or disciplined by a court of any state or country for a crime involving moral turpitude or that bears directly upon the fitness of the applicant to be licensed.

9207 EDUCATION AND PROFESSIONAL PREREQUISITES FOR A TEACHER’S LICENSE IN DENTAL HYGIENE

9207.1 An applicant shall furnish proof satisfactory to the Board that the applicant:

- (a) Has successfully completed an educational program in the practice of dental hygiene of at least two academic years at an institution accredited by the CODA at the time the applicant graduated; or the applicant demonstrates to the satisfaction of the Board that the applicant’s education and training are substantially equivalent to the requirements of this section; and
- (b) Submits evidence satisfactory to the Board that the applicant has been actively engaged in the practice of dental hygiene for the three (3) years immediately preceding the application, and has at least one hundred and fifty (150) hours of active dental hygiene practice.

9208 APPLICATION FOR A TEACHER’S LICENSE IN DENTAL HYGIENE

9208.1 To apply for a teacher’s license in dental hygiene, an applicant shall:

- (a) Submit a completed application to the Board on the required forms and include:
 - (1) The applicant’s social security number on the application. If the applicant does not have a social security number, the applicant shall:
 - (i) Submit with the application a sworn affidavit, under penalty of perjury, stating that he or she does not have a social security number; and
 - (ii) Submit proof acceptable to the Board that he or she is legally authorized to be in the United States, such as a Resident Alien Card, a valid foreign passport with a visa, or a work permit card from the Department of Homeland Security (I-766 or I-688B);

- (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2"), which clearly expose the area from the top of the forehead to the bottom of the chin; and
- (3) One (1) clear photocopy of a U.S. government-issued photo ID, such as a driver's license, as proof of identity; and
- (b) Submit a formal request for licensure and promise of appointment or confirmation of appointment from the Dean of the dental school or dental hygiene school where the applicant will be appointed. The request shall be submitted in a sealed envelope bearing the seal of the institution;
- (c) Submit an official transcript mailed directly from the educational institution(s) in a sealed envelope, which shall verify that the applicant has successfully met the education requirements set forth in § 9207.1 of this chapter;
- (d) Submit the applicant's examination results, which have been certified or validated by the National Board of Dental Hygiene Examination;
- (e) Submit proof acceptable to the Board that the applicant has not failed the ADEX clinical examination, or its successor, or proof that the applicant subsequently passed the examination which shall be certified or validated by the ADEX or its successor;
- (f) Submit proof acceptable to the Board that the applicant has been actively engaged in the practice of dental hygiene for the three (3) years immediately preceding the application, and has at least one hundred fifty (150) hours of active dental hygiene practice;
- (g) Obtain verification from each state in which the applicant holds or has ever held a professional health occupation license, if applicable, that the license is current and in good standing, or if the license is no longer active, that it was in good standing immediately prior to its expiration. The licensure verification form shall be sent directly to the Board by the verifying board;
- (h) Pass the District of Columbia Dental Law Examination;
- (i) Submit two (2) letters of recommendation from the applicant's clinical colleagues, which shall certify to the board the good moral character of the applicant, and the applicant's qualifications, background, and experience.
- (j) Undergo a criminal background check; and

- (k) Pay all required fees.

9209 SCOPE OF PRACTICE FOR A TEACHER’S LICENSE IN DENTISTRY

9209.1 The holder of an active teacher’s license in dentistry shall:

- (a) Teach dentistry at only the institution named on the license, which includes, and is limited to the primary facilities within the dental school, and shall not engage in clinical teaching at a satellite location or other off-campus sites, such as clinics, unless the location or site is part of a program operated by the institution as confirmed by formal affiliation agreements; and
- (b) Practice, adjunct to instruction, only at the institution named on the license to the same extent as other faculty members who hold general licenses to practice dentistry; provided that a licensed dentist employed by the school provides general supervision in all clinical practice.

9209.2 For purposes of this chapter, “teach” shall mean to provide clinical and didactic instruction and training at the institution to students formally enrolled in an educational program in the practice of dentistry at that institution.

9209.3 The holder of a teacher’s license in dentistry shall not establish a dental practice in the District of Columbia, or engage in the practice of dentistry in any manner outside of the educational institution named on the license, without first obtaining an unrestricted dental license to practice dentistry in the District of Columbia.

9210 SCOPE OF PRACTICE FOR A TEACHER’S LICENSE IN DENTAL HYGIENE

9210.1 The holder of an active teacher’s license in dental hygiene shall:

- (a) Teach dental hygiene only at the institution named on the license, which includes, and is limited to the primary facilities within the dental school, and shall not engage in clinical teaching at a satellite location or other off-campus sites, such as clinics, unless the location or site is part of a program operated by the institution as confirmed by formal affiliation agreements; and
- (b) Practice, adjunct to instruction, only at the institution named on the license to the same extent as other faculty members who hold general licenses to practice dental hygiene, and only under the direct supervision of a licensed dentist employed by the institution named on the license.

9210.2 For purposes of this chapter, “teach” shall mean to provide clinical and didactic instruction and training at the institution to students formally enrolled in an educational program in the practice of dental hygiene at that institution.

9210.3 The holder of a teacher’s license in dental hygiene shall not engage in the practice of dental hygiene in any manner outside of the educational institution named on the license, without first obtaining an unrestricted license to practice dental hygiene in the District of Columbia.

9299 DEFINITIONS

As used in this chapter, the following terms shall have the meaning as ascribed:

Act – the Omnibus Health Regulation Amendment Act of 2014, effective March 26, 2014 (D.C. Law 20-0096; 61 DCR 3751 (April 11, 2014)).

Board – the Board of Dentistry.

Direct supervision- means that a licensed dentist is physically present and reviews the work of the holder of a teacher’s license in dental hygiene before a patient leaves.

Director – the Director of the Department of Health.

General supervision – means that a licensed dentist is physically present or available by telecommunications device to supervise the holder of a teacher’s license in dentistry.

Licensed Dentist – a person who is licensed by the Board as a Dentist.

DISTRICT DEPARTMENT OF TRANSPORTATION

NOTICE OF FINAL RULEMAKING

The Director of the District Department of Transportation (DDOT), pursuant to the authority set forth in Sections 5(3)(A) (providing for a safe transportation system), 6(b) (transferring to the Department the traffic management function previously delegated to the Department of Public Works (DPW) under Section III(H) of Reorganization Plan No. 4 of 1983), and 7 (making Director of DDOT the successor to transportation related authority delegated to the Director of DPW) of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.04(3)(A), 50-921.05(b) and 50-921.06 (2014 Repl. & 2016 Supp.)), Sections 6(a)(1), 6(a)(6) and 6(b) of the District of Columbia Traffic Act, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(a)(1), (a)(6) and (b) (2014 Repl. & 2016 Supp.)), and Mayor's Order 77-127, dated August 3, 1977, hereby gives notice of the adoption of the amendments to Chapter 40 (Traffic Signs and Restrictions at Specific Locations) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR).

The rulemaking adds a provision to Section 4020 ("No Standing" Restrictions), allowing the Director to post signs on streets restricting parking due to a special event or project, provided the signs are posted at least twenty-four (24) hours before the signs take effect.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on July 8, 2016, at 63 DCR 9443. DDOT has received no comments and no changes were made to the rulemaking.

The Director adopted these rules as final on October 14, 2016, and they shall become effective upon publication of this notice in the *D.C. Register*.

Chapter 40, TRAFFIC SIGNS AND RESTRICTIONS AT SPECIFIC LOCATIONS, of Title 18 DCMR, VEHICLES AND TRAFFIC, is amended as follows:

Section 4020, "NO STANDING" RESTRICTIONS, is amended by adding three new Subsections 4020.2, 4020.3 and 4020.4 to read as follows:

- 4020.2 The Director may have signs erected that restrict standing and parking on specified streets or portions of streets during an event or project if the Director determines, in writing, that:
- (a) The event or project will have a significant impact on the flow of traffic in the District; and
 - (b) Restricting standing and parking on those streets or portions of streets is necessary to mitigate that significant impact on the flow of traffic.

4020.3 If the Director has signs erected pursuant to Subsection 4020.2, there shall be no standing or parking on any of the streets or portions of streets at the times established and indicated on the signs erected.

4020.4 Any signs erected pursuant to Subsection 4020.2 must be erected at least twenty-four (24) hours before the restrictions on those signs will apply.

OFFICE OF TAX AND REVENUE

NOTICE OF PROPOSED RULEMAKING

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR) of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-2023 (2005 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019, Pub.L. 109-356; D.C. Official Code § 1-204.24d (2014 Repl.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of its intent to amend Chapter 1 (Income and Franchise Taxes), of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR), by amending Sections 130, 132, 133, and 135.

The newly amended regulations provide updated guidance for taxpayers responsible for withholding taxes from wages and other payments. The guidance in this regulation is necessary to provide clarity to taxpayers attempting to comply with District withholding requirements.

OTR gives notice of its intent to take final rulemaking action to adopt these regulations in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 1, INCOME AND FRANCHISE TAXES, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:

130 WITHHOLDING: GENERAL PROVISIONS

- 130.1 Each employer [as defined in § 3401(d) of the U.S. Internal Revenue Code of 1986 as amended (hereafter “IRC of 1986”) making payment of wages subject to withholding, shall deduct, withhold, and pay over to the Deputy Chief Financial Officer of the Office of Tax and Revenue (“DCFO”) the tax required to be withheld.
- 130.2 Entities that make non-wage payments subject to required or voluntary withholding, including but not limited to, payments of pension, military retirement, gambling winnings, voluntary withholding on certain government payments, and backup withholding, shall deduct, withhold and pay over the tax withheld to the DCFO.
- 130.3 Wages subject to withholding are all wages as defined in § 3401(a) of the IRC of 1986, paid, by an employer who is required to withhold taxes under the law, to an employee, for services performed within or outside the District.
- 130.4 An employee shall not include any of the following individuals, unless the individual is domiciled within the District at any time during the taxable year:
- (a) An elected official of the government of the United States;

- (b) An employee on the staff of an elected officer in the legislative branch of the government of the United States if that employee is a bona fide resident of the State of residence of the elected officer;
 - (c) An officer of the executive branch of the U.S. government whose appointment to the office held was by the President of the United States and subject to confirmation by the Senate of the United States, and whose tenure of office is at the pleasure of the President of the United States; or
 - (d) A Justice of the Supreme Court of the United States.
- 130.5 When the last date for the payment of a tax falls on a Saturday, Sunday, or a legal holiday, the last date for paying the tax shall be the first business day following that Saturday, Sunday, or holiday.
- 130.6 When the last date for filing a return falls on a Saturday, Sunday, or a legal holiday, the last date for filing the return shall be the first business day following that Saturday, Sunday, or holiday.
- 130.7 In determining the amount to be deducted and withheld, the wages may, at the election of the employer, be computed to the nearest dollar.
- 130.8 If the remuneration paid by an employer to an employee for services performed during one-half (1/2) or more of any payroll period of not more than thirty-one (31) consecutive days constitutes wages, all the remuneration paid by the employer to that employee for that period shall be deemed to be wages.
- 130.9 If the remuneration paid by an employer to an employee for services performed during more than one-half (1/2) of any payroll period of not more than thirty-one (31) days does not constitute wages, then none of the remuneration paid by the employer to that employee for that period shall be deemed to constitute wages.
- 130.10 All employers or entities required to withhold tax must have a Federal Employment Identification Number (FEIN) and be registered with the Office of Tax and Revenue and have a valid account registration number. The employer or entity's FEIN and account registration number must be included on all withholding tax returns, regardless of who files the tax return (including returns filed by payroll processing companies on behalf of customers). Failure to obtain an FEIN and account registration number, or failure to include both an FEIN and account registration number when filing a withholding tax return or making a withholding tax payment may result in the rejection of the return or payment and trigger penalties under D.C. Official Code § 47-4213.

130.11 Where an employer or entity required to file withholding tax returns and make withholding tax payments contracts with a payroll processing company or bulk filer of withholding tax returns and payments, the responsibility for withholding tax compliance remains with the employer or entity.

132 RETURNS OF TAXES WITHHELD

132.1 Return Filing Period. Returns of tax withheld from wages are required to be filed with the Office of Tax and Revenue on a quarterly or annual basis. Entities reporting non-wage tax withheld shall file a return on an annual basis.

132.2 The DCFO shall assign an account registration number to each employer or entity required to file returns and assign them either a quarterly or annual return filing period. Returns shall be filed in accordance with the assigned filing period, and shall continue to be filed on that basis until the DCFO determines that the employer's return shall be made for a different filing period.

(a) For employers or entities registered for withholding prior to January 1, 2017, all employers or entities not previously assigned to an annual period shall file quarterly tax returns and shall continue to file on that basis until the DCFO determines that the employer's return shall be made for a different filing period. Employers or entities assigned to an annual reporting period prior to January 1, 2017 shall not be required to file quarterly returns, and shall file annual returns and continue to file on that basis until the DCFO determines that the employer's return shall be made for a different filing period.

(b) For employers or entities registered for withholding on or after January 1, 2017, all new applications shall file quarterly tax returns, unless their filing period is changed by the DCFO.

132.3 Return Filing Deadlines. Quarterly withholding returns shall be filed on or before the last day of the month following the close of each quarterly reporting period. Annual withholding returns shall be filed on or before the last day of January of each year for the preceding year.

132.4 All returns shall be made on forms prescribed by the DCFO.

132.5 Withholding tax returns are only available electronically by download at mytax.dc.gov. Failure to obtain forms or returns does not relieve a taxpayer of the responsibility to file and pay timely.

- 132.6 Withholding tax returns can be filed electronically, for either single or bulk filers, at mytax.dc.gov. Electronic filing is the method preferred by the Office of Tax and Revenue.
- 132.7 Final Returns. The last return for any employer required to deduct and withhold tax under the Act who, during a calendar year, ceases to engage in business or ceases to pay wages, shall be marked by that employer as the "FINAL RETURN." The final return shall state the period for which it is made and the date of the last payment of wages.
- 132.8 If a taxpayer amends a tax return, an amended return shall be filed within three years of the original due date of the return and must be marked amended on the return in order to be processed.
- 132.9 If the payment of the tax results in an overpayment of the tax required to be withheld and paid, a credit will be applied to the next reporting period. Alternatively, to receive a refund of such overpayment of tax, the taxpayer shall request a refund by indicating on the tax return.

133 PAYMENT OF WITHHOLDING TAX

- 133.1 All sums which the employer has withheld from employees shall be deemed to be held in trust by the employer for the District.
- 133.2 Taxes withheld from wages are required to be paid to the Office of Tax and Revenue on a monthly, quarterly, or yearly basis.
- (a) For employers or entities registered for withholding prior to January 1, 2017, all employers or entities shall continue to pay withholding taxes with the same frequency as payments where previously required, unless their payment period is changed by the DCFO.
- (b) For employers or entities registered for withholding on or after January 1, 2017, all new applications shall make quarterly tax payments, unless their payment period is changed by the DCFO.
- 133.3 Taxes withheld from non-wage payments, including, but not limited to, payments of pension, military retirement, gambling winnings, voluntary withholding on certain government payments, and backup withholding, are required to be paid to the Office of Tax and Revenue on a monthly basis.
- 133.4 Monthly deposits of the tax withheld from wages shall be paid on or before the 20th day after the close of the month. Quarterly deposits of the tax withheld from wages shall be paid on or before the 20th day of the month after the close of each quarter. Annual deposits of tax withheld from wages shall be paid on or before the 20th day of the month following the close of the annual period.

For this purpose, “deposit” means a payment to the Office of Tax and Revenue.

- 133.5 The DCFO shall provide an electronic means, accessible at mytax.dc.gov, of making tax deposits for the amount withheld from wages. A printable voucher shall be provided for those accounts authorized to submit payments by other than electronic means.
- 133.6 If, in any filing period, more than the correct amount of tax has been withheld, the amount actually withheld shall be remitted to the District.
- 133.7 Depository payments shall not be estimated, but shall be the actual amount of tax liability for the period for which payment is made.

135 ANNUAL REPORT OF WITHHOLDING

- 135.1 Duplicate copies of all statements (Forms W-2, 1098, 1099 or K-1), as appropriate, or approved substitute withholding statements shall be sent to the District by each employer with the Form WT (Withholding Transmittal) that is due on the last day of January or with the employer's final return, if submitted before the end of the calendar year. For years beginning January 1, 2017, and thereafter, withholding statements shall be submitted with Form WT. Entities withholding non-wage tax shall send duplicate copies of all withholding statements using the appropriate Form 1099 Information Return.
- 135.2 Form W-2, 1098, or K-1, as appropriate or approved substitute withholding statements, shall be submitted electronically for all employers reporting for more than twenty-four (24) employees. The DCFO shall provide a method for all employers to report electronically. The DCFO may provide a downloadable form for transmitting other than by electronic reports of withholding.

Subsections 135.3 - .6 are repealed.

Comments on this proposed rulemaking should be submitted to Jessica Brown, Assistant General Counsel, Office of Tax and Revenue, no later than thirty (30) days after publication of this notice in the *D.C. Register*. Jessica Brown may be contacted by: mail at D.C. Office of Tax and Revenue, 1101 4th Street, S.W., Suite 750, Washington, D.C. 20024; telephone at (202) 442-6462; or, email at jessica.brown@dc.gov. Copies of this rule and related information may be obtained by contacting Jessica Brown as stated herein.

OFFICE OF THE CITY ADMINISTRATOR**NOTICE OF EMERGENCY RULEMAKING**

The City Administrator, pursuant to the authority set forth in Section 10 of the Construction Codes Approval and Amendments Act of 1986 (Act), effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409 (2012 Repl. & 2016 Supp.)) and Mayor's Order 2015-36, dated January 9, 2015, hereby gives notice of the adoption, on an emergency basis, of the following amendments to Appendix N (Signs) of Title 12 (Construction Codes Supplement of 2013), Subtitle A (Building Code Supplement of 2013), of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking is necessary to address an immediate need to preserve and promote the health, safety, and welfare of the District residents by ensuring that unpermitted, quasi-exterior signage does not proliferate across the District and to extend an identical emergency rulemaking that was adopted on July 12, 2016. The July 12, 2016 emergency rulemaking was accompanied by an identical proposed rulemaking, and an extension of the July 12, 2016 emergency rulemaking is needed to allow the Council to complete its consideration of the proposed rules. The proposed rulemaking was published on August 26, 2016 (63 DCR 11000), has completed its public comment period, and, was submitted for Council review by the introduction of PR21-990 on October 18, 2016. This second emergency rulemaking was adopted on November 4, 2016 and became effective on that date. It supersedes the earlier emergency rulemaking portion (but not the proposed rulemaking portion) of the combined emergency and proposed rulemaking and extends the language of the previous emergency rule without amendment or alteration.

The emergency rulemaking shall remain in effect for one hundred and twenty (120) days, or until March 4, 2017, unless earlier superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

Appendix N, SIGNS, of Title 12-A DCMR, BUILDING CODE SUPPLEMENT OF 2013, is amended as follows:

Section N101, GENERAL, Subsection N101.3.5.3, is amended to read as follows:

N101.3.5.3 Signs within a building. Any sign located entirely inside a building, unless the sign: (1) is attached directly or painted on a window; (2) is located within 18 inches (457 mm) of a window or entrance; or (3) contains writing that is legible, or an image that is clearly discernible, from property other than the property on which the sign is located. A sign inside a building that (1) is attached directly or painted on a window; (2) is located within 18 inches (457 mm) of a window or entrance; or (3) contains writing that is legible, or an image that is clearly discernible, from property other than the property on which the sign is located shall require a permit and shall be regulated as a sign under this Appendix N.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2014 Repl. & 2016 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of Chapter 42 entitled, “Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities” (EPD Waiver) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The current EPD Waiver was approved by the Council of the District of Columbia (Council) and renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) for an initial five-year period beginning January 4, 2012. An amendment to the EPD Waiver was approved by the Council through the Medicaid Assistance Program Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-155; D.C. Official Code § 1-307.02(a)(8)(A) (2014 Repl. & 2016 Supp.)). The amendment was approved by CMS, with an effective date of October 20, 2015. These emergency and proposed rules modify standards for existing services and establish standards for new services provided to participants in the EPD Waiver.

These rules will ensure that the District is in compliance with various standards approved under the EPD Waiver amendment including the use of a standardized conflict-free assessment tool for determining nursing facility level of care to establish EPD Waiver eligibility, compliance with CMS’ federal requirements for the delivery of home and community-based services (HCBS) in “settings” that meet the federal definition, at 42 C.F.R. § 441.301(c)(4), conforming with CMS’ federal requirements for developing a person-centered service plan, at 42 C.F.R. §§ 441.301(c)(1) – (3) and adding three (3) new services to the EPD Waiver Amendment to enhance the menu of services available to a EPD Waiver beneficiary.

Specifically, these rules amend the previously published final rules by: (1) amending eligibility requirements by requiring a score of nine (9) or higher on DHCF’s standardized assessment tool; (2) mandating that assisted living providers, and adult day health providers meet all of the federal HCBS “settings requirements”; (3) imposing new standards for the development and implementation of person-centered service plans; (4) updating and clarifying responsibilities of case managers and requiring that EPD Waiver providers and case managers meet new, federal conflict-free standards; (5) identifying reportable incidents and complaints and establishing procedures for incident and complaint reporting; (6) establishing requirements for transitional case management services to support continuity of care when an EPD Waiver beneficiary is temporarily institutionalized and specifying that EPD Waiver participants will not be terminated from the Waiver program if they are institutionalized for a period not to exceed one hundred and twenty (120) consecutive days; (7) establishing a process for independent assessment of need

and authorization for PCA services to eliminate any conflicts of interest that may exist when an EPD Waiver provider is assessing the need for the amount, duration and scope of services and also delivers services; (8) updating provider reimbursement rates consistent with the approved Waiver amendment; (9) adding three new services - adult day health services, occupational therapy, and physical therapy - to the list of Waiver services; (10) establishing requirements for the delivery of Participant-Directed Services (PDS) that correspond to the approved EPD Waiver; and (11) updating definitions for terms and phrases used in this chapter. New rules establishing detailed provisions for the delivery of Participant-Directed Services (PDS) that coordinate with the approved EPD Waiver were promulgated separately upon implementation of the PDS program. The emergency and proposed rules governing PDS services were published in the *D.C. Register* on May 20, 2016 at 63 DCR 007732.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of EPD Waiver participants who are in need of EPD Waiver services. The EPD Waiver serves some of the District’s most vulnerable residents. The approved EPD Waiver includes three new services and includes new provider participation requirements and service delivery criteria. These changes collectively enhance service delivery, and coordination, and ensure access to more streamlined services under the Waiver by more qualified providers. These amendments assist in preserving the health, safety and welfare of these Waiver participants.

The emergency rulemaking was adopted on October 13, 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 adoption date or until February 10, 2017, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Chapter 42, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR PERSONS WHO ARE ELDERLY AND INDIVIDUALS WITH PHYSICAL DISABILITIES of Title 29, PUBLIC WELFARE, of the DCMR, is deleted in its entirety and amended to read as follows:

CHAPTER 42 HOME AND COMMUNITY-BASED SERVICES WAIVER FOR PERSONS WHO ARE ELDERLY AND INDIVIDUALS WITH PHYSICAL DISABILITIES

4200 GENERAL PROVISIONS: IDENTIFICATION OF SERVICES; PROGRAM RESPONSIBILITIES; AND SERVICE SETTING REQUIREMENTS

4200.1 The following Home and Community-Based (HCB) Waiver services are included in this chapter, consistent with the regulations set forth herein:

- (a) Case management services;
- (b) Personal Care Aide (PCA) services;

- (c) Personal Emergency Response System (PERS) services;
- (d) Respite services;
- (e) Homemaker services;
- (f) Chore aide services;
- (g) Assisted living services;
- (h) Environmental Accessibility Adaptation (EAA) services;
- (i) Adult Day Health services;
- (j) Physical Therapy services;
- (k) Occupational Therapy services;
- (l) Individual-Directed Goods and Services; and
- (m) Participant-Directed Community Supports services.

4200.2 DHCF or its designee shall be the first point of contact for applicants who choose to receive EPD Waiver Services. DHCF or its designee shall assist an applicant with the completion of all documents and processes needed to apply for the EPD Waiver including, but not limited to, assisting the applicant with obtaining a face-to-face assessment and obtaining a determination of financial eligibility from DHCF’s designee.

4200.3 DHCF or its designee shall conduct face-to-face assessments to determine if the applicant meets the level of care requirements in accordance with Section 4201 of this chapter.

4200.4 DHCF or its designee shall perform the following operational functions:

- (a) Review the Person-Centered Service Plan (PCSP) and prior-authorize the services recommended in the PCSP; and
- (b) Review requests for change in services and determine if they should be approved; and
- (c) Prior-authorize approved changes in services.

4200.5 The EPD Waiver services described in this chapter shall be administered by the Department of Health Care Finance (DHCF), Long-Term Care Administration.

4200.6 All Adult Day Health, and Assisted Living settings shall meet the HCB Setting Requirements pursuant to 42 CFR § 441.301(c)(4) which requires that settings:

- (a) Be chosen by the beneficiary receiving EPD Waiver services;
- (b) Ensure the beneficiary's right to privacy, dignity, and respect, and freedom from coercion and restraint;
- (c) Be physically accessible to the beneficiary and allow him or her access to all common areas;
- (d) Support the beneficiary's community integration and inclusion, including relationship-building and maintenance, support for self-determination and self-advocacy;
- (e) Provide opportunities for the beneficiary to seek employment and meaningful non-work activities in the community;
- (f) Provide information on beneficiary rights;
- (g) Optimize the beneficiary's initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and choices for personal interaction;
- (h) Facilitate the beneficiary's choices regarding services and supports, and the provision of services;
- (i) Create personalized daily schedules for each beneficiary receiving supports that includes activities that align with the beneficiary's goals, interest, and preferences, and are reflected in his or her PCSP;
- (j) Provide opportunities for the beneficiary to engage in community life;
- (k) Provide opportunities to receive services in the community to the same degree as individuals not receiving Medicaid HCBS;
- (l) Control over the beneficiary's personal funds and bank accounts; and
- (m) Allow visitors at any time except as indicated in the beneficiary's PCSP, based on his or her assessed needs.

4200.7 In addition to the requirements referenced under Subsection 4200.6, all Assisted Living settings shall:

- (a) Be integrated in the community;

- (b) Provide opportunities for the beneficiary to engage in community life;
- (c) Allow full access to the greater community, such as opportunities to seek employment, and access to public libraries with appropriate oversight and assistance to the same extent as access is available to persons who do not receive Medicaid HCBS;
- (d) Be leased in the names of the people who are being supported. If this is not possible, then the Assisted Living provider must ensure that each beneficiary has a legally enforceable residency agreement or other written agreement that, at a minimum, provides the same responsibilities and protections from eviction that tenants have under the District’s landlord and tenant law. This applies equally to leased and provider owned properties; and
- (e) Develop and adhere to policies which ensure that each beneficiary receiving services has the right to the following:
 - (1) Privacy in the beneficiary’s personal space, including entrances that are lockable by the beneficiary (with staff having keys as needed);
 - (2) Freedom to furnish and decorate his or her personal space (except for a beneficiary receiving Respite Daily services);
 - (3) Control over his or her personal funds and bank accounts;
 - (4) Privacy for telephone calls, texts and emails; and
 - (5) Access to food at any time.

4200.8 Any deviations from the requirements in Subsection 4200.7(e) must be supported by a specific assessed need, which is justified in the beneficiary’s written PCSP, and reviewed and approved as a restriction by the case manager in the PCSP.

4201 ELIGIBILITY

4201.1 Individuals shall be deemed eligible for the HCB Waiver prior to the receipt of the HCB services described in this chapter.

4201.2 To be eligible for the HCB Waiver services described in this chapter, beneficiaries shall:

- (a) Require the level of care furnished in a nursing facility as determined by DHCF’s Long Term Care Services and Supports Contractor via standardized assessment tools in accordance with Subsections 4201.4 and 4201.5;

- (b) Agree to participate in the waiver program by signing Waiver Beneficiary Freedom of Choice forms to elect to receive services in home and community-based settings rather than institutional settings;
- (c) Be aged 65 or older, or be aged 18 and older with one (1) or more physical disabilities;
- (d) Not be inpatients of a hospital, nursing facility or intermediate care facility in accordance with Subsection 4201.3;
- (e) Be financially eligible for long term care services and supports in accordance with the requirements set forth in Chapter 98 (Financial Eligibility for Long Term Care Services and Supports) of Title 29 DCMR; and
- (f) Reside in the District of Columbia in community settings such as natural homes or approved EPD Waiver assisted living facilities.

4201.3 For purposes of eligibility, an inpatient shall be defined as a beneficiary who is institutionalized for a period greater than one hundred and twenty (120) consecutive days.

4201.4 A Registered Nurse (R.N.) hired by or under contract to DHCF or its designee shall conduct a face-to-face assessment to determine if a beneficiary or applicant meets a nursing facility level of care. The assessment shall utilize a standardized assessment tool which will include an assessment of the individual's support needs across three domains including:

- (a) Functional - impairments including assistance with activities of daily living such as bathing, dressing, eating or feeding;
- (b) Clinical supports - sensory impairments, other health diagnoses and the need for skilled nursing or other skilled care (e.g., wound care, infusions); and
- (c) Behavioral - communications impairments including the ability to understand others, presence of behavioral symptoms such as hallucinations, or delusions.

4201.5 Completion of the assessment shall yield a final total score determined by adding up the individual scores from the three domains. To be eligible for EPD Waiver services a beneficiary or applicant must obtain a score of nine (9) or higher which equates to a nursing home level of care.

4201.6 Eligibility shall be recertified on an annual basis in accordance with any procedures established by DHCF in this chapter.

4202 APPEAL RIGHTS FOR APPLICANTS/BENEFICIARIES

4202.1 Applicants and beneficiaries shall receive advance notice and shall have the opportunity to request a Fair Hearing if:

- (a) They are found ineligible for participation in the EPD Waiver based on the criteria set forth in Subsection 4201.2;
- (b) They are not given the choice between HCB waiver services or institutional care;
- (c) They are denied the choice of service(s) from a qualified and willing provider in accordance with 42 CFR 431.51; or
- (d) If DHCF or its designee takes action to deny, discontinue, suspend, reduce, or terminate services, or dis-enroll a beneficiary or applicant from the EPD Waiver Program.

4202.2 An EPD Waiver provider shall issue a written notice in cases of intended actions to discontinue, discharge, suspend, transfer, or terminate services to any applicant or beneficiary in accordance with the requirements sets forth in Section 4205. The notice shall be provided at least thirty (30) days prior to the effective date of the proposed action and shall provide the following information:

- (a) The intended action;
- (b) The reason(s) for the intended action;
- (c) Citations to the law(s) and regulations supporting the intended action;
- (d) A list of EPD waiver standards supporting the decision;
- (e) An explanation of the applicant or beneficiary's right to request a hearing;
- (f) The circumstances under which the applicant or beneficiary's current level of services will be continued if a hearing is requested; and
- (g) A copy of the directory of other EPD waiver providers.

4202.3 DHCF or its designee shall issue a written notice in cases where it intends to take action to deny, discontinue, discharge, suspend, or reduce Waiver services, or dis-enroll applicants or beneficiaries from the EPD Waiver program. The notice shall

be issued at least thirty (30) calendar days prior to the effective date of the proposed action and shall state the following information:

- (a) The intended action;
- (b) The reason(s) for the intended action;
- (c) Citations to the law(s) and regulations supporting the intended action;
- (d) An explanation of the individual's right to request a hearing; and
- (e) The circumstances under which the individual's current level of services will be continued if a hearing is requested.

4203 CASE MANAGEMENT SERVICES REQUIRED

- 4203.1 As a condition of participation in the EPD Waiver services program, and except as provided in Subsection 4203.2, each beneficiary shall receive case management services which meet the requirements of Sections 4222 – 4224.
- 4203.2 A beneficiary enrolled in a Health Home established pursuant to Chapter 69 of Title 29 of the DCMR shall receive case management services from the Health Home.
- 4203.3 Health Home Case Managers serving EPD Waiver beneficiaries shall meet the duties of Case Managers as set forth in this chapter.

4204 WRITTEN PERSON-CENTERED SERVICE PLAN REQUIRED (PCSP)

- 4204.1 Services under the EPD Waiver program shall be provided to eligible beneficiaries pursuant to a written Person-Centered Service Plan (PCSP) developed for each individual.
- 4204.2 The PCSP shall be developed by the Case Manager in full consideration of the beneficiary's needs, preferences, strengths, and goals, which are key hallmarks of person-centered planning as defined in Section 4223. A PCSP shall be subject to the approval of DHCF or its designee.
- 4204.3 Except in the circumstances outlined in Subsection 4204.7, a PCSP shall be required for the initiation and provision of any EPD Waiver service and shall be reviewed by the Case Manager at least quarterly to ensure that services are delivered to meet the established goals.
- 4204.4 A PCSP shall be updated and revised at least annually, pursuant to the outcome of an assessment and a determination of needs or whenever a change in a beneficiary's health needs warrants updates to the plan.

- 4204.5 A PCSP shall, at a minimum, address and document the following:
- (a) The beneficiary's, strengths, positive attributes, and preferences for plan development at the beginning of the written plan including:
 - (1) Consideration of the beneficiary's significant milestones, and important people in the beneficiary's life; and
 - (2) The beneficiary's preferences in order to tailor the plan to reflect any unique cultural or spiritual needs or be developed in a language or literacy level that the beneficiary and representative can understand;
 - (b) The beneficiary's goals, including:
 - (1) Consideration of the beneficiary's current employment, education, and community participation along with aspirations for changing employment, continuing education, and increasing level of community participation; and
 - (2) How the goals tie to the amount, duration, and scope of services that will be provided;
 - (c) List of other contributors selected by the beneficiary and invited to engage in planning and monitoring of the PCSP;
 - (d) End of life plan, as appropriate;
 - (e) Medicaid and non-Medicaid services and supports preferred by the beneficiary, including supports from family, friends, faith-based entities, recreation centers, or other community resources;
 - (f) The specific individuals, health care providers, or other entities currently providing services and supports;
 - (g) Potential risks faced by the beneficiary and a risk-mitigation plan to be addressed by the beneficiary and his or her interdisciplinary team;
 - (h) Approaches to be taken to prevent duplicative, unnecessary, or inappropriate services;
 - (i) Assurances regarding the health and safety of the beneficiary, and if restrictions on his or her physical environment are necessary, descriptions and inclusion of the following:

- (1) Explicit safety need(s) with explanation of related condition(s);
 - (2) Positive interventions used in the past to address the same or similar risk(s)/safety need(s) and assurances that the restriction will not cause harm to the beneficiary;
 - (3) Necessary revisions to the PCSP to address risk(s) or safety need(s), including the time needed to evaluate effectiveness of the restriction, results of routine data collection to measure effectiveness, and continuing need for the restriction; and
 - (4) Beneficiary's or representative's understanding and consent to proposed modification(s) to the restrictions; and
- (j) Components of self-direction (if the beneficiary has chosen self-directed delivery under the *Services My Way* program, set forth in Chapter 101 of Title 29 DCMR).

4204.6 Upon completion of development of the PCSP, the Case Manager shall ensure the following:

- (a) The PCSP receives final approval and signature from all those who participated in its planning and development, including the Case Manager and the beneficiary or beneficiary's representative if applicable; and
- (b) All contributors and others who were included in the PCSP development receive a copy of the completed plan or any specific component of the plan, as determined by the beneficiary.

4204.7 A beneficiary may access waiver services in the absence of a DHCF approved PCSP under the following circumstances:

- (a) DHCF determines a delay in the receipt of services would put the beneficiary's health and safety at risk; or
- (b) DHCF determines services are needed to effectuate a timely discharge from a hospital or nursing facility.

4204.8 If waiver services are provided in accordance with Subsection 4204.7, a PCSP shall be completed within thirty (30) days of the date that services were initiated.

4205 INITIATING, CHANGING, DISCHARGING/SUSPENDING, TRANSFERS OR TERMINATIONS

- 4205.1 Initiating services means a request to add services that has been approved as part of a beneficiary's PCSP.
- 4205.2 A change in service shall mean a request to modify the type, amount, duration, or scope of services based on the beneficiary's current level of functioning, which is supported by the assessment tool.
- 4205.3 A discharge shall mean a request to release a beneficiary from a particular service provider.
- 4205.4 A transfer shall mean a request whereby a beneficiary is moved from one service provider to another service provider.
- 4205.5 A suspension shall mean ending the delivery of services to a beneficiary for a temporary period not to exceed thirty (30) calendar days.
- 4205.6 A termination shall mean the discontinuation of services under the Waiver or a disenrollment from the EPD Waiver Program.
- 4205.7 The only grounds for disenrollment from the EPD Waiver Program are the following:
- (a) The beneficiary no longer meets the financial eligibility criteria;
 - (b) The beneficiary no longer meets the required level of care as supported by the assessment tool;
 - (c) The beneficiary expires;
 - (d) The beneficiary has moved out of the District of Columbia;
 - (e) The beneficiary remains institutionalized for a period that is expected to exceed one hundred and twenty (120) consecutive days;
 - (f) The beneficiary (if competent to make decisions) requests disenrollment from the EPD Waiver; and
 - (g) The beneficiary has failed to provide the case management agency with recertification documents or take steps needed to maintain his or her non-financial eligibility.
- 4205.8 A case manager may coordinate the receipt and subsequent approval by DHCF or its designee for all program modification requests. These include requests to initiate, change, terminate, or suspend services and to transfer or discharge from a service provider.

- 4205.9 The beneficiary, the beneficiary's authorized representative, family member or a service provider may recommend to DHCF or its designee one or more of the following program modifications: the initiation of a new service; a change in approved services a transfer; or a termination.
- 4205.10 Only a service provider or the beneficiary's case manager may make requests to DHCF or its designee to authorize a discharge or suspension.
- 4205.11 Conditions for a discharge or requesting a transfer consist of the following:
- (a) A beneficiary is unsatisfied with the services delivered by a specific provider; or
 - (b) The provider is unable to meet the needs of the beneficiary.
- 4205.12 A provider shall demonstrate the following before or at the time of a request to discharge or transfer a beneficiary:
- (a) Appropriate steps were taken to attempt remediation of the situation that gave rise to the conditions necessitating the action as set forth in Subsection 4205.11, including a meeting with the beneficiary to resolve conflicts and provider staff training to resolve any staff complaints; and
 - (b) Compliance with provider requirements outlined in Subsection 4205.14 to ensure safe discharge or transfers.
- 4205.13 A case manager or provider may suspend the services of a beneficiary when:
- (a) The beneficiary's behavior poses a risk to the staff, and interventions have not successfully addressed the behavior; or
 - (b) The beneficiary prohibits access to provider-related visits.
- 4205.14 In order to ensure that the beneficiary's health is not threatened during a discharge, transfer, suspension, or termination of services, the provider shall:
- (a) Assess the beneficiary's condition to ensure that discharge, transfer, suspension or termination of services does not endanger the health and safety of the beneficiary;
 - (b) Document assessment findings in the beneficiary's record;
 - (c) Notify the physician;
 - (d) Ensure that the beneficiary's Medicaid eligibility is current;

- (e) Refer the beneficiary to the Department of Behavioral Health or other agencies, as the case manager deems appropriate; and
- (f) Document the actions taken to ensure that the beneficiary's discharge, transfer, suspension, or service termination will have no adverse effect on the beneficiary.

4205.15 In addition to the requirements specified in Subsection 4205.14, the provider shall take the following administrative actions before effectuating a discharge, transfer, suspension, or service termination:

- (a) Issue written notice pursuant to Subsection 4202.2;
- (b) Arrange for alternative services prior to effectuating the discharge, transfer, suspensions or service termination;
- (c) Provide the beneficiary and DHCF (at DHCFLCAProvider@dc.gov) with a copy of the plan identifying alternative services, identify the alternative services and include timelines describing when the alternative services will be put in place;
- (d) Contact the Department of Health (DOH) Health Regulation and Licensing Administration, and Adult Protective Services if the provider believes that the beneficiary's health is at risk as a result of the discharge, transfer, suspension or service termination; and
- (e) In the case of transfers, including transfers to a new case management agency, ensure that an agreement between the transferring agency and receiving agency is executed before the transfer is executed.

4205.16 A case manager or case management agency shall notify DHCF or its designee of the need to send a written notice pursuant to the grounds of disenrollment from the EPD Waiver Program set forth in Subsections 4205.7(e) through (g) within five (5) business days of learning of the event in question.

4206 ASSURING CULTURAL COMPETENCY

4206.1 In accordance with Title VI of the Civil Rights Act of 1964 and its implementing regulations (42 U.S.C. §§ 2000d *et seq.*, 45 CFR part 80), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132), no individual shall, on the grounds of race, color, national origin, Limited English Proficiency (LEP), or disability, be excluded from participation, be denied the benefits of, or be otherwise subjected to discrimination under any EPD Waiver Services program.

4206.2 Each provider shall develop an effective plan on language assistance for beneficiaries who are LEP , and ensure access to translation services and free

interpretation services in accordance with guidance from Department of Health and Human Services, Office of Civil Rights, available at:

<http://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-VI/index.html>.

The plan shall address the LEP needs of the population it serves and ensure compliance with the Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d *et seq.*).

- 4206.3 In accordance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and in order to prohibit discrimination on the basis of disability in programs that receive financial assistance from the federal government, each provider of EPD Waiver services shall ensure that all handicapped beneficiaries, shall have access to a provider's facilities or not be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under the Medicaid program (45 CFR § 84.21), and "shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons" (45 CFR § 84.22 (f)).

4207 RECORDS AND CONFIDENTIALITY OF INFORMATION: GENERAL

- 4207.1 Each provider of waiver services shall establish and implement a privacy plan to protect the privacy and confidentiality of a beneficiary's records.
- 4207.2 The disclosure of information by a provider of waiver services shall be subject to all provisions of applicable District and federal laws governing the privacy and security of health and personal information.
- 4207.3 Each provider of waiver services shall maintain comprehensive records of the waiver services provided to each beneficiary, and shall maintain each record for a period of no less than ten (10) years.
- 4207.4 Each beneficiary's electronic case management record shall include, but shall not be limited to, the following information:
- (a) General information including each beneficiary's name, Medicaid identification number, address, telephone number, age, sex, name and telephone number of emergency contact person, physician's name, address, and telephone number;
 - (b) A signed copy of the beneficiary's Bill of Rights and Responsibilities;
 - (c) A complete PCSP which includes all signatures as required in Section 4204 of this chapter;

- (d) A copy of the initial and annual level of care determinations or the results of the comprehensive assessment tool;
- (e) A record of the initial signed Waiver Beneficiary Freedom of Choice form;
- (f) A record of all case management in-home site visits and telephone contacts;
- (g) A record of all PERS plans of care, if PERS were approved under the PCSP;
- (h) A record of the initial and annual Pre-Admission Screening and Resident Review (PASRR) for mental illness, cognitive deficiency, and intellectual/developmental disability and Psychiatric Evaluation, as necessary;
- (i) A record of quarterly reviews and narrative notes;
- (j) A record of the beneficiary's initial and annual health history;
- (k) A record of all prior authorizations for services;
- (l) A record of all requests for program modification requests including initiations, changes, discharges, transfers, suspensions, and terminations;
- (m) A discharge summary, if applicable;
- (n) Any other records necessary to demonstrate compliance with all regulations, requirements, guidelines, and standards for the implementation and administration of this waiver; and
- (o) A copy of all monthly supervisory assessments including other clinical documentation.

4207.5 Each direct-services provider of waiver services shall be responsible for maintaining records related to the provision of services delivered in accordance with the specific provider requirements set forth under this chapter.

4208 ACCESS TO RECORDS

4208.1 Each provider of waiver services shall allow appropriate DHCF personnel, representatives of the U.S. Department of Health and Human Services and other authorized designees or officials of the District of Columbia government and federal government full access to all records upon request and during announced or unannounced audits or reviews.

4209 REIMBURSEMENT: GENERAL

- 4209.1 DHCF shall not reimburse any provider of Waiver services who:
- (a) Fails to comply with any applicable regulation in this chapter;
 - (b) Fails to comply with all applicable federal and District of Columbia laws, and regulations;
 - (c) Fails to comply with all applicable transmittals, rules, manuals and other requirements for payment issued by DHCF;
 - (d) Provides services in the absence of an approved prior authorization from DHCF or its designee for payment identifying the authorized service, number of hours or units authorized, duration, and scope of service; and
 - (e) Fails to comply with the terms of the Medicaid Provider Agreement.
- 4209.2 Each provider of Waiver services shall agree to accept as payment in full the amount determined by DHCF as reimbursement for the authorized waiver services provided to beneficiaries.
- 4209.3 Each provider shall agree to bill any and all known third-party payers prior to billing Medicaid.
- 4209.4 For purposes of this chapter, the effective date of EPD Waiver Year five (5) is January 4, 2016 through January 4, 2017.
- 4209.5 In accordance with CMS' cost neutrality requirements, DHCF may limit or deny Waiver services if the cost of the services in addition to other home care services, exceeds the estimated cost of institutional care.

4210 REIMBURSEMENT RATES: CASE MANAGEMENT SERVICES

- 4210.1 Case management services shall be reimbursable on a per member per month (PMPM) basis.
- 4210.2 The PMPM reimbursement rate during Waiver Year 5 shall be two hundred forty-five dollars and ninety-six cents (\$245.96), contingent on performance of the monthly and ongoing care coordination activities outlined in Section 4223.
- 4210.3 In order for a case management agency to receive reimbursement for case management services, each Case Manager must perform case management duties either on a full-time or on a part-time basis. At any point in time, no more than forty-five (45) beneficiaries shall be assigned to each Case Manager.

- 4210.4 The case management agency shall ensure case management services are available during regular business hours and shall be on call during weekends and evenings in case of emergency.
- 4210.5 Reimbursement for transitional case management services provided during a hospital or nursing facility (*i.e.*, institutional) stay shall not exceed one hundred twenty (120) days. Reimbursement shall be contingent on the Case Manager's performance of activities during the institutional stay that facilitate transition to the community, consistent with the reimbursement standards for transitional case management set forth in Subsection 4223.9.
- 4210.6 Reimbursement for transitional case management services shall be made only after the beneficiary returns to the home or community setting and not during the beneficiary's institutional stay.

4211 REIMBURSEMENT RATES: PERSONAL CARE AIDE (PCA) SERVICES

- 4211.1 A home care agency seeking reimbursement for PCA services shall meet the conditions of participation for home health agencies set forth in 42 CFR Part 484, and shall comply with the requirements set forth in the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.*)
- 4211.2 For dates of services beginning November 3 through December 31, 2015, each Provider shall be reimbursed five dollars (\$5.00) per unit of service for allowable services in accordance with the Patient Protection and Affordable Care Act of 2010, approved March 23, 2010 (Pub. L. No. 111-148, 124 Stat. 119), as amended, and supplemented by the Health Care and Education Reconciliation Act of 2010, approved March 30, 2010 (Pub. L. No. 111-152, 124 Stat. 1029) and the District of Columbia Accrued Sick and Safe Leave Act of 2008, effective May 13, 2008 (D.C. Law 17-152; D.C. Official Code §§ 32-131.01 *et seq.*) The reimbursement rate includes administrative costs following the recent review of the FY 2013 Home Health Agencies cost reports, of which no less than three dollars and forty-five cents (\$3.45) shall be paid to the personal care aide to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2012 Repl.)).
- 4211.3 For dates of services beginning January 1, 2016, each provider shall be reimbursed five dollars and two cents (\$5.02) per unit of service for allowable services as authorized in the approved plan of care, of which no less than three dollars and forty-six cents (\$3.46) per fifteen (15) minutes for services rendered by a PCA, shall be paid to the PCA to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2012 Repl.)).

- 4211.4 Subsequent changes to the reimbursement rate(s) shall be posted on the Medicaid fee schedule at www.dc-medicaid.com. DHCF shall also publish a notice in the *D.C. Register* which reflects the change in the reimbursement rate(s) at least thirty (30) days before a change is made to the reimbursement rate.
- 4211.5 A unit of service for PCA services shall be fifteen (15) minutes spent performing allowable tasks.
- 4211.6 Reimbursement for PCA services under the Waiver shall not exceed sixteen (16) hours of service per day per beneficiary.
- 4211.7 A provider of waiver services shall not bill the beneficiary or any member of the beneficiary's family for PCA services.
- 4211.8 DHCF shall not reimburse a provider of PCA services for services provided by the waiver beneficiary's spouse, or other legally responsible relative or court-appointed guardian with the exception of parents of adult children.

4212 REIMBURSEMENT RATES: PERSONAL EMERGENCY RESPONSE SERVICES (PERS)

- 4212.1 The reimbursement rate during EPD Waiver Year 5 for PERS shall be forty dollars (\$40.00) for one (1) installation and twenty-eight dollars and fifty cents (\$28.50) per month for the rental/maintenance fee consistent with the PERS program services set forth in Section 4229.

4213 REIMBURSEMENT RATES: RESPITE SERVICES

- 4213.1 For individuals needing one (1) to seventeen (17) hours per day, the reimbursement rate for respite services during Waiver Year 5 shall be twenty dollars and sixty cents (\$20.60) per hour. For individuals needing eighteen (18) to twenty-four (24) hours per day, the reimbursement rate during Waiver Years 4 and 5 shall be a flat rate of three hundred dollars (\$ 300.00) per day.
- 4213.2 Consistent with Section 4231, respite services shall be limited to a total of four hundred and eighty (480) hours per year per beneficiary unless the need for additional services is prior authorized by DHCF or its designee.
- 4213.3 DHCF shall not reimburse a provider of respite services for services provided by the waiver beneficiary's spouse, or other legally responsible relative or court-appointed guardian with the exception of parents of adult children. Non-legally responsible relatives including parents of adult children may provide and be reimbursed for respite services provided they meet the requirements of Section 4230.

4213.4 DHCF shall not reimburse for the cost of room and board except when provided as part of respite care furnished in a facility approved by the District of Columbia that is not a private residence.

4213.5 When respite is provided in a facility, including assisted living, group home, or other community care residential facility, the facility must meet all HCBS setting requirements consistent with Section 4200.

4214 REIMBURSEMENT RATES: HOMEMAKER SERVICES

4214.1 The reimbursement rate for homemaker services during Waiver Year 5 shall be eighteen dollars and seventy five cents (\$18.75) per hour with an annual cap of two hundred and eight (208) hours per beneficiary per year.

4214.2 DHCF shall not reimburse a provider of homemaker services for services provided by the waiver beneficiary's spouse, or other legally responsible relative or court-appointed guardian with the exception of parents of adult children. Non-legally responsible relatives including parents of adult children may provide homemaker services provided they meet the requirements of Section 4232.

4215 REIMBURSEMENT RATES: CHORE AIDE SERVICES

4215.1 The reimbursement rate for chore aide services for Waiver Year 5 shall be eighteen dollars and seventy five cents (\$18.75) per hour with a cap of thirty two (32) units per beneficiary throughout the Waiver period, with a unit being one (1) hour of service.

4215.2 DHCF shall not reimburse any home care agency, or licensed provider of housekeeping services that provide chore aide services in residences where another party is otherwise responsible for the provision of the services, such as group home providers.

4215.3 DHCF shall not reimburse a provider of chore aide services for services provided by the waiver beneficiary's spouse, or other legally responsible relative or court-appointed guardian with the exception of parents of adult children. Non-legally responsible relatives including parents of adult children may provide chore aide services provided they meet the requirements of Section 4234.

4215.4 Chore aide services shall not be reimbursed by the DHCF unless the agency or business provides documentation of pre- and post-cleaning activities as referenced in Subsection 4234.10.

4216 REIMBURSEMENT RATES: ASSISTED LIVING SERVICES

4216.1 The reimbursement rate for assisted living services during Waiver Year 5 shall be sixty dollars (\$60.00) per day.

- 4216.2 The rate shall be an all-inclusive rate for all services provided as set forth in Section 4237.
- 4216.3 Medicaid reimbursement will not be made for twenty-four (24) hour skilled care, costs of facility maintenance, upkeep and improvement, and room and board. Covered services shall be in accordance with Section 4237.
- 4216.4 Beneficiaries may seek subsidies outside of the Home and Community Based Waiver for Persons who are Elderly and Individuals with Physical Disabilities (EPD Waiver) to pay for room and board through the Optional State Supplemental Payment Program.
- 4216.5 DHCF shall not reimburse for assisted living services provided concurrently with the following EPD Waiver services:
- (a) Homemaker services;
 - (b) Chore Aide services;
 - (c) PERS;
 - (d) Respite services; or
 - (e) Environmental accessibility adaptations services.
- 4216.6 PCA services are included for beneficiaries residing in assisted living as part of the all-inclusive rate. Therefore, consistent with Section 4237, assisted living providers cannot concurrently bill for assisted living services and PCA services under the State Plan benefit, unless a prior authorization for PCA State Plan services are received.
- 4216.7 Upon submission of the justification for additional PCA services beyond those offered under the all-inclusive rate, and the receipt of a prior authorization by DHCF or its designee, beneficiaries residing in assisted living may receive assisted living services concurrently with PCA services under the State Plan benefit.
- 4216.8 PCA services under the State Plan benefit may be used in combination or on the same day as adult day health services, as long as these services are not billed “concurrently” or during the same time.
- 4216.9 When a beneficiary enrolled in the EPD Waiver is receiving PCA services under the State Plan benefit and any adult day services (waiver or State Plan) on the same day, the combination of both PCA received under the State Plan benefit and adult day services shall not exceed a total of sixteen (16) hours per day.

4217 REIMBURSEMENT RATES: ENVIRONMENTAL ACCESSIBILITY ADAPTATION

4217.1 Environmental accessibility adaptations services shall be reimbursed in accordance with the applicable requirements set forth in Sections 4238 through 4239 of this chapter.

4218 REIMBURSEMENT RATES: ADULT DAY HEALTH

4218.1 The reimbursement rate for adult day health services during Waiver Year 5 shall be a per-diem rate of one hundred and twenty five dollars and seventy eight cents (\$125.78).

4218.2 A provider shall not be reimbursed for adult day health services if the beneficiary enrolled in the waiver is concurrently receiving the following services:

- (a) Intensive day treatment or day treatment mental health rehabilitative services (MHRS) under the District of Columbia State Plan for Medical Assistance (State Plan);
- (b) Personal Care Aide services; (State Plan or Waiver);
- (c) Services funded by the Older Americans Act of 1965, approved July 14, 1965 (Pub. L. No. 89-73, 79 Stat. 218); or
- (d) 1915(i) State Plan Option services under the State Plan.

4218.3 If a beneficiary is eligible for adult day health services under the Waiver and intensive day treatment MHRS, a provider shall not be reimbursed for adult day health services if the beneficiary is receiving intensive day treatment mental health rehabilitation services on the same day, or during a twenty-four (24) period that immediately precedes or follows the receipt of adult day health services.

4218.4 Adult day health services shall not be provided for more than five (5) days per week and for more than eight (8) hours per day.

4218.5 Adult day health services may be used in combination or on the same day as PCA services, as long as these services are not billed “concurrently” or during the same time.

4218.6 When a beneficiary enrolled in the EPD Waiver is receiving PCA and adult day services on the same day, the combination of both PCA and adult day services shall not exceed a total of sixteen (16) hours per day.

4219 REIMBURSEMENT RATES: PHYSICAL THERAPY

4219.1 The reimbursement rate for physical therapy for Waiver Year 5 shall be sixteen dollars and twenty five cents (\$16.25) per unit, where one unit of service is equivalent to fifteen (15) minutes of service delivery.

4219.2 Reimbursement of physical therapy services shall be limited to four (4) hours per day and one hundred (100) hours per calendar year. Requests for additional hours may be submitted to DHCF or its agent and approved when accompanied by a physician's order or when the request has passes a clinical review by staff designated by the State Medicaid Director to provide oversight on the utilization of additional services.

4220 REIMBURSEMENT RATES: OCCUPATIONAL THERAPY

4220.1 The reimbursement rate for occupational therapy during Waiver Year 5 shall be sixteen dollars and twenty five cents (\$16.25) per unit, where one unit of service is equivalent to fifteen (15) minutes of service delivery.

4220.2 Reimbursement of occupational therapy services shall be limited to four (4) hours per day and one hundred (100) hours per calendar year. Requests for additional hours may be submitted to DHCF or its agent and approved when accompanied by a physician's order or when the request passes a clinical review by staff designated by the State Medicaid Director to provide oversight on the utilization of additional services.

4221 PROVIDER REQUIREMENTS: GENERAL

4221.1 Each provider approved to provide one or more Waiver services shall meet the following minimum requirements:

- (a) Demonstrate compliance with all applicable provisions of Chapter 94 (Medicaid Provider and Supplier Screening, Enrollment, and Termination) of Title 29 DCMR;
- (b) Have a completed, approved, and current Medicaid Provider Agreement with DHCF before providing any waiver services; and
- (c) Be licensed to do business in the District of Columbia, if required by this chapter.

4221.2 Each provider of waiver services shall demonstrate a comprehensive knowledge and understanding of the EPD Waiver program including:

- (a) Knowledge of Medicaid State Plan services and limitations;
- (b) Knowledge of community resources (legal, housing, energy, food, transportation, and other medical and social assistance) and the methods of accessing these resources; and

- (c) An understanding of the relationship between Medicaid State Plan and waiver services.
- 4221.3 Each provider of waiver services shall immediately notify DHCF's Long Term Care Administration when a beneficiary is institutionalized, hospitalized or has his or her waiver services suspended for a reason other than those which not result in an official notice of suspension as set forth in Section 4205.
- 4221.4 Each provider of waiver services shall demonstrate a service history and current capacity to assist beneficiaries in accessing services provided through the District of Columbia Office on Aging or other agencies serving the elderly and individuals with physical disabilities.
- 4221.5 Each provider of waiver services shall require and thoroughly check at least two (2) professional references on all staff entering the home of a waiver beneficiary.
- 4221.6 Each waiver service provider with employees providing direct care in a beneficiary's home or permanent place of residence shall have a proof of compliance with the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999, as amended by the Health-Care Facility Unlicensed Personnel Criminal Background Check Amendment Act of 2002, effective April 13, 2002 (D.C. Law 14-98; D.C. Official Code §§ 44-551 *et seq.*).
- 4221.7 No employee of a waiver services provider who has been convicted of a felony, a crime involving abuse, neglect, or violence against the person of another, or crime involving theft or larceny under federal or District law shall provide services to a beneficiary.
- 4221.8 Each provider of waiver services shall conduct a performance evaluation of all staff after the first three (3) months of employment and annually thereafter, maintain all performance evaluation files for a period of no less than ten (10) years, and make such files available for review by appropriate DHCF personnel, representatives of the U.S. Department of Health and Human Services and other authorized designees or officials of the District of Columbia government and federal government.
- 4221.9 Each provider of direct care services shall ensure that all staff providing direct care services is trained in universal precautions prior to the provision of any service.
- 4221.10 Universal precautions training shall be included as a component of annual continuing education classes for all staff, including homemakers, who may encounter blood or bodily fluids while providing direct care services.
<https://www.osha.gov/SLTC/etools/hospital/hazards/univprec/univ.html>.

Documentation of universal precautions training shall be maintained in an employee's file for a period of no less than ten (10) years.

4221.11 Each provider of waiver services shall establish and implement a process to ensure that each beneficiary has:

- (a) Been informed of and given his or her freedom of choice in the selection of all qualified service providers; and
- (b) Been informed of his or her rights and responsibilities under the waiver program.

4221.12 When a waiver beneficiary chooses an individual, or family member other than a primary caregiver, the beneficiary's spouse, or other legally responsible relative, or court-appointed guardian to provide direct care services, these individuals shall be subject to the same certification requirements as other service providers described within this chapter.

4221.13 Each provider of waiver services shall attend all mandatory provider meetings and trainings hosted by DHCF when scheduled.

4222 SPECIFIC PROVIDER REQUIREMENTS: CASE MANAGEMENT SERVICES

4222.1 Each individual providing case management services shall meet the following requirements:

- (a) Be at least eighteen (18) years of age;
- (b) Be a United States citizen or alien who is lawfully authorized to work in the United States;
- (c) Provide proof by submitting photocopies of the supporting documents for the Immigration and Naturalization Service's Form I-9 requirements;
- (d) Be able to read and write English;
- (e) Be acceptable to the beneficiary using the Waiver service;
- (f) Confirm, on an annual basis, that he or she is free of active tuberculosis by undergoing an annual purified protein derivative (PPD) skin test;
- (g) Confirm, on an annual basis, that he or she is free of communicable diseases by undergoing an annual physical examination by a physician, and obtaining written and signed documentation from the

examining physician that confirms he or she is free of communicable diseases; and

- (h) Provide to each case management service provider for whom he or she works:
 - (1) Evidence of acceptance or declination of the Hepatitis vaccine; and
 - (2) A completed DHCF Conflict-Free Case Management Self-Attestation Form described in Subsection 4222.2.

4222.2 Effective March 25, 2016, except as provided in Subsection 4222.3, an individual providing case management services, who is employed or under contract to a Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities (EPD Waiver) case management service provider shall self-attest to meeting the CMS conflict-free standards in accordance with 42 CFR § 441.301(c)(1)(vi) using the DHCF Conflict-Free Case Management Self-Attestation Form. Under these standards, individual case managers shall not:

- (a) Be related by blood or marriage to the person receiving services, or to any paid caregiver of the person;
- (b) Be financially responsible for the person, or be empowered to make financial or health decisions on the person's behalf;
- (c) Have a financial relationship, defined in 42 CFR § 411.354, with any entity that is paid to provide care for the person; and
- (d) Be employed by any entity that is a provider of a person's PCA services or any other direct services under the EPD Waiver.

4222.3 An individual providing EPD Waiver case management services shall meet the requirements of Subparagraph 4222.1(h)(2) no later than July 1, 2016.

4222.4 EPD Waiver case management service providers shall ensure they have a copy of the DHCF Conflict-Free Case Management Self-Attestation Form on file for each case manager prior to submission of any claims for case management services provided by that case manager on or before July 1, 2016. DHCF Conflict-Free Case Management Self-Attestation Forms are subject to inspection and audit and must be produced upon request.

4222.5 Individuals conducting case management services shall meet one of the following educational requirements:

- (a) Have a current license in nursing, social work, psychology, counseling, occupational, physical, or speech therapy with a Master's degree in social work, psychology, counseling, rehabilitation, nursing, gerontology, or sociology, and have at least one (1) year of experience working with the elderly or individuals with physical disabilities;
- (b) Have a current license in nursing, social work, psychology, counseling, occupational, physical, or speech therapy with a Bachelor's degree in social work, psychology, counseling, rehabilitation, nursing, gerontology, or sociology, and have two (2) years of experience working with the elderly or individuals with physical disabilities; or
- (c) Have a current license as a Registered Nurse (RN), have an Associate degree in nursing, and have at least three (3) years of experience working with the elderly and individuals with physical disabilities.

4222.6 Case management service providers shall not provide medical, financial, legal, or other services or advice for which they are not qualified or licensed to provide (except for providing referrals to qualified individuals, agencies, or programs).

4222.7 Effective March 25, 2016, except as provided in Subsection 4222.8, in accordance with 42 CFR § 441.301(c)(1)(vi), the following providers shall not be eligible to provide case management services:

- (a) An entity that is a Medicaid provider of PCA services or any other direct services under the EPD Waiver; or
- (b) An entity that has a financial relationship, as defined in 42 CFR § 411.354, with a Medicaid provider of PCA services or any other direct services under the EPD Waiver.

4222.8 Effective March 25, 2016, an entity that is enrolled to provide case management services that is also a Medicaid provider of PCA services or any other direct services under the EPD Waiver; or has a financial relationship, as defined in 42 CFR § 411.354, with a Medicaid provider of PCA services or any other direct services under the EPD Waiver, shall have until July 1, 2016, to come into compliance with Subsection 4222.7.

4222.9 An entity described in Subsection 4222.8 shall notify DHCF of its election to continue or discontinue providing case management services no later than September 1, 2015. An entity that chooses to discontinue case management services shall submit a transition plan to DHCF no later than October 1 2015, and shall cooperate with DHCF to effectuate the orderly and timely transition of its enrollees to other case management providers that meet the conflict-free case management standards. These transition plans shall include sufficient safeguards to protect individuals who may experience gaps in services during transitions,

including demonstrating efforts to ensure compliance with any notice or due process rights governed under local and federal law in case of service suspensions, or terminations.

- 4222.10 Each case management service provider shall conduct an initial evaluation within forty-eight (48) business hours of receiving the waiver referral and prior to the development of the PCSP. All initial PCSPs and all renewal PCSPs shall conform to the person-centered planning requirements in 42 CFR §§ 441.301(c)(1) – (3) by November 1, 2016, and case managers shall use DHCF’s person-centered-planning template, available at <http://dhcf.dc.gov/release/person-centered-planning>, to develop each beneficiary’s PCSP.
- 4222.11 Each case management service provider shall complete and submit the PCSP to DHCF or its designee for review and approval within ten (10) business days of conducting the initial evaluation.
- 4222.12 Each case management service provider shall include the person whose plan is being developed, other contributors chosen and invited by the person, and representatives of the person’s interdisciplinary team, if possible, in the initial evaluation referenced in Subsection 4222.10 and in the development and implementation of the PCSP. The person or authorized representative shall have access to the PCSP and shall be involved in the periodic review of the PCSP.
- 4222.13 It is the responsibility of the case management service provider to ensure that all other professional disciplines, as identified for resolution of identified needs, are incorporated into the PCSP. Specifically, each case management service provider shall coordinate a beneficiary’s care by sharing information with all other health care and service providers identified in the PCSP, as applicable, to ensure that the beneficiary’s care is organized and to achieve safer and more effective health outcomes.
- 4222.14 Each case management service provider shall maintain, follow, and continually update a training and supervision program to ensure the individual delivering case management services is fully trained and familiar with the waiver policies and procedures, including CMS’s conflict-free case management standards as set forth in this section.
- 4222.15 Each provider of case management services shall ensure that individuals providing case management services are appropriately supervised and that the case management service provided is consistent with the person’s PCSP.

4223 PROGRAM SERVICES: CASE MANAGEMENT SERVICES

- 4223.1 The goal of case management services shall be to ensure EPD Waiver beneficiaries have access to the services and supports needed to live in the most integrated setting including:
- (a) EPD Waiver Services,
 - (b) Non-waiver Medicaid funded services under the Medicaid State Plan; and
 - (c) Other public and private services including medical, social, and educational services and supports.
- 4223.2 Case management shall consist of the following:
- (a) Initial evaluation of the beneficiary's current and historical medical, social, and functional status to determine levels of service needs;
 - (b) Person-centered process for service planning ("person-centered planning"), including development and maintenance of the Person-Centered Service Plan (PCSP) in accordance with Section 4204;
 - (c) Monthly or ongoing care coordination activities, in accordance with Subsection 4223.8 and transitional case management services set forth in Subsection 4223.9; and
 - (d) Annual reassessment activities, in accordance with Subsection 4223.14.
- 4223.3 Consistent with Subsection 4223.2, each Case Manager shall conduct an in-person initial evaluation of the beneficiary within forty-eight (48) hours of receiving notice of his or her enrollment in the EPD Waiver.
- 4223.4 The Case Manager shall develop, complete, and submit the PCSP to DHCF, or its designee, within ten (10) business days of initiating the initial evaluation.
- 4223.5 The Case Manager shall use a person-centered planning process to develop the PCSP, described in Section 4204, with consideration of the following:
- (a) The beneficiary's personal preferences in developing goals to meet the beneficiary's needs;
 - (b) Convenience of the time and location for the beneficiary and any other individuals included in the planning and potential in-person discussions with all parties and representatives of the beneficiary's interdisciplinary team;
 - (c) Incorporating feedback from the beneficiary's interdisciplinary team and other key individuals who cannot attend in-person discussions where the

beneficiary is present;

- (d) Ensuring information aligns with the beneficiary's acknowledged cultural preferences and communicated in a manner that ensures the beneficiary and any representative(s) understand the information;
- (e) Ensuring access to effective, understandable, and respectful services in accordance with the U.S. Department of Health and Human Services' National Standards for Culturally and Linguistically Appropriate Services (CLAS) in Health and Health Care, <http://www.minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53>, and providing auxiliary aids and services, if necessary;
- (f) Providing interpreters and translated written documents for those with low literacy or Limited English Proficiency (LEP) to ensure meaningful access for beneficiaries and/or their representatives;
- (g) Incorporating a strengths-based approach which identifies the beneficiary's positive attributes, and assesses strengths, preferences, and needs;
- (h) Exploration of housing and employment in integrated settings, where planning is consistent with the goals and preferences of the beneficiary; and
- (i) Ensuring that a beneficiary under guardianship, other legal assignment, or who is being considered as a candidate for such an arrangement, has the opportunity to address concerns related to the PCSP development process.

4223.6 Except for services approved to be delivered sooner, DHCF, or its designee, shall prior authorize the services recommended in the PCSP within seven (7) business days of its receipt of the request.

4223.7 Following approval of services by DHCF, or its designee, the Case Manager shall follow-up with the selected service providers within five (5) business days to ensure services are in place at the quantity and quality that is sufficient to meet the beneficiary's needs, unless services are needed earlier and not receiving them would place the beneficiary's health in jeopardy.

4223.8 In order for case management services to be reimbursable, a Case Manager shall perform the following ongoing or monthly care coordination activities:

- (a) Direct observation of the beneficiary, including the evaluation described in Subsection 4223.3;

- (b) Follow-up to ensure DHCF, or its designee, timely uploads the beneficiary's level of care determinations into DHCF's electronic management system;
- (c) Develop and monitor the PCSP in accordance with Section 4204 and Subsection 4223.5;
- (d) Assist the beneficiary with the selection of eligible EPD Waiver providers;
- (e) Coordinate the beneficiary's waiver services to ensure safe, timely, and cost effective delivery;
- (f) Provide information, assistance, and referrals to the beneficiary, where appropriate, related to public benefits and community resources, including other Medicaid services, Medicare, Supplemental Security Income (SSI), transit, housing, legal assistance, and energy assistance;
- (g) Provide support for the beneficiary and family as needed through additional visits, telephone calls;
- (h) Monitor the performance of medical equipment and refer malfunction(s) to appropriate providers;
- (i) Maintain records related to EPD Waiver services that a beneficiary receives and upload all information into DHCF's electronic case management system;
- (j) Ensure all information uploaded into DHCF's electronic management system is legible, including monthly assessment and status updates and telephone contacts;
- (k) Assess appropriateness of beneficiary's continued participation in the waiver;
- (l) Provide information to the beneficiary, authorized representative(s), family members, or legal guardian(s) about the beneficiary's rights, Waiver provider agency procedures for protecting confidentiality, and other matters relevant to the beneficiary's decision to accept services;
- (m) Identify and resolve problems as they occur;
- (n) Acknowledge and respond to beneficiary inquiries within twenty-four (24) hours of receipt, unless a quicker response is needed to address emergencies;

- (o) Develop and implement a utilization review plan to achieve appropriate service delivery, ensure non-duplication of services, and evaluate the appropriateness, efficiency, adequacy, scope, and coordination of services;
- (p) Conduct at least monthly, or more frequently as needed, in-person monitoring visits in the beneficiary's home;
- (q) Supplement in-person monitoring visits described in Paragraph 4223.8(p) with ongoing telephone contact, as required by the individual needs of the beneficiary;
- (r) Respond to requests received during monitoring activity within forty-eight (48) hours, making necessary updates to the PCSP within seven (7) days of monitoring activity or the beneficiary /or representative's request to update the PCSP, and ensure the process and all updates comport with Section 4204 including in-person requirements;
- (s) Ensure that the updated PCSP is conducted in-person with the beneficiary, the interdisciplinary team, and others chosen by the person and other requirements of the PCSP planning and development process described in this Section;
- (t) Review the implementation of the PCSP at least quarterly, and as needed, in accordance with Subsection 4223.13;
- (u) Promptly communicate any major updates, issues, or problems to DHCF, or its designee;
- (v) Conduct all other activities related to the coordination of EPD Waiver services, including ensuring that services are utilized and are maintaining the beneficiary in the community;
- (w) Provide transitional case management services for a period not to exceed one hundred twenty (120) days during an institutional stay in order to facilitate the beneficiary's transition back to the community, in accordance Subsection 4223.9; and
- (x) Perform other service-specific responsibilities and annual reassessment activities described in Subsections 4223.10 and 4223.14.

4223.9 In order for transitional case management services to be reimbursable by Medicaid, a Case Manager shall perform the following activities:

- (a) Maintain contact with the beneficiary or representative during the institutional stay;

- (b) Ensure the beneficiary stays connected to community resources (e.g., housing) during the institutional stay and provide assistance to connect to new or reconnect to existing community resources upon discharge;
- (c) Participate in-person in the discharge planning meetings at the institutional care provider's site; and
- (d) Secure prior authorization(s) for service(s) to ensure they are in place on the first day of the beneficiary's discharge.

4223.10 In addition to the duties described in Subsections 4223.8 and 4223.9, a Case Manager shall perform the following service-specific care coordination responsibilities, if applicable:

- (a) Ensure occupational or physical therapy services provided under Early and Periodic Screening, Diagnostic and Treatment (EPSDT) are fully utilized and waiver services neither replace nor duplicate EPSDT services for a beneficiary ages eighteen (18) through twenty-one (21);
- (b) Examine existing responsibilities of the landlord or homeowner pursuant to the lease agreement (or other applicable residential contracts, laws, and regulations) prior to ordering chore aide services through the PCSP if the beneficiary needs chore aide services and resides in a rental property or a residential facility (e.g., assisted living); and
- (c) Assist the beneficiary with home adaptation assessments, evaluations, or bids in accordance with this chapter if the beneficiary requires EAA services.

4223.11 In accordance with Chapter 101 of Title 29 DCMR, for the participant-directed services program, *Services My Way*, Case Managers shall complete a standard training course on that program conducted by DHCF and participate in all required, ongoing training. Case Managers shall also perform activities related to *Services My Way* as follows:

- (a) Provide waiver applicants/beneficiaries with information about *Services My Way* as follows: at the time an EPD Waiver beneficiary is initially evaluated; when a beneficiary is reassessed for continued EPD Waiver eligibility; when the PCSP is updated; and at any other time upon request of the beneficiary or authorized representative;
- (b) Assist applicants/beneficiaries who want to enroll in *Services My Way* by overseeing the beneficiary's completion of enrollment forms and incorporating program goals into the initial PCSP or a revision of an existing PCSP;

- (c) Submit all *Services My Way* forms to the designated DHCF program coordinator;
 - (d) Communicate with support brokers to address health and safety concerns identified for *Services My Way* participants; and
 - (e) Facilitate transition from *Services My Way* to agency-based personal care aide services when a beneficiary is voluntarily or involuntarily terminated from the program.
- 4223.12 Case Managers shall also perform any other duties specified under the individual program services sections of this chapter.
- 4223.13 When conducting PCSP quarterly reviews, the Case Manager shall perform the following activities:
- (a) Review and update risk factors;
 - (b) Review stated goals, identified outcomes, services, and supports to ensure the beneficiary is receiving appropriate services for his or her needs;
 - (c) Review service utilization;
 - (d) Communicate with other providers regarding the beneficiary's goals and progress;
 - (e) Identify and resolve problems;
 - (f) Provide referrals or linkages to community resources;
 - (g) Revise the PCSP, if needed, to reflect changes in needs, goals, and services; and
 - (h) Document results of PCSP quarterly reviews in DHCF's electronic case management system, including a summary of the status of the beneficiary's receipt of services and supports.
- 4223.14 The Case Manager shall ensure a beneficiary timely completes Medicaid reassessment(s) as part of the annual recertification requirements. This includes, but is not limited to, the following activities:
- (a) Collecting and submitting documentation to DHCF, or its designee, such as medical assessments and clinician authorization forms;

- (b) Assisting the beneficiary to receive an annual, and as needed, level of care assessment from DHCF, or its designee, to verify the beneficiary's need for EPD Waiver services;
- (c) Ensuring information is uploaded to DHCF's electronic case management system at least sixty (60) days prior to the expiration of the beneficiary's current certification period;
- (d) Collecting financial eligibility (*i.e.*, income) information from the beneficiary and/or the authorized representative and transmitting to DHCF, or its designee;
- (e) Reevaluating the beneficiary's goals, level of service and support needs, and updating and/or revising the PCSP to reflect any updates;
- (f) Assessing progress in meeting established goals, as documented in the PCSP and ensuring that the information is forwarded to DHCF;
- (g) Coordinating any change requests, including adding new services; and
- (h) After the approval of services by DHCF, or its designee, following-up with selected service providers within five (5) business days of the approval to ensure services are in place.

4224 CASE MANAGEMENT AGENCY AND CASE MANAGER RESPONSIBILITIES

- 4224.1 Case management agencies shall ensure that case managers shall not have a client caseload exceeding forty (45) persons (inclusive of Medicaid and non-Medicaid beneficiaries).
- 4224.2 In accordance with Section 4210, the case management agency shall be responsible for ensuring that case managers are available during regular business hours Monday through Friday, and on call during weekends and evenings in cases of emergency.
- 4224.3 Each case manager shall take all required trainings offered by DHCF in order to promote the efficient and effective delivery of Medicaid-financed services.
- 4224.4 Each case management agency shall develop an emergency response policy or plan to convey expectations of case managers whereby the case manager coordinates and implements services and ensures the beneficiary's safety, and wellness upon the beneficiary's notification to the case manager about the need for emergency care. This shall also include how the case managers are expected to be available and on call during weekends and evenings in cases of emergency as referenced in Subsection 4224.2.

- 4224.5 Each case management agency shall develop an incident management reporting policy to report, investigate, and follow-up the results of the investigation conducted pursuant to DHCF's Long Term Care Administration's incident management policy, as set forth in Section 4250 (Incidents and Complaints).
- 4224.6 In accordance with Section 4205, a case manager may coordinate the approval by DHCF or its designee for all program modification requests. These include requests to initiate, change, transfer, terminate, discharge, or suspend services.
- 4224.7 When coordinating program modification requests, the case manager shall ensure that provider requirements including notices and steps to ensure safe discharge, suspensions, transfers or service terminations were met.
- 4224.8 In the event that a change in service is requested, the beneficiary's case manager shall ensure that the PCSP is updated to reflect the change. Changes in service shall not be implemented until the PCSP is updated, approved by DHCF or its designee, and shared with the beneficiary and/or the authorized representative, unless a delay in the receipt of services would put the beneficiary's health and safety at risk, or if services are needed to effectuate a timely discharge from an institution.
- 4224.9 If EPD Waiver services are needed to effectuate a timely discharge from an institution during transitional case management, the case manager shall coordinate the modifications to change and/or initiate services by DHCF or its designee by submitting a new beneficiary freedom of choice form whereby the beneficiary elects to receive HCBS services and the case manager must amend the PCSP to reflect the services within ten (10) business days of the submission of the request to DHCF or its designee to authorize services.
- 4224.10 The case manager or case management agency shall coordinate dis-enrollments from the EPD Waiver program in accordance with the criteria set forth in Section 4205.

4225 SPECIFIC PROVIDER REQUIREMENTS: PERSONAL CARE AIDE SERVICES

- 4225.1 A personal care aide services provider shall meet the provider requirements as set forth in Chapter 50 (Medicaid Reimbursements for Personal Care Aide Services) of Title 29 DCMR. These shall include, but shall not be limited to:
- (a) Provider and Personal Care Aide (PCA) qualifications;
 - (b) Staffing and administration requirements; and
 - (c) Notice requirements.

4226 SPECIFIC ELIGIBILITY REQUIREMENTS: PERSONAL CARE AIDE SERVICES

- 4226.1 To receive Medicaid reimbursement for personal care aide (PCA services the beneficiary shall first exhaust all available PCA hours provided under the State Plan for Medical Assistance (Medicaid State Plan).
- 4226.2 To be eligible for Medicaid reimbursement of PCA services under the EPD Waiver program, each beneficiary shall have an assessed need for PCA services as established by the conflict-free assessment that cannot be met by State Plan PCA services alone.

4227 PROGRAM SERVICES: PERSONAL CARE AIDE SERVICES

- 4227.1 A provider shall deliver PCA services consistent with the program service requirements set forth in Chapter 50 of Title 29 DCMR. These include:
- (a) Plan of Care requirements;
 - (b) Scope of Services; and
 - (c) Non-reimbursable tasks or services.
- 4227.2 A PCA provider shall employ an R.N. to develop a plan of care for delivering PCA services that is consistent with the goals of the PCSP.
- 4227.3 The plan of care shall be developed and reviewed in accordance with all of the requirements set forth in Chapter 50 of Title 29 DCMR, and be consistent with the goals of the PCSP.
- 4227.4 In accordance with Chapter 50 of Title 29 DCMR, PCA services under the State Plan benefit shall not be provided in a hospital, nursing facility, intermediate care facility or any other living arrangement which includes PCA services as a part of its reimbursement rate with the exception of assisted living.
- 4227.5 As referenced in Subsection 4216.6, beneficiaries residing in assisted living may receive additional PCA services under the State Plan benefit upon prior authorization by DHCF or its designee.
- 4227.6 A beneficiary receiving adult day health services and PCA services on the same day shall be limited to a maximum of a total of sixteen (16) hours of combined services a day.

4228 SPECIFIC PROVIDER REQUIREMENTS: PERSONAL EMERGENCY RESPONSE SERVICES (PERS)

- 4228.1 Each Personal Emergency Response Services (PERS) provider shall:
- (a) Provide in-home installation of all equipment necessary to make the service fully operational (including batteries);
 - (b) Provide beneficiary and representative instruction on usage, maintenance, and emergency protocol of the PERS;
 - (c) Provide equipment maintenance (both in-home and response center);
 - (d) Provide twenty-four (24) hours per day, seven (7) days per week response center monitoring and support;
 - (e) Conduct equipment testing, monitoring, and maintenance (both in-home and response center equipment);
 - (f) Conduct monthly service checks;
 - (g) Provide documentation of all services provided, beneficiary contacts, equipment and system checks, and equipment servicing;
 - (h) Make available emergency equipment repairs to the beneficiary on a twenty-four (24) hours per day, seven (7) days per week basis; and
 - (i) Allow the beneficiary to designate responder(s) who will respond to emergency calls. Responders may be relatives, friends, neighbors, or medical personnel.
- 4228.2 PERS shall not be provided to waiver beneficiaries who:
- (a) Are unable to understand and demonstrate proper use of the system; or
 - (b) Live with a person who assumes responsibility for providing care (to the beneficiary) and the waiver beneficiary is subsequently not left alone for significant periods of time.
- 4228.3 Each PERS provider shall ensure that contractors are properly supervised and that the service provided is consistent with the beneficiary's PCSP.
- 4228.4 A PERS provider shall be exempt from the requirement to comply with an annual tuberculosis (TB) test; and
- 4228.5 A PERS provider shall be licensed to do business in the state in which it is incorporated.

4229 PROGRAM SERVICES: PERS

- 4229.1 PERS is an electronic system located in a beneficiary's home that summons assistance from a friend, relative, or an emergency services provider (police, fire department, or ambulance) and shall be available twenty-four (24) hours a day, seven (7) days a week.
- 4229.2 Each PERS system shall be comprised of three (3) basic elements:
- (a) A small radio transmitter (portable help button) carried by the user;
 - (b) A console or receiving base connected to a user's telephone; and
 - (c) A response center or responder to monitor the calls.
- 4229.3 The PERS shall be comprised of two (2) processes:
- (a) Installation of the service unit; and
 - (b) On-going monitoring of the system.
- 4229.4 The unit of service shall be as follows:
- (a) One (1) unit per year for installation and testing of the PERS system; and
 - (b) Twelve (12) units per year for monthly rental, maintenance and service fee.
- 4229.5 The PERS shall be:
- (a) Approved by the Case Manager as part of the beneficiary's PCSP; and
 - (b) Completed by personnel who are employed by the PERS provider. A copy of the approved PCSP shall be incorporated into the beneficiary's service record. The record shall be maintained for a period of no less than ten (10) years.

4230 SPECIFIC PROVIDER REQUIREMENTS: RESPITE SERVICES

- 4230.1 In order to receive Medicaid reimbursement a respite service provider shall be a Medicaid enrolled home care agency approved by DHCF to deliver respite services in the District of Columbia.
- 4230.2 In order to receive Medicaid reimbursement for respite services, a home care agency providing respite services shall require that respite staff be certified as a Home Health Aide in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2012 Repl. & 2016 Supp.)), and implementing rules, Chapter 93 (Home Health Aides) of Title 17 DCMR.

- 4230.3 DHCF requires respite staff to undergo any training as required pursuant to their DOH certification. Additionally, a respite service provider shall ensure that staff will receive individualized-in-service training about the beneficiary's needs from the supervisory nurse. The continuing education or individualized in-service training for respite services shall be specifically designed to increase the staff's knowledge and understanding of the beneficiary's unique needs.
- 4230.4 Comprehensive records identifying dates of any training including the individualized in-service training and topics covered shall be maintained in each employee's personnel file.
- 4230.5 The respite service provider shall develop and implement an initial intake assessment that:
- (a) Assesses the beneficiary's respite needs; and
 - (b) Identifies the appropriate qualifications of the respite staff required to meet the identified needs.
- 4230.6 A Registered Nurse (R.N.) who possesses the following qualifications shall conduct the initial intake assessment:
- (a) Be licensed to practice registered nursing in the District of Columbia in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2012 Repl. & 2016 Supp.)), and implementing rules, Chapter 54 (Registered Nursing) of Title 17 DCMR;
 - (b) Be employed or contracted by the approved home care agency; and
 - (c) Have at least one (1) year of experience working with the elderly and individuals with physical disabilities.
- 4230.7 After conducting the initial intake assessment, the R.N. shall:
- (a) Establish a written emergency notification plan for each beneficiary receiving respite services;
 - (b) Document that the emergency plan has been reviewed with the beneficiary or representative and the individual staff person providing respite care; and
 - (c) Develop a plan of care for the delivery of all respite services.

- 4230.8 The case manager shall coordinate the approval of respite services to ensure that it aligns with the goals of the PCSP. For respite provided for PCA services, the R.N. referenced in Subsections 4230.6 and 4230.7 shall conduct the supervision of the respite staff.
- 4230.9 To ensure the safety of the beneficiary, respite staff shall not leave the beneficiary unattended during the hours that respite services are authorized.
- 4230.10 Each respite services provider shall maintain all documentation including records documenting dates of training and the written emergency notification plan for a period no less than ten (10) years. The waiver beneficiary shall also receive a copy of the emergency notification plan and shall keep it at his or her home or place of residence.
- 4230.11 Respite services shall not be provided to beneficiaries who do not have primary caregivers who are responsible for the provision of the beneficiary's care on an ongoing basis.
- 4230.12 A waiver beneficiary may choose an individual or family member other than a primary caregiver, the beneficiary's spouse, or other legally responsible relative, or court-appointed guardian to provide respite services. Legally responsible relatives do not include parents of an adult child, so parents of an adult child are not precluded from providing respite services.

4231 PROGRAM SERVICES: RESPITE SERVICES

- 4231.1 Respite services are intended to relieve the beneficiary's primary caregiver to provide a range of activities associated with the PCA's role.
- 4231.2 Medicaid reimbursable respite services shall include:
- (a) Basic personal care such as bathing, grooming, and assistance with toileting or bedpan use;
 - (b) Assistance with prescribed, self-administered medication;
 - (c) Meal preparation in accordance with dietary guidelines and other cultural/religious dietary restrictions, and assistance with eating;
 - (d) Household tasks related to keeping the beneficiary's living areas in a condition that promotes the beneficiary's health, comfort, and safety; and
 - (e) Accompanying the beneficiary to medically related appointments.
- 4231.3 Medicaid reimbursable Respite services shall not include services that require the skills of a licensed professional, including, but not limited to, catheter insertion, procedures requiring sterile techniques, and medication administration.

- 4231.4 Medicaid reimbursable Respite services shall not include tasks usually performed by chore workers or homemakers, including cleaning of areas not occupied by the beneficiary; cleaning laundry for family members of the beneficiary; and shopping for items not used by the beneficiary.
- 4231.5 Medicaid reimbursable for a unit of service for respite care shall be one (1) to twenty-four (24) hours spent performing allowable tasks.
- 4231.6 Medicaid reimbursable Respite services shall be limited to a maximum of four hundred and eighty (480) hours per year. Requirements for respite services in excess of the established limits shall be prior-authorized by the DHCF.
- 4231.7 Medicaid reimbursable Respite services shall not be billed in combination or at the same time as Personal Care Aide services.
- 4231.8 No waiver beneficiary shall receive Medicaid reimbursement for PCA services other than those provided by the in-home respite staff during the period of time which respite services are provided.

4232 SPECIFIC PROVIDER REQUIREMENTS: HOMEMAKER SERVICES

- 4232.1 In order to be reimbursed by Medicaid, homemaker services must be provided by the following Medicaid-enrolled providers:
- (a) A home care agency which meets the conditions of participation for home care agencies as set forth in 42 CFR Part 484, by being enrolled as a Medicare provider, and complying with the requirements set forth in the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.*); or
 - (b) A business with a general business license issued by the D.C. Department of Consumer and Regulatory Affairs (DCRA) to perform housekeeping services in the District of Columbia.
- 4232.2 In order to receive Medicaid reimbursement for homemaker services, each individual providing homemaker services shall:
- (a) Be at least eighteen (18) years of age;
 - (b) Be able to successfully communicate with the beneficiary receiving EPD Waiver services;
 - (c) Pass a criminal background check;

- (d) Obtain, and maintain an updated Cardiopulmonary Resuscitation (CPR) certificate; and
- (e) Meet the qualification and training requirements pursuant to Subsections 4232.3 or 4232.4.

4232.3 In order to receive Medicaid reimbursement for homemaker services, a home care agency shall:

- (a) Require that all individual homemaker service staff be certified as a Home Health Aide in accordance with District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2012 Repl. & 2016 Supp.)), and implementing rules, Chapter 93 of Title 17 DCMR; and
- (b) Meet any ongoing training requirements required under the DOH's Home Health Aide certification requirements.

4232.4 In order to receive Medicaid reimbursement for homemaker services, a business with a general business license issued by the D.C. DCRA to provide housekeeping services shall:

- (a) Require that all individual homemaker staff shall obtain a minimum of eight (8) hours of training annually in the following areas:
 - (1) Beneficiary rights;
 - (2) Communicating effectively with beneficiaries enrolled in the waiver;
 - (3) Preventing abuse, neglect, and exploitation;
 - (4) Controlling the spread of disease and infection;
 - (5) Changing linens and bed bug prevention;
 - (6) Safe handling of cleaning chemicals (use of gloves, goggles, or masks);
 - (7) Handling hazardous waste;
 - (8) Blood-borne pathogens and bodily fluids;
 - (9) Food preparation, handling, and storage; and
 - (10) Instructions on the following:

- (A) Dusting;
- (B) Maintenance of floors (mopping or vacuuming);
- (C) Trash handling;
- (D) Laundry and safe use of detergents;
- (E) Cleaning the walls and ceiling; and
- (F) Kitchen and bathroom cleaning and maintenance.

4232.5 Supervisory staff employed by the homemaker service provider shall develop a written homemaker service delivery plan (Plan of Care) and the beneficiary's case manager shall approve the service delivery plan before it is implemented.

4232.6 The homemaker service provider shall document in-home visits and telephone contacts in the beneficiary's service delivery plan at least within thirty (30) days of its home visit.

4232.7 A copy of the homemaker service delivery plan shall be shared with the case manager and kept on-file at the Home Care Agency or the homemaker service provider licensed to provide housekeeping services.

4232.8 Each provider of homemaker services shall maintain comprehensive records including the service delivery plans, and records identifying dates of training and topics covered in each employee's personnel file for a period of no less than ten (10) years.

4232.9 An individualized in-service training plan shall be developed and implemented for each staff person when performance evaluations indicate a need for more training.

4232.10 A waiver beneficiary may choose an individual or family member other than a beneficiary's spouse, other legally responsible relative, or court-appointed guardian to provide homemaker services. Legally responsible relatives do not include parents of an adult child, so parents of an adult child are not precluded from providing homemaker services.

4232.11 Homemaker services shall not duplicate the duties provided through PCA services or respite services.

4233 PROGRAM SERVICES: HOMEMAKER SERVICES

- 4233.1 Homemaker services shall only be provided in cases where neither the beneficiary nor anyone else in the household (*i.e.*, an unpaid family caregiver) is able to provide or deliver the service.
- 4233.2 Homemaker staff may perform the following tasks when providing homemaker services:
- (a) Food preparation and storage;
 - (b) General household cleaning such as:
 - (1) Cleaning bathrooms;
 - (2) Vacuuming;
 - (3) Dusting;
 - (4) Mopping floors;
 - (5) Sweeping floors;
 - (6) Bed making;
 - (7) Linen changing;
 - (8) Wiping appliances;
 - (9) Washing dishes;
 - (10) Doing laundry and ironing clothes; and
 - (c) Running errands necessary to maintain the beneficiary in the home (for example, shopping for food or essentials needed to clean the home; picking up medicine or mailing payments for utilities).
- 4233.3 Food preparation and storage shall consist of any tasks to promote maintaining a tidy kitchen including overseeing the proper storage of any groceries by ensuring that all perishable foods are stored in the freezer or fridge.
- 4233.4 A unit of service for homemaker services shall be one (1) hour spent performing the allowable task(s).

4234 SPECIFIC PROVIDER REQUIREMENTS: CHORE AIDE SERVICES

- 4234.1 In order to receive Medicaid reimbursement, Chore Aide services shall be provided by the following Medicaid-enrolled providers:

- (a) A home care agency which meets the conditions of participation for home care agencies as set forth in 42 CFR Part 484, by being enrolled as a Medicare provider, and complying with the requirements set forth in the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective Feb. 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.*); or
- (b) A business with a general business license issued by the DCRA to perform housekeeping services in the District of Columbia.

4234.2 Each individual providing chore aide services shall:

- (a) Be at least eighteen (18) years of age;
- (b) Pass a criminal background check; and
- (c) Meet the qualification and training requirements pursuant to Subsections 4234.3 or 4234.4.

4234.3 In order to receive Medicaid reimbursement for chore aide services, a home care agency shall:

- (a) Require that all individual chore aides be certified as Home Health Aides in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2012 Repl. & 2016 Supp.)), and implementing rules, Chapter 93 of Title 17 of the DCMR, and;
- (b) Meet any ongoing training requirements required under the Department of Health's Home Health Aide certification requirements.

4234.4 In order to receive Medicaid reimbursement for chore aide services, a business with a general business license issued by the DCRA to provide housekeeping services shall:

- (a) Require that all individual chore aides shall obtain a minimum of eight (8) hours of training annually in the following areas:
 - (1) Beneficiary Rights;
 - (2) Communicating effectively with beneficiaries enrolled in the waiver;
 - (3) Preventing Abuse, Neglect, and Exploitation;
 - (4) Controlling the Spread of Disease and Infection;

- (5) Changing linens and bed bug prevention;
- (6) Safe handling of cleaning chemicals (use of gloves, goggles/masks);
- (7) Handling hazardous waste;
- (8) Blood-borne pathogens and bodily fluids; and
- (9) Instruction on the following:
 - (A) Maintenance of floors (mopping/vacuuming);
 - (B) Trash handling;
 - (C) Cleaning the walls and ceiling; and
 - (D) Kitchen and bathroom cleaning and maintenance.

- 4234.5 Supervisory staff employed by the provider shall develop a written chore aide service delivery plan (Plan of Care), and the beneficiary's case manager shall approve the service delivery plan before it is implemented.
- 4234.6 The chore aide provider shall document in-home visits and telephone contacts in the beneficiary's service delivery plan at least within thirty (30) days of its home visit.
- 4234.7 A copy of the chore aide service delivery plan shall be shared with the case manager and kept on-file at the Home Care Agency or the chore aide service provider licensed to provide housekeeping services.
- 4234.8 Each provider of chore aide services shall maintain comprehensive records including the service delivery plans, and records identifying dates of training and topics covered in each employee's personnel file for a period of no less than ten (10) years.
- 4234.9 An individualized in-service training plan shall be developed and implemented for each chore aide when performance evaluations indicate a need for more training.
- 4234.10 A chore aide service provider shall provide a pre- and post-cleaning inspection of the home or place of residence with documentation indicating that the home environment is in a state that can be maintained by ongoing and routine housekeeping.

4234.11 Each home care agency or business with a general business license issued by DCRA to provide housekeeping services shall ensure that the appropriate supervision of chore aide staff is conducted by an individual who has the following qualifications:

- (a) Be trained to evaluate the activities of chore aide staff;
- (b) Has at least two (2) years of experience supervising the activities of chore aides; and
- (c) Has been trained in basic supervision by the home care agency, or the chore aide service provider licensed to provide housekeeping services.

4234.12 An EPD waiver beneficiary may choose an individual or family member other than a beneficiary's spouse, other legally responsible relative, or court-appointed guardian to provide chore aide services. Legally responsible relatives do not include parents of an adult child, so parents of an adult child shall not be precluded from providing chore aide services.

4235 PROGRAM SERVICES: CHORE AIDE SERVICES

4235.1 In order to receive Medicaid reimbursement a unit of service for chore aide services shall be one (1) hour spent performing allowable task(s). The maximum amount of service permitted under the waiver shall be thirty-two (32) units per beneficiary for the five-year Waiver period. Service shall be limited to thirty two (32) units per beneficiary.

4235.2 Allowable tasks for chore aide services include the following:

- (a) Washing floors;
- (b) Washing windows and walls;
- (c) Tacking down loose rugs and tiles;
- (d) Moving items or furniture in order to provide safe access and egress;
- (e) Trash removal;
- (f) Removal of animal waste; and
- (g) Any other activity designed to bring the environment up to a cleanliness and safety level to enable it to be maintained by ongoing and regular housekeeping.

4235.3 Prohibited tasks for chore aide service include the following:

- (a) Hands-on care normally provided by personal care aides;
- (b) Housekeeping duties normally provided under the Homemaker service description; and
- (d) Respite services.

4236 SPECIFIC PROVIDER REQUIREMENTS: ASSISTED LIVING

- 4236.1 In order to receive Medicaid reimbursement each facility providing assisted living services shall be licensed by the District of Columbia DOH and comply with the requirements set forth in the Assisted Living Residence Regulatory Act of 2000, effective June 24, 2000 (D.C. Law 13-127; D.C. Official Code §§ 44-101.01 *et seq.*) and attendant rules.
- 4236.2 In accordance with the DOH licensure requirements, each assisted living provider shall develop an individualized service plan (Plan of Care) that identifies the services to be included for the beneficiary, and ensure that the plan is shared with the beneficiary's case manager to facilitate coordination of all services received under the EPD Waiver program's PCSP.
- 4236.3 In accordance with the Home and Community-Based setting requirements described in Subsections 4200.6 and 4200.7, each assisted living residence shall support the resident's dignity, privacy, independence, individuality, freedom of choice, decision making, spirituality and involvement of family and friends.

4237 PROGRAM SERVICES: ASSISTED LIVING SERVICES

- 4237.1 In order to receive Medicaid reimbursement Assisted living services shall be personal care and supportive services that are furnished to beneficiaries who reside in a homelike, non-institutional setting that includes twenty-four (24) hour on-site response capability to meet any scheduled or unpredictable needs of the beneficiary and to provide supervision, safety, and security.
- 4237.2 Assisted living services shall consist of any combination of the following services that meet the beneficiary's needs as outlined in the written PCSP:
- (a) Twenty-four (24) hour supervision and oversight to ensure the well-being and safety of beneficiaries;
 - (b) Assistance with activities of daily living and instrumental activities of daily living, such as PCA services to meet the scheduled and unscheduled service needs of the beneficiaries;
 - (c) Laundry and housekeeping tasks that a beneficiary is unable to perform and is normally provided under the Chore Aide and Homemaker services benefit;

- (d) Coordinating social and recreational activities;
- (d) Coordinating activities to enable access to health and social services, including social work, nursing, rehabilitative, hospice, medical, dental, dietary, counseling and psychiatric services; and
- (e) Coordinating scheduled transportation to community-based activities.

4237.3 Consistent with Subsection 4237.2(e), the assisted living provider shall coordinate the delivery of all services provided by third parties. A third party may include home care agencies, hospitals, or clinics or Adult Day Health providers.

4237.4 In situations where a beneficiary is prior authorized for PCA services to supplement services provided by the assisted living provider, the assisted living provider shall facilitate coordination by providing a copy of the individualized service plan (Plan of Care) to the case manager and the home care agency providing PCA services.

4238 SPECIFIC PROVIDER REQUIREMENTS: EAA

4238.1 In order to receive Medicaid reimbursement the case manager shall ensure that a home adaptation assessment is conducted by a licensed physician, occupational therapist, or physical therapist per a physician's order, prior to ordering EAA service(s) included in the beneficiary's PCSP.

4238.2 In order to receive Medicaid reimbursement the home adaptation assessment shall include, but not be limited to, the following:

- (a) Consulting (phone or in-person) with the beneficiary seeking EAA services, the case manager, and support team;
- (b) Conducting an on-site assessment to address the beneficiary's accessibility needs and what modifications will be needed to his or her residence; and
- (c) Drafting an EAA written report which includes a summary of the on-site assessment and recommendations of the home modifications based upon the beneficiary's needs.

4238.3 No EAA services shall be approved or reimbursed by Medicaid for a beneficiary seeking EAA services who qualifies for the Handicap Accessibility Improvement Program (HAIP) administered by the District of Columbia Department of Housing and Community Development (DHCD). The only qualified applicant for the HAIP is a certified home owner. An applicant who is a renter does not need to apply for HAIP.

- 4238.4 The case manager shall assist all eligible and certified home owners to apply for the HAIP program. If a home owner is denied participation in the program, he or she must provide a copy of the denial letter to the case manager.
- 4238.5 In the case of rental property or leased property, no EAA services shall be approved or reimbursed by Medicaid unless:
- (a) The current rental, lease agreement, or other residential agreement or contract governing the beneficiary's current residence is thoroughly examined by the Case Manager and DHCF or its designee to determine that the services are not the responsibility of the property owner or manager; and
 - (b) A signed release was obtained from the management of the property authorizing the EAA home modifications to be made.
- 4238.6 Prior to initiating EAA services, the case manager shall assist the beneficiary seeking the receipt of EAA services to obtain an evaluation or home inspection from a Certified Third Party Construction Inspector or a Licensed Contractor.
- 4238.7 The Certified Third Party Construction Inspector shall be certified under the District of Columbia Department of Consumer and Regulatory Affairs (DCRA), Third Party Inspector Program.
- 4238.8 The Licensed Contractor shall be licensed to do business in the District of Columbia by the DCRA, or shall be licensed to do business in the jurisdiction in which EAA services are to be provided.
- 4238.9 The evaluation or home inspection shall:
- (a) Determine that the beneficiary's residence is structurally sound;
 - (b) Determine whether the residence can accommodate the recommended EAA services;
 - (c) Identify any construction stipulations; and
 - (d) Recommend how the EAA home modifications should be constructed.
- 4238.10 After receiving the evaluation by the Certified Third Party Construction Inspector, or the Licensed Contractor, the case manager shall assist the beneficiary seeking EAA services to secure three (3) bids from building contractors for cost comparison of EAA services.
- 4238.11 DHCF may review documentation for approval when three (3) bids cannot be obtained for cost comparison.

- 4238.12 Each bid submitted by the building contractor for consideration for the receipt of a contract for the delivery of EAA services shall meet the following:
- (a) Accept the job specifications contained in the home inspection by the Certified Third Party Construction Inspector, or the Licensed Contractor, unless otherwise agreed to and determined by DHCF;
 - (b) Be responsible for the costs associated with bringing to completion the EAA modifications described in the home adaptation assessment, including but not limited to, the costs of all construction materials, labor, and any subsequent inspections should the work be found to be substandard.
- 4238.13 Each building contractor shall be licensed to conduct business in the District of Columbia by the District of Columbia DCRA, or licensed to do business in the jurisdiction where the EEA adaptation services are provided. Each building contractor shall ensure that all construction staff has the training and skill level required to make the allowable in-home modifications.
- 4238.14 Services shall only be authorized for Medicaid reimbursement in accordance with the following provider requirements:
- (a) For home-owners, verification of the denial letter issued by the DHCD HAIP program;
 - (b) Identification in the PCSP of the EAA service providers (Certified Third Party Contractor/Licensed Contractor and building contractor);
 - (c) Receipt of a copy of the home inspection;
 - (d) Receipt of a copy of the three (3) bids or bid submitted to the case manager for consideration of the contract to provide EAA services; and
 - (e) Verification that the EAA home modifications do not conflict with the service limitations outlined in Section 4239 of Chapter 42 of Title 29 DCMR.
- 4238.15 EAA service providers shall be exempt from the annual tuberculosis (TB) testing requirements.
- 4238.16 The EAA providers shall maintain a copy of the beneficiary's home inspection, and a copy of the bids submitted, and related documentation, for a period not to exceed ten (10) years.

4239 PROGRAM SERVICES: EAA

- 4239.1 In order to receive Medicaid reimbursement in-home modifications for EAA services include, but are not limited to, the following:
- (a) Installation of ramps and grab-bars or hand-rails;
 - (b) Widening of doorways;
 - (c) Installation of lift systems;
 - (d) Modifications of bathroom facilities; and
 - (e) Installation of specialized electric and plumbing systems necessary to accommodate medical equipment and supplies.
- 4239.2 The maximum allowable cost per beneficiary over the duration of the waiver, which expires on January 4, 2017, is ten thousand dollars (\$10,000.00) for EAA services. The ten thousand dollar (\$10,000) rate shall include a five hundred dollar (\$500) reimbursement rate per inspection for the costs associated with the home inspection or evaluation.
- 4239.3 Modifications or improvements to the home which are of general utility, meaning having no direct medical or remedial benefit to the recipient, shall not be reimbursed by Medicaid as allowable modifications for waiver services. Examples of disallowed EAA modifications include, but are not limited to, the following: carpeting; roof repair; and installation of central air conditioning.
- 4239.4 In-home modifications adding to the total square footage of the home shall be excluded from Medicaid reimbursement this benefit, except when necessary to complete an adaptation as determined by the Case Manager and DHCF or its designee.

4240 SPECIFIC PROVIDER REQUIREMENTS: ADULT DAY HEALTH

- 4240.1 In order to receive Medicaid reimbursement An Adult Day Health provider under the Waiver shall meet the requirements set forth in Chapter 97 (Adult Day Health Program Services) of Title 29 DCMR. These include, but shall not be limited to:
- (a) Provider qualifications;
 - (b) Program Administration; and
 - (c) Staffing requirements.

- 4240.2 Each Adult Day Health Program (ADHP) waiver provider shall ensure that they meet all the HCBS setting requirements consistent with Subsection 4200.6 and DHCF's Provider Readiness Review process.
- 4240.3 Each ADHP waiver provider shall ensure that an ADHP plan of care is developed for each beneficiary that outlines services to be received at the ADHP.
- 4240.4 Each ADHP waiver provider shall ensure that the ADHP plan of care is shared with the case manager and other individual service providers to facilitate the coordination of all services for the beneficiary under the PCSP.
- 4240.5 The plan of care shall incorporate the goals and principles of the PCSP and be developed in accordance with the ADHP Plan of Care requirements set forth in Chapter 97 of Title 29 DCMR.

4241 PROGRAM SERVICES: ADULT DAY HEALTH

- 4241.1 Adult day health services shall encourage adults enrolled in the EPD Waiver to live in the community by offering non-residential medical supports and supervised, therapeutic activities in an integrated community setting, to foster opportunities for community inclusion, and to deter more costly facility-based care.
- 4241.2 In order to receive Medicaid reimbursement Adult Day Health services shall consist of the following:
- (a) Medical and nursing consultation services including health counseling to improve and maintain the health, safety, and psycho-social needs of the beneficiary;
 - (b) Individual and group therapeutic activities which may include various social, recreational, and educational activities;
 - (c) Social service supports including consultations to determine the beneficiary's need for services and, guidance through counseling and teaching on matters related to the beneficiary's health, safety, and general welfare;
 - (d) Direct care supports including personal care assistance, and offering guidance in performing self-care and activities of daily living;
 - (e) Instruction on accident prevention and the use of special aides;
 - (f) Medication administration services provided by a R.N.;
 - (g) Nutrition services; and

- (h) Coordination of transportation services for therapeutic activities that are scheduled off-site.

4241.3 Consistent with Chapter 97 of Title 29 DCMR, ADHP Waiver providers shall not be reimbursed separately for transportation services, including therapeutic activities occurring off-site. However, providers shall coordinate transportation provided under the DHCF non-emergency medical transportation benefit.

4241.4 All services shall be provided in accordance with the requirements set forth in Chapter 97 of Title 29 DCMR.

4242 SPECIFIC PROVIDER REQUIREMENTS: PHYSICAL THERAPY

4242.1 Physical Therapy services shall only be reimbursed by Medicaid if they are provided by the following Medicaid-enrolled providers:

- (a) A home care agency licensed pursuant to Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (DC Law 5-48; D.C. Official Code, §§ 44-501 *et seq.*), and implementing rules; or

- (b) An independent licensed physical therapist.

4242.2 Physical therapy services shall be reimbursed by Medicaid if they are provided by a physical therapist or a physical therapy assistant working under the direct supervision of a physical therapist.

4242.3 In order to receive Medicaid reimbursement all practitioners shall meet the following requirements:

- (a) Be licensed to practice physical therapy in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2012 Repl. & 2016 Supp.)), and implementing rules, Chapter 67 (Physical Therapy) of Title 17 DCMR; or

- (b) Be a physical therapy assistant who is licensed to practice as a physical therapy assistant in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2012 Repl. & 2016 Supp.)), and implementing rules, Chapter 82 (Physical Therapy Assistants) of Title 17 DCMR.

4242.4 In order to be eligible for reimbursement, each Medicaid provider must obtain prior authorization from DHCF or its designee prior to providing, or allowing any

professional to provide physical therapy services. In its request for prior authorization, the Medicaid provider shall document the following:

- (a) The EPD Waiver beneficiary's need for physical therapy services as demonstrated by a physician's order; and
- (b) The name of the professional or home care agency that will provide the physical therapy services.

4242.5 In order to be eligible for Medicaid reimbursement, each individual providing physical therapy services shall participate in PCSP and interdisciplinary team meetings to provide consultative services and recommendations to focus on how the beneficiary is doing in achieving the functional goals that are important to him or her;

4242.6 Each Medicaid provider shall maintain the following documents for monitoring and audit reviews:

- (a) The physician's order;
- (b) A copy of the physical therapy assessment and therapy plan developed in accordance with the requirements of this Section; and
- (c) Any documents required to be maintained by DHCF as specified in Section 4251 (Audits and Monitoring/Oversight Reviews).

4243 PROGRAM SERVICES: PHYSICAL THERAPY

4243.1 Physical Therapy (PT) services shall maximize independence, prevent further disability, maintain health, and the beneficiary's functionality, and be targeted at the treatment of identified physical dysfunction or the degree to which pain associated with movement can be reduced.

4243.2 Physical therapy services shall be provided in accordance with the beneficiary's PCSP and delivered in the beneficiary's home or in a day service setting.

4243.3 Each physical therapy professional shall conduct an assessment of physical therapy needs within the first four (4) hours of service delivery, and develop a therapy plan (Plan of Care) to provide services.

4243.4 The therapy plan shall include the anticipated and measurable, functional outcomes, based upon what is important to and for the beneficiary as reflected in his or her person-centered goals in his or her PCSP and a schedule of approved physical therapy services to be provided.

- 4243.5 The therapy plan shall be submitted by the Medicaid provider to the beneficiary or authorized representative, and the case manager before services are delivered.
- 4243.6 Medicaid reimbursable physical therapy services shall consist of the following ongoing activities:
- (a) Conducting an initial assessment and annual re-assessment;
 - (b) Consulting with the beneficiary, his or her family, caregivers and interdisciplinary team to develop the therapy plan;
 - (c) Implementing therapies described in the therapy plan;
 - (d) Recording progress notes during each visit which shall contain the following:
 - (1) Progress in meeting each goal in the therapy plan;
 - (2) Any unusual health or behavioral events or change in status;
 - (3) The start and end time of any services received by the beneficiary; and
 - (4) Any matter requiring follow-up on the part of the service provider, case manager, or DHCF.
 - (e) Developing quarterly reports based on the progress notes and indicating progress in meeting each goal in the therapy plan, and any progress made on matters requiring follow-up in the progress notes;
 - (f) Submitting quarterly reports to DHCF which shall be uploaded in the EPD Waiver electronic case management system.
 - (g) Routinely assessing (at least annually and more frequently as needed) the appropriateness and quality of adaptive equipment to ensure it addresses the beneficiary's needs;
 - (h) Completing documentation required to obtain or repair adaptive equipment in accordance with insurance guidelines and Medicare and Medicaid guidelines, including required timelines for submission;
 - (i) Conducting periodic examinations (at least annually and more frequently as needed) and modified treatments for the beneficiary, as needed to determine which services are most appropriate to enhance the beneficiary's well-being and meet the therapeutic goals; and

- (j) Updating the therapy plan and communicating with the case manager to make any updates to the PCSP with any modifications to the therapy plan.

4244 SPECIFIC PROVIDER REQUIREMENTS: OCCUPATIONAL THERAPY

4244.1 Occupational Therapy services shall only be reimbursed by Medicaid if they are provided by the following Medicaid-enrolled providers:

- (a) A home care agency licensed pursuant to the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code, §§ 44-501 *et seq.*), and implementing rules; or
- (b) An independent licensed occupational therapist.

4244.2 Medicaid reimbursable occupational therapy services shall be provided by an occupational therapist or an occupational therapy assistant working under the direct supervision of an occupational therapist.

4244.3 In order to receive Medicaid reimbursement all practitioners shall meet the following requirements:

- (a) Be licensed to practice occupational therapy in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2012 Repl. & 2016 Supp.)), and implementing rules, Chapter 63 (Occupational Therapy) of Title 17 DCMR; or
- (b) Be an occupational therapy assistant who is licensed to practice as an occupational therapy assistant in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2012 Repl. & 2016 Supp.)), and implementing rules, Chapter 73 (Occupational Therapy Assistants) of Title 17 DCMR.

4244.4 In order to be eligible for reimbursement, each Medicaid provider must obtain prior authorization from the DHCF or its designee prior to providing, or allowing any professional to provide occupational therapy services. In its request for prior authorization, the Medicaid provider shall document the following:

- (a) The EPD Waiver beneficiary's need for occupational therapy services as demonstrated by a physician's order; and
- (b) The name of the professional or home care agency that will provide the occupational therapy services.

- 4244.5 In order to be eligible for Medicaid reimbursement, each individual providing occupational therapy services shall participate in the PCSP and interdisciplinary team meetings to provide consultative services and recommendations specific to the expert content with a focus on how the beneficiary is doing in achieving the functional goals that are important to him or her.
- 4244.6 Each Medicaid provider shall maintain the following documents for monitoring and audit reviews:
- (a) A physician's order;
 - (b) A copy of the occupational therapy assessment and therapy plan developed in accordance with the requirements of this Section; and
 - (c) Any documents required to be maintained by DHCF per Section 4251 (Audits and Monitoring/Oversight Reviews).

4245 PROGRAM SERVICES: OCCUPATIONAL THERAPY

- 4245.1 In order to receive Medicaid reimbursement Occupational Therapy (OT) services shall be designed to maximize independence, prevent further disability, maintain health, and the beneficiary's functionality.
- 4245.2 Occupational therapy services shall be provided in accordance with the beneficiary's PCSP and delivered in the beneficiary's home or in a day service setting.
- 4245.3 Each occupational therapy professional shall conduct an assessment of the occupational therapy needs within the first four (4) hours of service delivery, and develop a therapy plan (Plan of Care) to provide services.
- 4245.4 The therapy plan shall include the anticipated and measurable, functional outcomes, based upon what is important to and for the beneficiary as reflected in his or her person-centered goals in his or her PCSP and a schedule of approved occupational therapy services to be provided, and shall be submitted by the Medicaid provider to the case manager before services are delivered.
- 4245.5 Medicaid reimbursable occupational therapy services shall consist of the following ongoing activities:
- (a) Conducting an initial assessment and annual re-assessment;
 - (b) Consulting with the beneficiary, his or her family, caregivers and interdisciplinary team to develop the therapy plan;
 - (c) Implementing therapies described in the therapy plan;

- (d) Recording progress notes during each visit which shall contain the following:
 - (1) Progress in meeting each goal in the therapy plan;
 - (2) Any unusual health or behavioral events or change in status;
 - (3) The start and end time of any services received by the beneficiary; and
 - (4) Any matter requiring follow-up on the part of the service provider, case manager, or DHCF.
- (e) Developing quarterly reports based on the progress notes and indicating progress in meeting each goal in the therapy plan, and any progress made on matters requiring follow-up in the progress notes;
- (f) Submitting quarterly reports to DHCF which shall be uploaded in the EPD Waiver electronic case management system.
- (g) Routinely assessing (at least annually and more frequently as needed) the appropriateness and quality of adaptive equipment to ensure it addresses the beneficiary's needs;
- (h) Completing documentation required to obtain or repair adaptive equipment in accordance with insurance guidelines and Medicare and Medicaid guidelines, including required timelines for submission; and
- (i) Conducting periodic examinations (at least annually and more frequently as needed) and modified treatments for the beneficiary, as needed to determine which services are most appropriate to enhance the beneficiary's well-being and meet the therapeutic goals; and
- (j) Updating the therapy plan and communicating with the case manager to make any updates to the PCSP with any modifications to the therapy plan.

4246 SPECIFIC PROVIDER REQUIREMENTS: INDIVIDUAL-DIRECTED GOODS AND SERVICES

4246.1 In order to receive Medicaid reimbursement individual-directed goods and services shall only be provided to EPD Waiver beneficiaries enrolled as participants in the *Services My Way* program.

- 4246.2 In order to receive Medicaid reimbursement all individuals and vendors providing individual-directed goods and services shall meet the following minimum qualifications:
- (a) All individuals providing individual-directed goods and services shall be at least eighteen (18) years of age;
 - (b) All individuals and vendors providing individual-directed goods and services shall be able to demonstrate to the participant that:
 - (1) The individual or vendor has the capacity to perform the requested work;
 - (2) The individual or vendor has the ability to successfully communicate with the participant; and
 - (3) The individual or vendor has all the necessary professional and/or commercial licenses required by federal and District law.
- 4246.3 In order to receive Medicaid reimbursement individuals and vendors providing non-medical transportation as an individual-directed service shall meet the following additional qualifications:
- (a) The individual or vendor shall have a valid driver's license; and
 - (b) The individual or vendor shall have the minimum amounts of property damage liability, third party personal liability, uninsured motorist bodily injury, and uninsured motorist property damage insurance coverage required by the District of Columbia for the type of vehicle used to provide the transportation, in accordance with the Compulsory/No-Fault Motor Vehicle Insurance Act, effective September 18, 1982 (D.C. Law 4-155; D.C. Official Code §§ 31-2401 *et seq.*).
- 4246.4 No individual or vendor shall be reimbursed by Medicaid for any individual-directed good or service that is not:
- (a) Documented in the participant's PCSP and participant-directed services (PDS) budget; and
 - (b) Approved by the *Services My Way* Program Coordinator.
- 4246.5 An individual or vendor selected by a participant to provide individual-directed goods or services on a recurrent basis may be required to enter into a Medicaid provider agreement with DHCF prior to providing the goods or services. The Medicaid provider agreement shall be executed by the Vendor Fiscal/Employer

Agent (VF/EA) Financial Management Services (FMS)-Support Broker entity supporting the *Services My Way* program on behalf of DHCF.

4246.6 The VF/EA FMS-Support Broker entity shall verify that an individual or vendor selected by the participant to provide individual-directed goods and services meets all applicable requirements set forth in Subsections 4246.2 and 4246.3 at the time of enrollment into the VF/EA FMS-Support Broker entity's provider payment system and thereafter, as necessary.

4247 PROGRAM SERVICES: INDIVIDUAL-DIRECTED GOODS AND SERVICES

4247.1 Individual-directed goods and services are only available to EPD Waiver beneficiaries who are enrolled as participants in the *Services My Way* program, and are purchased from the participant's PDS budget.

4247.2 Individual-directed goods and services are services, equipment or supplies not otherwise provided through the EPD Waiver or the Medicaid State Plan that address an identified need in the participant's PCSP, including improving and maintaining the participant's opportunities for full membership in the community. Individual-directed goods and services shall meet the following requirements in order to be reimbursed by Medicaid:

- (a) The requested item or service would decrease the participant's need for other Medicaid services;
- (b) The requested item or service would promote the participant's inclusion in the community; or
- (c) The requested item or service would increase the participant's safety in the home environment.

4247.3 Allowable goods and services shall include, but not be limited to, the following:

- (a) Cleaning services from firms or individuals to clean the participant's personal areas including bedroom, bathroom, kitchen, etc., only if necessary in addition to those services otherwise available through the EPD Waiver;
- (b) Food preparation and delivery services, including grocery delivery and delivery of prepared foods (but not payment for the food itself);
- (c) Transportation services not currently available under Medicaid or the District's accessible transportation programs or through natural supports that are related to activities of daily living, and meet an objective outlined in the participant's PCSP;

- (d) Small electric appliances which allow the participant to safely prepare meals;
- (e) Laundry services;
- (f) The cost of changing locks at the participant's home, as necessary, when a participant-directed worker (PDW) stops working for the participant; and
- (g) Maintenance of items that meet the criteria of allowable individual-directed goods described in § 4247.2.

4247.4 Payment for allowable transportation services shall be made in the form of reimbursement for mileage documented on a Mileage Reporting Form provided by DHCF or its agent or reimbursement for public transit costs documented as specified by DHCF or its agent and submitted to the VF/EA FMS-Support Broker entity.

4247.5 For purposes of Medicaid reimbursement non-allowable goods and services shall include, but not be limited to, the following:

- (a) Gifts for PDWs, family or friends, including bonus payments to PDWs;
- (b) Loans to PDWs, family or friends;
- (c) Food, beverages and nutritional supplements;
- (d) Entertainment equipment or supplies such as videos, VCRs, televisions, stereos, CDs, DVDs, audio and video tapes;
- (e) Air conditioners, heaters, fans and similar items;
- (f) Electronic devices that do not meet the requirements of § 4247.2 and do not meet an objective outlined in the participant's PCSP;
- (g) Illegal drugs;
- (h) Alcoholic beverages or tobacco products;
- (i) Costs associated with advertising for prospective PDWs;
- (j) Costs associated with travel (airfare, lodging, meals, etc.) for vacations or entertainment;
- (k) Utility, rent or mortgage payments;

- (l) Clothing or shoes;
- (m) Comforters, towels, linens or drapes;
- (n) Paint or related supplies;
- (o) Furniture or other household furnishings;
- (p) Cleaning or laundry for other household members or areas of a home that are not used as part of the participant's personal care;
- (q) Large household or kitchen appliances such as washers, dryers, dishwashers, refrigerators, or freezers;
- (r) Exercise equipment;
- (s) Medications, vitamins or herbal supplements;
- (t) Experimental or prohibited treatments;
- (u) Laundry detergent and household cleaning supplies;
- (v) Vehicle expenses, including routine maintenance, repairs, or insurance costs;
- (w) Transportation services that are otherwise available under Medicaid or the District's accessible transportation programs or through natural supports or that are not related to activities of daily living;
- (x) Landscaping and yard work;
- (y) Pet care and supplies, except when provided for service animals; and
- (z) Massages, manicures or pedicures.

4247.6 Participants in the *Services My Way* program may purchase individual-directed goods and services that are included in their PCSP, meet the requirements of Subsections 4247.2 and 4247.3, and are within their PDS budget to purchase.

4247.7 Individual-directed goods and services shall be documented in the participant's PDS budget and PCSP. The participant's support broker shall assist participants to revise their PDS budgets, as necessary, to account for new, appropriate individual-directed goods and services they would like to purchase. All revisions to a participant's PDS budget to account for new, appropriate individual-directed goods and services shall be accompanied by justification supporting the revision.

- 4247.8 Upon revising a PDS budget to reflect a new individual-directed good or service, the support broker shall submit the revised PDS budget and justification to the *Services My Way* Program Coordinator for approval.
- 4247.9 The *Services My Way* Program Coordinator shall review all requested individual-directed goods and services.
- 4247.10 The VF/EA FMS-Support Broker entity shall only authorize payment of invoices submitted for individual-directed goods and services that are included in the participant's PCSP and PDS budget and that have been approved by the *Services My Way* Program Coordinator.

4248 SPECIFIC PROVIDER REQUIREMENTS: PARTICIPANT-DIRECTED COMMUNITY SUPPORT SERVICES

- 4248.1 Participant Directed Community Support Services (PDCS) services shall only be reimbursed to EPD Waiver beneficiaries enrolled as participants in the *Services My Way* program.
- 4248.2 Qualified PDWs shall provide PDCS services as employees of *Services My Way* participants.
- 4248.3 Medicaid reimbursable PDCS services may be provided by family members and individuals other than a participant's spouse, other legally responsible relative, or court-appointed guardian. A legally responsible relative does not include parents of adult children, so parents of adult children are not precluded from providing PDCS services. Each family member providing PDCS services shall comply with the requirements set forth in this chapter and Chapter 101 of this title.
- 4248.4 In order to be reimbursed by Medicaid all PDWs shall meet the following qualifications:
- (a) Be at least eighteen (18) years of age;
 - (b) Complete and pass a criminal background check in accordance with the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999, as amended by Health-Care Facility Unlicensed Personnel Criminal Background Check Amendment Act of 2002, April 13, 2002 (D.C. Law 14-98; D.C. Official Code §§ 44-551 *et seq.*);
 - (c) Receive customized training provided by the participant or the participant's authorized representative that is related to the participant's functional needs and goals as outlined in the PCSP;

- (d) Be able and willing to perform the service-related responsibilities outlined in the participant's PCSP; and
- (e) Be certified in cardiopulmonary resuscitation (CPR) and First Aid through an in-person training course approved by the American Red Cross or an alternative course approved by the *Services My Way* Program Coordinator and maintain current certifications.

4248.5 *Services My Way* participants shall not serve as PDWs.

4248.6 The VF/EA FMS-Support Broker entity shall be responsible for verifying that criminal background checks are conducted on all prospective PDWs in accordance with Subsection 4248.4(b), and providing participants, authorized representatives, prospective PDWs, and the *Services My Way* Program Coordinator with the results of all criminal background checks performed on prospective PDWs.

4248.7 The participant, or the participant's authorized representative if designated as the "common law employer" of the PDW, shall verify that a prospective PDW meets all qualifications set forth in Subsection 4248.4 prior to hiring the PDW to provide PDCS services.

4248.8 The VF/EA FMS-Support Broker entity shall verify that a PDW meets all qualifications set forth in Subsection 4248.4 prior to enrolling the PDW into its payroll system.

4248.9 The VF/EA FMS-Support Broker entity shall execute a Medicaid provider agreement with each PDW on behalf of DHCF at the time a PDW is enrolled into its payroll system.

4249 PROGRAM SERVICES: PARTICIPANT-DIRECTED COMMUNITY SUPPORT SERVICES

4249.1 Medicaid will only reimburse PDCS services for EPD Waiver beneficiaries enrolled as participants in the *Services My Way* program.

4249.2 In order to receive Medicaid reimbursement PDCS services shall be detailed in the participant's PCSP and PDS budget and shall be designed to promote independence and ensure the health, welfare, and safety of the participant.

4249.3 The participant or his or her authorized representative, as applicable, shall serve a "common law employer" of the PDW providing services. In the role of "common law employer," the participant or authorized representative shall be responsible for recruiting, hiring, supervising and discharging PDWs providing PDCS services.

- 4249.4 Supports shall be available to assist the participant or representative-employer with his or her own employer-related responsibilities as described in Subsection 4249.3 through the VF/EA FMS-Support Broker entity.
- 4249.5 PDCS services shall include cueing and assistance with activities of daily living and instrumental activities of daily living.
- 4249.6 All PDCS services provided by a PDW shall be prior authorized by DHCF or its agent in order to be reimbursed under the *Services My Way* program.
- 4249.7 To be eligible for PDCS services, a participant shall be in receipt of a service authorization for PCA from DHCF or its designated agent that specifies the amount, duration, and scope of services authorized to be provided to the beneficiary, in accordance with 29 DCMR § 5003.
- 4249.8 Payment for PDCS services shall be provided in accordance with the participant's PDS budget, at an hourly wage set by the participant or representative-employer which falls within the wage range established by DHCF as set forth in Subsection 4249.9.
- 4249.9 The hourly wage paid to a PDW shall be no lower than the living wage in the District, set in accordance with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.*), and no higher than the wage paid by DHCF for services provided by a personal care aide in accordance with Chapter 42 of Title 29 DCMR.
- 4249.10 PDCS services shall not include the following:
- (a) Services that require the skills of a licensed professional, as defined in the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*); or
 - (b) Tasks usually performed by chore workers or homemakers, such as cleaning of areas not occupied by the participant, laundry for family members, shopping for items not used by the participant, or money management.
- 4249.11 An agency-based provider of personal care aide services shall not be designated as an emergency back-up provider of PDCS services.

4250 INCIDENTS AND COMPLAINTS

- 4250.1 Providers are required to report critical incidents that may threaten the beneficiary's health or welfare for review and follow-up by DHCF and/or other designated agencies. The critical incidents consist of the following categories:

(a) Serious reportable incidents (SRI); and

(b) Reportable incidents (RI).

4250.2 SRI are those incidents which due to their significance or severity to the beneficiary require immediate response, notification, internal review and investigation by the provider agency and DHCF.

4250.3 RI are significant events or situations that involve harm or risk to the beneficiary.

4250.4 SRI include, but are not limited to:

(a) Unexpected death due to abuse, negligence, or accident;

(b) Abuse;

(c) Neglect or abandonment;

(d) Exploitation;

(e) Theft of consumer personal property;

(f) Serious physical injury;

(g) Inappropriate or unauthorized use of restraints;

(h) Suicide threats;

(i) Serious medication errors; and

(j) Suicide attempts or serious fire incidents that could have resulted in serious bodily harm or death.

4250.5 RI include, but are not limited to:

(a) Medication errors;

(b) Hospitalization;

(c) Injuries;

(d) Emergency Room visits;

(e) Fire Occurrences involving property damage;

- (f) Police Incidents;
- (g) A temporary relocation due to emergencies; and
- (h) Other events or situations that involve harm or risk of harm to beneficiaries.

4250.6 Each service provider shall develop internal policies and procedures regarding incident reporting and investigation that meets the following minimum criteria:

- (a) Notifying DHCF staff via the electronic management system within twenty four (24) hours or the next business day of an occurrence of an SRI or RI;
- (b) Documenting of the incident on an established incident report form in the electronic management system;
- (c) Completing of an internal investigation within five (5) business days of the SRI or RI's occurrence; and
- (d) Reporting for all SRI's involving death, neglect, abuse, and theft of consumer personal property occurring at a beneficiary's natural home to Adult Protective Services and DHCF.

4250.7 All providers shall establish an internal process for tracking information related to the occurrence of incidents and the outcome of investigations to predict and mitigate recurring incidents.

4250.8 Each provider shall maintain a copy of all incidents and keep them on file for a minimum period of ten (10) years, or until any DHCF, law enforcement, or Adult Protective Services' investigation of an incident has concluded, whichever is longer.

4250.9 A complaint is an expression of dissatisfaction or a formal charge of wrong-doing brought against an EPD Waiver Provider or individual providing services. Complaints include but are not limited to the following:

- (a) Denials or reductions of service;
- (b) Delays in the process resulting in a denial of eligibility;
- (c) Provider tardiness or poor quality of care;
- (d) Restriction of individual rights;
- (e) Lack of choice of service provider;

- (f) Obstructing the beneficiary's choice of preferred service provider when available; and
- (g) Violations of privacy and confidentiality policies as outlined under a providers' privacy plan as required in accordance with the requirements set forth in Section 4207.

4250.10 Each service provider shall develop internal policies and procedures regarding complaint documentation and a review process that meets the following minimum criteria:

- (a) An explanation of types of complaints that shall be addressed;
- (b) The identification of a designated complaint officer who shall manage the complaint process;
- (c) The timelines for addressing the complaints which shall specify the following:
 - (1) All complaints that pose an immediate risk to the beneficiary shall be addressed by the complaints officer within twenty four (24) hours or next business day of the receipt of the complaint; and
 - (2) Complaints pertaining to Medicaid eligibility determination and denial or reduction of service shall be addressed by the complaints officer within five to seven (5 – 7) business days;
 - (3) All other complaints will be addressed by the complaints officer within ten (10) business days;
- (d) Procedures verifying that all complaints are resolved within thirty (30) business days of the reporting of the complaint to the designated complaint officer; and
- (e) The procedures that are used to resolve the complaints.

4250.11 All provider entities shall establish an internal process for tracking and trending information related to the occurrence of complaints and the outcome of investigations.

4250.12 Each provider shall maintain a copy of all complaints on file for a minimum period of ten (10) years.

4250.13 DHCF shall issue a transmittal notifying providers to log complaints into the EPD Waiver Complaint Database upon its operation.

4251 AUDITS AND MONITORING/OVERSIGHT REVIEWS

- 4251.1 The DHCF's Division of Program Integrity shall perform ongoing audits to ensure that the provider's services for which Medicaid payments are made are consistent with programmatic duties, documentation, and reimbursement requirements as required under this chapter.
- 4251.2 The audit process shall be routinely conducted by DHCF to determine, by statistically valid scientific sampling, the appropriateness of services rendered to EPD Waiver program beneficiaries and billed to Medicaid.
- 4251.3 Each EPD Waiver provider shall allow access, during an on-site audit or review (announced or unannounced) by DHCF, other District of Columbia government officials, and representatives of the United States Department of Health and Human Services, to relevant records and program documentation.
- 4251.4 The failure of a provider to timely release or to grant access to program documents and records to the DHCF auditors, after reasonable notice by DHCF to the provider to produce the same, shall constitute grounds to terminate the Medicaid Provider Agreement.
- 4251.5 If DHCF denies a claim during an audit, DHCF shall recoup, by the most expeditious means available, those monies erroneously paid to the provider for denied claims, following notice and the period of Administrative Review set forth in Subsection 4251.7 of this chapter.
- 4251.6 The recoupment amounts for denied claims during audits shall be determined by the following formula:
- (a) The number of denied paid claims resulting from the audited sample shall be divided by the total number of paid claims from the audited sample; and
 - (b) The amount derived from (a) as referenced in Subsection 4251.6 shall be multiplied by the total dollars paid by DHCF to the provider during the audit period to determine the amount to be recouped.
- 4251.7 In accordance with the formula referenced in Subsection 4251.6, DHCF would recoup ten percent (10%) of the amount reimbursed by Medicaid during the audit period, or one thousand dollars (\$1000), if a provider received Medicaid reimbursement of ten thousand dollars (\$10,000) during the audit period, and during a review of the claims from the audited sample, it was determined that ten (10) claims out of one hundred (100) claims are denied.
- 4251.8 DHCF shall issue a Notice of Proposed Recovery for Medicaid Overpayment (NPRMO) which sets forth the reasons for the recoupment, including the specific

reference to the particular sections of the statute, rules, or Provider agreement, the amount to be recouped, and the procedures for requesting an administrative review.

- 4251.9 The timelines for responding to the NPRMO and the provider's appeal rights are governed by Section 4252.
- 4251.10 The DHCF's Long Term Care Administration's EPD Waiver Oversight and Monitoring team shall conduct two (2) types of reviews as follows:
- (a) Annual oversight and monitoring reviews to ensure compliance with established federal and District regulations and applicable laws governing the operations and administration of the EPD Waiver Program; and
 - (b) Quarterly compliance reviews to ensure adherence with the EPD Waiver Program's performance measures.
- 4251.11 Each waiver services provider shall allow the EPD Waiver oversight and monitoring team access, during an on-site oversight/monitoring process (announced or unannounced).
- 4251.12 As part of the oversight and monitoring process, providers shall grant access to any of the following documents, which may include, but shall not be limited to the following:
- (a) Person-Centered Service Plan (PCSP) and Plan of Care/ service delivery plan;
 - (b) Employee records;
 - (c) A signed, and current copy of the Medicaid Provider Agreement;
 - (d) Licensure information;
 - (e) Policies and Procedures;
 - (f) Incident Reports and Investigation Reports; and
 - (g) Complaint related reports.
- 4251.13 DHCF's EPD Waiver Oversight and Monitoring Team shall issue a Statement of Findings and Opportunities for Improvement Plan ("improvement plan") within fifteen (15) calendar days of the annual oversight and monitoring exit meeting. Providers shall subsequently submit a plan of correction within fifteen (15) calendar days of the date of receipt of DHCF's improvement plan.

4251.14 DHCF's EPD Waiver Oversight and Monitoring team shall generate a performance measures discovery/remediation report ("remediation report") within five (5) business days of completion of the quarterly performance measures-related review. Providers shall subsequently submit a performance measures-related remediation plan ("remediation plan") within ten (10) business days of receipt of the report.

4251.15 The failure to provide an acceptable plan of correction, remediation plan or adherence to the improvement plan or remediation report may result in a prohibition of new admissions and referral to the DHCF's Division of Program Integrity for further investigation.

4252 APPEAL RIGHTS FOR PROVIDERS AGAINST WHOM A RECOUPMENT IS MADE

4252.1 The provider shall have thirty (30) calendar days from the date of the NPRMO to respond in writing. The response shall be submitted to the DHCF's Director of the Division of Program Integrity.

4252.2 The provider's written response to the NPRMO shall include a specific description of the item(s) to be reviewed, the reason for the request for review, the relief requested, and documentary evidence in support of the relief requested.

4252.3 The DHCF's Division of Program Integrity shall mail a written determination no later than one hundred and twenty (120) calendar days from the date of receipt of the provider's response to the NPRMO.

4252.4 Payments otherwise authorized to be made to a provider under the District of Columbia Medicaid Program may be suspended or recouped, in whole or in part, by DHCF to recover or aid in the recovery of overpayments that have been made to the provider.

4252.5 The DHCF shall notify the provider of its intention to recoup payments, in whole or in part, and the reasons for the recoupment in a Final Notice of Medicaid Overpayment Recovery (FNPRMO). The Final Notice to providers shall include the following:

- (a) The factual basis for the determination of overpayments including the dollar value of the overpayment;
- (b) How the overpayment was computed;
- (c) Specific reference to the section of the statute, rule, provider's manual, or provider agreement that is the basis for the recoupment; and
- (d) Information about the government entity who checks shall be made payable to and the corresponding mailing address.

- 4252.6 Any provider that disagrees with the reason for a recoupment or the amount of the recoupment shall have fifteen (15) calendar days from the date of the FNPRMO to request a hearing by filing an appeal with the District of Columbia Office of Administrative Hearings (OAH).
- 4252.7 Filing an appeal with the OAH shall not stay any action to recover any overpayment to the provider. The provider shall be liable to the Medicaid Program for any overpayments as set forth in the FNPRMO.
- 4252.8 The provider shall file a written Notice of Appeal with the Office of Administrative Hearings, 441 4th Street, NW, Suite 450 North, Washington, D.C. 20001. The provider shall also send a copy of that Notice of Appeal to the DHCF Office of General Counsel.

4299 DEFINITIONS: WAIVER SERVICES

When used in this chapter, the following terms shall have the meaning ascribed:

Activities of Daily Living (ADLs) - The ability to bathe, transfer, dress, eat and feed self, engage in toileting, and maintain bowel and bladder control (continence).

Advanced Practice Registered Nurse - A person who is licensed or authorized to practice as an advanced practice registered nurse pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*).

Admissions Hold - A process by which a provider is prohibited from admitting new Waiver beneficiaries.

Assisted Living Residence - An entity that shall have the same meaning as set forth in D.C. Official Code § 44-102.01(4).

Case Management Agency - An agency under contract with the Department of Health Care Finance (DHCF) to provide case management services to waiver beneficiaries.

Case Manager - A staff person from the case management agency who performs case management services.

Cueing - Using verbal prompts in the form of instructions or reminders to assist beneficiaries with activities of daily living and instrumental activities of daily living.

Chore Aide – A person who performs tasks intended to place the home environment in a clean, sanitary, and safe condition, and to prepare the home environment for ongoing routine home care services.

Communicable Disease – Any disease defined in D.C. Official Code § 7-132 and 22-B DCMR § 299.

Environmental Accessibility Adaptation (EAA) - Physical adaptations to the home that are necessary to ensure the health, welfare, and safety of the individual, or that enable the individual to function with greater independence in the home, and without which, the individual would require institutionalization.

Family - Any person related to the beneficiary by blood, marriage, or adoption.

Home Care Agency – An entity licensed pursuant to the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.*)

Limited English Proficient Individuals - Individuals who do not speak English as their primary language, and individuals who have a limited ability to read, write, speak, or understand English.

Medicaid - A federal-state program established by Title XIX of the Social Security Act, which provides payment of medical expenses for eligible persons who meet income and/or other criteria.

Natural Home - A home owned or leased by the beneficiary, the beneficiary's family member or another private individual; the lease/deed must be held by the beneficiary, the beneficiary's family member, or another private individual.

Participant/Representative-Employer - The *Services My Way* participant or the participant's authorized representative, as applicable, who performs employer-related duties including recruiting, hiring, supervising and discharging participant-directed workers.

Person-Centered Service Plan (PCSP) – Individualized service plan developed by the case manager that identifies the supports and services to be provided to the person enrolled in the Waiver and the evaluation of the person's progress on an on-going basis to assure that the person's needs and desired outcomes are being met.

Personal Care Aide - A person who has successfully completed the relevant jurisdiction's (the person's home state or District of Columbia) established

training program and meets the competency evaluation requirements. Tasks include assistance with activities of daily living and instrumental activities of daily living.

Personal Care Aide services - Services involving assistance with one or more activities of daily living that is rendered by a qualified personal care aide under the supervision of a registered nurse.

Physical Disability - A functionally determinable impairment that substantially limits an individual's ability to perform manual tasks, to engage in an occupation, to live independently, to walk, to see, or hear.

Physician - A person who is licensed or authorized to practice medicine pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*).

Plan of Care - A plan prepared by the EPD Waiver service provider that outlines the service delivery plans for the services being delivered by that provider. This is also referred to as a service delivery plan.

Provider - Any entity that meets the waiver service requirements, has signed an agreement with DHCF to provide waiver services, and is enrolled by DHCF to provide services to waiver beneficiaries.

Purified Protein Derivative (PPD) - A tuberculin solution that is used in skin tests for tuberculosis.

Registered Nurse - An individual who is licensed or authorized to practice registered nursing pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*), as amended, or licensed as a registered nurse in the jurisdiction where services are provided.

Respite Service - Services that include the provision of assistance with activities of daily living and instrumental activities of daily living for waiver beneficiaries in their home or temporary place of residence in the temporary absence of the primary caregiver. Respite services may also be provided in a Medicaid certified community setting or a group home.

Vendor - A corporate entity providing individual-directed goods or services.

Vendor Fiscal/Employer Agent (VF/EA) Financial Management Services (FMS)-Support Broker Entity - An entity operating in accordance with 26 USC § 3504 and Rev. Proc. 70-6, as modified by REG-137036 and Rev. Proc. 2013-39, which provides financial management services and

information and assistance services to *Services My Way* participants and their representatives, as appropriate.

Waiver- The home and community-based Waiver for the Elderly and Persons with Disabilities (EPD) as approved by the Council of the District of Columbia (Council) and CMS, as may be further amended and approved by the Council and CMS.

Comments on the proposed rule shall be submitted, in writing, to Claudia Schlosberg, J.D. Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, Suite 900, Washington, D.C. 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rule may be obtained from the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-165
October 21, 2016

SUBJECT: Reappointment and Appointments — Higher Education Licensure Commission


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl. and 2016 Supp.), and in accordance with section 4 of the Education Licensure Commission Act of 1976, effective April 6, 1977, D.C. Law 1-104, D.C. Official Code § 38-1304(b) (2012 Repl. and 2016 Supp.), it is hereby **ORDERED** that:

1. **MARY DILWORTH** is reappointed as a member of the District of Columbia Higher Education Licensure Commission ("**Commission**"), for a term to end August 15, 2019.
2. The following persons are appointed as members of the Commission for terms to end August 15, 2019:
 - a. **JANETTE HOSTON HARRIS**, replacing Johnetta Davis; and
 - b. **CHERYL STEPLIGHT**, replacing Gailda Davis.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to September 2, 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 2016-166
October 21, 2016

SUBJECT: Appointment — Interim Director, District of Columbia Child and Family Services Agency


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl. and 2016 Supp.), and pursuant to the Child and Family Services Agency Establishment Amendment Act of 2000, effective April 4, 2001, D.C. Law 13-277, D.C. Official Code § 4-1303.02a (2012 Repl.), it is hereby **ORDERED** that:

1. **BRENDA DONALD** is appointed Interim Director, District of Columbia Child and Family Services Agency, and shall serve in that capacity at the pleasure of the Mayor. Ms. Donald shall carry out these duties simultaneously with her duties as Deputy Mayor for Health and Human Services; however, she will not receive a second salary for these additional duties.
2. This Order supersedes Mayor's Order 2015-245, dated November 16, 2015.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to October 7, 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 2016-167
October 27, 2016

SUBJECT: Appointments — Green Building Advisory Council


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl. and 2016 Supp.), and in accordance with section 10 of the Green Building Act of 2006, effective March 8, 2007, D.C. Law 16-234; D.C. Official Code § 6-1451.09 (2012 Repl. and 2016 Supp.), it is hereby **ORDERED** that:

1. **LISA MALLORY** is appointed to the Green Building Advisory Council as a representative of the non-profit sector, replacing Victoria Leonard, for a term to end December 3, 2017.
2. **MARK JAMES** is appointed to the Green Building Advisory Council as a representative of the private sector, replacing Christopher Thomas, for a term to end December 3, 2017.
3. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

ACHIEVEMENT PREP PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Facilities Support Services**

Achievement Prep PCS is seeking competitive bids for the following services:

- 1) Provision of HVAC Filters and Supplies
- 2) Landscaping and Snow Removal Services
- 3) Trash Collection Services

Please find RFP specifications at www.achievementprep.org under News. Proposals must be received by 5:00PM on Friday, November 11, 2016. Please send proposals to bids@achievementprep.org and include "RFP Landscaping" in the heading.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, NOVEMBER 9, 2016
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009

Donovan W. Anderson, Chairperson
Members: Nick Alberti, Mike Silverstein,
James Short, Jake Perry, Mafara Hobson

Protest Hearing (Status) **9:30 AM**
Case # 16-PRO-00094; Techno Excess, LLC, t/a Ababa Ethiopian Restaurant
2106 18th Street NW, License #103289, Retailer CR, ANC 1C
Application for a New License

Protest Hearing (Status) **9:30 AM**
Case # 16-PRO-00095; Fasika Ethiopia Cuisine, LLC, t/a Fasika Ethiopia
Cuisine, 1924 9th Street NW, License #95180, Retailer CR, ANC 1B
Application for a New License

Show Cause Hearing (Status) **9:30 AM**
Case # 16-251-00125; 1215 CT, LLC, t/a Rosebar Lounge, 1215 Connecticut
Ave NW, License #77883, Retailer CT, ANC 2B
Failed to Follow Security Plan

Show Cause Hearing **10:00 AM**
Case # 16-CMP-00277; RR4, LLC, t/a RedRock, 1348 H Street NE, License
#90997, Retailer CR, ANC 6A
**Operating After Board Approved Hours (Summer Garden), No ABC
Manager on Duty**

Show Cause Hearing **11:00 AM**
Case # 16-CMP-00013; Micherie, LLC, t/a Cheerz, 7303 Georgia Ave NW
License #95178, Retailer CR, ANC 4B
**Provided Entertainment Without an Entertainment Endorsement, No ABC
Manager on Duty (Two Counts)**

Board's Calendar
November 9, 2016

Show Cause Hearing **11:00 AM**
Case # 16-CMP-00299; TGR, Inc., t/a Cities DC, 1909 K Street NW, License #77812, Retailer CR, ANC 2B
No ABC Manager on Duty

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

Show Cause Hearing **1:30 PM**
Case # 16-CMP-00092; Yetenbi, Inc., t/a Noble Lounge, 1915 9th Street NW License #85258, Retailer CT, ANC 1B
No ABC Manager on Duty, Failed to Frame and Post the License in a Conspicuous Place

Protest Hearing **1:30 PM**
Case # 16-PRO-00078; Columbia Lodge #85, t/a Columbia Lodge #85 I.B.P.E.O. Of Wo, 1844 3rd Street NW, License #237, Retailer Club, ANC 1B
Application for a New License

Protest Hearing **1:30 PM**
Case # 16-PRO-00085; Watergate Hotel Lessee, LLC, t/a Watergate Hotel 2650 Virginia Ave NW, License #91162, Retailer CH, ANC 2A
Application to Renew the License

Show Cause Hearing **2:30 PM**
Case # 15-CMP-00826; 2718 Corporation, t/a Chuck & Bill Bison Lounge 2718 Georgia Ave NW, License #14759, Retailer CT, ANC 1B
Trade Name Change Without Board Approval

Protest Hearing **4:30 PM**
Case # 16-PRO-00089; Gobind, LLC, t/a Toscana Café, 601 2nd Street NE License #97558, Retailer DR, ANC 6C
Substantial Change (Class Change from "D" to "C")

***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
CEASE AND DESIST AGENDA**

**WEDNESDAY, NOVEMBER 9, 2016
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

The ABC Board will be issuing an Order to Cease and Desist to the following Licensee for the reason outlined below.

ABRA-098935 – **Some Place Else** – Retailer – CR – 1637 R ST NW
[Licensee operating on an expired license as of October 26, 2016.]

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

**NOTICE OF MEETING
INVESTIGATIVE AGENDA**

**WEDNESDAY, NOVEMBER 9, 2016
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On Wednesday, November 9, 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-CC-00068, P & C Market, 1023 East Capitol Street S.E., Retailer B, License # ABRA-080716

2. Case#16-CC-00122, Gold Coast Café & Mart, 5501 Colorado Avenue N.W., Retailer B, License # ABRA-098589

3. Case#16-CMP-00701, Alero Restaurant, 3500 Connecticut Avenue N.W., Retailer CR, License # ABRA-013738

4. Case#16-251-00237, Johnny Pistolas, 2333 18th Street N.W., Retailer CR, License# ABRA-060401

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, NOVEMBER 9, 2016 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Request to Extend Safekeeping of License – First Request. Original Safekeeping Date: 6/1/2016. ANC 2C. SMD 2C03. **Austin Grill**, 750 E Street NW, Retailer CR, License No. 076102.

2. Review letter from Attorney Stephen O’Brien requesting Transfer and Safekeeping for client. ANC 3C. SMD 3C05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **Union Tap House**, 3412 Connecticut Avenue NW, Retailer CT, License No. 089491.

3. Review Request for Change of Hours. **Approved Hours of Operation and Alcoholic Beverage Sales and Consumption:** Sunday 12pm to 2am, Monday-Thursday 4pm to 2am, Friday 4pm to 3am, Saturday 12pm to 3am. **Approved Hours of Entertainment:** Sunday-Thursday 6pm to 2am, Friday-Saturday 6pm-3am. **Proposed Hours of Operation, Alcoholic Beverage Sales and Consumption, and Entertainment:** Sunday-Thursday 11am to 2am, Friday-Saturday 11am to 3am. ANC 2E. SMD 2E05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. **Georgetown Piano Bar**, 3287 M Street NW, Retailer CT, License No. 095632.

4. Review Request for Change of Hours to add Sunday hours. **Approved Hours of Operation:** Sunday Closed, Monday-Thursday 6am to 10pm, Friday 6am to 12am, Saturday 7am to 12am. **Approved Hours of Alcoholic Beverage Sales:** Sunday Closed, Monday-Thursday 9am to 10pm, Friday-Saturday 9am to 12am. **Proposed Hours of Operation:** Sunday 10am to 8pm, Monday-Thursday 6am to 10pm, Friday 6am to 12am, Saturday 7am to 12am. **Proposed Hours of Alcoholic Beverage Sales:** Sunday 10am to 8pm, Monday-Thursday 9am to 10pm, Friday-Saturday 9am to 12am. ANC 2A. SMD 2A06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **Orange Spoon Gourmet, Liquor & Wine**, 1255 23rd Street NW, Retailer A Liquor Store, License No. 102373.

5. Review Request for Entertainment Endorsement to provide Live Entertainment with Cover Charge. ***Proposed Hours of Live Entertainment:*** Sunday-Thursday 9pm to 2am, Friday-Saturday 9pm to 3am. ANC 1C. SMD 1C03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Bukom Café***, 2442 18th Street NW, Retailer CT, License No. 026466.
-

6. Review Application for Sidewalk Café with seating for 12 patrons. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption for Sidewalk Café:*** Sunday-Saturday 12pm to 10pm. ANC 4C. SMD 4C07. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Timber Pizza Company***, 809 Upshur Street NW, Retailer CR, License No. 101399.
-

***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.**

DC COMMISSION ON THE ARTS AND HUMANITIES**NOTICE OF FUNDING AVAILABILITY****FY 2017 Performance Grants Program**

The DC Commission on the Arts and Humanities (DCCAH) announces the availability of a second cycle for its Projects, Events and Festivals grants program for fiscal year 2017. Grants supporting organizations will be available during this period.

The DC Commission on the Arts and Humanities seeks to provide support for an organization dedicated to preserving the history of African-American Involvement in the American Civil War and capital improvements for a historic theatre on Pennsylvania Avenue, N.W., that produces primarily Broadway-style musical theatrical performances.

Organizations must incorporate in the District, be headquartered with a land address in DC and have a federal tax exemption as demonstrated by a 501(c)(3) letter submitted at the time of application in addition to the other eligibility criteria to be listed in the program's guidelines. Applicants must also be a registered organization in good standing with the DC Department of Consumer and Regulatory Affairs (DCRA), Corporation Division, the Office of Tax and Revenue (OTR), the Internal Revenue Service (IRS), and the Department of Employment Services (DOES) and possess clean hands certification at the time of application.

All eligible applications are reviewed through a competitive process. Evaluation criteria are based on 1) Arts and Humanities Content, 2) Assessed DC Impact and Engagement, and 3) Project Feasibility. All activities funded by the grant must occur between January 1 and be completed by September 30, 2017.

The Request for Applications (RFA) will be available electronically beginning November 7, 2016 on the DCCAH website at <http://dcarts.dc.gov/>. Applicants must apply online. The deadline for applications is December 2, 2016.

DCCAH will present a program orientation and technical assistance workshop on Wednesday, November 16, 2016 at 10:00am and Thursday, November 16, 2016 at 6:00pm at DCCAH's offices.

For more information, please contact:

Steven Scott Mazzola
Grants Director
DC Commission on the Arts and Humanities
200 I (EYE) St. SE
Washington, DC 20003
(202) 671-1361 or david.markey@dc.gov

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**Board of Architecture and Interior Design
1100 4th Street SW, Room E300
Washington, DC 20024**

MEETING AGENDA

**November 4, 2016
9:30 AM**

1. Call to Order – 9:30 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Draft Minutes, September 16, 2016
7. Executive Session (Closed to the Public) {Closed to the Public – to consult with an attorney pursuant to D.C. Official Code § 2-575(b)(4)(A); D.C. Official Code § 2-575(b)(9) to discuss complaints/legal matters, applications and legal counsel report
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting –December 9, 2016 at 9:30 a.m.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**Board of Barber and Cosmetology
1100 4th Street SW, Room E300
Washington, DC 20024**

**Meeting Agenda
Monday, November 7, 2016
10:00 a.m.**

1. Call to Order – 10:00 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Applications for Licensure
7. Executive Session (Closed to the Public)
8. Old Business
9. New Business
10. Adjourn

Next Scheduled Board Meeting – Monday, June 6, 2016

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**Board of Funeral Directors
1100 4th Street SW, Room E300
Washington, DC 20024**

MEETING AGENDA

**November 3, 2016
1:00 PM.**

1. Call to Order – 1:00 p.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Draft Minutes, October 6, 2016
7. Motion - Executive Session (Closed to the Public) to consult with an attorney pursuant to D.C. Official Code § 2-575(b)(4)(A); D.C. Official Code § 2-575(b)(9) to discuss complaints/legal matters, applications and legal counsel report.
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting – December 1, 2016 at 1:00 p.m.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**District of Columbia Board of Industrial Trades
1100 4th Street, S.W., Room 300
Washington, D.C. 20024**

**AGENDA - Draft
November 15, 2016**

1. Call to Order – 1:00 p.m.
2. Attendance
3. Executive Session (Closed to the Public) – 1:15 p.m. - 2:15 p.m.
4. Start of Public Session – 2:20 p.m.
5. Comments from the Public
6. Minutes
7. Board Discussions
8. Recommendations
 - Applications for Licensure
9. Old Business
10. New Business
11. Adjourn

Next Scheduled Regular Board Meeting, December 20, 2016
1100 4th Street, SW, Room 300B, Washington, DC 20024

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**Board of Real Estate Appraisers
1100 4th Street SW, Room E300
Washington, DC 20024**

MEETING AGENDA

**November 16, 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, October 26, 2016
7. Executive Session (Closed to the Public) {Closed to the Public – to consult with an attorney pursuant to D.C. Official Code § 2-575(b)(4)(A); D.C. Official Code § 2-575(b)(9) to discuss complaints/legal matters, applications and legal counsel report
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting – November 16, 2016 at 10:00 a.m.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING ADMINISTRATION
D.C. BOXING AND WRESTLING COMMISSION**

**NOTICE OF PUBLIC MEETING
1100 4th Street, SW, Suite 200E, Washington, DC 20024**

**AGENDA
November 17, 2016
7:00 P.M.**

1. Motion - Executive Session (Closed to the Public) to consult with an attorney pursuant to D.C. Official Code § 2-575(b)(4)(A); D.C. Official Code § 2-575(b)(9) to discuss complaints/legal matters, applications and legal counsel report.
2. Call to Order
3. Attendance (Start of Public Session)
4. Comments from the Public
5. Minutes – October 20, 2016
6. Budget
7. Correspondence
8. Old Business
9. New Business
 - A. Upcoming Professional Events
 - B. Upcoming Amateur Events
10. Adjournment

NEXT MEETING SCHEDULED FOR DECEMBER 15, 2016

**D.C. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUSINESS AND PROFESSIONAL LICENSING ADMINISTRATION**

SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS

November 2016

CONTACT PERSON	BOARDS AND COMMISSIONS	DATE	TIME/ LOCATION
Grace Yeboah-Ofori	Board of Accountancy	No Meeting	8:30 am-12:00pm
Patrice Richardson	Board of Appraisers	16	8:30 am-4:00 pm
Patrice Richardson	Board Architects and Interior Designers	4	8:30 am-1:00 pm
Grace Yeboah-Ofori	Board of Barber and Cosmetology	7	10:00 am-2:00 pm
Sheldon Brown	Boxing and Wrestling Commission	17	7:00-pm-8:30 pm
Sheldon Brown	Board of Funeral Directors	3	8:30am-4:00 pm
Avis Pearson	Board of Professional Engineering	17	9:00 am-1:30 pm
Leon Lewis	Real Estate Commission	8	8:30 am-1:00 pm
Pamela Hall	Board of Industrial Trades	15	1:00pm-3:30 pm
	Asbestos Electrical Elevators Plumbing Refrigeration/Air Conditioning Steam and Other Operating Engineers		

Dates and Times are subject to change. All meetings are held at 1100 4th St., SW, Suite E-300 A-B Washington, DC 20024. For further information on this schedule, please contact the front desk at 202-442-4320.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**District of Columbia Professional Engineers
1100 4th Street SW, Room 300
Washington, DC 20024**

AGENDA

**November 17, 2016 ~ Room 300
9:00 A.M. (Application Review by Board Members)**

11:00 A.M.

- 1) Call to Order – 11:00 a.m.
- 2) Attendance
- 3) Executive Session - **Pursuant to § 2-575(4) (a), (9) and (13) the Board will enter executive session – Closed to the Public**
 - Deliberation over applications for licensure
 - Review complaints and investigations
- 4) Comments from the Public
- 5) Review of Minutes
- 6) Recommendations
- 7) Old Business
- 8) New Business
- 9) Adjourn

Next Scheduled Meeting – August 25, 2016
Location: 1100 4th Street SW, Conference Room E300

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**Real Estate Commission
1100 4th Street SW, Room E300
Washington, DC 20024**

MEETING AGENDA

**November 8, 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, October 11, 2016
7. Executive Session (Closed to the Public)
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting – December 13, 2016 at 10:00 a.m.

**DC INTERNATIONAL PUBLIC CHARTER SCHOOL
REQUEST FOR PROPOSALS**

Third-Party Inspection, Materials Testing

DC International PCS is seeking proposals for third-party inspection and materials testing services. For full details, e-mail Kate Dydak at kdydak@programmanagers.com. Proposals must be received no later than November 9th, 2016.

DC INTERNATIONAL PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Wired and Wireless Network Internet Structure**

District of Columbia International School is soliciting for procurement of "design, procurement and installation for our permanent facility. DCI will host a walkthrough of the facility in early November. Please email rfp@dcinternationalschool.org if you would like to be on the email notification list for the date and time of the walkthrough. Proposals must be submitted no later than 8:00 am on Tuesday, November 22, 2016.

**D.C. PREPARATORY ACADEMY
PUBLIC CHARTER SCHOOL**

REQUEST FOR PROPOSALS

Lighting and Energy-Efficiency Technology Upgrades and Services

D.C. Preparatory Academy Public Charter School (DC Prep) is seeking competitive proposals for **Lighting and Energy-Efficiency Technology Upgrades and Services** for a public charter school facility project. For a copy of the RFP, please contact Ms. Wendy Scott at wscott@dcprep.org. All proposals must be submitted by **5:00 PM** on **November 14, 2016**.

**D.C. PREPARATORY ACADEMY
PUBLIC CHARTER SCHOOL**

REQUEST FOR PROPOSALS

MULTIPLE REAL ESTATE SERVICES

D.C. Preparatory Academy Public Charter School (DC Prep) is seeking competitive proposals for the following services: Third Party Inspection, and Materials Testing Services for a public charter school facility project. For more information, please contact Ms. Shilpa Khatri of Brailsford & Dunlavey at skhatri@programmanagers.com. All proposals must be submitted by **12:00 pm noon on Friday, November 11, 2016.**

REAL ESTATE FINANCING SERVICES

D.C. Preparatory Academy Public Charter School (DC Prep) is seeking competitive proposals for the following services: legal, tax credit consultant, tax credit accountant, and financial consultant for a public charter school facility project. For more information, please contact bids@dcrep.org. All proposals must be submitted by **12:00 pm noon on Friday, November 18, 2016.**

EAGLE ACADEMY PUBLIC CHARTER SCHOOL
NOTICE OF REQUEST FOR QUALIFICATIONS

Architectural Services

Eagle Academy Public Charter School, in accordance with Section 2204(c)(XV)(A) of the District of Columbia School Reform Act of 1995, hereby requests qualifications to provide Architectural Services for a time sensitive renovation project at a property located at 2403 Naylor Road SE, Washington, DC.

Project Summary

Eagle Academy PCS is requesting qualifications from architectural firms with extensive experience and expertise in the design of school buildings, particularly for young children. The facility must meet the needs of the students, teachers, administrators and parents by designing “through the eyes of a child.” The project will consist of the timely renovation of three to four existing buildings at 2403 Naylor Road SE.

Submittal is Due: Monday, November 14, 2016, by 5:00 p.m.

Submittal Terms

1. Submittal Requirements – Please limit your submittal to less than 50 pages, and submit your submittal by the time specified above. No late submittals will be accepted. **Submittals should be directed to the attention of Mayra Martinez-Fernandez, Deputy COO, mmartinez@eagleacademypcs.org.**
2. Award of Contract – If the results of this RFQ warrant the awarding of a contract, Eagle Academy PCS anticipates the decision to be made by Wednesday, November 16, 2016. Eagle Academy will negotiate terms and fees with the top selected firm(s). Eagle Academy PCS reserves the right to reject any and all bids at its sole discretion.

**EAGLE ACADEMY PUBLIC CHARTER SCHOOL
NOTICE OF REQUEST FOR QUALIFICATIONS**

Construction Management Services

Eagle Academy Public Charter School, in accordance with Section 2204(c)(XV)(A) of the District of Columbia School Reform Act of 1995, hereby requests qualifications to provide Construction Management Services for a time sensitive renovation project at a property located at 2403 Naylor Road SE, Washington, DC.

Project Summary

Eagle Academy PCS is requesting qualifications from construction management firms with extensive experience and expertise in the construction of school buildings, particularly for young children. The facility must meet the needs of the students, teachers, administrators and parents by designing “through the eyes of a child.” The project will consist of the timely renovation of three to four existing buildings at 2403 Naylor Road SE.

Submittal is Due: Monday, November 14, 2016, by 5:00 p.m.

Submittal Terms

1. Submittal Requirements – Please limit your submittal to less than 50 pages, and submit your submittal by the time specified above. No late submittals will be accepted. **Submittals should be directed to the attention of Mayra Martinez-Fernandez, Deputy COO, mmartinez@eagleacademypcs.org.**
2. Award of Contract – If the results of this RFQ warrant the awarding of a contract, Eagle Academy PCS anticipates the decision to be made by Wednesday, November 16, 2016. Eagle Academy will negotiate terms and fees with the top selected firm(s). Eagle Academy PCS reserves the right to reject any and all bids at its sole discretion.

DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, Washington, DC, intends to issue a permit (#5990-R1) to the Naval Research Laboratory (NRL) to operate one existing 40 kWe Caterpillar emergency generator set with an Perkins Caterpillar diesel engine rated at 72.6 bhp (54.2 kWm) engine output. The generator is located at Building A59, 4555 Overlook Avenue SW, Washington DC. The contact person for the facility is Lionel Vega, Environmental Engineer, Safety Branch, phone number: 202-404-2109.

The application to operate the emergency generator and the draft renewal permit are available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement, outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
stephen.ours@dc.gov

No comments or hearing requests submitted after December 5, 2016 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

HEALTH BENEFIT EXCHANGE AUTHORITY**NOTICE OF PUBLIC MEETING****Executive Board of the Health Benefit Exchange Authority**

The Executive Board of the Health Benefit Exchange Authority, pursuant to the requirements of Section 6 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-0094), hereby announces a public meeting of the Executive Board. The meeting will be held at 1225 I Street, NW, 4th Floor, Washington, DC 20005 on **Wednesday, November 9, 2016 at 5:30 pm**. The call in number is 1-877-668-4493, Access code 733 437 736. The Executive Board meeting is open to the public.

If you have any questions, please contact Debra Curtis at (202) 741-0899.

DEPARTMENT OF HEALTH (DOH)

NOTICE OF FUNDING AVAILABILITY (NOFA)

**FY 2017 Ryan White HIV/AIDS Program Parts A & B
RFA #RWA&B.11.10.16**

The District of Columbia, Department of Health (DOH) is soliciting applications from qualified applicants to provide services in the program and service areas described in this Notice of Funding Availability (NOFA). This announcement provides public notice of the Department of Health's intent to make funds available for the purpose described below. The applicable Request for Applications (RFA) will be released under a separate announcement with guidelines for submitting the application, review criteria and DOH terms and conditions for applying for and receiving funding.

General Information:

Funding Opportunity Title:	FY 2017 Ryan White HIV/AIDS Program Parts A & B
Funding Opportunity Number:	FO-HAHSTA-PG00193-001
RFA ID#:	RFA #RWA&B.11.10.16
Opportunity Category:	Competitive
DOH Administrative Unit:	HIV/AIDS, Hepatitis, STD, Tuberculosis Administration
DOH Program Bureau	Care, Housing, & Support Services Division
Program Contact:	Avemaria Smith, RWHAP Program Manager, avemaria.smith@dc.gov 202.671.4900
Program Description:	The Government of the District of Columbia, Department of Health (DOH), HIV/AIDS, Hepatitis, STD and Tuberculosis Administration (HAHSTA) is soliciting applications from qualified applicants to provide a variety of clinical and medical support services to indigent, uninsured, and under-insured persons living with HIV/AIDS in the Washington, DC Eligible Metropolitan Area (EMA).
Eligible Applicants	Not-for-profit organizations, including healthcare entities and universities; government-operated health facilities; for-profit health and support service providers demonstrated to be the only entity able to provide the service. All applicants must be located within and provide services in the DC EMA.

Anticipated # of Awards:	
Anticipated Amount Available:	\$6,000,000.00

Funding Authorization

Legislative Authorization	Ryan White HIV/AIDS Treatment extension Act of 2009
Associated CFDA#	93.917, 93.914
Associated Federal Award ID#	H89HA00012; X07HA00045
Cost Sharing / Match Required	No
RFA Release Date:	Thursday, November 10, 2016
Pre-Application Meeting (Date)	Tuesday, November 15, 2016
Pre-Application Meeting (Time)	1:00 to 3:00 p.m.
Pre-Application Meeting (Location/Conference Call Access)	899 North Capitol Street, NE – 4 th Floor
Letter of Intent Due date:	November 21, 2016
Application Deadline Date:	Monday, December 12, 2016
Application Deadline Time:	By 6:00 p.m.
Links to Additional Information about this Funding Opportunity	DC Grants Clearinghouse http://opgs.dc.gov/page/opgs-district-grants-clearinghouse . DOH EGMS https://dcdoh.force.com/GO_ApplicantLogin2

Notes:

1. DOH reserves the right to issue addenda and/or amendments subsequent to the issuance of this NOFA, or to rescind the NOFA.
2. Awards are contingent upon the availability of funds.
3. Individuals are not eligible for DOH grant funding.
4. Applicants must have a DUNS #, TaxID#, be registered in the federal Systems for Award Management (SAM).
5. Effective September 1, 2016, grant application submissions will be done via the DOH Enterprise Grants Management System (EGMS). Applicants must register to obtain an EGMS account at least two weeks prior to the submission deadline date.
6. DOH is located in a secured building. Government issued identification must be presented for entrance.

**OFFICE OF THE DEPUTY MAYOR FOR
PLANNING AND ECONOMIC DEVELOPMENT**

**NOTICE OF PUBLIC MEETING REGARDING
SURPLUS RESOLUTION PURSUANT TO D.C. OFFICIAL CODE §10-801**

The District will conduct a public meeting to receive public comments on the proposed surplus of District property. The date, time and location shall be as follows.

Property: 1010-1024 North Capitol Street, NW Lot 0860 in Square 0621

Date: Tuesday, November 29, 2016

Time: 6:30PM

Location: Northwest One Library
155 L Street NW,
Washington, D.C. 20001

Contact: Lee Goldstein
lee.goldstein@dc.gov
(202) 729-2159

THE SEED PUBLIC CHARTER SCHOOL OF WASHINGTON, D.C.**Notice of Sole Source Contract****Used Vehicle Purchase**

The SEED Public Charter School of Washington, D.C. will not seek Request for Proposals for competitive bids for two used vehicles, 2016 Ford Transit 350XLT with the mileage 27241, and 2016 Ford Transit 350XLT with the mileage 25622. The vehicles will be purchase from MemberCar, 227 Derwood Circle, Rockville, MD 20850 to be used as activity vehicles to transport students with a total purchase price of \$53000.00 These vehicles color, mileage, features, and proximity to the school are unique, justifying the sole source contract purchase.

Brendan Dowd
Campus Operations Manager
THE SEED PUBLIC CHARTER SCHOOL of Washington, D.C.
4300 C Street, SE
Washington, D.C. 20019
202-248-7773 x 5045

TWO RIVERS PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Roof-Top Solar**

On behalf of Two Rivers Public Charter School and a group of other DC charter schools, the Community Purchasing Alliance Co-op will be facilitating an RFP process for roof-top solar. Bids are due Friday, November 11. For details, visit <http://cpa.coop/solar-rfp/>. Contact Felipe Witchger at 202-810-2725 or info@cpa.coop with questions. A list of participating schools and submission info will be posted on the website listed above.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Audit Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Audit Committee will be holding a meeting on Friday, November 18, 2016 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or lmanley@dcwater.com.

DRAFT AGENDA

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| 1. Call to Order | Committee Chairman |
| 2. Summary of Internal Audit Activity -
Internal Audit Status | Internal Auditor |
| 3. Executive Session | Committee Chairman |
| 4. Adjournment | Committee Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Environmental Quality and Sewerage Services Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Environmental Quality and Sewerage Services Committee will be holding a meeting on Thursday, November 17, 2016 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dewater.com.

DRAFT AGENDA

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| 1. Call to Order | Committee Chairperson |
| 2. AWTP Status Updates
BPAWTP Performance | Assistant General Manager,
Plant Operations |
| 3. Status Updates | Chief Engineer |
| 4. Project Status Updates | Director, Engineering &
Technical Services |
| 5. Action Items
- Joint Use
- Non-Joint Use | Chief Engineer |
| 6. Emerging Items/Other Business | |
| 7. Executive Session | |
| 8. Adjournment | Committee Chairperson |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Finance and Budget Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Finance and Budget Committee will be holding a meeting on Tuesday, November 15, 2016 at 11:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com.

For additional information please contact: Linda R. Manley, Board Secretary at (202) 787-2332 or lmanley@dcwater.com.

DRAFT AGENDA

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| 1. Call to Order | Chairman |
| 2. October 2016 Financial Report | Director of Finance & Budget |
| 3. Agenda for November Committee Meeting | Chairman |
| 4. Adjournment | Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Governance Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Governance Committee will be holding a meeting on Wednesday, November 9, 2016 at 9:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dewater.com.

DRAFT AGENDA

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| 1. | Call to Order | Chairperson |
| 2. | Emerging Issues | Chairperson |
| 3. | Agenda for Upcoming Committee Meeting (TBD) | Chairperson |
| 4. | Executive Session | |
| 5. | Adjournment | Chairperson |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Human Resources and Labor Relations Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Human Resources and Labor Relations Committee will be holding a meeting on Wednesday, November 9, 2016 at 11:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or لمانley@dewater.com.

DRAFT AGENDA

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| 1. | Call to Order | Committee Chairperson |
| 2. | Other Business | |
| 3. | Executive Session | Committee Chairperson |
| 4. | Adjournment | Committee Chairperson |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Retail Water and Sewer Rates Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Retail Water and Sewer Rates Committee will be holding a meeting on Tuesday, November 15 2016 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to the DC Water’s website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or lmanley@dcwater.com.

DRAFT AGENDA

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| 1. Call to Order | Committee Chairman |
| 2. Monthly Updates | Chief Financial Officer |
| 3. Committee Work plan | Chief Financial Officer |
| 4. Other Business | Chief Financial Officer |
| 5. Adjournment | Chief Financial Officer |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Water Quality and Water Services Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Water Quality and Water Services Committee will be holding a meeting on Thursday, November 17, 2016 at 11:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dewater.com.

DRAFT AGENDA

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| 1. Call to Order | Committee Chairperson |
| 2. Water Quality Monitoring | Assistant General Manager, Consumer Ser. |
| 3. Action Items | Assistant General Manager, Consumer Ser. |
| 4. Emerging Issues/Other Business | Assistant General Manager, Consumer Ser |
| 5. Executive Session | |
| 6. Adjournment | Committee Chairperson |

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19127 of 2800 Sherman, LLC, as amended,¹ pursuant to 11 DCMR §§ 3103.2 and 3104.1,² for variances from the lot area requirements under § 401.3, the lot occupancy requirements under § 403.2, the rear yard requirements under § 404.1, and the limitation on compact parking space requirements under § 2115.2, and special exception relief from the lot width requirements under § 2604.3, the accessory parking space location requirements under § 2116.5, and the penthouse requirements of § 411.5 to construct ten flats in the R-4 District at premises 2800 Sherman Avenue, N.W. (Square 2857, Lot 818).

HEARING DATES: December 8, 2015, and February 2 and 9, 2016
DECISION DATE: February 23, 2016

DECISION AND ORDER

The owner of the subject property, 2800 Sherman, LLC (the “Applicant”), submitted a self-certified application on August 25, 2015, seeking variances from 11 DCMR §§ 401.3 (lot area and lot width), 403.2 (lot occupancy), 404.1 (rear yard), and 2115.2 (compact parking spaces), and special exception relief from 11 DCMR §§ 400.23 (height), 2604.3 (lot width for an Inclusionary Zoning development), and 2116.5 (accessory parking space location), to construct 11 flats on 11 new record lots in the R-4 District at 2800 Sherman Avenue, N.W. (Square 2857, Lot 818) (the “Site”). Based on subsequent revisions to the site layout and simultaneous changes to the Zoning Regulations, the Applicant reduced the proposal to ten flats on 10 new record lots and withdrew its request for the variance from the lot width requirements of § 401.3 and the special exception relief under the height requirements of § 400.23. The Applicant also amended its application to add a request for special exception relief under § 411.5 following the publication of the new penthouse regulations (Z.C. Case No. 14-13) in the *D.C. Register* on January 8, 2016. Following several public hearings, the Board of Zoning Adjustment (“Board”) voted on February 23, 2016 to grant the application.

¹ The Applicant’s proposal to construct ten flats on the Site was reduced from its original proposal to construct 11 flats by revised plans submitted under Exhibit 39A. The Applicant’s revised zoning calculations under Exhibit 39B reflect the withdrawal of the request for variance relief from the lot width requirements of § 401.3 and the reduction in the extent of relief needed under 11 DCMR §§ 401.3, 2604.3, 403.2, and 404.1. The caption has been revised accordingly.

² This and all other references in this Order to provisions contained in Title 11 DCMR, except those references made in the final all-capitalized paragraphs, are to provisions that were in effect on the date this Application was heard and decided by the Board of Zoning Adjustment (“the 1958 Regulations”), but which were repealed as of September 6, 2016 and replaced by new text (“the 2016 Regulations”). The repeal of the 1958 Regulations has no effect on the validity of the Board’s decision or the validity of this order. Pursuant to Subtitle A § 104 of the 2016 Regulations, the construction authorized by this Order is vested as to the area requirements contained in 1958 Regulations as of September 5, 2016.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By letter dated September 1, 2015, the Office of Zoning provided notice of the original application to the Office of Planning ("OP"); the District Department of Transportation ("DDOT"); the Councilmember for Ward 1; Advisory Neighborhood Commission ("ANC") 1B, the ANC in which the Site is located; and Single Member District 1B09. Pursuant to 11 DCMR § 3112.14, on September 15, 2015, the Office of Zoning mailed letters providing notice of the hearing to the Applicant, ANC 1B, and the owners of property within 200 feet of the Site. The Public Hearing Notice was published in the *D.C. Register* on September 25, 2015. (62 DCR 40.)

Applicant's Case. At the public hearing on December 8, 2015, the Applicant presented its original plans to construct 11 flats at the Site and provided evidence and testimony to assert that the application satisfied all the requirements for special exception and variance relief.

Based on concerns raised by the neighbors' testimony and by OP, the Board requested additional information from the Applicant and continued the public hearing. In advance of the continued hearing, the Applicant submitted updated architectural plans and elevations reducing the project to ten lots (ten flats, containing 20 units) instead of the originally-proposed 11 lots (11 flats, containing 22 units) and a slightly revised site layout. (Exhibit 39A.) At the limited public hearing on February 2, 2016, the Board considered the information submitted by the Applicant and by the neighbors opposing the project. The Board requested that the Applicant and the neighbors in opposition meet with Ms. Tania Jackson of the Ward 1 Councilmember's office to resolve issues regarding the project's alleged encroachment into neighboring property and the possible existence of an easement across the Site. The Board scheduled a continued limited hearing on February 9, 2016.

At the limited hearing on February 9, 2016, the Applicant and Ms. Jackson of the Ward 1 Councilmember's Office discussed the outcome of the meeting with the neighbors in opposition, and the Applicant submitted a further revised site plan that specifically included emergency egress gates and a trash storage area for the benefit of the property owners on Sherman Avenue. (Exhibit 45.) The Applicant also testified on February 9, 2016, that it was committed to working with the Sherman Avenue Neighbors to move forward with the project.

OP Reports. By memorandum dated December 1, 2015, OP expressed its general support of the Applicant's project, but recommended denial of the variance and special exception requests under 11 DCMR §§ 401.3, 2604.3, 403.2, and 404.1. (Exhibit 33.) OP opined that the Applicant did not adequately explain the nexus between the unique Site characteristics and the practical difficulty in developing the Site in conformance with the Zoning Regulations. Specifically, OP asserted that the Applicant has not identified a clear practical difficulty related to the shape of the lot that prevented it from being developed into new record lots that are "closer to conformance with the intent of the Zoning Regulations." Nevertheless, OP asserted that it would not oppose the special exception parking relief requested under 11 DCMR §§ 2115.2 and 2116.5.

Following the public hearing on December 8, 2015, and the Applicant's January 26, 2016 post-hearing submission, OP submitted a supplemental report dated January 27, 2016. (Exhibit 41.) OP indicated that the revised project is "generally consistent and compatible with the surrounding community," but reiterated its concerns regarding the nexus between the Site's exceptional situation and the practical difficulty of developing the Site. Based on these concerns, OP noted that it could not support the variance from the lot area requirements of 11 DCMR § 401.3. However, OP asserted that if the Board accepts the nonconforming lot size, then OP would not oppose the remaining special exception and variance relief.

DDOT Report. By memorandum dated December 1, 2015, DDOT filed a report with the Board, expressing no objection to the Applicant's request for variances and special exceptions. (Exhibit 34). DDOT noted that "an appropriate network of pedestrian, bicycle, and transit infrastructure exists in close proximity to the proposed development, and which the Applicant will improve access by improving existing pedestrian facilities adjacent to its proposed development." DDOT also asserted that the provision of "15 vehicular parking spaces and 10 long term bicycle parking spaces is appropriate and meets zoning regulations." Finally, DDOT noted that the Applicant's project would result in the closure of a curb cut on Sherman Avenue.

ANC Report. ANC 1B submitted a resolution to the Board dated November 6, 2015. The resolution noted that at its public meeting of November 5, 2015, at which notice was properly given and a quorum was present, ANC 1B voted 8-0 to support the project. (Exhibit 28.)

Persons in Opposition. Four neighbors testified in opposition to the project. Andrew Scholnick and Mike Warnecke, who reside at 1020 Girard Street, N.W., expressed more general concerns regarding increased density, construction activities, and the impact of the development on on-street parking availability. Two neighbors residing on Sherman Avenue, Willie Jackson, of 2810 Sherman Avenue, N.W. (Square 2857, Lot 45) and Levon Donaldson, of 2814 Sherman Avenue (Square 2857, Lots 137 and 820) (the "Sherman Avenue Neighbors"), alleged that the proposed development on the Site would impermissibly encroach on their properties. Mr. Jackson and Mr. Donaldson also asserted that an easement existed for access from their properties across the Site (or the predecessor Lots 800, 808, and 816), to the north-south public alley located to the west of the Site. Mr. Donaldson and Mr. Jackson submitted documents to the record (Exhibit 40A1 and 40A2) and testified a second time at the limited public hearing of February 2, 2016, but were not present at the February 9, 2016 hearing.

FINDINGS OF FACT

The Site and the Surrounding Neighborhood

1. The Site is located at 2800 Sherman Avenue, N.W. (Square 2857, Lot 818). The Site has a total land area of 13,900 square feet and is located in the R-4 District. The Site is an irregularly-shaped flag lot, and is the largest lot within Square 2857. The Site is located on the southeast corner of the square, with Sherman Avenue to the east, Girard Street to the south, and a north-south public alley to the west. The Site is otherwise bounded by private property, including Lots 45, 137, and 820.

2. Square 2857 is bounded by Harvard Street to the north, Sherman Avenue to the east, Girard Street to the south, and 11th Street to the west. Square 2857 has a north-south, 15-foot wide alley that runs from Harvard Street to Girard Street.
3. The Site has had a history of nonconforming commercial and industrial uses, including the headquarters of a taxi company. The Site was most recently occupied by the headquarters of Foote's Plumbing and Heating.
4. Due to the Site's former use as a gas station, there is significant petroleum contamination on the Site that requires remediation. Based on the Applicant's drilling and environmental reports, the contamination is up to 16 feet and 18 feet deep. This level of contamination will require the Applicant to over-dig by approximately 10 feet to 12 feet in some locations and bring in a significant amount of clean fill to obtain approval from DDOE and ensure safe residential development. (*See* BZA Hearing Transcript ("Tr.") of December 8, 2016, pp. 42-43.)
5. As a result of the contamination and the associated studies and remediation work, the Applicant will spend approximately \$800,000 additional on redevelopment of the Site. (*See* Tr., p. 51.)
6. The Site is currently improved with a two-story commercial building located at the southeast corner of the Site, a one-story garage building abutting the alley on the west side of the Site that spans the entire north-south west portion of the Site along the alley, and surface parking on the remainder of the Site. The Applicant proposes to raze the existing structures in connection with redevelopment of the Site.
7. The Site is located in Columbia Heights, with frontage on Sherman Avenue. Sherman Avenue is a major north-south corridor in the District that is primarily developed with one- and two-family row dwellings, many of which are nonconforming as to lot width and lot area. The majority of the area surrounding the Site is zoned R-4.

The Applicant's Project

8. The Applicant proposes to remove the existing commercial building and garages on the Site and to subdivide the Site into ten individual record lots in order to construct ten two-family row dwellings (the "Proposed Flats").
9. Six of the new lots will have frontage on Girard Street (referred to herein as "Lots A-F") and four of the new lots will have frontage on Sherman Avenue (referred to herein as "Lots G-H and J-K").

The Proposed Lot Dimensions

10. The three western-most lots fronting on Girard Street (Lots A, B, and C) are irregular in

shape and size, but all comply with the minimum required lot dimensions for a project with Inclusionary Zoning (“IZ”) units in the R-4 District.

11. Certain lots fronting on Girard Street (Lots D, E, and F) have a lot area of 1,275 square feet where a minimum lot area of 1,500 square feet is required, pursuant to 11 DCMR § 401.3.
12. Lots D, E, and F match Lots A, B, and C in the permitted lot width, but because of the shallow north-south depth of 75 feet for this portion of the Site, Lots D, E, and F require variances from the lot area requirements.
13. Lots D, E, and F would need to be 93.75 feet deep in order to provide the minimum required lot area of 1,500 square feet and the minimum required lot width of 16 feet.
14. The lots along Sherman Avenue (Lots G, H, J, and K) each have a lot width of 18.75 feet and 994 square feet of lot area, where 1,500 square feet is required, pursuant to 11 DCMR § 401.3.
15. Lots A, D, E, and F are all 17 feet wide and Lot C is 17 feet and one inch wide. The widths of these lots are permitted by special exception pursuant to 11 DCMR § 2604.3 for IZ developments in the R-4 District.
16. The average lot width in the surrounding area is 17.1 feet (a range of 12.5 feet to 26 feet). The proposed lot widths will allow for an appropriate interior layout for the flats, which are designed to accommodate families.

The Proposed Flats

17. On average, the lot occupancy for the proposed flats will be 49% for the new lots, where a maximum lot occupancy of 60% is permitted, pursuant to 11 DCMR § 403.2.
18. On average, the rear yard depth of the proposed flats for the new lots will be 29 feet and three inches. A minimum rear yard depth of 20 feet is required by 11 DCMR § 404.1.
19. The proposed flats on Lots G, H, J, and K will each have a lot occupancy of 70%, whereas 60% is the maximum lot occupancy permitted, pursuant to § 403.2.
20. The proposed flats on Lots G, H, J, and K will each provide a rear yard of 16 feet, where 20 feet is required, pursuant to § 404.1.
21. The proposed flats will each have a penthouse that provides roof access to the residents. The penthouses will not exceed 10 feet and one story in height and will contain only stair access to the roofs. The penthouses will be set back at least 1:1.

Parking

22. Fifteen compact surface parking spaces will be provided on the Site, all of which will be accessed from the public alley. A variance is required for the use of compact parking spaces, as set forth in 11 DCMR § 2115.2.
23. Thirteen spaces will be located in the north-south stem portion of the flag lot located along the alley, and two spaces will be located behind Lots C and D. A centralized trash area located on the rear portion of Lots D and E will be provided on the Site.
24. Because the proposed parking spaces for the project are located on the western portion of the Site adjacent to the alley, rather than on the individual lots upon which the parking spaces are intended to serve, two of the new record lots will have more than one parking space, two others will have a portion of a parking space, and the remainder will have no parking spaces. Subsection 2116.5 of the Zoning Regulations permits off-site parking for flats by special exception.
25. Cross-easements will be recorded to allow access and use of the parking by the residents of the project.
26. The location of the parking spaces grouped on the western portion of the Site is the most efficient use of the Site's irregular shape, creates a better design, provides safe ingress and egress to the street, and results in minimal impact on neighboring properties.
27. All ingress and egress will occur from the public alley. This type of access will result in the closure of an existing curb cut on Sherman Avenue and will permit the Applicant to eliminate all vehicle entrances and curb cuts onto the Site from the surrounding streets.
28. The accessory parking spaces will be located so as to furnish reasonable and convenient parking facilities for the occupants or guests of the building or structures that they are designed to serve.

General Project Considerations

29. The proposed layout minimizes the gap along the streetscape and maintains the architectural rhythm of the street. The square footages of the units have remained approximately the same as in the original plan, in order to respond to the market in that area for units of a certain size and a certain cost per square foot.
30. The alternative site configurations and testimony regarding the project financing provided by the Applicant demonstrate that a matter-of-right development would result in units that are out of character with the surrounding neighborhood that would create difficulties in the marketing of those units. The significant cost of environmental remediation

required to be undertaken by the Applicant also factors in to the practical difficulty of developing the project as a matter of right. (*See Tr.*, pp. 49-52.)

31. The project is consistent with the surrounding residential neighborhood. The proposed lot dimensions, lot occupancies, and rear yards are consistent with those of other residential dwellings in the surrounding area.
32. Each record lot will provide substantial open space, light, and air to its residents, and each flat is designed to maximize space to comfortably accommodate families.
33. The project is consistent with the Comprehensive Plan for the National Capital (the "Comprehensive Plan"), which encourages infill development on underutilized land within the city, particularly in areas where there are unimproved lots that create gaps in the urban fabric.

Revisions to Project to Address Neighbors' Concerns

34. During the December 8 and February 2 public hearings, the Sherman Avenue Neighbors (Mr. Jackson, who owns Lot 45, and Mr. Donaldson, who owns Lots 137 and 820) testified in opposition to the project regarding two main issues: (1) that the proposed development would impermissibly encroach on Lots 45, 137, and 820; and (2) that an easement exists for access from Lots 45, 137, and 820 across the Site, to the north-south public alley to the west of the Site. The Neighbors in Opposition raised a general concern with emergency egress out of their properties that they believed would be hampered by the proposed development of the Site.
35. Following the limited public hearing on February 2, 2016, and as requested by the Board, the Applicant met with Mr. Jackson and Mr. Donaldson in a meeting facilitated by Ms. Tania Jackson, Chief of Staff to the Councilmember for Ward 1. The Applicant submitted relevant information and documents to the Board regarding this meeting (Exhibits 44 and 45), as follows:
36. The Applicant submitted a Neighbor Emergency Egress Plan (Exhibit 45, Sheet 1) showing proposed emergency exit gates for egress from Mr. Jackson's property (Lot 45), Mr. Donaldson's property (Lots 137 and 820), and the intervening Lot 822, onto the Site. The Applicant offered to install the emergency exit gates shown on Exhibit 44 if accepted by the neighbors. Egress from these gates to the alley would be through a pedestrian gate located behind the flat on Lot A. This would be for emergency egress only.
37. The Applicant provided a Neighbor Trash Removal and Emergency Egress Plan (Exhibit 45, Sheet 2) showing a proposed access way from the neighboring properties to the public alley, across Lot 813, for use by the neighbors to store their trash cans so that they can have trash pickup from the alley, rather than from the front of their properties. The Applicant offered to provide this access if and when the Applicant is successful in

completing the purchase of Lot 813 in a tax sale, and if the neighbors agree that they want it.

CONCLUSIONS OF LAW

Variance Relief

Standard of Review

The Board is authorized under § 8 of the Zoning Act of 1938, D.C. Official Code § 6-631.07(g)(3), to grant variance relief where, "by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property," the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, provided that relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. (*See* 11 DCMR § 3103.2.)

The District of Columbia Court of Appeals has held that "an exceptional or extraordinary situation or condition" may encompass the buildings on a property, not merely the land itself, and may arise due to a "confluence of factors." (*See Clerics of St. Viator v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291 (D.C. 1974); *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990).) The Court of Appeals has also held that "economic use of property may be properly considered as a factor in deciding the question of what constitutes an unnecessary burden or practical difficulty in area variance cases." (*Tyler, et. al. v. District of Columbia Bd. of Zoning Adjustment*, 606 A.2d 1362 (D.C. 1992).)

The Applicant is seeking variances from the lot area requirements under § 401.3, the lot occupancy requirements under § 403.2, the rear yard requirements under § 404.1, and the limitation on compact parking space requirements under § 2115.2. As discussed below, the Board concludes that the Applicant has met its burden of proof for the requested area variances in this case.

Exceptional Situation or Condition Related to the Site

The Board concludes that the Site is affected by a confluence of several factors that create an exceptional and extraordinary condition on the Site. First, the Site is exceptionally narrow and shallow in certain locations and has an unusual flag shape. The Site has approximately 13,900 square feet of land area and is roughly comprised of two rectangles due to the creation of Lot 818 from three separate lots (Lots 800, 808, and 816). These two

segments of the Site together create an irregularly shaped and sized flag lot with unusual dimensions that significantly impact the ability to create an appropriate matter-of-right development on the Site.

In addition, there exists significant petroleum contamination on the Site that further results in an exceptional situation. The Applicant has undertaken drilling activities on the Site that indicate the existence of contamination up to 16 feet and 18 feet deep. This level of contamination will require the Applicant to over-dig by approximately 10 feet to 12 feet in some locations and bring in a significant amount of clean fill to obtain approval from DDOE and develop the Site in a safe manner. Thus, when taken as a whole, the Board concludes that the irregularly shaped and sized lot, plus the existence of extensive environmental contamination, together create exceptional and extraordinary conditions.

Practical Difficulty in Complying with the Zoning Regulations

The Board concludes that the Site's exceptional and extraordinary conditions create practical difficulties in complying with the Zoning Regulations. The size, shape, and dimensions of the Site present limited options for appropriate development with matter-of-right lot sizes, residential dwellings, and parking layouts. The Board considered the alternative configurations of the project, as created by the project architects, and determined that those alternative plans would result in inefficient Site layouts that are not in character with the surrounding neighborhood. Further the Board finds that important factors in developing the final site plan included orienting the flats to face Sherman Avenue, minimizing the rear yard gap along Girard Street, maintaining the height, width, design, rhythm, and size of the flats to be consistent with the surrounding residential neighborhood, providing adequate off-street parking and trash storage, and eliminating curb cuts.

In addition to the lot size, shape, and dimensions, the significant environmental contamination of the Site creates a practical difficulty in developing this Site in conformance with the Zoning Regulations. As indicated by the Applicant, the necessary environmental testing and remediation work on the Site will result in an additional \$800,000 in fees. The Applicant provided evidence and testimony supporting the assertion that the significant cost of environmental remediation for the project directly impacts that financial feasibility of the development. (*See Tr.*, pp. 49-52.)

Variances for Lots G, H, J, K (Sherman-fronting Lots)

The Board finds that it is practically difficult to provide zoning-compliant lot areas, rear yards, and lot occupancies for Lots G, H, J, and K. Each lot fronting Sherman Avenue will have a lot width of 18.75 feet where 16 feet is permitted for IZ developments by special exception under § 2604.3; a lot area of 994 square feet where 1,500 square feet is required under § 401.3; a lot occupancy of 70% where a maximum 60% is allowed under § 403.2; and a rear yard of 16 feet where a minimum depth of 20 feet is required under § 404.1.

To provide 1,500 square foot lots, each lot would need to be 80 feet deep, instead of 53 feet deep as proposed. The flats are each proposed to be 37 feet deep. Thus, creating 80 feet deep lots would result in a 43-foot rear yard gap along Girard Street, which creates a dead space along the street and is generally an inefficient use of the Site. The more practical way to lay out four lots along Sherman Avenue with the building square footages as proposed is to provide slightly noncompliant lot areas, which results in slightly noncompliant rear yards. This proposed lot area and layout is consistent with what is found in the surrounding neighborhood. Providing compliant rear yards would result in removing square footage from each flat, thus hindering the creation of appropriately sized and designed three-bedroom units for families. The proposed site plan minimizes the gap along Girard Street and maintains the architectural rhythm of the street. Providing lots along Sherman Avenue that meet the lot area, lot occupancy, and rear yard requirements is therefore practically difficult.

Variances for Lots D, E, F (Girard-fronting Lots)

The Board also finds that it is practically difficult to provide zoning-compliant lot areas for Lots D, E, and F. Each of these lots will have a lot area of 1,275 square feet where 1,500 square feet is required. Due to the Site's irregular shape, the three western-most lots fronting Girard Street (Lots A, B, and C) are all irregular in shape and size, but all comply with and exceed the minimum required lot dimensions for a project with IZ units in the R-4 District. Lots D, E, and F match Lots A, B, and C in lot width, but because of the shallow north-south dimension of 75 feet on this portion of the Site, Lots D, E, and F require variances from the lot area requirements.

As previously described, Lots D, E, and F would each need to be 93.75 feet deep to provide a 1,500 square foot lot, while still maintaining a minimum lot width of 16 feet. Making Lots D, E, and F 93.75 feet deep would result in an encroachment on the adjacent property to the north (Lot 45) by approximately 19 feet, which imposes an undue burden on the Applicant. Alternatively, Lots D, E, and F would each need to be 20 feet wide to provide a 1,500 square foot lot area while still fitting within the Site's lot lines. Providing 20-foot-wide lots would be inconsistent with the widths of adjacent Lots A, B, and C and with other residential lots in the surrounding neighborhood. Moreover, providing 20 feet lot widths for Lots D, E, and F would add 12 feet to the Girard Street frontage, thus significantly encroaching on the rear yards of Lots G, H, J, and K, which are already nonconforming. Thus, the Board concludes that it is practically difficult to provide 1,500 square foot lot areas for Lots D, E, and F.

Variance from the Compact Parking Space Requirements

The Board finds that the unique shape of the Site creates a practically difficult in providing full-size parking spaces on the Site. Fifteen compact, surface parking spaces will be located on the north-south stem of the Site along the alley and behind Lots C and D. If the parking spaces were standard-sized, there would not be enough room on the Site to provide the total number of required parking spaces and the required space for drive aisles. Full-sized parking spaces would also eliminate space devoted to the on-site trash area, which is centrally located to allow convenient access by all residents. Thus, the Board concludes that providing full-sized, on-site parking spaces would result in a practical difficulty to the Applicant, based on the unusual shape of the Site.

No Substantial Detriment to the Public Good or Zone Plan

The Board concludes that the requested variances can be granted without substantial detriment to the

public good and without substantially impairing the intent, purpose, and integrity of the zone plan. The proposed development plan is a logical layout given the Site's physical constraints, and is consistent with the dimensions and character of the surrounding neighborhood. Although up to three variances are required for some of the proposed new record lots, many of the variance requests are *de minimis*, consisting of several feet at most. Each new lot will have adequate open space to provide light and air to its occupants.

With respect to the zone plan, the Board finds that the project fits well within the character of the neighborhood, particularly since the proposed lot dimensions, lot occupancies, and rear yards are consistent with those of other residential dwellings in the surrounding area. Furthermore, the Board finds that the project is consistent with the Comprehensive Plan, which encourages infill development on underutilized land within the city, particularly in areas where there are unimproved lots that create gaps in the urban fabric, as is the case here. The proposed development complements the established character of the area while turning a mostly vacant lot into a productive housing use, which is desperately needed in the District. Thus, the Board concludes that the public good will be well-served by the proposed infill residential development in this area of the city.

Special Exception Relief

Standard of Review

Under D.C. Official Code § 6-641.07(g)(2) and 11 DCMR § 3104.1, the Board is authorized to grant a special exception where it finds that the special exception will be in harmony with the general purpose and intent of the zone plan and will not tend to adversely affect the use of neighboring property, subject in each case to the special conditions specified. Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested relief are met. In reviewing an application for special exception relief, "[t]he Board's discretion... is limited to a determination of whether the exception sought meets the requirements of the regulation." *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 423 A.2d 695, 706 (D.C. 1981) (quoting *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

The Applicant seeks special exception approval under the lot width requirements of § 2604.3, the parking space location requirements of § 2116.5, and the penthouse requirements of § 411.5.

Lot Width

Lots A, D, E, and F are each 17 feet wide and Lot C is 17 feet, one inch wide. These lot widths are permitted by special exception pursuant to 11 DCMR § 2604.3 for IZ developments in the R-4 District. The average lot width in the surrounding area is 17.1 feet, with a range of 12.5 feet to 26 feet. Thus, the Board finds that the proposed lot widths of 17 feet and 17 feet, one inch for Lots A, C, D, E, and F are consistent with, and proportionate to, the lot widths found in the surrounding neighborhood. Moreover, the proposed lot widths will allow for appropriately

scaled and sized interior layouts designed to accommodate families in three bedrooms. Therefore, the Board concludes that the grant of this special exception is in harmony with the general purpose and intent of the Zoning Regulations and will not tend to adversely affect the use of neighboring property.

Parking Other Than on the Lot Where the Principal Use is Located

Subsection 2116.5 of the Zoning Regulations permits off-site parking for flats by special exception. Given the size, shape, and dimensions of the Site, and the layout of the proposed development, all of the parking for the project is located on the western portion of the Site adjacent to the alley, rather than on the lot upon which the flat the parking spaces are intended to serve is located. The Board finds that the proposed parking layout is the most efficient use of land and complies with the standards of 11 DCMR §§ 2116.5 through 2116.9.

The location of the parking spaces clustered on the western portion of the Site creates the most efficient layout for each new lot, results in safe ingress and egress to the street, minimizes pedestrian-vehicle conflicts, and results in no negative impacts to neighboring properties. All ingress and egress to the Site will occur from the public alley, thus resulting in the closure of the existing curb cut on Sherman Avenue and eliminating vehicular access from the surrounding streets. The Board finds that providing this type of site access will improve pedestrian safety and limit potential traffic hazards surrounding the Site. Moreover, the Board finds that the location of the parking spaces is conveniently located for occupants of the proposed development, since cross-easements will be recorded to allow direct access from all flats. Accordingly, the Board concludes that the grant of this special exception is in harmony with the general purpose and intent of the Zoning Regulations and meets the test for special exception relief under 11 DCMR § 2116.5.

Penthouses

Pursuant to 11 DCMR §§ 3104 and 411.5, the Board may approve as a special exception a penthouse on the roof of a flat, provided that the penthouse: (a) is no more than 10 feet in height and contains no more than one story, and (b) contains only stair or elevator access to the roof and a maximum of 30 square feet of storage space ancillary to a rooftop deck.

In this case, the flats will have penthouses to provide roof access for their residents. The Board finds that the penthouses meet the requirements of 11 DCMR § 411.5, since: (a) the penthouses will not exceed 10 feet and one story in height, and (b) the penthouses will contain only stair access to the roofs. Moreover, the penthouses will meet or exceed the 1:1 setback requirements set forth in the penthouse regulations, such that they will not have any perceived impact on surrounding properties. Thus, the Board concludes that the proposed penthouses also meet the requirements of 11 DCMR § 3104 as being in harmony with the general purpose and intent of the zone plan and will not tend to adversely affect the use of neighboring property.

Issues Raised by Neighbors in Opposition

Regarding the allegations of an easement on the subject property and encroachment made by the Sherman Avenue Neighbors in Exhibits 40A1 and 40A2, the Board lacks authority to find that an easement exists in the absence of any record of the Surveyor of the District of Columbia or the Recorder of Deeds or court order indicating that such an easement exists. Further, the Board finds that, even if an easement exists, the easement alone would not be relevant to the Board's determination in this case. The Board cannot deny an application based on an assertion that private rights granted by an easement would be violated, as only a court may make a finding of such a violation and issue an injunction halting the project. In addition, the Board would nonetheless have to find that the violation resulted in the type of adverse impact that would justify the denial of the application or the imposition of a mitigating condition.

The Board did, however, request that the Applicant work with the Sherman Avenue Neighbors by having discussions with staff from the Ward 1 Councilmember's office in advance of the Board's February 9, 2016 public hearing. The Board has also carefully reviewed the Applicant's proffer of emergency gates and egress ways for the Sherman Avenue Neighbors to address their concerns about access from their properties, across the Applicant's property, to the public alley to the west. (*see* Exhibit 45, Sheets 1 and 2.) The Board believes that the Applicant has attempted to address these issues in good faith, but also notes that the Applicant's proposal requires in one instance that the Applicant obtain title to the neighboring Lot 813 in a tax sale, and also requires in both instances the assent of the Sherman Avenue Neighbors, who did not appear at the February 9, 2016 public hearing to indicate their acceptance of the Applicant's proffers.

The Board also notes that it cannot impose the gates and access ways shown in the site plans in Exhibit 45, Sheets 1 and 2, as conditions to the Order, because there is no nexus between the zoning relief being requested in this application and the conditions sought to be imposed. (*See* BZA Application No. 18778 of KJ Florida Avenue Property, LLC (June 18, 2014); *see also* BZA Application No. 17165-A of Public Storage, Inc. (August 4, 2004).) However, the Board encourages the Applicant to continue a dialogue with the Sherman Avenue Neighbors, and will condition this order to allow the appropriate flexibility, should the Applicant succeed in acquiring the additional property and should the Sherman Avenue Neighbors agree to accept the Applicant's offers.

Great Weight

The Board is required to give "great weight" to the issues and concerns raised by the affected ANC in its written report. (Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001)).) In this case, ANC 1B recommended approval of the requested relief. Based on the Applicant's agreement with ANC 1B, the Applicant will dedicate the two units in the flat on Lot B to two three-bedroom IZ units, both of which will be dedicated to households earning up to 50% of the

area median income (“AMI”). The Board accords the ANC recommendation the great weight to which it is entitled and concurs in its recommendation.

The Board is also required to give “great weight” to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04 (2001).) In this case, OP’s initial report expressed general support of the project, but recommended denial of the variance and special exception requests under 11 DCMR §§ 401.3, 2604.3, 403.2, and 404.1. (Exhibit 33.)

Based on the Applicant’s revised plans and supplemental information, OP submitted a second report affirming its general support for the project and asserting that the project is “generally consistent and compatible with the surrounding community.” (Exhibit 41.) The report also expressed OP’s concerns regarding the nexus between the Site’s exceptional situation and the practical difficulty of development. OP did not support the requested variance from the lot area requirements of 11 DCMR § 401.3 for the revised ten-lot plan, but OP did assert that if the Board accepts the nonconforming lot area variance, then OP would not oppose the remaining areas of zoning relief.

In this case, the Board does accept the nonconforming lot area variance, because of the practical difficulties associated with creating zoning-compliant lot areas that is a direct result of the Site’s narrow dimensions and unusual shape. In addition, when considering the nexus between the Site’s exceptional situation and the associated practical difficulty, the Board considered the Applicant’s testimony regarding the impact of the environmental contamination as it relates to the financial feasibility of the project. At the hearing of December 8, 2015, OP testified that it declines to consider the Applicant’s economic argument as part of its analysis. For these reasons and the other substantive findings and conclusions made in this order, the Board accepts the nonconforming lot areas in the Applicant’s ten-lot plan as appropriate under the limited circumstances of this case, and therefore finds OP’s objection to the lot area variance unpersuasive.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 3103.2 for area variances under §§ 401.3, 403.2, 404.1, and 2115.2, that there exists an exceptional or extraordinary situation or condition related to the Site that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

The Board also concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, 2604.3, 2116.5, and 411.5, and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not

tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED SITE PLAN SUBMITTED AS EXHIBIT 42, SHEET 8, AND THE ARCHITECTURAL DRAWINGS AT EXHIBIT 39A, SHEETS 8 THROUGH 18, AND SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The Applicant shall have minor flexibility to modify the site plan in accordance with Exhibit 45, Sheet 1, if the Sherman Avenue Neighbors agree to the installation of emergency access gates as shown on that Exhibit.
2. The Applicant shall have minor flexibility to modify the site plan in accordance with Exhibit 45, Sheet 2, to include the improvements shown on the adjacent Lot 813, if the Applicant is able to acquire Lot 813, and if the Sherman Avenue Neighbors agree, and are able to get the other affected neighbors along Sherman Avenue to agree, to establish the mutual access way across the rear of their properties as shown on that Exhibit.

VOTE: **4-0-1** (Marnique Y. Heath, Frederick L. Hill, Jeffrey L. Hinkle (by absentee ballot), and Anthony J. Hood (by absentee ballot), to APPROVE; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: October 26, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING

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THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19338 of Douglas and Stephanie Lett, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201, from the lot occupancy requirements of Subtitle E § 304.1, to construct a two-story rear addition to an existing one-family dwelling in the RF-1 Zone at premises 543 Tennessee Avenue N.E. (Square 1053N, Lot 52).

HEARING DATES: October 4 and 18, 2016¹
DECISION DATE: October 18, 2016

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 5 (original), 40 (corrected), and 41 (corrected with second page attached).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 13, 2016, at which a quorum was present, the ANC voted 8-0-0 to support the application. (Exhibit 39.)

The Office of Planning ("OP") submitted a timely report (Exhibit 35) and testified at the hearing in support of the application. The District Department of Transportation ("DDOT") submitted a report of no objection to the approval of the application. (Exhibit 34.)

Five letters in support of the application were submitted by nearby residents. (Exhibits 12, 32, 36, and 37.)

¹ This case was postponed from the public hearing of October 4, 2016, at the Applicant's request (Exhibit 33) to allow time for the Applicant to attend the October 14th meeting of the Advisory Neighborhood Commission.

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle E §§ 5201 and 304.1. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle E §§ 5201 and 304.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 7.**

VOTE: **3-0-2** (Peter G. May, Frederick L. Hill, and Jeffrey L. Hinkle to APPROVE; Anita Butani D'Souza not participating or voting, and one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: October 26, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

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PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19339 of Chris Caldwell and Kelly Steele, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201, from the lot occupancy requirements of Subtitle E § 304.1, to construct a two-story accessory building with a garage and living space¹ in the RF-1 Zone at premises 313 11th Street N.E. (Square 986, Lot 805).

HEARING DATES: October 4 and 18, 2016²

DECISION DATE: October 18, 2016

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 5 (original), 40 (corrected).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 13, 2016, at which a quorum was present, the ANC voted 8-0-0 to support the application. (Exhibit 39.)

The Office of Planning ("OP") submitted a timely report (Exhibit 37) and testified at the hearing in support of the application. The District Department of Transportation ("DDOT") submitted a report of no objection to the approval of the application. (Exhibit 36.)

Four letters in support of the application were submitted by nearby residents. (Exhibits 12-15.)

¹ The Applicant testified that the additional living space would not be used as an accessory dwelling unit ("ADU") and that, as the Office of Planning noted, if the space is to be used as an ADU, it would require additional relief.

² This case was postponed from the public hearing of October 4, 2016, at the Applicant's request (Exhibit 34) to allow time for the Applicant to attend the October 14, 2016 meeting of the Advisory Neighborhood Commission.

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle E §§ 5201 and 304.1. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle E §§ 5201 and 304.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 7.**

VOTE: **3-0-2** (Frederick L. Hill, Jeffrey L. Hinkle, and Peter G. May to APPROVE; Anita Butani D'Souza not participating or voting, and one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: October 26, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING

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THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19342 of Peter Revocable Trust and Patrick's Pet Care, as amended¹, pursuant to 11 DCMR Subtitle X, Chapters 9 and 10, for a special exception under the MU-Use Group E requirements of Subtitle U § 513.1(a), and for an area variance from the requirement that the use not abut a residential use or zone under Subtitle U § 513.1(a)(1), to establish an animal boarding use in the MU-4 Zone at premises 3303 11th Street N.W. (Square 2841, Lot 43).

HEARING DATE: October 18, 2016

DECISION DATE: October 18, 2016

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated March 17, 2016, from the Zoning Administrator, certifying the required relief. (Exhibit 7.)

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 1A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1A, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on July 13, 2016, at which a quorum was present, the ANC voted 9-0-0 to support the application. (Exhibit 24.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 36.) At the hearing OP clarified the relief that was required and testified in support of the application, as amended. The District Department of Transportation ("DDOT")

¹ The Applicant amended the application at the hearing to add variance relief based on advice from the Office of Planning and the Office of the Attorney General. The original request was for a special exception to establish animal boarding use. The Zoning Administrator's letter cites a provision in the Zoning Regulations of 1958, which were then in effect but were subsequently repealed and replaced by the Zoning Regulations of 2016 that went into effect on September 6, 2016. Based on language in the text of the Zoning Regulations of 2016, (11-U DCMR § 513.1(a)(1)), that "the use shall not abut ... any property line of an existing residential use or a residential zone," the application requires an area variance, although the use of "abut" in that provision will be removed in an upcoming technical correction to the text. Because the language remained in the provision at the time of the Board's decision, the Applicant orally amended its request to add area variance relief. Also, the Applicant's request for a waiver of an additional fee was granted. (Exhibit 43.) The caption has been changed accordingly.

submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 41.)

Letters of support for the application were submitted by Lauren Lipsey of the Washington Humane Society/Washington Animal Rescue League, as well from at least 13 neighbors and from Single Member District ANC 1A08. (Exhibits 38-40, 42.)

Variance Relief

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for an area variance from the requirement that the use not abut a residential use or zone under Subtitle U § 513.1(a)(1), to establish an animal boarding use in the MU-4 Zone. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from 11 DCMR Subtitle U § 513.1(a)(1), the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under the MU-Use Group E requirements of Subtitle U § 513.1(a), to establish an animal boarding use in the MU-4 Zone. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle U § 513.1(a), that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 6.**

VOTE: **4-0-1** (Frederick L. Hill, Anita Butani D'Souza, Jeffrey L. Hinkle, and Peter G. May, to APPROVE; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: October 26, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR

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PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19347 of Calvin Krishen, pursuant to 11 DCMR Subtitle X, Chapter 10, for variances from the nonconforming structure requirements of Subtitle C § 202.2, and the lot occupancy requirements of Subtitle E § 304.1, to construct a one-story deck addition to the rear of an existing one-family dwelling in the RF-1 Zone at premises 1452 Spring Road, N.W. (Square 2690, Lot 46).

HEARING DATE: October 18, 2016

DECISION DATE: October 18, 2016

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated June 15, 2016, from the Zoning Administrator, certifying the required relief. (Exhibit 6.)

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 1A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1A, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC’s report indicated that at a regularly scheduled, properly noticed public meeting on September 14, 2016, at which a quorum was present, the ANC voted 11-0-0 to support the application. (Exhibit 29.)

The Office of Planning (“OP”) submitted a timely report (Exhibit 31) and testified at the hearing in support of the application. The District Department of Transportation (“DDOT”) submitted a report of no objection to the approval of the application. (Exhibit 30.)

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for area variances from the nonconforming structure requirements of Subtitle C § 202.2 and the lot occupancy requirements of Subtitle E § 304.1, to construct a one-story deck addition to the rear of an existing one-family dwelling in the RF-1 Zone. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from 11 DCMR Subtitle C § 202.2 and Subtitle E § 304.1, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 8.**

VOTE: **3-0-2** (Frederick L. Hill, Jeffrey L. Hinkle, and Peter G. May to APPROVE; Anita Butani D'Souza not participating or voting, and one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: October 21, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

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PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19351 of PA Properties LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the MU-Group E use requirements of Subtitle U § 513.1(c), to operate a fast food establishment in the MU-4 Zone at premises 3827 Pennsylvania Avenue S.E. (Square 5673, Lot 803).

HEARING DATE: October 25, 2016

DECISION DATE: October 25, 2016

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 4.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 7B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7B, which is automatically a party to this application. The ANC submitted a report, dated October 16, 2016, recommending approval of the application. ANC 7B's report indicated that at a regularly scheduled, properly noticed public meeting on September 15, 2016, at which a quorum was present, the ANC voted 4-0-0 to support the application. (Corrected Report, Exhibit 39; Original Report, Exhibit 38.) The ANC noted that the refuse dumpster on the property has been a concern to the community and, accordingly, the Applicant has agreed that the dumpster will be enclosed and will comply with the regulations. ANC Commissioner for SMD 7B06, Donovan Anderson, testified in support of the application at the public hearing.

The Office of Planning ("OP") submitted a timely report dated October 14, 2016, recommending approval of the application. (Exhibit 37.) OP also testified in support of the application at the public hearing. The District Department of Transportation ("DDOT") submitted a timely report dated October 6, 2016, indicating that it had no objection to the application. (Exhibit 33.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under the MU-Group E use requirements of Subtitle U § 513.1(c), to operate a fast food establishment in the MU-4 Zone. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle U § 513.1(c), that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 10 AND THE DUMPSTER PAD SITE PLAN AT EXHIBIT 36, AND WITH THE FOLLOWING CONDITION:**

1. The Applicant shall enclose the dumpster, in accordance with the approved plans and the Applicant's agreement with ANC 7B, before November 30, 2016.

VOTE: 4-0-1 (Frederick L. Hill, Anita Butani D'Souza, Jeffrey L. Hinkle, and Anthony J. Hood to APPROVE; and one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: October 26, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY

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AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19352 of Jennifer Lesko and Benjamin Cannon, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201, from the lot occupancy requirements of Subtitle E § 304.1, to add a two-story rear addition to an existing one-family dwelling in the RF-1 Zone at premises 328 12th Street, S.E. (Square 1017, Lot 36).

HEARING DATE: October 18, 2016

DECISION DATE: October 18, 2016

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 9.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 11, 2016, at which a quorum was present, the ANC voted 9-0-0 to support the application. (Exhibit 33.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 30.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 31.)

The adjacent neighbors on both sides of the property submitted letters of support. (Exhibits 28 and 29.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle E § 5201, from the lot occupancy requirements of Subtitle E § 304.1. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be averse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle E §§ 5201 and 304.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 5 – ARCHITECTURAL PLANS AND ELEVATIONS:**

VOTE: 3-0-2 (Frederick L. Hill, Jeffrey L. Hinkle, and Peter G. May to APPROVE; Anita Butani D’Souza not participating; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: October 21, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

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PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19354 of XM 1500 Eckington LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the roof-mounted antenna requirements of Subtitle C § 1304.2, to relocate three existing roof-mounted antennas exceeding 12 feet in height in the PDR-2 Zone at premises 1500 Eckington Place, N.E. (Square 3518, Lots 29 and 30).

HEARING DATE: October 25, 2016

DECISION DATE: October 25, 2016

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 3.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 5E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5E, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 20, 2016, at which a quorum was present, the ANC voted to support the application. (Exhibits 39 (unsigned), 40 (signed).)

The Office of Planning ("OP") submitted a timely report recommending conditional approval of the application. (Exhibit 38.) At the hearing, the Applicant expressed agreement with the proposed conditions, which were adopted by the Board and incorporated in this order.

The District Department of Transportation submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 34.)

The Eckington Civic Association submitted a letter expressing full support of the application. (Exhibit 32.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under the roof-mounted antenna provisions of Subtitle C § 1304.2. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be averse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle C § 1304.2, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 36B – REVISED ARCHITECTURAL PLANS, AND WITH THE FOLLOWING CONDITIONS:**

1. The one-to-one setback from the edge of the roof shall be maintained for the proposed installations.
2. Unused antennas shall be removed from the roof.

VOTE: 4-0-1 (Frederick L. Hill, Anthony J. Hood, Anita Butani D’Souza, and Jeffrey L. Hinkle to APPROVE; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: October 26, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

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PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE 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.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA

BOARD OF ZONING ADJUSTMENT

441 4TH STREET, N.W.
SUITE 200-SOUTH
WASHINGTON, D.C. 20001

PUBLIC NOTICE OF CLOSED MEETINGS FOR NOVEMBER 2016

In accordance with § 405(c) of the Open Meetings Act, D.C. Official Code § 2-575 (c), on October 25, 2016, the Board of Zoning Adjustment voted 4-0-1 to hold *closed meetings telephonically on Mondays, October 31st, November 14th, and November 28th*, beginning at 4:00 p.m. for the purpose of obtaining legal advice from counsel and/or to deliberate upon, but not voting on the cases scheduled to be publicly heard or decided by the Board after each such closed meeting, as those cases are identified on the Board's meeting and hearing agendas for November 2nd, November 16th, and November 30th.

In addition, on the *morning of Wednesday, November 9, 2016*, from 9:00 a.m. to 12:30 p.m., there will be a closed meeting for the purpose of conducting internal training, as permitted by Section 405(b)(12) of the Act.

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

**Frederick L. Hill, Chairperson, Anita Butani D'Souza, Vice-Chairperson,
Jeffrey L. Hinkle, Board seat vacant, and a Member of the Zoning Commission.
Clifford W. Moy, Secretary of the Board of Zoning Adjustment
Sara A. Bardin, Director, Office of Zoning.**

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