



***District of Columbia***

**REGISTER**

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**HIGHLIGHTS**

- D.C. Council authorizes an investigation by the Committee on Health into the management of the United Medical Center
- Department on Disability Services schedules a public hearing on the proposed Rehabilitation Services Administration policies
- D.C. Board of Elections establishes technical amendments to the voter registration and election procedures regulations
- D.C. Board of Elections schedules public hearings to consider the proposed “District of Columbia Non-Traditional Vehicles Act of 2018” and “Money Supply Increase +\$3,000 Initiative”
- Department of Energy and Environment solicits public comments on the Draft Fiscal Year 2019 Clean Water Construction Project Priority Lists
- Department of Energy and Environment announces funding availability for the Sustainable DC 2.0 Community Engagement Event
- Department of Human Services solicits public comments on the Community Services Block Grant State Plan
- District Department of Transportation announces funding availability for the Vision Zero Fiscal Year 2019 Safety Grants

# DISTRICT OF COLUMBIA REGISTER

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## DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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MURIEL E. BOWSER  
MAYOR

VICTOR L. REID, ESQ.  
ADMINISTRATOR

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ENROLLED ORIGINAL

## A RESOLUTION

22-500

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To appoint Mr. Patrick M. Foley to the Citizen Review Panel.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Citizen Review Panel Patrick M. Foley Appointment Resolution of 2018”.

Sec. 2. The Council of the District of Columbia appoints:

Mr. Patrick M. Foley  
4631 12th Street, N.E.  
Washington, D.C. 20017  
(Ward 5)

as a member of the Citizen Review Panel, established by section 351 of the Prevention of Child Abuse and Neglect Act of 1977, effective April 12, 2005 (D.C. Law 15-341; D.C. Official Code § 4-1303.51), for a term to end April 11, 2021.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the appointee, the Chairperson of the Citizen Review Panel, and the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A RESOLUTION

22-501

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To appoint Ms. Shana N. Bartley to the Citizen Review Panel.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Citizen Review Panel Shana N. Bartley Appointment Resolution of 2018”.

Sec. 2. The Council of the District of Columbia appoints:

Ms. Shana N. Bartley  
1000 New Jersey Avenue, S.E., Apt. #323  
Washington, D.C. 20003  
(Ward 6)

as a member of the Citizen Review Panel, established by section 351 of the Prevention of Child Abuse and Neglect Act of 1977, effective April 12, 2005 (D.C. Law 15-341; D.C. Official Code § 4-1303.51), for a term to end April 11, 2021.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the appointee, the Chairperson of the Citizen Review Panel, and the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A RESOLUTION

22-502

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To appoint Dr. Sarah Schooler to the Citizen Review Panel.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Citizen Review Panel Sarah Schooler Appointment Resolution of 2018”.

Sec. 2. The Council of the District of Columbia appoints:

Dr. Sarah Schooler  
1651 North Portal Drive, N.W.  
Washington, D.C. 20012  
(Ward 4)

as a member of the Citizen Review Panel, established by section 351 of the Prevention of Child Abuse and Neglect Act of 1977, effective April 12, 2005 (D.C. Law 15-341; D.C. Official Code § 4-1303.51), for a term to end April 11, 2020.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the appointee, the Chairperson of the Citizen Review Panel, and the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A RESOLUTION

22-503

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To appoint Ms. Elizabeth Corson Mohler to the Citizen Review Panel.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Citizen Review Panel Elizabeth Corson Mohler Appointment Resolution of 2018”.

Sec. 2. The Council of the District of Columbia appoints:

Elizabeth Corson Mohler  
2939 Van Ness Street, N.W.  
Washington, D.C. 20008  
(Ward 3)

as a member of the Citizen Review Panel, established by section 351 of the Prevention of Child Abuse and Neglect Act of 1977, effective April 12, 2005 (D.C. Law 15-341; D.C. Official Code § 4-1303.51), for a term to end April 11, 2020.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the appointee, the Chairperson of the Citizen Review Panel, and the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

## ENROLLED ORIGINAL

## A RESOLUTION

22-504

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To approve Contract No. GF-2018-C-0031, between UDC-TV and Ambrose Video Publishing, Inc., which grants to UDC-TV a limited, terminable, non-exclusive, and non-transferrable right to broadcast cable, internet, and live stream of cable channel transmission UDC-TV Channel 98, RCN 19 and Verizon FIOS 19, and to cover all rights to the use of 222 program titles for a term of 3 years in an amount not to exceed \$33,840.00 for the term.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract No. GF-2018-C-0031, between UDC-TV and Ambrose Video Publishing, Inc. Approval Resolution of 2018”.

Sec. 2. Pursuant to section 451(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(c)(3)), the Council approves Contract No. GF-2018-C-0031 between UDC-TV and Ambrose Video Publishing, Inc., which grants to UDC-TV a limited, terminable, non-exclusive, and non-transferrable right to broadcast cable, internet, and live stream of cable channel transmission UDC-TV Channel 98, RCN 19 and Verizon FIOS 19 and to cover all rights to the use of 222 program titles for a term of 3 years in an amount not to exceed \$33,840.00 for the term.

Sec. 3. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to the President and the Board of Trustees of the University of the District of Columbia.

Sec. 4. 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. 5. Effective date.

This resolution shall take effect immediately.



ENROLLED ORIGINAL

## A RESOLUTION

22-505

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To approve an agreement to enter into a long-term subsidy contract for 15 years in support of the District's Local Rent Supplement Program to fund housing costs associated with affordable housing units for Contract No. 2016-LRSP-08A with Liberty Place Apartments LLC for program units at Liberty Place Apartments, located at 881 3rd Street, N.W.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Local Rent Supplement Program Contract No. 2016-LRSP-08A Approval Resolution of 2018".

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

(b) In 2016, the DCHA participated in a request for proposals issued by the District of Columbia Department of Housing and Community Development. Of the total proposals received, 10 developers were chosen to work with DCHA and other District agencies to develop affordable housing and permanent supportive housing units for extremely low-income families making zero to 30% of the area's median income, as well as the chronically homeless and individuals with mental or physical disabilities. Upon approval of the contract by the Council, DCHA will enter into an agreement to enter into a long-term subsidy contract ("ALTSC") with the selected housing providers under the LRSP for housing services.

(c) There exists an immediate need to approve the long-term subsidy contract with Liberty Place Apartments LLC under the LRSP in order to provide long-term affordable housing units for extremely low-income households for units located at 881 3rd Street, N.W.

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

Sec. 3. 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 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 the ALTSC with Liberty Place Apartments LLC to provide an operating subsidy in support of 14 affordable housing units in an initial amount not to exceed \$284,712 annually.

Sec. 4. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to the District of Columbia Housing Authority and the Mayor.

Sec. 5. 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. 6. Effective date.

This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

22-506

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To declare the existence of an emergency with respect to the need to approve Task Order Nos. T-0003, T-0004, and T-0005 for Contract No. DCRL-2015-C-0100 with Deloitte Consulting LLP for enhancements to the Child and Family Services Agency's Statewide Automated Child Welfare System, and to authorize payment in the amount of \$1,222,485 for the services received and to be received under the task orders.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Task Orders for Contract No. DCRL-2015-C-0100 Approval and Payment Authorization Emergency Declaration Resolution of 2018".

Sec. 2. (a) There exists an immediate need to approve Task Order Nos. T-0003, T-0004, and T-0005 for Contract No. DCRL-2015-C-0100 with Deloitte Consulting, LLP for enhancements to the Child and Family Services Agency's ("CFSA") Statewide Automated Child Welfare System, and to authorize payment in the amount of \$1,222,485 for the services received and to be received under the task orders.

(b) Pursuant to Council Action No. CA22-0190, on July 21, 2017, CFSA exercised option year 1 of the contract in the amount of \$1,019,199.84 for the period from August 16, 2017, through August 15, 2018.

(c) In accordance with the contract's forward pricing agreement for enhancements to the Statewide Automated Child Welfare System, CFSA issued Task Order No. T-0003 in the amount of \$624,313, and Task Order No. T-0004 in the amount of \$64,758, resulting in a total increase to the contract in the amount of \$689,071.

(d) CFSA now proposes to issue Task Order No. T-0005 in the amount of \$533,414, thereby increasing the total contract amount in option year 1 to \$1,222,485.

(e) Council approval is required by section 451(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(b)), because the modifications increase the contract value by more than \$1 million during a 12-month period.

(f) Council approval is necessary to allow the continuation of these vital services. Without this approval, Deloitte Consulting, LLP cannot be paid for the services received and to be received in excess of \$1 million for the period from August 16, 2017, through August 15, 2018.

**ENROLLED ORIGINAL**

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Task Orders for Contract No. DCRL-2015-C-0100 Approval and Payment Authorization Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

22-507

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To declare the existence of an emergency with respect to the need to approve Purchase Order PO577679 and Task Order No. 1 for Contract No. CW58099 with Cardinal Health 110, LLC to provide pharmaceutical drugs, and to authorize payment in the total not-to-exceed amount of \$20 million for the goods and services received and to be received under the contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. CW58099 Approval and Payment Authorization Emergency Declaration Resolution of 2018".

Sec. 2. (a) There exists a need to approve Purchase Order PO577679 and Task Order No. 1 for Contract No. CW58099 with Cardinal Health 110, LLC to provide pharmaceutical drugs, and to authorize payment in the total not-to-exceed amount of \$20 million for the goods and services received and to be received under the contract.

(b) By Purchase Order PO577679, on December 29, 2017, the Office of Contracting and Procurement issued an order to Cardinal Health 110, LLC in the amount of \$991,000 to provide pharmaceutical drugs to various District agencies.

(c) Task Order No. 1 is now necessary to increase the contract's total not-to-exceed amount to \$20 million for the period from December 29, 2017, through September 30, 2018.

(d) Council approval is required by section 451(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(b)), because the modifications increase the contract value by more than \$1 million during a 12-month period.

(e) Council approval is necessary to allow the continuation of these vital services. Without this approval, Cardinal Health 110, LLC cannot be paid for the goods and services received and to be received in excess of \$1 million for the period from December 29, 2017, through September 30, 2018.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Contract No. CW58099 Approval and Payment Authorization Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

22-508

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To declare the existence of an emergency with respect to the need to approve Modification Nos. 17, 18, 19, 20, 22, 23, 24, and 25 to Contract No. RM-15-RFP-SRR-102-CCI-BY4-SC with Community Connections Inc. to provide supported rehabilitative residence services, and to authorize payment in the not-to-exceed amount of \$3 million for the goods and services received and to be received under the modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Contract No. RM-15-RFP-SRR-102-CCI-BY4-SC Approval and Payment Authorization Emergency Declaration Resolution of 2018”.

Sec. 2. (a) There exists a need to approve Modification Nos. 17, 18, 19, 20, 22, 23, 24, and 25 to Contract No. RM-15-RFP-SRR-102-CCI-BY4-SC with Community Connections Inc. to provide supported rehabilitative residence services, and to authorize payment in the not-to-exceed amount of \$3 million for the goods and services received and to be received under the modifications.

(b) By Modification No. 17, on December 21, 2017, the Office of Contracting and Procurement (“OCP”), on behalf of the Department of Behavioral Health, exercised partial option year three of Contract No. RM-15-RFP-SRR-102-CCI-BY4-SC in the amount of \$564,613.20 for the period from December 22, 2017, through February 28, 2018.

(c) Modification No. 18 was an administrative modification to the contract.

(d) Modification No. 19 modified the contract to increase the annual ceiling amounts.

(e) By Modification No. 20, on January 22, 2018, OCP exercised another partial option in the amount of \$253,666.80 for the period from March 1, 2018, through March 31, 2018.

(f) Modification No. 22 was an administrative modification to the contract.

(g) By Modification No. 23, on March 29, 2018, OCP exercised another partial option in the amount of \$163,565.08 for the period from April 1, 2018, through April 30, 2018.

(h) By Modification No. 24, on April 27, 2018, OCP exercised another partial option at no additional cost for the period from May 1, 2018, through June 8, 2018.

(i) Modification No. 25 is now necessary to exercise the remainder of option year three, to include the period from June 9, 2018, through December 21, 2018, which will increase the total not-to-exceed amount for option year three to \$3 million.

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(j) Council approval is required by section 451(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(b)), because the modifications increase the contract value by more than \$1 million during a 12-month period.

(k) Council approval is necessary to allow the continuation of these vital services. Without this approval, Community Connections Inc. cannot be paid for the goods and services received and to be received in excess of \$1 million for the period from December 22, 2017, through December 21, 2018.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Contract No. RM-15-RFP-SRR-102-CCI-BY4-SC Approval and Payment Authorization Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

22-509

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To declare the existence of an emergency with respect to the need to approve Modification Nos. 1 through 4 to Contract No. DCAM-17-CS-0023 with Winmar, Inc. for design-build services for Bruce-Monroe Elementary School, and to authorize payment in the aggregate amount of \$3,214,637 for the goods and services received and to be received under the modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Contract No. DCAM-17-CS-0023 Approval and Payment Authorization Emergency Declaration Resolution of 2018”.

Sec. 2. (a) There exists an immediate need to approve Modification Nos. 1 through 4 to Contract No. DCAM-17-CS-0023 with Winmar, Inc. for design-build services for Bruce-Monroe Elementary School, and to authorize payment in the aggregate amount of \$3,214,637 for the goods and services received and to be received under the modifications.

(b) On June 22, 2017, the underlying Contract No. DCAM-17-CS-0023 was deemed approved by the Council as CA22-166 in the amount of \$9,459,932. On September 25, 2017, the Department of General Services (“Department”) executed Change Order No. 1 in the amount of \$461,738. On October 27, 2017, the Department executed Change Order No. 2 in the amount of \$115,942. On May 3, 2018, the Department executed Modification No. 3 to rename Change Order Nos. 1 and 2 as Modification Nos. 1 and 2, respectively. The value of Modification Nos. 1, 2, and 3 was less than \$1 million; thus, Modification Nos. 1, 2, and 3 did not require Council approval. Proposed Modification No. 4, in the amount of \$2,636,957, would cause the aggregate value of Modification Nos. 1 through 4 to be \$3,214,637.

(c) Because proposed Modification No. 4 would cause the aggregate value of Modification Nos. 1 through 4 to exceed \$1 million, Council approval of Modification Nos. 1 through 4 is now required 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).

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Contract No. DCAM-17-CS-0023 Approval and Payment Authorization Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.



ENROLLED ORIGINAL

## A RESOLUTION

22-510

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To declare the existence of an emergency with respect to the need to approve Change Order Nos. 2 through 5 to Contract No. DCAM-16-CS-0124 with GCS, Inc. for design-build services for Garrison Elementary School, and to authorize payment in the aggregate amount of \$4,534,462.70 for the goods and services received and to be received under the change orders.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Change Orders to Contract No. DCAM-16-CS-0124 Approval and Payment Authorization Emergency Declaration Resolution of 2018”.

Sec. 2. (a) There exists an immediate need to approve Change Order Nos. 2 through 5 to Contract No. DCAM-16-CS-0124 with GCS, Inc. for design-build services for Garrison Elementary School, and to authorize payment in the aggregate amount of \$4,534,462.70 for the goods and services received and to be received under the change orders.

(b) On April 23, 2017, the underlying Contract No. DCAM-16-CS-0124 was deemed approved by the Council as CA22-77 in the amount of \$20.5 million. On July 9, 2017, Change Order No. 1 was approved by the Council as CA22-229 in the amount of \$4.83 million. On September 14, 2017, the Department of General Services (“Department”) executed Change Order No. 2 in the amount of \$446,369. On September 27, 2017, the Department executed Change Order No. 3 in the amount of \$165,798.43. On May 2, 2018, the Department executed Change Order No. 4 in the amount of \$192,295.27. The aggregate value of Change Order Nos. 2 through 4 was less than \$1 million; thus, Change Order Nos. 2 through 4 did not require Council approval. Proposed Change Order No. 5, in the amount of \$3.73 million, would cause the aggregate value of Change Order Nos. 2 through 5 to be \$4,534,462.70.

(c) Because proposed Change Order No. 5 would cause the aggregate value of Change Order Nos. 2 through 5 to exceed \$1 million, Council approval of Change Order Nos. 2 through 5 is now required 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).

**ENROLLED ORIGINAL**

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Change Orders to Contract No. DCAM-16-CS-0124 Approval and Payment Authorization Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

22-511

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To declare the existence of an emergency with respect to the need to approve Change Order Nos. 1 through 4 to Contract No. DCAM-17-CS-0020 with 5<sup>th</sup> Street Partners, LLC for construction services for the Ward 4 Short Term Family Housing Facility, and to authorize payment in the aggregate amount of \$1,001,643.09 for the goods and services received and to be received under the change orders.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Change Orders to Contract No. DCAM-17-CS-0020 Approval and Payment Authorization Emergency Declaration Resolution of 2018”.

Sec. 2. (a) There exists an immediate need to approve Change Order Nos. 1 through 4 to Contract No. DCAM-17-CS-0020 with 5<sup>th</sup> Street Partners, LLC for construction services for the Ward 4 Short Term Family Housing Facility, and to authorize payment in the aggregate amount of \$1,001,643.09 for the goods and services received and to be received under the change orders.

(b)(1) On June 10, 2017, Contract No. DCAM-17-CS-0020 was deemed approved by the Council as CA22-152 in the amount of \$12.3 million.

(2) On December 8, 2017, Change Order No. 1 was issued in the amount of \$361,075.85. The value of Change Order No. 1 was less than \$1 million; thus, Change Order No. 1 did not require Council approval.

(3) On March 7, 2018, Change Order No. 2 was issued in the amount of \$63,258.70. The aggregate value of Change Order Nos. 1 and 2 was less than \$1 million; thus, Change Order Nos. 1 and 2 did not require Council approval.

(4) On May 7, 2018, Change Order No. 3 was issued in the amount of \$499,248.75. The aggregate value of Change Order Nos. 1 through 3 was less than \$1 million; thus, Change Order Nos. 1 through 3 did not require Council approval.

(5) Proposed Change Order No. 4, in the amount of \$78,059.79, would cause the aggregate value of Change Order Nos. 1 through 4 to be \$1,001,643.09.

(c) The aggregate value of Change Order Nos. 1 through 4 is in excess of \$1 million; thus, Council approval is now required 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).

**ENROLLED ORIGINAL**

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Change Orders to Contract No. DCAM-17-CS-0020 Approval and Payment Authorization Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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A RESOLUTION

22-512

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To authorize and provide for the issuance, sale, and delivery in an aggregate principal amount not to exceed \$33 million of District of Columbia refunding revenue bonds in one or more series and to authorize and provide for the loan of the proceeds of such bonds to assist the Washington International School, in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Washington International School Refunding Revenue Bonds Project Approval Resolution of 2018”.

Sec. 2. Definitions.

For the purpose of this resolution, the term:

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

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

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

(4) “Borrower” means the owner of the assets refinanced with proceeds from the Loan, which shall be the Washington International School, a nonprofit corporation organized under the laws of the District of Columbia and exempt from federal income taxes as an organization described in 26 U.S.C. § 501(c)(3).

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

(6) “Closing Documents” means all documents and agreements other than Financing Documents that may be necessary and appropriate to issue, sell, and deliver the Bonds and to make

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the Loan, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

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

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

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

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

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

(12) "Project" means the following items, the costs of which are financed, refinanced, or reimbursed with proceeds of the Bonds (including payments of principal of, and interest on, the bonds being refunded), all of which are used for educational purposes:

(A) The current refunding of the Borrower's existing District of Columbia Revenue Bonds (Washington International School Issue) Series 2013 ("Series 2013 Bonds"), which issue was used to:

(i) Currently refund the outstanding District of Columbia Revenue Bonds (Washington International School Issue) Series 2003 ("Series 2003 Bonds"), which issue was, in turn, used to:

(I) Refund the outstanding District of Columbia Revenue Bonds (Washington International School Project) Series 1999 ("Series 1999 Bonds"), the proceeds of which were used to finance, refinance, or reimburse the Borrower for certain costs incurred in connection with the construction, renovation, furnishing, and equipping of certain facilities on the Borrower's existing campus located at 3100 Macomb Street, N.W., Washington, D.C. 20008 ("Macomb Street Campus"); the acquisition, construction, renovation, furnishing, and equipping of a primary school building located at 1690 36<sup>th</sup> Street, N.W., Washington, D.C. 20007 ("Georgetown Campus"); and certain costs of issuance for the Series 1999 Bonds;

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(II) Fund any required deposit to a debt service reserve fund or capitalized interest; and

(III) Pay certain Issuance Costs of the Series 2003 Bonds, and fees and premiums for any bond insurance or credit enhancement;

(ii) Currently refund, including any pre-payment premium, the outstanding District of Columbia Revenue Bonds (Washington International School Issue) Series 2006, the proceeds of which were used to:

(I) Finance or reimburse the Borrower for certain costs incurred in connection with the construction or renovation of a library, additional classrooms, and a theatre, all on the Borrower's Macomb Street Campus,

(II) Fund any required debt service reserve fund and capitalized interest, and

(III) Pay certain Issuance Costs, and fees and premiums for any bond insurance, credit enhancement and other related costs;

(iii) Renovate the Borrower's building located on the Macomb Street Campus, known as the Tregaron Mansion, its surrounding grounds (including, but not limited to, with respect to certain geothermal improvements), and an adjacent cottage known as the Dacha, and make other capital improvements to the Macomb Street Campus, including, but not limited to, renovations to other Macomb Street Campus buildings known as the Greenhouse, the Gardener's Cottage, and the Academic, Arts & Athletics Building; and

(iv) Pay Issuance Costs of the Series 2013 Bonds;

(B) Fund the contingency and prepayment penalty associated with the existing debt payoff, if applicable; and

(C) Pay Issuance Costs of the Bonds.

### Sec. 3. Findings.

The Council finds that:

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

(2) The Borrower has requested the District to issue, sell, and deliver revenue bonds, in one or more series, in an aggregate principal amount not to exceed \$33 million and to make the Loan for the purpose of financing, refinancing, or reimbursing costs of the Project.

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

## ENROLLED ORIGINAL

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

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

Sec. 4. Bond authorization.

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

(1) The issuance, sale, and delivery of the Bonds, in one or more series, in an aggregate principal amount not to exceed \$33 million; and

(2) The making of the Loan.

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

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

Sec. 5. Bond details.

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

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

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

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

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

(5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

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



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

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

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

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

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

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

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

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

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

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

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

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

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

**ENROLLED ORIGINAL**

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

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

**Sec. 7. Payment and security.**

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

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

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

**Sec. 8. Financing and Closing Documents.**

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

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

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

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

## ENROLLED ORIGINAL

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

Sec. 9. Authorized delegation of authority.

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

Sec. 10. Limited liability.

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

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

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

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

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

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

Sec. 11. District officials.

(a) Except as otherwise provided in section 10(f), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the Bonds or be

**ENROLLED ORIGINAL**

subject to any personal liability by reason of the issuance, sale, or delivery of the Bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this resolution, the Bonds, the Financing Documents, or the Closing Documents.

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

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

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

**Sec. 13. Information reporting.**

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

**Sec. 14. Disclaimer.**

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

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

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

**ENROLLED ORIGINAL****Sec. 15. Expiration.**

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

**Sec. 16. Severability.**

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

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

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

**Sec. 18. Transmittal.**

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

**Sec. 19. Fiscal impact statement.**

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

**Sec. 20. Effective date.**

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-513

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To authorize and provide for the issuance, sale, and delivery in an aggregate principal amount not to exceed \$141 million of District of Columbia revenue bonds in one or more series and to authorize and provide for the loan of the proceeds of such bonds to assist the Georgetown Day School, Inc., in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Georgetown Day School Revenue Bonds Project Approval Resolution of 2018”.

Sec. 2. Definitions.

For the purpose of this resolution, the term:

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

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

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

(4) “Borrower” means the owner of the assets refinanced with proceeds from the Loan, which shall be the Georgetown Day School, Inc., a nonprofit corporation organized under the laws of the District of Columbia and exempt from federal income taxes as an organization described in 26 U.S.C. § 501(c)(3), and 4203 Davenport Street LLC, a Delaware limited liability company whose sole member is Georgetown Day School, Inc.

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

(6) “Closing Documents” means all documents and agreements other than Financing Documents that may be necessary and appropriate to issue, sell, and deliver the Bonds and to make

## ENROLLED ORIGINAL

the Loan, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

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

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

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

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

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

(12) "Project" means the following items, the costs of which are financed, refinanced, or reimbursed with proceeds of the Bonds (including payments of principal of, and interest on, the bonds being refunded), all of which are used for educational purposes:

(A) The current refunding of the Borrower's outstanding District of Columbia Variable Rate Revenue Bonds (Georgetown Day School Issue) Series 2005 ("Series 2005 Bonds"), which issue was used to:

(i) Finance all or a portion of the costs incurred in connection with the construction, renovation, furnishing, and equipping of a high school facility on the Borrower's existing campus located at 4200 Davenport Street, N.W., Washington, D.C. 20007 (Square 1672, Lot 0804 and Square 1673, Lot 0821); to refinance construction costs related to the Lower and Middle School facility located at 4530 MacArthur Boulevard, N.W., Washington, D.C. 20007 (Square 1356, Lots 0896, 0899, 0906, 0907, 0922, and 0923) ("MacArthur Facilities"); and to equip and furnish the MacArthur Facilities (the Borrower intends to sell the MacArthur Facilities; accordingly, interest on any Bonds allocable to the refinancing of the construction, equipping, or furnishing of the MacArthur Facilities will not be excluded from the gross income for federal income tax purposes of holders of the Bonds);

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- (ii) Fund any working capital costs;
- (iii) Fund any required deposit to a debt service reserved fund or capitalized interest; and
- (iv) Pay certain Issuance Costs for the Series 2005 Bonds;
- (B) Refinance Borrower’s taxable debt, the proceeds of which was used to finance the acquisition, construction, and renovation of 2 adjacent sites located at 4748 and 4750 Wisconsin Avenue, N.W., Washington, D.C. 20016 (Square 1732, Lot 0053);
- (C) Finance the termination of Borrower’s existing interest rate swap;
- (D) Finance the construction of an approximately 137,000-square-foot Lower and Middle School facility to include academic and office space, an athletic field, dining space, below-grade parking, a library, and a 500-seat performing arts space, all to be located at 4203 Davenport Street, N.W., Washington, D.C. 20007 (Square 1672, Lots 0004, 0014, 0803, 0812, and 0815); and
- (E) Finance Issuance Costs for the Bonds.

Sec. 3. Findings.

The Council finds that:

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

(2) The Borrower has requested the District to issue, sell, and deliver revenue bonds, in one or more series, in an aggregate principal amount not to exceed \$141 million and to make the Loan for the purpose of financing, refinancing, or reimbursing costs of the Project.

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

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

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

Sec. 4. Bond authorization.

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



## ENROLLED ORIGINAL

(1) The issuance, sale, and delivery of the Bonds, in one or more series, in an aggregate principal amount not to exceed \$141 million; and

(2) The making of the Loan.

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

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

Sec. 5. Bond details.

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

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

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

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

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

(5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

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

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

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

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

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

## ENROLLED ORIGINAL

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

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

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

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

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

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

**Sec. 6. Sale of the Bonds.**

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

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

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

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

## ENROLLED ORIGINAL

## Sec. 7. Payment and security.

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

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

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

## Sec. 8. Financing and Closing Documents.

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

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

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

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

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

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## Sec. 9. Authorized delegation of authority.

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

## Sec. 10. Limited liability.

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

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

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

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

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

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

## Sec. 11. District officials.

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

## ENROLLED ORIGINAL

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

Sec. 12. Maintenance of documents.

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

Sec. 13. Information reporting.

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

Sec. 14. Disclaimer.

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

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

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

Sec. 15. Expiration.

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

**ENROLLED ORIGINAL****Sec. 16. Severability.**

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

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

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

**Sec. 18. Transmittal.**

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

**Sec. 19. Fiscal impact statement.**

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

**Sec. 20. Effective date.**

This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

22-514

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To declare the existence of an emergency with respect to the need to require the Mayor to establish a time-limited, geographically defined area surrounding Nationals Park within which vendors must hold a Stadium Special Events Permit to engage in vending.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “MLB All-Star Game Stadium Special Events Zone Emergency Declaration Resolution of 2018”.

Sec. 2. (a) On July 17, 2018, the Washington Nationals will host the 2018 Major League Baseball All-Star Game (“All-Star Game”) at Nationals Park in Ward 6.

(b) Major League Baseball has requested that only vendors licensed specifically for the All-Star Game set up in the area immediately surrounding Nationals Park, which will be designated as the Stadium Special Events Zone.

(c) The Mayor has worked with Major League Baseball and the Washington Nationals to create regulations specific to the 7-day period surrounding the All-Star Game that will cause the least disruption to currently licensed vendors in the District.

(d) This emergency legislation will ensure that the regulations applicable during the All-Star Game are temporary and as narrowly tailored as possible.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the MLB All-Star Game Stadium Special Events Zone Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

22-517

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To declare the existence of an emergency with respect to the need to extend the deadline, from June 30, 2018, to December 31, 2019, by which the Department of Energy and Environment must adopt and publish a record of decision in the District of Columbia Register choosing the remedy for remediation of contaminated sediment in the Anacostia River.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Anacostia River Toxics Remediation Emergency Declaration Resolution of 2018”.

Sec. 2. (a) In 2014, the Council passed the Anacostia River Toxics Remediation Act of 2014, requiring the Department of Energy and Environment (“DOEE”) to adopt and publish, by June 30, 2018, a record of decision choosing the remedy for remediation of contaminated sediment in the Anacostia River.

(b) In January of 2018, the Committee on Transportation and the Environment held a hearing on the project, at which DOEE requested an extension of the deadline by a year and a half. At the hearing, DOEE indicated that it needed additional time to complete the project to accommodate its partnership with the National Park Service as well as robust stakeholder participation. Additionally, DOEE noted that data gaps identified in the initial remedial investigation required additional sample collection and analysis.

(c) Emergency legislation is necessary to allow DOEE the time it needs to complete the record of decision for this project in a way that is fully supported.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Anacostia River Toxics Remediation Emergency Amendment Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.



ENROLLED ORIGINAL

## A RESOLUTION

22-519

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To declare the existence of an emergency with respect to the need to authorize the Attorney General to issue grants, not to exceed the total amount of \$360,000, related to crime reduction and violence interruption and to use the Litigation Support Fund to pay personnel and non-personnel costs related to administering a grant.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Attorney General Limited Grant-Making Authority Emergency Declaration Resolution of 2018”.

Sec. 2. (a) According to Metropolitan Police Department statistics, as of May 30, 2018, the District is experiencing a 47% increase in homicides over this time last year.

(b) To address this public health and safety emergency, on May 29, 2018, the Council of the District of Columbia allocated \$360,000 to the Office of the Attorney General (“OAG”) in Fiscal Year 2018 to combat homicides by engaging programs and organizations that use proven crime reduction and violence interruption models.

(c) Because there is an immediate need to move forward with the utilization of these funds, OAG must be authorized to issue grants in this limited circumstance.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Attorney General Limited Grant-Making Authority Emergency Amendment Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

22-520

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To declare the existence of an emergency with respect to the need to amend the District of Columbia Traffic Act, 1925 to clarify the definition of all-terrain vehicle or ATV.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “All-Terrain Vehicle Clarification Emergency Declaration Resolution of 2018”.

Sec. 2. (a) Section 2(2) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(2)), defines an all-terrain vehicle as “any motor vehicle with not less than 3 low-pressure tires, but not more than 6 low-pressure tires, designed primarily for off-road use and which has a seat or saddle designed to be straddled by the operator.” Thus, in prosecutions for the unlawful operation of an all-terrain vehicle, the fact that the motor vehicle had “low-pressure” tires is an element of the offense.

(b) Proving that an all-terrain vehicle’s tires were “low-pressure” can, in practice, be difficult. In prosecutions where the District was unable to recover the ATV itself, the District may instead rely on photographic or video evidence. Photographs and videos are, however, insufficient for determining tire pressure.

(c) This emergency legislation will clarify the definition by providing that a motor vehicle’s tires do not need to be low-pressure to qualify as an all-terrain vehicle.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the All-Terrain Vehicle Clarification Emergency Amendment Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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

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

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

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

- |          |  |
|----------|--|
| PR22-885 | Board of Nursing Enrique Garcia Confirmation Resolution of 2018<br><br>Intro. 6-5-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health   |
| PR22-886 | Board of Nursing Crystal Johnson Confirmation Resolution of 2018<br><br>Intro. 6-5-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health  |
| PR22-887 | Board of Physical Therapy Nicholas Caylor Confirmation Resolution of 2018<br><br>Intro. 6-5-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health   |
| PR22-888 | Board of Trustees of the University of the District of Columbia General Errol Schwartz Confirmation Resolution of 2018<br><br>Intro. 6-5-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole |
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- PR22-889 Board of Trustees of the University of the District of Columbia Elaine Crider Confirmation Resolution of 2018  
Intro. 6-5-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
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- PR22-890 Board of Trustees of the University of the District of Columbia Ken Grossinger Confirmation Resolution of 2018  
Intro. 6-5-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
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- PR22-891 Board of Trustees of the University of the District of Columbia Anthony Tardd Confirmation Resolution of 2018  
Intro. 6-5-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
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- PR22-892 Board of Trustees of the University of the District of Columbia Carolyn Rudd Confirmation Resolution of 2018  
Intro. 6-5-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
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- PR22-893 Board of Trustees of the University of the District of Columbia Charlene Drew Jarvis Confirmation Resolution of 2018  
Intro. 6-5-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
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- PR22-894 Real Property Tax Appeals Commission Mr. Roderick Davis Confirmation Resolution of 2018  
Intro. 6-5-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue
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- PR22-895      Mental Health Community Residence Facilities Schedule of Fines  
Rulemaking Approval Resolution of 2018
- Intro. 6-6-18 by Chairman Mendelson at the request of the Mayor and referred  
to the Committee on Health
- 
- PR22-896      802 10th Street NE Disposition Approval Resolution of 2018
- Intro. 6-6-18 by Chairman Mendelson at the request of the Mayor and referred  
to the Committee on Housing and Neighborhood Revitalization
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- PR22-897      160 Adams Street, NW Disposition Approval Resolution of 2018
- Intro. 6-6-18 by Chairman Mendelson at the request of the Mayor and referred  
to the Committee on Housing and Neighborhood Revitalization
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- PR22-898      Board of Zoning Adjustment Lorna John Confirmation Resolution of 2018
- Intro. 6-6-18 by Chairman Mendelson at the request of the Mayor and referred  
to the Committee of the Whole
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COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
NOTICE OF PUBLIC HEARING

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC HEARING

on

**Bill 22-234, the “Leaf Blower Regulation Amendment Act of 2017”**

**&**

**Bill 22-839, the “Amplified Noise Amendment Act of 2018”**

on

**Monday, July 2, 2018**

**2:00 p.m., Hearing Room 412, John A. Wilson Building**

**1350 Pennsylvania Avenue, NW**

**Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on **Bill 22-234**, the “Leaf Blower Regulation Amendment Act of 2017” and **Bill 22-839**, the “Amplified Noise Amendment Act of 2018.” The hearing will be held at 2:00 p.m. on Monday, July 2, 2018 in room 412 of the John A. Wilson Building.

The stated purpose of **Bill 22-234** is to amend the the District of Columbia Municipal Regulations to prohibit the sale and use of gasoline-powered leaf blowers in the District of Columbia by January 1, 2022. The stated purpose of **Bill 22-839** is to amend the District of Columbia Municipal Regulations to limit noise in the public space generated from electronic amplification. Bill 22-839 also would update the definition of a noise disturbance to reflect recently renamed residential zones.

Those who wish to testify are asked to email the Committee of the Whole at [cow@dccouncil.us](mailto:cow@dccouncil.us), or call Sydney Hawthorne at (202) 724-7130, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business **Thursday, June 28, 2018**. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on June 28, 2018 the testimony will be distributed to Councilmembers before the hearing. **Witnesses should limit their testimony to three minutes; less time will be allowed if there are a large number of witnesses. Legnthier testimony may be presented by prior arrangement with the Committee.** Copies of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council’s office or on <http://lims.dccouncil.us>. Hearing materials, including a draft witness list, can be accessed 24 hours in advance of the hearing at <http://www.chairmanmendelson.com/circulation>.

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 July 16, 2018.

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

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**NOTICE OF PUBLIC HEARING ON**

**B22-515, the Gas Station Advisory Board Amendment Act of 2017**

July 3, 2018 at 12:00 p.m.  
in Room 412 of the John A. Wilson Building  
1350 Pennsylvania Avenue, NW, Washington, DC 20004

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On July 3, 2018, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment will hold a public hearing to discuss B22-515, the Gas Station Advisory Board Amendment Act of 2017. The hearing will begin at 12:00 p.m. in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The purpose of the hearing is to consider B22-515, the Gas Station Advisory Board Amendment Act of 2017. B22-515 would increase the number of members of the Gas Station Advisory Board, and provide that two members of the Board would constitute a quorum for purposes of taking action on petitions for exemption from restrictions regarding the modification of full service retail service stations.

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

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Benjamin at the following address: Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. Statements may also be e-mailed to [abenjamin@dccouncil.us](mailto:abenjamin@dccouncil.us) or faxed to (202) 724-8118. The record will close at the end of the business day on July 17, 2018.

**Council of the District of Columbia  
COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT AND  
COMMITTEE ON TRANSPORTATION AND THE ENVIRONMENT  
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

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Revised and Abbreviated

**COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON  
COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT**

**AND**

**COUNCILMEMBER MARY CHEH, CHAIRPERSON  
COMMITTEE ON TRANSPORTATION AND THE ENVIRONMENT**

**ANNOUNCE A JOINT PUBLIC HEARING ON**

**B22-0561 – THE “CRUMMELL SCHOOL SITE SURPLUS AND DISPOSITION  
APPROVAL ACT OF 2017”;**

**B22-0598 – THE “PARCEL 42 DECLARATION AND DISPOSITION APPROVAL ACT OF  
2017”;**

**B22-0821 – THE “SQUARE 2892, LOT 0105 DISPOSITION ACT OF 2018”;** AND

**B22-0653 – THE “EXTENSION OF TIME TO DISPOSE OF 8<sup>TH</sup> & O STREETS, N.W.,  
ACT OF 2018”**

**Wednesday, June 27, 2018, 10:00 a.m.  
Room 123, John A. Wilson Building  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004**

On Wednesday, June 27, 2018 Councilmember Kenyan R. McDuffie, Chairperson of the Committee on Business and Economic Development and Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a joint public hearing to consider Bill 22-0561, the “Crummell School Site Surplus and Disposition Approval Act of 2017”; Bill 22-0598, the “Parcel 42 Declaration and Disposition Approval Act of 2017”;



Bill 22-0821, the “Square 2892, Lot 0105 Disposition Act of 2018”; and Bill 22-0653, the “Extension of Time to Dispose of 8<sup>th</sup> & O Streets, N.W., Act of 2018”.

The stated purpose of Bill 22-561 is to approve the surplus and disposition of District-owned real property known as the Crummell School Site, located at 1900 Gallaudet Street, N.E., and known for assessment purposes as Lot 0022 in Parcel 0142. The stated purpose of Bill 22-598 is to approve the surplus declaration and disposition of District-owned real property, known as Parcel 42, located at the intersection of 7<sup>th</sup> Street, N.W., R Street, N.W., and Rhode Island Avenue, N.W., and known for tax and assessment purposes as Lots 0106 and 0803 in Square 442. The stated purpose of Bill 22-821 is to approve the disposition of District-owned real property located at the rear of 3212 Georgia Avenue, N.W. in Washington, D.C., known for tax and assessment purposes as Lot 0105 in Square 2892. The stated purpose of Bill 22-653 is to extend the time for the District to dispose of real property located at 1336 8<sup>th</sup> Street, N.W., for the development of affordable housing.

The Committees invite the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact the Committee on Business and Economic Development via email at [cautrey@dccouncil.us](mailto:cautrey@dccouncil.us) or at (202) 724-8053, and provide their name, telephone number, organizational affiliation, and title (if any), by **close of business Monday, June 25<sup>th</sup>**. Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witnesses are encouraged to bring **ten single-sided copies** of their written testimony and, if possible, also submit a copy of their testimony electronically in advance to [cautrey@dccouncil.us](mailto:cautrey@dccouncil.us). *Please note that this notice has been revised and abbreviated to make this hearing a joint hearing with the Committee on Transportation and the Environment. The measures for consideration remain the same.*

For witnesses who are unable to testify at the hearing, written statements will be made part of the official record. Copies of written statements should be submitted to the Committee on Business and Economic Development at [cautrey@dccouncil.us](mailto:cautrey@dccouncil.us) or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. **The record will close at the end of the business day on Wednesday, July 11<sup>th</sup>**.

COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
NOTICE OF PUBLIC HEARING

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC HEARING

on

**Bill 22-573, Slumlord Deterrence Amendment Act of 2017**

**Bill 22-596, Housing Rehabilitation Incentives Regulation Amendment Act of 2017**

**Bill 22-615, Housing Code Enforcement Integrity Amendment Act of 2017**

on

**Tuesday, July 3, 2018**

**9:30 a.m., Room 412, John A. Wilson Building**

**1350 Pennsylvania Avenue, NW**

**Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on **Bill 22-573**, the “Slumlord Deterrence Amendment Act of 2017,” **Bill 22-596**, the “Housing Rehabilitation Incentives Regulation Amendment Act of 2017,” and **Bill 22-615**, the “Housing Code Enforcement Integrity Amendment Act of 2017.” The hearing will be held at 9:30 a.m. on Tuesday, July 3, 2018 in Hearing Room 412, of the John A. Wilson Building.

The stated purpose of **Bill 22-573** is to authorize the Department of Consumer and Regulatory Affairs to deny basic business licenses and building permits to rental property owners who neglect their properties. The stated purpose of **Bill 22-596** is to amend the Construction Codes Approval and Amendments Act of 1986 to dedicate certain housing fines to a Housing Condition Abatement Fund to provide for the summary correction of housing regulation violations, to reimburse impacted tenants, and to reimburse inspection and re-inspection fees for compliant properties; to amend Section 105 of Title 14 of the District of Columbia Municipal Regulations to mandate referrals of repeated housing violations to the Office of the Attorney General and to limit the enforcement discretion of the Department of Consumer and Regulatory Affairs for repeat or unabated housing code violations; and to amend Title 16 of the District of Columbia Municipal Regulations to require the issuance of a Notice of Abatement to property owners who have corrected housing regulation violations and to provide for housing regulation violations to be treated with increasing severity if they are unabated for 6 months or more. The stated purpose of **Bill 22-615** is to amend the Rental Housing Act of 1985 to provide for expedited hearings for appeals of housing code violations; to require the Mayor to articulate and maintain a public record of the basis for each deadline extension granted to property owners that are required to correct housing code violations; and to require the Mayor correct, and assess to the property owner via a real property tax lien the cost of correction, conditions that caused an infraction that has not been corrected within 6 months.

Those who wish to testify are asked to email the Committee of the Whole at [cow@dccouncil.us](mailto:cow@dccouncil.us), or call Randi Powell at (202) 724-8196, and to provide your name, address,

telephone number, organizational affiliation and title (if any) by close of business **Friday, June 29, 2018**. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on June 29, 2018 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. Copies of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council's office or on <http://lims.dccouncil.us>. Hearing materials, including a draft witness list, can be accessed 24 hours before the hearing at <http://www.chairmanmendelson.com/circulation>.

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 July 17, 2018.

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

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**NOTICE OF PUBLIC HEARING ON**

**B22-618, the Driver's License Revocation Fairness Amendment Act of 2017;  
B22-659, the Achieving Universal Transportation Opportunities Amendment Act of  
2018;**

**B22-661, the Rear-Facing Car Seat Safety Amendment Act of 2018; and  
B22-740, the Electronic Proof of Automobile Insurance Amendment Act of 2018**

Friday, July 6, 2018 at 11:00AM  
in Room 500 of the John A. Wilson Building  
1350 Pennsylvania Avenue, NW, Washington, DC 20004

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On July 6th, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public hearing on B22-618, the Driver's License Revocation Fairness Amendment Act, B22-659, the Achieving Universal Transportation Opportunities Amendment Act, B22-661, the Rear-Facing Car Seat Safety Amendment Act, and B22-740, the Electronic Proof of Automobile Insurance Amendment Act. The hearing will begin at 11:00AM in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

B22-618, the Driver's License Revocation Fairness Amendment Act of 2017, would remove the possibility of license suspension for failure to satisfy a civil judgement. B22-659, the Achieving Universal Transportation Opportunities Amendment Act of 2018, would waive the application fee for various driving permits, driving licenses, and identification cards for qualifying District residents. B22-661, the Rear-Facing Car Seat Safety Amendment Act of 2018, would require that children under 2 years of age be restrained in a rear-facing car seat when in a vehicle. B22-740, the Electronic Proof of Automobile Insurance Amendment Act of 2018, would provide that an automobile insurance identification card may be produced in electronic formats, such as a cellular phone, and prohibit law enforcement officers from conducting a broader search of the contents of the electronic device when submitted as proof of insurance.

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

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Benjamin at the following address: Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. Statements may also be e-mailed to [abenjamin@dccouncil.us](mailto:abenjamin@dccouncil.us) or faxed to (202) 724-8118. The record will close at the end of the business day on July 20, 2018].

COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
NOTICE OF PUBLIC HEARING

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC HEARING

on

**Bill 22-683, Substandard Construction Relief Amendment Act of 2018**

**Bill 22-684, Blighted Property Redevelopment Amendment Act of 2018**

on

**Thursday, July 12, 2018**

**9:30 a.m., Room 412, John A. Wilson Building**

**1350 Pennsylvania Avenue, NW**

**Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on **Bill 22-683**, the “Substandard Construction Relief Amendment Act of 2018” and **Bill 22-684**, the “Blighted Property Redevelopment Amendment Act of 2018.” The hearing will be held at 9:30 a.m. on Thursday, July 12, 2018 in Hearing Room 412, of the John A. Wilson Building.

The stated purpose of **Bill 22-683** is to amend section 7 of the Construction Codes Approval and Amendments Act of 1986 to require that Code violators who damage adjoining or abutting property be ordered to repair the damage or pay restitution to the property owner. The stated purpose of **Bill 22-684** is to authorize the Mayor to reclassify Blighted Vacant Properties as Vacant Properties when provided with evidence that a property owner will meet the Vacant Property definition prior to final inspection.

Those who wish to testify are asked to email the Committee of the Whole at [cow@dccouncil.us](mailto:cow@dccouncil.us), or call Randi Powell at (202) 724-8196, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business **Tuesday, July 10, 2018**. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on July 10, 2018 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. Copies of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council’s office or on <http://lims.dccouncil.us>. Hearing materials, including a draft witness list, can be accessed 24 hours before the hearing at <http://www.chairmanmendelson.com/circulation>.

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 July 26, 2018.

COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE & COMMITTEE ON EDUCATION  
NOTICE OF A JOINT PUBLIC HEARING  
1350 Pennsylvania Avenue, NW, Washington, DC 20004

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CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
&  
COUNCILMEMBER DAVID GROSSO, CHAIRPERSON  
COMMITTEE ON EDUCATION

ANNOUNCE A JOINT PUBLIC HEARING

on

**Bill 22-776, District of Columbia Education Research Advisory Board and Collaborative  
Establishment Amendment Act of 2018**

on

**Friday, July 13, 2018  
10:00 a.m., Council Chambers, John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004**

Council Chairman Phil Mendelson and Councilmember David Grosso announce a joint public hearing before the Committee of the Whole and the Committee on Education on Bill 22-776, the “District of Columbia Education Research Advisory Board and Collaborative Establishment Amendment Act of 2018.” The hearing will be held at 11:00 a.m. on Friday, June 13, 2018 in Hearing Room 500, the Council Chambers, of the John A. Wilson Building.

The stated purpose of Bill 22-776 is to establish the District of Columbia Education Advisory Board and the District of Columbia Education Research Collaborative. The Collaborative would be incubated in the Office of the District of Columbia Auditor and is meant to emulate other education research collaboratives around the country, including those in Baltimore, Philadelphia, Houston, Chicago, New Orleans, New York, and Los Angeles. Specifically, the Collaborative will conduct research on best practices around the country, as well as research the practices and policies being implemented in the District, and the District would use the data collected and research done by the Collaborative to inform its education policies and practices moving forward.

Those who wish to testify are asked to email the Committee of the Whole at [cw@dccouncil.us](mailto:cw@dccouncil.us), or call Christina Setlow at (202) 724-4865, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business **Wednesday, July 11, 2018**. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on July 11, 2018 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. Copies of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council’s office or on <http://lims.dccouncil.us>. Hearing materials, including a draft witness list, can be accessed 24 hours in advance of the hearing at <http://www.chairmanmendelson.com/circulation>.

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 July 27, 2018.

COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT  
MARY M. CHEH, CHAIR  
COMMITTEE ON JUDICIARY AND PUBLIC SAFETY  
CHARLES ALLEN, CHAIR

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REVISED

NOTICE OF JOINT PUBLIC ROUNDTABLE ON

Department of General Services Public Security Contracts

June 28, 2018 at 11:00 a.m.  
in Room 500 of the John A. Wilson Building  
1350 Pennsylvania Avenue, NW, Washington, DC 20004

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On June 28, 2018, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, and Councilmember Charles Allen, Chairperson of the Committee on Judiciary and Public Safety will hold a joint public roundtable to discuss administration of Department of General Services (“DGS”) contracts for public security services. The roundtable will begin at 11:00 in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The purpose of the roundtable is to review the management of public security services employees by District contractors. The Committees seek testimony regarding the treatment of employees and sub-contractors by entities contracting with the District to provide these public security services at District-owned properties, including how, when these contractors go out of business, the District can ensure that contractors employees are able to recover unpaid wages and benefits and that there is not an interruption of security services at schools, government buildings, and other District-owned properties.

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

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Benjamin at the following address: Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. Statements may also be e-mailed to [abenjamin@dccouncil.us](mailto:abenjamin@dccouncil.us) or faxed to (202) 724-8118. The record will close at the end of the business day on July 12, 2018.

This notice has been revised to reflect that the start time of the hearing has changed from 10:00 a.m. to 11:00 a.m.



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

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CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC ROUNDTABLE

on

**PR 22-848, Contract Appeals Board Marc D. Loud, Sr. Confirmation Resolution of 2018**

on

**Thursday, June 28, 2018  
10:30 a.m., Room 120, John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public roundtable before the Committee of the Whole on PR 22-848, the “Contract Appeals Board Marc D. Loud, Sr. Confirmation Resolution of 2018.” The roundtable will be held at 10:30 a.m. on Thursday, June 28, 2018 in Hearing Room 120, of the John A. Wilson Building.

The stated purpose of **PR 22-848** is to confirm the reappointment of Mr. Marc D. Loud, Sr., to be a member and Chairperson of the Contract Appeals Board. The purpose of this roundtable is to receive testimony from public witnesses as to the fitness of the nominee for the reappointment to the Contract Appeals Board. The Contract Appeals Board is the tribunal for hearing contract solicitation and award protests. The CAB also is the tribunal to decide disputes between contractors and the District government.

Those who wish to testify are asked to email the Committee of the Whole at [cow@dccouncil.us](mailto:cow@dccouncil.us), or call Evan Cash at (202) 724-8196, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business **Tuesday, June 26, 2018**. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on June 26, 2018 the testimony will be distributed to Councilmembers before the roundtable. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. Copies of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council’s office or on <http://lms.dccouncil.us>. Roundtable materials, including a draft witness list, can be accessed 24 hours in advance of the roundtable at <http://www.chairmanmendelson.com/circulation>.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on July 9, 2018.

**COUNCIL OF THE DISTRICT OF COLUMBIA  
EXCEPTED SERVICE APPOINTMENTS AS OF MAY 31, 2018**

**NOTICE OF EXCEPTED SERVICE EMPLOYEES**

D.C. Code § 1-609.03(c) requires that a list of all new appointees to Excepted Service positions established under the provisions of § 1-609.03(a) be published in the D.C. Register. In accordance with the foregoing, the following information is hereby published for the following positions.

<b>COUNCIL OF THE DISTRICT OF COLUMBIA</b>			
<b>NAME</b>	<b>POSITION TITLE</b>	<b>GRADE</b>	<b>TYPE OF APPOINTMENT</b>
Bassett, Daniel	Legislative Counsel	7	Excepted Service - Reg Appt
McLean, Abigail	Administrative Assistant	2	Excepted Service - Reg Appt
Lewis, Rita	Communications Director	6	Excepted Service - Reg Appt

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**Notice of Grant Budget Modifications**

Pursuant to the Consolidated Appropriations Act of 2017, approved May 5, 2017 (P.L. 115-31), the Council of the District of Columbia gives notice that the Mayor has transmitted the following Grant Budget Modification (GBM).

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

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

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**GBM 22-97:** FY 2018 Grant Budget Modifications of May 1, 2018

RECEIVED: 14 day review begins June 11, 2018

COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
1350 Pennsylvania Avenue, NW, Suite 410  
Washington, DC 20004

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ABBREVIATED NOTICE OF INTENT TO CONSIDER LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to take action in less than fifteen days on PR 22-878 the “Not-For-Profit Hospital Corporation Board of Directors Malika Fair Reappointment Resolution of 2018,” to allow for the proposed resolution to be considered at the July 10, 2018 scheduled Additional Legislative meeting. The abbreviated notice is necessary to allow the Council to consider expeditiously the reappointment of Dr. Malika Fair to the Not-For-Profit Hospital Corporation Board of Directors before the beginning of the Summer recess.

1 **“Committee on Health United Medical Center Contracting and Operational Management**  
 2 **Investigation Authorization Resolution of 2018”**  
 3 **Committee on Health**  
 4 **March 14, 2018**  
 5 **Committee Print**

6  
 7 A RESOLUTION  
 8  
 9 \_\_\_\_\_

10  
 11  
 12 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
 13  
 14 \_\_\_\_\_  
 15

16 To authorize an investigation by the Committee on Health into the involvement of the Executive  
 17 and the Not-for-Profit Hospital Corporation Board of Directors in the award of contracts  
 18 to Veritas of Washington LLC (“Veritas”), the management of United Medical Center  
 19 (“UMC”) by Veritas and the Not-for-Profit Hospital Corporation Board of Directors, the  
 20 circumstances surrounding the elimination obstetrical services at UMC, and the  
 21 circumstances surrounding the deaths of patients at UMC.  
 22

23 RESOLVED, BY THE COMMITTEE ON HEALTH, That this resolution may be cited  
 24 as the “Committee on Health United Medical Center Contracting and Operational Management  
 25 Investigation Authorization Resolution of 2018”.

26 Sec. 2. The Committee on Health (“Committee”) finds that:

27 (1) On March 22, 2016, the Not-for-Profit Hospital Corporation Board of  
 28 Directors, at the recommendation of the Executive, elected to issue a sole source contract to a  
 29 newly-formed company, Veritas of Washington LLC (“Veritas”), to take over operations at  
 30 United Medical Center (“UMC”).

31 (2) On May 1, 2017, an article by *Washington Post* reporter Peter Jamison  
 32 highlighted the worsening financial condition of UMC under Veritas.

33 (3) On August 7, 2017, the Director of the Department of Health, Dr. LaQuandra  
 34 Nesbitt ordered the shutdown of obstetrical services at UMC for 90 days over patient safety

35 concerns.

36 (4) On September 22, 2017, the Committee held a public hearing on the status of  
37 OB-GYN care at UMC to learn what systemic improvements had been made to resolve the  
38 patient care issues that led to the suspension of services. It appeared that very little discernable  
39 progress had been made in the nearly 7 weeks since the suspension of services began.  
40 Additionally, many government witnesses incorrectly cited the Health Insurance Portability and  
41 Accountability Act of 1996 as a basis to not answer even general questions about what had been  
42 done to improve the quality of care at UMC.

43 (5) On October 29, 2017, and December 24, 2017, *Washington Post* reporter Peter  
44 Jamison wrote about the potentially preventable deaths of Warren Webb, and Somesha and  
45 Phoenix Ayobo at UMC.

46 (6) On December 13, 2017, the Not-for-Profit Hospital Corporation Board of  
47 Directors voted to permanently eliminate obstetrical services in a closed session.

48 (7) On January 13, 2018, *Washington Post* reporter Peter Jamison wrote an article  
49 revealing that:

50 (A) A proposal from Veritas, recommending the closure of the facility's  
51 nursery and delivery rooms, was e-mailed to LaRuby May, Chair of the Not-for-Profit Hospital  
52 Corporation Board of Directors, prior to the closure of these units by Dr. Nesbitt to address  
53 safety issues; and

54 (B) Mike Austin, Corporate Secretary of UMC, asserted via e-mail that the  
55 proposal from Veritas regarding obstetrical unit closure was "privileged and confidential  
56 information, and the property of United Medical Center".

57 (8) At a February 21, 2018 performance oversight roundtable convened by the

58 Committee to examine the performance of the Not-for-Profit Hospital Corporation Board of  
59 Directors in Fiscal Years 2017 and 2018, it was revealed that:

60 (A) A \$2 million local funds subsidy for obstetrical care was eliminated in  
61 the Mayor’s Fiscal Year 2018 proposed budget, which is the same fiscal year that the Board  
62 voted to eliminate obstetrical services at UMC; and

63 (B) The Not-for-Profit Hospital Corporation Board of Directors contracted  
64 with a company to record their meetings, yet the recordings were potentially being deleted after  
65 only 6 months.

66 (9) The circumstances surrounding the management of the hospital by Veritas, the  
67 elimination of obstetrical services at UMC, potential medical errors leading to preventable deaths  
68 of patients at UMC, and the selection and proposed renewal of Veritas through a sole source  
69 contract warrants an investigation.

70 Sec. 3. The investigation shall examine:

71 (1) The management of the hospital by Veritas (“Veritas”) and the Not-for-Profit  
72 Hospital Corporation Board of Directors;

73 (2) The circumstances and facts surrounding the elimination obstetrical services at  
74 United Medical Center (“UMC”);

75 (3) The circumstances and facts surrounding the potentially preventable deaths of  
76 patients at UMC since January 2, 2015;

77 (4) The circumstances and facts surrounding the award of contracts to Veritas;  
78 and

79 (5) Relevant facts and circumstances related to the matters listed above to determine  
80 what, if any, legislative action may be appropriate.

81           Sec. 4. Subpoena authorization.

82           (a)(1) The Committee on Health (“Committee”) authorizes the use of subpoenas to  
83   compel the attendance of witnesses, to obtain testimony, evidence, other information, or tangible  
84   items, pursuant to the authority provided in section 413 of the District of Columbia Home Rule  
85   Act, approved December 24, 1973 (87 Stat. 789; D.C. Official Code § 1-204.13), and section  
86   601(b) of the Rules of Organization and Procedure for the Council of the District of Columbia,  
87   Council Period XXII, for the following:

88                       (A) All recordings of Board meetings of the Not-for-Profit Hospital  
89   Corporation Board of Directors from the period of January 1, 2015, to March 14, 2018; and

90                       (B) Specific witness, to wit: Corbett Price, Chrystie Boucree, David  
91   Boucree, and Luis Hernandez.

92                       (2) No other subpoena power shall be exercised by this Committee unless  
93   subsequently authorized.

94           (b) The chairperson of the Committee is authorized to coordinate with any other  
95   applicable Council committee regarding this investigation.

96           Sec. 5. Filing of the resolution.

97           The Committee Clerk of the Committee on Health shall file this resolution, upon its  
98   adoption, in the Office of the Secretary, in accordance with Section 601(b) of the rules of  
99   Organization and Procedure for the Council of the District of Columbia, Council Period XXII.

100          Sec. 6. Effective date.

101          This resolution shall take effect immediately.



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

Placard Posting Date: June 15, 2018  
Protest Petition Deadline: July 30, 2018  
Roll Call Hearing Date: August 13, 2018

License No.: ABRA-107488  
Licensee: Buredo Tenleytown, LLC  
Trade Name: Buredo  
License Class: Retailer’s Class “C” Restaurant  
Address: 4235 Wisconsin Avenue, N.W.  
Contact: Sidon Yohannes, Esq.: (202) 686-7600

WARD 3                      ANC 3E                      SMD 3E05

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on August 13, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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**

Request to add a Sidewalk Cafe with 10 seats.

**CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES)**

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

**PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (SIDEWALK CAFE)**

Sunday through Thursday 11am – 10pm  
Friday and Saturday 11am – 10:30pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: June 15, 2018
Protest Petition Deadline: July 30, 2018
Roll Call Hearing Date: August 13, 2018
Protest Hearing Date: October 17, 2018

License No.: ABRA-110280
Licensee: Busboys, Inc.
Trade Name: Busboys & Poets
License Class: Retailer's Class "C" Restaurant
Address: 450 K Street, N.W.
Contact: Stephen O'Brien: (202) 625-7700

WARD 6

ANC 6E

SMD 6E05

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 Roll Call Hearing date on August 13, 2018 at 10 a.m., 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 October 17, 2018 at 1:30 p.m.

NATURE OF OPERATION

New Class "C" Restaurant serving American food and providing Live Entertainment inside the premises only. Total Occupancy Load of 350 with seating for 300. Sidewalk Café with 88 seats.

HOURS OF OPERATION INSIDE PREMISES

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

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES

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

HOURS OF LIVE ENTERTAINMENT INSIDE PREMISES ONLY

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

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR SIDEWALK CAFÉ

Sunday through Saturday 11am to 12am

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

Placard Posting Date: June 15, 2018  
 Protest Petition Deadline: July 30, 2018  
 Roll Call Hearing Date: August 13, 2018  
 Protest Hearing Date: October 17, 2018

License No.: ABRA-109898  
 Licensee: CCDC Hotel LLC  
 Trade Name: Conrad Washington DC  
 License Class: Retailer's Class "C" Hotel  
 Address: 950 New York Avenue, N.W.  
 Contact: Roderic L. Woodson: (202) 955-3000

WARD 2

ANC 2C

SMD 2C01

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 **Roll Call Hearing date on August 13, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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 **October 17, 2018 at 4:30pm**.

**NATURE OF OPERATION**

New Class "C" Hotel with 360 rooms. Providing Live Entertainment, Dancing and 3 Summer Gardens: Rooftop Lounge with 177 seats, North Terrace with 26 seats, and South Terrace with 36 seats.

**HOURS OF OPERATION INSIDE HOTEL**

Sunday through Saturday 12am – 12am (24 hour operations)

**HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION IN HOTEL**

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

**HOURS OF LIVE ENTERTAINMENT INSIDE HOTEL**

Sunday – Saturday 6pm – 2am

**HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR ROOFTOP LOUNGE AND NORTH TERRACE SUMMER GARDENS**

Sunday through Thursday 9am – 11pm, Friday and Saturday 9am – 12am

**HOURS OF LIVE ENTERTAINMENT FOR ROOFTOP LOUNGE AND NORTH TERRACE**

Sunday through Thursday 6pm – 11pm, Friday and Saturday 6pm – 12am

**HOURS OF OPERATION FOR SOUTH TERRACE SUMMER GARDEN**

Sunday through Saturday 6:30am – 11pm

**HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR SOUTH TERRACE SUMMER GARDEN**

Sunday through Saturday 8am – 11pm

**HOURS OF LIVE ENTERTAINMENT FOR SOUTH TERRACE SUMMER GARDEN**

Sunday through Saturday 6pm – 11pm

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

Placard Posting Date: June 15, 2018  
Protest Petition Deadline: July 30, 2018  
Roll Call Hearing Date: August 13 2018  
Protest Hearing Date: October 17, 2018

License No.: ABRA-110217  
Licensee: Square 369 Hotel TRS, LLC  
Trade Name: Courtyard by Marriott & Residence Inn by Marriott Washington  
Downtown Convention Center  
License Class: Retailer's Class "B" 25 Percent  
Address: 901 L Street, N.W.  
Contact: Michael Fonseca: (202) 625-7700

WARD 2

ANC 2F

SMD 2F06

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 **Roll Call Hearing date on August 13, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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 October 17, 2018 at 4:30 p.m.**

**NATURE OF OPERATION**

New Class "B" Retailer 25% located within a licensed hotel premises without direct access to the street. Tasting Permit Endorsement.

**PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES**

Sunday – Saturday, 7am – 12am

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

Placard Posting Date: June 15, 2018  
 Protest Petition Deadline: July 30, 2018  
 Roll Call Hearing Date: August 13 2018  
 Protest Hearing Date: October 17, 2018

License No.: ABRA-110216  
 Licensee: Square 369 Hotel TRS, LLC  
 Trade Name: Courtyard by Marriott & Residence Inn by Marriott Washington  
 Downtown Convention Center  
 License Class: Retailer's Class "C" Hotel  
 Address: 901 L Street, N.W.  
 Contact: Michael Fonseca: (202) 625-7700

WARD 2

ANC 2F

SMD 2F06

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 **Roll Call Hearing date on August 13, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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 October 17, 2018 at 4:30 p.m.**

**NATURE OF OPERATION**

New Class "C" full-service hotel with 504 rooms and a restaurant on the lobby level offering traditional American fare. Live Entertainment will be offered on occasion and during private events indoors only. Requesting Two Summer Gardens: the first Summer Garden will be a 4<sup>th</sup> floor terrace with 135 seats. The second Summer Garden will be on the penthouse level with seating for 195. Total Summer Garden seating capacity is 330 seats.

**PROPOSED HOURS OF OPERATION (INSIDE PREMISES)**

Sunday – Saturday 12am – 12am (24 hour operations)

**PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES)**

Sunday – Thursday 8am – 2am, Friday – Saturday 8am to 3am

**PROPOSED HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (SUMMER GARDEN)**

Sunday – Saturday 8am – 1am

**PROPOSED HOURS OF LIVE ENTERTAINMENT (INSIDE PREMISES ONLY)**

Sunday – Thursday 8am – 2am, Friday – Saturday 8am to 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: June 15, 2018
Protest Petition Deadline: July 30, 2018
Roll Call Hearing Date: August 13 2018
Protest Hearing Date: October 17, 2018

License No.: ABRA-110185
Licensee: Square 369 Hotel TRS, LLC
Trade Name: Courtyard by Marriott & Residence Inn by Marriott Washington
Downtown Convention Center
License Class: Retailer's Class "C" Tavern
Address: 1114 9th Street, N.W.
Contact: Michael Fonseca: (202) 625-7700

WARD 2 ANC 2F SMD 2F06

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 Roll Call Hearing date on August 13, 2018 at 10 a.m., 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 October 17, 2018 at 4:30 p.m.

NATURE OF OPERATION

New Class "C" Tavern will be a sister location of Buffalo & Bergen's Union Market establishment. It will offer a menu of New York style bagels, knishes, and sandwiches, as well as hand-crafted sodas and specialty cocktails. Maximum number of seats is 50 with a Total Occupancy Load of 120.

PROPOSED HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION

Sunday - Thursday, 8am - 2am
Friday and Saturday, 8am - 3am

## ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

## NOTICE OF PUBLIC HEARING

**\*\*CORRECTION\*\***

Placard Posting Date: June 8, 2018  
 Protest Petition Deadline: July 23, 2018  
 Roll Call Hearing Date: August 6, 2018  
 Protest Hearing Date: October 3, 2018

License No.: ABRA-110062  
 Licensee: Wyoming Cube & Bale, LLC  
 Trade Name: Cube & Bale  
 License Class: Retailer's Class "C" Restaurant  
 Address: 3251 Prospect Street, N.W.  
 Contact: Robert Elliott: (202) 338-5835

WARD 2

ANC 2E

SMD 2E03

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 **Roll Call Hearing date on August 6, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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 October 3, 2018 at 1:30 p.m.**

**NATURE OF OPERATION**

New Class "C" Restaurant that will offer casual dining, serving appetizers, sandwiches, and salads. The restaurant will have several pool tables, and is requesting an Entertainment Endorsement to provide occasional live entertainment, **\*\*cover charge, and \*\*dancing**. The Total Occupancy Load will be 200, including 121 seats inside and a 40-seat Summer Garden.

**HOURS OF OPERATION (INSIDE PREMISES)**

Sunday through Saturday 12am – 12am (24 hour operations)

**HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES)**

Sunday – Thursday 8am – 2am, Friday – Saturday 8am – 3am

**HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (SUMMER GARDEN)**

Sunday – Saturday 8am – 10pm

**HOURS OF LIVE ENTERTAINMENT (INDOORS ONLY)**

Sunday – Saturday 12pm – 10pm

## ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

## NOTICE OF PUBLIC HEARING

**\*\*RESCIND\*\***

Placard Posting Date: June 8, 2018  
Protest Petition Deadline: July 23, 2018  
Roll Call Hearing Date: August 6, 2018  
Protest Hearing Date: October 3, 2018

License No.: ABRA-110062  
Licensee: Wyoming Cube & Bale, LLC  
Trade Name: Cube & Bale  
License Class: Retailer's Class "C" Restaurant  
Address: 3251 Prospect Street, N.W.  
Contact: Robert Elliott: (202) 338-5835

WARD 2

ANC 2E

SMD 2E03

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 **Roll Call Hearing date on August 6, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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 October 3, 2018 at 1:30 p.m.**

**NATURE OF OPERATION**

New Class "C" Restaurant that will offer casual dining, serving appetizers, sandwiches, and salads. The restaurant will have several pool tables, and is requesting an Entertainment Endorsement to provide occasional live entertainment. The Total Occupancy Load will be 200, including 121 seats inside and a 40-seat Summer Garden.

**HOURS OF OPERATION (INSIDE PREMISES)**

Sunday through Saturday 12am – 12am (24 hour operations)

**HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES)**

Sunday – Thursday 8am – 2am, Friday – Saturday 8am – 3am

**HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (SUMMER GARDEN)**

Sunday – Saturday 8am – 10pm

**HOURS OF LIVE ENTERTAINMENT (INDOORS ONLY)**

Sunday – Saturday 12pm – 10pm



**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**

**NOTICE OF PUBLIC HEARING**

Placard Posting Date: June 15, 2018  
Protest Petition Deadline: July 30, 2018  
Roll Call Hearing Date: August 13, 2018

License No.: ABRA-105806  
Licensee: Exotic Wine and Liquors, LLC  
Trade Name: Exotic Wine and Liquors  
License Class: Retailer’s Class “A” Liquor Store  
Address: 2300 Washington Place, N.E., 104S  
Contact: Risa Hirao: (202) 544-2200

WARD 5                      ANC 5C                      SMD 5C05

Notice is hereby given that this licensee has requested to transfer the license to a new location under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on August 13, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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 LICENSE CHANGE**

Licensee requests to transfer license from 1550 First Street, S.W., to a new location at 2300 Washington Place, N.E., 104S. Establishment is a Retailer’s Class “A” liquor store.

**PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES**

Sunday – Saturday 7am – 11pm

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

Placard Posting Date: June 15, 2018  
Protest Petition Deadline: July 30, 2018  
Roll Call Hearing Date: August 13, 2018

License No.: ABRA-088198  
Licensee: Georgetown Washington DC Inn, LLC  
Trade Name: Georgetown Inn-Daily Grill  
License Class: Retailer's Class "C" Hotel  
Address: 1310 Wisconsin Avenue, N.W.  
Contact: Andrew Kline, Esq.: (202) 686-7600

WARD 2

ANC 2E

SMD 2E03

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on August 13, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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**

The licensee has requested an Entertainment Endorsement to provide Live Entertainment with Dancing and a Cover Charge.

**CURRENT HOURS OF OPERATION**

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

**CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION**

Sunday 10am – 2am  
Monday through Thursday 8am – 2am  
Friday and Saturday 8am – 3am

**PROPOSED HOURS OF LIVE ENTERTAINMENT**

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

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

Placard Posting Date: June 15, 2018  
Protest Petition Deadline: July 30, 2018  
Roll Call Hearing Date: August 13, 2018

License No.: ABRA-100673  
Licensee: Heurich House Foundation  
Trade Name: Heurich House Museum  
License Class: Retailer’s Class “CX” Multipurpose Facility  
Address: 1307 New Hampshire Avenue, N.W.  
Contact: Stephen J. O’ Brien: (202) 625-7700

WARD 2                      ANC 2B                      SMD 2B06

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on August 13, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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**

Licensee requests to change hours of operation/alcoholic beverage service. License also requests a Summer Garden Endorsement with 350 seats, and a reduction in interior capacity from 350 to 150 patrons. New Total Occupancy inside premises and outside in Summer Garden will be 500.

**CURRENT HOURS OF OPERATION (INSIDE PREMISES)**

Closed Sunday, Monday – Tuesday 9am – 6pm, Wednesday – Saturday 9am – 11pm

**CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION (INSIDE PREMISES)**

Closed Sunday, Monday – Tuesday 12pm – 6pm, Wednesday – Saturday 12pm – 11pm

**PROPOSED HOURS OF OPERATION (INSIDE PREMISES)**

Sunday – Saturday 9am – 1am

**PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION (INSIDE PREMISES)**

Sunday – Saturday 10 am to 12 am

**PROPOSED HOURS OF OPERATION (SUMMER GARDEN)**

Sunday – Saturday 9 am to 1 am

**PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION (SUMMER GARDEN)**

Sunday – Saturday 10 am to 12 am

## ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

## NOTICE OF PUBLIC HEARING

**\*\*CORRECTION**

Placard Posting Date: May 25, 2018  
Protest Petition Deadline: July 9, 2018  
Roll Call Hearing Date: July 23, 2018  
Protest Hearing Date: September 19, 2018

License No.: ABRA-109749  
Licensee: Federal Center Hotel Associates, LLC  
Trade Name: Holiday Inn (Capitol)  
License Class: Retailer's 25 Percent Class "B"  
Address: 550 C Street, S.W.  
Contact: Stephen J. O'Brien: 202-625-7700

WARD 6

ANC 6D

SMD 6D01

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 **Roll Call Hearing date on July 23, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The **Protest Hearing date** is scheduled on **September 19, 2018 at 4:30pm**.

**NATURE OF OPERATION**

New 25% Class B selling beer and wine located within a hotel without direct access to the street.

**\*\*HOURS OF OPERATION**

Sunday through Saturday 12am – 12am (24 hour operations)

**\*\*HOURS OF ALCOHOLIC BEVERAGE SALES**

Sunday through Saturday 7am – 12am

## ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

## NOTICE OF PUBLIC HEARING

**\*\*RESCIND**

Placard Posting Date: May 25, 2018  
Protest Petition Deadline: July 9, 2018  
Roll Call Hearing Date: July 23, 2018  
Protest Hearing Date: September 19, 2018

License No.: ABRA-109749  
Licensee: Federal Center Hotel Associates, LLC  
Trade Name: Holiday Inn (Capitol)  
License Class: Retailer's 25 Percent Class "B"  
Address: 550 C Street, S.W.  
Contact: Stephen J. O'Brien: 202-625-7700

WARD 6

ANC 6D

SMD 6D01

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 **Roll Call Hearing date on July 23, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The **Protest Hearing date** is scheduled on **September 19, 2018 at 4:30pm**.

**NATURE OF OPERATION**

New 25% Class B selling beer and wine located within a hotel without direct access to the street.

**\*\*HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION**

Sunday through Saturday 7am – 12am

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

Placard Posting Date: June 15, 2018  
Protest Petition Deadline: July 30, 2018  
Roll Call Hearing Date: August 13, 2018  
Protest Hearing Date: October 17, 2018

License No.: ABRA-110186  
Licensee: AFROGROUP, LLC  
Trade Name: Lucy Bar and Restaurant  
License Class: Retailer's Class "C" Restaurant  
Address: 900 Florida Avenue, N.W.  
Contact: Zakaria Ibrahim: (240) 491-1145

WARD 1

ANC 1B

SMD 1B02

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 **Roll Call Hearing date on August 13, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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 **October 17, 2018 at 4:30 p.m.**

**NATURE OF OPERATION**

A New Class "C" Ethiopian restaurant, serving fresh vegetarian food. The restaurant will have 89 indoor seats and interior occupancy of 104. The licensee is requesting a 24 seat Summer Garden. Total Occupancy Load of 128. The Licensee is also requesting an Entertainment Endorsement to include Live Entertainment, both indoors and outdoors, as well as a Cover Charge, and Dancing.

**PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES AND FOR SUMMER GARDEN)**

Sunday – Thursday 10am – 2am

Friday – Saturday 10am – 3am

**PROPOSED HOURS OF LIVE ENTERTAINMENT (INSIDE PREMISES AND FOR SUMMER GARDEN)**

Sunday – Thursday 6pm – 2am

Friday – Saturday 6pm – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: June 15, 2018
Protest Petition Deadline: July 30, 2018
Roll Call Hearing Date: August 13, 2018
Protest Hearing Date: October 17, 2018

License No.: ABRA-109951
Licensee: Chef Mikko, LLC
Trade Name: Mikko Nordic Fine Food
License Class: Retailer's Class "C" Restaurant
Address: 1636 R Street, N.W.
Contact: Eric Simning, Vice President of Operations: (541) 647-0310

WARD 2

ANC 2B

SMD 2B04

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 Roll Call Hearing date on August 13, 2018 at 10 a.m., 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 October 17, 2018 at 1:30 p.m.

NATURE OF OPERATION

New Class "C" Restaurant serving Nordic food, including baked goods, coffee, breakfast/lunch/dinner, and take out. Total Occupancy Load of 39 with seating for 26 patrons, and a Sidewalk Café with 14 seats.

HOURS OF OPERATION INSIDE PREMISES AND FOR SIDEWALK CAFÉ

Sunday 10am – 6pm
Monday through Saturday 7am – 10pm

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES AND FOR SIDEWALK CAFE

Sunday 10am – 6pm
Monday through Friday 11am – 9:30pm
Saturday 10am – 9:30pm

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

Placard Posting Date: June 15, 2018  
Protest Petition Deadline: July 30, 2018  
Roll Call Hearing Date: August 13, 2018  
Protest Hearing Date: October 17, 2018

License No.: ABRA-110211  
Licensee: Letta DC, LLC  
Trade Name: Nicoletta Italian Kitchen  
License Class: Retailer's Class "C" Restaurant  
Address: 901 4<sup>th</sup> Street, N.W.  
Contact: Stephen J. O'Brien, Esq.: (202) 625-7700

WARD 6

ANC 6E

SMD 6E07

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 **Roll Call Hearing date on August 13, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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 **October 17, 2018 at 4:30 p.m.**

**NATURE OF OPERATION**

New class C Restaurant specializing in authentic Italian food. Seating Capacity of 92, Total Occupancy Load of 132. Sidewalk Cafe with 38 seats. The license will include an Entertainment Endorsement inside of the premises only.

**HOURS OF OPERATION INSIDE PREMISES AND FOR THE OUTDOOR SIDEWALK CAFE**

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

**HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES AND FOR THE OUTDOOR SIDEWALK CAFE**

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

**HOURS OF LIVE ENTERTAINMENT INDOORS ONLY**

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



**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**

**NOTICE OF PUBLIC HEARING**

Placard Posting Date: June 15, 2018  
Protest Petition Deadline: July 30, 2018  
Roll Call Hearing Date: August 13, 2018

License No.: ABRA-099876  
Licensee: Dos Ventures, LLC  
Trade Name: Saint Yves  
License Class: Retailer’s Class “C” Tavern  
Address: 1220 Connecticut Avenue, N.W.  
Contact: David Chung, LLC Member: (202) 466-2582

WARD 2

ANC 2B

SMD 2B07

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on August 13, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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**

Licensee requests to change of hours of Operation, Sales, Service, and Consumption, and Live Entertainment.

**CURRENT HOURS OF OPERATION, ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION, AND LIVE ENTERTAINMENT**

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

**PROPOSED HOURS OF OPERATION AND LIVE ENTERTAINMENT**

Sunday through Thursday 6am – 3am  
Friday and Saturday 6am – 4am

**PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION**

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

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

Placard Posting Date: June 15, 2018  
Protest Petition Deadline: July 30, 2018  
Roll Call Hearing Date: August 13, 2018  
Protest Hearing Date: October 17, 2018

License No.: ABRA-109849  
Licensee: Final Jahanbin  
Trade Name: Sister's Mediterranean Corner Cafe  
License Class: Retailer's Class "C" Tavern  
Address: 2827 Sherman Avenue, N.W.  
Contact: Final Jahanbin: (301) 704-1701

WARD 1

ANC 1B

SMD 1B09

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 **Roll Call Hearing date on August 13, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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 October 17, 2018 at 1:30 p.m.**

**NATURE OF OPERATION**

New Class "C" Tavern offering Mediterranean food. The tavern will have 41 seats and a Total Occupancy Load of 41 inside. Sidewalk Café with 56 seats.

**PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES**

Sunday – Saturday 9am – 2am

**PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR SIDEWALK CAFÉ**

Sunday – Saturday 9am – 11pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: June 15, 2018
Protest Petition Deadline: July 30, 2018
Roll Call Hearing Date: August 13, 2018

License No.: ABRA-101299
Licensee: The Dirty Goose, LP
Trade Name: The Dirty Goose
License Class: Retailer's Class "C" Tavern
Address: 913 U Street, N.W.
Contact: Richard Bianco, Esq.: (202) 461-2400

WARD 1 ANC 1B SMD 1B02

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing date on August 13, 2018 at 10 a.m., 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

Licensee requests to expand rooftop Summer Garden into space over adjacent property at 911 U Street NW, increasing seating from 28 to 43, and increasing Total Occupancy Load from 48 to 99.

CURRENT HOURS OF OPERATION (INSIDE PREMISES)

Sunday - Thursday 10am - 3am, Friday and Saturday 10am - 4am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION (INSIDE PREMISES)

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

CURRENT HOURS OF LIVE ENTERTAINMENT (INSIDE ONLY)

Sunday - Saturday 10am - 3am

CURRENT HOURS OF OPERATION (SUMMER GARDEN)

Sunday - Saturday 10am - 2:30am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION (SUMMER GARDEN)

Sunday - Saturday 10am - 2am

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

Placard Posting Date: June 15, 2018  
Protest Petition Deadline: July 30, 2018  
Roll Call Hearing Date: August 13, 2018

License No.: ABRA-099536  
Licensee: 1327 Connecticut, LLC  
Trade Name: The Manor  
License Class: Retailer's Class "C" Tavern  
Address: 1327 Connecticut Avenue, N.W.  
Contact: Sara Kalivas & O'Neal Grey: (202) 674-5520

WARD 2

ANC 2B

SMD 2B07

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on August 13, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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**

Request to Add a Summer Garden with 75 seats.

**CURRENT HOURS OF OPERATION (INSIDE PREMISES)**

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

**CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES)**

Sunday 10am – 2am, Monday – Thursday 8am – 2am, and Friday – Saturday 8am – 3am

**CURRENT HOURS OF LIVE ENTERTAINMENT (INSIDE PREMISES ONLY)**

Sunday 10am – 2am, Monday – Thursday 6pm – 2am, and Friday – Saturday 6pm – 3am

**PROPOSED HOURS OF OPERATION (SUMMER GARDEN)**

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

**PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (SUMMER GARDEN)**

Sunday 10am – 2am, Monday – Thursday 8am – 2am, and Friday – Saturday 8am – 3am

## GOVERNMENT OF THE DISTRICT OF COLUMBIA

## DEPARTMENT ON DISABILITY SERVICES

NOTICE OF PUBLIC HEARING

## Proposed Policies

Wednesday, July 11, 2018, 10:00 am to 12:00 pm

D.C. Department on Disability Services

250 E Street, SW

Joy Evans Conference Room, First Floor

Washington, DC 20024

Pursuant to the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act, and its implementing federal regulations, the D.C. Department on Disability Services (DDS), Rehabilitation Services Administration (RSA), will hold a public hearing on **Wednesday, July 11, 2018**, to obtain input on the following proposed RSA policies:

- **Pre-Employment Transition Services**
- **Eligibility**
- **Transportation**

During this public hearing, DDS will also seek input on the following proposed policy, which applies across all DDS administrations:

- **Case Transfer**

The public will have **30 calendar days** to submit comments on the proposed policies. The policies are available for review in accessible format on the Agency's website at [www.dds.dc.gov](http://www.dds.dc.gov).

The purpose of the hearing is to ensure that recommendations are received from consumers, service providers, advocacy organizations, and other interested individuals on how the agency can better achieve the following:

- Address changes resulting from the implementation of the Workforce Innovation and Opportunity Act;
- Provide information related to transportation as a vocational rehabilitation service; and
- Provide information related to the transfer of cases.

**Persons who wish to testify** should contact Ms. Martina Kraemer, not later than 4:45 pm on **June 27, 2018**, and provide the following: name; address; telephone number; organizational affiliation(s); accommodation need(s), if any; and two (2) copies of the proposed testimony. Ms. Kraemer can be reached via email at [martina.kraemer@dc.gov](mailto:martina.kraemer@dc.gov) or via telephone at (202) 730-

1572 or 711 Relay. Testimony shall be no more than ten (10) minutes, depending on the number of persons who wish to testify.

**Persons who wish to submit written comments** may do so by U.S. Postal Service or by email to:

Martina Kraemer  
D.C. Department on Disability Services  
Rehabilitation Services Administration  
250 E Street, SW, 6<sup>th</sup> Floor  
Washington, DC 20024  
[DDS.publiccomments@dc.gov](mailto:DDS.publiccomments@dc.gov)

Comments sent via email must be received by 4:45 pm on **July 16, 2018**, and mailed documents must be postmarked by the same date. All questions should be directed to Martina Kraemer at 202-730-1572 or 711 Relay, Monday through Friday, 8:30 am – 4:30 pm or sent to [martina.kraemer@dc.gov](mailto:martina.kraemer@dc.gov).

**Persons who require accommodations** to participate in the public hearing should contact Martina Kraemer **not later than June 27, 2018**. **Requests can be submitted either via email or mail to:**

Martina Kraemer  
D.C. Department on Disability Services  
Rehabilitation Services Administration  
250 E Street, SW, 6<sup>th</sup> Floor  
Washington, DC 20024  
[martina.kraemer@dc.gov](mailto:martina.kraemer@dc.gov)

**DEPARTMENT OF ENERGY AND ENVIRONMENT****NOTICE OF PUBLIC HEARING AND PUBLIC COMMENT PERIOD****Draft FY 2019 Clean Water Construction Project Priority Lists**

The Department of Energy and Environment (DOEE) invites the public to comment on the Draft Fiscal Year (FY) 2019 Project Priority Lists (PPLs) for the District of Columbia's Clean Water Construction Grants Program. The PPLs identify and rank projects eligible to receive Federal and District funds to construct or improve green infrastructure, wastewater treatment facilities, and other related infrastructure in FY 2019 and in future years.

The draft PPLs can be downloaded from the links below. A hard copy may also be obtained from the DOEE offices at 1200 First Street NE, Washington, DC 20002, 5<sup>th</sup> floor. Please email [keren.murphy@dc.gov](mailto:keren.murphy@dc.gov) to arrange for pick-up.

**Public Hearing: Monday, July 16, 2018**

<b>HEARING DATE:</b>	<b>July 16, 2018</b>
<b>TIME:</b>	<b>6:00 PM – 7:00 PM</b>
<b>PLACE:</b>	<b>Department of Energy and Environment 1200 First Street NE, 5th Floor Washington, DC 20002 NOMA Gallaudet (Red Line) Metro Stop</b>

Comments clearly marked "PPL Public Hearing 2019" may also be hand delivered or mailed to the DOEE offices at the address listed above. Persons may also submit written testimony by email, with a subject line of "PPL Public Hearing 2018", to the attention of Keren O'Brien Murphy at [keren.murphy@dc.gov](mailto:keren.murphy@dc.gov). All comments should be received no later than the conclusion of the public hearing on Monday, July 16, 2018.

Persons present at the hearing who wish to be heard may testify. All presentations shall be limited to five minutes. Presenters are urged to submit written statements. DOEE will consider all comments received in its final PPL.

**HISTORIC PRESERVATION REVIEW BOARD****MAYOR'S AGENT****FOR THE HISTORIC LANDMARK AND HISTORIC DISTRICT PROTECTION ACT****NOTICE OF PUBLIC HEARING**

Public notice is hereby given that the Mayor's Agent will hold a public hearing on an application affecting property subject to the Historic Landmark and Historic District Protection Act of 1978. Interested parties may appear and testify on behalf of, or in opposition to, the application. The hearing will be held at 441 4th Street NW (One Judiciary Square), Room 220-South.

Hearing Date: **Monday, July 16, 2018 at 9:00 a.m.**  
**Tuesday, July 17, 2018 at 9:00 a.m.** (if needed)  
Case Number: O.G. 17-361 H.P.A. 17-635  
Square/Lot: Square 1193, A&T Lot 803  
Applicant: Georgetown 29K Acquisitions LLC  
Type of Work: Substantial Demolition of the West Heating Plant

Affected Historic Property: West Heating Plant, Georgetown Historic District  
Affected ANC: 2E

The Applicant's claim is that the proposed demolition is necessary in the public interest because it is necessary to construct a project of special merit.

The hearing will be conducted in accordance with the Rules of Procedure pursuant to the Historic Landmark and Historic District Protection Act (Title 10C DCMR Chapters 4 and 30), which are on file with the D.C. Historic Preservation Office and posted on the Office website under "Regulations."

Interested persons or parties are invited to participate in and offer testimony at this hearing. Any person wishing to testify in support of or opposition to the application may appear at the hearing and give evidence without filing in advance. However, any affected person who wishes to be recognized as a party to the case is required to file a request with the Mayor's Agent at least fifteen (15) days prior to the hearing. This request shall include the following information: 1) requesting party's name and address; 2) whether the party will appear as a proponent or opponent of the application; 3) if the party will appear through legal counsel, and if so, the name and address of legal counsel; and 4) a written statement setting forth the manner in which the party may be affected or aggrieved by action upon the application and the grounds upon which the party supports or opposes the application. Any requests for party status should be sent to the Mayor's Agent at [historic.preservation@dc.gov](mailto:historic.preservation@dc.gov) or 1100 4th Street SW, Suite E650, Washington, D.C. 20024. For further information, contact the Historic Preservation Office, at [historic.preservation@dc.gov](mailto:historic.preservation@dc.gov) or (202) 442-7600.





The University seeks approval to modify Condition Nos. 3, 8, 10, and 13 of Z.C. Order No. 12-01, as detailed in the attachment hereto.

The property that is the subject of this application is located in the RA-1 zone.

This matter was initially scheduled for a public hearing on June 4, 2018. However, because the original notice of public hearing did not give notice of the Applicant's request to modify the four campus plan conditions and because the request for special exception relief from the screening requirements was added on the date of the hearing, the Commission decided to continue the hearing to July 12<sup>th</sup> and require updated public notice.

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Commission's Rules of Practice and Procedure, 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 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](mailto: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, 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](mailto:donna.hanousek@dc.gov)), or by calling (202) 727-0789.

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

- |    |                                  |                         |
|----|----------------------------------|-------------------------|
| 1. | 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 <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4<sup>th</sup> Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to [zcsubmissions@dc.gov](mailto:zcsubmissions@dc.gov); or by fax to (202) 727-6072. Please include the case number on your submission. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

**ANTHONY J. HOOD, ROBERT E. MILLER, PETER G. MAY, PETER A. SHAPIRO, 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](mailto: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](mailto: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](mailto:Zelalem.Hill@dc.gov) cinq jours avant la réunion. Ces services vous seront fournis gratuitement.

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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](mailto: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](mailto:Zelalem.Hill@dc.gov) trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

ለሙሳተፍ ዕርዳታ ያስፈልግዎታል? የተለየ እርዳታ ከስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም) ከስፈለገዎት እባክዎን ከስተባባሪው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡት በነጻ ነው።

**Attachment to Z.C. Notice of Further Public Hearing – Case. No. 12-01A**

The Applicant proposes that paragraphs 3, 8, 10, 13 of Order No. 12-01 be modified as proposed below, respectively, and that a new condition, 17, be added. All other conditions of Order No. 12-01 would remain in full force and effect.

3. The maximum number of parking spaces shall be 1,920; the current total of 1,927 shall be reduced to 1,920 by the end of 2012. The University shall further eliminate at least 45 surface parking spaces on the Main Campus as part of the first development application submission. The University shall only propose new parking facilities that can be offset by elimination of an equal or greater number of parking spaces in other campus parking facilities.
  - a. The University shall further reduce the maximum number of parking spaces to 1,892 by the end of 2022.
  
8. The University shall implement the following TDM and Sustainability measures, as follows:
  - a. Measures to be required permanently:
    - i. Continue employee pre-tax payroll deduction for public transit costs;
    - ii. Continue to prohibit freshmen residents from parking vehicles on campus, with exceptions for those students who need a car for medical purposes or are in the Reserve Officers' Training Corps;
    - iii. Continue to operate a free CUA shuttle service to the Brookland-CUA Metro station and off-campus housing;
    - iv. Maintain solar panels above 72 parking spaces in O'Boyle lot (in a manner that will not affect the O'Boyle lot parking supply);
    - v. Reduce parking fees for carpool drivers. Carpool drivers shall be given priority in issuance of permits;
    - vi. Assign a staff member the role of implementing the TDM Plan and provide their contact information to DDOT and goDCgo;
    - vii. Email students, faculty and staff before the start of each semester to share transportation information and incentives;
    - viii. Provide information on the Catholic University website in a prominent and visible location regarding non-automotive travel options;
    - ix. Provide information for non-automotive travel options in student common areas and provide at student orientation.

- b. Measures to be completed prior to Fall 2018 semester:
  - i. Install 338 new bike spaces on campus (understanding that as of 2018, a total of 274 spaces have already been installed, leaving 64 additional spaces to be installed. At least 8 inverted U-racks (16 spaces) shall be located near the Bates lot);
  - ii. Increase average parking permit fees per table below:

Table 6: FY 2019 Proposed Parking Permit Fee Schedule

Year	AY 2012	AY 2018	AY 2019	Effective Annual Rate Increase (AY18-AY19)	Total Increase (AY2012-AY2019)
Surface Parking					
Staff/ Faculty	\$425	\$625	\$665	6.4%	56%
Evening	\$245	\$345	\$360	4.3%	47%
Garage (Covered) Parking					
Staff/ Faculty	\$515	\$700	\$700	0.0%	35%
Evening	\$275	\$375	\$375	0.0%	36%
Student Parking					
Commuter Students per year, surface	\$425	\$625	\$665	6.4%	56%
Commuter Students per year, garage	\$515	\$700	\$700	0.0%	36%
Resident Students per year, surface	\$485	\$695	\$735	5.8%	52%
Resident Students per year, garage	\$565	\$770	\$770	0.0%	36%
Evening Students per year, surface	\$245	\$345	\$360	4.3%	47%
Evening Students per year, garage	\$275	\$375	\$375	0.0%	36%

- iii. Eliminate provision of free faculty and staff parking permits, currently provided by various University departments; for all new faculty and staff hired after May 25, 2012.
  - iv. Work with a carshare company to provide 2 carshare vehicle spaces in easily accessible locations on campus;
  - v. Fund and install a Transit Screen in a student common area, such as the Pryzbyla Center.
- c. Measures to be completed prior to Fall 2019 semester: Fund and install a 19-dock Capital bikeshare station on the University’s campus and provide one year’s maintenance and operation.
  - d. Measures to be implemented, as necessary:
    - i. Offer new carpool incentives and rideshare matching services to campus commuters through Commuter Connections, and/or other service providers;
    - ii. Increase Campus Shuttle frequency during peak periods to every 10 minutes, if demand is present;
    - iii. Expand Campus Shuttle to provide rides 7 days a week and operate at least 30 minutes before/after Metro opens/closes, if demand is present;

- iv. Offer discounted Capital Bikeshare memberships to students;
  - v. Increase employee participation in pre-tax transit benefits;
  - vi. Fund and install Transit Screens in additional student common areas;
  - vii. Provide additional carshare spaces in easily accessible locations on campus.
  - viii. Increase parking permit fees over the increases required pursuant to paragraph (b) of this condition.
  - ix. Impose limitations on the number of parking permits issued;
  - x. Target access restrictions to commuter parking;
  - xi. Introduce new or increase existing financial incentives for alternative mode options.
10. The University shall monitor its parking supply on an annual basis and report to DDOT on Single Occupancy Vehicle (“SOV”) mode share reductions and implementation of TDM measures, with a goal of meeting a 55% non-automotive mode split or 41% SOV mode share (per goal cited in the 2012 CUA Master Plan) for employees and students who commute to campus. The University commits to a performance monitoring plan that requires it to:
- Submit annual TDM monitoring reports to DDOT for a minimum of two consecutive years, beginning with the Fall 2018 semester
  - TDM monitoring reports shall include the following at a minimum:
    - Student enrollment and number of faculty/staff
    - Mode splits from CUA Commuter Survey for the most recent semester, broken down separately for students and faculty/staff
    - At a minimum, mode share data shall be collected for the following modes: single occupancy vehicles, carpool/vanpool, walk, bicycle, bus, Metrorail, commuter rail, and other/telework.
    - Vehicle parking space occupancy counts
    - Bicycle parking occupancy counts
    - Documentation of any changes to TDM program from previous year, including new or innovative policies being implemented not explicitly required in the TDM Plan
    - A TDM work plan/timeline for the upcoming school year.

- The TDM monitoring report shall include entering and exiting vehicle traffic counts for the morning commuter and school afternoon peak hours every two years, or as specified by DDOT through future coordination or monitoring.
  - TDM monitoring reports will no longer be required to be submitted to DDOT when two consecutive annual reports demonstrate that the Applicant is in compliance with the 55% non-automotive travel requirement or CUA single-occupant vehicle mode share reaches 41% or lower.
  - If the results of the CUA mode share data do not demonstrate at least 1 percentage point improvement toward either the non-automotive or SOV mode share goals since the previous TDM monitoring report, then the Applicant will be required to adjust and improve the TDM program gaining DDOT approval on these adjustments.
13. In order to afford DDOT adequate time to assess the impacts of a project that includes parking, the University shall meet with DDOT to scope any further processing application that includes parking facilities prior to submitting the application. The University shall submit a Comprehensive Transportation Review (CTR) study to DDOT at least 45 days prior to the hearing. The supplemental information will be provided to justify the proposed parking facilities and demonstrate progress in decreasing SOV mode share.
17. Prior to the issuance of the first certificate of occupancy for the service building, the Applicant shall fund and implement restoration of curb lines on Bates Road and restoration of greenspace within public space where the existing driveway is to be closed.



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

**NOTICE OF FINAL RULEMAKING**

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in D.C. Official Code §§ 25-211(b), 25-830(f) (2012 Repl. and 2016 Supp.) and Mayor's Order 2001-96 (June 28, 2001), as amended by Mayor's Order 2001-102 (July 23, 2001), hereby gives notice of the intent to adopt, as final, amendments to Chapter 8 (Enforcement, Infractions, and Penalties) set forth in Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR).

The proposed rules are intended to update the civil penalty schedule ("Schedule") by (1) incorporating new infractions and penalties, including those passed by the Council for the District of Columbia in the Omnibus Alcoholic Beverage Regulation Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-260; 64 DCR 2079 (February 24, 2017)); (2) changing the tier for certain infractions from "primary to secondary" or "secondary to primary"; (3) allowing the Board to issue discretionary warnings for infractions that are not presently eligible for receiving a warning; and (4) correcting D.C. Official Code and DCMR citations. Those infractions not listed on the Schedule below shall remain in full effect and not be impacted by the proposed rulemaking.

**BACKGROUND**

On June 21, 2017, the Board voted, six (6) to zero (0), to approve the *Civil Penalty Schedule Notice of Proposed Rulemaking*. The proposed rules are intended to update the Schedule by (1) incorporating new infractions and penalties, including those passed by the Council for the District of Columbia in the Omnibus Alcoholic Beverage Regulation Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-260); (2) changing the tier for certain infractions from "primary to secondary" or "secondary to primary"; (3) allowing the Board to issue discretionary warnings for infractions that are not presently eligible for receiving a warning; and (4) correcting D.C. Official Code and DCMR citations. The Board made it clear in the proposed rulemaking that any infractions not listed in the rulemaking were to remain in effect and were not being amended by the rulemaking.

The Board held a public hearing regarding the rulemaking on August 9, 2017. Joe Gibbons, Commissioner for Advisory Neighborhood Commission (ANC) 2E, and Marc Barnes, an ABC Licensee, testified at the hearing.

Commissioner Gibbons testified, generally, in support of the proposed rulemaking. He, however, opposed the Board's treatment of settlement agreement violations as Secondary Tier Violations rather than treating them as Primary Tier Violations. Commissioner Gibbons argued that ANC 2E works tirelessly with establishments to draft licensee-specific settlement agreements rather than utilizing boilerplate language. It is Commissioner Gibbons' position that by treating settlement agreement violations as a secondary tier violation, the Board undermines the ANC's efforts to enter into and enforce settlement agreements.

During his testimony, Mr. Barnes sought guidance from the Board concerning the interpretation or application of several offenses listed on the Civil Penalty Schedule. First, Mr. Barnes asked the Board to consider further clarifying or re-defining what “bottle service” means. Second, he sought guidance regarding the Board’s requirement that an ABC Manager provide ABRA with his/her Manager’s License upon request. Additionally, Mr. Barnes sought guidance as to when “last call” ends so that it can be uniform among all licensed establishments. Lastly, he sought guidance about establishments’ liability when a patron wears revealing clothing or when a licensee or its employee or agent serves an intoxicated person.

After the public hearing, the proposed rulemaking was published in the *D.C. Register* for thirty (30)-day public comment. *See* 64 DCR 8604 (September 1, 2017). The comment period ended on October 2, 2017. The Board did not receive any additional comments during the comment period.

The Board carefully considered the testimony it received from Commissioner Gibbons and Mr. Barnes concerning the proposed rulemaking. Commissioner Gibbons asked the Board to treat settlement agreement violations as primary tier violations rather than treating them as secondary tier violations. The Board, however, rejects this recommendation.

The Board does not reject Commissioner Gibbons’ recommendation lightly. The Board recognizes the hard work, time, and effort Advisory Neighborhood Commissioners, citizens associations, community members, and the establishments put in when drafting their settlement agreements. The Board, however, does not support treating settlement agreement violations as primary tier violations. Oftentimes, settlement agreements include terms that merely restate the law which, by themselves, would be enforceable by the Board. These infractions, absent their inclusion in the settlement agreements, may not constitute primary tier violations, but rather secondary tier violations (*e.g.*, noise violations). The Board does not find any justifiable reason to elevate what otherwise would be a secondary tier to a primary tier violation simply because it is included in a settlement agreement.

Similarly, many establishments with settlement agreements are also subject to Board Orders which include provisions that are mirrored in their settlement agreement. If the establishment violates the Board Order, their doing so would be treated as a primary tier violation for purposes of determining the applicable fine range. The Board wants to ensure the peace, order, and quiet of the community but it does not believe that this is achieved by imposing primary tier violations on an establishment simply because they violate a provision that is covered by both a settlement agreement and a Board Order.

The Board appreciates Mr. Barnes’ testimony and his questions regarding the rulemaking. Nonetheless, the Board finds that his comments are outside the scope of this rulemaking which only addresses the Civil Penalty Schedule, and not the interpretation or definition of offenses listed in the schedule. Such amendments are best reserved for one of the Board’s future customary Technical Rulemakings. As the Board suggested to Mr. Barnes at the hearing, he is encouraged to continue to work with the Board by submitting any comments or recommendations that he has for future amendments to Title 23 DCMR.

**COUNCIL ACTION**

On December 20, 2017, the Civil Penalty Notice of Proposed Rulemaking was submitted to the Council of the District of Columbia (Council) for the mandatory ninety (90)-day review period. *See* D.C. Official Code § 25-211(b)(2))(2012 Repl.). On April 10, 2018, the Council unanimously approved the rulemaking. *See Revised ABRA Civil Penalty Schedule Resolution of 2017* (PR 22-694).

**BOARD ACTION**

Having considered the comments received, and in light of the Council's approval of the proposed rulemaking, on April 25, 2018, the Board voted five (5) to zero (0) to approve the Civil Penalty Schedule Notice of Final Rulemaking. No changes have been made to the rulemaking as published as a proposed rulemaking on September 1, 2017. Pursuant to D.C. Official Code § 25-211(d), the final rules shall not take effect until five (5) days after publication of the final rulemaking in the *D.C. Register*.

**Chapter 8, ENFORCEMENT, INFRACTIONS, AND PENALTIES, of Title 23 DCMR, ALCOHOLIC BEVERAGES, is amended as follows:**

**Section 800, ABRA CIVIL PENALTY SCHEDULE, Subsection 800.1, is amended by inserting and replacing the following infractions to the ABRA Civil Penalty Schedule in numerical order:**

<b>Section</b>	<b>Description</b>	<b>Violation</b>	<b>Warning</b>
25-110	Violating Terms of Manufacturer's License	Primary	Y
25-111	Violating Terms of Wholesaler's License	Primary	Y
25-112(a)-(c)	Violating Terms of Off-Premise Retailer's License	Primary	Y
25-113	Violating Terms of On-Premise Retailer's License	Primary	Y
25-113(a)(5)(A)	Retailer's Class C or D Purchased Alcoholic Beverages from an Off-Premises Retailer's Class A or B	Primary	N
25-113a(b)(1)	Failure to Obtain Entertainment Endorsement	Primary	Y
25-113a(b)(1)	Cover Charge Without Endorsement	Secondary	Y
25-113a(b)(1)	Dancing Without Endorsement	Secondary	Y
25-113a(c)	Operating a Summer Garden or a Sidewalk Café Outside of Allowed Hours	Primary	Y
25-114(a)	Violating Terms of Arena C/X License	Primary	Y
25-115(a)	Violating Terms of Temporary License	Primary	Y
25-116	Violating Terms of Solicitor's License	Primary	Y
25-117	Violating Terms of Brew Pub Permit	Primary	Y

25-118	Failure to Obtain Tasting Permit, or Exceeding Scope of Tasting Permit	Primary	Y
25-120(i)(A)(i)	A Manager Directly Sold an Alcoholic Beverage to a Minor	Primary	Y
25-120(i)(A)(ii)	A Manager Directly Interfered with an ABRA or MPD Investigation	Primary	N
25-120(i)(A)(iii)	A Manager Made False or Misleading Statements During or After a RI or Investigation	Primary	N
25-120(i)(A)(iv)	A Manager Aided, Abetted, or Conspired with a Licensed or Unlicensed Person to Evade Compliance with ABRA Requirements	Primary	N
25-120(i)(A)(v)	A Manager Allowed the Manager's License to be Used by an Unlicensed Person	Primary	N
25-123	Violating Terms of Farm Winery License	Primary	Y
25-126(a)	Sale, Service and/or Consumption Without the On-Site Sale and Consumption Permit – Manufacturer Licenses	Primary	Y
25-126(b)	Sale, Service, and/or Consumption Outside of the On-Site Sale and Consumption Permit Approved Hours- Manufacturer Licenses	Primary	Y
25-127	Violating Terms of Festival License	Primary	Y
25-371	Allowing Nude Dancing Without a License	Primary	Y
25-372	Violating Restrictions on Nude Dancing Performances	Primary	Y
25-401	False Statement on an Application or in Any Accompanying Statement required by the Board	Primary	N
25-405	Transfer of Ownership Without Board Approval	Primary	Y
25-701	Board-Approved Manager Required	Secondary	Y
25-703	Licensee or Board Approved Manager Superintending the Licensed Establishment under the Influence of Alcohol or Illegal Drugs	Primary	Y
25-711(f)	Owner or Licensed Manager Failure to Produce a Valid ID to ABRA or MPD	Secondary	Y
25-721	Sale and Delivery Outside of Allowed Hours for Manufacturer & Wholesaler	Primary	Y
25-722	Sale and Delivery Outside of Allowed Hours - Off Premises Licensees	Primary	Y
25-723(b)	Sale and Delivery Outside of Allowed Hours - On-Premises Licensees	Primary	Y
25-723(b)	Sale and Service Outside of Licensed Hours	Primary	Y
25-724	Operating After Board Restricted Hours	Primary	Y

25-725	Noise from Licensed Establishment	Secondary	Y
25-753	Keg Registration Required	Primary	Y
25-762(b)(10)	Failure to Obtain Approval to Change Entertainment to Include Nude Performances	Primary	Y
25-762(b)(13)	Failure to Obtain Approval to Extend Hours of Operation	Primary	Y
25-762(b)(18)	Failure to Obtain Approval to Increase Number of Vessels Under On-Premises	Primary	Y
25-781	Sale to Minors - Egregious	Primary	Y
25-781	Sale to Minors - Non-egregious	Primary	Y - Mandatory
25-781	Sale to Intoxicated Persons	Primary	Y
25-802	Failure to Allow Examination of Premises, Books and Records	Primary	Y
25-823(a)(1)	Violation of Any Law Outside of Title 25 of the District of Columbia Code or Title 23 of the District of Columbia Municipal Regulations	Primary	Y
25-823(a)(2)	Allowing Establishment to be Used for an Unlawful or Disorderly Purpose	Primary	N
25-823(a)(3)	Failure by Owner or ABC Manager to Superintend Licensed Business	Secondary	Y
25-823(a)(4)	Allowing Employees or Agents to Engage in Prostitution, Sexual Acts, or Sexual Contact	Primary	Y
25-823(a)(5)	Failure to Allow/Delays ABRA or MPD to Inspect Premises or Books and Records	Primary	N
25-823(a)(5)	Interferes With ABRA or MPD Investigation	Primary	Y
25-823(a)(6)	Failure to Follow Settlement Agreement	Secondary	Y
25-823(a)(6)	Failure to Follow Security Plan	Primary	Y
25-823(a)(6)	Failure to Follow a Board Order	Primary	Y
25-828(c)	Licensee Defaces Notice of Suspension Placard	Secondary	Y
25-833	Tampering or Refilling Bottles	Primary	N
25-834	Sell or Offer to Sell Powdered Alcohol	Primary	N
25-835	Forged, Counterfeit, or Endorse a Document Issued by ABRA	Primary	N
23 DCMR 705.9	Retailer's Class C, D, F, G, or Caterer Permits the Consumption of Alcoholic Beverages After Hours	Primary	Y
23 DCMR 706	Remaining Open Without Securing Beverages or Having an ABC Manager or Owner Present	Secondary	Y
23-DCMR 707.1	Licensee or Board Approved Manager on Licensed Premises During Hours of Sale,	Secondary	Y

	Service or Consumption		
23-DCMR 721.1	Allowing Establishment to Provide Bottle Service of Alcoholic Beverages to One (1) or More Non-seated Patrons	Secondary	Y
23-DCMR 721.2	Allowing Establishment to Serve a Bucket filled with Containers of Beer to One (1) or More Non-seated Patrons	Secondary	Y
23-DCMR 721.3	Failure by the Server to Open All Closed Containers Before Serving Them to the Seated Patrons	Secondary	Y
23-DCMR 721.4	Allowing Patrons to Remove the Bottle or Pitcher from the Table, Bar or Other Seating Area Where Served	Secondary	Y
23 DCMR 902	Open Container or Package in Vehicle	Primary	Y
23 DCMR 1207.9	False Statement on a Quarterly Statement or Annual Report	Primary	N
23 DCMR 2002.2	Failure to Maintain Caterer Records	Primary	Y

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
DISTRICT OF COLUMBIA BOXING AND WRESTLING COMMISSION**

**NOTICE OF FINAL RULEMAKING**

The District of Columbia Boxing and Wrestling Commission (“Commission”), pursuant to the Authority set forth in Section 7 of the District of Columbia Boxing and Wrestling Commission Act of 1975, effective October 8, 1975 (D.C. Law 1-20; D.C. Official Code § 3-606 (2016 Repl.)) (“Act”), hereby adopts the following amendments to Chapter 24 (Mixed Martial Arts Uniform Rules) of Title 19 (Amusements, Parks, and Recreation) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking updates the regulations for mixed martial arts events to conform to national uniform safety and practice standards for mixed martial arts contests which have been recently adopted by the Association of Boxing Commissions and Combative Sports.

The rules were adopted on an emergency basis on October 31, 2017 and became effective on that date, published January 5, 2018 at 65 DCR 59. The emergency rules expired on February 28, 2018; however, no bouts have taken place since the lapse of the emergency. A Notice of Proposed Rulemaking was published on January 5, 2018 at 65 DCR 50. No comments were received and no changes were made to the text of the rule as proposed.

**Chapter 24, MIXED MARTIAL ARTS UNIFORM RULES, of Title 19 DCMR, AMUSEMENTS, PARKS, AND RECREATION, is amended as follows:**

**Section 2401, WEIGHT CLASSES OF MIXED MARTIAL ARTISTS, is amended to read as follows:**

2401.1 Mixed martial artists shall be divided into weight classes in accordance with the current version of the Unified Rules of Mixed Martial Arts as adopted by the Association of Boxing Commissions and Combative Sports (ABC) (<http://www.abcboxing.com/unified-weight-classes-mma/>) as of October 31, 2017. Any changes made to the Unified Rules of Mixed Martial Arts after October 31, 2017 shall be voted on and approved by the District of Columbia Boxing and Wrestling Commission prior to adoption and publication in the *District of Columbia Register*.

**Section 2402, FIGHTING AREA, is amended as follows:**

**Subsections 2402.3 and 2402.4 are amended to read as follows:**

2402.3 The fighting area canvas area shall be enclosed by a cage or fence made of such material as will not allow a fighter to fall out or break through it onto the floor or spectators, including, but not limited to, vinyl coated chain link fencing. All metal parts shall be covered and padded in a manner approved by the Commissioner and shall not be abrasive to the contestants.

2402.4 The cage or fence shall provide two separate entries onto the fighting area canvas.

**Section 2408, GLOVES, is amended as follows:**

**Subsection 2408.2 is amended to read as follows:**

2408.2 All contestants shall wear gloves weighing not less than four (4) ounces, and not more than eight (8) ounces.

**Section 2413, JUDGING, is amended to read as follows:**

2413.1 All bouts will be evaluated and scored by three judges.

2413.2 Judging and scoring of all bouts shall be conducted in accordance with the judging and scoring criteria established in the current version of the Unified Rules of Mixed Martial Arts as adopted by the Association of Boxing Commissions and Combative Sports (ABC) (<http://www.abcboxing.com/wp-content/uploads/2017/10/2017-Official-MMA-Judging-Criteria.pdf>) as of October 31, 2017. Any changes made to the Unified Rules of Mixed Martial Arts after October 31, 2017 shall be voted on and approved by the District of Columbia Boxing and Wrestling Commission prior to adoption and publication in the *District of Columbia Register*.

**Section 2415, FOULS, is amended as follows:**

**Subsections 2415.1 and 2415.2 are amended to read as follows:**

2415.1 A contestant shall be subject to penalty if he or she commits any foul as established by the current version of the Unified Rules of Mixed Martial Arts as adopted by the Association of Boxing Commissions and Combative Sports (ABC) (<http://www.abcboxing.com/wp-content/uploads/2017/10/2017-Fouls-Unified-Rules-MMA.pdf>) as of October 31, 2017. Any changes made to the Unified Rules of Mixed Martial Arts after October 31, 2017 shall be voted on and approved by the District of Columbia Boxing and Wrestling Commission prior to adoption and publication in the *District of Columbia Register*.

2415.2 Disqualification occurs after any combination of three fouls or after a referee determines that a foul was intentional and flagrant.



## DISTRICT OF COLUMBIA BOARD OF ELECTIONS

NOTICE OF FINAL RULEMAKING

The District of Columbia Board of Elections (Board), pursuant to the authority set forth in The District of Columbia Election Code of 1955, approved August 12, 1955, as amended (69 Stat. 699; D.C. Official Code § 1-1001.05(a)(14) (2016 Repl.)), hereby gives notice of the adoption of amendments to Chapter 1 (Organization of the Board of Elections); Chapter 2 (Political and Ethical Conduct of Board Members and Employees); Chapter 4 (Hearings); Chapter 5 (Voter Registration); Chapter 7 (Election Procedures); Chapter 8 (Tabulation and Certification of Election Results); Chapter 17 (Candidates: Members and Officials of Local Committees of Political Parties and National Committee Persons); and Chapter 33 (Prohibition on Use of Government Resources for Campaign-Related Purposes and Interpretive Opinions) in Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendments to Chapters 1 and 4 is to make minor conforming amendments as a result of the passage of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Official Code §§ 1-1163.01 *et seq.*), which repealed the Campaign Finance Reform and Conflict of Interest Act. Additional amendments to these chapters are organizational and stylistic.

The amendments to Chapter 2: (1) codify the Board's current status to act as the personnel authority pursuant to the District of Columbia Government Comprehensive Merit Personnel Act of 1978, as amended (D.C. Official Code §§ 1-601.01 *et seq.*), for its employees; (2) adopt the personnel rules that apply to all other District of Columbia employees, unless specifically exempted in the chapter; (3) relocate any existing personnel regulations to this chapter; and (4) retain the existing rules concerning political activity of Board members and employees.

The purpose of the amendments to Chapters 5, 7 and 8 is to codify rules following the passage of the Automatic Voter Registration Act of 2016 (Law 21-208)(effective February 18, 2017). Substantively the proposed amendments (1) codify a new deadline of 21 days before Election Day for the Board to receive registration applications digitally or by mail; and (2) codify a new deadline of 21 days before a primary election for previously registered voters to newly affiliate with a major political party and be eligible to vote in that party's primary. Further amendments to Chapter 5 establish monthly reporting requirements for voter registration agencies. Additionally, amendments to Chapter 7 establish rules for media conduct and photography in voting places and codify requirements for eligible electors to remain permanent absentee voters. The remaining amendments to these chapters are organizational and stylistic.

The amendment to Chapter 17 changes the deadline for candidates for party offices to file statements to amend or withdrawal from registered slates. This amendment changes the filing deadline to coincide with the deadline to withdrawal as a candidate for either public or party office (54 days before Election Day) which would allow for changes up until the time of the ballot position lottery.

The purpose of the amendment to Chapter 33 is to make a minor conforming amendment by adding the Attorney General to the list of public officials who may, as part of their official duties, express views on a District of Columbia election, as permitted following the passage of the Elected Attorney General Implementation and Legal Service Establishment Amendment Act of 2013 (Law 20-60) (effective December 13, 2013).

A Notice of Emergency and Proposed Rulemaking with respect to these amendments was published in the *D.C. Register* on April 20, 2018 at 65 DCR 4467. No written comments on the proposed rules were received during the public comment period, and no substantive changes have been made to the regulations as proposed.

The Board adopted these amendments as final at a regular meeting on Wednesday, June 6, 2018 and these final rules will become effective upon publication of this notice in the *D.C. Register*.

**Chapter 1, ORGANIZATION OF THE BOARD OF ELECTIONS, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:**

**Section 100, ESTABLISHMENT AND AUTHORITY OF THE BOARD OF ELECTIONS, is amended as follows:**

**Subsection 100.2 is amended to read as follows:**

100.2           The District of Columbia Board of Elections is vested with authority to administer and enforce the provisions of the District of Columbia Election Act, as amended, and Title III of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (hereinafter, referred to as the “Campaign Finance Act of 2011”), effective April 27, 2012 (D.C. Official Code §§ 1-1163.01 *et seq.* (2016 Repl.)).

**Section 101, OFFICE OF CAMPAIGN FINANCE, is amended as follows:**

**Subsection 101.3 is amended to read as follows:**

101.3           The Director of Campaign Finance is responsible for the administrative operations of the Board pertaining to the Campaign Finance Act of 2011 and other duties delegated or assigned by the Board.

**Section 102, ORGANIZATION OF THE BOARD OF ELECTIONS, is amended in its entirety to read as follows:**

**102           MEETINGS**

102.1           Board members are charged with providing ultimate oversight over the activities and affairs of the agency. Members should make every effort to ensure their participation in all Board activities.

- 102.2 Board attendance is directly correlated to Board participation and thereby to the success of the agency and its mission. Such participation is necessary for Board members to fulfill their fiduciary obligation to the electors of the District of Columbia. All Board members are expected to be physically present at all scheduled meetings unless some other form of attendance has been approved by the Chair.
- 102.3 Except as provided otherwise by statute, a quorum of the Board shall consist of no fewer than two (2) members of the Board and shall be necessary to conduct official Board business. At the discretion of the Chairperson, any member may participate in a meeting of the Board by means of a video conference, telephone conference or by any means of communication by which all persons participating in the meeting are able to hear one another, and such participation shall constitute presence in person at the meeting.
- 102.4 At the beginning of each calendar year, a preliminary schedule of regular meetings for the year, which the Board has discretion to change, shall be published in the *D.C. Register*. The publication of this schedule shall serve as proper legal notice of all of the Board's regular meetings. Regularly scheduled Board meetings shall be held on the first Wednesday of each month, or at least once each month, at a time and place to be determined by the Board. Additional meetings may be called as needed by the Board. Notice of additional meetings or notice of changes to regularly scheduled meetings shall be published on the Board's website at least forty-eight (48) hours in advance, except in the case of emergency.
- 102.5 The meetings of the Board shall be open to the public, with the exception of executive sessions pursuant to D.C. Official Code § 1-1001.05(a-1)(3) and the rules of this title.
- 102.6 The Board may hold a pre-meeting executive session immediately prior to commencing a regular meeting for the sole purpose of administrative action, which does not include the deliberation or taking of official action.
- 102.7 The proposed agenda for each Board meeting shall be posted on its website at least twenty-four (24) hours prior to the meeting. Copies of the agenda shall be available to the public at the meeting. Nothing in this section shall preclude the Board from amending the agenda at the meeting.
- 102.8 Meeting minutes are a matter of public record and shall include the vote of each member on each action. Minutes from each Board meeting shall be posted on the Board's website prior to the next meeting. Copies of minutes shall be available at the Board's next meeting and available for inspection in the Office of the General Counsel and the Board's website.

- 102.9 Meeting transcripts shall be recorded stenographically, or by other means, by an official reporter who may be designated from time-to-time by the Board. Transcripts shall be open for inspection in the Office of the General Counsel and on the Board’s website.
- 102.10 The Board encourages comments on any issue under the jurisdiction of the Board at its regular meetings and will provide the public with a reasonable opportunity to appear before the Board and offer such comments.
- 102.11 To ensure the orderly conduct of public Board meetings, public comments may be limited with respect to the number of speakers permitted and the amount of time allotted to each speaker; however, the Board will not discriminate against any speaker on the basis of his or her position on a particular matter.
- 102.12 Any member of the public who intends to comment regarding any agenda item or any issue under the jurisdiction of the Board is encouraged to notify the Board in advance of his or her intent to do so, providing his or her name and the topic on which he or she wishes to speak. Such notification may be provided to the Office of the General Counsel. No person shall be prevented from speaking at a Board meeting simply because he or she has not provided advance notice of his or her intent to do so.
- 102.13 Members of the public who wish to submit items for consideration by the Board shall do so in writing one (1) week in advance. Failure to submit an item in advance as required may, within the Board’s discretion, result in the matter being continued until the next regularly scheduled meeting.
- 102.14 Meetings may be adjourned from time-to-time. If the time and place of resumption is publicly announced when the adjournment is ordered, no further notice shall be required.

**Section 108, UNIVERSAL LEAVE, is repealed.**

**Chapter 2, POLITICAL AND ETHICAL CONDUCT OF BOARD MEMBERS AND EMPLOYEES, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended in its entirety to read as follows:**

**CHAPTER 2 PERSONNEL**

- 200 ESTABLISHMENT OF PERSONNEL AUTHORITY**
- 201 POLITICAL ACTIVITY OF MEMBERS AND EMPLOYEES**
- 202 POLITICAL ACTIVITY OF POLLING PLACE OFFICIALS**
- 203 [REPEALED]**
- 204 UNIVERSAL LEAVE**

**200 ESTABLISHMENT OF PERSONNEL AUTHORITY**

200.1 Pursuant to the District of Columbia Government Comprehensive Merit Personnel Act of 1978, as amended (D.C. Official Code §§ 1-601.01 *et seq.*), the Board of Elections is the personnel authority for its employees, with the exception of employees of the Office of Campaign Finance. The Board is vested with the authority to implement rules for the employees over which it has personnel authority. D.C. Official Code § 1-604.06 (a).

200.2 Except as otherwise provided in this chapter, Board members and all employees, regardless of service classification, shall be governed by personnel regulations issued by the Mayor and codified in Title 6-B of the D.C. Municipal Regulations.

**201 POLITICAL ACTIVITY OF MEMBERS AND EMPLOYEES**

201.1 The purpose of this section is to establish higher standards of conduct for members and employees of the District of Columbia Board of Elections in order to maintain public confidence in the integrity of those persons responsible for the administration of the election laws and the conduct of the electoral process in the District of Columbia. The provisions of this section shall solely govern the political conduct of the members and employees of the Board not classified as polling place officials. The provisions of this section are not intended to exempt members and employees from the ethics laws and standard of conduct rules imposed on all District of Columbia employees.

201.2 Except as provided in this section, nothing in this chapter shall be construed as prohibiting the members or employees of the Board from doing any of the following:

- (a) Exercising the right to vote in any election conducted in the District of Columbia or elsewhere;
- (b) Signing any nominating, initiative, referendum or recall petition; or
- (c) Attending candidate forums.

201.3 No member or employee of the Board shall:

- (a) Be a candidate or nominee for any elected office regulated by the Board of Elections;
- (b) Hold any office in any political party or political committee; or
- (c) Participate in the activities of or contribute to any political committee of any candidate for District office or for or against any ballot measure in the District of Columbia.

201.4 A member or employee of the Board shall not engage in any activity, including attending political dinners, fundraisers, parties, meetings or conferences which would imply support of or opposition to a local candidate or group of candidates for office, as defined in § 9900, a local political party or political committee, or an initiative, referendum, or recall measure to appear on the ballot in the District of Columbia.

## **202 POLITICAL ACTIVITY OF POLLING PLACE OFFICIALS**

202.1 The purpose of this section is to establish higher standards of conduct for polling place officials of the District of Columbia Board of Elections in order to maintain public confidence in the integrity of those persons responsible for the administration of the election laws and the conduct of the electoral process in the District of Columbia. The provisions of this section shall solely govern the political conduct of polling place officials and are not intended to exempt polling place officials from the ethics laws and standard of conduct rules imposed on all District of Columbia employees.

202.2 Polling place officials shall be governed by the provisions of this section while employed by the Board. A polling place official is employed by the Board during any hours that he or she is performing services for the Board.

202.3 A polling place official shall not:

- (a) Be a candidate or nominee for any elected office, except that a polling place official may be a candidate for office of Advisory Neighborhood Commissioner. In such instances, the polling place official shall not be assigned to work at a voting place where his or her name appears on the ballot;
- (b) Hold any office in any political party or political committee; or
- (c) Participate in the activities of any candidate or political committee for or against any ballot measure in the election held in the District of Columbia.

202.4 Political activity conducted by polling place officials prior to employment will not disqualify a polling place official from service.

## **203 [REPEALED]**

## **204 UNIVERSAL LEAVE**

204.1 The provisions of this section shall apply only to the employees serving in the following positions on or after January 3, 2017:

- (a) Executive Director;
- (b) General Counsel; and
- (c) Director of Campaign Finance (Director).

- 204.2 For the purpose of this section, the term “qualified employee” or “qualified position” shall mean the Executive Director, General Counsel, or Director.
- 204.3 For the purpose of this section, the term “participating employee” shall mean any qualified employee who elects to have a universal leave account in lieu of accruing annual and sick leave.
- 204.4 An employee appointed to serve in an acting or interim capacity as Executive Director, General Counsel, or Director shall not become subject to the provisions of this section. If the acting Executive Director, General Counsel or Director is later hired by the Board to continue in a qualified position, the applicability of this section shall become effective as of the date of hire.
- 204.5 Each qualified employee may elect to have a universal leave account in lieu of accruing annual and sick leave.
- 204.6 On the first pay period of the leave year, each participating employee shall have his or her universal leave account credited with two hundred eight (208) hours of universal leave.
- 204.7 Each full biweekly pay period represents eight (8) hours of accrued universal leave.
- 204.8 Each participating employee hired after the first pay period of the leave year shall have his or her universal leave account credited with universal leave on a pro rata basis.
- 204.9 Universal leave shall be used on days on which a participating employee would otherwise work and received pay and shall be exclusive of official holidays and non-workdays established by statute or administrative order.
- 204.10 There shall be no charge to universal leave for absences of less than two (2) hours.
- 204.11 A participating employee may carry over not more than forty (40) hours of unused universal leave for use in succeeding years. Any unused universal leave hours in addition to the approved carry-over hours shall be forfeited at the end of the leave year.

204.12 Upon separation, a participating employee shall be paid for any universal leave remaining to his or her credit, less a pro-rated amount representing the portion of the universal leave that would be creditable for the remainder of the year. Payment for leave upon separation shall be at the employee’s rate of pay at the time of separation.

204.13 Each participating employee serving in that role on January 3, 2017 shall have his or her accrued annual leave balance, up to a maximum of two hundred forty (240) hours, transferred to an annual leave escrow account for use at the discretion of the employee until exhausted. The employee shall be given a lump-sum payment for any annual leave in excess of the leave transferred pursuant to this subsection, payable at the rate of pay in effect on the last day of the last pay period of the 2016 leave year.

204.14 Each participating employee appointed without a break in service to any qualified position from another position in the District government after January 3, 2017 shall have his or her accrued annual leave balance, up to a maximum of two hundred forty (240) hours, transferred to an annual leave escrow account for use at the discretion of the employee until exhausted. The employee shall be given a lump-sum payment for any annual leave in excess of the leave transferred pursuant to the subsection, payable at the rate of pay in effect immediately before his or her appointment to a qualified position.

204.15 Upon separation, a participating employee shall be paid for any annual leave remaining in the annual leave escrow account.

204.16 Each participating employee serving in that role on January 3, 2017, or each participating employee appointed without a break in service to any qualified position from another position in the District government after January 3, 2017, shall have his or her accrued sick leave balance transferred to a sick leave escrow account for use at the discretion of the employee until exhausted.

204.17 When a participating employee elects to use leave from either the annual leave escrow account or the sick leave escrow account, such usage shall only be charged for absences of more than two (2) hours.

**Chapter 4, HEARINGS, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:**

**Section 400, GENERAL PROVISIONS, is amended in its entirety to read as follows:**

**400 GENERAL PROVISIONS**

400.1 The provisions of this chapter shall govern the procedures of the Board in all cases involving petition challenges; alleged violations of the District of Columbia Election Act, as amended; alleged violations of the Campaign Finance Act of



2011, as amended; alleged violations of Title III of the Help America Vote Act of 2002; petitions requesting the promulgation, amendment, or repeal of any regulation of the Board; or any other matter requiring the receipt of evidence and testimony in a contested case, complaint, or petition.

- 400.2 In any conflict within this chapter between general and specific provisions, the specific provisions shall govern.
- 400.3 In any conflict between this chapter and the D.C. Administrative Procedure Act, D.C. Official Code §§ 2-501 *et seq.* (2016 Repl.) the D.C. Administrative Procedure Act shall govern.
- 400.4 The General Counsel of the Board shall, following approval by the Board, issue and revise complaint and petition forms and instructions to ensure presentation of adequate information required for the understanding and processing of complaints and petitions.
- 400.5 The Board may, for good cause shown, waive any of the provisions of this chapter if, in the judgment of the Board, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.
- 400.6 A majority of the Board members shall constitute a quorum at a hearing, except that the Board has the discretion to hear any case brought before it under the District of Columbia Election Act or the Campaign Finance Act of 2011 by a one-member panel, pursuant to D.C. Official Code § 1-1001.05(g) (2016 Repl.).
- 400.7 Any member may participate in a hearing by means of a video conference, telephone conference or by any means of communication by which all persons participating in the hearing are able to hear one another, and such participation shall constitute presence in person at the hearing.

**Section 402, NOTICE OF HEARINGS, is amended in its entirety to read as follows:**

**402 NOTICE OF HEARINGS**

- 402.1 The parties shall be given sufficient opportunity to prepare for the hearing.
- 402.2 The Board shall send a notice of hearing to the party or parties involved which shall:
- (a) Provide the time, date and location of the hearing;
  - (b) Reference applicable statutes, rules, or regulations;
  - (c) State the purpose of the hearing;

- (d) Advise the party or parties that they may be represented by counsel or other representative of their choosing; and
- (e) Advise the party or parties that they may bring witnesses.

- 402.3 All hearings before the Board shall be open to the public, except that the Board may enter into executive session pursuant to D.C. Official Code § 1-1001.05 (a-1)(3) and the rules of this title. Public notice of the hearing shall be placed on the Board's website no fewer than forty-eight (48) hours in advance of the hearing, unless the nature of the hearing is of an emergency or the date for any hearing required under statute does not allow for 48 hour advance notice.
- 402.4 Hearings may be adjourned from time-to-time. If the time and place of resumption is publicly announced when the adjournment is ordered, no further notice shall be required.

**Section 405, MINUTES AND TRANSCRIPTS, is amended in its entirety to read as follows:**

**405 HEARING TRANSCRIPTS**

- 405.1 The hearing shall be reported under the supervision of the Chairperson, stenographically or by other means, by an official reporter who may be designated from time-to-time by the Board or who may be a regular employee of the Board.
- 405.2 The transcript prepared under this section shall be the official transcript of the hearing.
- 405.3 The transcript shall be open for inspection at the Office of the General Counsel. Copies of the official transcript shall be available to parties and to the public upon payment to the Board of the charges fixed for the copies.
- 405.4 Changes in the official transcript may be made only when they involve errors affecting substance and upon the filing of a motion to correct a transcript with the Board. Copies of the motion to correct a transcript shall be served simultaneously on all opposing parties or legal representatives.
- 405.5 Objections to the motion to correct a transcript shall be filed with the Board within five (5) days and served upon the parties.
- 405.6 The transcript may be amended by the Board at a subsequent hearing to reflect any corrections.

**Section 406, MEETINGS AND HEARINGS, is repealed.**

**Section 428, FINAL DECISION, is amended in its entirety to read as follows:**

**428 FINAL DECISION**

- 428.1 Within a reasonable time after the conclusion of the hearing and the closing of the record, the Board shall render its decision. A member absent at the decision vote may cast an absentee vote only if the member attended all of the hearings on the complaint or petition. A member attending the decision vote and having read the transcript and reviewed the complete record may vote even though that member may not have attended any or all of the prior meetings or hearings on the complaint or petition.
- 428.2 The Board's decision shall be memorialized by a written decision setting forth findings of fact and conclusions of law and giving the reasons for the decision and ordering appropriate action, if necessary.
- 428.3 The conclusions or opinion in the decision shall be governed by and based upon all the evidence adduced at the hearing.
- 428.4 A decision shall be supported by substantial evidence on the record. Pursuant to the substantial evidence rule, courts will uphold an administrative determination of fact if on the entire record the determination is rationally supportable and could have been arrived at reasonably.
- 428.5 The decision shall be served promptly on all parties or their representatives.
- 428.6 If the Board determines that there is a violation of any provision of Title III of the Help America Vote Act of 2002, the Board shall provide the appropriate remedy.
- 428.7 If the Board determines that there is no violation of Title III of the Help America Vote Act of 2002, the Board shall dismiss the complaint and publish the results of the hearing on the Board's website.
- 428.8 The Board shall render final determinations with respect to complaints alleging violations of Title III of the Help America Vote Act of 2002 prior to the expiration of the ninety (90)-day period which begins on the date the complaint is filed, unless the complainant consents to a longer period for making such a determination. If the Board fails to make a timely determination, the complaint shall be resolved within sixty (60) days under alternative dispute resolution procedures established pursuant to Section 432 of this chapter. The record and other materials from any proceedings conducted under standard Board complaint procedures shall be made available for use under the alternative dispute resolution procedures.

Chapter 5, VOTER REGISTRATION, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended in its entirety to read as follows:

**CHAPTER 5 VOTER REGISTRATION**

- 500 GENERAL REQUIREMENTS FOR REGISTRATION**
- 501 QUALIFIED UNIFORMED SERVICES AND OVERSEAS VOTERS**
- 502 [REPEALED]**
- 503 REGISTRATION APPLICATION FORMS AND REQUIREMENTS**
- 504 REGISTRATION TIMELINESS AND EFFECTIVENESS**
- 505 [REPEALED]**
- 506 [REPEALED]**
- 507 [REPEALED]**
- 508 [REPEALED]**
- 509 [REPEALED]**
- 510 VOTER REGISTRATION INFORMATION**
- 511 VOTER REGISTRATION AGENCY DATA**
- 512 [REPEALED]**
- 513 [REPEALED]**
- 514 NOTIFICATION OF ACCEPTANCE OF REGISTRATION OR CHANGE OF REGISTRATION**
- 515 [REPEALED]**
- 516 [REPEALED]**
- 517 [REPEALED]**
- 518 SYSTEMATIC VOTER ROLL MAINTENANCE PROGRAM: BIENNIAL MAIL CANVASS**
- 519 VOTER ROLL MAINTENANCE PROGRAM**
- 520 CANCELLATION OF VOTER REGISTRATION: GENERAL GROUNDS AND PROCEDURES**
- 521 CANCELLATION OF VOTER REGISTRATION: CHALLENGE AND REQUEST FOR ADDITIONS TO REGISTRATION ROLL**
- 500 GENERAL REQUIREMENTS FOR REGISTRATION**

- 500.1 No person shall be registered to vote in the District of Columbia unless he or she:
  - (a) Is a qualified elector as defined by D.C. Official Code § 1-1001.02(2) (2016 Repl.); and
  - (b) He or she executes a voter registration application by signature or mark on a form approved in this chapter attesting that he or she meets the requirements as a qualified elector, and the Board approves the registration application.

- 500.2 A person is a "qualified elector" if he or she:
- (a) For a primary election, is at least seventeen (17) years of age and will be eighteen (18) on or before the next general election, or for a general or special election, is at least eighteen (18) years of age on or before the date of the general or special election;
  - (b) Is a citizen of the United States;
  - (c) Is not incarcerated for the conviction of a crime that is a felony in the District;
  - (d) Has maintained a residence in the District for at least thirty (30) days preceding the next election and does not claim voting residence or the right to vote in any state or territory; and
  - (e) Has not been adjudged legally incompetent to vote by a court of competent jurisdiction.
- 500.3 For the purpose of determining whether an individual is a qualified elector, a person is considered incarcerated if he or she is confined to prison, jail or penitentiary. A person is not considered incarcerated if he or she has completed the court-ordered sentence of confinement and subsequently resides in a halfway house or other community supervision center as terms of probation or parole.
- 500.4 A person who is otherwise a qualified elector may pre-register on or after his or her sixteenth (16th) birthday, but he or she shall not vote in any primary election unless he or she is at least seventeen (17) years of age and will be eighteen (18) on or before the next general election or in any general or special election unless he or she is at least eighteen (18) years of age on or before the date of the general or special election.

## **501 QUALIFIED UNIFORMED SERVICES AND OVERSEAS VOTERS**

- 501.1 A person shall qualify as a uniformed services or overseas voter in elections conducted in the District of Columbia if he or she is:
- (a) A uniformed services voter or an overseas voter who is registered to vote in the District;
  - (b) A uniformed services voter whose voting residence is in the District and who otherwise satisfies the District's voter eligibility requirements;
  - (c) An overseas voter who, before leaving the United States, was last eligible to vote in the District and, except for a District residence requirement, otherwise satisfies the District's voter eligibility requirements;

- (d) An overseas voter who, before leaving the United States, would have been last eligible to vote in the District had the voter then been of voting age, and except for a District residency requirement, otherwise satisfies the District's voter eligibility requirements; or
- (e) An overseas voter who is not described in paragraphs (c) or (d) and, except for a District residency requirement, otherwise satisfies the District's voter eligibility requirements, if:
  - (1) The District is the last place where a parent or legal guardian of the voter was or would have been eligible to vote before leaving the United States; and
  - (2) The voter has not previously registered to vote in any other state.

501.2 A uniformed services voter is an individual who is qualified to vote and is:

- (a) A member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard who is on active duty;
- (b) A member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States;
- (c) A member on activated status of the National Guard or state militia; or
- (d) A spouse or dependent of an individual described in paragraphs (a) – (c).

501.3 An overseas voter is a United States citizen who is outside the United States.

501.4 Qualified uniformed services and overseas voters shall inform the Board of their status as such by:

- (a) The use of a Federal Post Card Application (FPCA) or a Federal Write-In Ballot (FWAB);
- (b) The use of an overseas address on an approved voter registration application or ballot application; or
- (c) The inclusion on an approved voter registration application or ballot application of other information sufficient to identify the voter as a qualified uniformed services or overseas voter.

**502 [REPEALED]**

**503 REGISTRATION APPLICATION FORMS AND REQUIREMENTS**

503.1 A qualified elector may apply to register to vote, or make subsequent updates to his or her voter registration information, with any of the following Board-approved forms. Any of the following registration forms may be submitted in-person at the Board's office or designated voter registration agency, by mail, or electronically:

- (a) The Board's Voter Registration Application (in printed format or digital application);
- (b) The National Voter Registration Application (or such nationally recognized form approved by the Election Assistance Commission);
- (c) A DMV-issued driver's license or non-driver's identification card application where the applicant does not decline to register to vote or update his or her voter registration information; or
- (d) For qualified military and overseas voters, a Federal Post Card Application (FPCA) or the declaration accompanying a Federal Write-In Absentee Ballot (FWAB declaration).

503.2 The Board's official Voter Registration Application shall not be considered valid if altered in any way for use by another individual, governmental agency, or organization for the purpose of registering electors in the District of Columbia.

503.3 An applicant shall provide the following information on any voter registration application or voter registration update notification:

- (a) Applicant's complete name;
- (b) Applicant's current and fixed residence address in the District;
- (c) Applicant's date of birth;
- (d) Applicant's original signature; and
- (e) Applicant's Department of Motor Vehicles (DMV)-issued identification number in the case of an applicant who has been issued a current and valid driver's license, or the last four (4) digits of the applicant's social security number (if any).

503.4 An applicant's signature captured digitally, or stored digitally at another voter registration agency, and transmitted to the Board shall be sufficient to constitute an original signature and effectuate registration and updates thereto.

- 503.5 If the applicant is unable to sign his or her name, the applicant may place his or her mark in the space provided for his or her signature and have that mark witnessed by the person assisting by having the witness also sign the voter registration application.
- 503.6 An applicant for voter registration who is unable to sign or to make a mark on a voter registration application due to a disability may apply with the assistance of another person as long as the individual's voter registration application is accompanied by a signed affidavit from the person assisting the applicant which states the following:
- (a) That he or she has provided assistance to the applicant;
  - (b) That the applicant is unable to complete the application without assistance or sign or make a mark in the space provided for his or her signature;
  - (c) That he or she has read or explained the information contained in the application and the voter declaration to the applicant, if the applicant cannot read the information; and
  - (d) That he or she has read or explained the penalties for providing false information on the registration application, if the applicant cannot read the information.
- 503.7 Any applicant who provides on a voter registration application a registration address to which mail cannot be delivered by the U.S. Postal Service shall additionally provide to the Board a designated mailing address to facilitate any official communications required by law.
- 503.8 An applicant for voter registration may include an alternate mailing address in their voter registration application or registration update notification. All official communications required by law shall be sent to the voter at the residence address unless the voter provides an alternate mailing address.
- 503.9 A residence address provided by the applicant shall be sufficiently precise to enable the Board to assign the voter to the appropriate Ward and Advisory Neighborhood Commission Single-Member District ("ANC SMD") for voting purposes.
- 503.10 If an applicant for voter registration fails to provide the information required for registration, the Registrar or his or her designee shall make reasonable attempts to notify the applicant of the failure. A reasonable attempt to notify the applicant may include a phone call, letter, or email. The Registrar shall choose the most efficient method of communication based upon the contact information provided by the applicant.



**504 REGISTRATION TIMELINESS AND EFFECTIVENESS**

- 504.1 Each voter registration application received by the Board shall be considered an update to any previous voter registration record if the applicant is already listed as a registered voter or whose name appears on the inactive list of registered voters, unless the applicant indicates that the change of information is not for voter registration purposes.
- 504.2 All voter registration applications and voter registration update notifications shall be considered to be received by the Board on the date that it is accepted for filing at the Board's office or other voter registration agency and acknowledged by date-stamp of the receiving agency.
- 504.3 All voter registration applications and voter registration update notifications that are received on or before the twenty-first (21<sup>st</sup>) day preceding an election shall be considered timely filed. The effective date for registration and updates received on or before the 21st day preceding an election shall be the date the application or notification was received or postmarked, whichever is earlier.
- 504.4 All voter registration applications and voter registration update notifications that are received during the twenty (20)-day period preceding an election, other than voter registration applications and voter registration update notifications to either name or address received over the counter at the Board's office or at a voting place pursuant to this section, shall be held and processed after the date of the election. The effective date for registration and updates received in the 20-day period preceding an election, other than those permitted by this section, shall be the day after the election.
- 504.5 Voter registration updates to party affiliation shall not be considered timely filed during the 20-day period preceding a primary election. Requests for change of party affiliation status received during the 20-day period preceding a primary election shall be held and processed after the election. A change in party affiliation status occurs when a voter:
- (a) Changes his or her party registration from one political party to another;
  - (b) Changes his or her party registration from "no party (independent)" to a political party; or
  - (c) Changes his or her party registration from a political party to "no party (independent)."
- 504.6 During the twenty (20)-day period preceding an election, voter registration applications and voter registration updates to name and/or address shall be considered timely filed, and effective as of the date of receipt, if:

- (a) The application or update notification was submitted over the counter at the Board’s office; or
- (b) The application or update notification was filed at a voting place, provided that the application or update notification was also filed with valid proof of residence.

504.7 Valid proof of residence is any official document showing the voter’s name and a District of Columbia home address. Proof of residence shall either be presented in paper or electronic form. A proof of residence document in electronic form shall be presented on a voter-owned device. The Board shall not be responsible for providing an independent wireless connection for voters to access documents in electronic form. Acceptable forms of proof of residence include:

- (a) A copy of current and valid government-issued photo identification;
- (b) A utility bill for water, gas, electricity, cable, internet, telephone, or cellular phone service issued within the last ninety (90) days;
- (c) A savings, checking, credit, or money market account statement from a bank or credit union issued within the last ninety (90) days;
- (d) A paycheck, stub, or earning statement that includes the employer’s name, address, and telephone number and was issued within the last ninety (90) days;
- (e) A government-issued document or check from a federal or District agency, other than the Board of Elections, issued within the last ninety (90) days; or
- (f) A current residential lease or rental agreement;
- (g) An occupancy statement from a District homeless shelter issued within the last ninety (90) days;
- (h) A tuition or housing bill from a District of Columbia college or university issued for the current academic or housing term.

504.8 Voter registration applications or registration update notifications for name and address received at a voting place that fail to include valid proof of residence shall be held and processed after the election. The effective date of these registration applications and registration updates shall be the day after the election.

**505 [REPEALED]**  
**506 [REPEALED]**  
**507 [REPEALED]**

508 [REPEALED]

509 [REPEALED]

**510 VOTER REGISTRATION INFORMATION**

510.1 Upon written request, the Board shall provide to any person a list of the registered qualified electors of the District of Columbia or any ward, precinct or ANC SMD therein.

510.2 The Board may furnish selective lists according to party affiliation, date of registration, ward, precinct, or ANC SMD, voter history, or any other permissible category.

510.3 The Board shall make requested voter registration information available to the public on electronic or magnetic medium, or on any media in use by the Board at the time of the request.

510.4 A list of duly registered voters eligible to vote in an election (poll book) shall be available for public inspection in all voting places. The information available for public inspection shall include the name, address, party affiliation, and ANC Single-Member District of each eligible and duly registered voter.

510.5 The following items of information contained in voter registration records are confidential and shall not be considered public information subject to disclosure to the general public:

- (a) Full or partial social security numbers;
- (b) Dates of birth;
- (c) Email addresses or phone numbers;
- (d) The identity of the voter registration agency at which the voter registered; and
- (e) The residence and mailing addresses of any registered qualified elector whose residence address has been made confidential pursuant to this section.

510.6 Complete voter registration records, including date of birth and social security numbers, shall be released to the District of Columbia Superior Court upon request.

510.7 Cumulative data based on confidential information may be publicly disclosed as long as information about any individual cannot be discerned from the disclosed data.

510.8 A voter's signature on registration records, either on a paper record or application or an electronically captured image, may be viewed by the public but may not be copied or traced except by Board officials for election administration purposes. Any such copy or tracing is not a public record.

510.9 A registered qualified elector's address shall be considered public information until the registered qualified elector or his or her representative presents a copy of a court order to the Registrar directing the confidentiality of the qualified elector's address. If the order is received more than forty-five (45) days before an election, the elector's address shall be immediately removed from all voter records available for public inspection. If the order is received within forty-five (45) days of the election, the address shall be removed as soon as practicable but in no instance later than seven (7) days following an election. Any address made confidential pursuant to this subsection shall remain confidential for as long as the court shall order.

## **511 VOTER REGISTRATION AGENCY DATA**

511.1 The term "voter registration agency" shall mean an office designated under D.C. Official Code § 1-1001.07(d)(1), the Mayor of the District of Columbia, or the National Voter Registration Act of 1993 to perform voter registration activities.

511.2 The designated voter registration agencies in the District of Columbia are:

- (a) The Department of Motor Vehicles (DMV);
- (b) The Department of Corrections;
- (c) The Department of Youth Rehabilitation Services;
- (d) The Office on Aging;
- (e) The Department of Parks and Recreation;
- (f) The Department of Human Services; and
- (g) The Department on Disability Services.

511.3 Pursuant to D.C. Official Code § 1-1001.07(d)(12)(B)(i), all voter registration agencies shall submit, on a monthly basis, a report of the previous month's voter registration activity. Each report shall include the following information:

- (a) The number of clients served at the agency during the reporting month;
- (b) The number of clients who were offered voter registration services;

- (c) The number of clients who indicated that they were already registered to vote at their current address;
- (d) The number of clients who declined to apply to register to vote;
- (e) The number of clients who took voter registration applications to complete offsite;
- (f) The number of clients who completed voter registration applications while onsite; and
- (g) The number of completed paper applications transmitted to the Board of Elections.

**512 [REPEALED]**

**513 [REPEALED]**

**514 NOTIFICATION OF ACCEPTANCE OF REGISTRATION OR CHANGE OF REGISTRATION**

514.1 For registration applications and update notifications received at least twenty-one (21) days prior to an election, the Registrar shall mail a non-forwardable voter registration notification to the applicant advising him or her of the acceptance or rejection of the registration application within nineteen (19) calendar days after the receipt of the registration application or update notification. If the application is rejected, the notification shall include the reason or reasons for the rejection and shall inform the voter of his or her right to either submit additional information as requested by the Board, or appeal the rejection pursuant to D.C. Official Code § 1-1001.07(f) (2016 Repl.).

514.2 In the event that the notification advising the applicant of acceptance of his or her voter registration is returned to the Board as undeliverable, the Registrar shall mail the notice provided in D.C. Official Code § 1-1001.07(j)(1)(B) (2016 Repl.).

514.3 For registration applications received within the twenty (20)-day period immediately preceding an election, the Board shall mail each registered voter who filed a voter registration application or update notification a non-forwardable address confirmation notice to the applicant as soon as practicable after the election. If the United States Postal Service returns the address confirmation notification as "undeliverable," the Board shall notify the Attorney General of the District of Columbia.

**515 [REPEALED]**

**516 [REPEALED]**

**517 [REPEALED]**

**518 SYSTEMATIC VOTER ROLL MAINTENANCE PROGRAM: BIENNIAL MAIL CANVASS**

- 518.1 In January of each odd-numbered year, the Board shall confirm the residence address of each registered voter who did not confirm his or her address through the voting process or file a change of address at the polls in the preceding general election by mailing a first class non-forwardable canvass postcard to the residence address listed on the Board's records.
- 518.2 If the Postal Service returns the postcard and provides a new address for the registrant that is within the District of Columbia, the Board shall change the address on its records accordingly and then mail to both old and new addresses a forwardable notice advising the registrant that their address in the voter records has been changed to reflect the Postal Service information.
- 518.3 If the Postal Service returns the postcard as undeliverable and provides a new address for the registrant outside the District of Columbia, the Board shall mail a forwardable notice to both the old and new address, informing the registrant how to register to vote in their new jurisdiction or correct the address information obtained from the Postal Service.
- 518.4 If the Postal Service returns the postcard to the Board as undeliverable and indicates that no new address is available, the Board shall mail to the registrant at his or her last known address the forwardable notice specified in § 518.3.
- 518.5 The forwardable notices issued to registrants whose initial non-forwardable mailings were returned by the Postal Service shall include a pre-addressed and postage- paid return notification postcard to enable the registrant to confirm or correct any address information obtained from the Postal Service.
- 518.6 Upon mailing of the forwardable notice to any registrant whose initial mailing the Postal Service returned as undeliverable, either with a new address outside the District or an indication that no new address was available, the Board shall designate the registrant's voter registration status as inactive on the voter roll, effective on the date of the mailing of the notice.
- 518.7 Where a registered voter who has been designated inactive on the voter roll fails to respond to the forwardable notice and fails to vote during the period beginning on the date the notice was mailed and ending on the day after the second subsequent general election for federal office, the registrant's name shall be removed from the voter roll.
- 518.8 Where a registered voter who has been designated inactive on the voter roll provides the Board with a current residence address, or votes in any election, prior to the day following the second general election for federal office occurring thereafter, the inactive designation shall be removed from the registrant's record.

- 518.9 A registrant included in the group defined by § 518.1 who has requested a separate mailing address in their voter record shall be initially mailed a notification addressed to the mailing address, asking the registrant to confirm his or her residence address on the voter roll by not later than thirty (30) days of the date of the mailing of the notice.
- 518.10 Where a registrant who has been mailed the notification in § 518.9 fails to confirm or correct their residence address, in writing, within thirty (30) days of the mailing of the notice, the Board shall issue a non-forwardable canvass postcard to the residence address as provided in § 518.1 of this chapter.
- 518.11 In the event that the Biennial Mail Canvass is delayed, the Board shall conduct the canvass as soon as practicable thereafter.
- 518.12 Consistent with procedures of the Biennial Mail Canvass, the Board shall issue the forwardable notices defined in § 518.5 whenever official mail sent to a registrant in the normal course of business is returned to the Board by the Postal Service.
- 518.13 Consistent with procedures of the Biennial Mail Canvass, the Board shall update a registrant's address or designate a registrant's voter registration status as inactive based on the return to the Board by the Postal Service of official mail sent to a registrant in the normal course of business.
- 518.14 Where the Board learns, or has reason to believe, that a registrant does not reside at the address listed on the voter registration application, the Board may issue the notice defined in § 518.1 to confirm the registrant's address, and proceed accordingly.

## **519 VOTER ROLL MAINTENANCE PROGRAM**

- 519.1 The Board may utilize information obtained from the United States Postal Service, the National Change of Address System (NCOA), and the DMV, which identifies registrants who have moved from the addresses listed on the Board's records.
- 519.2 As part of its systematic voter roll maintenance program, the Board may develop additional procedures to identify and remove from the voter roll registrants who are deceased and no notification was received from the Bureau of Vital Statistics, who have moved from the District and no notification was received from the registrant or the United States Postal Service, or who otherwise no longer meets the qualifications as a duly registered voter.
- 519.3 If the Board learns that a registered voter has changed his or her residence address and has failed to inform the Board, in writing, of his or her current residence

address, the registrant shall be mailed a non-forwardable notice, to the address listed on the voter roll.

- 519.4 The Board may utilize information obtained from returned juror summons issued by mail by the District of Columbia Superior Court to identify registrants who no longer meet the qualifications as a duly registered voter.
- 519.5 In the event that a juror summons is returned to the District of Columbia Superior Court by the United States Postal Service as undeliverable, or which provides a new address within or outside the District of Columbia, the Board shall mail a non-forwardable notice to the address to the voter's registration, as provided in § 518 of this chapter.
- 519.6 The Board may use other information provided to the District of Columbia Superior Court by the registrant to identify registrants who no longer meet the qualifications as a registered voter.
- 519.7 The Board's Executive Director may enter into agreements with other Chief State Election Officials for the purpose of verifying information on its statewide voter registration list to ensure the accuracy of the District's voter registry.

**520 CANCELLATION OF VOTER REGISTRATION: GENERAL GROUNDS AND PROCEDURES**

- 520.1 The grounds for cancellation of registration by the Board shall be the following:
- (a) Death of the voter;
  - (b) Change in residence from the District of Columbia;
  - (c) Signed authorization from a voter, or written notification from the voter that he or she is not a qualified elector;
  - (d) Incarceration following a felony conviction;
  - (e) Successful challenge to voter registration;
  - (f) Falsification of information on the voter registration application;
  - (g) Declaration of mental incompetence by a court of competent jurisdiction; and
  - (h) In the case of a registrant whose registration is deemed inactive, failure to provide the Board with a current residence address in the District, in writing, or failure to vote in any election in accordance with D.C. Official Code § 1-1001.07(i)(4)(B)(2016 Repl.) by not later than the day after the



date of the second general election for federal office that occurs after the date of the notice described in this section.

520.2 Where the Board cancels or proposes to cancel a voter's name from the registration roll, under § 520.1, notification to the person, as applicable to the cause of cancellation, shall be made by first class (forwardable) mail, except where authorization for removal has been provided by signature of the voter, or where the voter's registration is being removed from the list of registrations deemed inactive.

520.3 In the event that the Board learns, through the regular course of business, that a voter is otherwise unqualified to be a registered elector in the District of Columbia, the Registrar shall notify the registrant of this fact.

520.4 The notice shall include the information on which the Registrar bases the decision and shall state that the registrant must respond within fourteen (14) days from the date of the mailing of the notice or be cancelled from the voter roll.

520.5 The Registrar shall make a determination with respect to the elector's eligibility within ten (10) days of receipt of a response from the registrant.

520.6 The determination shall be sent by first class mail to the registrant.

520.7 Within fourteen (14) days of mailing the notice, the registrant may appeal, in writing, the Registrar's determination to the Board.

520.8 The Board shall conduct a hearing and issue a decision within thirty (30) days of receipt of written notice of the appeal.

520.9 Requests for cancellation of voter registration received less than thirty (30) days preceding an election shall be held and processed after that election.

## **521 CANCELLATION OF VOTER REGISTRATION: CHALLENGE AND REQUEST FOR ADDITIONS TO REGISTRATION ROLL**

521.1 Any duly registered voter may:

- (a) "Challenge" the registration of any person whom the voter believes is fictitious, deceased, disqualified, or ineligible to vote on grounds other than a failure to give notice of a change of address; and
- (b) "Request" the addition of any person whose name has been erroneously omitted or cancelled from the registration roll.

521.2 The Board shall not accept a voter registration challenge or application for correction of the voter roll after the forty-fifth (45th) day preceding an election.

- 521.3 During the period beginning on the ninetieth (90th) day before any election and ending on the forty-fifth (45th) day before any election, the Board shall expedite the process as further described in this section.
- 521.4 Requests for the correction of the voter roll or the challenge of the right to vote of any person named on the voter roll shall be in writing and shall include any evidence in support of the challenge that the registrant is not a qualified elector.
- 521.5 The Board shall send notice to any person whose registration has been challenged, at the address listed on the Board's record, along with a copy of any evidence filed in support of the challenge.
- 521.6 The notice sent to a person whose registration has been challenged shall be sent to the address listed on the Board's records, and shall include a statement that the registrant must respond to the challenge not later than thirty (30) days from the date of the mailing of the notice, or ten (10) days if the challenge is received between ninety (90) and forty-five (45) days from the election, or be cancelled from the voter roll.
- 521.7 The Registrar shall make a determination with respect to the challenge, based on any evidence presented, within ten (10) days of receipt of the challenged registrant's response, or three (three) days if the challenge is received between ninety (90) and forty-five (45) days from the election.
- 521.8 After making a determination with respect to the challenge, the Registrar shall notify, by first class mail, both the challenged registrant and the person who filed the challenge.
- 521.9 Within fourteen (14) days of the date that the Registrar of Voters' notice is mailed, or five (5) days if the challenge is received between ninety (90) and forty-five (45) days from the election, any aggrieved party may appeal the Registrar's determination to the Board.
- 521.10 The Board shall conduct a hearing and issue a decision within thirty (30) days of receipt of the written appeal notice, or ten (10) days if the challenge is received between ninety (90) and forty-five (45) days from the election.
- 521.11 With respect to a request for the addition of a person to the voter roll, if the Board's records indicate that the omission or cancellation was proper, the Board shall send notice of its determination, by first-class (forwardable) mail, to both the individual named in the request and the person who filed the request. The notice shall advise both parties that the person whose name was removed from the registration roll is required to submit a new voter registration application in order to become registered.

Chapter 7, ELECTION PROCEDURES, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended in its entirety to read as follows:

CHAPTER 7 ELECTION PROCEDURES

- 700 ELIGIBILITY OF ELECTORS
- 701 [REPEALED]
- 702 VOTING IN-PERSON BEFORE ELECTION DAY
- 703 OPENING AND CLOSING OF POLLS ON ELECTION DAY
- 704 POLLING PLACE OFFICIALS
- 705 NEWS MEDIA
- 706 POLL WATCHERS AND ELECTION OBSERVERS
- 707 POLITICAL ACTIVITY AT VOTING PLACES
- 708 [REPEALED]
- 709 [REPEALED]
- 710 CHALLENGE TO VOTER QUALIFICATIONS: IN-PERSON VOTING
- 711 VOTER’S AFFIRMATION
- 712 SPECIAL BALLOT APPEAL RIGHTS
- 713 ASSISTANCE TO VOTERS
- 714 SPOILED BALLOTS
- 715 [REPEALED]
- 716 [REPEALED]
- 717 [REPEALED]
- 718 [REPEALED]
- 719 [REPEALED]
- 720 ABSENTEE VOTING
- 721 CHALLENGE TO VOTER QUALIFICATIONS: ABSENTEE VOTING
- 722 EMERGENCY ABSENTEE BALLOTS
- 723 [REPEALED]
- 724 [REPEALED]
- 725 [REPEALED]

700 ELIGIBILITY OF ELECTORS

700.1 For the purpose of determining eligibility of an elector in a primary election, a change in party affiliation status occurs when a voter:

- (a) Changes his or her party registration from one political party to another;
- (b) Changes his or her party registration from “no party (independent)” to a political party; or
- (c) Changes his or her party registration from a political party to “No Party (independent).”

- 700.2 For the purpose to determining eligibility of an elector in any election, the polling place serving a voter's residence shall be the Election Day polling place that has been designated by the Board for the individual, except that a voter whose residence is served by a polling place that has been identified as inaccessible pursuant to Section 8 of the Voting Accessibility for the Elderly and Handicapped Act may request reassignment to an accessible polling place if he or she:
- (a) Is a senior citizen or a person with a disability; and
  - (b) Contacts the Board in writing by no later than the seventh (7<sup>th</sup>) day prior to Election Day to request that a complete ballot for his or her precinct of residence be brought to the accessible polling place on Election Day.
- 700.3 For the purpose of determining eligibility of an elector during any election for President and Vice President, an individual shall qualify as an elector in the District of Columbia for the offices of President and Vice President only (qualified federal elector) if:
- (a) He or she resided in the District of Columbia and has moved into another state or territory and does not meet the voter registration residency requirements of that state or territory; and
  - (b) He or she otherwise meets the requirements of a qualified elector in the District of Columbia as of the date of change of residence.
- 700.4 Eligible electors shall be permitted to cast a regular ballot during the in-person absentee and early voting periods or at the polling place serving their residence on Election Day. Eligible electors shall include:
- (a) In the case of primary elections:
    - (1) Duly registered voters whose registration record indicates an affiliation with the party conducting the primary and have not changed their party affiliation status during the twenty-one (21) days preceding the primary;
    - (2) Registered voters who have filed a change of address and/or name notification with valid proof of residence at the time of voting and whose registration record indicates an affiliation with the party conducting the primary that has not been changed during the twenty-one (21) days preceding the primary; or
    - (3) Qualified electors who newly register to vote during the in-person absentee or early voting periods or at the polling place serving their residence on Election Day; provide valid proof of residence; and affiliate with a party conducting a primary election.

- (b) In the case of general elections:
  - (1) Duly registered voters;
  - (2) Registered voters who have filed a change of address and/or name notification with valid proof of residence at the time of voting; or
  - (3) Qualified electors who newly register to vote during the in-person absentee or early voting periods or at the polling place serving their residence on Election Day and provide valid proof of residence.
  
- (c) In the case of special elections:
  - (1) Duly registered voters residing in the political subdivision in which the special election is occurring;
  - (2) Registered voters residing in the political subdivision in which the special election is occurring who have filed a change of address and/or name notification with valid proof of residence at the time of voting; or
  - (3) Qualified electors residing in the political subdivision in which the special election is occurring who newly register to vote during the in-person absentee or early voting periods or at the polling place serving their residence on Election Day and provide valid proof of residence.

700.5 An individual whose eligibility to vote in an election cannot be determined at the time of voting shall cast a special (provisional) ballot. An individual's eligibility may be unable to be determined for any of the following reasons:

- (a) The individual attempted to register to vote at the polling place but did not provide valid proof of residence;
- (b) The individual filed a change of address notification at the polling place but did not provide valid proof of residence;
- (c) The individual filed a change of name notification at the polling place but did not provide valid proof of residence;
- (d) The individual is appearing to vote at an Election Day polling place that does not serve the address listed on the Board's registration records;
- (e) The individual has already signed the poll book for the current election;

- (f) The individual is listed as an absentee voter on the alphabetical or supplemental lists of registered voters (poll book);
- (g) The individual has not previously voted in a federal election in the District and who registered to vote by mail and failed to present, either at the time of registration, at the polling place, or when voting by mail, either a copy of a current and valid government-issued photo identification, a copy of a current (the issue, bill, or statement date is no earlier than ninety (90) days before the attempt to register and/or vote, whichever is applicable) utility bill, bank statement, government check, or paycheck, or other government-issued document that shows his or her name and address;
- (h) The individual is listed on the poll book but claims, in a primary election, that the party affiliation indicated on the listing is in error;
- (i) The individual is listed on the poll book but claims, in a general election, that the ANC Single-Member District indicated on the listing is in error;
- (j) The individual's qualifications as an elector have been challenged pursuant to this chapter, and that challenge is accepted;
- (k) The individual is attempting to vote in an election for federal office during extended voting hours as a result of a federal or District of Columbia court order, or any other order.

**701 [REPEALED]**

**702 VOTING IN-PERSON BEFORE ELECTION DAY**

702.1 An eligible elector shall be permitted to cast a ballot in-person before Election Day during an in-person absentee voting period not earlier than fifteen (15) days preceding an election. In-person absentee voting shall take place on dates and times that the Executive Director shall designate.

702.2 An eligible elector shall be permitted to cast a ballot in-person before each primary and general election during an early voting period of no more than ten (10) days prior to Election Day. Early voting shall take place on dates and times that the Executive Director shall designate.

**703 OPENING AND CLOSING OF POLLS ON ELECTION DAY**

703.1 Polling places in which elections are to be held shall be opened at 7:00 a.m. on the date required by law for the election and shall remain open for voting until 8:00 p.m., except in instances when the time established for closing the polls is extended pursuant to a federal or District of Columbia court order or Board order.

- 703.2 All persons standing in line at a polling place at the close of polls shall be permitted to vote, if otherwise qualified.
- 703.3 At the close of polls, a polling place official shall take a position at the end of any existing line of prospective voters, and only persons standing in front of the official at that time shall be permitted to vote.
- 703.4 By order, the Board may, at its discretion, extend polling hours at a precinct in order to resolve unforeseen emergency situations on Election Day.

#### **704 POLLING PLACE OFFICIALS**

- 704.1 The operations of polling places and ballot counting places shall be conducted by officials designated by the Board.
- 704.2 The official in charge of each polling place shall be known as the Precinct Captain.
- 704.3 The duties of the Precinct Captain may be delegated by the Board or by the Precinct Captain to another official, who shall be known as the Alternate Precinct Captain.
- 704.4 All polling place officials shall be qualified registered electors in the District of Columbia, except that the Board may appoint individuals who are not qualified registered electors to serve as polling place officials, if the individual:
- (a) Is at least sixteen (16) years of age on the day that he or she will be a polling place official;
  - (b) Resides in the District of Columbia; and
  - (c) Is enrolled in or has graduated from a public or private secondary school or an institution of higher education.
- 704.5 All polling place officials shall:
- (a) Complete at least four (4) hours of training;
  - (b) Receive certification by the Board; and
  - (c) Take and sign an oath of office to honestly, faithfully, and promptly perform the duties of office.
- 704.6 A polling place official's past performance shall be considered before appointing him or her as a polling place official in a subsequent election.

704.7 Unless otherwise provided, Board employees working at early voting centers shall have the same authority and duties as the Precinct Captain and other polling place officials.

**705 NEWS MEDIA**

705.1 For the purpose of this chapter, the term “media” shall mean any individual or group engaging in the mass communication of information to the public, such as through television, radio, or publishing, and shall not include poll watchers or election observers, as defined in this chapter.

705.2 At the appropriate discretion of the Precinct Captain, news media representatives shall be permitted access to voting places during voting hours for a reasonable and limited period of time for the purpose of filming or photographing inside voting places. The Precinct Captain may consider the following factors when determining the granting and duration of media access to the voting place:

- (a) The size of the voting place;
- (b) The number of persons in the voting place; and
- (c) The amount of time remaining in voting hours.

705.3 Upon entry to the voting place, a media representative shall present his or her news media outlet identification to the Precinct Captain. The Precinct Captain shall record the presence of the media representative(s) and make a determination concerning access and duration thereof.

705.4 Media representatives shall be prohibited from the following activities in any voting place:

- (a) Interviewing polling place officials or voters inside the voting place;
- (b) Taping of media representative’s remarks inside the voting place;
- (c) Impeding the voting process or the work of polling place officials;
- (d) Filming or photographing in a way that divulges how an individual is voting;
- (e) Filming or photographing the voter list or other election materials in a way that divulges the name or other registration information of an individual voter.



705.5 No filming or photography of any individual in a voting place, or in the 50 feet abutting an entrance to a voting place, shall be performed unless prior express permission is obtained.

**706 POLL WATCHERS AND ELECTION OBSERVERS**

706.1 Each candidate and each proponent or opponent of a proposed ballot measure may petition the Board for credentials authorizing poll watchers at any voting place and/or ballot counting place.

706.2 Persons who wish to witness the administration of elections, including nonpartisan or bipartisan, domestic or international organizations, who are not affiliated with a candidate or ballot measure may petition the Board for credentials authorizing election observers at any voting place and/or ballot counting place.

706.3 Each petition shall be filed with the Board, not less than two (2) weeks before each election and shall be on a form furnished by the Board. The Board reserves the right to accept petitions filed less than two (2) weeks before each election.

706.4 At the time of filing, the poll watcher petition form shall contain the following information:

- (a) The name, address, telephone number, and signature of the candidate or ballot measure proponent or opponent (“applicant”);
- (b) The office for which the applicant is a candidate or the short title of the measure which the applicant supports or opposes;
- (c) The name, address, email address, and telephone number of the poll watcher supervisor, if one is designated by the candidate, proponent, or opponent;
- (d) The locations where access credentials are sought;
- (e) The names, addresses, email addresses, and telephone numbers of at least two (2) and not more than three (3) persons who are authorized to collect the poll watcher badges from the Board on behalf of the candidate or ballot measure proponent or opponent for distribution to the authorized poll watchers; and
- (f) A certificate from the applicant that each poll watcher selected shall conform to the regulations of the Board with respect to poll watchers and the conduct of the election.

- 706.5 At the time of filing, the election observer petition form shall contain the following:
- (a) The name, address, email address, and telephone number of the organization or individual seeking credentials;
  - (b) The name, address, email address, and telephone number of the election observer supervisor, if a person is designated by an organization;
  - (c) The names, addresses, email addresses, and telephone numbers of all observers who will be receiving badges;
  - (d) The locations where access credentials are sought;
  - (e) The names, addresses, email addresses, and telephone numbers of at least one (1) and not more than three (3) persons who are authorized to collect the election observer badges from the Board on behalf of the organization or individual seeking credentials for distribution to the authorized election observers; and
  - (f) A certificate from the applicant that each election observer selected shall conform to the regulations of the Board with respect to election observers and the conduct of the election.
- 706.6 The Board may limit the number of poll watchers or election observers to ensure that the conduct of the election will not be obstructed or disrupted, except that:
- (a) Each qualified candidate shall be entitled to one (1) poll watcher in each of the voting places where his or her name appears on the ballot.
  - (b) Each proponent or opponent of a ballot measure who has timely filed a verified statement of contributions with the Office of Campaign Finance shall be entitled to one (1) poll watcher in each voting place where the ballot measure appears on the ballot.
- 706.7 The Board and its designees may, at their discretion, rotate credentialed poll watchers and election observers in and out of voting places and/or ballot counting places on an equitable basis in the event of space constraints. The Board and its designees may grant preference to poll watchers over election observers, and organizations over individuals.
- 706.8 The Executive Director shall make a ruling on poll watcher and election observer petitions not less than ten (10) days prior to an election.
- 706.9 In making a determination of the number of watchers or observers allowed, the Executive Director shall consider the following:

- (a) The number of candidates or requesting organizations;
  - (b) Whether the candidates are running as a slate;
  - (c) The number of proponents and opponents of measures and proposed Charter amendments;
  - (d) The physical limitations of the voting places and counting places; and
  - (e) Any other relevant factors.
- 706.10 Within twenty-four (24) hours of a denial, the Executive Director shall issue a public notice with respect to any denial of a petition for credentials.
- 706.11 The Board shall issue a badge for each authorized poll watcher or election observer, with space for the watcher's or observer's name and the name of the candidate or party represented by the watcher, or any organization being represented by the observer. Badges shall also be issued for each authorized watcher representing the proponents or opponents of ballot measures.
- 706.12 Badges shall be numbered consecutively, and consecutive numbers issued to each candidate, organization, proponent, or opponent.
- 706.13 All badges shall be worn by the authorized poll watcher or election observer in plain view at all times when on duty at the voting place or counting place.
- 706.14 An authorized alternate poll watcher or election observer may, in the discretion of the watcher or observer supervisor, be substituted for a watcher or observer at any time; provided, that notice is first given to the designated representative of the Board at the voting place or ballot counting place.
- 706.15 A poll watcher shall be allowed to perform the following acts:
- (a) Observe the count;
  - (b) Unofficially ascertain the identity of persons who have voted;
  - (c) Report alleged discrepancies to the Precinct Captain; and
  - (d) Challenge voters in accordance with the procedures specified in this chapter, if the watcher is a registered qualified elector.
- 706.16 An election observer shall be allowed to perform the following acts:
- (a) Observe the count;

- (b) Unofficially ascertain the identity of persons who have voted; and
- (c) Report alleged discrepancies to the Precinct Captain.

706.17 No poll watcher or election observer shall, at any time, do any of the following:

- (a) Touch any official record, ballot, voting equipment, or counting form;
- (b) Interfere with the progress of the voting or counting;
- (c) Assist a voter with the act of voting;
- (d) Talk to any voter while the voter is in the process of voting, or to any counter while the count is underway; provided, that a watcher or observer may request that a ballot be referred for ruling on its validity to a representative of the Board;
- (e) In any way obstruct the election process; or
- (f) Use any video or still cameras inside the polling place while the polls are open for voting, or use any video or still camera inside the counting center, if such use is disruptive or interferes with the administration of the counting process.

706.18 A candidate may not serve as a poll watcher at any voting place.

706.19 If a poll watcher or election observer has any question, or claims any discrepancy or error in the voting or the counting of the vote, the watcher or observer shall direct the question or complaint to the election official in charge. In each polling place, the Precinct Captain shall be the representative of the Board to whom the poll watchers or election observers shall direct all questions and comments. In counting places, the Executive Director shall identify those representatives to whom poll watchers and election observers shall direct all questions and comments.

706.20 Any poll watcher or election observer who, in the judgment of the Board or its designated representative, has failed to comply with any of the rules contained in this section, or has engaged in some other prohibited activity or misconduct, may be requested to leave the voting place or the counting place.

706.21 If a poll watcher or election observer is requested to leave, that watcher's or observer's authorization to use credentials shall be cancelled, and he or she shall leave the voting place or counting place forthwith.

706.22 An authorized alternate poll watcher or election observer may be substituted for a watcher or observer who has been removed.

**707 POLITICAL ACTIVITY AT VOTING PLACES**

707.1 The Precinct Captain shall have full authority to maintain order, pursuant to the Election Act, the regulations contained in this section, and directives of the Executive Director, General Counsel and their designees, including full authority to request police officials to enforce lawful orders of the Precinct Captain.

707.2 The only persons who shall be permitted to be present in voting places or ballot counting places are the following:

- (a) Designated representatives of the Board;
- (b) Police officers;
- (c) Duly qualified poll watchers and election observers;
- (d) Persons actually engaged in voting; and
- (e) Other persons authorized by the Board.

707.3 The only activity which shall be permitted in the portion of any building used as a voting place or ballot counting place shall be the conduct of the election. No partisan or nonpartisan political activity, or any other activity which, in the judgment of the Precinct Captain, may directly or indirectly interfere with the orderly conduct of the election, shall be permitted in, on, or within a reasonable distance outside the building used as an early voting center, polling place, or ballot counting place.

707.4 For the purposes of this section, the term "political activity" shall include, without limitation, any activity intended to persuade a person to vote for or against any candidate or measure or to desist from voting.

707.5 The distance deemed "reasonable" shall be approximately fifty feet (50 ft.) from any door used to enter the building for voting. The exact distance shall be determined by the Precinct Captain, depending on the physical features of the building and surrounding area. Wherever possible, the limits shall be indicated by a chalk line, or by some other physical marker at the polling place.

707.6 A voter may bring materials into the voting place for purpose of aiding the voter to cast their ballot, including, but not limited to, sample ballots, candidate pamphlets, or write-in stamps, or other materials. Any items left in the voting place shall be removed and discarded.

- 707.7 A person shall be warned to cease and desist his or her conduct upon any instance of the following:
- (a) Violation of the Election Act or regulations contained in this section;
  - (b) Failure to obey any reasonable order of the Board or its representative(s);  
or
  - (c) Acting in a disorderly manner in, or within a reasonable distance outside the building used as a voting place or ballot counting place.
- 707.8 If the person committing the violation(s) fails to cease and desist, a member of the Metropolitan Police Department of the District of Columbia shall be requested to evict the person or take other appropriate action.
- 708 [REPEALED]**
- 709 [REPEALED]**
- 710 CHALLENGE TO VOTER QUALIFICATIONS: IN-PERSON VOTING**
- 710.1 Challenges to voter qualifications where the voter is present at the time of the challenge shall be conducted according to the procedures of this section. Challenges to a voter's registration, as described in D.C. Official Code § 1-1001.07(e)(5), may occur pursuant to the rules in Chapter 5, and may not occur at any voting place.
- 710.2 Any duly registered voter may challenge the qualifications of a prospective voter in a primary, special, or general election.
- 710.3 Any challenge to the qualifications of a prospective voter shall be in writing on a form provided by the Board, and shall indicate the name of the person challenged, the basis for the challenge, and the evidence provided to support the challenge.
- 710.4 The challenger shall also sign an affidavit declaring under penalty of perjury that the challenge is based upon substantial evidence which he or she believes in good faith shows that the person challenged is not a qualified elector of the District.
- 710.5 After receiving a challenge or making a challenge on his or her own initiative, the Precinct Captain shall give the challenged voter an opportunity to respond.
- 710.6 The Precinct Captain shall review the evidence presented and shall:
- (a) Affirm the challenge upon a finding that it is based on substantial evidence specific to the voter being challenged and probative of the challenged voter's status as a qualified elector; or

- (b) Deny the challenge upon a finding that it is not based on substantial evidence specific to the voter being challenged and probative of the challenged voter's status as a qualified elector.

- 710.7 The Precinct Captain shall record the decision and the rationale for the decision on a form provided by the Board.
- 710.8 If the Precinct Captain denies the challenge, he or she shall inform the challenger that the challenger may appeal the decision to the Board and shall give the challenger copies of the rules regarding challenges and appeals to the Board.
- 710.9 Any appeal of the Precinct Captain's decision to deny the challenge shall be made either before the challenged voter casts a ballot, or before either the challenger or the challenged voter leaves the polling place, whichever is earlier.
- 710.10 If the challenger does not appeal the Precinct Captain's decision to deny the challenge, the challenged voter shall cast a regular ballot.
- 710.11 If the challenger appeals the Precinct Captain's decision to deny the challenge, the Precinct Captain shall state, over the telephone, the facts of the case to a Board hearing officer authorized to rule on the appeal for the Board.
- 710.12 Either a Board member, the Board's Executive Director, or the Board's Registrar of Voters may serve as the Board's hearing officer for the appeal.
- 710.13 The hearing shall be recorded and transcribed, and the transcript shall serve as the official case record, along with the written documentation specified in this section of the Precinct Captain's initial decision to deny the challenge.
- 710.14 The hearing officer shall take testimony under oath from the challenger, the person challenged, the Precinct Captain, and any witnesses who wish to testify.
- 710.15 Each person who testifies before the hearing officer shall state for the record their name as recorded on the Board's voter registration list, their residence address, mailing address and telephone number, and their role in the challenge.
- 710.16 The hearing officer shall receive evidence and testimony and shall then close the hearing.
- 710.17 After reviewing all evidence pertaining to the challenge and making a decision based upon his or her determination of whether the challenger has presented substantial evidence that is specific to the voter being challenged and probative of the challenged voter's status as a qualified elector, the hearing officer shall either:

- (a) Affirm the Precinct Captain's decision to deny the challenge, in which case the challenged voter shall cast a regular ballot; or
- (b) Overturn the Precinct Captain's decision to deny the challenge, in which case the challenged voter shall cast a "challenged" special ballot.

710.18 If the Precinct Captain affirms the challenge, or if the Board's hearing officer overturns the decision of the Precinct Captain to deny a challenge, the Precinct Captain shall allow the challenged voter to cast a "challenged" special ballot.

## **711 VOTER'S AFFIRMATION**

711.1 When any voter appears to vote, the voter shall state aloud his or her name and address.

711.2 Every eligible elector shall confirm the accuracy of the name, address, party affiliation, and ANC Single-Member District where applicable, before signing the poll book, or other record prescribed by the Board. Such signature shall be deemed an affirmation that the voter's information is correct as shown on the Board's records and that the voter is a qualified elector.

711.3 By signing the Special Ballot Envelope, a voter shall affirm the following:

- (a) That to the best of his or her knowledge and belief, he or she is a qualified elector and eligible to vote in the election;
- (b) That he or she resides at the residence provided; and
- (c) That the information contained on the outside of the Special Ballot Envelope is truthful and complete.

## **712 SPECIAL BALLOT APPEAL RIGHTS**

712.1 A voter's act of signing a challenged or Special Ballot Envelope shall be deemed the filing of an appeal by the voter of the refusal by the Board's Registrar of Voters to permit the voter to vote by regular ballot, and a waiver of personal notice from the Board of any denial or refusal to a later count of the challenged or Special Ballot.

712.2 The Board shall provide the voter, at the time of voting or after a challenge to an absentee ballot has been upheld pursuant to this chapter, with written notice that indicates the manner by which he or she may learn whether the Executive Director has decided to count or reject, in whole or in part, the voter's Special Ballot, and of the dates scheduled for hearings for voters whose Special Ballots are rejected to contest the Executive Director's preliminary determination if they petition to do so.



- 712.3 Not later than the day after each election, the Board shall enable any voter who has voted a Special Ballot to learn of the Executive Director's preliminary decision to count or reject his or her ballot along with the reason(s) for each decision by accessing either a dedicated section of the Board's website or a telephone service which shall be maintained during regular business hours.
- 712.4 Not later than the second (2<sup>nd</sup>) day after the date of any election, the Board shall, upon petition of the voter, conduct a hearing for the voter to contest the Executive Director's preliminary determination to reject the voter's Special Ballot.
- 712.5 The Board shall review the information provided on the Special Ballot Envelope as well as all other available evidence pertaining to the eligibility of each voter casting a Special Ballot, and shall make a decision about whether to count or reject each special ballot.
- 712.6 At the hearing, the voter may appear and give testimony on the question of the Executive Director's preliminary decision to reject the Special Ballot.
- 712.7 The Board shall make a final determination to either count or reject the voter's Special Ballot no later than the day after the date of the hearing.
- 712.8 The voter may appeal an adverse decision of the Board to the Superior Court of the District of Columbia within one (1) business day after the date of the Board's decision. The decision of the court shall be final and not appealable.

### **713 ASSISTANCE TO VOTERS**

- 713.1 Any voter who requires assistance in voting may be given assistance by a person of the voter's choice, other than a poll watcher or election observer, the voter's employer or agent of that employer, or officer or agent of the voter's union.
- 713.2 The Board shall ensure that capable assistance shall be made available to any requesting voter.
- 713.3 The Board shall provide in each voting place one (1) or more polling place officials specifically trained to assist voters upon their request.
- 713.4 Any person giving assistance shall assist only upon the request of the voter and in accordance with the wishes of the voter.
- 713.5 The Precinct Captain shall ensure that a record is made of the provision of such assistance to the voter and the nature of the voter's need for assistance.
- 713.6 Assistance provided to a voter may include, though not necessarily be limited to, the following:

- (a) Marking the ballot in accordance with the voter's expressed wishes;
- (b) Reading the ballot to a voter whose vision is impaired or who cannot read;
- (c) Recording a write-in vote as designated by the voter; and
- (d) Completing any form for the voter.

713.7 No person or official providing voter assistance shall in any way influence or attempt to influence a voter's choice in voting, nor shall the person or official disclose to anyone how the voter voted. Any person who violates this section may, upon conviction, be subject to a \$10,000 fine or imprisonment up to five years, or both, pursuant to D.C. Official Code § 1-1001.14(a).

713.8 Written instructions on the operation of the voting process shall be available to all voters. A trained polling place official shall also be available to explain the voting process.

713.9 All voters shall have the opportunity, if desired, to mark a demonstration ballot prior to entering the voting booth.

#### **714 SPOILED BALLOTS**

714.1 If a voter makes a mistake in marking a ballot or erroneously defaces or tears a ballot, he or she may surrender the spoiled ballot to a polling place official, who shall furnish the voter with another ballot.

714.2 The polling place official shall request the voter place the spoiled ballots into the spoiled ballot envelope.

714.3 The voter shall seal the envelope and shall return it to the polling official before an additional ballot can be issued.

714.4 A polling place official shall not issue more than three (3) ballots (one (1) original, two (2) replacements) to any voter. Before the polling place official issues the second (2<sup>nd</sup>) ballot, the polling place official shall inform the voter that the voter may have only one (1) additional ballot after the first (1<sup>st</sup>) replacement ballot. Before the polling place official issues the third (3<sup>rd</sup>) ballot, the polling place official shall inform the voter that it will be the last ballot issued to the voter.

714.5 When a voter receives a replacement ballot, the voter shall have the option of receiving a paper or electronic ballot.

715 [REPEALED]  
716 [REPEALED]  
717 [REPEALED]  
718 [REPEALED]  
719 [REPEALED]

**720 ABSENTEE VOTING**

720.1 The rules of this section shall govern the process by which eligible electors cast a ballot outside of a voting place (“absentee voting”).

720.2 A qualified federal elector may request an absentee ballot for any primary or general election for the office of President and Vice President of the United States.

720.3 Any duly registered voter may request an absentee ballot for any of the following:

- (a) Any single election;
- (b) All elections in a calendar year; or
- (c) All future elections that the voter may be eligible to vote (permanent request).

720.4 A duly registered voter’s request to permanently receive an absentee ballot shall be honored until:

- (a) The voter submits a written request to no longer receive absentee ballots;
- (b) The voter is no longer a qualified elector;
- (c) Any mail sent to the voter is returned to the Board as undeliverable; or
- (d) The voter fails to return a voted absentee ballot for two back-to-back elections in which he or she is eligible to vote.

720.5 A duly registered voter or qualified federal elector may submit a written request for an absentee ballot electronically, by mail, or in-person at the Board’s office. Qualified uniformed services and overseas voters may request an absentee ballot by using the Federal Post Card Application (FPCA) or the declaration accompanying a Federal Write-In Absentee Ballot (FWAB declaration). All requests for absentee ballots shall be received by the Board no later than the seventh (7th) day preceding the date of the election, except that requests for absentee ballots from qualified uniformed services and overseas voters may shall be received no later than the third (3rd) day preceding the date of the election.

- 720.6 No person shall be permitted to execute an application for an absentee ballot for another registered voter.
- 720.7 A request for an absentee ballot shall include the following:
- (a) The voter's name;
  - (b) Election(s) for which the absentee ballot is requested;
  - (c) Address from which the voter is registered to vote;
  - (d) Voter's current residence address, if different from the address listed on the Board's records;
  - (e) Address to which the absentee ballot shall be delivered, if applicable;
  - (f) Voter's DMV-issued identification number, the last four (4) digits of the voter's social security number, or the voter's unique voter identification number issued by the Board;
  - (g) Voter's date of birth; and
  - (h) Voter's signature, whether original or as a digitized image given directly by the applicant or received on behalf of the applicant through the Department of Motor Vehicles.
- 720.8 A qualified uniformed services or overseas voter may choose to have his or her absentee ballot electronically transmitted or delivered by mail. If no preference is given, the absentee ballot shall be delivered by mail.
- 720.9 An absentee ballot request from a uniformed services or overseas voter shall be treated as a valid, standing request for an absentee ballot for any and all elections that fall within the election cycle in which the request was received, unless the voter requests absentee ballots for a different time period.
- 720.10 If a duly registered voter who requests an absentee ballot provides a residence address that is different from the residence address listed on the Board's records, the application for an absentee ballot shall also be considered a request for a change of address.
- 720.11 Prior to returning the voted absentee ballot to the Board, a voter shall confirm the accuracy of his or her name, address, party affiliation, and ANC Single-Member District, where applicable, as it appears on the Board's records by signing either the absentee ballot envelope. The voter's signature shall be deemed an affirmation that the voter's information is correct as shown on the Board's records and that the voter is a qualified elector.

- 720.12 An absentee ballot may be returned to the Board by any of the following ways:
- (a) Mail;
  - (b) Brought to any voting place;
  - (c) Delivered to the Board's office at any time before the close of the polls on Election Day; or
  - (d) If the voter is a qualified uniformed services or overseas voter, by fax or email (electronically).
- 720.13 A qualified uniformed services or overseas voter who submits his or her voted ballot electronically shall provide and sign the following statement on a separate document: "I understand that by electronically submitting my voted ballot I am voluntarily waiving my right to a secret ballot."
- 720.14 All voted absentee ballots shall be received no later than 8:00 p.m. on the day of the election.
- 721 CHALLENGE TO VOTER QUALIFICATIONS: ABSENTEE VOTING**
- 721.1 The provisions of this section are inapplicable to absentee ballot requests submitted by covered voters, as that term is defined in D.C. Official Code § 1-1061.02(2).
- 721.2 Challenges to voter qualifications where the voter seeks to cast an absentee ballot shall be conducted according to the procedures of this section. Challenges to the qualifications of an elector who seeks to cast an emergency absentee ballot are specifically exempted. Challenges to a voter's registration, as described in D.C. Official Code § 1-1001.07(e)(5), may occur only pursuant to the provisions of Chapter 5.
- 721.3 The Board shall post in its office a list of all prospective voters who have submitted requests for absentee ballots for three (3) days beginning on the seventh (7<sup>th</sup>) day preceding an election.
- 721.4 During the three (3) day posting period, any duly registered voter may challenge the qualifications of any prospective voters who have submitted requests for absentee ballots.
- 721.5 Any challenge to the qualifications of a prospective voter shall be in writing on a form provided by the Board, and shall indicate the name of the person challenged, the basis for the challenge, and the evidence provided to support the challenge. The challenge form shall be submitted in-person at the Board's Office.

- 721.6 The challenger shall also sign an affidavit declaring under penalty of perjury that the challenge is based upon substantial evidence which he or she believes in good faith shows that the person challenged is not a qualified elector of the District.
- 721.7 The voter's signature on the request for an absentee ballot shall serve as an affidavit from the voter that he or she is a qualified elector of the District.
- 721.8 On the same day that the challenge is submitted at the Board's Office, the absentee ballot official shall review the evidence presented and shall:
- (a) Affirm the challenge upon a finding that it is based on substantial evidence specific to the voter being challenged and probative of the challenged voter's status as a qualified elector, or;
  - (b) Deny the challenge upon a finding that it is not based on substantial evidence specific to the voter being challenged and probative of the challenged voter's status as a qualified elector.
- 721.9 The absentee ballot official shall record the decision and the rationale for the decision on a form provided by the Board.
- 721.10 If the absentee ballot official denies the challenge, the absentee ballot official shall inform the challenger that the challenger may appeal the decision to the Board and shall give the challenger copies of the rules regarding challenges and appeals to the Board. Any appeal from a decision to deny the challenge must be made immediately.
- 721.11 If the challenger does not appeal the absentee ballot official's decision to deny the challenge, the absentee ballot shall be counted as a regular ballot.
- 721.12 If the challenger appeals the absentee ballot official's decision to deny the challenge, the absentee ballot official shall state the facts of the case to a Board hearing officer authorized to rule on the appeal for the Board.
- 721.13 Either a Board member, the Board's Executive Director, or the Board's Registrar of Voters official may serve as the Board's hearing officer for the appeal.
- 721.14 The hearing shall be recorded and transcribed, and the transcript shall serve as the official case record, along with the written documentation of the absentee ballot official's initial decision to deny the challenge.
- 721.15 The hearing officer shall take testimony under oath from the challenger, the challenged voter (if available), the absentee ballot official, and any witnesses who wish to testify.

- 721.16 Each person who testifies before the hearing officer shall state for the record their name as recorded on the Board's voter registration list, their residence address, mailing address and telephone number, and their role in the challenge.
- 721.17 The hearing officer shall receive evidence and testimony and shall then close the hearing.
- 721.18 After reviewing all evidence pertaining to the challenge and making a decision based upon his or her determination of whether the challenger has presented substantial evidence that is specific to the voter being challenged and probative of the challenged voter's status as a qualified elector, the hearing officer shall either:
- (a) Affirm the absentee ballot official's decision to deny the challenge, in which case the challenged voter's absentee ballot shall be counted as a regular ballot; or
  - (b) Overturn the absentee ballot official's decision to deny the challenge, in which case the challenged voter's absentee ballot and envelope shall be considered a special ballot and envelope.
- 721.19 If the absentee ballot official affirms the challenge, or if the Board's hearing officer overturns the decision of the absentee ballot official to deny a challenge, the voter's absentee ballot and envelope shall be considered a special ballot and envelope, marked and processed as such.

## **722 EMERGENCY ABSENTEE BALLOTS**

- 722.1 A duly registered voter may apply for an emergency absentee ballot, through a duly authorized agent, at the office of the Board from the sixth (6th) day prior to any election to the time the polls close on Election Day, under the following circumstances:
- (a) The voter is physically unable to be present at the polls as the result of an illness or accident occurring after the deadline for requesting to vote absentee by mail;
  - (b) The voter, having expected to recover from an illness by Election Day and vote at the polls, finds that after the deadline for requesting an absentee ballot by mail has passed, he or she is physically unable to vote at the poll on Election Day; or
  - (c) The voter is serving on a sequestered jury on Election Day.
- 722.2 A duly registered voter shall apply to vote by emergency absentee ballot according to the following procedure:

- (a) The registered voter shall, by signed affidavit on a form provided by the Board, set forth:
  - (1) The reason why he or she is unable to be present at the polls on the day of the election; and
  - (2) Designate a duly registered voter to serve as agent for the purpose of delivering the absentee ballot to the voter, except that an officer of the court in charge of a jury sequestered on election day may act as agent for any registered voter sequestered regardless of whether the officer is a registered voter in the District.
- (b) Upon receipt of the application, the Executive Director, or his or her designee, if satisfied that the person cannot, in fact, be present at the polling place on the day of the election shall issue to the voter, through the voter's duly authorized agent, an absentee ballot which shall be marked by the voter, placed in a sealed envelope and returned to the Board before the close of the polls on election day.
- (c) The person designated as agent shall, by signed affidavit on a form prescribed by the Board, state the following:
  - (1) That the ballot will be delivered by the voter who submitted the application for the ballot; and
  - (2) That the ballot shall be marked by the voter and placed in a sealed envelope in the agent's presence, and returned, under seal to the Board by the agent.

722.3 Executive Director or his or her designee shall advise all agents, in writing, that pursuant to D.C. Official Code §§ 1-1001.12 and 1-1001.14 (2016 Repl.), it is unlawful to do any of the following:

- (a) Vote or attempt to vote more than once in any election; or
- (b) Purloin or secret any of the votes cast in any election.

723 [REPEALED]  
 724 [REPEALED]  
 725 [REPEALED]



**Chapter 8, TABULATION AND CERTIFICATION OF ELECTION RESULTS, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:**

**Section 802, VALIDITY OF VOTES, is amended as follows:**

**Subsection 802.5 is amended to read as follows:**

802.5 If a qualified uniformed services or overseas voter chooses to use a Federal Write-In Absentee Ballot, or chooses to electronically submit his or her ballot, it shall be duplicated for all eligible contests, and the duplicated ballot shall be treated as an official ballot and deemed valid.

**Section 806, TABULATION PROCEDURES, is amended as follows:**

**Subsection 806.1 is amended to read as follows:**

806.1 The tabulation of votes cast on Election Day shall be started immediately after the close of polls, and shall be conducted under the direct supervision of the Executive Director or his or her designee. The tabulation of votes cast before Election Day may begin prior to the close of polls on Election Day, provided that no tabulation results may be released to the public until after the close of polls on Election Day.

**Section 808, ABSENTEE BALLOT TABULATION, is amended as follows:**

**Subsection 808.7 is amended to read as follows:**

808.7 The absentee ballot shall be tabulated and counted as being cast in the ward and precinct in which the voter resides provided that the voter signs the absentee ballot envelope to certify that the voter has voted the ballot and has not voted in any other jurisdiction or in any other manner in the election.

**Chapter 17, CANDIDATES: MEMBERS AND OFFICIALS OF LOCAL COMMITTEES OF POLITICAL PARTIES AND NATIONAL COMMITTEE PERSONS, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:**

**Section 1701, SLATES: FORMATION, AMENDMENT, AND WITHDRAWAL, is amended as follows:**

**Subsection 1701.8 is amended to read as follows:**

1701.8 Amendments to Statements of Slate Registration and Statements of Slate Withdrawals shall be filed in-person at the Board’s office no later than 5 p.m. on the 54th day before Election Day.

**Chapter 33, PROHIBITION ON USE OF GOVERNMENT RESOURCES FOR CAMPAIGN-RELATED PURPOSES AND INTERPRETIVE OPINIONS, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:**

**Section 3301, PROHIBITION ON USE OF GOVERNMENT RESOURCES FOR CAMPAIGN-RELATED PURPOSES, is amended as follows:**

**Subsection 3301.4 is amended to read as follows:**

- 3301.4 Notwithstanding the prohibition set forth in § 3301.3, the following public officials may, as part of their official duties, express their views on a District of Columbia election:
- (a) The Mayor;
  - (b) The Chairman of the Council;
  - (c) Each Member of the Council;
  - (d) The Attorney General;
  - (e) The President of the State Board of Education; and
  - (f) Each Member of the State Board of Education.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA****NOTICE OF FINAL RULEMAKING****AND****Z.C. ORDER NO. 17-17****Z.C. Case No. 17-17****Advisory Neighborhood Commission 8A****Zoning Map Amendment @ Square 5564, Lot 812 from PDR-1 to RA-2)****May 14, 2018**

The Zoning Commission for the District of Columbia (Zoning Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 (2012 Repl.)), hereby gives notice of its adoption of an amendment to the Zoning Map to rezone Square 5564, Lot 812 from the PDR-1 zone to the RA-2 zone consistent with the Future Land Use Map (FLUM) of the Comprehensive Plan, which identifies the subject property for moderate density residential use.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on March 30, 2018, at 65 DCR 003420.

In response, the Commission received a comment in opposition from PAL DC Storage, LLC, the owner of the property that is the subject of the petition (Owner). The Owner essentially reiterates the same arguments made in its Statement in Opposition to Map Amendment, Exhibit 33, all of which were previously rejected by the Commission for the reasons stated below.

The Owner first states that it opposes to the Map Amendment, because it “downzones a single piece of property.” The Owner identifies no basis for its belief that the Commission can only rezone multiple properties. Instead, the rule is that the Commission can rezone a single property if it does not constitute spot zoning, which the proposed rezoning decidedly would not. (*See Daro Realty, Inc. v. D.C. Zoning Comm'n*, 581 A.2d 295, 299 (D.C. 1990).)

The Owner claims that the Map Amendment requires a fact-specific inquiry regarding consistency with the Comprehensive Plan and therefore the proceeding should have been handled as a contested case. The District of Columbia Court of Appeals has recognized that the question of whether a proceeding is a contested case or rulemaking depends respectively upon whether the facts to be adduced are adjudicative or legislative. To understand that distinction the Court of Appeals quoted the following formulation by Professor Davis:

Adjudicative facts are the facts about the parties and their activities, businesses, and properties. Adjudicative facts usually answer the questions of who did what, where, when, how, why, with what motive or intent; adjudicative facts are roughly the kind of facts that go to a jury in a jury case. Legislative facts do not usually concern the immediate parties but are general facts which help the tribunal decide questions of law and policy and discretion. (1 K. Davis, *Administrative Law* s 7.02 at 413 (1958))

(*Chevy Chase Citizens Ass'n v. D.C. Council*, 327 A.2d 310, 314 (D.C. 1974).)

Notwithstanding the best efforts of the Owner to make it otherwise, the analysis and resolution of the Comprehensive Plan policies related to this petition do not involve “who did what, where, when, how, why, with what motive or intent,” but only the determination of “general facts.” Such as where the property is located; how is it zoned; what is its FLUM designation; is its zoning consistent with that designation and if not what zone district(s) would be; what uses are currently permitted under its existing and proposed zones; are there countervailing Comprehensive Plan policies and if so, can the polices be reconciled with the FLUM, and if not which set of policies should be given greater weight and why? (*Friends of McMillan Park v. D.C. Zoning Comm'n*, 149 A.3d. 1016, 1027 (2016).)

Ironically, the Owner, whose counsel repeatedly tried to interject project-specific information into the record, now complains that others did so as well, thereby turning the proceeding into a contested case. The Owner fails to mention that the Chair at the beginning of the hearing noted that the record included such irrelevant information and reminded the audience that:

We're here to talk about a policy question. We're here to talk about a rezoning, changing the zoning, not about any project, who wants to do what, who didn't do what. We're not here for that. ... if you want to waste your three minutes, that's [permitted under] our regulation. Now if you want to do that, you can do that but let's talk about the map amendment. Let's stay on it. In other words, let's stay on course.

(Transcript March 19, 2018 Hearing at 9.)

Even if some witnesses chose not to “stay on course,” the Commission did, and disregarded all project-specific information when deciding this matter. The hearing was properly conducted as a rulemaking.

The Owner also points to the Petitioner’s purported intent of stopping its proposed project as a basis for denying the petition. Map amendments are often sought in response to a potential development, either to allow or stop it, but neither intent is relevant to its merits.<sup>1</sup> The only intent of which the Commission is concerned, is the intent of the Comprehensive Plan.

Finally, the Commission disagrees with the Owner that the map amendment is inconsistent with the District’s Comprehensive Plan, but finds exactly the opposite. Every Future Land Use Map has shown this property as designated for moderate-density residential use, a use that is prohibited in a PDR zone. The FLUM “visually depicts the policies reflected in the Land Use Element.” (10–A DCMR § 225.1 (2016), *Durant v. D.C. Zoning Comm'n*, 139 A.3d 880, 882 (D.C. 2016).) Thus, to the extent that other policies in the Land Use Element suggest that this

---

<sup>1</sup> The decision of the Commission to hear a map amendment does not affect the processing of building permits applications filed before that decision was made. Unless and until a notice of final rulemaking is published giving effect to the map amendment, any such application is processed under the existing zone designation of the property. (11-A DCMR § 305.1(a).)

property should retain its PDR zoning, the longstanding FLUM vision for this specific property overrides such general considerations.

The Owner cites Policy LU-3.1.4: Rezoning of Industrial Areas, which would “allow the rezoning of industrial land for non-industrial purposes only when the land can no longer viably support industrial or PDR activities or *is located such that industry cannot co-exist adequately with adjacent existing uses.*” (10-A DCMR § 314.10 (Emphasis Added.)) First, no Comprehensive Plan policy can be interpreted as imposing even a conditional ban on the Commission’s ability to rezone a property, for that would be an impermissible intrusion by the Council into zoning. Second, this policy would only be applicable to properties with a mixed-use designation where a mix of commercial and PDR uses is encouraged, but not to a property such as this, that the FLUM designates exclusively for residential uses. In considering whether to retain PDR zoning on this or any other site, the Commission must consider all possible PDR uses, including industrial. It requires no adjudicative facts for the Commission to conclude that, any industrial use of the property “cannot co-exist adequately” with the residentially zoned and developed properties that surround it on three sides.

Having again found the Owner’s arguments unpersuasive, and finding instead that the proposed amendment is needed for the Zoning Map to be not inconsistent with the Comprehensive Plan, the Commission took final action at a public meeting on May 14, 2018 to amend the Zoning Map as proposed.

The amendments shall become effective upon publication of this notice in the *D.C. Register*.

The Zoning Map of the District of Columbia is amended as follows:

SQUARE	LOT	Map Amendment
5564	812	PDR-1 to RA-2

On March 19, 2018, upon the motion of Vice Chairman Miller, as seconded by Commissioner Turnbull, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the application at the conclusion of its public hearing by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Michael G. Turnbull, and Peter G. May to approve).

On May 14, 2018, upon the motion of Vice Chairman Miller, as seconded by Commissioner May, the Zoning Commission took **FINAL ACTION** to **APPROVE** this application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Michael G. Turnbull, and Peter G. May to approve; Peter A. Shapiro, not present, not voting).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on June 15, 2018.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA****NOTICE OF FINAL RULEMAKING****AND****Z.C. ORDER NO. 17-20****Z.C. Case No. 17-20****(Office of Planning –Text Amendments to Subtitles B, H, K, and U  
Regarding the Daytime Care Use Category to Address the Need to Establish  
and Expand Child Development Centers)****May 14, 2018**

The Zoning Commission for the District of Columbia, (Commission) pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797), as amended; D.C. Official Code § 6-641.01 (2012 Rep1.), hereby gives notice of the adoption of amendments to Subtitles B (Definitions, Rules of Measurement, and Use Categories); H (Neighborhood Mixed-Use (NC) Zones); K (Special Purpose Zones); and U (Use Permissions), and of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR).

The text amendments amend 11-B DCMR § 201.2(i), which gives examples of those uses that fall within the “daytime care” use category. The amendment replaces the reference to “child care centers and programs” which is not defined in Subtitle B § 100.2, with “child development centers”, which is. The amendment also makes the Zoning Regulations consistent the Department of Health Child Development Regulations, which also uses the term “child development centers.” As a result, child development centers will be permitted in those instances when all daytime care uses are permitted or, as will be the case for the Residential Apartment (RA) zone, separately regulated when appropriate.

Presently, daytime care uses are permitted as a matter of right or by special exception, and are limited as to the number of individuals that can be cared for, in the Neighborhood Commercial (NC) zone, the Walter Reed (WR) zones 2 through 5, 7, and 8, and those Mixed Use (MU) zones in Use Groups E through G. The amendments make daycare uses a matter of right in all of these zones without any limitation as to the number of persons or staff.

In the RA zones, child development center uses will be the only daytime care use permitted as a matter of right with no limitation on number of persons being cared for, while elderly development center or adult day treatment facility uses will be permitted as a matter of right with a limitation of twenty-five (25) persons including staff. Broadly, the overall goal of the amendments is to increase the District’s supply of child care services to accommodate the growing population of infants and toddlers and to limit the barriers associated with development of child care facilities.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on March 30, 2018, at 65 DCR 003421. In response, the Commission received no comments. The Commission therefore took final action at a public meeting on May 14, 2018 to adopt the amendments as proposed.

The amendments shall become effective upon publication of this notice in the *D.C. Register*.

**Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, Title 11 DCMR, ZONING REGULATIONS OF 2016, is amended as follows:**

**Paragraph (i) of § 200.2 of § 200, INTRODUCTION, of Chapter 2, USE CATEGORIES, is amended as follows:**

200.2 When used in this title, the following use categories shall have the following meanings:

...<sup>1</sup>

(i) Daytime Care:

- (1) The non-residential licensed care, supervision, counseling, or training, for a fee, of individuals who are not related by blood, adoption, or marriage to the caregiver, and who are present on the site for less than twenty-four (24) hours per day;
- (2) Examples include, but are not limited to: an adult day treatment facility, child development center, pre-schools, nursery schools, before-and-after school programs, child development homes, an expanded child development home, and elder care centers and programs; and
- (3) Exceptions: This use category does not include uses which more typically fall within the medical care or parks and recreation use categories. This use does not refer to home-based care given by parents, guardians, or relatives of the individuals requiring care and uses which do not require a certificate of occupancy

...

**Chapter 11, USE PERMISSIONS FOR NC ZONES, of Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is amended as follows:**

**Subsection 1103.1 of § 1103, MATTER-OF-RIGHT USES (NC-USE GROUPS A, B, AND C), is amended by adding a new paragraph (q) as follows:**

1103.1 The following uses in this section shall be permitted as a matter of right:

...

(o) Services, financial;

<sup>1</sup> The uses of this and other ellipses indicate that other provisions exist in the subsection being amended and that the omission of the provisions does not signify an intent to repeal.

- (p) Transportation infrastructure; and
- (q) Daytime care.

**Paragraph (d) of § 1104.1 of § 1104, MATTER-OF-RIGHT USES (NC-USE GROUP A), is deleted.**

**Paragraph (d) of § 1106.1 of § 1106, MATTER-OF-RIGHT USES (NC-USE GROUP B), is deleted.**

**Paragraph (d) of § 1108.1 of § 1108, MATTER-OF-RIGHT USES (NC-USE GROUP C), is deleted.**

**Chapter 9, WALTER REED ZONES — WR-1 THROUGH WR-8, of Subtitle K, SPECIAL PURPOSE ZONES, is amended as follows:**

**Section § 911, USE PERMISSIONS (WR), is amended as follows:**

**Paragraph (f) of § 911.2 is amended to read as follows:**

- 911.2 The uses in this section shall be permitted as a matter-of-right in the WR-2, WR-3, WR-4 and WR-5 zones, subject to any applicable conditions:
- ...
  - (f) Daytime care;
  - ...

**Paragraph (f) of § 911.4 is amended to read as follows:**

- 911.4 The uses in this section shall be permitted as a matter-of-right in the WR-7 zones, subject to any applicable conditions:
- ...
  - (f) Daytime care;
  - ...

**Paragraph (f) of § 911.5 is amended to read as follows:**

- 911.5 The uses in this section shall be permitted as a matter-of-right in the WR-8 zone, subject to any applicable conditions:
- ...
  - (f) Daytime care;



...

**Subsection 912.6 of § 912, CONDITIONAL USES (WR), is deleted.**

**Paragraph (c) of § 913.2 of § 913, SPECIAL EXCEPTION USES (WR), is deleted.**

**Subtitle U, USE PERMISSIONS, is amended as follows:**

**Paragraph (m) of § 301.1 of § 301, MATTER-OF-RIGHT USES (RF), of Chapter 3, USE PERMISSIONS RESIDENTIAL FLATS (RF) ZONES, is amended to read as follows:**

301.1 The following uses shall be permitted as a matter of right in an RF zone subject to any applicable conditions:

...

- (m) Child/elderly development center located in a building that was built as a place of worship and that has been used continuously as a place of worship since it was built; and

**Subsection 401.1, of § 401, MATTER-OF-RIGHT USES (RA), of Chapter 4, USE PERMISSIONS RESIDENTIAL APARTMENT (RA) ZONES, is amended by amending paragraph (c) and adding a new paragraph (f) as follows:**

401.1 The following uses shall be permitted as a matter of right in an RA zone subject to any applicable conditions:

- (a) Any use permitted in the RF zones under Subtitle U § 301, except corner stores;
- (b) Private clubs with sleeping accommodations;
- (c) Child Development Center;
- (d) Except for the RA-1 and RA-6 zones:
  - (1) Multiple dwellings provided that in an apartment house, accommodations may be provided only to residents who stay at the premises a minimum of one (1) month;
  - (2) Hotel in existence as of May 16, 1980, with a valid certificate of occupancy or a valid application for a building permit; provided, that the gross floor area of the hotel may not be increased and the total area within the hotel devoted to function rooms, exhibit space, and commercial adjuncts may not be increased. An existing hotel may be repaired, renovated, remodeled, or structurally altered; and

- (3) A continuing care retirement community;
- (e) Recreation building, park, playground, swimming pool, athletic field, ice rink, or other similar athletic facility, public or private, operated on and using local or federal land and approved by a joint federal-local jurisdictional transfer agreement; subject to the following:
  - (1) No part of any use is nearer than seventy feet (70 ft.) to the nearest residential structure;
  - (2) The uses shall not be organized for profit;
  - (3) All parking areas shall be shared by all uses on a lot;
  - (4) Scoreboards shall be installed such that the highest point is no taller than twenty-five feet (25 ft.) above grade; and
  - (5) Any lighting used to illuminate a park, playground, athletic field, trail, or other outdoor space, shall be so arranged that all direct rays of lighting are confined to the boundaries of the lot; and
- (f) Elderly development center or adult day treatment facility provided, that the use shall be limited to no more than twenty-five (25) individuals not including staff.

**Chapter 5, USE PERMISSIONS MIXED-USE (MU) ZONES, is amended as follows:**

**Paragraph (f) of § 510.1 of § 510, MATTER-OF-RIGHT USES (MU-USE GROUP D), is amended to read as follows:**

510.1 The following uses shall be permitted in MU-Use Group D as a matter-of-right subject to any applicable conditions:

...

- (f) Daytime care uses;

**Paragraph (c) of § 511.1 of § 511, SPECIAL EXCEPTION USES (MU-USE GROUP D), is deleted.**

**Paragraph (c) of § 512.1 of § 512, MATTER-OF-RIGHT USES (MU-USE GROUP E), is deleted.**

**Paragraph (e) of § 515.1 of § 515, MATTER-OF-RIGHT USES (MU-USE GROUP F), is deleted.**

On February 8, 2018, upon the motion of Commissioner Turnbull, as seconded by Vice Chairman Miller, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the petition at the conclusion of the public hearing by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

On May 14, 2018, upon the motion of Commissioner Turnbull, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the petition at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Michael G. Turnbull, and Peter G. May to approve; Peter A. Shapiro, not present, not voting).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *DC Register*; that is on June 8, 2018.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF SECOND PROPOSED RULEMAKING

The Director of the Department of Housing and Community Development, pursuant to the authority set forth in Section 437 of the Rental Housing Conversion and Sale Act of 1980, effective December 24, 2008 (D.C. Law 17-286; D.C. Official Code § 42-3404.37 (2012 Repl.)), and Mayor’s Order 2010-157, dated September 21, 2010, hereby gives notice of her intent to adopt Chapter 24, entitled “District Opportunity to Purchase,” of Title 14 (Housing) of the District of Columbia Municipal Regulations (“DCMR”), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The new chapter establishes procedures implementing the District’s Opportunity to Purchase Program, which grants the District the opportunity to purchase certain rental housing accommodations, subordinate to the rights of tenants.

On December 22, 2017, a Notice of Proposed Rulemaking was published in the *D.C. Register* at 64 DCR 13102. In response to public comments received after the issuance of that notice, certain changes were determined necessary to effectively implement the District Opportunity to Purchase Program. Changes in the text are indicated by strikethroughs and underlining.

**A new Chapter 24 is added to Title 14 DCMR, HOUSING, to read as follows:**

**CHAPTER 24 DISTRICT OPPORTUNITY TO PURCHASE**

- 2401 GENERAL PROVISIONS**
- 2402 OPPORTUNITY TO PURCHASE AND OFFER OF SALE**
- 2403 MAYOR’S EXERCISE OF THE OPPORTUNITY TO PURCHASE**
- 2404 SALE CONTRACT NEGOTIATION AND SETTLEMENT**
- 2405 MAYOR’S RIGHT TO ASSIGN THE OPPORTUNITY TO PURCHASE**
- 2406 MAYOR’S OR MAYOR’S ASSIGNEE’S OBLIGATION TO MAINTAIN AFFORDABILITY**
- 2499 DEFINITIONS**

**2401 GENERAL PROVISIONS**

2401.1 This chapter establishes the rules governing the operation of the District’s Opportunity to Purchase Program under Title IV-A of the Act.

2401.2 The purpose of the District’s Opportunity to Purchase Program shall be to provide the District of Columbia with the opportunity to purchase or assign the right to purchase housing accommodations consisting of five (5) or more Rental Units, provided that twenty-five percent (25%) or more of the Rental Units are Affordable Rental Units.

- 2401.3 The Mayor's opportunity to purchase under Title IV-A of the Act is subordinate to a Tenant Organization's opportunity to purchase under Title IV of the Act. Tenant Organizations' rights shall not be abrogated.
- 2401.4 Third party contract purchasers shall act with full knowledge of tenants' rights, the Mayor's rights, and the public policy under the Act.
- 2401.5 All correspondence to the Mayor shall be in writing and shall be addressed to the Mayor c/o Department of Housing and Community Development, Rental Conversion and Sale Division, 1800 Martin Luther King, Jr. Avenue, S.E., Washington, D.C. 20020, or at any such address as designated by the Mayor.
- 2401.6 All correspondence to and from the Mayor shall be sent by registered or certified mail, return receipt requested, by commercial overnight delivery service that maintains proof of delivery, or by hand delivery. If the Owner delivers the notification to the Mayor by hand delivery, the Owner shall obtain a date stamped copy demonstrating the Mayor's receipt.
- 2401.7 All "days" shall be calendar days unless otherwise specified herein. If a time period under the Chapter ends on a Saturday, Sunday, or legal holiday, it is extended until the next day which is not a Saturday, Sunday, or legal holiday.

## **2402 OPPORTUNITY TO PURCHASE AND OFFER OF SALE**

- 2402.1 Before an Owner may sell a Housing Accommodation consisting of five (5) or more Rental Units ~~of which twenty five percent (25%) or more of the Rental Units are Affordable Rental Units~~, the Owner shall provide the Mayor an opportunity to purchase the Housing Accommodation.
- 2402.2 If the Housing Accommodation consisting of five (5) or more Rental Units does not consist of at least twenty-five percent (25%) Affordable Rental Units, the Owner shall provide a written certification that the Housing Accommodation is not subject to Title IV-A of the Act:
- (a) In a form approved by the Mayor;
  - (b) Submitted to the Mayor; and
  - (c) Submitted contemporaneously with the filing of any Offer of Sale under Title IV of the Act. ~~that the Housing Accommodation is not subject to Title IV A of the Act contemporaneously with the filing of any Offer of Sale under Title IV of the Act.~~
- 2402.3 At a minimum, the Offer of Sale by the Owner to the Mayor shall contain:
- (a) The asking price and material terms of sale;

- (b) A statement as to whether a third party sale contract exists for the sale of the Housing Accommodation;
- (c) A statement that the Owner shall provide to the Mayor the following information regarding the Housing Accommodation within seven (7) days after receiving a request for any of the following, if applicable:
  - (1) A copy of any third party sale contract for the Housing Accommodation;
  - (2) A list of tenant names with corresponding Rental Unit numbers and the current rent charged for each Rental Unit as of the Offer of Sale issuance date;
  - (3) A list of vacant Rental Units and corresponding Rental Unit numbers and the latest rent charged, in accordance with Chapter 35 of the Rental Housing Act, for each Rental Unit as of the Offer of Sale issuance date;
  - (4) A list of Affordable Rental Units and corresponding Affordable Rental Unit numbers as of the Offer of Sale issuance date and the Owner's calculations for determining the Affordable Rental Units rent charged;
  - (5) A floor plan, if available;
  - (6) An itemized list of monthly operating expenses for each of the two (2) preceding calendar years;
  - (7) Utility consumption rates for each of the two (2) preceding calendar years; ~~and~~
  - (8) Capital expenditures for each of the two (2) preceding calendar years;
  - (9) A disclosure of all liens, mortgages, deeds of trust, pending legal proceedings, including but not limited to tenant petitions, or any other matter affecting the title of the Housing Accommodation; and
  - (10) A disclosure of all warranties and assignable service contracts.

2402.4 In the absence of a third party sale contract, a *bona fide* offer is one in which the Mayor is offered the Housing Accommodation at an asking price and terms at least as favorable as and substantially conforming to the Offer of Sale made to

the tenants under Title IV of the Act. An asking price shall be less than or equal to a price and other material terms comparable to that at which a willing seller and a willing buyer would sell and purchase the Housing Accommodation, or at the request of the District, the appraised value as determined by Section 402 of the Act (D.C. Official Code § 42-3404.02).~~The Owner shall offer to sell the Housing Accommodation to the Mayor at an asking price and terms representing a bona fide offer of sale. A bona fide offer shall consist of, but is not limited to:~~

- ~~(a) An asking price shall be less than or equal to a price and other material terms comparable to that at which a willing seller and a willing buyer would sell and purchase the housing accommodation, or the appraisal value as determined by Section 402 of the Act;~~
- ~~(b) A disclosure of all liens, mortgages, deeds of trust, pending legal proceedings, including but not limited to tenant petitions, or any other matter affecting the title of the Housing Accommodation;~~
- ~~(c) A disclosure of all warranties and assignable service contracts; and~~

~~An accurate rent roll.~~

2402.5 In the case of the existence of a third party sale contract, a *bona fide* offer is one in which the Mayor is offered the Housing Accommodation at an asking price and terms at least as favorable as and substantially conforming to the third party sale contract.

2402.6 The Owner shall notify the Mayor in writing within five (5) days if any of the following events occur:

- (a) A fully executed sale contract between the Owner and the Tenant Organization is assigned, rescinded, terminated, or otherwise voided;
- (b) A ratified third party sale contract between the Owner and a third party expires or is assigned, cancelled, rescinded, terminated, or otherwise voided;
- (c) Expiration of the one hundred twenty (120) day contract negotiation period between the Owner and the Tenant Organization, as provided by Section 411 of the Act (D.C. Official Code § 42-3404.11); and if applicable, expiration of the fifteen (15) day right of first refusal period, as provided in Section 408 of the Act (D.C. Official Code § 42-3404.08), if no contract is signed with a Tenant Organization;
- (d) The Tenant Organization declines or fails to exercise its right to purchase the Housing Accommodation;

- (e) The Owner contracts with a Tenant Organization or a third party after an Offer of Sale has been provided to the Mayor, provided that the Owner shall provide a copy of the sale contract to the Mayor with the notification;
- (f) The third party sale contract is assigned, amended, or otherwise modified, provided that the Owner shall provide the Mayor with a copy of the assigned, amended, or modified third party contract with the notification;
- (g) The Tenant Organization or its assignee performs under the ratified sale contract between the Owner and the Tenant Organization or its assignee;
- (h) A third party performs under the ratified third party sale contract between the Owner and the third party; or
- (i) The Tenant Organization or its assignee fails to close or otherwise materially defaults~~perform~~ under the ratified sale contract between the Owner and Tenant Organization or its assignee.

2402.7 Any response from the Mayor to an Offer of Sale under Title IV-A of the Act shall be in writing.

2402.8 The Mayor's rights under Title IV-A of the Act shall be subordinate to ~~conditional only upon~~ the Tenant Organization's or its assignee's exercise of tenant rights under Title IV of the Act.

2402.9 If the Owner has not sold or contracted to sell the Housing Accommodation within three hundred sixty (360) days from the date of the Tenants' receipt of an Offer of Sale or the Mayor's receipt of the Offer of Sale, whichever date is later, and if the Owner still desires to sell the Housing Accommodation at that time, the Owner shall comply anew with the requirements of Title IV and Title IV-A of the Act.

### **2403 MAYOR'S EXERCISE OF THE OPPORTUNITY TO PURCHASE**

2403.1 The Mayor shall not exercise the opportunity to purchase unless at least twenty-five percent (25%) of the Rental Units in the Housing Accommodation are Affordable Rental Units.

2403.2 When determining whether to exercise the opportunity to purchase a Housing Accommodation, the Mayor shall consider whether a Housing Accommodation meets the selection criteria published in the D.C. Register by the Agency and modified as necessary~~annually by the Agency~~.

2403.3 The Mayor shall have thirty (30) days from receipt of the Offer of Sale to provide the Owner with a written statement of interest and to send~~provide~~ a copy of the written statement of interest to the Tenants.



~~2403.4 If the Mayor declines to exercise the opportunity to purchase the Housing Accommodation under Title IV A of the Act, the Mayor shall notify the Owner in writing within ten (10) business days.~~

#### **2404 SALE CONTRACT NEGOTIATION AND SETTLEMENT**

2404.1 The Mayor shall have not less than one hundred fifty (150) days from the Owner's receipt of the Mayor's written statement of interest to negotiate a sale contract for the Housing Accommodation with the Owner, which time may be extended by the Owner's written consent.

2404.2 For every one (1) day of delay beyond the seven (7) days in which the Owner shall provide information as required by Subsection 2402.3 of this chapter, the negotiation period shall be extended by one (1) day.

2404.3 The Owner and Mayor shall bargain in good faith.

2404.4 In accordance with the Act, the following shall constitute prima facie evidence of bargaining without good faith:

- (a) The Owner's failure to offer the Mayor a price or term at least as favorable as that offered to a third party or Tenant Organization ~~without reasonable justification;~~
- (b) The failure of the Owner to make a sale contract with the Mayor that substantially conforms with the asking price and material terms of a third party sale contract ~~without reasonable justification;~~
- (c) The intentional failure of the Owner or the Mayor to comply with the provisions of Title IV or Title IV-A of the Act; and
- (d) The Owner contracts or sells the Housing Accommodation to a Tenant Organization or any other third party for a price more than ten percent (10%) less than the price offered to the Mayor.

2404.5 The Owner shall not require the Mayor to pay a deposit of more than five percent (5%) of the sale contract price in order to make a sale contract, or refuse to refund a deposit in the event of the Mayor's good faith failure to perform under the sale contract.

2404.6 If a Tenant Organization is formed and delivers an application for registration to the Mayor pursuant to Title IV of the Act, the Mayor shall have an additional fifteen (15) days to negotiate a sale contract with the Owner.

- 2404.7 The Mayor shall have up to sixty (60) days after the sale contract ratification to complete settlement.
- 2404.8 If the Owner provides any extension of time to a Tenant Organization under Title IV of the Act, the Owner shall automatically grant the Mayor the same extension of time under Title IV-A of the Act. The Owner shall provide prompt written notification to the Mayor of any extensions of time granted to a Tenant Organization.
- 2404.9 All time periods for negotiation and settlement by the Mayor are minimum time periods, and the Owner may give the Mayor a reasonable extension of such time periods in writing.
- 2404.10 ~~Within forty five (45) days of~~ At settlement ~~by the Mayor or the Mayor's Assignee,~~ the Mayor or the Mayor's Assignee shall provide to each Household in the Housing Accommodation a written statement indicating the following:
- (a) The name of the new Owner;
  - (b) Instructions to send or make all payments;
  - (c) The current terms of tenancy status or lease agreement; and
  - (d) Any program verification requirements, as applicable.

## **2405 MAYOR'S RIGHT TO ASSIGN THE OPPORTUNITY TO PURCHASE**

- 2405.1 The Mayor may exercise the opportunity to purchase a Housing Accommodation under Title IV-A of the Act by assigning the rights to an assignee that:
- (a) Must be selected from the Agency's Pre-Approved Developer list. In order to become a Pre-Approved Developer, any interested developer must apply to a request for qualifications proposals announced by the Agency and published at least annually in the *D.C. Register* by the Mayor.
  - (b) Demonstrates the capacity to own and manage, either by itself or through a management agent, the Housing Accommodation and related facilities for the remaining useful life of the Housing Accommodation, including consideration of the following factors:
    - (1) A demonstrated capacity and expertise in acquiring, renovating, maintaining and owning affordable rental housing, or renovating and selling affordable homeownership housing, in the District of Columbia, which may be evidenced by:

- (A) A comprehensive list of prior affordable housing development and market-rate housing development in the District of Columbia including project addresses, number of units, description of project financing;
  - (B) The qualifications and capacity of proposed personnel and contractors to carry out the development, operation, and maintenance of a housing accommodation;
  - (C) A list of lenders and equity sources used in prior projects;
  - (D) A description of affordability covenants applicable to prior projects;
  - (E) An affirmative statement that Developer has never been in financial default as either a borrower or a guarantor; or, if to the contrary, explaining in complete detail all circumstances pertaining thereto;
  - (F) A description of Developer's typical marketing plan;
  - (G) A description of Developer's typical asset management plan;
  - (H) A description of Developer's typical property management plan; and
  - (I) Other criteria the Mayor determines appropriate to further the purposes of Title IV-A of the Act.
- (2) A certification that, for the previous 10-year period, the person or each principal in the entity has substantially complied with all applicable federal and local laws in the maintenance and operation of each multifamily building in which they have an ownership or management interest;
  - (3) An affirmative commitment to affordable housing in all future proposals submitted in response to a request for qualifications under Section 2405.1(a) of this chapter; and
  - (4) A contract affidavit signed by all development team members certifying that they are not debarred from participation in any federal program nor have any unresolved default or noncompliance issues with the District of Columbia.

- (c) Agrees to obligate itself and any successors in interest to maintain the affordability of the Housing Accommodation, in accordance with Section 433 of the Act (D.C. Official Code § 42-3404.33); and
- (d) Is registered and licensed to do business in the District of Columbia.

2405.2 If the Mayor assigns the rights to purchase a Housing Accommodation under Title IV-A of the Act:

- (a) The Mayor shall notify in writing the Mayor's Assignee, Owners, and Tenants~~all parties interested in~~ of the Housing Accommodation of who has been designated to purchase the Housing Accommodation designating the assignee as the Mayor's Assignee;
- (b) The Mayor and the Mayor's Assignee shall both receive all communications regarding the Housing Accommodation under Title IV-A of the Act; ~~and~~
- (c) The Mayor's Assignee shall have the Mayor's right to purchase under Title IV-A of the Act ; and
- (d) At the written approval of the Mayor, the Mayor's assignment of the rights to purchase a Housing Accommodation under Title IV-A of the Act may permit the further assignment of such rights to an entity controlled by the Mayor's Assignee.

**2406 MAYOR'S OR MAYOR'S ASSIGNEE'S OBLIGATION TO MAINTAIN AFFORDABILITY**

2406.1 The Mayor or Mayor's Assignee shall file a combined property report and affordability plan for the Housing Accommodation with the Agency within one hundred twenty (120) days after settlement and annually by December 31 of each year. The District may request additional relevant information to be included in the combined property report and affordability plan.

2406.2 The combined property report and affordability plan shall include, but not be limited to, the following:

- (a) The number of, number of bedrooms in, and size of each Rental Unit;
- (b) The names of each Household member occupying a Rental Unit;
- (c) The Monthly Rent charged for each Rental Unit ~~on the day the Offer of Sale was provided to the Mayor;~~

- (d) The income and MFI Level of each Household occupying an Affordable Rental Unit ~~the day the Offer of Sale was provided to the Mayor;~~
- (e) Proof of compliance with the Rental Housing Act, including but not limited to proof of rental registration, a certificate of occupancy, and a basic business license;
- (f) Proof of insurance;
- (g) A description of any income restrictions to be imposed on new Tenants in the Housing Accommodation;
- (h) The proposed methodology to increase the number of Affordable Rental Rent Restricted Units in the Housing Accommodation;
- (i) Designation of which Rental Units are vacant ~~the day the Offer of Sale was provided to the Mayor;~~  
~~The Area Median Income (AMI) of each Household occupying a Rental Unit on the day the Offer of Sale was provided to the Mayor;~~
- (j) A calculation of the percent of income each Household occupying a Rental Unit in the Housing Accommodation spends on Monthly Rent ~~Charged;~~
- (k) A notation indicating which Rental Units qualified as Affordable Rental Units under the Act ~~on the date the Offer of Sale was provided to the Mayor;~~ and
- (l) Such other information as may be required by the Agency.

2406.3 Upon written request by a District agency, an Owner, a Tenant, or a Household, the Director may waive any or all of the provisions of ~~this~~ Sections 2406.01 and 2406.02 of this chapter in the Agency's sole and absolute discretion.

2406.4 The Monthly Rent of a Tenant living in a Rental Unit in a Housing Accommodation purchased pursuant to Title IV A of the Act charged to an Existing Household shall not exceed the lesser of:

- (a) ~~their~~ The Existing Household's current rent charged on the date the Offer of Sale was provided to the Mayor; or
- (b) Thirty percent (30%) of the Existing Household's monthly income ~~the Maximum Rent as published in the Rent and Income Schedule, whichever is less;~~ but in each case shall be subject to Allowable Annual Increases.

- 2406.5 For purposes of Section 2406.4(b) of this chapter, the Mayor or Mayor's Assignee shall determine~~certify~~ the income of each Existing Household in a manner consistent with 24 CFR § 5.609.
- 2406.6 ~~Upon request of the Mayor or Mayor's Assignee, a Tenant shall provide information regarding their current income and tenancy within the Housing Accommodation, including but not limited to lease documents, tax returns, pay stubs, and other information as reasonably requested. For Housing Accommodations and Rental Units exempt pursuant to Section 205 of the Rental Housing Act, if a Tenant refuses to provide the requested information to the Mayor or Mayor's Assignee, the Tenant may be served with a notice to vacate for a lease violation pursuant to Section 501(b) of the Rental Housing Act. An Existing Household may not be required to comply with income certification requirements unless doing so is an express obligation under its lease; accordingly:~~
- (a) If an Existing Household does not provide information regarding their current income and tenancy within the Housing Accommodation, including but not limited to lease documents, tax returns, pay stubs, and other information as reasonably requested by the Mayor or the Mayor's Assignee within thirty (30) days of such request, the Existing Household's rent will be determined in accordance with Subsection 2406.4(a) of this chapter, subject to Allowable Annual Increases; or
- (b) In the event that the Existing Household's rent at the time of the Offer of Sale cannot be determined, the Existing Household's rent will be determined in accordance with the affordability plan approved by the Agency pursuant to Subsection 2406.9 of this chapter.
- 2406.7 For any Existing Household whose lease at the time of the Offer of Sale did not contain any obligation to comply with income certification requirements, any new lease provision so requiring shall not be considered grounds for eviction within the meaning of Section 501(b) of the Rental Housing Act (D.C. Official Code § 42-3505.01(b)) and shall not subject the Existing Household to eviction for any failure to comply.
- 2406.8 The Monthly Rent Charged for Affordable Rental Rent Restricted Units in a Housing Accommodation under Title IV-A of the Act shall not exceed the Maximum Rent charged for the applicable MFI Level in the Rent and Income Schedule. For purposes of this subsection, Monthly Rent does not include any payment under Section 8 of the United States Housing Act of 1937, approved September 1, 1937 (88 Stat. 662; 42 USC § 1437f), or any comparable local or federal rental assistance program (with respect to such unit or occupants thereof).
- 2406.9 Unit Turn Over

- (a) If the Monthly Rent plus Utilities for a Rental Unit at the time the Mayor received the Offer of Sale was equal to or less than the Maximum Rent for a Rental Unit at the sixty percent (60%) MFI Level that Rental Unit shall become a Rent Restricted Unit at or below the sixty percent (60%) MFI Level, subject to the rights of Existing Households pursuant to Subsections 2406.4 through 2406.8 of this chapter;
- (b) If the Monthly Rent plus Utilities for a Rental Unit at the time the Mayor received the Offer of Sale was equal to or less than the Maximum Rent for a Rental Unit at the thirty percent (30%) MFI Level that Rental Unit shall become a Rent Restricted Unit at or below the thirty percent (30%) MFI Level, subject to the rights of Existing Households pursuant to Subsections 2406.4 through 2406.8 of this chapter;
- (c) The Mayor or Mayor's Assignee shall ensure that vacancies in Affordable Rental Units shall be filled and maintained so that the division of Rent Restricted Affordable Rental Units in the Housing Accommodation is as close as practicable to the following distribution:
- (1) One-third shall have a Maximum Rent affordable for Households at the thirty percent (30%) of AMIMFI Level and such units shall be occupied by Households with incomes at or below the thirty percent (30%) MFI Level at the time of initial income certification;
  - (2) One-third shall have a Maximum Rent affordable for Households at the sixty percent (60%) of AMIMFI Level and such units shall be occupied by Households with incomes at or below the sixty percent (60%) MFI Level at the time of initial income certification;  
and
  - (3) One-third shall have a Maximum Rent affordable for Households at the eighty percent (80%) of AMIMFI Level and such units shall be occupied by Households with incomes at or below the eighty percent (80%) MFI Level at the time of initial income certification.
- (d) Income restrictions may be imposed upon the Rent Restricted Units by the Mayor, or an assignee of the Mayor; provided, that Existing Households shall be exempt from any income restrictions. Affordable Rental Units shall not be fewer than twenty-five percent (25%) of the total number of Rental Units in a Housing Accommodation purchased pursuant to Title IV A of the Act.

2406.10 Any Rental Unit subject to a subsidy under Section 8 of the United States Housing Act of 1937 (42 USC § 1437f), or rent restrictions under the federal Low-Income Housing Tax Credit Program, or similar rent restrictions under any comparable local or federal rental assistance or tax credit program, shall be

exempt from the requirements of Section 433(c) of the Act (D.C. Official Code § 42-3404.33(c) and Subsections 2406.8 through 2406.9 of this chapter.

2406.11 ~~A Tenant~~ An Existing Household may, by petition filed with the Rent Administrator, challenge or contest the determination of the Existing Household Monthly Rent Charged or Household Income. The petition shall be filed, heard, and determined according to the procedures established pursuant to the Rental Housing Act and the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 17-76; D.C. Official Code §§ 2-1831.01 *et seq.*).

2406.12 The Mayor or the Mayor's Assignee shall take all practicable steps to increase the number of ~~Rent Restricted~~Affordable Rental Units in the Housing Accommodation in accordance with the affordability plan approved by the Agency.

2406.13 The restrictions on Monthly Rent and income restrictions, if any, shall be memorialized in a DOPA Covenant. The DOPA Covenant shall include a provision providing for the whole or partial release or extinguishment of the DOPA Covenant only upon the reasonable approval of the Director of the Agency, or if the Housing Accommodation is transferred following foreclosure by, or deed-in-lieu of foreclosure to, a mortgagee in first position, or a mortgage in first position is assigned to the Secretary of the United States Department of Housing and Urban Development.

## 2499 DEFINITIONS

2499.1 For purposes of this chapter, the following words and phrases shall have the meaning ascribed:

Act – the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code §§ 42-3401.01 *et seq.*).

Affordable Rental Unit – a Rental Unit for which the ~~existing~~ Monthly Rent, ~~including plus~~ Utilities, at the time the Mayor received the Offer of Sale, was equal to or less than the Maximum Rent for a Rental Unit at the fifty percent (50%) MFI Level. ~~paid by the Tenant at the time the Mayor receives the Offer of Sale is equal to or less than thirty percent (30%) of the monthly income of a Household with an income of fifty percent (50%) of the Area Median Income, as set forth by the United States Department of Housing and Urban Development, adjusted for household size, or a Rental Unit that has restricted Monthly Rent Charged pursuant to Title IV A of the Act.~~

~~Act~~ – the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code §§ 42-3401.01 *et seq.*).



**Agency** – the District of Columbia Department of Housing and Community Development or other District agency to which the Mayor delegates authority to administer the Act.

**Allowable Annual Increase** – the allowable annual increase in Monthly Rent for a Rental Unit pursuant to Section 208(h) of the Rental Housing Act (D.C. Official Code § 42-3502.08(h)), provided that the Rental Unit is not exempt pursuant to Section 205 of the Rental Housing Act (D.C. Official Code § 42-3502.05).

~~**Area Median Income (AMI)** – the area median income for a Household in the Washington Metropolitan Statistical Area as set forth by the United States Department of Housing and Urban Development, adjusted for Household size, without regard to any adjustments made by the United States Department of Housing and Urban Development for the purposes of the programs it administers.~~  
**CFR** – the United States Code of Federal Regulations.

**Director** – the head of the District of Columbia Department of Housing and Community Development or other agency to which authority is delegated by the Mayor to administer the Act.

**DOPA Covenant** – a covenant recorded in the land records in a form found legally sufficient by the Office of the General Counsel of the Agency that shall bind all persons with a property interest in any or all of the Housing Accommodation, and all assignees, mortgagees, purchasers, and other successors in interest, to such declarations as the Agency may reasonably require.

**Existing Household** – a Household living in a Housing Accommodation on the date the Offer of Sale was issued, at least one member of which continues to live in the same Rental Unit in the Housing Accommodation on the date the Mayor or the Mayor’s Assignee acquires the Housing Accommodation.

**Household** – all persons living in a Rental Unit, which may include a single family, one (1) person living alone, two (2) or more families living together, or any other group of related or unrelated persons who occupy a single Rental Unit.

**Household Income** – the combined income of all persons living in a Rental Unit, calculated according to 24 CFR § 5.609.

**Housing Accommodation** – a structure in the District of Columbia consisting of one (1) or more Rental Units and the appurtenant land.

~~**Mayor** – the Mayor of the District of Columbia.~~

**Mayor’s Assignee** – an individual or legal entity who has been assigned the Mayor’s rights under Title IV-A of the Act and this chapter.

**Maximum Rent** – the highest amount chargeable for a particular Rental Unit such that a Household of the Rental Unit’s imputed Household size that earns the applicable MFI Level will expend no more than 30% of its annual income on Monthly Rent and Utilities, as set forth in the Rent and Income Schedule. For purposes of this paragraph, the imputed Household size applicable to a unit is: (i) in the case of a unit which does not have a separate bedroom, 1 individual; and (ii) in the case of a unit which has 1 or more separate bedrooms, 1.5 individuals for each separate bedroom.

**Median Family Income (MFI)** – the area median income for the Washington Metropolitan Statistical Area as set forth by the United States Department of Housing and Urban Development, adjusted for Household size, without regard to any adjustments made by the United States Department of Housing and Urban Development for the purposes of the programs it administers. Adjustments of area median income for Household size shall be made as prescribed in Section 2(1) of the Housing Production Trust Fund Act, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2801(1)).

**MFI Level** – a specified percentage of MFI; for example, 50% MFI, 60% MFI, or 80% MFI.

~~Monthly Rent Charged~~ **Monthly Rent** – the entire amount of money, money’s worth, benefit, bonus, or gratuity demanded, received, or charged by a housing provider as a condition of occupancy or use of a Rental Unit, its related services, and its related facilities, in accordance with Section 103(28) of the Rental Housing Act (D.C. Official Code § 42-3501.03(28)).

**Offer of Sale** – a written statement provided to the Tenants and the Mayor in accordance with Sections 403 and 432 of the Act (D.C. Official Code §§ 42-3404.03 and 42-3404.32).

**Owner** – an individual, corporation, association, joint venture, business entity, government entity, and its respective agents, holding title to a Housing Accommodation.

**Pre-Approved Developer** – a person or legal entity selected through a competitive process, which meets certain standards and selection criteria published by the Agency.

**Rent and Income Schedule** – a document published in the *D.C. Register* pursuant to this chapter, which delineates rent restrictions based on income.

**Rent Restricted Unit** – A Rental Unit that has restricted Monthly Rent pursuant to Section 433 of the Act (D.C. Official Code § 42-3404.33) and Subsection 2406.9 of this chapter.

**Rental Housing Act** – the Rental Housing Act of 1985, effective December 24, 2008 (D.C. Law 17-286; D.C. Official Code §§ 42-3501.01 *et seq.*).

**Rental Unit** – a subset of a Housing Accommodation which is vacant, rented, or offered for rent for residential occupancy, including but not limited to an apartment, efficiency apartment, room, suite of rooms, and its appurtenant land.

**Tenant** – a person or persons entitled to possession, occupancy, or the benefits of a Rental Unit in a Housing Accommodation.

**Tenant Organization** – an organization registered with the Agency in accordance with Section 411 of the Act (D.C. Official Code § 42-3404.11) or its assignee.

**Utilities** – water, sewer, electricity, natural gas, trash, and any other fees required by the owner, property manager, or condominium or homeowners’ association in order to occupy the unit, including but not limited to mandatory condominium, homeowners’ association, amenity or administrative fees.

All persons desiring to comment on the subject matter of this proposed rulemaking should submit comments in writing to Danilo Pelletiere, Department of Housing and Community Development, 1800 Martin Luther King, Jr. Avenue S.E., Washington, D.C. 20020, or via e-mail at [dopa.input@dc.gov](mailto:dopa.input@dc.gov), not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules may be obtained from DHCD at the same address.

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

Mayor's Order 2018-048  
June 11, 2018

**SUBJECT:** Designation of Special Event Areas for Washington Capitals' Victory Parade

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as the Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 792, Pub. L. 93-198, D.C. Official Code § 1-204.22(11) (2016 Repl.), and pursuant to 19 DCMR § 1301.8, it is hereby **ORDERED** that:

1. This Order applies to certain special event activities associated with Washington Capitals' Stanley Cup Victory.
2. Between Monday, June 11, 2018, 6:30 p.m. and Tuesday, June 12, 2018, 3:30 p.m., the following areas are hereby designated as a special event area to be used as a parade route and staging areas:
  - i. Constitution Avenue, NW from 6th Street to 23rd Street, NW;
  - ii. 9th Street, NW from Pennsylvania Avenue, NW to I-395;
  - iii. 10th Street, NW from Pennsylvania Avenue, NW to Constitution Avenue, NW;
  - iv. 12th Street, NW from Pennsylvania Avenue, NW to Constitution Avenue, NW;
  - v. 14th Street from Pennsylvania Avenue, NW to Independence Avenue, SW;
  - vi. 15th Street from Pennsylvania Avenue, NW to Independence Avenue, SW;
  - vii. 17th Street from Pennsylvania Avenue, NW to Independence Avenue, SW;
  - viii. 18th Street from New York Avenue, NW to Constitution Avenue, NW;
  - ix. 19th Street from Virginia Avenue, NW to Constitution Avenue, NW;
  - x. 20th Street from C Street, NW to Constitution Avenue, NW;
  - xi. 21st Street from C Street, NW to Constitution Avenue, NW;
  - xii. 22nd Street from C Street, NW to Constitution Avenue, NW;
  - xiii. 23rd Street from C Street, NW to Constitution Avenue, NW;
  - xiv. Virginia Avenue, NW from 18th Street to 19th Street, NW;
  - xv. Independence Avenue, SW from 3rd to 14th Street, SW;
  - xvi. Madison Drive from 4th to 15th Streets, NW;
  - xvii. Jefferson Drive from 14th to 4th Streets, SW;
  - xviii. Henry Bacon Drive, SW from Lincoln Memorial Circle to Constitution Avenue, NW; and
  - xix. Parkway Drive, SW from Independence Avenue, to Lincoln Memorial Circle.

3. The Government of The District of Columbia - Executive Office of the Mayor is authorized to operate said special event area to conduct necessary and appropriate activities in aid of the parade route and staging areas for the Victory Parade for the Washington Capitals.
4. This Order is an authorization for the closure of the designated streets only, and the operating entity, Monumental Sports & Entertainment, shall secure and maintain all other licenses and permits applicable to the activities associated with the operation of the event on the designated streets. All building, health, life safety, and use of public space requirements shall remain applicable to the Special Event Areas designated by this Order.
5. All Washingtonians should text ALLCAPS to 888777 for Victory Parade updates.
6. This Order hereby encourages all Washingtonians to Rock the Red on Tuesday, June 12th, as we celebrate our Capitals bringing home their first Stanley Cup!
7. **EFFECTIVE DATE:** This Order shall become effective immediately.

  
MURIEL BOWSER  
MAYOR

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

**OFFICE OF ADMINISTRATIVE HEARINGS  
DISTRICT OF COLUMBIA ADVISORY COMMITTEE  
DRAFT PUBLIC NOTICE OF MEETING**

In accordance with D.C. Code § 2-576(1), the Advisory Committee to the Office of Administrative Hearings hereby gives notice that it will meet on Thursday, June 28, 2018 at 4:00pm. The meeting will be held at the following location:

Hearing Room  
Board of Ethics and Government Accountability  
441 Fourth Street NW, Suite 540 South  
Washington, DC 20001

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

**AGENDA**

- I. **Welcome and Call to Order**
- II. **Introductions**
- III. **Approval of the Notes/Minutes**
- IV. **Vote to Approve Transmission**
- V. **Report from the Chief ALJ**
  - a. **ALJ Vacancies**
  - b. **ALJ Evaluations**
  - c. **Other relevant information regarding residency issue**
- VI. **Update on Homeless Issue From Last Hearing**
- VII. **Old Business**
- VIII. **New Business**
- IX. **Adjournment**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS  
CALENDAR

WEDNESDAY, JUNE 20, 2018  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S  
WASHINGTON, D.C. 20009

Donovan W. Anderson, Chairperson  
Members: Nick Alberti, Mike Silverstein,  
James Short, Donald Isaac, Sr., Bobby Cato, Rema Wahabzadah,

- Protest Hearing (Status)** **9:30 AM**  
**Case # 18-PRO-00025;** Las Placitas Café, LLC, t/a Las Placitas Restaurant  
4724 14th Street NW, License #94559, Retailer CR, ANC 4C  
**Substantial Change (Request to add a Sidewalk Café with 16 seats)**
- Protest Hearing (Status)** **9:30 AM**  
**Case # 18-PRO-00027;** IDA Incorporated, t/a S & G Wine & Liquors, 5421  
Georgia Ave NW, License #93800, Retailer A, ANC 4D  
**Application to Renew the License**
- Show Cause Hearing (Status)** **9:30 AM**  
**Case # 18-CIT-00130;** Pica Taco, Inc., t/a Pica Taco, 1406 Florida Ave NW  
License #85707, Retailer DR, ANC 1B  
**No ABC Manager on Duty**
- Show Cause Hearing (Status)** **9:30 AM**  
**Case # 17-CC-00141;** Y & H Trading, Inc., t/a 1101 Convenience Mart, 1101 H  
Street NE, License #86305, Retailer B, ANC 6A  
**Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal  
Drinking Age**
- Show Cause Hearing (Status)** **9:30 AM**  
**Case # 18-CMP-00070;** Hope Lounge, LLC, t/a Peace Lounge, 2632 Georgia  
Ave NW, License #106785, Retailer CT, ANC 1B  
**Operating after Hours**

Board’s Calendar

June 20, 2018

**Show Cause Hearing (Status) 9:30 AM**

**Case # 18-CIT-00098**, Bhuller's Corporation, t/a JJ Mutt Wine and Spirits  
643 Pennsylvania Ave SE, License #25523, Retailer A, ANC 6B  
**No ABC Manager on Duty**

**Show Cause Hearing (Status) 9:30 AM**

**Case # 18-CMP-00035**; J & J Holdings, LLC, t/a Pho 88 Noodles and Grill  
608 H Street NW, License #101629, Retailer DR, ANC 2C  
**Purchased Alcohol from an off-premises retailer, Failed to Obtain  
Importation Permit**

**Show Cause Hearing\* 10:00 AM**

**Case # 18-CMP-00031**; Vinnakota Chon, Inc., t/a Lax Wine & Spirits, 3035  
Naylor Road SE, License #82054, Retailer A, ANC 8B  
**Stored Alcoholic Beverages off Premises Without Board Approval,  
Substantial Change Without Board Approval**

**Show Cause Hearing\* 11:00 AM**

**Case # 17-CC-00113**; Prospect Dining, LLC, t/a Chinese Disco, 3251 Prospect  
Street NW, License #78058, Retailer CR, ANC 2E  
**Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal  
Drinking Age**

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

**Show Cause Hearing\* 1:30 PM**

**Case # 17-CC-00066**; Prospect Dining, LLC, t/a Chinese Disco, 3251 Prospect  
Street NW, License #78058, Retailer CR, ABC 2E  
**Sale to Minor Violation**

**Show Cause Hearing\* 2:30 PM**

**Case # 17-CMP-00571**; Imm on H, LLC, t/a Imm on H, 1360 H Street NE  
License #99569, Retailer CR, ANC 6A  
**Substantial Change Without Board Approval**



Board's Calendar

June 20, 2018

**Show Cause Hearing\***

**3:30 PM**

**Case # 17-CC-00077; Xaing Fong Corporation, t/a North Sea Carry-out Restaurant, 2479 18th Street NW, License #73973, Retailer B, ANC 1C  
Sale to Minor Violation, Failed to Require Production of Valid Identification, No ABC Manager on Duty, Transfer of Ownership Without Board Approval**

**Show Cause Hearing\***

**4:30 PM**

**Case # 18-CMP-00034; Yohannes A. Woldemichael, t/a Capitol Fine Wine and Spirits, 415 H Street NE, License #82981, Retailer A, ANC 6C  
No ABC Manager on Duty**

**\*The Board will hold a closed meeting for purposes of deliberating these hearings pursuant to D.C. Official Code §2-574(b)(13).**

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

**NOTICE OF MEETING  
CANCELLATION AGENDA**

**WEDNESDAY, JUNE 20, 2018  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

The Board will be cancelling the following licenses for the reasons outlined below:

ABRA-078882 – **Mulebone** – Retail – C – Restaurant – 2121 14<sup>th</sup> Street NW  
[Licensee is out of business and did not respond to requests to place the license in Safekeeping.]

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ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
INVESTIGATIVE AGENDA

WEDNESDAY, JUNE 20, 2018  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

On Wednesday, June 20, 2018 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# 18-CMP-00132, Bobby’s Burger Palace, 2121 K Street N.W., Retailer CR, License # ABRA-087084

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2. Case# 18-CC-00057, Red Derby, 3718 14<sup>th</sup> Street N.W., Retailer CT, License # ABRA-076076

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3. Case# 18-251-00120, Johnny Valentine’s Lonely Hearts Club, 1103 Bladensburg Road N.E., Retailer CT, License # ABRA-076330

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4. Case# 18- CMP-00096, Rasoi, 1810 K Street N.W., Retailer CR, License # ABRA-084365

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5. Case# 18-CMP-00094, On the Rocks, 1242 H Street N.E., Retailer CT, License # ABRA-106695

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6. Case# 18-CMP-00078, Mythology & Lore/Dirty Water, 816 H Street N.E., Retailer CT, License # ABRA-095033,

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7. Case# 18-CMP-00124, Chi-Cha Lounge, 1624 U Street N.W., Retailer CT, License # ABRA-026519

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8. Case# 18-CMP-00131, The Blaguard, 2003 18<sup>th</sup> Street N.W., Retailer CR, License # ABRA-086012

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9. Case# 18-CMP-00120, Capitol Fine Wine & Spirits, 415 H Street N.E., Retailer A, License # ABRA-082981

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10. Case# 18-CMP-00118, Del Mar, 791 Wharf Street N.W., Retailer CR, License # ABRA-106119

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11. Case# 18-CMP-00121, Betty's Gojo, 7616 Georgia Avenue N.W., Retailer CR, License # ABRA-102500

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12. Case# 18-CMP-00140, The Blaguard, 2003 18<sup>th</sup> Street N.W., Retailer CR, License # ABRA-086012

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13. Case# 18-CC-00059, Georgetown Inn-Daily Grill, 1310 Wisconsin Avenue N.W., Retailer CH, License # ABRA-088198

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14. Case# 18-MGR-00009, ABC Manager, Roseline Welch, License # ABRA-109960

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ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
LICENSING AGENDA

WEDNESDAY, JUNE 20, 2018 AT 1:00 PM  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review letter withdrawing application for a Summer Garden endorsement on the 7<sup>th</sup> floor outdoor space. ANC 2F. SMD 2F02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***French 75***, 1400 14<sup>th</sup> Street NW, Retailer CT, License No. 108192.
- 

2. Review request to transfer Summer Garden endorsement with seating for 80 patrons formerly held by French 75 (ABRA-108192) to Player's Club. ***Hours of Operation and Alcoholic Beverage Sales and Consumption for Summer Garden***: Sunday- Thursday 11am to 12am, Friday-Saturday 11am to 1:30am. ANC 2F. SMD 2F02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Player's Club***, 1400 14<sup>th</sup> Street NW, Retailer CT, License No. 108190.
- 

**\*In accordance with D.C. Official Code §2-547(b) of the Open Meetings Amendment Act, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.**

**BRIYA PUBLIC CHARTER SCHOOL  
REQUEST FOR PROPOSALS  
Environmental Fabrication Services**

**Briya PCS** solicits proposals for the following:

- **Environmental Fabrication Services**

Full RFP available by request. Proposals shall be emailed as PDF documents no later than 5:00 PM on Tuesday, June 26, 2018. Contact: [bbletzing@briya.org](mailto:bbletzing@briya.org)

**CARLOS ROSARIO PUBLIC CHARTER SCHOOL****REQUEST FOR QUOTES****Desktop Computers and Laptops**

Carlos Rosario School is requesting receipt of RFQ responses for 50 desktop computers and 200 laptop computers for use in our school. Minimum specifications for desktops include: Intel Core i5, 8 Gb memory, 500 Gb SATA HDD, Gigabit LAN, USB, HDMI, Audio, VGA, DVI.

Minimum specifications for laptops include: Intel Core i5 CPU (6th generation) Dual-core, 8 Gb Memory, 500 Gb HDD 7200 RPM SATA (SSD preferred), DVD +/- RW optical drive, Gigabit LAN and 802.11 a/b/g/n/ac wireless capability, USB, audio, HDMI, Screen Display Ratio of 16:9, built-in webcam **35 of the 200 laptops also need to be touchscreen enabled** . Contact Karen Clay at [kclay@carlosrosario.org](mailto:kclay@carlosrosario.org) for more detailed RFQ. Quotes must be submitted to Gwen Ellis by June 25, 2018 via email at [gellis@carlosrosario.org](mailto:gellis@carlosrosario.org).

**CENTER CITY PUBLIC CHARTER SCHOOLS****NOTICE OF INTENT TO AWARD A SOLE SOURCE CONTRACT**

Center City Public Charter Schools intends to award a Sole Source Contract to Apple for the following:

**Macintosh Computers**

To obtain copies of full NOIs, please visit our website: [www.centercitypcs.org/contact/requests-for-proposal](http://www.centercitypcs.org/contact/requests-for-proposal). The full NOIs contain justification for the award.

**Contact Person**

Scott Burns  
sburns@centercitypcs.org



**CREATIVE MINDS INTERNATIONAL PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****2018-2019****Copier/Print Services**

Creative Minds International Public Charter School (CMIPCS) is a District of Columbia public charter school that opened August 2012. The school will be serving 510 students from preschool to 8th grade during school year 2018-19. CMIPCS, in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995, solicits proposals from all interested and qualified vendors for copier/print services for SY2018-19 for their Washington, DC location at 3700 N. Capitol Street NW, Sherman Building 20011.

**Requested Services, Scope and Requirements**

- 1 – Color Copier – minimum 55ppm – Copy/Print/Scan/Fax/Finisher (Staple/Hole Punch/Collate)
- 1 – B&W Copier – minimum 55ppm – Copy/Print
- 2 – B&W Copier – minimum 55 ppm – Copy/Print
- 2-4 – Desktop Multi-Function Copiers – minimum 10ppm – Copy/Print/Scan
- 1 – Centralized print solution, e.g. Papercut MF or similar – reporting, accounting, controls, monitoring.
- Include cost per copy for Color and B&W, include overages fees per copy, if any
- Include cost per box of replacement staples
- Include cost for ID scanners for ProxCard II protocol cards – all solutions must be compatible with existing card protocols, no exceptions.
- Include cost for configuration and deployment of centralized solution and labor
- Copier/Printers must be compatible with central print management systems e.g. Papercut MF.
- Copier/Printers must allow for central management, job accounting and reporting
- Copier/Printers must meet Energy Star specifications.
- Include Maintenance Agreement (toner to be provided as part of Maintenance Agreement)
- Renewal Options - CMIPCS seeks 3-year contract inclusive of regular maintenance with an option for renewal if both parties are in agreement.

**Assumptions and Agreements**

Proposals will not be returned. CMIPCS reserves the right to dismiss a proposal without providing a reason. CMIPCS reserves the right to terminate a contract at any time. CMIPCS reserves the right to renew a contract if mutually agreed by both parties.

**Basis for Award of Contract**

CMIPCS reserves the right to award a contract as it determines to be in the best interest of the school. In evaluating the proposals submitted, CMIPCS will select the successful vendor based on, but not limited to, cost, experience in working in a school environment, references, available equipment, and speed of repair service. Purchase/lease price is not the only criteria that will be

used in the evaluation process. The selection process will include, but is not limited to, the following considerations:

- The purchase/lease price
- The bidders overall experience, reputation, expertise, stability, and financial responsibility. Responses should include examples of projects undertaken at educational institutions similar in size to CMIPCS as well as references, preferably from said institutions
- The quality and range of goods and/or services the firm bidders can provide
- The extent to which the goods and/or services meet CMIPCS needs
- The ability to provide service in a reliable, expeditious, and efficient manner
- The total long-term cost to CMIPCS to acquire the bidder's good or services
- Any other relevant factor(s) specifically listed in the request for proposals. All proposals must be valid for a minimum period of one hundred-twenty (120) days from the due date of the RFP

### **Submission Information**

Bids must include evidence of experience in the field, qualifications, and estimated fees.

Questions and proposals please email [james.lafferty-furphy@creativemindspcs.org](mailto:james.lafferty-furphy@creativemindspcs.org). Proposals are due no later than 5:00pm EST: June 29, 2018. All bids must be submitted by email. Contact James Lafferty-Furphy at [james.lafferty-furphy@creativemindspcs.org](mailto:james.lafferty-furphy@creativemindspcs.org) if any questions.

**D.C. BILINGUAL PUBLIC CHARTER SCHOOL****INVITATION FOR BID****Food Service Management Services**

**D.C. Bilingual Public Charter School** is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2018-2019 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Invitation for Bid (IFB) such as; student data, days of service, meal quality, etc. may be obtained beginning on **June 15, 2018** from Lola Bloom at **202-870-8158** or **lbloom@dcbilingual.org**

Proposals will be accepted at 1050 First Street, NE, 6<sup>th</sup> Floor on **July 11, 2018**, not later than **2:00 p.m.**

**All bids not addressing all areas as outlined in the IFB will not be considered.**

**D.C. BILINGUAL PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS**

D.C. Bilingual Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for vendors to provide the following services for SY18.19:

- Janitorial Services

**Proposal Submission**

A Portable Document Format (pdf) election version of your proposal must be received by the school no later than **4:00 p.m. EST on Monday, June 25, 2018**. Proposals should be emailed to [bids@dcbilingual.org](mailto:bids@dcbilingual.org)

No phone call submission or late responses please. Interviews, samples, demonstrations will be scheduled at our request after the review of the proposals only.

**E.L. HAYNES PUBLIC CHARTER SCHOOL****NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT****Athletics Transportation – D&M Transportation**

E.L. Haynes Public Charter School is partnering with D & M Transportation in order to provide transportation for students and coaches to athletic events. In previous conversations, we have asked vendors to bid on a contract and none responded to our requests. We use a variety of providers all who provide services at comparable rates. D&M is able to provide all transportation needs for athletics events at a per-trip right in line with the single trip price of the variety of other vendors used.

If you have questions or concerns regarding this notice, please contact our Procurement Officer:

Kristin Yochum  
E.L. Haynes Public Charter School  
[kyochum@elhaynes.org](mailto:kyochum@elhaynes.org)

**E.L. HAYNES PUBLIC CHARTER SCHOOL****NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT****Voluntary Event Management – Squadra Entertainment**

Squadra Entertainment has volunteered to support E.L. Haynes Public Charter School with event planning for special events. In the process of donating their services, Squadra may use their funds to secure vendor. In reimbursing Squadra for these purchases (single purchases under \$25,000) through a variety of vendors, we may expend more than \$25,000 annually with Squadra.

If you have questions or concerns regarding this notice, please contact our Procurement Officer:

Kristin Yochum  
E.L. Haynes Public Charter School  
[kyochum@elhaynes.org](mailto:kyochum@elhaynes.org)

**E.L. HAYNES PUBLIC CHARTER SCHOOL  
EXTENSION OF REQUEST FOR PROPOSALS**

**Bathroom Renovation Services**

E.L. Haynes Public Charter School (“ELH”) is seeking proposals from qualified vendors to provide bathroom renovation services for our six in-classroom pre-kindergarten and kindergarten bathrooms.

The contract will be assigned to a successful bidder who can provide the parts and service to complete these tasks.

Proposals are due via email to Kristin Yochum no later than 5:00 PM on Friday, June 22, 2018. We will notify the final vendor of selection and schedule work to be completed. The RFP with bidding requirements can be obtained by contacting:

Kristin Yochum  
E.L. Haynes Public Charter School  
Email: [kyochum@elhaynes.org](mailto:kyochum@elhaynes.org)

**E.L. HAYNES PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Special Education Related Services**

E.L. Haynes Public Charter School (“ELH”) is seeking proposals to provide school-based special education related services and evaluations by making available qualified Occupational Therapists, Adaptive Physical Education providers, and Speech Language Pathologists to provide agreed upon regularly scheduled weekly services and any ‘as needed’ therapy services, evaluation, supervision, and support, at the request of the School.

Proposals are due via email to Kristin Yochum no later than 5:00 PM on Tuesday, June 26, 2018. We will notify the final vendor of selection and schedule work to be completed. The RFP with bidding requirements can be obtained by contacting:

Kristin Yochum  
E.L. Haynes Public Charter School  
Email: [kyochum@elhaynes.org](mailto:kyochum@elhaynes.org)



**EAGLE ACADEMY PUBLIC CHARTER SCHOOL****NOTICE OF INTENT TO AWARD SOLE SOURCE CONTRACT**

Eagle Academy Public Charter School intends to award a sole source contract to Lindamood-Bell Learning Processes (“LBLP”) to provide research-based and research-validated intervention services to students who are reading below grade level. Lindamood-Bell Learning Processes is internationally renowned for educational programs and research, and for having pioneered instructional models to develop the sensory-cognitive processes that underlie reading, spelling, comprehension, critical thinking, and math. LBLP is a copyrighted program that is only offered through Lindamood-Bell Learning Processes.

This is NOT a request for quotes or proposals.

Questions or comments to this Notice of Intent should be directed to Jai Mallory at [jmallory@eagleacademypcs.org](mailto:jmallory@eagleacademypcs.org), via email only. Please indicate in the subject of your email: Notice of Intent Question

## OFFICE OF THE DEPUTY MAYOR FOR EDUCATION

NOTICE OF PUBLIC MEETING  
COMMISSION ON OUT OF SCHOOL TIME GRANTS AND YOUTH  
OUTCOMES

The Commission on Out of School Time Grants and Youth Outcomes will hold a public meeting on Thursday, June 28, 2018 from 6:00 pm to 7:30 pm at One Judiciary Square, 441 4<sup>th</sup> Street NW, Room 1107 South. The OST Commission will vote to adopt the bylaws for the OST Commission and discuss the strategic plan. In addition, the Commission will hear updates from the Office of Out of School Time Grants and Youth Outcomes.

Individuals and representatives of organizations who wish to comment at a public meeting are asked to notify the OST Office in advance by phone at (202) 481-3932 or by email at [learn24@dc.gov](mailto:learn24@dc.gov). Individuals should furnish their names, addresses, telephone numbers, and organizational affiliation, if any, and if available, submit one electronic copy of their testimony by the close of business on Monday, June 25th at 5:00 pm.

Below is the draft agenda for the meeting.

- I. Call to Order
- II. Public Comment
- III. Announcement of a Quorum
- IV. Approval of the Agenda
- V. Adoption of Bylaws (Roll Call Vote)
- VI. Updates: Office of Out of School Time Grants and Youth Outcomes
- VII. Strategic Plan Discussion
- VIII. Adjournment

The Office of Out of School Time Grants and Youth Outcomes (OST Office) and the OST Commission support the equitable distribution of high-quality, out-of-school-time programs to District of Columbia youth through coordination among government agencies, grant-making, data collection and evaluation, and the provision of technical assistance to service providers. The OST Commission's purpose is to develop a District-wide strategy for equitable access to out-of-school-time programs and to facilitate interagency planning and coordination for out-of-school time programs and funding.

**Date:** June 28, 2018  
**Time:** 6:00 p.m. – 7:30 p.m.  
**Location:** One Judiciary Square  
Room 1107 South  
441 4<sup>th</sup> Street, NW  
Washington, DC 20001  
**Contact:** Debra Eichenbaum  
Grants Management Specialist  
Office of Out of School Time Grants and Youth Outcomes  
Office of the Deputy Mayor for Education  
(202) 478-5913  
[Debra.Eichenbaum@dc.gov](mailto:Debra.Eichenbaum@dc.gov)

**BOARD OF ELECTIONS****NOTICE OF PUBLICATION**

The Board of Elections, at a Regular Meeting held on Wednesday, June 6, 2018, formulated the short title, summary statement, and legislative text of the “DC Bike Life Access and Use of Non-Traditional Vehicles Act of 2018.” Pursuant to D.C. Code § 1-1001.16 (2016 Repl.), the Board hereby publishes the aforementioned formulations as follows:

**INITIATIVE MEASURE**

NO. 78

**SHORT TITLE**

District of Columbia Non-Traditional Vehicles Act of 2018

**SUMMARY STATEMENT**

If enacted, this Initiative will:

- Allow individuals with valid driver licenses to operate alternative vehicles on public roadways with posted speed limits of 45 mph or lower and on shoulder lanes of highways in the District of Columbia;
- Allow persons to register alternative vehicles with the Department of Motor Vehicles;
- Establish a civil fine of \$100 for unauthorized use; and
- Prohibit individuals from parking alternative vehicles on District roadways.

Under the Initiative, individuals operating alternative vehicles on public roadways and highways in the District shall not be required to obtain a motorcycle endorsement on their driver licenses.

**LEGISLATIVE TEXT**

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “District of Columbia Non-Traditional Vehicles Act of 2018.”

Sec. 2. The District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code *passim*), is amended as follows:

(a) Section 9b (D.C. Official Code § 50-2201.04b) is amended to read as follows:  
“Sec. 9b. All-terrain vehicles and dirt bikes.

“(a) Persons licensed to operate motor vehicles pursuant to D.C. Official Code §§ 50-1401.01 *et seq.*, shall be permitted to:

“(1) Operate at any time an all-terrain vehicle, dirt bike or UTV/MOHUV (multipurpose off-highway utility vehicle):

“(A) On public roads with posted speed limits of 45 mph and lower; or

“(B) On the ‘shoulder’ lane when operated on highways in the District.

“(2) Park at any time an all-terrain vehicle or dirt bike on private property, including public garage parking.

“(3) Register their all-terrain vehicle, dirt bike or UTV/MOHUV (multipurpose off-highway utility vehicle) with the Department of Motor Vehicles in the District.

“(b) Persons operating dirt bikes and ATVs at speeds lower than 45 mph shall not be required to possess an ‘M’ endorsement on their Driving Permit.

“(c) A person violating section (a)(1) of this section shall upon conviction be fined no more than the amount set forth in D.C. Official Code § 22-3571.01, or incarcerated for no more than 30 days, or both.

“(d) A person who is convicted of violating subsection (a)(1)(A) or (a)(1)(B) of this section shall, upon a second or subsequent conviction for violating subsection (a)(1)(A) or (a)(1)(B) of this section, have his or her driver's license, or privilege to operate a motor vehicle in the District, suspended for one year from the date of conviction; provided, that the period of suspension shall toll during a period of incarceration.

“(e) The Attorney General for the District of Columbia, or his or her assistants, shall prosecute violations of this section, in the name of the District of Columbia.

“(f) An all-terrain vehicle, dirt bike or UTV/MOHUV parked in violation of section (a)(2) shall be subject to impoundment pursuant to the standards and procedures set forth by D.C. Official Code § 50-2421.07.

### Sec. 3. Effective date.

This act shall take effect after a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-Government and Government Reorganization Act (Home Rule Act), approved December 24, 1971 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)).

**BOARD OF ELECTIONS****NOTICE OF PUBLICATION**

The Board of Elections, at a Regular Board meeting on Wednesday June 6, 2018, formulated the short title, summary statement, and legislative text of the “Money Supply Increase +\$3,000 Initiative.” Pursuant to D.C. Code § 1-1001.16 (2001 ed.), the Board hereby publishes the aforementioned formulation as follows:

**INITIATIVE MEASURE**

NO. 79

**SHORT TITLE**

“Money Supply Increase +\$3,000 Initiative.”

**SUMMARY STATEMENT**

If enacted, this Initiative will:

Allow all citizens and recipients of social services in the District of Columbia to invest up to \$3,000.00 dollars in startup companies and to retain assets without losing state/federal subsidies and benefits.

**LEGISLATIVE TEXT**

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, That this measure may be cited as the “Money Supply Increase + \$3,000 Initiative.”

Section 2. The District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-202.05), is amended as follows:

(a) subsection (f) is added to read as follows:

“(f) This is is an “inclusion Measure or Act” in support of the Federal “Jobs Act” related to startup companies in order to allow all citizens and recipients of social services in the District of Columbia to invest up to \$3,000 dollars in startup companies and to retain assests without losing state/federal subsidies and benefits.

Section 3. This act shall take effect after a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-Government and Government Reorganization Act (Home Rule Act), approved December 24, 1071 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)).

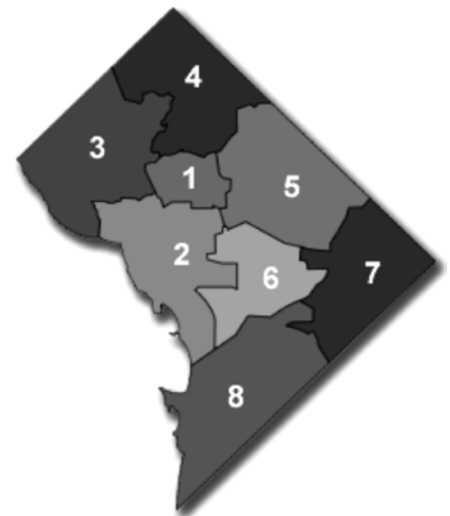
**D.C. BOARD OF ELECTIONS  
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS  
CITYWIDE REGISTRATION SUMMARY  
As Of May 31, 2018**

WARD	DEM	REP	STG	LIB	OTH	N-P	TOTALS
<b>1</b>	44,881	2,914	635	151	199	11,363	<b>60,143</b>
<b>2</b>	30,300	5,692	239	178	165	10,723	<b>47,297</b>
<b>3</b>	37,777	6,287	366	148	155	10,890	<b>55,623</b>
<b>4</b>	48,698	2,230	528	100	162	8,778	<b>60,496</b>
<b>5</b>	51,793	2,332	590	133	233	9,477	<b>64,958</b>
<b>6</b>	54,579	7,213	524	252	253	13,602	<b>76,423</b>
<b>7</b>	47,753	1,304	426	58	168	6,694	<b>56,403</b>
<b>8</b>	46,136	1,392	443	49	189	7,204	<b>55,413</b>
<b>Totals</b>	362,317	29,364	3,751	1,069	1,524	78,731	<b>476,756</b>
<b>Percentage By Party</b>	<b>76.00%</b>	<b>6.16%</b>	<b>.79%</b>	<b>.22%</b>	<b>.32%</b>	<b>16.51%</b>	<b>100.00%</b>

DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF  
**VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS**  
AS OF THE END OF MAY 31, 2018

COVERING CITY WIDE TOTALS BY:  
**WARD, PRECINCT AND PARTY**

ONE JUDICIARY SQUARE  
1015 HALF STREET, SE SUITE 750  
WASHINGTON, DC 20003  
(202) 727-2525  
<http://www.dcboe.org>



**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 1 REGISTRATION SUMMARY**  
**As Of May 31, 2018**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
20	1,581	31	10	3	7	275	1,907
22	3,727	383	31	13	13	983	5,150
23	2,871	215	41	11	14	782	3,934
24	2,664	248	27	15	14	786	3,754
25	3,783	430	45	18	13	1,094	5,383
35	3,560	223	50	14	10	845	4,702
36	4,166	251	59	10	21	1,001	5,508
37	3,496	163	45	9	20	841	4,574
38	2,868	130	45	15	14	749	3,821
39	4,099	196	68	11	15	935	5,324
40	3,798	182	82	10	18	978	5,068
41	3,558	207	73	7	18	1,010	4,873
42	1,793	87	25	4	11	463	2,383
43	1,796	70	27	5	7	372	2,277
137	1,121	98	7	6	4	249	1,485
<b>TOTALS</b>	<b>44,881</b>	<b>2,914</b>	<b>635</b>	<b>151</b>	<b>199</b>	<b>11,363</b>	<b>60,143</b>

**D.C. BOARD OF ELECTIONS  
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS  
WARD 2 REGISTRATION SUMMARY  
As Of May 31, 2018**

<b>PRECINCT</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>LIB</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTALS</b>
<b>2</b>	894	166	7	9	10	545	<b>1,631</b>
<b>3</b>	1,628	371	17	8	11	648	<b>2,683</b>
<b>4</b>	1,922	499	9	12	11	738	<b>3,191</b>
<b>5</b>	2,076	597	13	16	13	762	<b>3,477</b>
<b>6</b>	2,321	828	21	16	15	1,256	<b>4,457</b>
<b>13</b>	1,291	228	5	3	5	416	<b>1,948</b>
<b>14</b>	2,846	466	26	19	9	964	<b>4,330</b>
<b>15</b>	2,952	395	31	18	15	876	<b>4,287</b>
<b>16</b>	3,370	426	32	24	19	948	<b>4,819</b>
<b>17</b>	4,730	622	29	22	20	1,447	<b>6,870</b>
<b>129</b>	2,350	417	12	8	14	901	<b>3,702</b>
<b>141</b>	2,394	300	18	12	13	651	<b>3,388</b>
<b>143</b>	1,526	377	19	11	10	571	<b>2,514</b>
<b>TOTALS</b>	<b>30,300</b>	<b>5,692</b>	<b>239</b>	<b>178</b>	<b>165</b>	<b>10,723</b>	<b>47,297</b>



**D.C. BOARD OF ELECTIONS  
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS  
WARD 3 REGISTRATION SUMMARY  
As Of May 31, 2018**

<b>PRECINCT</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>LIB</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTALS</b>
<b>7</b>	1,252	394	15	4	5	555	<b>2,225</b>
<b>8</b>	2,405	628	27	6	10	770	<b>3,846</b>
<b>9</b>	1,179	489	7	8	9	492	<b>2,184</b>
<b>10</b>	1,860	408	20	8	10	685	<b>2,991</b>
<b>11</b>	3,322	825	45	30	23	1,213	<b>5,458</b>
<b>12</b>	490	179	0	5	4	202	<b>880</b>
<b>26</b>	2,853	333	19	9	7	823	<b>4,044</b>
<b>27</b>	2,430	245	21	8	2	561	<b>3,267</b>
<b>28</b>	2,473	460	42	12	12	763	<b>3,762</b>
<b>29</b>	1,323	220	13	7	8	397	<b>1,968</b>
<b>30</b>	1,267	202	11	4	6	300	<b>1,790</b>
<b>31</b>	2,412	301	16	9	13	569	<b>3,320</b>
<b>32</b>	2,720	291	29	6	11	565	<b>3,622</b>
<b>33</b>	2,886	274	26	4	5	653	<b>3,848</b>
<b>34</b>	3,780	426	37	12	10	1,085	<b>5,350</b>
<b>50</b>	2,132	279	16	5	7	499	<b>2,938</b>
<b>136</b>	854	81	9	0	3	263	<b>1,210</b>
<b>138</b>	2,139	252	13	11	10	495	<b>2,920</b>
<b>TOTALS</b>	<b>37,777</b>	<b>6,287</b>	<b>366</b>	<b>148</b>	<b>155</b>	<b>10,890</b>	<b>55,623</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 4 REGISTRATION SUMMARY**  
**As Of May 31, 2018**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
45	2,280	67	34	8	7	376	2,772
46	2,786	98	33	7	14	485	3,423
47	3,401	135	45	10	13	740	4,344
48	2,769	129	29	7	7	542	3,483
49	909	44	12	2	5	199	1,171
51	3,325	508	21	8	10	614	4,486
52	1,239	145	9	2	5	226	1,626
53	1,233	74	20	2	4	242	1,575
54	2,335	96	25	4	5	437	2,902
55	2,420	78	15	1	12	419	2,945
56	3,098	97	36	9	13	630	3,883
57	2,448	71	34	6	10	475	3,044
58	2,260	61	19	5	4	346	2,695
59	2,595	85	28	7	7	408	3,130
60	2,151	68	24	5	10	596	2,854
61	1,578	57	16	1	7	294	1,953
62	3,120	130	21	2	4	382	3,659
63	3,676	138	58	3	18	658	4,551
64	2,344	64	21	6	5	356	2,796
65	2,731	85	28	5	2	353	3,204
<b>Totals</b>	<b>48,698</b>	<b>2,230</b>	<b>528</b>	<b>100</b>	<b>162</b>	<b>8,778</b>	<b>60,496</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 5 REGISTRATION SUMMARY**  
**As Of May 31, 2018**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
19	4,376	191	67	13	19	953	5,619
44	2,809	233	29	9	18	647	3,745
66	4,491	97	45	4	16	602	5,255
67	2,851	100	24	4	9	424	3,412
68	1,918	159	21	10	6	399	2,513
69	2,081	72	19	1	10	292	2,475
70	1,444	71	24	0	4	233	1,776
71	2,407	71	24	5	9	347	2,863
72	4,304	136	37	8	25	732	5,242
73	1,945	91	24	6	8	355	2,429
74	4,691	261	61	13	21	1,000	6,047
75	3,897	224	47	22	22	819	5,031
76	1,639	93	21	6	7	377	2,143
77	2,908	121	27	5	13	521	3,595
78	2,929	94	43	9	12	487	3,574
79	2,044	74	25	2	13	375	2,533
135	3,034	182	35	12	16	611	3,890
139	2,425	62	17	4	5	303	2,816
<b>TOTALS</b>	<b>52,193</b>	<b>2,332</b>	<b>590</b>	<b>133</b>	<b>233</b>	<b>9,477</b>	<b>64,958</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 6 REGISTRATION SUMMARY**  
**As Of May 31, 2018**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
<b>1</b>	4,362	566	46	26	18	1,219	<b>6,237</b>
<b>18</b>	4,764	371	49	15	22	1,087	<b>6,308</b>
<b>21</b>	1,176	57	8	7	2	247	<b>1,497</b>
<b>81</b>	4,563	372	50	14	19	947	<b>5,965</b>
<b>82</b>	2,527	249	26	9	10	589	<b>3,410</b>
<b>83</b>	5,410	747	46	30	27	1,432	<b>7,692</b>
<b>84</b>	1,950	408	20	5	10	534	<b>2,927</b>
<b>85</b>	2,656	494	19	13	8	729	<b>3,919</b>
<b>86</b>	2,202	246	22	9	8	441	<b>2,928</b>
<b>87</b>	2,654	294	17	3	16	588	<b>3,572</b>
<b>88</b>	2,090	295	23	7	6	480	<b>2,901</b>
<b>89</b>	2,549	621	24	17	11	770	<b>3,992</b>
<b>90</b>	1,575	236	13	7	10	451	<b>2,292</b>
<b>91</b>	4,063	414	33	16	21	929	<b>5,476</b>
<b>127</b>	4,180	317	45	22	17	868	<b>5,449</b>
<b>128</b>	2,430	216	29	11	11	595	<b>3,292</b>
<b>130</b>	780	302	6	1	4	270	<b>1,363</b>
<b>131</b>	2,996	795	30	27	24	953	<b>4,825</b>
<b>142</b>	1,652	213	18	13	9	473	<b>2,378</b>
<b>TOTALS</b>	<b>54,579</b>	<b>7,213</b>	<b>524</b>	<b>252</b>	<b>253</b>	<b>13,602</b>	<b>76,423</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 7 REGISTRATION SUMMARY**  
**As Of May 31, 2018**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
80	1,444	86	21	4	2	270	1,827
92	1,591	34	12	1	5	233	1,876
93	1,584	40	18	2	7	236	1,887
94	1,961	58	18	0	5	272	2,314
95	1,667	48	12	1	2	271	2,001
96	2,354	62	14	0	12	353	2,795
97	1,403	47	15	1	6	205	1,677
98	1,901	41	19	4	9	257	2,231
99	1,516	51	18	5	7	264	1,861
100	2,406	50	14	2	9	292	2,773
101	1,586	30	14	4	5	180	1,819
102	2,334	54	20	2	12	293	2,715
103	3,447	79	42	3	10	494	4,075
104	3,117	87	32	2	20	450	3,708
105	2,407	72	19	4	9	386	2,897
106	2,823	61	21	1	11	385	3,302
107	1,755	63	14	1	7	233	2,073
108	1,065	28	6	0	2	129	1,230
109	955	40	4	0	1	103	1,103
110	3,710	100	23	9	9	437	4,288
111	2,438	62	33	3	6	379	2,921
113	2,217	56	21	4	6	270	2,574
132	2,072	55	16	5	6	302	2,456
<b>TOTALS</b>	<b>47,753</b>	<b>1,304</b>	<b>426</b>	<b>58</b>	<b>168</b>	<b>6,694</b>	<b>56,403</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 8 REGISTRATION SUMMARY**  
**As Of May 31, 2018**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
112	2,214	59	16	0	10	318	2,617
114	3,578	141	38	4	24	595	4,380
115	2,817	67	25	4	11	607	3,531
116	4,118	102	42	4	15	629	4,910
117	2,095	46	18	3	9	327	2,498
118	2,744	76	31	3	14	400	3,268
119	2,735	112	32	3	15	451	3,348
120	1,925	36	16	2	3	252	2,234
121	3,409	77	28	3	7	462	3,986
122	1,807	47	24	1	8	252	2,139
123	2,350	170	25	11	19	402	2,977
124	2,617	71	23	1	8	363	3,083
125	4,500	104	34	3	15	711	5,367
126	3,876	138	48	6	17	707	4,792
133	1,301	44	9	0	1	174	1,529
134	2,208	48	25	0	5	283	2,569
140	1,842	54	9	1	8	271	2,185
<b>TOTALS</b>	<b>46,136</b>	<b>1,392</b>	<b>443</b>	<b>49</b>	<b>189</b>	<b>7,204</b>	<b>55,413</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**CITYWIDE REGISTRATION ACTIVITY**

*For voter registration activity between 4/30/2018 and 5/31/2018*

<b>NEW REGISTRATIONS</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>LIB</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTAL</b>
<b>Beginning Totals</b>	<b>360,107</b>	<b>29,136</b>	<b>3,707</b>	<b>1,052</b>	<b>1,510</b>	<b>78,178</b>	<b>473,690</b>
Board of Elections Over the Counter	52	1	0	1	0	25	79
Board of Elections by Mail	158	9	1	0	0	54	222
Board of Elections Online Registration	631	55	8	11	6	151	862
Department of Motor Vehicle	1,180	113	48	1	14	482	1,838
Department of Disability Services	2	0	0	0	0	4	6
Office of Aging	0	0	0	0	0	0	0
Federal Postcard Application	0	0	0	0	0	0	0
Department of Parks and Recreation	0	0	0	0	0	0	0
Nursing Home Program	39	3	3	0	0	3	48
Dept. of Youth Rehabilitative Services	0	0	0	0	0	0	0
Department of Corrections	2	0	0	0	0	1	3
Department of Human Services	4	0	0	0	0	2	6
Special / Provisional	0	0	0	0	0	0	0
All Other Sources	74	4	1	0	0	41	120
<b>+Total New Registrations</b>	<b>2,142</b>	<b>185</b>	<b>61</b>	<b>13</b>	<b>20</b>	<b>763</b>	<b>3,184</b>

<b>ACTIVATIONS</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>LIB</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTAL</b>
Reinstated from Inactive Status	335	17	4	2	6	56	420
Administrative Corrections	0	0	4	0	0	71	75
<b>+TOTAL ACTIVATIONS</b>	<b>335</b>	<b>17</b>	<b>8</b>	<b>2</b>	<b>6</b>	<b>127</b>	<b>495</b>

<b>DEACTIVATIONS</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>LIB</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTAL</b>
Changed to Inactive Status	1	0	0	0	0	0	1
Moved Out of District (Deleted)	0	0	0	0	0	0	0
Felon (Deleted)	0	0	0	0	0	0	0
Deceased (Deleted)	28	2	0	0	0	4	34
Administrative Corrections	589	34	3	11	10	30	677
<b>-TOTAL DEACTIVATIONS</b>	<b>618</b>	<b>36</b>	<b>3</b>	<b>11</b>	<b>10</b>	<b>34</b>	<b>712</b>

<b>AFFILIATION CHANGES</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>LIB</b>	<b>OTH</b>	<b>N-P</b>	
+ Changed To Party	650	184	36	28	44	311	
- Changed From Party	-299	-122	-58	-15	-46	-614	
<b>ENDING TOTALS</b>	<b>362,317</b>	<b>29,364</b>	<b>3,751</b>	<b>1,069</b>	<b>1,524</b>	<b>78,731</b>	<b>476,756</b>

**DEPARTMENT OF ENERGY AND ENVIRONMENT  
NOTICE OF FUNDING AVAILABILITY**

**Sustainable DC 2.0 Community Engagement Event**

The Department of Energy and Environment (the Department) seeks eligible entities to advise the Department on how best to receive informed community input on the draft Sustainable DC 2.0 plan and better understand community priorities related to sustainability.

Proposals are due 7/15/2018. The amount available for the project is approximately \$25,000.00. This amount is subject to availability of funding and approval by the appropriate agencies.

Beginning 6/15/2018, the full text of the Request for Applications (RFA) will be available on the Department's website. A person may obtain a copy of this RFA by any of the following means:

**Download** from the Department's website, [www.doe.dc.gov](http://www.doe.dc.gov). Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

**Email** a request to [sustainabledc.grants@dc.gov](mailto:sustainabledc.grants@dc.gov) with "Request copy of RFA 1817 – Sustainable DC 2.0 Community Engagement in the subject line.

**Pick up a copy in person** from the Department's reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call Daniel Guilbeault at (202) 281-3957 and mention this RFA by name.

**Write** DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Daniel Guilbeault RE: RFA 1817 – Sustainable DC 2.0 Community Engagement" on the outside of the envelope.

**DOEE will host the following public information sessions:**

- June 18th: DOEE Headquarters (1200 First Street NE, Room 718) at 10 am
- June 19th: Capitol View Neighborhood Library (5001 Central Ave SE, Meeting Room 2) at 2 pm

**Eligibility:** All the checked institutions below may apply for these grants:

- Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;
- Faith-based organizations;
- Government agencies
- Universities/educational institutions; and
- Private Enterprises.

For additional information regarding this RFA, write to: [sustainabledc.grants@dc.gov](mailto:sustainabledc.grants@dc.gov).



**DEPARTMENT OF ENERGY AND ENVIRONMENT****PUBLIC NOTICE****SIGNIFICANT PERMIT MODIFICATION TO AIR QUALITY TITLE V OPERATING PERMIT AND GENERAL PERMIT FOR PROVIDENCE HOSPITAL**

Notice is hereby given that Providence Hospital has applied for a Title V air quality permit significant modification pursuant to the requirements of Title 20 of the District of Columbia Municipal Regulations, Chapters 2 and 3 (20 DCMR Chapters 2 and 3) and that the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE) is proposing to issue a permit modification (#008-R2-A1) in response to this application. The facility is located at 1150 Varnum Street NE, Washington, DC 20017. This permit modification only revises Condition III(a) of the permit to remove the old Boiler 1 and to include a new Condition III(e) covering the new Boiler 1. No other portions of the permit are affected. This action does not extend the expiration date of the permit.

The contact person for the facility is DeMaris Woods, Interim Director, Facilities Management - Providence Hospital at 202-854-7774 or [demaris.woods@medxcelfm.com](mailto:demaris.woods@medxcelfm.com).

Providence Hospital has the potential to emit greater than the District's major source threshold of 25 tons per year of NO<sub>x</sub>. Therefore, the facility is classified as a major source of air pollution and is subject to 20 DCMR Chapter 3 and must obtain an operating permit modification when applicable under the regulation.

**Impact on Emissions**

The following table shows the impact of the replacement of Boiler 1 on the potential to emit (PTE) of the facility.

<b>FACILITY WIDE EMISSIONS SUMMARY [TONS PER YEAR]</b>				
<b>Criteria Pollutants</b>	<b>Potential Emissions Before Boiler Replacement</b>	<b>Potential Emissions of New Boiler 1</b>	<b>Potential Emissions of Replaced Boiler 1</b>	<b>Total New Potential Emissions of the Facility</b>
Sulfur Dioxide (SO <sub>2</sub> )	0.60	0.09	0.22	0.47
Oxides of Nitrogen (NO <sub>x</sub> )	85.11	4.90	20.77	69.24
Total Particulate Matter, including condensables (PM Total)	7.19	1.03	2.08	6.14
Volatile Organic Compounds (VOC)	3.46	1.74	0.78	4.42
Carbon Monoxide (CO)	44.15	7.93	11.97	40.11

With the potential to emit 69.25 tons per year of NO<sub>x</sub>, the source has the potential to emit greater than the District's major source threshold of 25 tons per year of NO<sub>x</sub>. Therefore the facility is classified as a major source of air pollution and is subject to 20 DCMR Chapter 3 and must obtain an operating permit under the regulation.

The Department of Energy and Environment (DOEE) has reviewed the permit application and related documents and has made a preliminary determination that the applicant meets all applicable air quality requirements promulgated by the U.S. Environmental Protection Agency (EPA) and the District. Therefore, draft permit #008-R2-A1 has been prepared.

The application, the draft permit, and all other materials submitted by the applicant [except those entitled to confidential treatment under 20 DCMR 301.1(c)] considered in making this preliminary determination are available for public review during normal business hours at the offices of the Department of Energy and Environment, 1200 First Street NE, 5<sup>th</sup> Floor, Washington DC 20002. Copies of the draft permit and related fact sheet are available at <https://doee.dc.gov/service/public-notice-hearings>.

A public hearing on this permitting action will not be held unless DOEE has received a request for such a hearing within 30 days of the publication of this notice. Interested parties may also submit written comments on the permitting action.

Comments on the draft 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, 5<sup>th</sup> Floor  
Washington, DC 20002  
Stephen.Ours@dc.gov

**No comments or hearing requests submitted after July 16, 2018 will be accepted.**

For more information, please contact Olivia Achuko at (202) 535-2997 or [olivia.achuko@dc.gov](mailto:olivia.achuko@dc.gov).

**FRIENDSHIP PUBLIC CHARTER SCHOOL****NOTICE OF INTENT TO ENTER SOLE SOURCE CONTRACTS**

Questions can be addressed to: [ProcurementInquiry@friendshipschools.org](mailto:ProcurementInquiry@friendshipschools.org).

**Administrative Tech Licenses/ Maintenance and Training**

Friendship Public Charter School intends to enter into a sole source contract with PowerSchool for administrative tech licenses/maintenance and training. The estimated yearly cost is approximately \$100,000 yearly. The decision to sole source is due to the fact that this vendor is the exclusive provider of these licences.

Friendship Public Charter School intends to enter into a sole source contract with Coupa for procurement tech licenses/ maintenance and training. The estimated yearly cost is approximately is \$60,000. The decision to sole source is due to the fact that these vendor is the exclusive provider of these licenses.

**International Baccalaureate North America Inc.**

Friendship Public Charter School intends to enter into a sole source contract with International Baccalaureate North America for Fees, Training, Instructional materials and related services for the International Baccalaureate program. The annual cost of these contracts will be approximately \$50,000. The decision to sole source is due to the fact that the vendor is the publisher and holds the copyrights to the materials and training. The contract term shall be automatically renewed for the same period unless either party, 60 days before expiration, gives notice to the other of its desire to end the agreement.

**Resident Teacher Placement**

Friendship Public Charter School intends to enter into sole source contracts with Urban Teacher Center (UTC) for teacher placement services and ongoing developmental support. The estimated yearly cost is approximately \$100,000. The decision to sole source is due to the fact that Urban Teacher Center has a proven data driven instrument specifically developed to determine the likelihood of success for teacher applicants at FPCS. The contract term shall be automatically renewed for the same period unless either party, 60 days before expiration, gives notice to the other of its desire to end the agreement.

**Capital Teaching Residency**

Friendship Public Charter School intends to enter into sole source contracts with Capital Teaching Residency (CTR) for teacher training and ongoing developmental support. The estimated yearly cost is approximately \$50,000. The decision to sole source is due to the fact that Capital Teaching Residency is has a proven training program designed to train highly effective teachers at FPCS. The contract term shall be automatically renewed for the same period unless either party, 60 days before expiration, gives notice to the other of its desire to end the agreement.

### **AVID**

Friendship Public Charter School intends to enter into sole source contract with AVID for AVID College Readiness System and related AVID curriculum and promotional materials. The estimated yearly cost is approximately \$60,000. The decision to sole source is due to the fact that AVID is the exclusive providers of the AVID College Readiness System and related AVID curriculum and promotional materials. The contract term shall be automatically renewed for the same period unless either party, 60 days before expiration, gives notice to the other of its desire to end the agreement.

### **Project Lead the Way**

Friendship Public Charter School intends to enter into sole source contracts with Project Lead The Way (PLTW) a leading provider of rigorous and innovative Science, Technology, Engineering, and Mathematics (STEM) education curricular programs used in middle and high schools across the U.S. The estimated yearly cost is approximately \$80,000. The decision to sole source is due to the fact that vendors are the exclusive providers of the services and PLTW provider the curricula for the engineering academies. The contract term shall be automatically renewed for the same period unless either party, 60 days before expiration, gives notice to the other of its desire to end the agreement.

### **Wilson language**

Friendship Public Charter School intends to enter into sole source contracts with Wilson Language professional learning and research-based reading and spelling curricula. Its multisensory, structured curricula—the **WILSON Reading System**<sup>®</sup>, **WILSON Foundations**<sup>®</sup>, **WILSON Just Words**<sup>®</sup>, and **WILSON Fluency**<sup>®</sup>—have proven to be highly effective remedying reading deficits. The estimated yearly cost is approximately \$40,000. The decision to sole source is due to the fact that the vendor is the publisher and holds the copyrights to this material. The contract term shall be automatically renewed for the same period unless either party, 60 days before expiration, gives notice to the other of its desire to end the agreement.

### **Teaching Strategies**

Friendship Public Charter School intends to enter into sole source contracts with The Teaching Strategies System for Pre-K; and The Creative Curriculum System for Preschool and all products and components associated with this and any professional development related to the curriculum; *Teaching Strategies GOLD* assessment system and the components, training, curriculum materials, and methodologies for licenses, curriculum materials, support and ongoing access to student information. The estimated yearly cost is approximately \$60,000. The decision to sole source is due to the fact that the vendor is the publisher and holds the copyrights to this materials and training. The contract term shall be automatically renewed for the same period unless either party, 60 days before expiration, gives notice to the other of its desire to end the agreement.

**TEACH FOR AMERICA**

Friendship Public Charter School intends to enter into sole source contracts with Teach for America for corps members to be placed with Friendship Public Charter School. These teachers are committed to closing the achievement gap by serving as effective classrooms teachers specifically equipped to enhance student achievement. This contract will help to defray expenses Teach for America incurred in recruiting, selecting, providing service training and continuing professional development services to these teachers. The cost of the contracts will be approximately \$40,000 for Teach for America. The contract term shall be automatically renewed for the same period unless either party, 60 days before expiration, gives notice to the other of its desire to end the agreement

**DEPARTMENT OF HUMAN SERVICES  
FAMILY SERVICES ADMINISTRATION  
COMMUNITY SERVICES BLOCK GRANT PROGRAM**

**NOTICE OF CSBG STATE PLAN FOR PUBLIC INSPECTION  
REVIEW AND COMMENT**

The Director of the District of Columbia (District) Department of Human Services (DHS), pursuant to the Community Services Block Grant (CSBG) Act of 1998, as amended (42 USC §9908 (e)(2)) announces for public inspection, review and comment the availability of the CSBG State Plan and Application for Fiscal Years 2019 and 2020. The State plan presents an approach to reduce poverty within the District through the provision of a wide range of services and activities that assist low-income families and individuals to:

- Remove obstacles and solve problems which inhibit the attainment of self-sufficiency;
- Secure and retain meaningful employment;
- Attain an adequate education;
- Make better use of available income;
- Obtain and maintain adequate housing and a suitable living environment;
- Obtain emergency assistance to meet immediate or urgent needs; and,
- Achieve greater participation in the affairs of the communities in which they live.

Copies of the State plan will be available for inspection, review and comment from Wednesday July 18, 2018 to Friday, August 17, 2018, at the following locations:

Department of Human Services  
Family Services Administration  
Community Services Block Grant Program  
64 New York Avenue, N.E., 6<sup>th</sup> Floor  
Washington, DC 20002

United Planning Organization  
Headquarters  
301 Rhode Island Avenue, N.W.  
Washington, DC 20001

Shaw (Watha T. Daniel)  
Neighborhood Library  
1630 7<sup>th</sup> Street, N.W.  
Washington, DC 20001

Department of Human Services  
Anacostia Services Center  
2100 Martin Luther King, Jr. Avenue, S.E.  
Washington, DC 20020

A public forum on the state plan will be held at 10:00 a.m. on Thursday, July 12, 2018, at the Department of Human Services, 64 New York Avenue, N.E. 6<sup>th</sup> Floor, Hoteling Suite Room 649, Washington, DC 20002.

Those who wish to testify should contact Ms. Keyonna Bond at the Department of Human Services via e-mail at: [keyonna.bond@dc.gov](mailto:keyonna.bond@dc.gov) or by telephone at (202) 671-4526 by Tuesday, July 10, 2018. Include the following information: Full Name, Title, Residential Ward, and Organizational affiliation of the person(s) testifying. Witnesses should bring three (3) copies of the written testimony to the public forum. Those who testify will be allowed a maximum of three (3) minutes for oral presentations.

**DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD****UPDATED NOTIFICATION OF 2018 BOARD MEETINGS**

The District of Columbia Public Charter School Board (“DC PCSB”) hereby gives notice, of DC PCSB’s intent to hold a public meeting at 6:30pm on the following dates:

**Monday, January 17, 2018 (Closed Executive Session)**

**Monday, January 22, 2018**

**Monday, February 26, 2018**

**Monday, March 19, 2018** – Washington Latin PCS – 5200 2nd St NW, Washington, DC 20011

**Monday, April 23, 2018** – Friendship Armstrong - 1400 1st St NW, Washington, DC 20001

**Monday, May 21, 2018** – KIPP Heights Academy - 2600 Douglass Rd SE, Washington, DC 20020

**Monday, June 25, 2018** – IDEA PCS - 1027 45th St NE, Washington, DC 20019

**Monday, July 23, 2018**

**Monday, August 20, 2018 (tentative)**

**Monday, September 17, 2018**

**Monday, October 15, 2018**

**Monday, November 19, 2018**

**Monday, December 17, 2018**

For questions, please call 202-328-2660. An agenda for each meeting will be posted 48 business hours in advance of the meetings on [www.dcpsb.org](http://www.dcpsb.org). The location for all meetings is currently to be determined.

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

## NOTICE OF FINAL TARIFF

**GAS TARIFF 00-2, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S RIGHTS-OF-WAY SURCHARGE GENERAL REGULATIONS TARIFF, P.S.C.-D.C. No. 3**

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Section 34-802 of the District of Columbia Code and in accordance with Section 2-505 of the District of Columbia Code,<sup>1</sup> of its final action taken in the above-captioned proceeding.<sup>2</sup>

2. On March 23, 2018, pursuant to D.C. Code § 10-1141.06,<sup>3</sup> Washington Gas Light Company (WGL) filed a Surcharge Update to revise the Rights-of-Way (ROW) Fee Surcharge.<sup>4</sup> The ROW Fee Surcharge contains two components, the ROW Current Factor and the ROW Reconciliation Factor. In the Surcharge Update, WGL sets forth the process to be used to recover from its customers the D.C. ROW fees paid by WGL to the District of Columbia government in accordance with the following tariff page:

**GENERAL SERVICES TARIFF, P.S.C.-D.C. No. 3****Section 22****3<sup>rd</sup> Revised Page 56**

3. According to its tariff, WGL's Surcharge Update indicates the ROW Current Factor is 0.0321 with the ROW Reconciliation Factor of 0.0042 for the period of June 2017 through May 2018, which yields a Net Factor of 0.0363.<sup>5</sup> In addition, WGL expresses its intent to collect the surcharge beginning with the April 2018 billing cycle.<sup>6</sup>

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<sup>1</sup> D.C. Code §§ 2-505 and 34-802 (2001 Ed.).

<sup>2</sup> *GT00-2, In the Matter of Washington Gas Light Company's Rights-of-Way Surcharge General Regulations Tariff, P.S.C.-D.C. No. 3, (GT00-2) Rights-of-Way Fee Surcharge Filing of Washington Gas Light Company (Surcharge Update), filed March 23, 2018.*

<sup>3</sup> D.C. Code § 10-1141.06 (2001 Ed.) states that "[e]ach public utility company regulated by the Public Service Commission shall recover from its utility customers all lease payments which it pays to the District of Columbia pursuant to this title through a surcharge mechanism applied to each unit of sale and the surcharge amount shall be separately stated on each customer's monthly billing statement."

<sup>4</sup> *GT00-2, Surcharge Update at 1.*

<sup>5</sup> *GT00-2, Surcharge Update at 2.*

<sup>6</sup> *GT00-2, Surcharge Update at 1.*



4. A Notice of Proposed Tariff (NOPT) regarding this Surcharge Update was published in the *D.C. Register* on April 13, 2018.<sup>7</sup> In the NOPT, the Commission stated that WGL has a statutory right to implement its filed surcharges, but if the Commission were to discover any inaccuracies in the calculation of the proposed surcharge, WGL would be subject to reconciliation of the surcharges. No comments were filed in response to the NOPT. Based on the Commission's review of the tariff filing, the Commission finds that WGL's calculations for the ROW Current Factor, the ROW Reconciliation Factor and Surcharge Update comply with the General Services Tariff, P.S.C. No. 3, Section 22, 3<sup>rd</sup> Revised Page No. 56 and with D.C. Code § 10-1141.06.

5. The Commission at its regularly scheduled Open Meeting held on June 6, 2018, took final action approving WGL's Surcharge Update tariff filing. WGL's Surcharge Update tariff filing shall become effective upon publication of this Notice of Final Tariff in the *D.C. Register*.

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<sup>7</sup> 65 *D.C. Reg.* 004073-004074 (April 13, 2018).

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

## NOTICE OF PROPOSED TARIFF

**GAS TARIFF 00-2, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S RIGHTS-OF-WAY SURCHARGE GENERAL REGULATIONS TARIFF, P.S.C.-D.C. No. 3**

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to D.C. Code § 34-802 and in accordance with D.C. Code § 2-505,<sup>1</sup> of its intent to act upon the proposed Rights-of-Way (ROW) Surcharge Update of Washington Gas Light Company (WGL or Company)<sup>2</sup> in not less than thirty (30) days after the date of publication of this Notice of Proposed Tariff (NOPT) in the *D.C. Register*.

2. The ROW Surcharge contains two components, the ROW Current Factor and the ROW Reconciliation Factor. On May 22, 2018, pursuant to D.C. Code § 10-1141.06,<sup>3</sup> WGL filed a Surcharge Update to revise the ROW Current Factor.<sup>4</sup> In the Surcharge Update, WGL sets forth the process to be used to recover from its customers the D.C. ROW fees paid by WGL to the District of Columbia government in accordance with the following tariff page:

**GENERAL SERVICES TARIFF, P.S.C.-D.C. No. 3****Section 22****3<sup>rd</sup> Revised Page 56**

3. WGL's Surcharge Update indicates the ROW Current Factor is 0.0321 with the ROW Reconciliation Factor of 0.0007 for the period of June 2018 through May 2019, which yields a Net Factor of 0.0328.<sup>5</sup> In addition, WGL expresses its intent to collect the surcharge beginning with the June 2018 billing cycle.<sup>6</sup> The Company has a statutory right to implement its filed surcharges. However, if the Commission discovers

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<sup>1</sup> D.C. Code §§ 2-505 and 34-802 (2001 Ed.).

<sup>2</sup> *GT00-2, In the Matter of Washington Gas Light Company's Rights-of-Way Surcharge General Regulations Tariff, P.S.C.-D.C. No. 3, (GT00-2) Rights-of-Way Fee Surcharge Filing of Washington Gas Light Company (Surcharge Update), filed May 22, 2018.*

<sup>3</sup> D.C. Code § 10-1141.06 (2001 Ed.) states that “[e]ach public utility company regulated by the Public Service Commission shall recover from its utility customers all lease payments which it pays to the District of Columbia pursuant to this title through a surcharge mechanism applied to each unit of sale and the surcharge amount shall be separately stated on each customer’s monthly billing statement.”

<sup>4</sup> *GT00-2, Surcharge Update at 1.*

<sup>5</sup> *GT00-2, Surcharge Update at 1.*

<sup>6</sup> *GT00-2, Surcharge Update at 1.*

any inaccuracies in the calculation of the proposed surcharge, WGL could be subject to reconciliation of the surcharges.

4. This Surcharge Update may be reviewed at the Office of the Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday as well as on the Commission's website at [www.dcpssc.org](http://www.dcpssc.org). Once at the website, open the "eDocket System" tab, click on "Search Current Dockets" and input "Gas Tariffs-GT" and "00-2" in the "Select Case Number" field. Copies of the tariff pages and attachments are available, upon request, at a per page reproduction fee.

5. Comments on the Surcharge Update must be made in writing to Brinda Westbrook-Sedgwick, at the above address, at [psc-commissionsecretary@dc.gov](mailto:psc-commissionsecretary@dc.gov) or by clicking on the following link:

<http://edocket.dcpssc.org/comments/submitpubliccomments.asp>.

Comments must be received within thirty (30) days of the date of publication of this NOPT in the *D.C. Register*. Once the comment period has expired, the Commission will take final action on WGL's Surcharge Update.

**OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA**  
**RECOMMENDATIONS FOR APPOINTMENTS AS NOTARIES PUBLIC**

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after July 15, 2018.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4<sup>th</sup> Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on June 15, 2018. Additional copies of this list are available at the above address or the website of the Office of the Secretary at [www.os.dc.gov](http://www.os.dc.gov).

**D.C. Office of the Secretary  
Recommendations for Appointments as DC Notaries Public**

**Effective: July 15, 2018**

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Adiutori	Sarah K.	KA Associates, LLP 1720 Wisconsin Avenue, NW	20007
Angunawela	Sonia	FRB Federal Credit Union 20th and C Street, NW	20551
Asoh	Chidi	Transportation Federal Credit Union 800 Independence Avenue, SW, #128	20591
Barnes	Donna Marie	Public Defender Service for the District of Columbia 633 Indiana Avenue, NW, 2nd Floor	20004
Beauzille	Hordy	Bank of America 722 H Street, NE	20002
Benitez	Alberto Manuel	The George Washington University Law School- Immigration Clinic 2000 G Street, NW	20052
Berns	Jeffrey J.	Spiegel & MacDiarmid, LLP 1875 Eye Street, NW	20006
Boward	Kyle B.	CDQ Consulting & Insurance, LLC 2031 36th Street, NE	20020
Caola	Margaret B.	Quebec House 2800 Quebec Street, NW	20008
Castro	Fabiola	Signal Financial Federal Credit Union 1101 New York Avenue, NW	20005
Cheung	Karine	Fox Rothschild, LLP 1030 15th Street, NW, Suite 380 East	20005
Clarke-Koonce	Pamela Rena	Self (Dual) 2411 17th Street, NE	20018
Clemsic	Arlene	Kelly IP, LLC 1919 M Street, NW, Suite 610	20036
Cohen	Clifford M.	Law of Offices of Clifford M. Cohen 5335 Wisconsin Avenue, NW, Suite 440	20015
Conrad	Steven	Marriott Vacation Club 1130 Connecticut Avenue, NW, Suite 700	20036

**D.C. Office of the Secretary  
Recommendations for Appointments as DC Notaries Public****Effective: July 15, 2018****Page 3**

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Corbin	David C.	Corbin & Hook Reporting, Inc. 1717 K Street, NW, Suite 900	20006
Craddock	Carolyn S.	US Department of Education 830 1st Street, NE	20202
Davis	Debra	Self 1308 27th Street, SE	20020
Dawson	George L.	Interior Federal Credit Union 1849 C Street, NW, B038	20240
Duke	Candace M.	CDQ Consulting & Insurance, LLC 2031 36th Street, SE	20020
Dunston	Charlotte	MedStar Georgetown University Hospital 3800 Reservoir Road, NW	20007
Edley	Kimberly K.	Law Office of Kimberly K. Edley 3192 Westover Drive, SE	20020
Eisen	Richard C.	Eisen and Rome, PC 1 Thomas Circle, NW, Suite 1010	20005
Erhart	Samuel Alexander	Interfolio 1400 K Street, NW	20005
Ferland	Christiane M.	White & Case, LLP 701 13th Street, NW	20005
Fitten	Debra D.	Holland & Hart, LLP 975 F Street, NW, Suite 900	20004
Flake	Cathaleen I.	Tax Executives Institute, Inc. 1200 G Street, NW, Suite 300	20005
Fleming	Victoria A.	District of Columbia Water & Sewer Authority (DC Water) 5000 Overlook Avenue, SW, 3rd Floor	20032
Fogan	Daria S.	King & Spalding, LLP 1700 Pennsylvania Avenue, NW	20006

**D.C. Office of the Secretary  
Recommendations for Appointments as DC Notaries Public****Effective: July 15, 2018****Page 4**

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Frederick	Rita M.	District Winery 385 Water Street, SE	20003
Friedman	Brian	Language Innovations, LLC 1725 I Street, NW, Suite 300	20006
Graves	Evangeline L.	NOVO Development Corporation 519 11th Street, SE	20003
Gray	Velvet N.	TZG Distributions 4034 2nd Street, SW	20032
Green	Anna L.	Mayer Brown, LLP 1999 K Street, NW	20006
Greenough	Hannah	Mid-Atlantic Settlement Services, LLC 1617 14th Street, NW	20009
Gregori	Peter A.	Certified Title Corp 5335 Wisconsin Avenue, NW, Suite 440	20015
Hall	Carolyn	Self 4419 Falls Terrace, SE, #3	20019
Hall	Quiyana T.	District of Columbia Office of the State Superintendent of Education 1050 First Street, NE, 3rd Floor	20002
Hamilton	Edna B.	Portals Office of Business & Community Assistance, LLC 1250 Maryland Avenue, SW, Suite CY-10	20024
Harrison	Rhonda M.	Self (Dual) 3930 10th Street, NE, Apartment 2	20017
Head	Veronica Regina	Hillel International 800 8th Street, NW	20001
Hill	Willette A.	Best Best & Krieger, LLP 2000 Pennsylvania Avenue, NW, Suite 5300	20006
Howell	Christina	Wells Fargo, NA 1700 Pennsylvania Avenue, NW	20006

**D.C. Office of the Secretary  
Recommendations for Appointments as DC Notaries Public**

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Irby	Stacey	Self 1439 Parkwood Place, NW	20010
Jenkins	Camille Briana	AlignStaffing 111 K Street, NE, 4th Floor	20002
Jenkins	Laisha	Signal Financial Federal Credit Union 1391 Pennsylvania Avenue, NE	20003
Johnson	Elston E.	Taylormade Business Center, LLC 4645 Nannie Helen Burroughs Avenue, NE	20019
Kameru-Jemison	Elizabeth	AAA Club Alliance 1405 G Street, NW	20005
Ketchoyian	Kimberly	FMC & Associates, LLC 515 M Street, SE, Suite 106	20003
Kottakki	Hari Krishna	HSBC Bank, USA, NA 1401 1st Street, NW, Suite 110	20005
Lallis III	Everett Kyle	Self 761 3rd Street, NE	20002
LeBrasseur	Matthew	Self (Dual) 1311 Delaware Avenue, SW, Apartment S329	20024
Lemos	Paula A.	EIG Management Company, LLP 1700 Pennsylvania Avenue, NW, Suite 800	20006
Lyons	Debra Sapio	Alderson Court Reporting 2020 K Street, NW, Suite 700	20006
Mattingly	Joan H.	Miles & Stockbridge, PC 1500 K Street, NW	20005
McClannahan	Susan	The Equal Rights Center 820 First Street, NE, LL160	20002
Metcalf	Linda D.	For the Record, Inc. 1200 G Street, NW, Suite 800	20005
Mohabir	Preya D.	Medstar Georgetown University Hospital 3800 Reservoir Road, NW	20007



**D.C. Office of the Secretary  
Recommendations for Appointments as DC Notaries Public**

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Monkres	Patricia A.	AdvaMed (Advanced Medical Technology Association) 701 Pennsylvania Avenue, NW, Suite 800	20004
Morgan	La Tasha	Ideas42 805 15th Street, NW, Suite 1101	20005
Mosby	Stephanie	Alderson Reporting Company 1155 Connecticut Avenue, NW, Suite 200	20036
Oliphant	Sharmaine Le'Nora	Federal Emergency Management Agency  500 C Street, SW, 8th Floor	20472
Parekh	Rohan	Hammerman, PLLC 5335 Wisconsin Avenue, NW, Suite 440	20015
Perry	Rebecca	Shiffman & Shiffman, PC 1130 Connecticut Avenue, NW, Suite 450	20036
Phillips	Amanda	Marriott Vacation Club 1130 Connecticut Avenue, NW, Suite 700	20036
Plummer	Deborah C.	AFSCME 1101 17th Street, NW, Suite 900	20036
Poletis	Victoria M.	EIG Management Company, LLP 1700 Pennsylvania Avenue, NW, Suite 800	20006
Prather	Stephanie L.	Department of Education 400 Maryland Avenue, SW	20202
Quade	Sally Jo	For the Record, Inc. 1200 G Street, NW	20005
Ragland	Lynee	AAA Club Alliance 1405 G Street, NW	20005
Rasheed	Daoud A.	Self 325 Anacostia Avenue, NE	20019
Razzino	Jennifer A.	For the Record, Inc 1200 G Street, NW, Suite 800	20005

**D.C. Office of the Secretary  
Recommendations for Appointments as DC Notaries Public****Effective: July 15, 2018****Page 7**

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Reyes	Maria	The McDaniel Law Group 1920 L Street, NW, Suite 303	20036
Rios	Geraldine	Signal Financial Federal Credit Union 1391 Pennsylvania Avenue, SE	20003
Roberts- Williams	Carmenlita S.	District of Columbia Teachers Federal Credit Union  5656 3rd Street, NE	20011
Robinson	Cynthia Renee	Stein and Rosenberg, LLC 1120 Connecticut Avenue, NW, Suite 230	20036
Rodriguez	Marilu	UPS Store 5185 MacArthur Boulevard, NW	20016
Rosenman	Philip D.	Avenue Title Group 2401 Pennsylvania Avenue, NW, Suite H	20037
Rossano	Geri M.	Ackerman Brown, PLLC 2101 L Street, NW, Suite 440	20037
Rothstein	Robert L.	Paragon Title 1410 Q Street, NW	20009
Rowley-Royal	Kristina	Dumbarton Oaks Research Library and Collection 1703 32nd Street, NW	20007
Sager	James P.	Office of the US Attorney General for the District of Columbia 200 I Street, SE, Fourth Floor	20003
Samuel-Rhodes	Marilyn O.	Castle Management 3040 Stanton Road, SE	20020
Segura Gross	Alberto	HSBC Bank 1715 Wisconsin Avenue, NW	20007
Severyn	Tara	Arabella Advisors 1201 Connecticut Avenue, NW, Suite 300	20036
Shepherd	April M.	Community Family Life Services 305 E Street, NW	20001

D.C. Office of the Secretary  
 Recommendations for Appointments as DC Notaries Public

Effective: July 15, 2018

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Simcox	Emily N.	Newseum 555 Pennsylvania Avenue, NW	20001
Simione	Ellena F.	Astellas 1001 G Street, NW, Suite 800 E	20001
Simpson	Tynice	Department of Employment Services 4058 Minnesota Avenue, NE	20019
Sinanaj	Avdyl	EIG Management Company, LLP 1700 Pennsylvania Avenue, NW, Suite 800	20006
Smith	Dana M.	Venturehouse Group 509 7th Street, NW	20004
Smith	Rodneka	Deborah D. Boddie, Esquire 1308 9th Street, NW, Suite 300	20001
Smolak	Shelbi	M & T Bank 555 12th Street, NW	20004
Turpin	Roger	Office Of The Attorney General For The District Of Columbia 441 4th Street, NW	20001
Vactor	Brenda J.	William C. Smith 1100 New Jersey Avenue, SE	20003
Walsh	Irene M.	National Right to Life Committee, Inc. 512 10th Street, NW	20004
Watt	Sara A.	Esquire Deposition Solutions 1025 Vermont Avenue, NW, Suite 503	20005
Williams	Brenda L.	American Society for Microbiology 1752 N Street, NW	20036
Wilson	Sierra	Signal Financial Federal Credit Union 1391 Pennsylvania Avenue, SE	20003
Wolfe	Marie	Steptoe & Johnson, LLP 1330 Connecticut Avenue, NW	20036
Woods	Linda	Fox Rothschild, LLP 1030 15th Street, NW, Suite 380E	20005

**D.C. Office of the Secretary  
Recommendations for Appointments as DC Notaries Public**

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Wormsley	Nichole D.	Self 4912 Illinois Avenue, NW	20011
Zamanuel	Etsegenet	Signal Financial Federal Credit Union 1101 New York Avenue, NW	20005
Zambrano	Nick	Marriott Vacation Club 1130 Connecticut Avenue, NW, Suite 700	20036

**DISTRICT DEPARTMENT OF TRANSPORTATION****NOTICE OF FUNDING AVAILABILITY (NOFA)****Vision Zero Fiscal Year 2019 Safety Grants****Request for Application Release Date: June 15, 2018****Application Submission Deadline: July 27, 2018**

The District Department of Transportation (DDOT) is the lead agency implementing Mayor Bowser's Vision Zero safety initiative. Vision Zero seeks to achieve zero traffic fatalities and serious injuries in the District by the year 2024 through better engineering of roadways, more effective traffic-safety education efforts, smarter use of transportation data and safety analysis, and more effective enforcement of life-saving laws.

DDOT is requesting proposals from potential grantees for projects that would use available funding to directly advance Vision Zero's mission and specific strategies. For more details on each strategy, please visit Vision Zero's Action Plan available at: <http://www.dcvisionzero.com/action-plan.html>. District government agencies, and National Capital Region non-profit organizations are eligible to apply for Fiscal Year 2019 Vision Zero grant funds. Individual proposals should not exceed \$200,000.

Please refer to the full Request for Applications (RFA) for this funding opportunity for a detailed timeline of requirements. The RFA will be available on **June 15, 2018** and will be available on DDOT's website at <https://ddot.dc.gov/page/apply-grant>

For additional information or to receive the full RFA by email, please contact:

Jonathan M. Rogers  
Policy Analyst  
Policy and Legislative Affairs Division  
55 M Street SE, Suite 700  
Washington, DC 20003  
Phone: (202) 741-5960  
Email: [vision.zero@dc.gov](mailto:vision.zero@dc.gov)

**WASHINGTON LATIN PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS**

Issued: June 15, 2018

The Washington Latin Public Charter School solicits expressions of interest in the form of proposals with references from qualified vendors for teacher staffing services.

Questions and proposals may be e-mailed to [gizurieta@latinpcs.org](mailto:gizurieta@latinpcs.org) with the type of service in the subject line. Deadline for submissions is **COB June 22 2018**. No phone calls please.

E-mail is the preferred method for responding but you can also mail (must arrive by deadline) proposals and supporting documents to the following address:

Washington Latin Public Charter School  
Attn: Finance Office  
5200 2<sup>nd</sup> Street NW  
Washington, DC 20011

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

DC Retail Water and Sewer Rates Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) DC Retail Water and Sewer Rates Committee will be holding a meeting on Tuesday, June 26, 2018 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](http://www.dewater.com).

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or [لمانley@dewater.com](mailto:لمانley@dewater.com).

DRAFT AGENDA

- |    |                     |                         |
|----|---------------------|-------------------------|
| 1. | Call to Order       | Committee Chairperson   |
| 2. | Monthly Updates     | Chief Financial Officer |
| 3. | Committee Work plan | Chief Financial Officer |
| 4. | Other Business      | Chief Financial Officer |
| 5. | Executive Session   | Committee Chairperson   |
| 6. | Adjournment         | Committee Chairperson   |

**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**

**BOARD OF DIRECTORS**

**NOTICE OF PUBLIC MEETING**

**Finance and Budget Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Finance and Budget Committee will be holding a meeting on Thursday, June 28, 2018 at 11:00 a.m. The meeting will be held in the Board Room (4<sup>th</sup> 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](http://www.dewater.com).

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or [linda.manley@dewater.com](mailto:linda.manley@dewater.com).

**DRAFT AGENDA**

- |  |                       |
|--|-----------------------|
| 1. Call to Order                           | Committee Chairperson |
| 2. May, 2018 Financial Report              | Committee Chairperson |
| 3. Agenda for July, 2018 Committee Meeting | Committee Chairperson |
| 4. Adjournment                             | Committee Chairperson |



**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 19735 of Mi Casa, Inc.**, pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the lot dimension requirements of Subtitle D § 302.1, and from the side yard requirements of Subtitle D § 307.4, to construct a new principal dwelling unit in the R-3 Zone at premises 1528 W Street, S.E. (Square 5779, Lot 824).

**HEARING DATES:** April 18, 2018 and May 30, 2018<sup>1</sup>  
**DECISION DATE:** May 30, 2018

**SUMMARY ORDER**

**SELF-CERTIFICATION**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 5.) 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") 8A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8A, which is automatically a party to this application. The ANC submitted a report expressing support for the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on May 1, 2018, at which a quorum was present, the ANC voted 7-0-0 to support the application. (Exhibit 42.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 33.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 31.)

Four letters were submitted in support of the application. (Exhibits 30, 41, 43, and 44.) 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 lot dimension requirements of Subtitle D § 302.1, and from the side yard requirements of Subtitle D § 307.4, to construct a new principal dwelling unit in the R-3 Zone. The only parties to the case were the ANC and the Applicant. No parties appeared at

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<sup>1</sup> The hearing was postponed from April 18, 2018 to May 30, 2018 at the Applicant's request. (Exhibits 34 and 37.)

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 D §§ 302.1 and 307.4, 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 11 - ARCHITECTURAL PLANS AND ELEVATIONS:**

**VOTE: 5-0-0** (Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, Lorna L. John, and Peter A. Shapiro to APPROVE).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** June 5, 2018

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

BZA APPLICATION NO. 19735

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§ 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 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. 19736 of Mi Casa, Inc.**, as amended<sup>1</sup>, pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the lot dimension requirements of Subtitle D § 302.1 and the side yard requirements of Subtitle D § 307.2, to construct a new principal dwelling unit in the R-3 Zone at premises 1928 15th Street S.E. (Square 5766, Lot 800).

**HEARING DATE:** May 30, 2018<sup>2</sup>

**DECISION DATE:** May 30, 2018

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 5 (original) and 47 (revised).) 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") 8A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8A, which is automatically a party to this application. The ANC submitted a timely report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on May 1, 2018, at which a quorum was present, the ANC voted 7-0-0 to support the application. (Exhibit 57.) Commissioner Greta Fuller testified on behalf of the ANC in support of the application.

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 41.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 39.)

Six letters of support for the application were submitted to the record, three of which were modified based on the adjacent neighbor's concerns. (Exhibits 35-37, 49, 52, 54, 56, 58, and 59.)

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<sup>1</sup> The original request included only a variance for lot dimension. (Exhibit 5.) Variance relief for rear yard under Subtitle D § 307.2 was added based on revisions to the plans. The caption has been changed accordingly.

<sup>2</sup> The case was originally scheduled for a public hearing on April 18, 2018, but postponed to May 30, 2018 at the ANC and Applicant's request. (Exhibits 40 and 42.) The Chair granted the request for postponement. (Exhibit 44.)

Letters in opposition to the application were submitted by Karinne Kennedy and Carlene Reid. (Exhibits 51 and 53.)

The adjacent neighbor, Dorcas Agyei, submitted a request for party status in opposition. (Exhibits 38-38C.) Based on a settlement agreement between the Applicant and Ms. Agyei, that request was withdrawn. (Exhibit 66.) The Board acknowledged the withdrawal, noting that the agreement signed by Ms. Agyei specifically references her withdrawal of the party status request. The Board found that this constitutes written notice of her intent to withdraw as required by Subtitle Y § 404.16. At the hearing, Ms. Agyei testified she was in support of the application.

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 lot dimension requirements of Subtitle D § 302.1 and the side yard requirements of Subtitle D § 307.2, to construct a new principal dwelling unit in the R-3 Zone. After the party in opposition withdrew her opposition, the only parties to the case were the ANC and the Applicant. Thus, 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 D §§ 302.1 and 307.2, 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.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 64.**

**VOTE:**           **5-0-0** (Frederick L. Hill, Lesylleé M. White, Lorna L. John, Carlton E. Hart, and Peter A. Shapiro to APPROVE.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** June 1, 2018

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.

**BZA APPLICATION NO. 19736**  
**PAGE NO. 2**

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 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. 19742 of Anthony Balestrieri**, 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 three story rear addition to an existing principal dwelling unit in the RF-1 Zone at premises 732 4th Street N.E. (Square 777, Lot 34).

**HEARING DATE:** Applicant waived right to a public hearing

**DECISION DATE:** May 30, 2018<sup>1</sup>

**SUMMARY ORDER**

**SELF-CERTIFICATION**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 6 (original – unsigned), 17 (original - signed), 49 (rear yard calculations updated), and 53 (final revision with height calculations updated).) 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.

Pursuant to 11 DCMR Subtitle Y § 401, this application was tentatively placed on the Board's expedited review calendar for decision without hearing as a result of the applicant's waiver of its right to a hearing. (Exhibit 2.)

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") 6C, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. The ANC did not submit a report for this application.

The Office of Planning ("OP") submitted a timely report, dated May 18, 2018, in support of the application. (Exhibit 54.) The District Department of Transportation ("DDOT") submitted a

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<sup>1</sup> This case was originally scheduled for Expedited Review on May 9, 2018, but was postponed to the public meeting date of May 30, 2018, at the Applicant's request. (Exhibit 45.) The Chair granted the request to postpone to May 30, 2018. (Exhibit 50.)

timely report, dated April 19, 2018, expressing no objection to the approval of the application. (Exhibit 42.)

Letters of support from neighbors were submitted to the record. (Exhibits 11-14.)

No objections to expedited calendar consideration were made by any person or entity entitled to do by Subtitle Y §§ 401.7 and 401.8. The matter was therefore called on the Board's expedited calendar for the date referenced above and the Board voted to grant the application.

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, to construct a three story rear addition to an existing principal dwelling unit in the RF-1 Zone. No parties appeared at the public meeting 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 report, 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 52.**

**VOTE:**       **5-0-0** (Frederick L. Hill, Lesylleé M. White, Lorna L. John, Carlton E. Hart, and Peter A. Shapiro to APPROVE.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** June 1, 2018

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.

**BZA APPLICATION NO. 19742**

**PAGE NO. 2**



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 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. 19745 of Fort Totten South LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the zone boundary line provisions of Subtitle A § 207.2, and under Subtitle G § 409.1 from the side yard requirements of Subtitle G § 406.1, to construct a mixed-use residential and retail development in the MU-4 and R-2 Zones at premises 5543-5575 South Dakota Avenue N.E. (Square 3760, Lot 22 and Parcel 125/30, and the adjacent unimproved portions of a street to be closed).

**HEARING DATE:** May 9, 2018; May 30, 2018<sup>1</sup>  
**DECISION DATE:** May 30, 2018

**SUMMARY ORDER**

**SELF-CERTIFICATION**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 5.) 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 Commissions ("ANC") 4B and 5A, as well as to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4B, which is automatically a party to this application. ANC 4B submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on April 23, 2018, at which a quorum was present, the ANC voted 5-0-1 to support the application. (Exhibit 36.) ANC 5A, which is within 200 feet of the site, did not submit any written comments on the case.

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 38.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 37.)

The Lamond-Riggs Citizen Association submitted a letter of support. (Exhibit 46.) Mr. Ansarbey presented testimony in opposition at the hearing.

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 §

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<sup>1</sup> The hearing was postponed from May 9, 2018 to May 30, 2018 at the request of the Applicant. (Exhibit 40.)

901.2, for special exceptions under the zone boundary line provisions of Subtitle A § 207.2, and under Subtitle G § 409.1 from the side yard requirements of Subtitle G § 406.1, to construct a mixed-use residential and retail development in the MU-4 and R-2 Zones. 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, Subtitle A § 207.2, and Subtitle G § 409.1 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 45A – REVISED SITE PLAN:**

**VOTE:**           **5-0-0** (Frederick L. Hill, Lesylleé M. White, Lorna L. John, Carlton E. Hart, and Peter A. Shapiro to APPROVE)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** June 5, 2018

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

BZA APPLICATION NO. 19745

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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. 19752 of Jemal's Hecht East T, LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the use requirements of Subtitle U § 802.1(j), to permit a large format retail use in the PDR-3 Zone at premises 1515 New York Avenue, N.E. (Square 4037, Lot 813).

**HEARING DATE:** May 23, 2018

**DECISION DATE:** May 23, 2018

**SUMMARY ORDER**

**SELF-CERTIFICATION**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 5.) 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 Commissions ("ANC") 5D and 5C (adjacent ANC) and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5D, which is automatically a party to this application. ANC 5D submitted a report dated May 21, 2018 recommending approval of the application. ANC 5D's report indicated that at a regularly scheduled, properly noticed public meeting on May 8, 2018, at which a quorum was present, the ANC voted unanimously (6-0-0) to recommend approval of the application. (Exhibit 42.) ANC 5C, the adjacent ANC, did not file a written report.

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 39.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application with recommended conditions. (Exhibit 40.) The Applicant accepted the conditions proposed by DDOT, and accordingly, those conditions are adopted as part of this final order.

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 special exceptions under the use requirements of Subtitle U § 802.1(j) to permit a large format retail use in the PDR-3 Zone. The only parties to the case were the ANC and the Applicant. 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 § 802.1(j), 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 38B – REVISED ARCHITECTURAL DRAWINGS – AND WITH THE FOLLOWING CONDITIONS:**

1. The Applicant shall implement the Loading Management Plan as proposed on pages 4-5 of the DDOT Report (Exhibit 40), with the exception of the truck detection equipment, which should not be included.
2. The Applicant shall install the following ADA-compliant pedestrian facilities, as shown on Sheet 6 of the approved plans (Exhibit 38B):
  - a. A marked crosswalk along New York Avenue at the Walt Lincoln Way intersection; and
  - b. Curb ramps along Walt Lincoln Way on both sides of the service/delivery space to connect to the existing sidewalk to the south of the Site.
3. The Applicant shall have flexibility in the type of retail doors provided, so long as the doors do not project into public space when opened.
4. The Applicant shall maintain clear glass along the New York Avenue, N.E. street frontage, as shown on Sheet 10 of the approved plans in Exhibit 38B.

**VOTE: 5-0-0** (Frederick L. Hill, Lesylleé M. White, Carlton E. Hart, Lorna L. John and Michael G. Turnbull to APPROVE).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** June 4, 2018

BZA APPLICATION NO. 19752  
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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.

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.

BZA APPLICATION NO. 19752

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**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 13-16A**

**Z.C. Case No. 13-16A**

**Forest City SEFC, LLC**

**(Approval of Extension of Approved Temporary Parking Lots  
@ Square 743, Lot 94 (Parcel F), Square 744, Lot 806 (Parcel H/I), and  
Square 827, Lot 1 (Parcel Q))**

**May 3, 2018**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on May 3, 2018 to consider the application (“Application”) pursuant to Subtitle K, §§ 237.4(o), 238.3(g), 241, and 242 of the District of Columbia Zoning Regulations by Forest City, SEFC, LLC (“Applicant”) for property owned by the United States General Services Administration, for review and approval to allow for the continued temporary surface parking lot use for a period five years commencing upon the expiration of (i) Z.C. Order No. 13-03 for Parcel H/I (Square 744, Lot 806) and Parcel Q (Square 827, Lot 1), and (ii) Z.C. Order No. 13-16 for Parcel F (Square 743, Lot 94, Parcels F, H/I, and Q) (the “Property”).

The Commission considered the Application pursuant to Subtitles X and Z of the Zoning Regulations. The public hearing was conducted in accordance with the provisions of Subtitle Z, Chapter 5 of the Zoning Regulations. For the reasons stated below, the Commission hereby **APPROVES** the Application.

The Applicant proposes to continue the use of the three existing temporary parking lots (the “Existing Lots”) on the Property.

Three previous Commission orders approved the construction of the Existing Lots. The Existing Lots on Parcel H/I and Parcel Q were previously approved by the Commission for two consecutive periods, each of five years and ending July 5, 2018 pursuant to Z.C. Order Nos. 07-17 and 13-03. The Existing Lot on Parcel F was previously approved by the Commission for a single period of five years and ending on April 11, 2019 pursuant to Z.C. Order No. 13-16.

Three separate parcels within The Yards comprise the Property, which is in total approximately 291,752 square feet (approximately 6.7 acres). Parcels F and H/I lie at the western edge of The Yards near the Nationals Ballpark. N Street, S.E. divides Parcel F from Parcel H/I, and all vehicular access to the Existing Lots on those parcels is from N Street, S.E. and N Place, S.E. To the north and east of Parcels F and H/I are additional SEFC parcels. To the south are additional parcels controlled by affiliates of the Applicant and proposed for redevelopment pursuant to Z.C. Order No. 13-05 as a multi-block PUD. Parcel Q is located along the eastern edge of The Yards. Immediately north of Parcel Q is Parcel O, which currently contains an under-construction multifamily residential building with ground-floor retail uses. South and west of Parcel Q is The Yards Park and the retail and office uses within the Park. All vehicular access to the Existing Lot on Parcel Q is via two curb cuts at the southeastern corner of the intersection of Water Street, S.E. and 4<sup>th</sup> Street, S.E.



The Applicant seeks to maintain the previously-approved Existing Lots, which currently contain a total of 794 parking spaces and are currently landscaped and lit. The Applicant does not seek to enlarge the Existing Lots as part of this application. (Exhibit [“Ex.”] 2.)

Proper and timely notice of the public hearing on this Application was given by publication in the *D.C. Register*, by mail to Advisory Neighborhood Commission (“ANC”) 6D, the Office of Planning (“OP”), the District Department of Transportation (“DDOT”), the National Capital Planning Commission (“NCPC”), and to owners of property within 200 feet of the Property, and by posting on the Property. (Ex. 3, 4, 6, 7, 13.) The Property is located within the boundary of ANC 6D. ANC 6D, OP, DDOT, and NCPC each submitted a report in support of the Application. (Ex. 8, 9, 11, 12, collectively, the “Agency Reports”.) OP testified at the hearing in support of the Application.

As mitigation for pedestrian access to and from the Existing Lots, the Applicant offered to condition approval of this Application on the commencement of construction of permanent sidewalk and public space improvements along the north side of N Place, S.E. between 1<sup>st</sup> Street and Canal Street. The Applicant also sought for the approvals hereunder to commence upon the expiration of the previous approvals of the Existing Lots. The Commission concurred with these conditions.

As required by Subtitle Z § 408.8 of the Zoning Regulations, the Commission required the Applicant to satisfy the burden of demonstrating conformance to the standards that are necessary to approve the temporary parking lots under Subtitle K, §§ 241 and 242 of the Zoning Regulations. The Applicant has satisfied the applicable evidentiary burden, and the Application satisfied the relevant regulatory requirements.

No persons or parties appeared at the public hearing in opposition to the Application. Accordingly, a decision by the Commission to grant this Application would not be adverse to any party.

Based upon the record before the Commission, having considered the Agency Reports and testimony OP provided in this case, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under Subtitle K §§ 241 and 242, which include the standards set forth in Subtitle X § 604 for a special exception, and the specific standards relating to achieving the objectives of the SEFC-1 and SEFC-3 zones as set forth in such §§ 241 and 242. Pursuant to Subtitle Z § 101.9, the Commission has determined to waive the requirement of Subtitle Z § 604.7 that the Order be accompanied by findings of fact and conclusions of law. The waiver will not affect the rights of any party and is not prohibited by law.

### **DECISION**

The Zoning Commission hereby **ORDERS APPROVAL** of the Application to allow the continued temporary use of the Existing Lots as surface parking lots subject to the following conditions:

1. The Applicant shall commence construction of permanent sidewalk and public space improvements along the north side of N Place, S.E. between 1<sup>st</sup> Street and Canal Street by

no later than December 31, 2019 unless it has commenced construction on Parcel H or I. If the Applicant has commenced construction on Parcels H or I, the Applicant shall commence construction of the permanent sidewalk and public space design for the entire length of N Place, S.E. on the north side prior to the issuance of a certificate of occupancy for Parcel H or I, whichever occurs first, or as otherwise governed by the zoning orders applicable to Parcel H or I.

2. The approvals granted in this Order shall be valid for a period of five years commencing upon the expiration of (i) Z.C. Order No. 13-03 (i.e., commencing July 6, 2018) for Parcel H/I (Square 744, Lot 806) and Parcel Q (Square 827, Lot 1), and (ii) Z.C. Order No. 13-16 (i.e., commencing April 12, 2019) for Parcel F (Square 743, Lot 94). Accordingly, the expiration date for Parcel H/I (Square 744, Lot 806) and Parcel Q (Square 827, Lot 1) is July 5, 2023. The expiration date for Parcel F (Square 743, Lot 94) is April 11, 2024.
3. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. (“Act”), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On May 3, 2018, upon the motion of Vice Chairman Miller, as seconded by Chairman Shapiro, the Zoning Commission **VOTED** to **APPROVE** the Application at the conclusion of its public hearing by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on June 15, 2018.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 17-09**

**Z.C. Case No. 17-09**

**FP Eckington Holdings, LLC**

**(Consolidated Planned Unit Development and Related Map Amendment @ Square 3581)  
March 12, 2018**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on December 14, 2017, to consider an application for a consolidated planned unit development (“PUD”) and a related Zoning Map amendment filed by FP Eckington Holdings, LLC (“Applicant”). The Commission considered the application pursuant to Subtitle X, Chapter 3 and Subtitle Z of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). The public hearing was conducted in accordance with the provisions of Subtitle Z, Chapter 400. For the reasons stated below, the Commission hereby **APPROVES** the application.

**FINDINGS OF FACT**

**The Application, Parties, and Hearing**

1. On April 21, 2017, the Applicant filed an application with the Commission for the consolidated review and approval of a PUD and a related Zoning Map amendment for the subject property which is located at Square 3581, Lot 15 (“Site”).
2. The Applicant proposes to construct a multifamily residential building with ground-floor retail (“Project”). The maximum building height will be 81 feet, six inches to the top of the roof and 83 feet to the top of the parapet. The Project includes approximately 313,916 square feet of gross floor area, or 4.03 FAR, with approximately 328 residential units including five artist live-work spaces and approximately 9,136 square feet devoted to retail use. The Project also includes approximately 124 parking spaces in a below-grade parking garage.
3. The Site is currently split zoned PDR-2 and PDR-4. The Applicant requests a rezoning of the Site to the MU-5-A zone.
4. At its public meeting held on July 24, 2017, the Commission voted to schedule a public hearing on the application.
5. On August 15, 2017, the Applicant submitted a Pre-Hearing Submission which included revised architectural sheets. (Exhibits [“Ex”] 15-15G.) The Pre-Hearing Submission responded to questions raised by the Commission at the set down meeting, including: (i) additional information regarding the building’s design; (ii) additional information regarding the sustainable design elements of the Project; (iii) additional information regarding the amount of Inclusionary Zoning (“IZ”) and affordable housing for the Project; (iv) updated information regarding consistency with the Comprehensive Plan; and (v) additional information regarding the proffered public benefits and project

- amenities. The Prehearing Submission also provided updated information as requested by the Office of Planning (“OP”).
6. On November 22, 2017, the Applicant submitted a Supplemental Prehearing Submission with architectural plans, which provided updated information regarding: (i) the Project’s revised architecture and design; (ii) the Applicant’s proffered public benefits and project amenities including the amount of affordable housing provided within the Project; (iii) the Applicant’s outreach with District agencies; (iv) the Applicant’s community outreach; and (v) the Applicant’s Transportation Demand Management (“TDM”) measures. (Ex. 28-28C.)
  7. On December 13, 2017, the Applicant submitted a response to the reports of OP and of the Department of Energy and the Environment (“DOEE”). (Ex. 33-33D.) The Applicant also submitted a separate response to the report of the District Department of Transportation (“DDOT”). (Ex. 34-34A.)
  8. On December 13, 2017, the Eckington Civic Association (“ECA”) filed a request for party status in support of the application.
  9. After proper notice, the Commission held a public hearing on the application on December 14, 2017.
  10. At the public hearing, the Commission granted ECA’s request for party status. As a result, the parties to the case were the Applicant, Advisory Neighborhood Commission (“ANC”) 5E, and ECA.
  11. The Applicant presented four principal witnesses at the public hearing, including Josh Etter, on behalf of Foulger-Pratt, representing the Applicant; Sarah Alexander, an expert in architecture, on behalf of Torti Gallas Urban, the architects for the Project; Erwin N. Andres, an expert in transportation planning and analysis, on behalf of Gorove/Slade Associates, Inc.; and Shane L. Dettman, an expert in land use and zoning, on behalf of Holland & Knight LLP. Based upon their professional experience, as evidenced by the resumes submitted for the record, Ms. Alexander, Mr. Andres, and Mr. Dettman were qualified by the Commission as experts in their respective fields.
  12. At the public hearing, OP testified that the Applicant’s proffered public benefits and project amenities are significant and outweigh the relatively minor development incentives and flexibility requested by the Applicant. (Transcript [“Tr.”] at 39.) In addition, OP testified the PUD and related Zoning Map amendment is not inconsistent with the Comprehensive Plan. (Tr. at 39.) However, OP also testified that they were unable to support the Project at that time and requested additional affordable housing and production, distribution, and repair (“PDR”) related uses. (Tr. at 47.) DDOT testified in support of the Project at the public hearing.
  13. ANC 5E, the ANC within which the Site is located, submitted a letter in support of the Project including the height, density, and uses proposed, with conditions relating to

- further review of the community benefits associated with the Project. (Ex. 36A.) Commissioner Hannah Powell (the Single Member District Representative) testified at the public hearing on behalf of the ANC and indicated that ANC 5E supported the Project, subject to the Applicant and the ANC working out the final allocation of the donated funds.
14. At its November 6, 2017 public meeting, ECA voted 12-0 to support the Project including the Applicant's proffered public benefits and project amenities. The ECA President Katrina Velasquez, also testified in support of the Project at the public hearing.
  15. The NoMa Parks Foundation ("NPF") submitted a letter in support of the Project. (Ex. 37.)
  16. Mr. Michael Clark, Sr., the President of the Edgewood Civic Association, testified on behalf of the Edgewood Civic Association in opposition to the Project. Mr. Clark did not have any concerns relating to the height, density, or uses proposed for the PUD. His concerns related to the amount of affordable housing proposed for the Project and the Applicant's outreach to the Edgewood Civic Association. At the request of the Commission, SMD Commissioner Hannah Powell and ECA President Katrina Velasquez, contacted Mr. Clark regarding the Edgewood Civic Association's inclusion generally in the review process for PUDs and specifically as it relates to this case. Mr. Clark was also present at the ANC's December 19, 2017, public meeting to discuss the Applicant's community benefits package. Subsequent to that meeting, Mr. Clark recommended that the Applicant donate an additional \$2,500 for a TV and/or projector to support the programs at the Harry Thomas Recreation Center. The Applicant has agreed to the request from the Edgewood Civic Association and has included those additional funds as part of its amenities and benefits.
  17. FedEx also submitted a letter in opposition to the Project. (Ex. 11-11C.) However, FedEx did not testify at the public hearing. FedEx's concerns relate to a private agreement between FedEx and the Applicant.
  18. At the conclusion of the public hearing, the Commission left the record open for the Applicant's Post-Hearing Submission, ANC 5E's response to the Applicant's Post-Hearing Submission, and ANC 5E's additional resolution regarding the Project.
  19. On January 9, 2018, the Applicant submitted a Post-Hearing Submission in response to the Commission's comments at the public hearing. The Post-Hearing Submission included the Applicant's revised public benefits and project amenities in response to the comments from ANC 5E and Mr. Clark. (Ex. 41.) In addition, in response to OP's comments the revised public benefits and amenities include the Applicant's commitment to providing an additional artist live-work space, which increases the amount of PDR uses and affordable housing provided in the Project. (Ex. 41.)
  20. ANC 5E submitted an additional letter on January 17, 2018 indicating that at a duly noticed public meeting on January 17, 2018, at which notice was properly given and a

quorum was present, ANC 5E voted to support the Applicant's proposed community benefits agreement related to this Project. (Ex. 44.) ANC 5E's letter and the advice contained therein are discussed in greater detail below.

21. The Commission took proposed action to approve the PUD and related Zoning Map amendment on January 29, 2018.
22. The proposed action was referred to the National Capital Planning Commission ("NCPC") on February 1, 2018, pursuant to § 492 of the Home Rule Act.
23. NCPC's Director of Urban Design and Plan Review, by letter dated February 26, 2018, found that the Project was exempt from NCPC review.
24. The Commission took final action to approve the PUD and related Zoning Map amendment on March 12, 2018.

### **The Site and Surrounding Area**

25. The Site is located at the southeast corner of Harry Thomas Way, N.E. and R Street, N.E. and is currently vacant. To the north is the Penn Center building, which is currently used as a District-owned warehouse. To the east are the Metropolitan Branch Trail ("MBT") and the WMATA tracks. The land directly to the south is the South Park, as defined below, and further to the south is a PEPCO substation.
26. Residential uses are predominantly found to the west and northwest. To the northwest, the zoning is RF-1 and these areas of RF-1 zoning are improved with attached rowhouse dwellings. To the southwest is the Gale project, which was approved as a PUD (Z.C. Case No. 05-23, subsequently modified by Z.C. Case Nos. 05-23A-B). The Gale consists of three buildings, the tallest of which has a maximum building height of 64 feet, six inches, with an overall density of 3.3 floor area ratio (FAR). The Gale project was also included in a PUD-related map amendment from the M Zone District to the CR Zone District (the PDR-4 zone to MU-9 zone under the current zoning regulations).
27. Immediately to the west, across Harry Thomas Way, is the approved JBG/Boundary PUD project (Z.C. Case No. 15-15). The approved JBG/Boundary project – known as Eckington Yards – will consist of three buildings, the tallest of which will be constructed to a height of approximately 102 feet. The maximum density for Eckington Yards is 5.2 FAR. The project is centered around an east-west pedestrian alley and plaza that terminates across the street from the Project. The Eckington Yards project was included in a PUD-related map amendment from the M Zone District to the CR Zone District (the PDR-4 zone to MU-10 zone under the current Zoning Regulations).

### **Existing and Proposed Zoning**

28. The Site is currently split zoned PDR-2 and PDR-4. Approximately 81% is zoned PDR-4 and 19% is zoned PDR-2.

29. The PDR-2 zone is intended to permit medium-density commercial and PDR activities employing a large workforce and requiring some heavy machinery, under controls that minimize any adverse impacts on adjacent, more restrictive zones. (11-J DCMR § 200.2.) The PDR-2 zone permits a maximum height of 60 feet, with the same height permitted for a PUD. (11-J DCMR §§ 203.1, 303.7.) The PDR-2 zone permits a maximum FAR of 3.0 for restricted uses and 4.5 FAR for permitted uses. (11-J DCMR § 202.1.) The maximum FAR for a PUD in the PDR-2 zone is 3.6 for restricted uses and 5.4 for permitted uses. (11-X DCMR § 303.3.)
30. The PDR-4 zone is intended to permit high-density commercial and PDR activities employing a large workforce and requiring some heavy machinery under controls that minimize any adverse impacts on adjacent, more restrictive zones and minimize non-industrial uses. (11-J DCMR § 200.4.) The PDR-4 zone permits a maximum height of 90 feet, with the same height permitted for a PUD. (11-J DCMR §§ 203.1 and 303.7.) The PDR-4 zone permits a maximum FAR of 1.0 for restricted uses and 6.0 FAR for permitted uses. (11-J DCMR § 202.1.) The maximum FAR for a PUD in the PDR-4 zone is 1.2 for restricted uses and 7.2 for permitted uses. (11-X DCMR § 303.3.)
31. Multi-family residential use is not permitted in either the PDR-2 or PDR-4 zones. New residential uses are limited in the PDR-2 and PDR-4 zones to either: (1) an apartment unit for a caretaker, watchman, or janitor employed on the premises; or (2) an apartment unit that is integrated with and accessory to an artist studio. (11-U DCMR § 801.1(v).)
32. The application includes a request for a PUD-related map amendment to the MU-5-A zone to allow for the development of the multifamily residential building. The MU-5 zones are intended to permit medium-density, compact mixed-use development with an emphasis on residential use. (11-G DCMR § 400.4(a).) In addition, the MU-5 zones provide for areas with facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core. (11-G DCMR § 400.4(b).) The MU-5 zones are located on arterial streets, in uptown and regional centers, and at rapid transit stops. (11-G DCMR § 400.4(c).)
33. The MU-5-A zone permits a maximum matter-of-right height of 65 feet, with 70 feet permitted for IZ projects, with no limit on the number of stories. (11-G DCMR § 403.1.) The maximum permitted FAR is 3.5, with up to 4.2 FAR for IZ projects, and with a maximum non-residential FAR of 1.5. (11-G DCMR § 402.1.)
34. Under the PUD guidelines for the MU-5-A zone, the maximum height is 90 feet and the maximum FAR is 5.04, with a maximum non-residential FAR of 2.01. (11-X DCMR §§ 303.7, 303.3.)
35. The architectural drawings titled “Eckington Park”, prepared by Torti Gallas Urban dated November 21, 2017, as modified by Sheet G07, titled “Zoning Analysis,” submitted with the Applicant’s Post-Hearing Submission, are collectively referred to hereinafter as the “Plans.” (Ex. 28A1-28A3, 41A.) A tabulation of the PUD’s development data is included

on Sheet G07, titled “Zoning Analysis,” submitted with the Applicant’s Post-Hearing Submission. (Ex. 41A.)

### **Description of the PUD Development**

36. The Project proposes the development of a vacant site with a multifamily residential building, including ground-floor retail and five two-story, artist live-work spaces. The Project has been designed to fit within its unique setting. It is located to the north of a proposed new park having more than two acres of open space immediately to the south (“South Park”) and the extension of the South Park to the north with more than 20,050 square feet of the open space on the eastern portion of the Site (“East Park”). The East Park is part of the Site but will be conveyed to the NPF to be used for the realignment of the MBT, a neighborhood dog park, and related open space.
37. The Project will have approximately 313,916 square feet of gross floor area, or 4.03 FAR, with approximately 328 units and a landscaped central courtyard with a pool. The maximum height of the building is 81 feet, six inches to the top of the roof and 83 feet to the top of the parapet. The Project includes two small mechanical penthouses on the main roof, each with a maximum height of 12 feet. All portions of the penthouses will be set back 1:1 in accordance with the Zoning Regulations.
38. Nine two-story loft units will line the east façade and have direct access to the East Park. Five of the nine two-story loft spaces will be artist live-work spaces. These artist-live work spaces will be reserved for local artists earning equal to or less than 60% of the median family income (“MFI”) and will remain affordable for the life of the Project.
39. In response to the Commission’s comments, the Applicant revised the design of the Project to include four distinct façade types, each which responds to their unique location in the overall urban design framework and each of which has some frontage on Harry Thomas Way. Specifically, the two façade types on Harry Thomas Way directly respond to the approved PUD located across Harry Thomas Way, as shown on Sheet A18 of the Plans. The third façade type, located at the southwest corner, is modern while still retaining a strong industrial identity consistent with previous uses within this portion of Eckington. This façade is an important architectural expression because it is the termination of the horizontal axis from the Eckington Yards project immediately to the west and it also fronts on the South Park.
40. The fourth and final façade is able to have a more impressive scale and size consistent with other buildings that face the train tracks, since these façades are generally larger in scale than those more internal to the Eckington neighborhood. At the same time, the larger façade wraps the northwest corner onto Harry Thomas Way and has been designed to respect the smaller context to the northwest of the Project in the following ways: (i) the top floor is set back 10 feet; (ii) a strong top to the building has been created at the sixth floor with a strong cornice line and a small setback; and (iii) balconies are included at the fifth floor to further reduce the scale of the building and introduce a finer grain of detail to the façade.



41. In order to focus pedestrian activity on Harry Thomas Way, which provides access to the South Park and to the retail uses for both the Project and Eckington Yards, the primary residential entrance is located on Harry Thomas Way. A secondary residential entrance is located from a walkway fronting the South Park. Retail entries are located along Harry Thomas Way and the walkway fronting the South Park.
42. All access to parking for the Project is from R Street, N.E. While R Street dead ends at the WMATA tracks, a private driveway extending north provides access to the industrial uses abutting the tracks. Locating the parking entrance away from Harry Thomas Way minimizes pedestrian and vehicular conflicts. The below-grade parking garage includes approximately 124 parking spaces, which exceeds the parking requirement under the Zoning Regulations. (11-C DCMR § 702.1.)
43. Loading is also accessed from R Street, N.E. The Project includes two loading berths at 30 feet and two 100-square-foot platforms. This proposed loading satisfies the requirements of the Zoning Regulations, which require one loading berth at 30 feet, one service/delivery space at 20 feet, and one 100-square-foot platform. The loading will be shared among the uses per 11-C DCMR § 901.8. In order to minimize conflicts between trucks accessing the Site and bicyclers using R Street to access the MBT, the loading berth has been designed to achieve front-in/front-out loading access.
44. The Project includes approximately 174 long-term bicycle parking spaces in an enclosed bike storage area in the below-grade garage and will include 30 short-term bicycle parking spaces in the form of 15 U-racks in public space adjacent to the Site. This amount of bicycle parking exceeds the 111 bicycle parking spaces and 20 short-term bicycle parking spaces required for the Project under the Zoning Regulations. (See 11-C DCMR § 802.1.)
45. The Project will be designed to achieve a minimum of 60 points, which is equivalent to the LEED Gold standards under LEED NC-2009. The Project incorporates a host of sustainable features including a green roof, bio-retention planters, and permeable pavers. The Project also includes low-flow plumbing fixtures, Energy Star rated appliances, and additional energy efficiency measures such as advanced insulation. Material selection for the Project includes low-and no-VOC components and Green Label flooring. The Project also will include a robust waste management and recycling program.
46. In response to the comments from the Commission and DOEE, the Applicant incorporated approximately 1,500 square feet of solar panels on the roof of the Project, which will generate approximately one percent of the building's total energy use. The solar panels have been oriented to maximize their southern exposure and to locate them in the most linear fashion.

### **Zoning Flexibility**

47. The Applicant requests flexibility to have a side yard of five feet along the south side of the building, where 13 feet, 10 inches is required pursuant to 11-G DCMR § 406.1. In the MU-5-A zone, no side yard is required, but if a side yard is provided, it must be at least two inches wide per foot of building height, but not less than five feet wide.
48. The reduced side yard will not result in any adverse impacts to the open space on the Site or nearby properties, since the side yard is located on the south frontage and adjacent to the South Park. A side yard is being provided in order to construct a building code-required walkway between the Site and the South Park. This walkway will provide access to the retail uses and the secondary residential entrance. It will also provide bike and pedestrian access to shuttle elevators connecting to the below-grade parking garage. The walkway will not be perceived as a side yard because it will open on to the large South Park.

### **Development Flexibility**

49. The Applicant also requests flexibility in the following additional areas:
  - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
  - b. To vary the final selection of the exterior materials within the color ranges of the material types as proposed, based on availability at the time of construction;
  - c. To increase the final number of residential units by no more than five percent above the total number approved to respond to market demand, or to decrease the final number of market-rate residential units within the approved gross floor area in order to accommodate demand for larger units;
  - d. To vary the location, attributes, and general design of the streetscape incorporated in the project to comply with the requirements of and the approval by the DDOT Public Space Division;
  - e. To make refinements to the garage configuration, including layout, parking spaces, and other elements, so long as the number of parking spaces provided is at least the minimum number of spaces required by the Zoning Regulations;
  - f. To make refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, venting, window mullions and spacing, or any other changes that do not significantly alter the exterior design to comply with the District of Columbia Building Code;

- g. To modify or revise the landscape design of the East Park so long as no portion of the principal building extends into the area of the East Park and that the East Park is maintained only for the realignment of the MBT, a dog park, and related open space;
- h. To locate retail entrances in accordance with the needs of the retail tenants and vary the façades as necessary within the general design parameters proposed for the project and to vary the types of uses designated as “retail” use on the PUD Plans to include the following use categories: (i) Retail (11-B DCMR § 200.2(cc)); (ii) Services, General (11-B DCMR § 200.2(dd)); (iii) Services, Financial (11-B DCMR § 200.2(ee)); and (iv) Eating and Drinking Establishments (11-B DCMR § 200.2(j)); and
- i. To vary the font, message, logo, and color of the proposed signage, provided that the maximum overall dimensions, signage materials, or lighting do not change from those shown on the approved PUD Plans.

### **Public Benefits and Amenities**

- 50. *Superior landscaping, or creation or preservation of open spaces (11-X DCMR § 305.5(b)).* The Project includes the creation of important public open spaces, including the following:
  - a. The Applicant will deed to NPF approximately 20,050 square feet of the Site for creation of the East Park to house the realigned MBT, a neighborhood dog park, and general open space. The land area for the creation of the East Park is approximately 27% of the Site; and
  - b. The Applicant will donate \$165,000 for improvements to facilitate the creation of the neighborhood dog park within the East Park.
- 51. *Superior urban design and architecture; site planning and efficient and economical land utilization (11-X DCMR § 305.5(a) and (c)).* The Project is designed to be compatible with the adjacent residential community and to enhance both the East Park and South Park, since the Site sits at the confluence of these two important neighborhood amenities. The Project results in the replacement of a vacant and underutilized site and provides extra eyes on the East Park and South Park.
- 52. *Commemorative works or public art (11-X DCMR § 305.5(d)).* The Applicant has incorporated public art into the Project in two locations. Art installations will be provided at the ground floor fronting on the MBT and on the upper level roof deck at the southeast corner of the Project. Precedent images for the ground-floor art installation are included at Sheet A29 of the Plans. An initial proposed rendered piece for the roof deck has been included on Sheet A28 of the Plans. The public art piece for the roof deck is being designed and curated by No Kings Collective, which works with new and established District artists to create pop-up exhibitions, murals, and client-focused design materials.

53. *Housing and Affordable Housing (11-X DCMR § 305.5(f) and (g)):*

- a. The Project results in the creation of new housing consistent with the goals of the Zoning Regulations and the Comprehensive Plan, including the Future Land Use Map. Overall, the Project will replace a vacant site with approximately 328 units. This exceeds the amount of housing that would have been provided if the Site was developed as a matter of right under the existing PDR zoning as no multifamily residential use is permitted in PDR zones;
- b. In accordance with the IZ Regulations, the Project will contain approximately 19,580 square feet of IZ units, reserved for households earning equal to or less than 60% of the MFI. Detailed IZ calculations are included on Sheet G07 of the Plans. This represents a substantial increase in the amount of affordable residential floor area when compared to the fact that no affordable housing would be generated if the Site was developed as a matter of right. (*See* 11-X DCMR § 305.5(g), “Affordable housing; except that affordable housing provided in compliance with the Inclusionary Zoning requirements of 11-C DCMR, Chapter 22, shall not be considered a public benefit except to the extent it exceeds what would have been required through matter-of-right development under existing zoning.”) In order to support the District’s goal of providing more family-sized affordable units, and in response to requests by both ANC 5E and the ECA, the Applicant will reserve 14 two-bedroom units and four two-story, three-bedroom units on the ground floor as IZ units. Pursuant to 11-X DCMR § 305.5(f)(3), three-bedroom units are specifically identified as a public benefit, even if they are market-rate units. However, the Applicant is committed to providing both market-rate and IZ three-bedroom units; and
- c. The Applicant will also reserve five two-story loft spaces that front on the East Park as affordable artist live-work spaces. These artist-live work spaces will be reserved for local artists earning equal to or less than 60% of the MFI. This equals approximately 6,728 square feet of additional affordable housing in the Project above what is required under the IZ Regulations. As shown on Sheet A02 of the Plans, the artist live-work spaces will front on the East Park. In order to further activate the East Park, the Applicant has designed these artist live-work spaces to be accessible to the public in the event the resident artists use the space for a public showing. The artist-live work spaces will remain affordable for the life of the Project and will be administered through a partnership with Cultural Development Corporation (“CuDC”) in accordance with the outline marked as Exhibit 33B of the record.

54. *Employment and training opportunities (11-X DCMR § 305.5(h)).* The Applicant will provide at least four construction, design, and engineering training seminars<sup>1</sup> regarding

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<sup>1</sup> The revised Community Benefits Agreement submitted by ANC 5E references training seminars for construction trades, consistent with the Applicant’s Revised Public Benefits and Project Amenities Chart. (Ex. 44A, 41D.)

construction trades which will be made available to students at McKinley Technology High School. The Applicant will also fund up to two internships for students of McKinley Technology High School, which is part of the \$25,000 funds being devoted to McKinley Technology High School for specific priorities, as discussed below.

55. *Environmental and sustainable benefits (11-X DCMR § 305.5(k)).* The Project is designed to integrate a host of sustainable features, including a green roof and approximately 1,500 square feet of solar panels on the building's roof, as shown on Sheet A05 of the Plans. The solar panels will generate approximately one percent of the building's total energy use. The Project will also be designed to achieve a minimum of 60 points, which is equivalent to the LEED Gold standards under LEED NC-2009 in accordance with 11-X DCMR § 305.5(k)(5).
56. *Streetscape plans (11-X DCMR § 305.5(l)).* The Applicant will construct a pedestrian-friendly streetscape abutting the Site, including new paving for the sidewalks, street lighting fixtures, and new and replacement shade trees, subject to DDOT approval.
57. *Transportation infrastructure (11-X DCMR § 305.5(o)).* The Applicant will donate \$80,000 to fund the realignment of the MBT as it crosses the Site through the East Park. The realignment results in the elimination of the hard right angle along this portion of the MBT, creating a more gentle curve to access the MBT to north of R Street. The realignment will increase safety on the MBT for all District residents who use this vital form of transportation to commute and travel throughout the city. Based on current estimates, the \$80,000 donation is anticipated to fully fund the realignment of the MBT. The Project includes 174 secure, long-term bike parking spaces within the building as well as a bicycle repair station for tenants. The Applicant will install 30 short-term bike parking spaces near the MBT.
58. *Uses of special value to the neighborhood or the District of Columbia as a whole (11-X DCMR § 305.5(q)):*
  - a. The Applicant will donate \$350,000 to NPF to assist with improvements in the South Park, including funding for the South Park Amphitheater. All remaining money donated will fund the construction food service kiosks within the South Park; and
  - b. The Applicant has also agreed to donate a total of \$62,500 to local schools, the Harry Thomas Recreation Center, and the Bloomingdale Civic Association to fully fund the following initiatives:
    - i. McKinley Technology High School. \$27,500 allocated as follows: \$15,000 for construction trade internships for McKinley Technology

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However, at ANC 5E's meeting on January 2018, ANC 5E requested that the training programs be geared towards design and engineering skills in accordance with requests from McKinley Technology High School. The Applicant agreed and thus revises its proffer to reflect the expanded scope of training.

students; and \$12,500 to purchase laptops/computers to replace outdated technology;

- ii. Harmony Elementary. \$8,500 to purchase Chromebooks to support in-classroom educational technology and standardized testing methods;
- iii. Langley Elementary. \$12,500 to purchase laptops to replace outdated technology and to increase the total number of work stations available for student use;
- iv. Harry Thomas Recreation Center. \$11,000 allocated as follows: \$8,500 to purchase tablets/computers for before/after school programs focused on enhancing literacy skills for children ages pre-k to 5<sup>th</sup> grade; and \$2,500 to purchase a new TV or projector; and
- v. Bloomington Civic Association Scholarship Fund. \$3,000 total to fund two scholarships for high school students who live within the District-recognized boundaries of Bloomingdale and/or are a student or alumni of McKinley Technology High School or Dunbar High School.

59. In close consultation with ECA, the Applicant has committed to contribute \$40,000 to a partnership between Manna, Inc. and the Latino Economic Development Center (“LEDC”) to fund affordable housing training and assistance for Eckington residents who rent or own in the Eckington neighborhood. The partnership will conduct neighborhood tenant’s rights workshops and detailed training on how to apply/qualify for local affordable housing programs. A door-to-door survey will be conducted to promote awareness and determine training priorities. A detailed outline of the program is marked as Exhibit 33D of the record.
60. Transportation Demand Management. The Applicant will implement the following transportation demand management (“TDM”) strategies to reduce travel demand:
  - a. The Applicant will identify TDM Leaders (for planning, construction, and operations). The TDM Leaders will work with goDCgo staff to create free customized marketing materials and a TDM outreach plan for residents and retail employees, including developing a site-specific transportation guide for residents and visitors;
  - b. The Applicant will provide updated contact information for the TDM Leader and report TDM efforts and amenities to goDCgo staff once per year;
  - c. The Applicant will stock Metrorail, Metrobus, DC Circulator, Capital Bikeshare, Guaranteed Ride Home, DC Commuter Benefits Law, and other brochures through building management;

- d. The Applicant will unbundle all parking costs from the cost of the leases. The parking costs shall be based on the average parking rate for multi-family developments within a quarter-mile of the Site that have been constructed within the last five years;
  - e. For a total of three years, the Applicant will offer to each new residential lease either a one-year membership to Capital Bikeshare or a one-year membership to a carsharing service in an amount of \$85 for an annual membership. The maximum amount the Applicant will pay for this benefit is \$27,880;
  - f. The Applicant will provide approximately 174 long-term bicycle parking spaces in the garage and 30 short-term bicycle parking spaces in the form of 15 U-racks within and along the perimeter of the Site;
  - g. The Applicant will install Transportation Information Center Displays (kiosks or screens) within the lobby of the building, containing information related to local transportation alternatives;
  - h. The Applicant will dedicate two spaces for carsharing services to use with the right of first refusal. If the Applicant is unable to secure a carsharing provider for the two dedicated carsharing spaces, then the Applicant shall host WABA's Everyday Bicycling Seminars two times a year for a total of three years;
  - i. The Applicant will include a provision in all residential leases restricting the building's tenants from obtaining Residential Parking Permits;
  - j. The Applicant will provide at least one shopping cart for every 25 residential units for a total of 13 shopping carts;
  - k. The Applicant will provide two electric vehicle charging stations at the Site; and
  - l. The Applicant will install a bicycle maintenance facility within the long-term bicycle parking area.
61. The Applicant will fund the installation of striping and signage necessary to convert the intersection of Eckington Place, N.E. and Harry Thomas Way, N.E. to an all-way stop controlled intersection. The improvements shall consist of the installation of stop signs, stop bars along Eckington Place, N.E., new crosswalks along Eckington Place, N.E. and Harry Thomas Way, N.E., ADA compliant curb ramps that align with each crosswalk, and detectable warning strips at each curb ramp at the intersection of Eckington Place, N.E. and Harry Thomas Way, N.E., subject to approval by DDOT. The Applicant shall also construct curb extensions at the intersection of Eckington Place, N.E. and Harry Thomas Way, N.E., pending DDOT's final redesign of Eckington Place, N.E. and subject to approval by DDOT. The Applicant will also construct curb extensions on the southwest and southeast corners of the intersection of Harry Thomas Way, N.E. and R Street, N.E., subject to approval by DDOT.

**Compliance with PUD Standards**

62. The application complies with the standards for a PUD set forth in 11-X DCMR, Chapter 3 of the Zoning Regulations
63. The Project offers a high level of public benefits and project amenities. When compared with the amount of development flexibility requested and project impacts, the application satisfies the balancing test required in 11-X DCMR § 304.3, as is further discussed below.
64. The Site is approximately 77,898 square feet in land area, or 1.79 acres. For a PUD in the MU-5-A zone, the Zoning Regulations require a minimum land area of 15,000 square feet. (11-X DCMR § 303.1.) As a result, the Project complies with the minimum area requirements
65. The development is of exceptional merit and in the best interest of the District. The Project will significantly improve the existing area by virtue of the exceptional architectural design and the replacement of vacant and underutilized Site with uses that are not inconsistent with the Comprehensive Plan.
66. The PUD and related Zoning Map amendment are not inconsistent with the Comprehensive Plan as is set forth in Findings of Fact (“FF”) Nos. 69-84 below.
67. The Project has been evaluated under the PUD guidelines for the MU-5-A zone. The Project is within the height and density permitted for a PUD within the MU-5-A zone.
68. The Project has been evaluated by the relevant District agencies as outlined in FF Nos. 85-108 below. Neither the Commission nor OP identified any unacceptable project impacts on the surrounding area but instead found the impacts to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the Project, as is further discussed below. In addition, DDOT identified impacts that were capable of being mitigated and confirmed at the public hearing that the Applicant is committed to mitigating any unfavorable impacts resulting from the PUD. (Tr. at 41.)

**Compliance with Guiding Principles of the Comprehensive Plan**

69. The Commission finds that the Project is not inconsistent with the Comprehensive Plan for the National Capital, including the land use designation assigned to the Site on the Future Land Use Map (“FLUM”), and the general policy designation on the Generalized Policy Map (“GPM”).
70. The purposes of the Comprehensive Plan are six-fold: (1) to define the requirements and aspirations of District residents, and accordingly influence social, economic, and physical development; (2) to guide executive and legislative decisions on matters affecting the District and its citizens; (3) to promote economic growth and jobs for District residents; (4) to guide private and public development in order to achieve District and community



- goals; (5) to maintain and enhance the natural and architectural assets of the District; and (6) to assist in conservation, stabilization, and improvement of each neighborhood and community in the District. (D.C. Code §1-245(b)).
71. The Project is not inconsistent with these purposes as it will promote the social, physical, and economic development of the District through the provision of a high-quality, mixed-use building and a neighborhood park on the Site. The Project will also help improve the surrounding neighborhood by providing housing, including affordable housing, jobs, and neighborhood-serving retail and five artist live-work spaces.
  72. Future Land Use Map. The FLUM of the Comprehensive Plan (January 2013), adopted as part of the Land Use Element of the Comprehensive Plan for the National Capital, designates the Site as mixed-use (Medium-Density Residential/Production, Distribution, and Repair). Areas with mixed-use designations on the FLUM are areas where a mixing of two or more land uses is encouraged. (10A DCMR § 225.18.)
  73. Specifically, the Commission finds that the provision of five artist live-work units is not inconsistent with *Policy CW-2.8.2; East of the Tracks and Eckington Place Transition Areas*, which encourages the creation of a “production/arts and live-work, mixed-use area east of the CSX railroad tracks between H Street NE and Florida Avenue NE, and in the area east of Eckington Place and north of New York Avenue.” (10A DCMR § 1618.10.)
  74. Legislative history describing mixed-use areas on the FLUM states that the uses depicted in these areas are not mandatory. These mixed-use areas, which include existing commercial centers and development opportunity areas, are areas *where a variety of uses is encouraged but is not required.*” (D.C. Council Committee Report for Bill 5-507, District of Columbia Comprehensive Plan Act of 1984 Land Use Element Amendment Act of 1984, dated December 4, 1984 (emphasis added).) Similar language is reflected in the description of Mixed-Use areas in the existing Comprehensive Plan Framework Element which states, “The [FLUM] indicates areas where the mixing of two or more land uses is *encouraged.*” (10-A DCMR § 225.18 (emphasis added).) Because these uses are encouraged, the project incorporates five artist live-work units.
  75. In addition, the FLUM is not a zoning map and is intended to be interpreted broadly. (10-A DCMR § 226.) As stated in the OP Report, whereas zoning maps are parcel-specific and establish detailed requirements for setbacks, height, use, parking, and other attributes, the FLUM does not follow parcel boundaries and its categories do not specify allowable uses or dimensional standards. (Ex. 12, p. 9.)
  76. According to the Framework Element, the Medium Density Residential land use category is used to define neighborhoods or areas where mid-rise (four-seven stories) apartment buildings are the predominant use. Pockets of low- and moderate-density housing may exist within these areas. The Medium-Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. The R-5-

B and R-5-C Zone Districts are generally consistent with the medium-density designation, although other zones may apply.<sup>2</sup> (10A DCMR § 225.5.)

77. The PDR land use category is used to define areas characterized by manufacturing, warehousing, wholesale and distribution centers, transportation services, food services, printers and publishers, tourism support services, and commercial, municipal, and utility activities which may require substantial buffering from noise-, air pollution- and light-sensitive uses such as housing. A variety of zone districts apply within PDR areas, recognizing the different intensities of use and impacts generated by various PDR activities. (10A DCMR § 225.12.)
78. The Project contemplates the construction of a medium-density, seven-story, multifamily residential building with ground-floor retail and two-story artist live-work spaces. The Comprehensive Plan text specifically identifies a seven-story building as being consistent with a Medium-Density Residential designation on the FLUM. Pursuant to 11-G DCMR § 404.4(a), the MU-5 zones are intended to permit medium-density, compact mixed-use development with an emphasis on residential use.
79. The Applicant will provide five two-story artist live-work spaces, all of which will be reserved for local artists with incomes equal to or less than 60% MFI. As a result, the Applicant is providing uses that further the Site's PDR designation since artist live-work spaces are explicitly included within the Arts, Design, and Creation use category, and Arts, Design, and Creation uses are permitted in PDR zones as a matter of right. (See 11-B DCMR § 200.2(e) and 11-U DCMR § 801.1(e).) The proposed amount of artist live-work space is appropriate when considering it within the guidance for compliance with the Comprehensive Plan and the broader context of the area that has been identified in the FLUM for the mixed-use designation. Specifically, the Commission has approved approximately 77,000 square feet of "maker-space" for the project located immediately west of the Site, which is part of the approximately 105,000 square feet of other PDR-related uses/maker-spaces approved by the Commission within the New York Avenue Gateway/Florida Avenue Market areas of the Ward 5 Works, Industrial Land Transformation Study. This node of PDR-related uses/maker-spaces is a complement to the more than 15,000 square feet of maker spaces located to the north near the Brookland Metrorail Station, and along the MBT corridor.
80. Accordingly, the Commission finds that the proposed PUD-related map amendment to the MU-5-A zone, the Project's compliance with the MU-5-A zone height and density development standards, and the proposed range of uses are not inconsistent with the Site's FLUM designation.

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<sup>2</sup> The Comprehensive Plan was last adopted in 2006, prior to the effective date of the 2016 Zoning Regulations ("ZR16"). Thus, the definitions contained in the Framework Element of the various land use designations of the Future Land Use Map refer to the zone districts of the 1958 Zoning Regulations. Under ZR16, the zone designations that correspond to the former R-5-B and R-5-C Zone Districts are RA-2 and RA-3, respectively.

81. Generalized Policy Map. The majority of the Site is located in a Land Use Change Area on the GPM, while a small portion at the north of the Site is located in a Neighborhood Conservation Area on the GPM. As described in the Framework Element, the guiding philosophy for Land Use Change Areas is to encourage and facilitate new development and promote the adaptive reuse of existing structures. Many of these areas have the capacity to become mixed-use communities containing housing, retail, services, workplaces, parks and civic facilities. (10A DCMR § 223.11.)
82. Neighborhood Conservation areas have very little vacant or underutilized land. They are primarily residential in character. Maintenance of existing land uses and community character is anticipated over the next 20 years. Where change occurs, it will be modest in scale and will consist primarily of scattered property infill housing, public facilities, and institutional uses. Neighborhood Conservation Areas that are designated “PDR” on the Future Land Use Map are expected to be retained with the mix of industrial, office, and retail uses they have historically provided. (10A DCMR § 223.4.)
83. The Commission finds that the Project is not inconsistent with both of the above GPM designations. Specifically, the Applicant is proposing to redevelop a vacant site with uses that are consistent with the Site’s designation on the FLUM, as detailed above, supporting the Land Use Change Area designation. In addition, at the northwest corner of the Site, the building height is lowered to 70 feet, and the façade contains lowered balconies and a dropped minor cornice, which results in a reduced scale of building that relates well to the lower scale residential development to the northwest of the Site. Moreover, the proposed PDR use (artist live-work spaces) is compatible with existing residential uses in the vicinity of the Site. The PDR use will also front on the East Park and face the WMATA tracks and industrial uses to the east. Thus, the Project addresses the Site’s designation as both a Neighborhood Conservation Area and Land Use Change area on the GPM.
84. Compliance with Guiding Principles of the Comprehensive Plan. The Commission finds the Project to be not inconsistent with the Comprehensive Plan guiding principles relating to managing growth and change, creating successful neighborhoods, increasing access to education and employment, connecting the city, and building green and healthy communities, as follows:
- a. Managing Growth and Change. The Project is not inconsistent with several of the principles contained within this section that focus on overcoming physical, social, and economic obstacles to ensure that the benefits and opportunities available to District residents are equitably distributed. Specifically, in order to manage growth and change, the Comprehensive Plan encourages, among other factors, growth in both residential and non-residential sectors, with residential uses comprising a range of housing types to accommodate households of varying sizes and income levels, and nonresidential uses that include services that support residents. The Comprehensive Plan also states that redevelopment and infill opportunities along corridors and near transit stations are an important part of reinvigorating and enhancing District neighborhoods as well as the surrounding

region. The Project is not inconsistent with these goals. Redeveloping the Site, which is currently vacant, with a mixed-use building comprised of residential units, neighborhood-serving retail, artist live-work spaces, and a neighborhood park will benefit the residents and employees who live and work in the neighborhood, and will help further development along the MBT. The retail space and artist live-work spaces will create new jobs for District residents and provide additional neighborhood-serving amenities to new and existing residents. In addition, the proposed building will help grow the District's tax base and help reinvigorate the existing neighborhood fabric. The new residential units will greatly assist in addressing the continuing demand for additional housing, including artist housing and affordable housing in the District;

- b. Creating Successful Neighborhoods. One of the guiding principles for creating successful neighborhoods is to protect and stabilize neighborhood businesses, retail districts, parks, and other facilities, and to reinforce neighborhood identity and provide destinations and services for residents. In addition, noting the crisis of affordability that has resulted from the continued housing boom in the District, the guiding principles recognize the importance of preserving existing affordable housing and producing new affordable housing to avoid deepening of racial and economic divides in the city. Citizen participation and quality, responsive neighborhood services are also recognized as keys ingredients to creating successful neighborhoods, such participation includes garnering public input in decisions about land use and development, from development of the Comprehensive Plan to implementation of the Plan's elements. The Project is not inconsistent with each of these principles. The Applicant worked closely with ANC 5E, ECA, and other neighborhood stakeholders and associations to ensure that the Project provides uses that respond to the neighborhood's current demands. The Applicant also sought to address questions and concerns raised by the Edgewood Civic Association at the public hearing. In addition, the Applicant worked with NPF on creating the East Park and programs and amenities for the South Park. The Project responds to the community's demands by providing a substantial number of additional residential units within a walkable, town center environment that is in close proximity to several modes of transit, including Metrorail and the MBT. In addition, not only will the proposal result in additional retail uses, the Applicant has committed to providing artist live-work spaces on the ground floor of the Project and the creation of the East Park, which will include a neighborhood dog park. This will also result in a new artistic destination along the MBT;
- c. Increasing Access to Education and Employment. The guiding principles pertaining to increasing access to education and employment focus on growing economic activity in the District, as well as improving the lives and economic well-being of District residents. To do this from a policy and transportation perspective, the Comprehensive Plan recognizes the importance of improving access to education and jobs by capitalizing on the city's location at the center of the region's transportation systems. Providing more efficient, convenient, and

affordable transportation for residents increases resident access to jobs within the District and the surrounding region. Moreover, expanding the economy means increasing shopping and services for many District neighborhoods, bringing tourists beyond the National Mall and into the city's business districts, and creating more opportunities for local entrepreneurs and small businesses. The Project will advance the District's goals of improving access to jobs and education by redeveloping a vacant Site with a mixed-use building that will provide a substantial amount of new housing, including artist live-work spaces, and retail use directly adjacent to the MBT, and in close proximity to other modes of public transportation. The close proximity to transit will increase residents' and artists' ability to access educational opportunities and jobs without owning a vehicle and without the added expenses associated with vehicle ownership. This is especially relevant to those residents living in the affordable dwelling units that will be integrated into the Project and made available to households earning no more than 60% of the MFI. Furthermore, the Project includes five two-story, artist live-work spaces. The artist live-work spaces will also be designated as being affordable for households earning no more than 60% of the MFI. The proposed retail space will expand the District's economy in the Eckington neighborhood and along the MBT. This will create more opportunities for small and local businesses to thrive and create new employment opportunities for residents and will bring new artist centric enterprises along the East Park and MBT;

- d. Connecting the City. The Project is not inconsistent with guiding principles pertaining to connecting the city. The Site is well-served by public transportation, including numerous Metrobus routes and is in close proximity to the NoMa-Gallaudet U Metrorail station (0.5 miles). The Project includes streetscape improvements that will improve mobility and circulation around the Site and throughout the neighborhood, including a much needed realignment of the MBT. The realignment of the MBT will increase bicycler safety through the removal of the sharp turn that crosses the Site. The streetscape and landscape design for the Project fosters a pedestrian-friendly environment along the perimeter of the Site, and creates a seamless integration with the proposed East Park and South Park;
- e. Building Green and Healthy Communities. The Project is not inconsistent with the Comprehensive Plan's guiding principles pertaining to building green and healthy communities. A major component to successfully building green and healthy communities is the use of sustainable building construction and renovation techniques that minimize the use of non-renewable resources, promote energy and water conservation, and reduce harmful effects on the natural environment. The Project is designed to integrate a host of sustainable features and will achieve a minimum of 60 points, which is equivalent to the LEED Gold standards under LEED NC-2009;
- f. The OP setdown report stated that although the Project would further the overall goals of the Environmental Elements of the Comprehensive plan, it would not necessarily further *Policy E-3.4.3: Environmental Assessments*. (Ex. 12, p. 16.)

With respect to *Policy E-3.4.3: Environmental Assessments*, Section E-3.4 of the Comprehensive Plan states that the District of Columbia Environmental Policy Act (“DCEPA”) “requires all District agencies to analyze and disclose the environmental effects of their major actions, including the permitting of new development” and that this review requirement is initiated during the permitting process with the completion and submission of an Environmental Impact Screening Form (“EISF”). (See 10A DCMR §§ 616.1 and 616.2 (emphasis added).) As required by the DCEPA and 20 DCMR Chapter 72, and consistent with Policy E-3.4.3, the Applicant will submit an EISF to the Department of Consumer and Regulatory Affairs (“DCRA”) as part of the building permit review for the Project. The EISF will be reviewed by DOEE and other agencies and utilities as part of their review of the Project. As a result, the Commission finds the Project is not inconsistent with *Policy E-3.4.3* and the Environmental Element of the Comprehensive Plan overall; and

- g. Overall, the Commission finds the Project not inconsistent with the objectives and policies contained within the citywide and area elements of the Comprehensive Plan, as applicable, as set forth in the Applicant's Summary of Compliance with the Comprehensive Plan and the reports of OP. (Ex. 2H, 12, 30.) Specifically, the Commission finds that the provision of five artist live-work units is not inconsistent with *Policy CW-2.8.2; East of the Tracks and Eckington Place Transition Areas*, which encourages the creation of a “production/arts and live-work, mixed use area east of the CSX railroad tracks between H Street, N.E. and Florida Avenue N.E., and in the area east of Eckington Place and north of New York Avenue.” (10A DCMR § 1618.10.) In addition, the Commission also finds that the Project furthers *Policy H-1.3.1: Housing For Families*, which encourages providing a larger number of housing units for families with children by encouraging new three-bedroom apartments and is also not inconsistent with the Site’s designation as PDR on the FLUM. (See 10A DCMR § 505.6.) Finally, the Project is not inconsistent with those policies contained within the Arts and Culture element supporting new affordable housing opportunities for the creative workforce. (See 10A DCMR § 1409.)

### **Office of Planning Reports and Testimony**

85. On July 14, 2017, OP submitted a report recommending setdown of the application. (Ex. 12.) The OP setdown report stated that the Project is “not inconsistent with the Comprehensive Plan.” (Ex. 12, p. 1). The OP report further explained that the Project is consistent with the PUD Site’s designations on the FLUM and GPM but suggested that compliance with the Comprehensive Plan could be strengthened through the provision of additional artist live-work spaces. (*Id.* at 5.) However, the OP report concluded that the Project is not inconsistent with the Comprehensive Plan since “[t]he project would not be as dense or as tall as what could be built by-right on the site.” (*Id.*)
86. On December 4, 2017, OP submitted a hearing report. (Ex. 30.) The OP hearing report stated that “the proposed PUD appears to be a well-designed project that would contribute to

the availability of transit-accessible housing, District arts production policies, the creation of new public parks, and the enhancement of alternative modes of transportation.” (Ex. 30, p. 1.) The OP hearing report recommended approval of the application subject to the Applicant providing the following: (i) further clarify the proposal’s consistency with the Comprehensive Plan’s direction that the Site is appropriate for a mix of uses including PDR; (ii) clarify minor discrepancies among residential FAR and square footages in different charts on Sheet G07; (iii) an increase to the affordable housing commitment; (iv) provide procedures to ensure that the rental of the proffered low-income artist live-work space meets income guidelines for the life of the Project; (v) clarify that the proffered market-rate artist live-work spaces will be dedicated for the life of the Project; (vi) commit to consulting with DHCD prior to the issuance of a building permit to ensure that all artist live-work spaces are consistent with the District’s Artist Live and Work program and other housing policies; (vii) commit to executing an agreement with a recognized arts organization for the administration of all of the artist live-work spaces; (viii) commit to including the NPF on the selection panels for the proposed public artwork; (ix) provide greater detail on equipment and features in the East Park and South Park for which the applicant will pay, in a format that ensures the trackability of compliance with the conditions related to the proffer; (x) provide a draft agreement with the NPF concerning responsibilities for physical improvements and maintenance related to the East and South Parks; (xi) provide details about the design of ground-floor retail entrances; (xii) clarify how the applicant will engage in outreach to the adjacent neighborhood for employment opportunities in the ground-floor retail spaces; (xiii) proffer a First Source Agreement and/or a Certified Business Enterprise Agreement or provide an explanation of why it is not being proffered. On December 13, 2017, the Applicant filed a response to OP’s hearing report addressing all of the above outlines issues. (Ex. 33-33D.)

87. At the public hearing, OP testified that the Applicant’s proffered public benefits and project amenities are significant and outweigh the relatively minor development incentives and flexibility requested by the Applicant. (Tr. at 39.) In addition, OP testified that the PUD and related Zoning Map amendment are not inconsistent with the Comprehensive Plan. (Tr. at 39.) However, OP also testified that they were unable to support the PUD and requested additional affordable housing and PDR related uses because the Applicant had not addressed OP’s concerns about the sufficiency of the affordable housing proffer and the guidance in the FLUM regarding PDR uses on the site. (Tr. at 47.). On January 9, 2018, the Applicant submitted its Post-Hearing Submission which included the Applicant’s commitment to provide an additional artist live-work space in the Project. As a result, the Applicant is providing 10.7% of the residential square footage of the Project as affordable housing (eight percent for IZ and 2.7% for artist live-work units).
88. On January 17, 2018, the OP submitted its Post-Hearing Report. (Ex. 43.) The report stated that as a result of the Applicant providing an additional unit of live-work space reserved for the life of the Project for an artist household earning no more than 60% of the MFI, the Applicant has addressed OP’s concern about whether the PUD included sufficient space reserved for affordable housing and PDR uses.

89. As a result, the Commission finds that the Applicant responded to all of OP's concerns.

**DDOT Report and Testimony**

90. On December 4, 2017, DDOT submitted a hearing report. (Ex. 31.) The DDOT hearing report indicated no objection to the application subject to the Applicant enhancing the TDM measures to include the following elements:
- a. Provide at least one shopping cart for every 25 residential units for a total of 13 shopping carts;
  - b. If an agreement is not reached with a carsharing service to occupy the two dedicated carsharing spaces in the garage then the applicant will provide an additional year of Capital Bikeshare memberships to new residents. Also, remove reference to on-street carsharing spaces;
  - c. Clarify in the TDM plan that the unbundled cost of parking will be based on the average market rate within a quarter mile, rather than the lowest cost of nearby parking spaces; and
  - d. Provide two electric car charging stations.
91. The DDOT report also requested that the Applicant: (i) submit an all-way stop warrant analysis to DDOT for the intersection of Harry Thomas Way and Eckington Place, N.E.; (ii) install a bicycle/pedestrian counter with digital display along the MBT in the vicinity of the Site; (iii) should design and fund the restriping of Harry Thomas Way, N.E. between Eckington Place and R Street, N.E. to accommodate one-way protected bicycle lanes on both sides, subject to DDOT approval; (iv) fund and construct curb extensions on all corners of the intersection of Harry Thomas Way/3<sup>rd</sup> Street and R Street, N.E. consistent with the design of protected bicycle lanes on Harry Thomas Way, N.E. subject to DDOT approval; (v) connect the R Street, N.E. sidewalk along the northern edge of the building to the MBT; and (iv) confirm that the Applicant commits to keeping the MBT open during construction of the Project.
92. The Applicant responded to DDOT's hearing report by memorandum dated December 13, 2017<sup>3</sup>, prepared by Gorove/Slade Associates and as supplemented by the testimony of Mr. Andres at the public hearing. (Ex. 34-34A.)
93. At the public hearing, Mr. Aaron Zimmerman of DDOT testified that DDOT was agreeable to the Applicant's revised TDM measures and public space improvements to mitigate the impacts of the Project and that DDOT has no objection to the application. (Tr. at 41.)
94. As a result, the Commission finds that the Applicant responded to all of DDOT's concerns.

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<sup>3</sup> The Applicant's memorandum incorrectly references December 13, 2016.



**DOEE Report**

95. On December 4, 2017, DOEE submitted a hearing report. (Ex. 29.) The DOEE hearing report indicated no objection to the application and indicated that any comments can be “fully addressed through any of DOEE’s normal regulatory review processes.” (Ex. 29, p. 1.) DOEE had the following recommendations for the project:
- DOEE’s Watershed Protection Division (WPD) recommended that the project capture a 1.7-inch rain storm event;
  - DOEE’s Air Quality Division (AQD) recommends that the applicant consider using lower-emitting technologies to the extent possible to provide power, heating, and cooling;
  - DOEE encouraged that the project incorporate solar panels that would generate a minimum of one percent to three percent of the buildings’ total energy use. DOEE also recommended that the Applicant take advantage of financial programs and opportunities that would finance an increased commitment to sustainability; and
  - DOEE asked that this project increase its commitment to sustainability and achieve a minimum of LEED Gold certification under LEED v4.
96. On December 13, 2017, the Applicant filed a response to DOEE’s hearing report. (Ex. 33-33D.) In its response the Applicant confirmed that it will continue to work with DOEE through their normal regulatory review process to address any of their open recommendations. With respect to stormwater management, the Project will meet the regulatory requirements for retention and treatment of stormwater, as shown on Sheets CIV600 through CIV650 of the Plans. The Applicant will continue to work with DOEE during the permitting process to further refine the stormwater management plan. The Applicant submitted a second response to address DOEE’s comments in its Post-Hearing Submission. (Ex. 41-41D.)
97. As requested by DOEE, the Applicant will provide approximately 1,500 square feet of solar panels on the roof of the building, which will generate approximately one percent of the building’s total energy use. The solar panels have been oriented to maximize their southern exposure and to locate them in the most linear fashion. The Applicant will continue to work with DOEE during the permitting process in the event that additional solar panels or new technology can be incorporated into the project.
98. With respect to LEED v4, the Applicant registered the project with LEED during the initial design phase of the PUD. At the time of initial design and registration, the LEED standard was LEED NC-2009. As a result, the Applicant is committed to designing the PUD to the LEED Gold Standard under LEED NC-2009.
99. As a result, the Commission finds that the Applicant responded to DOEE’s concerns.

**Interagency Review**

100. Pursuant to 11-X DCMR § 304.4, the Commission shall find that the Project does not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the Project.
101. In this case, and as set forth in the OP setdown report, OP circulated the application to DOEE, the Department of Housing & Community Development (“DHCD”), DDOT, the Department of Parks and Recreation (“DPR”), DC Public Schools (“DCPS”), Department of Public Works (DPW), Department of Aging (“DOA”), Department of Employment Services (DOES); Fire and Emergency Medical Services Department (“FEMS”), the Metropolitan Police Department (“MPD”), DC Water, and WMATA. (Ex. 12, p. 29.)
102. The Applicant has worked closely with DDOT to determine the appropriate location for the access to the below-grade parking and loading facilities and the location of the grated electric vaults. On June 22, 2017, the District of Columbia Public Space Committee approved the concept plan for these locations. (Ex. 15G.)
103. On November 13, 2017, the Applicant attended an interagency meeting with OP, DDOT, DOEE, and DPR during which the Applicant responded to relevant agency comments.
104. Other than DDOT and DOEE, there are no comments in the record from any of the aforementioned agencies.
105. Based on the evidence in the case record, the Commission finds that the Project will not have any negative impacts on the surrounding area and will not have an unacceptable impact on the operation of city services and facilities.

**Advisory Neighborhood Commission**

106. ANC 5E, the ANC within which the Site is located, submitted a letter dated December 13, 2017, indicating that at a duly noticed special public meeting on December 11, 2017, at which notice was properly given and a quorum was present, ANC 5E voted to support the PUD, but stated that the ANC was still working with the developer to finalize the community benefits agreement, and that its support was contingent on the ANC and developer reaching a final agreement. (Ex. 36.)
107. Commissioner Hannah Powell (the Single Member District Representative) testified at the public hearing on behalf of the ANC and indicated that ANC 5E supported of the Project subject to further review of the community benefits associated with the PUD. (Ex. 38.)
108. ANC 5E submitted an additional letter on January 16, 2018 indicating that at a duly noticed special public meeting on January 16, 2018, at which notice was properly given and a quorum was present, ANC 5E voted to support the PUD because the ANC and

developer reached a final agreement on the community benefits, and attached a copy of the signed agreement. (Ex. 44, 44A.) The report further stated that ANC's support was contingent on the Applicant's agreement that the issuance of a Certificate of Occupancy for the project would be contingent on the Applicant providing proof to the Zoning Administrator that the Applicant had provided funding for all items and services stated in the agreement. This Order contains conditions requiring the Applicant to do so.

### **Eckington Civic Association – Party in Support**

109. ECA reviewed the PUD and community benefits package at several meetings including its January 9, 2017, public meeting; September 25, 2017, ECA Development Committee meeting; October 2, 2017, public meeting; and November 6, 2017, public meeting.
110. At its November 6, 2017 public meeting, ECA voted 12-0 to support the Project and the community benefits proffered by the Applicant.
111. On December 13, 2017, ECA filed a request for party status in support of the application. At the public hearing, ECA was granted party status.
112. At the public hearing, ECA President Katrina Velasquez testified that the Applicant worked closely with ECA to developed a community benefits package that was responsive to the needs of Eckington residents. (Tr. at 53.)

### **Contested Issues**

#### ***Affordable Housing and Compliance with the PUD Requirements of 11-X DCMR § 304 et. seq.***

113. At the public hearing, OP testified that they were unable to support the Project yet, and requested that the Applicant provide additional affordable housing as an amenity for the PUD. (Tr. at 47.)
114. The Applicant provided evidence and arguments that the Applicant's proffered public benefits and project amenities are significant and far outweigh the relatively minor development incentives and flexibility requested by the Applicant. The Applicant is requesting flexibility to have a side yard of five feet where 13 feet, 10 inches is required pursuant to 11-G DCMR § 406.1. The only other flexibility requested by the Applicant is the Zoning Map amendment from the PDR-2 and PDR-4 zones, which are arguably inconsistent with the Site's Mixed-use (Medium-Density Residential/Production, Distribution, and Repair) FLUM designation since residential is not permitted in PDR Districts, to the MU-5-A zone. The PUD has a lower height and FAR than is permitted by the MU-5-A zone regulations. The maximum building height of 83 is consistent with the matter-of-right height under the current zone designation (*i.e.*, 90 feet for PDR-4) and the maximum FAR of 4.03 is less dense compared to what would be permitted as a matter of right under the current zone designations, which is a blended FAR of 5.72.

115. The Applicant has proffered public benefits and project amenities in numerous categories outlined in the Zoning Regulations, including the provision of benefits (land and funding) that result in much needed parks and open spaces. The Project includes affordable housing with a focus on larger, family-sized units. The Applicant commits to contribute a total of \$62,500 to local schools, the Harry Thomas Recreation Center, and the Bloomington Civic Association, for specific priorities that can be fulfilled prior to the issuance of a certificate of occupancy for the Project
116. A PUD may qualify for approval by being particularly strong in only one or a few of the categories listed in 11-X DCMR § 305 *et. seq.*, but must be acceptable in all proffered categories and superior in many. (11-X DCMR § 305.12.) The Applicant's proffered public benefits and project amenities are particularly strong in the creation or preservation of open spaces and is acceptable or superior in all of the additional categories.
117. At the public hearing, OP testified that the benefits and amenities balanced against the flexibility requested. (Tr. at 39.)
118. Following the public hearing, the Applicant agreed to provide an additional artist live-work space reserved for local artists earning equal to or less than 60% of the MFI, which will remain affordable for the life of the Project. This additional artist live-work space results in an increase of the overall amount of affordable housing in the Project, which supports the policies for additional affordable housing about which OP testified at the hearing. Specifically, the Applicant commits to reserving 10.7% of the residential square footage of the Project as affordable housing (eight percent for IZ and 2.7% for artist live-work spaces). This amount of affordable housing represents a substantial increase in the amount of affordable residential floor area when compared to the fact that no affordable housing would be generated if the Site was developed as a matter of right under the existing zoning. (*See* 11-X DCMR § 305.5(g) (“Affordable housing; except that affordable housing provided in compliance with the Inclusionary Zoning requirements of 11-C DCMR, Chapter 22, shall not be considered a public benefit except to the extent it exceeds what would have been required through matter-of-right development under existing zoning.”).)
119. OP filed a supplemental report on January 17, 2018, finding that as a result of the Applicant providing an additional unit of live-work space reserved for the life of the Project for an artist household earning no more than 60% of the MFI, the Applicant has addressed OP's concern about whether the PUD included sufficient space reserved for affordable housing and PDR uses. (Ex. 43.)
120. The Commissions finds that the Applicant's proffered public benefits and project amenities are sufficient and outweigh the development incentives and flexibility requested by the Applicant.

***Consistency with the Comprehensive Plan and the Site's Designation on the FLUM***

121. In its report and testimony, OP requested that the Applicant provide additional PDR related uses in order to comply with the FLUM.
122. At the hearing, the Applicant provided evidence that the Project complies with the FLUM in accordance with FF Nos. 72-80.
123. After the public hearing, the Applicant agreed to incorporate another artist live-work space into the Project, which increases the amount of PDR uses provided in the Project.
124. The provision of five artist live-work units is not inconsistent with *Policy CW-2.8.2; East of the Tracks and Eckington Place Transition Areas*, which encourages the creation of a “production/arts and live-work, mixed use area east of the CSX railroad tracks between H Street, N.E. and Florida Avenue N.E., and in the area east of Eckington Place and north of New York Avenue.” (10A DCMR § 1618.10.) The Project is also not inconsistent with those policies contained within the Arts and Culture element, which encourages new affordable housing opportunities for the creative workforce. (See 10A DCMR § 1409.)
125. As a result, the Applicant is providing uses that further the Site’s PDR designation since artist live-work spaces are explicitly included within the Arts, Design, and Creation use category, and Arts, Design, and Creation uses are permitted in PDR Districts as a matter of right. (See 11-B DCMR § 200.2(e) and 11-U DCMR § 801.1(e).) The proposed amount of artist live-work space is appropriate when considering it within the guidance for compliance with the Comprehensive Plan and the broader context of the area that has been identified in the FLUM for the mixed-use designation, as discussed above.
126. While the additional artist live-work space will result in the elimination of a previously proposed one three-bedroom unit on the ground floor of the building, the Project still includes a substantial number of two and three-bedroom units to support the housing policies of the Comprehensive Plan. Overall, approximately 38% of the units in the project are proposed to be two- and three-bedroom units. Additionally, the Applicant has committed to reserve 14 two-bedroom units and four three-bedroom units as IZ units. Thus, the PUD and requested Zoning Map amendment is not inconsistent with the Comprehensive Plan since it furthers *Policy H-1.3.1: Housing For Families*, which encourages providing a larger number of housing units for families with children by encouraging new three-bedroom apartments and is also not inconsistent with the property’s designation as PDR on the Future Land Use Map. (See 10A DCMR § 505.6.)
127. As stated above, OP filed a supplemental report on January 17, 2018, finding that as a result of the Applicant providing an additional unit of live-work space reserved for the life of the Project for an artist household earning no more than 60% of the MFI, the Applicant has addressed OP’s concern about whether the PUD included sufficient space reserved for affordable housing and PDR uses. (Ex. 43.)
128. The Commission finds that the Project is not inconsistent with the Mixed-Use: Medium-Density Residential/PDR FLUM designation, since the Project is a mixed-use project containing residential, retail, and artist live-work spaces.

**CONCLUSIONS OF LAW**

1. Pursuant to the Zoning Regulations, the purpose of the PUD process is to provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD: (a) results in a project superior to what would result from the matter-of-right standards; (b) offers a commendable number or quality of meaningful public benefits; and (c) protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan. (11-X DCMR § 300.1.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking and loading, yards, and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. Development of the property included in this application carries out the purposes of 11-X DCMR, Chapter 3 of the Zoning Regulations to encourage the development of well planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The PUD, as approved by the Commission, complies with the applicable height, bulk, and density standards of the Zoning Regulations. The mix of uses for the Project is appropriate for the Site. The impact of the Project on the surrounding area is not unacceptable. Accordingly, the Project should be approved.
5. The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
6. The Applicant's requests for flexibility are not inconsistent with the Comprehensive Plan. Moreover, the PUD benefits and amenities are reasonable tradeoffs for the requested development flexibility.
7. Approval of the PUD is appropriate because the Project is consistent with the present character of the area and is not inconsistent with the Comprehensive Plan. In addition, the Project will promote the orderly development of the Site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
8. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)), to give great weight to OP recommendations. The Commission carefully

considered the OP reports in this case and, as explained in this decision, finds its recommendation to grant the application persuasive.

9. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. ANC 5E's report expressed no issues or concerns. Because the ANC expressed no issues or concerns, there is nothing for the Commission to give great weight to. (*See Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The report stated that the ANC's support was predicated on the parties reaching an agreement on a community benefits agreement, and that the issuance of a Certificate of Occupancy for the project would be contingent on the Applicant providing proof to the Zoning Administrator that the Applicant had provided funding for all items and services stated in the agreement. This Order contains conditions requiring the Applicant to do so.
10. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401 et seq. (2007 Repl.)).

### **DECISION**

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission **ORDERS APPROVAL** of the application for a consolidated PUD and the PUD-related Zoning Map amendment from the PDR-2 and PDR-4 zones to the MU-5-A zone. This approval is subject to the following guidelines, conditions, and standards. Whenever compliance is required prior to, on or during, a certain time, the timing of the obligation is noted in **bold** and underlined text.

#### **A. PROJECT DEVELOPMENT**

1. The PUD shall be developed in accordance with the plans titled "Eckington Park", prepared by Torti Gallas Urban dated November 21, 2017, and marked as Exhibits 28A1-28A3 of the record, as modified by Sheet G07 titled "Zoning Analysis", submitted with the Applicant's Post-Hearing Submission, and marked as Exhibit 41A of the record (collectively, the "Plans").
2. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall construct the streetscape and landscape improvements as shown on Sheets L-01 through L-06 of the Plans. All sidewalks and elements in public space shall be built to DDOT standards and shall be subject to DDOT approval.
3. The Applicant shall have flexibility with the design of the PUD in the following areas:
  - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria and

mechanical rooms, provided that the variations do not change the exterior configuration or appearance of the building;

- b. To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed in the final plans;
- c. To increase the final number of residential units by no more than five percent above the total number approved to respond to market demand, or to decrease the final number of market-rate residential units within the approved gross floor area in order to accommodate demand for larger units;
- d. To vary the location, attributes, and general design of the streetscape incorporated in the project to comply with the requirements of and the approval by the DDOT Public Space Division;
- e. To make refinements to the garage configuration, including layout, parking spaces and other elements, so long as the number of parking spaces provided is at least the minimum number of spaces required by the Zoning Regulations;
- f. To make minor refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, venting, window mullions and spacing, or any other changes that do not significantly alter the exterior design as shown on the approved plans to comply with the District of Columbia Building Code;
- g. To modify or revise the landscape design of the East Park so long as no portion of the principal building extends into the area of the East Park and that the East Park is maintained only for the realignment of the MBT, a dog park, and related open space;
- h. To locate retail entrances in accordance with the needs of the retail tenants and vary the ground-floor façades as necessary within the general design parameters proposed for the project and to vary the types of uses designated as “retail” use on the approved plans to include the following use categories: (i) Retail (11-B DCMR § 200.2(cc)); (ii) Services, General (11-B DCMR § 200.2(dd)); (iii) Services, Financial (11-B DCMR § 200.2(ee)); and (iv) Eating and Drinking Establishments (11-B DCMR § 200.2(j)); and
- i. To vary the font, message, logo, and color of the proposed signage, provided that the maximum overall dimensions, and signage materials, or lighting do not change from those shown on the approved PUD Plans.



**B. PUBLIC BENEFITS**

1. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall deed to the NoMa Parks Foundation approximately 20,050 square feet of the Site for creation of the East Park to house the realigned MBT, a neighborhood dog park, and general open space.
2. **During the construction of the Project**, the Applicant shall maintain the MBT open. In the event that temporary closures of the MBT are necessary, the Applicant shall obtain approval from DDOT.
3. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall donate \$165,000 to NoMa Parks Foundation (“NPF”), or its designee, to fund the construction of a neighborhood dog park within the East Park, and the Applicant shall provide proof to the Zoning Administrator that the funds have been donated, and that the item described in this condition has been provided.
4. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall construct the streetscape and landscape improvements as shown on Sheets L-01 through L-06 of the Plans, subject to DDOT approval.
5. **For the life of the Project**, the Applicant shall provide art installations of similar size and quality as the precedent images included at Sheets A29 and A28 at the ground floor fronting on the MBT and on the upper level roof deck at the southeast corner of the Project.
6. Applicant shall provide the affordable housing as set forth in this condition:
  - a. **For the life of the Project**, The Applicant shall provide the housing and affordable housing set forth in the following chart:

Residential Unit Type	Net Residential Square Feet/ Percentage of Total	Units	Reserved for household earning equal to or less than	Affordable Control Period	Affordable Unit Type	Notes
Total	244, 744 sf (100%)	328	N/A	N/A	N/A	
Market Rate	218,436 sf (89.3%)	305	Market Rate	N/A	Rental	
IZ	19,580 sf (8%)	18	60% MFI	Life of the project	Rental	The Applicant shall reserve a minimum of 14 two-bedroom units and four two-story, three-bedroom units on the ground floor as IZ units

Residential Unit Type	Net Residential Square Feet/ Percentage of Total	Units	Reserved for household earning equal to or less than	Affordable Control Period	Affordable Unit Type	Notes
Non IZ affordable	6,728 sf (2.7%)	5	60% MFI	Life of the project	Rental	The Applicant shall reserve five, two-story loft spaces that front on the East Park as artist live-work spaces. The artist-live work spaces shall be reserved for and made <u>affordable to</u> local artists earning equal to or less 60% MFI. The artist live-work spaces shall be administered through a partnership with CuDC in accordance with the outline marked as Exhibit 33B of the record

- b. The covenant required by D.C. Official Code §§ 6-1041.05(a)(2)(2012 Repl.) shall include a provision or provisions requiring compliance with this Condition.
  
- 7. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has provided at least four construction, design, and engineering skills training seminars for the students at McKinley Technology High School during construction of the Project, in accordance with the outline marked as Exhibit 41C of the record.
  
- 8. **The Applicant shall submit with its building permit application**, a checklist evidencing that the Project has been designed to achieve 60 points under LEED NC-2009, which is equivalent to the USGBC LEED Gold standard.
  
- 9. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall install approximately 1,500 square feet of solar panels on the building’s roof, as shown on Sheet A05 of the Plans.
  
- 10. **During the operation of the building (unless otherwise noted)**, the Applicant shall provide a Transportation Management Program, as set forth in the Transportation Demand Management (“TDM”) section of the Comprehensive Transportation Review in the record at Exhibit 26A, as supplemented by the Applicant’s response to DDOT in the record at Exhibit 34A, and as further supplemented by the Applicant at the public hearing. The TDM Plan shall include the following:
  - a. The Applicant shall identify TDM Leaders (for planning, construction, and operations). The TDM Leaders shall work with goDCgo staff to create free customized marketing materials and a TDM outreach plan for

- residents and retail employees, including developing a site-specific transportation guide for residents and visitors;
- b. The Applicant shall provide updated contact information for the TDM Leader and report TDM efforts and amenities to goDCgo staff once per year;
  - c. The Applicant shall stock Metrorail, Metrobus, DC Circulator, Capital Bikeshare, Guaranteed Ride Home, DC Commuter Benefits Law, and other brochures through building management;
  - d. The Applicant shall unbundle all parking costs from the cost of the leases. The parking costs shall be based on the average parking rate for multi-family developments within a quarter-mile of the Site that have been constructed within the last five years;
  - e. For a total of three years, the Applicant shall offer to each new residential lease either a one-year membership to Capital Bikeshare or a one-year membership to a carsharing service in an amount of \$85 for an annual membership. The maximum amount the Applicant will pay for this benefit is \$27,880;
  - f. The Applicant shall provide approximately 174 long-term bicycle parking spaces in the below-grade parking garage. The Applicant shall provide approximately 30 short-term bicycle parking spaces in the form of 15 U-racks within and along the perimeter of the Site, subject to approval by DDOT;
  - g. The Applicant shall install Transportation Information Center Displays (kiosks or screens) within the lobby of the building, containing information related to local transportation alternatives;
  - h. The Applicant shall dedicate two spaces for carsharing services to use with the right of first refusal. If the Applicant is unable to secure a carsharing provider for the two dedicated carsharing spaces, then the Applicant shall host WABA's Everyday Bicycling Seminars two times a year for a total of three years;
  - i. The Applicant shall include a provision in all residential leases restricting the building's lessees from obtaining Residential Parking Permits;
  - j. The Applicant shall provide at least one shopping cart for every 25 residential units, for a total of 13 shopping carts;
  - k. The Applicant shall provide two electric vehicle charging stations at the Site; and

- l. The Applicant shall install a bicycle maintenance facility within the long-term bicycle parking area.
11. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall fund the full cost as determined by DDOT of the installation of striping and signage and of the improvements necessary to convert the intersection of Eckington Place, N.E. and Harry Thomas Way, N.E. to an all-way stop controlled intersection. These improvements shall consist of the installation of stop signs, stop bars along Eckington Place, N.E., new crosswalks along Eckington Place, N.E. and Harry Thomas Way, N.E., ADA compliant curb ramps that align with each crosswalk, and detectable warning strips at each curb ramp at the intersection of Eckington Place, N.E. and Harry Thomas Way, N.E., subject to approval by DDOT. The Applicant shall also construct curb extensions at the intersection of Eckington Place, N.E. and Harry Thomas Way, N.E., pending DDOT's final redesign of Eckington Place, N.E. and subject to approval by DDOT. The Applicant shall also construct curb extensions on the southwest and southeast corners of the intersection of Harry Thomas Way, N.E. and R Street, N.E., subject to approval by DDOT. The Applicant shall provide proof to the Zoning Administrator that funds have been donated and the items described in this condition have been provided.
12. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall contribute \$80,000 to the NPF, or its designee, to fund the realignment of the MBT as it crosses the Site through the East Park. The Applicant shall provide proof to the Zoning Administrator that the funds have been donated and the items described in this condition have been provided.
13. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall contribute \$350,000 to the NPF, or its designee, to fund the construction of an amphitheater in the South Park and to the extent funds remain, to construct food services kiosks in the South Park. The Applicant shall provide proof to the Zoning Administrator that the funds have been donated and the items described in this condition have been provided.
14. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall donate a total of \$62,500 to local schools, the Harry Thomas Recreation Center, and the Bloomingdale Civic Association to fully fund the following initiatives:
  - a. McKinley Technology High School: \$27,500 allocated as follows: \$15,000 for construction trade internships for McKinley Technology students; and \$12,500 to purchase laptops/computers to replace outdated technology;
  - b. Harmony Elementary: \$8,500 to purchase Chromebooks to support in-classroom educational technology and standardized testing methods;

- c. Langley Elementary: \$12,500 to purchase laptops to replace outdated technology and to increase the total number of work stations available for student use.;
  - d. Harry Thomas Recreation Center: \$11,000 allocated as follows: \$8,500 to purchase tablets/computers for before/after school programs focused on enhancing literacy skills for children ages pre-k to 5<sup>th</sup> grade; and \$2,500 to purchase a new TV or projector;
  - e. Bloomingdale Civic Association Scholarship Fund: \$3,000 total to fund two scholarships for high school students who live within the District-recognized boundaries of Bloomingdale and/or are a student or alumni of McKinley Technology High School; and
  - f. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall provide proof to the Zoning Administrator that the identified items and scholarships have been provided.
15. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall contribute \$40,000 to a partnership between Manna, Inc. and the LEDC to fund affordable housing training and assistance for Eckington residents in accordance with the outline marked as Exhibit 33D of the record. The Applicant shall provide proof to the Zoning Administrator that the funds have been donated and that the services described in this condition have been provided.

### C. MISCELLANEOUS

1. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct and use the Site in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
2. The PUD shall be valid for a period of two years from the effective date of this Order. Within such time an application shall be filed for a building permit, with construction to commence within three years of the effective date of this Order.
3. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”) the District of Columbia does not discriminate on the basis of actual or perceived:

race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

4. The Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of this Order at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning.

On January 29, 2017, upon the motion of Chairman Hood, as seconded by Vice Chairman Miller, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter G. May, Michael G. Turnbull, and Peter A. Shapiro to approve).

On March 12, 2018, upon the motion of Vice Chairman Miller, as seconded by Chairman Hood, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; and Peter A. Shapiro, not present, not voting).

In accordance with the provisions of 11-Z DCMR § 604.9 of the Zoning Regulations, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on June 15, 2018.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 17-13**

**Z.C. Case No. 17-13**

**TM DBT Limited Partnership**

**(CG Zone Design Review @ Square 656, Lots 54 and 813)**

**October 30, 2017**

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on September 18, 2017, to consider an application for design review of a new building in Square 656 in the CG-4 zone filed by TM DBT Limited Partnership ("Applicant"). The Commission considered the application pursuant to Subtitle K § 512 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of Subtitle Z, Chapter 400. For the reasons stated below, the Commission hereby **APPROVES** the application.

**FINDINGS OF FACT**

**The Application, Parties, Hearings, and Post-Hearing Filings**

1. On June 19, 2017, the Applicant, on behalf of the owner of property located at 1542-1550 1<sup>st</sup> Street, S.W. (Square 656, Lots 54 and 813) ("Property") filed an application for design review. The application also included a request for a variance from the residential loading requirements of 11-C DCMR § 901.1. The Commission is authorized to approve such relief pursuant to 11-K DCMR § 512.7.
2. The Applicant is a Joint Venture comprised of UPO Community Development Corporation ("UPO CDC"); REBJ, Inc., a subsidiary of T.M. Associates, Inc.; and DBT Development Group, LLC ("DBT"). T.M. Associates, Inc. was formed in 1978 and primarily focuses on developing apartments and residential buildings for low-income residents. DBT is a District-owned business formed over 20 years ago as a real estate development company specializing in residential development. Since its inception, DBT has delivered approximately 300 units in the District. UPO CDC is a non-profit 501(c)(3) organization that is affiliated with the United Planning Organization ("UPO") and was incorporated in 1962 to plan, coordinate, and implement human services programs for low-income residents of the District. For over 50 years, UPO CDC has been at the forefront of the war on poverty and has planned, coordinated, and offered a vast array of programs and services for those in need.
3. The Property will be developed with approximately 76 residential units, comprised of one-bedroom, two-bedroom, and four-bedroom units with ground-floor, neighborhood-serving commercial uses from one or more of the following commercial use groups: (i) Office (11-B DCMR § 200.2(x)); (ii) Retail (11-B DCMR § 200.2(cc)); (iii) Services, General (11-B DCMR § 200.2(dd)); (iv) Services, Financial (11-B DCMR § 200.2(ee)); and (v) Eating and Drinking Establishments (11-B DCMR § 200.2(j)) ("Project"). Of the 76 units, 16 will be reserved for households with incomes not exceeding 30% of the area median income ("AMI") and the remaining 60 units will be reserved for households with incomes not exceeding 50% AMI.

4. A description of the proposed development and the notice of the public hearing in this matter were published in the *D.C. Register* on June 27, 2017. (Exhibit ["Ex."] 10.) The notice of the public hearing was mailed to all owners of property located within 200 feet of the Property and to Advisory Neighborhood Commission ("ANC") 6D on June 29, 2017. (Ex. 13.)
5. On August 28, 2017, the Applicant submitted its Prehearing Submission, which included revised architectural drawings. (Ex. 19-19B.)
6. On September 7, 2017, the Office of Planning ("OP") submitted a report to the Commission recommending approval of the application and the residential loading relief requested subject to the Applicant providing the materials listed on page 1 of its report. (Ex. 21.)
7. On September 8, 2017, the District Department of Transportation ("DDOT") submitted a report finding no objection to the application including the residential loading relief requested subject to the mitigations listed on pages 10-12 of its report. (Ex. 22.)
8. On September 11, 2017, ANC 6D held a public meeting to consider the application, for which notice was properly given and a quorum was present. The ANC voted unanimously to support the design review application and zoning relief requested by the Applicant subject to certain conditions. (Ex. 23.)
9. On September 18, 2017, ANC 6D submitted a letter of authorization to the record authorizing Commissioner Roger Moffatt to represent ANC 6D before the Commission, as well as written testimony by Commissioner Moffatt to clarify that the September 11, 2017 ANC resolution submitted to the record was merely a draft, and to reiterate the ANC's support for the application. The ANC testimony concluded that "this is a good project that meets the CG-4 design requirements and we are elated that it is designed as 100% low income." (Ex. 28.)
10. The parties to the case were the Applicant and ANC 6D, the ANC in which the property is located.
11. The Commission held a public hearing on the application on September 18, 2017. At the hearing, Neil Mutreja of T.M. Associates, Dana M. Jones of UPO, Jeff Goins and Matt Stevison of PGN Architects, Erwin Andres of Gorove Slade Associates, and Shane Dettman of Holland & Knight LLP testified on behalf of the Applicant. At the public hearing the Commission requested that the Applicant continue to refine the building's north and east façades and to continue its outreach with the ANC.
12. Elisa Vitale of OP and Anna Chamberlin of DDOT testified in support of the application at the public hearing.
13. No persons testified in opposition to the application at the public hearing. Commissioner Roger Moffatt of ANC 6D testified in support of the application at the public hearing.



14. The record was closed at the conclusion of the public hearing, except to receive additional submissions from the Applicant, as requested by the Commission, and responses thereto from ANC 6D.
15. On October 23, 2017, the Applicant submitted its post hearing submission, including revised architectural drawings responding to the Commission's, OP's and the ANC's comments. (Ex. 31.)
16. ANC 6D submitted a second resolution in support of the Project, indicating that at its regularly scheduled and duly noticed public meeting of October 16, 2017, at which a quorum of commissioners was present, it voted 5-0-0 to support the application including the redesigned façades. (Ex. 32.) ANC 6D also submitted copies of a Memorandum of Agreement and a Construction Management Agreement between ANC 6D and the Applicant that related to the development of the Project. (Ex. 33, 34.)
17. At its public meeting on October 30, 2017, the Commission voted to approve the application. The Commission stated that it would include additional design flexibility for the Applicant to add solar panels to the roof, so long as they did not interfere with the building's green roof.

#### **Description of the Site and Surrounding Area**

18. The Property is located at the northeast corner of 1<sup>st</sup> and Q Streets, S.W. First Street is 90 feet wide and Q Street is 85 feet wide. The Property is presently improved with a one-story building that was most recently occupied by retail uses and associated surface parking. Based upon the records of the D.C. Office of Tax and Revenue, the Property has a land area of approximately 9,138 square feet.
19. The Property is located two blocks west of South Capitol Street. To the north is the High Road Middle School at 1530 1<sup>st</sup> Street, S.W. and Fort McNair is located approximately two blocks to the west of the Property. Nationals Stadium is also approximately two blocks northeast of the Property and the area in between the stadium and the Property includes a mix of commercial and residential uses. The area south of Q Street includes numerous industrial uses, vacant properties, 11 single-family row houses, the PEPCO Waterfront Substation, and the proposed DC United Stadium complex.
20. The Property has a walk score of 74 ("Very Walkable"), a transit score of 75 ("Excellent Transit"), and a bike score of 82 ("Very Bikeable"). The Property is located within 0.5 miles of the Waterfront-SEU and Navy Yard Metrorail Stations, both of which are serviced by the green line, and seven Metrobus routes.

#### **Description of the Project**

21. The Property will be developed with a 100% affordable housing development for individuals and families in need. The Project includes approximately 76 residential units,

comprised of one-bedroom, two-bedroom, and four-bedroom units with ground-floor, neighborhood-serving commercial uses from one or more of the following commercial use groups: (i) Office (11-B DCMR § 200.2(x)); (ii) Retail (11-B DCMR § 200.2(cc)); (iii) Services, General (11-B DCMR § 200.2(dd)); (iv) Services, Financial (11-B DCMR § 200.2(ee)); and (v) Eating and Drinking Establishments (11-B DCMR § 200.2(j)).

22. Of the 76 units, 16 will be reserved for households with incomes not exceeding 30% of the AMI and the remaining 60 units will be reserved for households with incomes not exceeding 50% AMI.
23. In conjunction with the Property's management, UPO CDC will provide wraparound services to the building's residents. The residents of the 16 units reserved for households with incomes not exceeding 30% AMI will be referred through the District's Coordinated Entry System. These residents will be provided with Permanent Supportive Housing ("PSH") services and will receive on-site case management services designed to help them attain self-sufficiency. Case management will be provided according to the Department of Human Services ("DHS") PSH standards. Moreover, UPO CDC will conduct monthly home visits to ensure residents are following their specified plan and are living in a safe environment. Other on-site programs and services provided to all of the building's tenants include the following:
  - Summer Food Program that provide lunches to kids in the summer months who receive a free lunch at school;
  - Holiday parties/kids toy drives;
  - Thanksgiving dinners;
  - End of school year (summer party) for children;
  - Informational speakers (crime prevention, saving, budgeting, etc.);
  - Computer classes; and
  - Financial education classes
24. The Project includes approximately 71,124 square feet of gross floor area, with a density of 7.78 floor area ratio ("FAR"). Approximately 67,320 square feet gross floor area will be devoted to residential use and approximately 3,804 square feet of gross floor area will be devoted to ground-floor commercial uses. Depending upon the number of commercial tenants in the first-floor space, up to three entryways to the commercial spaces will be located along 1<sup>st</sup> Street. The residential entry will be located along Q Street. The Project also includes a landscaped courtyard on the ground-floor level at the rear of the building for the residents and approximately 941 square feet of indoor residential amenity space.
25. The Applicant will provide 15 below-grade parking spaces, which will be accessible from Q Street since the Property is not serviced by an existing public alley. Two of the parking spaces will be reserved for car-sharing services, each of which may count as three required parking spaces, per 11-C DCMR § 708.2. Thus, 19 parking spaces are provided

for the development. The Applicant will also close all of the existing curb cuts along 1<sup>st</sup> Street and Q Street that are adjacent to the Property. No on-site loading is proposed for the Project.

26. The building on the Property will have a maximum height of 100 feet and will include a penthouse containing both mechanical and habitable space, with a maximum height of 13 feet, 10 inches, as measured to the top of the elevator override. All portions of the penthouse will be setback 1:1 in accordance with the Zoning Regulations. The Project complies in all respects with the Zoning Regulations, except for the residential loading relief requested.
27. The Project includes an expansive green roof and the Applicant is pursuing LEED-Silver certification for the Project under LEED v4, consistent with the Green Building Act requirements and DHCD's requirements for the Project's funding.

### **Capitol Gateway Zones Design Review Requirements**

28. Pursuant to 11-K DCMR § 512.1(e), the proposed development of the Property is subject to design review and approval by the Commission since it is located in Square 656. (11-K DCMR § 512.2.) The Applicant must show that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will meet the requirements of 11-K DCMR § 512.3. The Commission finds that the Project meets the requirements of 11-K DCMR § 512.3 as discussed below.
29. *Help Achieve the Objectives of the Capitol Gateway (11-K DCMR § 512.3(a))*: The Project satisfies the following stated objectives for the Capitol Gateway zones as provided in 11-K DCMR § 500.1 including: (i) assuring development of the area with a mixture of residential and commercial uses, and a suitable height, bulk, and design of buildings, as generally indicated in the Comprehensive Plan and recommended by planning studies of the area; (ii) encouraging a variety of support and visitor-related uses, such as retail and service uses; and (iii) providing for a reduced height and bulk of buildings along the Anacostia riverfront in the interest of ensuring views over and around waterfront buildings, and provide for continuous public open space along the waterfront with frequent public access points. The Project includes approximately 67,320 square feet of gross floor area devoted to new residential use, all of which will be reserved for households with incomes not exceeding 50% of the AMI. In addition, approximately 3,804 square feet of gross floor area on the ground floor will be devoted to neighborhood-serving commercial uses in a vibrant and attractive new building. The building will have a maximum height of 100 feet and an overall FAR of 7.78, both of which are permitted as a matter of right in the CG-4 zone. The Applicant is not requesting relief from any of the applicable zoning requirements of the CG-4 zone except for the residential loading requirements. The Applicant discussed the Project with OP, including the height, bulk, design, use, and projections into public space. The Applicant also discussed the Project with DDOT, including the difficulty of providing on-site residential loading, the proposed public space improvements, the location of the proposed curb cut and driveway to the garage, and the proposed curbside loading.

30. *Help achieve the desired use mix, with the identified preferred uses specifically being residential, hotel or inn, cultural, entertainment, retail, or service uses (11-K DCMR § 512.3(b))*: The Project includes approximately 3,804 square feet of gross floor area on the ground floor devoted to neighborhood-serving commercial uses and 76 residential units, all of which will be reserved for households with incomes not exceeding 50% of the AMI. The Applicant will continue to work with community to evaluate commercial uses that will serve the community's needs.
31. *Be in Context with Surrounding Neighborhood and Street Patterns (11-K DCMR § 512.3(c))*: The Project is contextual to the surrounding neighborhood and street patterns. All of the abutting properties are zoned CG-4 and can be developed with similar heights and density. In addition, the approved PEPCO Waterfront Substation, located to the southwest of the Property, will have a maximum building height of approximately 58 feet. (See BZA Order No. 18911 (August 4, 2015).) An additional example of development in the vicinity of the Property includes the redevelopment of the existing office building at the corner of T Street and Half Street. The existing office building on that site will be reconfigured into a mixed-use development with approximately 462 residential units and is expected to open by 2018. The Property is also located within the boundaries of the Buzzard Point Urban Design Framework Plan (the "Buzzard Point Plan"), which seeks to catalyze Buzzard Point's "long-awaited economic revitalization and overcome its isolated, industrial character. (See Buzzard Point Plan, p. 2.) Improvements in the vicinity of the Property include the new South Capitol Street bridge and soccer stadium, which will initiate additional physical improvements and further development of Buzzard Point. (Id. at 10.) The Buzzard Point Plan specifically designates the Property for multifamily residential development. (Id. at 4.) Moreover, one of the overarching goals of the Buzzard Point Plan is to protect the existing public housing within the study area and create additional residential development. (Id. at 7.) As a result, the Commission finds that the Project is consistent with the Buzzard Point Plan and is in context with the street patterns and redevelopment plan for the surrounding neighborhood.
32. *Minimize Conflict between Vehicles and Pedestrians (11-K DCMR § 512.3(d))*: Access to the below-grade parking will be located on the south side of the Property from Q Street, since there is no existing public alley servicing the Property. The Applicant will eliminate the existing curb cuts along 1<sup>st</sup> and Q Street adjacent to the Property, thus substantially minimizing potential pedestrian and vehicle conflicts. The proposed curb cut and garage access driveway along Q Street is located within eight feet of the property line to the east. If the Applicant incorporated the eight-foot setback set forth in the guidelines of the DDOT Design and Engineering Manual, the driveway, and thus the garage ramp, and the building stairwell would need to shift to the west, in turn resulting in the building's stairwell encroaching into the four-bedroom units on each floor, which would result in at best three-bedroom units. The four-bedroom units will be affordable units in the 30% AMI category, which are needed in the DC area, and are specifically favored in DHCD's programs to address the housing needs of families eligible for assistance.

33. The purpose of the eight-foot driveway setback is to allow for at least 16 feet between driveways on adjacent properties. The existing driveway along Q Street is located right up against the neighboring property to the east, in the same location as the proposed driveway. However, there is no need or use for a driveway into the front of the townhouse building to the east, nor is that small building individually a likely candidate for redevelopment as a separate building on its own lot. The most likely redevelopment scenario for the properties to the east is for the five townhouses to be assembled into one development site. If that was the case, the properties to the east will have access to the alley for parking and loading, and thus will not need a curb cut or driveway from Q Street. The DDOT Design and Engineering Manual calls for a driveway in the public space serving two-way traffic to be between 18 and 24 feet in width. If an 18-foot-wide driveway in the public space is utilized for the subject development, the driveway in the public space would be set back three feet from the extension of the east property line on the public space.
34. *Minimize Unarticulated Blank Walls Adjacent to Public Spaces through Façade Articulation (11-K DCMR §512.3(e))*: The building offers extensive façade articulation across all of its elevations and includes projections that extend a maximum of four feet past the property line at the building's southwest corner. The façades are distinctly and extensively conveyed through irregular patterns and the building's materials include iron spot brick, red brick, medium gray metal panels, and high-quality EIFS panels on only the north and east facades that are built on the property line. The colors used on the north and east façade tie into the broader design language of the building. As a result of consultation with OP, the ANC, and the comments from the Commission, the façades on the lot lines have been simplified and redesigned to respect the lower-scale development to the north and east. In addition, the north and east façades are designed to minimize blank walls, even though these façades may be covered at some point in the future. The Applicant is not providing windows on the north and east facades since they would be at-risk windows, subject to closure when the adjacent properties are developed.
35. *Minimize Impact on the Environment (LEED) (11-K DCMR § 512.3(f))*: The Applicant is providing an expansive green roof and is pursuing LEED-Silver certification for the Project under LEED v4, consistent with the Green Building Act requirements and DHCD's requirements for the Project's funding. The Applicant intends to achieve a minimum of 50 points, with an additional 26 points possible.

### **General Design Review Requirements**

36. In addition to the requirements of 11-K DCMR § 512.3, the Commission must also find that the Project is consistent with the general design review standards set forth in Subtitle X of the Zoning Regulations. The Commission finds that the Project is consistent with the standards set forth in Subtitle X of the Zoning Regulations as discussed below.
37. *The Zoning Commission shall find that the proposed design review development is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site (11-X DCMR § 604.5)*: The Project is not

inconsistent with the Comprehensive Plan and with other adopted policies and active programs related to the Property. The Comprehensive Plan is described as “the centerpiece of a “Family of Plans” that guide public policy in the District. 10-A DCMR § 103.1. Under the DC Code, the Comprehensive Plan is the one plan that guides the District’s development, both broadly and in detail. Thus, it carries special importance in that it provides overall direction and shapes all other physical plans that District government adopts. In fact, all plans relating to the city’s physical development should take their lead from the Comprehensive Plan, building on common goals and shared assumptions about the future. (10-A DCMR § 103.2.) As the guide for all District planning, the Comprehensive Plan establishes the priorities and key actions that other plans address in greater detail. The broad direction it provides may be implemented through agency strategic plans, operational plans, long-range plans on specific topics (such as parks or housing), and focused plans for small areas of the city. (10-A DCMR § 103.3.)

38. The purposes of the Comprehensive Plan are six-fold: (a) to define the requirements and aspirations of District residents and, accordingly, influence social, economic and physical development; (b) to guide executive and legislative decisions on matters affecting the District and its citizens; (c) to promote economic growth and jobs for District residents; (d) to guide private and public development in order to achieve District and community goals; (e) to maintain and enhance the natural and architectural assets of the District; and (f) to assist in conservation, stabilization, and improvement of each neighborhood and community in the District. (D.C. Code §1-245(b).) The Project significantly advances these purposes by promoting the social, physical and economic development of the District through the provision of a high-quality mixed-use project consisting of affordable housing for low- and very low-income District residents and ground-floor neighborhood-serving commercial uses on the Property, all without generating any adverse impacts.
39. The policies contained in the Comprehensive Plan are based on 36 Guiding Principles that acknowledge that the benefits and opportunities of living in the District are not available to everyone equally and that divisions in the city—physical, social and economic—must be overcome to move from vision to reality. (10-A DCMR § 216.3.) The Guiding Principles are derived from the Comprehensive Plan’s “vision for growing an inclusive city,” and express cross-cutting goals for the District’s future. (10-A DCMR § 2004.4.) The Guiding Principles are grouped into five core themes: Managing Growth and Change, Creating Successful Neighborhoods, Increasing Access to Education and Employment, Connecting the City, and Building Green and Healthy Communities. (10-A DCMR § 216.2.)
40. The Project will aid in managing growth and change by assisting the District in retaining and attracting an economically diverse population, including families, by providing new affordable housing in a rapidly revitalizing area of the District that is close to public transportation. (10-A DCMR §§ 217.2, 217.3.) The Project also will support the District’s non-residential growth through the proposed ground-floor commercial uses that will generate tax revenue and create jobs and opportunities for less affluent households to increase their income. (10-A DCMR § 217.4.) The Project will aid in the successful

revitalization of the Buzzard Point neighborhood by ensuring that as this area of the District transforms from an industrial neighborhood to a vibrant, sought after mixed-use neighborhood it will include housing and services for low- and very low-income residents, including families, and will also provide employment opportunities through the proposed ground-floor neighborhood-serving commercial uses. (10-A DCMR §§ 218.3, 219.3.) The Project will also advance the District's environmental goals through the use of sustainable design strategies and adherence to LEED v.4 design criteria. (10-A DCMR § 221.3.)

41. The substantive policies of the Comprehensive Plan are organized into 12 Citywide Elements that each address a specific topic that is citywide in scope, and 10 Area Elements that focus on issues that are unique to a particular part of the District, and are intended to provide a sense of local priorities and to recognize the different dynamics at work in each part of the city. Although they focus on a specific area of the District, the policies contained within the Area Elements are still general in nature and do not prescribe specific uses or design details. (10-A DCMR §§ 104.4-104.6.) The Area Elements also do not repeat policies that already appear in the Citywide Elements; however, this does not mean all Comprehensive Plan policies are mutually exclusive from each other. On the contrary, the Comprehensive Plan specifically recognizes the overlapping nature among and between the Citywide and Area Elements, and that the policies in one element may be tempered by one or more of the other elements where there may be a need to balance competing policies.
42. Due to the wide range of topics addressed in the Comprehensive Plan, some Citywide Elements oftentimes are not necessarily applicable to a development project, or are applicable to only a minor degree. Such is the case for the Project where the Parks, Open Space, and Recreation; Community Services and Facilities; Infrastructure; and the Arts and Culture Elements have little to no applicability. Nonetheless, the Applicant still reviewed the overarching goal and the policies of these elements to confirm that the Project was not inconsistent.
43. Land Use Element: The Commission finds that the Project is not inconsistent with the Land Use Element. The Land Use Element is the cornerstone of the Comprehensive Plan. It establishes the basic policies guiding the physical form of the city, and provides direction on a range of development, conservation, and land use compatibility issues. The Element describes the balancing of priorities that must take place in order to accommodate a multiplicity of land uses within the boundaries of the District of Columbia. (10-A DCMR § 300.1.) The overarching land use goal of the District is to ensure the efficient use of land resources to meet long-term neighborhood, citywide, and regional needs; to help foster other District goals; to protect the health, safety, and welfare of District residents, institutions, and businesses; to sustain, restore, or improve the character and stability of neighborhoods in all parts of the city; and to effectively balance the competing demands for land to support the many activities that take place within District boundaries. (10-A DCMR § 302.1.)

44. The Project will substantially advance the above stated goal by redeveloping an underutilized Property into a new mixed-use project containing ground-floor commercial uses and affordable housing for low- and very low-income households, including families, in a rapidly revitalizing area of the District that is close to Metrorail. Currently, the existing improvements on the Property do not take advantage of the potential for the Property, and are not compatible with the future vision for the neighborhood put forth by the District in the Buzzard Point Plan. The proposed design will blend with the designs of other market-rate projects that are underway or planned for the surrounding neighborhood. The Project is consistent with the CG-4 zoning of the Property, and the Medium Density Residential land use designation of the Comprehensive Plan. (Policy LU-2.1.10: Multi-Family Neighborhoods.) The Project will complement and be compatible with the new development that is contemplated to the south of the Property near the new DC United soccer stadium, while also relating to the existing and proposed development to the north. (Policy LU-1.4.1: Infill Development.) The height and massing of the Project will complement and be compatible with new development that is contemplated to the south of the Property near the new DC United soccer stadium. (Policy LU-1.4.1: Infill Development.) In addition, while the adjacent lots to the north and east have the same CG-4 zoning as the Property, and can be redeveloped to the same height and density, the Applicant has taken steps to reduce the massing of the proposed building through projections, bays, recesses, and material changes to help soften the juxtaposition between the proposed building, the existing immediate context, and the moderate-density development that exists further to the north.
45. Transportation Element: The Commission finds that the Project is not inconsistent with the policies contained within the Transportation Element of the Comprehensive Plan. The overarching goal for transportation in the District is to create a safe, sustainable, efficient multi-modal transportation system that meets the access and mobility needs of District residents, the regional workforce, and visitors; supports local and regional economic prosperity; and enhances the quality of life for District residents. (10-A DCMR § 401.1.) The Project will help achieve this goal due to its close proximity to Metrorail and several Metrobus routes, and through the substantial pedestrian improvements that will be made to the public realm adjacent to the Property, including the removal of multiple existing curb cuts. (Policy T-1.1.4: Transit-Oriented Development, Policy T-2.4.1: Pedestrian Network, and Policy T-2.4.2: Pedestrian Safety.) The Project will also provide secure bicycle parking as required under the Zoning Regulations, and will support the expansion of Capital Bikeshare. (Action T-2.3.A: Bicycle Facilities and Action T-2.3.D: Bicycle Sharing.) Finally, the Project will encourage the expansion of car-sharing by devoting two parking spaces within the below-grade garage of the building to car share spaces. (Policy T-3.1.3: Car-Sharing.)
46. Housing Element: The Commission finds that the Project is not only “not inconsistent” with the policies of the Housing Element, but it will directly and substantially advance several policies that are aimed at addressing the District’s affordable housing crisis. The overarching goal of the Housing Element is to “[d]evelop and maintain a safe, decent, and affordable supply of housing for all current and future residents of the District of Columbia.” (10 DCMR § 501.1.) The Applicant will help the District achieve this goal by



providing a mixed-use development that includes ground floor commercial uses and 76 units of low- and very low-income affordable housing, including larger family-sized housing, in a rapidly revitalizing area of the District that is close to public transportation. (Policy H-1.1.1: Private Sector Support, Policy H-1.1.3: Balanced Growth, Policy H-1.1.4: Mixed Use Development, Policy H-1.1.7: New Neighborhoods, Policy H-1.2.3: Mixed Income Housing, and Policy 1.3.1: Housing for Families.)

47. Environmental Protection Element: The Commission finds that the Project is not inconsistent with the policies of the Environmental Protection Element. The overarching goal for environmental protection in the District is to protect, restore, and enhance the natural and man-made environment, taking steps to improve environmental quality, prevent and reduce pollution, and conserve the values and functions of the District's natural resources and ecosystems. (10-A DCMR § 601.1.) The Project will help achieve this goal, in part, through the improvements that will be made to the public space surrounding the Property. Currently the public space surrounding the Property is 100% impervious, utilized entirely for parking, does not contain a single street tree, and is interrupted by several side curb cuts. The Project will substantially improve the environmental quality of the public space by eliminating all of the curb cuts along 1<sup>st</sup> Street, S.W., and adding several new street trees and planters. (Policy E-1.1.1: Street Tree Planting and Maintenance.) The Applicant will also improve environmental sustainability and storm water management on the Property through the use LEED-Silver v.4 to design the building, and the use of a large green roof system on the building's main roof and penthouse roof. (Policy E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff and Policy E-3.2.1: Support for Green Building.)
48. Economic Development Element: The Commission finds that the Project is not inconsistent with the policies of the Economic Development Element. The Project will provide positive economic benefit both through the ground floor commercial uses that are proposed, and the onsite financial education services that will be provided to the residents of the building. Specifically, the on-site services provided by UPO will include monthly financial education classes. In addition, UPO will provide access to offsite services including various construction, culinary arts, hospitality, and emergency medical technician training classes at UPO facilities within the District. (Policy ED-4.1.4: Adult Education, Policy ED-4.2.3: Focus on Economically Disadvantaged Populations, Policy ED-4.2.4: Neighborhood-Level Service Delivery.) These services will strengthen the District workforce and help increase the income of building residents.
49. Parks, Recreation, and Open Space Element: This Element addresses the future of parks, recreation, and open space in the District of Columbia. It recognizes the important role parks play in recreation, aesthetics, neighborhood character, and environmental quality. It includes policies on related topics such as recreational facility development, the use of private open space, and the creation of trails to better connect the city's open spaces and neighborhoods. (10-A DCMR § 800.1.) The overarching goal for parks, recreation and open space is to preserve and enhance parks and open spaces within the District of Columbia to meet active and passive recreational needs, improve environmental quality, enhance the identity and character of District neighborhoods, and provide visual beauty

in all parts of the national capital. (10-A DCMR § 801.1.) The Commission finds that the Project is not inconsistent with this stated goal, nor with the policies contained within the Parks, Recreation, and Open Space Element.

50. Urban Design Element: The Urban Design Element addresses the District's physical design and visual qualities, and the goal of its various policies is to enhance the beauty and livability of the city by protecting its historic design legacy, reinforcing the identity of its neighborhoods, harmoniously integrating new construction with existing buildings and the natural environment, and improving the vitality, appearance, and security of streets and public spaces. (10-A DCMR § 901.1.) As also mentioned below under the Historic Preservation Element, the Project will improve the spatial character and urban design quality of 1<sup>st</sup> and Q Streets, S.W., both historic L'Enfant Plan streets, by removing multiple curb cuts, strengthening the street wall, and respecting the historic right-of-way. (UD-1.1 Protecting the Integrity of Washington's Historic Plans and Policy UD-1.1.2: Reinforcing the L'Enfant and McMillan Plans.) The Project will also improve the sense of identity for the Buzzard Point neighborhood which, as stated in the Buzzard Point Plan, is envisioned as an environmentally sustainable, vibrant, mixed-use neighborhood with improved pedestrian circulation, continuous access to the water, and new development opportunities that could increase the inventory of mixed-use development and affordable housing. Buzzard Point Plan, pg. 4. The Project will advance this vision through the ground floor retail and substantial affordable housing that is proposed, as well as its attractive façade design and significant improvements to adjacent public space. (Policy UD-2.2.5: Creating Attractive Facades, Policy UD-3.1.1: Improving Streetscape Design, Policy UD-3.1.7: Improving the Street Environment.) In addition, as addressed above, while the lots that are adjacent to the Property have the same zoning and can be constructed to the same height, the Applicant has taken steps to design and articulate the building in a way that reduces overall scale and will provide visual interest until the adjacent properties are redevelopment. (Policy UD-2.2.4: Transitions in Building Intensity.) As a result, the Commission finds that the Project is not inconsistent with this stated goal, nor with the policies contained within the Urban Design Element.
51. Historic Preservation Element: The overarching goal for historic preservation is to preserve and enhance the unique cultural heritage, beauty, and identity of the District of Columbia by respecting the historic physical form of the city and the enduring value of its historic structures and places, recognizing their importance to the citizens of the District and the nation, and sharing mutual responsibilities for their protection and stewardship. (10-A DCMR § 1001.1.) The Commission finds that the Project is not inconsistent with this stated goal, nor with the policies contained within the Historic Preservation Element. The site of the Project is not a historic landmark, nor is it located within the boundaries of a historic district. Nonetheless, the Project will improve the spatial character and urban design quality of 1<sup>st</sup> and Q Streets, S.W., both historic L'Enfant Plan streets, by removing multiple curb cuts, strengthening the street wall, and respecting the historic right-of-way. (Policy HP-2.3.1: The Plan of the City of Washington, Policy HP-2.3.3: Spatial Character of L'Enfant Plan Streets, and Policy HP-2.3.4: Public Space Design in the L'Enfant Plan.)

52. Community Services and Facilities Element: The Community Services and Facilities Element provides policies and actions on health care facilities, child care and senior care facilities, libraries, police stations, fire stations, and other municipal facilities such as maintenance yards. A well-balanced and adequate public facility system is a key part of the city's drive to sustain and enhance the quality of life for its residents. (10-A DCMR § 1100.1.) The Comprehensive Plan goal for community services and facilities is to provide high-quality, accessible, efficiently managed, and properly funded community facilities to support the efficient delivery of municipal services, protect public health and safety, and enhance the well-being of current and future District residents. (10-A DCMR § 1101.1.) The Commission finds that the Project is not inconsistent with this stated goal, nor with the policies contained within the Community Services and Facilities Element.
53. Educational Facilities Element: The Educational Facilities Element addresses the location, planning, use and design of the District's educational facilities and campuses. It includes policies and actions related to primary, secondary, and higher educational facilities. The Element focuses on the efficient use of school property, and the relationship between schools and the communities that surround them. For District public schools, it focuses on school modernization and the right-sizing of school facilities to meet existing and long-term educational needs. (10-A DCMR § 1200.1.) The overarching goal for educational facilities in the District is to transform the educational environment in the District of Columbia, providing facilities that inspire excellence in learning, create a safe and healthy environment for students, and help each individual achieve his or her fullest potential. (10-A DCMR § 1201.1.) The Commission finds that the Project is not inconsistent with this stated goal, nor with the policies contained within the Educational Facilities Element.
54. Infrastructure Element: The Infrastructure Element provides policies and actions on the District's water, sanitary sewer, storm water, solid waste management, energy, and telecommunication systems. Investments in these systems are essential to our city's future, both to meet the demands of existing users and to accommodate future change and development. (10-A DCMR § 1300.1.) The overarching goal for infrastructure is to provide high-quality, efficiently managed and maintained, and properly funded infrastructure to serve existing development, as well as future change and growth. (10-A DCMR § 1301.1.) The Commission finds that the Project is not inconsistent with this stated goal, nor with the policies contained within the Infrastructure Element.
55. Arts and Culture Element: The Arts and Culture Element provides policies and actions dedicated to the preservation and promotion of the arts in the District of Columbia. Its focus is on strengthening the role of the arts in shaping the physical form of our city. (10-A DCMR § 1400.1.) The overarching goal for arts and culture is to support and encourage arts and cultural venues, programs and learning experiences in the District of Columbia that inspire a vibrant cultural life for all segments of the population. Enhance the city's diverse artistic and cultural traditions through decisions affecting the physical environment. (10-A DCMR § 1401.1.) The Commission finds that the Project is not

inconsistent with this stated goal, nor with the policies contained within the Arts and Culture Element.

56. Lower Anacostia Waterfront/Near Southwest Area Element: The Lower Anacostia Waterfront/Near Southwest Planning Area encompasses approximately 3.0 square miles of land along both sides of the Anacostia River in the southwest and southeast quadrants of the District, and includes parts of Wards 6, 7, and 8. (10-A DCMR 1900.1.) The key planning and development priorities within this area include revitalizing and increasing access to the waterfront; improving economic opportunities for the neighborhoods within the area; protecting existing neighborhoods while expanding housing, including affordable housing; and the protection of natural resources along the Anacostia and Potomac Rivers. The Commission Finds that the Project is not inconsistent with the policies of the Lower Anacostia Waterfront / Near Southwest Area Element. Specifically, the Project will support the revitalization of the Buzzard point neighborhood into a new mixed-use neighborhood by adding new commercial uses and a substantial amount of affordable housing. (Policy AW-1.1.2: New Waterfront Neighborhoods, Policy AW-1.1.3: Waterfront Area Commercial Development, and Policy AW-2.2.7: Buzzard Point.)
57. *The Zoning Commission shall find that the proposed design review development will not tend to affect adversely the use of neighboring property and meets the general special exception criteria of Subtitle X, Chapter 9 (11-X DCMR § 604.6):* The CG-4 zone “is intended to permit medium- to high-density mixed-use development with a balance of uses conducive to a higher quality of life and environment for residents, businesses, employees, and institutions...” (11-K DCMR 504.1.) The Project will have a maximum building height of 100 feet and an overall FAR of 7.78. The CG-4 zone permits a maximum of 100 feet and 8.2 FAR with Inclusionary Zoning (“IZ”) on the Property. As a result, the height and density are consistent with the development parameters for the CG-4 zone. The Applicant is not requesting any relief except for residential loading relief.
58. *The Zoning Commission shall review the urban design of the site and the building for the following criteria:*
- (a) Street frontages are designed to be safe, comfortable, and encourage pedestrian activity, including:
    - (i) Multiple pedestrian entrances for large developments;
    - (ii) Direct driveway or garage access to the street is discouraged;
    - (iii) Commercial ground floors contain active uses with clear, inviting windows;
    - (iv) Blank façades are prevented or minimized; and

- (v) Wide sidewalks are provided;
- (b) Public gathering spaces and open spaces are encouraged, especially in the following situations:
  - (i) Where neighborhood open space is lacking;
  - (ii) Near transit stations or hubs; and
  - (iii) When they can enhance existing parks and the waterfront;
- (c) New development respects the historic character of Washington's neighborhoods, including:
  - (i) Developments near the District's major boulevards and public spaces should reinforce the existing urban form;
  - (ii) Infill development should respect, though need not imitate, the continuity of neighborhood architectural character; and
  - (iii) Development should respect and protect key landscape vistas and axial views of landmarks and important places;
- (d) Buildings strive for attractive and inspired façade design, including:
  - (i) Reinforce the pedestrian realm with elevated detailing and design of first and second stories; and
  - (ii) Incorporate contextual and quality building materials and fenestration;
- (e) Sites are designed with sustainable landscaping; and
- (f) Sites are developed to promote connectivity both internally and with surrounding neighborhoods, including:
  - (i) Pedestrian pathways through developments increase mobility and link neighborhoods to transit;
  - (ii) The development incorporates transit and bicycle facilities and amenities;
  - (iii) Streets, easements, and open spaces are designed to be safe and pedestrian friendly;
  - (iv) Large sites are integrated into the surrounding community through street and pedestrian connections; and

- (v) Waterfront development contains high-quality trail and shoreline design as well as ensuring access and view corridors to the waterfront. (11-X DCMR § 604.7.)
59. The street frontages along 1<sup>st</sup> Street and Q Street have been designed to be safe, comfortable, and encourage pedestrian activity. The Project includes ground floor, neighborhood-serving commercial uses with up to three distinct entryways along 1<sup>st</sup> Street and a separate entrance for the residential use along Q Street. In addition, outdoor seating is provided along 1<sup>st</sup> Street and Q Street. Currently, there are limited pedestrian facilities and sidewalks within Buzzard Point neighborhood. (*See* Buzzard Point Plan, p. 8.) The Project includes streetscape improvements including new sidewalk paving and landscaping adjacent to the Property. All public space improvements, including the width of the sidewalks, will comply with DDOT requirements and are subject to the approval by the DDOT Public Space Division.
60. The Property is not located along the District's major boulevards, and the proposed public space improvements respect the existing urban form. The Project does not infringe on any key landscape vistas or axial views of landmarks and important places. The building's materials include iron spot brick, red brick, medium gray metal panels, and high-quality EIFS panels on only the north and east facades that are built on the property line. The materials are compatible with the neighborhood architecture in the surrounding CG zones, without imitating the architecture.
61. The Project's ground floor includes active uses with clear inviting windows, and blank façades have been minimized. The pedestrian realm along 1<sup>st</sup> Street and Q Street has also been reinforced through the provision of outdoor bench seating for use by the building's residential tenants and the surrounding community. Depending upon the tenant or tenants of the ground-floor commercial space, the Project may also include outdoor seating utilized by the commercial tenants. Since the north and east façades are built on the property line, the Applicant is providing additional and varied articulation in lieu of at risk windows that are subject to closure. The Project also includes projections that extend a maximum of four feet past the property line, which help animate and enhance the building's design.
62. The Property is not located near a transit station hub, nor is it located near an existing park or waterfront. The Applicant is providing outdoor bench seating along Q Street and 1<sup>st</sup> Street for use by the building's residents and surrounding neighborhood.
63. The Project includes access to the below-grade parking garage via Q Street. The Applicant is not proposing any other curb cuts and is in fact closing the two existing curb cuts along 1<sup>st</sup> Street and Q Street that are adjacent to the Property. The Applicant is also providing a new Capital Bikeshare station along Q Street, in addition to 28 bicycle parking spaces located in the below-grade parking garage. The Project is not a waterfront development.

64. The Commission therefore finds, pursuant to 11-X DCMR § 604.8, that the Project meets the criteria of 11-X DCMR § 604.7 in a way that is superior to any matter-of-right development.

### Variance Relief

65. Pursuant to 11-K DCMR § 512.7, the Commission may hear and decide any additional requests for variance relief needed for the Property together with the application for design review approval.
66. The Applicant requests an area variance from the residential loading requirements of 11-C DCMR § 901.1. Pursuant to 11-C DCMR § 901.1, the Applicant is required to provide one 30-foot loading berth, one 100-square-foot loading platform, and one 20-foot service/delivery space for the residential portion of the Project. Due to site constraints, the Applicant is unable to provide any loading on the Property for the Project.
67. The Commission is authorized to grant an area variance where it finds that three conditions exist:
- (a) The property is affected by exceptional size, shape, or topography or other extraordinary or exceptional situation or condition;
  - (b) The owner would encounter practical difficulties if the Zoning Regulations were strictly applied; and
  - (c) The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

(See *French v. District of Columbia Board of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); see also, *Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987).) The Commission finds that all three prongs of the area variance test are met in this application.

### Exceptional Condition or Situation

68. A unique or exceptional situation or condition may arise from a confluence of factors which affect a single property. (*Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990).) The Commission finds that the exceptional condition arises from the relatively small size and shape of the Property; the minimal amount of street frontage; the absence of a public alley adjacent to the Property; and from the specific design review criteria for the Property that discourages access to parking and loading facilities directly from the street. The design review requirements of Subtitles K and X: (i) encourage development of the Property with a mixture of residential and commercial uses; (ii) encourage minimizing conflicts between vehicles and pedestrians;

(iii) encourage pedestrian activity along the adjacent street frontages; (iv) and discourage direct driveway or garage access to the street.

69. The Applicant will provide access to the below-grade parking from Q Street. In order to also provide the required loading, the Applicant would need to install a second curb cut since the required loading cannot be accommodated in the below-grade parking garage. Given the proposed use of the Property, the lot is relatively small (9,138 square feet), and has limited street frontage along 1<sup>st</sup> Street (65.67 feet) and Q Street (93.25 feet). The Applicant is proposing to provide a residential lobby, an office for UPO CDC staff (PSH Case Manager), and ground-floor amenity space for the building's residents in addition to ground-floor commercial uses. As a result, there is no additional room on the ground floor of the building to accommodate a 30-foot loading berth, a 100-square-foot platform, and a 20-foot service/delivery space.

#### Resulting Practical Difficulty

70. The strict application of the Zoning Regulations would result in a practical difficulty to the Applicant, since providing the required loading would significantly constrain the Applicant's ability to provide ground floor, neighborhood-serving commercial uses and minimize conflicts between vehicles and pedestrians as specified in 11-K DCMR § 512.3. Moreover, the Commission finds that the Applicant would be unable to provide an office for UPO CDC staff to provide its on-site wrap around services. If the Applicant provided the requisite loading, the Applicant would need to install another curb cut along either Q or 1<sup>st</sup> Street, which is specifically discouraged by 11-X DCMR 604.7(a)(2). As a result, if the Applicant provided the required loading the Project would not meet the specific design review requirements specified in Subtitles K and X of the Zoning Regulations since the loading facilities would require an additional 22-24 feet of street frontage devoted to a loading entryway and an additional 700 square feet of interior space for loading. As shown on Sheet A-44 of the Plan, if the required loading was provided, there is still insufficient space on the ground floor for 30-foot trucks to perform front in/front out maneuvers to access the loading berth. (Ex. 31.)

#### No Harm to Public Good or Zone Plan

71. The Commission finds that the requested variance will not result in harm to the public good or zone plan. Residential loading will be accommodated curbside along Q Street, in front of the residential entrance. The building's residents will utilize "Emergency No Parking Signs" for move-in and move-out consistent with the District Department of Transportation's policies to allow for residential loading operations to take place on a particular day for a limited duration.
72. Although loading facilities are not required for the proposed ground-floor commercial use, the Applicant will apply for a curbside loading zone adjacent to the Property on 1<sup>st</sup> Street for the ground-floor commercial uses. DDOT has informed the Applicant that the commercial loading zone application will be reviewed after construction.



73. As detailed in the Comprehensive Transportation Review report, the Commission finds that the proposed loading plan will adequately serve the loading needs for the Project. The Applicant will implement a loading management plan for the Project, which will include the following elements: (Ex. 17.)
- A loading manager will be designated by the building management. The manager will coordinate with residents to schedule deliveries, direct residents to apply for parking restrictions curbside, and will be on duty during delivery hours;
  - Residents will be required to schedule move-in and move-outs with the loading manager through leasing regulations;
  - The loading manager will coordinate with trash pick-up to minimize the time trash trucks need to use the loading area;
  - Trucks using the loading area will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, § 900 (Engine Idling), the regulations set forth in DDOT’s Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System; and
  - The loading manager will be responsible for disseminating DDOT’s Freight Management and Commercial Vehicle Operations document to drivers as needed to encourage compliance with District laws and DDOT’s truck routes. The loading manager will also post these documents in a prominent location.

### **Office of Planning Report**

74. By report dated September 8, 2017, OP recommended approval of the application including the requested loading variance relief provided the Applicant: (i) confirm that the building meets the requirements of the District’s projection regulations (12-A DCMR § 3202) and other relevant public space regulations; (ii) examine and refine the north and east building façades; (iii) provide a color and materials board; (iv) complete an IZ chart; (v) examine whether the green features of the building can be enhanced and provision of a LEED checklist; and (vi) confirm that the long-term bike parking meets the requirements of 11-C DCMR § 805. (Ex. 21.)
75. At the public hearing, the Applicant provided a materials board. (Ex 26.) In addition, the Applicant confirmed that the building meets the requirements of the District’s projections regulations and public space requirements, and the long-term bike parking requirements. (Ex. 25A5.) The Applicant also revised the design of the building’s north and east façades; provided a LEED checklist; and completed an IZ Chart. (Ex. 31, 25A1, 25A7.)

**DDOT Report**

76. By report dated September 8, 2017, DDOT stated that it has no objection to the application including the request loading variance relief provided the Applicant implement the proposed Transportation Demand Management (“TDM”) Plan and Loading Management Plan. (Ex. 22.) DDOT found that the proposed Loading Management Plan is appropriate and will serve to mitigate idle vehicles servicing the building.

**ANC Report**

77. ANC 6D submitted a resolution in support of the Project, indicating that at its regularly scheduled and duly noticed public meeting of September 11, 2017, at which a quorum of commissioners was present, ANC 6D voted 6-0-0 to support the application. (Ex. 23.) The ANC stated that “ANC 6D is pleased that this development is a 100% affordable housing and sets an example for other developers who fail to add to the increasing need for this type of housing.” The ANC requested that the Applicant consider participating in additional meetings prior to any final design and prior to construction to address Commission and community concerns about the Project.
78. The Applicant presented a revised design for the building’s north and east façades to address ANC 6D’s concerns with the Project. Commissioner Rhonda Hamilton, the single member district representative for the Project, acknowledged that the ANC’s concerns regarding the Project’s design have been addressed. ANC 6D, submitted a second resolution in support of the Project, indicating that at its regularly scheduled and duly noticed public meeting of October 16, 2017, at which a quorum of commissioners was present, it voted 5-0-0 to support the application including the redesigned facades. (Ex. 32.)

**CONCLUSIONS OF LAW**

1. The application was submitted pursuant to 11-K DCMR § 512 for review and approval by the Commission, and pursuant to 11-K § 512.7 for an area variance from the residential loading requirements of 11-C DCMR § 901.1. The Commission concludes that the Applicant has met its burden of proof.
2. The Commission provided proper and timely notice of the public hearing on the application by publication in the *D.C. Register* and by mail to ANC 6D, OP, and owners of property within 200 feet of the Property.
3. Pursuant to 11-K DCMR § 512.3, the Commission required the Applicant to comply with CG zone design guidelines set forth in 11-K DCMR §§ 512.3(a)-(e) and the general design guidelines in 11-X DCMR §§ 604.5-604.7. The Commission concludes that the proposed project will further the objectives of the CG zones, as set forth in 11-K DCMR § 500.1, and the design of the Project meets the specific design requirements of 11-K

DCMR §§ 512.3(a)-(e) and 11-X DCMR §§ 604.5-604.7 in a way that is superior to any matter-of-right develop possible on the Property.

4. The Commission concludes that the Applicant has met its burden and that the proposed development is within the applicable height, bulk, and density standards for the CG-4 zone and will not tend to affect adversely the use of neighboring properties. The overall Project is also in harmony with the general intent and purpose of the Zoning Regulations and Map.
5. The Commission also required the Applicant to meet the requirements for variance relief set forth in 11-X DCMR § 1002.1(a). The Commission concludes that the Applicant has met its burden.
6. No person or parties appeared at the public hearing in opposition to the application.
7. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. The affected ANC in this case is ANC 6D. The Commission carefully considered ANC 6D's recommendation for approval and concurs in its recommendation, and considered the issues and concerns stated in its reports.
8. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)), to give great weight to OP recommendations. The Commission carefully considered the OP report and, as explained in this decision, finds its recommendation to grant the application persuasive.
9. Based upon the record before the Commission, including witness testimony, the reports submitted by OP, DDOT, ANC 6D and the Applicant's submissions, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under 11-K DCMR §§ 512.3(a)-(e) and 11-X DCMR §§ 604.5-604.7 of the Zoning Regulations and for variance under 11-X DCMR § 1002.1(a).

### DECISION

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application consistent with this Order. This approval is subject to the following guidelines, standards, and conditions:

1. The approval of the proposed development shall apply to Lots 54 and 813 in Square 656.
2. The Project shall be built in accordance with the architectural drawings submitted to the Commission on August 28, 2017, dated August 23, 2017, (Ex. 19A1-19A4), as supplemented by the architectural drawings submitted on October 23, 2017, dated October 16, 2017 (Ex. 31A1-31A4), and the guidelines, conditions, and standards below.

3. The Applicant shall implement the following TDM measures for the life of Project:
  - (a) The Applicant shall identify a TDM Leader (for planning, construction, and operations) at the building, who will act as a point of contact with DDOT/Zoning Enforcement with annual updates. The TDM Leader will work with residents to distribute and market various transportation alternatives and options;
  - (b) The Applicant shall provide TDM materials to new residents in the Residential Welcome Package materials and meet the zoning requirements by providing approximately 26 long-term bicycle parking spaces in the building garage. Short-term bicycle parking spaces shall be provided within and/or along the perimeter of the site, meeting zoning requirements;
  - (c) All parking on site shall be priced at market rates, at minimum, defined as the average cost for parking in a 0.25-mile radius from the Property;
  - (d) The Applicant shall unbundle the cost of residential parking from the cost of lease or purchase of each unit;
  - (e) The Applicant shall provide each unit's incoming residents with an \$80 SmarTrip Card. A proactive marketing strategy shall be provided to ensure residents are aware of this benefit;
  - (f) The Applicant shall provide a bicycle repair station;
  - (g) The Applicant shall provide an on-site business center to residents with access to copier, fax, and internet services;
  - (h) The Applicant shall install a Transportation Information Center Display (electronic screen) within the residential lobbies containing information related to local transportation alternatives; and
  - (i) The Applicant shall construct and maintain a Capital Bikeshare station, as shown on the architectural drawings.
4. The Applicant shall implement the following Loading Management Plan for the life of Project:
  - (a) A loading manager shall be designated by the building management. The manager shall coordinate with residents to schedule deliveries, direct residents to apply for parking restrictions curbside, and shall be on duty during delivery hours;
  - (b) Residents shall be required to schedule move-in and move-outs with the loading manager through leasing regulations;

- (c) The loading manager shall coordinate with trash pick-up to minimize the time trash trucks need to use the loading area;
  - (d) Trucks using the loading area shall not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, Section 900 (Engine Idling), the regulations set forth in DDOT’s Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System; and
  - (e) The loading manager shall be responsible for disseminating DDOT’s Freight Management and Commercial Vehicle Operations document to drivers as needed to encourage compliance with District laws and DDOT’s truck routes. The loading manager shall also post these documents in a prominent location.
5. The Project shall achieve LEED-Silver certification.
6. The Applicant shall have flexibility with the design of the Project in the following areas:
- (a) To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria and mechanical rooms, provided that the variations do not change the exterior configuration or appearance of the building;
  - (b) To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed in the final plans;
  - (c) To increase the final number of residential units by no more than 10% above the total number approved to respond to program demand, or to decrease the final number of residential units within the approved gross floor area in order to accommodate demand for larger units;
  - (d) To make minor variations to the location, attributes and general design of the streetscape within public space to comply with the requirements of and the approval by the District Department of Transportation Public Space Division, without changing the overall design intent, the general location and dimensions of landscaping and hardscaping, or the quality of materials;
  - (e) To make refinements to the garage configuration, including layout, parking spaces and other elements, so long as the number of parking spaces provided is at least the minimum number of spaces required by the Zoning Regulations;
  - (f) To make minor refinements to the buildings’ details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, window mullions and spacing, or any other changes that otherwise do not significantly alter the exterior design as shown on the final plans

to comply with the District of Columbia Building Code. Any refinements may not substantially change the buildings' external configurations, appearance, proportions, or general design intent;

- (g) To locate retail entrances in accordance with the needs of the retail tenants; and to vary the façades as necessary within the general design parameters proposed for the Project; and to vary the types of uses designated as "retail" use on the Plans to include the following use categories: (i) Office (11-B DCMR § 200.2(x)); (ii) Retail (11-B DCMR § 200.2(cc)); (iii) Services, General (11-B DCMR § 200.2(dd)); (iv) Services, Financial (11-B DCMR § 200.2(ee)); and (v) Eating and Drinking Establishments (11-B DCMR § 200.2(j));
  - (h) To vary the font, message, logo, and color of the proposed signage, provided that the maximum overall dimensions and signage materials do not change from those shown on the approved architectural drawings; and
  - (i) To add solar panels to the roof, provided they comply with all applicable zoning regulations and building code requirements, and do not diminish the size of or interfere with the green roof shown on the plans.
7. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.1 et seq. (the "Act"), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violations will be subject to disciplinary action.

On October 30, 2017, upon the motion of Commissioner Turnbull as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

In accordance with the provisions of 11-Z DCMR § 604.9 of the Zoning Regulations, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on June 15, 2018.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF FINAL RULEMAKING  
AND  
Z.C. ORDER NO. 17-17  
Z.C. Case No. 17-17  
(Advisory Neighborhood Commission 8A  
Zoning Map Amendment @ Square 5564, Lot 812 from PDR-1 to RA-2)  
May 14, 2018**

The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF FINAL RULEMAKING  
AND  
Z.C. ORDER NO. 17-20  
Z.C. Case No. 17-20  
(Office of Planning –Text Amendments to Subtitles B, H, K, and U  
Regarding the Daytime Care Use Category to Address the Need to Establish  
and Expand Child Development Centers)  
May 14, 2018**

The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.



Government of the District of Columbia  
Public Employee Relations Board

_____	)	
In the Matter of:	)	
	)	
Fraternal Order of Police/	)	
Metropolitan Police Department	)	
Labor Committee	)	
(on behalf of Michael Pokladnik)	)	
	)	PERB Case No. 18-A-03
Petitioner	)	
	)	Opinion No. 1663
v.	)	
	)	
Metropolitan Police Department	)	
	)	
Respondent	)	
_____	)	

**DECISION AND ORDER**

**I. Introduction**

On December 1, 2017, the Fraternal Order of Police/District of Columbia Metropolitan Police Department Labor Committee (“Union”), filed this Arbitration Review Request (“Request”) pursuant to the Comprehensive Merit Personnel Act (“CMPA”), D.C. Official Code § 1-605.02(6), seeking review of an Arbitrator’s Opinion and Award (“Award”). The Award directed the Metropolitan Police Department (“Department”) to set aside the termination of Office Michael Pokladnik (“Grievant”) and ordered an alternative sanction of a 15-day suspension.

In accordance with the CMPA, the Board is permitted to modify or set aside an arbitration award in three narrow circumstances: (1) if the arbitrator was without, or exceeded his or her jurisdiction; (2) if the award on its face is contrary to law and public policy; or (3) if the award was procured by fraud, collusion or other similar and unlawful means.<sup>1</sup> The Union claims that the award is, on its face, contrary to law and public policy.<sup>2</sup> Having reviewed the Arbitrator’s conclusions, the pleadings of the parties and applicable law, the Board concludes that the award is not on its face contrary to law and public policy. Therefore, the Board denies the Union’s Request.

<sup>1</sup> D.C. Official Code § 1-605.02(6).

<sup>2</sup> Memorandum in Support of Arbitration Review Request at 1.

Decision and Order  
PERB Case No. 18-A-03  
Page 2

## II. Statement of the Case

The Grievant served as a Patrol Officer with the Department for approximately five years when, as a result of a knee problem, he was placed on limited duty status.<sup>3</sup> On October 9, 2009, the Grievant submitted to his supervisor a Clinic Data Record showing that he had been returned to full duty status. Nevertheless, between October 9, 2009 and May 30, 2010, the Grievant failed to take any initiative to have his police power restored and remained on limited duty detail.<sup>4</sup> On May 30, 2010, a superior officer questioned Grievant about his work limitations and when he had last been to the clinic. When the Grievant stated that he had not been to the clinic for about a year, the superior officer advised him to report there at once. On October 7, 2010, the Grievant received a Notice of Proposed Adverse Action for an alleged untruthful statement made by the Grievant to a superior officer regarding his duty status and failing to take the initiative to have his Police Power restored.<sup>5</sup> A three-member adverse action panel was convened at the Grievant's request. A Final Notice of Proposed Adverse Action was sent to the Grievant, notifying him that the Panel recommended his termination.<sup>6</sup> The Union appealed the termination to the Chief of Police. The appeal was denied and then the Union filed for arbitration.<sup>7</sup>

## III. Arbitrator's Award

The Arbitrator determined three issues: (1) whether the Department violated section 5-1031 of the D.C. Official Code ("the 90-day rule"), (2) whether the evidence presented by the Department was sufficient to support the charges and (3) whether termination was an appropriate penalty.<sup>8</sup>

According to the Arbitrator, May 30, 2010, was the day the Department had notice of the act or occurrence allegedly constituting cause.<sup>9</sup> Using this date as the starting point, the deadline for the Department to issue the Notice of Proposed Adverse Action was October 6, 2010. The Grievant received the notice on October 7, 2010, which was 91 business days after the alleged violation. The Arbitrator looked to *Metropolitan Police Department v. Fraternal Order of Police/Metropolitan Police Department Labor Committee (on behalf of Best)*<sup>10</sup> which stated that the 90-day rule was directory not mandatory and directed the Board to analyze whether a one-day violation by the Department was a *de minimis* violation of the statute.<sup>11</sup> The Arbitrator concluded that this case was the most applicable prior award which had been tested by both the Board and D.C. Superior Court. Using this case as guidance, the Arbitrator found that while the Department did violate the 90-day rule by one day, it was a *de minimis* violation of the statute and the Grievant was not prejudiced.<sup>12</sup>

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<sup>3</sup> Award at 2.

<sup>4</sup> Award at 5.

<sup>5</sup> Award at 5.

<sup>6</sup> Award at 7.

<sup>7</sup> Award at 8.

<sup>8</sup> Award at 8.

<sup>9</sup> Award at 13.

<sup>10</sup> No. 2012 CA 007805 P (MPA), (D.C. Sup. Ct. July 17, 2014).

<sup>11</sup> Award at 15.

<sup>12</sup> Award at 16.

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PERB Case No. 18-A-03  
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Regarding the final two issues, the Arbitrator found that the Panel's determination was based on substantial evidence in the record, however the penalty of termination was not justified.<sup>13</sup> The Arbitrator applied the balancing test established in *JBG Properties v. D.C. Office of Human Rights*<sup>14</sup> and found that the grievant should be suspended for fifteen (15) calendar days for his misconduct and then reinstated with full back pay and benefits.<sup>15</sup>

#### IV. Discussion

The Union argues that the award is contrary to law and public policy because the Department instituted the adverse action against the grievant after the deadline prescribed by the law had expired. The Union asserted that the Arbitrator relied entirely on *Best*, but this decision ignored prior case law from both the Court of Appeals and the Superior Court.<sup>16</sup> The Union further asserted that the plain language and the legislative history show that the 90-day rule is a mandatory statute<sup>17</sup> and the Arbitrator's opinion and award applying a *de minimis* standard to the mandatory 90-day rule is contrary to law and public policy.

The Union argues that the D.C. Council's intent that the 90-day rule would remain a mandatory statute was confirmed as recently as October 24, 2014, when the D.C. Council considered a bill that proposed repealing the rule. The Union looks to the Committee Report on Bill 20-810, which proposed repealing the rule. The Committee Report stated that under the 90-day rule the Department "is barred from later taking disciplinary action" and "discipline could not be enforced."<sup>18</sup> The Union argues that this language regarding the 90-day rule leads to the conclusion that it is mandatory, not directory.<sup>19</sup>

The Union further argues that the *JBG Properties*' balancing test is only applicable to statutes that are directory rather than mandatory.<sup>20</sup> Since it is clear that the 90-day rule is mandatory, the application of the balancing test by the Arbitrator is contrary to law and public policy.

The Department argues that the Arbitrator's holding that the 90-day rule is directory is not contrary to law and public policy, and that the balancing test from *JBG Properties* was properly applied. According to the Department, the Superior Court has previously rejected an arbitration award in which an arbitrator overturned a grievant's suspension based on a one-day delay by the Department. The Department argues that the Union's argument that the Arbitrator should have relied on other Superior Court cases amounts only to a disagreement about legal interpretation; not a clear violation of the law by the Arbitrator.<sup>21</sup> The Department, further states

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<sup>13</sup> Award at 24.

<sup>14</sup> 364 A.2d 1183 at 1187 (D.C. 1976)

<sup>15</sup> Award at 25.

<sup>16</sup> Memorandum at 6.

<sup>17</sup> Memorandum at 4-5.

<sup>18</sup> Memorandum at 10.

<sup>19</sup> Memorandum at 10-11.

<sup>20</sup> Memorandum at 13.

<sup>21</sup> Opposition at 9.

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Page 4

that the Arbitrator correctly applied the *JBG Properties*' balancing test to find that the one-day violation created no prejudice that impaired the fairness of the proceedings or the correctness of the action taken.<sup>22</sup>

The Union references the similarities between the 90-day rule and its now repealed predecessor, the 45-day rule, as part of its argument why the 90-day rule should be mandatory. While it is true that in *Metropolitan Police Department v. Public Employee Relations Board*<sup>23</sup> the Superior Court upheld the Board's determination that the 45-day rule was mandatory, the Superior Court's decision in *Best* is more recent and interprets the 90-day rule rather than its predecessor. Since *Best*, the Board has consistently held that the 90-day rule is directory, not mandatory.<sup>24</sup> The Arbitrator has properly applied the Board's precedent to this case and the Union has not presented a clear violation of law on the face of the Award.

The Board has limited authority to overturn an arbitration award.<sup>25</sup> For the Board to find the Award contrary to law and public policy, the asserting party bears the burden to specify the "applicable law and definite public policy that mandates that the Arbitrator arrive at a different result."<sup>26</sup> The 90-day rule states that no corrective or adverse action against a sworn member or civilian employee of the Department "shall be commenced more than 90 days, not including Saturdays, Sundays, or legal holidays, after the date that the Metropolitan Police Department had notice of the act or occurrence allegedly constituting cause."<sup>27</sup> The Union does not dispute the Arbitrator's determination of when the 90 days began, but it does dispute the assertion that the 90-day rule is directory.

The Arbitrator relied on *Best* when issuing the award because the situation was very similar to the present case. When the Superior Court remanded that case back to the Board, it stated that, in *Brown v. Public Employee Relations Board*<sup>28</sup>, the Court of Appeals found that, if a statute is directory, a court must use the balancing test set forth in *JBG Properties* to determine whether any prejudice to a party caused by agency delay is outweighed by the interests of another party or the public in allowing the agency to act after the statutory time period has elapsed.<sup>29</sup> The Superior Court went on to state that there is no sanction in section 5-1031; therefore the 90-day rule is directory, not mandatory.<sup>30</sup>

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<sup>22</sup> Opposition at 10.

<sup>23</sup> *Metro. Police Dept. D.C. v. Pub. Employee Rel. Bd.*, 92-29, 1993 WL 761156, (D.C. Super. Aug. 9, 1993)

<sup>24</sup> See *FOP/Metro. Police Dep't Labor Committee v. MPD*, 63 D.C. Reg. 14526, Slip Op. 1595, PERB Case No. 15-A-12 (2016); *MPD v. FOP/Metro. Police Dep't Labor Comm.*, 64 D.C. Reg. 10152, Slip Op. No. 1639, PERB Case No. 16-A-12 (2017); *MPD v. FOP/Metro. Police Dep't Labor Comm.*, 64 D.C. Reg. 2012, Slip Op. No. 1606, PERB Case No. 16-A-19 (2016).

<sup>25</sup> *FOP/Dep't of Corr. Labor Comm. v. D.C. Pub. Emp. Rels. Bd.*, 973 A.2d 174, 177 (D.C. 2009).

<sup>26</sup> *MPD and FOP/Metro. Police Dep't Labor Committee*, 47 D.C. Reg. 717, Slip Op. 633 at 2, PERB Case No. 00-A-04 (2000); See also *D.C. Pub. Sch. v. AFSCME., District Council 20*, 34 D.C. Reg. 3610, Slip Op. 156 at 6, PERB Case No. 86-A-05 (1987).

<sup>27</sup> D.C. Official Code § 5-1031(a).

<sup>28</sup> 19 A. 3d 351(D.C. 2011).

<sup>29</sup> *Metropolitan Police Department v. Public Employee Relations Board*, No. 2012 CA 007805 P (MPA), (D.C. Sup. Ct. July 17, 2014).

<sup>30</sup> *Id.*

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**V. Conclusion**

Based on the foregoing, the Board finds that the Arbitrator's Award is not contrary to law and public policy. Accordingly, the Union's Arbitration Review Request is denied and the matter is dismissed in its entirety with prejudice.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The arbitration review request is hereby denied.
2. Pursuant to Board Rule 559, this Decision and Order is final upon issuance.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

By unanimous vote of Board Chairperson Charles Murphy and Board Members Mary Anne Gibbons, Ann Hoffman, Barbara Somson, and Douglas Warshof.

April 26, 2018

Washington, D.C.

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 18-A-03, Op. No. 1663 was transmitted to the following parties on this the 4<sup>th</sup> day of May, 2018.

Marc L. Wilhite  
Pressler Senftle & Wilhite, P.C.  
1432 K Street, NW  
Twelfth Floor  
Washington, D.C. 20005

Charles Frye  
Assistant Attorney General  
Personnel and Labor Relations Section  
441 4<sup>th</sup> Street, NW, Suite 1180N  
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/s/ Merlin M. George  
Public Employee Relations Board  
1100 4th Street, SW  
Suite E630  
Washington, DC 20024  
Telephone: (202) 727-1822  
Facsimile: (202) 727-9116

**Government of the District of Columbia  
Public Employee Relations Board**

_____		)	
In the Matter of:		)	
		)	
Jerome Kennedy		)	
		)	
	Complainant	)	PERB Case No. 18-U-27
		)	
	v.	)	Opinion No. 1664
		)	
Department of Behavioral Health		)	
		)	
	Respondent	)	
_____		)	

**DECISION AND ORDER**

Complainant Jerome Kennedy filed an unfair labor practice complaint (“Complaint”) against the Department of Behavioral Health (“DBH”). The Complaint was filed March 19, 2018, and amended April 3, 2018. For the reasons stated below, the Complaint is dismissed.

**I. Facts**

According to the Complaint the facts are as follows:

The Agency charges Mr. Kennedy with:

Any on-duty or employment-related act or omission that interferes with the efficiency and integrity of government operations, specifically: Neglect of Duty: Failure to adhere to DBH’s Government and Personal Accountability Policy. . . .

On or about December 1, 2017, Mr. Kennedy had an accident in a government vehicle. He has over eleven (11) years of experience as a motor vehicle operator for the District of Columbia. Based on the materials included in the investigative report and his longevity as an employee, Mr. Kennedy does not have a history of improperly operating motor vehicles nor of causing accidents while operating a vehicle during the course of his employment.

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PERB Case No. 18-U-27  
Page 2

Additionally, there were no injuries to any individuals including Mr. Kennedy, DBH consumers or pedestrians. According to the Table of Penalties in the District Personnel Manual, for a first offense, the DBH can impose a penalty ranging from a reprimand to a fifteen (15) day suspension. Although Mr. Kennedy did not follow District regulations and policy exactly, he did call his direct supervisor, Ms. Madden, to inform her of the accident the same day of the incident even though he did not leave a message. He also informed Mr. Hall, his colleague and motor vehicle operator, of the accident on the day of the incident.

Given Mr. Kennedy's work history and his understanding of the seriousness of his first infraction as a motor vehicle operator, AFGE Local 383 requests that the Agency issue a formal reprimand to be included in his personnel file for no longer than one (1) year. Alternatively, if the Agency decides that it must issue a suspension, it be for no longer than five (5) days.<sup>1</sup>

The Complaint alleges a violation of section 1-617.04(a)(1) and (3) of the D.C. Official Code.<sup>2</sup>

On April 23, 2018, DBH filed its answer. DBH asserts that Kennedy failed to allege an unfair labor practice and that DBH legitimately exercised a management right by suspending Kennedy for fifteen days for neglect of duty by virtue of his failure to report the accident referred to in the Complaint. DBH submitted exhibits that included Kennedy's appeal of his suspension to the Office of Employee Appeals. DBH asks that the Complaint be dismissed for failure to state a claim upon which relief may be granted.

## II. Discussion

A complaint must plead or assert allegations that, if proven, would establish the alleged statutory violations.<sup>3</sup> The alleged statutory violations are "[i]nterfering with, restraining, or coercing any employee in the exercise of the rights guaranteed by this subchapter"<sup>4</sup> and "[d]iscriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization."<sup>5</sup>

If proven, the allegations in the present Complaint would not establish either violation. The text of the Complaint is a reproduction of the February 12, 2018 response of AFGE, Local

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<sup>1</sup> Complaint 4.

<sup>2</sup> Complaint 2.

<sup>3</sup> *Karim v. D.C. Pub. Sch.*, 59 D.C. Reg. 12655, Slip Op. No. 1310 at 6, PERB Case No. 10-U-17 (2012).

<sup>4</sup> D.C. Official Code § 1-617.04(a)(1). The subchapter referred to is Subchapter XVII, Labor-Management Relations. It includes a list of employee rights. D.C. Official Code § 1-617.06.

<sup>5</sup> D.C. Official Code § 1-617.04(a)(3).



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PERB Case No. 18-U-27  
Page 3

383's chief shop steward to the proposed suspension of Kennedy.<sup>6</sup> It relates extenuating circumstances regarding the accident and recommends a penalty.

The Complaint contains no allegation that DBH interfered with the Complainant in exercise of rights under the CMPA or that the Agency took action against the Complainant because of union activity. Consequently, this case is dismissed.

### **ORDER**

#### **IT IS HEREBY ORDERED THAT:**

1. The Complaint is dismissed with prejudice.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

#### **BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

By unanimous vote of Board Chairperson Charles Murphy, Members Ann Hoffman, Barbara Somson, Douglas Warshof, and Mary Anne Gibbons

April 26, 2018  
Washington, D.C.

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<sup>6</sup> Answer Ex. 2 at 9-10.

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case Number 18-U-27 is being transmitted to the following parties on this the 7th day of May 2018.

Jerome Kennedy  
1824 U Place SE  
Washington, D.C. 20020

**by U.S. Mail**

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Government of the District of Columbia  
Public Employee Relations Board

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In the Matter of:		)
		)
American Federation of		)
Government Employees,		)
Local 631		)
		)
Complainant		)
		)
	v.	)
		)
District of Columbia Water and		)
Sewer Authority		)
		)
Respondent		)
<hr/>		)

PERB Case No. 18-U-17  
Opinion No. 1665

**DECISION AND ORDER**

**I. Introduction**

On January 24, 2018, the American Federation of Government Employees, Local 631 (“Local 631”), part of Compensation Unit 31, filed the instant unfair labor practice complaint (“Complaint”) along with a request for preliminary relief against the Water and Sewer Authority (“WASA”). The Complaint alleges that WASA violated section 1-617.04(a)(1) and (5) of the D.C. Official Code by refusing to engage in separate negotiations with Local 631 over the impact and effects of a performance management system covered by the recently negotiated compensation agreement. In an answer filed on March 7, 2018, WASA denies that it committed unfair labor practices and moves to dismiss the Complaint.

After reviewing the record, the Board finds that the material facts in this matter are not disputed. Accordingly, the Board finds that it can properly decide this matter based upon the pleadings pursuant to Board Rule 520.10. For reasons stated herein, the Board finds that the Complaint has not alleged violations of the Comprehensive Merit Personnel Act (“CMPA”). Therefore, the Complaint is dismissed.

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## II. Statement of the Case

Compensation Unit 31 encompasses WASA employees represented by five separate locals, including the Complainant, Local 631.<sup>1</sup> In or around July 2016, WASA and Compensation Unit 31 commenced bargaining a new Master Agreement on Compensation.<sup>2</sup> Ultimately, an agreement was reached providing for the implementation of a new performance management system, effective April 1, 2018.<sup>3</sup>

On December 18, 2017, WASA emailed all Compensation Unit 31 locals offering dates for joint impact and effects bargaining on the performance management system.<sup>4</sup> On December 19, 2017, Local 631 declined joint negotiations with Compensation Unit 31, citing its separate working conditions agreement with WASA. Local 631 proposed its own dates for separate negotiations on the performance management system.<sup>5</sup> On January 4, 2018, in an email to Local 631 and other locals, WASA asserted that the performance evaluation system was a compensation matter and that it would bargain over the impact and effects of the performance evaluation system with Compensation Unit 31 as a whole.<sup>6</sup> Local 631 replied the next day, referencing a July 25, 2016 letter, in which WASA then asserted that the performance evaluation system was a working conditions issue.<sup>7</sup>

On January 10, 2018, WASA reiterated that it would only bargain with Compensation Unit 31 as a whole.<sup>8</sup> Thereafter, in a January 11, 2018 letter, Local 631 accused WASA of engaging in unfair labor practices by unilaterally scheduling negotiations with the joint Compensation Unit 31; engaging in bad faith bargaining by asserting that the negotiation of the performance management system was a compensation matter and interfering with Local 631's right as the exclusive representative of its members.<sup>9</sup>

On January 24, 2018, Local 631 filed the instant Complaint and request for preliminary relief. WASA's response denies that it has engaged in any intentional acts constituting an unfair labor practice.<sup>10</sup> WASA argues that the Complaint "contains insufficient facts and/or evidence to substantiate Local 631's claim that [WASA] has violated [D.C. Official Code §§ 1-617.04(a)(1) and (5)]."<sup>11</sup> WASA asserts that the performance evaluation system is not a working conditions issue and that Local 631 improperly seeks to resurrect claims and issues that were previously adjudicated in Slip Opinion 1624, PERB Case No. 16-N-02<sup>12</sup> wherein the Board

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<sup>1</sup> Complaint at 3; Answer at 2.

<sup>2</sup> Complaint at 3; Answer at 2.

<sup>3</sup> Complaint at 3; Answer at 2.

<sup>4</sup> Answer at 3; Complaint Exhibit 2.

<sup>5</sup> Complaint at 3; Complaint Exhibit 2; Answer at 3.

<sup>6</sup> Complaint at 3; Complaint Exhibit 3; Answer at 3.

<sup>7</sup> Complaint at 3; Complaint Exhibit 4; Answer at 3.

<sup>8</sup> Complaint at 4; Answer at 3.

<sup>9</sup> Complaint at 4; Complaint Exhibit 6; Answer at 4.

<sup>10</sup> Answer at 5.

<sup>11</sup> Answer at 5.

<sup>12</sup> *Compensation Unit 31 v. Water and Sewer Auth.*, 64 D.C. Reg. 9287, Slip Op. No. 1624, PERB Case No. 16-N-02 (2017).

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determined that Compensation Unit 31's proposal to negotiate a performance evaluation system was nonnegotiable because performance evaluation is a management right.<sup>13</sup> Moreover, WASA states that it has engaged in good faith efforts in conducting impact and effects bargaining with Local 631, including a meeting with Local 631 representatives on March 7, 2018.<sup>14</sup>

### III. Analysis

Agencies do not have an obligation to bargain separately with a single local union within an authorized compensation unit on compensation matters affecting the employees in the compensation unit.<sup>15</sup> Rather, that obligation extends to all of the labor organizations encompassed in the compensation unit.<sup>16</sup>

In its Complaint, Local 631 alleges that the performance evaluation system is a "working conditions issue" and, therefore, WASA is obligated to bargain over the impact and effects of implementation separately from the other locals. For support, Local 631 points to a July 25, 2016 letter sent by WASA in which, Local 631 asserts, WASA informed Compensation Unit 31 that the performance evaluation system was a working conditions issue. Notwithstanding WASA's July 25, 2016 position, the record clearly shows that the performance evaluation system was part of the contract negotiations with Compensation Unit 31;<sup>17</sup> is a provision of the Master Agreement on Compensation between Compensation Unit 31 and WASA;<sup>18</sup> and during negotiations Compensation Unit 31 asserted that its proposal was "inextricably intertwined" with compensation.<sup>19</sup> It is further noted that the performance evaluation system is not part of the Local 631 and WASA Working Conditions Agreement.<sup>20</sup>

### IV. Conclusion

Considering the aforementioned, WASA is under no obligation to engage in separate compensation bargaining with Local 631, independent from Compensation Unit 31. Accordingly, the Board finds that WASA did not commit an unfair labor practice or otherwise violate 1-617.04(a)(1) and (5) of the D.C. Official Code when it refused Local 631's bargaining request. Therefore, the Complaint is dismissed with prejudice.

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<sup>13</sup> Answer at 5.

<sup>14</sup> Answer at 5.

<sup>15</sup> See *AFSCME, Dist. Council 20 v. D.C. Gov't*, 35 D.C. Reg. 5175, Slip Op. No. 185 at 3, PERB Case No. 88-U-23 (1988).

<sup>16</sup> *Id.*

<sup>17</sup> Complaint at 3; Answer at 2; *Compensation Unit 31*, Slip Op. No. 1624.

<sup>18</sup> Complaint at 3; Answer at 2.

<sup>19</sup> *Compensation Unit 31*, Slip Op. No. 1624 at 3.

<sup>20</sup> Complaint Exhibit 1.

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**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. Local 631's Complaint and request for preliminary relief are dismissed with prejudice;  
and
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

By unanimous vote of Board Chairperson Charles Murphy and Board Members Mary Anne Gibbons, Ann Hoffman, Barbara Somson, and Douglas Warshof.

April 26, 2018

Washington, D.C.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 18-U-17, Op. No. 1665 was sent by File and ServeXpress to the following parties on this the 7th day of May, 2018.

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