



District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 22-395, Green Finance Authority Establishment Act of 2018
- D.C. Council schedules a public oversight hearing on “Improving School Attendance: Truancy, Chronic Absenteeism, and the Implementation of Reform Initiatives”
- Department of Behavioral Health announces funding availability for the expansion of the District’s Comprehensive School-Based Behavioral Health System
- Department of Employment Services proposes tax collection procedures for administering the District’s paid leave program
- Department of Energy and Environment announces availability of the District's Spending Plan for the Volkswagen Settlement Funds for review
- Department of Health (DC Health) announces funding availability for the Preterm Birth Reduction Pilot Program
- Department of Small and Local Business Development amends funding availability for the Clean Team Grants
- Office of the State Superintendent of Education announces funding availability for the Fiscal Year 2019 DC Community Schools Incentive Initiative Grant

DISTRICT OF COLUMBIA REGISTER

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DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-390

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 27, 2018

To amend, on an emergency basis, the Helicopter Landing Pad Public Nuisance Act of 1987 to permit the operation of a singular helicopter landing pad at a hospital that is certified as a Level One Trauma Center as of the date of the construction of the helicopter landing pad, to require the Mayor to conduct an analysis of newly constructed helicopter landing pads used for more than 175 round-trip flights in a calendar year and to take further action as appropriate, to require the Mayor to determine whether to curtail helicopter flights between the hours of 11:00 p.m. and 6:00 a.m. from newly constructed helicopter landing pads at hospitals that are certified as Level One Trauma Centers, and to grant the Mayor rulemaking authority.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Helicopter Landing Pad Emergency Amendment Act of 2018”.

Sec. 2. The Helicopter Landing Pad Public Nuisance Act of 1987, effective October 9, 1987 (D.C. Law 7-40; D.C. Official Code § 9-1211.01), is amended as follows:

(a) Section 2 (D.C. Official Code § 9-1211.01) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “pad, which was not in operation prior to July 14, 1987, in any” and inserting the phrase “pad in any” in its place.

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

“(c) This section shall not apply to:

“(1) A helicopter landing pad that was in operation before July 14, 1987;

“(2) A helicopter landing pad constructed to replace a helicopter landing pad that was in operation before July 14, 1987; and

“(3) A singular helicopter landing pad at a hospital in the District of Columbia that, as of the date construction is complete, is certified as a Level One Trauma Center by the Department of Health pursuant to section 20 of the Emergency Medical Services Act of 2008, effective March 25, 2009 (D.C. Law 17-357; D.C. Official Code § 7-2341.19); provided, that, for purposes of this act, such certification need not remain current following construction of the helicopter landing pad.”.

(b) New sections 2a and 2b are added to read as follows:

“Sec. 2a. Analysis and review requirements.

ENROLLED ORIGINAL

“(a)(1) If a helicopter landing pad constructed after the effective date of the Helicopter Landing Pad Amendment Act of 2018, passed on 2nd reading on June 5, 2018 (Enrolled version of Bill 22-579), is used for more than 175 round-trip flights during a calendar year, the Mayor shall, no later than 60 days following the end of that period:

“(A) Conduct an analysis to ascertain the specific uses of the helicopter landing pad and the reasons for the use of the helicopter landing pad for more than 175 round-trip flights; and

“(B) Determine whether to pursue the adoption of rules pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), to restrict the use of the helicopter landing pad or take other action as the Mayor shall deem appropriate.

“(2) In conducting an analysis pursuant to this subsection, the Mayor shall utilize a plan to receive public comments and input from the affected community and Advisory Neighborhood Commissions.

“(3) The information generated and received pursuant to this subsection shall be reported to the Council and to affected Advisory Neighborhood Commissions.

“(4) A determination made pursuant to paragraph (1)(B) of this subsection shall be made in writing and shall be published in the District of Columbia Register.

“(b)(1) The Mayor shall determine, in consultation with affected Advisory Neighborhood Commissions, whether to pursue the adoption of rules pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), to curtail helicopter flights between the hours of 11:00 p.m. and 6:00 a.m. from helicopter landing pads that are:

“(A) Located at hospitals that are certified as Level One Trauma Centers; and

“(B) Constructed after the effective date of the Helicopter Landing Pad Amendment Act of 2018, passed on 2nd reading on June 5, 2018 (Enrolled version of Bill 22-579).

“(2) The determination made pursuant to paragraph (1) of this subsection shall be made in writing and shall be published in the District of Columbia Register.

“Sec. 2b. Rules.

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

Sec. 4. Fiscal impact statement.

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

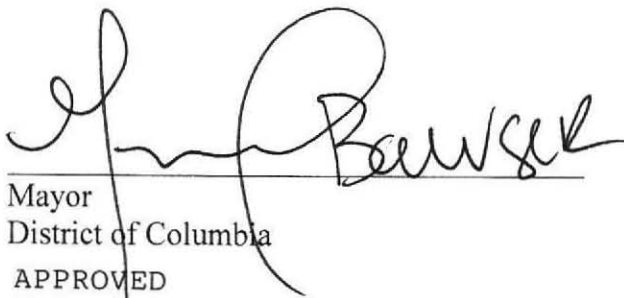
ENROLLED ORIGINAL

Sec. 5. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
June 27, 2018

ENROLLED ORIGINAL

AN ACT
D.C. ACT 22-391

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 27, 2018

To amend, on an emergency basis, the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010 to authorize the Attorney General to issue grants, not to exceed the total amount of \$360,000, for the purposes of crime reduction and violence interruption and to use the Litigation Support Fund to pay any personnel and non-personnel costs related to administering a grant.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Attorney General Limited Grant-Making Authority Emergency Amendment Act of 2018”.

Sec. 2. The Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C. Official Code § 1-301.81 *et seq.*), is amended as follows:

(a) Section 106b (D.C. Official Code § 1-301.86b) is amended by adding a new subsection (c-1) to read as follows:

“(c-1) The Fund may be used to pay personnel and non-personnel costs related to administering any grant issued pursuant to the authority provided in section 108c(a).”.

(b) A new section 108c is added to read as follows:

“Sec. 108c. Authority to issue grants for crime reduction and violence interruption.

“(a) The Attorney General may issue grants not to exceed the total amount of \$360,000 for the purposes of crime reduction and violence interruption.

“(b) Personnel and non-personnel costs related to administering any grants issued pursuant to the authority provided in subsection (a) of this section may be paid from funds deposited into the Litigation Support Fund established in section 106b.”.


Sec. 3. Fiscal impact statement.

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

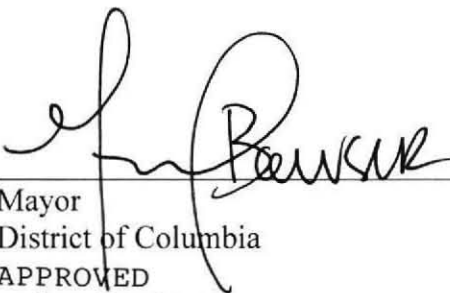
ENROLLED ORIGINAL

Sec. 4. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
June 27, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-392

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 27, 2018

To amend the District of Columbia Housing Authority Act of 1999 to establish a pilot program enabling residents residing in District of Columbia Housing Authority properties to opt to have rent payments reported to consumer credit bureaus.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Public Housing Credit-Building Pilot Program Amendment Act of 2018”.

Sec. 2. The District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-201 *et seq.*), is amended by adding a new section 15a to read as follows:

“Sec. 15a. Public housing credit-building pilot program.

“(a) The Authority shall establish and implement a pilot program (“program”) in one or more of its public housing developments for reporting the rent payments of residents to one or more consumer credit bureaus.

“(b)(1) The program shall run for 21 months, with a 6-month planning period, a 12-month implementation period, and a 3-month assessment period.

“(2) During the 6-month planning period following the applicability date of the Public Housing Credit-Building Pilot Program Amendment Act of 2018, passed on 2nd reading on June 5, 2018 (Enrolled version of Bill 22-168), the Authority shall establish the parameters of the program and designate one or more properties owned by the Authority to participate in the program.

“(3) During the 12-month implementation period, the Authority shall:

“(A) Allow residents residing in designated properties to opt in or out of the program;

“(B) Promptly and accurately report the timing of each participating resident’s monthly rent payment to at least one consumer credit bureau during each month that the resident participates; and

“(C) Collect data necessary to prepare the report to the Council required

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under paragraph (4) of this subsection.

“(4) No later than 3 months after completion of the 12-month implementation period, the Authority shall submit to the Council a report on the program, which shall include the following information:

“(A) The number of residents who opted to participate in the program at each designated property;

“(B) The number of months in which the average resident at each property participated in the program;

“(C) The change in credit score for the average participating resident at each property;

“(D) The results of a survey of program participants gauging their satisfaction with the program and whether they believe it should continue or be expanded;

“(E) A detailed accounting of the expenses incurred by the Authority to implement the program; and

“(F) Recommendations of the Authority, including whether the program should be continued or expanded, and what, if any, modifications should be made.

“(c) The Authority shall provide educational materials to residents at participating properties regarding the risks and benefits of program participation and the rights and responsibilities of residents who opt to participate in the program.”.

Sec. 3. Applicability.

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

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

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

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

Sec. 4. Fiscal impact statement.


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

Sec. 5. Effective date.


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

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
June 27, 2018

ENROLLED ORIGINAL

AN ACT
D.C. ACT 22-393

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 29, 2018

To amend, on an emergency basis, the Business Improvement Districts Act of 1996 to revise the rates of the assessments in the Capitol Riverfront Business Improvement District.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Capitol Riverfront Business Improvement District Emergency Amendment Act of 2017".

Sec. 2. Section 208(c)(1) of the Business Improvement Districts Act of 1996, effective October 18, 2007 (D.C. Law 17-27; D.C. Official Code § 2-1215.58(c)(1)), is amended as follows:

(a) Subparagraph (A) is amended as follows:

(1) Designate the existing text as sub-subparagraph (i).

(2) The newly designated sub-subparagraph (i) is amended as follows:

(A) Strike the number "\$0.16" and insert the number "\$0.17" in its place.

(B) Strike the phrase "and \$0.09 per \$100 of assessed value for commercial buildings less than 8,000 square feet" and insert the phrase "and \$0.17 per lot square foot or \$0.09 per \$100 of assessed value, whichever is less, for commercial buildings less than 8,000 square feet" in its place.

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

"(ii) For the purposes of this subparagraph, the term "per lot square foot" means each square foot of land attributed to the lot as reflected in the records of the Office of Tax and Revenue."

(b) Subparagraph (B) is amended by striking the number "\$120" and inserting the number "\$126" in its place.

(c) Subparagraph (C) is amended by striking the number "\$95" and inserting the number "\$100" in its place.

(d) Subparagraph (D) is amended by striking the number "\$0.16" and inserting the number "\$0.17" in its place.

(e) Subparagraph (F) is amended as follows:

(1) Strike the number "\$0.36" and insert the number "\$0.38" in its place.

(2) Strike the number "\$0.065" and insert the number "\$0.075" in its place.

(3) Strike the number "\$0.18" and insert the number "\$0.20" in its place.

ENROLLED ORIGINAL

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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



Chairman
Council of the District of Columbia

UNSIGNED

Mayor
District of Columbia
June 27, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-394

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 2, 2018

To adjust, on an emergency basis, certain allocations requested in the Fiscal Year 2018 Local Budget Act of 2017 pursuant to the Omnibus Appropriations Act, 2009.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Fiscal Year 2018 Revised Local Budget Emergency Adjustment Act of 2018”.

Sec. 2. Pursuant to section 817 of the Omnibus Appropriations Act, 2009, approved March 13, 2009 (123 Stat. 699; D.C. Official Code § 47-369.02), the Fiscal Year 2018 budget shall be adjusted as follows:

PART A—SUMMARY OF EXPENSES

\$6,155,000 is added (including (\$5,020,000) removed from local funds (including (\$21,343,000) removed from dedicated taxes)), \$855,000 added in other funds, and \$10,320,000 added in enterprise and other funds); to be allocated as follows:

PART B—DIVISION OF EXPENSES**Governmental Direction and Support**

The appropriation for Governmental Direction and Support is increased by \$416,000 in local funds; to be allocated as follows:

- (1) Department of General Services. – (\$62,000) is removed from local funds.
- (2) Office of the Chief Financial Officer. – \$118,000 is added to be available in local funds.
- (3) Office of the Attorney General for the District of Columbia. – \$360,000 is added to be available in local funds.

Economic Development and Regulation

The appropriation for Economic Development and Regulation is decreased by (\$32,917,000) in local funds; to be allocated as follows:

ENROLLED ORIGINAL

- (1) Deputy Mayor for Economic Development. – \$2,990,000 is added to be available in local funds;
- (2) Housing Production Trust Fund Subsidy. – (\$35,802,000) is removed from local funds; and
- (3) Office of the Tenant Advocate. – (\$105,000) is removed from local funds.

Public Safety and Justice

The appropriation for Public Safety and Justice is decreased by (\$400,000) in local funds; to be allocated as follows:

- (1) Department of Forensic Sciences. – (\$400,000) is removed from local funds.

Public Education

The appropriation for Public Education is decreased by (\$4,493,000) (including (\$5,348,000) removed from local funds (including \$2,832,000 added in dedicated taxes) and \$855,000 added in other funds); to be allocated as follows:

(1) Office of the State Superintendent of Education. – (\$168,000) is removed from local funds (including \$2,832,000 added in dedicated taxes); provided, that all funds deposited, without regard to fiscal year, into the Healthy Schools Fund are authorized for expenditure until September 30, 2018; provided further, that all funds deposited, without regard to fiscal year, into the Healthy Tots Fund are authorized for expenditure until September 30, 2018.

(2) University of the District of Columbia Subsidy Account. – \$320,000 is added to be available in local funds;

(3) Non-Public Tuition. – (\$2,500,000) is removed from local funds;

(4) Special Education Transportation. – (\$3,000,000) is removed from local funds; and

(5) District of Columbia Public Schools. – \$855,000 is added in other funds; provided, that all funds deposited, without regard to fiscal year, into the Nonprofit School Food Services Fund are authorized for expenditure until September 30, 2018.

Human Services

The appropriation for Human Services is increased by \$5,781,000 in local funds; to be allocated as follows:

(1) Not-For Profit Hospital Corporation Subsidy. – \$10,000,000 is added to be available in local funds;

(2) Department of Youth Rehabilitation Services. – (\$1,675,000) is removed from local funds;

(3) Department of Human Services. – (\$182,000) is removed from local funds; and

(4) Child and Family Services Agency. – (\$2,362,000) is removed from local funds.

ENROLLED ORIGINAL

Public Works

The appropriation for Public Works is decreased by (\$11,493,000) in local funds; to be allocated as follows:

- (1) District Department of Transportation. – (\$5,213,000) is removed from local funds;
- (2) Washington Metropolitan Area Transit Authority. – (\$5,001,000) is removed from the local budget; and
- (3) Department of Public Works. – (\$1,279,000) is removed from local funds.

Financing and Other

The appropriation for Financing and Other is increased by \$38,941,000 in local funds (including (\$24,175,000) removed from dedicated taxes) to be allocated as follows:

- (1) Workforce Investments. – (\$33,487,000) is removed from local funds;
- (2) Pay-As-You-Go Capital Fund. – (\$24,175,000) is removed from local funds (including (\$24,175,000) removed from dedicated taxes); and
- (3) Emergency and Contingency Reserve Funds. – \$96,603,000 is added to be available in local funds.

Enterprise and Other

The appropriation for Enterprise and Other is increased by \$10,320,000 in enterprise and other funds; to be allocated as follows:

- (1) University of the District of Columbia. – \$320,000 is added to be available in enterprise and other funds; and
- (2) Not-For Profit Hospital. – \$10,000,000 is added to be available in enterprise and other funds.

Sec. 3. Remaining Fiscal Year 2018 unexpended revenue of \$122,985,000 shall be carried over into Fiscal Year 2019 as fund balance and shall be available as set forth in the approved Fiscal Year 2019 Budget and Financial Plan.

Sec. 4. Capital project rescissions and increases.

In Fiscal Year 2018, the Chief Financial Officer shall rescind or increase capital project allotments as set forth in the following tabular array, with the savings to be used in accordance with the Fiscal Year 2019 Local Budget Act of 2018, passed on 2nd reading on May 29, 2018 (Enrolled version of Bill 22-754):

Project No	Project Title	Fund Detail	Total
04002C	PROPERTY ACQUISITION & DISPOSITION	300	(573,216.00)

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AA339C	EVIDENCE WAREHOUSE	300	(375,395.99)
AA416C	RENOVATION OF HVAC SYSTEM	300	(5,223.80)
ATE01C	2850 NY AVE BUILDING	301	(2,600,000.00)
BP102C	SMALL CAPITAL PROJECTS	301	(1,000,000.00)
BP102C	SMALL CAPITAL PROJECTS	314	1,000,000.00
BRM08C	OAK HILL CAMPUS	300	(1,500,000.00)
CEV01C	DOC ELEVATOR REFURBISHMENT	300	(766,292.09)
CRF01C	ROOF REFURBISHMENT AT DOC FACILITIES	300	(8,452.21)
EA129C	WARD 1 SENIOR WELLNESS CENTER	301	(34.52)
EA437C	WARD 7 RENOVATION	300	(1,717.57)
EB008C	MP-NEW COMMUNITIES	301	(558,000.00)
EB301C	VACANT PROPERTY INSPECTION AND ABATEMENT	300	(22,690.03)
EB301C	VACANT PROPERTY INSPECTION AND ABATEMENT	9000	(88.00)
EB423C	POPLAR POINT	301	(265,557.09)
ECS10C	AUTOMATION OF REPORT GENERATION & PURCHA	300	(133.00)
EDL19C	PENNSYLVANIA AVENUE STREETSCAPES	330	(209.12)
EQ903C	HEAVY EQUIPMENT ACQUISITION - DPW	300	(717.42)
EQ903C	HEAVY EQUIPMENT ACQUISITION - DPW	301	(15,030.40)
EQ903C	HEAVY EQUIPMENT ACQUISITION - DPW	304	(179,465.04)
EQ910C	HEAVY EQUIPMENT ACQUISITION - DPW	300	(5,685.00)
GF103C	REEVES MUNICIPAL CENTER	300	(10,000.00)
GI520C	GENERAL SMALL CAPITAL PROJECTS	300	(35,509.37)
GI520C	GENERAL SMALL CAPITAL PROJECTS	301	(1,645.80)
GI533C	MURCH ES DEMOUNTABLES	300	(0.60)
GI551C	PREK CLASSROOM CONVERSIONS	333	(4,329.74)
GI554C	MIDDLE SCHOOL IT	301	(28,047.68)
GM106C	WINDOW AC UNITS	300	(1,020.76)
GM311C	HIGH SCHOOL LABOR - PROGRAM MANAGEMENT	300	(2,244,695.82)
GM312C	ES/MS MODERNIZATION CAPITAL LABOR - PROG	300	(2,280,662.71)
GM313C	STABILIZATION CAPITAL LABOR - PROGRAM MG	300	(309,818.53)
HX201C	ST. ELIZABETHS GENERAL IMPROVEMENTS (HX2	300	(3,290.00)
JE337C	JEFFERSON MS RENOVATION	300	(625.01)
LC437C	E-22 FIREHOUSE REPLACEMENT	300	(9,135.11)
LE337C	ENGINE 5 COMPLETE RENOVATION	300	(5,955.00)

ENROLLED ORIGINAL

LE737C	ENGINE 27 MAJOR RENOVATION	300	(1,000,000.00)
LIM02C	DFS LIMS SYSTEM, ELC FINANCED	302	(0.02)
MA220C	EMERGENCY POWER SYSTEM UPGRADES	300	(700,000.00)
MVS03C	INSPECTION STATION UPGRADE	300	(0.50)
N1405C	IMPROVE PROPERTY MANAGEMENT ITS	300	(401.95)
N1606B	PROCUREMENT SYSTEM	300	(25,269.11)
N2802C	STUDENT LONGITUDINAL DATA SYSTEM	300	(0.97)
N2805C	STATEWIDE LONGITUDINAL EDUCATION DATA WA	304	(454.68)
N9301C	ENTERPRISE COMPUTING DEVICE MANAGEMENT	300	(413,700.99)
N9501C	DC.GOV WEB TRANSFORMATION	300	(7,087.46)
NPP01C	NEIGHBORHOOD PARKING PERF. FUND	301	(2,492,833.00)
NR637C	WOODSON HS - MODERNIZATION/RENOV	300	(4,697.19)
NR637C	WOODSON HS - MODERNIZATION/RENOV	301	(1,697.25)
NX238C	THADDEUS STEVENS RENOVATION/MODERNIZATIO	306	18,249,914.52
NX437C	ANACOSTIA HS MODERNIZATION/RENOV	300	(9,250.00)
PDR01C	6TH DISTRICT RELOCATION	300	(1,737,781.04)
PFL08C	PAID FAMILY LEAVE IT APPLICATION	314	(3,000,000.00)
PL104C	ADA COMPLIANCE POOL	300	(216,641.00)
PL106C	GOVERNMENT CENTERS POOL	300	(54,715.14)
PL401C	CITY-WIDE PHYSICAL ACCESS CONTROL SYSTEM	300	(135,448.00)
PLN39C	WARD 8 CITIZENS' SUMMIT CHALLENGE	300	(125,100.00)
PLT10C	CRIME FIGHTING TECHNOLOGY	300	(730,000.00)
QH750C	PARK IMPROVEMENTS - PROJECT MANAGEMENT	301	(208,523.00)
QM8FTC	FORT STEVENS RECREATION CENTER	300	(1,394.11)
SEL37C	SOUTHEAST LIBRARY	300	(150,000.00)
SH735C	RIVER ROAD ENTRANCE	300	(4,000.00)
SW601C	SENIOR WELLNESS CENTER RENOVATION POOL P	301	(436,910.13)
T2242C	ENTERPRISE RESOURCE PLANNING	301	(72,551.35)
TK337C	TAKOMA ES RENOVATION/MODERNIZATION	300	(1,220.14)
TOP02C	PROJECT DEVELOPMENT	301	(549,500.00)
UC201C	PUBLIC SAFETY RADIO SYSTEM UPGRADE	300	(404,135.21)
UIM02C	UI MODERNIZATION PROJECT-FEDERAL	304	(3,000,000.00)
UMC01C	EAST END MEDICAL CENTER	300	(3,208,665.27)
WA141C	IT INFRASTRUCTURE, 301 C STREET N.W.	300	(0.04)

ENROLLED ORIGINAL

WA540C	IT INFRASTRUCTURE SYSTEM AND SOFTWARE UP	300	(54,080.00)
WA540C	IT INFRASTRUCTURE SYSTEM AND SOFTWARE UP	303	(56,740.00)
WA640C	DMV TICKET PROCESSING-IT	303	(4.39)
WIL05C	IT UPGRADES	301	(2,000,000.00)
WT337C	WHITTIER EC MODERNIZATION/RENOVATION	300	(419.50)
XA854C	INTEGRATED CARE APPLICATIONS MGMT (ICAM)	300	(214.50)
YY141C	BROOKLAND ES MODERNIZATION/RENOVATION	300	(0.14)
YY151C	PEABODY ES RENOVATION/MODERNIZATION	300	(7,781.29)
YY630C	PLANNING	300	(3,073.26)
ZB201C	ENTERPRISE INTEGRATION PROJECTS	300	(80,724.24)
Grand Total			(14,457,743.76)

Sec. 5. Designated fund transfers.

(a) Notwithstanding any provision of law limiting the use of funds in the accounts listed in the following chart, the Chief Financial Officer shall transfer in Fiscal Year 2018 the following amounts from certified fund balances in the identified accounts to the General Fund of the District of Columbia:

Agency	Fund Detail	Fund Detail Title	Total
AG0	601	ACCOUNTABILITY FUND	29,454.33
AG0	602	LOBBYIST FUND	105,107.11
AM0	1460	EASTERN MARKET ENTERPRISE FUND	300,000.00
AT0	606	RECORDER OF DEEDS SURCHARGE	1,397,376.00
AT0	6115	OFT CENTRAL COLLECTION UNIT (CCU) O TYPE	11,000,000.00
CB0	603	CHILD SPT - TANF/AFDC COLLECTIONS	1,000,000.00
CB0	604	CHILD SPT - REIMBURSEMENTS & FEES	188,408.00
CE0	6108	COPIES AND PRINTING	36,401.00
CR0	6006	NUISANCE ABATEMENT	123,318.00
CR0	6008	R-E GUAR. & EDUC. FUND	3,521,110.00
CR0	6010	OPLA - SPECIAL ACCOUNT	47,836.00
CR0	6040	CORPORATE RECORDATION FUND	2,205,979.00
DJ0	631	ADVOCATE FOR CONSUMERS	314,592.66

ENROLLED ORIGINAL

EB0	419	H ST RETAIL PRIORITY AREA GRANT FUND	716,106.87
EB0	609	INDUSTRIAL REVENUE BOND PROGRAM	669,000.00
EN0	632	SMALL BUSINESS CAPITAL ACCESS FUND	247,009.05
GD0	619	STATE ATHLETIC ACTS PROG & OFFICE FUND	74,667.00
HA0	602	ENTERPRISE FUND ACCOUNT	550,587.00
HC0	661	ICF / MR FEES & FINES	50,602.00
HC0	673	DOH REGULATORY ENFORCEMENT FUND	128,275.00
HT0	112	STEVIE SELLOW'S	4,196.00
HT0	115	DC PROVIDER FEE	204,261.00
HT0	631	MEDICAID COLLECTIONS-3RD PARTY LIABILITY	202,687.95
HT0	632	BILL OF RIGHTS-(GRIEVANCE & APPEALS)	606,957.30
KA0	6901	DDOT ENTERPRISE FUND-NON TAX REVENUES	2,432,298.98
KE0	6030	WASH MET AREA TRANSIT AUTHORITY PROJECTS	56,168.00
KE0	6031	DC CIRCULATOR FUND - NPS MALL ROUTE	413,520.00
KT0	6010	SUPER CAN PROGRAM	133,399.63
LQ0	6017	ABC - IMPORT AND CLASS LICENSE FEES	135,631.58
SR0	2600	SECURITIES REGISTRATION FEES	12,300,000.00
SR0	2910	FORECLOSURE MEDIATION FUND	108,750.00
TC0	2400	PUBLIC VEHICLES FOR HIRE CONSUMER SERVIC	432,153.84
TO0	602	DC NET SERVICES SUPPORT	500,000.00
N/A	N/A	FIXED COST COMMODITY RESERVE	4,205,259.00
Grand Total			44,441,112.30

(b) The total amount identified in subsection (a) of this section shall be made available as set forth in the approved Fiscal Year 2019 Budget and Financial Plan.

Sec. 6. 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. 7. Effective date.


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

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
July 2, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-395

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 2, 2018

To establish the Green Finance Authority as an instrumentality of the District government to increase private investment in clean energy, clean transportation, clean water, stormwater management, energy efficiency, water efficiency, and green infrastructure projects in the District, to establish the Green Finance Authority Board to manage the Green Finance Authority and to authorize the Green Finance Authority to issue bonds, to establish the Green Finance Authority Fund to be administered by the Green Finance Authority, to require the Green Finance Authority to publish an annual report, and to make conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Green Finance Authority Establishment Act of 2018”.

TITLE I. DEFINITIONS

Sec. 101. Definitions.

For the purposes of this act, the term:

- (1) “Administrative costs” means the costs associated with salary and benefits of all personnel, office supplies, information technology, utilities, and office space used by the Authority. The term “administrative costs” excludes costs associated with lending, portfolio management, and spending on sustainable projects and programs; provided, that the term “administrative costs” may include expenses incurred in carrying out a trust indenture.
- (2) “Authority” means the Green Finance Authority established by section 201.
- (3) “Board” means the Green Finance Authority Board established by section 203.
- (4) “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 act.
- (5) “Capital base” means the total capitalization of the Fund, including public and private funds, that are available at any given point in time for the financing activities of the Authority.
- (6) “CFO” means the Chief Financial Officer established pursuant to section 424(a)(1) of the Home Rule Act.

ENROLLED ORIGINAL

(7) "Clean energy" means energy produced by solar photovoltaic panels, solar thermal sources, geothermal sources, wind, ocean thermal sources, wave or tidal sources, fuel cells, biogas, landfill gas, hydropower, or hydrogen production and conversion technologies.

(8) "Clean infrastructure" means an infrastructure project that reduces greenhouse gas emissions.

(9) "Clean transportation" means alternative fuel vehicles and related infrastructure, such as:

(A) Electric vehicle charging station infrastructure; and

(B) Smart grid and battery storage.

(10) "Department" means the Department of Energy and Environment.

(11) "Energy efficiency" means minimizing the amount of energy needed to accomplish a function, task, or result.

(12) "Fund" means the Green Finance Authority Fund established by section 206.

(13) "Green infrastructure" means an infrastructure project that captures rainfall, cools buildings and pavement, and creates natural pathways for wildlife.

(14) "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.*).

(15) "Stormwater" means the flow of water that results from runoff, snow melt runoff, and surface runoff and drainage.

(16) "Stormwater best management practice" means a structural or nonstructural practice that minimizes the impact of stormwater runoff on receiving waterbodies and other environmental resources, especially by reducing runoff volume or the pollutant loads carried in stormwater.

(17) "Sustainable Energy Utility" shall have the same meaning as provided in section 101(19) of the Clean and Affordable Energy Act of 2008, effective October 22, 2008 (D.C. Law 17-250; D.C. Official Code § 8-1773.01(19)).

(18) "Sustainable projects and programs" means clean energy, clean infrastructure, clean transportation, stormwater best management practices, energy efficiency, water efficiency, or green infrastructure projects and programs. The term "sustainable projects and programs" shall not include biomass, biofuel, nuclear, or waste-to-energy projects and programs.

(19) "Water efficiency" means minimizing the amount of water used to accomplish a function, task, or result.

TITLE II. ESTABLISHMENT OF THE GREEN FINANCE AUTHORITY

Sec. 201. Establishment of the Green Finance Authority.

(a) There is established, as an instrumentality of the District government, the Green Finance Authority. The Authority shall have a separate legal existence within the District government.

ENROLLED ORIGINAL

(b) The Authority shall increase the use of private funds for sustainable projects and programs by offering and promoting the use of loans, loan guarantees, credit enhancements, bonds, or other financing mechanisms for sustainable projects and programs.

Sec. 202. General powers of the Green Finance Authority.

(a) The Authority shall possess the following powers:

- (1) To have perpetual succession;
- (2) To sue and be sued in its own name;
- (3) To have an official seal and power to alter that seal at its pleasure;
- (4) To adopt, amend, and repeal bylaws and guidelines governing the manner in which it may conduct its business and how the power vested in it may be exercised;
- (5) To acquire (by purchase or otherwise), sell, construct, lease, improve, rehabilitate, repair and otherwise maintain an office or offices at such places within the District;
- (6) To procure insurance or to self-insure against any loss in connection with its property and other assets, including loans;
- (7) To establish policies for contracting and procurement that are consistent with the principles of competitive procurement and to make and execute contracts, leases, and all other agreements or instruments;
- (8) To enter into agreements with other entities, public or private, for goods and services as needed for its purposes;
- (9) To employ officers, executives, and management personnel who may:
 - (A) Formulate or participate in the formulation of the plans, policies, and standards;
 - (B) Administer, manage, or operate the Authority, fix their qualifications, and prescribe their duties and other terms of employment, compensation, and benefits; and
 - (C) Employ other personnel as may be necessary;
- (10) To retain or employ advisers, consultants, and agents, including financial advisers, appraisers, accountants, auditors, engineers, private consultants, and legal counsel for rendering professional, management, or technical services and advice, and to fix their compensation;
- (11) To serve as the administrator of the Energy Efficiency Loan program authorized by the Energy Efficiency Financing Act of 2010, effective May 27, 2010 (D.C. Law 18-183; D.C. Official Code § 8-1778.01 *et seq.*);
- (12) To originate and service loans or enter into contracts for the origination and servicing of loans;
- (13) To charge reasonable interest, fees, and charges in connection with making and servicing its loans, including bonds, and in connection with providing technical, consultative, and project assistance services;
- (14) To issue bonds and to give security pursuant to section 403; provided, that the Authority's debts shall not be backed by the full faith and credit of the District of Columbia;

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(15) To provide for the payment of obligations as may be permitted under the Home Rule Act, and other laws of the District;

(16) Subject to the requirements of section 401, section 115 of the Consolidated Appropriations Resolution, 2003, approved February 20, 2003 (117 Stat. 123; D.C. Official Code § 1329.01), and section 446b of the Home Rule Act, to apply for, and to receive, contributions, gifts, grants, subsidies, real and personal property, labor, services, or other things of value from any source;

(17) To enter into contracts, memorandums of understanding, and other financing agreements with any department, agency, or instrumentality of the United States or the District and private parties;

(18) To proceed with collection action, to take assignments of assets, and to acquire property in lieu of collection;

(19) To own, lease, clear, reconstruct, rehabilitate, improve, repair, maintain, manage, operate, assign, encumber, or sell or otherwise dispose of any real or personal property if the property was obtained by the Authority due to the default of any obligation held by the Authority, pursuant to guidelines issued by the Authority;

(20) To provide technical assistance in the development or operation of sustainable projects and programs and to gather and distribute data and information concerning the need in the District for sustainable projects and programs;

(21) To the extent permitted under its contracts with bond holders of the Authority, to consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest, security or any other term of any contract, loan, loan commitment, or contract or agreement of any kind to which the Authority is a party;

(22) To sell, at public or private sale, any real or personal property of the Authority pursuant to guidelines issued by the Authority and any applicable debt covenants;

(23) To sell, at public or private sale, any loan or other obligation held by the Authority pursuant to guidelines issued by the Authority and pursuant to any applicable debt covenants;

(24) To make loans, either directly or through lenders, for the purpose of assisting in developing, constructing, rehabilitating, or improving any sustainable project or program under this act; provided, that no transaction may create an obligation of the Authority that would become subject to the limitation on the annual aggregate limit on debt of the District under section 603(b) of the Home Rule Act;

(25) To establish funds and reserves to provide additional security for loans provided for sustainable projects and programs; and

(26) To engage in a joint venture or participate in a network, alliance, consortium pool, or other cooperative arrangement with a public or private entity.

(b) The Authority shall not invest in projects located outside of the District if the Authority is the sole long-term credit provider.

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(c) Beginning in the third year of operation, administrative costs of the Authority in a given fiscal year shall not exceed 15% of the capital base of the Authority for the fiscal year.

Sec. 203. Green Finance Authority Board.

(a) The Authority shall be governed by the Green Finance Authority Board, which shall consist of 11 members as follows:

(1) Four non-voting members as follows:

(A) The Director of the Department, or the Director's designee, who shall serve as vice chair of the Board;

(B) The Deputy Mayor for Planning and Economic Development, or the Deputy Mayor's designee;

(C) The Executive Director of the Office of Public-Private Partnerships, or the Executive Director's designee; and

(D) The CFO, or the CFO's designee; and

(2) Seven voting members appointed by the Mayor, one of whom shall be appointed by the Mayor as chair of the Board, as follows:

(A) Two members with experience at a financial institution operating within the District;

(B) Three members with financial, project development, or legal expertise in clean energy, clean infrastructure, clean transportation, stormwater management, or green infrastructure; and

(C) Two members with experience in affordable housing or community development.

(b) The voting members shall be appointed with the advice and consent of the Council, in accordance with section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e)).

(c) A person appointed to fill a vacancy on the Board shall be appointed only for the unexpired term of the Board member whose vacancy is being filled.

(d) Except as provided in this subsection and subsections (c) and (g) of this section, each voting member shall serve a 3-year term; provided, that of the initial appointments of the 7 voting members of the Board, 2 shall be appointed by the Mayor for a term of 1 year, 3 shall be appointed by the Mayor for a term of 2 years, and 2 shall be appointed by the Mayor for a term of 3 years.

(e) The Mayor may remove a voting member of the Board for good cause.

(f) Any voting member shall be eligible for reappointment.

(g) A voting member whose term has expired may continue to serve for 180 days after the voting member's term expires, or until his or her replacement is appointed, whichever occurs first.

(h) A Board member shall not be entitled to compensation but may be reimbursed for actual and necessary expenses while engaged in official duties of the Authority, including

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transportation, parking, mileage expenses, and conference admission fees incurred. Reimbursements under this subsection shall not exceed \$8,000 per Board member per fiscal year.

(i) Unless prohibited by law, a Board member may engage in private employment, a profession, or a business.

(j) A Board member shall not be held personally liable for an action taken in good faith during the course of his or her official duties.

(k) The Board shall designate a Secretary to the Board from among the members, who shall:

(1) Keep a record of the proceedings of the Board; and

(2) Maintain and be custodian of:

(A) All books, documents, and papers filed with the Board;

(B) The minutes book or journal of the Board; and

(C) The Board's official seal.

(l)(1) The Board shall establish a Special Committee on Sustainable Program Cooperation to include:

(A) At least one voting member of the Board;

(B) The Director of the Department, or the Director's designee; and

(C) The Managing Director of the Sustainable Energy Utility, or the

Managing Director's designee.

(2) The Special Committee on Sustainable Program Cooperation shall advise the Board and the Authority on the design and implementation of the Authority's sustainable projects and programs to ensure that they are in alignment with and complementary to the sustainable projects and programs run by the Department, other District agencies, and the Sustainable Energy Utility.

Sec. 204. Operations of the Green Finance Authority Board.

(a) The powers of the Authority shall be vested in and exercised by the Board. The Board may take action at a meeting held at a time and place fixed by its bylaws.

(b) Within 60 days after 6 of the voting members of the Board have been appointed, the Board shall adopt bylaws, guidelines, and procedures governing its meetings and decision-making processes. The procedures shall include a formal means for a member of the Board to submit their dissent from any decision of the Board.

(c) The presence of 5 voting Board members shall constitute a quorum of the Board for the transaction of business. A 2/3 vote of the voting members present shall be necessary for the Board to take any official action.

(d) The Board shall meet at least 6 times each year.

(e) The Authority's fiscal year shall coincide with the fiscal year of the District government.

(f) The Authority shall provide staff resources to the Board and coordinate the

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involvement of staff from the Department and the Office of the CFO, and any other appropriate agency or organization, as necessary.

(g) The Board shall have access to all records of the Authority.

Sec. 205. Executive director; powers and duties; personnel authority.

(a) The Board shall appoint an Executive Director who shall be an employee of the Authority, but who shall not be a member of the Board, and who shall serve at the pleasure of the Board and receive such compensation as shall be fixed by the Board. The Executive Director shall administer, manage, and direct the affairs and activities of the Authority in accordance with the policies, control, and direction of the Board.

(b) The Executive Director shall be a District resident within 180 days of his or her appointment.

(c)(1) The Authority shall have independent personnel authority, including the authority to establish its own personnel system.

(2) The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*) (“CMPA”), shall not apply to employees of the Authority.

(3) Within 6 months after the first meeting of the Board, the Board shall create policies, practices, and procedures for:

(A) Hiring employees, which shall include a preference for hiring District residents, or individuals who become District residents within 180 days of their becoming an employee of the Authority, that is comparable to the degree of preference established in the CMPA; and

(B) Establishing the terms and conditions of employment for employees of the Authority.

Sec. 206. Green Finance Authority Fund.

(a) There is established as a special fund the Green Finance Authority Fund (“Fund”), which shall be administered by the Authority in accordance with subsections (c) and (d) of this section.

(b) Revenue from the following sources shall be deposited into the Fund:

(1) Appropriated funds, which shall include a transfer of \$7 million from the Renewable Energy Development Fund, established in section 8 of the Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340; D.C. Official Code § 34-1436), in Fiscal Years 2018, 2019, 2020, 2021, and 2022, if such transfers are included in an approved budget and financial plan:

(2) Federal funds;

(3) Pursuant to section 401, grants, fees, donations, or gifts from public or private sources, subject to approval by the Board;

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(4) Proceeds from any proceeding, settlement, or contract in which the District is a party and the funds have been assigned to the Authority;

(5) Repayments of principal and interest on loans provided from the Fund;

(6) Interest earned from the deposit or investment of monies from the Fund; and

(7) All revenues, receipts, and fees of whatever source derived from the operation of the Fund.

(c) Money in the Fund shall be used for all purposes related to the mission and operation of the Authority; provided, that money transferred from the Renewable Energy Development Fund pursuant to subsection (b)(1) of this section shall be used only to support sustainable projects and programs that include support for the creation of new solar energy sources in the District, and any associated administrative costs.

(d)(1) The money deposited into the Fund shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available for the uses and purposes set forth in this act without regard to fiscal year limitation.

TITLE III. OPERATIONS OF THE GREEN FINANCE AUTHORITY

Sec. 301. Financing sustainable program and projects.

(a) The Authority may use funds obtained from the issue of debt under section 490 of the Home Rule Act to make, issue commitments for, or participate in making loans, loan guarantees, or other forms of financing for sustainable projects and programs.

(b) The Authority may invest in, purchase, make commitments to purchase, take assignments from lenders, originate, and service loans, loan guarantees, or other forms of financing issued pursuant to this section either directly or through lenders, pursuant to criteria established by the Authority, for its sustainable projects and programs.

(c) The Authority shall establish a financing plan for the capital base of the Authority, which it shall make public on its website.

(d)(1) Within 12 months after the Board's initial appointment of an Executive Director, the Authority shall adopt performance targets for its sustainable projects and programs, which it shall make public on its website.

(2) At least 30 days before adopting or revising the performance targets required by paragraph (1) of this subsection, the Authority shall publish its proposed performance targets in the District of Columbia Register and make the proposed performance targets publicly available on the Authority's website. The proposed performance targets published in the District of Columbia Register and on the Authority's website shall indicate how the public may submit comments on the proposed performance targets to the Authority.

(3) Before adopting or revising the performance targets required by paragraph (1) of this subsection, and within 7 days after the 30-day period described in paragraph (2) of this

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subsection, all comments received by the Authority during the 30-day period described in paragraph (2) of this subsection shall be made public on the Authority's website.

(e) The Authority shall ensure that the sustainable projects and programs financed pursuant to this act align with sustainable projects and programs implemented by the Department, other District agencies, and the Sustainable Energy Utility.

Sec. 302. Guidelines and procedures.

Before making or offering any loans, loan guarantees, credit enhancements, bonds, or other financing mechanisms for sustainable projects and programs, the Authority shall issue guidelines that specify borrower eligibility, terms and conditions of support, and other relevant criteria, standards, or procedures.

TITLE IV. FINANCIAL AFFAIRS OF THE GREEN FINANCE AUTHORITY

Sec. 401. Receipt of funds; disposition thereof.

The Board shall establish guidelines to govern the acceptance, administration, and expenditure by the Authority of gifts, grants, appropriations, loans, bond proceeds, property or assets, or any other type of financial assistance from public or private sources. Board approval shall be required for the acceptance of any such financial assistance, except District or federal appropriations and grants.

Sec. 402. Repayment of funds.

The Authority shall not be required to repay moneys provided to it by the District government, including accrued interest thereon.

Sec. 403. Issuance of bonds; renewals and refunds; deemed obligations of Authority; negotiable instruments; director, employer, or agent not personally liable.

(a) The Authority, pursuant to section 490(a)(6) of the Home Rule Act, may, to carry out the authorized purposes of the Authority:

(1) Incur debt by the issuance of revenue bonds; and

(2) Borrow or lend money to finance or assist in the financing of undertakings authorized by this act.

(b) The Authority may not use the proceeds of bonds issued by the Authority unless the Board:

(1) Determines that the use of the proceeds meets the requirements of this act and section 490 of the Home Rule Act; and

(2) Approves a resolution, describing the determination required by paragraph (1) of this subsection.

(c) Regardless of their form or character, bonds and other debt instruments of the Authority are negotiable instruments for all purposes of the Uniform Commercial Code of the District of Columbia, approved December 30, 1963 (77 Stat. 631; D.C. Official Code § 28:1-101

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et seq.), subject only to the provisions of the bonds for registration.

(d) No director, employee, or agent of the Authority shall be personally liable for any payment required to be made under any bond issued by the Authority.

(e) No notice, proceeding, consent, or approval shall be required for the issuance or performance of any bond of the Authority or the execution of any instrument relating thereto or to the security therefor, except as provided in this act or in guidelines issued by the Authority.

(f) The Authority may stipulate by resolution the terms for sale of its bonds in accordance with this act, including the following:

(1) The date a bond bears;

(2) The date a bond matures;

(3) Whether bonds are issued as serial bonds, as term bonds, or as a combination thereof;

(4) The denomination;

(5) The interest rate or rates, or variable rate or rates changing from time to time in accordance with a base or formula;

(6) The registration privileges;

(7) The medium and method for payment; and

(8) The terms of redemption.

(g) The Authority may sell its bonds at public or private sale and may determine the price for sale.

(h) A pledge of the Authority is binding from the time it is made. Any funds or property pledged are subject to the lien of a pledge without physical delivery. The lien of a pledge is binding as against parties having any tort, contract or other claim against the Authority regardless of notice. Neither a resolution nor any other instrument creating a pledge need be recorded.

(i) The signature of any officer of the Authority that appears on a bond remains valid if that person ceases to hold that office.

Sec. 404. Trust indenture to secure bonds; provisions protecting holders.

(a) The Authority may secure bonds by a trust indenture between the Authority and a corporate trustee that has the authority to exercise corporate trust powers within the District.

(b) A trust indenture of the Authority may contain provisions for protecting and enforcing the rights and remedies of holders of bonds in accordance with the provisions of the resolution authorizing the sale of bonds.

Sec. 405. No limitation, alteration, or impairment of rights and remedies of bondholders.

The District pledges to the holders of any bonds issued under this act that the District will not limit or alter rights vested in the Authority to fulfill agreements made with holders of the bonds, or in any way impair the rights and remedies of the holders of the bonds until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all

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costs and expenses in connection with any action or proceedings by or on behalf of such holders are fully met and discharged. The Authority may include this pledge of the District in any agreement with the holders of bonds.

Sec. 406. Faith and credit and taxing power of District not pledged on obligation; statement thereto.

Bonds issued under the provisions of this act do not constitute an obligation of the District and are payable solely from the revenues or assets of the Authority. Each bond issued under this act must contain on its face a statement that the Authority is not obligated to pay principal or interest except from the revenues or assets pledged and that neither the faith and credit nor the taxing power of the District is pledged to the payment of the principal or interest on a bond.

Sec. 407. Bonds as legal investments and securities.

The bonds of the Authority are legal investments in which public officers and public bodies of the District, insurance companies and associations and other persons carrying on an insurance business, banks, bankers, banking institutions including savings and loan associations, building and loan associations, trust companies, savings banks and savings associations, investment companies and other persons carrying on a banking business, administrators, guardians, executors, trustees, and other fiduciaries and other persons authorized to invest in bonds or in other obligations of the District, may legally invest funds, including capital, in their control. The bonds are also securities that legally may be deposited with and received by public officers and public bodies of the District or any agency of the District for any purpose for which the deposit of bonds or other obligations of the District is authorized by law.

Sec. 408. District tax exemptions.

(a) The assets and income of the Authority shall be exempt from taxation by the District government.

(b) Bonds issued by the Authority and the interest thereon are exempt from District taxation except estate, inheritance, and gift taxes.

Sec. 409. Deposits.

All monies of the Authority shall be deposited as soon as practicable in financial institutions regulated or insured by a federal or District agency.

TITLE V. PUBLIC ACCOUNTABILITY

Sec. 501. Annual report and 3-year assessment; contents.

(a) Within 90 days after the end of each fiscal year, the Authority shall publish on its website and submit to the Mayor and the Council an annual report of its activities for the preceding year. The annual report shall set forth:

(1) A complete financial statement for the preceding fiscal year, including:

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(A) The total amount of loans, loan guarantees, credit enhancements, and bonds issued over the lifetime of the Authority, and the amount issued in the preceding fiscal year;

(B) The total amount of loan payments due to the Authority and repaid to the Authority in the preceding fiscal year;

(C) The total amount of loans forgiven by the Authority in the preceding fiscal year;

(D) The total amount of loan payments due to the Authority in the succeeding fiscal year;

(E) The total amount of bond debt payments paid by the Authority in the preceding fiscal year and owed by the Authority in the succeeding fiscal year; and

(F) The total amount spent on administrative costs in the preceding fiscal year and expected to be spent in succeeding fiscal year;

(2) A description of all sustainable projects and programs and accomplishments, including total energy generated or saved from completed clean energy projects;

(3) The names, pay schedules, titles, and place of residence of all new employees; and

(4) Plans for the next fiscal year, and recommendations for any needed action on the part of the Mayor or Council with respect to the purposes of the Authority.

(b) In addition to the annual report required by subsection (a) of this section, the Authority shall, within 4 years after the effective date of this act, conduct an assessment of the Authority's activities in its first 3 years of operation and provide a report to the Mayor and Council that includes recommendations on whether there is a need for additional public funding for the Authority.

Sec. 502. Audits.

(a) The Authority shall contract at least once each year with an independent certified public accountant to audit its books and accounts. Within 10 days after receiving the results of the audit from the independent certified public accountant, the Authority shall transmit the results of the audit to the Mayor and Council and shall make the audit available to the public on its website.

(b) Any entity that receives financing for a sustainable project from the Authority shall provide the Board an annual statement, certified as correct by the chief financial officer of the entity, setting forth all sources and uses of funds in such detail as may be required by the Authority for such project. The Authority shall maintain any such statements for not less than 5 years.

Sec. 503. Public hearing.

At least once per year, the Board shall hold a public hearing on the Authority's performance. The Board shall publish notice of the hearing on the Authority's website and in the

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District of Columbia Register at least 14 calendar days before the hearing, and the hearing shall be recorded by electronic means. Within 3 days after the hearing, the recording of the hearing and all written submitted testimony shall be made public on the Authority's website.

Sec. 504. Public records.

The Authority shall make the following documents available to the public on its website:

- (1) The financial plan for its capital base;
- (2) Board meeting minutes and records; and
- (3) All bylaws, guidelines, and procedures adopted or issued by the Board or the

Authority.

TITLE VI. MISCELLANEOUS PROVISIONS

Sec. 601. Liberal construction of act.

The provisions of this act shall be liberally construed so as to effectuate those powers that are specifically enumerated.

Sec. 602. Applicability of certain laws.

(a) The Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 *et seq.*), and its implementing regulations, shall not apply to the Authority.

(b) The Open Meetings Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-571 *et seq.*), shall apply to the Authority.

(c) Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), and the regulations implementing those provisions, shall not apply to the Authority.

(d) The Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*), and its implementing regulations, shall not apply to the Authority.

(e) The First Source Employment Contract Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.01 *et seq.*), shall not apply to the Authority.

(f) The Code of Conduct, as that term is defined in section 101(7) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(7)), shall apply to the Authority.

(g) The officers and employees of the Authority shall not be considered District government employees for purposes of the District of Columbia Employee Non-liability Act, approved July 14, 1960 (74 Stat. 519; D.C. Official Code § 2-411 *et seq.*), and the District of Columbia shall not be liable for any acts or occurrences of the Authority regardless of whether the Authority purchases insurance or whether purchased insurance covers any act or omission of an act.

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Sec. 603. Legal representation.

(a) The District may, upon request by the Authority and at the discretion of the Attorney General for the District of Columbia ("Attorney General"), provide representation through the Office of the Attorney General to the Authority and its officers and employees for legal matters related to their official duties.

(b) The Authority may retain outside counsel, other than the Attorney General, at its own expense to provide representation for the Authority and its officers and employees in actual or anticipated litigation related to their official duties and functions or in any other legal proceeding, lawsuit, grievance, or arbitration filed against the Authority, its officers, or its employees related to their official duties and functions.

(c) The District and its officers and employees shall not be liable for and may not be made a party to any lawsuits or claims arising from the operation of the Authority.

(d) The Authority may have a General Counsel who shall:

- (1) Be appointed by the Executive Director;
- (2) Be an attorney admitted in good-standing to the practice of law in the District of Columbia;
- (3) Be qualified by experience and training to advise the Authority with respect to legal issues related to its powers and duties;
- (4) Have an attorney-client relationship with the Authority; and
- (5) With the consent of the Executive Director, employ staff attorneys and other personnel.

Sec. 604. Authority of the Chief Financial Officer.

The CFO shall exercise authority over the Authority consistent with section 424 of the Home Rule Act.

Sec. 605. Conforming amendments.

(a) Section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e)), is amended as follows:

- (1) Paragraph (32) is amended by striking the phrase "; and" and inserting a semicolon in its place.
- (2) Paragraph (33) is amended by striking the period and inserting the phrase "; and" in its place.
- (3) A new paragraph (34) is added to read as follows:
“(34) The Green Finance Authority.”

(b) The Energy Efficiency Financing Act of 2010, effective May 27, 2010 (D.C. Law 18-183; D.C. Official Code § 8-1778.01 *et seq.*), is amended as follows:

(1) Section 101(1) (D.C. Official Code § 8-1778.01(1)) is amended to read as follows:

“(1) “Administrator” means:

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“(A) The District agency or instrumentality designated by the Mayor to administer the Energy Efficiency Loan program authorized by Title III; or

“(B) The person or entity retained pursuant to the authority granted in section 305 to administer the Energy Efficiency Loan program authorized by Title III.”.

(2) Section 302(a)(5) (D.C. Official Code § 8-1778.42(a)(5)) is amended by striking the phrase "establishing that the value of the savings" and inserting the phrase "establishing whether the value of the savings" in its place.

(3) Section 303(c) (D.C. Official Code § 8-1778.43(c)) is amended to read as follows:

“(c)(1) Except as provided in paragraph (2) of this subsection, before entering into an Energy Efficiency Loan with a property owner, the administrator shall verify, based upon information provided in the property owner’s application, that the value of the savings from the installation of the Energy Efficiency Improvements is reasonably expected to exceed the amount of the principal of, and interest on, the Energy Efficiency Loan, including any cost of the Energy Efficiency Audit included pursuant to subsection (b) of this section.

“(2) A property owner’s application may be approved at the discretion of the administrator even when the value of the savings from the installation of the Energy Efficiency Improvements is not expected to exceed the amount of the principal of, and interest on, the Energy Efficiency Loan, if:

“(A) The property owner has consented;

“(B) The project meets high standards of energy efficiency or water efficiency or stormwater retention; and

“(C) The project contributes to the public purpose declared in section 102.”.

(c) Section 105(c) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.05(c)), is amended as follows:

(1) Paragraph (18) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(2) Paragraph (19) is amended by striking the period and inserting the phrase “; and” in its place.

(3) A new paragraph (20) is added to read as follows:

“(20) The Green Finance Authority.”.

(d) Section 47-895.32(a) of the District of Columbia Official Code is by striking the phrase “is entered into and continue” and inserting the phrase “is entered into or a subsequent half tax year as agreed to in the Energy Efficiency Loan Agreement and continue” in its place.

(e) Section 8(c)(1) of the Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340; D.C. Official Code § 34-1436(c)(1)), is amended as follows:

(1) Subparagraph (D) is amended by striking the phrase “; and” and inserting a semicolon in its place.

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(2) Subparagraph (E) is amended by striking the period and inserting the phrase “; and” in its place.

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

“(F) In Fiscal Years 2018, 2019, 2020, 2021, and 2022, transferring up to \$7 million per year to the Green Finance Authority to support sustainable projects and programs that include support for the creation of new solar energy sources in the District, and associated administrative costs, if such transfer is included in an approved budget and financial plan.”.

TITLE VII. FISCAL IMPACT STATEMENT AND EFFECTIVE DATE

Sec. 701. 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. 702. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
July 2, 2018

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A RESOLUTION

22-526

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2018

To declare the sense of the Council that 2018 be declared the Year of the Anacostia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Sense of the Council Declaring 2018 the Year of the Anacostia Resolution of 2018”.

Sec. 2. The Council finds that:

(1) The Anacostia River watershed stretches across 176 square miles, and the Anacostia River runs through the heart of the eastern half of the District.

(2) The Anacostia River is bordered by vital local and federal parks in Wards 5, 6, 7, and 8, including Kingman and Heritage Islands, the National Arboretum, Kenilworth Aquatic Gardens, Yards Park, Diamond Teague Park, Buzzard Point Park, and Anacostia Park, providing District residents unique opportunities for recreation and connection to nature in the Nation’s Capital.

(3) The Anacostia watershed is home to nearly 500 species of fish, mammals, birds, reptiles, amphibians, and invertebrates.

(4) Due to policies adopted by the District government and hard work undertaken by many local, private-sector partners, the water quality of the Anacostia River has improved markedly since a 2004 DC Appleseed report called the Anacostia River “one of the most polluted waterways in the nation.”

(5) The District of Columbia Water and Sewer Authority began operations of the Anacostia Tunnel in March 2018, which reduces stormwater runoff to the Anacostia River by as much as 90% and improves the water quality of the river.

(6) August 31, 2018, will mark the 100th anniversary of the federal law designating most of the Anacostia River waterfront as Anacostia Park.

(7) 2018 will be the 50th anniversary of the National Park Service’s “Summer in the Parks” program, which includes a popular concert series in Anacostia Park, and the first year of operations under the National Park Service’s Anacostia Park management plan.

(8) In July 2018, the Washington Nationals will host the Major League Baseball All-Star Game and related events at Nationals Park on the banks of the Anacostia River.

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(9) In 2018, the nation will celebrate the 200th anniversary of the birth of Frederick Douglass, sometimes known as the “Lion of Anacostia.”

(10) In light of the importance of the Anacostia River and Anacostia Park to the residents of the District, and the many events and milestones that will be celebrated along the river in 2018, it is appropriate that 2018 be declared the Year of the Anacostia.

Sec. 3. It is the sense of the Council that:

(1) The year 2018 shall be declared the Year of the Anacostia.

(2) The District government should:

(A) Identify resources and policies that create opportunities for recreation, education, health, and cultural events programming within the Anacostia watershed;

(B) Ensure sustainable development on and along the Anacostia River;

and

(C) Continue improvements to the water quality of the Anacostia River.

Sec. 4. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the Mayor, the Director of the Department of Energy and Environment, the Deputy Mayor for Planning and Economic Development, and the Director of the National Park Service.

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

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

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

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

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

- | | |
|---------|--|
| B22-875 | Cashless Retailers Prohibition Act of 2018

Intro. 6-26-18 by Councilmembers Grosso, Nadeau, T. White, Gray, Bonds, and Chairman Mendelson and referred to the Committee of the Whole |
| <hr/> | |
| B22-876 | Rainy Day Refund Act of 2018

Intro. 6-26-18 by Councilmembers Nadeau, R. White, Silverman, and T. White and referred to the Committee on Finance and Revenue |
| <hr/> | |
| B22-877 | Protecting Immigrants from Extortion Amendment Act of 2018

Intro. 6-26-18 by Councilmembers Todd, Bonds, Cheh, Silverman, and R. White and referred to the Committee on Judiciary and Public Safety |
| <hr/> | |
| B22-878 | Parent Teacher Organization Fee Exemption Act of 2018

Intro. 6-26-18 by Councilmembers Todd, McDuffie, Cheh, and R. White and referred to the Committee of the Whole |
| <hr/> | |

B22-879 Crowdy Court Designation Act of 2018
Intro. 6-25-18 by Councilmember Allen and referred to the Committee of the Whole

B22-880 Adelaide Alley Designation Act of 2018
Intro. 6-25-18 by Councilmember Allen and referred to the Committee of the Whole

PROPOSED RESOLUTIONS

PR22-942 Sense of the Council Condemning the Separation of Immigrant Parents and Children by the Department of Homeland Security and Insisting on the Reunification of Separated Parents and Children Resolution of 2018
Intro. 6-26-18 by Councilmembers Cheh, Allen, Bonds, R. White, McDuffie, Nadeau, T. White, Evans, Todd, Grosso, Silverman, Gray, and Chairman Mendelson and Retained by the Council

PR22-943 Sense of the Council Denouncing the Zero Tolerance Policy Toward Immigrant Families Resolution of 2018
Intro. 6-26-18 by Councilmembers Allen, Cheh, Todd, R. White, T. White, McDuffie, Gray, Grosso, Nadeau, Silverman, Evans, Bonds, and Chairman Mendelson and Retained by the Council

PR22-944 62-64 Forrester Street, SW Disposition Approval Resolution of 2018
Intro. 6-27-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Neighborhood Revitalization

PR22-945 10 Brandywine Street, SE Disposition Approval Resolution of 2018
Intro. 6-27-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Neighborhood Revitalization

PR22-946 1422 Shepherd Street, NW Disposition Approval Resolution of 2018
Intro. 6-27-18 by Chairman Mendelson at the request of the Mayor and referred
to the Committee on Housing and Neighborhood Revitalization

PR22-947 1132 Columbia Road, NW Disposition Approval Resolution of 2018
Intro. 6-27-18 by Chairman Mendelson at the request of the Mayor and referred
to the Committee on Housing and Neighborhood Revitalization

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

REVISED AND ABBREVIATED

NOTICE OF PUBLIC HEARING ON

B22-662, the DC Water Consumer Protection Amendment Act of 2018

Thursday, July 12, 2018 at 10:00 AM
in Room 120 of the John A. Wilson Building
1350 Pennsylvania Avenue, NW, Washington, DC 20004

On Thursday, July 12, 2018, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public hearing on B22-662, the DC Water Consumer Protection Amendment Act of 2018. The hearing will begin at 10:00 AM in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

B22-662 would require DC Water to provide the Council and the Mayor with an annual report detailing customer inquiries and complaints and the outcome of those matters. The bill would also give the Office of the People's Counsel the authority to represent residents at hearings and legal proceedings regarding DC Water matters.

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

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. 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 or faxed to (202) 724-8118. The record will close at the end of the business day on Thursday, July 26, 2018.

This notice is revised and abbreviated to reflect that the room for the hearing has been changed from Room 412 to Room 120.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HEALTH
NOTICE OF PUBLIC HEARING
1350 PENNSYLVANIA AVE., N.W., WASHINGTON, D.C. 20004**

RECONVENED

**COUNCILMEMBER VINCENT C. GRAY, CHAIRPERSON
THE COMMITTEE ON HEALTH**

ANNOUNCES A PUBLIC HEARING ON

**BILL 22-0743, THE PRESERVATION OF ELECTRONIC RECORDINGS OF MEETINGS
AMENDMENT ACT OF 2018**

**WEDNESDAY, JULY 11, 2018
1:00 PM, ROOM 500, JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Councilmember Vincent C. Gray, Chairperson of the Committee on Health, announces the reconvening of a Public Hearing on Bill 22-0743, the “Preservation of Electronic Recordings of Meetings Amendment Act of 2018.” The hearing will be held on Wednesday, July 11, 2018, at 1:00 PM, or immediately following the Committee’s 10:00AM hearing, in Room 500 of the John A. Wilson Building.

The hearing was initially convened on Friday, June 22, 2018. That proceeding was recessed until July 11, 2018, to hear testimony from the public and leadership of the United Medical Center regarding Bill 22-0743. The “Preservation of Electronic Recordings of Meetings Amendment Act of 2018” requires that electronic recordings of meetings of certain public bodies be preserved for a minimum of five years, as well as requires the retention of electronic recordings of meetings of the Board of Directors of the Not-For-Profit Hospital Corporation for a minimum of 5 years.

Witnesses should bring 15 copies of their written testimony to the hearing. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to mcameron@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 113, Washington D.C. 20004.

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

PR 22-888, Board of Trustees of the University of the District of Columbia General Errol Schwartz Confirmation Resolution of 2018

PR 22-889, Board of Trustees of the University of the District of Columbia Elaine Crider Confirmation Resolution of 2018

PR 22-890, Board of Trustees of the University of the District of Columbia Ken Gossinger Confirmation Resolution of 2018

PR 22-891, Board of Trustees of the University of the District of Columbia Anthony Tardd Confirmation Resolution of 2018

PR 22-892, Board of Trustees of the University of the District of Columbia Carolyn Rudd Confirmation Resolution of 2018

&

PR 22-893, Board of Trustees of the University of the District of Columbia Charlene Drew Jarvis Confirmation Resolution of 2018

on

Tuesday, September 25, 2018

12:00 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 **PR 22-888**, Board of Trustees of the University of the District of Columbia General Errol Schwartz Confirmation Resolution of 2018; **PR 22-889**, Board of Trustees of the University of the District of Columbia Elaine Crider Confirmation Resolution of 2018; **PR 22-890**, Board of Trustees of the University of the District of Columbia Ken Gossinger Confirmation Resolution of 2018; **PR 22-891**, Board of Trustees of the University of the District of Columbia Anthony Tardd Confirmation Resolution of 2018; **PR 22-892**, Board of Trustees of the University of the District of Columbia Carolyn Rudd Confirmation Resolution of 2018; and **PR 22-893**, Board of Trustees of the University of the District of Columbia Charlene Drew Jarvis Confirmation Resolution of 2018. The hearing will be held at noon on Tuesday, September 25, 2018 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of PRs 22-888, 22-889, 22-891, and 22-893 is to confirm the reappointments of General Errol Schwartz, Elaine Crider, Anthony Tardd, and Charlene Drew Jarvis to the University of the District of Columbia (UDC) Board of Trustees. The stated purpose of PRs 22-890 and 22-892 is to confirm the appointment of Ken Gossinger and Carolyn Rudd, respectively, to the UDC Board of Trustees. The purpose of this hearing is to receive testimony from witnesses as to the fitness of these nominees for UDC's Board of Trustees.

Those who wish to testify are asked to email the Committee of the Whole at cow@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 **Friday, September 21, 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 September 21, 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 October 1, 2018.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE & COMMITTEE ON
EDUCATION**

NOTICE OF PUBLIC OVERSIGHT HEARING

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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

ANNOUNCE A PUBLIC OVERSIGHT HEARING

on

**Improving School Attendance: Truancy, Chronic Absenteeism, and the Implementation of
Reform Initiatives**

on

**Thursday, September 20, 2018
1:00 p.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson and Councilmember David Grosso announce a public oversight hearing of the Committee of the Whole and the Committee on Education on Improving School Attendance: Truancy, Chronic Absenteeism, and the Implementation of Reform Initiatives in the District. This oversight hearing will be held at 1:00 p.m. on Thursday, September 20, 2018 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of this oversight hearing is to receive testimony from government witnesses and partners, including the Office of the Deputy Mayor for Education, the Office of the State Superintendent of Education, the Child and Family Services Agency, the District of Columbia Public Schools, the Public Charter School Board, and the Office of Victim Services and Justice Grants, regarding the District's efforts to improve school attendance and to reduce truancy and chronic absenteeism. Additionally, the hearing will consider continued implementation of initiatives required by D.C. Law 18-242, the "Safe Children and Safe Neighborhoods Educational Neglect Mandatory Reporting Amendment Act of 2010," D.C. Law 19-141, the "South Capitol Street Memorial Amendment Act of 2012," D.C. Law 20-17, the "Attendance Accountability Amendment Act of 2013," and D.C. Law 21-140, the "School Attendance Clarification Amendment Act of 2016." Improving school attendance improves educational outcomes. Targeting truancy is also a strategy for identifying children at risk of involvement in the juvenile justice system.

Testimony at this hearing is limited to government witnesses. However, citizens and organizations may submit statements. If submitted by the close of business on September 18, 2018, these statements will be distributed to Councilmembers before the hearing. 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>. 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 October 4, 2018.

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

GBM 22-101: FY 2018 Grant Budget Modifications of June 13, 2018

RECEIVED: 14 day review begins June 28, 2018

GBM 22-102: FY 2018 Grant Budget Modifications of June 14, 2018

RECEIVED: 14 day review begins June 28, 2018

GBM 22-103: FY 2018 Grant Budget Modifications of June 19, 2018

RECEIVED: 14 day review begins June 28, 2018

GBM 22-104: FY 2018 Grant Budget Modifications of June 26, 2018

RECEIVED: 14 day review begins June 29, 2018

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, NW
Washington, DC 20004

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 22-0906, the “Local Rent Supplement Program Contract No. 2017-LRSP-01A Approval Resolution of 2018”, to allow for the proposed resolution to be considered at a regular legislative meeting on July 10, 2018.

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, NW
Washington, DC 20004

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 22-0907, the “Local Rent Supplement Program Contract No. 2017-LRSP-02A Approval Resolution of 2018”, to allow for the proposed resolution to be considered at a regular legislative meeting on July 10, 2018.

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Reprogramming Requests

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

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

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

Reprog. 22-134 Request to reprogram \$471,250 of Pay-As-You-Go (Paygo) Capital funds budget authority and allotment from the District Department of Transportation (DDOT) through the Reverse Pay-As-You-Go (Paygo) Capital project and subsequently to the Local funds budget of the Department of Parks and Recreation (DPR) was filed in the Office of the Secretary on June 27, 2018. This reprogramming is needed to fund grant support to the Capital Riverfront Business Improvement District (BID).

RECEIVED: 14 day review begins June 28, 2018

Reprog. 22-135 Request to reprogram \$1,197,418 of Fiscal Year 2018 Special Purpose Revenue funds budget authority within the Office of Cable Television, Film, Music and Entertainment (OCTFME) was filed in the Office of the Secretary on June 27, 2018. This reprogramming is needed to align program budgets with forecasted expenditures.

RECEIVED: 14 day review begins June 28, 2018

Reprog. 22-136

Request to reprogram \$500,000 of Fiscal Year 2018 Local funds budget authority within the Department of Human Services (DHS) was filed in the Office of the Secretary on June 27, 2018. This reprogramming ensures that DHS can Cover the cost of programs for the Family Services division.

RECEIVED: 14 day review begins June 28, 2018

Reprog. 22-137

Request to reprogram \$713,618 of Fiscal Year 2018 Local funds budget authority within the Department of Consumer and Regulatory Affairs (DCRA) was filed in the Office of Secretary on June 27, 2018. This reprogramming ensures DCRA will be able to cover the cost of hiring qualified full-time equivalents for temporary appointment, purchasing supplies, and for professional and contractual services within its respective divisions.

RECEIVED: 14 day review begins June 28, 2018

Reprog. 22-138

Request to reprogram \$1,081,177 of Fiscal Year 2018 Local funds budget authority within the Office of the State Superintendent of Education (OSSE) was filed in the Office of the Secretary on June 27, 2018. This reprogramming is needed to support State Athletic Association initiatives.

RECEIVED: 14 day review begins June 28, 2018

Reprog. 22-139

Request to reprogram \$514,000 of Fiscal Year 2018 Local funds budget authority within the Office of the Deputy Mayor for Planning and Economic Development (DMPED) was filed in the Office of the Secretary on June 27, 2018. This reprogramming ensures that DMPED will be able to support the 202Creates initiative, the establishment of the Congress Heights Business Improvement District, and contracting to support agency procurement and grants management operations.

RECEIVED: 14 day review begins June 28, 2018

Reprog. 22-140

Request to reprogram \$569,076 of Fiscal Year 2018 Special Purpose Revenue funds budget authority within the Office of Unified Communications (OUC) was filed in the Office of the Secretary on June 27, 2018. This reprogramming is needed to support 311 Salesforce license renewal, contractual support services, and initial Tactical Homeland Operations Response setup.

RECEIVED: 14 day review begins June 28, 2018

Reprog. 22-141

Request to reprogram \$3,490,750 of Fiscal Year 2018 Capital funds budget authority and allotment within the District of Columbia Public Schools (DCPS) was filed in the Office of the Secretary on June 27, 2018. This reprogramming is necessary to fully fund the cost of constructing 4 early childhood classroom, offices, and playgrounds at Ketcham ES, abatement and demolition work at the Eliot Hine school, and for construction of stormwater management measures at Davis ES.

RECEIVED: 14 day review begins June 28, 2018

Reprog. 22-142

Request to reprogram \$1,449,522 of Fiscal Year 2018 Special Purpose Revenue funds budget authority within the Housing Production Trust Fund (HPTF) was filed in the Office of the Secretary on June 27, 2018. This reprogramming is needed to support the increased amount allowable under the administrative cap.

RECEIVED: 14 day review begins June 28, 2018

Reprog. 22-143

Request to reprogram \$15,315,161 of Fiscal Year 2018 Local funds budget authority within the District of Columbia Public Schools (DCPS) was filed in the Office of the Secretary on June 27, 2018. This reprogramming is needed to ensure that DCPS' budget can support program initiatives across multiple departments.

RECEIVED: 14 day review begins June 28, 2018

Reprog. 22-144

Request to reprogram \$7,374,274 of Fiscal Year 2018 Dedicated Tax funds budget authority within the Housing Production Trust Fund (HPTF) was filed in the Office of the Secretary on June 27, 2018. This reprogramming is needed to support spending on HPTF activities, as these funds are not required for administrative costs.

RECEIVED: 14 day review begins June 28, 2018

Reprog. 22-145

Request to reprogram \$3,857,546 of Fiscal Year 2018 Local funds budget authority from the Department of Health Care Finance (DHCF), Department of Human Services (DHS), and the Department of Youth Rehabilitation Services (DYRS) to the Department of Health (DOH) was filed in the Office of the Secretary on June 27, 2018. This reprogramming enables DOH to provide 40 hours of health suite services at all schools through the School Health Services Program through the end of the fiscal year.

RECEIVED: 14 day review begins June 28, 2018

Reprog. 22-146

Request to reprogram \$1,005,807 of Fiscal Year 2018 Local funds budget authority within the Department of Corrections (DOC) was filed in the Office of the Secretary on June 27, 2018. This reprogramming ensures that DOC has adequate funding to cover the cost of maintenance work, critical contractual services, Port Entry professional development, out-of-town travel, and Correctional Officer Pre-Employment Testing.

RECEIVED: 14 day review begins June 28, 2018

Reprog. 22-147

Request to reprogram \$579,000 of Fiscal Year 2018 Local funds budget authority from the Department of Youth Rehabilitation Services (DYRS) to the District of Columbia Office on Aging (DCOA) was filed in the Office of the Secretary on June 27, 2018. This reprogramming ensures that DOC has adequate funding to cover the cost of maintenance work, critical contractual services, Port Entry professional development, out-of-town travel, and Correctional Officer Pre-Employment Testing.

RECEIVED: 14 day review begins June 28, 2018

Reprog. 22-148

Request to reprogram \$910,846 of Fiscal Year 2018 Special Purpose Revenue funds budget within the Office of Cable Television, Film, Music, and Entertainment (OCTFME) was filed in the Office of the Secretary on June 27, 2018. This reprogramming is needed to align the budget with projected expenditures.

RECEIVED: 14 day review begins June 28, 2018

Reprog. 22-149

Request to reprogram \$2,277,697 of Fiscal Year 2018 Local funds budget authority within the Department of Health Care Finance (DHCF) was filed in the Office of the Secretary on June 27, 2018. This reprogramming ensures that DHCF will be able to meet the Centers for Medicare and Medical (CMS) requirements, fund the Local portion of Indirect Costs, and properly align the personal services Budget.

RECEIVED: 14 day review begins June 28, 2018

Reprog. 22-150 Request to reprogram \$21,115,510 of Capital funds budget authority and allotment within the Office of the Deputy Mayor for Planning and Economic Development (DMPED) was filed in the Office of the Secretary on June 27, 2018. This reprogramming is needed to complete the design and construction of the first phase of the Transportation Infrastructure and Utility Improvements at Saint Elizabeths E. Campus.

RECEIVED: 14 day review begins June 28, 2018

Reprog. 22-151 Request to reprogram \$524,231 Fiscal Year 2018 Local funds budget authority from the Department of Motor Vehicles (DMV) to the District Department of Transportation (DDOT) was filed in the Office of the Secretary on June 28, 2018. This reprogramming ensures that DDOT can implement various critical contractual obligations in FY 2018.

RECEIVED: 14 day review begins June 29, 2018

Reprog. 22-152 Request to reprogram \$1,200,000 of Fiscal Year 2018 Local funds budget authority within the Employees' Compensation Fund (ECF) was filed in the Office of the Secretary on June 28, 2018. This reprogramming is needed to cover the cost of the projected workers' compensation indemnity costs for the remainder of FY 2018.

RECEIVED: 14 day review begins June 29, 2018

Reprog. 22-153 Request to reprogram \$723,000 of Fiscal Year 2018 Local funds budget authority from the Department of Public Works (DPW) to the Department of For-Hire Vehicles (DFHV) was filed in the Office of the Secretary on June 28, 2018. This reprogramming ensures that DFHV is able to support the Transport DC program in order to maintain the current service level until the end of fiscal year.

RECEIVED: 14 day review begins June 29, 2018

Reprog. 22-154 Request to reprogram \$500,000 of Fiscal Year 2018 Special Purpose Revenue funds budget authority within the Department of Housing and Community Development (DHCD) was filed in the Office of the Secretary on June 28, 2018. This reprogramming is needed to support the Beacon Center project and advertising costs for the 2018 Housing Expo.

RECEIVED: 14 day review begins June 29, 2018

Reprog. 22-155 Request to reprogram \$780,000 of Fiscal Year 2018 Local funds budget authority from the Office of the Chief Technology Officer (OCTO) (\$450,000), the Office of Contracting and Procurement (OCP) (\$261,000), and the Mayor's Office of Legal Counsel (MOLC) (\$69,000) to the District of Columbia Department of Human Resources (DCHR) was filed in the Office of the Secretary on June 28, 2018. This reprogramming ensures that DCHR will be able to support the Capital City Fellows and District Leadership programs.

RECEIVED: 14 day review begins June 29, 2018

Reprog. 22-156 Request to reprogram \$7,694,011 of Fiscal Year 2018 Special Purpose Revenue funds budget authority within the Department of Energy and Environment (DOEE) was filed in the Office of the Secretary on June 28, 2018. This reprogramming ensures that DCHR will be able to support the Capital City Fellows and District Leadership programs.

RECEIVED: 14 day review begins June 29, 2018

Reprog. 22-157 Request to reprogram \$600,000 of Fiscal Year 2018 Dedicated Tax funds budget authority within the Office of the State Superintendent of Education (OSSE) was filed in the Office of the Secretary on June 28, 2018. This reprogramming is needed to support Healthy Schools Act claim reimbursement and sub-grant awards through the Enterprise Grants Management System.

RECEIVED: 14 day review begins June 29, 2018

Reprog. 22-158

Request to reprogram \$1,194,132 of Fiscal Year 2018 Local funds budget authority within the Department of Energy and Environment (DOEE) was filed in the Office of the Secretary on June 28, 2018. This reprogramming ensures that DOEE can implement the realignment of its Natural Resources division, as approved by the Office of the City Administrator and the Department of Human Resources.

RECEIVED: 14 day review begins June 29, 2018

Reprog. 22-159

Request to reprogram \$4,004,000 of Fiscal Year 2018 Local Funds budget authority from the Office of the Deputy Mayor for Planning and Economic Development (DMPED) and the Department of Energy and Environment (DOEE) to the District Department of Transportation (DDOT) was filed in the Office of the Secretary on June 28, 2018. This reprogramming is needed to support the FY 2018 critical contractual needs of DDOT.

RECEIVED: 14 day review begins June 29, 2018

Reprog. 22-160

Request to reprogram \$676,266 of Fiscal Year 2018 Local funds budget authority within the Department of Parks and Recreation (DPR) was filed in the Office of the Secretary on June 28, 2018. This reprogramming ensures that DPR will be able to support sports, health, and fitness programs for Ward 8 residents throughout the summer season.

RECEIVED: 14 day review begins June 29, 2018

Reprog. 22-161

Request to reprogram \$942,500 of Pay-As-You-Go (Paygo) Capital budget authority and allotment from the Department of Parks and Recreation (DPR) to the District Department of Transportation (DDOT) was filed in the Office of the Secretary on June 28, 2018. This reprogramming is needed to replenish the 11th Street Bridge Park project funding that was recently reprogrammed from the 11th Street Bridge Park project to DPR's operating budget.

RECEIVED: 14 day review begins June 29, 2018

Reprog. 22-162

Request to reprogram \$1,598,452 of Fiscal Year 2018 Local funds budget authority from the Department of Health Care Finance (DHCF) to the Department of Employment Services (DOES) was filed in the Office of the Secretary on June 28, 2018. This reprogramming is needed to cover costs associated with supporting the “1,000 Opportunities” initiative.

RECEIVED: 14 day review begins June 29, 2018

Reprog. 22-163

Request to reprogram \$1,290,760 of Fiscal Year 2018 Capital funds budget authority and allotment from various agencies to the Department of Parks and Recreation (DPR) was filed in the Office of the Secretary on June 28, 2018. This reprogramming is needed for various agencies’ capital projects to DPR (owner agency)/DGS (implementing agency) project.

RECEIVED: 14 day review begins June 29, 2018

Reprog. 22-164

Request to reprogram \$950,000 of Fiscal Year 2018 Local funds budget authority within the Office of the Chief Financial Officer (OCFO) was filed in the Office of the Secretary on June 28, 2018. This reprogramming ensures that OCFO will be able to support various automation requirements in the second half of the fiscal year, including new fraud detection software and systems testing needed for the new financial system project.

RECEIVED: 14 day review begins June 29, 2018

Reprog. 22-165

Request to reprogram \$425,000 of Fiscal Year 2018 Local Funds budget authority from the Commission on the Arts and Humanities (CAH) to the Pay-As-You-Go (Paygo) Capital fund was filed in the Office of the Secretary on June 28, 2018. This reprogramming is needed to meet the agency’s programmatic needs and comply with grants guidelines, the agency request that the budget be realigned.

RECEIVED: 14 day review begins June 29, 2018

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
7/6/2018

Notice is hereby given that:

License Number: ABRA-103261

License Class/Type: B Retail - Grocery

Applicant: T & M LLC

Trade Name: Midnight Delicatessen

ANC: 4D06

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

4701 GEORGIA AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
8/20/2018

A HEARING WILL BE HELD ON:
9/4/2018

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

DC DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF PUBLIC HEARING

Notice is hereby given that, pursuant to the requirements of D.C. Official Code Section 42-3171.03 (a)(1), the District of Columbia Department of Housing and Community Development (DHCD) has scheduled a public hearing on Wednesday, July 25, 2018 at 6 p.m. The hearing will occur at the DHCD - 1st Floor Housing Resource Center located at **1800 Martin Luther King Jr. Avenue SE**, Washington, DC 20020, to consider the proposed disposition of the properties noted below.

SSL	Property Site	Property Type	Ward	Zoning	Neighborhood
2993 – 0800, 0030	809-813 Kennedy Street, NW	Lot	4	MU-4 (formerly C-2-A) Commercial	Brightwood Park

The above properties were included in a Solicitation for Offers issued by DHCD to the general public on June 1, 2016. The above properties were awarded to Dante's Partners/Gilbane Development Company JV, LLC, through a competitive selection process.

The project will consist of 38-units, 1 Bedroom and 1 Bathroom units, 100% Affordable rental project targeting seniors at an Area Median Income of no more than 50% AMI. The project will also contain 1044 SF Ground Floor Retail.

The public hearing is conducted to ensure that all citizens are informed about the selling of the properties identified above and have the opportunity to publicly present their views concerning the impending sale.

If you would like to present oral testimony, you are encouraged to register in advance either by emailing DHCD's Property Acquisition and Disposition Division at padd.sfo@dc.gov, or by calling (202) 478-1355. Please provide your name, address, telephone number, and organizational affiliation, if any.

Telecommunications Device for the Deaf (TDD) relay service is available by calling (800) 201-7165. Sign language interpretation and language translation services are available upon request by calling Pamela Hillsman at (202) 442-7251. If you require language translation, please specify which language (Spanish, Vietnamese, Chinese-Mandarin/Cantonese, Amharic, or French). Language translation services will be provided to pre-registered persons only. The deadline for requiring interpretation services is seven days prior to the hearing. Bilingual staff will provide services as available to unregistered attendees.

Written statements may be submitted at the hearing, or until 4:45 p.m., Thursday, July 26, 2018, and should be addressed to: Polly Donaldson, Director, DC Department of Housing and Community Development, ATTN: PADD, 1800 Martin Luther King Jr., Avenue SE, Washington, DC 20020.

DC DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF PUBLIC HEARING

Notice is hereby given that, pursuant to the requirements of D.C. Official Code Section 42-3171.03 (a)(1), the District of Columbia Department of Housing and Community Development (DHCD) has scheduled a public hearing on Thursday, July 26, 2018 at 6 p.m. The hearing will occur at the DHCD - 1st Floor Housing Resource Center located at **1800 Martin Luther King Jr. Avenue SE**, Washington, DC 20020, to consider the proposed disposition of the properties noted below.

SSL	Property Type	Ward	Zoning	Neighborhood
5827 0010	SF	8	R3	Anacostia
5810 0002	SF	8	R3	Anacostia
5727 0810	SF	8	R3	Randle Heights
5151 0140-0143	Lot	7	MU-3	Deanwood
3710-0840	Lot	4	PDR-1 R-2	Riggs Park

The above properties were included in the Vacant to Vibrant DC, **Action 4 - expanding Green Space**: This partnership with [Casey Trees](#) will expand and preserve green space in Wards 4, 7 & 8, that was announced by Mayor Bowser on December 15, 2017 <https://dhcd.dc.gov/page/vacant-vibrant-dc>.

The public hearing is conducted to ensure that all citizens are informed about the granting of a conservation easement of the properties identified above and have the opportunity to publicly present their views concerning the impending conservation easements.

If you would like to present oral testimony, you are encouraged to register in advance either by emailing DHCD's Property Acquisition and Disposition Division at padd.sfo@dc.gov, or by calling (202) 478-1355. Please provide your name, address, telephone number, and organizational affiliation, if any.

Telecommunications Device for the Deaf (TDD) relay service is available by calling (800) 201-7165. Sign language interpretation and language translation services are available upon request by calling Pamela Hillsman at (202) 442-7251. If you require language translation, please specify which language (Spanish, Vietnamese, Chinese-Mandarin/Cantonese, Amharic, or French). Language translation services will be provided to pre-registered persons only. The deadline for requiring interpretation services is seven days prior to the hearing. Bilingual staff will provide services as available to unregistered attendees.

Written statements may be submitted at the hearing, or until 4:45 p.m., Friday, July 27, 2018, and should be addressed to: Polly Donaldson, Director, DC Department of Housing and Community Development, ATTN: PADD, 1800 Martin Luther King Jr., Avenue SE, Washington, DC 20020.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

AND

Z.C. ORDER NO. 17-12

Z.C. Case No. 17-12

(Forest City SEFC, LLC – Text & Related Map Amendments – 11-K DCMR: Height & Density in the Southeast Federal Center Zones)

April 30, 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 amends Subtitle K (Special Purpose Zones), Chapter 2 (Southeast Federal Center Zones – SEFC-1 through SEFC-4) and Subtitle Z (Zoning Commission Rules of Practice and Procedure), Chapter 4 (Pre-Hearing and Hearing Procedures: Contested Cases) of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR). The related amendments to the Zoning Map affect Parcels A, D, E, F, G, H, I, and K of the Southeast Federal Center which comprise the properties in the chart below. (the “Property”) within the SEFC Zone).

Parcel	Square	Lot(s)	Zone
A	743	94	SEFC-1A
F	743	94	SEFC-1A
G	743	94	SEFC-1A
H	744	807	SEFC-1B
I	744	807	SEFC-1B
K	770	40	SEFC-1B
D	771	811, 813, 814, 7000-7010	SEFC-1B
E	853	All (Also referred to in § 203.2 as Parcel E1)	SEFC-1B
	883	Portion bounded by M Street on the north, Isaac Hull Avenue on the east, and Tingey Street on the south	SEFC-1B

The Property consists of two tracts: the western tract is comprised of the parcels that are bounded by M Street, S.E., 1 Street, S.E., N Place, S.E., Canal Street, S.E., and New Jersey Avenue, S.E.; and the eastern tract is comprised of parcels that are bounded by M Street, S.E., 4th Street, S.E., the U.S. DOT headquarters, Tingey Street, S.E., and the Navy Yard. The Property is located in the Mixed-Use High Density Residential/High Density Commercial land use category on the Future Land Use Map of the District of Columbia Comprehensive Plan.

Broadly, the amendments will eliminate the current combined lot development (“CLD”) “trading” scheme and instead identify which parcels will be developed with commercial office use and which parcels will be developed with a mix of residential and commercial uses.

To implement these changes, the property within Square 743 (Parcels A, F, and G of the SEFC Master Plan) is rezoned to the proposed SEFC-1A zone, which will permit a 6.0 floor area ratio (“FAR”) as a matter of right for any permitted use (including commercial office), and permit an additional 1.0 FAR for any permitted use, with Commission design review. The property within Square 743 known as “Parcel A” will be permitted to achieve 130 feet in height as a matter of right; Parcels F and G will be permitted to achieve 110 feet in height as a matter of right and 130 feet with design review, if permitted by the Height Act.

The remaining properties that are the subject of this petition are rezoned to the proposed SEFC-1B zone. The SEFC-1B zone is functionally the same as the current SEFC-1 zone, but eliminates the use of CLDs. The SEFC-1B zone will permit a density of 6.0 FAR as a matter of right, with a maximum of 3.0 FAR for nonresidential uses. An additional 1.0 FAR (for residential use only) is permitted with design review. The SEFC-1B zone will permit a height of 110 feet as a matter of right; a height of 130 feet will be permitted on Parcel H with design review, if permitted by the Height Act.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on March 23, 2018, at 65 DCR 003004. In response, the Commission received no comments.

The Commission therefore took final action at a public meeting on April 30, 2018 to adopt the map and text amendments as proposed.

The Zoning Map of the District of Columbia is amended as follows; with the relevant parcel or parcels indicated after the property to which each relates:

1. Square 743, Lot 94 (Parcels A, F, G) is rezoned from SEFC-1 to SEFC-1A.
2. Square 744, Lot 807 (Parcels H and I); Square 770, Lot 40 (Parcel K); Square 771, Lots 811, 813, 814, 7000-7010 (Parcel D); Square 770, Lot 40 (Parcel K); and all of Square 853 and the portion of Square 883 bounded by M Street on the north, Isaac Hull Avenue on the east, and Tingey Street on the south (Parcel E) are rezoned from SEFC-1 to SEFC-1B.

The following amendments to Title 11 DCMR are adopted:

Title 11-K DCMR, SPECIAL PURPOSE ZONES, is amended as follows:

Chapter 2, SOUTHEAST FEDERAL CENTER ZONES – SEFC-1 THROUGH SEFC-4, is amended as follows:

Subsection 200.3 of § 200, GENERAL PROVISIONS (SEFC), is amended to read as follows:

- 200.3 The SEFC-1 zones provide for high-density mixed-use development with ground floor retail, with bonus density and height for development proximate to the Navy Yard Metrorail Station and the proposed 1½ Street, and with review of the

relationship of new buildings to the M Street, S.E. corridor and the adjacent Washington Navy Yard. The SEFC-1 zones consist of the SEFC-1-A zone, which permits high-density commercial or residential use with ground floor retail on parcels A, F, and G near the Navy Yard Metrorail Station entrance, and the SEFC-1-B zone, which promotes a mix of high-density residential and medium-density commercial development with ground floor retail on parcels D, E, K, H, and I. The Property descriptions and zone district for each parcel is as follows:

Parcel	Square	Lot(s)	Zone
A	743	94	SEFC-1A
F	743	94	SEFC-1A
G	743	94	SEFC-1A
H	744	807	SEFC-1B
I	744	807	SEFC-1B
K	770	40	SEFC-1B
D	771	811, 813, 814, 7000-7010	SEFC-1B
E	853	All (Also referred to in § 203.2 as Parcel E1)	SEFC-1B
	883	Portion bounded by M Street on the north, Isaac Hull Avenue on the east, and Tingey Street on the south	SEFC-1B

Subsection 201.1 of § 201, DEVELOPMENT STANDARDS (SEFC-1), is amended to read as follows:

201.1 The development standards in Subtitle K §§ 202 through 210 control the bulk of structures in the SEFC-1 zones.

§ 202, DENSITY – FLOOR AREA RATIO (FAR) (SEFC-1), is amended as follows:

Subsection 202.1 is amended to read as follows:

202.1 The maximum permitted floor area ratio (FAR) for buildings in the SEFC-1-A zone (*i.e.* Parcels A, F, and G) shall be 6.0, except that an additional density of up to 1.0 FAR is permitted, if reviewed and approved by the Zoning Commission pursuant to the standards and procedures of Subtitle K §§ 237.4 and 241; provided that:

- (a) To the extent that the approved additional FAR is devoted to residential uses, a minimum of eight percent (8%) of the additional residential density utilized shall be devoted to three (3) bedroom units that:
 - (1) May be located anywhere within the residential building:

- (2) Shall be set aside for households earning fifty percent (50%) or less of the Median Family Income for a term of not less than thirty (30) years beginning on the date that certificate of occupancy is issued; and
 - (3) May also serve as units that are set aside as affordable units pursuant to the terms of any land disposition or other agreement with the District of Columbia that mandates the provision of affordable housing; and
- (b) The reduction or elimination of the requirements of paragraph (a) may be permitted by the Commission upon a showing by the applicant that exceptional circumstances affecting the property make compliance with this requirement difficult or impossible.

Subsection 202.2 is amended by replacing its existing text, which provided for combined lot developments, with the following:

- 202.2 The maximum permitted FAR for buildings in the SEFC-1-B zone (*i.e.* Parcels D, E, H, I, and K) shall be 6.0 with a maximum of 3.0 FAR for non-residential uses, except an additional density of up to 1.0 FAR is permitted on Parcels H or I if reviewed and approved by the Zoning Commission, pursuant to the standards and procedures of Subtitle K §§ 237.4 and 241; provided that:
- (a) The additional density granted is devoted solely to residential uses, which for the purposes of this paragraph does not include a hotel; and
 - (b) A minimum of eight percent (8%) of the additional density utilized is devoted to three (3) bedroom units, that:
 - (1) May be located anywhere within the residential building;
 - (2) Shall be set aside for households earning fifty percent (50%) or less of the Median Family Income for a term of not less than thirty (30) years beginning on the date that certificate of occupancy is issued; and
 - (3) May also serve as units that are set aside as affordable units pursuant to the terms of any land disposition or other agreement with the District of Columbia that mandates the provision of affordable housing; and
 - (c) The reduction or elimination of the requirements of paragraph (b) may be permitted by the Commission upon a showing by the applicant that exceptional circumstances affecting the property make compliance with this requirement difficult or impossible.

Section 203, HEIGHT (SEFC-1), is amended to read as follows:**203 HEIGHT (SEFC-1)**

- 203.1 The maximum permitted building height, not including the penthouse, in the SEFC-1 zones shall be one hundred and ten feet (110 ft.), except that:
- (a) The maximum permitted building height for Parcel A shall be one hundred thirty feet (130 ft.); and
 - (b) An additional twenty feet (20 ft.) of building height is permitted in Parcels F, G, and H if reviewed and approved by the Zoning Commission pursuant to the standards and procedures of Subtitle K §§ 237.4 and 241.
- 203.2 Sites fronting on M Street, S.E., east of 4th Street, S.E., are restricted to a height of ninety feet (90 ft.) except that:
- (a) For Parcels D and E1, an additional twenty feet (20 ft.) of building height is permitted if reviewed and approved by the Zoning Commission pursuant to paragraph (c) of this subsection and the procedures of Subtitle K § 241;
 - (b) For the remaining portions of Parcel E (*i.e.* excluding Parcel E1), an additional twenty feet (20 ft.) of building height is permitted only for a building that will be occupied by a federal use as a primary use, if such height is reviewed and approved by the Zoning Commission pursuant to paragraph (c) of this subsection and the procedures of Subtitle K § 241; and
 - (c) For the purposes of the paragraph (a) and (b) reviews, the Zoning Commission shall consider the relationship of the new building to the Navy Yard and to the east and the report and consider recommendations of the United States Navy submitted pursuant to Subtitle K § 242.3. The Zoning Commission may require graduated height and/or design features because of the building's proximity to the Navy Yard.
- 203.3 [DELETED]
- 203.4 The maximum permitted height of a penthouse shall be twenty feet (20 ft.), and the maximum number of stories within the penthouse shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

Subsection 204.1 of § 204, LOT OCCUPANCY (SEFC-1), is amended to read as follows:

204.1 The maximum permitted lot occupancy in the SEFC-1 zones shall be one hundred percent (100%) for non-residential uses and seventy-five percent (75%) for residential uses.

Subsections 205.1 and 205.2 of § 205, FRONT SETBACK (SEFC-1), are amended to read as follows:

205.1 A front setback of fifteen feet (15 ft.) minimum for the entire height and frontage of each new building along M Street, S.E., measured from the face of the adjacent curb along M Street, S.E., shall be required in the SEFC-1 zones.

205.2 A front setback of twenty feet (20 ft.) minimum for the entire height and frontage of each new building along the east side of 4th Street, S.E., measured from the face of the adjacent curb along 4th Street, S.E., shall be required in the SEFC-1 zones.

Subsection 206.1 of § 206, REAR YARD (SEFC-1), is amended to read as follows:

206.1 A rear yard of two and one-half inches (2.5 in.) per one foot (1 ft.) of height or a minimum of twelve feet (12 ft.) shall be provided for each structure located in the SEFC-1 zones.

Subsection 209.1 of § 209, GREEN AREA RATIO (SEFC-1) is amended to read as follows:

209.1 A minimum green area ratio (GAR) of .20 shall be required in the SEFC-1 zones.

Paragraph (a) of § 237.4 of § 237, USE PERMISSIONS (SEFC-1), is amended to read as follows:

237.4 Within the SEFC-1 zones, the following buildings, structures, and uses are permitted only if reviewed and approved by the Zoning Commission, in accordance with the standards specified in Subtitle K § 241 and procedures specified in Subtitle K § 242:

(a) All buildings and structures that have frontage along M Street, S.E. or for which the Zoning Commission considers a request for the additional density or height authorized by Subtitle K §§ 202 or 203; subject also to the applicant proving that the architectural design, site plan, landscaping, and sidewalk treatment of the proposed building:

(1) Are of superior quality;

(2) For buildings on Parcel A, accommodate the design of the public entrance to the Navy Yard Metrorail Station on Parcel A The

applicant shall demonstrate proactive engagement with the Washington Metrorail Area Transit Authority (WMATA) in the planning and design of Parcel A as a part of the above design review as set forth below:

- (A) If the applicant moves forward with the design of Parcel A before WMATA is ready to construct the third entrance the applicant shall demonstrate that it has coordinated with WMATA to determine how to ensure that the design of Parcel A accommodates the planned entrance; and¹
- (B) If WMATA moves forward with the construction of the third entrance before the applicant is ready to develop Parcel A, the applicant shall demonstrate that it has coordinated with WMATA to integrate the entrance into the design of Parcel A;
- (3) Ensure the provision of 1 1/2 Street, S.E. and N Street, S/E. as open and uncovered multimodal circulation routes; and
- (4) Provide three (3) bedroom dwelling units as required pursuant to Subtitle K § 202.1.

...

§ 240, COMBINED LOT DEVELOPMENT PROCEDURES (SEFC-1 AND SEFC-4), is repealed:

240 [REPEALED]

Subsection 241.2 of § 241, ZONING COMMISSION REVIEW STANDARDS (SEFC), is amended by adding a new paragraph (h) as follows:

241.2 In evaluating the application, the Zoning Commission also may consider:

¹ The Office of the Attorney General included this revision to subparagraph (2)(A) to reflect the wording of the provision as it appeared at 11 DCMR § 1803.8(a)(1) of the Zoning Regulations of 1958 as of the date of its repeal and replacement with 11-K DCMR 237.4(a)(2)(A). Subparagraph 1803.8 (a)(1) read:

- (a) Accommodates the design of a public entrance to the Navy Yard Metrorail Station on Parcel A. The applicant shall demonstrate proactive engagement with the Washington Metrorail Area Transit Authority (WMATA) in the planning and design of Parcel A as a part of the above design review as set forth below:
 - (1) If the applicant moves forward with the design of Parcel A before WMATA is ready to construct the third entrance, the applicant shall demonstrate that it has coordinated with WMATA to determine how to ensure that the design of Parcel A accommodates the planned entrance; and ...

- (a) Compatibility with buildings in the surrounding area through overall massing, siting, details, and landscaping;
- ...
- (g) For development within or adjacent to the SEFC-4 zone, the Zoning Commission may consider whether the project is consistent with the following goals:
 - (1) Providing a wide variety of active and passive recreational uses;
 - (2) Encouraging uses that open to, overlook, and benefit the waterfront park; and
 - (3) Utilizing siting and design of buildings and uses to improve the natural ecology, to illustrate the importance of natural systems, and/or to interpret the historically important maritime context of the site; and
- (h) For development on Parcel E, the Zoning Commission may consider the impact of the proposed development on the Navy Yard, including the report and recommendations of the United States Navy made pursuant to Subtitle K § 242.3.

§ 242, ZONING COMMISSION REVIEW PROCEDURES (SEFC), is amended by adding a new § 242.3 to read as follows:

242.3 At the time of filing an application with the Zoning Commission for design review of development located on Parcel E, any such application shall be referred by the Office of Zoning to the United States Navy for review and report, and shall specifically request an assessment of the impact of the proposed development on the security and operations of the Washington Navy Yard, as well as recommendations for specific measures to be applied to the development and operation of the proposed project that is the subject of the application.

Title 11-Z DCMR, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE, is amended as follows:

Chapter 4, PRE-HEARING AND HEARING PROCEDURES: CONTESTED CASES, is amended as follows:

Subsection 405.2 of § 405, REFERRALS TO AND REPORTS OF PUBLIC AGENCIES, is amended to read as follows:

405.2 As to those applications for which set down is not required, as soon as an application is accepted for filing by the Director, a copy of the application shall be

referred to the Office of Planning and other appropriate agencies for review and comment. A copy shall also be sent for review and comment to:

...

- (d) The United States Navy for those applications for approval of development of Parcel E pursuant to Subtitle K § 203.2.

On April 30, 2018, upon the motion of Commissioner Shapiro, 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 and Michael G. Turnbull to approve; Peter G. May to approve by absentee ballot).

In accordance with the provisions of 11 DCMR Z § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on July 6, 2018.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.

DEPARTMENT OF EMPLOYMENT SERVICES

NOTICE OF SECOND PROPOSED RULEMAKING

(Paid-Leave Program Contributions)

The Director of the Department of Employment Services (DOES), pursuant to the authority set forth in the Universal Paid Leave Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-264; D.C. Official Code §§ 32-541.01 *et seq.*) (the “Act”), and Mayor’s Order 2018-036, dated March 29, 2018, hereby gives notice of the intent to amend Title 7 (Employment Benefits) of the District of Columbia Municipal Regulations (DCMR) by adding a new Chapter 34 (Paid Leave Contributions) in not less than thirty (30) days after publication of this notice in the *D.C. Register*.

The proposed rules, if adopted, will implement a portion of the Act by establishing the tax collection procedures necessary to administer a paid-leave program for eligible individuals employed in the District of Columbia.

The Director initially published a Notice of Proposed Rulemaking in the *D.C. Register* on April 6, 2018, at 65 DCR 3668, which included regulations to implement the Act as a whole. Based on comments received, and the statutory timelines, DOES decided to bifurcate the regulations into two chapters, separating the employer contributions and paid-leave benefits. Also, based on comments received, these proposed rules include significant changes from the initial proposed rules in order to address employer registration and responsibilities, opt-in and opt-out procedures for self-employed individuals, wages, and contribution and collection procedures.

Pursuant to D.C. Official Code § 32-541.02(b)(2), the proposed rules will also be submitted to the Council for a forty-five (45)-day period of review, excluding Saturdays, Sundays, holidays, and days of Council recess.

Title 7 DCMR, EMPLOYMENT BENEFITS, is amended by adding a new Chapter 34, PAID LEAVE CONTRIBUTIONS, to read as follows:

CHAPTER 34 PAID LEAVE CONTRIBUTIONS

- 3400 EMPLOYER REGISTRATION**
- 3401 OPT-IN FOR SELF-EMPLOYED INDIVIDUALS**
- 3402 OPT-OUT OF SELF-EMPLOYED INDIVIDUALS**
- 3403 WAGES**
- 3404 CONTRIBUTIONS BY COVERED EMPLOYERS TO THE UNIVERSAL PAID LEAVE IMPLEMENTATION FUND**
- 3405 COLLECTION PROCEDURES**
- 3406 ONLINE PORTAL**
- 3407 EMPLOYER RESPONSIBILITIES**
- 3408 RECORD KEEPING**
- 3499 DEFINITIONS**

3400 EMPLOYER REGISTRATION

- 3400.1 Each covered employer performing services in the District of Columbia shall register through the online portal with the Department of Employment Services (DOES).
- 3400.2 DOES shall maintain a separate account for each covered employer and shall credit the account with all contributions paid by the covered employer after July 1, 2019.
- 3400.3 Each covered employer shall be able to update its account with information related to its business activities, such as street address, email address, telephone number, and business status, to submit its quarterly wage reports, and make payments electronically.

3401 OPT-IN FOR SELF-EMPLOYED INDIVIDUALS

- 3401.1 An individual who earns self-employment income (“self-employed individual”) may opt into the paid-leave program during an applicable open enrollment period.
- 3401.2 A self-employed individual shall submit a request to opt into the paid-leave program using the online portal or through another format approved by DOES.
- 3401.3 When submitting a request to opt into the paid-leave program, a self-employed individual shall provide a copy of one of the following documents through the online portal or in another format approved by DOES:
- (a) Basic business license;
 - (b) General business license;
 - (c) Occupation or professional license in addition to a business license (if applicable).
- 3401.4 After a self-employed individual opts into the paid-leave program, DOES shall provide notice to that individual regarding the manner in which contributions to the Universal Paid Leave Implementation Fund shall be collected from the individual.
- 3401.5 A self-employed individual who opts into the paid-leave program shall remain continuously enrolled in the program until such time as he or she elects to opt out, as provided in Section 3402.

- 3401.6 A self-employed individual shall notify DOES when his or her licensed business activity has ended and the individual has submitted a request for license cancellation to the Department of Consumer and Regulatory Affairs.
- 3401.7 If an individual who earns self-employment income has chosen not to opt into the paid-leave program within the first ninety (90) days after the date on which DOES begins to collect contributions to the Universal Paid Leave Implementation Fund, he or she shall only be permitted to enroll, or re-enroll, in the program during an open enrollment period through the online portal and shall make contributions to the Universal Paid Leave Implementation Fund for no less than three (3) consecutive years.
- 3401.8 If a self-employed individual who has opted into the paid-leave program is also a covered employee employed by a covered employer, he or she shall not be entitled to receive double payments of paid-leave benefits under this chapter. His or her paid-leave benefit payment amount shall be based on the combined wages from covered employment and self-employment.

3402 OPT-OUT OF SELF-EMPLOYED INDIVIDUALS

- 3402.1 A self-employed individual who opts into the paid-leave program may elect to opt out of the paid-leave program through the online portal or through another format approved by DOES.
- 3402.2 A self-employed individual who has opted into the program may only opt out of the program during an open enrollment period or if the individual ceases to be a self-employed individual.
- 3402.3 A self-employed individual who previously opted out of or withdrew from the paid-leave program may re-enroll in the program; provided that:
- (a) Beginning on January 1, 2020, a self-employed individual who previously opted out of the paid-leave program shall not be eligible to receive benefits pursuant to this chapter for the first year after enrolling or reenrolling in the program; and
 - (b) If a self-employed individual withdraws from the paid-leave program two (2) or more times, he or she shall be barred from reenrolling in the program for a period of five (5) years from the date of his or her withdrawal from the program.

3403 WAGES

- 3403.1 For the purposes of implementation of the Act, the term “wages” shall have the same meaning as provided in Section 1(3) of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 946; D.C.

Official Code § 51-101(3)); provided, that the term “wages” also includes self-employment income earned by a self-employed individual who has opted into the paid-leave program established pursuant to this chapter.

- 3403.2 If compensation is paid in any medium other than cash, the covered employer shall include the cash value of the non-monetary remuneration in the amount reported as wages.
- 3403.3 If the cash value of non-monetary remuneration is agreed to by the covered employer and the covered employee, the agreed value shall be reported as wages.
- 3403.4 If the cash value of non-monetary remuneration is not agreed to, the covered employer shall place a reasonable value upon the thing used in the place of money and report that amount as wages.
- 3403.5 The following amounts shall be reported as wages:
- (a) Amounts paid to a covered employee while an employee is on vacation or sick leave;
 - (b) Prizes awarded to covered employees in connection with services performed in the business; and
 - (c) Sums disbursed by a covered employer based on the covered employer’s addition of a certain percentage to the customer's bill as a tip.
- 3403.6 Drawing accounts shall be reported as wages at the amount actually drawn by the covered employee regardless of the status of the account between the covered employer and covered employee at the close of the pay period.
- 3403.7 The following amounts shall not be reported as wages:
- (a) Any definite allowance which represents no profit to the covered employee but is used by the covered employee to meet expenses of the covered employer's business.

(For example -- an allowance for automobile, oil, and gas to a salesman required to work in his or her own car over an extended territory; all transit flash passes or tokens; telephone in an employee's residence for the employer's convenience; and entertainment money expended on the employer's customers);
 - (b) Where a covered employer requires a covered employee to wear a special uniform and the covered employer launders or pays for the laundering of the uniform, the amount paid for laundering;

- (c) Discounts allowed covered employees upon goods purchased from the covered employers; and
- (d) So-called "supper money," being an allowance for a meal when the covered employee works overtime and is thus required to eat at other than his or her regular boarding or living place.

3403.8 Covered employers shall report all severance payments on the quarterly wage reports.

3404 CONTRIBUTIONS BY COVERED EMPLOYERS TO THE UNIVERSAL PAID LEAVE IMPLEMENTATION FUND

3404.1 A covered employer shall contribute quarterly an amount equal to 0.62% of the total wages of each of its covered employees to the Universal Paid Leave Implementation Fund online or in another format approved by DOES.

3404.2 A covered employer who is a self-employed individual who has opted-in to the paid-leave program shall contribute quarterly an amount equal to 0.62% of his or her self-employment income to the Universal Paid Leave Implementation Fund online or in another format approved by DOES.

3404.3 A covered employer shall make contributions under Subsection 3404.1 even if the covered employer provides additional leave benefits to its employees.

3404.4 The contributions payable pursuant to Subsection 3404.1 shall become due and be paid by each covered employer to DOES, and shall not be deducted in whole or in part from the wages of individuals in such employer's employ.

3404.5 Each covered employer shall, not later than the last day of the month following the close of each calendar quarter, make a report of and pay the contributions which shall have accrued with respect to wages paid during the quarter to DOES.

3404.6 DOES may extend the time for filing quarterly reports for all covered employers for a period of not more than thirty (30) calendar days if DOES finds that the purposes of the Act would be defeated by requiring timely filing of the quarterly reports.

3404.7 After making the findings specified in Subsection 3404.6, DOES shall simultaneously publish notice of the extension of time to file covered employers' quarterly reports through the online portal at least twenty-one (21) days immediately preceding the last day of the month following the close of the calendar quarter.

3404.8 Where a covered employee performs services in employment for two (2) or more covered employers during the same period, each covered employer shall make

contributions on the basis of each covered employer's payments to the covered employee.

- 3404.9 If the contributions under Subsections 3404.1 and 3404.2 are not paid when due, there shall be added thereto interest at the rate of one and a half percent (1 1/2%) per month or fraction thereof from the date they become due until paid. Interest shall not run against a court-appointed fiduciary when the contributions are not paid timely because of a court order.
- 3404.10 If contributions under Subsections 3404.1 and 3404.2 are not paid or wage reports are not filed on or before the first day of the second month following the close of the calendar quarters for which they are due, there shall be added a penalty of ten percent (10%) of the amount due. The penalty shall not be less than one hundred dollars (\$100), and DOES may waive the penalty for good cause.
- 3404.11 If a self-employed individual does not make a timely payment required by this chapter, DOES shall inform the self-employed individual of the payment due by electronic notice via the online portal and to the self-employed individual's last known email address. If the payment due is not received by DOES within ten (10) calendar days after the receipt of the notice in the online portal, DOES shall disenroll the individual and the individual shall not be eligible for paid-leave benefits under this chapter. An individual who has been disenrolled may, after payment of all amounts due, opt-in to the paid-leave program during an open enrollment period.

3405 COLLECTION PROCEDURES

- 3405.1 At any time after a covered employer fails to file reports or pay contributions required by the Act, DOES shall inform the covered employer of such failing by electronic notice via the online portal and to the covered employer's last known email address. Such notice shall be on forms of general applicability and shall include information regarding the quarters for which reports were not filed and the amount of contributions, interest, and penalties owed. Such notice shall demand filing of unfiled reports and payment of all sums owed within ten (10) calendar days from the date of receipt of the notice in the online portal.
- 3405.2 If the covered employer fails to respond to the notice by filing reports and paying contributions, interest, and penalties, DOES may file liens, bring civil actions, or otherwise take any lawful action to compel the filing of reports and the payment of contributions, interest, and penalties.
- 3405.3 In cases where DOES determines that collection by levy, distraint, or other extraordinary process may be necessary, a Notice of Delinquency shall be served in person by the Director's designee or by registered mail, return receipt requested, at the employer's last known address. In the case of a Notice served by mail which is refused or otherwise not deliverable, the Director shall serve a

second Notice of Delinquency by first class mail, postage prepaid, at the employer's last known address. Such Notice of Delinquency shall be in addition to the general notice set forth in Subsection 3405.1.

- 3405.4 The Notice of Delinquency shall contain the following:
- (a) A statement of the amount due for contributions plus interest and penalties;
 - (b) A demand for payment of the amount due;
 - (c) A statement that the covered employer has ten (10) calendar days from the date of the receipt of the notice to respond to DOES as provided in this subsection; and
 - (d) A statement that at the end of the ten (10) calendar day period, the Director may attempt to collect the amount due by any means authorized by the Act and without further demand or notice to the employer.
- 3405.5 Within ten (10) calendar days after receipt of the Notice of Delinquency, the covered employer shall pay in full the amount due for contributions plus interest and penalties unless the covered employer agrees to a payment schedule, approved by DOES, by which the covered employer will pay the amount due, together with interest and penalties, in regular installments.
- 3405.6 The ten (10) calendar day period during which a covered employer must respond to a Notice of Delinquency shall be determined as follows:
- (a) The period shall begin to run on the day after the receipt of the notice in person or by registered mail;
 - (b) Saturdays, Sundays, and legal holidays shall be counted except that if the last day for responding to a notice falls on a Saturday, Sunday, or legal holiday, the time period shall end on the next day which is not a Saturday, Sunday, or legal holiday; and
 - (c) Responses which are mailed shall be deemed timely if postmarked before the expiration of the ten (10) day period.
- 3405.7 The Director may authorize a covered employer to pay delinquent amounts by regular monthly installments of such duration as will liquidate the delinquency in the shortest amount of time deemed reasonable by DOES. In determining whether to enter into an installment agreement, DOES shall consider:
- (a) The amounts owed and age of the debt;

- (b) The covered employer's past history of payment and compliance with any prior installment payment plans;
- (c) The covered employer's financial condition and, particularly, the prospects that the covered employer will be able to fulfill its obligations under the installment plan; and
- (d) Any other factors which may be brought to DOES' attention which might impact upon the covered employer's ability to meet its installment obligations.

- 3405.8 In any installment payment agreement, the covered employer shall acknowledge that default in any installment payment or in any future filing of required reports or payment of contributions voids the agreement and the Director may institute any collection procedure permitted by the Act without further notice or demand to the covered employer.
- 3405.9 DOES may renegotiate an installment payment schedule if DOES determines that changed circumstances of the covered employer warrant changes to the plan. However, renegotiation of an installment schedule may not extend the time period beyond twenty-four (24) months from the conclusion date of the original agreement.
- 3405.10 If a covered employer fails to respond to DOES' Notice of Delinquency and demand for payment of delinquent contributions, interest, and penalties, or if a covered employer fails to make a scheduled installment payment, DOES, without further notice or demand to the covered employer, may attempt to collect the overdue payments by any method authorized by the Act.
- 3405.11 DOES may levy a covered employer's bank account(s) by serving a Notice of Levy on the appropriate officer of the bank.
- 3405.12 DOES may levy a covered employer's contract(s) with any agency of the Government of the District of Columbia by serving a Notice of Levy on the official of said agency authorized to accept said Notice.
- 3405.13 DOES may levy upon property belonging to a covered employer by serving a Notice of Levy on the custodian of said property. Failure of the custodian to honor the levy shall result in the custodian's liability for the delinquent contributions, interest, and penalties.
- 3405.14 DOES shall cause the examination of any property seized pursuant to Subsection 3405.13 to determine its condition, and shall keep records of condition, storage location, and any other actions necessary to maintain the property prior to sale.

- 3405.15 A covered employer whose property has been seized pursuant to Subsection 3405.13 may redeem the property prior to the time it is sold by paying DOES the full amount of delinquent contributions, interest, and penalties owed and any costs incurred by DOES in seizing and storing the property.
- 3405.16 No earlier than ten (10) calendar days following seizure of property pursuant to Subsection 3405.13, DOES shall commence the process to sell the property. If DOES determines that adjournment of the sale will best serve the interest of the Universal Paid Leave Implementation Fund, DOES shall have the power to adjourn the sale until such time as DOES determines that the best interest of the Universal Paid Leave Implementation Fund would be served by continuation of the sale of the property.
- 3405.17
- (a) The proceeds of any sale of property under Subsection 3405.16 shall be allocated to the balance due to DOES as follows:
 - (1) Costs of the sale, including costs of seizing, storing, advertising, and auctioneer fees;
 - (2) Delinquent penalties, interest, and contributions in that order.
 - (b) Any excess funds remaining after paragraph (a) of this subsection has been complied with shall be forwarded to the covered employer from whom the property was seized.
- 3405.18 DOES shall issue a Certificate of Sale to the purchaser of property at the sale and shall prepare ownership documents for property conveyed by sales made pursuant to Subsection 3405.16. All property shall be sold "as is" and "where is" without any guarantee or warranty express or implied. DOES shall sell only the right, title, and interest of the delinquent covered employer in the property, and the covered employer's interest will be offered subject to any prior outstanding mortgages, encumbrances, or other liens.

3406 ONLINE PORTAL

- 3406.1 All DOES communications with covered employers pursuant to this chapter shall occur through the online portal or through another format approved by DOES.
- 3406.2 All covered employers, shall be responsible for maintaining current contact information in the online portal or through another format approved by DOES.
- 3406.3 All covered employers will receive notifications related to any required actions and the status of claims for paid leave through the online portal or through another format approved by DOES.

3406.4 All covered employers shall be responsible for responding to any requests for additional information through the online portal or through another format approved by DOES.

3407 EMPLOYER RESPONSIBILITIES

3407.1 Each covered employer shall post and maintain a paid leave program notice promulgated by DOES, in a conspicuous place at each worksite that is accessible by its employees.

3407.2 Each covered employer shall also provide the paid leave program notice to employees at the following times:

- (a) To an individual employee, at the time of the employee's hiring;
- (b) Annually to all employees; and
- (c) To an individual employee, at the time the covered employer is aware that paid leave is needed.

3407.3 A covered employer who violates this notice requirement shall be assessed a civil penalty not to exceed one hundred dollars (\$100) for each covered employee to whom individual notice was not delivered and one hundred dollars (\$100) for each day that the covered employer fails to post the notice in a conspicuous place at each worksite.

3408 RECORD KEEPING

3408.1 For a period of not less than three (3) years, all covered employers shall develop, maintain, and make available to DOES records regarding the employer's activities related to the Act, including paystubs, personal checks, cash receipts, or bank deposits; work schedules; communications between employer and employee; any circumstantial evidence regarding the employee's eligibility; and any other record as requested by DOES; provided, that the payroll records contain the following information:

- (a) Name and social security number, or individual taxpayer identification number in lieu of a social security number, of each employee;
- (b) Beginning and ending dates of each pay period;
- (c) Wages paid for each pay period, including the value of non-monetary remuneration; and
- (d) Dates of employment.

3499 **DEFINITIONS**

3499.1 As used in this chapter:

“**Act**” – means the Universal Paid Leave Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-264; D.C. Official Code §§ 32-541.01 *et seq.*).

“**Covered employee**” – means an employee of a covered employer:

- (a) Who spends more than fifty percent (50%) of his or her work time for that employer working in the District of Columbia; or
- (b) Whose employment for the covered employer is based in the District of Columbia and who regularly spends a substantial amount of his or her work time for that covered employer in the District of Columbia and not more than fifty percent (50%) of his or her work time for that covered employer in another jurisdiction.

“**Covered employer**” – means:

- (a) Any individual, partnership, general contractor, subcontractor, association, corporation, business trust, or any group of persons who directly or indirectly or through an agent or any other person, including through the services of a temporary services or staffing agency or similar entity, employs or exercises control over the wages, hours, or working conditions of an employee and is required to pay unemployment insurance on behalf of its employees by Section 3 of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 947; D.C. Official Code § 51-103); provided, that the term “covered employer” shall not include the United States, the District of Columbia, or any employer that the District of Columbia is not authorized to tax under federal law or treaty; or
- (b) A self-employed individual who has opted into the paid-leave program established pursuant to this chapter.

“**Director**” – means the director of DOES.

“**DOES**” – means the Department of Employment Services.

“**Eligible individual**” – means a person whose claim for paid-leave benefits is not based on employment for the United States, the District of Columbia, or an employer that the District of Columbia is not authorized to tax under

federal law or treaty, who meets the requirements of the Act and this chapter and:

- (a) Has been a covered employee during some or all of the fifty-two (52) calendar weeks immediately preceding the qualifying event for which paid leave is being taken; or
- (b) Is a self-employed individual who has:
 - (1) Opted into the paid-leave program established pursuant to this chapter; and
 - (2) Earned self-employment income for work performed more than fifty percent (50%) of the time in the District of Columbia during some or all of the fifty-two (52) calendar weeks immediately preceding the qualifying event for which paid leave is being taken.

“Employment”:

- (a) Means any localized services performed in the District of Columbia for a covered employer; and
- (a) Includes personal or domestic service in a private home, local college club, or a college fraternity or sorority for an employer who paid cash remuneration of five hundred dollars (\$500) or more in any calendar quarter.

“Online portal” – means the user-friendly system for the submission and management of forms and documents necessary to administer the paid-leave program.

“Paid-leave benefits” – means the monetary benefits provided pursuant to this chapter.

“Personal or domestic service” – includes all persons employed by an employer in the employer’s capacity as a householder, as distinguished from a person employed by the employer in the pursuit of a trade, occupation, profession, enterprise, or vocation.

“Self-employment income” – means gross income earned from carrying on a trade or business as a sole proprietor, an independent contractor, or a member of a partnership.

“Self-employed individual” – means an individual who carries on a trade or business as a sole proprietor, an independent contractor, or a member of a

partnership. The individual shall have been registered with the Office of Tax and Revenue, been issued a business license by the District of Columbia Department of Consumer and Regulatory Affairs, or been otherwise licensed (*e.g.* occupational and professional licenses).

“Universal Paid Leave Implementation Fund” means the Universal Paid Leave Implementation Fund established by Section 1152 of the Universal Paid Leave Implementation Fund Act of 2016, effective October 8, 2016 (D.C. Law 21-160; 63 DCR 10775 (August 26, 2016)).

“Wages” shall have the same meaning as provided in Section 1(3) of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 946; D.C. Official Code § 51-101(3)); provided, that the term “wages” also includes self-employment income earned by a self-employed individual who has opted into the paid-leave program established pursuant to this chapter.

Comments on this proposed rulemaking should be submitted, in writing, within thirty (30) days of the date of the publication of this notice in the *D.C. Register* to the Department of Employment Services, 4058 Minnesota Avenue N.E., Washington, D.C., 20019, or via email to does.opfl@dc.gov. Additional copies of these proposed rules are available at the above address.

ACHIEVEMENT PREP PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT****Urban Teachers Residency Program**

Achievement Prep Public Charter School intends to enter into a sole source contract with Urban Teachers to source Resident Teachers along with the provision of training and development materials associated with the Urban Teacher Residency Program. For further information regarding this notice, contact bids@achievementprep.org no later than **5:00 pm, July 16, 2018**.

ACHIEVEMENT PREP PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Security Guard Services**

Achievement Prep PCS is seeking competitive bids for Security Guard Services for its Wahler Place Campus located at 908 Wahler Place SE, Washington, DC 20032. The awarded vendor will provide security guard staffing for front desk reception, visitor intake, campus-wide patrol services throughout the day and will be responsible for securing the facility at the end of each night.

Please find RFP specifications at www.achievementprep.org under “News”. Proposals must be received by 5:00PM on Friday, July 27th, 2018. Please send proposals to bids@achievementprep.org and include “RFP for Security Services” in the heading.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, JULY 11, 2018
2000 14TH 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-00042; Matthias, Inc., t/a Sylvia Liquors, 1818 Benning Road NE, License #104606, Retailer A, ANC 5D
Application to Renew the License
- Protest Hearing (Status)** **9:30 AM**
Case # 18-PRO-00033; Asmara Incorporated t/a Kenilworth Market, 1612 Kenilworth Ave NE, License #87818, Retailer A, ANC 7D
Application to Renew the License
- Protest Hearing (Status)** **9:30 AM**
Case # 18-PRO-00037; Georgetown Suites, LLC/Wabbit, LLC, t/a Georgetown Inn West End, 1121 New Hampshire Ave NW, License #109462, Retailer CR ANC 2A
Application for a New License
- Protest Hearing (Status)** **9:30 AM**
Case # 18-PRO-00036; Pal the Mediterranean Spot and More, LLC, t/a Pal the Mediterranean Spot, 1501 U Street NW, License #92484, Retailer CR, ANC 1B
Substantial Change (Request to Change Hours of Operation and Sales)
- Protest Hearing (Status)** **9:30 AM**
Case # 18-PRO-00038; Badsri Incorporated t/a 4 Seasons Convenience Store 4975 South Dakota Ave NE, License #109434, Retailer B, ANC 5A
Application for a New License
- Show Cause Hearing (Status)** **9:30 AM**
Case # 18-CIT-00091; La Villa Restaurant, Inc., t/a La Villa Café, 6115 Georgia Ave NW, License #94826, Retailer CR, ANC 4B

Board's Calendar

July 11, 2018

No ABC Manager on Duty

Show Cause Hearing (Status) 9:30 AM

Case # 18-CIT-00109; Southeast Restaurant Group, LLC, t/a DCity
Smokehouse, 203 Florida Ave NW, License #98368, Retailer CT, ANC 5E
No ABC Manager on Duty

Show Cause Hearing (Status) 9:30 AM

Case # 18-CMP-00020; Kiss, LLC, t/a Kiss Tavern, 637 T Street NW
License #104710, Retailer CT, ANC 1B
Violation of Settlement Agreement

Show Cause Hearing (Status) 9:30 AM

Case # 18-CMP-00060; Zodiac Restaurant and Group, Inc., t/a Scion Restaurant
2100 P Street NW, License #82174, Retailer CR, ANC 2B
No ABC Manager on Duty

Show Cause Hearing (Status) 9:30 AM

Case # 17-CC-00142; Tariq Hussain, t/a 7-Eleven, 1101 South Capitol Street
SW, License #26520, Retailer B, ANC 6D
**Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal
Drinking Age**

Show Cause Hearing* 10:00 AM

Case # 18-CC-00008; Boeoy of Georgetown Corporation t/a Boeoymonger
Restaurant, 3265 Prospect Street NW, License #102904, Retailer DR, ANC 2E
Sale to Minor Violation

Show Cause Hearing* 11:00 AM

Case # 17-CMP-00681; Howard Theatre Entertainment, LLC, t/a Howard
Theatre, 620 T Street NW, License #88646, Retailer CX, ANC 1B
Failed to Follow Security Plan

BOARD RECESS AT 12:00 PM

ADMINISTRATIVE AGENDA

1:00 PM

Fact Finding Hearing* 1:30 PM

Pho Viet USA, Inc., t/a Fairmont Market, 2628 11th Street NW, License
#109297, Retailer B, ANC 1B
Request to Extend Safekeeping

Board's Calendar

July 11, 2018

Protest Hearing*

2:00 PM

Case # 18-PRO-00020; Kenzo, LLC t/a TBD, 1400 Wisconsin Ave NW

License #108987, Retailer CR, ANC 2E

Application for a New License

Protest Hearing*

4:30 PM

Case # 18-PRO-00024; Shoreditch Cooperative, LLC t/a Duke's Grocery, 1513

17th Street NW, License #92298, Retailer CR, ANC 2B

Substantial Change (Request to Change Hours of Sidewalk Cafe)

***The Board will hold a closed meeting for purposes of deliberating these hearings pursuant to DC Official Code §2-574(b)(13).**

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

**NOTICE OF MEETING
INVESTIGATIVE AGENDA**

**WEDNESDAY, JULY 11, 2018
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On Wednesday, July 11, 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# 18-251-00125, Kiss Tavern, 637 T Street N.W, Retailer CT, License # ABRA-104710

2. Case# 18-CMP-00123, Costello Restaurant and Lounge, 5201 Georgia Avenue N.W., Retailer CT, License # ABRA-100259

3. Case# 18- CMP-00122, Palisades Deli & Market, 4554 MacArthur Blvd. N.W., Retailer Grocery B, License # ABRA-079038

4. Case# 18-251-00124, Bravo Bravo, 1001 Connecticut Avenue N.W., Retailer CN, License # ABRA-071564

5. Case# 18-251-00127, Living Room, 1010 Vermont Avenue N.W., Retailer CT, License # ABRA-076906

6. Case# 18-CMP-00138, Woodley Café, 2619 Connecticut Avenue N.W., Retailer CR, License # ABRA-076441

7. Case# 18-CMP-00147, 12 Twelve DC/Kyss Kyss, 1210-1212 H Street N.W., Retailer CT, License # ABRA-072734

8. Case# 18-CMP-00146, Jake's American Grille, 5016-5018 Connecticut Avenue N.W.,
Retailer CR, License # ABRA-086013

9. Case# 18-CMP-00144, Saint Yves, 1220 Connecticut Avenue N.W., Retailer CT, License #
ABRA-099876

10. Case# 18-CMP-00143, Black Whiskey, 1410 14th Street N.W., Retailer CT, License #
ABRA-091434

11. Case# 18-CC-00060, Hamilton Liquors, 5205 Georgia Avenue N.W., Retailer A, License #
ABRA-104158

12. Case# 18-CMP-00067(a), Ababa Ethiopian Restaurant, 2106 18th Street N.W., Retailer CR,
License # ABRA-103289

13. Case# 18-CMP-00075(a), Ababa Ethiopian Restaurant, 2106 18th Street N.W., Retailer CR,
License # ABRA-103289

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, JULY 11, 2018 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review request for Change of Hours. *Approved Hours of Operation and Alcoholic Beverage Sales and Consumption:* Sunday-Saturday 10am to 12am. *Approved Hours of Live Entertainment:* Sunday-Saturday 6pm to 12am. *Proposed Hours of Operation, Alcoholic Beverage Sales and Consumption, and Live Entertainment:* Sunday-Thursdays 10am to 2am, Friday-Saturday 10am to 3am. ANC 4D. SMD 4D04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Costello Restaurant and Lounge*, 5201 Georgia Avenue NW, Retailer CT, License No. 100259.

2. Review Request to expand seating into the second and third floors of the establishment, increasing Total Occupancy Load from 65 to 269, and increasing seating from 59 to 122. ANC 6C. SMD 6C05. The Establishment has pending Show Cause Hearings. No outstanding fines/citations. No conflict with Settlement Agreement. *Addis Ethiopian Restaurant*, 707 H Street NE, Retailer CR, License No. 097534.

3. Review Application for Summer Garden with seating for 16 patrons. *Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption for Summer Garden:* Saturday-Sunday 10am to 9pm, Monday-Friday 11am to 9pm. ANC 2E. SMD 2E05. Outstanding fines. No pending enforcement matters. No Settlement Agreement. *Chaia LLC*, 3207 Grace Street NW, Retailer DR, License No. 099787.

4. Review request from Attorney Stephen O'Brien to allow related entity, Pacific Washington DC Manager Corporation, to tender checks for subsidiary to pay wholesalers for alcoholic beverage purchases in the District of Columbia. ANC 2F. SMD 2F08. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Eaton DC*, 1201 K Street NW, Retailer CH, License No. 095442.

***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.**

**DEPARTMENT OF BEHAVIORAL HEALTH
NOTICE OF FUNDING AVAILABILITY
RFA: #RMO SMH 071318**

COMPREHENSIVE EXPANSION OF SCHOOL-BASED MENTAL HEALTH

Purpose/Description of Project

The Department of Behavioral Health (DBH) is soliciting applications of Community Based Organizations (CBOs) within the mental health sector to provide School Mental Health Services in District of Columbia Public Schools (DCPS) and District of Columbia Public Charter Schools (DCPCS). A CBO may apply to provide services based on its projected capacity to hire and place clinicians in school placements. A CBO shall be responsible for the implementation of services within the Comprehensive School Mental Health model.

DBH will allocate funding to develop and further expand the District's Comprehensive School-Based Behavioral Health System in the District's schools that have been identified as within the top 25 percent of need based on behavioral health indicators. The selected CBOs will participate in a new Community of Practice to leverage school, provider, and agency expertise around successful interventions, provide opportunities to learn and adopt additional evidence-based practices, and help both schools and providers build capacity to increase collaboration and coordination. Additionally, the selected CBOs will participate in the overall evaluation of the first year of implementation.

Eligibility

Applicants must:

1. Have at least two years of experience (as of the due date of the application) providing child and youth behavioral health services.
2. Comply with all applicable District licensing, accreditation, and certification requirements, as of the due date of the application.
3. Have at least one service location physically within the District of Columbia.
4. Be paneled with all Medicaid Managed Care Organizations or demonstrate the capacity to become credentialed prior to award.
5. Operational experience and/or capacity to provide treatment & billing in school setting.
6. Interested and committed to expanding comprehensive school based behavioral health services.
7. Able to quickly recruit and hire licensed clinicians who are dedicated to providing culturally and linguistically competent services to children and

their families and to participation in Community of Practice and evaluation activities.

8. Have the supervisory capacity to supervise the clinical, prevention, and early intervention services within the comprehensive school mental health model that the CBO delivers and participate in Community of Practice and evaluation activities.
9. Able to collect and report utilization data, outcome data, and satisfaction survey data.

Length of Award

Grant award will be made for a period of October 1, 2018 – September 30, 2019. Grant recipients will be expected to begin start-up activities by November 1, 2018.

Available Funding

One million nine hundred and one thousand dollars \$1,901,000 are available to fund prospective Community Based Organizations.

Request for Application (RFA) Release

The RFA will be released Friday, July 13, 2018. The RFA will be posted on the website of the Office of Partnerships and Grants, www.opgs.dc.gov under the District Grants Clearinghouse. Please direct any questions to Dr. Charneta C. Scott at charneta.scott@dc.gov.

Deadline for Applications

The deadline for submission is Monday, August 6, 2018 at 4:45 p.m. ET.

CITY ARTS AND PREP PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER SOLE SOURCE CONTRACTS****Student Assessment and Professional Development Services**

City Arts & Prep Public Charter School intends to enter into a sole source contract with the **Northwest Evaluation Association Measures of Academic Progress** (“MAP”) for products and services related to MAP’s student assessment and professional development products to help identify and close gaps in student learning for the upcoming school year.

- City Arts & Prep Public Charter School constitutes the sole source for MAP for student assessment services and professional development that will lead to student achievement.
- For further information regarding this notice, contact bids@cityartspcs.org no later than **5:00 pm, July 17, 2018**.

Literacy Platform and Professional Development Services

City Arts & Prep Public Charter School intends to enter into a sole source contract with **Achieve3000** for products and services related to Achieve3000’s “Pro Differentiated Literacy Solution” literacy platform to help reach all students at their individual reading levels to accelerate their learning and improve student achievement.

- City Arts & Prep Public Charter School constitutes the sole source for Achieve3000 for the licensing and use of the “Pro Differentiated Literacy Solution” classroom materials and literacy instruction system, as well as provision of classroom materials and professional development requisite for the implementation of that system.
- For further information regarding this notice, contact bids@cityartspcs.org no later than **5:00 pm, July 17, 2018**.

Educational Museum Program Partnership

City Arts & Prep Public Charter School intends to enter into a sole source contract with the **Prince George’s African American Museum and Cultural Center** (PGAAMCC) for a series of educational museum programs including art and poetry workshops on location at City Arts.

- City Arts & Prep Public Charter School constitutes the sole source for PGAAMCC for educational museum programs that will result in cultural literacy relevant to the specific theme “Black Innovation.”
- For further information regarding this notice contact bids@cityartspcs.org no later than **5:00 pm, July 17, 2018**.

CITY ARTS AND PREP PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Special Education Services

City Arts + Prep PCS solicits proposals for the following:

- **Special Education Services**

Proposals and requests for the full RFP should be emailed to bids@cityartspcs.org no later than 5:00 P.M., Tuesday, July 17, 2018.

CREATIVE MINDS INTERNATIONAL PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER INTO FOUR SOLE SOURCE CONTRACTS****SY 2018-19**

Creative Minds International Public Charter School (CMIPCS) is a District of Columbia public charter school that opened in August 2012. The school will be serving 516 students from preschool to 8th grade during school year 2018-19.

Pursuant to the School Reform Act, D.C. 38-1802 (SRA) and the D.C. Public Charter Schools procurement policy, CMIPCS hereby submits this notice of intent to award the following four sole source contracts:

- 1). Apple Inc. - CMIPCS intends to enter into a sole source contract with Apple Inc. for computers (with 3-year extended warranties), iPads and relevant accessories amounting to over \$25,000 during school year 2018-19. CMIPCS is an Apple product-based school and uses these products for administrative and instructional purposes. Apple Inc. constitutes the sole source for all Apple products with available discounts for educational institutions.
- 2). Dell Inc. - CMIPCS intends to enter into a sole source contract with Dell Inc. for laptop and PC desktop computers (with 3-year extended warranties), and relevant accessories amounting to over \$25,000 during school year 2018-19. CMIPCS will use these products for administrative and instructional purposes. Dell Inc. constitutes the sole source for all Dell Inc. products with preferred pricing and available discounts for educational institutions.
- 3). Fieldwork Education - CMIPCS intends to enter into a sole source contract with Fieldwork Education for International Primary and International Middle School curricula, teacher and staff professional development and accreditation services amounting to over \$25,000 during school year 2018-19. CMIPCS will utilize the services listed above that are provided by Fieldwork Education in its elementary and middle school programs and will use these products for administrative and instructional purposes. Fieldwork Education constitutes the sole source for all Fieldwork Education products.
- 4). Hertz Furniture. - CMIPCS intends to enter into a sole source contract with Hertz Furniture. for classroom and office furniture including relevant accessories amounting to over \$25,000 during school year 2018-19. Hertz Furniture constitutes the sole source for all furniture products with preferred pricing, and available discounts for educational institutions.

For further information regarding these four notices please contact James Lafferty-Furphy no later than 1:00 pm July 17, 2018 - james.lafferty-furphy@creativemindspcs.org, 202-588-0370 x112.

E.L. HAYNES PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Dashboard Creation Solution**

E.L. Haynes Public Charter School (“ELH”) is seeking proposals for a data warehouse tool and dashboard creation solution. The system needs to pull existing student data from our school information system, Infinite Campus, as well as their data sources such as i-Ready, A-Net and SAT. The system must provide a reporting solution that allows staff to generate and disseminate customizable data dashboards throughout the LEA. Applicants must respond to all of the tasks included in the scope of work in their proposal.

Proposals are due via email to Kristin Yochum no later than 5:00 PM on Friday, July 13, 2018. We will notify the final vendor of selection the following week. The RFP with bidding requirements can be obtained by contacting:

Kristin Yochum
E.L. Haynes Public Charter School
Phone: 202.667-4446 ext 3504
Email: kyochum@elhaynes.org

E.L. HAYNES PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Student Transportation**

E.L. Haynes Public Charter School (“ELH”) is seeking proposals for transportation for our school sponsored events, in particular regular athletics events. Bidders are not required to provide transportation for all events. Multiple contracts will be awarded to vendors interested in meeting our needs as arranged throughout the school year.

Proposals are due via email to Kristin Yochum no later than 5:00 PM on Friday, July 13, 2018. We will notify the final vendor of selection the following week. The RFP with bidding requirements can be obtained by contacting:

Kristin Yochum
E.L. Haynes Public Charter School
Phone: 202.667-4446 ext 3504
Email: kyochum@elhaynes.org

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**NOTICE OF ADMINISTRATIVE ISSUANCE****INTERPRETING 5-A DCMR § 5010 (NON-RESIDENT STUDENTS:
ADMINISTRATIVE REVIEW OF CONTESTED RESIDENCY CASE AND FINAL
DECISION) TO INCLUDE A PRE-MEDIATION REVIEW PROCESS AS PART OF A
NON-RESIDENCY ADMINISTRATIVE HEARING IN SPECIAL CIRCUMSTANCES**

Pursuant to the authority set forth in 5-A DCMR § 5010.2, the Office of State Superintendent of Education (OSSE) is setting forth additional procedures to use in special circumstances, including, but not limited to, when tasked with investigating a significant number of potential non-residents at the same time and within a short time frame. In order to efficiently and fairly enforce residency requirements and expedite administrative review, these additional procedures allow students and legal guardians to meet their burden of proof prior to the start of formal mediation at the Office of Administrative Hearings (OAH). In recognition of the need to avoid undesirable delays in arriving at a final agency non-residency decisions, especially in special circumstances of large scale investigations involving large number of cases and individuals, OSSE will provide each family that contests OSSE's non-residency finding with a pre-mediation process (i.e., a pre-mediation review and a conference call) upon request. The aim of this voluntary process is to resolve residency disputes early in the administrative process and reduce the need for a formal mediation and/or administrative hearing, thereby conserving the time and resources of the students, families, OSSE, and OAH.

The pre-mediation review will occur following the request for an administrative review, but prior to a formal mediation at OAH. OSSE will provide families an opportunity to produce additional documentation to meet their burden of proving residency. OSSE will conduct a pre-mediation review of the documents submitted by the family to determine whether they are sufficient to establish residency and negate the evidence of non-residency obtained by OSSE in the course of the investigation. During a pre-mediation review, OSSE will provide a pre-mediation telephone conference where families will have an opportunity to speak with OSSE representatives about the documents submitted to provide additional information about their residency status. OSSE will (then) evaluate all of the information gathered to determine if a student has met the burden of proving residency status. If families can provide documents that conclusively demonstrate residency status during the relevant academic year(s), OSSE will withdraw the finding of non-residency and take no further action. If OSSE reasonably believes that the totality of the evidence supports a finding of non-residency, the next step will be a formal mediation at OAH.

Pursuant to Title 5-A of the District of Columbia Municipal Regulations (DCMR) § 5010 *et seq.*, the Office of the State Superintendent of Education (OSSE) is responsible for enforcing residency requirements and investigating a student's residency status. A student shall establish and annually verify residency in the District of Columbia (District) in order to attend, tuition free, a District of Columbia Public School (DCPS), a District public charter school (PCS), or other school providing educational services funded by the District. In order to qualify for a free public education, each student must establish a bona fide residency in the District. A person is a bona fide resident if they can demonstrate physical presence in the District and submit valid and proper documentation in accordance with DCMR. Based on the information gathered from an

investigation, the residency verification process, or otherwise, OSSE may issue a finding that a student is not a resident of the District. A non-residency determination does not become a final agency decision until families are notified and provided an opportunity to challenge the determination before an impartial Administrative Law Judge. This process is called administrative review, which is performed by the Office of Administrative Hearings (OAH). In order to request an administrative review, families must first notify OSSE in writing.

OSSE is issuing the following guidance pursuant to its authority under 5-A DCMR § 5010.2 to promulgate procedures for residency verification and the enforcement of residency and tuition payment requirements. This guidance provides OSSE's interpretation of 5-A DCMR § 5010 as it relates to the procedures for residency verification and the enforcement of residency requirements in special circumstances, including, but not limited to large-scale investigations.

5-A DCMR § 5010 sets forth the administrative review rights of students that have been determined to be non-residents. The regulation provides:

5-A DCMR § 5010 NON-RESIDENT STUDENTS: ADMINISTRATIVE REVIEW OF CONTESTED RESIDENCY CASE AND FINAL DECISION

- 5010.1 Requests for an administrative review of an OSSE non-resident finding shall be filed with OSSE no later than ten (10) business days after the date the written notification of the non-resident finding is issued. If a request for review is not received within a timely manner, and no corrective actions are confirmed to have been taken on behalf of the student, the finding of non-residency, and the proposed decisions to disenroll the student from the school and assess tuition, shall become the final administrative decision of the agency.
- 5010.2 OSSE shall refer a request for review of a contested residency case to an impartial hearing officer or administrative review office for a final administrative decision. Any hearing shall be conducted pursuant to Section 10 of the District of Columbia Administrative Procedure Act, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-509 (2016 Supp.)).
- 5010.3 OSSE shall refer a request for review of a contested residency case to the designated hearing officer or administrative review office by filing a copy of the request for review that it received, along with a statement that OSSE requests the hearing officer or administrative review office to hear and decide the case.
- 5010.4 In all contested residency cases, the hearing officer or administrative review office assigned to hear the case shall set the hearing date and issue the hearing notice.
- 5010.5 The presiding hearing officer or Administrative Law Judge shall issue a final decision in all contested residency cases assigned to him or her. The hearing officer or Administrative Law Judge's final decision shall be in writing and shall be the final administrative decision of OSSE. The statement of appeal rights required by Section 5011 shall be attached to or included in the written final administrative decision.

- 5010.6 In contested residency cases, the adult student, self-supporting student, or ward, or the parent, custodian, or guardian of the minor student who is claiming District of Columbia residency has the burden of proving residency status for the purpose of establishing whether the student may enroll in and attend a District public school tuition-free.
- 5010.7 The presiding hearing officer or Administrative Law Judge shall be governed by the Office of Administrative Hearings Rules at 1 DCMR §§ 2905-2909, that are used in DCPS residency cases to address procedural issues, to the extent possible and as appropriate to encourage consistency across District public schools in the residency verification process. Where the Office of Administrative Hearings (“OAH”) rules for DCPS residency cases do not address a procedural issue, the hearing officer or Administrative Law Judge shall be guided by the OAH Rules of Practice and Procedure. Where the OAH Rules of Practice and Procedure do not address a procedural issue, the hearing officer or Administrative Law Judge shall be guided by the District of Columbia Superior Court Rules of Civil Procedure to decide the issue.
- 5010.8 The office assigned by OSSE to hear contested residency cases may establish written standard operating procedures to guide parties in contested residency cases through the process of an administrative review before a hearing officer.
- 5010.10 In all contested residency cases, the currently enrolled student shall be allowed to continue to attend school without prepayment of tuition, pending the final administrative decision.

These provisions set forth the formal administrative due process that students are entitled to when contesting a non-residency determination. As part of the administrative review process, OAH provides every family with an opportunity to mediate the case prior to a formal hearing. This means that families can bring in additional documentation or evidence to prove residency in the context of a structured discussion facilitated by an OAH Administrative Law Judge serving as the mediator. If families can sufficiently demonstrate residency during this OAH mediation process, OSSE will withdraw the finding of non-residency and take no further action.

During this formal OAH mediation, the mediating Administrative Law Judge will assist the parties in negotiating a resolution. A matter can be resolved at mediation if the parties agree that the student is either resident or a non-resident. When both parties agree that the evidence presented during mediation is sufficient to establish a student’s status as a District resident, OSSE will withdraw the finding of non-residency and take no further action. If a family concedes that a student is not a resident, the parties will enter into a settlement agreement for tuition owed by the student for the appropriate academic year(s). If the parties cannot agree, a full evidentiary hearing will be scheduled as described above in 5-A DCMR § 5010.2.

Families that cannot satisfactorily demonstrate residency during mediation will be given an opportunity to go to a hearing. When a case goes to hearing, the parent or person seeking to enroll the child has the burden of proving residency status for the purpose of establishing whether the student may enroll in and attend a District public school tuition free (*see* 5-A DCMR § 5010.6). If the Administrative Law Judge decides, at the hearing, that a family has presented sufficient information to demonstrate that the student is, in fact, a bona fide District resident, the non-residency finding will be withdrawn and OSSE will take no further action. If a family cannot

sufficiently demonstrate that a student is a bona fide District resident, the non-residency finding becomes final and OSSE will enter into a settlement agreement with the family for payment of non-resident tuition.

The additional pre-mediation procedures for residency verification and the enforcement of residency and tuition payment requirements set forth above in 5-A DCMR § 5010 provide students and families a chance to meet the burden of proof prior to OAH mediation and hearing, and possibly obviate the need for further adjudication. Students and families will be able to provide documentation that proves their residency and have the option to speak to OSSE about their situation. In some instances, the additional information may warrant a withdrawal of the non-residency finding. These pre-mediation procedures are limited to special circumstances, including, but not limited to, when investigating a significant number of potential non-residents at the same time and within a short time frame.

Therefore, pursuant to the authorization of the State Superintendent of Education, Hanseul Kang, the Office of the State Superintendent of Education authorizes the posting of this guidance document on OSSE's website and the submission of this guidance document to the Office of Documents and Administrative Issues for Publication in the D.C. Register.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

FY2019 DC COMMUNITY SCHOOLS INCENTIVE INITIATIVE GRANT (CSII2019)

NOTICE OF FUNDING AVAILABILITY

Request for Application (RFA) July 23, 2018 (12:00 noon EST)

The Office of the State Superintendent of Education (OSSE) – Division of Systems and Supports, K-12 is soliciting grant applications for the District of Columbia Community Schools Incentive Initiative. The purpose of the grant is to establish up to 10 community schools in the District of Columbia, as defined by the Community Schools Incentive Act of 2012. The overall goal of the grant is to provide resources that will enable eligible consortia to create and enhance community-based partnerships and develop a framework for continued funding as well as ongoing evaluation of program success.

As defined by the Community Schools Incentive Act of 2012, a “community school” is a public and private partnership to coordinate educational, developmental, family, health, and after-school-care programs during school and non-school hours for students, families, and local communities at a public school or public charter school with the objectives of improving academic achievement, reducing absenteeism, building stronger relationships between students, parents, and communities, and improving the skills, capacity, and well-being of the surrounding community residents. [D.C. Official Code § 38-754.02\(2\)](#).

Eligibility: OSSE will make these grants available through a competitive process to eligible consortia. As defined by the Community Schools Incentive Act of 2012, an “eligible consortium” is a partnership established between a local education agency (LEA) in DC and one or more community partners for the purposes of establishing, operating, and sustaining a community school. [D.C. Official Code § 38-754.02\(3\)](#). An eligible consortium must demonstrate the ability to provide additional eligible services that did not exist before the establishment of the eligible consortium. [D.C. Official Code § 38-754.03](#).

Length of Award: This is a multi-year grant program to begin in the 2019 fiscal year. Subject to funding availability, successful applicants shall be eligible for three years of grant funding.

Available Funding for Award: The total funding available for the 2019 fiscal year is \$1,528,889.70. An eligible consortium may apply for an award amount up to \$172,497.57 and, subject to funding availability, shall be eligible for continued funding for two additional years, for a total of three years.

Anticipated Number of Awards: OSSE has funding available for a maximum of 10 awards.

Selection Process: An external review panel will be convened to review, score, and rank each application. The review panel will be composed of neutral, qualified, professional individuals selected for their expertise, knowledge or related experiences. The application will be scored

against a rubric and application will have multiple reviewers to ensure accurate scoring. OSSE will make all final award decisions.

The release date of the RFA is July 23, 2018 at 12 p.m., EST. The RFA is available both online at www.osse.dc.gov and <http://grants.osse.dc.gov/>. Application, including Central Data, must be completed in OSSE's Enterprise Grants Management System (EGMS) (<http://grants.osse.dc.gov/>).

For additional information regarding this grant competition, please contact Melissa Harper-Butler, Program Analyst at (202) 478-2409 or at Melissa.Harper-Butler@dc.gov.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF ISSUANCETHE DISTRICT OF COLUMBIA'S SPENDING PLAN
FOR VOLKSWAGEN SETTLEMENT FUNDS
(BENEFICIARY MITIGATION PLAN)

The District of Columbia (District) will receive \$8.125 million as a result of the civil enforcement case, *Volkswagen "Clean Diesel" Marketing, Sales, Practices, and Products Liability Litigation*. The settlement stems from Volkswagen's (VW) use of a defeat device in its diesel vehicles, which allowed the vehicles to emit much higher levels of oxides of nitrogen (NOx) than allowed by the U.S. Environmental Protection Agency, which contributes to higher ozone levels. The settlement funds are primarily intended to reduce NOx emissions from heavy duty diesel vehicles.

The District has developed a Spending Plan for Volkswagen Settlement Funds ("Spending Plan" or "Beneficiary Mitigation Plan") that describes how the District intends to use its allotted VW funds to offset the air quality impacts, primarily NOx pollution, that occurred due to the defeat devices on VW vehicles.

A person may obtain a copy of the Spending Plan by any of the following means:

- **Download** from DOEE's website, <https://doee.dc.gov/page/volkswagen-settlement>.
- **Email** a request to alexandra.catena@dc.gov with "RE: VW Spending Plan" in the subject line.
- **Pick up a copy in person** from DOEE's reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002.

**DEPARTMENT OF HEALTH (DC HEALTH)
COMMUNITY HEALTH ADMINISTRATION (CHA)
NOTICE OF FUNDING AVAILABILITY (NOFA)
RFA# PBRP07.13.18
Preterm Birth Reduction Pilot**

The District of Columbia, Department of Health (DC Health) is soliciting applications from qualified applicants to services in the program and service areas described in this Notice of Funding Availability (NOFA). This announcement is to provide public notice of the Department of Health's intent to make funds available for the purpose described herein. The applicable Request for Applications (RFA) will be released under a separate announcement with guidelines for submitting the application, review criteria and DC Health terms and conditions for applying for and receiving funding.

General Information:

Funding Opportunity Title:	Preterm Birth Reduction Pilot
Funding Opportunity Number:	FO-CHA-PG-00185-001
Program RFA ID#:	RFA# PBRP07.13.18
Opportunity Category:	Competitive
DC Health Administrative Unit:	Community Health Administration
DC Health Program Bureau	Family Health Bureau
Program Contact:	Jean Gamble, jean.gamble@dc.gov , 202-442-9352
Program Description:	Through this program, qualified organizations will employ best evidence to implement strategies to reduce the occurrence of preterm births among at-risk District residents. The purpose of this program is to demonstrate effective strategies that will improve outcomes in infant mortality and morbidities associated with preterm birth.
Eligible Applicants	Organizations and entities eligible to apply for funding under this announcement include birthing facilities within the District of Columbia serving at-risk communities.
Anticipated # of Awards:	2
Anticipated Amount Available:	\$1,400,000
Floor Award Amount:	
Ceiling Award Amount:	\$700,000

Funding Authorization

Legislative Authorization	District of Columbia Fiscal Year 2018 Budget Support Act of 2019
Associated CFDA#	NA
Associated Federal Award ID#	NA
Cost Sharing / Match Required?	No
RFA Release Date:	July 13, 2018
Pre-Application Meeting (Date)	Friday July 20, 2018
Pre-Application Meeting (Time)	10:30am-12:30pm
Pre-Application Meeting (Location/Conference Call Access)	899 North Capitol Street, NE Washington, DC 20002
Letter of Intent Due date:	Not applicable
Application Deadline Date:	July 27, 2018
Application Deadline Time:	6:00 PM
Links to Additional Information about this Funding Opportunity	DC Grants Clearinghouse http://opgs.dc.gov/page/opgs-district-grants-clearinghouse . DC Health EGMS https://dcdoh.force.com/GO_ApplicantLogin2

Notes:

1. DC Health reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.
2. Awards are contingent upon the availability of funds.
3. Individuals are not eligible for DC Health grant funding.
4. Applicants must have a DUNS #, Tax ID#, be registered in the federal Systems for Award Management (SAM) and the DC Health Enterprise Grants Management System (EGMS)
5. Contact the program manager assigned to this funding opportunity for additional information.
6. DC Health is located in a secured building. Government issued identification must be presented for entrance.

**DEPARTMENT OF HEALTH (DC HEALTH)
HIV/AIDS, HEPATITIS, STD, TUBERCULOSIS ADMINISTRATION (HAHSTA)
NOTICE OF FUNDING AVAILABILITY (NOFA)
RFA# HAHSTA_MNTF07.20.18
Medical Nutrition Therapy for DC Food Bank Providers**

The District of Columbia, Department of Health (DC Health) is soliciting applications from qualified applicants to services in the program and service areas described in this Notice of Funding Availability (NOFA). This announcement is to provide public notice of the Department of Health's intent to make funds available for the purpose described herein. The applicable Request for Applications (RFA) will be released under a separate announcement with guidelines for submitting the application, review criteria and DC Health terms and conditions for applying for and receiving funding.

General Information:

Funding Opportunity Title:	Medical Nutrition Therapy for DC Food Bank Providers
Funding Opportunity Number:	FO-HAHSTA-PG-00161-001
Program RFA ID#:	HAHSTA_MNTF07.20.18
Opportunity Category:	Competitive
DC Health Administrative Unit:	HIV/AIDS, Hepatitis, STD, Tuberculosis Administration
DC Health Program Bureau	Care and Treatment Division
Program Contact:	Avemaria Smith, RWHAP Program Manager, Avemaria.smith@dc.gov ; 202.671.4900
Program Description:	The HIV/AIDS, Hepatitis, STD, Tuberculosis Administration is soliciting applications from current Ryan White-funded Food Bank providers to provide Medical Nutrition Therapy Services to District Residents.
Eligible Applicants	Organizations that are currently funded by the Ryan White HIV/AIDS Program to deliver Food Bank Services in the District of Columbia.
Anticipated # of Awards:	3
Anticipated Amount Available:	\$195,000.00
Floor Award Amount:	\$50,000.000
Ceiling Award Amount:	\$65,000.00

Funding Authorization

Legislative Authorization	Fiscal Year 2019 Budget Support Act of 2018
Associated CFDA#	N/A
Associated Federal Award ID#	N/A
Cost Sharing / Match Required?	No

RFA Release Date:	July 20, 2018
Pre-Application Meeting (Date)	July 26, 2018
Pre-Application Meeting (Time)	10:00am – 12:00pm
Pre-Application Meeting (Location/Conference Call Access)	899 North Capitol Street, NE, 4 th Floor, Washington, DC 20002
Letter of Intent Due date:	Not required
Application Deadline Date:	August 17, 2018
Application Deadline Time:	6:00 PM
Links to Additional Information about this Funding Opportunity	DC Grants Clearinghouse http://opgs.dc.gov/page/opgs-district-grants-clearinghouse . DC Health EGMS https://dcdoh.force.com/GO_ApplicantLogin2

Notes:

1. DC Health reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.
2. Awards are contingent upon the availability of funds.
3. Individuals are not eligible for DC Health grant funding.
4. Applicants must have a DUNS #, Tax ID#, be registered in the federal Systems for Award Management (SAM) and the DC Health Enterprise Grants Management System (EGMS)
5. Contact the program manager assigned to this funding opportunity for additional information.
6. DC Health is located in a secured building. Government issued identification must be presented for entrance.

INSPIRED TEACHING PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Special Education Services**

The Inspired Teaching Demonstration School requests proposals for the special education services listed below. Proposals will be accepted for one, some, or all of the services needed; providers need not propose for all services requested.

1. Language/speech therapy
2. Occupational therapy
3. ABA
4. Physical Therapy Services

The vendor will provide the services to students from preschool (age 3) through 8th grade. Additional information regarding the Inspired Teaching School and specification of services are outlined in the Request for Proposals (RFP) and may be obtained by contacting imani.taylor@inspiredteachingschool.org.

Proposals will be accepted until 5:00 pm, July 17, 2018. Proposals should be submitted as PDF or Microsoft Word documents to **Imani Taylor, Business Manager**, at imani.taylor@inspiredteachingschool.org with SPECIAL EDUCATION SERVICES RFP in the subject line.

All bids not addressing all areas as outlined in the IFB will not be considered.

**LATIN AMERICAN MONTESSORI BILINGUAL PUBLIC CHARTER SCHOOL
(LAMB)**

REQUEST FOR PROPOSALS

Janitorial & Facility Maintenance Services

LAMB PCS, a local non-profit based in the District of Columbia, is seeking proposals from qualified firms for janitorial and facility maintenance services for two buildings (1375 Missouri Avenue NW and 1399 Aspen Street NW). A mandatory bid tour of the campuses will be held at 10:00 am on July 9, 2018 beginning at the Missouri Avenue facility. Both buildings will be included in the tour. Please email pilar@lambpcs.org by 12:00 pm on July 8, 2018 to receive the full RFP and to RSVP for the bid tour.

MAYA ANGELOU PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Business Curriculum and Instruction Support**

Maya Angelou Public Charter School (MAPCS) is located at 5600 East Capitol Street NE, Washington DC 20019. Our mission is to create learning communities in lower income urban areas where all students, particularly those who have not succeeded in traditional schools, can succeed academically and socially.

The term “Young Leaders Business Development Program (YLBD)” is a skills-based Workforce Development and Entrepreneurship Initiative that integrates industry-focused leadership skills with entrepreneurial characteristics.

The goals of this RFP is to:

- a. Expand MAPCS’ YLBD;
- b. Provide impactful education to students through engaging hands-on learning to build skills critical for future careers.

All bid proposals will be accepted until **12:00 PM on July 16, 2018**. Interested vendors will respond to the advertised Notice of RFP via upload to:

<https://app.smartsheet.com/b/form/2a50de7b02bf4a879b7126ba45f919ea>.

Complete RFP details can be found at www.seeforever.org/requestforproposals.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

REVISED NOTICE OF FUNDING AVAILABILITY (NOFA)

CLEAN TEAM GRANTS

The Department of Small and Local Business Development (DSLBD) is soliciting applications from eligible applicants to manage a **DC Clean Team Program** (“the Program”) in four service areas (listed below). This revised NOFA includes one newly added clean team program for Minnesota Avenue ; and new submission deadline. **The submission deadline is Thursday, July 19 , 2018, 5:00 PM.**

Through this grant, DSLBD will fund clean teams, which will achieve the following objectives.

- Improve commercial district appearance to help increase foot traffic, and consequently, opportunity for customer sales.
- Provide jobs for DC residents.
- Reduce litter, graffiti, and posters, which contribute to the perception of an unsafe commercial area.
- Maintain a healthy tree canopy, including landscaping, along the corridor.
- Support Sustainable DC goals by recycling, mulching street trees, using eco-friendly supplies, and reducing stormwater pollution generated by DC’s commercial districts.

Eligible applicants are nonprofit organizations which are incorporated in the District of Columbia. All applicants must be current on all taxes. Applicants should have a demonstrated capacity with the following areas of expertise.

- Providing clean team services or related services to commercial districts or public spaces.
- Providing job-training services to its employees.
- Providing social support services to its Clean Team employees.

DSLBD will **award** one grant for **each** of the following **service areas** (i.e., a total of two grants). The size of grant is noted for each district.

- Bladensburg Road, NE - \$100,000.00
- Fort Lincoln Drive, NE - \$100,000.00
- Minnesota Avenue, NE - \$ 104,982.00
- South Dakota Avenue NE - \$100,000.00

The **grant performance period** to deliver clean team services is October 1, 2018 through September 30, 2019. Grants may be renewed for a second performance period of October 1, 2019 through September 30, 2020.

The **Request for Application** (RFA) includes a detailed description of clean team services, service area boundaries, and selection criteria. DSLBD will post the RFA on or before **Monday, July 2, 2018** at www.dslbd.dc.gov. Click on the *Our Programs* tab, then *Neighborhood Revitalization*, and then *Solicitations and Opportunities* on the left navigation column.

DSLBD will hold a **pre-application meeting on Friday, June 22 at 2:00 PM** at 441 4th Street, NW, Washington, DC 20001, Room 805 South.

Application Process: Interested applicants must complete an online application on or before **Thursday July 19, 2018 at 5:00 PM**. DSLBD will not accept applications submitted via hand delivery, mail or courier service. **Late submissions and incomplete applications will not be forwarded to the review panel.**

The online application will be available on or before **Thursday, June 14, 2018**. To open an application, applicants must complete and submit an **Expression of Interest** via the website address included in the Request for Applications. DSLBD will activate their online access within two business days and notify them via email.

Selection Criteria for applications will include the following criteria.

- Applicant Organization's demonstrated capacity to provide clean team or related services, and managing grant funds.
- Proposed service delivery plan for basic clean team services.
- Proposed service delivery plan for additional clean team services.

Selection Process: DSLBD will select grant recipients through a competitive application process that will assess the Applicant's eligibility, experience, capacity, service delivery plan, and, budget. Applicants may apply for one or more service areas by noting the number of service areas for which the applicant would like to be considered. DSLBD will determine grant award selection and notify all applicants of their status via email on or before **Tuesday, July 31, 2018**.

Funding for this award is contingent on continued funding from the DC Council. The RFA does not commit the Agency to make an award.

DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.

All applicants must attest to executing a DSLBD grant agreement as issued (sample document will be provided in online application) and to starting services on October 1, 2018.

For more information, contact Saba Fassil at the Department of Small and Local Business Development at saba.fassil2@dc.gov.

THURGOOD MARSHALL ACADEMY PUBLIC CHARTER HIGH SCHOOL**REQUEST FOR PROPOSALS****Painting Services**

Thurgood Marshall Academy—a nonprofit, college-preparatory, public charter high school—seeks a contractor to paint exterior portions of its building located at:
2427 Martin Luther King, Jr., Ave., SE, Washington, DC 20020

Proposal Guidelines:

- 1) **Scope Of Work:** Prospective vendors should provide a quotation/proposal detailing itemized cost, paint specifications (manufacturer and type), and any necessary terms/conditions for the following:
 - Power-washing and painting at least two coats of the existing color (white) paint on building's wooden eaves (approximately 30-40 feet above grade)—roughly 300 linear feet (roughly 1/3rd of the building's roofline).
 - Stripping and painting at least two coats of existing color (terra cotta) paint on metal cornice (approximately 30-40 feet above grade)—roughly 400 linear feet (roughly 1/3rd of the building's roofline).
 - Provide a per-unit cost to strip and paint metal window lintels (number to paint TBD).
 - Specify whether vendor or school rents lift, and cost if vendor supplies (work area is generally accessible to a boom/articulated lift but will not accommodate a bucket-truck or other large vehicles).
 - Itemize any additional costs.
- 2) **Proof of Insurance:** Provide a Certificate of Insurance, including workers compensation and umbrella coverage.
- 3) **Date of Work:** Commit to performing work between August 1 - August 19, 2018.
- 4) **References:** Provide contact information for three references for which vendor performed similar work (DC charter school references ideal but not required).
- 5) **General Conditions:** By submitting a bid, vendors agree to the General Conditions Statement found on the Employment Opportunities page under the About tab on www.thurgoodmarshallacademy.org.

Further Information:

- For further information, contact David Schlossman, dschlossman@tmapchs.org or 202-276-4722 between July 11 - July 17, 2018.
- Amendments to or extension of the RFP, if any, will be posted exclusively on the Employment Opportunities page under the About tab on www.thurgoodmarshallacademy.org
- Further information about Thurgood Marshall Academy—including our nondiscrimination policy—may be found at www.thurgoodmarshallacademy.org.

Deadline & Submission: Submit bids responsive to this RFP via email to dschlossman@tmapchs.org no later than **Tuesday, July 17, 2018**. Bids should be no more than 5MB total and no more than 10 pages.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19644 of Meenakshi Nankani, as amended¹, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle D § 5201 from the lot occupancy requirements of Subtitle D § 304.1, the rear yard requirements of Subtitle D § 306.2, and the side yard requirements of Subtitle D § 307.1, to construct a rear deck addition to an existing one family dwelling in the R-1-B zone at premises 1315 Delafield Place, N.W. (Square 2808, Lot 30).

HEARING DATES: February 7, 2018, February 28, 2018, April 11, 2018, May 30, 2018, and June 20, 2018.²
DECISION DATE: June 20, 2018

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 33 (original/incomplete), and 40 (final).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 4C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4C, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on June 13, 2018, at which a quorum was present, the ANC voted 8-0-0 to support the application. (Exhibit 45.)

¹ The original application included a Zoning Administrator's memorandum (Exhibit 6) indicating that a lot occupancy variance was needed, but the Applicant amended the application (Exhibit 40) by removing the request for a variance from the lot occupancy requirements of Subtitle D § 306.2. The Applicant submitted revised plans (Exhibit 41) for what is allowable by special exception and submitted a self-certification form to certify the revised relief. (Ex. 40.) (The Applicant previously submitted an incomplete (unsigned) self-certification form at Exhibit 33.)

² The application was originally scheduled for hearing on February 7, 2018. The Board continued the hearing to February 28, 2018, then postponed to the dates listed in April, May, and June 2018 at the Applicant's request. (Exhibits 36 -38.)

The Office of Planning (“OP”) submitted a timely report, dated January 26, 2018, recommending approval of the application for special exception relief, with the condition that the Applicant include a screened wall, such as a closed lattice wall, between the deck and the neighboring property to the east. OP noted that the Applicant agreed to this condition. OP noted that its recommendation was made with the understanding that the Applicant would be formally amending the application to reduce the lot occupancy of the deck so that no variance relief would be necessary. (Exhibit 30.) At the hearing on February 7, 2018, the Board continued the hearing so that the Applicant could submit a signed self-certification form and revised plans to the record in keeping with the amended relief. Next, prior to the Applicant’s submitting a signed self-certification and revised drawings in order to amend the application and after the Applicant’s representative indicated to OP that the Applicant did not want to amend the plans, OP filed a Supplemental Report, dated May 18, 2018, recommending approval of the special exception relief, but denial of the variance relief originally requested. (Exhibit 39.) Finally, after the Applicant amended the application by submitting a properly signed self-certification form and revised plans reducing the lot occupancy of the deck so that no variance relief would be necessary, OP submitted a Second Supplemental Report, dated June 8, 2018, recommending approval of the amended application for special exception relief. (Exhibit 44.)

The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 29.)

Two letters were received from adjacent neighbors, both expressing support for the application. (Exhibits 42 and 43.)

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 Subtitle D § 5201 from the lot occupancy requirements of Subtitle D § 304.1, the rear yard requirements of Subtitle D § 306.2, and the side yard requirements of Subtitle D § 307.1, to construct a rear deck addition to an existing one family dwelling in the R-1-B 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 D §§ 5201, 304.1, 306.2, and 307.1, 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 41 – UPDATED ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: 5-0-0 (Frederick L. Hill, Lesylleé M. White, Lorna L. John, Carlton E. Hart, and Anthony J. Hood³ 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 25, 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 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,

³ Mr. Hood read the record to participate in the decision on this application.

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. 19747 of Deborah Van Buskirk, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201 from the accessory building gross floor area limitations of Subtitle E § 5004.2(b), and from the accessory building rear setback requirements of Subtitle E § 5004.1, and pursuant to Subtitle X, Chapter 10, for a variance from the lot occupancy requirements of Subtitle E § 304.1, to permit an existing one-story accessory building in the RF-1 Zone at premises 445 15th Street S.E. (Square 1062, Record Lot 52).

HEARING DATE: May 16, 2018, and June 20, 2018
DECISION DATE: June 20, 2018

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated February 16, 2018, from the Zoning Administrator, certifying the required relief. (Exhibit 12.)

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the D.C. Register and by mail to Advisory Neighborhood Commission (“ANC”) 6B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC did not submit a report in this case. However, Commissioner Nicholas Burger, who is the Single Member District member for ANC 6B06 and also is Chair of the ANC’s Planning and Zoning Committee, provided testimony at the May 16, 2018 hearing that the full ANC had voted to support the application at its April meeting by a vote of 8-0 (with one abstention). (Exhibit 38; Transcript, 5/16/18, p. 41-49.)

The Office of Planning (“OP”) submitted a timely report on May 4, 2018 recommending approval of the special exception relief but denial of the variance relief. (Exhibit 33.) At the May 16, 2018, the Board requested that the Applicant submit additional information detailing how the project met the variance test and asked OP to provide a supplemental report. The information requested from the Applicant was submitted to the record on June 11, 2018 (Exhibits 40-40C) and on June 15, 2018, OP submitted a supplemental report recommending approval for the variance relief. (Exhibit 44.) The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 34.)

The two adjacent property owners submitted letters in support of the application. (Exhibits 31 and 32.) The Capitol Hill Restoration Society submitted a letter in opposition. (Exhibit 30.)

Variance Relief

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for an area variance from the lot occupancy requirements of Subtitle E § 304.1, to permit an existing one-story accessory building in the RF-1 Zone. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the OP report filed in this case, the Board concludes that in seeking a variance from 11 DCMR Subtitle E § 304.1, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for special exceptions under Subtitle E § 5201 from the accessory building gross floor area limitations of Subtitle E § 5004.2(b), and from the accessory building rear setback requirements of Subtitle E § 5004.1.

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, 5004.1, and 5004.2(b), 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 40C.**

VOTE: **5-0-0** (Frederick L. Hill, Anthony J. Hood, Lesylleé M. White, Lorna L. John, and Carlton E. Hart to APPROVE.)

BZA APPLICATION NO. 19747

PAGE NO. 2

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 25, 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 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.

BZA APPLICATION NO. 19747

PAGE NO. 3

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19761 of Lisa McGuire, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, the rear yard requirements of Subtitle E § 306.1, and the nonconforming structure requirements of Subtitle C § 202.2(b), to permit an existing nonconforming rear deck and balcony on the lower level of an existing flat in the RF-1 Zone at premises 2825 11th Street N.W. (Square 2857, Lot 49).¹

HEARING DATE: Applicant waived right to a public hearing

DECISION DATE: June 13, 2018 (Expedited Review Calendar)

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 10.) 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") 1B, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1B, which is automatically a party to this application. The ANC submitted a report indicating that at a regularly scheduled and properly noticed meeting on June 7, 2018, at which a quorum was in attendance, ANC 1B voted 10-0-0 to support the application. (Exhibits 37 and 38.)

¹ The caption has been revised to clarify that the relief is limited to the lower level of the existing flat on the subject property. The subject property is a condominium building with two units in separate ownership. Each unit has an existing nonconforming deck in the rear of the property. This special exception request is filed on behalf of the owner of Unit No. 1 (the lower unit) for the first floor deck only. Relief has not been applied for or considered for the upper level.

The Office of Planning (“OP”) submitted a timely report in support of the application.² (Exhibit 32.) The District Department of Transportation (“DDOT”) submitted a timely report expressing no objection to the approval of the application. (Exhibit 31.)

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 special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, the rear yard requirements of Subtitle E § 306.1, and the nonconforming structure requirements of Subtitle C § 202.2(b), to permit an existing nonconforming rear deck and balcony on an existing flat 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 and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR, Subtitle X §§ 901.2, Subtitle E §§ 5201, 304.1 and 306.1, and Subtitle C § 202.2(b), 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 REVISED PLANS AT EXHIBIT 29.**

VOTE: 5-0-0 (Frederick L. Hill, Lesylleé M. White, Carlton E. Hart, Lorna L. John, and Peter G. May to APPROVE.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

² OP requested that the Order clearly state that the relief was only sought for and granted for the lower unit in the subject property. The Board ordered the caption to be changed accordingly.

FINAL DATE OF ORDER: June 25, 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 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. 19767 of Compass Coffee, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle U § 513.1(n) from the use requirements of Subtitle U § 512.1(d)(3), to permit a coffee/prepared foods shop with more than 18 seats in the MU-4 Zone at premises 1351 Wisconsin Avenue N.W. (Square 1243, Lot 75).

HEARING DATE: June 20, 2018

DECISION DATE: June 20, 2018

SUMMARY ORDER

SELF-CERTIFIED

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") 2E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2E, which is automatically a party to this application. The ANC submitted a timely report in support of the application. The ANC report indicated that at a duly noticed and scheduled public meeting on June 4, 2018, at which a quorum was present, the ANC voted 5-0-0 in support of the application. (Exhibit 30.)

The Office of Planning ("OP") submitted a report¹, recommending approval of the application. (Exhibit 31.)

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application with one condition. (Exhibit 29.) A letter of opposition from a resident was submitted to the record. (Exhibit 33.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle U § 513.1(n) from the use requirements of Subtitle U § 512.1(d)(3), to permit a coffee/prepared foods shop with more than 18 seats in the MU-4

¹ The Board waived the filing deadline for OP to submit its report.

Zone. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle U §§ 513.1(n) and 512.1(d)(3), that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 10 AND THE FOLLOWING CONDITION:**

1. The establishment shall provide no more than 120 seats.

VOTE: **5-0-0** (Carlton E. Hart, Anthony J. Hood, Frederick L. Hill, Lesylleé M. White, and Lorna L. John 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 22, 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

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THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19778 of Calvin Coolidge Presidential Foundation, Inc., pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the use provisions of Subtitle U § 203.1(n), and pursuant to Subtitle X, Chapter 10, for variances from the gross floor area requirements of Subtitle U § 203.1(n)(2), to permit the use of an existing residential building by a nonprofit organization in the R-20 Zone at premises 3425 Prospect Street N.W. (Square 1221, Lot 96).

HEARING DATE: June 20, 2018

DECISION DATE: June 20, 2018

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (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") 2E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2E, which is automatically a party to this application. The ANC submitted a timely report in support of the application. The ANC report indicated that at a duly noticed and scheduled public meeting on June 4, 2018, at which a quorum was present, the ANC voted 6-0-0 in support of the application. (Exhibit 37.)

The Office of Planning ("OP") submitted a timely report in support 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 with one condition. (Exhibit 36.)

Two letters of support were submitted to the record. (Exhibits 39 and 40.)

Variance Relief

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X §

1002.1 for an area variance from the gross floor area requirements of Subtitle U § 203.1(n)(2), to permit the use of an existing residential building by a nonprofit organization in the R-20 Zone. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the OP and ANC reports filed in this case, the Board concludes that in seeking a variance from 11 DCMR Subtitle U § 203.1(n)(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.

Special Exception Relief

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under the use provisions of Subtitle U § 203.1(n). No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle U § 203.1(n), that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 10 AND WITH THE FOLLOWING CONDITIONS:**

1. Normal employee hours shall be Monday through Friday, 8:00 AM to 8:30 PM, with occasional weekend hours, Saturday and Sunday, 9:00 AM to 5:00 PM.
2. The Coolidge Exhibit operating hours shall be from 9:00 AM to 4:30 PM, three days per week.

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3. Maximum number of staff on-site is limited to 10.
4. Temporary accommodation shall be provided for three to four Coolidge Scholars during the summer or academic year internships. Temporary accommodation shall also be provided for professors or other professional scholars conducting research on the presidency of Calvin Coolidge. No single scholar shall remain in residence for longer than three months.
5. Coolidge Foundation trustees, special guests and program participants may be provided temporary accommodation that shall not exceed a few nights at one time.
6. Special events are limited as follows:
 - a. Speaking series lectures, symposia, conferences, dinner discussions
 - i. 1-15 participants, 20 events per year;
 - ii. 1-50 participants, approximately one event per month;
 - iii. 50-100 participants, approximately one event per month.
 - b. Fundraisers
 - i. 200 participants, 2 events per year.
7. Any amplified noise associated with proposed events shall conclude before 9:00 PM, and amplified outdoor music shall not be provided.
8. The property shall not be rented for third-party purposes, including wedding receptions.
9. No parking spaces shall be provided on-site. The circular driveway accessible from 35th Street shall not be available for parking, and "No Parking" signage shall be installed. Employees shall be instructed to use public transportation, ride sharing services, or nearby parking garage facilities. Employees shall not be eligible to receive residential parking permits.
10. Event invitations shall advise guests that there is no on-site parking available, and shall suggest that guests arrive by other means. Complimentary valet parking shall be provided for events involving more than 100 persons, and shall occur along Prospect and 35th Streets. The applicant commits to engaging nearby parking garage operators to ensure there is capacity for special event parking.
11. The applicant shall coordinate large special event scheduling with the operators of the nearby Halcyon House.
12. Loading and unloading shall occur between the hours of 10:00 AM and 4:00 PM, and between 7:00 PM and 10:30 PM. Vendor breakdowns shall occur before 10:30 PM, or on the following day between 10:00 AM and 5:00 PM. Vendors shall be notified that idling their vehicles is prohibited.
13. If any portion of the project has elements in the public space requiring approval, including the reuse or closure of the existing circular driveway, the Applicant is required to pursue a public space permit through DDOT's permitting process.

VOTE: **5-0-0** (Anthony J. Hood, Lesylleé M. White, Frederick L. Hill, Lorna L. John, and Carlton E. Hart 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 25, 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 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

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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.

ZONING COMMISSION OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 07-13G
Z.C. Case No. 07-13G
Lowe Enterprises
(Modification of Consolidated PUD @ Square 643-S, Lot 801)
April 30, 2018

Pursuant to proper notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on March 29, 2018, to consider an application by Lowe Enterprises (“Applicant”) for review and approval of a modification to an approved planned unit development (“PUD”) (“Modification”) for property located in Square 643-S, Lot 801 (“Property”). The Commission considered the Modification pursuant to Subtitle Z, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). The public hearing was conducted in accordance with the provisions of 11-Z DCMR §408. The Commission approves the Modification, subject to the conditions below.

FINDINGS OF FACT

Application, Parties, and Hearing

1. By Z.C. Order No. 07-13, dated January 14, 2008 (“Original PUD Order”), the Commission approved a consolidated PUD and related amendment to the Zoning Map to permit the redevelopment of the former Randall Junior High School with nonresidential, arts-related uses and a new multi-story residential building (“Project”):
 - a. The Original PUD Order authorized the construction of a mixed-use building with approximately 76,043 square feet devoted to exhibition, studio, and classroom space for the Corcoran College of Art and Design, and another 423,800 square feet of residential space with approximately 440 to 490 residential units (“Original PUD”); and
 - b. The Original PUD Order approved the rezoning of the Property to the C-3-C Zone District and evaluated the impacts of the Original PUD, the sufficiency of the benefits and amenities package, and the consistency of the application with the Comprehensive Plan.
2. The Original PUD was modified and extended pursuant to the following actions by the Commission:
 - a. Pursuant to Z.C. Order No. 07-13A, dated June 9, 2008 and effective September 26, 2008, the Commission approved a minor modification to the Original PUD to allow construction of the project in phases;
 - b. Pursuant to Z.C. Order No. 07-13B, dated February 10, 2010 and effective March 17, 2010, the Commission granted a two-year extension for the Original PUD;

- c. Pursuant to Z.C. Order No. 07-13C, dated May 14, 2012 and effective March 19, 2010, the Commission granted another two-year extension for the Original PUD; and
 - d. Pursuant to Z.C. Order No. 07-13E, dated March 10, 2014 and effective May 9, 2014, the Commission granted another extension for the limited purposes of maintaining the Original PUD in effect until Z.C. Order No. 07-13D became effective.
3. By Z.C. Order No. 07-13D, effective May 9, 2014 (“Amended PUD Order”), the Commission approved significant revisions to the Original PUD:
 - a. The Amended PUD Order approved a number of significant changes to the Project including substantially revised architecture, a change in the nonresidential program from an arts school to a contemporary arts museum and other complementary nonresidential uses, an increase in the height of the residential portion of the building, an increase in the number of residential units, and modifications to the public benefits package to reflect the revised uses (“Amended PUD”); and
 - b. The Amended PUD Order addressed the Amended PUD’s impacts, benefits and amenities package, and consistency with the Comprehensive Plan, which included significant changes to the program and uses in the Original PUD.
4. Pursuant to Z.C. Order No. 07-13F, dated May 8, 2017 and effective August 11, 2017, the Commission granted a two-year extension such that a building permit application for the Amended PUD must be filed no later than May 9, 2019 and construction must commence May 9, 2020.
5. On September 11, 2017, the Applicant¹ submitted the application for the Modification of the Project in order to request certain changes to the approved plans and conditions. The Project continued to reflect the same uses, height, massing, and configuration as approved in the Amended PUD, including a new contemporary art museum and complementary nonresidential uses in the renovated historic school and new residential units in a new building behind the school, with 20% of the units set aside as affordable for households earning up to 80% of the Area Median Income (“AMI”). However, the Applicant requested:
 - a. Modifications to the building design, including enhancement and enlargement of the central courtyard, improved building access and circulation, enhanced preservation of the historic school, and refined architectural design of the residential component;

¹ As explained in the Applicant’s filing, the Property is currently owned by the Trustees of the Corcoran Gallery of Art. TR SW LLC (“TR SW”) is the contract purchaser of the Property. TR SW 2m LLC, an affiliate of TR SW, was the applicant under the Amended PUD. Lowe and TR SW have entered into a Co-Development Agreement, pursuant to which Lowe became the lead developer of the Project. (Exhibit [“Ex.”] 2.)

- b. Adjustments to the proposed nonresidential component of the Project, including expanding the museum use into the east wing of the historic school and introducing a mezzanine level into the west wing;
- c. Adjustments to the residential program, including the introduction of two-level townhouse style units on the ground floor, replacement of Juliet balconies with full balconies, and an overall reduction in the number of residential units
- d. Removal of the need for flexibility from all development requirements²; and
- e. Substitution of a new public benefit to replace previous proffers tied to the now-defunct Corcoran Gallery.

In addition to the foregoing changes, the Applicant requested revisions to the conditions of approval to reflect the modified design and uses in the Project as well as incorporate updated commitments made during the processing of the Modification. The Modification does not affect the overall height or mix of residential and nonresidential uses in the building, and it reduces the mass and bulk approved by the Commission in the original PUD. (Ex. 2.)

6. On December 1, 2017, the Office of Planning (“OP”) submitted a report recommending that the Modification be set down for a public hearing. (Ex. 10.)
7. At a public meeting on December 11, 2017, the Commission voted to set down Z.C. Case No. 07-13G for a public hearing. At this meeting, the Commission requested that the Applicant consider an increase in the number of private balconies at the Project, clarify the building and façade design details as well as details on the uses within the Project; explain the proposed public benefit that would replace the Corcoran benefits; clarify the relationship between the original affordable housing proffer and the current inclusionary zoning regulations; and consider an increase in the LEED commitment. The Commission also asked the Applicant to provide additional information regarding the relationship of the Project to the adjacent Randall Recreation Center and the capacity of local schools to accommodate with the new residents associated with the Project. (12/11/2017 Transcript (“Tr.”) at 15-22.)
8. Notice of the public hearing was published in the *D.C. Register* and was mailed to owners of all property within 200 feet of the subject property, Advisory Neighborhood Commission (“ANC”) 6D (the ANC in which the property is located), and the parties to the original application.
9. The application was updated by prehearing submissions dated January 23, 2018, February 27, 2018, and March 8, 2018. (Ex. 11, 20, 22.) The prehearing submissions included a Transportation Report on the Project prepared by the Applicant’s traffic expert, which was submitted in the January 23, 2018 prehearing submission and updated

² The Applicant initially maintained its request for penthouse height requirements, but in subsequent filings removed this request. (Ex. 22.)

on February 27, 2018. In the March 8, 2018 prehearing submission, the Applicant detailed the flexibility requested as part of the Modification, summarized the final benefits and amenities of the Project as modified, and addressed the impacts of the Modification on public safety and facilities, transportation, and the environment. (Ex. 22.)

10. ANC Reports. ANC 6D submitted three written reports in this case. The first stated that pursuant to a resolution adopted at a regularly-scheduled and duly-noticed public meeting on February 12, 2018, with a quorum present, the ANC voted 6-0-0 to support the Modification because it was consistent with the Amended PUD, maintains the approved benefits package, and delivers an increase in sustainability. The ANC's report also commented on the affordability for the inclusionary zoning ("IZ") units. (Ex. 18.) The second stated that pursuant to an additional resolution adopted at a regularly-scheduled and duly-noticed public meeting on March 19, 2018, with a quorum present, ANC 6D voted 5-0-0 to support the proposed Modification with the affordable housing commitment remaining at the originally-approved level of affordability. (Ex. 26.) The third was also in support of the Modification and rebutted several assertions made by DC for Reasonable Development: Ward 6 Study Group in its written opposition to the Modification. (Ex. 36.)
11. OP Report. By report dated March 19, 2018 and by testimony at the public hearing, OP recommended approval of the Modification, with a recommendation that additional information regarding balconies, canopies, and lights over ground-floor units, building articulation, and unit mix be provided. OP further acknowledged the Modification was consistent with the Amended PUD and that it was not inconsistent with the Comprehensive Plan, including the FLUM and GPM, and would further the objectives of the Land Use, Housing, Urban Design, Historic Preservation, Arts and Culture, and Lower Anacostia Waterfront/Near Southwest Plan Elements. OP evaluated the Modification under the standards set forth in the Zoning Regulations and concluded that the Modification satisfies the standards. OP acknowledged that the benefits and amenities for the Amended PUD were accepted by the Commission as part of the Amended PUD approval. OP acknowledged that the new benefits and amenities proffered, specifically free admission for District residents to the museum and increased sustainability, remain equivalent to, or are superior to, the benefits approved in the Amended PUD. (Ex. 23.)
12. DDOT Report. By report dated March 19, 2018 and by testimony at the public hearing, DDOT expressed no objection to the Modification, subject to the Applicant's agreement to conditions. Such conditions were: (1) fund and construct the installation of a second curb ramp on the southeast corner of the intersection of I Street and Half Street, S.W.; (2) implement the Loading Management Plan, and (3) strengthen the Transportation Demand Management Plan ("TDM"). DDOT agreed that the Modification would be consistent with the Amended PUD and the applicable conditions from that approval. DDOT reviewed and concurred with the Applicant's Transportation Memorandum conclusions. DDOT acknowledged that a Comprehensive Transportation Review ("CTR") was not required due to the minor revisions of the Modification. DDOT stated that the CTR from the Amended PUD remained valid. (Ex. 24.)

13. Other Public Agency Reports and Comments. On February 28, 2018, the Metropolitan Police Department (“MPD”) filed comments regarding the impacts of the Modification on traffic and public safety. (Ex. 19.)
14. On March 29, 2018, Robert Hall filed a letter in support of the Modification on behalf of the Capitol Park IV Condominium. (Ex. 27.)
15. On March 29, 2018, DC for Reasonable Development: Ward 6 Study Group (“DC4RD”) filed comments on the case, raising general concerns regarding impacts of the Project as a whole. (Ex. 30.)
16. On March 29, 2018, the Commission held a public hearing on the application which included the following:
 - a. On behalf of the Applicant, the Commission accepted Hany Hassan and Jessica Anderson as experts in architecture, Lisa Delplace as an expert in landscape architecture, and Daniel VanPelt as an expert in traffic engineering. (Ex. 11-11B). The Applicant provided testimony from these experts as well as from a representative of the Applicant, Mark Rivers;
 - b. In addition to the Applicant, ANC 6D was automatically a party in this proceeding, and Cara Shockley, the authorized representative of ANC 6D and the representative for the single-member district in which the Project is located, testified in support of the Modification. (3/29/18 Tr. at 43-46.) There were no other parties to the Modification; and
 - c. One individual, Coy McKinney, testified at the public hearing as undeclared, meaning he was neither in support or opposition to the Modification. McKinney, who had co-signed the DC4RD written submission, expressed support for the Project as a whole and urged the Commission to move it forward but raised concerns regarding affordable housing. (3/29/2018 Tr. at 48.)
17. At the public hearing, the Applicant submitted a TDM plan and a Loading Management plan, each addressing the issues raised in the DDOT Report, supplemental drawings addressing the issues raised in the OP Report, and proposed conditions of approval memorializing the changes and commitments associated with the Modification, including items requested by OP and DDOT in their reports as follows: (Ex. 29.)
 - a. At the hearing, OP testified in support of the Modification and acknowledged the acceptability of the proposed revisions to the building’s design and other information submitted by the Applicant, and expressed that it believed that two aspects of the building’s design deserved further study by the Applicant, namely, that the Applicant should study additional balconies and further refinements to the window reveal and mullions; (3/29/2018 Tr. at 41-42.)

- b. DDOT also testified in support of the application and acknowledged the acceptability of the proposed TDM and loading plans submitted by the Applicant; and (3/29/2018 Tr. at 42-43.)
 - c. At the public hearing, the Applicant addressed the security issues raised by MPD in its report and stated it would continue to work with MPD regarding security at the Property. (3/29/2018 Tr. at 39-41.)
18. At the close of the public hearing, the Commission requested that the Applicant respond to some outstanding comments and questions from the Commission and OP regarding the roof and building design. (3/29/2018 Tr. at 63.)
 19. The Applicant responded to the Commission's comments and questions in a post-hearing filing that it submitted on April 12, 2018. The Applicant's post-hearing submission included a revised penthouse design and additional balconies, which addressed the outstanding issues raised by OP and the Commission. The post-hearing submission also provided a written rebuttal to the comments and concerns submitted by DC4RD. The submission did not address the window reveal and mullion issue. (Ex. 32).
 20. At a regular public meeting on April 30, 2018, the Commission deliberated on the merits of the Application and the material contested issues, decided that it believed that no further study of the design of the building's window reveals and mullions was necessary, and it took final action to approve the application.

THE MERITS OF THE APPLICATION

Overview of the Property

21. The Property is located at 65 I Street, S.W. and has a land area of approximately 115,724 square feet. (Ex. 2.)
22. The Property is located in the Southwest neighborhood and is bounded by I Street on the south, former First Street on the west, partially closed H Street on the north, and former Half Street on the east. (Parts of former Half Street and H Street are now part of the Randall Recreation Center.) (Ex. 2.)
23. The Property is presently improved with the former Randall Junior High School, a historic landmark listed in the D.C. Inventory of Historic Places. (Ex. 1.)

Overview of the Proposed Modification

24. The Modification maintains the same scale, massing, building form, and character approved under the Amended PUD, but refines the Project design in the following ways:
 - a. *Enlargement of the Central Courtyard*: The Modification increases the size and appearance of the central courtyard through the elimination of a rear addition to

the historic building as well as upper-level wings of the residential building that cantilevered over the courtyard;

- b. *Building Access and Circulation:* The Modification improves building access and circulation through the relocation of the primary museum entrance to the east wing of the historic building, the relocation of the primary residential entrance to the center of the building at H Street, and the relocation of the parking access to the northeast corner of the site; and
- c. *Refined Architectural Design:* The Modification includes material and design refinements that simplify the façade of the residential building in order to accentuate its form and allow it to serve as a backdrop for the historic school. The Modification also improves the renovation of the historic school because it allows the central entrance to be restored without extensive ramps and it allows the rear façade to be maintained rather than blocked by a rear addition.

(Ex. 2.)

- 25. The Modification maintains the same general mix of uses but adjusts the character and location of those uses within the Project as follows:
 - a. *Central and East Wings of the Historic School:* The Modification proposes to utilize the east wing of the historic school for museum and ancillary retail space, with a large gallery space to hold larger pieces of art. The Amended PUD originally called for a restaurant in this space. The central wing continues to contain museum use;
 - b. *West Wing of the Historic School:* The Modification continues to include art-related nonresidential uses within the west wing of the historic school, but incorporates a mezzanine level to improve the functionality of this space. The wing will be devoted to uses that fit within the arts/design/creation, office, and institutional use categories. Overall, the net amount of commercial use in the historic school decreases from 23,303 square feet in the Amended PUD to 18,602 square feet in the Modification; and
 - c. *Residential Building:* The Modification reduces the total unit number in the residential building from 520 to 489 units and incorporates ground-floor two-level “townhouse-style” units along the Project’s street frontage.

(Ex. 2.)

- 26. The Modification is within the height, density, and lot occupancy previously approved by the Commission. The Project maintains the building height at 110 feet and lot occupancy at 60%, but lowers the overall density from 4.32 floor area ratio (“FAR”) to 4.25 FAR, including a reduction in nonresidential use from 0.48 FAR to 0.44 FAR. (Ex. 29D.)

27. The Modification reduces the amount to vehicular parking to 249 vehicular parking spaces as well as 175 long-term and 36 short-term bicycle parking spaces. These amounts align with the amount of parking required by the Zoning Regulations. Finally, the Modification includes the required loading for the proposed mix of uses. (Ex. 29D.)

Modifications to PUD Flexibility

28. The Modification continues to request rezoning to the C-3-C Zone District, which the Commission previously concluded was appropriate. The Project no longer requires flexibility from the requirements of the Zoning Regulations. (Ex. 22.)
29. The Modification brings forward and updates requests for flexibility to adjust the nonresidential uses within the Project to accommodate tenants that would be complementary to the museum use. (Ex. 22.) The Modification also brings forward and updates requests for design flexibility as well as flexibility in the final number of residential units and parking spaces and flexibility to phase implementation of the Project. (Ex. 22.)

Modifications to the Project Amenities and Public Benefits

30. The Modification carries forward the same public benefits and amenities as the Amended PUD (with only minor changes related to three benefits related to the Corcoran Gallery of Art, which is no longer in existence) which the Commission previously found to be commensurate with the flexibility requested and not inconsistent with the Comprehensive Plan. (Ex. 2, 22.)
31. To replace the conditions from the Amended PUD related to the Corcoran, the Applicant has proffered to provide free admission to the museum for all residents of the District. This benefit is of great value to the District and will promote access to and engagement with the arts. (Ex. 2, 22, 29C.)
32. The Applicant proffered its revised architectural design and enlarged courtyard for the residential building as continuing to provide superior urban design and architecture as well as superior landscaping and site planning. (Ex. 2, 22.)
33. The Applicant also increased its sustainability benefit. Under the Amended PUD, the Applicant was required to achieve the equivalent of a Silver rating under LEED-2009. The Modification includes a commitment to achieve a Gold certification for the residential component and a Silver certification for the museum component, both under the more current LEED v.4 standard. The Modification also includes the incorporation of solar panels on the roof of the residential building, which will provide renewable energy for the Project. (Ex. 11, 22.)
34. Finally, the Applicant has increased the value of the housing and affordable housing benefits. The Project will now contain approximately 19 “townhouse-style” units geared toward families. The Project will maintain the same affordable housing component as previously approved by the Commission, but will now extend the duration of

affordability from 50 years to the life of the Project and will include at least 20% of the larger units in that affordable housing set-aside. (Ex. 11, 22, 29C.)

Modification – Evaluation of Compliance with the Comprehensive Plan and Other Planning Guidance

35. The applicable portions of the Comprehensive Plan (“Comprehensive Plan”), including the Future Land Use Map (“FLUM”), Generalized Policy Map (“GPM”), and written policies and goals, remain the same as the provisions reviewed and evaluated by the Commission when it analyzed the Original PUD and the Amended PUD and concluded each were not inconsistent with the Comprehensive Plan.
36. The Modification includes minimal changes to the Amended PUD as it relates to the Comprehensive Plan, and the changes proposed by the Applicant are not inconsistent with the Comprehensive Plan. These changes include:
 - a. An enlarged courtyard that is consistent with the Land Use Element’s focus on infill development that complements the area (LU-1.4.1);
 - b. Additional housing and affordable housing opportunities geared toward families which fulfill goals in the Housing Element (H-1.3.1);
 - c. Improved treatment and preservation of the historic Randall School, furthering provisions of the Historic Preservation Element (HP-2.4.1; HP-2.4.3);
 - d. Free admission to the contemporary art museum for District residents, which furthers the Comprehensive Plan’s goals of distributing arts facilities and promoting cultural amenities for District residents (AC-1.1.2; AC-1.1.3; AC-4.2.1); and
 - e. Commitment to Gold certification for the residential component and Silver certification for the museum component under the LEED v.4 standard as well as the incorporation of solar panels, which address sustainability goals of the Comprehensive Plan (E-2.2.1; E-2.2.4; E-2.2.5; E-3.1.2; E-3.2.1).
37. The Modification is also not inconsistent with the recently-adopted Southwest Small Area Plan, which specifically calls for the development of an I Street cultural corridor. (Ex. 2.)

Standard of Review for a PUD Modification

38. When reviewing a PUD modification, the Commission limits its analysis to the impact of the modification. The Commission does not revisit its original decision. (11-Z DCMR § 704.4.)
39. Moreover, when the Commission is reviewing modifications to a second-stage PUD, the modification is processed as a second-stage PUD application. (11-Z DCMR § 704.3.)

Accordingly, a modification focuses on revisions to the detailed building and landscape plans as well as transportation management and mitigation measures. (11-X DCMR § 302.2(b).) Issues such as the appropriateness, character, scale, height, mix of uses, proposed rezoning, and compatibility of the proposed development with the Comprehensive Plan are all first-stage PUD issues that are not revisited in the modification of a second-stage PUD. (*See Randolph v. D.C. Zoning Commission*, 83 A.3d 756, 761-63 (D.C. 2014); *see also* 11-X DCMR § 302.2(a) (outlining components reviewed in a first-stage PUD application).)

40. Here, the Commission undertook a thorough and complete evaluation of the Project during its processing of the Original PUD, where the Commission judged, balanced, and reconciled the relative value of the Project's benefits and amenities against the degree of development incentives requested and its potential adverse impact. The Commission also evaluated and found that the Project was not inconsistent with the Comprehensive Plan, did not result in unacceptable project impacts on the surrounding area or on public facilities, and included acceptable public benefits and project amenities. The Commission then undertook a similar comprehensive review of the Amended PUD, which incorporated a number of changes to fundamental aspects of the PUD, such as the increased height and size of the residential component, the change in use of the nonresidential component to an art museum and related uses, and the current proposed benefits package. Accordingly, the Commission cannot and will not re-evaluate them in this Modification.

Compliance with Standards for a PUD Modification

41. As explained above, in evaluating a PUD modification, the Commission's review is "limited to impact of the modification on the subject of the original application." Here, the Commission finds that Project is consistent with Commission's previous approvals of the Original PUD and the Amended PUD, which concluded that the Project satisfied its burden of proof under the Zoning Regulations regarding the satisfaction of the PUD standards and guidelines. The design modifications and other refinements proposed by the Applicant do not alter the fundamental aspects of the Project, including its rezoning, height, density, massing, appropriateness, character, scale, impacts, benefits, and consistency with the Comprehensive Plan. The Modification does not request additional flexibility for the project, and in fact reduces the areas of flexibility required for the overall development of the Property. (Ex. 22.) The Modification also maintains the same mix of uses and reduces the overall density and number of units, yet increases the size of the publicly-accessible courtyard and the extent of preservation of the historic school. (Ex. 2, 22.)
42. The Commission credits the testimony from the Applicant and OP that the proposed modifications to the design and use of the Project are consistent with the intent and purpose of the approved PUD and continue to provide superior architecture, landscaping, and site planning.

43. The Commission credits testimony from the Applicant and OP and finds that the additional benefits proffered by the Applicant, including free museum admission, enhanced sustainability, and family-sized housing units, all constitute acceptable public benefits and project amenities that offset the elimination of the modest amenities related to the now-defunct Corcoran Gallery of Art. The Commission also finds that the proposed Modification's adjustments to the public benefits package are appropriate and remain commensurate with the development incentives and effects of the Project. The Project as a whole will provide a host of public benefits, including superior architecture and landscaping, site planning, safe vehicular and pedestrian access, environmentally sustainable features, employment opportunities, historic preservation, and housing and affordable housing, which continue to be acceptable project amenities and public benefits.
44. The Commission credits the testimony of the Applicant's traffic consultant and DDOT and finds that the traffic, parking, and loading impacts of the Modification on the surrounding area will not be unacceptable and are capable of being mitigated through the TDM plan, loading management plan, and other measures proposed by the Applicant. The Commission also finds that the impacts of the Project, as modified, on the surrounding area and on public facilities remain acceptable. The Project remains consistent with the size, scale, and mix of uses in the Amended PUD and accordingly imposes no greater impact than the Commission already concluded was acceptable. Indeed, the Modification reduces the number of residential units and amount of nonresidential use in the Project and therefore will be likely to have less impact than the previously-approved version.
45. The Commission credits the testimony of the Applicant and OP that the Modification remains consistent with the Comprehensive Plan. Again, the Project's density, character, scale, and mix of uses are comparable to or less than what the Commission already concluded was not inconsistent with the Comprehensive Plan's FLUM and GPM in the Amended PUD, and the Project otherwise promotes the same goals and policies in the citywide and area elements of the Comprehensive Plan.

Contested Issues

46. DC4RD filed comments outlining four concerns: (1) the Commission did not undertake an appropriate study of the impacts of the PUD; (2) the PUD does not provide a statutorily-compliant proffer of affordable housing and harms existing levels of affordability (raised in multiple points); (3) the PUD does not include enough family-sized units; and (4) the PUD does not include support for local businesses or organizations. The letter also alludes to "referenced" Comprehensive Plan policies, though they are listed by number only at the end of the document, and the document does not provide any explanation of how the Project is not inconsistent with these "referenced" Comprehensive Plan policies. (Ex. 30.)
47. Broadly, the issues raised by DC4RD are unsubstantiated generalized grievances. They do not relate to the specific changes proposed in the Modification but instead raise issues

regarding affordable housing and overall impacts of the PUD as a whole. With respect to the Comprehensive Plan, DC4RD included in its letter a listing of several policies that it “references” as applicable to the Project, but DC4RD fails to assert any claim that the Project is inconsistent with these policies and does not explain their relevance to the Commission’s evaluation of the Modification as discussed below:

- a. As a threshold matter, the issues raised by DC4RD regarding the impacts of the overall PUD, the housing, affordable housing, and other benefits of the PUD, and consistency of the Project with the Comprehensive Plan, are all beyond the scope of this PUD modification proceeding. The Commission previously conducted two thorough reviews of the Project and concluded—twice—that the Project met the standards for approval. The sole issue before the Commission is whether the Modification, which is focused on building design and other refinements, warrants approval; and
 - b. Furthermore, as this Commission has previously found, an applicant is not obligated to respond to such generalized and unsupported assertions. (*See, e.g.* Z.C. Order No. 11-03J(1) (2018).) For a party or witness to raise issues for which a response is required, the party or witness must have some factual basis for the claim and draw a nexus between the claimed deficiency and the current application. DC4RD’s letter did not do so with respect to these issues; it simply presented a list of blanket complaints and Plan provisions, without any explanation of how the items related to the Modification or, in some cases, the Project at all. Indeed, as the Applicant pointed out in its post-hearing submission, DC4RD filed a letter raising the same generalized arguments and Comprehensive Plan provisions regarding another PUD proceeding in Southwest one week later. (Ex. 32.)
48. Nevertheless, at the hearing on March 29th and in its post-hearing submission, the Applicant provided detailed rebuttal to each of the issues described above, and the Commission therefore addresses each DC4RD claim in turn. (Ex. 32.)
49. DC4RD alleges that the PUD’s impacts on infrastructure, city services, gentrification, and the environment were not properly reviewed; those allegations are addressed as follows:
- a. These impacts were all thoroughly examined and evaluated in connection with the Original PUD as well as the Amended PUD, which included not only multiple submissions from the Applicant but also extensive agency reviews by OP and DDOT as well as comments from other District agencies and utilities, including the Department of Housing and Community Development, the Metropolitan Police Department, and DC Water. (Z.C. Order No. 07-13D at 20 [FOF 63].) The Original PUD also included a detailed economic impact analysis of the housing and other aspects of the Project on the surrounding neighborhood as well as the District as a whole. (Ex. 32 at 4.) In both proceedings, the Commission’s

conclusion that the impacts of the Project would not be unacceptable was based on extensive evidence that addressed the specific impacts raised by DC4RD;

- b. In this Modification, the proposed changes to the Amended PUD were reviewed in detail not only by multiple divisions within OP and DDOT but also by multiple other District agencies as well as the Historic Preservation Review Board and the Public Space Committee. (Ex. 32 at p. 5-6.) Accordingly, the Commission finds that the impacts of the Modification were adequately reviewed; and
 - c. The Modification includes the same general amount and type of residential and nonresidential uses as the Commission approved in the Amended PUD. Again, given that the Project is now somewhat smaller in size than the Amended PUD and yet provides the same or greater level of benefit, the Modification's impacts are materially the same, so the Modification does not alter the Commission's previous conclusions.
50. DC4RD alleges that the PUD's affordable housing is unacceptable, fails to comply with the IZ and other District law, and harms existing levels of affordability. The Commission disagrees:
- a. DC4RD misrepresents what constitutes affordable housing under District law and policy. Broadly, the Comprehensive Plan calls for the production of low- and moderate-income affordable housing (H-1.2.1) and ties production goals to the delivery of housing affordable to households earning up to 80% of the AMI (H-1.2.2);
 - b. Here, the amount and type of affordable housing provided for the Project was established through legislation enacted by the Council for the District of Columbia in connection with the disposition of the Property over a decade ago. (*See* Randall School Sale Approval Resolution of 2004 (R15-0818), 52 D.C. Reg. 250 (Dec. 21, 2004); Randall School Disposition Restatement Congressional Review Emergency Declaration Resolution of 2011 (R19-0011), 58 D.C. Reg. 779 (Jan. 28, 2011).) Accordingly, the Project's affordable housing embodies the clear legislative intent of the Council and remains valid, even if District law may now require a different affordable housing allocation; (Ex. 32.)
 - c. The Commission approved the amount and type of affordable housing within the Project in connection with the Original PUD a decade ago. At that time, the Project exceeded significantly the amount of affordable housing otherwise required by IZ. This affordable housing component was maintained through the 2014 Amended PUD and it continues to be maintained in the Modification; the Project's affordable housing is grandfathered under the requirement in the Original PUD; (Ex. 32.)
 - d. Although the Modification does not propose a change in the Project's affordable housing component, the Applicant voluntarily explored certain alternatives and explained in detail its efforts to do so, even though it was under no obligation to

make such changes because of the scope of this proceeding was limited to the aspects of the PUD design being modified. (Ex. 11, 22.) OP and the ANC each expressly supported the Applicant's efforts as well as the ultimate determination to maintain the existing affordable housing program; and (Ex. 23, 26.)

- e. Finally, all of the housing in this project will be new housing. No existing housing will be eliminated and no existing residents will be displaced. Rather, the Project will create a new supply of both market-rate and affordable housing with a variety of unit types (studios to townhouse style three-bedrooms) that will satisfy many demands. (Ex. 32.)
51. DC4RD alleges that the project does not provide enough family-sized units. There is no requirement in the Zoning Regulations, the Original PUD, or the Amended PUD to provide such units; nevertheless, the Applicant has agreed to provide 19 two-level, three-bedroom units on the ground level of the Project. Moreover, the Applicant has agreed to include 20% of these units in the Project's affordable housing program. As a result, the effect of the Modification is to increase the number of family-sized units. (Ex. 32.)
 52. DC4RD alleges that the project does not support entrepreneurs and local residents. Again, no such support is required; nevertheless, the Amended PUD included multiple benefits that will support local artists and construction workers in ANC 6D and beyond, including an annual exhibit of artwork by residents of ANC 6D, resources to support an annual ANC 6D visual arts project; a First Source Employment Agreement, and a Certified Business Enterprise Agreement. These benefits are retained in the Modification. (Ex. 32.)

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process provides a means for creating a "higher quality development." The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and protects and advances the public health, safety, welfare, and convenience." (11 DCMR X § 300.1.)
2. Development of the Property included in this application carries out the purposes of Subtitle X, Chapter 3 of the Zoning Regulations to encourage the development of well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development. As was the case for the Original PUD and the Amended PUD, the Commission concludes that the Modification continues to promote the purposes of the PUD process.
3. When reviewing a PUD modification, the Commission limits its analysis to the impact of the modification on the original application. The Commission does not revisit its original decision. (11-Z DCMR § 704.4.) Moreover, when the Commission is reviewing modifications to a second-stage PUD, the modification is processed as a second-stage PUD application and focuses on revisions to the detailed building and landscape plans as well as transportation management and mitigation measures. (11-Z DCMR §§ 302.2(b),

- 704.3.) The appropriateness, character, scale, height, mix of uses, proposed rezoning, and compatibility of the proposed development with the Comprehensive Plan are not revisited in the modification of a second-stage PUD. (*See Randolph v. D.C. Zoning Commission*, 83 A.3d 756, 761-63 (D.C. 2014).) Accordingly, the Commission has already determined that the Project was not inconsistent with the Comprehensive Plan, did not result in unacceptable project impacts on the surrounding area or on public facilities, and included acceptable public benefits and project amenities. All of these issues are settled as a matter of law, and the Commission cannot and will not re-evaluate them in this Modification.
4. The Original PUD and the Amended PUD were both reviewed and approved under the previous version of the Zoning Regulations, which were updated and replaced by the current version of the Zoning Regulations in 2016. Pursuant to Subtitle A § 102.4, this Modification is reviewed under the 2016 Zoning Regulations.
 5. The Modification, as approved by the Commission, does not affect the overall height, bulk, density, character, scale, mix of uses, or appropriateness of the Project approved by the Commission in the Original PUD, as amended by the Amended PUD. The designs and uses for this Project, as refined by the Modification, are appropriate for the Property. The Modification retains virtually all of the public benefits proffered in the Amended PUD and incorporates additional public benefits that are acceptable to the Commission.
 6. Based on the Applicant's expert testimony and transportation reports, agency reports, and the Findings of Fact, the Commission concludes that the transportation impacts of the Modification on the surrounding area are not unacceptable and are capable of being mitigated through the measures proposed by the Applicant and concurred with by DDOT. Moreover, the impact of the overall Project on the surrounding area and the operation of city services continues to be acceptable given the quality of the public benefits in the Project, and the Commission concludes that the Project will not result in unacceptable impacts on land density, housing and affordable housing, infrastructure, public services, and the environment.
 7. Based on the character of the proposed changes, the Commission concludes that the Modification is consistent with the intent of and achieves the same goals as the previously approved PUD. The Commission concludes that its decision to approve the Modification is in the best interests of the District of Columbia and is consistent with the intent, purpose, and integrity of the Zoning Regulations and Zoning Map.
 8. Based on evidence submitted by the Applicant and OP and the Findings of Fact, the Commission concludes that the Modification is not inconsistent with the Comprehensive Plan. The Commission previously concluded that the Project as a whole was not inconsistent with the Comprehensive Plan, including the Property's designation on the FLUM and GPM as well as with many policies and goals of the Plan, as discussed in the Original PUD Order and Amended PUD Order. The Modification does not alter the underlying facts that supported the Commission's original conclusions regarding the Comprehensive Plan. The Modification further expands free access to the Museum,

creates additional housing and affordable housing for families, furthers District sustainability and renewable energy goals, and otherwise builds upon the Project's consistency with the goals and policies of the Comprehensive Plan.

9. The Commission is required under Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to issues and concerns raised in the affected ANC's written recommendation. Great weight requires the acknowledgement of the ANC as the source of the recommendations and explicit reference to each of the ANC's concerns. The written rationale for the decision must articulate with precision why the ANC does or does not offer persuasive evidence under the circumstances. In doing so, the Commission must articulate specific findings and conclusions with respect to each issue and concern raised by the ANC. D.C. Official Code § 1-309.10(d)(3)(A) and (B). As described in Finding of Fact No. 10 above, there were two written submissions by the affected ANC in this case. The first stated that ANC 6D supported the Modification because it was consistent with the Amended PUD, maintained the approved benefits package, and delivered an increase in sustainability. The ANC's report also commented on the affordability for the inclusionary zoning units. (Ex. 18). The second report stated that ANC 6D continued to support the proposed Modification with the affordable housing commitment remaining at the originally-approved level of affordability. (Ex. 26.) The third was also in support of the Modification and rebutted several assertions made by DC for Reasonable Development: Ward 6 Study Group in its written opposition to the Modification. (Ex. 36.) Because in sum the reports 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 Commission nonetheless carefully considered the ANC's reports and statements in making its decision.
10. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (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.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of this application for modification of a PUD approved pursuant to Z.C. Order No. 07-13 and subsequent related Z.C. Order Nos. 07-13A-07-13F, subject to the following Conditions:

A. Project Development

1. The PUD shall be developed in accordance with the plans and materials submitted by the Applicant, dated March 8, 2018 and marked as Exhibit 22B1-22B7 of the record, as supplemented by Exhibit 29D ("Plans"), Exhibit 32C, and as modified by the guidelines, conditions, and standards of this Order.

2. In accordance with the Plans, the project shall be developed as a mixed-use project as follows, with a maximum density of 4.25 FAR (“Project”):
 - a. The east and center wings of the historic building shall include approximately 31,389 square feet of gross floor area devoted to museum and ancillary retail and event uses;
 - b. The west wing of the historic building shall include approximately 18,602 square feet of gross floor area devoted to uses in the office, institutional, and arts/design/creation use categories; and
 - c. The residential building shall include approximately 489 units. The ground floor of the east wing of the residential building shall be used for either residential uses or for uses in the retail, service, eating/drinking establishment, and arts/design/creation use categories, as shown on pages A09–A10 of the Plans. (Ex. 29D.)
3. The PUD shall be constructed to a maximum height of 110 feet as shown on the Plans. Roof structures shall be permitted to exceed the building height by a maximum of 20 feet as shown on the Plans.
4. The PUD shall provide a minimum of 249 parking spaces as shown on the Plans. Loading facilities shall be provided as shown on the Plans.
5. The Applicant shall have flexibility with the design of the PUD in the following areas:
 - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;
 - 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 make minor refinements to exterior details and dimensions that do not significantly alter the exterior design as shown on the plans, including without limitation to sills, bases, mullions, coping, railings and trim, or any other changes: (1) to comply with Construction Codes that are otherwise necessary to obtain a final building permit, (2) to comport with final design comments from District historic preservation officials, or (3) to address the structural, mechanical, or operational needs of the building uses or systems;
 - d. To vary the final number of residential units plus or minus 10%, and accordingly adjust the number and location of affordable units to reflect

- the final unit mix of the Project, provided that the distribution of affordable units by floor shall remain consistent with the plans;
- e. To vary the final number of parking spaces between 249 and 275 parking spaces;
 - f. To vary the final streetscape design and materials in the public right-of-way, in response to direction received from District public space permitting authorities;
 - g. To vary the final landscaping materials of the Project based on availability and suitability at the time of construction or otherwise in order to satisfy any permitting requirements of DC Water, DDOT, DOEE, DCRA, or other applicable regulatory bodies;
 - h. To vary the location and type of green roof, solar panels, and paver areas to meet stormwater requirements and sustainability goals or otherwise satisfy permitting requirements; and
 - i. To implement the alternate ground-floor plan shown on page A10 of the Plans, which will allow for the conversion of residential units to commercial retail/service/restaurant uses. (Ex. 29D.)
6. The Applicant shall have the option to construct the Project in phases, as shown on the Plans, as follows:
- a. Phase I shall include the renovation of the historic school, the delivery of the art museum, the underground parking, the proposed courtyard, the east wing of the residential building, and the perimeter improvements around the entire PUD site, all as shown on page A41 of the Plans (“Phase I”), and Phase II shall include the west wing of the residential building (“Phase II”); and
 - b. The Applicant shall improve the temporary exposed west façade of the Phase I residential building as shown on page A42 of the Plans with a mural or other artwork as shown on the precedent image, and the Applicant shall be permitted to enclose the Phase II site with a security perimeter fence as shown on the precedent image on Page A41 of the Plans. (Ex. 29D.)

B. Public Benefits

1. Housing and Affordable Housing:
 - a. The Applicant shall provide approximately 441,110 square feet of gross floor area to be devoted to residential uses, which shall include a

minimum of approximately 19 two-story “townhouse” style units as shown on the Plans; and

- b. **For the life of the Project**, the Applicant shall set aside a minimum of 20% of the residential gross floor area, or approximately 88,222 square feet of gross floor area, as Inclusionary Zoning Units in accordance with Subtitle C, Chapter 10 of the Zoning Regulations, except that pursuant to Z.C. Order No. 07-13, such units shall be set aside for households earning up to 80% of the Median Family Income, with preferences for residents of ANC 6D to the extent permitted by law. In addition, the Applicant shall ensure that a minimum of 20% of each of the two-bedroom and “townhouse” units are set aside as inclusionary zoning units.
2. **Museum**. The Applicant shall provide approximately 31,839 square feet of gross floor area of the PUD for museum uses, as shown on the Plans.
3. **Courtyard**. The courtyard will be open to the public from 8:00 a.m. to 5:00 p.m., Monday through Friday.
4. **Private Space Improvements and Public Access Easement**. **Prior to the issuance of a certificate of occupancy for the residential component of the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has provided streetscape and roadway improvements as shown on the Plans, extending the length of the Project’s 1st Street and H Street frontage, and recorded an easement that grants public pedestrian and vehicular access along the private portions of 1st Street and H Street within the PUD site.
5. **Randall Recreation Center Drop-off/Turn-Around**. If approved by the District and the Department of Parks and Recreation, **prior to the issuance of a certificate of occupancy for the residential component of the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has created a vehicular drop-off and turn-around point to serve both the Randall Recreation Center and the east portion of the PUD, as shown on the Plans.
6. **Sustainability**:
 - a. **Prior to the issuance of a certificate of occupancy for the residential portion of the Project**, the Applicant shall provide the Zoning Administrator with evidence that the residential portion of the Project is on track to secure LEED-Gold certification or higher from the U.S. Green Building Council under the LEED v.4 rating system. **Within 12 months after the issuance of such certificate of occupancy**, the Applicant shall submit evidence to the Zoning Administrator that it has secured such LEED-Gold certification. In the event that the residential portion of the Project is phased pursuant to Condition A.6, compliance with this condition shall be evaluated based on the residential building as a whole, and the Applicant shall not be required to submit evidence of LEED-Gold

certification until issuance of the certificate of occupancy for the second and final phase of the Project;

- b. **Prior to the issuance of a certificate of occupancy for the historic school portion of the Project**, the Applicant shall provide the Zoning Administrator with evidence that the historic school portion of the Project is on track to secure LEED-Silver certification or higher from the U.S. Green Building Council under the LEED v.4 rating system. **Within 12 months after the issuance of such certificate of occupancy**, the Applicant shall submit evidence to the Zoning Administrator that it has secured such LEED-Silver certification; and
- c. **For the life of the Project**, the Applicant shall provide solar panels as shown on the Plans.

7. **Benefits of Special Value to the Neighborhood:**

- a. *Museum Admission Policy:* The Applicant shall provide free general admission to the art museum to all District of Columbia residents as long as the museum is open to the public. In its discretion, the Applicant may implement this free-admission policy by issuing membership cards to residents or by accepting another form of residential identification;
- b. *Meeting Space:* The Applicant shall provide meeting space on the lower level of the museum, or other suitable meeting space, at no charge for one neighborhood town meeting per calendar month and for one small-room meeting per calendar month;
- c. *Art Exhibits:* The Applicant shall organize an annual exhibit of artwork by residents of ANC 6D, including at least one public-school student. The art will be displayed in the local artists' gallery shown on page A08 of the Plans; (Ex. 22B2.)
- d. *Art Projects:* The Applicant shall designate an annual ANC 6D neighborhood visual arts project and provide the resources needed to make that project a reality. The Applicant will designate a community outreach coordinator to work with ANC 6D to create and annual visual arts project, and to supply, directly or through a third parties, the art materials, display location and funding for the project;
- e. *Art Festival:* The Applicant will designate a community outreach coordinator to work with ANC 6D and the Washington Project for the Arts to organize, sponsor, and provide resources for an annual public, free admission outdoor Arts Festival in ANC 6D;

- f. *ANC 6D Volunteers*: Applicant shall establish a program of recruiting museum volunteers from ANC 6D, who will receive free admission to at least one paid event at the museum;
 - g. [deleted]
 - h. [deleted]
 - i. [deleted]
 - j. *Southwest Historic District Study*: **Prior to the issuance of a certificate of occupancy**, the Applicant shall contribute \$20,000 to Southwest Neighborhood Assembly to support the study and development of a Southwest Washington historic district;
 - k. *Arts Program at Randall Recreation Center*: **Prior to the issuance of a certificate of occupancy**, the Applicant shall contribute to the Southeast Southwest Community Benefits Coordinating Council (“CBCC”) \$1,000 per month, for a period of five years, to help fund arts programming at the Randall Recreation Center. CBCC will create a plan for arts programming in consultation with Washington Project for the Arts and others, including the Applicant. The Applicant may accelerate payments in order to obtain a certificate of occupancy;
 - l. *Construction Management Plan*: **Prior to the issuance of a building permit**, the Applicant shall submit a construction management plan to the ANC; and
 - m. *RPP Restrictions*: **Prior to the issuance of a certificate of occupancy for the residential portion of the PUD**, the Applicant shall provide evidence that restrictions will be included in the residential leases or condominium documents prohibiting a RPP from the Department of Motor Vehicles. The Applicant shall also provide evidence that it has requested that the building be removed or excluded from the RPP program.
8. **First Source Employment Agreement. Prior to the issuance of a building permit and if approved by the Department of Employment Services**, the Applicant shall execute a First Source Employment Agreement with the Department of Employment Services in order to achieve the goal of utilizing D.C. residents for at least 51% of the jobs created by the construction of the PUD. The Applicant shall give residents from ANC 6D special consideration for employment to the extent permitted by law.
9. **CBE Agreement. Prior to issuance of a building permit**, the Applicant shall execute a Certified Business Enterprise agreement with the Department of Small and Local Business Development and submit a copy to the Office of Zoning. The CBE Agreement shall commit the Applicant to achieve, at a minimum, the goal of

35% participation by local, small, or disadvantaged businesses in the contracted development costs in connection with the design, development, and construction for the project created as a result of the PUD.

C. Mitigation Measures

1. Public Space Improvements. If approved by DDOT, **prior to the issuance of a certificate of occupancy for the residential component of the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has provided public space improvements as shown on the Plans, extending the length of the Project's I Street and H Street frontage. Subject to approval by DDOT, the improvements shall include the missing curb ramp on the southeast corner of I Street and Half Street, S.W., if such ramp has not yet been constructed.
2. **Transportation Demand Management ("TDM") Measures. For the life of the Project**, the Applicant shall implement the following TDM measures:
 - a. *TDM Leaders*: 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, employees, and patrons, including development of a site-specific transportation. The TDM Leaders shall act as a point-of-contact for DDOT;
 - b. *TDM Reporting*: The building management shall provide updated contact information for the TDM Leaders and report TDM efforts and amenities to goDCgo staff once per year;
 - c. *TDM Information for Museum Patrons*: The museum's website shall provide links to godcgo.com, information on alternative modes of travel, instructions for event patrons, and it shall discourage parking on-street in residential permit parking zones;
 - d. *TDM Information for Tenants and Residents*: The Applicant shall distribute new-tenant and new-resident packages with materials provided by DDOT including site-specific transit-related information to all persons or entities signing leases;
 - e. *Transportation Information Centers*: **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has provided a transportation information center located in each residential, office, and museum lobby, maintained by the TDM Leader(s). The transportation information centers shall be stations located within each building in a visible location and shall contain information, either printed, electronic, or both, regarding non-automotive travel options for employees, residents, and museum patrons;

- f. *Transportation Information Board:* **Prior to the issuance of a certificate of occupancy for the residential component of the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has installed an electronic message board displaying relevant transportation information, such as transit estimated arrival times at nearby stops/stations and Capital Bikeshare availability at nearby stations in the residential lobby;
- g. *Residential Parking Pricing:* The Applicant shall unbundle all residential parking costs from the cost of lease or purchase. Residential parking shall be priced to limit demand in a way to help achieve the parking ratios goals;
- h. *Office and Museum Parking Pricing:* The Applicant shall price office and museum parking at market cost, defined as no less than the charges of the lowest fee garage located within a quarter-mile mile;
- i. *Electric Vehicle Parking:* **For the life of the Project**, the Applicant shall provide a minimum of six electric car charging stations within the Project or on the Property;
- j. *Carshare Spaces:* **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has reserved two carshare spaces on-site in a location of its choosing. If carshare providers do not locate a vehicle in one of these two spaces on-site, then the Applicant shall provide one annual carshare or bikeshare membership to each residential **for one year after initial occupancy**. This shall be in an addition to the two years of carshare or bikeshare memberships should such be required in lieu of a Capital Bikeshare station;
- k. *Bicycle Parking and Facilities:* **Prior to the issuance of a certificate of occupancy for the residential component of the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has provided a minimum of 175 long-term spaces within the PUD as shown on the Plans and, subject to approval by public space officials, a minimum of 36 short-term parking spaces on the public and private streets surrounding the perimeter of the PUD as shown on the Plans. The Applicant shall also demonstrate that it has provided a minimum of two showers and four lockers within the museum component of the PUD as shown on the page A08 of the Plans; and (Ex. 29B2.)
- l. *Bikeshare Station:* **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has paid for the cost of installation and one year of operating costs for a 19-dock Capital Bikeshare station in the immediate vicinity of the Property at a location to be selected by DDOT. If another

station is installed within 750 feet prior to the Applicant installing a 19-dock station, then the Applicant shall instead provide one annual carshare or bikeshare membership for each residential unit for the initial two years after occupancy.

3. Loading Management Plan. **For the life of the Project,** the Applicant shall implement the following loading management measures:
- a. *Residential Component:*
- i. A loading manager will be designated by the property management for the residential component of the site;
 - ii. All residential tenants must schedule move-ins/move-outs with the loading manager. Residents will be required to reserve their requested loading time slot with the loading manager;
 - iii. The loading manager will schedule deliveries such that the loading capacity is not exceeded. If an unscheduled delivery vehicle arrives while the loading area is full, that driver will be directed to return at a later time so as not to impede traffic flow; and
 - iv. The loading management plan will be included in the residential leases;
- b. *Commercial and Museum Component:*
- i. A loading manager will be designated by the property management for the commercial and museum components of the site;
 - ii. The loading manager will coordinate commercial and museum deliveries such that the loading capacity is not exceeded. If the loading area is full, that driver will be directed to return at a later time so as not to impede traffic flow;
 - iii. The loading manager will be responsible for meeting deliveries made by tractor-trailer (WB-50, 55'). The loading manager will keep the designated loading areas and maneuvering space clear for deliveries and manage any potential conflicts between vehicles, pedestrian, etc. during arrival and departure;
 - iv. Tractor-trailer trucks that access the site will be directed to enter from I Street, S.W. and then back into the loading area within the private portion of First Street, S.W. Upon departure, tractor-trailer trucks will be directed to exit to the north, travel through the H Street/Delaware Avenue circle, and exit via Delaware Avenue/I Street;

- v. Building management will be responsible for disseminating routing information, particularly as it relates to museum deliveries using tractor-trailer trucks, which are expected to occur infrequently every one to two months;
 - vi. If parking is provided along the private portion of First Street, S.W., it will be restricted when tractor-trailer trucks are scheduled to access the site in order to accommodate necessary turning maneuvers; and
 - vii. The loading management plan will be included in commercial and museum leases;
- c. *General:*
- i. Trucks using the loading docks 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, 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
 - ii. Loading Managers 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 managers will also post these documents in a prominent location within the service areas.

D. Miscellaneous

1. No building permit shall be issued for the PUD until the owner of the Property has recorded a covenant in the land records of the District of Columbia, between the owner and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the owner of the Property and all successors in title to construct and use the Property in accordance with this Order and any amendment thereof by the Commission.
2. The PUD shall be governed by the timeframes established in Z.C. Order No. 07-13F as follows:
 - a. As set forth in that Order, the PUD shall remain valid until May 9, 2019; within such time, an application must be filed for a building permit for the construction of the Project (or Phase I of the Project as described in A.6 above if the Applicant elects to phase the Project) as specified in 11-Z

- DCMR. Construction of the Project (or Phase I of the Project, if the Applicant elects to phase the Project) must commence prior to May 9, 2020 for the PUD to remain valid; and
- b. If the Applicant elects to phase the Project, the Applicant shall file for a building permit for Phase II of the PUD within two years after the issuance of a certificate of occupancy for the residential building constructed in Phase I of the PUD, or by May 9, 2024, whichever is sooner. The Applicant shall start construction of Phase II within three years after the issuance of a certificate of occupancy for the residential building constructed in Phase I of the PUD, or by May 9, 2025, whichever is sooner.
3. 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.
 4. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On April 30, 2018, upon the motion of Vice Chairman Miller, as seconded by Commissioner Turnbull, 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 and Michael G. Turnbull to approve; Peter G. May to approve by absentee ballot).

In accordance with the provisions of 11 DCMR Z § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on July 6, 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. 17-12

Z.C. Case No. 17-12

**(Forest City SEFC, LLC – Text & Related Map Amendments – 11-K DCMR: Height &
Density in the Southeast Federal Center Zones)**

April 30, 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
ZONING COMMISSION ORDER NO. 17-19
Z.C. Case No. 17-19
The Warrenton Group and NHP Foundation
(Consolidated PUD and Related Map Amendment
@ Square 5197, Lots 1, 64, 65, and 73)
June 11, 2018

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on May 7, 2018, to consider an application for a consolidated planned unit development (“PUD”) and a related zoning map amendment filed by The Warrenton Group and the NHP Foundation (collectively, the “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, Hearings, and Post-Hearing Filings

1. On
September 29, 2017, the Applicant filed an application with the Commission for consolidated review of a PUD and a related Zoning Map amendment from the MU-3 zone to the MU-4 zone for the properties located 5110-5140 Nannie Helen Boroughs Avenue, N.E. (Square 5197, Lots 1, 64, 65, and 73) (collectively, the “Property”).
2. The
Applicant proposes to redevelop the Property as a mixed-use development on two parcels. Parcel 1 consists of approximately 71,891 square feet, and will be improved with a building containing approximately 9,900 square feet of retail at the ground level; approximately 174,900 square feet of residential, generating approximately 151 units; and 143 covered parking spaces. The maximum building height will be 65 feet and the density will be 3.56 floor area ratio (“FAR”). Parcel 2 consists of approximately 13,619 square feet, and will be improved with a building containing approximately 6,000 square feet of retail at the ground level; approximately 39,200 square feet of residential generating approximately 32 units; and three surface parking spaces. The maximum building height will be 63 feet and the density will be 3.32 FAR.
3. Of the
183 units proposed for the development, 61 will be replacement units for the Lincoln Heights and Richardson Dwellings residential communities controlled by the DC Housing Authority (“DCHA”). The replacement units include 12 one-bedroom units, nine two-bedroom units, 32 three-bedroom units, six four-bedroom units, and two five-bedroom units. Of the remaining units, 104 will be a mix of units reserved for

households not exceeding 60% of the median family income (“MFI”) and 18 will be market-rate units.

4. By
report dated December 1, 2017, the District of Columbia Office of Planning (“OP”) recommended that the application be set down for a public hearing. (Exhibit [“Ex.”] 13.) At its public meeting on December 11, 2017, the Commission voted to schedule a public hearing on the application.
5. The
Applicant filed its pre-hearing submission on January 10, 2018, and a public hearing was timely scheduled for the matter. (Ex. 16-16G.) On January 30, 2018, the notice of public hearing was sent to all owners of property located within 200 feet of the Property; Advisory Neighborhood Commission (“ANC”) 7C, the ANC in which the Property is located; Commissioner Patricia Malloy, the Single Member District Representative for ANC 7C01; and to Councilmember Vincent Gray, whose Ward includes the Property. A description of the proposed development and the notice of the public hearing in this matter were published in the *DC Register* on February 9, 2018.
6. On
February 20, 2018, the Applicant filed its Comprehensive Transportation Review (“CTR”). (Ex. 22-22A.)
7. On
February 23, 2017, the Applicant filed its supplemental pre-hearing submission. (Ex. 27-27A5.) The supplemental pre-hearing submission included: (i) a comprehensive set of revised architectural plans and elevations; (ii) responses to outstanding issues from the set down of the application; and (iii) a statement regarding the Applicant’s community outreach.
8. On
March 5, 2018, OP submitted a hearing report. (Ex. 30.) The OP hearing report recommended approval of the application. (Ex. 30, p. 1.)
9. On
March 5, 2018, the District Department of Transportation (“DDOT”) submitted a hearing report. (Ex. 31.) The report stated that DDOT has no objection to the approval of the consolidated PUD subject to certain listed revisions and conditions, which were addressed by the Applicant at the public hearing. (Ex. 38A1-38A3.)
10. On
March 5, 2018, the District Department of Energy and Environment (“DOEE”) submitted a hearing report. (Ex. 29.) The report stated that DOEE supported the approval of the consolidated PUD and recommend that the Applicant consider certain issues early in its design process that can fully addressed through DOEE’s normal regulatory review processes.

11. On
March 12, 2018, the Applicant submitted a letter requesting that the public hearing on the application scheduled for March 15, 2018, be postponed in order to allow sufficient time to obtain the necessary application form(s) and authorization letter from the new owner of Lot 73 and update the Applicant's information. (Ex. 33.)
12. On
March 26, 2018, the Applicant submitted a letter updating the Applicant's information to include the NHP Foundation, and submitted updated letters of authorization from the owners of the Property. (Ex. 36-36C.)
13. ANC
7C filed a resolution in support of the application indicating that at its regularly scheduled and duly noticed public meeting of April 12, 2018, at which a quorum of commissioners was present, it voted 6-0-0 to support the application. (Ex. 37.) The resolution stated that ANC 7C supports the application contingent upon a Community Benefits Agreement ("CBA") being crafted between the applicant and the affected neighborhood citizens' association, Deanwood Citizens Association ("DCA").
14. The
parties to the case were the Applicant and ANC 7C. Commissioner Antawan Holmes, the Chairperson of ANC 7C, testified at the public hearing on behalf of the ANC.
15. The
public hearing on the application was held on May 7, 2018. At the public hearing, the Applicant presented the following witnesses: Warren Williams of the Warrenton Group; Stephanie Farrell, Torti Gallas Partners, architects for the Project; and Erwin Andres of Gorove/Slade transportation consultant for the Project. Based upon their professional experience and qualifications, the Commission qualified Ms. Farrell as an expert in planning and architecture and Mr. Andres as an expert in transportation planning and engineering.
16. Ms.
Gina Smith, Project Manager for the New Communities Initiative at the Office of the Deputy Mayor for Planning and Economic Development, testified in support of the application. (Ex. 44.)
17. Karen
Thomas with OP and Aaron Zimmerman with DDOT testified in support of the application at the public hearing.
18. No
persons testified in opposition to the application at the public hearing.
19. Jamar
Wells vice president of the DCA testified in support of the application.

20. At the conclusion of the public hearing, the Commission closed the record and took proposed action to approve the application.
21. On May 14, 2018, the Applicant filed its required initial list of proffers and draft conditions pursuant to 11-C DCMR § 308. (Ex. 43-43A.)
22. On May 21, 2018, the Applicant filed its post-hearing submission, which included a revised benefits and amenities package, a copy of the signed MOU between the Applicant and DCA, and revised drawings showing screening for the parking area. (Ex. 45-45B.)
23. On May 29, 2018, the Applicant submitted its proposed Findings of Fact and Conclusions of Law and its final list of proffers and proposed conditions pursuant to 11-C DCMR § 308.12, which included revisions suggested by the Office of the Attorney General. (Ex. 46-46A, 47-47A.)
24. The proposed action was referred to the National Capital Planning Commission (“NCPC”) on May 10, 2018, pursuant to § 492 of the Home Rule Act.
25. By letter dated June 4, 2018, NCPC’s Director of Urban Design and Plan Review stated that NCPC staff had determined that the project is exempt from NCPC review, pursuant to NCPC’s submission guidelines. (Ex. 48.)
26. The Commission took final action to approve the PUD on June 11, 2018.

The Property and Surrounding Area

27. The Property consists of two parcels totaling approximately 85,510 square feet of land area. Parcel 1 is currently improved with the Holy Christian Missionary Baptist Church and a carry-out restaurant, and Parcel 2 is occupied by a four-story office building. To the south, across Nannie Helen Burroughs Avenue, is the historic Strand Theater, the site for Strand Residences PUD (Z.C. Order No. 17-10), and Sargent Memorial Presbyterian Church. Immediately to the north of the Property is the Deanwood Hills residential development (Z.C. Order No. 15-10), which is currently under construction. The Property is well served by several Metrobus routes, including six routes within 0.2 miles of the Property.

28. The application included a Zoning Map amendment to rezone the Property from the MU-3 zone to the MU-4 zone. As detailed in Findings of Fact (“FF”) Nos. 45-48, the Commission finds that the requested map amendment is consistent with Future Land Use Map designation of mixed-use Moderate-Density Residential and Low-Density Commercial.

Existing and Proposed Zoning

29. The Property is currently zoned MU-3. The MU-3 zones are intended to permit low-density mixed-use development and provide convenient retail and personal service establishments for the day-to-day needs of a local neighborhood, as well as residential and limited community facilities with minimum impact upon surrounding residential development. (11-G DCMR § 400.2.) The MU-3 zone permits the following development standards:
- Height: 40 feet and three stories; 40 feet for a PUD; (11-G DCMR § 403.1; 11-X DCMR § 303.7.)
 - Density: 1.0 FAR; 1.2 FAR with Inclusionary Zoning (“IZ”), with a maximum of 1.0 FAR for non-residential use; and 1.44 FAR for a PUD, with a maximum of 1.34 FAR for non-residential use; and (11-G DCMR § 402.1; 11-X DCMR § 303.3.)
 - Lot Occupancy: The maximum lot occupancy for residential use is 60% and 100% for non-residential use. (11-G DCMR § 104.1.)
30. The Applicant proposes to rezone the Property to the MU-4 zone, which permits the following development standards:
- Height: 50 feet, with no limit on the number of stories; and 65 feet for a PUD; (11-G DCMR § 403.1; 11-X DCMR § 303.7.)
 - Density: 2.5 FAR; 3.0 FAR with IZ, with a maximum non-residential FAR of 1.5; and 3.6 FAR for a PUD, with a maximum non-residential FAR of 2.01; (11-G DCMR § 402.1; 11-X DCMR § 303.3.)
 - Lot Occupancy: The maximum lot occupancy for residential use is 60% and 75% with IZ; and 100% for non-residential uses; (11-G DCMR § 404.1.)
 - Rear Yard: The minimum rear yard is 15 feet; (11-G DCMR § 405.2.)
 - Side Yard: No side yard is required for a building or structure other than a detached single dwelling unit or semi-detached single dwelling unit; however, if a side yard is provided it shall be at least two inches wide for each one foot of height of the building but no less than five feet; (11-G DCMR § 406.1.)

- Parking for Residential, multiple dwelling unit: one space per three dwelling units in excess of four units; (11-C DCMR § 701.5.)
- Parking for Retail: In excess of 3,000 square feet, one space per each 1,000 square feet of gross floor area; (1-C DCMR § 701.5.)
- Bicycle Parking for Residential Apartment: one space for each three dwelling units (long term); one space for each 20 dwelling units (short term); (11-C DCMR § 802.1.)
- Bicycle Parking for Retail: one space for per 7,500 square feet (long term); one space per 3,500 square feet (short term); (11-C DCMR § 802.1.)
- Loading for Residential More than 50 Units: one loading berth, one loading platform and one service/delivery space; (11-C DCMR § 902.2.)
- Loading for Retail with 5,000 to 20,000 square feet of gross floor area: one loading berth, one loading platform, and one service/delivery space; and (11-C DCMR § 902.2.)
- Green Area Ratio (“GAR”): The minimum required GAR is 0.3. (11-G DCMR § 407.1.)

Description of the PUD Project

31. As shown on the approved architectural drawings (“Plans”), the Applicant proposes to redevelop the Property as mixed-use development on two parcels. Parcel 1 consists of approximately 71,891 square feet, and will be improved with a building containing approximately 9,900 square feet of retail at the ground level; approximately 174,900 square feet of residential, generating approximately 151 units; and 143 covered parking spaces. The maximum building height will be 65 feet and the density will be 3.56 FAR. Parcel 2 consists of approximately 13,619 square feet, and will be improved with a building containing approximately 6,000 square feet of retail at the ground level; approximately 39,200 square feet of residential generating approximately 32 units; and 3 surface parking spaces. The maximum building height will be 63 feet and the density will be 3.32 FAR.
32. Of the 183 units proposed for the development, 61 will be replacement units for the Lincoln Heights and Richardson Dwellings residential communities controlled by the DC Housing Authority (“DCHA”). The replacement units include 12 one-bedroom, nine two-bedroom, 32 three-bedroom units, six four-bedroom units, and two five-bedroom units. Of the remaining units, 104 will be a mix of units reserved for households not exceeding 60% of the median family income (“MFI”) and 18 will be market-rate units.

33. The PUD will be certified under the *Enterprise Green Communities* standard and will use Enterprise Green Communities certification to meet the applicable Green Building Act Requirements. The Green Building Act states that the Enterprise Green Communities standard was developed for affordable housing, and shall be used for projects with at least 15% District financing. The Enterprise Green Communities Checklist for the project is included on Sheet G14 of the Plans. (Ex. 27A2.)

Development Flexibility

34. The Applicant requested flexibility to provide a minimum rear yard of eight feet, seven inches for portions of the building on Parcel 1 where a minimum rear yard of 15 feet is required pursuant to 11-G DCMR § 406.1 of the Zoning Regulations. The requested flexibility is necessary to provide a building with a regular geometry in relationship to Nannie Helen Burroughs Avenue. The eight-foot, seven-inch rear yard will not reduce the amount of light or air available to the building's residents since the Applicant is providing landscaped central courtyard that consists of approximately 22,000 square feet.
35. The Applicant requested flexibility to provide a minimum side yard of eight feet on the west side of the building on Parcel 1 where, if provided, a minimum side yard of 10 feet, 10 inches is required pursuant to 11-G DCMR § 406.1 Zoning Regulations. The proposed side yard will not reduce the amount of light or air available to the building's residents since the Applicant is providing landscaped central courtyard that consists of approximately 22,000 square feet and the side yard is adjacent to 51st Street. Although not required, the side yard allows the Applicant to provide stoops and landscaped entrances to enhance the residential character of 51st Street.
36. The Applicant also requested flexibility to provide a side yard of eight feet on the west side of the building on Parcel 2, where, if provided, a side yard of 10 feet, six inches is required pursuant to 11-G DCMR § 406.1 of the Zoning Regulations. The side yard will not reduce the amount of light or air available to the building's resident since the Applicant is providing a rear yard with an average depth of 45 feet and the side yard is adjacent to the alley being widened to 20 feet. The buildings on Parcel 1 and Parcel 2 will be separated by 38 feet as a result of the widened alley.
37. The
Applicant has requested flexibility in the following areas:
- a. To be able to provide a range in the number of residential units of plus or minus 10%;
 - b. To make refinements to the garage configuration, including layout and number of parking spaces and other elements, so long as the number of parking spaces provided is at least the minimum number of required spaces, and also does not equal or exceed double the number of spaces required by the Zoning Regulations;

- c. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
- d. To vary the final selection of the color of the exterior materials, within the color ranges reflected in the approved architectural drawings, without making changes to the exterior materials; and to make minor refinements to exterior details, locations and dimensions, including: window mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings, canopies and trim; and any other changes that do not substantially alter the exterior design necessary to comply with all applicable District of Columbia laws and regulations;
- e. To vary the location, attributes and general design of the streetscape incorporated in the PUD to comply with the requirements of and the approval by the DDOT Public Space Division;
- 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 to comply with the District of Columbia Building Code or that are necessary to obtain a final building permit or any other applicable approvals;
- g. 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 Plans; and
- 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 PUD 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)).

The Commission modified the design flexibility granted through this order to limit the Applicant’s ability to modify the exterior materials and design.

Project Benefits and Amenities

38. Affordable Housing (§ 305.5(g)). Of the 183 units proposed for the PUD, 61 units shall be replacement units for the Lincoln Heights and Richardson Dwellings communities controlled by DCHA. Further, approximately 168,100 square feet of gross floor area shall be devoted to households with incomes not exceeding 60% of MFI and

approximately 97,300 square feet of gross floor area shall be devoted to households with incomes at 30% of MFI. The mix of units for the PUD shall include 32 three-bedroom units, six four-bedroom units, and two five-bedroom units in order to accommodate families.

39. The Applicant will provide affordable housing in accordance with the chart below:

Residential Unit Type	Floor Area/ % of Total*	# of Units	Income Type	Affordable Control Period	Unit Type	Notes
Total	214,100/ 100%	183	Mixed			
IZ Units**	21,410/ 10%	18	Up to 60% of MFI	Life of the Project	Rental	Required only if the IZ exemption request pursuant to 11-C DCMR § 1001.6 is denied.
Affordable Non-IZ / Replacement Units	70,650/ 33%***	Up to 61***	Up to 60% of MFI	Subject to the HAP Contract with DCHA***	Rental	The amount of GFA, number of units, and Affordable Control Period is subject to the HAP Contract with DCHA***
Affordable Non-IZ	122,040/57% if the IZ exemption is granted, or 100,630/47% if the IZ exemption is denied	Minimum of 86 if the IZ exemption is denied. Minimum of 104 if the IZ exemption is granted. The actual number to be determined by the HAP contract.	Up to 60% of MFI	Life of the Project	Rental	All units that are not IZ Units, Replacement Units or Market Rate Units shall be Affordable Non-IZ units. Replacement Units shall become Affordable Non-IZ Units at the conclusion of the HAP Contract with DCHA.
Market	21,140/ 10%	18	Market Rate	Life of the Project	Rental	

* Refers to the residential gross floor area, but the floor area may be adjusted to subtract the building core factor.

** The IZ Units are only required if the IZ exemption is denied.

*** These shall be replacement units for the Lincoln Heights and Richardson Dwellings communities. The HAP contract will determine the actual GFA, number of replacement units and the control period required for these units. At the conclusion of the control period, the former Replacement Unit shall convert to an "Affordable Non-IZ" unit.

40. Employment and Training Opportunities (X-§ 305.5(h)). Empl

a. First Source Agreement. Prior to the issuance of a building permit, the Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services ("DOES"), which requires that the Developer use DOES as

its first source for recruitment, referral and placement of new hires or employees for the new jobs created by the Project, and will hire 51% of District of Columbia residents for all new jobs created; and 51% of apprentices employed in connection with the Project shall be District residents registered in programs approved by the District of Columbia Apprenticeship Council;

- b. Certified Business Enterprise (“CBE”) Agreement. Prior to the issuance of a building permit, the Applicant shall enter into a CBE Agreement with the District Department of Small and Local Business Development to ensure that a preference is made to District-based firms pursuing District government issued procurement opportunities. In accordance with the CBE Agreement, the Developer shall expend funds contracting and procuring goods and services from CBEs in the amount equivalent to no less than 35% of the Adjusted Development Budget for the Project; and
- c. Job Fair. Prior to the issuance of a building permit for the PUD, the Applicant shall host a job fair for residents of the Deanwood neighborhood, Lincoln Heights and Richardson Dwellings. After construction of the Project has begun, and prior to the issuance of a certificate of occupancy for the PUD, the Developer shall host two additional job fairs for residents of the Deanwood neighborhood, Lincoln Heights and Richardson Dwellings. The job fairs shall include applications for training and employment opportunities related to the construction and operation of the PUD.
41. Environmental Benefits (§ 305.5(k)). The PUD shall meet the requirements of the *Enterprise Green Communities* standard for residential buildings. It shall employ environmentally sustainable strategies as called for in the Green Communities standard such as high efficiency mechanical systems, lighting, and windows; low-flow plumbing systems; and energy star appliances; low-emitting and recycled construction materials; pervious pavement; an extensive upper green roof and an intensive green roof at the courtyard. The Applicant shall promote a healthy environment for the buildings' residents by using safe non-toxic materials and properly ventilated spaces to prevent exposure to mold and other contaminants. Envir
42. of Special Value to the Neighborhood or the District as a Whole (§ 305.5(q)). Uses
- a. Retail Tenant Search. The Applicant agrees to have a grocery store retailer as a primary focus of its retail tenant search. In the event the Applicant cannot attract a grocer to the Property, the Applicant agrees to market a portion of the retail space to a drug store and/or an eating and drinking establishment;
- b. Space for Local Business. The Applicant shall set aside approximately 1,200 square feet of the ground-floor retail/commercial space for neighborhood-serving retail or services, with preference being given to a business or organization owned and/or operated by a Ward 7 SBE or CBE; and

- c. Community Leadership Meetings. The Applicant shall meet monthly with community leadership to discuss updates on the development. The community leadership includes residents in proximity to the Property and organizations within the boundaries on ANC 7C, including but not limited to representatives of the Lincoln Heights, Richardson Dwellings, and Deanwood communities. The agenda, minimally, will cover updates on the following:
- i. Construction;
 - ii. Employment;
 - iii. Retail Tenant Selection Process; and
 - iv. Community Benefits Fund

Comprehensive Plan

43. The
 Commission finds that the PUD advances the purposes of the Comprehensive Plan; is consistent with the Future Land Use Map and Generalized Policy Map; complies with the guiding principles in the Comprehensive Plan; and furthers a number of the major elements of the Comprehensive Plan.

44. Purpo
ses of the Comprehensive Plan. 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) (§ 1-301.62).) The Commission finds that the PUD significantly advances these purposes by promoting the social, physical and economic development of the District through the provision of a high-quality residential development that will increase the housing supply, improve the District's natural and architectural assets, promote economic growth and jobs for District residents, and improve the surrounding community. The PUD will achieve community goals by providing significant new affordable housing, and will do so through the construction of aesthetically pleasing new buildings that respect the character of the surrounding neighborhood without generating any adverse impacts.

45. Future
Land Use Map. According to the District of Columbia Comprehensive Plan Future Land Use Map, the Property is designated as mixed-use Moderate-Density Residential and Low-Density Commercial. The Moderate-Density Residential designation is used to define the District's row house neighborhoods, as well as its low-rise garden apartment

complexes. The designation also applies to areas characterized by a mix of single-family homes, two- to four-unit buildings, row houses, and low-rise apartment buildings. In some of the older inner city neighborhoods with this designation, there may also be existing multi-story apartments, many built decades ago when the areas were zoned for more dense uses (or were not zoned at all). The R-3, R-4, and R-5-A Zone Districts are generally consistent with the Moderate-Density Residential category; the R-5-B Zone District and other zones may also apply in some locations. (10A DCMR § 225.4.)

The Low-Density Commercial designation is used to define shopping and service areas that are generally low in scale and character. Retail, office, and service businesses are the predominant uses. Areas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts uses that draw from a broader market area. Their common feature is that they are comprised primarily of one- to three-story commercial buildings. The corresponding zone districts are generally C-1 and C-2-A, although other districts may apply. (10A DCMR § 225.8.)

46. The Framework Element of the Comprehensive Plan provides that the Land Use Map is not a zoning map. (*See* 10A DCMR § 226.1(a); *see also* Z.C. Order No. 11-13.) Whereas zoning maps are parcel-specific and establish detailed requirements for setback, height, use, parking, and other attributes, the Future Land Use Map does not follow parcel boundaries and its categories do not specify allowable uses or dimensional standards. (*Id.*) By definition, the Map is to be interpreted broadly. (*Id.*) Furthermore, the land use category definitions describe the general character of development in each area, citing typical building heights (in stories) as appropriate. The granting of density bonuses (for example, through PUDs) may result in heights that exceed the typical ranges cited here. (*Id.* at § 226.1(c).) The zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the citywide elements and the area elements, as well as approved small area plans. (*Id.* at § 266.1(d).)

47. Thus, in evaluating the proposed map amendment, the Property should be viewed in context and not as an isolated parcel. When taken in context with the surrounding neighborhood, the Applicant's proposal to rezone the Property from the MU-3 zone to the MU-4 zone in order to construct an apartment house with replacement units for Lincoln Heights and Richardson Dwellings, is consistent with the Comprehensive Plan's designation of the Property, particularly given the fact that the MU-4 zone (previously, the C-2-A Zone District) is specifically identified as a corresponding zone district in Low-Density Commercial Designation.

48. The zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the citywide elements and the area elements, as well as approved small area plans. (*Id.* at § 266.1(d).) The New Communities Plan specifically recommends that the Property be rezoned to the C-2-B

Zone District, which corresponds to the MU-5-A zone under the Zoning Regulations of 2016. (Ex. 4D.) The New Communities Plan also specifically recommends that the Property be redeveloped as part of the “Town Center” and depicts the redevelopment of the Property with a six-story building and ground floor retail. Thus, when taken in context with the surrounding neighborhood, the Applicant's proposal to rezone the Property from the MU-3 zone to the MU-4 zone to construct the proposed PUD is less dense than the development called for in the New Communities Plan. Thus, the PUD and related map amendment are consistent with the designation of the Property on the Comprehensive Plan and the New Communities Plan designation for the Property.

49. Generalized Policy Map. The Generalized Policy Map of the Comprehensive Plan designates the Property as a Main Street Mixed-Use Corridor. Main Street Mixed-Use Corridors are traditional commercial business corridors with a concentration of older storefronts along the street. The service area for Main Streets can vary from one neighborhood (e.g., 14th Street Heights or Barracks Row) to multiple neighborhoods (e.g., Dupont Circle, H Street, or Adams Morgan). Their common feature is that they have a pedestrian-oriented environment with traditional storefronts. Many have upper-story residential or office uses. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment. (10A DCMR § 223.14.)
50. The proposed map amendment will help implement the policies embodied in the Generalized Policy Map by strengthening the Nannie Helen Burroughs/Division Avenue Main Street Corridor through the redevelopment of underutilized and blighted parcels into an active and productive use. Redevelopment of the Property will benefit the existing businesses in the neighborhood and the District, generally. Furthermore, redevelopment of the Property will result in improvements to the public realm adjacent to the Property, thus improving pedestrian circulation along this portion of Division Avenue.
51. Guiding Principles and Major Elements of the Comprehensive Plan. The Commission further finds that the PUD is consistent with many guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, increasing access to education and employment, connecting the city, and building green and healthy communities, as discussed below.
52. Managing Growth and Change. In order to manage growth and change in the District, the Comprehensive Plan encourages diversity and asserts that the District “cannot sustain itself by only attracting small, affluent households. To retain residents and attract a diverse population, the city should provide services that support families [and prioritize] sustaining and prompting safe neighborhoods... and housing for families.” (10A DCMR § 217.2.) Diversity also means maintaining and enhancing the District’s mix of housing

types... [with] housing developed for households of different sizes, including growing families as well as singles and couples.” (10A DCMR § 217.3.) The Comprehensive Plan also states that redevelopment and infill opportunities along corridors is an important part of reinvigorating and enhancing neighborhoods. (10A DCMR § 217.6.) The PUD is fully consistent with each of these goals since the PUD results in redevelopment of the Property into a vibrant, mixed-use, mixed-income development intended to attract a diverse population of residents.

53.

Creati

ng Successful Neighborhoods. One of the guiding principles for creating successful neighborhoods is to protect, maintain, and improve residential neighborhoods. (10A DCMR § 218.1.) The preservation of existing affordable housing and the production of new affordable housing both are essential to avoid a deepening of racial and economic divides in the city. (10A DCMR § 218.3.) Public input in decisions about land use and development is an essential part of creating successful neighborhoods, from development of the Comprehensive Plan, to implementation of the Plan's elements. (10A DCMR § 218.8.) The PUD furthers these goals because it will simultaneously protect and improve the existing residential neighborhood while producing new affordable housing on a vacant and underutilized site. The Applicant has engaged neighborhood stakeholders, and will continue to do so as part of the PUD process, to ensure that redevelopment of the site creates a positive impact on the neighborhood.

54.

Buildi

ng Green and Healthy Communities. One of the guiding principles for building green and healthy communities is that building construction and renovation should minimize the use of non-renewable resources, promote energy and water conservation, and reduce harmful effects on the natural environment. (10A DCMR § 221.3.) The PUD will be certified under the *Enterprise Green Communities* standard for residential buildings to meet the applicable Green Building Act Requirements. The Green Building Act states that the Enterprise Green Communities standard was developed for affordable housing, and shall be used for projects with at least 15% District financing. The PUD will employ environmentally sustainable strategies as called for in the Green Communities standard such as: high efficiency mechanical systems, lighting, and windows; low-flow plumbing systems; and energy star appliances; low-emitting and recycled construction materials; pervious pavement; an extensive upper green roof and an intensive green roof at the courtyard. A healthy environment for the buildings' residents will be created using safe non-toxic materials and properly ventilating spaces to prevent exposure to mold and other contaminants.

55.

The

Commission also finds that the PUD furthers the objectives of the *Lincoln Heights & Richardson Dwellings New Communities Initiative Revitalization Plan*, which was approved by the City Council on December 19, 2006, pursuant to Resolution No. 16-923, which encourages rezoning the Property to the C-2-B Zone District (MU-5-A zone under the Zoning Regulations of 2016). (Ex. 4D.) The PUD will provide up to replacement housing units for Lincoln Heights/Richardson Dwellings, as well as additional housing.

56. The Commission also finds that the PUD furthers the objectives and policies from various elements of the Comprehensive Plan, including the Land Use, Transportation, Housing, Environmental Protection, Economic Development Element, Urban Design Citywide elements, Infrastructure Element and the Far Northeast and Southeast Area Element, as set forth in the Applicant's Statement in Support and the OP Reports. (Ex. 4-4F, 13, 30.)

Office of Planning Reports

57. On December 1, 2017, OP submitted a report to the Commission recommending that the application be set down for a public hearing. (Ex. 13.) The OP report stated that the project "is not inconsistent with the Comprehensive Plan." (Ex. 13, p. 1.) The report also recommended that the Applicant provide the following: (i) design changes to strengthen the building's design; (ii) additional information on the requested/potential phasing of the project; (iii) consider the installation of solar panels on the building; and (v) materials samples.

58. On March 5, 2018, OP submitted a hearing report reiterating that the application is not inconsistent with the Comprehensive Plan and recommended approval of application including the flexibility requested. (Ex. 30.) OP stated that the "the proposed PUD meets this criterion and would not be inconsistent with the Comprehensive Plan's Generalized Future Land Use Map designation of moderate-density residential and low-density commercial, the Generalized Policy Map designation of a Main Street Mixed-Use Corridor and the Guiding Principles of the Framework Element. It also is consistent with the Land Use, Transportation, Housing, Urban Design, and Environmental Elements; as well as the policies of the Far Northeast and Southeast Area Element." (*Id.* at 5.)

59. The Commission finds that the Applicant sufficiently answered all of the outstanding questions posed by OP in its pre-hearing statement, supplemental pre-hearing statement, at the public hearing, and the post-hearing submission. (Ex. 16-16G, Ex. 27-27A5, Ex. 45-45B.)

DDOT Report and Testimony

60. On March 5, 2018, DDOT submitted a hearing report. (Ex. 31.) The DDOT hearing report indicated no objection to the application, subject to the Applicant doing the following:
- a. Clarifying that Transportation Information Center Display screens will be located in the lobby of each residential building; and

- b. Enhancing the TDM measures to include the following elements:
- i. Fund and install an expansion of at least four docks to the existing Capital Bikeshare station at the intersection of Division Avenue and Foote Street, N.E.;
 - ii. The Applicant will work with a private carshare provider to place at least one (1) carshare vehicle on site, preferably in one of the three on-site parking spaces at the eastern building. In the event that a carshare provider cannot be secured for the project, the Applicant will offer a one-year Capital Bikeshare membership for each unit for the initial residents of the buildings; and
 - iii. Provide at least eight shopping carts for residential use.

The report also stated in that the Applicant should provide a public access easement for the widened portions of the alley to private property to ensure residents of the Deanwood Hills property will have access through the Deanwood Town Center site.

61. At the public hearing, Aaron Zimmerman of DDOT testified that DDOT was agreeable to the Applicant's revised TDM measures and stated that DDOT had no objection to the application, subject to the revised Transportation Demand Management measures submitted by the Applicant.
62. At the public hearing, the Applicant's representative stated that the Applicant was in agreement with the conditions proposed by DDOT.

DOEE Report

63. On March 5, 2018, DOEE submitted a hearing report. (Ex. 29.) The DOEE hearing report indicated support for the application and recommend that the Applicant consider the following:
- a. Capturing a higher storm level volume will benefit the Project and the neighborhood, and demonstrate the developer's commitment to the environment by providing needed relief from stormwater runoff. Hence, DOEE's Regulatory Review Division ("RRD") recommends the Project capture a 1.7-inch rain storm event;

- b. Using lower-emitting technologies to the extent possible to provide power, heating, and cooling;
- c. Maximize all strategies to increase energy efficiency and, therefore, decrease tenant utility costs; and
- d. Incorporate solar panels to the maximum extent practicable and utilize the District's Community Solar program to offer the resulting cost-saving benefits to residents.
64. In response to the DOEE report, the Applicant incorporated solar panels on the roof of the PUD, as reflected on Sheet A05 of the plans dated May 7, 2018, and marked as Ex. 39A of the record. The Applicant testified at the hearing that the Project was designed to capture a 1.2-inch rain storm event, not the higher 1.7-inch standard. The Commission considers this acceptable.

ANC Report

65. ANC 7C, the ANC in which the Property is located, filed a resolution in support of the Project, indicating that at its regularly scheduled and duly noticed public meeting of April 12, 2018, at which a quorum of commissioners was present, ANC 7C voted 6-0-0 to support the application. (Ex. 37.) The resolution stated that ANC 7C supports the application contingent upon a Community Benefits Agreement (CBA) being crafted between the applicant and the affected neighborhood citizens' association, Deanwood Citizens Association ("DCA"). Although the resolution refers to a CBA, the Applicant and the DCA entered into an agreement that is titled a Memorandum of Understanding. The agreement was entered into the record. (Ex. 45A.) The Applicant discussed the document at the hearing and clarified that it is the document that ANC 7C was referring to.

Interagency Review

66. OP circulated the application to DDOT, DOEE, DC Public Schools, DC Water, and DC Fire and Emergency Service for their review of the Project. (Ex. 30, p. 14.) Only DDOT and DOEE, submitted comments into the record.

Community Benefits Fund

67. Prior to the hearing, the Applicant proffered a community benefits fund ("Fund") as a public benefit of the Project. The Applicant stated the purpose of the Fund is to provide grant monies and/or loans to fund façade improvements to buildings and business within

the boundaries of ANC 7C. The Applicant is obligated to create the fund by the agreement it signed with the Deanwood Citizens Association. The Applicant withdrew the Fund from its list of proffered benefits of the PUD because the Fund does not meet the PUD public benefits criteria for monetary contributions set forth in 11-X DCMR § 305.3(d). However, the Applicant intends to meet all its obligations under the agreement including those related to the Fund. The Applicant therefore consented to include its obligations related to the Fund in the conditions of this Order.

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 Commission concludes that the proposed development:
 - a. Is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site;
 - b. Does not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities but instead concludes the impacts are either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project. This Order includes conditions to ensure that any potentially unacceptable impacts are mitigated; and

- c. Includes specific public benefits and project amenities of the proposed development that are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the subject site.
5. The Commission has judged, balanced, and reconciled the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case, and concludes the application should be approved.
6. Approval of the PUD is appropriate because the Project will promote the orderly development of the Property 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.
7. 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.
8. 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 7C's report expressed no issues or concerns, just that the ANC's support "was contingent on a Community Benefits Agreement (CBA) being crafted between the applicant and the affected neighborhood citizens association, Deanwood Citizens Association ("DCA")."¹ . Because the ANC expressed no issues or concerns, there is nothing for the Zoning 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 Commission carefully considered the ANC 7C's position supporting approval of the application and concurred in its recommendation of approval.
9. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2- 1401 et seq. (2007 Repl.).

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for

¹ Although the resolution refers to a CBA, the Applicant and DCA actually entered into an MOU, which was discussed during the public hearing. (Ex. 45A.)

consolidated review and approval of a planned unit development and related Zoning Map amendment from the MU-3 to the MU-4 zone for Square 5197, Lots 1, 64, 65, and 73. The approval of this PUD is subject to the guidelines, conditions, and standards set forth below.

A. Project Development

1. The PUD shall be developed in accordance with the plans titled “Deanwood Town Center”, prepared by Torti Gallas Partners dated February 23, 2018, and marked as Exhibits 27A1-27A5 of the record, and as modified by the plans submitted by the Applicant at the public hearing dated May 7, 2018, and marked as Exhibits 39A1 and 39A2 of the record, and as further modified by the plans submitted with the Applicant’s post-hearing submission dated May 7, 2018, 2017, and marked as Exhibit 45B of the record (collectively, the “Plans”).
2. The Applicant has flexibility with the design of the PUD in the following areas:
 - a. To be able to provide a range in the number of residential units of plus or minus 10%;
 - b. To make refinements to the garage configuration, including layout and number of parking spaces and other elements, so long as the number of parking spaces provided is at least the minimum number of required spaces, and also does not equal or exceed double the number of spaces required by the Zoning Regulations;
 - c. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
 - d. 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 Plans;
 - e. To make minor refinements to exterior details, locations and dimensions, including: window mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings, canopies and trim; and any other changes that do not substantially alter the exterior design shown on the Plans necessary to comply with all applicable District of Columbia laws and regulations;
 - f. To vary the location, attributes and general design of the streetscape incorporated in the PUD to comply with the requirements of and the approval by the DDOT Public Space Division;

- g. 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 substantially alter the exterior design shown on the Plans to comply with the District of Columbia Building Code or that are necessary to obtain a final building permit or any other applicable approvals;
- 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 Plans; and
- i. 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 PUD and to vary the types of uses designated as “retail” use on the 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)).

B. Public Benefits

- 1. The PUD shall include affordable units as set forth in this condition:
 - a. The Applicant shall provide the affordable housing set forth in the following chart. The chart assumes that the Applicant will apply for the exemption from the Inclusionary Zoning regulations (“the IZ Regulations”) set forth in Subtitle C, Chapter 10 of the Zoning Regulations, pursuant to 11-C DCMR § 1001.6 (“IZ Exemption”). However, the Commission takes no position as to whether the IZ Exemption should be granted;

Residential Unit Type	Floor Area/ % of Total*	# of Units	Income Type	Affordable Control Period	Affordable Unit Type	Notes
Total	214,100/100%	183	Mixed			
IZ Units**	21,410/10%	18	Up to 60% of MFI	Life of the Project	Rental	Required only if the IZ exemption request pursuant to 11-C DCMR § 1001.6 is denied.
Affordable Non-IZ / Replacement Units	70,650/ 33%***	Up to 61***	Up to 60% of MFI	Subject to the HAP Contract with DCHA***	Rental	The amount of GFA, number of units, and Affordable Control Period is subject to the HAP Contract with DCHA***

Affordable Non-IZ	122,040/ 57% if the IZ exemption is granted, or 100,630/ 47% if the IZ exemption is denied.	Minimum of 86 if the IZ exemption is denied. Minimum of 104 if the IZ exemption is granted. The actual number to be determined by the HAP contract.	Up to 60% of MFI	Life of the Project	Rental	All units that are not IZ Units, Replacement Units or Market Rate Units shall be Affordable Non-IZ units. Replacement Units shall become Affordable Non-IZ Units at the conclusion of the HAP Contract with DCHA.
Market	21,140/10%	18	Market Rate	Life of the Project	Rental	

* Refers to the residential gross floor area, but the floor area may be adjusted to subtract the building core factor.

** The IZ Units are only required if the IZ exemption is denied.

*** These shall be replacement units for the Lincoln Heights and Richardson Dwellings communities. The HAP contract will determine the actual GFA, number of replacement units and the control period required for these units. At the conclusion of the control period, the former Replacement Unit shall convert to an "Affordable Non-IZ" unit.

b. Each control period shall commence upon the issuance of the first certificate of occupancy for the PUD;

c. Should the IZ Exemption be granted, the Applicant shall record the covenant required by 11-C DCMR § 1001.6(a)(4) as to the 10% of the residential gross floor area of the building (which is equal to 18 units), and shall execute the monitoring and enforcement documents required by 11-X DCMR § 311.6 as to the remaining residential gross floor area, excluding the Market units;

d. Should the IZ Exemption be denied, the Applicant shall nevertheless provide affordable housing in accordance with this condition, unless the IZ Regulations impose more restrictive standards. The Applicant shall record the covenant required by the Inclusionary Zoning Act as to 10% of the residential gross floor of the building (which is equal to 18 units), and shall execute the monitoring and enforcement documents required by 11-X DCMR § 311.6 as to the remaining residential gross floor area; and

e. As indicated on the chart, the Applicant shall reserve up to 61 units for replacement units for the Lincoln Heights and Richardson Dwellings communities. The actual GFA, number of units and control period for the replacement units shall be in accordance with the HAP contract entered into with DCHA.

2. **Prior to the issuance of a Building Permit for the Project**, the Applicant shall submit to the Zoning Administrator a copy of the executed First Source Employment Agreement with DOES.
3. **Prior to the issuance of a Building Permit for the Project**, the Applicant shall submit to the Zoning Administrator a copy of the executed CBE Agreement with DSLBD.
4. **Prior to the issuance of a building permit for the PUD**, the Applicant shall submit to the Zoning Administrator evidence that a job fair for training and employment opportunities related to the construction and operation of the PUD was hosted for residents of the Deanwood neighborhood and the Lincoln Heights and Richardson Dwelling communities. **After construction of the Project has begun, and prior to the issuance of a certificate of occupancy for the PUD**, the Developer shall host two additional job fairs for residents of the Deanwood neighborhood, Lincoln Heights and Richardson Dwellings. The job fairs will include applications for training and employment opportunities related to the construction and operation of the PUD.
5. **Prior to the issuance of a final Certificate of Occupancy for the Project**, the Applicant shall furnish a copy of its preliminary *Enterprise Green Communities* certification application to the Zoning Administrator demonstrating that the building has been designed to meet the *Enterprise Green Communities* standard for residential buildings, as shown on the *Enterprise Green Communities* Checklist on Sheet G14 of the Plans. (Ex. 27A2.)
6. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall install solar panels on the roof of the building, as shown on Sheet A05 of the Plans, dated May 7, 2018, and marked as Exhibit 39A.
7. The Applicant shall set aside approximately 1,200 square feet of retail/commercial space at the ground floor of the building for neighborhood serving retail or services, with preference being given to a business or organization owned and/or operated by a Ward 7 SBE or CBE. **Prior to the issuance of a final certificate of occupancy for the retail space**, the Applicant shall furnish evidence to the Zoning Administrator that leasing of the space was marketed to businesses or organizations owned and/or operated by Ward 7 SBEs or CBEs. In the event, that the Applicant is unable to secure a Ward 7 SBE or CBE to occupy the space within six months after the effective date of this Order, the space shall not be restricted to a Ward 7 SBE or CBE.

8. **Prior to the issuance of a final certificate of occupancy for the retail space,** the Applicant shall furnish evidence to the Zoning Administrator that leasing of the retail space in the PUD was marketed to a grocery store retailer. In the event the Applicant cannot attract a grocery store to the Property, the Applicant shall furnish evidence to the Zoning Administrator that leasing of a portion the retail space was marketed to a drug store and/or eating and drinking establishment. In the event, that the Applicant is unable to secure a grocery store, drug store, and/or eating and drinking establishment as a tenant within six months after the effective date of this Order, other types of permitted uses may occupy the retail space.
9. **Prior to the issuance of a final certificate of occupancy for the Project,** the Applicant shall meet monthly with community leadership to discuss updates on the development. The community leadership includes residents in proximity to the Property and organizations within the boundaries on ANC 7C, including but not limited to representatives of the Lincoln Heights, Richardson Dwellings, and Deanwood communities.

C. **Transportation**

1. **Prior to the issuance of a final certificate of occupancy for the Project,** the Applicant shall record a covenant in the record of the Recorder of Deeds that is acceptable to DDOT that grants a perpetual eight-foot-wide alley easement along the eastern edge of Parcel 1, effectively widening the existing 12-foot-wide public alley in between the two parcels from 12 feet to 20 feet, as shown on Sheets G11 and G12 of the Plans.
2. **During the operation of the building,** the Applicant shall provide a Transportation Management Program, as set forth in the TDM section of the memo prepared by Gorove/Slade Associates, dated January 29, 2018. (Ex. 22A). The TDM Plan shall include the following:
- a. The Applicant shall work with DDOT and goDCgo (DDOT's TDM program) to implement TDM measures at the site;
 - b. 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;
 - c. The Applicant shall share the full contact information of the TDM coordinator for the site with DDOT and goDCgo;

- d. The Applicant shall provide TDM materials to new residents in the Residential Welcome Package materials;
 - e. The Applicant shall exceed the zoning requirements to provide bicycle parking facilities at the proposed development. This includes secure parking located on-site and a minimum of 18 short-term bicycle parking spaces around the perimeter of the Site (in the form of nine bicycle racks);
 - f. The Applicant shall provide a bicycle repair station to be located in the secure long-term bicycle storage room;
 - g. The Applicant shall install a Transportation Information Center Display (electronic screen) within the residential lobby of both residential buildings, which will contain information related to local transportation alternatives;
 - h. The Applicant shall fund the expansion of at least four docks to the existing Capital Bikeshare station at the intersection of Division Avenue and Foote Street, N.E., at a maximum contribution of \$2,000;
 - i. The Applicant shall work with a private carshare provider to place at least one carshare vehicle on site, preferably in one of the three on-site parking spaces at the eastern building. **In the event that a carshare provider cannot be secured for prior to the issuance of a final certificate of occupancy for the Project**, the Applicant will offer a one-year Capital Bikeshare membership for each unit for the initial residents of the buildings;
 - j. The Applicant shall provide at least eight shopping carts for residential use; and
 - k. The Applicant shall reserve at least three parking spaces to be served by electric car charging stations.
3. To enhance safety for motorists and pedestrians in the vicinity of the Property, the Applicant shall fund and construct the following roadway network improvements, all subject to DDOT approval:
- a. Remove the westernmost median break and eastbound left-turn lane on Nannie Helen Burroughs Avenue, N.E. in the location of the existing curb cuts to be closed;
 - b. Install signage on the eastbound and westbound Nannie Helen Burroughs Avenue approaches at Division Avenue restricting U-turns; and
 - c. Install signage on the northbound 50th Street approach at Nannie Helen Burroughs Avenue, N.E. restricting left-turns.

D. Loading Management Plan

1. **For the life of the Project**, the Applicant shall implement a loading management plan for the PUD as follows:
 - a. A loading manager shall be designated by the building management. The manager shall coordinate with residents to schedule deliveries 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 dock manager shall coordinate with trash pick-up to help move loading expeditiously between their storage area inside the building and the curb beside the loading area 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 § 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 dock manager shall also post these documents in a prominent location within the service area.

E. Miscellaneous

1. **Prior to the issuance of a building permit for the Project**, the Applicant shall enter into an agreement for the creation of a community benefits fund (“Fund”). The purpose of the Fund is to provide grant monies and/or loans to fund façade improvements to buildings and business within the boundaries of ANC 7C. Under the agreement the Applicant shall contribute \$100,000 to the Fund. Said contribution may be paid in either a lump sum or in three annual payments of \$33,333 per year. The initial payment to the Fund shall occur **prior to the issuance of a building permit for the Project**.
2. 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 Property 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.

3. The
PUD shall be valid for a period of two years from the effective date of this Order within which time an application shall be filed for a building permit. Construction must begin within three years of the effective date of this Order.

4. 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.

5. 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 May 7, 2018, upon the motion of Vice Chairman Miller, as seconded by Commissioner Shapiro, 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, Peter G. May, and Michael G. Turnbull to approve).

On June 11, 2018, 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 **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; 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 July 6, 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. 17-25**

Z.C. Case No. 17-25

23 I, LLC

(Design Review @ Square 697N, Lots 804 and 7000)

February 5, 2018

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on February 5, 2018, to consider an application filed by 23 I, LLC (“Applicant”) for review and approval of an application for design review under the M and South Capitol Streets Sub-area requirements of Subtitle I § 616 of the Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR” or “Zoning Regulations”) and the design review standards of 11-I DCMR Chapter 7. The public hearing was conducted in accordance with the provisions of 11-Z DCMR § 408. For the reasons stated below, the Commission hereby approves the application.

FINDINGS OF FACT

1. On December 1, 2017, the Applicant filed an application for review and approval of the second phase of a two-phase mixed-use project pursuant to the M and South Capitol Streets Sub-area requirements of 11-I DCMR § 616, and the design review standards of 11-I DCMR, Chapter 7 (“Application”), for property located at 950 South Capitol Street, S.E. (Square 697N, Lots 804 and 7000) (“Subject Property”). The Subject Property is zoned D-5 and has frontage on the east side of the designated tertiary street segment of South Capitol Street north of M Street, and is therefore within the M and South Capitol Streets Sub-area pursuant to 11-I DCMR §§ 616.2 and 616.3.
2. On January 16, 2018, the Applicant filed a prehearing submission in support of the Application. (Exhibit [“Ex.”] 16.) The prehearing submission included updated renderings that supplemented the renderings submitted with the application, a list of requested design flexibility for the project, a Comprehensive Transportation Review (“CTR”) report prepared by Gorove/Slade Associates, additional expert witnesses’ resumes, and an update on the Applicant’s engagement with the community.
3. On February 5, 2018, the Commission held a public hearing on the Application, which was concluded that same evening. Parties to the case included the Applicant and Advisory Neighborhood Commission (“ANC”) 6D, the ANC within which the Subject Property is located. Proper notice of the hearing was provided pursuant to 11-Z DCMR § 402.
4. The only witness testifying at the hearing on behalf of the Applicant was Jordan Sasson of The Related Companies. As a preliminary matter, the Commission recognized that it had previously qualified Morris Adjmi and Eric Colbert as experts in architecture, Rick Parisi as an expert in landscape architecture, and Dan VanPelt as an expert in transportation planning, but none of those witnesses testified at the hearing.

5. At the conclusion of the public hearing, the Commission took final action to approve the Application, and determined that the project satisfies all applicable requirements of the M and South Capitol Streets Sub-area and the design review standards of 11-I DCMR Chapter 7.

Project Overview

6. The Subject Property is located on the west side of Record Lot 75 in Square 697N, which is bounded by I Street, S.E. to the north, Half Street, S.E. to the east, K Street, S.E. to the south, and South Capitol Street, S.E. to the west. Record Lot 75 is located in the D-5 zone and contains approximately 82,563 square feet of land area. Lot 804 contains approximately 29,375 square feet of land area, and Lot 7000 is an air rights lot. The Subject Property is presently unimproved.
7. The eastern part of Record Lot 75 is comprised of Lots 2001, 2002, and 2003 (“East Property”), which are the only other lots on Record Lot 75. The East Property is improved with a mixed-use building containing 383 residential units, approximately 22,000 square feet of ground-floor retail use, and three levels of below-grade parking (“East Building”). The East Building was constructed between 2015 and 2017, as the first phase of the two-phase project on Record Lot 75.
8. Development of the Subject Property is the second and final phase of development (hereinafter referred to as the “West Building”). The East Building and the West Building will be physically connected to each other to constitute a single building for zoning purposes in compliance with 11-B DCMR § 309.1, and will also be connected below grade in the parking garage. The East and West Buildings will be separated by a two-way private drive running north-south between K and I Streets (“Private Drive”), with the building connection constructed over the Private Drive. The Private Drive and its associated curb cuts were approved and installed during construction of the East Building.
9. The West Building will be developed as a residential project with approximately 296,972 square feet of gross floor area and density of 10.11 floor area ratio (“FAR”),¹ and a maximum building height of 130 feet as measured from Half Street, S.E. The ground floor will contain active residential amenity space. Approximately 300 residential units (plus or minus 10%) will be located on the floors above. Two penthouses will be located on the West Building, one containing residential amenity space and one containing mechanical equipment. Both penthouses will be 20 feet in height and will be setback from all street frontages in full compliance with 11-C DCMR, Chapter 15. No setback is required from the closed court in the center of the building.

¹ The total gross floor area for the overall building (the East Building and West Building combined) on the single record lot will be 708,801 square feet and density of 8.58 FAR.

10. Vehicular access to parking and loading for the West Building is provided via the Private Drive, and all other existing curb cuts surrounding the Subject Property will be closed. Approximately 191 parking spaces (plus or minus 15%) will be located in a below-grade garage connected to the East Building's existing garage and accessed via the existing ramp in the East Building. One loading berth and one service/delivery space will be located on the ground floor of the West Building.² The primary pedestrian entrance to the West Building will be located on K Street, with secondary entrances on South Capitol Street and I Street.
11. Retail use is not proposed for the ground floor of the West Building. However, in response to comments from ANC 6D and the Office of Planning ("OP"), the Applicant designed the ground-floor residential amenity space to be convertible to retail use in the future should the Applicant determine that the market demand along South Capitol Street has changed. In order to permit successful retail use in that location, the Commission approved the signage plan to accommodate future signage, and the ground-floor plan to permit reconfigured service corridors to provide direct interior access to all retail spaces. (Ex. 22A, Sheets 351A, A104A.)
12. Once fully developed, the West Building will rise as a C-shaped structure, creating a closed court between the West Building and the backward C-shaped East Building. A landscaped amenity courtyard on axis with the K Street lobby will provide a direct visual connection with the lobby entrance. The courtyard will include garden rooms connected to an interior amenity space to provide an extension of the interior room.
13. Upon completion of the West Building, the Applicant will plant two linear planting strips along South Capitol Street, with an allee of trees and an understory planted with colorful groundcovers, grasses, and shrubs to provide year-round interest. This shaded pedestrian pathway will provide a human sense of scale with a green buffer while enhancing the view of the Capitol. The South Capitol Street streetscape plan approved by the Commission is included at of the record. (Ex. 22A, Sheets L500A, L502A, L300A.) The Commission also granted flexibility with respect to the allee of trees to permit the Applicant to install an additional tree pit located within the property line on South Capitol Street to enable compliance with DDOT's South Capitol redevelopment plan in the future. The future condition of the streetscape plan is also subject to change based on DDOT's final design for South Capitol Street. (Ex. 22A, Sheet L501A.)
14. Similar to the approved streetscape plan for Half Street on the east side of the East Building, I and K Streets will be planted with Willow Oak trees in low-impact development tree pits, also planted with grasses and evergreens. A continuous band of cobblestones will define the buffer zone from the pedestrian walkway matching the East Building's streetscape.

² The East Building contains 336 below-grade parking spaces and separate loading facilities (three loading berths and one service/delivery space).

15. On all three street frontages (South Capitol, I, and K Streets), the West Building's façade is articulated at every other floor with a metal horizontal slab cover displaying the profile of a flanged beam. These continuous horizontal elements define a series of smaller two-story elements within the 13-story building, and the articulation is further emphasized as each two-story-volume is set at an alternating depth off of the property line, creating a more dynamic building massing. The deeper-set portions of the façade are clad with a slightly darker metal to enhance the distinction of volumes. The different volumes create a related but distinct character compared to the East Building. A secondary verticality is created by a rhythm of flanged pilasters made of stone and metal that punctuate each floor of the building. Window bays, including operable vents, are set between the flanged pilasters. At the ground floor, the pilasters are expressed in stone to enrich the pedestrian experience. The West Building façade on South Capitol Street sets back at the 12th floor and again at the 13th floor, providing ample residential terraces facing the South Capitol corridor. The Commission finds that the building façade incorporates extensive articulation and complies with all setback requirements along the South Capitol Street frontage.
16. The West Building will be designed to achieve LEED-Silver v.4 certification, generally consistent with the LEED Scorecard included in the record at Ex. 22A, Sheet A106A. Areas of the penthouse will be constructed to enable possible renewable energy production in the future.
17. The Applicant provided the building materials, a copy of which is in the record. (Ex. 22A, Sheet A601; Ex. 23.)

Compliance with the M and South Capitol Streets Sub-Area Requirements

18. Pursuant to 11-I DCMR § 616.2, the M and South Capitol Streets Sub-area includes D-5 zoned property with frontage on either side of the designated tertiary street segments of the South Capitol Street corridor north of M Street. The Subject Property is included in this designated area. (*See* Figure I § 615 and Table I § 616.3.) Properties located within the M and South Capitol Streets Sub-area are required to comply with the street-wall requirements of 11-I DCMR § 616.7. In this case only 11-I DCMR §§ 616.7(d), (e), and (f) are applicable.
19. The Commission finds that the project complies with 11-I DCMR §§ 616.7(d), (e), and (f) because (i) the West Building provides 1:1 building setbacks along South Capitol Street beginning at 110 feet; (ii) there are no openings in the West Building adjacent to South Capitol Street that provide entrances or exits for parking or loading, and all parking and loading will be accessed from the Private Drive in the center of the square; and (iii) a minimum of 75% of the West Building's street-wall is constructed on the setback line. Therefore, the Commission concludes that the proposed project is fully consistent with the M and South Capitol Streets Sub-area requirements of 11-I DCMR §§ 616.

Compliance with the Design Review Standards for D Zones

20. Pursuant to 11-I DCMR § 701.1, all new buildings or structures that have frontage on a designated street segment within the M and South Capitol Streets Sub-area are subject to the additional design review requirements of 11-I DCMR, Chapter 7. The Subject Property has frontage on South Capitol Street, S.E., which is a designated street segment within the M and South Capitol Streets Sub-area, and is therefore subject to Chapter 7 design review. (See 11-I DCMR §§ 616.2 and 616.3.)
21. The Commission finds that the project complies with the design review standards of 11-I DCMR, Chapter 7 for the following reasons:
 - a. The West Building complies with the objectives of the M and South Capitol Streets Sub-area. The building design preserves the important axial view of the Capitol Dome while further developing South Capitol Street as a high-density mixed-use corridor. The West Building will contain new residential uses in a vibrant new building with public frontages on three streets, including South Capitol Street. Moreover, the West Building complies with all street-wall setback requirements set forth in 11-I DCMR § 616.7; (11-I DCMR § 701.2(a)(1).)
 - b. The West Building is contextual to the surrounding neighborhood and street patterns, offering distinct façade designs at each elevation. Active ground-floor amenity uses wrap the building, and all parking and loading is taken from the Private Drive to minimize impacts on existing street patterns and surrounding uses. This proposed configuration will maximize active street frontage along South Capitol Street and improve the public realm; (11-I DCMR § 701.2(a)(2).)
 - c. Vehicular and pedestrian conflicts will be minimized because all parking and loading access to the East and West Buildings will be accommodated from K and I Streets via the Private Drive, rather than from separate curb cuts along the public streets. This configuration provides the maximum amount of uninterrupted sidewalks, landscaping, and public spaces, and will ensure the greatest amount of pedestrian safety; (11-I DCMR § 701.2(a)(3).)
 - d. The West Building offers extensive façade articulation across all street-facing elevations. The ground floor includes active uses with clear inviting windows and extensive architectural expression, such that blank facades adjacent to public spaces have been minimized; (11-I DCMR § 701.2(a)(4).)
 - e. The West Building will achieve LEED-Silver v.4 certification, generally consistent with the LEED Scorecard included in the record at Ex. 22A, Sheet A106A; (11-I DCMR § 701.2(a)(5).)
 - f. The West Building's design reflects the vision of the monumental character of South Capitol Street. The building incorporates massing and materials in a manner that helps to advance South Capitol Street as a monumental civic

boulevard. The West Building extends the existing development patterns along South Capitol Street to maintain the surrounding scale of development and create consistency along the corridor. The West Building also provides landscaping and public space improvements that enhance the pedestrian experience and aesthetic quality of South Capitol Street as an important urban boulevard; (11-I DCMR § 701.2(b)(1).)

- g. All parking and loading for the West Building is accessed through the Private Drive, which minimizes impact on the surrounding residential neighborhood and best recognizes the Subject Property's location within its existing context; (11-I DCMR § 701.2(b)(2).)
- h. Due to the building setbacks, the West Building maintains an open view around the Subject Property. The West Building does not obstruct any views or vistas of the Capitol Dome and maintains a clear, unobstructed view towards federal monumental buildings and historic views; and (11-I DCMR § 701.2(b)(3).)
- i. The Commission notes that no additional requests for special exception or variance relief were requested as part of this application. (11-I DCMR § 701.3.)

Compliance with the Special Exception Standards

- 22. The Commission finds that the application meets the criteria for special exception relief pursuant to 11-X DCMR § 901.2, that the project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map.
- 23. The Commission finds that the West Building will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The West Building meets all dimensional and use requirements and restrictions for a site within the M and South Capitol Streets Sub-area of the Zoning Regulations, and also meets all development and use standards for the D-5 zone.
- 24. The Commission finds that the West Building will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. The neighboring properties are generally 110-feet to 130-feet tall, high-density residential or office buildings. The residential (and potentially future retail) use(s) proposed for the West Building will not be inconsistent with these uses. Moreover, the Applicant has agreed to Transportation Demand Management ("TDM") measures that are adequate to ensure that the West Building will not adversely affect the transportation network.

Design Flexibility

- 25. The Applicant requested the following flexibility with the design of the project:

- a. To provide a range in the number of residential dwelling units of plus or minus 10% from the number depicted on the architectural drawings;
- b. To provide a range in the number of parking spaces of plus or minus 15%;
- c. To vary the location and design of all interior components, including but not limited to partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not materially change the exterior configuration of the building;
- d. To replace the proposed ground-floor residential amenity space with retail space if retail demand along South Capitol Street increases in the future, so long as doing so does not materially impact the ground-floor façade design other than in compliance with the flexibility requested herein;
- e. To vary the location and design of the ground-floor components to comply with any of the applicable District of Columbia laws and regulations, and to vary the location and increase the number of ground floor entrances and show windows;
- f. To vary the final selection of the exterior materials within the color ranges proposed (maintaining or exceeding the same general level of quality), based on availability at the time of construction, and to make refinements to the exterior details and dimensions, including belt courses, sills, bases, cornices, railings, and trim, or any other changes to comply with District of Columbia Building Code or that are otherwise necessary to obtain a final building permit or other applicable approvals;
- g. To vary the sustainable features of the project, provided the total number of LEED points achievable for the project does not decrease below LEED Silver v.4;
- h. Flexibility to install additional tree(s) in tree pit(s) located within the property line along South Capitol Street; and
- i. Flexibility on the exact design and size of the artwork located within the Private Drive.

Office of Planning Report

26. On January 26, 2018, OP submitted a report recommending approval of the application. (Ex. 20.) The recommendation was subject to the following conditions: (i) clarify whether the Applicant will install the artwork as submitted in the record (Ex. 5A3, Sheet A502); (ii) clarify the color range, lighting, and size range of the signage and confirm whether signage will not be higher than the top of the building's first story; (iii) submit potential design refinements to the ground floor to include discrete color highlights, particularly on I and K Streets; (iv) clarify the overall LEED level and whether there is a commitment to achieve LEED certification; (v) clarify whether the ground level of the

tree boxes along South Capitol Street will be at the same elevation as the west adjacent public sidewalk; (vi) submit modified plans showing construction of sub-surface tree boxes within the South Capitol Street property line to enable the planting of additional tree(s) in the future; and (vii) resolve other public space concerns that may be raised by DDOT.

27. The Commission finds that the Applicant adequately responded to and submitted materials that address each of OP's comments. With respect to the artwork, the Applicant testified that it cannot install the type or size of artwork shown, because a Pepco vault within the property line is located below the artwork and requires a 40-foot clearance. (Ex. 5A3, Sheet A502.) However, with approximately 48 feet clear above the ground in that location, the Applicant agreed to install a smaller piece of art or decorative light, which the Commission finds is an appropriate response. (Ex. 22A, Sheet A502B.) The exact design and size of the artwork will be determined by the Applicant and will be installed in connection with construction of the West Building.
28. Regarding signage, the Applicant submitted a revised signage plan, which OP and the Commission find to be appropriate. Signage is not proposed above the top of the building's first story. (Ex. 22A, Sheet A351A.)
29. The Applicant does not propose to make any refinements to the ground floor. At the public hearing, the Applicant testified that the interior of the ground-floor spaces on both South Capitol and K Streets will be lively and colorful, and additional color will be included in the landscaping along South Capitol Street. Moreover, the materials and colors proposed for the base of the building are textured and varied, such that the Commission agrees with the Applicant that no additional design refinements or color highlights are needed to provide a dynamic and visually interesting ground-floor façade.
30. At the public hearing, the Applicant testified that the West Building would achieve LEED-Silver v.4 certification, as supported by DOEE in its report, which satisfied OP. The Applicant also submitted a revised LEED scorecard. (Ex. 22A, Sheet A106A.) The Commission finds that LEED-Silver v.4 certification is appropriate in this case.
31. The Applicant submitted a revised streetscape plan showing that the tree boxes along South Capitol street will be level. (Ex. 22A, Sheet L500A.) The top of the tree boxes will range from six inches above the adjacent public sidewalk at the southern portion of the Subject Property to approximately 28 inches at the northern portion of the Subject Property, since the sidewalk slopes down to the north. The modified streetscape plan also indicates the location of a future tree box within the South Capitol Street property line to enable the planting of an additional tree in the future. As noted below, the Applicant also resolved all other public space concerns raised by DDOT. All streetscape designs shall be consistent with the updated plans. (Ex. 22A, Sheets L500A, L502A, L300A.)
32. Based on the foregoing, and in reliance on OP's testimony at the public hearing that the Applicant had fully responded to each of its concerns, the Commission concludes that the

Applicant's testimony and the modifications to the plans submitted by the Applicant at the public hearing sufficiently address OP's conditions. (Ex. 22A.)

DDOT Report

33. On January 26, 2018, DDOT submitted a report indicating no objection to the Application subject to conditions. (Ex. 17.) DDOT's conditions included the following: (i) strengthen the TDM plan to include additional elements indicated on page three of the DDOT report; (ii) revise the following elements in the South Capitol Street public realm: (A) give preference to the row of trees in the setback over street trees toward the northern end of the Subject Property where a narrow public space precludes the provision of a double row of trees; (B) construct sub-surface tree boxe(s) within the South Capitol Street property line to enable the planting of additional tree(s) in the future; (C) install pedestrian walkways between the sidewalk and the walkway in the setback area; and (D) utilize exposed aggregate paving material for the sidewalk areas and granite cobbles between the tree boxes; (iii) revise the canopy over the residential entrance to comply with the Building Code; and (iv) provide a loading corridor that could connect the loading area with the potential future retail area. DDOT also requested that the Applicant provide three electric car charging stations in the parking garage.
34. The Commission finds that the Applicant responded to and addressed all of DDOT's comments. With respect to the TDM plan, the Applicant submitted a revised TDM plan that was mutually acceptable to both the Applicant and DDOT. (Ex. 22A, Sheet 7.) The revised TDM plan includes the following items, which the Commission finds are appropriate and will adequately mitigate the traffic impacts created by the project:
- a. Designate a TDM leader responsible for organizing and marketing the TDM plan, and provide updated contact information for the TDM leader and report TDM efforts and amenities to goDCgo staff once per year;
 - b. Stock Metrorail, Metrobus, DC Circulator, Capital Bikeshare, Guaranteed Ride Home, DC Commuter Benefits Law, and other brochures on site;
 - c. Unbundle all parking costs from the cost of lease and set parking costs at the average parking rate within a quarter-mile of the Subject Property, at a minimum;
 - d. Provide short- and long-term bicycle parking spaces that meet or exceed zoning requirements;
 - e. Provide an annual Capital Bikeshare membership or a carshare membership of equal value to each residential unit for a total of five years;
 - f. Provide an electronic display showing real-time transportation schedules and information in a common, shared space;
 - g. Post all TDM requirements online for easy reference;

- h. Provide a move-in kit to each resident containing a Get Around Guide highlighting local transportation options, such as Capital Bikeshare, carshare companies, Metro brochure, and other transportation information;
 - i. Hold two annual transportation events for residents;
 - j. Provide six shopping carts for residents to use on errands and grocery shopping;
 - k. Offer a carshare company the right of first offer to provide two cars for carsharing services in the parking garage; and
 - l. Provide a bicycle repair space in the long-term bicycle parking room.
35. The Applicant also submitted revised streetscape plans that addressed all of DDOT's comments. (Ex. 22A, Sheets L500A, L501A, L502A, L300A.) The revised streetscape plans prioritize the row of trees in the setback area over the street trees at the northern end of the Subject Property by adding a seventh tree in this location. They also provide for an additional sub-surface tree box within the South Capitol Street property line to enable the planting of an additional tree in the future. The streetscape plans also establish additional pedestrian walkways between the sidewalk and the setback area, and utilize exposed aggregate paving material for the sidewalk with granite cobbles between the tree boxes. (Ex. 22A.) Thus, the Commission finds that the Applicant thoroughly reviewed and addressed each of DDOT's comments regarding the revised streetscape design. The future condition of the streetscape plan is subject to change based on DDOT's final design for South Capitol Street. (Ex. 22A, Sheet L501A.)
36. Regarding the canopy, the Applicant stated at the public hearing that it would address DDOT's concerns during the public space permitting process, which the Commission agrees is the appropriate forum given that the canopy is in public space.
37. The Applicant submitted a slightly revised ground-floor layout showing a direct connection from the loading dock to the future retail space, which the Commission finds is adequate to address DDOT's concerns regarding deliveries for potential future retail at the Subject Property.
38. Finally, the Applicant agreed to install three electric car charging stations in the parking garage. (Ex. 22A, Sheet A203A.)

DOEE Report

39. DOEE submitted a report to the record that recommend approval of the application. (Ex. 19.) In its report, DOEE stated its support for the Applicant's proposal to achieve LEED-Silver v. 4 certification, and to construct the building as "solar ready," even though it is unable to provide solar panels on the building at this time. The Commission

agrees with DOEE's report and commends the Applicant for working closely with DOEE to gain support for the project.

ANC Report

40. By letter dated January 11, 2018, ANC 6D reported that at its duly noticed, regularly scheduled meeting of January 8, 2018, with a quorum of commissioners and the public present, ANC 6D voted 7-0-0 to send the following comments about the building's design. (Ex. 15.) The ANC's report indicated its preference for the Applicant to add more color to the building's façade, articulation to the building's façade at the base of the building, and that it would like to see public art added to the entrance on South Capitol Street to enhance the streetscape.
41. At the public hearing, the Applicant explained that it had increased the building's articulation in response to the ANC's comments. (*See* Ex. 22A, Sheet A506.) The Applicant also stated that it did not intend to add more color to the building because the materials proposed are already textured and varied, utilize a mix of stone, metal, and glass, and incorporate a rhythm of storefront windows and stone pilasters that engage the public realm. Therefore, the Applicant testified that it did not believe that additional colors would improve the building façade. The Commission welcomes the ANC's comments on the façade design but agrees with the Applicant that the building is already highly articulated and visually appealing, such that additional design refinements and color highlights are not needed to improve the overall building aesthetic. Finally, with respect to the request for public art on South Capitol Street, the Commission finds that there are already extensive plantings proposed for South Capitol that provide a visually interesting streetscape.

CONCLUSIONS OF LAW

1. The Application was submitted pursuant to 11-I DCMR § 616 and 11-I DCMR, Chapter 7 for design review under the M and South Capitol Streets Sub-area requirements.
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 Subject Property.
3. Pursuant to 11-I DCMR § 616.8, the Commission required the Applicant to satisfy all applicable requirements set forth in 11-I DCMR Chapter 7. The Commission concludes that the Applicant has met its burden.
4. The proposed development is within the applicable height, bulk, and density standards for the D-5 zone and will not tend to affect adversely the use of neighboring property. The overall project is also in harmony with the general intent and purpose of the Zoning Regulations and Zoning Map.

5. The Commission concludes that the project will further the objectives of the M and South Capitol Streets Sub-area set forth in 11-I DCMR § 616.1, and will promote the desired mix of uses set forth therein. The design of the proposed building meets the purposes of the M and South Capitol Streets Sub-area and meets the specific design requirements of 11-I DCMR § 616.7.
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 the issues and concerns stated in the ANC's report relating to the building's color. As noted above, the Commission appreciates the ANC's suggestion to add color to the building façade, but agrees with the Applicant that the building is aesthetically pleasing and cohesive as proposed, such that additional color highlights are unnecessary. The Commission also agrees with the Applicant that the building façade on the ground floor is sufficiently articulated on the ground floor, and that the South Capitol Street streetscape is sufficiently visually interesting given the extensive tree plantings proposed by the Applicant, so that additional modifications to the design are not necessary to justify approval.
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 finds its recommendation to grant the application persuasive. As noted in this Order, the Commission concludes that the Applicant satisfactorily addressed every outstanding item noted in the OP Report either through testimony at the public hearing or through the Applicant's submission dated February 5, 2018 (Ex. 22A).
9. Based upon the record before the Commission, including witness testimony, the reports submitted by OP, DDOT, DOEE, and ANC 6D, and the Applicant's submissions, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under 11-I DCMR § 616 and 11-I DCMR, Chapter 7.

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. Approval of the project shall apply to Lots 804 and 7000 in Square 697N.
2. The project shall be built in accordance with the architectural drawings included in the record of Z.C. Case No. 17-25 and submitted on November 29, 2017 (Ex. 5A), as

supplemented by the architectural drawings dated January 16, 2018 (Ex. 16A), and as further modified and supplemented by the architectural drawings dated February 5, 2018 (Ex. 22A), which were submitted as the Applicant's hearing PowerPoint presentation, and as modified by the guidelines, conditions, and standards below.

3. **For the life of the Project** (except as otherwise noted) the Applicant shall implement the following TDM measures:
- a. Designate a TDM leader responsible for organizing and marketing the TDM plan, and provide updated contact information for the TDM leader and report TDM efforts and amenities to goDCgo staff once per year;
 - b. Stock Metrorail, Metrobus, DC Circulator, Capital Bikeshare, Guaranteed Ride Home, DC Commuter Benefits Law, and other brochures on site;
 - c. Unbundle all parking costs from the cost of lease and set parking costs at the average parking rate within a quarter-mile of the Subject Property, at a minimum;
 - d. Provide short- and long-term bicycle parking spaces that meet or exceed zoning requirements;
 - e. Provide an annual Capital Bikeshare membership or a carshare membership of equal value to each residential unit for a total of five years;
 - f. Provide an electronic display showing real-time transportation schedules and information in a common, shared space;
 - g. Post all TDM requirements online for easy reference;
 - h. Provide a move-in kit to each resident containing a Get Around Guide highlighting local transportation options, such as Capital Bikeshare, carshare companies, Metro brochure, and other transportation information;
 - i. Hold two annual transportation events for residents;
 - j. Provide six shopping carts for residents to use on errands and grocery shopping;
 - a. Offer a carshare company the right of first offer to provide two cars for carsharing services in the parking garage; and
 - k. Provide a bicycle repair space in the long-term bicycle parking room.
4. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall provide evidence to the Zoning Administrator that the project shall be designed to include at least the minimum number of points necessary to achieve LEED-Silver v.4 certification;

5. The Applicant shall have flexibility with the design of the Project in the following areas:
- a. To provide a range in the number of residential dwelling units of plus or minus 10% from the number depicted on the architectural drawings;
 - b. To provide a range in the number of parking spaces of plus or minus 15%;
 - c. To vary the location and design of all interior components, including but not limited to partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not materially change the exterior configuration of the building;
 - d. To replace the proposed ground-floor residential amenity space with retail space if retail demand along South Capitol Street increases in the future, so long as doing so does not materially impact the ground-floor façade design other than in compliance with the flexibility requested herein;
 - e. To vary the location and design of the ground-floor components to comply with any of the applicable District of Columbia laws and regulations, and to vary the location and increase the number of ground-floor entrances and show windows;
 - f. To vary the final selection of the exterior materials within the color ranges proposed (maintaining or exceeding the same general level of quality), based on availability at the time of construction, and to make refinements to the exterior details and dimensions, including belt courses, sills, bases, cornices, railings, and trim, or any other changes provided they do not significantly alter the exterior design to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit or any other applicable approvals;
 - g. To vary the sustainable features of the project, provided the total number of LEED points achievable for the project does not decrease below LEED-Silver v.4;
 - h. Flexibility to install additional tree(s) in tree pit(s) located within the property line along South Capitol Street; and
 - i. Flexibility on the exact design and size of the artwork located within the Private Drive.
6. 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 February 5, 2018, upon the motion of Commissioner May, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the Application 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).

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 July 6, 2018.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.

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