

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 22-230, Health Literacy Council Establishment Act of 2017
- D.C. Council schedules a public hearing on “Fiscal Year 2017 Comprehensive Annual Financial Report”
- Office of Contracting and Procurement identifies the types of contracts that are appropriate for use in Districts procurements
- Board of Elections schedules a public hearing to consider the proposed initiative “Legalization of Retail Cannabis in the District of Columbia 2018”
- Board of Elections publishes final polling place relocations
- Department of Energy and Environment announces funding availability for the Green Zone Environmental Program
- D.C. Water and Sewer Authority updates waste water discharge fees
- Office of the Secretary of the District of Columbia solicits applications for the Grant to Promote District of Columbia Voting Rights and Statehood

DISTRICT OF COLUMBIA REGISTER

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DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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MURIEL E. BOWSER
MAYOR

VICTOR L. REID, ESQ.
ADMINISTRATOR

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-226

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 10, 2018

To approve, on an emergency basis, Modification Nos. 6, 7, 7-A, 7-B, 8, 8-A, and 9 to Contract No. RM-14-RFP-200-SIL-CCI-BY4-SC with Community Connections, Inc. to provide supported independent living services, and to authorize payment for the goods and services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modifications to Contract No. RM-14-RFP-200-SIL-CCI-BY4-SC Approval and Payment Authorization Emergency Act of 2017".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 6, 7, 7-A, 7-B, 8, 8-A, and 9 to Contract No. RM-14-RFP-200-SIL-CCI-BY4-SC with Community Connections, Inc. to provide supported independent living services, and authorizes payment in the not-to-exceed amount of \$1,300,000 for the goods and services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

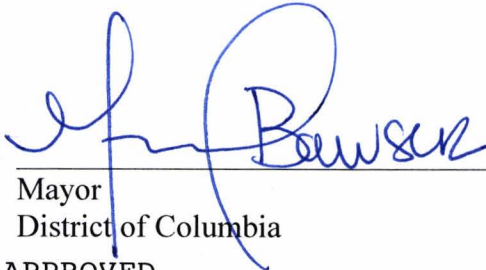
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 10, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-227

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 10, 2018

To amend, on an emergency basis, the Homeless Shelter Replacement Act of 2016 to revise the location of the Ward 1 temporary shelter site for families experiencing homelessness, enhance the capacity of the shelter, and authorize the utilization of the site for the location of permanent supportive housing for seniors and the Rita Bright Recreation Center.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Homeless Shelter Replacement Emergency Amendment Act of 2017”.

Sec. 2. Section 3(a)(1) of the Homeless Shelter Replacement Act of 2016, effective July 29, 2016 (D.C. Law 21-141; 63 DCR 11132), is amended to read as follows:

“(1) The Mayor is authorized to use funds appropriated for capital project HSW01C – Ward 1 Shelter to construct a facility to provide temporary shelter for families experiencing homelessness containing 35 2- and 3-bedroom apartment-style units on District-owned land at 2500 14th Street, N.W., Square 2662, Lot 205; provided, that the contract for the construction of the facility shall be awarded pursuant to a request for proposals to be issued by the Department of General Services; and provided further, that the site also may be utilized to locate 15 units of permanent supportive housing, as defined in section 2(28) of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-751.01(28)), for seniors and to locate the Rita Bright Recreation Center;”.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

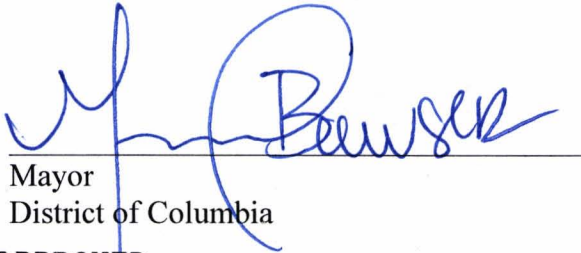
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 10, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-228

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 10, 2018

To amend Chapter 27B of Title 47 of the District of Columbia Official Code to establish the Ballpark Fee Forgiveness Fund to provide for the forgiveness of the ballpark fee.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Ballpark Fee Forgiveness Act of 2017".

Sec. 2. Chapter 27B of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation to read as follows:

"47-2762.01. Ballpark Fee Forgiveness Fund."

(b) A new section 47-2762.01 is added to read as follows:

"§ 47-2762.01. Ballpark Fee Forgiveness Fund.

"(a) There is established as a special fund the Ballpark Fee Forgiveness Fund ("Fund"), which shall be administered by the Chief Financial Officer and used for the purpose set forth in subsection (c) of this section.

"(b) There shall be deposited into the Fund an appropriation of \$500,000.

"(c) Money in the Fund shall be used to forgive certain payments of the ballpark fee required pursuant to § 47-2762 as follows:

"(1) If a Real Estate Investment Trust ("REIT"), which consists of and operates through multiple related entities at a particular property, has paid the ballpark fee based on the gross receipts derived from the income produced from that particular property as required by § 47-2762, and another such related entity or partnership ("subsequent payor") of that same REIT makes a subsequent, equal payment of the ballpark fee for the same period and property ("subsequent payment"), the subsequent payor may apply for forgiveness of the subsequent payment, which shall be paid from the Fund, as provided in paragraph (2) of this subsection; provided, that the REIT, or the subsequent payor, is the fee simple owner of the particular property.

"(2)(A) On or after the date that this section is applicable, a subsequent payor may submit an application for forgiveness of the asserted subsequent payment with his or her annual ballpark fee return, but not later than June 15 of the year in which the payment of the ballpark fee is due; provided, that the asserted subsequent payment was remitted pursuant to § 47-2762 on or after the applicability of this section.

ENROLLED ORIGINAL

“(B) If at any time forgiveness amounts applied for exceed the funds available in the Fund, approved forgiveness shall be ratably reduced in proportion to the amount of each subsequent payor’s subsequent payment.

“(d) (1) The funds 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 purpose set forth in subsection (c) of this section without regard to fiscal year limitation.

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.

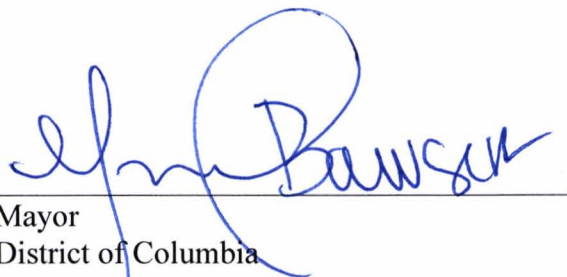
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 10, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-229

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 10, 2018

To amend the Homeless Services Reform Act of 2005 to align terminology with federal law and clarify who qualifies as a resident of the District of Columbia, to clarify the membership, appointment process, roles, and responsibilities of the Interagency Council on Homelessness and its members, to clarify the housing services offered within the Continuum of Care, to repeal the Housing First program and the Housing First Fund, to require the Mayor to assist individuals and families seeking services within the Continuum of Care with demonstrating eligibility, to authorize the Mayor to redetermine eligibility for Continuum of Care services, under certain circumstances, upon receipt of new and relevant information, to direct the Mayor to use the District's centralized or coordinated assessment system protocol to determine referrals for eligible individuals and families within the Continuum of Care, to clarify that applicants for severe weather shelter may have a 3-day grace period from the date of application to demonstrate proof of District residency, to repeal outdated provisions related to Rapid Re-Housing and the local rent supplement program, to repeal the requirement that the Mayor use available tenant-based housing assistance, under certain circumstances, to house homeless families, to provide Continuum of Care clients the right to associate and assemble peacefully, to provide additional rights for clients in permanent housing programs, to require employees of Continuum of Care service providers to receive certain training, to require a provider of medical respite services to provide a client that no longer requires services with 24 hours' notice before terminating services, to clarify the kind of notice providers must give clients before transferring or terminating services, to authorize a Continuum of Care provider to transfer an individual or family when the individual or family is no longer eligible for services or when the provider is unable to continue operating due to loss of funding or loss of control of the facility, to authorize a Continuum of Care provider to exit an individual or family from a program when the individual or family has reached the time limit in the program, has been assigned a provider for substantially all of the program, and does not meet recertification standards for the program, or if the Mayor determines that the individual or family is no longer eligible for services, to authorize a Continuum of Care provider to transfer, suspend, or terminate services within 24 hours where the client presents an imminent threat and to effect an emergency transfer of a client in the case of a loss of a unit beyond the control of the provider or the Department of Human Services or where a client materially impairs the providers ability to provide services to other clients, to specify the evidence that the Office of Administrative

ENROLLED ORIGINAL

Hearings may consider when reviewing an appeal from a decision to exit a client from a program, to redesignate the Office of Shelter Monitoring as the Shelter Monitoring Unit, to permit the Mayor to contract to provide beds for LGBTQ youth, to exempt providers of medical respite services from enumerated requirements of the act, to create reporting requirements related to Rapid Re-Housing, and to establish a program to support clients exiting Rapid Re-Housing; to amend the Homeless Prevention Program Establishment Act of 2014 to authorize the Mayor to enter into a grant agreement with a third-party to operate the Homeless Prevention Program; and to repeal the Medical Respite Services Exemption Emergency Amendment Act of 2017 and the Medical Respite Services Exemption Temporary Amendment Act of 2017.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Homeless Services Reform Amendment Act of 2017”.

Sec. 2. The Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-751.01 *et seq.*), is amended as follows:

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

(1) A section designation is added for section 5a to read as follows:

“Sec. 5a. Plan to end youth homelessness in the District by 2022.”.

(2) A section designation is added for section 7a to read as follows:

“Sec. 7a. Housing First Fund. [Repealed].”.

(3) Section designations are added for sections 8a, 8b, 8c, 8d, and 8e to read as follows:

“Sec. 8a. Grace period for demonstrating residency.

“Sec. 8b. Fiscal years 2012 and 2013 rapid re-housing. [Repealed].

“Sec. 8c. Placement of first-priority homeless families. [Repealed].

“Sec. 8d. Department requirements for placements of individuals and families in permanent supportive housing.

“Sec. 8e. Local rent supplement program referrals [Repealed].”.

(4) Strike the phrase “Sec. 10. Additional rights for clients in temporary shelter or supportive housing.” and insert the phrase “Sec. 10. Additional rights for clients in temporary shelter or transitional housing.” in its place.

(5) A section designation is added for new section 10a to read as follows:

“Sec. 10a. Additional rights for clients in permanent housing programs.”.

(6) A section designation is added for section 12a to read as follows:

“Sec. 12a. Training standards for all providers.”.

(7) Strike the phrase “Sec. 15. Additional standards for providers of temporary shelter and supportive housing.” and insert the phrase “Sec. 15. Additional standards for providers of temporary shelter, transitional housing, and permanent housing programs” in its place.

(8) A section designation is added for section 16a to read as follows:

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“Sec. 16a. Additional standards for providers of shelter, transitional housing, or permanent housing programs for LGBTQ homeless youth.”

(9) A section designation is added for section 22a to read as follows:

“Sec. 22a. Discontinuation of permanent supportive housing.”

(10) A section designation is added for new section 22b to read as follows:

“Sec. 22b. Program exits.”

(11) Strike the phrase “Sec. 27a. Establishment of Office of Shelter Monitoring.” and insert the phrase “Sec. 27a. Establishment of Shelter Monitoring Unit.” in its place.

(12) Strike the phrase “Sec. 27b. Powers and duties of the Office.” and insert the phrase “Sec. 27b. Powers and duties of the Shelter Monitoring Unit” in its place.

(13) Strike the phrase “Sec. 27f. Policies and procedures.” and insert the phrase “Sec. 27f. Annual monitoring strategy.” in its place.

(14) A section designation is added for new section 29a to read as follows:

“Sec. 29a. Medical respite services; exemptions.”

(14) Section designations are added for sections 31a, 31b, and 31c, and new sections 31d, and 31e to read as follows:

“Sec. 31a. Director to End Homelessness.

“Sec. 31b. Interim eligibility reporting requirement.

“Sec. 31c. Flexible Rent Subsidy Pilot Program.

“Sec. 31d. Annual Rapid Re-Housing report.

“Sec. 31e. Voluntary program for former Rapid Re-Housing participants.”

(b) Strike the phrase “at imminent risk of becoming homeless” wherever it appears and insert the phrase “at risk of homelessness” in its place.

(c) Section 2 (D.C. Official Code § 4-751.01) is amended as follows:

(1) New paragraphs (5A) and (5B) are added to read as follows:

“(5A) “At risk of chronic homelessness” means an individual or a family with a head of household who:

“(A) Is homeless and lives in a place not meant for human habitation or in a shelter;

“(B) Can be diagnosed with one or more of the following conditions: substance use disorder, serious mental illness, developmental disability (as defined in D.C. Official Code § 21-1201(3)), post-traumatic stress disorder, cognitive impairments resulting from brain injury, or chronic physical illness or disability; and

“(C) Does not have sufficient resources or support networks, such as family, friends, and faith-based or other social networks, immediately available to assist them in obtaining permanent housing.

“(5B) “At risk of homelessness” means that an individual or family:

“(A)(i) Has an annual income below 40% of the median family income for the Washington DC Metropolitan Area, as determined by the U.S. Department of Housing and Urban Development; or

“(ii) Has an annual income below 30% of the median family income for the Washington DC Metropolitan Area, as determined by the U.S. Department of

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Housing and Urban Development, if providing a program or service to the individual or family would require the District or a provider to expend funds that are restricted by federal law or policy on the individual or family;

“(B) Does not have sufficient resources or support networks, such as family, friends, and faith-based or other social networks, immediately available to prevent them from moving to a shelter or another place described in paragraph (18)(A) of this section; and

“(C) Meets one of the following conditions:

“(i) Has moved housing accommodations because of economic reasons 2 or more times during the 60 days immediately preceding the application for crisis intervention assistance;

“(ii) Is living in the home of another individual or family because of economic hardship;

“(iii) Has been notified or can document that their right to occupy their current housing or living situation will be terminated, including notification or documentation of past-due rent;

“(iv) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, state, or local government programs for low-income individuals;

“(v) Lives in:

“(I) A single-room occupancy or efficiency apartment unit in which there reside more than 2 persons; or

“(II) A housing unit, as defined by the U.S. Census Bureau, in which there reside more than 1.5 people per room;

“(vi) Is exiting a publicly funded institution or a publicly funded system of care; or

“(vii) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the District’s approved consolidated plan.”

(2) New paragraphs (6A), (6B), and (6C) are added to read as follows:

“(6A) “Centralized or coordinated assessment system” means a centralized or coordinated process, which is designed to coordinate client intake, assessment, and the provision of referrals, and includes a standardized assessment tool that can be used to provide an initial assessment of the needs of individuals and families for housing and services within the Continuum of Care.

“(6B) “Centralized or coordinated assessment system protocol” means the policies and operational procedures that govern how the centralized or coordinated assessment system is administered in the District, including policies regarding client prioritization and procedures for making referrals within the Continuum of Care.

“(6C) “Chronically homeless” means:

“(A) An individual who:

“(i) Is homeless and lives in a place not meant for human habitation or in a shelter;

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“(ii) Has been homeless continuously for at least one year or on at least 4 separate occasions in the last 3 years; and

“(iii) Can be diagnosed with one or more of the following conditions: substance use disorder, serious mental illness, developmental disability (as defined in D.C. Official Code § 21-1201(3)), post-traumatic stress disorder, cognitive impairments resulting from brain injury, or chronic physical illness or disability;

“(B) An individual who:

“(i) Has been residing in an institution; and

“(ii) Met all of the criteria in subparagraph (A) of this paragraph before entering that facility; or

“(C) A family with a head of household who meets all of the criteria in subparagraph (A) of this paragraph, including a family whose composition has fluctuated while the head of household has been homeless.”.

(3) A new paragraph (7A) is added to read as follows:

“(7A) “Collaborative applicant” means the entity designated to apply for federal Continuum of Care planning funds.”.

(4) Paragraph (8) is amended by striking the phrase “permanent supportive housing” and inserting the phrase “permanent housing programs” in its place.

(5) A new paragraph (8A) is added to read as follows:

“(8A) “Continuum of Care Governance Board” means the board established to act on behalf of organizations and agencies in the District that provide services within the Continuum of Care, including nonprofit homeless providers, victim service providers, faith-based organizations, government agencies, businesses, advocates, public housing agencies, school districts, social service providers, mental health agencies, hospitals, universities, affordable housing developers, law enforcement, and organizations that serve homeless and formerly homeless veterans and homeless and formerly homeless people, for the purposes of operating the Continuum of Care Program pursuant to 24 C.F.R. Part 578.”.

(6) A new paragraph (13A) is added to read as follows:

“(13A) “Domestic violence” shall have the same meaning as “intrafamily offense”, as defined in D.C. Official Code § 16-1001(8).”.

(7) Paragraph (18) is amended to read as follows:

“(18) “Homeless” means:

“(A) An individual or family that lacks a fixed, regular, and adequate nighttime residence, meaning:

“(i) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

“(ii) An individual or family living in a supervised publicly or privately operated housing facility designated to provide temporary living arrangements, including shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals; or

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“(iii) An individual who is exiting an institution where he or she resided for 180 days or less and who resided in a shelter or place not meant for human habitation immediately before entering that institution;

“(B) An individual or family who has lost or will imminently lose their primary nighttime residence, if:

“(i) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance or has already been lost;

“(ii) No subsequent residence has been identified; and

“(iii) The individual or family lacks the resources or support networks, such as family, friends, and faith-based or other social networks, needed to obtain other permanent housing;

“(C) An unaccompanied youth, who:

“(i) Has not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;

“(ii) Has experienced persistent instability as measured by 2 moves of housing accommodations or more during the 60-day period immediately preceding the date of applying for homeless assistance; and

“(iii) Can be expected to continue in such status for an extended period of time because of:

“(I) Chronic disabilities, chronic physical health or mental health conditions, substance addiction, or a history of domestic violence or childhood abuse (including neglect);

“(II) The presence, in the household, of a child or youth with a disability; or

“(III) Two or more barriers to employment, which include the lack of a high school degree or General Education Development, illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or

“(D) Any individual or family who:

“(i) Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual’s or family’s primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;

“(ii) Has no other residence; and

“(iii) Lacks the resources or support networks, such as family, friends, and faith-based or other social networks, needed to obtain other permanent housing.”.

(8) A new paragraph (18A) is added to read as follows:

“(18A) “HMIS” means the Homeless Management Information System designated by the Continuum of Care Governance Board to comply with the U.S. Department of Housing and Urban Development’s data collection, management, and reporting standards and

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used to collect client-level data and data on the provision of housing and services to homeless individuals and families and people at risk of homelessness.”.

(9) Paragraph (19) is repealed.

(10) A new paragraph (21A) is added to read as follows:

“(21A) “Individual” means an unaccompanied adult or unaccompanied youth.”.

(11) Paragraph (23) is repealed.

(12) Paragraph (24) is amended by striking the phrase “on the grounds of a shelter or supportive housing facility” and inserting the phrase “in a program covered by this act” in its place.

(13) A new paragraph (24A) is added to read as follows:

“(24A) “Institution” means a healthcare facility, nursing home, mental health facility, foster care or other residential youth facility, substance abuse treatment or rehabilitation facility, or criminal correctional program or facility.”.

(14) A new paragraph (26A) is added to read as follows:

“(26A) “Medical respite services” means time-limited acute and post-acute medical care that is provided in a residential medical facility or shelter to individuals who are:

“(A) Homeless; and

“(B) Determined by a qualified medical professional licensed in the District to require medical assistance.”.

(15) Paragraph (27A) is repealed.

(16) New paragraphs (27B) and (27C) are added to read as follows:

“(27B) “Permanent housing” means housing without a designated length of stay, characterized by a lease or other occupancy agreement that is for a term of at least one year and renewable by the tenant named on the lease for terms that are a minimum of one month.

“(27C) “Permanent housing program” means a federally or locally funded program within the Continuum of Care through which individuals or families obtain permanent housing. The term “permanent housing program” includes Rapid Re-Housing and permanent supportive housing.”.

(17) Paragraph (28) is amended to read as follows:

“(28) “Permanent supportive housing” means a program that provides rental assistance and supportive services for an unrestricted period of time to assist individuals and families experiencing chronic homelessness, or at risk of experiencing chronic homelessness, to obtain and maintain permanent housing and to live as independently as possible.”.

(18) Paragraph (31A) is amended to read as follows:

“(31A) “Rapid Re-Housing” means a program that provides housing relocation and stabilization services and time-limited rental assistance, as necessary, to help a homeless individual or family move as quickly as possible into permanent housing and achieve stability in permanent housing such that recipients may remain in the housing when assistance ends.”.

(19) Paragraph (32) is amended to read as follows:

“(32) “Resident of the District” means an individual or family who:

“(A)(i) Is not receiving locally administered public assistance from a jurisdiction other than the District;

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“(ii) Is living in the District voluntarily and not for a temporary purpose and who has no intention of presently moving from the District, which shall be determined and applied in accordance with section 503 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-205.03); and

“(iii) Demonstrates residency by providing evidence that the individual or family is receiving public assistance from the District as administered by the Department or by providing one of the following:

“(I) Documents from the U.S. Social Security Administration addressed to the individual or a member of the family at a residential address in the District;

“(II) Evidence that the individual or a member of the family is attending school in the District;

“(III) A valid, unexpired District motor vehicle operator’s permit or other official non-driver identification in the name of the individual or a member of the family;

“(IV) A utility bill for water, gas, electric, oil, cable, or a land-line telephone issued within the last 60 days that contains the name and a residential District address of the individual or a member of the family;

“(V) A personal income tax document issued within the last year by the District or federal government that contains the name of the individual or a member of the family and indicates a residential address in the District;

“(VI) A pay stub issued within the last 60 days to the individual or a member of the family that indicates a residential address in the District;

“(VII) A valid voter registration card, military identification, or veteran’s identification issued by the District or federal government that contains the name of the individual or a member of the family and indicates a residential address in the District;

“(VIII) An unemployment document or stub issued to the individual or a member of the family that indicates a residential address in the District;

“(IX) A current motor vehicle registration in the name of the individual or a member of the family that indicates a residential address in the District;

“(X) An eviction notice from a residential property in the District issued to the individual or a member of the family within the last 60 days;

“(XI) A valid unexpired District lease or rental agreement with the name of the individual or a member of the family listed as the lessee or as a permitted resident or renter; or

“(XII) Any other document the Department identifies as acceptable proof of residency; or

“(B) Produces one of the documents required pursuant to subparagraph (A)(iii), issued or otherwise valid within the last 2 years, and a written verification by a verifier who attests, to the best of the verifier’s knowledge, that the individual or family became

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homeless in the District and has not established a permanent residence outside of the District in the previous 2 years.”.

(20) Paragraph (32A) is redesignated as paragraph (32B).

(21) A new paragraph (32A) is added to read as follows:

“(32A) “Retaliation” means any adverse action taken by a provider against a client in response to the client exercising any of the rights protected in this act. Adverse actions include sanctions, loss of privileges, disparate treatment, transfers, suspensions, and terminations.”.

(22) Paragraph (38) is repealed.

(23) Paragraph (43) is amended by striking the number “24” and inserting the number “25” in its place.

(d) Section 4 (D.C. Official Code § 4-752.01) is amended as follows:

(1) Subsection (b) is amended as follows:

(A) Paragraph (1) is amended to read as follows:

“(1) The City Administrator, who shall serve as chairperson of the Interagency Council, and who may designate a subordinate to serve as chairperson in the City Administrator’s absence;”.

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

“(1B) The Deputy Mayor for Health and Human Services;”.

(C) Paragraph 2(B) is amended by striking the word “Mental” and inserting the word “Behavioral” in its place.

(D) Paragraphs (3), (4), (5), and (6) are amended to read as follows:

“(3) A representative of the agency designated as the District’s collaborative applicant;

“(4) One representative each from a minimum of 7 and a maximum of 8 organizations that are providing services within the Continuum of Care;

“(5) A minimum of 3 and a maximum of 4 homeless or formerly homeless individuals;

“(6) A minimum of 3 and a maximum of 4 representatives of advocacy organizations for the District’s homeless population;”.

(E) A new paragraph (6A) is added to read as follows:

“(6A) A minimum of 3 and a maximum of 4 representatives of business, philanthropic, or other private sector organizations that have resources or expertise to contribute to addressing homelessness in the District;”.

(2) Subsection (c) is amended to read as follows:

“(c)(1) All non-government members of the Interagency Council described in subsections (b)(4)-(6A) of this section shall be nominated for appointment by the Mayor and approved by the Council.

“(2) The Mayor shall transmit to the Council nominations of each non-government member of the Interagency Council for a 60-day period of review, excluding days of Council recess. If the Council does not approve or disapprove a nomination by resolution within the 60-day review period, the nomination shall be deemed approved.”.

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(3) A new subsection (d) is added to read as follows:

“(d) The Interagency Council shall serve as the District’s Continuum of Care Governance Board.”.

(e) Section 5 (D.C. Official Code § 4-752.02) is amended as follows:

(1) Subsection (b) is amended as follows:

(A) Paragraphs (3) and (4) are amended to read as follows:

“(3) Prepare and submit to the Mayor an annual update based on existing data and community input that reviews the strategic plan, changes in the landscape, and an assessment of the need for services among subpopulations, and that details the resources and strategies needed to support implementation of the strategic plan prepared pursuant to paragraph (2) of this subsection;

“(4) As part of the annual update, review the efforts of each member of the Interagency Council to fulfill the goals and policies of the strategic plan prepared pursuant to paragraph (2) of this subsection;”.

(B) Paragraph (5) is repealed.

(C) Paragraph (6) is amended by striking the phrase “and supportive housing facilities” and inserting the phrase “and transitional housing or permanent housing program facilities” in its place.

(D) Paragraph (8) is amended to read as follows:

“(8) Regularly review HMIS data to assess program and system utilization and performance;”.

(2) Subsection (c) is amended by striking the phrase “no later than February 1 of” and inserting the phrase “upon release of the proposed annual budget” in its place.

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

“(3) Provide data as requested to the Interagency Council to support system planning and performance evaluation efforts.”.

(f) Section 5a (D.C. Official Code § 4-752.02a) is amended as follows:

(1) The section heading is amended by striking the phrase “District by 2020” and inserting the phrase “District by 2022” in its place.

(2) Subsection (a) is amended by striking the phrase “District by 2020” and inserting the phrase “District by 2022” in its place.

(3) Subsection (b)(4) by striking the phrase “District by 2020” and inserting the phrase “District by 2022” in its place.

(g) Section 7 (D.C. Official Code § 4-753.01) is amended as follows:

(1) Subsection (b) is amended as follows:

(A) Paragraph (3) is amended as follows:

(i) The lead-in language is amended by striking the word “housing” and inserting the phrase “emergency housing” in its place.

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

(iii) Subparagraph (C) is amended by striking the semicolon and inserting the phrase “; and” in its place.

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

“(D) Transitional housing for the purpose of providing eligible individuals and families who are homeless with up to 24 months of assistance to prepare them for self-sufficient living in permanent housing.”.

(B) Paragraph (4) is amended to read as follows:

“(4) Programs, which may be of short-term or long-term duration, to assist individuals and families who are homeless or at risk of homelessness to obtain and maintain permanent housing, and may include:

“(A) Permanent supportive housing for the purpose of providing eligible individuals and families experiencing chronic homelessness or at risk of experiencing chronic homelessness, with ongoing housing and supportive service; or

“(B) Rapid Re-Housing programs for the purpose of providing housing relocation and stabilization services and time-limited rental assistance to help a homeless individual or family move as quickly as possible into permanent housing and achieve stability in that housing.”.

(2) Subsection (c)(3)(B) is amended as follows:

(A) Strike the phrase “may determine whether” and insert the phrase “shall determine that” in its place.

(B) Strike the phrase “domestic violence, sexual assault, or human trafficking” and insert the phrase “domestic violence, sexual assault, human trafficking, refugee status, or asylum” in its place.

(3) Subsection (d) is amended as follows:

(A) Paragraph (3) is amended as follows:

(i) Subparagraph (B) is amended to read as follows:

“(B) For every 2 DC General Family Shelter replacement units, one private, lockable bathroom that includes a toilet, sink, and bathtub shall be accessible to all residents.”.

(ii) Subparagraph (C) is repealed.

(B) Paragraph (5) is amended by striking the number “280” and inserting the number “270” in its place.

(3) Subsection (h) is repealed.

(h) Section 7a (D.C. Official Code § 4-753.01a) is repealed.

(i) Section 8 (D.C. Official Code § 4-753.02) is amended as follows:

(1) New subsections (a-2), (a-3), and (a-4) are added to read as follows:

“(a-2) In determining whether an applicant can demonstrate residency pursuant to section 2(32), the Department shall search Department databases and other data systems to which it has access to assist individuals and families in demonstrating residency.

“(a-3) If in consideration of the relevant factors, the Department can demonstrate, by clear and convincing evidence, that an applicant is not a resident pursuant to subsection (a)(2) of this section, the Department may determine that the applicant is ineligible to receive services within the Continuum of Care.

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“(a-4) If the Mayor determines that an individual or family has an ownership interest in safe housing or is listed on a lease or occupancy agreement for safe housing, the Mayor may presume that the individual or family is not eligible for shelter, unless the individual or family provides credible evidence that the individual or family cannot safely inhabit the housing associated with the lease or occupancy agreement. This presumption shall not apply to individuals or families seeking shelter for reasons of domestic violence, sexual assault, or human trafficking. Additionally, this presumption shall not affect an individual’s or family’s eligibility for crisis intervention services, including family mediation, conflict resolution, or other family stabilization services.”.

(2) A new subsection (b-1) is added to read as follows:

“(b-1)(1)(A) Except as provided in subparagraph (B) of this paragraph, upon receipt of new and relevant information regarding the program eligibility of an individual or family receiving services within the Continuum of Care, the Mayor may redetermine the individual or family’s program eligibility; provided, that the Mayor shall not redetermine the program eligibility of an individual or family more than once every 180 days.

“(B) Without limitation, upon receipt of new and relevant information regarding program eligibility related to the age, household composition, an absence of more than 4 consecutive days without good cause (according to a standard established by the Mayor), or identification as a tenant on a residential lease or occupancy agreement of an individual or family receiving services within the Continuum of Care, the Mayor may redetermine the individual or family’s program eligibility.

“(2) The Mayor may not determine that an individual or family is ineligible for services within the Continuum of Care pursuant to paragraph (1) of this subsection if the individual or family cannot safely inhabit the housing associated with the lease or occupancy agreement that identifies the individual or family as a tenant.

“(3) An individual or family shall have the right to continue their current services while the Mayor redetermines their eligibility pursuant to this subsection.”.

(3) Subsection (c) is amended as follows:

(A) Paragraph (1C) is repealed.

(B) Paragraph (2) is amended to read as follows:

“(2) Families who are eligible for services within the Continuum of Care shall receive appropriate referrals based on the District’s centralized or coordinated assessment system protocol, consistent with any additional eligibility requirements established pursuant to section 18 by the provider from whom services are sought.”.

(C) Paragraph (4) is amended by striking the phrase “Notwithstanding paragraph (2) of this subsection, in” and inserting the word “In” in its place.

(4) Subsection (d)(1) is amended to read as follows:

“(d)(1) The Mayor shall operate the HMIS to collect, maintain, and distribute up-to-date information regarding the number of beds or units available in the Continuum of Care and the current usage and unmet demand for such beds and units.”.

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(j) Section 8a (D.C. Official Code § 4-753.03) is amended as follows:

(1) The section heading is amended by striking the word “establishing” and inserting the word “demonstrating” in its place.

(2) Strike the phrase “grace period to establish” and insert the phrase “grace period from the date of application to demonstrate” in its place.

(k) Section 8b (D.C. Official Code § 4-753.04) is repealed.

(l) Section 8c (D.C. Official Code § 4-753.05) is repealed.

(m) The first section 8d(a) (D.C. Official Code § 4-753.06(a)) is amended to read as follows:

“(a) All permanent supportive housing assistance or placements funded exclusively with non-federal funds shall be awarded to appropriate homeless individuals or families by the Department according to the District’s centralized or coordinated assessment system protocol.”.

(n) The second section 8d (D.C. Official Code § 4-753.07) is redesignated as section 8e and is repealed.

(o) Section 9(a) (D.C. Official Code § 4-754.11(a)) is amended as follows:

(1) Paragraph (12) is amended to read as follows:

“(12) Participate in developing the client’s service or case management plan, assess progress toward the goals of the plan, and review or update the plan on a regular basis (as specified by Program Rules established pursuant to section 18), with the assistance and support of a case manager;”.

(2) Paragraph (13)(A) is amended by striking the phrase “licensed social worker” and inserting the phrase “licensed social worker or licensed professional counselor” in its place.

(3) Paragraph (18) is amended by striking the phrase “shelter and supportive housing services” and inserting the phrase “shelter or housing services provided within the Continuum of Care” in its place.

(4) Paragraph (19)(F) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(5) Paragraph (20) is amended by striking the period and inserting the phrase “; and” in its place.

(6) A new paragraph (21) is added to read as follows:

“(21) Associate and assemble peacefully with each other, during reasonable hours as established according to the Program Rules.”.

(p) Section 10 (D.C. Official Code § 4-754.12) is amended as follows:

(1) The section heading is amended by striking the phrase “shelter or supportive housing” and inserting the phrase “shelter or transitional housing” in its place.

(2) The lead-in language is amended by striking the phrase “shelter or supportive housing” and inserting the phrase “shelter or transitional housing” in its place.

(q) A new section 10a is added to read as follows:

“Sec. 10a. Additional rights for clients in permanent housing programs.

“Clients residing in permanent housing provided through a permanent housing program shall have the right to:

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“(1) Receive visitors in their own housing unit or, if applicable, in the common area designated for such purposes, in accordance with their lease or occupancy agreement;

“(2) Leave and return to their own housing unit at will, in accordance with their lease or occupancy agreement;

“(3) Be free from inspections by any person acting on behalf of a provider or by a District agency administering this act, except:

“(A) As required as a condition of program participation, but in any case, not more than once per year; or

“(B) Notwithstanding subparagraph (A) of this paragraph, when, in the opinion of the provider, person acting on behalf of the provider, or District agency, there is reasonable cause to believe that the client is in possession of a substance or object that poses an imminent threat to the health and safety of the client or any other person in the client’s housing unit, and such reasonable cause is documented in the client’s record;

“(4) Reasonable advance notice of any inspection, except in the circumstances described in paragraph (3)(B) of this section;

“(5) Be present or have another adult authorized by the client be present at the time of any inspection, except in the circumstances described in paragraph (3)(B) of this section;

“(6) Be free from drug and alcohol testing, except when the client consents to testing as part of the client’s service plan or case management plan;

“(7) Not be responsible for the provider’s portion of the housing subsidy while the client is in the permanent housing program;

“(8) Conduct their own financial affairs, subject to the reasonable requirements of Program Rules established pursuant to section 18 or to a service plan pursuant to section 9(a)(12); and

“(9) A housing inspection conducted in accordance with the provider’s program inspection requirements before moving into a housing unit, with a copy of the inspection report retained in the client’s case file.”.

(r) Section 11(a)(1) (D.C. Official Code § 4-754.13(a)(1)) is amended by striking the phrase “housing or Housing First” and inserting the phrase “housing according to the Program Rules established by a provider pursuant to section 18” in its place.

(s) Section 12a (D.C. Official Code § 4-754.21a) is amended by striking the phrase “All homeless service workers, including intake workers, shall be trained in cultural competence, including, with regard to the LGBTQ population, the following” and inserting the phrase “All service provider employees, including intake workers, shall be trained in trauma-informed care, civil rights and other legal compliance, conflict resolution, and cultural competence, including, with regard to the LGBTQ population, the following” in its place.

(t) Section 15 (D.C. Official Code § 4-754.24) is amended as follows:

(1) The section heading is amended by striking the phrase “temporary shelter and supportive housing” and inserting the phrase “temporary shelter, transitional housing, and permanent housing programs” in its place.

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(2) The lead-in language is amended by striking the phrase “temporary shelter and supportive housing” and inserting the phrase “temporary shelter, transitional housing, and permanent housing programs” in its place.

(3) Paragraph (3) is amended by striking the phrase “temporary shelter or supportive housing” and inserting the phrase “temporary shelter, transitional housing, or permanent housing program facility when all of the units are in one location” in its place.

(4) Paragraph (5) is amended by striking the phrase “shelter or supportive housing” and inserting the phrase “temporary shelter, transitional housing, or permanent housing program” in its place.

(5) Paragraph (8) is amended by striking the phrase “supportive housing and temporary shelters” and inserting the phrase “temporary shelters, transitional housing, and permanent housing programs” in its place.

(u) Section 16a (D.C. Official Code § 4-754.25a) is amended as follows:

(1) The section heading is amended by striking the phrase “shelter or supportive housing” and inserting the phrase “shelter, transitional housing, or permanent housing programs” in its place.

(2) Strike the phrase “shelter or supportive housing” and insert the phrase “shelter, transitional housing, or permanent housing programs” in its place.

(v) Section 19 (D.C. Official Code § 4-754.33) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (1)(B) is amended as follows:

(i) Strike the phrase “written notice of” and insert the phrase “a written copy of” in its place.

(ii) Strike the phrase “the written notice to the client” and insert the phrase “the rules to the client” in its place.

(B) Paragraph (2) is amended by striking the word “notice” both times it appears and inserting the phrase “Program Rules” in its place.

(2) New subsections (c-1) and (c-2) are added to read as follows:

“(c-1)(1) Notwithstanding subsection (c) of this section, when a client has been absent from the temporary shelter or transitional housing provider’s premises for more than 4 consecutive days, and the client has not complied with program rules regarding absences, the provider is exempt from the requirement to give oral notice.

“(2) In such instances, written notice shall be mailed via certified mail, return receipt requested, or sent via electronic mail to the client, if the client has provided such contact information to the provider, with a copy provided to the Department for verification of the issuance of notice.

“(3) A copy of the notice shall also be left in the client’s unit or at the facility’s sign-in location.

“(c-2) Any written notice issued pursuant to subsection (b) or (c) of this section must be mailed or personally served on the client.”.

(3) Subsection (d) is amended by striking the phrase “Any notice issued pursuant to subsection (b) or (c) of this section must be mailed or served upon the client and shall

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include:” and inserting the phrase “Any notice issued pursuant to subsection (b), (c), or (c-1) of this section shall include:” in its place.

(4) A new subsection (d-2) is added to read as follows:

“(d-2) Notwithstanding subsection (c) of this section, providers of medical respite services shall give a client that no longer requires medical respite services oral and written notice that the placement will end at least 24 hours before terminating the placement.”.

(w) Section 20 (D.C. Official Code § 4-754.34) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (2) is amended by striking the phrase “; or” and inserting a semicolon in its place.

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

“(2A) The client is no longer eligible to receive services from the provider’s program, as determined in accordance with section 8(b-1); or”.

(2) Subsection (b) is amended to read as follows:

“(b)(1) In addition to the circumstances under which a client may be transferred as described in subsection (a) of this section, a provider may transfer a client when:

“(A) A client fails or refuses to comply with the provider’s Program Rules and the client responsibilities listed in section 11, or engages in any of the behaviors listed in section 22(a)(2); provided, that:

“(i) The client has received proper notice of the Program Rules, client responsibilities, and prohibited behaviors, as required by section 19; and

“(ii) The provider has made a good-faith effort to enable the client to comply with the Program Rules so that the client is able to continue receiving services without a transfer; or

“(B) A provider is unable to continue operating a program due to loss of funding or loss of control of the facility for circumstances beyond the control of the Department.

“(2) A transfer pursuant to paragraph (1)(B) of this subsection shall be to a program with a vacancy that best meets the client’s medical, mental health, behavioral, or rehabilitative service needs in accordance with the client’s service plans, the District’s centralized or coordinated assessment system protocol, and the procedures in this section.”.

(x) Section 21(c) (D.C. Official Code § 4-754.35(c)) is amended by striking the phrase “shelter or supportive housing unit” and inserting the phrase “temporary shelter, transitional housing unit, or permanent housing program unit” in its place.

(y) Section 22 (D.C. Official Code § 4-754.36) is amended as follows:

(1) Subsection (a)(2)(F) is amended as follows:

(A) Strike the phrase “or supportive housing that” and insert the word “that” in its place.

(B) Strike the phrase “permanent or supportive” and insert the word “permanent” in its place.

(2) Subsection (b) is amended as follows:

(A) Strike the phrase “an offer of supportive housing” and insert the phrase “an offer of appropriate permanent housing” in its place.

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(B) Strike the phrase “2 offers of supportive housing” and insert the phrase “2 offers of appropriate permanent housing” in its place.

(C) Strike the phrase “permanent or supportive housing” and insert the phrase “permanent housing” in its place.

(z) Section 22a (D.C. Official Code § 4-754.36a) is amended as follows:

(1) The section heading is amended by striking the phrase “supportive housing services” and inserting the phrase “permanent supportive housing” in its place.

(2) Subsection (a) is amended as follows:

(A) The lead-in language is amended by striking the phrase “supportive housing services” and inserting the phrase “permanent supportive housing” in its place.

(B) Paragraph (3) is amended by striking the phrase “supportive housing services” and inserting the phrase “permanent supportive housing” in its place.

(C) Paragraph (4) is amended by striking the phrase “supportive housing” and inserting the phrase “permanent supportive housing” in its place.

(3) Subsection (b) is amended by striking the phrase “supportive housing” and inserting the phrase “permanent supportive housing” in its place.

(4) Subsection (c) is amended to read as follows:

“(c) A client whose permanent supportive housing is discontinued pursuant to this section shall have the right to be re-housed in accordance with the District’s centralized or coordinated assessment system protocol; provided, that the client continues to meet the eligibility criteria for the program.”.

(aa) A new section 22b is added to read as follows:

“Sec. 22b. Program exits.

“(a) A provider may exit a client from a housing program only when:

“(1)(A) The housing program is provided on a time-limited basis, and the client’s time period for receiving services has run;

“(B) The Mayor determines that the client cannot be recertified to continue receiving services; and

“(C) The client was assigned to the provider for substantially all of the client’s time in the housing program; or

“(2) Pursuant to section 8(b-1), the Mayor determines that the client is no longer eligible for the services.

“(b)(1) A provider exiting a client from a program shall provide the client oral and written notice of the program exit at least 30 days before the effective date of the program exit.

“(2) Written notice issued pursuant to this subsection shall conform to the requirements of notice issued pursuant to section 19(d).”.

“(c) Any client who requests a fair hearing within 15 days of receipt of notice of a program exit shall continue to remain in the housing program pending a final decision from the fair hearing proceedings.

“(d) A program exit is not considered a termination of services pursuant to section 22.”.

(bb) Section 24 (D.C. Official Code § 4-754.38) is amended as follows:

(1) Subsection (a) is amended as follows:

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(A) Strike the phrase “immediately transfer” and insert the word “transfer” in its place.

(B) Strike the phrase “terminate the client” and insert the phrase “terminate the client within 24 hours of the imminent threat” in its place.

(2) Subsection (c) is amended by striking the phrase “shelter or supportive housing services” and inserting the phrase “shelter or housing services provided within the Continuum of Care” in its place.

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

“(f)(1) In addition to the circumstances described in subsection (a) of this section, the Department or a provider may effect an emergency transfer of a client:

“(A) In the case of the loss of a unit that is beyond the control of the Department or provider, such as a fire or other unexpected catastrophic loss or damage to the unit; or

“(B) When a client’s continued presence at a shelter location materially impairs a provider’s ability to provide services to other clients at the location.

“(2) The requirements of subsections (b) through (e) of this section shall apply to any client transferred pursuant to paragraph (1)(B) of this subsection.”.

(cc) Section 26 (D.C. Official Code § 4-754.41) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “adverse action” and inserting the phrase “adverse action; provided, that, when written notice is given pursuant to section 19(c-1) because the client was absent from the temporary shelter or transitional housing provider’s premises for more than 4 consecutive days due to inpatient psychological or psychiatric treatment or hospitalization for medical treatment, the 90-day period to request a hearing shall begin the day that the client is released from the facility at which the client was treated” in its place.

(2) Subsection (b)(2) is amended as follows:

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

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

“(F) Exit the client from a housing program; or”

(3) Subsection (d) is amended by striking the phrase “shelter or supportive housing” wherever it appears and inserting the phrase “shelter or housing services provided within the Continuum of Care” in its place.

(4) Subsection (f) is amended as follows:

(A) Paragraph (3)(D) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(B) Paragraph (4)(B) is amended by striking the period and inserting the phrase “; and” in its place.

(C) A new paragraph (5) is added to read as follows:

“(5) For a fair hearing requested from the Office of Administrative Hearings pursuant to subsection (b)(2)(F), review shall be limited to evidence pertaining to factors the

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provider or the Mayor was permitted to consider, by this act or regulations issued pursuant to this act, in making the decision to exit a client from the program.”.

(dd) Section 27(c) (D.C. Official Code § 4-754.42(c)) is amended by striking the phrase “on proper notice to all parties,” and inserting the phrase “if emergency relief is requested and on proper notice to all parties,” in its place.

(ee) Section 27a (D.C. Official Code § 4-754.51) is amended as follows:

(1) The section heading is amended by striking the phrase “Office of Shelter Monitoring” and inserting the phrase “Shelter Monitoring Unit” in its place.

(2) The section text is amended by striking the phrase “an Office of Shelter Monitoring” and inserting the phrase “a Shelter Monitoring Unit” in its place.

(ff) Section 27b (D.C. Official Code § 4-754.52) is amended as follows:

(1) The section heading is amended by striking the word “Office” and inserting the phrase “Shelter Monitoring Unit” in its place.

(2) Subsection (a) is amended as follows:

(A) The lead-in language is amended by striking the word “Office” and inserting the phrase “Shelter Monitoring Unit (“Unit”)” in its place.

(B) Paragraph (2) is amended by striking the word “Policies” and inserting the phrase “Existence of, content of, and notice to clients of policies” in its place.

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

(i) Strike the phrase “Respect for” and insert the phrase “Compliance with” in its place.

(ii) Strike the semicolon at the end and insert the phrase “; and” in its place.

(D) Paragraph (6) is amended by striking the semicolon at the end and inserting a period in its place.

(E) Paragraphs (7), (8), and (9) are repealed.

(3) A new subsection (a-1) is added to read as follows:

“(a-1) The Unit shall perform the monitoring tasks in subsection (a) of this section, using client surveys and interviews, staff interviews, and shelter site visits.”.

(4) Subsections (b) through (g) are amended by striking the word “Office” wherever it appears and inserting the word “Unit” in its place.

(5) Subsection (b) is amended by striking the phrase “shall conduct inspections” and inserting the phrase “shall conduct announced and unannounced inspections in accordance with the policies and procedures described in section 27f” in its place.

(6) Subsection (c) is amended by striking the phrase “or with other requirements or agreements.” and inserting the phrase “, in accordance with the policies and procedures described in section 27f.” in its place.

(7) Subsection (h) is amended as follows:

(A) Strike the phrase “The Office” and insert the phrase “Every provider within the Continuum of Care” in its place.

(B) Strike the phrase “its contact” and insert the phrase “the Unit’s contact” in its place.

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(gg) Section 27c (D.C. Official Code § 4-754.53) is amended as follows:

(1) Subsection (a) is amended by striking the word “Office” and inserting the phrase “Shelter Monitoring Unit (“Unit”)” in its place.

(2) Subsection (b) is amended as follows:

(A) Strike the word “Office” both times it appears and insert the word “Unit” in its place.

(B) Strike the phrase “all members of the Interagency Council” and insert the phrase “the Director to End Homelessness” in its place.

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

“(c) The Unit shall issue an annual report, which shall include a summary of the quality and compliance of the shelters it has monitored and an analysis of the trends it has identified in the course of its monitoring efforts.”.

(hh) Section 27d (D.C. Official Code § 4-754.54) is amended as follows:

(1) Subsection (a) is amended by striking the word “Office” and inserting the phrase “Shelter Monitoring Unit (“Unit”)” in its place.

(2) Subsections (b) and (c) are amended by striking the word “Office” both times it appears and inserting the word “Unit” in its place.

(ii) Section 27e (D.C. Official Code § 4-754.55) is amended as follows:

(1) The first sentence is amended by striking the word “Office” and inserting the phrase “Shelter Monitoring Unit (“Unit”)” in its place.

(2) The second sentence is amended by striking the phrase “Office shall” and inserting the phrase “Unit shall” in its place.

(jj) Section 27f (D.C. Official Code § 4-754.56) is amended as follows:

(1) The section heading is amended by striking the phrase “Policies and procedures” and inserting the phrase “Annual monitoring strategy” in its place.

(2) The first sentence is amended to read as follows:

“The Shelter Monitoring Unit, with the approval of the Mayor, shall adopt an annual monitoring strategy, which shall include policies and procedures for inspections, procedures for identifying and curing deficiencies, and procedures for taking enforcement actions against providers in violation of the standards of this act.”.

(kk) Section 28 (D.C. Official Code § 4-755.01) is amended as follows:

(1) Subsection (c) is amended as follows:

(A) Paragraph (1) is amended by striking the word “grant” both times it appears and inserting the phrase “grant or contract” in its place.

(B) Paragraph (2) is amended as follows:

(i) The lead-in language is amended as follows:

(I) Strike the word “grant” and insert the phrase “grant or contract” in its place.

(II) Strike the word “grantees” and insert the phrase “grantees or contractors” in its place.

(ii) Subparagraph (C) is amended by striking the word “grants” and inserting the phrase “grants or contracts” in its place.

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(C) Paragraph (3) is amended by striking the word “grant” and inserting the phrase “grant or contract” in its place.

(2) Subsection (d) is amended as follows:

(A) Paragraph (2) is amended by striking the word “grants” and inserting the phrase “grants or contracts” in its place.

(B) Paragraph (3) is amended by striking the word “grants” both times it appears and inserting the phrase “grants or contracts” in its place.

(C) Paragraph (4) is repealed.

(ll) A new section 29a is added to read as follows:

“Sec. 29a. Medical respite services; exemptions.

“(a) A medical respite service provider’s decision to terminate, suspend, or transfer a client receiving medical respite services because the client no longer requires such services shall be based on the determination of a licensed medical professional.

“(b) Before transferring, suspending, or terminating a client from medical respite services for non-medical reasons, the provider shall consult with a licensed medical professional.

“(c) Section 9(a)(16) and (18) and sections 20, 21, 22, 22a, 23, 24, 25, 26, and 27 shall not apply where the placement of a client receiving medical respite services is terminated, suspended, or transferred, because the client no longer requires medical respite services.”.

(mm) Section 30(c) (D.C. Official Code § 4-756.01(c)) is repealed.

(nn) A new section 31d is added to read as follows:

“Sec. 31d. Annual Rapid Re-Housing report.

“(a) Beginning February 1, 2019, and annually thereafter, the Mayor shall submit a report to the Council that shall include the following information:

“(1) The number of individuals and families participating in the Rapid Re-Housing program;

“(2) The number of individuals and families that have exited from the Rapid Re-Housing program, disaggregated by reason for exit and date of entrance into the program;

“(3) The incomes of individuals and families at the time of entry into the Rapid Re-Housing program and at the time of exit;

“(4) The average monthly rent paid for individuals and families participating in the Rapid Re-Housing program;

“(5) The average portion of the monthly rent that individuals and families are responsible for;

“(6) The ratio of case managers to program participants;

“(7) The number of times a Rapid Re-Housing participant paid their portion of the rent late;

“(8) The number of individuals and families evicted from their housing unit during their participation in the Rapid Re-Housing program.

“(9) The number of individuals and families that have moved into permanent housing;

“(10) The number of individuals and families evicted from permanent housing, to the extent the information is available:

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- “(A) Six months after exiting the Rapid Re-Housing program;
- “(B) Twelve months after exiting the Rapid Re-Housing program;
- “(C) Eighteen months after exiting the Rapid Re-Housing program; and
- “(D) Twenty-four months after exiting the Rapid Re-Housing program;

and

- “(11) An individual or family’s rent burden in permanent housing:
 - “(A) At the time of program exit;
 - “(B) Six months after exiting the Rapid Re-Housing program;
 - “(C) Twelve months after exiting the Rapid Re-Housing program;
 - “(D) Eighteen months after exiting the Rapid Re-Housing program; and
 - “(E) Twenty-four months after exiting the Rapid Re-Housing program.

“(b) To the extent the Department of Human Services is not able to collect the information required pursuant to subsection (a)(10) and (11) of this section, the Department shall collect representative data by conducting surveys of sample populations of individuals and families that possess the characteristics described in subsection (a)(10) and (11) of this section and by cross-checking Rapid Re-Housing participant data against other data that are publically available or to which the Department has access, including court records and applications for public assistance.”.

(oo) A new section 31e is added to read as follows:

“Sec. 31e. Voluntary program for former Rapid Re-Housing participants.

“(a) The Department of Human Services shall establish a program to support housing stability for individuals and families exiting the Rapid Re-housing program that:

“(1) Establishes a strategy for housing stability for each participating individual and family;

“(2) Proactively links participating individuals and families to community resources, including the TANF Employment Program, mental health services, and food assistance, within 3 business days of their exit from the Rapid Re-Housing program; and

“(3) Provides monthly life skills sessions that include information on financial literacy, counseling, community resources, and permanent housing.

“(b) Participation in the program shall be voluntary.”.

Sec. 3. Section 5112(b) of the Homeless Prevention Program Establishment Act of 2014, effective February 26, 2015 (D.C. Law 20-155; D.C. Official Code § 4-771.01(b)), is amended as follows:

(a) Strike the phrase “may contract” and insert the phrase “may contract or enter into a grant agreement” in its place.

(b) Strike the phrase “to contract” and insert the phrase “to contract or enter into a grant agreement” in its place.

Sec. 4. Repealer.

The Medical Respite Services Exemption Emergency Amendment Act of 2017, effective November 29, 2017 (D.C. Act 22-195; 64 DCR 12407), and the Medical Respite Services

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Exemption Temporary Amendment Act of 2017, enacted on December 7, 2017 (D.C. Act 22-199; 64 DCR 12549), shall be repealed upon the effective date of this act.

Sec. 5. Applicability.

(a) Section 2(nn) and (oo) shall apply upon the date of inclusion of their 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. 6. 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. 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), 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
January 10, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-230

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 12, 2018

To establish the Health Literacy Council to improve the health literacy and knowledge of mental health for District residents.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Health Literacy Council Establishment Act of 2017".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Health literacy" means the ability to make informed decisions about one's personal health, to prevent or treat illness, based on an understanding of the principles of obtaining, processing, and comprehending basic health information, products, and services, including:

(A) Knowing how the Patient Protection and Affordable Care Act impacts them;

(B) Developing health knowledge into a set of positive attitudes and behaviors;

(C) Learning how to apply for and access health care through DC Health Link, the federal health care exchange, or private health care providers;

(D) Being able to communicate health needs with health care providers, evaluate information for credibility and quality, calculate dosages of medicines and treatments, understand the components of health plans, and read a health insurance card;

(E) Knowing how to appropriately navigate and utilize the health care system and internalize health care terminology; and

(F) Being aware of the beneficial effects of good health practices, and making good health a personal priority.

(2) "Health literacy level" means a person's ability to apply health literacy skills to everyday situations and tasks.

Sec. 3. Establishment of the District Health Literacy Council.

There is established a Health Literacy Council in the District of Columbia that shall advise the Mayor and the Council on promoting health literacy for residents of the District and helping residents develop a working knowledge of mental health.

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Sec. 4. Members of the Health Literacy Council.

The Health Literacy Council shall be composed of 15 members, as follows:

(1) One member shall be appointed by the Chairperson of the Council committee with oversight over the Department of Health;

(2) One member shall be the President of the University of the District of Columbia, or the President's designee;

(3) One member shall be the President of the Community College of the District of Columbia, or the President's designee;

(4) One member shall be the Executive Director of the Health Benefit Exchange Authority, or the Executive Director's designee;

(5) One member shall be the Director of the Department of Behavioral Health, or the Director's designee;

(6) One member shall be the Director of the Department of Health Care Finance, or the Director's designee;

(7) One member shall be the Director of the Department of Health, or the Director's designee; and

(8) Eight members shall be appointed by the Mayor, as follows:

(A) One member shall represent the Workforce Investment Council;

(B) Four members shall be District residents with extensive knowledge of health resources and services, health education, and the field of health literacy programs;

(C) One member shall represent the Youth Advisory Council;

(D) One faculty member from a District of Columbia university who is a District resident with specific experience in issues of equity in health care systems; and

(E) One member with experience in primary care who is employed by a clinic or an association representing clinics.

Sec. 5. Duties of the Health Literacy Council.

(a) The Health Literacy Council shall:

(1) Meet at least quarterly;

(2) Create and operate under its own rules of procedure;

(3) Develop a plan to be submitted to the Mayor and the Council within 6 months after the effective date of this act, for the coordination of the District's health literacy efforts; and

(4) Submit to the Mayor and the Council an annual report and recommendations on the health literacy status of the District, with the first health literacy report and recommendations, to be delivered within 12 months of the effective date of this act.

(b) In the first annual health literacy report required by subsection (a)(4) of this section, the Health Literacy Council shall endeavor to address, among other issues:

(1) Matters related to District residents' health care consumer rights;

(2) Access to health care education and health literacy levels;

(3) An evaluation of current health literacy level in the District and defined metrics to measure health literacy improvement over time;

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(4) An assessment of the funding and resources necessary to support health education, care coordination services, and the explanation of health literacy initiatives; and

(5) An assessment on how to reduce health disparities through health literacy, and plans to meet the health literacy needs of older adults, residents with disabilities, residents with English as a second language, residents with minimal Internet access, and residents applying for health care for the first time.

Sec. 6. Health literacy education in workforce development programs.

Within 180 days after the effective date of this act, the Mayor shall submit to the Council a plan for the implementation of a health literacy education curriculum that will complement adult literacy programs for District agency workforce development training programs in partnership with the Workforce Investment Council, the Department of Health Care Finance, the University of the District of Columbia, the Community College of the District of Columbia, the Youth Advisory Council, and the District of Columbia Health Benefit Exchange.

Sec. 7. 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. 8. 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. 9. Effective date.

The 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

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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
January 12, 2018

ENROLLED ORIGINAL

A RESOLUTION

22-370

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 9, 2018

To declare the existence of an emergency with respect to the need to approve Modification Nos. 2, 3, 4, 5, and 6 to Contract No. CW45041 with Avid Systems, LLC, to provide Mission Oriented Business Integrated Services, and to authorize payment for the goods and services received and to be received under the modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Contract No. CW45041 Approval and Payment Authorization Emergency Declaration Resolution of 2018”.

Sec. 2. (a) There exists a need to approve Modification Nos. 2, 3, 4, 5, and 6 to Contract No. CW45041 with Avid Systems, LLC, (“Avid”) to provide Mission Oriented Business Integrated Services and to authorize payment for the goods and services received and to be received under these modifications.

(b) By Modification No. 2, the Office of Contracting and Procurement (“OCP”) exercised a partial option of option year one for the period from October 25, 2017, through December 24, 2017.

(c) By Modification No. 3, dated October 31, 2017, OCP modified the not-to-exceed amount for the partial option year to \$950,000.

(d) Modification No. 4, dated November 20, 2017, was an administrative modification.

(e) By Modification No. 5, dated November 20, 2017, OCP exercised an additional partial option of option year one for the period from December 25, 2017, through January 24, 2018, at no additional cost.

(f) Modification No. 6 is now necessary to exercise the remainder of option year one and increase the total not-to-exceed amount for option year one to \$10 million.

(g) Council approval is necessary because these modifications increase the contract to more than \$1 million during a 12-month period.

(h) Approval is necessary to allow the continuation of these vital services. Without this approval, Avid cannot be paid for goods and services provided in excess of \$1 million for the contract period October 25, 2017, through October 24, 2018.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Contract No. CW45041 Approval and Payment Authorization Emergency Act of 2017 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-371

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 9, 2018

To declare the existence of an emergency with respect to the need to approve Modification Nos. 005 and 006 to Contract No. CW40855 with CELLCO Partnership dba Verizon Wireless to provide District-wide telecommunications products and services, and to authorize payment for the goods and services received and to be received under the modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Contract No. CW40855 Approval and Payment Authorization Emergency Declaration Resolution of 2018”.

Sec. 2. (a) There exists a need to approve Modification Nos. 005 and 006 to Contract No. CW40855 with CELLCO Partnership dba Verizon Wireless to provide District-wide telecommunications products and services to District agencies and to authorize payment for the goods and services received and to be received under the modifications.

(b) By Modification No. 005, dated December 1, 2017, the Office of Contracting and Procurement (“OCP”), on behalf of the Office of the Chief Technology Officer, exercised a partial option of Option Year 2 of Contract No. CW40855 to provide telecommunication goods and services to District agencies for the period from December 1, 2017, through January 15, 2018, in the not-to-exceed amount of \$1 million.

(c) Modification No. 006 is now necessary to exercise the remainder of Option Year 2 for the period beginning from January 16, 2018, through November 30, 2018, in the not-to-exceed amount of \$9 million, which will increase the total not-to-exceed amount for Option Year 2 to \$10 million.

(d) Council approval is necessary because these modifications increase the contract to more than \$1 million during a 12-month period.

(e) Approval is necessary to allow the continuation of these vital services. Without this approval, CELLCO Partnership dba Verizon Wireless cannot be paid for goods and services provided in excess of \$1 million for the contract period beginning December 1, 2017, through November 30, 2018.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the

ENROLLED ORIGINAL

Modifications to Contract No. CW 40855 Approval and Payment Authorization Emergency Act of 2017 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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

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

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

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

- | | |
|---------|--|
| B22-663 | Comprehensive Plan Amendment Act of 2018

Intro. 1-8-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole |
| <hr/> | |
| B22-664 | Lawrence Boone, Sr. School Designation Act of 2018

Intro. 1-11-18 by Chairman Mendelson and Councilmember T. White and referred to the Committee of the Whole |
-

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

Bill 22-117, Walter Alley Designation Act of 2017
Bill 22-518, Ernest Everett Just Court Designation Act of 2017
Bill 22-531, Louis Mailou Jones Alley Designation Act of 2017
Bill 22-538, Watkins Alley Designation Act of 2017
Bill 22-557, Israel Baptist Church Way Designation Act of 2017
Bill 22-586, Al and Mary Arrighi Way Designation Act of 2017
Bill 22-629, Swampdoodle Park Designation Act of 2017
And
Bill 22-664, Lawrence Boone, Sr. School Designation Act of 2018

on

Monday, February 26, 2018
11:30 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on **Bill 22-117**, the “Walter Alley Designation Act of 2017”; **Bill 22-518**, the “Ernest Everett Just Court Designation Act of 2017”; **Bill 22-531**, the “Louis Mailou Jones Alley Designation Act of 2017”; **Bill 22-538**, the “Watkins Alley Designation Act of 2017”; **Bill 22-557**, the “Israel Baptist Church Way Designation Act of 2017”; **Bill 22-586**, the “Al and Mary Arrighi Way Designation Act of 2017”; **Bill 22-629**, the “Swampdoodle Park Designation Act of 2017”; and **Bill 22-664**, the “Lawrence Boone, Sr. School Designation Act of 2018”. The hearing will be held at **11:30 a.m.** on **Monday, February 26, 2018** in **Hearing Room 412** of the John A. Wilson Building.

The stated purpose of **Bill 22-117** is to officially designate the alley in Square 756, between Massachusetts Avenue, N.E., and C Street, N.E., in Ward 6, as Walter Alley. The stated purpose of **Bill 22-518** is to officially designate the alley that runs east and west between the 1800 blocks of 4th Street, N.W. and 5th Street, N.W., and the 400 blocks of Florida Avenue, N.W., and T Street, N.W., in Ward 1, as “Ernest Everett Just Court” after the acclaimed biologist and Howard University professor who lived in property on the alley. The stated purpose of **Bill 22-531** is to officially designate the alley that runs east and west between the 3100 blocks of Warder Street, N.W., and Park Place, N.W., and the 300 blocks of Kenyon Street, N.W. and Irving Street, N.W., in Ward 1, as “Lois Mailou Jones Alley” after the acclaimed artist who lived at a property near the alley. The stated purpose of **Bill 22-538** is to officially designate the alley in Square 1043 that runs east and west between the 500 blocks of 13th Street, S.E., and 14th Street, S.E., and the 1300 blocks of E Street, S.E., and Pennsylvania Avenue, S.E., in Ward 6, as Watkins Alley in recognition of Catherine Watkins, the District’s Director of Kindergartens in the early 20th century. An official naming typically involves the designation of postal addresses and the primary entrance for residences or offices.

The stated purpose of **Bill 22-557** is to symbolically designate the 1200 block of Saratoga Avenue, N.E., in Ward 5, as Israel Baptist Church Way. The stated purpose of **Bill 22-586** is to symbolically designate the alley located in Square 965 between 10th Street, N.E. and 11th Street, N.E., and Constitution Avenue, N.W., in Ward 6, as Al and Mary Arrighi Way. A symbolic naming is for ceremonial purposes and shall be in addition to and subordinate to any name that is an official name.

The stated purpose of **Bill 22-629** is to designate the park located at 3rd and L Streets, N.E., in Ward 6, as Swampdoodle Park. The stated purpose of **Bill 22-664** is to officially designate the school (currently known as Orr Elementary School) located in in Square 5561, Lot 822, bounded by Nicholson Street, S.E., Prout Street, S.E., 22nd Street S.E., and Minnesota Avenue, S.E., in Ward 8, as Lawrence Boone, Sr. School.

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or call Sydney Hawthorne at (202) 724-7130, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business **Thursday, February 22, 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 February 22, 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 March 12, 2018.

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

**COUNCILMEMBER DAVID GROSSO
COMMITTEE ON EDUCATION
ANNOUNCES THE NOTICE OF CANCELLATION OF A PUBLIC HEARING**

on

B22-0504, the “Student Loan Debt Forgiveness Act of 2017”

on

**Thursday, February 8, 2018
10:00 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember David Grosso announces the CANCELLATION of the scheduling of a public hearing on B22-0504, the “Student Loan Debt Forgiveness Act of 2017.” The hearing will be held at 10:00 a.m. on Thursday, February 8, 2018 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of B22-0504 is to establish a student loan debt forgiveness program for District of Columbia residents.

This hearing is cancelled due to scheduling error and will be rescheduled at a later date and time.

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

NOTICE OF PUBLIC HEARING ON

B22-0580 - Veterans Specialty License Plate Amendment Act of 2017
B22-0500 - Breast Cancer Awareness License Plate Amendment Act of 2017
B22-0423 - Parks and Recreation License Plate Establishment Act of 2017
B22-0331 - Nonbinary Identification Cards Amendment Act of 2017

Monday, February 5, 2018 at 11:00AM
in Room 120 of the John A. Wilson Building
1350 Pennsylvania Avenue, NW, Washington, DC 20004

On Monday, February 5, 2018, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public hearing on B22-0580, the Veterans Specialty License Plate Amendment Act of 2017, B22-0500, the Breast Cancer Awareness License Plate Amendment Act of 2017, B22-0423, the Parks and Recreation License Plate Establishment Act of 2017, and B22-0331, the Nonbinary Identification Cards Amendment Act of 2017. The hearing will begin at 11:00AM in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

B22-0580, the Veterans Specialty License Plate Amendment Act of 2017, would require the Mayor to design and issue motor vehicle identification tags with a separate design for each branch of the United States Armed Forces

B22-0500, the Breast Cancer Awareness License Plate Amendment Act of 2017, would require the Mayor to issue a motor vehicle identification tag with a design that promotes breast cancer awareness and collect associated fees from users that will be deposited into the Community Health Care Financing Fund.

B22-0423, the Parks and Recreation License Plate Establishment Act of 2017, would authorize the Mayor to create a license plate to celebrate the rich history of parks and recreation in the District and collect associated fees from users that will be used to revitalize facilities and increase access to summer camp for low-income youth.

B22-0331, the Nonbinary Identification Cards Amendment Act of 2017, permits applicants for a District driver's license, learner's permit, or identification card to designate their gender as "nonbinary".

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official Hearing Record. Anyone wishing to testify should contact Ms. Aukima Benjamin, Staff Assistant to the Committee on Transportation and the Environment, at (202) 724-8062 or via e-mail at abenjamin@dccouncil.us. 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 Tuesday, February 20, 2018.

**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

“Fiscal Year 2017 Comprehensive Annual Financial Report”

on

**Monday, February 5, 2018
1:30 p.m., Council Chamber, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces the scheduling of a public hearing of the Committee of the Whole on the Fiscal Year 2017 Comprehensive Annual Financial Report (CAFR). The public hearing will be held Monday, February 5, 2018, at 1:30 p.m. in the Council Chamber of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

The purpose of this public hearing is to receive testimony from government witnesses, namely the Executive, Chief Financial Officer, and Inspector General, regarding the results of the Fiscal Year 2017 CAFR. By law, the CAFR must be released by February 1, 2018. This document, and this hearing, are important in understanding the financial health of the District government. Copies of the CAFR may be obtained, after it is released, from the Office of the Chief Financial Officer or the OCFO website.

This hearing is the first in a series of hearings to be held this winter by the Council and its committees in connection with its oversight of Fiscal Years 2017 and 2016 agency performance. The full schedule of hearings will be made available on the Council’s website (<http://www.dccouncil.us>) and will be published separately in the D.C. Register. Hearing materials, including a draft witness list, can be accessed 24 hours in advance of the hearing at <http://www.chairmanmendelson.com/circulation>.

While this hearing is *limited to testimony from specified government witnesses*, written statements from the public will be made a part of the official record. Copies of written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Monday, February 19, 2018.

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

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

**PR 22-721, Board of Directors of the Washington Metrorail Safety Commission Chris Geldart
Confirmation Resolution of 2018**

**PR 22-722, Board of Directors of the Washington Metrorail Safety Commission Robert Bobb
Confirmation Resolution of 2018**

on

**Monday, February 5, 2018
11:30 a.m., Hearing Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces the scheduling of a public hearing of the Committee of Whole on PR 22-721 and PR 22-722, confirmation resolutions for mayoral appointments to the Board of Directors of the Washington Metrorail Safety Commission (“MSC Board”) for: Chris Geldart and Robert Bobb. The hearing will be held on Monday, February 5, 2018 at 11:30 a.m. in Hearing Room 123 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

The stated purpose of PR 22-721 is to confirm the nomination of Mr. Geldart as an alternate member of the MSC Board and for PR 22-722 is to confirm the nomination of Mr. Bobb as a member of the MSC Board. The MSC Board is required to govern the Metro Safety Commission, which shall serve as the State Safety Oversight Agency for the Washington Metropolitan Area Transit Authority Metrorail System. More information about the MSC Board can be found in the Committee Report for Bill 22-464.

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or call Peter Johnson, Special Counsel at (202) 724-8083, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Friday, **February 2, 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 February 2, 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 Monday, February 5, 2018.

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

**COUNCILMEMBER DAVID GROSSO
COMMITTEE ON EDUCATION
ANNOUNCES THE RECONVENING OF THE PUBLIC OVERSIGHT ROUNDTABLE**

on

Graduation Rate Accountability

on

**Thursday, February 8, 2018
10:00 a.m, Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember David Grosso announces the reconvening of the public oversight roundtable of the Committee on Education on graduation standards in District of Columbia Public Schools and to account for how they are being met. The oversight roundtable was initially held on Friday, December 15, 2017 in Hearing Room 500 of the John A. Wilson Building and recessed that same day.

The purpose of this roundtable is to review the internal investigation of Ballou Senior High School (“Ballou”) done by the District of Columbia Public Schools and the third-party investigation results by the Office of the State Superintendent for Education through their contract with Alvarez & Marsal. Due to the nature of this hearing, the witness list will be limited to only those invited by the Committee on Education to testify.

While this hearing is limited to oral testimony from invited witnesses, written statements from the public will be made a part of the official record. Copies of written statements should be submitted by email to Ashley Strange, astrange@dccouncil.us, or by post to the Committee on Education, Council of the District of Columbia, Suite 116 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will remain open for an extended time and will close at a date to be determined later.

<p style="text-align: center;">COUNCIL OF THE DISTRICT OF COLUMBIA EXCEPTED SERVICE APPOINTMENTS AS OF DECEMBER 31, 2017</p>

NOTICE OF EXCEPTED SERVICE EMPLOYEES

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

COUNCIL OF THE DISTRICT OF COLUMBIA			
NAME	POSITION TITLE	GRADE	TYPE OF APPOINTMENT
Davis, Benjamin	Legislative Counsel	6	Excepted Service - Reg Appt
Meni, David	Research Analyst	6	Excepted Service - Reg Appt
Kim, Jason	Senior Budget Analyst	8	Excepted Service - Reg Appt

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Grant Budget Modifications

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

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

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

GBM 22-65: FY 2018 Grant Budget Modifications as of December 20, 2017

RECEIVED: 14 day review begins January 16, 2018

GBM 22-66: FY 2018 Grant Budget Modifications as of January 4, 2018

RECEIVED: 14 day review begins January 17, 2018

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

Councilmembers T. White, Gray and Grosso filed on January 12, 2018, the “Reprogramming No. 22-98 Disapproval Resolution of 2018”, PR 22-726, in the Office of the Secretary. The attached request to reprogram \$1,400,000 of Fiscal Year 2018 Local funds budget authority, initiated from the District of Columbia Housing Authority (DCHA) Subsidy, to the Department of Housing and Community Development (DHCD) was filed in the Office of the Secretary on December 20, 2017. This reprogramming is needed to support the refinancing of the Maple View Flats project and shift some development costs to Local dollars.

The Council review period for Reprogramming 22-98 has been extended to 30 days, ending on Sunday, January 28, 2018. If the Council does not adopt a resolution of approval or disapproval during this period, the reprogramming will be deemed approved on Monday, January 29, 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. 22-99 Request to reprogram \$1,500,000 of Capital funds budget authority and allotment within the District of Columbia Public Schools (DCPS) was filed in the Office of the Secretary on January 10, 2018. This reprogramming will ensure that the budget is disbursed from the correct project.

RECEIVED: 14 day review begins January 11, 2018

Reprog. 22-100 Request to reprogram \$824,349 of Fiscal Year 2018 Local funds budget authority within the Office of the Chief Technology Officer (OCTO) was filed in the Office of the Secretary on January 10, 2018. This reprogramming ensures that OCTO can meet its operational goals in FY 2018.

RECEIVED: 14 day review begins January 11, 2018

Reprog. 22-101

Request to reprogram \$1,234,000 of Pay-As-You-Go (Paygo) Capital funds budget authority and allotment from the Office of the Chief Technology Officer (OCTO) to the Reverse Pay-As-You-Go (Paygo) Capital project and subsequently to the Local funds budget of OCTO was filed in the Office of the Secretary on January 10, 2018. This reprogramming will ensure that the budget is disbursed for its intended use from the appropriate agency fund.

RECEIVED: 14 day review begins January 11, 2018

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: January 19, 2018
 Protest Petition Deadline: March 5, 2018
 Roll Call Hearing Date: March 19, 2018
 Protest Hearing Date: May 16, 2018

License No.: ABRA-108767
 Licensee: BL 1100 23rd, LLC
 Trade Name: Bluestone Lane
 License Class: Retailer's Class "C" Restaurant
 Address: 1100 23rd Street, N.W.
 Contact: Stephen J. O'Brien: (202) 625-7700

WARD 2

ANC 2A

SMD 2A02

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on March 19, 2018 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date. **The Protest Hearing date is scheduled on May 16, 2018 at 4:30 p.m.**

NATURE OF OPERATION

New Class "C" Restaurant, which consists of a full-service Australian-inspired coffee place that will be offering a seasonal menu featuring progressive café fare for all-day breakfast, lunch, and early evening appetizers. The restaurant will have 64 seats and a Total Occupancy Load of 74. Licensee is requesting a Sidewalk Café endorsement with 48 seats.

PROPOSED HOURS OF OPERATION INSIDE PREMISES AND FOR SIDEWALK CAFE

Sunday – Saturday 6:00 am – 10:00 pm

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

Sunday – Saturday 8:00 am – 10:00 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: January 19, 2018
Protest Petition Deadline: March 5, 2018
Roll Call Hearing Date: March 19, 2018
Protest Hearing Date: May 16, 2018

License No.: ABRA-108769
Licensee: JJ Solis, LLC
Trade Name: Little Havana
License Class: Retailer's Class "C" Restaurant
Address: 3704 14th Street, N.W.
Contact: Jeff Jackson: (202) 251-1566

WARD 4

ANC 4C

SMD 4C04

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing date on March 19, 2018 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The Protest Hearing date is scheduled on May 16, 2018 at 1:30 p.m.

NATURE OF OPERATION

New Class "C" Restaurant serving Latino-American cuisine. Total Occupancy Load of 60 and seating for 60. Sidewalk Café with 12 seats.

HOURS OF OPERATION INSIDE PREMISES

Sunday through Thursday 6:30 am to 2:00 am, Friday and Saturday 6:30 am to 3:00 am

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

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

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

Sunday through Saturday 11:00 am to 12:00 am

D.C. BOARD OF ELECTIONS**NOTICE OF PUBLIC HEARING
RECEIPT AND INTENT TO REVIEW INITIATIVE MEASURE**

The Board of Elections shall consider in a public hearing whether the proposed measure “Legalization of Retail Cannabis in the District of Columbia 2018” is a proper subject matter for initiative at the Board’s regular meeting on Wednesday, March 7, 2018 at 10:30 a.m., at 1015 Half Street S.E., Suite 750, Washington DC 20003.

The Board requests that written memoranda be submitted for the record no later than 4:00 p.m., Thursday, March 1, 2018 to the Board of Elections, General Counsel’s Office, 1015 Half Street, S.E., Suite 270, Washington, D.C. 20003.

Each individual or representative of an organization who wishes to present testimony at the public hearing is requested to furnish his or her name, address, telephone number and name of the organization represented (if any) by calling the General Counsel’s office at 727-2194 no later than Friday, March 2, 2018 at 4:00p.m.

The Short Title, Summary Statement and Legislative Text of the proposed initiative read as follows:

SHORT TITLE

“A Initiative for the Legalization of Retail Cannabis in the District of Columbia 2018”

SUMMARY STATEMENT

The Economic & Protection Independent Political Party is advocating for total Legalization of Retail Cannabis in the District of Columbia with a special social component that will use 39.9% of the Legalized Retail Cannabis tax dollars to provide Black Citizens with an opportunity for ownership, education/ training, employment, with special assistance to Black Farmers in the Cannabis Industry. This Referendum concerning the Legalization of Retail Cannabis will allow the voters of the District of Columbia the opportunity to decide if the District of Columbia will recognize the Legalization of Retail Cannabis as a law.

LEGISLATIVE TEXT

The Legalization of Retail Cannabis in the District of Columbia will provide the District of Columbia with a new taxable revenue stream that is unplanned and has never been seen before. This new taxable revenue stream will allow the District of Columbia Government to provide better services to the residents of the District of Columbia, and provide better infrastructure protection for the residents and visitors of the District of Columbia. This referendum will allow all residents of the District of Columbia to actively participate in, and work in, the Cannabis

Industry by owning licensed dispensaries, licensed grow houses, licensed distributors, licensed manufactures, licensed laboratories and any other business or job that relates to the Cannabis Industry. Also, there will be consortiums set up in specified locations around the District of Columbia to provide quality services to the business owners to mitigate any seen or unseen situations or concerns that may occur during business operations. The consortiums, will make sure the business owners are up to date with their taxes and fees that are old to the District of Columbia. The Business owners will pay an excise tax, a sales tax, and any local government sales taxes to the District of Columbia, to participate in the Cannabis Industry. Residents that participate in the Cannabis Industry, will be able to utilize their homes, warehouses, or other properties, to grow, manufacture, or use as laboratories, only, if the resident has proper licenses and has paid their taxes & fees, and understands the rules and regulations and will adhere to all rules and regulations of the District of Columbia. The District of Columbia must take advantage of this multi-trillion-dollar business to ensure the residents that need the most constructive help, will benefit from the Legalization of Retail Cannabis.

Special Social Component

As stated above, 39.9% of the taxable Legalize Retail Cannabis dollars will go to Black Citizens in the District of Columbia, for Ownership, Education/Training & Employment. And a portion of that 39.9% of tax dollars will provide financial assistance to Black Farmers in the District of Columbia to grow Cannabis in designated areas in the District of Columbia and possibly to grow cannabis in Maryland and Virginia when their states votes to Legalize Retail Cannabis. This referendum will afford Black Citizens an opportunity to become responsible Business Owners, Employees, and tax payers in the Cannabis Industry. This special social component will fairly distribute new tax dollars and resources from the Cannabis Industry to Black Citizens in the District of Columbia for compensation for Slavery and Jim Crow Segregation. This special social component, would allow Black citizens to have an opportunity to matriculate at a higher learning institution to acquire certifications, in various disciplines, to gain employment in the Cannabis Industry. The Cannabis Industry will allow Black Citizens that are unemployed or underemployed to have an opportunity to live and maintain a healthy life style that produces wealth and resources. The Cannabis Industry will also allow Black Citizens in the District of Columbia that are Homeless or living in shelters or living in tents to have an opportunity to educate themselves and sustain employment and or ownership. Returning citizens, will also have opportunities to participate in ownership, education/training, and employment in the Cannabis Industry to help them acclimate themselves back into society with resources and skillsets to be successful. The Cannabis Industry will also provide an opportunity for young Black males and females to study at a higher learning institution, to learn various aspects of Cannabis and related Cannabis businesses. These young Black males and females will gain employment opportunity and become financially responsible tax paying citizens that support and promote their communities with responsible and productive behavior. With this special social component, the District of Columbia's crime rate will decrease dramatically in the Black community, homelessness will decrease in the Black community and unemployment will take a sufficient drop in the Black community. This special social component will allow Black citizens to be able to compete and thrive in a system that is designed to disrespect, mistreat and dominant Black citizens in the District of Columbia.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, MARCH 7, 2018
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

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

TIME: 9:30 A.M.

WARD SEVEN

19692 **Application of Reno 809 LLC**, pursuant to 11 DCMR Subtitle X, Chapter 10, for
ANC 7C an area variance from the lot dimension requirements of Subtitle D § 302.1, to
construct a new one-family dwelling in the R-2 Zone at premises 809 49th Street
N.E. (Square 5178, Lot 806).

WARD FIVE

19700 **Application of 1241 Morse Street LLC**, pursuant to 11 DCMR Subtitle X,
ANC 5D Chapter 9, for a special exception under the residential conversion requirements
of Subtitle U § 320.2, to convert an existing one-family dwelling to a three-unit
apartment house in the RF-1 Zone at premises 1241 Morse Street N.E. (Square
4069, Lot 52).

WARD SIX

19701 **Application of Amy and Fernando Wright**, pursuant to 11 DCMR Subtitle X,
ANC 6B Chapter 9, for a special exception under Subtitle E § 205.5 from the rear addition
requirements of Subtitle E § 205.4, to construct a two-story rear addition to an
existing one-family dwelling in the RF-1 Zone at premises 1511 C Street S.E.
(Square 1074, Lot 26).

WARD SIX

19702 **Application of Kate and Matthew Gallery**, pursuant to 11 DCMR Subtitle X,
ANC 6B Chapter 9, for special exceptions under Subtitle E § 5201 from the lot occupancy
requirements of Subtitle E § 304.1 and the nonconforming structure requirements
of Subtitle C § 202.2, to construct a two-story, rear addition to an existing one-
family dwelling in the RF-1 Zone at premises 656 Independence Avenue S.E.
(Square 870, Lot 62).

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WARD SEVEN

19704 **Application of Milestone East Capitol 4, LLC**, pursuant to 11 DCMR Subtitle
ANC 7F X, Chapter 9, for a special exception under the new residential development
 provisions of Subtitle U § 421, and pursuant to Subtitle X, Chapter 10, for
 variances from the floor area ratio requirements of Subtitle F § 302, the lot
 occupancy requirements of Subtitle F § 304, and the rear yard requirements of
 Subtitle F § 305, to construct a new 90-unit apartment house and retain seven
 existing apartment houses in the RA-1 at premises 127 35th Street S.E. (Square
 5413, Lot 802).

WARD ONE

19705 **Application of Madison Investments, LLC**, pursuant to 11 DCMR Subtitle X,
ANC 1B Chapter 9, for a special exception under Subtitle K § 813 from the height
 requirements of Subtitle K § 803.3, and from the lot occupancy requirements of
 Subtitle K § 804.1, to construct a mixed use development in the ARTS-3 Zone at
 premises 2122 14th Street N.W. (Square 203, Lots 96, 809, 10, and 1).

PLEASE NOTE:

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

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

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

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

Do you need assistance to participate?

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Amharic

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የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም)

ካስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-

0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡት በነጻ ነው።

Chinese

您需要有人帮助参加活动吗?

如果您需要特殊便利设施或语言协助服务(翻译或口译),请在见面之前提前五天与 Zee Hill 联系,电话号码 (202) 727-0312, 电子邮件

Zelalem.Hill@dc.gov。这些是免费提供的服务。

French

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

Korean

참여하시는데 도움이 필요하세요?

특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면,

회의 5일 전에 Zee Hill 씨께 (202) 727-0312로 전화 하시거나 Zelalem.Hill@dc.gov 로

이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

Spanish

¿Necesita ayuda para participar?

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

Vietnamese

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

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

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

**FREDERICK L. HILL, CHAIRPERSON
LESYLLEÉ M. WHITE, MEMBER
CARLTON HART, VICE-CHAIRPERSON,**

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**NATIONAL CAPITAL PLANNING COMMISSION
A PARTICIPATING MEMBER OF THE ZONING COMMISSION
ONE BOARD SEAT VACANT
CLIFFORD W. MOY, SECRETARY TO THE BZA
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING**

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF FINAL RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs (Director), pursuant to Section 6(h) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes, approved April 14, 1906 ((34 Stat. 115; D.C. Official Code § 42–3131.06) (2012 Repl.)), and Mayor’s Order 2002-33, dated February 11, 2002, hereby gives notice of the adoption of the following addition of a new Chapter 21 (Vacant Property Exemption Applications) of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR).

This final rulemaking clarifies the uniform process that will be used to inform the Department of Consumer and Regulatory Affairs about a property’s qualification for an exemption from vacant property registration requirements. A decision by the Office of Administrative Hearings calls into question whether property owners are obligated to formally apply to the District for an exemption.

A Notice of Proposed Rulemaking was published on September 29, 2017 at 64 DCR 9617. No comments were received.

The rulemaking was adopted as final on May 16, 2017 and will become effective upon publication in the *D.C. Register*.

A new Chapter 21, VACANT PROPERTY EXEMPTION APPLICATIONS, is added to Title 9 DCMR, TAXATION AND ASSESSMENTS, to read as follows:

CHAPTER 21 VACANT PROPERTY EXEMPTION APPLICATIONS**2100 VACANT PROPERTY EXEMPTION APPLICATIONS**

2100.1 A property owner of an unoccupied property seeking to avoid registration as a vacant property by virtue of an exemption listed in Section 6(b)(3)-(9) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes (D.C. Official Code § 42–3131.06) shall apply for the exemption to the Director of the Department of Consumer and Regulatory Affairs on a form provided by the Director.

OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF FINAL RULEMAKING

The Chief Procurement Officer of the District of Columbia (CPO), pursuant to the authority set forth in Sections 204 and 1106 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code §§ 2-352.04 and 2-361.06 (2016 Repl.)) (the “Act”), hereby gives notice of the adoption of amendments to Chapter 23 (Delivery and Performance), of Title 27 (Contracts and Procurement), of the District of Columbia Regulations (DCMR).

The rulemaking updates Chapter 23 that applies to the delivery and performance of contracts. The current Chapter 23 contains regulations that are outdated.

The proposed rules were published in the *D.C. Register* on February 3, 2017, at 64 DCR 1121. No comments were received and no changes have been made to the text of the rules as published.

The CPO adopted these rules on April 3, 2017 and they will become effective upon publication of this notice in the *D.C. Register*.

Chapter 23, DELIVERY AND PERFORMANCE, of Title 27 DCMR, CONTRACTS AND PROCUREMENT, is amended as follows:

Section 2300, DELIVERY AND PERFORMANCE: GENERAL PROVISIONS, is amended to read as follows:

2300 GENERAL PROVISIONS

- 2300.1 The time of delivery or performance is an essential contract element and shall be clearly stated in each solicitation and contract.
- 2300.2 The contracting officer shall ensure that a delivery or performance schedule is realistic and meets the requirements of the procurement.
- 2300.3 Except when clearly unnecessary, a solicitation shall inform bidders or offerors of the basis on which their bids or proposals will be evaluated with respect to time of delivery or performance.

Section 2301, DELIVERY AND PERFORMANCE SCHEDULES, is amended to read as follows:

2301 DELIVERY AND PERFORMANCE SCHEDULES

- 2301.1 When establishing a contract delivery or performance schedule for goods or services, the contracting officer shall consider applicable factors, including the following:

- (a) Urgency of need;
- (b) Production time;
- (c) Market conditions;
- (d) Transportation time;
- (e) Industry practices;
- (f) Capabilities of certified business enterprises;
- (g) Time for obtaining and evaluating bids or offers and awarding contracts;
- (h) Time for contractors to comply with any condition precedent to contract performance; and
- (i) Time for the District to perform its obligations under the contract, such as furnishing government property to the contractor.

2301.2 When scheduling the time for completion of a construction contract, the contracting officer shall consider applicable factors, such as the following:

- (a) The nature and complexity of the project;
- (b) The construction seasons involved;
- (c) The required completion date;
- (d) The availability of materials and equipment;
- (e) The capacity of the contractor to perform; and
- (f) The use of multiple completion dates.

2301.3 In any contract, different completion or delivery dates may be established for separable items of work or deliverables.

2301.4 When multiple completion or delivery dates are used, the contracting officer shall evaluate requests for extensions of time with respect to each item, and shall modify the affected completion or delivery dates when appropriate.

2301.5 The contracting officer may establish contract delivery or performance schedules on the basis of any of the following:

- (a) A specific calendar date or dates;
- (b) A specific period or periods from the date of the contract;
- (c) A specific period or periods from the date agreed upon by the parties and set forth in the contract for actual commencement of performance on the contract; or
- (d) In contracts containing indefinite delivery provisions (such as term contracts or federal supply schedules), a specific time for delivery after receipt by the contractor of each order issued under the contract.

2301.6 The time specified for contract performance shall not be curtailed to the prejudice of the contractor because of delay by the District in giving notice of award or acceptance.

Section 2302, IMPLEMENTATION OF DELIVERY AND PERFORMANCE SCHEDULES, is amended to read as follows:

2302.1 The contracting officer shall provide to the contractor a copy of the executed contract, notice of award, or notice of acceptance of proposal not later than the date of the contract, or as soon thereafter as possible.

2302.2 If the delivery or performance schedule is based on the date of the contract, the contracting officer shall provide a copy of the executed contract or actual notice of contract execution not later than one (1) business day following the date of the contract.

Section 2303, LIQUIDATED DAMAGES, is amended to read as follows:

2303.1 The contracting officer may use a liquidated damages clause in a contract when the following factors apply:

- (a) The time of delivery or performance is such an important factor in the performance of the contract that the District may reasonably expect to suffer damages if the delivery or performance is delinquent; or
- (b) The extent or amount of damages would be difficult or impossible to ascertain or prove.

2303.2 When deciding whether to include a liquidated damages clause in a contract, the contracting officer shall consider the probable effect on pricing, competition, and the costs and difficulties of contract administration.

- 2303.3 In order to avoid setting an unenforceable penalty, liquidated damages shall not be fixed without reference to probable actual damages. The contracting officer shall determine a reasonable rate of liquidated damages on a case by case basis.
- 2303.4 The contracting officer shall set the rate of liquidated damages based on the recommendations and justifications provided by the agency initiating the procurement request and the contracting officer's assessment of all applicable factors.
- 2303.5 A contract may include an overall maximum dollar amount or period of time during which liquidated damages may be assessed, or both, to prevent an unreasonable assessment of liquidated damages.
- 2303.6 The contracting officer shall take all reasonable steps to mitigate liquidated damages.
- 2303.7 If a liquidated damages clause is included in a contract and a basis for termination for default exists, the contracting officer shall take appropriate action expeditiously to obtain performance by the contractor or to terminate the contract.
- 2303.8 If delivery or performance is desired after termination for default, efforts shall be made to obtain the delivery or performance from another source within a reasonable time.
- 2303.9 If a contract provides for liquidated damages for delay, the contracting officer, shall be authorized to waive all or part of the damages if, in the discretion of the contracting officer, the waiver would be just and equitable.

Section 2304, VARIATION IN QUANTITY: SUPPLY CONTRACTS, is amended to read as follows:

- 2304.1 A fixed-price supply contract may authorize District acceptance of a variation in the quantity of items if the variation is caused by conditions of loading, shipping, packing, or by allowances in manufacturing processes.
- 2304.2 Except as provided in § 2304.3 of this chapter, any permissible variation shall be stated as a percentage. The variation may be an increase, a decrease, or a combination of both.
- 2304.3 Contracts for perishable food items may use other applicable terms of variations in quantity.
- 2304.4 There shall be no standard or usual variation percentage.
- 2304.5 The overrun or underrun permitted in each contract shall be based upon the normal commercial practices of a particular industry for a particular item, and the

permitted percentage shall be no larger than is necessary to afford a contractor reasonable protection.

2304.6 Contractors shall be responsible for delivery of the specified quantity of items in a fixed-price contract, within allowable variations, if any.

Section 2309, DISTRICT DELAY OF WORK, is amended to read as follows:

2309 DISTRICT DELAY OF WORK

2309.1 If the District unreasonably delays the performance on a contract, the contractor may submit a written claim for equitable adjustment of the contract price based on increases in the cost of performance due to the work delay, in accordance with the procedures set forth in Chapter 38 of this title.

2309.2 The contracting officer shall keep a record of all negotiations leading to any equitable adjustment, along with information substantiating the change in cost or price.

Section 2399, DEFINITIONS, is amended to read as follows:

2399 DEFINITIONS

2399.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Date of contract – the date on which the contract is signed by the contracting officer.

Director – the Director of the Office of Contracting and Procurement or the District of Columbia Chief Procurement Officer.

Stop-work order – a written document issued by the contracting officer advising a contractor to cease work.

OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF FINAL RULEMAKING

The Chief Procurement Officer (CPO) of the District of Columbia, pursuant to the authority set forth in Sections 204 and 1106 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code §§ 2-352.04 and 2-361.06 (2016 Repl.)) (the “Act”), hereby gives notice of the adoption of amendments to Chapter 24 (Types of Contracts) of Title 27 (Contracts and Procurement) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking updates Chapter 24 and implements the provisions in the Act that delineate what types of contracts are appropriate for use in District procurements, and the standards governing their formation. The current Chapter 24 contains regulations that are outdated and inconsistent with the Act.

The proposed rules were published in the *D.C. Register* on November 11, 2016, at 63 DCR 13916. No comments were received and no changes have been made to the text of the rules as published.

The CPO adopted these rules as final on January 6, 2017, and they will become effective upon publication of this notice in the *D.C. Register*.

Chapter 24, TYPES OF CONTRACTS, of Title 27 DCMR, CONTRACTS AND PROCUREMENT, is amended as follows:

Section 2400, GENERAL PROVISIONS, is amended to read as follows:

2400 GENERAL PROVISIONS

- 2400.1 The contracting officer shall use the type of contract, or combination of types of contracts, in accordance with the provisions of this chapter that is most appropriate to the circumstances of each procurement, and that serves the best interests of the District.
- 2400.2 In accordance with § 501 of the Procurement Practices Reform Act of 2010, D.C. Official Code § 2-355.01, a cost-plus-a-percentage-of-cost type contract shall not be used. Except where a prime contract is a firm-fixed-price contract, a cost-plus-percentage-of-cost type subcontract shall not be used.

Section 2401, SELECTING CONTRACT TYPES, is amended to read as follows:

2401 SELECTING CONTRACT TYPES

- 2401.1 The contracting officer shall identify the type of contract, or combination of types of contracts, to be used prior to solicitation. The solicitation shall inform bidders of the type of contract, or combination of types of contracts, to be used.

- 2401.2 In selecting the type of contract to be used, the contracting officer shall consider the following factors:
- (a) The type and complexity of the good or service being procured;
 - (b) Price competition;
 - (c) The difficulty of estimating performance costs;
 - (d) The administrative costs to both the contractor and the District;
 - (e) The urgency of the requirement;
 - (f) The length of contract performance;
 - (g) Any concurrent contracts;
 - (h) The risk involved;
 - (i) The stability of material or commodity market prices or wage levels;
 - (j) The contractor's technical capability and financial responsibility; and
 - (k) Any other factor the consideration of which the contracting officer believes will better inform the choice of contract type.

Section 2402, FIXED-PRICE CONTRACTS, is amended to read as follows:

2402 FIXED-PRICE CONTRACTS

- 2402.1 Fixed-price contracts may provide for a firm price or, in appropriate cases, an adjustable price.
- 2402.2 The contracting officer shall use a firm-fixed-price contract when the risk involved is minimal (or can be predicted with an acceptable degree of certainty) and when fair and reasonable prices can be established. However, if a reasonable basis for firm-fixed pricing does not exist, the contracting officer may consider other contract types, or combination of types.
- 2402.3 Fixed-price contracts providing for an adjustable price may include a price ceiling, a target price (including target cost), or both. Unless otherwise specified in the contract, the price ceiling or target price shall be subject to adjustment only by operation of contract clauses providing for equitable adjustment or other revision of the contract price under stated circumstances.

2402.4 A firm-fixed-price contract shall not provide for a price that is subject to any adjustment on the basis of the contractor's cost experience in performing the contract.

Section 2403, FIXED-PRICE CONTRACTS WITH ECONOMIC PRICE ADJUSTMENTS, is amended to read as follows:

2403 FIXED-PRICE CONTRACTS WITH ECONOMIC PRICE ADJUSTMENTS

2403.1 The contracting officer shall not use a fixed-price contract with economic price adjustment unless the contracting officer determines that it is necessary to protect the contractor and the District against significant fluctuations in labor or material costs, or to provide for contract price adjustment in the event of changes in the contractor's established prices.

2403.2 A fixed-price contract with economic price adjustment shall provide for upward and downward revision of the stated contract price upon the occurrence of certain contingencies that are specifically defined in the contract.

2403.3 An economic price adjustment may be one (1) of the following general types:

- (a) Adjustment based on increases or decreases from an agreed-upon level in published or otherwise established prices of specific items or the contract end items;
- (b) Adjustment based on increases or decreases in specified costs of labor or material that the contractor actually experiences during contract performance; or
- (c) Adjustment based on increases or decreases in labor or material cost standards or indexes that are specifically identified in the contract.

2403.4 For use of economic price adjustments in procurements by competitive sealed bids, the contracting officer shall follow the procedures set forth in § 1542 of Chapter 15 (Procurement by Competitive Sealed Bidding) of this title.

2403.5 The contracting officer may use a fixed-price contract with economic price adjustment when the following factors are applicable:

- (a) There is serious doubt concerning the stability of market or labor conditions that will exist during an extended period of contract performance; and
- (b) Contingencies that would otherwise be included in the contract price can be identified and covered separately in the contract.

- 2403.6 Price adjustments based on established catalog prices shall be restricted to industry-wide contingencies. Industry-wide contingencies shall be those affecting a particular industry as a whole, and shall not depend upon circumstances within the contractor's control.
- 2403.7 Price adjustments based on labor and material costs shall be limited to contingencies beyond the contractor's control.
- 2403.8 When establishing the base level from which adjustment will be made, the contracting officer shall ensure that contingency allowances are not duplicated by inclusion in both the base price and the adjustment requested by the contractor under the economic price adjustment clause.
- 2403.9 In contracts that do not require submission of cost or pricing data, the contracting officer shall obtain adequate information to establish the base level from which adjustment will be made and may require verification of data submitted.

Section 2404, FIXED-PRICE CONTRACTS WITH PROSPECTIVE PRICE REDETERMINATION, is amended to read as follows:

2404 FIXED-PRICE CONTRACTS WITH PROSPECTIVE PRICE REDETERMINATION

- 2404.1 The contracting officer may use a fixed-price contract with prospective price redetermination in procurements of quantity production or services for which it is possible to negotiate a fair and reasonable firm-fixed-price for an initial period, but not for subsequent periods of contract performance as provided in § 2404.4 of this chapter.
- 2404.2 The contracting officer shall not use a fixed-price contract with prospective price redetermination unless all of the following apply:
- (a) The contracting officer has determined that the conditions for use of a firm-fixed-price contract are not present and a fixed-price incentive contract would not be more appropriate;
 - (b) The contractor's accounting system is adequate for price redetermination;
 - (c) The prospective pricing periods can be made to conform with the operation of the contractor's accounting system; and
 - (d) There is reasonable assurance that price redetermination actions will take place promptly at the specified times.
- 2404.3 When the contracting officer uses a fixed-price contract with prospective price redetermination, the initial period shall be the longest period for which it is

possible to negotiate a fair and reasonable firm-fixed-price. Each subsequent pricing period shall be at least twelve (12) months.

- 2404.4 A fixed-price contract with prospective price redetermination may provide for a price ceiling based on evaluation of the uncertainties involved in performance and their possible cost impact. The price ceiling shall provide for assumption of a reasonable proportion of the risk by the contractor and, once established, may be adjusted only by operation of provisions for an equitable adjustment or other revision of the contract price under stated circumstances.

Section 2405, COST-REIMBURSEMENT CONTRACTS, is amended to read as follows:

2405 COST-REIMBURSEMENT CONTRACTS

- 2405.1 The contracting officer may use a cost-reimbursement contract only when:
- (a) Uncertainties involved in contract performance either do not permit costs to be estimated with sufficient accuracy to use any type of fixed-price contract; or
 - (b) Circumstances prevent requirements from being sufficiently defined to allow for a fixed-price contract.
- 2405.2 The contracting officer may use a cost-reimbursement contract only when the following circumstances apply:
- (a) The contractor's accounting system is adequate for determining costs applicable to the contract;
 - (b) Appropriate District surveillance during performance will provide reasonable assurance that efficient methods and effective cost controls are used; and
 - (c) The use of a cost-reimbursement contract is likely to be less costly than any other type of contract, or it is impractical to obtain goods or services of the kind or quality required without the use of a cost-reimbursement contract.
- 2405.3 Each cost-reimbursement contract shall contain a clause that:
- (a) Indicates that only those costs determined by the contracting officer to be reasonable, allowable, and allocable in accordance with Chapter 33 (Contract Cost Principles) of this title, will be reimbursable; and
 - (b) Establishes a stated price ceiling.

- 2405.4 The contracting officer may use a cost-plus-fixed-fee contract when contracting for efforts that might otherwise present too great a risk to the contractor, such as when the contract is for the performance of research, preliminary exploration or a study, and the level of effort is unknown. The contract shall set a maximum allowable fee.
- 2405.5 A cost-plus-fixed-fee contract may be in either a completion form or term form. When using the completion form, the contracting officer shall describe the scope of work by stating a definite goal or target and specifying an end product. When using the term form, the contracting officer shall describe the scope of work in general terms and obligate the contractor to devote a specified level of effort for a stated time period.
- 2405.6 When using a cost-plus-fixed-fee contract, the completion form shall be preferred over the term form whenever the work, or specific milestones for the work, can be defined well enough to permit development of estimates within which the contractor can be expected to complete the work. The term form shall not be used unless the contractor is obligated by the contract to provide a specific level of effort within a definite time period.

Section 2406, INCENTIVE CONTRACTS, is amended to read as follows:

2406 INCENTIVE CONTRACTS

- 2406.1 The contracting officer may use an incentive contract when a firm-fixed-price contract is not appropriate and the required goods or services can be procured at lower costs and, in certain instances, with improved delivery or technical performance, by relating the amount of profit or fee payable under the contract to the contractor's performance.
- 2406.2 The contracting officer may use an incentive contract when it is necessary to establish reasonable and attainable targets that are clearly understandable by the contractor, and to provide appropriate incentive arrangements designed to motivate contractor efforts and discourage contractor inefficiency and waste.
- 2406.3 When predetermined formula-type incentives on technical performance or delivery are included, increases in profit or fee shall be provided only for achievement that surpasses the targets, and decreases shall be provided for to the extent that targets are not met.
- 2406.4 The contracting officer shall apply incentive increases or decreases to performance targets rather than minimum performance requirements.
- 2406.5 Incentive contracts may be fixed-price incentive contracts or cost-reimbursement incentive contracts.

2406.6 Cost-reimbursement incentive contracts shall be subject to the provisions of § 2405 of this chapter. Fixed-price incentive contracts shall be subject to the provisions of § 2408 of this chapter.

Section 2407, TYPES OF INCENTIVES, is amended to read as follows:

2407 TYPES OF INCENTIVES

2407.1 Incentive contracts shall include cost incentives, which take the form of a profit or fee adjustment formula. No incentive contract shall provide for other incentives without also providing for a cost incentive.

2407.2 Except for cost-plus-award-fee contracts, incentive contracts shall include a target cost, a target profit or fee, and a profit or fee adjustment formula that (within the constraints of a price ceiling or minimum and maximum fee) provides for the following:

- (a) Actual cost that meets the target will result in the target profit or fee;
- (b) Actual cost that exceeds the target will result in downward adjustment of the target profit or fee; and
- (c) Actual cost that is below the target will result in upward adjustment of the target profit or fee.

2407.3 Technical performance incentives may be considered in connection with specific product characteristics or other specific elements of the contractor's performance.

2407.4 Technical performance incentives shall be designed to tailor profit or fee to results achieved by the contractor, compared with specified target goals. The contract shall be specific in establishing performance test criteria (such as testing conditions, instrumentation precision, and data interpretation) in order to determine the degree of attainment of performance targets.

2407.5 The contracting officer may consider delivery incentives when meeting a required delivery schedule is a significant District objective.

2407.6 The contracting officer shall specify in incentive arrangements the application of the reward-penalty structure in the event of District-caused delays, or other delays beyond the control and without the fault or negligence of the contractor or a subcontractor.

Section 2408, FIXED-PRICE INCENTIVE CONTRACTS, is amended to read as follows:

2408 FIXED-PRICE INCENTIVE CONTRACTS

2408.1 A fixed-price incentive contract may be used when the following factors apply:

- (a) A firm-fixed-price contract is not suitable;
- (b) The nature of the goods or services being procured, and the specific circumstances of the procurement, are such that the contractor's assumption of a degree of cost responsibility will provide a positive profit incentive for effective cost control and performance;
- (c) If the contract also includes incentives on technical performance or delivery, the performance requirements provide a reasonable opportunity for the incentives to have a meaningful impact on the contractor's management of the work;
- (d) The contractor's accounting system is adequate for providing data for negotiating firm targets and a realistic profit adjustment formula, as well as later negotiation of final costs; and
- (e) Adequate cost or pricing information for establishing a reasonable firm target is reasonably expected to be available at the time of initial contract negotiations.

2408.2 A fixed-price incentive contract shall specify a target cost, a target profit, a price ceiling (but not a profit ceiling or floor), and a profit adjustment formula, which shall yield the following results:

- (a) If the final cost is less than the target cost, application of the formula will result in a final profit greater than the target profit;
- (b) If the final cost is more than the target cost, application of the formula will result in a final profit less than the target profit, or a net loss; or
- (c) If the final negotiated cost exceeds the price ceiling, the contractor will absorb the difference as a loss.

2408.3 In a fixed-price incentive contract with a firm target, the price ceiling shall be the maximum that may be paid to the contractor, except for any adjustment made pursuant to other contract clauses.

2408.4 When the contractor completes performance, the contracting officer and the contractor shall negotiate the final cost, and apply the profit adjustment formula to determine final price.

Section 2409, COST-PLUS-AWARD-FEE CONTRACTS, is amended to read as follows:

2409 COST-PLUS-AWARD-FEE CONTRACTS

- 2409.1 A cost-plus-award-fee contract is a type of cost reimbursement contract and may only be used when the criteria set forth in § 2405.1 of this chapter are satisfied.
- 2409.2 A cost-plus-award-fee contract may be used when the following factors apply:
- (a) The work to be performed is such that it is neither feasible nor effective to devise predetermined objective incentive targets applicable to cost, technical performance, or schedule;
 - (b) The likelihood of meeting the procurement objective will be enhanced by using a contract that effectively motivates the contractor toward exceptional performance and provides the District with the flexibility to evaluate both actual performance and the conditions under which it was achieved; and
 - (c) Any additional administrative effort and cost required to monitor and evaluate performance are justified by the expected benefits.
- 2409.3 A cost-plus-award-fee contract shall provide for a fee consisting of a base amount fixed at inception of the contract and an award amount that the contractor may earn in whole or in part during performance. Each contract shall state a maximum award amount that may be paid under the contract.
- 2409.4 The amount of the award fee to be paid shall be determined by the contracting officer's evaluation of the contractor's performance in terms of the criteria stated in the contract.
- 2409.5 The award fee determination shall be made unilaterally by the contracting officer and shall not be subject to appeal or the contractor's rights under the disputes clause in the contract.
- 2409.6 A cost-plus-award-fee contract shall provide for evaluation at stated intervals during performance, so that the contractor will periodically be informed of the quality of its performance and the area in which improvement is expected.

Section 2415, DEFINITE-QUANTITY CONTRACTS, is amended to read as follows:

2415 DEFINITE-QUANTITY CONTRACTS

- 2415.1 The contracting officer may use a definite-quantity contract when it can be determined in advance that a specific quantity of goods or services will be required during the contract period, and the goods or services are regularly available or will be available after a short lead time.

Section 2416, TERM CONTRACTS, is amended to read as follows:

2416 TERM CONTRACTS

- 2416.1 The contracting officer may use a term contract (either a requirements contract or an indefinite-quantity contract) when the exact quantities of goods or services are not known at the time of contract award. Term contracts shall be subject to the provisions of this section and § 2103 of Chapter 21 (Required Sources of Goods and Services) of this title.
- 2416.2 A term contract may also specify maximum or minimum quantities that the District may order under each individual order and the maximum that the District may order during a specified period of time.
- 2416.3 The contracting officer may use a requirements contract when the contracting officer anticipates recurring requirements but cannot predetermine the precise quantities of goods or services that designated District agencies will need during a definite period.
- 2416.4 Each agency designated in a requirements contract shall be required to fill all actual purchase requirements for the specific goods or services from the requirements contract.
- 2416.5 The contracting officer shall include the following in each contract and solicitation for a requirements contract:
- (a) A realistic estimate of the total quantity that will be ordered, based on the most current information available; and
 - (b) A clause stating that the estimate is not a representation to a bidder, offeror, or contractor that the estimated quantity will actually be required or ordered, or that conditions affecting the requirements, will be stable or normal.
- 2416.6 If feasible, a requirements contract shall state the maximum limit of the contractor's obligation to deliver and the District's obligation to order.
- 2416.7 For requirements contracts, the contracting officer shall execute the contract without the obligation of funds. Funds shall be obligated by each agency at the time orders are issued under the contract.
- 2416.8 The contracting officer may use an indefinite-quantity contract when the contracting officer cannot predetermine, above a specified minimum, the precise quantity of goods or services that will be required during the contract period.

2416.9 An indefinite-quantity contract shall require the District to order and the contractor to furnish at least the stated minimum quantity of goods or services. The contractor shall also be required to furnish, if and as ordered, any additional quantities, not to exceed a stated maximum.

Section 2417, ORDERING UNDER TERM CONTRACTS, is amended to read as follows:

2417 ORDERING UNDER TERM CONTRACTS

2417.1 The contracting officer shall include in the schedule of requirements in each term contract the names of the agency or agencies authorized to issue orders under the contract.

2417.2 Each order placed under a term contract shall contain the following information:

- (a) Date of the order;
- (b) Contract number and an order number;
- (c) Item number, description, quantity, and unit price;
- (d) Delivery or performance date;
- (e) Place of delivery or performance;
- (f) Packaging, packing, and shipping instructions, if any;
- (g) Accounting and appropriations data; and
- (h) Any other pertinent information.

Section 2420, TIME-AND-MATERIALS CONTRACTS, is amended to read as follows:

2420 TIME-AND-MATERIALS CONTRACTS

2420.1 A time-and-materials contract may be used only when:

- (a) It is not possible at the time of executing the contract to estimate accurately the extent or duration of the work or to anticipate costs with any reasonable degree of confidence; and
- (b) The contracting officer determines, in writing, that no other type of contract is suitable.

2420.2 A time and materials contract shall include a price ceiling that the contractor exceeds at its own risk.

- 2420.3 A time-and-materials contract shall include direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, profit, and materials required at cost.
- 2420.4 When the nature of the work to be performed requires the contractor to furnish material that it regularly sells to the general public in the normal course of its business, a time and materials contract may provide for charging material on a basis other than cost if the following factors apply:
- (a) The total estimated contract price does not exceed fifty thousand dollars (\$50,000), or the estimated price of material charged does not exceed twenty percent (20%) of the estimated contract price;
 - (b) The material to be charged is identified in the contract;
 - (c) No element of profit on material charged is included as profit in the fixed hourly labor rates; and
 - (d) The contract provides that the price to be paid for the material shall be based on an established catalog or list price in effect when material is furnished, less all applicable discounts to the District, and that in no event shall the price exceed the contractor's sales price to its most-favored customer for the same item in like quantity, or the current market price, whichever is lower.

Section 2421, LABOR-HOUR CONTRACTS, is amended to read as follows:

2421 LABOR-HOUR CONTRACTS

- 2421.1 When materials are not required, the contracting officer may use a labor-hour contract in accordance with the provisions of § 2420 of this chapter.

Section 2425, LETTER CONTRACTS, is amended to read as follows:

2425 LETTER CONTRACTS

- 2425.1 The contracting officer may use a letter contract when the District's interests require that the contractor be given a binding commitment so that work can start immediately and executing a definitive contract is not possible in sufficient time to meet the requirement. Each letter contract shall be as complete and definite as possible under the circumstances.
- 2425.2 A letter contract is always associated with a definitive contract, and a letter contract by itself cannot be the sole document used for a complete procurement.
- 2425.3 A letter contract shall not commit the District to a definitive contract in excess of the funds available at the time the letter contract is executed.

- 2425.4 A letter contract shall not be entered into without competition, except as provided for in Chapter 17 (Sole Source and Emergency Procurements) of this title.
- 2425.5 A letter contract shall not be amended to satisfy a new requirement unless the new requirement is inseparable from the existing contract. Any amendment shall be subject to the same requirements as a new letter contract.
- 2425.6 When a letter contract is executed, the contracting officer shall include a price ceiling for the anticipated definitive contract. The price ceiling shall not be exceeded. Each letter contract shall also include a clause indicating the maximum liability of the District under the letter contract.
- 2425.7 The maximum liability to the District under a letter contract shall be the estimated amount necessary to cover the contractor's requirement for funds before execution of the definitive contract. However, the District's maximum liability shall not exceed fifty percent (50%) of the overall price ceiling for the term of the definitive contract pursuant to § 2425.5 of this chapter.
- 2425.8 The contracting officer shall execute a definitive contract within one hundred and twenty (120) days after the date of execution of the letter contract or before completion of fifty percent (50%) of the work to be performed, whichever occurs first. The contracting officer may extend the letter contract but shall nevertheless execute a definitive contract prior to completion of fifty percent (50%) of the work to be performed.
- 2425.9 In procurements by other than competitive sealed bids, if the contracting officer and the contractor cannot negotiate a definitive contract because of failure to reach agreement regarding price or fee, the contractor shall be required to continue the work and the contracting officer may, with the approval of the Director, determine a reasonable price or fee, subject to review in accordance with Chapter 38 (Protests, Claims, and Disputes) of this title.
- 2425.10 Prior to the execution of a letter contract, the contracting officer shall ensure that funds are encumbered for obligation in the amount of the maximum District liability for the term of the letter contract.

Section 2499, DEFINITIONS, is amended to read as follows:

2499 DEFINITIONS

2499.1 When used in this chapter, the following words and terms shall have the meanings ascribed:

Commercial-type products – a product such as an item, material, component, subsystem or system, sold or traded to the general public in the course of normal business operations at prices based on established catalog or market prices.

Cost – the amount paid or charged for something, excluding the contractor's profit.

Cost-plus-award-fee – a cost-reimbursement type contract that provides for a fee consisting of an amount fixed at the beginning of the contract and potential award of additional fee amounts based upon a judgmental evaluation by the contracting officer, sufficient to provide motivation for excellence in contract performance.

Cost-plus-fixed-fee contract – a cost-reimbursement type contract which provides for the payment of a fixed fee to the contractor. The fixed fee, once negotiated, does not vary with actual cost, but may be adjusted as a result of any subsequent changes in the work or services to be performed under the contract.

Cost-plus-incentive-fee contract – a cost-reimbursement type contract that provides for an initially negotiated fee to be adjusted later by a formula based on the relationship of total allowable costs to total target costs. After performance of the contract, the fee payable to the contractor is determined in accordance with a negotiated formula.

Cost-reimbursement contract – a contract which provides for payment of allowable costs incurred in the performance of a contract, to the extent prescribed in the contract. This type of contract establishes an estimate of total cost for the purpose of obligating funds, and establishes a ceiling which the contractor may not exceed (except at its own risk) without prior approval of, or subsequent ratification by, the contracting officer.

Definite-quantity contract – a contract that provides for delivery of a definite quantity of specific goods or services for a fixed period, with deliveries to be scheduled at designated locations.

Definitive contract – the contract executed pursuant to letter contract commitment.

Director – the Director of the Office of Contracting and Procurement or the District of Columbia Chief Procurement Officer.

Firm-fixed-price contract – a fixed-price contract that provides for a price that is not subject to any adjustment on the basis of the contractor's cost experience in performing the contract. This type of contract places maximum risk and full responsibility for all costs and resulting profit or loss upon the contractor, and provides maximum incentive for the contractor to control cost and perform effectively.

Fixed-price contract with economic price adjustment – a fixed-price contract that provides for the upward and downward revision of the stated contract price upon the occurrence of certain contingencies that are specifically defined in the contract.

Fixed-price contract with prospective price redetermination – a contract type which provides for a firm-fixed-price for an initial period of contract deliveries or performance and for a redetermination of the price for subsequent periods of performance at a stated time or times during performance.

Fixed-price incentive contract – a fixed-price type contract that provides for adjusting profit and establishing the final contract price by a formula based on the relationship of final negotiated total costs to total target costs. After performance of the contract, the final cost is negotiated and the final contract price is then established in accordance with the formula.

Incentive contract – a fixed-price or cost-reimbursement type contract which provides for relating the amount of profit or fee payable under the contract with the contractor's performance in order to obtain specific procurement objectives.

Indefinite-quantity contract – a contract that provides for an indefinite quantity, within written stated limits, of specific goods or services to be furnished during a fixed period, with deliveries to be scheduled by placing orders with the contractor. The contract requires the District to order and the contractor to furnish at least a stated minimum of goods or services.

Labor-hour contract – a contract that is a variant of the time-and-materials contract differing only in that materials are not supplied by the contractor.

Letter contract – a written preliminary contractual instrument that authorizes the contractor to begin immediately manufacturing or delivering goods or performing services

Maximum liability – the amount, not to exceed fifty percent (50%) of the overall contract price ceiling, obligated by a letter contract over which the District cannot be liable if the letter contract is terminated.

Price – the amount the District anticipates it will pay the contractor for full performance under the terms of a contract, including costs and profit.

Price ceiling - an amount established during negotiations or at the discretion of the contracting officer which constitutes the maximum that may be paid to the contractor for performance of a contract.

Requirements contract – a contract that provides for the filling of all actual purchase requirements of designated District agencies for specific goods or services during a specified contract period, with deliveries to be scheduled by placing orders with the contractor as required.

Target price – an amount established by the contracting officer during negotiations to encourage the contractor to control contract costs. The contractor's final profit varies inversely with the final cost of the contract.

Term contract – a requirements contract or an indefinite-quantity contract.

Time-and-materials contract – a type of contract that provides for the procurement of goods or services on the basis of direct labor hours at specified fixed hourly rates (which include wages, overhead, general and administrative expenses, and profit) and material at cost.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2016 Repl. & 2017 Supp.)), and the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the final adoption of an amendment to Section 903 of Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), entitled “Outpatient and Emergency Room Services.”

The effect of these rules is to extend the provision of supplemental payments to eligible hospitals located within the District of Columbia that participate in the Medicaid program for outpatient hospital services rendered through September 30, 2018.

The corresponding amendment to the District of Columbia State Plan for Medical Assistance (“State Plan”) requires approval by the Council of the District of Columbia (Council) and the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). The Council has approved the State Plan through the Fiscal Year 2018 Budget Support Act of 2017, signed July 31, 2017 (D.C. Act 22-130; 64 DCR 7652 (August 11, 2017)). CMS approved the State Plan Amendment on October 10, 2017 with an October 1, 2017 effective date. The estimated annual increase in aggregate expenditures associated with the State Plan Amendment is \$17,932,860. These rules shall become effective for outpatient hospital services provided by Medicaid participating hospitals located within the District of Columbia occurring on or after October 1, 2017.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on September 29, 2017 at 64 DCR 009647. No comments were received and no changes have been made for these final rules.

The Director adopted these rules as final on January 4, 2018 and they shall become effective on the date of publication of this notice in the *D.C. Register*.

Chapter 9, MEDICAID PROGRAM, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Subsection 903.31 of Section 903, OUTPATIENT AND EMERGENCY ROOM SERVICES, is amended as follows:

903.31 Beginning FY 2018, each eligible hospital shall receive a supplemental hospital access payment calculated as set forth below:

- (a) For visits and services beginning October 1, 2017 and ending on September 30, 2018, quarterly access payments shall be made to each eligible private hospital. Each payment shall be an amount equal to each hospital's District Fiscal Year (DFY) 2015 outpatient Medicaid payments divided by the total in District private hospital DFY 2015 outpatient Medicaid payments multiplied by one quarter (1/4) of the total outpatient private hospital access payment pool. The total outpatient private hospital access payment pool shall be equal to the total available spending room under the private hospital outpatient Medicaid upper payment limit for DFY 2018;
- (b) For visits and services beginning October 1, 2017 and ending on September 30, 2018, quarterly access payments shall be made to the United Medical Center as follows: (1) Each payment shall be equal to one quarter (1/4) of the total outpatient public hospital access payment pool; and (2) The total outpatient public hospital access payment pool shall be equal to the total available spending room under the District-operated hospital outpatient Medicaid upper payment limit for DFY 2018;
- (c) Payments shall be made fifteen (15) business days after the end of the quarter for the Medicaid visits and services rendered during that quarter; and
- (d) For purposes of this section, the term District Fiscal Year shall mean dates beginning on October 1st and ending on September 30th.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2016 Repl. & 2017 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the final adoption of a new Section 947, entitled “Private Duty Nursing Services,” of Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These final rules establish general standards governing reimbursement for Private Duty Nursing services provided to beneficiaries under the District of Columbia State Plan for Medical Assistance (State Plan) and establish specific conditions of participation for providers of these services. These rules also clarify prior authorization requirements and establish higher reimbursement rates for delivering Private Duty Nursing services. DHCF determined that the existing provider reimbursement rates were not sufficient to ensure an adequate supply of providers willing and able to provide Private Duty Nursing services to District Medicaid beneficiaries.

Private Duty Nursing services provide care to some of the most vulnerable Medicaid beneficiaries who are technology-dependent. A technology-dependent beneficiary is a beneficiary who is dependent on ventilator equipment or other life-sustaining technology and requires constant nursing supervision, visual assessment, and monitoring. Private Duty Nursing services are provided to those technology-dependent beneficiaries who need more individualized and continuous care due to an illness or injury than what may be provided under the Skilled Nursing State Plan benefit. The information previously contained in the State Plan, in combination with the absence of a related rulemaking, has contributed to inconsistent quality of care and has hampered DHCF’s ability to hold providers accountable for care delivery and provide effective oversight. Additionally, the rate increases established in this rulemaking are needed to enable Home Health service providers to hire and retain the staff necessary to ensure continued access to Private Duty Nursing services under the State Plan.

The corresponding amendment to the State Plan must be approved by the U.S. Department of Health and Human Services (HHS), Centers for Medicare and Medicaid Services (CMS). The State Plan Amendment (SPA) was approved by the Council of the District of Columbia (Council) through the Fiscal Year 2016 Budget Support Act of 2015, effective October 22, 2015 (D.C. Law 21-0036; 62 DCR 10905). CMS approved the SPA on November 29, 2017 with an effective date of October 1, 2017. The increase in aggregate expenditures related to the update in the reimbursement rates for Private Duty Nursing services is approximately \$2,094,365 for FY 2018.

An initial Notice of Proposed Rulemaking was published in the *D.C. Register* on July 15, 2016 at 63 DCR 009539. No comments were received in response to the Notice of Proposed Rulemaking. However, a Notice of Emergency and Second Proposed Rulemaking was published in the *D.C. Register* on September 29, 2017 at 64 DCR 009649 in order to make changes related to: the definition of “technology-dependent;” the criteria for exceeding the twelve (12) hour per day service limitation; the reimbursement structure for Private Duty Nursing assessments; reassessments and supervisory nurse visits; and the service limitations applicable to concurrent delivery of Private Duty Nursing and personal care aide services. These changes were made as a result of discussions with both internal and external stakeholders regarding implementation of these services and will assist beneficiaries, providers and advocates by clarifying various aspects of service delivery for Private Duty Nursing. DHCF received no comments in response to the Notice of Emergency and Second Proposed Rulemaking and no changes have been made for these final rules.

The Director adopted these rules as final on January 4, 2018, and they shall become effective on the date of publication of this notice in the *D.C. Register*.

Chapter 9, MEDICAID PROGRAM, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

A new Section 947, PRIVATE DUTY NURSING SERVICES, is added to read as follows:

947 PRIVATE DUTY NURSING SERVICES

- 947.1 This section shall establish general standards for conditions of participation for Medicaid providers of Private Duty Nursing services, and delineate specific standards governing reimbursement for these services.
- 947.2 Private Duty Nursing services are services for technology-dependent beneficiaries as defined in Subsection 947.5. These beneficiaries require more individualized and continuous care than is available from a visiting nurse under the Skilled Nursing Home Health Services benefit available under the State Plan for Medical Assistance, or routinely provided by nursing staff in a hospital or skilled nursing facility.
- 947.3 In order to be eligible for Medicaid reimbursement, Private Duty Nursing services must be ordered by a physician and provided at the beneficiary’s residence in accordance with a plan of care developed by a Registered Nurse (R.N.).
- 947.4 A beneficiary shall be eligible for Medicaid reimbursement of Private Duty Nursing services if he or she is in receipt of the following:
- (a) An order for Private Duty Nursing services from the beneficiary’s physician certifying that the services are medically necessary in accordance with the requirements set forth in this section; and

- (b) A prior authorization from the Department of Health Care Finance (DHCF) or its designee in accordance with the requirements set forth in this section.

947.5 Private Duty Nursing services shall be considered medically necessary only if a beneficiary is technology-dependent. A beneficiary shall only be considered technology-dependent if the beneficiary meets the following criteria:

- (a) The beneficiary is dependent on ventilator equipment or other life-sustaining technology; and
- (b) Constant nursing supervision, visual assessment, and monitoring of both the beneficiary and the technology is required.

947.6 In order to be reimbursed by Medicaid, an order for Private Duty Nursing services shall be signed by a physician knowledgeable about the beneficiary's needs and conditions, and shall state the amount, frequency, scope and duration of Private Duty Nursing services ordered. The physician's signature on the order constitutes a certification by the physician that the services ordered reflect the health status and needs of the beneficiary, and that the beneficiary is technology-dependent and eligible for the service.

947.7 For all Medicaid reimbursable Private Duty Nursing services, the ordering physician shall:

- (a) Document that a face-to-face encounter, related to the primary reason the beneficiary requires Private Duty Nursing services, occurred between the beneficiary and the health practitioner, as defined in Subsection 947.8, within the ninety (90) days before or within the thirty (30) days after the start of services; and
- (b) Indicate on the order the name of the practitioner who conducted the face-to-face encounter, and the date of the encounter.

947.8 The face-to-face encounter required to provide Medicaid reimbursement of Private Duty Nursing services must be related to the primary reason the beneficiary requires Private Duty Nursing services and may be conducted by one of the following health practitioners:

- (a) The ordering physician;
- (b) A nurse practitioner working in collaboration with the physician;
- (c) A certified nurse mid-wife as authorized under District law;
- (d) A physician assistant acting under the supervision of the ordering physician; or
- (e) The attending acute or post-acute physician.

- 947.9 The attending acute or post-acute physician shall only conduct face-to-face encounters for those beneficiaries receiving Private Duty Nursing services immediately after an acute or post-acute stay.
- 947.10 The plan of care referenced in Subsection 947.3 shall be developed and signed by an R.N. who is employed or under contract to the Private Duty Nursing services provider. The signature of the R.N. on the plan of care constitutes a certification that the plan of care accurately reflects the health status and needs of the beneficiary and that the services identified in the plan of care are in accordance with the physician's order defined in Subsection 947.6.
- 947.11 The beneficiary's physician shall approve the initial plan of care by signing it within thirty (30) days of the development of the plan of care, and noting his or her license number and National Provider Identification number on the plan of care.
- 947.12 The plan of care shall be reviewed and signed by the physician every sixty (60) calendar days.
- 947.13 The signature of the physician on an initial or subsequent plan of care constitutes a certification that the plan of care accurately reflects the health status and needs of the beneficiary.
- 947.14 Medicaid reimbursable Private Duty Nursing services shall be provided by a Home Care Agency that meets the requirements of Subsection 947.15.
- 947.15 In order to be eligible for Medicaid reimbursement, a Home Care Agency providing Private Duty Nursing services shall meet the following requirements:
- (a) Be enrolled as a Medicare Home Care Agency qualified to offer skilled nursing services as set forth in Sections 1861(o) and 1891(e) of the Social Security Act and 42 CFR § 484;
 - (b) Have sufficient funds or "initial reserve operating funds" available for business expenses determined in accordance with federal special capitalization requirements for home care agencies participating in Medicare as set forth under 42 CFR § 489.28;
 - (c) Meet the District of Columbia Department of Health licensure requirements in accordance with Chapter 39 (Home Care Agencies) of Title 22-B DCMR;
 - (d) Be enrolled as a Medicaid provider of Private Duty Nursing services and meet all requirements as set forth under Chapter 94 (Medicaid Provider and Supplier, Screening, Enrollment, and Termination) of Title 29 DCMR; and

- (e) Have a surety bond, in accordance with federal requirements for home care agencies participating in Medicaid as set forth under 42 CFR § 441.16 and Subsection 947.15.

947.16 Except for government-operated Home Care Agencies, each Home Care Agency that is a Medicaid participating Home Care Agency or that seeks to become a Medicaid participating Home Care Agency shall:

- (a) Obtain a fifty thousand dollar (\$50,000) surety bond that meets the requirements as set forth under 42 CFR § 441.16; and
- (b) Furnish a copy of the surety bond to DHCF.

947.17 In accordance with the Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983 (D.C. Law 5-48, D.C. Official Code §§ 44-501 *et seq.*), and 22-B DCMR § 3924, a Home Care Agency shall accept a ventilator-dependent beneficiary only if:

- (a) The beneficiary is ventilator stabilized;
- (b) A successful home equipment trial has been conducted by the Home Care Agency provider; and
- (c) The Home Care Agency has developed a plan for emergency services notification.

947.18 Medicaid reimbursable Private Duty Nursing services shall be provided by an R.N. or licensed practical nurse (L.P.N.) licensed in accordance with the District of Columbia Health Occupations Revision Act of 1985, as amended, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*) and implementing rules.

947.19 Medicaid reimbursable Private Duty Nursing services shall be responsible for the following duties:

- (a) Conducting initial assessments and periodic reassessments every sixty (60) calendar days to develop and update a plan of care;
- (b) Coordinating the beneficiary's care and referrals among all Home Care Agency providers;
- (c) Implementing preventive and rehabilitative nursing procedures;
- (d) Administering medications and treatment as prescribed by a licensed physician, pursuant to the District of Columbia Health Occupations Revision Act of 1985, as amended, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.*), as outlined under the plan of care;

- (e) Recording daily progress notes and summary notes at least once every sixty (60) calendar days;
- (f) Making necessary updates to the plan of care, and reporting any changes in the beneficiary's condition to his or her physician;
- (g) Instructing the beneficiary on treatment regimens identified under the plan of care;
- (h) Updating the physician on changes in the beneficiary's condition and obtaining orders to implement those changes; and
- (i) For R.N.s who supervise nursing services delivered by skilled nurses and services delivered by Home Health Aides and Personal Care Aides, duties shall include, at minimum, the following:
 - (1) Supervising the beneficiary's skilled nurse and aide on site, at least once every sixty (60) calendar days;
 - (2) Ensuring that new or revised physician orders have been obtained from the treating physician initially, as needed, and every sixty (60) calendar days thereafter, to promote continuity of care;
 - (3) Reviewing the beneficiary's plan of care;
 - (4) Monitoring the beneficiary's general health outcomes, including taking vital signs, conducting a physical examination, and determining mental status;
 - (5) Determining if the beneficiary has any unmet needs;
 - (6) Ensuring that all home health services are provided safely and in accordance with the plan of care;
 - (7) Ensuring that the beneficiary has received education on any needed services;
 - (8) Ensuring the safe discharge or transfer of the beneficiary;
 - (9) Ensuring that the physician receives progress notes when the beneficiary's health condition changes, or when there are deviations from the plan of care;
 - (10) Ensuring that a summary report of the visit has been sent to the physician every sixty (60) calendar days; and

- (11) Reporting any instances of abuse, neglect, exploitation or fraud to DHCF to promote a safe and therapeutic environment in accordance with 17 DCMR § 5414.
 - (j) Maintaining the beneficiary's equipment and supplies;
 - (k) Providing ventilator and/or tracheostomy tube maintenance;
 - (l) Applying independent emergency measures to counteract adverse developments; and
 - (m) Updating the physician on changes in the beneficiary's condition and obtaining orders to implement those changes.
- 947.20 Initial assessments and periodic reassessments shall only be conducted by an R.N. The Private Duty Nurse conducting an initial assessment or periodic reassessment in accordance with this section shall certify in writing that the assessment is true and accurate.
- 947.21 Consistent with the Department of Health regulations at 22-B DCMR § 3917, Private Duty Nursing provided by an L.P.N. shall be supervised by an R.N.
- 947.22 When an L.P.N. provides Private Duty Nursing services, the duties shall not include supervisory duties.
- 947.23 In order to be eligible for Medicaid reimbursement, the R.N. shall monitor and supervise the provision of services provided by the L.P.N. or R.N., including conducting a site visit at least once every sixty (60) calendar days, or more frequently, if specified in the beneficiary's plan of care.
- 947.24 Progress notes during each visit shall meet the standards of nursing care established under 17 DCMR §§ 5414 and 5514, and include notations regarding the following:
- (a) Any unusual health or behavioral events or changes in status;
 - (b) Any matter requiring follow-up on the part of the service provider or DHCF; and
 - (c) A clearly written statement of the beneficiary's progress or lack of progress, medical conditions, functional losses, and treatment goals as outlined in the plan of care that demonstrates that the beneficiary's services continue to be reasonable and necessary.
- 947.25 The nurse shall prepare summary notes every sixty (60) calendar days which summarizes the daily progress notes and bring attention to any matter requiring follow-up on the part of the service provider or DHCF.

- 947.26 Private Duty Nursing services shall be reimbursed by Medicaid for up to twelve (12) hours a day with a prior authorization issued by DHCF, in accordance with the requirements set forth under Subsection 947.27. Beneficiaries may also qualify for additional hours if they meet the requirements referenced under Subsection 947.28.
- 947.27 In order to be eligible for Medicaid reimbursement, all requests for Private Duty Nursing services shall be prior authorized by DHCF or its designee. Prior authorization shall be determined by ensuring that the beneficiary meets the following criteria:
- (a) The beneficiary is technology-dependent, as set forth in Subsection 947.5; and
 - (b) The beneficiary requires services by an R.N. or L.P.N. on a more individualized and continuous basis which cannot be provided at a lower level of care, pursuant to the Skilled Nursing Home Health Services benefit available under the State Plan for Medical Assistance.
- 947.28 DHCF may authorize additional hours of Medicaid reimbursable Private Duty Nursing services above the twelve (12) hour per day limit for a beneficiary if DHCF determines that:
- (a) Additional hours are medically necessary, as set forth in Subsection 947.5;
 - (b) That the beneficiary's needs can be safely met in the home; and
 - (c) That the beneficiary's Medicaid-funded services are being delivered in a cost-effective manner appropriate to the beneficiary's level of care.
- 947.29 DHCF shall perform audits to ensure that Medicaid payments are consistent with efficiency, economy and quality of care and made in accordance with federal and District rules governing Medicaid.
- 947.30 The audit process shall be routinely conducted by DHCF to determine, by statistically valid scientific sampling, the appropriateness of services rendered and billed to Medicaid. These audits shall be conducted on-site or through an off-site, desk review.
- 947.31 Each provider shall allow access to relevant records and program documentation upon request and during an on-site audit or review by DHCF, other District of Columbia government officials and representatives of the United States Department of Health and Human Services.
- 947.32 Each provider shall maintain complete and accurate records reflecting the specific Private Duty Nursing services provided to each beneficiary for each unit of service billed. Such records shall be maintained for a period of ten (10) years or when all audits have been completed, whichever is longer.

- 947.33 The Medicaid reimbursement rate for Private Duty Nursing services shall be fifteen dollars (\$15.00) for each fifteen (15) minute unit of service for services provided by an R.N., and twelve dollars and fifty cents (\$12.50) for each fifteen (15) minute unit of service provided by a L.P.N.
- 947.34 The Medicaid reimbursement rate for an initial assessment, reassessment or supervisory visit by an R.N. is a flat rate of one hundred and twenty dollars (\$120).
- 947.35 In order to bill for a fifteen (15) minute unit of Private Duty Nursing services, a provider shall ensure that documentation of the visit shows Private Duty Nursing services were provided for at least eight (8) minutes during the fifteen (15) minute unit.
- 947.36 Medicaid reimbursable Private Duty Nursing services shall have the following service limitations:
- (a) Assessments, reassessments or supervisory visits of a skilled nurse or aide shall not be included in the calculation of the daily Private Duty Nursing cap;
 - (b) When a private duty nurse performs the duties described under Subsections 947.19(b) – (h), and (j) – (m) during an initial assessment, reassessment, or supervisory visit, these services shall not be billed separately as Private Duty Nursing services under the twelve hour (12) daily cap, but shall be included as part of the rate paid for an initial assessment, reassessment, or supervisory visit; and
 - (c) When a private duty nurse provides assistance with activities of daily living during an assessment, or supervisory, or Private Duty Nursing visit, the Home Care agency shall ensure that activities performed during the assessment, supervisory, or Private Duty Nursing visit are only billed as Private Duty Nursing services and may not also be billed as personal care aide services.
- 947.37 DHCF shall not reimburse a home care agency for concurrent delivery of Private Duty Nursing and personal care aide services unless the home care agency is able to demonstrate that concurrent services are necessary in order to maintain the beneficiary's health and safety, as determined by DHCF.
- 947.38 In order to receive Medicaid reimbursement for Private Duty Nursing services, a beneficiary shall not concurrently receive Skilled Nursing services under the State Plan.

Section 999, DEFINITIONS, § 999.1, is amended to include the following terms:

Order – A formal, written instruction signed by a physician regarding a beneficiary’s medical care, treatment or management which specifically requests the provision of a specific service.

Plan of Care - A written document developed by the R.N. hired by the home health provider that delineates the various treatments of the beneficiary.

Surety bond - One or more bonds issued by one or more surety companies under 31 USC 9304 to 9308 and 31 CFR parts 223, 224, and 225.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2016 Repl. & 2017 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the final adoption of an amendment to repeal Chapter 51 (Medicaid Reimbursement for Services Provided by Home Health Aides) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR) and to create a new Chapter 99, entitled “Home Health Services,” of Title 29 DCMR.

Home Health services consist of a variety of services including skilled nursing, home health aide, physical therapy, occupational therapy, durable medical equipment, prosthetics, orthotics and supplies, and speech pathology and audiology services. All of these services are delivered in a beneficiary’s place of residence or a setting in which normal life activities take place with the goal of maintaining a beneficiary’s general health outcomes. Home Health services are provided to some of the most vulnerable Medicaid beneficiaries. Several factors have contributed to inconsistent quality of care and limited DHCF’s ability to effectively oversee and hold providers accountable for these services, including limited State Plan guidance, the absence of Skilled Nursing and therapy-related rules defining the services, and a lack of specificity in provider qualifications and billing requirements.

These final rules establish standards for Medicaid reimbursement of Home Health services that correlate to a recently approved State Plan Amendment (SPA) that updates the amount, duration and scope of Home Health service delivery and implements new provider payment rates for Skilled Nursing services.

The new federal standards have resulted in Chapter 51 (Medicaid Reimbursement for Services Provided by Home Health Aides) containing outdated information for providers and beneficiaries of Home Health Aide services. As the revised standards governing provider qualifications, eligibility requirements, service descriptions and delivery parameters, and reimbursement for Home Health Aide services have been incorporated into the new chapter created through these final rules, DHCF is repealing Chapter 51 in its entirety.

The corresponding SPA requires approval by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). The SPA was approved by the Council of the District of Columbia (Council) through the Fiscal Year 2016 Budget Support Act of 2015, effective October 22, 2015 (D.C. Law 21-36; 62 DCR 10905 (August 14, 2015)). CMS approved the SPA on November 29, 2017 with an effective date of October 1, 2017. The aggregate fiscal impact of the corresponding State Plan Amendment is approximately eight million, four hundred forty-nine thousand, seven hundred twenty-four dollars (\$8,449,724) in Fiscal Year 2018.

An initial Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on February 17, 2017 at 64 DCR 001872. Comments were received and incorporated into the Notice of Second Emergency and Proposed Rulemaking, which was published in the *D.C. Register* on September 29, 2017 at 64 DCR 009660. No comments were received in response to the Notice of Second Emergency and Proposed Rulemaking. A single technical revision, clarifying the requirements for the supervision of Personal Care Aides to conform with the original intent, was the only change made to these final rules.

The Director adopted these rules on January 4, 2018, and they shall become effective on the date of publication of this notice in the *D.C. Register*.

Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Chapter 51, MEDICAID REIMBURSEMENT FOR SERVICES PROVIDED BY HOME HEALTH AIDES, is deleted in its entirety.

A new Chapter 99, HOME HEALTH SERVICES, is added to read as follows:

CHAPTER 99 HOME HEALTH SERVICES

- 9900 GENERAL PROVISIONS**
- 9901 SKILLED NURSING SERVICES**
- 9902 HOME HEALTH AIDE SERVICES**
- 9903 PHYSICAL THERAPY SERVICES**
- 9904 OCCUPATIONAL THERAPY SERVICES**
- 9905 SPEECH PATHOLOGY AND AUDIOLOGY SERVICES**
- 9906 AUDITS AND RECORD MAINTENANCE**
- 9999 DEFINITIONS**

9900 GENERAL PROVISIONS

9900.1 This chapter establishes general standards for conditions of participation for Medicaid providers and delineates specific standards governing Medicaid reimbursement for the following Home Health services:

- (a) Skilled Nursing services as described in Section 9901;
- (b) Home Health Aide services as described in Section 9902;
- (b) Physical Therapy services as described in Section 9903;
- (c) Occupational Therapy services as described in Section 9904; and
- (d) Speech Pathology and Audiology services as described in Section 9905.

- 9900.2 In addition to the services identified in Subsection 9900.1, Medicaid reimbursable Home Health services include Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS).
- 9900.3 The standards of participation and specific requirements governing reimbursement for Home Care agencies enrolled in the Medicaid program providing DMEPOS services are set forth in Sections 996 and 997 of Chapter 9 of Title 29 DCMR.
- 9900.4 In order to qualify for Medicaid reimbursement, Home Health services listed in Subsection 9900.1 are services that are:
- (a) Ordered by a physician;
 - (b) Provided at the beneficiary's residence or in a setting in which normal life activities take place, unless the exceptions referenced in Subsections 9900.5 and 9900.6 are met; and
 - (c) Delivered in accordance with a plan of care developed by a Registered Nurse (R.N.) under a process that meets the requirements under Subsection 9900.11.
- 9900.5 Except as provided in Subsection 9900.6 and in accordance with 42 CFR § 440.70(c)(1), Home Health services shall not be delivered in a hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities (ICF/IID), or any setting in which payment is or could be made under Medicaid for beneficiary services that include room and board.
- 9900.6 Home Health services may be provided in an ICF/IID if the home health service is not provided as part of the facility's services as required under 42 CFR § 483.460.
- 9900.7 A beneficiary shall be eligible for the Medicaid reimbursable Home Health services referenced in Subsection 9900.1 if the following conditions are met:
- (a) DHCF or its designee receives an order for Home Health services from the beneficiary's physician establishing that the services are medically necessary in accordance with the requirements set forth in this chapter; and
 - (b) DHCF or its designee provides prior authorization in accordance with the service delivery requirements set forth in this chapter.
- 9900.8 In order for the services contained in the physician's order described in Subsection 9900.7(a) to be reimbursed by Medicaid, the order must be signed and dated by a physician knowledgeable about the beneficiary's needs and conditions and must state the amount, frequency, scope and duration of the service. The

physician's signature on the order constitutes certification by the physician that the services ordered reflect the health status and needs of the beneficiary, and that the beneficiary is eligible for the service.

9900.9 For all Medicaid reimbursable Home Health services described in Subsection 9900.1, in order to be reimbursed the ordering physician shall:

- (a) Document that a face-to-face encounter, related to the primary reason the beneficiary requires Home Health services, occurred between the beneficiary and the health practitioner, as defined in Subsection 9900.10, within ninety (90) days before or within thirty (30) days after the start of services; and
- (b) Indicate the name of the practitioner who conducted the face-to-face encounter and the date of the encounter on the order.

9900.10 In order for the services contained in the physician's order described in Subsection 9900.7(a) to be reimbursed by Medicaid, the face-to-face encounter described in Subsection 9900.9 shall be related to the primary reason the beneficiary requires Home Health services and shall be conducted by one of the following health practitioners:

- (a) The ordering physician;
- (b) A nurse practitioner working in collaboration with the physician;
- (c) A certified nurse mid-wife as authorized under District law;
- (d) A physician assistant acting under the supervision of the ordering physician; or
- (e) For beneficiaries receiving Home Health services immediately after an acute or post-acute stay, the attending acute or post-acute physician.

9900.11 In order for the services contained in the physicians' order described in Subsection 9900.7(a) to be reimbursed by Medicaid, the plan of care described in Subsection 9900.4 shall be developed and signed by an R.N. who is employed or under contract to the Home Health services provider. The signature of the R.N. on the plan of care constitutes a certification that the plan of care accurately reflects the assessed needs of the beneficiary and that the services identified in the plan of care are in accordance with the physician's order described in Subsections 9900.7 and 9900.8.

9900.12 The beneficiary's physician shall approve the initial plan of care by signing it within thirty (30) calendar days of the development of the plan of care, and noting

his or her license number and National Provider Identification number on the plan of care.

- 9900.13 The plan of care for services described in Subsection 9900.1 shall be reviewed, updated and signed by the physician every sixty (60) calendar days.
- 9900.14 All home health services described in the plan of care shall require prior authorization and approval by DHCF in order to be reimbursed by Medicaid.
- 9900.15 Limitations on the delivery of Skilled Nursing services are described under Section 9901.
- 9900.16 Limitations on the delivery of Home Health Aide services are described under Section 9902.

9901 SKILLED NURSING SERVICES

- 9901.1 Medicaid reimbursable Skilled Nursing services are part-time or intermittent skilled nursing care services that are needed by a beneficiary due to an illness or injury, and are furnished by nurses in accordance with the beneficiary's plan of care described in Subsection 9900.4.
- 9901.2 In order to be eligible for Medicaid reimbursement, a Home Care agency providing Skilled Nursing services shall meet the following requirements:
- (a) Be enrolled as a Medicare Home Health Agency qualified to offer skilled nursing services as set forth in Sections 1861(o) and 1891(e) of the Social Security Act and 42 CFR Part 484;
 - (b) Have sufficient funds or "initial reserve operating funds" available for business expenses determined in accordance with federal special capitalization requirements for home care agencies participating in Medicare as set forth under 42 CFR § 489.28;
 - (c) Meet the District of Columbia Department of Health licensure requirements in accordance with Chapter 39 (Home Care Agencies) of Title 22-B DCMR;
 - (d) Be enrolled as a Medicaid provider of Home Health services and meet all requirements as set forth under Chapter 94 (Medicaid Provider and Supplier, Screening, Enrollment, and Termination) of Title 29 DCMR; and
 - (e) Have a surety bond, in accordance with federal requirements for home care agencies participating in Medicaid as set forth under 42 CFR § 441.16 and Subsection 9901.3.

- 9901.3 Except for government-operated Home Care Agencies, each Home Care Agency that is a Medicaid participating Home Care Agency or that seeks to become a Medicaid participating Home Care Agency shall:
- (a) Obtain a fifty thousand dollar (\$50,000) surety bond that meets the requirements as set forth under 42 CFR § 441.16; and
 - (b) Furnish a copy of the surety bond to DHCF.
- 9901.4 Medicaid reimbursable Skilled Nursing services shall be provided by a R.N. or licensed practical nurse (L.P.N.) licensed in accordance with the District of Columbia Health Occupations Revision Act of 1985, as amended, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*) and implementing rules.
- 9901.5 Medicaid-reimbursable Skilled Nursing services shall consist of the following duties:
- (a) Conducting initial assessments either prior to service provision or at the onset of care and reassessments every sixty (60) calendar days thereafter to develop and update a plan of care;
 - (b) Coordinating the beneficiary's care and referrals among all Home Care agency providers;
 - (c) Implementing preventive and rehabilitative nursing procedures;
 - (d) Administering medications and treatments as prescribed by a licensed physician, pursuant to the District of Columbia Health Occupations Revision Act of 1985, as amended, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.*), as outlined under the plan of care;
 - (e) Recording progress notes at each visit and summary notes at least once every sixty (60) calendar days;
 - (f) Making necessary updates to the plan of care, and reporting any changes in the beneficiary's condition to his or her physician;
 - (g) Instructing the beneficiary on treatment regimens identified under the plan of care;
 - (h) Updating the physician on changes in the beneficiary's condition and obtaining orders to implement those changes; and

- (i) For R.N.s who supervise nursing services delivered by a skilled nurse (R.N. or L.P.N.) and services delivered by Home Health Aides and Personal Care Aides, duties shall include, at minimum, the following:
- (1) Supervising the beneficiary's skilled nurse and aide on-site, at least once every sixty (60) calendar days;
 - (2) Ensuring that new or revised physician orders have been obtained initially from the treating physician and then at least every sixty (60) calendar days thereafter, to promote continuity of care;
 - (3) Reviewing the beneficiary's plan of care, including ensuring integration of the Person-Centered Service Plan (PCSP) for EPD Waiver beneficiaries into the plan of care;
 - (4) Monitoring the beneficiary's general health outcomes, including taking vital signs, conducting a comprehensive physical examination, and determining mental status;
 - (5) Determining if the beneficiary has any unmet medical needs;
 - (6) Ensuring that all home health services are provided safely and in accordance with the plan of care;
 - (7) Ensuring that the beneficiary has received education on any needed services;
 - (8) Ensuring the safe discharge or transfer of the beneficiary;
 - (9) Ensuring that the physician receives progress notes when the beneficiary's health condition changes, or when there are deviations from the plan of care;
 - (10) Ensuring that a summary report of the visit is sent to the physician every sixty (60) calendar days; and
 - (11) Reporting any instances of abuse, neglect, exploitation or fraud to DHCF and other appropriate District government agencies, including the Department of Health, to promote a safe and therapeutic environment in accordance with 17 DCMR § 5414.

9901.6 For Medicaid reimbursable services, the initial assessment to develop the plan of care and reassessments to update the plan of care shall only be conducted by an R.N. The R.N. conducting an initial assessment or periodic reassessment in accordance with this chapter shall certify in writing that the statements made in the assessment are true and accurate.

- 9901.7 Consistent with the Department of Health regulations at 22-B DCMR § 3917, Medicaid reimbursable Skilled Nursing services provided by an L.P.N. shall be supervised by an R.N.
- 9901.8 When an L.P.N. provides Skilled Nursing services, the duties of the L.P.N. shall not include supervisory duties.
- 9901.9 When an R.N. is supervising a skilled nurse (L.P.N. or R.N.) providing Medicaid reimbursable services, the R.N. shall monitor and supervise the services provided by the L.P.N., R.N., Home Health Aide, or Personal Care Aide, including conducting a site visit at least once every sixty (60) calendar days, or more frequently, if specified in the beneficiary's plan of care.
- 9901.10 The skilled nurse shall record progress notes during each visit which shall comply with the standards of nursing care established under 17 DCMR §§ 5414 and 5514, and which shall include the following information:
- (a) Notations regarding any unusual health or behavioral events or changes in status;
 - (b) Notations regarding any matter requiring follow-up on the part of the service provider or DHCF; and
 - (c) A concise written statement of the beneficiary's progress or lack of progress, medical conditions, functional losses, and treatment goals as outlined in the plan of care that demonstrates that the beneficiary's services continue to be reasonable and necessary.
- 9901.11 The skilled nurse shall prepare summary notes every sixty calendar (60) days summarizing the progress notes recorded at each visit and bringing attention to any matter requiring follow-up on the part of the Home Care Agency or DHCF.
- 9901.12 Skilled Nursing services shall be reimbursed by Medicaid for up to six (6) hours a day with prior authorization by DHCF, in accordance with the requirements set forth under Subsection 9901.13. Beneficiaries may also qualify for additional reimbursable hours if they meet the requirements referenced under Subsection 9901.16. The need for continuing Skilled Nursing services shall be reassessed and certified by the physician every sixty (60) calendar days.
- 9901.13 For Medicaid reimbursable services, a beneficiary or his/her physician shall obtain prior authorization for the initiation of Skilled Nursing services by submitting a physician's order as described in Section 9900 to DHCF or its agent to support the beneficiary's need for Skilled Nursing services which aligns with the beneficiary's assessed needs.

- 9901.14 A Home Care agency shall obtain prior authorization for continuing Medicaid reimbursable Skilled Nursing services every sixty (60) calendar days by submitting an updated physician's order and any supporting documentation to DHCF or its agent to support the beneficiary's need for ongoing Skilled Nursing services which align with the beneficiary's assessed needs, as outlined in the updated plan of care.
- 9901.15 Medicaid reimbursable Skilled Nursing services may be provided without a prior authorization for up to six (6) hours a day for a period not to exceed five (5) calendar days only when the beneficiary's need for Skilled Nursing services is immediate, such as an emergency situation or to ensure the safe and orderly discharge of the beneficiary from a hospital or nursing home to the beneficiary's home.
- 9901.16 DHCF may authorize additional hours of Medicaid reimbursable Skilled Nursing services above the six (6) hour per day limit for a beneficiary if DHCF determines that:
- (a) Additional hours are medically necessary as reflected on the physician's order described in Subsections 9900.7 through 9900.9;
 - (b) The beneficiary's needs can be safely met in the home; and
 - (c) The beneficiary's Medicaid-funded services are being delivered in a cost-effective manner appropriate to the beneficiary's level of care.
- 9901.17 Beneficiaries enrolled in the § 1915(c) Individuals with Intellectual and Developmental Disabilities (IDD) Home and Community-Based Services Waiver in need of additional hours of Skilled Nursing services beyond those provided under the State Plan may be eligible to receive Skilled Nursing services under the IDD Waiver to the extent the individual has first exhausted the State Plan benefit; qualifies for Skilled Nursing services or extended Skilled Nursing services under 29 DCMR §§ 1931 *et seq.*; and such services are consistent with the individual's plan of care.
- 9901.18 The Medicaid reimbursement rate for Skilled Nursing services shall be fifteen dollars (\$15.00) for each fifteen (15) minute unit of service for services provided by a R.N., and twelve dollars and fifty cents (\$12.50) for each fifteen (15) minute unit of service provided by a L.P.N.
- 9901.19 The Medicaid reimbursement rate for an initial assessment, reassessment or supervisory visit by a R.N. shall be a flat rate of one hundred and twenty dollars (\$120).
- 9901.20 In order to bill for a fifteen (15) minute unit of Skilled Nursing services, a provider shall ensure that documentation of the visit shows Skilled Nursing

services were provided for at least eight (8) minutes during the fifteen (15) minute unit.

- 9901.21 Medicaid reimbursable Skilled Nursing services shall comply with the following service limitations:
- (a) Assessments, reassessments or supervisory visits of a skilled nurse or aide shall not be included in the calculation of the daily Skilled Nursing cap;
 - (b) When a skilled nurse performs the duties described under Subsections 9901.5(b)-(h) during an initial assessment, reassessment, or supervisory visit, these services shall be included as part of the rate paid for an initial assessment, reassessment, or supervisory visit, and shall not be billed separately; and
 - (c) When a skilled nurse provides assistance with activities of daily living during an assessment, supervisory, or Skilled Nursing visit, the Home Care agency shall ensure that activities performed during the assessment, supervisory, or Skilled Nursing visit are only billed as Skilled Nursing services and may not also be billed as personal care aide services.

- 9901.22 Beneficiaries who receive Medicaid-reimbursed Skilled Nursing services may not concurrently receive Medicaid-reimbursed Private Duty Nursing services under the State Plan.

9902 HOME HEALTH AIDE SERVICES

- 9902.1 Medicaid reimbursable Home Health Aide services are services that are required by a beneficiary due to an illness or injury, and include assistance with activities of daily living, assistance with self-administered medications, or other clinical tasks to assist with the provision of nursing or skilled services such as cleaning around a feeding tube and assistance with oxygen therapy, on a part-time or intermittent basis.
- 9902.2 In order to be eligible for Medicaid reimbursement, a Home Care agency providing Home Health Aide services shall meet all requirements of Subsection 9901.2.
- 9902.3 Medicaid reimbursable Home Health Aide services shall be provided by a home health aide certified in accordance with Chapter 93 (Home Health Aides) of Title 17 DCMR, who is supervised in accordance with the District of Columbia Health Occupations Revision Act of 1985, as amended, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*) and implementing rules.
- 9902.4 Medicaid reimbursable Home Health Aide services shall consist of the following duties:

- (a) Performing personal care including assistance with activities of daily living such as bathing, personal hygiene, toileting, transferring from the wheelchair, and instrumental activities such as meal preparation, laundry, grocery shopping, and telephone use;
- (b) Changing urinary drainage bags;
- (c) Assisting the beneficiary with transfer, ambulation, and exercise as prescribed;
- (d) Assisting the beneficiary with self-administration of medication;
- (e) Measuring and recording temperature, pulse, respiration, and blood pressure;
- (f) Measuring and recording height and weight;
- (g) Observing, recording, and reporting the beneficiary's physical condition, behavior, or appearance;
- (h) Preparing meals in accordance with dietary guidelines;
- (i) Assisting with skills necessary for food consumption;
- (j) Implementing universal precautions to ensure infection control;
- (k) Performing tasks related to keeping the beneficiary's living area in a condition that promotes the beneficiary's health and comfort;
- (l) Changing simple dressings that do not require the skills of a licensed nurse;
- (m) Assisting the beneficiary with activities that are directly supportive of skilled therapy services;
- (n) Assisting with routine care of prosthetic and orthotic devices
- (o) Emptying and changing colostomy bags and performing care of the stoma;
- (p) Cleaning around a gastrostomy tube site;
- (q) Administering an enema; and
- (r) Assisting with oxygen therapy.

- 9902.5 Home Health Aide services shall be reimbursed by Medicaid for up to four (4) hours per day with prior authorization by DHCF, in accordance with the requirements set forth under Subsection 9902.6. The need for continuing Home Health Aide services shall be reassessed and certified by the physician every sixty (60) days.
- 9902.6 A beneficiary and his/her physician shall obtain prior authorization for the initiation of Medicaid reimbursable Home Health Aide services by submitting a physician's order as described in Section 9900 to DHCF or its agent to support the beneficiary's need for Home Health Aide services which aligns with the beneficiary's assessed needs.
- 9902.7 The Home Care agency shall initiate Home Health Aide services no later than twenty-four (24) hours after completing the plan of care, as described in Subsection 9900.11, unless the beneficiary's health or safety warrants the need for more immediate service initiation or the beneficiary or beneficiary's representatives agree to begin the services at a later date.
- 9902.7 The Home Care agency shall obtain prior authorization for continuing Medicaid reimbursable Home Health Aide services every sixty (60) calendar days by submitting an updated physician's order and any supporting documentation to DHCF or its agent to support the beneficiary's need for ongoing Home Health Aide services which aligns with the beneficiary's assessed needs, as outlined in the updated plan of care.
- 9902.8 DHCF may authorize additional hours of Medicaid reimbursable Home Health Aide services above the four (4) hour per day limit for a beneficiary if DHCF determines that:
- (a) Additional hours are medically necessary as reflected on the physician's order described in Subsections 9900.7 through 9900.9;
 - (b) The beneficiary's needs can be safely met in the home; and
 - (c) The beneficiary's Medicaid-funded services are being delivered in a cost-effective manner appropriate to the beneficiary's level of care.
- 9902.9 For dates of service prior to January 1, 2017, providers shall be reimbursed five dollars and two cents (\$5.02) per unit of service for allowable Home Health Aide services as authorized in the approved plan of care, of which no less than three dollars and forty six cents (\$3.46) per fifteen (15) minutes for services rendered by a home health aide shall be paid to the home health aide to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2016 Repl.)).

- 9902.10 For dates of service beginning January 1, 2017, providers shall be reimbursed five dollars and five cents (\$5.05) per unit of service for allowable Home Health Aide services as authorized in the approved plan of care, of which no less than three dollars and forty-nine cents (\$3.49) per fifteen (15) minutes for services rendered by a home health aide shall be paid to the home health aide to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2016 Repl.)).
- 9902.11 Subsequent changes to the reimbursement rate(s) shall be posted on the Medicaid fee schedule at www.dc-medicaid.com and DHCF shall also publish a notice in the *D.C. Register* which reflects the change in the reimbursement rate(s).
- 9902.12 If a beneficiary is receiving Adult Day Health Program (ADHP) services under Chapter 97 of Title 29 DCMR on the same day that Home Health Aide services are delivered, the combination of Medicaid reimbursable ADHP and Home Health Aide services shall not exceed a total of twelve (12) hours per day.
- 9902.13 A beneficiary shall not receive Personal Care Aide (PCA) services under Chapter 42 or Chapter 50 of Title 29 DCMR and Home Health Aide services concurrently. Medicaid claims for PCA services submitted by a provider for any hour in which the beneficiary was receiving Medicaid reimbursable Home Health Aide services shall be denied.

9903 PHYSICAL THERAPY SERVICES

- 9903.1 Medicaid reimbursable Physical Therapy services are skilled services designed to treat a beneficiary's identified physical dysfunction or reduce the degree of pain associated with movement, injury or long term disability. Physical Therapy services should also maximize independence and prevent further disability, maintain health, and promote mobility.
- 9903.2 Medicaid reimbursable Physical Therapy services shall be provided in accordance with the beneficiary's plan of care described in Subsection 9900.4.
- 9903.3 In accordance with the District's Medicaid State Plan, Physical Therapy is provided as part of a plan of care in a hospital, skilled care facility, intermediate care facility or through a Home Care agency.
- 9903.4 In order to be eligible for Medicaid reimbursement for Physical Therapy services, a Home Care agency shall meet the requirements under Subsection 9901.2.
- 9903.5 Medicaid-reimbursable Physical Therapy services shall be provided by a physical therapist with at least two (2) years of experience and licensed in accordance with the District of Columbia Health Occupations Revision Act of 1985, as amended, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*) and implementing rules.

- 9903.6 Medicaid-reimbursable Physical Therapy services shall consist of the following duties:
- (a) Conducting an initial evaluation and assessment that summarizes the physician's order and documents the beneficiary's strength, range of motion, balance, coordination, muscle performance, respiration, and motor functions;
 - (b) Developing and describing therapy plans which explain therapeutic strategies, rationale, treatment approaches and activities to support treatment goals;
 - (c) Maintaining ongoing involvement and consulting with other service providers and caregivers;
 - (d) Consulting and instructing the beneficiary, family, or other caregivers on the therapy plan;
 - (e) Recording daily progress notes and summary notes at least quarterly, or more frequently as needed;
 - (f) Assessing the beneficiary's need for the use of adaptive equipment;
 - (g) Routinely assessing (at least annually and more frequently as needed) the appropriateness, quality, and functioning of adaptive equipment to ensure it addresses the beneficiary's needs;
 - (h) Accurately completing documentation required to obtain or repair adaptive equipment in accordance with established insurance, Medicare and Medicaid guidelines; and
 - (i) Conducting periodic examinations and modifying treatments for the beneficiary receiving services and ensuring that Physical Therapy recommendations are incorporated into the plan of care.
- 9903.7 In accordance with Subsection 9900.14, Physical Therapy services shall only be reimbursed by Medicaid with prior authorization and approval by DHCF.
- 9903.8 Physical Therapy services shall be reimbursed pursuant to the District of Columbia's Medicaid fee schedule, available at www.dc-medicaid.com.

9904 OCCUPATIONAL THERAPY SERVICES

- 9904.1 Medicaid reimbursable Occupational Therapy services are skilled services designed to maximize independence, gain skills, prevent further disability, and develop, restore, or maintain a beneficiary's daily living and work skills.
- 9904.2 Medicaid reimbursable Occupational Therapy services shall be provided in accordance with the beneficiary's plan of care as described in Subsection 9900.4.
- 9904.3 In accordance with the District's Medicaid State Plan, Occupational Therapy is provided as part of a plan of care in a hospital, skilled care facility, intermediate care facility or through a Home Care agency.
- 9904.4 In order to be eligible for Medicaid reimbursement, a Home Care agency providing Occupational Therapy services shall meet the requirements under Subsection 9901.2.
- 9904.5 Medicaid reimbursable Occupational Therapy services shall be provided by an occupational therapist with at least two (2) years of experience and licensed in accordance with the District of Columbia Health Occupations Revision Act of 1985, as amended, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*) and implementing rules.
- 9904.6 Medicaid-reimbursable Occupational Therapy services shall consist of the following duties:
- (a) Conducting an initial evaluation and assessment that:
 - (1) Summarizes the physician's order;
 - (2) Documents the beneficiary's strength, range of motion, balance, coordination, muscle performance, respiration, and motor functions; and
 - (3) Reflects the beneficiary's employment and living goals;
 - (b) Developing and describing therapy plans which explain therapeutic strategies, rationale, treatment approaches and activities to support treatment goals;
 - (c) Consulting and instructing the beneficiary, family, or other caregivers on the therapy plan;
 - (d) Recording daily progress notes and summary notes at least quarterly, or more frequently as needed;

- (e) Assessing the beneficiary's need for the use of adaptive equipment;
- (f) Routinely assessing (at least annually and more frequently as needed) the appropriateness, quality, and functioning of adaptive equipment to ensure it addresses the beneficiary's needs;
- (g) Completing documentation required to obtain or repair adaptive equipment in accordance with established insurance, Medicare and Medicaid guidelines;
- (h) Conducting and documenting quarterly assessments to verify the condition of the adaptive equipment; and
- (i) Conducting periodic examinations to modify treatments for the beneficiary, when necessary, and ensure that Occupational Therapy recommendations are incorporated into the plan of care.

9904.7 In accordance with Subsection 9900.14, Occupational Therapy services shall only be reimbursed by Medicaid with a prior authorization and approval by DHCF.

9904.8 Occupational Therapy services shall be reimbursed pursuant to the District of Columbia's Medicaid fee schedule, available at www.dc-medicaid.com.

9905 SPEECH PATHOLOGY AND AUDIOLOGY SERVICES

9905.1 Medicaid reimbursable Speech Pathology and Audiology services are skilled therapeutic interventions to address communicative and speech disorders to maximize a beneficiary's expressive and receptive communication skills and are intended to treat the beneficiary's medical or non-medical communicative disorder.

9905.2 Medicaid reimbursable Speech Pathology and Audiology services shall be provided in accordance with the beneficiary's plan of care as described in Subsection 9900.4.

9905.3 In accordance with the District of Columbia Medicaid State Plan, Speech Pathology and Audiology services shall be limited to beneficiaries eligible through the Early Periodic Screening Diagnostic Treatment (EPSDT) benefit.

9905.4 In accordance with the District of Columbia Medicaid State Plan, Speech Pathology and Audiology services shall only be provided by a facility licensed to provide medical rehabilitation services or a Home Care agency.

9905.5 In order to be eligible for Medicaid reimbursement, a Home Care agency providing Speech Pathology and Audiology services shall meet the requirements under Subsection 9901.2.

- 9905.6 Medicaid reimbursable Speech Pathology and Audiology services shall be provided by a speech language pathologist or audiologist with at least two (2) years of experience that is licensed in accordance with the District of Columbia Health Occupations Revision Act of 1985, as amended, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*) and implementing rules.
- 9905.7 Medicaid-reimbursable Speech Pathology and Audiology services shall consist of the following duties:
- (a) Conducting a comprehensive assessment, which shall include the following:
 - (1) A background review and current functional review of communication capabilities in different environments, including employment, residence, and other settings in which normal life activities take place;
 - (2) An evaluation of the beneficiary's potential for using augmentative or alternative speech devices, methods, or strategies;
 - (3) An evaluation of the beneficiary's potential for using sign language or other expressive communication methods; and
 - (4) A needs assessment for the use of adaptive eating equipment.
 - (b) Developing and implementing the treatment plan that describes treatment strategies including, direct therapy, training caregivers, monitoring requirements, monitoring instructions, and anticipated outcomes;
 - (c) Assisting beneficiaries with voice disorders to develop proper control of vocal and respiratory systems for correct voice production, if applicable;
 - (d) Conducting aural rehabilitation by teaching sign language and/or lip reading to people who have hearing loss, if applicable;
 - (e) Recording daily progress notes and summary notes at least quarterly, or more frequently as needed;
 - (f) Conducting periodic examinations, modifying treatments for the beneficiary receiving services and ensuring that the recommendations are incorporated into the Plan of Care; when necessary; and
 - (g) Conducting discharge planning.

9905.8 In accordance with Subsection 9900.14, Speech Pathology and Audiology services shall only be reimbursed by Medicaid with prior authorization and approval by DHCF.

9905.9 Speech Pathology and Audiology services shall be reimbursed pursuant to the District of Columbia's Medicaid fee schedule, available at www.dc-medicaid.com.

9906 AUDITS AND RECORD MAINTENANCE

9906.1 All Medicaid reimbursable Skilled Nursing, Home Health Aide, Physical Therapy, Occupational Therapy, Speech Pathology and Audiology services shall adhere to the audit and record maintenance requirements set forth in this section.

9906.2 Record maintenance requirements related to DMEPOS shall be governed under Subsection 996 of Chapter 9 (Medicaid Program) of Title 29 DCMR.

9906.3 DHCF shall perform audits to ensure that Medicaid payments are consistent with efficiency, economy and quality of care and made in accordance with federal and District rules governing the Medicaid program.

9906.4 DHCF shall routinely conduct the audit process to determine, by statistically valid scientific sampling, the appropriateness of services rendered and billed to Medicaid. These audits shall be conducted on-site or through an off-site desk review.

9906.5 Each Home Care Agency shall allow access to relevant records and program documentation upon request and during an on-site audit or review by DHCF, other District of Columbia government officials and representatives of the United States Department of Health and Human Services (HHS).

9906.6 Each Home Care agency shall maintain complete and accurate records reflecting the specific Home Health services provided to each beneficiary for each unit of service billed. Such records shall be maintained for a period of ten (10) years or when all audits have been completed, whichever is longer.

9999 DEFINITIONS

9999.1 When used in this chapter, the following terms shall have the following meanings:

Adaptive Equipment - Medical devices used to assist the beneficiary in performing activities of daily living.

Medically Necessary - A physician's determination that a beneficiary meets the requirements for services as set forth in this chapter.

Order – A formal, written instruction signed by the physician regarding a beneficiary’s medical care, treatment or management which specifically requests the provision of a specific service.

Plan of Care - A written document developed by the R.N. hired by the Home Health services provider that delineates the various treatments of the beneficiary.

Progress Note - A dated, written notation by a member of the health care team that summarizes facts about care and the patient's response during a given period of time, as set forth in 22-B DCMR § 3999.

Skilled Nurse - An R.N. or L.P.N. licensed in accordance with the District of Columbia Health Occupations Revision Act of 1985, as amended, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*) and implementing rules or appropriately licensed in the jurisdiction where services are rendered.

Surety Bond - One or more bonds issued by one or more surety companies under 31 USC §§ 9304 to 9308 and 31 CFR parts 223, 224, and 225.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Directors (Board) of the District of Columbia Water and Sewer Authority (DC Water), pursuant to the authority set forth in Sections 203(3) and (11) and 216 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111, §§ 203(3), (11) and 216); D.C. Official Code §§ 34-2202.03(3) and (11), and § 34-2202.16 (2012 Repl.); Wastewater System Regulation Amendment Act of 1985, effective March 12, 1986 (D.C. Law 6-95; D.C. Official Code §§ 8-105, *et seq.* (2013 Repl.); and Section 6(a) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(a) (2016 Repl.)); hereby gives notice of amendments to Chapter 1 (Water Supply) Chapter 15 (Discharges to Wastewater System) of Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR).

At its regularly scheduled meeting on January 4, 2018, the Board adopted Board Resolution #18-08 to amend Section 112 (Fees) and 199 (Definitions) of Chapter 1 (Water Supply), and Section 1510 (Hauled Wastewater) and 1511 (High-Strength Waste Fee) of Chapter 15 (Discharges to Wastewater System). The purpose of these amendments is to amend the Waste Hauler Discharge Annual Permit Fee, Waste Hauling Disposal Fees, High Strength Waste Fees and associated regulations.

Pursuant to Board Resolution #17-69, dated October 5, 2017, DC Water's proposed rulemaking was published in the *D.C. Register* (DCR) at 64 DCR 11203 on October 27, 2017. On December 7, 2017, the D.C. Retail Water and Sewer Rates Committee met to consider the comments offered during the public comment period and recommendation from the DC Water General Manager. On December 21, 2017, the Environmental Quality & Operations Committee met to consider the comments offered during the public comment period and recommendation from the DC Water General Manager.

On January 4, 2018, the Board, through Resolution #18-08, after consideration of all of the comments received and the reports from the D.C. Retail Water and Sewer Rates and Environmental Quality & Operations Committees, voted to amend the DCMR to amend Waste Hauler Discharge Annual Permit Fee, Waste Hauling Disposal Fees, High Strength Waste Fees and associated regulations. No changes were made to the proposed regulations.

These rules were adopted as final on January 4, 2018 by resolution. These rules will become effective on February 1, 2018.

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

Section 112, FEES, Subsection 112.6, is amended to read as follows:

112.6 Pretreatment fees shall be as follows:

Waste Hauler Discharge Annual Permit Fee per Vehicle	\$30.00
Waste Hauling Disposal Fees	
High strength grease trap waste	\$0.07 per gallon
High strength septage waste	\$0.07 per gallon
Domestic strength waste	\$0.003 per gallon
Low strength waste	\$0.003 per gallon
Industrial User Permit Fees	
Permit Initial Fee	\$2,000.00
Permit Renewal Fee	\$600.00
Industrial User Annual Compliance Fees	
Significant or Non-Significant Categorical Industrial User	
1 Outfall	\$2,500.00
2 or more Outfalls	\$3,500.00
Significant Non-Categorical Industrial User	
1 Outfall	\$2,500.00
2 or more Outfalls	\$3,500.00
Non-Significant Non-Categorical User	
1 Outfall	\$550.00
2 or more Outfalls	\$700.00
High Strength Waste Fees (Effective April 1, 2018)	
Biochemical Oxygen Demand (BOD)	\$0.135 per pound
Total Suspended Solids (TSS)	\$0.263 per pound
Total Kjeldahl Nitrogen (TKN) or Total Nitrogen (TN)	\$1.471 per pound
Total Phosphorus (TP)	\$4.524 per pound

Section 199, DEFINITIONS, Subsection 199.1, is amended by adding the following terms and definitions to read as follows:

High Strength Grease Trap Waste – wastewater from grease traps or interceptors, excluding oil-water interceptors.

High Strength Septage Waste – concentrated domestic wastewater from sources, including, but not limited to, portable toilets, septic tanks, and sewage ejector pumps or pits.

Domestic Strength Waste – domestic wastewater that does not exceed the domestic strength wastewater concentrations provided in 21 DCMR § 1511.2.

Low Strength Waste – non-domestic wastewater, including, but not limited to, groundwater and stormwater, that does not exceed the domestic strength wastewater concentrations provided in 21 DCMR § 1511.2.

Chapter 15, DISCHARGES TO WASTEWATER SYSTEM, is amended as follows:

Section 1510, HAULED WASTEWATER, is amended in its entirety to read as follows:

1510 HAULED WASTEWATER

- 1510.1 Unless authorized by DC Water, it shall be unlawful for any User to dispose of any hauled wastewater, comprising liquid or solid and liquid wastes, removed from septic tanks, grease abatement systems, portable toilets, or wastes from any other source, anywhere in the District of Columbia except at the Septage Receiving Facility located at the wastewater treatment facility at 5000 Overlook Ave., S.W.
- 1510.2 Any User intending to discharge hauled wastewater in the District of Columbia, shall apply for and obtain a Waste Hauler Discharge Permit.
- 1510.3 The application for issuance of a Waste Hauler Discharge Permit shall be submitted to DC Water at least thirty (30) days prior to discharge for a new permit or the expiration of a current permit and shall include the following information:
- (a) Name, address, and contact information;
 - (b) Vehicle information for each vehicle used to discharge waste at the DC Water Septage Receiving Facility, including:
 - (1) Make, model and year of the vehicle;
 - (2) Tag number;
 - (3) State of registration;
 - (4) Serial number;
 - (5) Tank capacity;
 - (6) Garage address; and
 - (7) Insurance coverage;
 - (c) Estimated number of loads per week;
 - (d) Services provided (type of waste and service area);

- (e) List of commercial and industrial customers (if applicable) and type of waste or waste source;
- (f) Waste characterization data, if requested by DC Water;
- (g) Operating permits (if applicable); and
- (h) Certification statements (included on the application), signed by an authorized representative in accordance with § 1508.11.

1510.4 After evaluation of the information submitted, DC Water may:

- (a) Deny any application for a Waste Hauler Discharge Permit; or
- (b) Issue an invoice for the payment of Waste Hauler Discharge Annual Permit Fee as provided in chapter 1 of this title, and upon payment, issue a Waste Hauler Discharge Permit subject to terms and conditions provided in the Waste Hauler Discharge Permit.

1510.5 Upon receiving a Waste Hauler Discharge Permit, the Waste Hauler shall comply with all permit conditions. Discharge of wastewater without a permit shall be prohibited, unless authorized in writing by DC Water.

1510.6 Waste Hauler Discharge Permits shall be effective for a period of one (1) year and may contain any or all of the following conditions:

- (a) Statement of duration;
- (b) Statement of non-transferability;
- (c) Load restrictions;
- (d) Manifest requirements;
- (e) Right of refusal;
- (f) Hours of operation, and procedures for discharging outside of the normal hours of operation; and
- (g) Additional requirements as DC Water may determine.

1510.7 Waste Hauler Discharge Permits are not transferable, unless DC Water specifically authorizes in writing.

1510.8 The permittee shall notify DC Water immediately if their license plate or registration changes on any of their permitted vehicles.

- 1510.9 Upon receiving notification from the permittee pursuant to 21 DCMR § 1510.8, DC Water shall issue a revised Waste Hauler Discharge Permit.
- 1510.10 The following wastes may not be discharged to the Septage Receiving Facility:
- (a) Waste that is not compatible with the District's wastewater treatment process, including, but not limited to, wastewater or additives containing petroleum products, solvents, formaldehyde, or 1,4-dichlorobenzene shall not be discharged at the Septage Receiving Facility.
 - (b) Hazardous waste or waste from trucks or tanks that previously contained hazardous waste.
 - (c) Waste from water or wastewater treatment plants or other non-domestic sources shall not be discharged at the Septage Receiving Facility unless DC Water specifically authorizes in writing. DC Water may require characterization of the discharge prior to authorization to discharge.
 - (d) Waste from water or wastewater treatment plants or other non-domestic sources, except grease trap waste, shall not be mixed with waste from domestic sources.
- 1510.11 The waste hauler shall submit a manifest form to DC Water prior to entering the Blue Plains facility which shall contain the following information on each load:
- (a) Company name and Waste Hauler Discharge Permit number;
 - (b) Vehicle make, model, and license number;
 - (c) For each source, the customer's name, address and volume of hauled waste;
 - (d) Type of waste(s) (for example: grease trap, and septic tank);
 - (e) Total volume of the load; and
 - (f) Driver certification statement.
- 1510.12 Disposal into the Septage Receiving Facility shall be in accordance with the following provisions:
- (a) No waste hauler may discharge without prior written authorization by DC Water.
 - (b) Unless exempted by DC Water in writing, all loads shall comply with the District's pretreatment standards as provided in 21 DCMR § 1501;

- (c) DC Water reserves the right to refuse acceptance of any load;
- (d) A waste hauler may be required to provide a waste analysis of any load prior to discharge;
- (e) A waste hauler may be required to cease unloading operations at any time;
- (f) In the case of composite loads, any part of the load that is restricted or prohibited shall make the entire load unacceptable for discharge;
- (g) Upon request, any Waste Hauler shall provide DC Water personnel with access to the wastewater contained in the vehicle for collecting samples or taking instrument readings;
- (h) All haulers shall clean up all spills resulting from their discharge activity at the Septage Receiving Facility;
- (i) Additional expenses may be charged to the hauler if DC Water has to clean up any spills or deposits, unclog the septage discharge lines, or repair damage occurring as the result of the hauler's discharge activity; and
- (j) Additional requirements as specified by DC Water in writing.

1510.13 Except as authorized by DC Water, the discharge of truck-hauled wastewater without a permit or in violation of a permit shall be punishable as provided in § 15 of the Act and as provided in 21 DCMR §§ 1513, 1516, and 1517.

1510.14 A Waste Hauler Discharge Permit may be suspended, terminated, or denied for good cause including, but not limited to, the following:

- (a) Information indicating that the permitted discharge poses a threat to the treatment system or DC Water personnel;
- (b) Violation of any terms or conditions of the Waste Hauler Discharge Permit;
- (c) Obtaining a Waste Hauler Discharge Permit by misrepresentation or failure to disclose fully, all relevant facts;
- (d) The unauthorized discharge of wastewater from non-domestic sources;
- (e) Denying DC Water personnel access to a vehicle or its contents for purposes of collecting a sample and/or obtaining instrument readings;

- (f) Failure to obtain or maintain appropriate current hauling licenses or permits from Federal, State, or local agencies;
- (g) Failure to pay fees, including late fees, or administrative penalties or fines;
- (h) Falsification of, failure to complete, or failure to fully disclose all relevant facts in any report, manifest form, or record required by the permit or requested by DC Water;
- (i) Failure to comply with an enforcement action issued by DC Water; and
- (j) Failure to clean up a spill or report a blockage.

1510.15 Waste Hauling Disposal Fees shall be assessed monthly in accordance with the fee schedule provided in 21 DCMR § 112.6 for each load of hauled wastewater received at the Septage Receiving Facility, based on the volume and type or strength of wastewater discharged.

1510.16 DC Water may establish custom waste hauling disposal fees for:

- (a) Waste generated outside the Blue Plains Service Area.
- (b) Commercial (other than grease traps or interceptors) and industrial hauled waste based on the waste characteristics and other factors including, but not limited to, potential risk and wastestream variability.

1510.17 Custom waste hauler disposal fees may be revised by DC Water, at any time, based on new waste characteristic data and information.

1510.18 Additional fees may be assessed for hauled wastewater discharged outside of normal hours of operation, as determined by DC Water.

1510.19 DC Water shall determine the volume of wastewater discharged for billing based on either:

- (a) The actual volume of sewage discharged as determined by a method acceptable to DC Water; or
- (b) The carrying capacity or a percentage of the carrying capacity of the waste hauler's vehicle, if the actual volume of sewage discharged cannot be determined by a method acceptable to DC Water.

1510.20 Users may petition the General Manager to reconsider the issuance, suspension, termination or denial of a Waste Hauler Discharge Permit or the terms or conditions of a Waste Hauler Discharge Permit within fifteen (15) calendar days of the effective date of the Waste Hauler Discharge Permit by submission of a

Permit Appeal form. The submission of a Permit Appeal for reconsideration shall not stay compliance with Waste Hauler Discharge Permit conditions.

- 1510.21 Failure to submit a timely Permit Appeal for review shall be deemed to be a waiver of administrative appeal unless DC Water grants a time extension.
- 1510.22 In the Permit Appeal, the User shall indicate the discharge permit provisions objected to, the reasons for the objection, and the alternative condition(s), if any, it seeks to place in the Waste Hauler Discharge Permit.
- 1510.23 The General Manager will review and make a final decision on the Permit Appeal. The General Manager will send the User the final decision.
- 1510.24 If the Permit Appeal is denied by the General Manager or the User is not satisfied with the General Manager's final decision, the User may appeal the Permit Appeal decision as set forth in 21 DCMR § 1519 by filing a petition for an administrative hearing within fifteen (15) calendar days of the date of the General Manager's final decision. The petition for an administrative hearing shall be filed in accordance with the requirements set forth in 21 DCMR § 412.

Section 1511, HIGH STRENGTH WASTE FEE, is amended to read as follows:

1511 HIGH STRENGTH WASTE FEES

- 1511.1 Permitted Significant Industrial Users discharging high strength wastewater into the District's wastewater system shall be assessed a high strength waste fee, in addition to the normal sewer charges, which are based on the volume of wastewater discharged and average daily concentration for the high strength waste constituent.
- 1511.2 The high strength waste fee shall be applied to those permitted discharges whose average daily concentration exceeds one (1) or more of the following domestic strength wastewater concentrations:
- (a) Biochemical Oxygen Demand (BOD) of three hundred milligrams per liter (300 mg/L) or Chemical Oxygen Demand (COD) of six hundred milligrams per liter (600 mg/L);
 - (b) Total Suspended Solids (TSS) of three hundred milligrams per liter (300 mg/L);
 - (c) Total Kjeldahl Nitrogen (TKN) or Total Nitrogen (TN) of forty- five milligrams per liter (45 mg/L); and
 - (d) Total Phosphorus (TP) of six milligrams per liter (6 mg/L).
- 1511.3 High strength waste fees may be applied to additional constituents for other high

strength wastewater based on criteria determined by DC Water, which shall be computed in a similar manner provided in 21 DCMR § 1511.4.

1511.4 The high strength waste fee shall be computed using the following formula for those constituents exceeding the values specified in 21 DCMR § 1511.2:

$$\text{High Strength Waste Fee} = V \times 8.34 \times [\text{FB} \times (\text{AB}-300 \text{ or } \frac{1}{2}(\text{AC}-600)) + \text{FS} \times (\text{AS}-300) + \text{FN} \times (\text{AN}-45) + \text{FP} \times (\text{AP}-6)]$$

Where:

V = volume of sewage in millions of gallons discharged by the Significant Industrial User during the billing period.

FB = the cost for treating BOD expressed in dollars/pound.

AB = the average daily concentration of BOD in the sewage discharged expressed in mg/L.

AC = the average daily concentration of COD in the sewage discharged expressed in mg/L.

Use the higher value of AB-300 or $\frac{1}{2}(\text{AC}-600)$.

FS = the cost for treating TSS expressed in dollars/pound.

AS = the average daily concentration of TSS in the sewage discharged expressed in mg/L.

FN = the cost for treating TKN or TN expressed in dollars/pound.

AN = the average daily concentration of TKN or TN in the sewage discharged expressed in mg/L.

FP = the cost for treating TP expressed in dollars/pound.

AP = the average daily concentration of TP in the sewage discharged expressed in mg/L.

1511.5 The cost for treating each high strength waste constituent shall be determined by DC Water as provided in 21 DCMR § 112.6.

1511.6 The volume of sewage from the Significant Industrial User shall be determined based upon either:

- (a) Metered or estimated water consumption for the billing period; or
- (b) Metered or estimated wastewater discharge entering the sewer system.

- 1511.7 If estimated flows are used, the procedure for determining the flows shall be submitted by the Significant Industrial User and approved by DC Water.
- 1511.8 If metered wastewater discharged to the sewer system is used, the Significant Industrial User shall provide and maintain at their own expense, metering facilities as required to indicate accurately, to the satisfaction of DC Water, the volume of discharge to the sewer system.
- 1511.9 Flow data shall be submitted to DC Water in a format and content acceptable to DC Water monthly or at a frequency specified by DC Water.
- 1511.10 If wastewater flow data provided by the Significant Industrial User is not submitted to DC Water by the specified date, DC Water may calculate the high strength waste fee using the metered water consumption.
- 1511.11 The average daily concentration of each constituent shall be in a format and content specified by DC Water and submitted monthly or at a frequency specified by DC Water.
- 1511.12 The average daily concentration shall be based on one or more of the following:
- (a) All sampling and analysis results from sampling conducted by DC Water during the assessment period.
 - (b) All sampling and analysis results from sampling conducted by the Significant Industrial User during the assessment period, or as specified by DC Water, that DC Water determines is characteristic of the overall nature of such discharge.
 - (c) Historical records for the Significant Industrial User or other Significant Industrial Users having similar discharge characteristics.
- 1511.13 A Significant Industrial User may challenge the high-strength waste fee assessment or appeal the General Managers final decision in accordance with the procedures set for in Chapter 4 of this title.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Directors (Board) of the District of Columbia Water and Sewer Authority (DC Water), pursuant to the authority set forth in Section 203(3) of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Official Code § 34-2202.03(3) (2012 Repl.)); Wastewater System Regulation Amendment Act of 1985, effective March 12, 1986 (D.C. Law 6-95; D.C. Official Code §§ 8-105, *et seq.* (2013 Repl.)); and Section 6(a) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(a) (2016 Repl.)); hereby gives notice of amendments to Chapter 15 (Discharges to Wastewater System) of Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR).

At its regularly scheduled meeting on January 4, 2018, the Board adopted Board Resolution #18-05 to amend Subsection 1501.10 and Section 1599 (Definitions), and add new Section 1520 (Dental Amalgam Pretreatment Standards). The purpose of these amendments is to amend requirements for Dental Amalgam Discharge Management and related definitions.

Pursuant to Board Resolution #17-67, dated October 5, 2017, DC Water's proposed rulemaking was published in the *D.C. Register* (DCR) at 64 DCR 11213 on October 27, 2017. On December 21, 2017, the Environmental Quality & Operations Committee met to consider the comments offered during the public comment period and recommendations from the DC Water General Manager.

On January 4, 2018, the Board, through Resolution #18-05, after consideration of all of the comments received and the report from the Environmental Quality & Operations Committee, voted to amend the DCMR to revise the requirements for dental amalgam discharge management. No changes were made to the proposed regulations.

These rules were adopted as final on January 4, 2018 by resolution. These rules will become effective upon publication of this notice in the *D.C. Register*.

Chapter 15, DISCHARGES TO WASTEWATER SYSTEM, of Title 21, WATER AND SANITATION, of the DCMR is amended as follows:

Section 1501, DISCHARGE STANDARDS AND SEWER USE REQUIREMENTS, Subsection 1501.10, is amended to read as follows:

1501.10 An Industrial User facility that practices dentistry shall comply with the regulations in 40 CFR part 441, the Dental Office Point Source Category, and the requirements set forth in Section 1520 of this chapter, as applicable.

Chapter 15 is also amended by adding a new Section 1520, DENTAL AMALGAM PRETREATMENT STANDARDS, to read as follows:

1520 DENTAL AMALGAM PRETREATMENT STANDARDS

1520.1 Except as provided in 21 DCMR §§ 1520.2 and .3, the requirements of this section shall not apply to the following exempt Dental Dischargers that:

- (a) Exclusively practice one or more of the following dental specialties: Oral pathology, oral and maxillofacial radiology, oral and maxillofacial surgery, orthodontics, periodontics, or prosthodontics;
- (b) Discharge wastewater from a mobile unit operated by a dental practitioner; or
- (c) Do not discharge any amalgam process wastewater to the District's wastewater system, such as Dental Dischargers that collect all dental amalgam process wastewater for transfer to a Centralized Waste Treatment facility as defined in 40 CFR part 437.

1520.2 All active facilities that practiced dentistry in the District of Columbia on or before July 14, 2017, shall submit a Dental Discharge Questionnaire to DC Water by July 16, 2018.

- (a) The Dental Discharge Questionnaire, as provided by DC Water, shall include: the facility name, physical address, mailing address, contact information, name of all dental practitioners and owners, type of dental facility, current dental amalgam placement and removal information, discharge information, and signature.
- (b) The Dental Discharge Questionnaire and all other records and documents shall be submitted to:

District of Columbia Water and Sewer Authority
Wastewater Treatment/Pretreatment Program Manager
5000 Overlook Avenue, S.W.
Washington, D.C. 20032

1520.3 Dental Dischargers that do not place dental amalgam, and do not remove amalgam except in limited emergency or unplanned, unanticipated circumstances, and submit the required One-Time Compliance Report to DC Water as required in 21 DCMR § 1520.6(c)(1), are exempt from any further requirements of this section.

1520.4 Any Existing Dental Discharger subject to the requirements of this section shall achieve the following pretreatment standards by July 14, 2020, except as provided in 21 DCMR §§ 1520.4(a)(1) (iii) and (v), and (2)(vi):

- (a) Removal of dental amalgam solids from all amalgam process wastewater by one of the following methods:
 - (1) Installation, operation, and maintenance of one or more amalgam separators that meet the following requirements:
 - (i) Compliant with either the American National Standards Institute (ANSI) American National Standard/American Dental Association (ADA) Specification 108 for Amalgam Separators (2009) with Technical Addendum (2011) or the International Organization for Standardization (ISO) 11143 Standard (2008) or subsequent versions so long as that version requires amalgam separators to achieve at least a 95% removal efficiency. Compliance must be assessed by an accredited testing laboratory under ANSI's accreditation program for product certification or a testing laboratory that is a signatory to the International Laboratory Accreditation Cooperation's Mutual Recognition Arrangement. The testing laboratory's scope of accreditation must include ANSI/ADA 108–2009 or ISO 11143.
 - (ii) The amalgam separator(s) must be sized to accommodate the maximum discharge rate of amalgam process wastewater.
 - (iii) A Dental Discharger that operates an amalgam separator that was installed at a dental facility prior to June 14, 2017, satisfies the requirements of paragraphs 1520.4(a)(1)(i) and (ii) of this section until the existing separator is replaced as described in paragraph 1520.4(a)(1)(v) of this section or until June 14, 2027, whichever is sooner.
 - (iv) The amalgam separator(s) must be inspected in accordance with the manufacturer's operating manual to ensure proper operation and maintenance of the separator(s) and to confirm that all amalgam process wastewater is flowing through the amalgam retaining portion of the amalgam separator(s).
 - (v) In the event that an amalgam separator is not functioning properly, the amalgam separator must be repaired consistent with manufacturer instructions or replaced with a

unit that meets the requirements of paragraphs 1520.4(a)(1)(i) and (ii) of this section as soon as possible, but no later than ten (10) business days after the malfunction is discovered by the Dental Discharger, or an agent or representative of the Dental Discharger.

- (vi) The amalgam retaining units must be replaced in accordance with the manufacturer's schedule as specified in the manufacturer's operating manual or when the amalgam retaining unit has reached the maximum level, as specified by the manufacturer in the operating manual, at which the amalgam separator can perform to the specified efficiency, whichever comes first.
- (2) Installation, operation, and maintenance of one or more amalgam removal device(s) other than an amalgam separator. The amalgam removal device must meet the following requirements:
- (i) Removal efficiency of at least ninety-five percent (95%) of the mass of solids from all amalgam process wastewater. The removal efficiency must be calculated in grams recorded to three decimal places, on a dry weight basis. The removal efficiency must be demonstrated at the maximum water flow rate through the device as established by the device manufacturer's instructions for use;
 - (ii) The removal efficiency must be determined using the average performance of three (3) samples. The removal efficiency must be demonstrated using a test sample of dental amalgam that meets the following particle size distribution specifications: sixty percent (60%) by mass of particles that pass through a 3150 μm sieve but which do not pass through a 500 μm sieve, ten percent (10%) by mass of particles that pass through a 500 μm sieve but which do not pass through a 100 μm sieve, and thirty percent (30%) by mass of particles that pass through a 100 μm sieve. Each of these three specified particle size distributions must contain a representative distribution of particle sizes;
 - (iii) The device(s) must be sized to accommodate the maximum discharge rate of amalgam process wastewater;
 - (iv) The devices(s) must be accompanied by the manufacturer's manual providing instructions for use including the frequency for inspection and collecting container

replacement such that the unit is replaced once it has reached the maximum filling level at which the device can perform to the specified efficiency;

- (v) The device(s) must be inspected in accordance with the manufacturer's operation manual to ensure proper operation and maintenance, including confirmation that amalgam process wastewater is flowing through the amalgam separating portion of the device(s);
 - (vi) In the event that a device is not functioning properly, it must be repaired consistent with manufacturer instructions or replaced with a unit that meets the requirements of paragraphs 1520.4(a)(2)(i) through (iii) of this section as soon as possible, but no later than ten (10) business days after the malfunction is discovered by the Dental Discharger, or an agent or representative of the Dental Discharger;
 - (vii) The amalgam retaining unit(s) of the device(s) must be replaced as specified in the manufacturer's operating manual, or when the collecting container has reached the maximum filling level, as specified by the manufacturer in the operating manual, at which the amalgam separator can perform to the specified efficiency, whichever comes first; and.
 - (viii) The demonstration of the device(s) under paragraphs 1520.4(a)(2)(i) through (iii) of this section must be documented in the One-Time Compliance Report.
- (b) Implementation of the following best management practices (BMPs):
- (1) Waste amalgam including, but not limited to, dental amalgam from chairside traps, screens, vacuum pump filters, dental tools, cuspidors, or collection devices, must not be discharged to the District's wastewater system;
 - (2) Dental unit water lines, chair-side traps, and vacuum lines that discharge amalgam process wastewater to the District's wastewater system must not be cleaned with oxidizing or acidic cleaners, including, but not limited to bleach, chlorine, iodine and peroxide that have a pH lower than six (6) or greater than eight (8);

- (3) Dental chairside traps, vacuum screens, and amalgam separator equipment must not be rinsed in a sink, toilet or into any other sanitary discharge connection;
- (4) Dental Discharge facility staff must be trained in the handling and disposal of mercury amalgam materials and waste. Training shall be completed within one year for new hires and all staff shall be retrained once every three (3) years; and
- (5) The storage, handling and disposal/recycling of all amalgam waste must be in accordance with District of Columbia, state and federal requirements.

1520.5 Effective July 14, 2017, any New Dental Discharger subject to the requirements of this section must comply with the requirements of 21 DCMR §§ 1520.4(a) and (b) and the reporting and recordkeeping requirements of 21 DCMR §§ 1520.6 and .7.

1520.6 Dental Dischargers subject to the requirements of this section must comply with the following reporting requirements:

- (a) One-Time Compliance Report deadlines:
 - (1) For an Existing Dental Discharger, a One-Time Compliance Report must be submitted to DC Water no later than October 12, 2020, or ninety (90) calendar days after a transfer of ownership.
 - (2) For a New Dental Discharger, a One-Time Compliance Report must be submitted to DC Water no later than ninety (90) calendar days following the first introduction/discharge of wastewater into the District's wastewater system.
- (b) Signature and Certification. The One-Time Compliance Report must be signed and certified by a responsible corporate officer, a general partner or proprietor if the Dental Discharger is a partnership or sole proprietorship, or a duly authorized representative as defined in 21 DCMR § 1599.
- (c) The contents of the One-Time Compliance Report shall be as follows:
 - (1) The One-Time Compliance Report, as provided by DC Water, for Dental Dischargers subject to the requirements of this section that do not place or remove dental amalgam as described at 21 DCMR § 1520.3 must include: facility name, physical address, mailing address, contact information, name of the operator(s) (dental practitioners) and owner(s); and a certification statement that the

Dental Discharger does not place dental amalgam and does not remove amalgam except in limited circumstances.

- (2) The One-Time Compliance Report, as provided by DC Water, for Dental Dischargers subject to the requirements of this section must include:
 - (A) The facility name, physical address, mailing address, and contact information;
 - (B) Name(s) of the operator(s) (Dental practitioners) and owner(s);
 - (C) A description of the operation at the dental facility including: The total number of chairs, the total number of chairs at which dental amalgam may be present in the resulting wastewater, and a description of any existing amalgam separator(s) or equivalent device(s) currently operated to include, at a minimum, the make, model, year of installation;
 - (D) Certification that the amalgam separator(s) or equivalent device is designed and will be operated and maintained to meet the requirements specified in 21 DCMR § 1520.4(a);
 - (E) Certification that the Dental Discharger is implementing BMPs specified in 21 DCMR § 1520.4(b) and will continue to do so;
 - (F) The name of the third-party service provider that maintains the amalgam separator(s) or equivalent device(s) operated at the dental office, if applicable. Otherwise, a brief description of the practices employed by the facility to ensure proper operation and maintenance in accordance with 21 DCMR § 1520.4(a).
- (d) Replacement of amalgam separator or equivalent device. Existing and New Dental Dischargers shall submit an amended One-Time Compliance Report to DC Water no later than ninety (90) days after replacement, if the amalgam separator or equivalent device is replaced after the submittal of the One-Time Compliance Report.
- (e) Transfer of ownership notification. If a Dental Discharger transfers ownership of the facility, the new owner must submit a new One-Time Compliance Report to DC Water no later than ninety (90) days after the transfer.

1520.7 Dental Dischargers subject to the requirements of this section must comply with the following document retention requirements:

- (a) As long as a Dental Discharger subject to this section is in operation, or until ownership is transferred, the Dental Discharger or an agent or representative of the Dental Discharger must maintain the One-Time Compliance Report required in Subsection 1520.6 of this section and make it available for inspection in either physical or electronic form.
- (b) Dental Discharger or an agent or representative of the Dental Discharger must maintain and make the following documents available for inspection in either physical or electronic form, for a minimum of three (3) years or until updated, whichever is longer:
 - (1) Documentation of the date, person(s) conducting the inspection, and results of each inspection of the amalgam separator(s) or equivalent device(s), and a summary of follow-up actions, if needed.
 - (2) Documentation of amalgam retaining container or equivalent container replacement (including the date, as applicable).
 - (3) Documentation of all dates that collected dental amalgam is picked up or shipped for proper disposal in accordance with 40 CFR § 261.5(g)(3) (Special requirements for hazardous waste generated by conditionally exempt small quantity generator) and 20 DCMR § 4261.7, and the name of the permitted or licensed treatment, storage or disposal facility receiving the amalgam retaining containers.
 - (4) Documentation of any repair or replacement of an amalgam separator or equivalent device, including the date, person(s) making the repair or replacement, and a description of the repair or replacement (including make and model).
 - (5) The manufacturers operating manual for the current device.
 - (6) Documentation of staff training and retraining, including the name of the staff person and date of training.

Section 1599, DEFINITIONS, Subsection 1599.1, is amended by deleting the term “WASA” and adding the following terms and definitions to read as follows:

Amalgam Process Wastewater - any wastewater generated and discharged by a Dental Discharger through the practice of dentistry that may contain dental amalgam.

Amalgam Separator - a collection device designed to capture and remove dental amalgam from the amalgam process wastewater of a dental facility.

DC Water or WASA – the District of Columbia Water and Sewer Authority.

Dental Amalgam - an alloy of elemental mercury and other metal(s) that is used in the practice of dentistry.

Dental Discharger - a facility where the practice of dentistry is performed, including, but not limited to, institutions, permanent or temporary offices, clinics, home offices, and facilities owned and operated by Federal, state or local governments, that discharges wastewater to a publicly owned treatment works (POTW).

Duly Authorized Representative – the individual designated by the responsible corporate officer or a general partner or proprietor if the Industrial User submitting the reports section is a partnership, or sole proprietorship respectively, if:

- (a) The authorization is made in writing by the responsible corporate officer or a general partner or proprietor;
- (b) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of facility of plant manager, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
- (c) The written authorization is submitted to the DC Water.

Existing Dental Discharger - a Dental Discharger that is not a new source that discharged to the District’s wastewater system on or before July 14, 2017.

Mobile Unit - a specialized mobile self-contained van, trailer, or equipment used in providing dentistry services at multiple locations.

New Dental Discharger - a Dental Discharger whose first discharge to the District’s wastewater system occurs after July 14, 2017.

DEPARTMENT OF HEALTH

NOTICE OF SECOND PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to Section 14 of the Legalization of Marijuana for Medical Treatment Initiative of 1999 (“Act”), effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.13 (2012 Repl. & 2017 Supp.)); Section 4902(d) of the Department of Health Functions Clarification Act of 2001, effective October 3, 2001 (D.C. Law 14–28; D.C. Official Code § 7–731(d) (2012 Repl. & 2017 Supp.)); Sections 2 and 3 of the Act, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code §§ 7-1671.01(19) and 7-1671.02(c)(2) (2012 Repl. & 2017 Supp.)); and Mayor’s Order 2011-71, dated April 13, 2011, hereby gives notice of the intent to adopt the following amendments to Chapters 5 (Qualifying Patients) and 99 (Definitions) of Title 22 (Health), Subtitle C (Medical Marijuana), of the District of Columbia Municipal Regulations (“DCMR”), in final, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, and upon completion of the thirty (30) day Council period of review if the Council does not act earlier to adopt a resolution approving the rules.

The purpose of this rulemaking is to implement regulations governing the participation of nonresident qualifying patients in the District’s Medical Marijuana Program.

The first notice of this proposed rulemaking was published in the *D.C. Register* on October 20, 2017, at 64 DCR 10558. The Department subsequently withdrew the rulemaking to make substantive revisions. This second proposed rulemaking supersedes the rulemaking published in the *D.C. Register* for public comment on October 20, 2017.

Chapter 5, QUALIFYING PATIENTS, of Title 22-C DCMR, MEDICAL MARIJUANA, is amended as follows:

A new Section 503, NONRESIDENT QUALIFYING PATIENTS, is added to read as follows:

503 NONRESIDENT QUALIFYING PATIENTS

503.1 Before dispensing medical marijuana to a nonresident qualifying patient, a registered dispensary shall:

- (a) Verify the nonresident qualifying patient’s identity through comparison of his/her unexpired government-issued identification card and his/her valid, unexpired nonresident card; and
- (b) Confirm through the electronic records data system that the nonresident qualifying patient has not reached the allowable limit for the thirty (30) day period.

- 503.2 A registered dispensary shall not dispense medical marijuana to a nonresident qualifying patient who is unable to present his/her unexpired government-issued identification card and his/her valid, unexpired nonresident card.
- 503.3 A registered dispensary shall not dispense medical marijuana to a nonresident qualifying patient who has received four (4) ounces of medical marijuana within thirty (30) days.
- 503.4 A registered dispensary shall not dispense medical marijuana to a nonresident qualifying patient if the Department has determined that there is a shortage of medical marijuana, or the real-time electronic records system is inactive.
- 503.5 The dispensary shall retain a copy of the nonresident card or state-issued document, and a copy of the government-issued identification card.
- 503.6 The dispensary shall conspicuously post a sign which shall be not less than twelve (12) inches wide and twelve (12) inches long in an area that will be easily viewed and read by the public stating, "It is illegal to transport medical marijuana across state lines."

Chapter 99, DEFINITIONS, is amended as follows:

Section 9900, DEFINITIONS, Subsection 9900.1, is amended by adding the following new definitions to appear in alphabetical order:

Functional Equivalent- a medical marijuana program that issues either a card or state-issued document evidencing the patient's participation in the program, and that requires that a recommendation for the use of medical marijuana be made by a licensed healthcare provider that:

- (a) Is in a *bona fide* patient-practitioner relationship with the qualifying patient;
- (b) Performs a personal physical examination or dental examination of the qualifying patient; and
- (c) Has responsibility for the ongoing care and treatment of the qualifying patient.

Nonresident Card- a medical marijuana patient card or document issued by a state that has an active medical marijuana program and is the functional equivalent of the District of Columbia medical marijuana program, as determined by the Mayor.

Nonresident Qualifying Patient- a person that is not a resident of the District of Columbia who is enrolled in another jurisdiction's medical marijuana program, unless the Department has determined that there is a shortage of medical marijuana or the real-time electronic records system referenced in the Act is inactive.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to Phillip Husband, General Counsel, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 6th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 8:00 a.m. and 4:00 p.m. at the address listed above, or by contacting Angli Black, Paralegal Specialist, at Angli.Black@dc.gov, (202) 442-5977.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF SECOND EMERGENCY RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs (Director), pursuant to Section 101(b) of the Omnibus Regulatory Reform Amendment Act of 1998, effective April 29, 1998 (D.C. Law 12-86; D.C. Official Code § 47-2851.04(c)(1) (2015 Repl.)), Section 10(b) of An Act To control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes, approved July 8, 1932 (47 Stat. 652; D.C. Official Code § 22-4510(b) (2012 Repl.)), and Section 3 of the Streamlining Regulation Act of 2003, effective October 28, 2003 (D.C. Law 15-38; 50 DCR 6913 (August 22, 2003)), hereby gives notice of the adoption, on an emergency basis, of the following amendment to Chapter 5 (Basic Business License Schedule of Fees) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking amends Chapter 5 to add a fee schedule in a new Section 517.

Emergency action is needed to ensure that the endorsement for stun gun sales required by the “Stun Gun Regulation Emergency Amendment Act of 2016” (D.C. Bill 21-986), and substantially similar emergency, temporary, and permanent legislation, exists for those wishing to sell stun guns in the District of Columbia. Pursuant to D.C. Law 12-86, the Director may issue rules amending the special license and permits fees.

Permanent adoption of this action requires the approval of the Council of the District of Columbia. This rulemaking extends a notice of emergency and proposed rulemaking originally adopted on June 27, 2017, published in the *D.C. Register* July 28, 2017 at 64 DCR 7274. A notice of second emergency rulemaking is required in order for Council to consider an associated resolution.

This emergency rulemaking was adopted on October 25, 2017, and became effective immediately on that date. It will remain in effect for up to one hundred and twenty (120) days, unless earlier superseded by a notice of final rulemaking published in the *D.C. Register*. The rules will expire on February 22, 2018.

Chapter 5, BASIC BUSINESS LICENSE SCHEDULE OF FEES, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended by adding the following Section 517:

517 STUN GUN SALES ENDORSEMENT

517.1 The Director shall charge fees for business license categories with a Stun Gun Sales Endorsement as follows:

- (a) Stun gun sales: \$200.00

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia (District) to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes approved December 27, 1967 (81 Stat.774; D.C. Official Code §1-307.02 (2012 Repl. & 2016 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code §7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Chapter 65 (Medicaid Reimbursement to Nursing Facilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

DHCF is proposing to amend the reimbursement methodology to nursing facilities participating in the District's Medicaid program beginning February 1, 2018. These proposed rules set forth the revised methodology and requirements governing Medicaid reimbursement of nursing facilities. Major highlights of the revised reimbursement methodology include: 1) continuation of prospective rates that are refined to avoid the continuous cycle of adjusting rates and claims; 2) specific per diem rates for each patient; 3) availability of add-on payments for special needs patients who require ventilator or bariatric care or who are behaviorally complex; and 4) the creation of a new quality improvement program, including mandatory reporting and a performance payment for participating District nursing facilities that demonstrate improvement or maintain a high level of performance across a set of quality improvement measures.

The revised methodology ensures that similar facilities are paid similar reimbursement rates for similar patients, and that facilities receive immediate financial benefit when admitting higher acuity patients. The proposed methodology also eliminates the need for quarterly census and case mix calculation requirements under the prior methodology. Finally, new reporting requirements and the availability of supplemental payments for quality will incent nursing facilities to develop the infrastructure, processes, and reporting mechanisms necessary to implement future quality improvement and payment reform initiatives.

The estimated aggregate fiscal impact of the new reimbursement methodology is an increase of \$2,771,588.00 in fiscal year (FY) 2018 and an increase of \$2,692,539.00 in FY 2019.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of beneficiaries who use Medicaid nursing facility services. DHCF is implementing a new reimbursement methodology to ensure nursing facility providers are adequately reimbursed for the services provided to District Medicaid beneficiaries. Any delay in implementation could threaten nursing facilities' capacity to provide appropriate, quality services to Medicaid beneficiaries. DHCF is publishing these rules on an emergency basis to ensure that the health, safety, and welfare of Medicaid beneficiaries is not threatened by a lapse in access to ongoing healthcare services provided by qualified providers.

These rules correspond to a related State Plan amendment (SPA), which requires approval by the U.S. Department of Health and Human Services, Center for Medicaid and Medicare Services (CMS) and the Council of the District of Columbia (Council). The Council authorized the SPA in the “Fiscal Year 2017 Budget Support Act of 2016,” effective October 8, 2016 (D.C. Law 21-160; 63 DCR 10775 (August 26, 2016)). Implementation of the proposed rules is contingent upon approval of the corresponding SPA by CMS with an effective date of February 1, 2018 or the effective date established by CMS in its approval of the corresponding SPA, whichever is later.

These emergency rules were adopted on January 4, 2018, and will become effective for services rendered beginning February 1, 2018 contingent upon approval by CMS of the corresponding SPA with an effective date of February 1, 2018 or the effective date established by CMS, whichever is later. The emergency rules shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until May 4, 2018 unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

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

Chapter 65, MEDICAID REIMBURSEMENT TO NURSING FACILITIES, of Title 29 DCMR, PUBLIC WELFARE, is deleted in its entirety and replaced with the following:

CHAPTER 65 MEDICAID REIMBURSEMENT TO NURSING FACILITIES

- 6500 GENERAL PROVISIONS**
- 6501 REIMBURSEMENT OF DISTRICT NURSING FACILITIES**
- 6502 COMPUTATION OF PRICE AND FLOOR**
- 6503 RESIDENT ASSESSMENT**
- 6504 RESIDENT CLASSIFICATION SYSTEM**
- 6505 FACILITY NURSING AND RESIDENT CARE COSTS PER DIEM CALCULATION**
- 6506 FACILITY ROUTINE AND SUPPORT COSTS PER DIEM CALCULATION**
- 6507 FACILITY CAPITAL-RELATED COSTS PER DIEM CALCULATION**
- 6508 VENTILATOR CARE**
- 6509 VENTILATOR CARE DISCHARGE**
- 6510 VENTILATOR CARE REIMBURSEMENT**
- 6511 BEHAVIORALLY COMPLEX CARE**
- 6512 BEHAVIORALLY COMPLEX CARE REIMBURSEMENT**
- 6513 BARIATRIC CARE**
- 6514 BARIATRIC CARE REIMBURSEMENT**
- 6515 ALLOWABLE COSTS**
- 6516 EXCLUSIONS FROM ALLOWABLE COSTS**
- 6517 REBASING AND ANNUAL RATE ADJUSTMENTS**
- 6518 REIMBURSEMENT FOR NEW PROVIDERS**

- 6519 REIMBURSEMENT FOR REORGANIZED FACILITIES, EXPANDED FACILITIES, REDUCED CAPACITY, OR CHANGE OF OWNERSHIP
- 6520 REIMBURSEMENT FOR OUT OF STATE FACILITIES
- 6521 COST REPORTING AND RECORD MAINTENANCE
- 6522 ACCESS TO RECORDS
- 6523 APPEALS
- 6524 NURSING FACILITY QUALITY IMPROVEMENT PROGRAM
- 6525 PARTICIPATION IN THE NURSING FACILITY QUALITY IMPROVEMENT PROGRAM
- 6526 NFQII PERFORMANCE SCORING
- 6527 NURSING FACILITY QUALITY OF CARE FUND AND NFQII PERFORMANCE PAYMENT
- 6599 DEFINITIONS

6500 GENERAL PROVISIONS

- 6500.1 The purpose of this chapter is to establish principles of reimbursement for nursing facilities participating in the District of Columbia Medicaid program.
- 6500.2 Medicaid reimbursement to nursing facilities for services provided beginning February 1, 2018 shall be on a prospective payment system consistent with the requirements set forth in this chapter.
- 6500.3 In order to receive Medicaid reimbursement, each nursing facility shall enter into a provider agreement with the Department of Health Care Finance (DHCF) for the provision of nursing facility services and comply with the screening and enrollment requirements set forth in Chapter 94 (Medicaid Provider and Supplier Screening, Enrollment, and Termination) of Title 29 of the District of Columbia Municipal Regulations (DCMR).
- 6500.4 As a condition of Medicaid reimbursement, each nursing facility shall be licensed as a nursing home pursuant to the requirements set forth in the “Health Care and Community Residence License Act of 1983,” effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.* (2012 Repl.)) and meet the federal conditions of participation for nursing facilities in the Medicaid program as set forth in 42 CFR part 483.
- 6500.5 Medicaid reimbursement for nursing facility services to a Medicaid beneficiary shall not be provided unless the Medicaid beneficiary has been determined clinically eligible for nursing facility services in accordance with 29 DCMR § 989 and District policy guidance.

6501 REIMBURSEMENT OF DISTRICT NURSING FACILITIES

- 6501.1 Each nursing facility located in the District of Columbia shall be reimbursed by Medicaid for a patient specific per diem rate for each resident in accordance with the formula set forth in § 6501.2. The rate shall be prospective and only include allowable cost described in §§ 6501.9, 6501.10, and 6501.11.
- 6501.2 The Medicaid reimbursable patient specific per diem rate shall equal the sum of:
- (a) The product of the resident's Resource Utilization Group (RUG) weight as described in § 6504 and the facility specific per diem for nursing and patient care price described in §§ 6502.3 and 6505.7;
 - (b) The facility specific per diem for routine and support price described in § 6502.2; and
 - (c) The facility specific per diem for capital cost described in § 6507.
- 6501.3 In addition to the patient specific rate described in § 6501.2, each nursing facility may receive an add-on payment for each resident who is:
- (a) Receiving ventilator care pursuant to the requirements set forth in §§ 6508-6510;
 - (b) Qualifying as behaviorally complex pursuant to the requirements set forth in §§ 6511-6512; and
 - (c) Qualifying as bariatric pursuant to the requirements set forth in §§ 6513-6514.
- 6501.4 The patient specific rate described in § 6501.2 is developed by establishing a base year facility specific per diem rate using three (3) cost categories as described in § 6501.8.
- 6501.5 Each nursing facility shall be classified into three (3) peer groups as described in § 6502.
- 6501.6 The base year per diem price for each peer group is a per diem rate that is calculated using the allowable costs for the base year for all Medicaid-participating nursing facilities in the District. The base year used to establish February 1, 2018 rates is the 2015 cost report year.
- 6501.7 Except for depreciation, amortization, and interest on capital-related expenditures, the base year allowable costs calculated for each nursing facility shall be adjusted to a common end date, the mid-point of the District rate year, using the Centers

for Medicare and Medicaid Services (CMS) Prospective Payment System Skilled Nursing Facility Input Price Index.

6501.8 The base year per diem rate for nursing and resident care services and routine and support services for each peer group and the facility specific capital cost per diem is based on the allowable base year costs and shall be developed using three (3) cost categories:

- (a) Routine and support expenditures, as described in § 6501.9;
- (b) Nursing and resident care expenditures as described in § 6501.10; and
- (c) Capital-related expenditures, as described in § 6501.11.

6501.9 Routine and support expenditures shall include expenditures for:

- (a) Dietary and nutrition services, including raw food;
- (b) Laundry and linen;
- (c) Housekeeping;
- (d) Plant operations and related clerical support;
- (e) Volunteer services;
- (f) Administrative and general salaries;
- (g) Professional services - non-healthcare related;
- (h) Non-capital related insurance;
- (i) Travel and entertainment;
- (j) General and administrative costs;
- (k) Medical Director and related clerical costs;
- (l) Non-capital related interest expense;
- (m) Social services;
- (n) Resident Activities;
- (o) Staff development;

- (p) Medical Records;
- (q) Routine personal hygiene items and services;
- (r) Utilization review;
- (s) Central supplies; and
- (t) Other miscellaneous expenses as noted on the nursing facility's cost report submitted pursuant to § 6521.

6501.10 Nursing and resident care costs shall include the costs of:

- (a) Nursing services
- (b) Non-prescription drugs and pharmacy consultant services;
- (c) Medical supplies;
- (d) Laboratory services;
- (e) Radiology services;
- (f) Physical, speech, and occupational therapy services that are provided to Medicaid beneficiaries;
- (g) Respiratory therapy;
- (h) Behavioral health services; and
- (i) Oxygen therapy.

6501.11 Capital-related costs shall include the costs of:

- (a) Equipment rental;
- (b) Depreciation and amortization;
- (c) Interest on capital debt;
- (d) Facility rental;
- (e) Real estate taxes and capital-related insurance;
- (f) Property insurance; and

(g) Other capital-related expenses.

6501.12 Provider tax expenses shall not be included in calculating the base year costs.

6501.13 The costs attributable to paid feeding assistants provided in accordance with the requirements set forth in 42 CFR parts 483 and 488 shall be included in nursing and resident care costs for base years beginning on or after October 27, 2003.

6501.14 When necessary, each facility specific per diem rate will be reduced by the same percentage to maintain compliance with the Medicare upper payment limit requirement.

6501.15 DHCF may approve an adjustment to the facility specific per diem rate if the facility demonstrates that it incurred higher costs due to extraordinary circumstances beyond its control including but not limited to strikes, fire, flood, earthquake, or similar unusual occurrences with substantial cost effects.

6501.16 Each adjustment pursuant to § 6501.15 shall be made only to the extent the costs are reasonable, attributable to the circumstances specified, separately identified by the facility, and verified by DHCF. Any such adjustment will be applicable only to the affected facility, shall be time limited, and shall not impact the peer group price.

6502 COMPUTATION OF PRICE AND FLOOR

6502.1 DHCF shall classify each nursing facility operating in the District and participating in the Medicaid program into three (3) peer groups:

(a) Peer Group One - All freestanding nursing facilities, with more than seventy-five (75) Medicaid certified beds;

(b) Peer Group Two - All freestanding nursing facilities with seventy-five (75) or fewer Medicaid certified beds; and

(c) Peer Group Three - All hospital-based nursing facilities.

6502.2 The routine and support per diem price for each peer group shall be the day-weighted median cost per diem as described in § 6506 plus a fixed percentage of the day-weighted median cost per diem for routine and support costs for all facilities.

6502.3 The nursing and resident care price for each peer group shall be the day-weighted median case mix neutralized cost per diem as described in § 6505 plus a fixed percentage of the day-weighted median case mix neutralized cost per diem for nursing and resident care costs for all facilities.

- 6502.4 The floor for nursing and resident care costs for each Peer Group shall be a fixed percentage of the price for the peer group.
- 6502.5 Once nursing facilities have been classified into peer groups for the purpose of establishing the peer group prices, the nursing facility price for each peer group shall apply to all facilities in that peer group until Medicaid rates are rebased, or until DHCF makes an adjustment to the price or floor.
- 6502.6 DHCF shall publish a public notice in the *D.C. Register* and on the DHCF website setting forth the reimbursement rates for each District nursing facility at least thirty (30) calendar days prior to implementation. A public notice of any changes to the reimbursement rates shall be published in the *D.C. Register* at least thirty (30) calendar days in advance of the changes.

6503 RESIDENT ASSESSMENT

- 6503.1 Each nursing facility shall complete an assessment of each resident's functional, medical and psycho-social capacity consistent with the requirements set forth in 42 CFR § 483.20.
- 6503.2 The Minimum Data Set (MDS), Version 3.0 or successor updates to this version, shall be used by each nursing facility.
- 6503.3 Each nursing facility shall comply with the policies set forth in the October 2016 Long-Term Care Facility Resident Assessment Instrument 3.0 User's Manual for the MDS Version 3.0 or successor updates to this version.

6504 RESIDENT CLASSIFICATION SYSTEM

- 6504.1 DHCF shall use the forty-eight (48)-group resident classification system developed by CMS known as the Resource Utilization Groups IV (RUGS IV), Version 1.03 or successor updates.
- 6504.2 DHCF shall use the Case Mix Indices known as the standard data set F01 developed by CMS or successor updates to this version.
- 6504.3 Each resident assessed under RUGS shall be assigned the highest numeric case mix index (CMI) score for which the resident qualifies. Assessments that cannot be classified to a RUGS IV category due to errors shall be assigned the category with the lowest numeric CMI score.
- 6504.4 The most recent valid MDS assessment for the resident shall be used by the nursing facility when submitting the RUG category on the claim for services.
- 6504.5 The RUG category shall be included on the claim for services as a valid Health Insurance Prospective Payment System (HIPPS) code.

- 6504.6 The CMI for the submitted RUG category will be used to adjust the nursing and resident care portion of the facility specific per diem during claims adjudication.
- 6504.7 If subsequent review of the medical record, or the MDS reveals that the RUG category submitted as a HIPPS code on the claim is incorrect, the claim will be reprocessed with the appropriate HIPPS code, RUG category, and CMI.
- 6505 FACILITY NURSING AND RESIDENT CARE COSTS PER DIEM CALCULATION**
- 6505.1 Each nursing facility's allowable nursing and resident care Medicaid reimbursable costs shall be adjusted in accordance with § 6505.4.
- 6505.2 The total resident days shall be determined in accordance with § 6515.2.
- 6505.3 The amount calculated in § 6505.1 shall be divided by the Total Facility Case Mix Index to establish case mix neutral costs. This process is known as case mix neutralization. For the base year, total facility case mix will be the average facility-wide case mix for the three calendar quarters beginning January 1, 2015 and ending September 30, 2015.
- 6505.4 For nursing and resident care costs other than the cost for speech therapy, occupational therapy, and physical therapy, the case mix neutral costs established in § 6505.3 shall be divided by the resident days calculated in accordance with § 6505.2 to determine each nursing facility's nursing and resident care cost per diem without physical, speech and occupational therapy services.
- 6505.5 Per diem costs for physical, speech and occupational therapy services shall be calculated by dividing such costs by total Medicaid resident days. The resulting per diem shall be added to the per diem for nursing and resident care costs, excluding the costs for speech therapy, occupational therapy, and physical therapy. The resulting sum of the per diems shall comprise each nursing facility's nursing and resident care cost per diem unadjusted for case mix.
- 6505.6 The peer group price established in accordance with § 6505.3 for nursing and resident care costs for each peer group shall be reduced for any facility whose nursing and resident care cost per diem adjusted for Medicaid case mix does not meet the established minimum percentage of the Medicaid case mix adjusted peer group price (the "floor").
- 6505.7 The difference between the facility Medicaid case mix adjusted cost per diem and the floor is subtracted from the Medicaid case mix adjusted peer group price for that facility. The resulting value is divided by the facility Medicaid case mix to determine the facility specific nursing and resident care Medicaid case mix neutral per diem price. In the base year, the Medicaid case mix used in the

calculations in §§ 6505.6 and 6505.7 is the average case mix for the quarters ending June 30, 2016 and September 30, 2016.

6505.8 For rebasing periods after February 1, 2018, the nursing and resident care cost per diem shall be adjusted for Medicaid case mix using the day-weighted average Medicaid case mix of the preceding federal fiscal year for each facility, based on the Medicaid case mix of final paid claims for that facility for nursing facility services.

6506 FACILITY ROUTINE AND SUPPORT COSTS PER DIEM CALCULATION

6506.1 In the base year, each facility's routine and support cost per diem shall be established by dividing total allowable routine and support base year costs adjusted in accordance with § 6501.7 by total resident days determined in accordance with § 6515.2 for all nursing care residents.

6506.2 Each nursing facility's routine and support price per diem shall be the per diem price calculated for the facility's assigned peer group in § 6502.2.

6507 FACILITY CAPITAL-RELATED COSTS PER DIEM CALCULATION

6507.1 Each nursing facility's capital-related cost per diem shall be calculated by dividing total allowable capital-related base year costs adjusted in accordance with § 6501.7 by total resident days determined in accordance with § 6515.2 for all nursing care residents.

6507.2 For all rate periods on or after February 1, 2018, the capital cost per diem calculated in the base year shall apply to all subsequent rate periods, until the next rebasing period.

6508 VENTILATOR CARE

6508.1 In addition to the patient specific per diem rate described in § 6501.2, DHCF shall pay an additional per diem amount for any day that a resident qualifies for and receives ventilator care pursuant to the requirements set forth in §§ 6508 through 6510.

6508.2 Each resident receiving ventilator care shall meet all of the following requirements:

- (a) Be ventilator dependent and not able to breathe without mechanical ventilation;
- (b) Use the ventilator for life support, sixteen (16) hours per day, seven (7) days per week;

- (c) Have a tracheostomy or endotracheal tube;
- (d) At the time of placement the resident has been ventilator dependent during a single stay or continuous stay at a hospital, skilled nursing facility or intermediate care facility for individuals with intellectual disabilities (ICF/IID);
- (e) Have a determination by the resident's physician and respiratory care team that the service is medically necessary, as well as documentation which describes the type of mechanical ventilation, technique and equipment;
- (f) Be medically stable, without infections or extreme changes in ventilatory settings and/or duration (increase in respiratory rate by five (5) breaths per minute, increase in F102 of twenty-five percent (25%) or more), and/or increase in tidal volume of two-hundred milliliters (200 mls) or more at time of placement;
- (g) Require services on a daily basis which cannot be provided at a lower level of care; and
- (h) Require services be provided under the supervision of a licensed health care professional.

6508.3 Each nursing facility shall comply with all of the standards governing ventilator care services set forth in 22-B DCMR § 3215.

6508.4 Ventilator care shall be prior-authorized by the DHCF. The following documents shall be required for each authorization:

- (a) Level of Care determination;
- (b) Pre-admission Screening and Annual Resident Review (PASARR) forms;
- (c) Admission history;
- (d) Physical examination reports;
- (e) Surgical reports; and
- (f) Consultation reports and ventilator dependent addendum.

6508.5 For purposes of this section the term “medically necessary” shall mean a service that is required to prevent, identify, or treat a resident's illness, injury or disability and meets the following standards:

- (a) Consistency with the resident's symptoms, or with prevention, diagnosis, or treatment of the resident's illness or injury;
- (b) Consistency with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
- (c) Appropriateness with regard to generally accepted standards of medical practice;
- (d) Is not medically contraindicated with regard to the resident's diagnosis, symptoms, or other medically necessary services being provided to the resident;
- (e) Is of proven medical value or usefulness, and is not experimental in nature;
- (f) Is not duplicative with respect to other services being provided to the resident;
- (g) Is not solely for the convenience of the resident;
- (h) Is cost-effective compared to an alternative medically necessary service which is reasonably acceptable to the resident based on coverage determinations; and
- (i) Is the most appropriate supply or level of service that can safely and effectively be provided to the resident.

6509 VENTILATOR CARE DISCHARGE

- 6509.1 Each provider shall ensure that residents are weaned from the ventilator when weaning is determined to be medically appropriate.
- 6509.2 A provider shall discontinue weaning and resume mechanical ventilation if the resident experiences any of the following:
- (a) Blood pressure elevation of more than twenty (20) millimeters of mercury (mmHg) systolic or more than ten (10) mmHg diastolic;
 - (b) Heart rate of more than ten percent (10%) above the baseline or a heart rate of one-hundred twenty (120) beats per minute;
 - (c) Respiratory rate increase of more than ten (10) breaths per minute or a rate above thirty (30) breaths per minute;

- (d) Arrhythmias;
- (e) Reduced tidal volume;
- (f) Elevated partial pressure of arterial carbon dioxide;
- (g) Extreme anxiety;
- (h) Dyspnea; or
- (i) Accessory muscle use in breathing or an otherwise deteriorating breathing pattern.

6509.3 Each nursing facility shall have an appropriate program for discharge and weaning from the ventilator.

6509.4 The nursing facility shall ensure that the resident and all caregivers be trained in all aspects of mechanical ventilation and demonstrate proficiency in ventilator care techniques before a ventilator-dependent resident can be discharged home on a mechanical ventilator.

6509.5 The physician and respiratory team shall arrange a schedule for follow-up visits, as indicated by the needs of the resident.

6509.6 A written discharge plan shall be provided to and reviewed with the resident and resident's caregiver and shall include at a minimum the following information:

- (a) Name, address, and telephone number of the primary physician;
- (b) Address and telephone number of the local hospital emergency department;
- (c) Name, address and telephone number of the physician for regular respiratory check-ups, if different from the physician identified in § 6509.6(a);
- (d) The responsibilities of the resident and caregiver in daily ventilator care;
- (e) Identification of financial resources for long-term care;
- (f) Identification of community resources for health, social, educational and vocational needs;
- (g) An itemized list of all equipment and supplies needed for mechanical ventilation;

- (h) Names, addresses and telephone numbers of mechanical ventilation equipment dealers and a list of services that they provide; and
- (i) Contingency plans for emergency situations.

6509.7 The nursing facility shall notify DHCF of the date of discharge from the facility.

6510 VENTILATOR CARE REIMBURSEMENT

6510.1 The add-on reimbursement rate for ventilator care shall be three hundred eighty dollars (\$380.00) per day for each resident. A public notice of any changes in the ventilator care reimbursement rate shall be published in the *D.C. Register* and on the DHCF website at least thirty (30) calendar days in advance of the changes.

6511 BEHAVIORALLY COMPLEX CARE

6511.1 In addition to the patient specific per diem rate described in § 6501.2, DHCF shall pay an additional per diem amount for any day that a resident qualifies as behaviorally complex pursuant to the definition set forth in § 6511.2.

6511.2 A behaviorally complex resident is defined as one who demonstrates two (2) or more of the following categories of behaviors, with at least one (1) behavior occurring four (4) or more days per week:

- (a) Demonstrates self injury, including head banging, self-biting, hitting oneself, or throwing oneself to floor with or without injury;
- (b) Demonstrates physical aggression, including assaulting other residents, staff, or property with or without injury to other residents or staff;
- (c) Demonstrates verbal aggression, including disruptive sounds, noises, screaming that disturbs roommate, staff or other residents;
- (d) Demonstrates aggressive behaviors, including sexual behaviors, disrobing, throwing or smearing food, feces, stealing, hoarding, going through other residents' or staff belongings, or elopement attempts; or
- (e) Consistently rejects medical care.

6511.3 Reimbursement for behaviorally complex residents shall be prior authorized by DHCF. Medical records including the MDS, nursing progress notes, and incident reports supporting experience of behavior, including documentation of disruptive behavior within the last thirty (30) days is required for prior authorization. The documentation shall support that a resident meets the definition set forth in § 6511.2.

6511.4 If the resident has transferred within the last thirty (30) days, the documentation shall include the records from the referring facility.

6511.5 DHCF may authorize reimbursement of the add-on rate not to exceed ninety (90) consecutive days. Any subsequent reimbursement after expiration shall require prior authorization.

6512 BEHAVIORALLY COMPLEX CARE REIMBURSEMENT

6512.1 The add-on reimbursement rate for behaviorally complex care shall be eighty-two dollars (\$82.00) per day for each resident. A public notice of any changes in the behaviorally complex care reimbursement rate shall be published in the *D.C. Register* and on the DHCF website at least thirty (30) calendar days in advance of the changes.

6513 BARIATRIC CARE

6513.1 In addition to the patient specific per diem rate described in § 6501.2, DHCF shall pay an additional per diem amount for any day that a resident qualifies as a bariatric resident pursuant to the requirements set forth in § 6513.2.

6513.2 A bariatric resident is defined as one who:

- (a) Has a body mass index (BMI) of forty (40) or higher; and
- (b) Requires the assistance of two or more staff for three (3) or more Activities of Daily Living (ADL) during the most recent MDS assessment period.

6513.3 Reimbursement for bariatric residents shall be prior authorized by DHCF. The following documentation is required for authorization:

- (a) Medical records including MDS documenting the resident's height, weight and calculation of BMI; and
- (b) A description of the resident's ADL assistance needs, including the relevant section of the most recent MDS assessment demonstrating the need for assistance of two or more staff for three (3) or more ADLs.

6514 BARIATRIC CARE REIMBURSEMENT

6514.1 The add-on reimbursement rate for bariatric care shall be thirty-nine dollars (\$39.00) per day for each resident. A public notice of any changes in the bariatric care reimbursement rate shall be published in the *D.C. Register* and on the DHCF website at least thirty (30) calendar days in advance of the changes.

6515 ALLOWABLE COSTS

6515.1 Allowable costs shall include items of expense the provider incurs in the provision of routine services related to resident care including:

- (a) Room and board, including dietary and nutrition services, food, laundry and linen, housekeeping, routine personal hygiene items and services, plant operations and maintenance;
- (b) Medical direction;
- (c) Nursing care;
- (d) Medical and surgical supplies;
- (e) Social services
- (f) Resident activities;
- (g) Special services required by the resident, including physical, occupational, or speech therapy, oxygen therapy, but not dental care;
- (h) Incontinency care;
- (i) Behavioral Health services;
- (j) Canes, crutches, walkers and wheelchairs, excluding customized wheelchairs;
- (k) Traction equipment and other durable medical equipment for multi resident use;
- (l) Special dietary services, including tube or hand feeding and special diets;
- (m) Laundry services, including basic personal laundry; and
- (n) Other allowable expenses as determined by DHCF and identified in policy guidance.

6515.2 The occupancy rate used in determining the per diem rate for each cost category shall be the greater of:

- (a) The actual total facility paid occupancy, including paid reserved bed days; or

- (b) Ninety-three percent (93%) of certified total facility bed days available during the cost reporting period.

6515.3 General and administrative expenses shall include but not be limited to:

- (a) Administrative salaries, including fringe benefits;
- (b) Professional services, including accounting and auditing expenses, fees of management consultants and legal fees;
- (c) General liability insurance;
- (d) Telephone;
- (e) Licenses;
- (f) Travel and entertainment;
- (g) Office expenses, including services and supplies;
- (h) Personnel and procurement;
- (i) Dues and subscriptions;
- (j) Home office costs;
- (k) Interest on working capital; and
- (l) Occupational Safety and Health Administration costs.

6515.4 Depreciation allowance shall be determined in accordance with the Medicare Principles of Reimbursement set forth at 42 CFR part 413 subpart G, except that:

- (a) Only the straight line method shall be used; and
- (b) The useful life of the assets must comply with the most recent guidelines for hospitals published by the American Hospital Association, and approved by the Medicare program.

6515.5 Consistent use of either the component or composite asset depreciation schedule shall be required, as follows:

- (a) Component depreciation is permitted in the case of a newly constructed facility and for recognized building improvements where the costs can be separated and acceptable useful lives determined; and

- (b) Composite depreciation shall be applied for a newly purchased existing facility.
- 6515.6 Donated assets shall be recorded at fair market value at the time received, based on the lesser of at least two bona fide appraisals.
- 6515.7 Leasehold improvements shall be depreciated over the lesser of the asset's useful life or the remaining life of the lease.
- 6515.8 When a facility is sold, the depreciation basis shall be subject to the limitation of the reevaluation of assets mandated by § 1861(v)(1)(O) of Title XVIII of the Social Security Act.
- 6515.9 Necessary and proper interest on both current and capital indebtedness shall be allowable costs, determined in accordance with the Medicare Principles of Reimbursement set forth at 42 CFR § 413.153.
- 6515.10 Bad debts, charity, and courtesy allowances, as defined at 42 CFR § 413.89(b), shall not be recognized as allowable costs.
- 6515.11 The cost of services, facilities, and supplies furnished to the provider by an organization related to the provider by common ownership or control are included in the allowable cost of the provider at the cost to the related organization. The cost charged by the related organization shall not exceed the price of comparable services, facilities or supplies that could be purchased by independent providers in the Washington metropolitan area.
- 6515.12 Return on equity capital of proprietary providers shall be determined according to the Medicare Principles of Reimbursement.
- 6515.13 Reasonable rental expense shall be an allowable cost for leasing of a facility from a non-related party if it is an arm's length transaction.
- 6515.14 The purchase or rental by a facility of any property, plant, equipment, services and supplies shall not exceed the cost that a prudent buyer would pay in the open market to obtain these items.
- 6515.15 District of Columbia provider tax costs shall be excluded from allowable costs.
- 6515.16 Home office costs and management fees shall be subject to the following conditions and limitations:
- (a) Home office cost allocations and management fees between related parties shall be reported without mark-up by the nursing facility;

- (b) Costs that are not allowable, such as those related to nonworking officers or officers' life insurance, shall not be included in home office allocations or management fees; and
- (c) The nursing facility's audited certified cost allocation plan relating to home office and management fees shall be provided.

6515.17 Respiratory therapy costs including equipment rental, supplies and labor and staffing costs associated with providing ventilator care shall be excluded from allowable costs.

6515.18 For purposes of this section, the phrases “related to the provider,” “common ownership” and “control” shall have the same meaning as set forth in 42 CFR § 413.17(b).

6516 EXCLUSIONS FROM ALLOWABLE COSTS

6516.1 The following categories of expense shall be excluded from allowable operating costs because they are not normally incurred in providing resident care:

- (a) Fund raising expenses in excess of ten percent (10%) of the amount raised;
- (b) Parties and social activities not related to resident care;
- (c) Personal telephone, radio, and television services;
- (d) Gift, flower and coffee shop expenses;
- (e) Vending machines;
- (f) Interest expenses and penalties due to late payment of bills or taxes, or for licensure violations;
- (g) Prescription drug costs;
- (h) Personal resident purchases; and
- (i) Beauty and barber shop costs.

6516.2 The following expenditures shall reduce allowable costs:

- (a) The greater of the revenues generated from employee and guest meals or the cost of the meals;
- (b) The greater of the revenues generated from rental space in the facility or the cost of the rental space;

- (c) Purchase discounts and allowances;
- (d) Investment income for unrestricted funds to the extent that it exceeds interest expense on investments;
- (e) Recovery of an insured loss;
- (f) Grants, gift and income from endowments designated by the donor for specific operating expenses; and
- (g) Any other income or expense item determined to reduce allowable costs pursuant to the Medicare Principles of Reimbursement.

6517 REBASING AND ANNUAL RATE ADJUSTMENTS

- 6517.1 Not later than October 1, 2021, and every four (4) years thereafter, the base year data, medians, day-weighted medians and peer group prices shall be updated.
- 6517.2 DHCF retains authority to update the routine and support and the nursing and resident care components of the peer group nursing facility rates annually.

6518 REIMBURSEMENT FOR NEW PROVIDERS

- 6518.1 Each new provider shall be assigned to the appropriate peer group as set forth in § 6502.1.
- 6518.2 The per diem rate for each new provider shall be the base year day-weighted average case mix neutral peer group price for nursing and resident care and the peer group price for routine and support services.
- 6518.3 The capital per diem for each new provider shall be the greater of the base year day-weighted average per diem of facilities in the assigned peer group, or the median per diem for the peer group.
- 6518.4 Each new provider may receive an add-on payment for each resident that qualifies and receives ventilator care pursuant to §§ 6508 - 6510 or for residents qualifying for reimbursement as behaviorally complex pursuant to §§ 6511- 6512 or bariatric care, pursuant to §§ 6513 - 6514.
- 6518.5 DHCF shall notify, in writing, each new nursing facility of its payment rate calculated in accordance with this section. The rate letter to a new provider shall include the per diem payment rate calculated in accordance with this section.

6519 REIMBURSEMENT FOR REORGANIZED FACILITIES, EXPANDED FACILITIES, REDUCED CAPACITY, OR CHANGE OF OWNERSHIP

- 6519.1 A nursing facility that has been reorganized pursuant to Chapter 11 of Title 11 of the United States Bankruptcy Code on or after September 30, 2000 shall be reimbursed at the same rate in effect prior to the date the reorganized facility filed its petition for bankruptcy.
- 6519.2 A nursing facility with a change of ownership on or after September 30, 2000 shall be reimbursed at the same rate established for the nursing facility prior to the change of ownership, except the capital per diem shall be the greater of the base year day-weighted average per diem of facilities in the assigned peer group or the capital rate for the nursing facility prior to the change of ownership.
- 6519.3 A nursing facility that expands its bed capacity shall be reimbursed for its newly added beds at the same rate established for the nursing facility prior to the expansion until the next rebasing effective date, unless the addition of beds qualifies the expanded facility for a different peer group.
- 6519.4 If the expanded facility qualifies for a different peer group, the facility rates will be adjusted to comply with the new peer group rates one (1) year after the new beds are put into service, or on the next rebasing date, whichever comes first.
- 6519.5 A nursing facility that reduces its bed capacity shall continue to be reimbursed at the same rate established for the nursing facility prior to the bed reduction until the next rebasing effective date, unless the bed reduction qualifies the facility for a different peer group.
- 6519.6 If a reduction in the number of beds qualifies the facility for a different peer group, the facility rates will be adjusted to comply with the new peer group rates as soon as the reduction is effective.

6520 REIMBURSEMENT FOR OUT OF STATE FACILITIES

- 6520.1 If a District Medicaid beneficiary is placed in an out-of-state facility in accordance with the requirements of § 6520.5, DHCF shall reimburse the facility in accordance with the Medicaid reimbursement rate of the state in which the facility is located or a negotiated rate, provided that it is not greater than the estimated Medicaid reimbursement rate of the state in which the facility is located.
- 6520.2 DHCF shall notify each out-of-state facility, in writing, of its payment rate calculated in accordance with this section.
- 6520.3 An out-of-state facility is not required to file cost reports with DHCF.

- 6520.4 Each out-of-state facility shall obtain written authorization from DHCF prior to admission of a District Medicaid beneficiary.
- 6520.5 DHCF may approve placement of a District Medicaid beneficiary in an out-of-state facility only if DHCF determines there are not nursing facilities in the District with immediate capacity to admit that can provide the appropriate level of care for the beneficiary.

6521 COST REPORTING AND RECORD MAINTENANCE

- 6521.1 Each nursing facility shall submit an annual cost report to the Medicaid program within one hundred twenty days (120) days of the close of the facility's cost reporting period, which shall be concurrent with its fiscal year used for all other financial reporting purposes.
- 6521.2 Cost reports shall be submitted on the DHCF approved form, and shall be completed according to the published cost report instruction manual. DHCF reserves the right to modify the cost reporting forms and instructions and shall send written notification to each nursing facility regarding any changes to the forms, instructions and copies of the revised cost reporting forms.
- 6521.3 A delinquency notice shall be issued if the facility does not submit the cost report on time and has not received an extension of the deadline for good cause.
- 6521.4 Only one (1) extension of time shall be granted to a facility for a cost reporting year and no extension of time shall exceed thirty (30) days. DHCF shall honor all extensions of time granted to hospital-based facilities by the Medicare program.
- 6521.5 If the cost report is not submitted within thirty (30) days of the date of the notice of delinquency, twenty percent (20%) of the facility's regular monthly payment shall be withheld each month until the cost report is received.
- 6521.6 Each nursing facility shall submit one (1) original hard-copy and (1) one electronic copy of the cost report. Each copy shall have an original signature.
- 6521.7 The requirements for cost reports shall be detailed in the DHCF nursing facility cost report instruction manual. Each cost report shall meet the following requirements:
- (a) Be properly completed in accordance with program instructions and forms and accompanied by supporting documentation;
 - (b) Include copies of audited financial statements or other official documents submitted to a governmental agency justifying revenues and expenses;

- (c) Include and disclose payments made to related parties in accordance with § 6515.11 and the reason for each payment to a related party; and
- (d) Include audited cost allocation plans for nursing facilities with home office costs, if applicable.

- 6521.8 Computations included in the cost report shall be accurate and consistent with other related computations and the treatment of costs shall be consistent with the requirements set forth in these rules.
- 6521.9 In the absence of specific instructions or definitions contained in these rules or cost reporting forms and instructions, the decision of whether a cost is allowable shall be determined in accordance with the Medicare Principles of Reimbursement and the guidelines set forth in Medicare Provider Reimbursement Manual.
- 6521.10 All cost reports shall cover a twelve (12) month cost reporting period, which shall be the same as the facility's fiscal year, unless DHCF has approved an exception.
- 6521.11 A cost report that is not complete, as required by §§ 6521.6 through 6521.8, shall be considered an incomplete filing and the nursing facility shall be so notified.
- 6521.12 If, within thirty (30) days of the notice of incomplete filing, the facility fails to file a completed cost report and no extension of time has been granted by DHCF, twenty percent (20%) of the facility's regular monthly payment shall be withheld each month until the filing is complete.
- 6521.13 DHCF shall pay the withheld funds promptly after receipt of the completed cost report and documentation required meeting the requirements of this section.
- 6521.14 Each facility shall maintain adequate financial records and statistical data for proper determination of allowable costs and in support of the costs reflected on each line of the cost report. The financial records shall include the facility's accounting and related records including the general ledger and books of original entry, all transactions documents, statistical data, lease and rental agreements and any original documents which pertain to the determination of costs.
- 6521.15 Each nursing facility shall maintain the records pertaining to each cost report as described in § 6521.14 for a period of not less than seven (7) years after filing of the cost report. If the records relate to a cost reporting period under audit or appeal, records shall be retained until the audit or appeal is completed.
- 6521.16 All records and other information may be subject to periodic verification and review. Each cost report may be subject to a desk review.
- 6521.17 Each nursing facility shall:

- (a) Use the accrual method of accounting; and
- (b) Prepare the cost report in accordance with generally accepted accounting principles and all program instructions.

6521.18 Audits shall be conducted to establish the rates upon rebasing as set forth in § 6517.

6522 ACCESS TO RECORDS

6522.1 In accordance with the Health Insurance Portability and Accountability Act of 1996 and other privacy laws, each nursing facility shall allow appropriate DHCF personnel, representatives of the Department of Health and Human Services and other authorized agents or officials of the District of Columbia government and federal government full access to all records during announced and unannounced audits and reviews.

6523 APPEALS

6523.1 At the conclusion of each base year audit or any other required audit, a nursing facility shall receive an audited cost report including a description of each audit adjustment and the reason for each adjustment.

6523.2 Within thirty (30) days of the date of receipt of the audited cost report, any nursing facility that disagrees with the audited cost report may request an administrative review by sending a written request for administrative review to DHCF.

6523.3 The written request for an administrative review shall include an identification of the specific audit adjustment to be reviewed, the reason for the request for review of each audit adjustment and documentation supporting the request.

6523.4 DHCF shall mail a formal response to the nursing facility no later than forty-five (45) days from the date of receipt of the written request for administrative review pursuant to § 6523.2.

6523.5 Decisions made by DHCF and communicated in the formal response described in § 6523.4 may be appealed to the Office of Administrative Hearings within thirty (30) days of the date of issuance of the formal response.

6523.6 DHCF shall issue a rate letter to each nursing facility that includes the relevant rate parameters used to determine the final rate components consistent with the requirements set forth in this chapter.

6524 NURSING FACILITY QUALITY IMPROVEMENT PROGRAM

6524.1 Beginning February 1, 2018, DHCF will implement the Nursing Facility Quality Improvement (NFQIP) Program.

6524.2 Participation in the Nursing Facility Quality Improvement Reporting Track is mandatory for all nursing facilities in the District. Participation in the Nursing Facility Quality Improvement Incentive Track is optional. The two tracks are set forth below:

- (a) Nursing Facility Quality Improvement Reporting (NFQIR) Track: This track only reports performance measures set forth in § 6524.3 and does not provide a supplemental Medicaid payment; and
- (b) Nursing Facility Quality Improvement Incentive (NFQII) Track: This track provides a supplemental Medicaid payment for participating nursing facilities that report performance measures set forth in §§ 6524.3 and 6524.3 and provide services that result in better care and higher quality of life for their residents; or

6524.3 Quality reporting is mandatory for all District nursing facilities. Each nursing facility shall report to DHCF, annually, on the performance measures set forth below, which shall be calculated and reported as follows:

Nursing Facility Quality Improvement Reporting Performance Measures				
Measure Number/ Name	Measurement Domain	NQF #	Steward	Description

<p>1. Percent of high risk, long-stay residents with pressure ulcers</p>	<p>Quality of Care</p>	<p>0679</p>	<p>CMS</p>	<p>Numerator: The number of all long-stay residents with a selected target assessment that meets both of the following conditions:</p> <ul style="list-style-type: none"> • Condition #1: There is a high risk for pressure ulcers, as “high-risk” is defined in the denominator definition below. • Condition #2: Stage II-IV or unstageable pressure ulcers are present, as indicated by any of the following six (6) conditions: <ul style="list-style-type: none"> ○ 2.1 (M0300B1 = [1, 2, 3, 4, 5, 6, 7, 8, 9]) or ○ 2.2 (M0300C1 = [1, 2, 3, 4, 5, 6, 7, 8, 9]) or ○ 2.3 (M0300D1 = [1, 2, 3, 4, 5, 6, 7, 8, 9]). <p>Denominator: The number of All long-stay residents with a selected target assessment who meet the definition of high risk, except those with exclusions.</p> <p>Residents are defined as high-risk if they meet one (1) or more of the following three (3) criteria on the target assessment:</p> <ul style="list-style-type: none"> • Impaired bed mobility or transfer indicated, by either or both of the following: <ul style="list-style-type: none"> ○ Bed mobility, self-performance (G0110A1 = [3, 4, 7, 8]) or ○ Transfer, self-performance (G0110B1 = [3, 4, 7, 8]) or • Comatose (B0100 = [1]) or • Malnutrition or at risk of malnutrition (I5600 = [1]) (checked). <p>Exclusions:</p> <ul style="list-style-type: none"> • Target assessments that define a long-stay resident as high risk under this measure should be excluded from the denominator calculation if the target assessment is an admission assessment (A0310A = [01]) or a Prospective Payment System (PPS) 5-day or readmission/return assessment (A0310B = [01, 06]). • If the resident is not included in the calculation of the numerator (the resident did not meet the pressure ulcer conditions for the numerator) and any of the following conditions are true: <ul style="list-style-type: none"> ○ (M0300B1 = [-]). ○ (M0300C1 = [-]). ○ (M0300D1 = [-]).
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<p>2. Percentage of long-stay residents who received an antipsychotic medication</p>	<p>Quality of Care</p>	<p>N/A</p>	<p>CMS</p>	<p>Numerator: The number of long-stay residents with a selected target assessment where the following condition is true: antipsychotic medications received. This condition is defined as follows:</p> <ul style="list-style-type: none"> • For assessments with target dates on or before 03/31/2012: (N0400A = [1]). • For assessments with target dates on or after 04/01/2012: (N0410A = [1, 2, 3, 4, 5, 6, 7]). <p>Denominator: The number of long-stay residents with a selected target assessment, except those with exclusions.</p> <p>Exclusions: Residents are excluded from the calculation of the numerator if any of the following is true:</p> <ul style="list-style-type: none"> • For assessments with target dates on or before 03/31/2012: (N0400A = [-]). • For assessments with target dates on or after 04/01/2012: (N0410A = [-]). <p>Residents are also excluded if any of the following related conditions are present on the target assessment (unless otherwise indicated):</p> <ul style="list-style-type: none"> • Schizophrenia (I6000 = [1]). • Tourette’s syndrome (I5350 = [1]). • Tourette’s syndrome is considered to be (I5350 = [1]) if this item is not active on a prior the target assessment or if a prior assessment is available; or. • Huntington’s disease (I5250 = [1]).
<p>3. Percent of long-stay residents with a urinary tract infection</p>	<p>Quality of Care</p>	<p>0684</p>	<p>CMS</p>	<p>Numerator: The number of long-stay residents with a selected target assessment that indicates urinary tract infection within the last thirty (30) days (I2300 = [1]).</p> <p>Denominator: The number of all long-stay residents with a selected target assessment, except those with exclusions.</p> <p>Exclusions: Residents are excluded from the denominator calculation if:</p> <ul style="list-style-type: none"> • Target assessment is an admission assessment of (A0310A = [01]) or a PPS 5-day or readmission/return assessment (A0310B = [01, 06]); or • Urinary tract infection value is missing (I2300 = [-]).

<p>4. Percent of low risk long-stay residents who lose control of their bowels or bladder</p>	<p>Quality of Care</p>	<p>N/A</p>	<p>CMS</p>	<p>Numerator: The number of long-stay residents with a selected target assessment that indicates frequently or always incontinence of the bladder (H0300 = [2, 3]) or bowel (H0400 = [2, 3]).</p> <p>Denominator: The number of all long-stay residents with a selected target assessment, except those with exclusions.</p> <p>Exclusions: Residents are excluded from the calculation of the denominator if:</p> <ul style="list-style-type: none"> • Resident’s target assessment is an admission assessment (A0310A = [01]) or a PPS five (5-) day or readmission/return assessment (A0310B = [01, 06]); . • Resident is not in numerator and H0300 = [-] OR H0400 = [-]. • Residents have any of the following high risk conditions: a. Severe cognitive impairment on the target assessment as indicated by (C1000 = [3] and C0700 = [1]) OR (C0500 ≤ [7]); b. Totally dependency in bed mobility self-performance (G0110A1 = [4, 7, 8]);. c. Totally dependency in transfer self-performance (G0110B1 = [4, 7, 8])’or . d. Totally dependency in locomotion on unit self-performance (G0110E1 = [4, 7, 8]). • Resident does not qualify as high risk (see #3 above) and both of the following two (2) conditions are true for the target assessment: a. C0500 = [99, ^, -]; and b. C0700 = [^, -] or C1000 = [^, -]. • Resident does not qualify as high risk (see #3 above) and any of the following three (3) conditions are true: a. G0110A1 = [-]; b. G0110B1 = [-]; and c. G0110E1 = [-]. • Resident is comatose (B0100 = [1]) or comatose status is missing (B0100 = [-]) on the target assessment. • Resident has an indwelling catheter (H0100A = [1]) or indwelling catheter status is missing (H0100A = [-]) on the target assessment. • Resident has an ostomy (H0100C = [1]) or ostomy status is missing (H0100C = [-]) on the target assessment.
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<p>5. Percent of long-stay residents experiencing one or more falls with major injury</p>	<p>Quality of Care</p>	<p>0674</p>	<p>CMS</p>	<p>Numerator: The number of long-stay residents with one or more look-back scan assessments that indicate one or more falls that resulted in major injury (J1900C = [1, 2]). Denominator: The number of all long-stay nursing home residents with a one or more look-back scan assessments except those with exclusions. Exclusions: Residents are excluded from the calculation of the denominator if one of the following is true for all of the look-back scan assessments:</p> <ul style="list-style-type: none"> • The occurrence of falls was not assessed (J1800 = [-]), or • The assessment indicates that a fall occurred (J1800 = [1]) and the number of falls with major injury was not assessed (J1900C = [-])
<p>6. Resident/Family Satisfaction Survey</p>	<p>Quality of Life</p>	<p>N/A</p>	<p>DHCF or its representative</p>	<p>The survey will document resident/family satisfaction with the services provided by the nursing facility. The survey will be:</p> <ul style="list-style-type: none"> • A standardized tool; and • Annually administered and tabulated by an external entity from the nursing facility and DHCF. <p>A summary report of the survey and response rate will be made publicly available.</p>
<p>7. End of Life Program</p>	<p>Quality of Life</p>	<p>N/A</p>	<p>DHCF</p>	<p>The facility must develop a program that serves the staff, residents, and family members in preparation for the time of passing. Supporting documentation for the program provided by the nursing facility to DHCF must provide:</p> <ul style="list-style-type: none"> • A detailed narrative of the facility's end of life program that identifies individual preferences, spiritual needs, wishes, expectations, specific grief counseling, a plan for honoring those that have died, and a process to inform the facility residents of such death; • Documentation of four (4) residents' individual wishes and how the facility honored them; and • Proof of staff education on the facility's end of life planning program.
<p>8. Low-acuity Non-emergent ED visits</p>	<p>Utilization</p>	<p>N/A</p>	<p>DHCF</p>	<p>Percentage of inpatient admissions among nursing facility long stay residents for specific ambulatory care conditions that may have been prevented through appropriate outpatient care.</p>

9. All-cause 30-day Readmissions	Utilization	1768	NCQA	<p>The number of acute inpatient stays during the measurement year that were followed by an acute readmission for any diagnosis within thirty (30) calendar days and the predicted probability of an acute readmission. Data should be reported in the following categories:</p> <ul style="list-style-type: none"> • Count of Index Hospital Stays (denominator); • Count of thirty (30)-Day Readmissions (numerator); and • Average adjusted Probability of Readmission.
10. Potentially Preventable Hospital Admissions	Utilization	N/A	AHRQ	<p>Percentage of inpatient admissions among nursing facility residents for specific ambulatory care conditions that may have been prevented through appropriate outpatient care. Includes admissions for one of the following conditions: diabetes with short-term complications, diabetes with long-term complications, uncontrolled diabetes without complications, diabetes with lower-extremity amputation, chronic obstructive pulmonary disease, asthma, hypertension, or heart failure without a cardiac procedure.</p>
11. Staff Continuing Education in MDS Training	Infrastructure	N/A	DHCF	<p>Provide documentation that staff is trained to document MDS assessment in a uniform and consistent manner.</p>
12. Staff Turnover	Infrastructure	N/A	DHCF	<p>The percentage of direct care staff[^] who have been terminated^{^^} during the measurement period, calculated as follows: $100 * (\text{Number of nursing terminations at the nursing home during the period} / (\text{average number of nursing staff employees}) - 100.$ [^]Direct Care Staff - All full-time, part-time, permanent, short-term, seasonal, salaried and hourly RN, LPN, and CNA staff. Staff of temporary agencies and outside contractors are not included. ^{^^}Terminated - Any person who is no longer employed by the nursing facility for any reason.</p>
13. RN hours per resident day	Infrastructure	N/A	DHCF	<p>RN hours per resident day is calculated by adding RN hours plus fifty (50) percent of Direct of Nursing (DON) hours worked by nursing home employees plus eighty (80) percent of RN hours worked by contract agency staff, and dividing by total resident days for the reporting period.</p>

14. Quality Improvement Plan <i>(This measure will be retired in FY2020 and will become a participation requirement for the NFQII program.)</i>	Infrastructure	N/A	DHCF	Documentation on how the nursing facility will address transitions of care and optimize on performance measures.
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6524.4 In addition to the reporting requirements set forth in § 6524.3, each nursing facility participating in NFQII shall report to DHCF, annually, on an additional set of requirements and performance measures set forth below:

Nursing Facility Quality Initiative Incentive Performance Measures				
Measure Number/ Name	Measurement Domain	NQF #	Steward	Description
1. Certified EHR Adoption <i>(NFQII only)</i>	Infrastructure	N/A	DHCF	Demonstrate use of electronic health record (EHR) technology to support the creation and execution of a person-centered plan of care for each beneficiary that will facilitate transitions of care.
2. Enrollment and Integration in the Chesapeake Regional Information System for our Patients (CRISP) to receive ENS <i>(NFQII only)</i>	Infrastructure	N/A	DHCF	Demonstrate use of enrollment in and use of Health Information Exchange tools as detailed below: <ul style="list-style-type: none"> • In year 1 nursing facilities provide proof of enrollment in the Chesapeake Regional Information System for our Patients (CRISP) or comparable system, to receive hospital and emergency department alerts for enrolled beneficiaries. • In year 2 nursing facilities provide narrative of how the facility has integrated the HIE connectivity into its workflow

6524.5 Results on all performance measures referenced in § 6524.3 shall be publicly posted on the DHCF website.

6525 PARTICIPATION IN THE NURSING FACILITY QUALITY IMPROVEMENT PROGRAM

6525.1 To participate in the NFQIR track, the nursing facility must:

- (a) Be located in the District of Columbia;

- (b) Be enrolled in and seek reimbursement from the District's Medicaid Program as a nursing facility;
- (c) Report data pursuant to § 6524.3.

6525.2 To participate in the NFQII track, the nursing facility must:

- (a) Meet requirements pursuant to § 6525.1;
- (b) Submit a letter indicating intent to participate in the NFQII track by September 1, 2018 and annually thereafter; and
- (c) Beginning fiscal year 2020 and annually thereafter, submit a quality improvement plan on the nursing facility plans to address improved transition of care and optimize its workflow to achieve optimal performance on performance measures set for in § 6524.3.

6525.3 DHCF shall notify the nursing facilities if all participation requirements have been met no later than thirty (30) business days after the receipt of the required materials.

6525.4 Measures specifications for the performance payment shall consist of a set of guidelines set forth by DHCF. Measure specifications for the baseline period and first performance measurement period are set forth in § 6524.3.

6525.5 DHCF reserves the right to change performance measures, measure specifications, and participation requirements. DHCF will notify nursing facilities of the performance measures, measure specifications, and any changes through transmittals issued to the nursing facilities no later than sixty (60) calendar days prior to October 1st of each measurement year (MY).

6525.6 Data from the following periods will be used to determine the initial performance payment in fiscal year 2020:

- (a) The baseline period shall begin on February 1, 2018 and end on September 30, 2018; and
- (b) Fiscal year 2019, the period beginning October 1, 2018 and ending September 30, 2019, is the first performance measurement period.

6526 NFQII PERFORMANCE SCORING

6526.1 Nursing facilities electing to participate in the NFQII will be assessed for the performance payment based on either the facility:

- (a) Submitting a written statement attesting to compliance or completion of a performance measure accompanied by supporting documentation;
- (b) Attaining the seventy-fifth (75th) percentile based on all nursing facility performance from the previous measurement period; or
- (c) Improving on the individual nursing facility performance relative to the previous year by any margin.

6526.2 DHCF will establish performance benchmarks for attainment based on data collected in the baseline period. The performance payment program's baseline period will be the period from February 1, 2018 to September 30, 2018, in which nursing facility performance is initially measured. For each subsequent measurement year, benchmarks will be based on data collected from the prior measurement year. If a participating nursing facility did not attain its goal, then DHCF shall assess whether the participating nursing facility improved from the previous measurement year based on a defined threshold.

6526.3 For domain measures where attainment is measured, an eligible nursing facility must achieve the attainment benchmark of the seventy-fifth (75th) percentile for the initial baseline period or for the previous measurement year to receive points for measures. Setting the threshold at the seventy-fifth (75th) percentile means that only nursing facilities performing at the level of the top quartile for the previous year would earn points for attainment. Participating nursing facilities performing below the attainment benchmark may be able to receive points if they have improved measure performance.

6526.4 DHCF will determine an annual performance score using the data available in the measurement year for each eligible nursing facility. The score is based on the number of points that a facility earns for its performance in meeting the benchmarks for each measure described in §§ 6524.3 and 6524.4.

6526.5 For domain measures where improvement can be measured, the improvement benchmark will be a relative improvement in performance of the measure compared to the prior year's performance.

6526.6 DHCF shall determine the distribution of points to calculate annual performance score based on a maximum of one hundred (100) points. DHCF shall apply weights to each of the domains and measures. Each measure in the domain is assigned points by dividing the total points amongst of measures in each domain as outlined below:

(a)

Nursing Facility Performance Measure Point Distribution Methodology			
Domains	Measures	MY 2019	MY
Quality of Care	Pressure Ulcers	6	6
	Anti-psychotic Medications	6	6
	Urinary Tract	6	6
	Loss of bowels or bladder	6	6
	Falls w/ injury	6	6
	Domain Total	30	30
Quality of Life	Resident survey	8	10
	End of Life Program	2	10
	Domain Total	10	20
Utilization	Low-Acuity Non-emergent ED Visits	3.3	3.3
	All-cause 30-day Readmissions	3.3	3.3
	Potentially Preventable Hospital Admissions	3.3	3.3
	Domain Total	10	10
Infrastructure	Staff Continuing Education in MDS Training	5	6
	Staff Turnover Rate	5	6
	RN Nursing Hours per Resident Day	5	6
	EHR Adoption	10	11
	HIE Connectivity	10	11
	Quality Improvement Plan	15	N/A
	Domain Total	50	40
Total	Total NFOII Points	100	100

(b) DHCF shall retain the right to adjust relative weights assigned to domains and measures. DHCF shall issue a transmittal notifying nursing facilities of assigned weights no later than sixty (60) calendar days prior to the beginning of the measurement year.

6526.7

The total number of points for a nursing facility will be the sum of the total points earned, through either attainment, attestation or improvement on a measure. If a nursing facility neither achieves attestation, attainment nor improves performance on a given measure, no points will be awarded for that measure.

6526.8 A transmittal will be issued to each nursing facility no later than ninety (90) calendar days after the start of the measurement year with information on the benchmarks that will be used to measure a facility's performance (attainment or improvement).

6526.9 DHCF shall provide written notification of the attainment and individualized improvement thresholds to each eligible nursing facility no later than one hundred eighty (180) calendar days after the conclusion of the previous measurement year after all performance measures are received and validated.

6527 NURSING FACILITY QUALITY OF CARE FUND AND NFQII PERFORMANCE PAYMENT

6527.1 DHCF shall calculate and distribute performance payments based on available funds from the Nursing Facility Quality of Care Fund.

6527.2 DHCF shall calculate the amount of funds available for distribution to nursing facilities after the conclusion of each measurement year for the subsequent year in accordance with the requirements set forth below:

- (a) The amount of funds available for DHCF to distribute to nursing facilities shall be a percentage of the total assessments collected under the Nursing Facility Quality of Care Fund during the fiscal year; and
- (b) DHCF shall provide public notice of the amount of funds available for distribution at least sixty (60) days ahead of the beginning of the measurement year.

6527.3 DHCF will distribute performance payments to eligible nursing facilities based on the participating facility's proportionate share of the total Medicaid resident days of all nursing facilities and the facility's annual performance score during the measurement year.

6527.4 Beginning with measurement year 2019, and annually thereafter, performance payments shall be calculated and distributed no later than one hundred eighty (180) calendar days after the conclusion of each measurement year once all performance measures are received and have been validated. A payment letter will include the facility's performance score and the amount of the award.

6527.5 Any unused funds from the prior fiscal year shall be returned to the Nursing Facility Quality of Care Fund.

6599 DEFINITIONS

6599.1 When used in this chapter, the following terms shall have the meanings ascribed:

Accrual Method of Accounting - a method of accounting pursuant to which revenue is recorded in the period earned, regardless of when collected and expenses are recorded in the period, regardless of when paid.

Arm's Length Transaction – a transaction between the nursing facility and another party where both parties are acting in their own best interests and there is no established relationship except the mutual involvement of the parties in the transaction itself.

Base Year - the standardized year on which rates for all facilities are calculated to derive a prospective reimbursement rate.

Case Mix Index - a number value score that describes the relative resource use for the average resident in each of the groups under the RUGS IV classification system based on the assessed needs of the resident.

Case Mix Neutralization - the process of removing cost variations between nursing facilities nursing and resident care costs resulting from different levels of case mix.

Change of Ownership shall have the same meaning as “acquiring of effective control” as set forth in D.C. Official Code § 44-401(1).

Day-Weighted Median - the point in an array from high to low of the per diem costs for all facilities at which half of the days have equal or higher per diem costs and half have equal or lower per diem costs.

Department of Health Care Finance (DHCF) - the single state agency responsible for the administration and oversight of the District's Medicaid program.

Expanded Facility - a facility that puts additional Medicaid certified beds into service.

F01 - the case mix index scores developed by the Centers for Medicare and Medicaid Services for the Medicaid 48-group Resource Utilization Groups (RUGS-IV) classification system.

F102 - (fraction of inspired oxygen) - the ratio of the concentration of oxygen to the total pressure of other gases in inspired air.

Facility Medicaid Case Mix - the arithmetic mean of the individual resident case mix index for all residents, for whom DHCF is the payer source, admitted and present in the nursing facility on one (1) day per quarter in each fiscal year, as selected by DHCF. The arithmetic mean shall be carried to four (4) decimal places.

Fair Market Value - the value at which an asset could be sold in the open market in a transaction between unrelated parties.

Long-Stay Resident – A resident who resides in nursing facility for one hundred and one (101) resident days or more.

Mechanical Ventilation - a method for using machines to help an individual to breathe when that individual is unable to breathe sufficiently on his or her own to sustain life.

Median - the point in an ordered array from lowest to highest of nursing facility per diem costs at which the facilities are divided into equal halves.

Minimum Data Set (MDS), Version 3.0 means the resident assessment instrument and data used to determine the RUGS classification of each resident.

New Provider – a nursing facility that, at the time of application to enroll as a Medicaid provider, has not been a provider during the previous twelve (12)-month period or, for rates effective February 1, 2018 and after, does not have a cost report as set forth in § 6521 of this chapter; and a nursing facility not defined as a reorganized facility or a facility that has changed ownership.

Nursing Facility - a facility that is licensed as a nursing home pursuant to the requirements set forth in the “Health Care and Community Residence License Act of 1983,” effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.*) and meets the federal conditions of participation for nursing facilities in the Medicaid program as set forth in 42 CFR part 483.

Nursing Facility Quality of Care Fund – District fund established in accordance with the “Fiscal Year 2005 Budget Support Act of 2004,” effective December 7, 2004 (D.C. Law 15-205; 51 DCR 8441) as amended by the “Fiscal Year 2006 Budget Support Act of 2006,” effective March 2, 2007 (D.C. Law 16-192; 53 DCR 6899 (August 25, 2006)) and the “Technical Amendments Act of 2008,” effective March 25, 2009 (D.C. Law 17-687; 56 DCR 1117 (February 4, 2009)).

Out of State Facility - a nursing facility located outside the District of Columbia which meets the licensure standards in the jurisdiction where services are provided and meets the federal conditions of participation for nursing facilities in the Medicaid program as set forth in 42 CFR part 483.

Peer Group - a group of nursing facilities sharing the same characteristics.

Per Diem Rate - a rate of payment to the nursing facility for covered services in a resident day.

Reorganized Facility - a nursing facility that has filed for bankruptcy in accordance with the requirements set forth by Chapter 11 (Reorganization) of Title 11 of the United State Bankruptcy Code and is managing debts and operations pursuant to a confirmed reorganization plan.

Resident - an individual who resides in a nursing facility due to physical, mental, familial or social circumstances, or intellectual disability.

Resident Day - one (1) continuous twenty-four (24) hour period of care furnished by a nursing facility that concludes at midnight each calendar day, including reserved bed days that are paid for by DHCF. The day of the resident's admission is counted as a resident day. The day of discharge is not counted as a resident day.

Resource Utilization Groups (RUGS IV) - a category-based resident classification system developed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) used to classify nursing facility residents into groups based on each resident's needs and functional, mental and psychosocial characteristics.

Tidal Volume - the volume of air inspired and expired during a normal respiratory cycle.

Total Facility Average Case Mix - the arithmetic mean of the individual resident case mix indices for all residents, regardless of payer, admitted and present in the nursing facility on one (1) day per quarter in each fiscal year, as selected by DHCF. The arithmetic mean shall be carried to four (4) decimal places.

Tracheostomy - a surgical opening in the trachea or windpipe through which a tube is channeled to assist breathing.

Ventilator Dependent - a resident who requires at least sixteen (16) hours per day of mechanically assisted respiration to maintain a stable respiratory status.

Weaning - the process of gradually removing an individual from the ventilator and restoring spontaneous breathing after a period of mechanical ventilation.

Comments on these rules should be submitted in writing to Claudia Schlosberg, J.D., Senior Deputy/Medicaid Director, Department of Health Care Finance, Government of the District of Columbia, 441 4th Street, NW, Suite 900, Washington DC 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these rules are available from the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2018-012

January 16, 2018

SUBJECT: Delegation of Authority to the Deputy Mayor for Planning and Economic Development to Solicit Offers, Accept Unsolicited Offers, and Execute Certain Documents with Respect to the District-owned Real Property, Known as the Eastern Branch Boys and Girls Club Site, Located at 261 17th Street, S.E., and Known for Tax and Assessment Purposes as Lot 0802 in Square 1088

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by sections 422(6) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(6) and (11) (2016 Repl.); section 1 of An Act authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939, 53 Stat. 1211, D.C. Official Code § 10-801 (2013 Repl. & 2017 Supp.); and section 1(c) of An Act to grant additional powers to the Commissioners of the District of Columbia and for other purposes, approved December 20, 1944, 58 Stat. 819, D.C. Official Code § 1-301.01(c) (2016 Repl. & 2017 Supp.), it is hereby **ORDERED** that:

1. The Deputy Mayor for Planning and Economic Development (“**Deputy Mayor**”) is delegated the authority to solicit offers, accept unsolicited offers, and execute on behalf of the District of Columbia any and all documents related to the disposition, development or use of the District-owned Real Property, Known as the Eastern Branch Boys and Girls Club Site, Located at 261 17th Street, S.E., and Known for Tax and Assessment Purposes as Lot 0802 in Square 1088 (“**Property**”)
2. Property, including, but not limited to, easements, license agreements, use agreements, deeds, lease agreements, right of entry agreements, covenants, and other associated documents and to take all actions necessary or useful for or incidental to the solicitation, disposition, and development of the Property.
3. The authority delegated herein to the Deputy Mayor may be further delegated to subordinates under the jurisdiction of the Deputy Mayor.
4. This Order supersedes all previous Mayor’s Orders to the extent of any inconsistency therein.

5. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to April 26, 2017.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2018-013
January 16, 2018

SUBJECT: Appointment – Developmental Disabilities State Planning Council


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with Mayor's Order 2009-165, dated September 25, 2009, it is hereby **ORDERED** that:

1. **RON J. SMITH** is appointed to the Developmental Disabilities State Planning Council as a consumer member, replacing Gabriel Savage, for a term to end March 18, 2020.

1. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to December 5, 2017.


MURIEL BOWSER
MAYOR

ATTEST: 
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, JANUARY 24, 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.

- Protest Hearing (Status)** **9:30 AM**
Case # 17-PRO-00063; Hoost, LLC, t/a Nomad Hookah Bar, 1200 H Street NE
License #87558, Retailer CT, ANC 6A
**Substantial Change (Change of Hours of Operation and Alcoholic Beverage
Sales for Sidewalk Café)**
- Protest Hearing (Status)** **9:30 AM**
Case # 17-PRO-00071; Giant of Maryland, LLC, t/a Giant #2381, 300 H Street
NE, License #91952, Retailer B, ANC 6C
Application to Renew the License
- Protest Hearing (Status)** **9:30 AM**
Case # 17-PRO-00073; YD Progress, LLC, t/a Lucky Corner Store, 5433
Georgia Ave NW, License #93115, Retailer B, ANC 4D
Application to Renew the License
- Show Cause Hearing (Status)** **9:30 AM**
Case # 17-CMP-00617; New York Avenue Beach Bar, LLC, t/a Halftime
Sports Bar, 1427 H Street NE, License #94107, Retailer CT, ANC 6A
Substantial Change in Operation Without Board Approval
- Show Cause Hearing (Status)** **9:30 AM**
Case # 17-CMP-00494; Big Chair, LLC, t/a Cheers @ The Big Chair, 2122
Martin Luther King, Jr Ave SE, License #85903, Retailer CR, ANC 8A
No ABC Manager on Duty
- Show Cause Hearing (Status)** **9:30 AM**
Case # 17-CMP-00642; Half Smoke, LLC, t/a Half Smoke, 651 Florida Ave
NW, License #100855, Retailer CR, ANC 1B
Failed to File Quarterly Statement

Board's Calendar

January 24, 2018

Show Cause Hearing (Status) 9:30 AM

Case # 17-CMP-00664; Bella Market, LLC, t/a Economy Market, 1804 D Street NE, License #94127, Retailer B, ANC 6A

Violation of Settlement Agreement, Failed to Make a Copy of Settlement Agreement Immediately Accessible

Show Cause Hearing (Status) 9:30 AM

Case # 17-CMP-00472; Matchbox, LLC, t/a The Matchbox, 517 8th Street SE License #79276, Retailer CR, ANC 6B

No ABC Manager on Duty

Show Cause Hearing (Status) 9:30 AM

Case # 17-CMP-00567; Black's 14th Street NW, LLC, t/a Pearl Dive Oyster Palace/Black Jack, 1612 14th Street NW, License #85382, Retailer CR, ANC 2F
Noise Violation

Show Cause Hearing* 10:00 AM

Case # 17-CMP-00464; Trabra, Inc., t/a Union Liquors, 1537 Good Hope Road SE, License #79922, Retailer A, ANC 8A

Ownership Interest Issues, Attempted Bribery, Willfully gave False Testimony

Show Cause Hearing* 11:00 AM

Case # 16-AUD-00086; Skenco, Inc., t/a Zorba's Café, 1612 20th Street NW License #7428, Retailer DR, ANC 2B

Failed to Maintain on Premises Three Years of Adequate Books and Records Showing All Sales

BOARD RECESS AT 12:00 PM

ADMINISTRATIVE AGENDA

1:00 PM

Protest Hearing* 1:30 PM

Case # 17-PRO-00045; N&D Entertainment, LLC, t/a Phoenix Restaurant Lounge, 2434 18th Street NW, License #107011, Retailer CR, ANC 1C

Application to Renew the License

Protest Hearing* 4:30 PM

Case # 17-PRO-00064; Albo Corp, t/a Eleven Market, 1936 11th Street NW License #60236, Retailer B, ANC 1B

Application to Renew the License

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

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

**NOTICE OF MEETING
INVESTIGATIVE AGENDA**

**WEDNESDAY, JANUARY 24, 2018
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On Wednesday, January 24, 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# 17-251-00235, Cobalt/30 Degrees/Level One, 1639-1641 R Street N.W., Retailer CT, License # ABRA-071833

2. Case# 17-CC-00129, Elephant & Castle Pub Restaurant, 900 19th Street N.W., Retailer CR, License # ABRA-089846

3. Case# 17-CC-00130, Ping Pong Dim Sum, 900 7th Street N.W., Retailer CR, License # ABRA-105730

4. Case# 17-CC-00131, Benning Liquors, 3445 Benning Road N.E., Retailer A, License # ABRA-098021

5. Case# 17-CC-00132, DC Shenanigans, 2450 18th Street N.W., Retailer CT, License # ABRA-088119

6. Case# 17-CMP-00700, Churreria Madrid Restaurant, 2505 Champlain Street N.W., Retailer CR, License # ABRA-060806

7. Case# 17-CC-00121, Martha’s Market, 2400 Minnesota Avenue S.E., Retailer B, License # ABRA-105036

8. Case# 17-AUD-00079, Aqua 301, 301 Water Street S.E., Retailer CR, License # ABRA-092094

9. Case# 17-AUD-00077, Bua Restaurant & Bar, 1635 P Street N.W., Retailer CR, License # ABRA-012993

10. Case# 17-251-00246, La Morenita Restaurant, 3539 Georgia Avenue N.W., Retailer CR, License # ABRA-086595

11. Case# 17-251-00237, La Morenita Restaurant, 3539 Georgia Avenue N.W., Retailer CR, License # ABRA-086595

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, JANUARY 24, 2018 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Safekeeping of license – Original Request. ANC 2A. SMD 2A04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Notti Bianche*, 824 New Hampshire Avenue NW, Retailer CR, License No. 105176.

2. Review Application for Safekeeping of license – Original Request. ANC 4C. SMD 4C01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Turntable Restaurant*, 5802 Georgia Avenue NW, Retailer CT, License No. 024778.

3. Review Request for Change of Hours. *Approved Hours of Operation and Alcoholic Beverage Sales and Consumption*: Sunday-Saturday 11am to 11:30pm. *Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption*: Sunday-Saturday 9am to 3am. ANC 2C. SMD 2C01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Regal Gallery Place Stadium 14*, 701 7th Street NW, Retailer CR, License No. 107853.

4. Review Request to Renew Storage Facility Permit originally issued March 13, 2012 and most recently renewed on February 9, 2017, for a facility located at 4221 Connecticut Avenue NW, Suite E. ANC 3F. SMD 3F02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Domaine DC, LLC*, 4221 Connecticut Avenue NW, Suite E, Storage Facility Permittee.

***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.**

**DISTRICT OF COLUMBIA BOARD OF ELECTIONS
MONTHLY MEETINGS**

Scheduled for the months of January 2018 through December 2018**

(All meetings are held at 1015 Half Street, SE, Suite 750)

DATE	TIME	LOCATION
Wednesday, January 10, 2018	10:30 AM	Suite 750
Thursday, February 1, 2018	10:30 AM	Suite 750
Wednesday, March 7, 2018	10:30 AM	Suite 750
Wednesday, April 4, 2018	10:30 AM	Suite 750
Wednesday, May 2, 2018	10:30 AM	Suite 750
Wednesday, June 6, 2018	10:30 AM	Suite 750
***Wednesday July 11, 2018	10:30 AM	Suite 750**
Wednesday, August 1, 2018	10:30 AM	Suite 750
Wednesday, September 5, 2018	10:30 AM	Suite 750
Wednesday, October 3, 2018	10:30 AM	Suite 750
***Wednesday, November 14, 2018	10:30 AM	Suite 750**
Wednesday, December 5, 2018	10:30 AM	Suite 750

**** This date is tentative and subject to change.*

BOARD OF ELECTIONS**CERTIFICATION OF ANC/SMD VACANCY**

The District of Columbia Board of Elections hereby gives notice that there is a vacancy in one (1) Advisory Neighborhood Commission office, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 8B03

Petition Circulation Period: Monday, January 22, 2018 thru Monday, February 12, 2018

Petition Challenge Period: Thursday, February 15, 2018 thru Thursday, February 22, 2018

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections
1015 Half Street, SE, Suite 750
Washington, DC 20003**

For more information, the public may call **727-2525**.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Final Notice of Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of final action taken at its January 10, 2018 meeting in relocating Precinct #6, Ward 2 Polling Place.

The public is advised that the proposed voting area for Precinct #6 will be changed from:

**Georgetown Community Library
3260 R Street, N.W.
“Large Meeting Room”**

and moved to:

**Duke Ellington High School
3500 R Street, N.W.
“Gallery”**

Please note that the relocation will be effective beginning with the upcoming June 19, 2018, Mayoral Primary Election. The Board will individually notify all registered voters in the precinct of this change.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Final Notice of Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of final action taken at its January 10, 2018 meeting in relocating Precinct #24, Ward 1 Polling Place.

The public is advised that the proposed voting area for Precinct #24 will be changed from:

**Mary's Center
2355 Ontario Road, N.W.
"Multi-Purpose Room"**

and moved to:

**Marie Reed Elementary School
2201 18th Street, N.W.
"Multi-Purpose Lounge"**

Please note that the relocation will be effective beginning with the upcoming June 19, 2018, Mayoral Primary Election. The Board will individually notify all registered voters in the precinct of this change.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Final Notice of Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of final action taken at its January 10, 2018 meeting in relocating Precinct #59, Ward 4 Polling Place.

The public is advised that the proposed voting area for Precinct #59 will be changed from:

**Coolidge Senior High School
6315 5th Street, N.W.
“Gymnasium”**

and moved to:

**Takoma Community Center
300 Van Buren Street, N.W.
“Multi-Purpose Room”**

Please note that the relocation will be effective beginning with the upcoming June 19, 2018, Mayoral Primary Election. The Board will individually notify all registered voters in the precinct of this change.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Final Notice of Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of final action taken at its January 10, 2018 meeting in relocating Precinct #91, Ward 6 Polling Place.

The public is advised that the proposed voting area for Precinct #91 will be changed from:

**Friendship Public Charter School Chamberlain Campus
1345 Potomac Avenue, S.E.
“Multi-Purpose Room”**

and moved to:

**Watkins Elementary School
420 12th Street, S.E.
“Multi-Purpose Room”**

Please note that the relocation will be effective beginning with the upcoming June 19, 2018, Mayoral Primary Election. The Board will individually notify all registered voters in the precinct of this change.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Final Notice of Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of final action taken at its January 10, 2018 meeting in relocating Precinct #92, Ward 7 Polling Place.

The public is advised that the proposed voting area for Precinct #92 will be changed from:

**Zion Baptist Church-Eastland
1234 Kenilworth Avenue, N.E.
“Church Hall”**

and moved to:

**Kenilworth Recreation Center
4321 Ord Street, N.E.
“Gymnasium”**

Please note that the relocation will be effective beginning with the upcoming June 19, 2018, Mayoral Primary Election. The Board will individually notify all registered voters in the precinct of this change.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Final Notice of Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of final action taken at its January 10, 2018 meeting in relocating Precinct #113, Ward 7 Polling Place.

The public is advised that the proposed voting area for Precinct #113 will be changed from:

**East River Washington Senior Wellness Center
3001 Alabama Avenue, S.E.
“Multi-Purpose Room”**

and moved to:

**Hillcrest Recreation Center
3100 Denver Street, S.E.
“Gymnasium”**

Please note that the relocation will be effective beginning with the upcoming June 19, 2018, Mayoral Primary Election. The Board will individually notify all registered voters in the precinct of this change.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Final Notice of Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of final action taken at its January 10, 2018 meeting in relocating Precinct #129, Ward 2 Polling Place.

The public is advised that the proposed voting area for Precinct #129 will be changed from:

**Martin Luther King Jr. Library
901 G Street, N.W.
“Main Lobby”**

and moved to:

**First Congregational United Church of Christ
945 G Street, N.W.
“Multi-Purpose Room”**

Please note that the relocation will be effective beginning with the upcoming June 19, 2018, Mayoral Primary Election. The Board will individually notify all registered voters in the precinct of this change.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Final Notice of Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of final action taken at its January 10, 2018 meeting in relocating Precinct #136, Ward 3 Polling Place.

The public is advised that the proposed voting area for Precinct #136 will be changed from:

**Leading Age
2519 Connecticut Avenue, N.W.
“Conference Room”**

and moved to:

**All Souls Episcopal Church
2300 Cathedral Avenue, N.W.
“Church Hall”**

Please note that the relocation will be effective beginning with the upcoming June 19, 2018, Mayoral Primary Election. The Board will individually notify all registered voters in the precinct of this change.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Final Notice of Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of final action taken at its January 10, 2018 meeting in relocating the Ward 7 Early Voting Site.

The public is advised that the proposed Early Voting Site for Ward 7 will be changed from:

**Benning(Dorothy Height) Neighborhood Library
3935 Benning Road N.E.
“Large Meeting Room”**

and moved to:

**Deanwood Recreation Center
1350 49th Street, N.E.
“Gymnasium”**

Please note that the relocation will be effective beginning with the upcoming June 19, 2018, Mayoral Primary Election. The Board will individually notify all registered voters in the precinct of this change.

For further information, members of the public may contact the Board of Elections at 727-2525.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FUNDING AVAILABILITY

**Watershed Protection Projects to Educate and Train
Green Zone Environmental Program Participants**

The Department of Energy and Environment (the Department) seeks eligible entities to provide education, training, and hands-on experiences activities to participants in the Green Zone Environmental Program (GZEP). Projects should focus on improving water quality and, in particular, reducing the impacts of stormwater runoff on District water bodies. Additionally, these projects should provide GZEP participants youth and young adults with entry-level skills in the green economy. The amount available for this grant announcement is approximately \$60,000. An applicant can request up to \$15,000. DOEE plans to make multiple awards.

Beginning 1/19/2018, the full text of the Request for Applications (RFA) will be available on the Department's website. A person may obtain a copy of this RFA by any of the following means:

Download from the Department's website, www.doe.dc.gov. Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

Email a request to GZEP2018.watershedprojects@dc.gov with "Request copy of RFA 2018-1812-WPD" in the subject line.

Pick up a copy in person from the Department's reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call Emily Rice at (202) 535-2679 and mention this RFA by name.

Write DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Emily Rice RE:2018-1812-WPD" on the outside of the envelope.

The deadline for application submissions is 2/23/2018, at 4:30 p.m. Five hard copies must be submitted to the above address **OR** a complete electronic copy must be e-mailed to GZEP2018.watershedprojects@dc.gov for receipt by that time.

Eligibility: All the checked institutions below may apply for these grants:

- Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;
- Faith-based organizations;
- Government agencies
- Universities/educational institutions; and
- Private Enterprises.

For additional information regarding this RFA, write to: GZEP2018.watershedprojects@dc.gov.

DEPARTMENT OF FORENSIC SCIENCES**NOTICE OF PUBLIC MEETING****Science Advisory Board Meeting
Thursday, January 11, 2018
9:00 a.m.
Draft Agenda**

On Thursday, January 11, 2018, the Department of Forensic Sciences will be hosting the Science Advisory Board Meeting at the Consolidated Forensic Laboratory, 401 E Street SW, Washington, DC 20024 in Room 1224. The meeting will commence at 9:00 a.m. Any questions should be directed to Herb Thomas, 202-727-8267. Mr. Thomas can also be reached at Herbert.Thomas@dc.gov.

Roll Call, Review of Minutes from last meeting, Approval of Minutes

Quality Update – Brittany Graham

Public Health Lab Update – Dr. Anthony Tran

Old Business, New Business

Future meeting dates and locations

Closing and adjournment

DC DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**DISTRICT OF COLUMBIA HOUSING PRODUCTION TRUST FUND
BOARD MEETINGS****Notice of the 2018 Public Meeting Schedule**

The DC Department of Housing and Community Development hereby announces that the District of Columbia Housing Production Trust Fund Board will hold regularly public meetings in the year 2018, on the fourth Thursday of each month at 10:30 a.m. on the following dates:

January 25, 2018 Regular Meeting
February 22, 2018 Regular Meeting
March 22, 2018 Regular Meeting
April 26, 2018 Regular Meeting
May 24, 2018 Regular Meeting
June 28, 2018 Regular Meeting
July 27, 2018 Regular Meeting
August 23, 2018 Regular Meeting
September 27, 2018 Regular Meeting
October 25, 2018 Regular Meeting
November 15, 2018 Regular Meeting
December 27, 2018 Regular Meeting

The public meetings shall take place at the DHCD Headquarters, 1800 Martin Luther King Jr., Avenue, SE. For additional information, please call 202-442-7200.

DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF PUBLIC MEETINGS

Board of Commissioners

1133 NORTH CAPITOL STREET, NORTHEAST
WASHINGTON, D.C. 20002-7599
202-535-1000

The regular meetings of the Board of Commissioners of the District of Columbia Housing Authority are held in open session on the second Wednesday of each month. The following dates and times of the meetings are for the Year 2018. All meetings are held at 1133 North Capitol Street, NE, Washington, DC 20002 unless otherwise indicated.

February 14, 2018	DCHA - 1133 North Capitol St., NE	1:00 p.m.
March 14, 2018	DCHA - 1133 North Capitol St., NE	1:00 p.m.
April 11, 2018	Greenleaf 203 N Street SW, WDC 20024	1:00 p.m.
May 9, 2018	Ft. DuPont/Stoddert 155 Ridge Road SE, WDC 20019	1:00 p.m.
June 13, 2018	DCHA - 1133 North Capitol St., NE	1:00 p.m.
July 11, 2018	Sibley Plaza 1140 North Capitol St., NW 20002	1:00 p.m.
September 12, 2018	DCHA - 1133 North Capitol St., NE	1:00 p.m.
October 10, 2018	Highland 662 Atlantic Street, SE WDC 20032	1:00 p.m.
November 14, 2018	Benning Terrace 4450 G Street SE, WDC 20019	1:00 p.m.
December 12, 2018	Annual & Regular meeting DCHA - 1133 North Capitol St., NE	1:00 p.m.

KIPP DC PUBLIC CHARTER SCHOOLS**REQUEST FOR PROPOSALS****Teaching Residency Consulting Services**

KIPP DC is soliciting proposals from qualified vendors for Teaching Residency Consulting Services. The RFP can be found on KIPP DC's website at <http://www.kippdc.org/procurement>. Proposals should be uploaded to the website no later than 5:00 P.M., EST, on January 30, 2017. Questions can be addressed to dane.anderson@kippdc.org.

DISTRICT OF COLUMBIA OFFICE OF PUBLIC-PRIVATE PARTNERSHIPS**REQUEST FOR ALTERNATIVE PROPOSALS - QUALIFICATIONS NO. DOC357802****Renovation of the Henry J. Daly Building**

Through the District of Columbia's Office of Public-Private Partnerships ("DC OP3"), the District received an unsolicited proposal for the Henry J. Daly Building, submitted by District Infrastructure Group ("Original Unsolicited Proposer"), which it deemed favorable. DC OP3, in coordination with the District Department of General Services ("DGS") and the Metropolitan Police Department ("MPD"), hereby gives notice of its release of a Request for Alternative Proposals-Qualifications ("RFAP-Q") for the renovation of the Daly Building ("Project") pursuant to Section 109 of the Public-Private Partnerships Act of 2014, effective March 11, 2015 (D.C. Law 20-228; D.C. Official Code § 2-273.04) as implemented through regulations contained in Chapter 48 (Public-Private Partnerships), of Title 27 (Contracts and Procurement) of the D.C. Municipal Regulations (27 DCMR 4805 et seq.). The District, through this RFAP-Q, is seeking Statements of Qualifications ("SOQs") from teams interested in submitting alternative proposals to design, renovate, finance, and maintain the Project through a long-term, performance-based contract. The District will retain ownership of the property and continue to manage all tenants and leasing.

Statements of Qualification are due by **3:00 p.m. (Eastern) on Monday, March 5, 2018**.

DC OP3, in coordination with DGS and MPD, will host a pre-proposal conference to provide information on the project scope and the procurement process. Additionally, tours of the Daly Building will be arranged for interested parties, by RSVP only. A link to RSVP for the event is available at: <https://op3.dc.gov/daly>.

The pre-proposal conference is scheduled for **9:00 a.m. (Eastern) on Monday, January 29, 2018** in the Old Council Chambers at 441 4th Street NW, Washington, DC 20001.

Interested parties should visit <https://op3.dc.gov/daly> for more information and to access the RFAP-Q.

Please contact Todd Allen, Contracting Officer, at DalyP3@dc.gov or 202-724-3969 with any procurement-related questions.

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA**REQUEST FOR APPLICATIONS****Grant to Promote District of Columbia
Voting Rights and Statehood****Release Date: Monday, January 22, 2018****Application Due Date: Friday, February 23, 2018****SECTION 1: FUNDING OPPORTUNITY**

Effective January 22, 2018, the Office of the Secretary, pursuant to the City-Wide Grants Manual and Sourcebook (Section 7.2) issues the Request For Application (RFA) entitled Grant to Promote District of Columbia Voting Rights and Statehood to provide all eligible applicants the opportunity to submit specific program activities that educate Americans about Mayor Muriel E. Bowser and the New Columbia Statehood Commission's initiatives to achieve full voting rights in the United States Congress, and, ultimately, statehood for Washington, DC. This RFA will be open on January 22, 2018 and will close on Friday, February 23 at Noon.

Background

The residents of Washington, DC serve in the military and pay federal taxes but continue to lack full democracy and the rights that residents of other states and municipalities enjoy, including autonomy from congressional oversight and obstruction, voting representation in Congress.

The District of Columbia Home Rule Act of 1973 provided limited "Home Rule" for the District by allowing election of a Mayor and Council of the District of Columbia. Since the inception of Home Rule, the District's elected officials and various groups have pursued strategies to raise awareness and work towards achieving voting representation in the U.S. House of Representatives and U.S. Senate and statehood. Yet democracy for the District has been derailed by the Charter itself, the courts, non-germane proposals restricting the District on must-pass Congressional legislation, riders on appropriations bills, and insufficient support for enactment of various budget autonomy and statehood proposals in the United States Congress.

For over a decade, the District has allocated funds to nonprofit organizations for educating citizens around the nation and pursuing strategies that highlight the continued lack of full democracy in the nation's capital. In addition, since 1990, District residents have elected a "shadow" delegation to Congress in order to promote statehood, and District residents have voted for, and the Mayor has supported, amending the Charter to allow for budget autonomy. The DC Council established the New Columbia Statehood Commission in 2014, adding to the District's advocacy for full democracy. In November

2016, over 86% of voters in Washington, DC overwhelmingly approved an advisory referendum, confirming the desire to become the 51st state.

The Office of the Secretary is charged with responsibility for managing the funds allocated for voting rights and statehood initiatives for District residents. The Fiscal Year 2018 Budget authorized \$200,000 for the Office of the Secretary to issue competitive grants to promote voting rights and statehood for Washington, DC.

Purpose of the Program

The objective of this grant is to strengthen awareness for statehood for Washington, DC. This effort will require outreach, canvassing, and measurement of support of elected officials and residents across the country and visitors to the nation's capital. The ultimate goal of this program is that the grantee(s) increase congressional and nationwide support for statehood for Washington, DC.

This program is funded with FY2018 funds, which must be expended by September 30, 2018, with a full accounting provided to the Office of the Secretary no later than October 31, 2018.

SECTION II: AWARD INFORMATION

\$200,000 in District of Columbia funds will be available on a competitive basis as follows:

- A. 40% of the funds will be awarded on a competitive basis to an organization or organizations dedicated specifically to engaging youth (high school, college students and/or graduate students or other young adults) in civics, government, and/or voting rights in innovative ways by raising awareness through campaigns that include a branding and messaging strategy that include social media, digital media, print media, and other forms of communications. Such dedication can be evidenced by the organization's purpose, or through dedicated programming within the organization aimed at youth engagement.
- B. 60% of the funds will be awarded to a non-profit organization or organizations that engage in targeted campaigns that educate and raise awareness for the lack of voting rights and statehood for Washington, DC.

The release date of this Request for Applications (RFA) is January 22, 2018. This grant process conforms to the guidelines established in the District's City-Wide Grants Manual and Sourcebook (which is available at <http://opgs.dc.gov>).

All funds will be disbursed upon award of the grant, with a report and budget accounting required to be filed by September 30, 2018, and a final report due no later than October 31, 2018. All proposals must include a detailed description of how the funds will be spent, as well as a project plan, timeline, and metrics associated with tasks outlined in the

proposal. Creative proposals (which include fresh ideas) that specifically address the requirements for an award are required to ensure success. Proposals that do not contain all requested information will not be considered.

SECTION III: ELIGIBILITY INFORMATION

Eligibility for this grant is restricted to:

- A. Nonprofits (with or without a 501(c) (3) certification) and community-based organizations with a current District of Columbia business license, a “Clean Hands” certification that the organization does not owe money to the District or Federal government, and no outstanding or overdue final reports for grants received from the District government for similar purposes.
- B. Organizations with a history of advocating for democracy and self-determination for the District of Columbia include, but not limited to, District voting rights and statehood.
- C. Organizations with a financial track record and who are not reliant on another organization under a fiscal agent arrangement.
- D. If the organization is a past grantee, organization has met all past reporting and accounting requirements set by the Secretary of the District of Columbia.

SECTION IV: APPLICATION AND SUBMISSION INFORMATION

This Request for Applications is posted at <http://os.dc.gov> and <http://opgs.dc.gov>. Requests for copies of this RFA and inquiries may be submitted to: Office of the Secretary of the District of Columbia, 1350 Pennsylvania Avenue, NW, Suite 419, Washington, DC 20004 or secretary@dc.gov, or 202-727-6306.

Application Forms and Content

All applications will be judged against the following requirements:

- 1. All proposals must be written in clear, concise and grammatically correct language. Narratives shall not exceed 2,500 words and must include answers to all the requirements specified in this Request for Applications.
- 2. There is no set form on which applications must be written, but please be clear and brief.
- 3. The grant applicant shall focus efforts on education and outreach to residents of the 50 States, and not just members of Congress. Funds shall not be used to lobby directly or through grassroots advocacy, for or against particular pieces of legislation.
- 4. Grant applicants’ efforts shall not significantly consist of paid media advertisements.
- 5. No more than 25% of awarded funds can go to pay for salaries.

6. Proposal must be specific as to how funds will be expended including:
 - a. Names and resumes of all staff and consultants proposed to work on the program.
 - b. Justification of the need for grant funds.
 - c. Specific activities for which funds will be used.
 - d. Proposed line item budget.
 - e. Agreement to submit all deliverables listed in section VI.
 - f. Specific performance metrics and evaluation plans.
 - g. Thorough timeline and benchmarks.
7. All certifications listed in the Application Process section **must** be included or the application will be disqualified.

Application Process & Requirements

Responses to this Request for Application shall be submitted via email to secretary@dc.gov or hard copy delivered to the Office of the Secretary, 1350 Pennsylvania Avenue, NW, Suite 419, Washington, DC 20004. Applications delivered to the Office of the Secretary must be date stamped no later than Noon on February 23, 2018.

The following criteria for all applications must be met. Applications that do not meet the requirements specified below will be disqualified from consideration:

1. All proposals shall include only written narrative without any additional input (such as DVDs, video, etc.).
2. All files submitted shall be in any of the following formats: MS Word2003 or 2007, PDF, MS Excel, HTML, MS Publisher or any format compatible with those mentioned.
3. The following is required, but are not included in the 2,500 word narrative:
 - a. The EIN, also called the Federal Tax ID number of the organization;
 - b. The website and main contact information for the organization;
 - c. A list of the current Board of Directors including affiliation and contact information;
 - d. Biography or resume of all proposed project staff; and
 - e. A copy of the organization's most recent Form 990 submission to the Internal Revenue Service.
4. Copy of the most recent and complete set of audited financial statements available for the organization. If audited financial statements have never been prepared due to the size or newness of an organization, the applicant must provide an organizational budget, an income statement (or profit and loss statement), and a balance sheet certified by an authorized representative of the organization, and any letters, filings, etc. submitted to the IRS within the three (3) years before the date of the grant application.

5. If the applicant is a 501 (c) (3), evidence of 501(c) (3) status, a current business license, and copies of any correspondence received from the IRS within the three (3) years preceding the grant application that relates to the organization's tax status (*e.g.*, suspension, revocation, recertification, etc.)
6. Application narrative shall be accompanied by a "Statement of Certification," the truth of which is attested to by the Executive Director or the Chair of the Board of Directors of the applicant organization, which states:
 - a. The individuals, by name, title, address, email, and phone number who are authorized to negotiate with the Office of the Secretary on behalf of the organization;
 - b. That the applicant is able to maintain adequate files, records, and can meet all reporting requirements;
 - c. That all fiscal records are kept in accordance with Generally Accepted Accounting Principles (GAAP) and account for all funds, tangible assets, revenue, and expenditure; that all fiscal records are accurate, complete and current at all times; and that these records will be made available for audit and inspection as required;
 - d. That the applicant is current on payment of all federal and District taxes, including Unemployment Insurance taxes and Workers' Compensation premiums. This statement of certification shall be accompanied by a certificate from the District of Columbia Office of Tax and Revenue (OTR) stating that the entity has complied with the filing requirements of District of Columbia tax laws and has paid taxes due to the District of Columbia or is in compliance with any payment agreement with OTR;
 - e. That the applicant has the demonstrated administrative and financial capability to provide and manage the proposed services and ensure an adequate administrative, performance and audit trail;
 - f. That the applicant is not proposed for debarment or presently debarred, suspended, or declared ineligible, as required by Executive Order 12549, "Debarment and Suspension," and implemented by 2 CFR 180, for prospective participants in primary covered transactions and is not proposed debarment or presently debarred as a result of any actions by the District of Columbia Contract Appeals Board, the Office of Contracting and Procurement, or any other District contract regulating Agency;
 - g. That the applicant has the necessary organization, experience, accounting and operational controls, and technical skills to implement the program, or the ability to obtain them;
 - h. That the applicant has the ability to comply with the required performance schedule, taking into consideration all existing and reasonably expected commercial and governmental business commitments;
 - i. That the applicant has a satisfactory record performing similar activities as detailed in the award;
 - j. That the applicant has a satisfactory record of integrity and business ethics (Clean Hands Certificate);

- k. That the applicant is in compliance with the applicable District licensing and tax laws and regulations (Clean Hands Certificate);
- l. That, if the applicant has previously won a similar award from the District of Columbia government, it has submitted all reports due and owing;
- m. That the applicant complies with provisions of the Drug-Free Workplace Act;
- n. That the applicant meets all other qualifications and eligibility criteria necessary to receive an award under applicable laws and regulations;
- o. The applicant agrees to indemnify, defend, and hold harmless the Government of the District of Columbia and its authorized officers, employees, agents, and volunteers from any and all claims, actions, losses, damages, and/ or liability arising out of this grant from any cause whatsoever, including the acts, errors, or omissions of any person and for any costs or expenses incurred by the District on account of any claim therefore, except where such indemnification is prohibited by law; and
- p. If any of the organization's officers, partners, principals, members, associates or key employees, within the last three (3) years prior to the date of the application, has:
 - i. Been indicted or had charges brought against them (if still pending) and/or been convicted of (a) any crime or offense arising directly or indirectly from the conduct of the applicant's organization or (b) any crime or offense involving financial misconduct or fraud, or
 - ii. Been the subject of legal proceedings arising directly from the provision of services by the organization. If the response is in the affirmative, the applicant shall fully describe any such indictments, charges, convictions, or legal proceedings (and the status and disposition thereof) and surrounding circumstances in writing and provide documentation of the circumstances.

Timeline

All applications shall be submitted by email to secretary@dc.gov or delivered to the Office of the Secretary, 1350 Pennsylvania Avenue, NW, Suite 419, Washington, DC 20004 no later than Noon on Friday, February 23, 2018. The Office of the Secretary is not responsible for misdirected email or late deliveries.

Terms and Conditions

1. Funding for this award is contingent on the continued funding from the grantor, including possible funding restrictions pursuant to the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341,1342,1349-51, and 1511-1519 (2004); the District Anti-Deficiency Act, D.C. Official Code §§ 1-206.03(e), 47-105, and 47-355.01-355.08 (2001); and Section 446 of the District of Columbia Home Rule Act, D.C. Official Code § 1-204.46 (2014 Repl.). Nothing in this Request for Applications shall create an obligation of the District in anticipation of an appropriation by Congress and/or the Council of the District of Columbia (the "Council") for such

- purpose as described herein. The District's legal liability for any payment pursuant to this RFA shall not arise or obtain in advance of the lawful availability of appropriated funds for the applicable fiscal year as approved by Congress and/or the Council, and shall become null and void upon the lawful unavailability of such funds under these or other applicable statutes and regulations.
2. The Office of the Secretary reserves the right to accept or deny any or all applications if the Secretary determines it is in the best interest of the government to do so. The Secretary shall notify the applicant if it rejects an applicant's proposal. The Secretary may suspend or terminate an outstanding RFA pursuant to the policies set forth in the City-Wide Grants Manual and Sourcebook.
 3. The Office of the Secretary reserves the right to issue addenda and/or amendments subsequent to the issuance of the RFA, or to rescind the RFA.
 4. The Office of the Secretary shall not be liable for any costs incurred in the preparation of applications in response to the RFA. Applicant agrees that all costs incurred in developing the application are the applicant's sole responsibility.
 5. The Office of the Secretary may conduct pre-award on-site visits to verify information submitted in the application and to determine if the applicant's facilities are appropriate for the services intended.
 6. The Office of the Secretary may enter into negotiations with an applicant and adopt a firm funding amount or other revision of the applicant's proposal that may result from negotiations.
 7. To receive an award, the selected grantee shall provide in writing the name of all of its insurance carriers and the type of insurance provided (e.g., its general liability insurance carrier and automobile insurance carrier, workers' compensation insurance carrier, fidelity bond holder (if applicable), and, before execution of the award, a copy of the binder or cover sheet of their current policy for any policy that covers activities that might be undertaken in connection with performance of the grant, showing the limits of coverage and endorsements. All policies (except the workers' compensation, errors and omissions, and professional liability policies) that cover activities that might be undertaken in connection with the performance of the grant, shall contain additional endorsements naming the Government of the District of Columbia and its officers, employees, agents and volunteers as additional named insured with respect to liability abilities arising out of the performance of services under the award. The grantee shall require their insurance carrier of the required coverage to waive all rights of subrogation against the District, its officers, employees, agents, volunteers, contractors, and subcontractors.

8. To receive an award, the selected grantee must submit a completed IRS Form W-9 and a banking ACH form from the District of Columbia with the signed Notice of Grant Agreement (NOGA).
9. If there are any conflicts between the terms and conditions of the RFA and any applicable federal or local law or regulation, or any ambiguity related thereto, then the provisions of the applicable law or regulation shall control and it shall be the responsibility of the applicant to ensure compliance.

SECTION V: APPLICATION REVIEW INFORMATION

All proposals will be reviewed by a panel selected by the Secretary of the District of Columbia and may include reviewers from the Executive Office of the Mayor as well as outside reviewers. The ratings awarded each applicant shall be public information and shall be made based on the following criteria:

1. Demonstrated ability to make progress toward increasing nationwide awareness of the lack of voting rights and statehood for Washington, DC during the grant period: 50%;
2. Specificity and feasibility of proposed activities: 25%;
3. History of effectively supporting democracy and statehood efforts: 10%; and
4. Specificity of performance measures: 15%.

SECTION VI: AWARD ADMINISTRATION INFORMATION

Grant award (s) will be announced on the Office of the Secretary website no later than March 30, 2018. Unsuccessful applicants will be notified by email at the address from which the application was sent (unless otherwise specified) prior to the announcement of the winners. Disbursement of grant funds will occur as soon as practicable following the announcement of the selection of the awardee(s).

Deliverables

Project requirements that must be submitted on or before due dates include:

1. A project plan with detailed expense projections for the amount requested. (Due within 15 calendar days of grant award.)
2. Progress report detailing expenditures to date and summary of work completed shall be included with the final report due October 31, 2018.
3. Expenditure of grant funds before September 30, 2018.
4. A final report provided by the grant recipient(s) no later than October 31, 2018. The close out or final report shall include detailed accounting of all expenditures for each project and summary of work completed under the grant.

SECTION VII: AGENCY CONTACT

All inquiries regarding this Request for Applications should be directed to:

Lauren C. Vaughan
Secretary of the District of Columbia
Office of the Secretary of the District of Columbia
13501 Pennsylvania Avenue, NW, Suite 419
Washington, DC 20004
Secretary@dc.gov
202-727-6306

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Audit Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Audit Committee will be holding a meeting on Thursday, January 25, 2018 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or لمانley@dcwater.com.

DRAFT AGENDA

- | | | |
|----|---|------------------|
| 1. | Call to Order | Chairman |
| 2. | Summary of Internal Audit Activity -
Internal Audit Status | Internal Auditor |
| 3. | Executive Session | Chairman |
| 4. | Adjournment | Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Finance and Budget Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Finance and Budget Committee will be holding a meeting on Tuesday, January 23, 2018 at 11:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dcwater.com.

For additional information please contact: Linda R. Manley, Board Secretary at (202) 787-2332 or lmanley@dcwater.com.

DRAFT AGENDA

- | | | |
|----|---------------------------------------|------------------------------|
| 1. | Call to Order | Chairman |
| 2. | December 2016 Financial Report | Director of Finance & Budget |
| 3. | Agenda for February Committee Meeting | Chairman |
| 4. | Adjournment | Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Joint Meeting Retail Rates and Finance and Budget

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Retail Water and Sewer Rates Committee will be holding a meeting on Tuesday, January 23, 2018 at 10:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or لمانley@dewater.com.

DRAFT AGENDA

- | | | |
|----|---------------------|-------------------------|
| 1. | Call to Order | Committee Chairman |
| 2. | Monthly Updates | Chief Financial Officer |
| 3. | Committee Work plan | Chief Financial Officer |
| 4. | Other Business | Chief Financial Officer |
| 5. | Adjournment | Chief Financial Officer |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Retail Water and Sewer Rates Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Retail Water and Sewer Rates Committee will be holding a Special meeting on Tuesday, January 23, 2018 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C 20032. Below is the draft agenda for this meeting. A final agenda will be posted to the DC Water’s website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or lmanley@dcwater.com.

DRAFT AGENDA

- I. Call to Order Committee Chair
- II. Discussion of Proposed System Availability Fee Chief Financial Officer
- III. Adjournment Committee Chair

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

Application No. 19511 of the DC Department of General Services, pursuant to 11-X DCMR § 901.2 for special exception relief from the maximum lot occupancy requirements of Subtitle C § 1603.3 and the minimum parking requirements of Subtitle C § 701.5, to replace an existing one-story public recreation and community center with a new two-story public recreation and community center in the RF-1 zone at premises 301 Franklin Street, N.E. (Square 3350, Lot 801).

HEARING DATES: June 14, 2017¹, June 21, 2017, and June 28, 2017
DECISION DATES: June 21, 2017 and June 28, 2017

DECISION AND ORDER

The DC Department of General Services (“DGS”), the property owner of the subject property (the “Owner” or the “Applicant”), submitted an application for special exception relief to allow the construction of a public recreation and community center at the property. Following a public hearing on June 21, 2017, the Board of Zoning Adjustment (“Board” or “BZA”) voted to approve the application. Shortly after, the Board received a report from the Advisory Neighborhood Commission (“ANC”) 5E in opposition to the proposal. As a result, on June 28, 2017, the Board vacated its initial vote, and reconsidered the application so that it could address the ANC’s issues and concerns relating to the proposal. For the reasons which follow, the Board voted to approve the application.

PRELIMINARY MATTERS

Self-Certification. This is a self-certified application pursuant to Subtitle Y §300.5. (Ex. 5.) The Applicant is the DC Department of General Services, which was represented by Meredith Moldenhauer, Esq. and Eric DeBear, Esq.

Notice of Application and Notice of Public Hearing. By memoranda dated April 18, 2017, the Office of Zoning sent notice of the application to the Office of Planning (“OP”), the District Department of Transportation (“DDOT”), the Councilmember for Ward 5, Advisory Neighborhood Commission (“ANC”) 5E, the ANC for the area within which the subject property is located, and the single-member district ANC 5E-01. Pursuant to Subtitle Y § 402.1, on April 18, 2017, the Office of Zoning mailed notice of the hearing to the Applicant, ANC 5E, and the owners of all property within 200 feet of the subject property.

ANC Report. By an undated report received on June 23, 2017, the ANC 5E resolved by a vote of 6-4 to oppose the request for relief from the parking requirements. (Ex. 63.) The ANC’s

¹ The hearing was postponed from June 14, 2017 to June 21, 2017 at the Applicant’s request.

primary concern was that persons with disabilities would have to walk to the facilities and that not providing the required parking spaces would exacerbate parking problems in the neighborhood.

Government Reports

Office of Planning (“OP”) Report. OP submitted a report dated June 6, 2017 recommending approval of the application. (Ex. 32.) In its report, OP noted that it also supported the DDOT recommendation to provide additional bike parking spaces at the site. OP’s representative, Karen Thomas, testified at the public hearing in support of the application. According to Ms. Thomas, DDOT advised that it would not support a curb cut to provide access for parking at the site. (Transcript of Hearing, (“Tr.”), June 21, 2017, p. 114-116.)

DDOT Report. DDOT submitted a report dated June 1, 2017 indicating that it reviewed the application and recommended approval of the application on the condition that the Applicant provide a minimum of six short-term bicycle parking spaces, as required by the Zoning Regulations, plus four additional bicycle parking spaces “to meet the zoning TDM requirement² for parking relief.” (Ex. 31.)

Request for Party Status

No requests for party status were received by the Board.

Persons in Support / Opposition

The Board received approximately 22 letters in support of the proposal (Exs. 29, 36-43, and 45-59.) In addition, three nearby neighbors testified in support of the proposal: Nalini Mani, Marnee Robinson, and Sally Hobough. One of the letters in support is a letter from “The Friends of Edgewood Recreation Center”, which states that it supports the continuation of the use of a recreation center without off-street parking. (Ex. 29.)

There were no submissions from persons in opposition to the proposal, and no persons testified at the hearing in opposition to the proposal.

Applicant’s Case

The Applicant provided evidence and testimony from Brent Sisco, of the DC Department of Parks and Recreation, and Drew Deering of Moody Nolan Architects, an expert in architecture.

² As will be explained more fully, the Applicant must comply with Subtitle C § 703.4 of the Zoning Regulations, which requires that the Applicant provide a transportation demand management plan (“TDM plan”) that is approved by DDOT.

FINDINGS OF FACT

The Subject Property and Surrounding Area

1. The subject property is currently utilized as the “Edgewood Playground” and is improved with a small single-story general purpose recreation center, basketball courts, and a community garden.
2. The recreation center is part of an active public park which does not contain a curb cut. There is no vehicular access and no vehicular parking on-site. Access to the park is via stairs and a walkway that are used for pedestrian access only. (OP Report, Ex. 32.)
3. The existing recreation center has been used for the past 70 years mainly by neighborhood residents who primarily walk to the park. (OP Report, Ex. 32.)
4. The property is bound by Franklin Street, N.E. to the north and Evarts Street, N.E. to the south. The topography between Franklin Street and Evarts Street is variable.
5. The property abuts an unpaved, grass covered alley, which also abuts an apartment building. The alley is not currently used for vehicular access. (OP Report, Ex. 32.)
6. Directly to the east of the property are medium density apartment buildings and a parking lot for the apartments.
7. The properties to the west are accessory to the existing recreation center and have tennis courts, a playground structure, and playing fields.
8. Much of the surrounding area is developed with moderate density housing or apartment buildings with private off-street parking through an alley system. (OP Report, Ex. 32.)

The Application

9. The Applicant proposes to demolish the very small existing recreation center and construct a 14,847 square feet (“sf”) two-story recreation center with an entrance from Evarts Street, N.E.
10. The new facility will include a gymnasium, multipurpose classrooms, and a fitness room. The facility will also feature a green roof with an “urban farm”. As part of the project, the Applicant will refurbish the existing basketball courts and add a “splash pad” water feature to the property.³

³ The project will also include work adjacent to the subject property but within the park: the Applicant plans to refurbish the tennis courts and replace the existing playing field with a natural turf field.

11. The Applicant will retain the one existing mature tree at the site along the northern property line. The other trees around the perimeter of the site will not be affected by this application.
12. The Applicant proposes no vehicular parking spaces at the property.
13. The Applicant has submitted a TDM plan in connection with this Application which is consistent with DDOT's recommendations. The TDM plan includes a proposal for 17 bicycle racks for short-term bicycle spaces. Nine of the racks will be located adjacent to the proposed entrance of the facility and eight of the racks will be located at the corner of Evarts Street and 3rd Street. The TDM plan also states that the Applicant will work with DDOT and Capital Bikeshare to include a bike share station on-site or in a public space abutting the site. (Ex. 44, Tab D.)

The Required Zoning Relief

14. Subtitle C §1603.3 allows a maximum lot occupancy of 20% for public recreation and community centers. Since the proposed lot occupancy of 28.5% exceeds this amount, relief is required from this provision. Relief from Subtitle C § 1603.3 is allowed by special exception pursuant to Subtitle C § 1610.1, up to a maximum lot occupancy of 40% under Subtitle C § 1603.2.
15. Subtitle C § 701.5 requires 0.25 vehicle parking spaces per each 1,000 sf (in excess of 2,000 sf) for a public recreation and community center, or here, three parking spaces for the proposed new structure of 14,847 sf. Since no parking will be provided, relief is required from this provision. Relief from Subtitle C § 701.5 is allowed by special exception pursuant to Subtitle C § 703.2, subject to the general special exception standards contained in Subtitle X § 901.2.

Transportation Options at the Property

16. Metrobus lines 80, H1, H2, H3, and H4 are all within 0.3 miles of the property. The property is approximately 0.7 miles from the Rhode Island Metrorail station.
17. Three zip-car sharing facilities are located within 0.7 miles of the property, including one facility at the Rhode Island Metrorail Station.
18. There is a Capital Bikeshare station at the Rhode Island Metrorail Station.
19. Walkscore.com⁴ indicates that the area is "very walkable" and that most errands can be accomplished on foot.

Impediments to providing the required parking

⁴ www.walkscore.com

20. The Board credits the architect's testimony that providing parking would require the loss of the proposed basketball court, and would also require a curb cut. (Tr., June 21, 2017, p. 111-112.)

Impact of the Proposed Project

21. The new facility will be well separated from the adjacent property by new community gardens. The Board credits OP's finding that the increase in lot occupancy will not adversely affect the use of neighboring property or the light and air to that property, including the apartment building across the unpaved 15-foot wide alley. (OP Report, Ex. 32, p. 6.)
22. The Board finds that the proposal will not significantly diminish the amount of open space near the facility. The park will maintain a great amount of open space, including the football field adjacent to the proposed new facility. (*See*, Tr., June 21, 2017, p. 108.)
23. The Board does not anticipate that the new facility will become a regional draw for the metropolitan area. The Board expects that the new facility will be used mainly by neighborhood residents who will primarily walk to the park. (OP Report, Ex. 32, p. 3.)

CONCLUSIONS OF LAW

The Special Exception Relief

As stated above, special exception relief is required from the lot occupancy requirements and the parking requirements pursuant to 11-C DCMR §1610.1 and Subtitle C § 703.2.

The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception 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, and the special exception also satisfies the special conditions within the Zoning Regulations. (*See* 11-X DCMR § 901.2.) As explained more fully below, the Board concludes that granting relief from the lot occupancy and parking requirements will be in harmony with the purpose and intent of the Zoning Regulations and Zoning Maps, and will not adversely affect the surrounding properties.

Special Exception for Lot Occupancy Pursuant to Subtitle C §1610.1

Subsection 1610.1 of Subtitle C allows exceptions to the development standards for public recreation and community centers if approved by the Board, subject to the general special exception standards discussed above, which are incorporated into Subtitle C § 1610.1, namely:

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- (a) The special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps; and
- (b) The special exception will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.

The Board concludes that the special exception for lot occupancy will be in harmony with the Zoning Regulations and will not adversely affect the use of neighboring property.

The proposed new facility will be in harmony with the Zoning Regulations. A public recreation and community center is a matter-of-right use in residential zones, including the RF-1 zone. (Subtitle U § 202.1(m).) The Applicant proposes to increase the lot occupancy from 3.6% to 28.5%. However, the proposed lot occupancy is well below 40%, which is the maximum lot occupancy that is allowed by special exception in the RF zone district. (*See*, Subtitle C § 1603.2.) The intent of the RF zone is to create areas “suitable for residential life and supporting uses”. (Subtitle E § 100.2.) Here, the Applicant proposes an expanded and upgraded recreation facility to meet community needs, while still maintaining open space and a tree canopy. (Findings of Fact 9, 10, 11, 18, and 20.)

Nor will the proposed lot occupancy relief adversely affect the use of neighboring property or the light and air available to that property. As stated, the open space on the eastern side of the property will be preserved with new community gardens, providing a buffer between the new facility and the nearby apartment houses. (Finding of Fact 21.) In addition, the parkland to the west of the property contains recreational amenities (football and other playing fields, basketball courts, and tennis courts) that will remain adjacent to the facility and will actually be improved as part of the project.

Special Exception for Parking Pursuant to Subtitle C § 703.2

Subsection 703.2 of Subtitle C allows a full or partial reduction of the number of required parking spaces for public recreation and community centers if approved by the Board, subject to the special conditions contained in Subtitle C § 703.3 and the general special exception standards contained in Subtitle X § 901.2, namely:

- (a) Special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps; and
- (b) The project will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.

The Board concludes that granting relief from the parking requirements is in harmony with the Zoning Regulations. As stated, the park has been in use for over 70 years without providing any parking, and has been used mainly by residents who walk to the park. (Finding of Fact 3.) As also stated, if the Applicant were to provide the three required spaces, a curb cut would be

required. Even if DDOT would agree to a curb cut, providing the three spaces would reduce the amount of parking available along the park's perimeter street frontages, would increase the amount of paving in the park, and would reduce the amount of open space within the park.

Nor will granting the relief from the parking requirements affect the use of neighboring property. The property to the east contains medium density apartment buildings. However, residents of those buildings use a parking lot associated with the buildings and are close enough to walk to the park. (Finding of Fact 6.) Moreover, most of the surrounding area is developed with housing with private off-street parking through an alley system. (Finding of Fact 8.)

Additionally, Subtitle C § 703.2 requires the Applicant to demonstrate at least one of the specified criteria in Subtitle C §§ 703.2(a)-(j). In this case, the Applicant has demonstrated that it satisfies the criteria in Subtitle C §§ 703.2(b) and (c). The Applicant has shown that the facility is served by mass transit, shared vehicle, or bicycle facilities. (Subtitle C §703.2(b).) As the Board found, there are several other transportation options for the new facility: Metrobus, Metrorail, ZipCar sharing facilities, and Capital Bikeshare. (Findings of Fact 16-18.) Moreover, the Applicant proposes to include 17 bicycle racks for short-term bicycle spaces. (Finding of Fact 13.) The Applicant has also shown that the land use or transportation characteristics of the neighborhood minimize the need for the three required spaces. (Subtitle C § 703.2(c).) The most significant characteristic is the walkable nature of the site and the fact that the existing recreation center has been used for the past 70 years, mainly by neighborhood residents who walk to the park. It is not expected that these characteristics will change or that the parking demand will change. (Finding of Fact 21.)

The Applicant also complies with the special requirements of Subtitle C §§ 703.3 and 703.4. Subtitle C § 703.3 requires that the requested reduction of parking spaces be "only for the amount that the Applicant is physically unable to provide, and shall be proportionate to the reduction in parking demand demonstrated by the applicant." In this case, there is currently no on-site parking due to the lack of access and the variable topography between Franklin Street and Evarts Street. (Findings of Fact 2 and 4.) Because it is unlikely that DDOT would allow a curb cut (Finding of Fact 20), the Applicant would most likely be unable to provide parking. Because there has been little parking demand during the last 70 years, there will not likely be a reduction in demand and there may be a minor increase in demand. (DDOT Report, Ex. 31.) Accordingly, the Applicant has submitted a TDM proposal consistent with Subtitle C § 703.4.⁵ The TDM plan provides for 17 bicycle racks for short-term bicycle spaces, and a Capital Bikeshare location to be determined with DDOT. (Finding of Fact 13.) Implementation of this plan will be a condition of this Board's approval.

The OP Report

⁵ This subsection states that the TDM plan must be approved by DDOT. In this case, the Applicant has proffered a TDM plan that was recommended by DDOT. The Board will treat this TDM plan as "approved" by DDOT.

The Board is required to give great weight to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04 (2001).) Great weight means acknowledgement of the issues and concerns of the Office of Planning. As noted in this Decision and Order, the Board finds OP's recommendations to be persuasive.

The ANC Report

The Board is also required to give great weight to issues and concerns raised by the affected ANC. (D.C. Official Code § 1-309.10(d).) ANC 5E submitted a report stating that it opposed the requested parking relief. (Ex. 63.) Its major concern was that nearby residents (including senior citizens, disabled veterans, and disabled children) would have difficulty using the new facility unless parking were provided on-site. However, as discussed previously, there is no space for onsite parking without eliminating recreational amenities; on-site parking has never been provided; most persons currently walk to the site; and most persons are expected to walk to the new facility. There is street parking in the area, and the Board expects that the Applicant will work with DDOT to obtain designated space(s) for persons with disabilities.

For the reasons stated above, the Board concludes that the Applicant has met its burden of proof. It is therefore **ORDERED** that this application is hereby **GRANTED, AND PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 2, TAB C – ARCHITECTURAL PLANS AND DRAWINGS - AND WITH THE FOLLOWING CONDITION:**

1. The Applicant shall implement the Transportation Demand Management (TDM) Plan submitted as Exhibit 44, Tab D.

VOTE: **3-0-2** (Frederick L. Hill, Carlton E. Hart, and Lesylleé M. White voting to APPROVE; Peter G. May not participating; one Board seat vacant).

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

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

FINAL DATE OF ORDER: January 8, 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.

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PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

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

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITION 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 CONDITION 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. 19616 of Thomas Jefferson Real Estate, LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle H § 1200 from the lot occupancy requirements of Subtitle H § 704.1, and from the ground floor designated use requirements of Subtitle H § 1101.1, and under Subtitle C § 1504 from the penthouse setback requirements of Subtitle C § 1502.1(c)(4), to construct a new, 49-unit¹ apartment house in the NC-6 Zone at premises 818 Potomac Avenue S.E. (Square 930, Lots 10, 14, 800, 801, 816, 817, 828, and 829).

HEARING DATE: December 6, 2017²
DECISION DATE: December 6, 2017

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") 6B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC submitted a timely report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 10, 2017, at which a quorum was present, the ANC voted 8-0-0 to support the application. (Exhibit 40.)

The Office of Planning ("OP") submitted a timely report dated November 21, 2017, in which it recommended approval of the requests for special exception relief from the ground floor use requirements of Subtitle H § 1101.1 and from the penthouse setback requirements of Subtitle C § 1502.1(c)(4), but recommended denial of the request for special exception relief from the lot occupancy requirement under Subtitle H § 704.1. In recommending denial of the special

¹ The caption was updated to reflect that the project is to construct a 49-unit apartment house, as shown on the revised plans. (Exhibit 44A1-44A2.)

² This case was administratively postponed from the public hearing of November 1, 2017 to that of December 6, 2017. (Exhibit 27.)

exception request as to lot occupancy, OP focused on the requirements of Subtitle H § 1200.1 and while OP was satisfied that the Applicant met many of the conditions in that provision, OP singled out those pursuant to Subtitle H §§ 1200.1(a), (b), and (c), and recommended denial because “the proposed building’s size is not in character” with the medium density and mixed-use intentions of the NC-6 zone, the “proposed new building would be out of scale with what is anticipated by this zone,” and a failure to demonstrate exceptional circumstances exist. (Exhibit 47.) The pertinent conditions in Subtitle H § 1200.1 read as follows:

1200.1 The Board of Zoning Adjustment may grant relief from the standards of this subtitle as a special exception subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:

- (a) The excepted use, building, or feature at the size, intensity, and location proposed will substantially advance the stated purposes of the NC zones, and will not adversely affect neighboring property, nor be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity;
- (b) The architectural design of the project shall enhance the urban design features of the immediate vicinity in which it is located; and, if a historic district or historic landmark is involved, the Office of Planning report to the Board of Zoning Adjustment shall include review by the Historic Preservation Office and a status of the project’s review by the Historic Preservation Review Board;
- (c) Exceptional circumstances exist, pertaining to the property itself or to economic or physical conditions in the immediate area, that justify the exception or waiver;

In its report, OP noted that lot occupancy is restricted on residential uses in the NC-6 zone “to provide for adequate light and air and a sense of open space.” OP claimed that it was not disputing the Applicant’s rationale for building a residential project in a zone that promotes mixed use, but viewed this as “a design choice” and opined that “it can be designed in a way to comply with the zoning requirement.” (Transcript, December 6, 2017 (“Tr.”), p. 219.) OP also asserted that the Applicant had not sufficiently explained how the project would result in an enhanced contextual design, arguing that the Historic Preservation Review Board’s (“HPRB”) review and approval of the concept design did not assess zoning, leading to the conclusion that it was not dispositive. Finally, OP disagreed with the Applicant that the existing historic row house that the Applicant would retain as part of the project and the parking the Applicant would provide in the garage on the property amounted to “exceptional circumstances on the property,” per Subtitle H § 1200(c). OP asserted that the row house is an existing feature which occupies only a limited amount of the site and it is the new building that creates the non-conformity for lot occupancy, and the parking being provided would create an oversupply that could be reduced. OP said it was not convinced that these conditions made it difficult to do a project on this site. (Tr., 218.)

The Applicant responded to OP's objections to granting lot occupancy relief and argued that its request for this relief should be approved as it met the conditions of Subtitle H § 1200.1 and Subtitle X § 901.2, namely: (1) the project would advance the purpose of the zone and not adversely affect neighboring property, (2) consideration of the HPRB's approval is warranted when determining the element of the enhanced contextual design of the project, and (3) the Applicant demonstrated exceptional circumstances on the property based on its retention of the existing historic structure on the site and the requirement to honor a prior parking easement for 13 spaces.

The Applicant's proposal is to redevelop a long-fallow site, which has been used primarily as a surface parking lot for more than 20 years, into a four-story residential building. The lot occupancy requirement in the zone for a residential use is 75%, and the Applicant's proposed building is at 78%.

In response to OP, the Applicant asserted that all the conditions in Subtitle H § 1200.1 were met. First, the Applicant claimed that the requested lot occupancy relief is minimal and "highly unlikely to have an adverse effect on neighboring property." The Applicant indicated that because the location of the property was too isolated to engender enough foot traffic to support a retail use on the property despite its commercial zoning, the Applicant needed to design it for residential use, thus leading to the request for lot occupancy relief. The Applicant argued the project would substantially advance the purpose of the zone and not adversely affect neighboring property, noting that the project would "replace a surface parking lot with an attractively-designed structure with 49 residential units, bringing important vitality to a moribund corner of the Lower Barracks Row neighborhood." The Applicant further noted that this building is of a height and scale and is set in relation to the neighboring property so as not to impose a burden on access to light and air. (Exhibit 52.)

As to the condition of appropriate architectural design, the Applicant noted that the HPRB had already considered the project and approved it, thereby substantiating the consistency of the character of the building with the historic district. Because the criteria that HPRB uses to review new construction in a historic district is to determine that the new project is consistent in scale and character and will not have an adverse impact on the historic context, this review supports the conclusion that the project is consistent in scale and character and will not have an adverse impact on the historic district. (Tr., p. 209-210, Exhibit 52.) The Applicant provided evidence to demonstrate that the building's size and its design was consistent with the character of the neighborhood, and noted that it had gone through three different designs, all of which were reviewed by the community, and added that the community as well as HPRB is in support of the one being proposed.

Finally, the Applicant argued how the project's design was constrained by two exceptional conditions of the property, namely: the presence of an existing historic structure which must be retained as a contributing structure and an existing parking easement for 13 spaces for the use of an adjacent commercial property. The Applicant provided testimony and other evidence for why

these two factors should be considered exceptional conditions of the property for the purpose of meeting the criteria of Subtitle H § 1200.1. In response to OP, the Applicant also noted that the NC-6 zone in the 2016 Zoning Regulations incorporated the restrictions of the former Eighth Street Southeast Neighborhood Commercial Overlay District (ES) from the 1958 Zoning Regulations, but allowed these more restrictive provisions to be waived by special exception and did not require a variance. Thus, while exceptional conditions on the property had to be shown, it did not mean that so would practical difficulties, as in a variance.

As to the retention of a historic structure on the property being an exceptional condition of the property, the Applicant noted that “were it not for that small historic building, the project would meet lot occupancy.” (Tr., p. 210.) The Applicant further argued that its request was relatively minimal, insofar as the lot occupancy requirement is 75% and the proposed building would be at 78% lot occupancy and only for two stories. The Applicant concluded that since the overage is partly due to the presence of the modest historic building on the property, which must be retained, this should be considered an exceptional condition of the property. (Tr., p. 211.)

Secondly, the Applicant asserted that the lot occupancy overage is due in part to the need to accommodate 13 parking spaces which are required by a prior BZA order and easement to serve the large commercial building at the southeastern corner of the square. To meet the design constraints, including the parking easement, as well provide the parking required by the Zoning Regulations, the Applicant designed the garage using a mechanical parking stacking method and described how were its garage design to be altered, even minimally, this would result a “cascading effect” with so many parking spaces being lost that it could not satisfy the parking requirements. The Applicant testified that “to make the building work, it has to have a certain width at that ground floor. ... if it shrinks any amount, even nominally, then it causes this cascading effect of having to move the car elevator. And because of the presence of the historic building, where it is, there’s no other way to enter the building to get underneath to provide the parking spaces...So, the elevator has to be in the place that it is, ...If it moves even a foot, then it causes the cascading effect of having to rearrange everything.” (Tr., p. 223.) Thus, the Applicant asked for the parking easement to be considered an exceptional condition of the property for purposes of meeting the criteria of Subtitle H § 1200.1.

The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application with two conditions. DDOT’s recommended conditions included requests that two additional short-term bicycle parking spaces, including one inverted U-rack, and one electric vehicle charging station in the parking garage be provided. (Exhibit 38.) The Board adopted both of DDOT’s conditions in this order. (Exhibit 48.)

A letter in support of the application from Michael Stevens, AICP, Capitol Riverfront BID, was submitted to the record. (Exhibit 50.)

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 H § 1200 from the lot occupancy requirements of Subtitle H § 704.1, and from the ground floor designated use requirements of Subtitle H § 1101.1, and under Subtitle C § 1504 from the penthouse setback requirements of Subtitle C § 1502.1(c)(4), to construct a new, 49-unit apartment house in the NC-6 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.

The Board is required to give great weight to the recommendation of the Office of Planning (D.C. Official Code § 6-623.04 (2001).) Great weight means acknowledgement of the issues and concerns of the Office of Planning. As noted in this Order, OP recommended approval of the requests for special exception relief from the ground floor use requirements of Subtitle H § 1101.1 and from the penthouse setback requirements of Subtitle C § 1502.1(c)(4), but recommended denial of the request for special exception relief from the lot occupancy requirement under Subtitle H § 704.1.

After reviewing the record, the Board agreed with OP's recommendations as to granting relief from the ground floor use requirements of Subtitle H § 1101.1 and from the penthouse setback requirements of Subtitle C § 1502.1(c)(4), but was not persuaded by OP's recommendation to deny the special exception for lot occupancy. Rather, the Board was persuaded by the Applicant's evidence and testimony and found that all the criteria and its burden under Subtitle H §§ 704.1 and 1200.1 and Subtitle X § 901.2 were met, specifically the Board found that the Applicant met all of the conditions of Subtitle H § 1200.1(a)-(g). The Board found that the proposed building would be in scale with the neighborhood and would not adversely affect neighboring property, as well as was satisfied by the design of the building in the context of the neighborhood. The Board was persuaded by the Applicant's testimony and other evidence that retention of the existing historic structure and the parking easement constituted exceptional conditions on the property that constrain the Applicant's design choices and warrant granting this special exception relief.

The Board is also required to give great weight to issues and concerns raised by the affected ANC (D.C. Official Code § 1-309.10(d).) ANC 6B submitted a report stating that it supported the requested relief. (Ex. 40.)

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 H §§ 1200, 704.1, and 1101.1, and Subtitle C §§ 1504 and 1502.1(c)(4), 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 EXHIBITS 44A1-44A2 AND WITH THE FOLLOWING CONDITIONS:**

1. The Applicant shall provide two additional short-term bicycle parking spaces (one inverted U-rack).
2. The Applicant shall provide one electric vehicle charging station in the parking garage.

VOTE: **4-0-1** (Frederick L. Hill, Lesylleé M. White, Carlton E. Hart, and Robert E. Miller, to APPROVE; one Board seat vacant.)

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

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

FINAL DATE OF ORDER: January 9, 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.

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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.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING
Z.C. Case No. 08-34H
(Jewish Historical Society of Greater Washington – 2nd-Stage PUD @ Square 568)
January 10, 2018

THIS CASE IS OF INTEREST TO ANC 2C

On December 27, 2017, the Office of Zoning received an application from the Jewish Historical Society of Greater Washington (the “Applicant”) for approval of a second-stage planned unit development (“PUD”) for the above-referenced property.

The property that is the subject of this application consists of Lots 863, 864, and 7000 (perpetual easement) in Square 568 in northwest Washington, D.C. (Ward 2), on property located at 575 3rd Street, N.W. The property is currently zoned to the C-4 Zone District*, through a previously approved PUD-related amendment to the Zoning Map.

The Applicant proposes to relocate the Adas Israel Synagogue to 3rd Street and F Streets, N.W., as part of the Capitol Crossing Center Leg Freeway Project, and to also construct a museum and associated office. The project will have a total of 31,952 square feet, including 4,165 square feet of the existing Synagogue and 27,787 square feet for a new museum, spread across four floors. The building will have a maximum height of 68.33 feet, a lot occupancy of 87.9%, and a density of 2.605 floor area ratio. The project will also have 12 designated parking spaces within the overall parking provided for the Capitol Crossing PUD.

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

* **Note:** the C-4 zoning designation was under the 1958 Regulations, and is equivalent to the D-6 zone under the 2016 Regulations.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING
Z.C. Case No. 17-28
(Community Three Development – Map Amendment @ Square 361)
January 9, 2018

THIS CASE IS OF INTEREST TO ANC 1B

On December 28, 2017, the Office of Zoning received an application from Community Three Development (the “Applicant”) for approval of a map amendment for the above-referenced property.

The property that is the subject of this application consists of Lot 827 in Square 361 in northwest Washington, D.C. (Ward 5), on property located at 1925 Vermont Avenue, N.W. The property is currently zoned RF-1. The Applicant is proposing a map amendment to rezone the property to the ARTS-2 zone. The District-owned property is improved with the historic Grimke School and a rear addition. The Applicant is seeking to rezone the property to make it consistent with the Comprehensive Plan and the zone of the surrounding properties, and to facilitate the redevelopment of the property.

The RF-1 zone is intended to provide for areas predominantly developed with attached row houses on small lots within which no more than two dwelling units are permitted. Either two dwelling units may be located within the principal structure or one each in the principal structure and an accessory structure. The RF-1 zone permits a maximum height of 35 feet (60 feet for a place of worship) in three stories and a 60% lot occupancy for most dwellings and places of worship (40% for all other structures).

The ARTS-2 zone is intended to permit medium-density, compact mixed-use development, with an emphasis on residential development. The ARTS-2 zone allows a maximum density of 3.5 floor area ratio (“FAR”) (4.2 maximum FAR under Inclusionary Zoning and 1.5 maximum FAR for non-residential development); a maximum height of 65 feet (70 feet under Inclusionary Zoning); and a maximum lot occupancy of 80% (20% for a public recreation center).

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

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