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District of Columbia REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 22-514, Interstate Insurance Product Regulation Compact Act of 2018
- D.C. Council enacts Act 22-517, Service Contract Regulation Act of 2018
- D.C. Council schedules a public hearing on Bill 22-957, Open Movie Captioning Requirement Act of 2018
- Department of Behavioral Health reinstates moratorium for new certification applications for adult-serving Core Services Agencies
- Board of Elections publishes the legislative text of the "Referendum on Law Repealing Initiative 77 – Minimum Wage Amendment Act of 2018."
- Department of Energy and Environment announces funding availability for lead poisoning prevention outreach and collaboration

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-513

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 13, 2018

To amend Chapter 18 of Title 47 of the District of Columbia Official Code to create a tax credit for individual taxpayers, corporations, and unincorporated businesses that donate food to nonprofit organizations; and to amend the Good Faith Donor and Donee Act of 1981 to expand liability protections for food donations to cover food donors that donate food directly to individuals, to enhance liability protection to cover bona fide charitable and nonprofit organizations that distribute food and those that charge a fee that covers the cost of handling or preparing the food, to require the Department of Health to not require date labels on certain food products and to not limit the sale or donation of food products that do not pose an increased safety risk to consumers after their date labels have passed, to require the Department of Health and the Office of Waste Diversion within the Department of Public Works to create a guide on food donation, and to require the Department of Health to train certain health inspectors on the information in the guide; and to amend the Department of Health Functions Clarification Act of 2001 to make a conforming amendment.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Save Good Food Amendment Act of 2018".

TITLE I. FOOD DONATION TAX CREDIT.

Sec. 101. Chapter 18 of Title 47 of the District of Columbia Official Code is amended as follows:

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

(1) A new section designation is added to read as follows:

"47-1806.15. Tax on residents and nonresidents - Credits - Tax credit for food donations.".

(2) A new section designation is added to read as follows:

"47-1807.14. Tax on corporations and financial institutions - Credits -Tax credit for food donations.".

(3) A new section designation is added to read as follows:

"47-1808.14. Tax on unincorporated businesses - Credits - Tax credit for food donations.".

(b) A new section 47-1806.15 is added to read as follows:

"§ 47-1806.15. Tax on residents and nonresidents - Credits - Tax credit for food donations.

"(a) Beginning on January 1 of the tax year following the applicability of this section, a taxpayer may claim a nonrefundable credit against taxes imposed by this subchapter for food donations made during the tax year to a nonprofit organization recognized as a tax-exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) and § 47-1802.01.

"(b)(1) The credit claimed under subsection (a) of this section shall equal 50% of the fair market value of the food donation and shall not exceed $2,500 per tax year for a single individual, head of household, or a married individual or registered domestic partner filing a separate return or $5,000 per tax year for married individuals or registered domestic partners filing a joint return.

"(2) If a taxpayer elects to claim the credit for a food donation, no deduction under § 47-1803.03(b) shall be allowed on account of the food donation.

"(c) For a taxpayer to claim the credit for a food donation provided by this section, the food donation must be food intended for human consumption and meet all quality and labeling standards under District or federal law or regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, or size.

"(d) Notwithstanding subsection (a) of this section, if the amount of a tax credit under this section exceeds a taxpayer's tax liability under this chapter for a tax year, the amount of the tax credit that exceeds the taxpayer's income liability may be carried forward for a period not to exceed the following 5 tax years.

"(e) A taxpayer claiming the tax credit provided by this section shall provide documentation supporting the tax credit claim in a form and manner prescribed by the Chief Financial Officer.

"(f) For the purposes of this section, the term "food donation" means:

"(1) Vegetables, fruits, and other food products grown in the District at an urban farm, as defined in § 48-401(4), or in a community garden;

"(2) Prepared food made in a kitchen and stored in conditions that meet District and federal health regulations; or

"(3) Vegetables, fruits, fresh and frozen meat, eggs, or dairy products donated by a retailer licensed under §§ 47-2851.02 and 47-2851.03(a)(10)(J).".

(c) A new section 47-1807.14 is added to read as follows:

"§ 47-1807.14. Tax on corporations and financial institutions - Credits -Tax credit for food donations.

"(a) Beginning on January 1 of the tax year following the applicability of this section, a corporation qualified under § 6-1504 may claim a nonrefundable credit against taxes imposed by this subchapter for food donations made during the tax year to a nonprofit organization recognized as a tax-exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) and § 47-1802.01.

"(b)(1) The credit claimed under subsection (a) of this section shall equal 50% of the fair market value of food donations and shall not exceed $5,000 per corporation per tax year. Notwithstanding the foregoing, the credit shall not reduce the minimum tax liability under § 47-1807.02(b).

"(2) If the corporation elects to claim the credit for a food donation, no deduction under § 47-1803.03(a)(8) shall be allowed on account of the food donation.

"(c) For a taxpayer to claim the credit for a food donation provided by this section, the food donation must be food intended for human consumption and meet all quality and labeling standards under District or federal law or regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, or size.

"(d) A corporation claiming the tax credit shall provide documentation supporting the tax credit claim in a form and manner prescribed by the Chief Financial Officer.

"(e) For the purposes of this section, the term "food donation" means:

"(1) Vegetables, fruits, and other food products grown in the District at an urban farm, as defined in § 48-401(4), or in a community garden;

"(2) Prepared food made in a kitchen and stored in conditions that meet District and federal health regulations; or

"(3) Vegetables, fruits, fresh and frozen meat, eggs, or dairy products donated by a retailer licensed under §§ 47-2851.02 and 47-2851.03(a)(10)(J).".

(d) A new section 47-1808.14 is added to read as follows:

"§ 47-1808.14. Tax on unincorporated businesses - Credits - Tax credit for food donations.

"(a) Beginning on January 1 of the tax year following the applicability of this section, an unincorporated business qualified under § 6-1504 may claim a nonrefundable credit against taxes imposed by this subchapter for food donations made during the tax year to a nonprofit organization recognized as a tax-exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) and § 47-1802.01.

"(b)(1) The credit claimed under subsection (a) of this section shall equal 50% of the fair market value of food donations and shall not exceed $5,000 per unincorporated business per tax year. Notwithstanding the foregoing, the credit shall not reduce the minimum tax liability under § 47-1808.03(b).

"(2) If the unincorporated business elects to claim the credit for a food donation, no deduction under § 47-1803.03(a)(8) shall be allowed on account of the food donation.

"(c) For a taxpayer to claim the credit for a food donation provided by this section, the food donation must be food intended for human consumption and meet all quality and labeling standards under District or federal law or regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, or size.

"(d) An unincorporated business claiming the tax credit shall provide documentation supporting the tax credit claim in a form and manner prescribed by the Chief Financial Officer.

"(e) For the purposes of this section, the term "food donation" means:

"(1) Vegetables, fruits, and other food products grown in the District at an urban farm, as defined in § 48-401(4), or in a community garden;

"(2) Prepared food made in a kitchen and stored in conditions that meet District and federal health regulations; or

"(3) Vegetables, fruits, fresh and frozen meat, eggs, or dairy products donated by a retailer licensed under §§ 47-2851.02 and 47-2851.03(a)(10)(J).".

TITLE II. FOOD DATE LABELING AND DONATION REFORM.

Sec. 201. The Good Faith Donor and Donee Act of 1981, effective October 8, 1981 (D.C. Law 4-39; D.C. Official Code § 48-301 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 48-301) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "a bona-fide charitable or not-for-profit organization" and inserting the phrase "a bona fide charitable or nonprofit organization or directly to an individual for consumption" in its place.

(2) Subsection (b) is amended by striking the phrase "without charge or at a nominal charge, shall not be" and inserting the phrase "without charge or at a charge sufficient to cover the cost of handling and preparing such food, shall not be" in its place.

(b) New sections 3a and 3b are added to read as follows:

"Sec. 3a. Date labels.

"(a) The Department of Health shall not:

"(1) Require a date label on food products that, based on current scientific evidence, do not pose an increased safety risk to consumers by a stated period; or

"(2) Limit the sale or donation of food products after their date label has passed, except for those food products that pose an increased safety risk to consumers when consumed after the date on the label.

"(b) Within 120 days after the effective date of this section, the Department of Health shall issue rules to implement the provisions of this section.

"(c) For the purposes of this section, the term "date label" refers to any date labeled on a food product, including those accompanied by the phrase "Best By", "Use By", "Sell By", "Best Before", "Expiration date", or any other descriptive phrase or date that is determined by the manufacturer to estimate when the food product might expire for use or be at its peak quality if it was handled and stored in a certain manner.

"Sec. 3b. Food donation guide and training.

"(a) The Department of Health, in conjunction with the Office of Waste Diversion within the Department of Public Works, shall create a guide for food donors and donees that includes:

"(1) All food safety regulations that apply to food donations in the District, including liability protections, tax credits, or incentives available to food donors;

"(2) What foods may be donated safely;

"(3) The best practices for storing and handling food donations; and

"(4) A list of organizations in the District that accept food donations.

"(b) The Department of Health shall train its employees who are involved in health inspections of businesses that donate food and organizations that receive donated food on the information in the guide developed pursuant to this section.

"(c) Within 180 days after the effective date of this section, the Department of Health and the Office of Waste Diversion shall each make the guide available on its website.".

Sec. 202. Section 4902(a) 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(a)), is amended by adding a new paragraph (5A) to read as follows:

"(5A) Regulate food labeling, pursuant to section 3a of the Good Faith Donor and Donee Act of 1981, passed on 2nd reading on October 16, 12018 (Enrolled version of Bill 22-72);".

TITLE III. GENERAL PROVISIONS.

Sec. 301. Applicability.

(a) Title I 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. 302. 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).

ENROLLED ORIGINAL

Sec. 303. 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
November 13, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-514

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 13, 2018

To authorize the Mayor to execute, on behalf of the District of Columbia, an Interstate Insurance Product Regulation Compact for the purpose of regulating designated insurance products, to promote and protect the interest of consumers of individual and group annuity life insurance, disability income, and long-term care insurance products, to develop uniform standards for insurance products covered by the compact, to establish a central clearinghouse to receive and provide prompt review of insurance products covered under the compact and certain advertisements related to insurance products, to create appropriate uniform standards, to improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of the insurance products covered by the compact, to create the Interstate Insurance Product Regulation Commission, and to perform related functions as may be consistent with the state regulation of the business of insurance.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Interstate Insurance Product Regulation Compact Act of 2018".

Sec. 2. The Mayor is authorized to execute, on behalf of the District of Columbia, an Interstate Insurance Product Regulation Compact in the form substantially as follows:

"Interstate Insurance Product Regulation Compact

"Article I
"Purpose.

"The purpose of the interstate compact, through means of joint and cooperative action among the Compacting States, is to promote and protect the interest of consumers of individual and group annuity, life insurance, disability income, and long-term care insurance products; to develop uniform standards for insurance products covered by the Compact; to establish a central clearinghouse to receive and provide prompt review of insurance products covered under the Compact and, in certain cases, Advertisements related thereto, submitted by insurers authorized to do business in one or more Compacting jurisdictions; to give appropriate uniform standards; to

improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of the insurance products covered by the Compact; to create the Interstate Insurance Product Regulation Commission; and to perform these and such other related functions as may be consistent with the state regulation of the business of insurance.

"Article II

"Definitions.

"(1) "Advertisement" means any material designed to create public interest in a Product, or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy, as more specifically defined in the Rules and Operating Procedures of the Commission.

"(2) "Bylaws" mean those bylaws established by the Commission for its governance, or for directing or controlling the Commission's actions or conduct.

"(3) "Compacting State" means any State that has enacted this Compact legislation and has not withdrawn pursuant to Article XIV, paragraphs (a) through (f) of the Compact, or been terminated pursuant to Article XIV, paragraphs (g) through (i) of this Compact.

"(4) "Commission" means the Interstate Insurance Product Regulation Commission established by this Compact.

"(5) "Commissioner" means the chief insurance regulatory official of a State including, but not limited to, commissioner, superintendent, director, or administrator.

"(6) "Domiciliary State" means the state in which an Insurer is incorporated or organized; or, in the case of an alien Insurer, its state of entry.

"(7) "Insurer" means any entity licensed by a State to issue contracts of insurance for any of the lines of insurance covered by this act.

"(8) "Member" means the person chosen by a Compacting State as its representative to the Commission, or his or her designee.

"(9) "Non-compacting State" means any State which is not at the time a Compacting State.

"(10) "Operating Procedures" mean procedures promulgated by the Commission implementing a Rule, Uniform Standard, or a provision of this Compact.

"(11) "Product" means the form of a policy or contract, including any application, endorsement, or related form that is attached to and made a part of the policy or contract, and any evidence of coverage or certificate, for an individual or group annuity, life insurance, disability income, or long-term care insurance product that an Insurer is authorized to issue.

"(12) "Rule" means a statement of general or particular applicability and future effect promulgated by the Commission, including a Uniform Standard developed pursuant to Article VII of this Compact, designed to implement, interpret, or prescribe law or policy or

describing the organization, procedure, or practice requirements of the Commission, which shall have the force and effect of law in the Compacting States.

"(13) "State" means any state, district, or territory of the United States of America.

"(14) "Third-Party Filer" means an entity that submits a Product filing to the Commission on behalf of an Insurer.

"(15) "Uniform Standard" means a standard adopted by the Commission for a Product line, pursuant to Article VII of this Compact, and shall include all of the Product requirements in aggregate; provided, that each Uniform Standard shall be construed, whether express or implied, to prohibit the use of any inconsistent, misleading, or ambiguous provisions in a Product and the form of the Product made available to the public shall not be unfair, inequitable, or against public policy as determined by the Commission.

"Article III

"Establishment of the Commission and Venue.

"(a) The Compacting States hereby create and establish a joint public agency known as the "Interstate Insurance Product Regulation Commission." Pursuant to Article IV, the Commission will have the power to develop Uniform Standards for Product lines, receive and provide prompt review of Products filed therewith, and give approval to those Product filings satisfying applicable Uniform Standards; provided, that it is not intended for the Commission to be the exclusive entity for receipt and review of insurance Product filings. Nothing herein shall prohibit any Insurer from filing its Product in any State wherein the Insurer is licensed to conduct the business of insurance; and any such filing shall be subject to the laws of the State where filed.

"(b) The Commission is a body corporate and politic, and an instrumentality of the Compacting States.

"(c) The Commission is solely responsible for its liabilities except as otherwise specifically provided in this Compact.

"(d) Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located.

"Article IV

"Powers of the Commission.

"(a) The Commission shall have the following powers:

"(1) To promulgate Rules, pursuant to Article VII of this Compact, which shall have the force and effect of law and shall be binding in the Compacting States to the extent and in the manner provided in this Compact;

"(2) To exercise its rule-making authority and establish reasonable Uniform Standards for Products covered under the Compact, and Advertisement related thereto, which shall have the force and effect of law and shall be binding in the Compacting States, but only for those Products filed with the Commission; provided, that a Compacting State shall have the right to opt out of such Uniform Standard pursuant to Article VII to the extent and in the manner provided in this Compact; provided further, that any Uniform Standard established by the Commission for long-term care insurance products may provide the same or greater protections for consumers as, but shall not provide less than, those protections set forth in the National Association of Insurance Commissioners'("NAIC") Long-Term Care Insurance Model Act and Long-Term Care Insurance Model Regulation, adopted as of 2001. The Commission shall consider whether any subsequent amendments to the NAIC Long-Term Care Insurance Model Act or Long-Term Care Insurance Model Regulation adopted by the NAIC require amending of the Uniform Standards established by the Commission for long-term care insurance products;

"(3) To receive and review in an expeditious manner Products filed with the Commission, and rate filings for disability income and long-term care insurance Products, and give approval of those Products and rate filings that satisfy the applicable Uniform Standard, where such approval shall have the force and effect of law and be binding on the Compacting States to the extent and in the manner provided in the Compact;

"(4) To receive and review in an expeditious manner Advertisement relating to long-term care insurance products for which Uniform Standards have been adopted by the Commission, and give approval to all Advertisement that satisfies the applicable Uniform Standard. For any Product covered under this Compact, other than long-term care insurance products, the Commission shall have the authority to require an Insurer to submit all or any part of its Advertisement with respect to that Product for review or approval prior to use, if the Commission determines that the nature of the Product is such that an Advertisement of the Product could have the capacity or tendency to mislead the public. The actions of Commission as provided in this Article shall have the force and effect of law and shall be binding in the Compacting States to the extent and in the manner provided in the Compact;

"(5) To exercise its rule-making authority and designate Products and Advertisement that may be subject to a self-certification process without the need for prior approval by the Commission.

"(6) To promulgate Operating Procedures, pursuant to Article VII of this Compact, which shall be binding in the Compacting States to the extent and in the manner provided in this Compact;

"(7) To bring and prosecute legal proceedings or actions in its name as the Commission; provided, that the standing of any state insurance department to sue or be sued under applicable law shall not be affected;

"(8) To issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence;

"(9) To establish and maintain offices;

"(10) To purchase and maintain insurance and bonds;

"(11) To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Compacting State;

"(12) To hire employees, professionals, or specialists, and elect or appoint officers, and to fix their compensation, define their duties, and give them appropriate authority to carry out the purposes of the Compact, and determine their qualifications; and to establish the Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel;

"(13) To accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided, that at all times the Commission shall strive to avoid any appearance of impropriety;

"(14) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal, or mixed; provided, that at all times the Commission shall strive to avoid any appearance of impropriety;

"(15) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

"(16) To remit filing fees to Compacting States as may be set forth in the Bylaws, Rules, or Operating Procedures;

"(17) To enforce compliance by Compacting States with Rules, Uniform Standards, Operating Procedures, and Bylaws;

"(18) To provide for dispute resolution among Compacting States;

"(19) To advise Compacting States on issues relating to Insurers domiciled or doing business in Non-compacting jurisdictions, consistent with the purposes of this Compact;

"(20) To provide advice and training to those personnel in state insurance departments responsible for Product review, and to be a resource for state insurance departments;

"(21) To establish a budget and make expenditures;

"(22) To borrow money;

"(23) To appoint committees, including advisory committees comprising Members, state insurance regulators, state legislators or their representatives, insurance industry and consumer representatives, and such other interested persons as may be designated in the Bylaws;

"(24) To provide and receive information from, and to cooperate with, law enforcement agencies;

"(25) To adopt and use a corporate seal; and

"(26) To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of the business of insurance.

"Article V

"Organization of the Commission.

"(a) Each Compacting State shall have and be limited to one Member. Each Member shall be qualified to serve in that capacity pursuant to applicable law of the Compacting State. Any Member may be removed or suspended from office as provided by the law of the State from which he or she shall be appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the Compacting State wherein the vacancy exists. Nothing herein shall be construed to affect the manner in which a Compacting State determines the election or appointment and qualification of its own Commissioner.

"(b) Each Member shall be entitled to one vote and shall have an opportunity to participate in the governance of the Commission in accordance with the Bylaws. Notwithstanding any provision herein to the contrary, no action of the Commission with respect to the promulgation of a Uniform Standard shall be effective unless two-thirds (2/3) of the Members vote in favor thereof.

"(c) The Commission shall, by a majority of the Members, prescribe Bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes, and exercise the powers, of the Compact, including, but not limited to:

"(1) Establishing the fiscal year of the Commission;

"(2) Providing reasonable procedures for appointing and electing members, as well as holding meetings, of the Management Committee;

"(3) Providing reasonable standards and procedures: (i) for the establishment and meetings of other committees, and (ii) governing any general or specific delegation of any authority or function of the Commission;

"(4) Providing reasonable procedures for calling and conducting meetings of the Commission that consists of a majority of Commission members, ensuring reasonable advance notice of each such meeting, and providing for the right of citizens to attend each such meeting with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and insurers' proprietary information, including trade secrets. The Commission may meet in camera only after a majority of the entire membership votes to close a meeting en toto or in part. As soon as practicable, the Commission must make public (i) a copy of the vote to close the meeting revealing the vote of each Member with no proxy votes allowed, and (ii) votes taken during such meeting;

"(5) Establishing the titles, duties, and authority of and reasonable procedures for the election of the officers of the Commission;

"(6) Providing reasonable standards and procedures for the establishment of

the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any Compacting State, the Bylaws shall exclusively govern the personnel policies and programs of the Commission;

"(7) Promulgating a code of ethics to address permissible and prohibited activities of Commission members and employees; and

"(8) Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and reserving of all of its debts and obligations.

"(d) The Commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the Compacting States.

"(e) A Management Committee comprising no more than fourteen (14) members shall be established as follows:

"(1) One (1) member from each of the six (6) Compacting States with the largest premium volume for individual and group annuities, life insurance, disability income, and long-term care insurance products determined from the records of the NAIC for the prior year;

"(2) Four (4) members from those Compacting States with at least two percent (2%) of the market, based on the premium volume described above, other than the six (6) Compacting States with the largest premium volume, selected on a rotating basis as provided in the Bylaws; and

"(3) Four (4) members from those Compacting States with less than two percent (2%) of the market, based on the premium volume described above, with one (1) selected from each of the four (4) zone regions of the NAIC as provided in the Bylaws.

"(f) The Management Committee shall have such authority and duties as may be set forth in the Bylaws, including but not limited to:

"(1) Managing the affairs of the Commission in a manner consistent with the Bylaws and purposes of the Commission;

"(2) Establishing and overseeing an organizational structure within, and appropriate procedures for, the Commission to provide for the creation of Uniform Standards and Rules, receipt and review of Product filings, administrative and technical support functions, review of decisions regarding the disapproval of a Product filing, and the review of elections made by a Compacting State to opt out of a Uniform Standard; provided, that a Uniform Standard shall not be submitted to the Compacting States for adoption unless approved by two-thirds (2/3) of the members of the Management Committee;

"(3) Overseeing the offices of the Commission; and

"(4) Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Commission.

"(g) The Commission shall elect annually officers from the Management Committee, with each having such authority and duties as may be specified in the Bylaws.

"(h) The Management Committee may, subject to the approval of the Commission, appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the Commission may deem appropriate. The executive director shall serve as secretary to the Commission, but shall not be a Member of the Commission. The executive director shall hire and supervise such other staff as may be authorized by the Commission.

"(i) A legislative committee comprising state legislators or their designees shall be established to monitor the operations of, and make recommendations to, the Commission, including the Management Committee; provided, that the manner of selection and term of any legislative committee member shall be as set forth in the Bylaws. Prior to the adoption by the Commission of any Uniform Standard, revision to the Bylaws, annual budget, or other significant matter as may be provided in the Bylaws, the Management Committee shall consult with and report to the legislative committee.

"(j) The Commission shall establish two (2) advisory committees, one comprising consumer representatives independent of the insurance industry and the other comprising insurance industry representatives.

"(k) The Commission may establish additional advisory committees as its Bylaws may provide for the carrying out of its functions.

"(l) The Commission shall maintain its corporate books and records in accordance with the Bylaws.

"(m) The Members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of that person.

"(n) The Commission shall defend any Member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful and wanton misconduct.

"(o) The Commission shall indemnify and hold harmless any Member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided, that the actual or alleged act, error, or omission did not result from the intentional or willful and wanton misconduct of that person.

"Article VI

"Meetings and Acts of the Commission.

"(a) The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the Bylaws.

"(b) Each Member of the Commission shall have the right and power to cast a vote to which that Compacting State is entitled and to participate in the business and affairs of the Commission. A Member shall vote in person or by such other means as provided in the Bylaws. The Bylaws may provide for Members' participation in meetings by telephone or other means of communication.

"(c) The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the Bylaws.

"Article VII

"Rules and Operating Procedures: Rulemaking Functions of the Commission and Opting Out of Uniform Standards.

"(a) The Commission shall promulgate reasonable Rules, including Uniform Standards, and Operating Procedures in order to effectively and efficiently achieve the purposes of this Compact. Notwithstanding the foregoing, in the event the Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this act, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect.

"(b) Rules and Operating Procedures shall be made pursuant to a rulemaking process that conforms to the Model State Administrative Procedure Act of 1981, as amended, as may be appropriate to the operations of the Commission. Before the Commission adopts a Uniform Standard, the Commission shall give written notice to the relevant state legislative committee(s) in each Compacting State responsible for insurance issues of its intention to adopt the Uniform Standard. The Commission in adopting a Uniform Standard shall consider fully all submitted materials and issue a concise explanation of its decision.

"(c) A Uniform Standard shall become effective ninety (90) days after its promulgation by the Commission or such later date as the Commission may determine; provided, that a

Compacting State may opt out of a Uniform Standard as provided in this Article. The term "opt out" shall be defined as any action by a Compacting State to decline to adopt or participate in a promulgated Uniform Standard. All other Rules and Operating Procedures, and amendments thereto, shall become effective as of the date specified in each Rule, Operating Procedure, or amendment.

"(d) A Compacting State may opt out of a Uniform Standard, either by legislation or regulation duly promulgated by the insurance department under the Compacting State's administrative procedure act. If a Compacting State elects to opt out of a Uniform Standard by regulation, it must (i) give written notice to the Commission no later than ten (10) business days after the Uniform Standard is promulgated, or at the time the State becomes a Compacting State, and (ii) find that the Uniform Standard does not provide reasonable protections to the citizens of the State, given the conditions in the State. The Commissioner shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the State that warrant a departure from the Uniform Standard and determining that the Uniform Standard would not reasonably protect the citizens of the State. The Commissioner must consider and balance the following factors and find that the conditions in the State and needs of the citizens of the State outweigh:

"(1) The intent of the legislature to participate in, and the benefits of, an interstate agreement to establish national uniform consumer protections for the Products subject to this act; and

"(2) The presumption that a Uniform Standard adopted by the Commission provides reasonable protections to consumers of the relevant Product.

"(e)(1) Notwithstanding the foregoing, a Compacting State may, at the time of its enactment of this Compact, prospectively opt out of all Uniform Standards involving long-term care insurance products by expressly providing for such opt out in the enacted Compact, and such an opt out shall not be treated as a material variance in the offer or acceptance of any State to participate in this Compact. Such an opt out shall be effective at the time of enactment of this Compact by the Compacting State and shall apply to all existing Uniform Standards involving long-term care insurance products and those subsequently promulgated.

"(2) In accordance with subparagraph (1) of this paragraph, the District of Columbia opts out of all existing and prospective uniform standards involving long-term care insurance products in order to preserve the District's statutory requirements governing these insurance products.

"(f) If a Compacting State elects to opt out of a Uniform Standard, the Uniform Standard shall remain applicable in the Compacting State electing to opt out until such time the opt out legislation is enacted into law or the regulation opting out becomes effective.

"(g) Once the opt out of a Uniform Standard by a Compacting State becomes effective as provided under the laws of that State, the Uniform Standard shall have no further force and effect in that State unless and until the legislation or regulation implementing the opt out is

repealed or otherwise becomes ineffective under the laws of the State. If a Compacting State opts out of a Uniform Standard after the Uniform Standard has been made effective in that State, the opt out shall have the same prospective effect as provided under Article XIV of this Compact for withdrawals.

"(h) If a Compacting State has formally initiated the process of opting out of a Uniform Standard by regulation, and while the regulatory opt out is pending, the Compacting State may petition the Commission, at least fifteen (15) days before the effective date of the Uniform Standard, to stay the effectiveness of the Uniform Standard in that State. The Commission may grant a stay if it determines the regulatory opt out is being pursued in a reasonable manner and there is a likelihood of success. If a stay is granted or extended by the Commission, the stay or extension thereof may postpone the effective date by up to ninety (90) days, unless affirmatively extended by the Commission; provided, that a stay may not be permitted to remain in effect for more than one (1) year unless the Compacting State can show extraordinary circumstances that warrant a continuance of the stay, including, but not limited to, the existence of a legal challenge that prevents the Compacting State from opting out. A stay may be terminated by the Commission upon notice that the rulemaking process has been terminated.

"(i) Not later than thirty (30) days after a Rule or Operating Procedure is promulgated, any person may file a petition for judicial review of the Rule or Operating Procedure; provided, that the filing of such a petition shall not stay or otherwise prevent the Rule or Operating Procedure from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Commission consistent with applicable law and shall not find the Rule or Operating Procedure to be unlawful if the Rule or Operating Procedure represents a reasonable exercise of the Commission's authority.

"Article VIII

"Commission Records and Enforcement.

"(a) The Commission shall promulgate Rules establishing conditions and procedures for public inspection and copying of its information and official records, except such information and records involving the privacy of individuals and insurers' trade secrets. The Commission may promulgate additional Rules under which it may make available to federal and state agencies, including law enforcement agencies, records and information otherwise exempt from disclosure and may enter into agreements with such agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

"(b) Except as to privileged records, data, and information, the laws of any Compacting State pertaining to confidentiality or nondisclosure shall not relieve any Compacting State Commissioner of the duty to disclose any relevant records, data, or information to the Commission; provided, that disclosure to the Commission shall not be

deemed to waive or otherwise affect any confidentiality requirement; provided further, that, except as otherwise expressly provided in this act, the Commission shall not be subject to the Compacting State's laws pertaining to confidentiality and nondisclosure with respect to records, data, and information in its possession. Confidential information of the Commission shall remain confidential after such information is provided to any Commissioner.

"(c) The Commission shall monitor Compacting States for compliance with duly adopted Bylaws, Rules, including Uniform Standards, and Operating Procedures. The Commission shall notify any non-complying Compacting State in writing of its noncompliance with Commission Bylaws, Rules, or Operating Procedures. If a non-complying Compacting State fails to remedy its noncompliance within the time specified in the notice of noncompliance, the Compacting State shall be deemed to be in default as set forth in Article XIV.

"(d) The Commissioner of any State in which an Insurer is authorized to do business, or is conducting the business of insurance, shall continue to exercise his or her authority to oversee the market regulation of the activities of the Insurer in accordance with the provisions of the State's law. The Commissioner's enforcement of compliance with the Compact is governed by the following provisions:

"(1) With respect to the Commissioner's market regulation of a Product or Advertisement that is approved or certified to the Commission, the content of the Product or Advertisement shall not constitute a violation of the provisions, standards, or requirements of the Compact except upon a final order of the Commission issued at the request of a Commissioner after prior notice to the Insurer and an opportunity for hearing before the Commission.

"(2) Before a Commissioner may bring an action for violation of any provision, standard, or requirement of the Compact relating to the content of an Advertisement not approved or certified to the Commission, the Commission, or an authorized Commission officer or employee, must authorize the action. However, authorization pursuant to this paragraph does not require notice to the Insurer, opportunity for hearing, or disclosure of requests for authorization or records of the Commission's action on such requests.

"Article IX

"Dispute Resolution.

The Commission shall attempt, upon the request of a Member, to resolve any disputes or other issues that are subject to this Compact that may arise between two (2) or more Compacting States, or between Compacting States and Non-compacting States. The Commission shall promulgate an Operating Procedure providing for resolution of such disputes.

"Article X

"Product Filing and Approval.

"(a) Insurers and Third-Party Filers seeking to have a Product approved by the Commission shall file the Product with, and pay applicable filing fees to, the Commission.

Nothing in this act shall be construed to restrict or otherwise prevent an insurer from filing its Product with the insurance department in any State wherein the insurer is licensed to conduct the business of insurance, and such filing shall be subject to the laws of the States where filed.

"(b) The Commission shall establish appropriate filing and review processes and procedures pursuant to Commission Rules and Operating Procedures. Notwithstanding any provision herein to the contrary, the Commission shall promulgate Rules to establish conditions and procedures under which the Commission will provide public access to Product filing information. In establishing such Rules, the Commission shall consider the interests of the public in having access to such information, as well as protection of personal medical and financial information and trade secrets, that may be contained in a Product filing or supporting information.

"(c) Any Product approved by the Commission may be sold or otherwise issued in those Compacting States for which the Insurer is legally authorized to do business.

"Article XI

"Review of Commission Decisions Regarding Filings.

"(a) Not later than thirty (30) days after the Commission has given notice of a disapproved Product or Advertisement filed with the Commission, the Insurer or Third Party Filer whose filing was disapproved may appeal the determination to a review panel appointed by the Commission. The Commission shall promulgate Rules to establish procedures for appointing such review panels and provide for notice and hearing. An allegation that the Commission in disapproving a Product or Advertisement filed with the Commission, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law is subject to judicial review in accordance with paragraph (d), Article III.

"(b) The Commission shall have authority to monitor, review, and reconsider Products and Advertisement subsequent to their filing or approval upon a finding that the Product does not meet the relevant Uniform Standard. Where appropriate, the Commission may withdraw or modify its approval after proper notice and hearing, subject to the appeal process in paragraph (a) of this Article.

"Article XII

"Finance.

"(a) The Commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the Commission may accept contributions and other forms of funding from the NAIC, Compacting States, and other sources. Contributions and other forms of funding from other sources shall be of such a nature that the independence of the Commission concerning the performance of its duties shall not be compromised.

"(b) The Commission shall collect a filing fee from each Insurer and Third Party Filer filing a Product with the Commission to cover the cost of the operations and activities of the Commission and its staff in a total amount sufficient to cover the Commission's annual budget.

"(c) The Commission's budget for a fiscal year shall not be approved until it has been subject to notice and comment as set forth in Article VII of this Compact.

"(d) The Commission shall be exempt from all taxation in and by the Compacting States.

"(e) The Commission shall not pledge the credit of any Compacting State except by and with the appropriate legal authority of that Compacting State.

"(f) The Commission shall keep complete and accurate accounts of all its internal receipts, including grants and donations, and disbursements of all funds under its control. The internal financial accounts of the Commission shall be subject to the accounting procedures established under its Bylaws. The financial accounts and reports including the system of internal controls and procedures of the Commission shall be audited annually by an independent certified public accountant. Upon the determination of the Commission, but no less frequently than every three (3) years, the review of the independent auditor shall include a management and performance audit of the Commission. The Commission shall make an annual report to the Governor/Executive and legislature of the Compacting States, which shall include a report of the independent audit. The Commission's internal accounts shall not be confidential and such materials may be shared with the Commissioner of any Compacting State upon request; provided, that any work papers related to any internal or independent audit and any information regarding the privacy of individuals and insurers' proprietary information, including trade secrets, shall remain confidential.

"(g) No Compacting State shall have any claim to or ownership of any property held by or vested in the Commission or to any Commission funds held pursuant to the provisions of this Compact.

"Article XIII

"Compacting States, Effective Date, and Amendment.

"(a) Any State is eligible to become a Compacting State.

"(b) The Compact shall become effective and binding upon legislative enactment of the Compact into law by two (2) Compacting States; provided, that the Commission shall become effective for purposes of adopting Uniform Standards for reviewing and giving approval or disapproval of Products filed with the Commission that satisfy applicable Uniform Standards only after twenty-six (26) States are Compacting States or, alternatively, by States representing greater than forty percent (40%) of the premium volume for life insurance, annuity, disability income, and long-term care insurance products, based on records of the NAIC for the prior year. Thereafter, it shall become effective and binding as to any other Compacting State upon enactment of the Compact into law by that State.

"(c) Amendments to the Compact may be proposed by the Commission for enactment by the Compacting States. No amendment shall become effective and binding upon the Commission and the Compacting States unless and until all Compacting States enact the amendment into law.

"Article XIV

"Withdrawal, Default, and Termination.

"(a) Once effective, the Compact shall continue in force and remain binding upon each and every Compacting State; provided, that a Compacting State may withdraw from the Compact ("Withdrawing State") by enacting a statute specifically repealing the statute that enacted the Compact into law.

"(b) The effective date of withdrawal is the effective date of the repealing statute. However, the withdrawal shall not apply to any Product filings approved or self-certified, or any Advertisement of such Products, on the date the repealing statute becomes effective, except by mutual agreement of the Commission and the Withdrawing State, unless the approval is rescinded by the Withdrawing State as provided in paragraph (e) of this Article.

"(c) The Commissioner of the Withdrawing State shall immediately notify the Management Committee in writing upon the introduction of legislation repealing this Compact in the Withdrawing State.

"(d) The Commission shall notify the other Compacting States of the introduction of such legislation within ten (10) days after its receipt of notice thereof.

"(e) The Withdrawing State is responsible for all obligations, duties, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual agreement of the Commission and the Withdrawing State. The Commission's approval of Products and Advertisement prior to the effective date of withdrawal shall continue to be effective and be given full force and effect in the Withdrawing State, unless formally rescinded by the Withdrawing State in the same manner as provided by the laws of the Withdrawing State for the prospective disapproval of Products or Advertisement previously approved under the State's law.

"(f) Reinstatement following withdrawal of any Compacting State shall occur upon the effective date of the Withdrawing State reenacting the Compact.

"(g) If the Commission determines that any Compacting State has at any time defaulted ("Defaulting State") in the performance of any of its obligations or responsibilities under this Compact, the Bylaws, or duly promulgated Rules or Operating Procedures, then, after notice and hearing as set forth in the Bylaws, all rights, privileges, and benefits conferred by this Compact on the Defaulting State shall be suspended from the effective date of default as fixed by the Commission. The grounds for default include, but are not limited to, the failure of a Compacting State to perform its obligations or responsibilities and any other grounds

designated in Commission Rules. The Commission shall immediately notify the Defaulting State in writing of the Defaulting State's suspension pending a cure of the default. The Commission shall stipulate the conditions and the time period within which the Defaulting State must cure its default. If the Defaulting State fails to cure the default within the time period specified by the Commission, the Defaulting State shall be terminated from the Compact and all rights, privileges, and benefits conferred by this Compact shall be terminated from the effective date of termination.

"(h) Product approvals by the Commission or Product self-certifications, or any Advertisement in connection with such Product, that are in force on the effective date of termination shall remain in force in the Defaulting State in the same manner as if the Defaulting State had withdrawn voluntarily pursuant to paragraphs (a) through (f) of this Article.

"(i) Reinstatement following termination of any Compacting State requires a reenactment of the Compact.

"(j) The Compact dissolves effective upon the date of the withdrawal or default of the Compacting State that reduces membership in the Compact to one Compacting State.

"(k) Upon the dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Commission shall be wound up and any surplus funds shall be distributed in accordance with the Bylaws.

"Article XV

"Severability and Construction.

"(a) The provisions of this Compact shall be severable. If any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

"(b) The provisions of this Compact shall be liberally construed to effectuate its purposes.

"Article XVI

"Binding Effect of Compact and Other Laws.

"(a) Nothing herein prevents the enforcement of any other law of a Compacting State, except as provided in paragraph (b) of this Article.

"(b) For any Product approved or certified to the Commission, the Rule, Uniform Standard, or other requirement of the Commission shall constitute the exclusive provisions applicable to the content, approval, and certification of such Product. For Advertisement that is subject to the Commission's authority, the Rule, Uniform Standard, or other requirement of the Commission that governs the content of the Advertisement shall constitute the exclusive provision that a Commissioner may apply to the content of the Advertisement. Notwithstanding the foregoing, no action taken by the Commission shall abrogate or restrict:

"(1) The access of any person to state courts;

"(2) Remedies available under state law related to breach of contract, tort, or other laws not specifically directed to the content of the Product;

"(3) State law relating to the construction of insurance contracts; or

"(4) The authority of the attorney general of the State, including, but not limited to, maintaining any actions or proceedings, as authorized by law.

"(c) All insurance Products filed with individual States shall be subject to the laws of those States.

"(d) All lawful actions of the Commission, including all Rules and Operating Procedures promulgated by the Commission, are binding upon the Compacting States.

"(e) All agreements between the Commission and the Compacting States are binding in accordance with their terms.

"(f) Upon the request of a party to a conflict over the meaning or interpretation of Commission actions and a majority vote of the Compacting States, the Commission may issue advisory opinions regarding the meaning or interpretation in dispute.

"(g) In the event any provision of this Compact exceeds the constitutional limits imposed on the legislature of any Compacting State, the obligations, duties, powers, or jurisdiction sought to be conferred by that provision upon the Commission shall be ineffective as to that Compacting State and those obligations, duties, powers, or jurisdiction shall remain in the Compacting State and shall be exercised by the agency thereof to which those obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this Compact becomes effective.".

Sec. 3. The Commissioner of the Department of Insurance, Securities, and Banking is designated to serve as the representative of the District to the Interstate Insurance Product Regulation Commission.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 13, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-515

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 13, 2018

To amend the Prohibition Against Human Trafficking Amendment Act of 2010 to allow for the vacatur of convictions and expungement or sealing of criminal records for certain offenses when the conduct of the person was the direct result of the person having been a victim of trafficking.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Trafficking Survivors Relief Amendment Act of 2018".

Sec. 2. The Prohibition Against Human Trafficking Amendment Act of 2010, effective October 23, 2010 (D.C. Law 18-239; D.C. Official Code § 22-1831 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 22-1831) is amended as follows:

(1) A new paragraph (4A) is added to read as follows:

"(4A) "Court" means the Superior Court of the District of Columbia.".

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

"(5A) "Eligible offense" means any criminal offense under the District of Columbia Official Code, except an ineligible offense.

"(5B) "Ineligible offense" means:

"(A) Assault with intent to kill or poison, or to commit first degree sexual abuse, second degree sexual abuse, or child sexual abuse, under section 803 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1321; D.C. Official Code § 22-401) ("Section 803"); provided, that assault with intent to rob under Section 803 shall constitute an eligible offense.

"(B) Sex trafficking of children under section 104;

"(C) Murder in the first degree under section 798 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1321; D.C. Official Code § 22-2101);

"(D) Murder in the first degree — Placing obstructions upon or displacement of railroads under section 799 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1321; D.C. Official Code § 22-2102);

"(E) Murder in the second degree under section 800 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1321; D.C. Official Code § 22-2103);

"(F) Murder of law enforcement officer under section 802a of An Act To establish a code of law for the District of Columbia, effective May 23, 1995 (D.C. Law 10-256; D.C. Official Code § 22-2106);

"(G) Solicitation of murder under section 802b(a) of An Act To establish a code of law for the District of Columbia, effective April 24, 2007 (D.C. Law 16-306; D.C. Official Code § 22-2107(a));

"(H) Armed carjacking under section 854(b)(1) of An Act To establish a code of law for the District of Columbia, effective May 8, 1993 (D.C. Law 9-270; D.C. Official Code 22-2803(b)(1));

"(I) First degree sexual abuse under section 201 of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3002);

"(J) First degree child sexual abuse under section 207 of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3008);

"(K) First degree sexual abuse of a minor under section 208a of the Anti-Sexual Abuse Act of 1994, effective April 24, 2007 (D.C. Law 16-306; D.C. Official Code § 22-3009.01);

"(L) First degree sexual abuse of a secondary education student under section 208c of the Anti-Sexual Abuse Act of 1994, effective October 23, 2010 (D.C. Law 18-239; D.C. Official Code § 22–3009.03);

"(M) First degree sexual abuse of a ward, patient, client, or prisoner under section 212 of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22–3013);

"(N) First degree sexual abuse of a patient or client under section 214 of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22–3015);

"(O) An act of terrorism under section 103 of the Omnibus Anti-Terrorism Act of 2002, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 22-3153);

"(P) Provision of material support or resources for an act of terrorism under section 103(m) of the Omnibus Anti-Terrorism Act of 2002, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 22-3153(m));

"(Q) Solicitation of material support or resources to commit an act of terrorism under section 103(n) of the Omnibus Anti-Terrorism Act of 2002, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 22-3153(n));

"(R) Manufacture or possession of a weapon of mass destruction under section 104(a) of the Omnibus Anti-Terrorism Act of 2002, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 22-3154(a));

"(S) Attempt or conspiracy to manufacture or possess a weapon of mass destruction under section 104(b) of the Omnibus Anti-Terrorism Act of 2002, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 22-3154(b));

"(T) Use, dissemination, or detonation of a weapon of mass destruction under section 105(a) of the Omnibus Anti-Terrorism Act of 2002, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 22-3155(a));

"(U) Attempt or conspiracy to use, disseminate, or detonate a weapon of mass destruction under section 105(b) of the Omnibus Anti-Terrorism Act of 2002, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 22-3155(b)); or

"(V) Attempt or conspiracy to commit any of the offenses listed in this paragraph, except conspiracy to commit sex trafficking of children under section 104.".

(3) A new paragraph (12) is added to read as follows:

"(12) "Victim of trafficking" means:

"(A) A person against whom the following offenses were committed:

"(i) Forced labor under section 102;

"(ii) Trafficking in labor or commercial sex acts under section 103; or

"(iii) Sex trafficking of children under section 104; or

"(B) A person who has been subject to an act or practice described in section 103(9) or (10) of the Trafficking Victims Protection Act of 2000, approved October 28, 2000 (114 Stat. 1469; 22 U.S.C. § 7102(9) or (10)).".

(b) New sections 114, 115, 116, and 117 are added to read as follows:

"Sec. 114. Motion to vacate conviction or expunge criminal records for victims of trafficking.

"(a) A person convicted of an eligible offense may apply by motion to the Superior Court for the District of Columbia to vacate the judgment of conviction and expunge all records identifying the movant as having been arrested, prosecuted, or convicted of the offense if the conduct of the person that resulted in the conviction was a direct result of the person having been a victim of trafficking.

"(b) A person arrested but not prosecuted, or whose prosecution was terminated without conviction, for an eligible offense or an ineligible offense, may apply by motion to the Superior Court for the District of Columbia to expunge all records identifying the movant as having been arrested or prosecuted for the offense if the conduct of the person that resulted in the arrest or prosecution was a direct result of the person having been a victim of trafficking.

"(c) A motion filed under this section shall:

"(1) Be in writing;

"(2) State the arrests, prosecutions, and convictions for which the movant seeks relief;

"(3) State the grounds upon which eligibility for relief is based and facts in support of the movant's claim;

"(4) Be accompanied by any appropriate exhibits, affidavits, and supporting documents; and

"(5) Be served upon the prosecutor.

"(d) A movant may file a motion under this section regardless of whether any other person, such as the person who made the movant a victim of trafficking, has been arrested, prosecuted, or convicted for an offense.

"(e) A person may file a motion under this section only after:

"(1) All criminal proceedings against the person related to the offenses that are the subject of the motion have completed; and

"(2) The person completes any sentence of incarceration, commitment, probation, parole, or supervised release related to the offenses that are the subject of the motion.

"(f) At the request of a movant or prosecutor, the Court may place any record or part of a proceeding related to a motion filed under this section under seal while the motion is pending.

"(g) A person may file a motion under this section for an arrest, prosecution, or conviction that occurred before, on, or after the effective date of the Trafficking Survivors Relief Amendment Act of 2018, passed on 2nd reading on October 16, 2018 (Enrolled version of Bill 22-329).

"Sec. 115. Review by Court.

"(a)(1) If it plainly appears from the face of the motion, any accompanying exhibits, affidavits, and documents, and the record of any prior proceedings, that the movant is not eligible for relief or is not entitled to relief, the Court may dismiss or deny the motion.

"(2) If the motion contains a curable deficiency, the Court shall provide the movant with reasonable time to cure the deficiency and refile the motion.

"(b) If the motion is not dismissed or denied after initial review, the Court shall order the prosecutor to file a response to the motion. Within 90 days after the Court's order for a response, the prosecutor shall file a response indicating whether the prosecutor supports or opposes the motion.

"(c) The Court may hold a hearing on any motion filed under section 114; provided, that if the prosecutor opposes a motion filed under section 114, the Court shall hold a hearing on the motion within 90 days after the filing of the opposition.

"(d) The Court shall grant a motion filed under section 114(a), if the movant establishes, by clear and convincing evidence that:

"(1) The movant was convicted of an eligible offense;

"(2) The movant is a victim of trafficking; and

"(3) The conduct by the movant resulting in the conviction was a direct result of the movant having been a victim of trafficking.

"(e) The Court shall grant a motion filed under section 114(b), if the movant establishes, by clear and convincing evidence that:

"(1) The movant was arrested but not prosecuted, or the prosecution was terminated without conviction, for an eligible offense or an ineligible offense;

"(2) The movant is a victim of trafficking; and

"(3) The conduct by the movant resulting in the arrest or prosecution was a direct result of the movant having been a victim of trafficking.

"(f) There shall be a rebuttable presumption that a movant is a victim of trafficking if the movant includes in the motion a copy of an official record from a federal, state, tribal, or local proceeding finding that the movant was a victim of trafficking, including a Certification Letter or Eligibility Letter from the U.S. Department of Health and Human Services.

"(g) The Court may grant a motion under this section based solely on an affidavit or sworn testimony of the movant.

"Sec. 116. Grants and denials of motion.

"(a) If the Court denies a motion filed under section 114, the Court shall state the reasons for denial in writing.

"(b) If the Court grants a motion filed under section 114(a), the Court shall vacate the conviction, dismiss the relevant count with prejudice, and, except as provided in subsection (d) of this section, enter an order requiring the Court, the prosecutor, any relevant law enforcement agency, and any pretrial, corrections, or community supervision agency to expunge all records identifying the movant as having been arrested, prosecuted, or convicted of the offenses specified in the Court's order.

"(c) If the Court grants a motion filed under section 114(b), the Court shall, except as provided in subsection (d) of this section, enter an order requiring the Court, the prosecutor, any relevant law enforcement agency, and any pretrial, corrections, or community supervision agency to expunge all records identifying the movant as having been arrested or prosecuted for the offenses specified in the Court's order.

"(d)(1) At any time before the Court grants a motion under subsection (b) or (c) of this section, a movant may file a request that, if the movant's motion is granted, the order granting the motion filed under section 114, in lieu of requiring the expungement of all records identifying the movant as having been arrested, prosecuted, or convicted of the offenses specified in the Court's order, require the Court, the prosecutor, any relevant law enforcement agency, and any pretrial, corrections, or community supervision agency to seal all records identifying the movant as having been arrested, prosecuted, or convicted of the offenses specified in the Court's order.

"(2) A movant who filed a request under paragraph (1) of this subsection, whose motion filed under section 114 was subsequently granted, may file a second request with the Court, requesting that the Court amend the order issued under paragraph (1) of this subsection, to instead require the expungement of all records identifying the movant as having been arrested, prosecuted, or convicted of the offenses specified in the Court's order.

"(3) Records sealed under this subsection shall be opened only on order of the Court upon a showing of compelling need; provided, that, upon request, the movant, or the authorized

representative of the movant, shall be entitled to a copy of the sealed records to the extent that such records would have been available to the movant before relief under this subsection was granted. A request for access to sealed court records may be made ex parte.

"(e) Within one year after the Court's grant of a motion under subsection (b) or (c) of this section, or, if the movant filed a request pursuant to subsection (d)(1) of this section, within one year after the filing of a request pursuant to subsection (d)(2) of this section, the Clerk of the Court, the prosecutor, any relevant law enforcement agency, and any pretrial services, corrections, or community supervision agency shall certify to the Court that to the best of its knowledge and belief, all records identifying the movant as having been arrested, prosecuted, or convicted of the offenses specified in the Court's order have been expunged from its records.

"(f) In a case involving co-defendants in which the Court orders the movant's records expunged or sealed, the Court may order that only those records, or portions thereof, relating solely to the movant be expunged or sealed.

"(g) In a case where a movant was arrested, prosecuted, or convicted of an offense other than the offense for which a Court orders the movant's records expunged or sealed, the Court may order that only those records, or portions thereof, relating solely to the offense that is the subject of the Court's order be expunged or sealed.

"(h) The Court shall not order the redaction of the movant's name from any published opinion of the trial or appellate courts that refer to the movant.

"(i) The effect of relief pursuant to this section shall be to restore the movant, in the contemplation of the law, to the status he or she occupied before being arrested, prosecuted, or convicted. No person as to whom such relief has been granted shall be held thereafter under any provision of law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge his or her arrest, charge, trial, or conviction in response to any inquiry made of him or her for any purpose.

"(j)(1) A copy of an order issued under this section and the certifications filed with the Court under subsection (e) of this section shall be provided to the movant or his or her counsel.

(2) Notwithstanding any provision of this section, the Court shall seal, but not expunge, an order issued under subsection (b) or (c) of this section or a certification filed with the Court under subsection (e) of this section.

(3) A movant may obtain a copy of an order issued under subsection (b) or (c) of this section or a certification filed with the Court under subsection (e) of this section at any time from the Clerk of the Court, upon proper identification, without a showing of need.

"Sec. 117. Appeals.

"An order dismissing, granting, or denying a motion filed under section 114 shall be a final order for purposes of appeal.".

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Sec. 3. 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. 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), a 60-day period of congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 13, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-516

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 13, 2018

To amend the Policemen and Firemen's Retirement and Disability Act to clarify that provisions that apply to marriage also apply to domestic partnership for those members covered under the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, to clarify that Internal Revenue Code section 401(a) plan monies may be transferred into the District of Columbia Police Officers and Fire Fighters' Retirement Fund towards the purchase of a member's prior service with the District of Columbia Fire and Emergency Medical Services Department, and to clarify that the compensation limit set forth at Internal Revenue Code section 401(a)(17) applies only to an individual who first receives benefits under the Policemen and Firemen's Retirement and Disability Act on or after October 1, 2002; and to amend An Act For the retirement of public-school teachers in the District of Columbia to clarify that the compensation limit set forth at Internal Revenue Code § 401(a)(17) applies only to an individual who first receives benefits under An Act For the retirement of public-school teachers in the District of Columbia on or after October 1, 2002.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Teachers, Police, and Firefighters Retirement Benefits Amendment Act of 2018".

Sec. 2. The Policemen and Firemen's Retirement and Disability Act, approved September 1, 1916 (39 Stat. 718; D.C. Official Code § 5-701 *et seq.*), is amended as follows:

(a) Section 12(a) (D.C. Official Code § 5-701) is amended as follows:

(1) Paragraph (3) is amended to read as follows:

"(3) The term "widow" means:

"(A) The surviving wife of a member or former member not covered under the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*), if:

"(i) She was married to such member or former member:

"(I) While he was a member; or

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"(II) For at least one year immediately preceding his death; or

"(ii) She is the mother of issue by such marriage; or

"(B) The surviving wife or domestic partner of a member or former member covered under the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*), if:

"(i) She was married to or the domestic partner of such member or former member:

"(I) While he or she was a member; or

"(II) For at least one year immediately preceding his or her death; or

"(ii) She is the mother of issue by such marriage or domestic partnership.".

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

"(4) The term "widower" means:

"(A) The surviving husband of a member or former member not covered under the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*), if:

"(i) He was married to such member or former member:

"(I) While she was a member; or

"(II) For at least one year immediately preceding her death; or

"(ii) He is the father of issue by such marriage; or

"(B) The surviving husband of a member or former member covered under the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*), if:

"(i) He was married to or the domestic partner of such member or former member:

"(I) While he or she was a member; or

"(II) For at least one year immediately preceding his or her death; or

"(ii) He is the father of issue by such marriage or domestic partnership.".

(3) Paragraph (5) is amended to read as follows:

"(5) The term "child" means:

"(A) An adopted child, stepchild, or recognized natural child of a member or former member not covered under the Police Officers, Fire Fighters, and Teachers Retirement

Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*), who:

"(i) Is unmarried, lives with the member or former member in a regular parent-child relationship, and is under the age of 18 years; or

"(ii) Is unmarried and incapable of self-support, regardless of age, because of physical or mental disability incurred before the age of 18; or

"(B) An adopted child, stepchild, or recognized natural child of a member or former member covered under the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*), who:

"(i) Is unmarried and does not have a domestic partner, lives with the member or former member in a regular parent-child relationship, and is under the age of 18 years; or

"(ii) Is unmarried and does not have a domestic partner and is incapable of self-support, regardless of age, because of physical or mental disability incurred before the age of 18.".

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

"(5A) The term "student child" means a child, as defined in paragraph (5) of this subsection, who is a student between the ages of 18 and 22 years, inclusive, and who is regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution.".

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

"(21) The term "domestic partner" shall have the same meaning as provided in section 2(3) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(3)).".

(b) Section 12(c)(9)(C) (D.C. Official Code § 5-704(i)(3)) is amended as follows:

(1) The existing text is designated as sub-subparagraph (i).

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

"(ii) If a member was a participant in the defined contribution plan established pursuant to section 2605(3) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective October 1, 1987 (D.C. Law 7-27; D.C. Official Code § 1-626.05(3)), the member may transfer all or a portion of his or her defined contribution plan account balance into the District of Columbia Police Officers and Fire Fighters' Retirement Fund toward his or her purchase of prior service with the District of Columbia Fire and Emergency Medical Services Department.".

(c) Section 12(k) (D.C. Official Code § 5-716) is amended as follows:

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

(A) Subparagraph (A) is amended by striking the phrase "wife or husband" and inserting the phrase "wife or husband, or in the case of a member or former

member covered under the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*), who is survived by a wife, husband, or domestic partner" in its place.

(B) Subparagraph (B) is amended by striking the phrase "wife or husband" and inserting the phrase "wife or husband, or in the case of a member or former member covered under the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*), who is not survived by a wife, husband, or domestic partner" in its place.

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

(A) Subparagraph (A) is amended to read as follows:

"(A) The annuity of the widow or widower under this subsection shall begin on the day after the date on which the member or former member dies, and such annuity or any right thereto shall terminate:

"(i) Upon the survivor's death or remarriage before age 55; provided, that any annuity terminated by remarriage may be restored if such remarriage is later terminated by death, annulment, or divorce; or

"(ii) In the case of a member or former member covered under the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*), upon the survivor's death, remarriage, or entry into a domestic partnership before age 55; provided, that any annuity terminated by remarriage or entry into a domestic partnership may be restored if such remarriage or domestic partnership is later terminated by death, annulment, divorce, or in accordance with section 3(d) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-702(d)).".

(B) Subparagraph (B)(ii) is amended by striking the word "marries" and inserting the phrase "marries or enters into a domestic partnership" in its place.

(C) Subparagraph (C)(i)(I) is amended by striking the word "marries" and inserting the phrase "marries or enters into a domestic partnership" in its place.

(D) Subparagraph (D) is amended by striking the phrase "marriage and such marriage" and inserting the phrase "marriage or domestic partnership and such marriage or domestic partnership" in its place.

(3) Paragraph (6) is amended as follows:

(A) The existing text is designated as subparagraph (A).

(B) Newly designated subparagraph (A) is amended by striking the phrase "provided, that the person so designated be the surviving spouse or child of such member" and inserting the phrase "provided, that the person so designated meet the criteria set forth in subparagraph (B) of this subsection" in its place.

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

"(B) A person designated in subparagraph (A) shall be:

"(i) The surviving spouse or child of the member; or

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"(ii) In the case of a member covered under the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*), the surviving spouse, domestic partner, or child of the member.".

(d) Section 12(p)(4)(B) (D.C. Official Code § 5-723(d)(2)) is amended by striking the word "spouse" and inserting the phrase "spouse or domestic partner" in its place.

(e) Section 12(n-1)(1) (D.C. Official Code § 5-723.01(a)) is amended by striking the phrase "cost of living." and inserting the phrase "cost of living. This provision shall apply only with respect to an individual who first receives benefits under this act on or after October 1, 2002." in its place.

Sec. 3. Section 26(a) of An Act For the retirement of public-school teachers in the District of Columbia, effective October 1, 2002 (D.C. Law 14-190; D.C. Official Code § 38-2021.27(a)), is amended by striking the phrase "cost-of-living." and inserting the phrase "cost of living. This provision shall apply only with respect to an individual who first receives benefits under this act on or after October 1, 2002." in its place.

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 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
November 13, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-517

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 13, 2018

To provide a legal framework within which service contracts are to be sold and regulated, to establish that a service contract, except where specified to the contrary, is not insurance as regulated under the Department of Insurance and Securities Regulation Establishment Act of 1996, to add consumer protections in the marketing and sale of service contracts, and to provide an effective means of providing services under service contracts.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Service Contract Regulation Act of 2018".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Administrator" means the person who is responsible for the administration of the service contracts or the service contracts plan or responsible for submissions required by the act.

(2) "Commissioner" means the Commissioner of the Department of Insurance, Securities, and Banking, as established by the Department of Insurance and Securities Regulation Establishment Act of 1996, effective May 21, 1997 (D.C. Law 11-268; D.C. Official Code § 31–101 *et seq.*) ("DISB act").

(3) "Consumer" means a natural person who buys, other than for purposes of resale, any property that is distributed in commerce and that is normally used for personal, family, or household purposes and not for business or research purposes.

(4) "Maintenance agreement" means a contract of limited duration that provides for scheduled maintenance only and does not include repair or replacement.

(5) "Motor Vehicle Manufacturer" means a person that:

(A) Manufactures or produces motor vehicles and sells motor vehicles under its own name or label;

(B) Is a wholly owned subsidiary of the person who manufactures or produces motor vehicles;

(C) Is a corporation that owns 100% of the person who manufactures or produces motor vehicles;

(D) Does not manufacture or produce motor vehicles, but sells motor vehicles under the trade name or label of another person who manufactures or produces motor vehicles;

(E) Manufactures or produces motor vehicles and sells such motor vehicles under the trade name or label of another person who manufactures or produces motor vehicles; or

(F) Does not manufacture or produce motor vehicles but, pursuant to a written contract, licenses the use of its trade name or label to another person who manufactures or produces motor vehicles that sells motor vehicles under the licensor's trade name or label.

(6) "Premium" means the consideration paid to an insurer for a reimbursement insurance policy.

(7) "Provider" means a person that is contractually obligated to the service contract holder under the terms of the service contract.

(8) "Provider fee" means the consideration paid for a service contract.

(9) "Reimbursement insurance policy" means a policy of insurance issued to a provider to either provide reimbursement to the provider under the terms of the insured service contracts issued or sold by the provider or, in the event of the provider's non-performance, to pay on behalf of the provider all covered contractual obligations incurred by the provider under the terms of the insured service contracts issued or sold by the provider.

(10)(A) "Service contract" means a contract or agreement for a separately stated consideration for any duration to perform the repair, replacement, or maintenance of property or indemnification for service repair, replacement, or maintenance for the operational or structural failure of any motor vehicle or residential or other property due to a defect in materials, workmanship, accidental damage from handling, or normal wear and tear, or to indemnify for the same, including towing, rental, and emergency road service and road hazard protection, and which may provide for the service repair, replacement, or maintenance of property for damage resulting from power surges or interruption. The term "service contract" includes a contract or agreement sold for a separately stated consideration for a specific duration that provides for:

(i) The repair or replacement or indemnification for the repair or replacement of a motor vehicle for the operational or structural failure of one or more parts or systems of the motor vehicle brought about by the failure of an additive product to perform as represented;

(ii) The repair or replacement of tires or wheels on a motor vehicle damaged as a result of coming into contact with road hazards, including potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scrap;

(iii) The removal of dents, dings, or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels or sanding, bonding, or painting;

(iv) The repair of chips or cracks in or the replacement of motor vehicle windshields as a result of damage caused by road hazards;

(v) The repair of damage to the interior components of a motor vehicle caused by wear and tear but which expressly excludes the replacement of any part or component of a motor vehicle's interior;

(vi) The replacement of a motor vehicle key or key-fob in the event that the key or key-fob becomes inoperable or is lost or stolen; or

(vii) Other services or products that may be approved by the Commissioner.

(B) The term "service contract" does not include insurance as regulated under the DISB act, except as addressed in section 11.

(11) "Service contract holder" or "contract holder" means a person who is the purchaser or holder of a service contract.

(12) "Warranty" means a warranty made solely by the manufacturer, importer, or seller of property or services without consideration that is not negotiated or separated from the sale of the product and is incidental to the sale of the product that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or remedial measures, such as repair or replacement of the property or repetition of services.

Sec. 3. Scope.

(a) The following are exempt from this act:

(1) Warranties;

(2) Maintenance agreements;

(3) Warranties, service contracts, or maintenance agreements offered by public utilities on their transmission devices to the extent they are regulated by the Public Service Commission;

(4) Service contracts sold or offered for sale to persons other than consumers; and

(5) Service contracts on tangible property where the tangible property for which the service contract is sold has a purchase price of $100 or less, exclusive of sales tax.

(b) Motor vehicle manufacturer's service contracts on the motor vehicle manufacturer's products need only comply with sections 4(h)(1), 5(a), 6(d) through (l), 7, and 11, as applicable, of this act. Motor vehicle manufacturers are exempt from the registration requirement of section 4(d).

(c) The types of agreements referred to in this section and service contracts governed pursuant to this act are not insurance.

Sec. 4. Requirements for doing business.

(a) A provider may, but shall not be required to, appoint an administrator or other designee to be responsible for any or all of the administration of service contracts and compliance with this act.

(b) Service contracts shall not be issued, sold, or offered for sale unless the provider has:

(1) Provided a receipt for, or other written evidence of, the purchase of the service contract to the contract holder; and

(2) Provided a copy of the service contract to the service contract holder within a reasonable period of time from the date of purchase.

(c)(1) A provider shall provide a consumer with a complete sample copy of the service contract terms and conditions before the time of sale upon a request by the consumer.

(2) A provider shall be in compliance with this subsection by providing the consumer with a complete sample copy of the terms and conditions or by directing the consumer to a website containing a complete sample of the terms and conditions of the service contract.

(d)(1) Each provider of a service contract sold in the District shall:

(A) File a registration with the Commissioner that includes the provider's name, full corporate address, telephone number, and contact person; and

(B) Designate a person in the District for service of process.

(2) A provider shall pay to the Commissioner a fee in the amount of $200 upon initial registration and every year thereafter.

(3) A provider shall update its registration by written notification to the Commissioner when material changes occur in the registration on file.

(e) To assure the faithful performance of a provider's obligations to its contract holders, each provider shall be responsible for complying with the requirements of one of the following 3 paragraphs:

(1) Insure all service contracts under a reimbursement insurance policy issued by an insurer licensed, registered, or otherwise authorized to do business in the District, and:

(A) At the time the policy is filed with the Commissioner, and continuously thereafter:

(i) Maintain surplus as to policyholders and paid-in capital of at least $15 million; and

(ii) Annually file copies of the insurer's financial statements, its National Association of Insurance Commissioners ("NAIC") annual statement, and the actuarial certification required by and filed in the insurer's state of domicile; or

(B) At the time the policy is filed with the Commissioner, and continuously thereafter:

(i) Maintain surplus as to policyholders and paid-in capital of less than $15 million but at least $10 million;

(ii) Demonstrate to the satisfaction of the Commissioner that the company maintains a ratio of net written premiums, wherever written, to surplus as to policyholders and paid-in capital of not greater than 3 to 1; and

(iii) Annually file copies of the insurer's audited financial statements, its NAIC annual statement, and the actuarial certification required by and filed in the insurer's state of domicile;

(2)(A) Maintain a funded reserve account for its obligations under its contracts issued and outstanding in the District; provided, that reserves shall not be less than 40% of gross consideration received, less claims paid, on the sale of the service contract for all in-force contracts; provided further, that such funded reserve account shall be subject to examination and review by the Commissioner; and

(B) Place in trust with the Commissioner a financial security deposit, having a value of not less than 5% of the gross consideration received, less claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than $25,000, consisting of one of the following:

(i) A surety bond issued by an authorized surety;

(ii) Securities of the type eligible for deposit by authorized insurers in the District;

(iii) Cash;

(iv) A letter of credit issued by a qualified financial institution; or

(v) Another form of security prescribed by regulation issued by the Mayor or Commissioner; or

(3)(A) Maintain, or together with its parent company maintain, a net worth or stockholders' equity of $100 million; and

(B)(i) Upon request, provide the Commissioner with a copy of the provider's, or the provider's parent company's, most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission ("SEC") within the last calendar year, or, if the company does not file with the SEC, a copy of the company's audited financial statement that shows a net worth of the provider or its parent company of at least $100 million.

(ii) If the provider's parent company's Form 10-K, Form 20-F, or audited financial statement is filed to meet the provider's financial stability requirement, then the parent company shall agree to guarantee the obligations of the provider relating to service contracts sold by the provider in the District.

(f) Except for the requirements specified in subsections (d) and (e) of this section, no other financial security requirements shall be required by the Commissioner for service contract providers.

(g)(1)(A) Service contracts shall require the provider to permit the service contract holder to return the service contract within 30 days of the date the service contract was mailed to the service contract holder, or the date of delivery if the service contract is delivered to the service contract holder at the time of sale, or within a longer time period permitted under the service contract.

(B) Upon return of the service contract to the provider within the applicable time period, if no claim has been made under the service contract prior to its return to the provider, the service contract shall be void and the provider shall refund to the service contract holder, or credit the account of the service contract holder, with the full purchase price of the service contract.

(C) The right to void the service contract provided by this subsection shall not be transferable and shall apply only to the original service contract purchaser and only if no claim has been made prior to its return to the provider.

(D) A 10% penalty per month shall be added to a refund that is not paid or credited within 45 days after return of the service contract to the provider.

(2)(A) Subsequent to the time period specified in paragraph (1) of this subsection or if a claim has been made under the service contract within that time period, a service contract holder may cancel the service contract and the provider shall refund to the contract holder 100% of the unearned pro rata provider fee, less any claims paid and administrative fee charged, as authorized by subparagraph (B) of this paragraph.

(B) A reasonable administrative fee may be charged by the provider not to exceed 10% of the gross provider fee paid by the service contract holder.

(h)(1) Provider fees collected on service contracts shall not be subject to premium taxes.

(2) Premiums for reimbursement insurance policies shall be subject to applicable taxes.

(i) Except for the registration requirements in subsection (d)(1) of this section, providers and related service contract sellers, administrators, and other persons marketing, selling, or offering to sell service contracts shall be exempt from any licensing requirements of the District.

Sec. 5. Required disclosures – reimbursement insurance policy.

(a) Reimbursement insurance policies insuring service contracts issued, sold, or offered for sale shall state that the insurer that issued the reimbursement insurance policy shall reimburse or pay on behalf of the provider any covered sums the provider is obligated to pay or, in the event of the provider's non-performance, shall provide the service that the provider is legally obligated to perform according to the provider's contractual obligations under the service contracts issued or sold by the provider.

(b) If covered service is not provided by the service contract provider within 60 days of proof of loss by the service contract holder, the contract holder shall be entitled to apply directly to the reimbursement insurance company.

Sec. 6. Required disclosure – service contracts.

(a) Service contracts marketed, sold, offered for sale, issued, or made or proposed to be made, or administered in the District shall be written, printed, or typed in eight-point type size, or larger and shall disclose the requirements set forth in this section, as applicable.

(b)(1) Service contracts insured under a reimbursement insurance policy pursuant to section 4(e)(1) shall contain a statement that reads in substantially the following form:

"Obligations of the provider under this service contract are insured under a service contract reimbursement insurance policy.".

(2) The service contract shall also state the name and address of the insurer.

(c) Service contracts not insured under a reimbursement insurance policy pursuant to section 4(e)(1) shall contain a statement that reads in substantially the following form:

"Obligations of the provider under this service contract are backed by the full faith and credit of the provider.".

(d) Service contracts shall state the name and address of the provider and shall identify the administrator, if different from the provider, the service contract seller, and the service contract holder to the extent that the name of the service contract holder has been furnished by the service contract holder. The identities of these parties are not required to be preprinted on the service contract and may be added to the service contract at the time of sale.

(e) Service contracts shall state the total purchase price and the terms under which the service contract is sold. The purchase price is not required to be pre-printed on the service contract and may be negotiated at the time of sale with the service contract holder.

(f) Service contracts shall state the existence of any deductible amount.

(g) Service contracts shall specify the merchandise and services to be provided and any limitations, exceptions, or exclusions.

(h) Service contracts covering motor vehicles shall state whether the use of non-original manufacturers' parts is allowed.

(i) Service contracts shall state any restrictions governing the transferability of the service contract.

(j)(1) Service contracts shall state the terms, restrictions, and conditions governing cancellation of the service contract prior to the termination or expiration date of the service contract by either the provider or the service contract holder.

(2) The provider of the service contract shall mail a written notice to the contract holder at the last known address of the service contract holder contained in the records of the provider at least 5 days before cancellation by the provider; except, that prior notice shall not be required if the reason for cancellation is nonpayment of the provider fee, a material misrepresentation by the service contract holder to the provider, or a substantial breach of duties by the service contract holder relating to the covered product or its use.

(3)(A) The notice required by this subsection shall state the effective date of the cancellation and the reason for the cancellation.

(B) If a service contract is cancelled by the provider for a reason other than nonpayment of the provider fee, the provider shall refund to the contract holder 100% of the unearned pro rata provider fee, less any claims paid.

(C) A reasonable administrative fee may be charged by the provider not to exceed 10% of the gross provider fee paid by the service contract holder.

(k) Service contracts shall set forth all of the obligations and duties of the service contract holder, such as the duty to protect against any further damage and any requirement to follow an owner's manual.

(l) Service contracts shall state whether or not the service contract provides for or excludes consequential damages or pre-existing conditions. Service contracts may, but shall not be required to, cover damage resulting from rust, corrosion, or damage caused by a non-covered part or system.

Sec. 7. Prohibited acts.

(a)(1) A provider shall not use in its name the words insurance, casualty, surety, mutual, or any other words descriptive of the insurance, casualty, or surety business, or a name deceptively similar to the name or description of any insurance, casualty, or surety organization, or to the name of any other provider. The word "guaranty" or similar word may be used by a provider.

(2) This section shall not apply to a company that was using any of the prohibited language in its name prior to the applicable date of this act; provided, that a company using the prohibited language in its name shall include in its service contracts a statement that reads in substantially the following form:

"This agreement is not an insurance contract.".

(b) A provider or its representative shall not in its service contracts or literature make, permit, or cause to be made any false or misleading statement or deliberately omit any material statement that would be considered misleading if omitted.

(c) A person, such as a bank, savings and loan association, lending institution, manufacturer, or seller of any product, shall not require the purchase of a service contract as a condition of a loan or a condition for the sale of any property.

(d) A motor vehicle service contract provider or its representative shall not, directly or indirectly, represent in any manner, whether by written solicitation or telemarketing, a false, deceptive, or misleading statement with respect to:

(1) The provider's affiliation with a motor vehicle manufacturer;

(2) The provider's possession of information regarding a motor vehicle owner's current motor vehicle manufacturer's original equipment warranty;

(3) The expiration of a motor vehicle owner's current motor vehicle manufacturer's original equipment warranty; or

(4) A requirement that a motor vehicle owner register for a new motor vehicle service contract with the provider in order to maintain coverage under the motor vehicle owner's current motor vehicle service contract or manufacturer's original equipment warranty.

(e)(1) A provider or a seller shall not include an automatic renewal provision within a service contract offered in the District unless the provider or seller:

(A) In the case of in-person or online sales, discloses the terms of the automatic renewal provision in a clear and conspicuous manner in visual proximity to the request for consent to the automatic renewal provision and the consumer consents to the terms of the automatic renewal provision through the consumer's signature or electronic acknowledgment; or

(B) In the case of telephonic sales, on a recorded call, which shall be made available to the Department of Insurance, Securities, and Banking at its request, discloses the terms of the automatic renewal provision in a clear and conspicuous manner in temporal proximity to the request for consent to the automatic renewal provision and the consumer consents to the terms of the automatic renewal provision.

(2) For the purposes of this subsection, "automatic renewal provision" means a provision under which a service contract is renewed for a specified period of more than one month if the renewal causes the service contract to be in effect more than 6 months after the day of the initiation of the service contract and such renewal is effective unless the consumer gives notice to the provider or administrator of the consumer's intention to terminate the service contract.

Sec. 8. Record keeping requirements.

(a) A provider must keep accurate accounts, books, and records concerning transactions regulated under this act and shall include:

(1) A copy of each type of service contract sold;

(2) The name and address of each service contract holder to the extent that the name and address have been furnished by the service contract holder;

(3) For automobile or new property retail sales, a list of the locations where service contracts are marketed, sold, or offered for sale; and

(4) Written claims files that shall contain, at a minimum, the dates and description of claims related to the service contracts.

(b) Except as provided in subsection (d) of this section, the provider shall retain all records required to be maintained by this section for at least one year after the specified period of coverage has expired.

(c) The records required under this act may be, but shall not be required to be, maintained on a computer disk or other record-keeping technology; provided, that if the records are maintained in other than hard copy, the records shall be capable of duplication to legible hard copy at the request of the Commissioner.

(d) A provider discontinuing business in the District shall maintain its records until it furnishes the Commissioner satisfactory proof that it has discharged all obligations to contract holders in the District.

Sec. 9. Cancellation of reimbursement insurance policy.

An insurer that issued a reimbursement insurance policy shall not terminate the policy until a notice of termination in accordance with section 5 of the Business Transacted with Producer Controlled Insurer Act of 1993, effective October 21, 1993 (D.C. Law 10-52; D.C. Official Code § 31–404), has been mailed or delivered to the Commissioner. The termination of a reimbursement insurance policy shall not reduce the issuer's responsibility for service contracts issued by providers prior to the date of the termination.

Sec. 10. Obligation of reimbursement insurance policy insurers.

(a) Insurers issuing reimbursement insurance to providers are deemed to have received the premiums for the insurance upon the payment of provider fees by consumers for service contracts issued by the insured providers.

(b) This act shall not prevent or limit the right of an insurer that issued a reimbursement insurance policy to seek indemnification or subrogation against a provider if the issuer pays or is obligated to pay the service contract holder sums that the provider was obligated to pay pursuant to the provisions of the service contract.

Sec. 11. Enforcement provisions.

(a) The Commissioner may conduct examinations of providers, administrators, insurers, or other persons to enforce the provisions of this act and protect service contract holders in the District. Upon request of the Commissioner, the provider shall make all accounts, books, and records concerning a service contract sold by the provider available to the Commissioner that the Commissioner considers necessary to enable the Commissioner to reasonably determine compliance or noncompliance with this act.

(b)(1) The Commissioner may take action that is necessary or appropriate to enforce the provisions of this act and regulations and orders issued pursuant to this act, and to protect service contract holders in the District.

(2) If a provider has violated this act or a regulation or order issued pursuant to this act, the Commissioner may issue an order, or any combination of the following, that:

(A) Orders the provider to cease and desist from committing the violation;

(B) Prohibits the provider from selling or offering for sale service contracts in violation of this act or a regulation or order issued pursuant to this act; or

(C) Imposes a civil penalty on the provider.

(c)(1) A person aggrieved by a Commissioner's order issued pursuant to this subsection may request a hearing before the Commissioner; provided, that the request for a hearing shall be filed with the Commissioner within 20 days after the effective date of the Commissioner's order.

(2) If a hearing is timely requested, the order at issue shall be suspended until completion of the hearing and a final decision of the Commissioner.

(3)(A) At the hearing, the burden shall be on the Commissioner to show why the order issued pursuant to this subsection is justified.

(B) The hearing shall be conducted according to the rules established in Subtitle A of Chapter 38 of Title 26 of the District of Columbia Municipal Rules (26 DCMR A3800 *et seq.*).

(d) The Commissioner may bring an action in any court of competent jurisdiction for an injunction or other appropriate relief for a violation of this act or a regulation or order issued pursuant to this act. An action filed under this section may also seek restitution on behalf of a person aggrieved by a violation of this act or a regulation or order issued pursuant to this act.

(e)(1) A person who is found to have violated this act or a regulation or order issued pursuant to this act may be assessed a civil penalty in an amount determined by the Commissioner of not more than $500 per violation and no more than $10,000 in the aggregate for all violations of a similar nature.

(2) For purposes of this subsection, violations are of a similar nature if the violation consists of the same or similar course of conduct, action, or practice.

Sec. 12. Provider's conditional right to continue doing business.

A person engaged in the service contract business, as a provider or otherwise, in the District on or before the applicability date of this act that submits an application for registration as a provider pursuant to this act within 30 days after the Commissioner makes the application available, may continue to engage in business as a provider in the District until final agency action is taken by the Commissioner regarding the registration application and all rights to administrative judicial review have been exhausted or expired.

Sec. 13. Rules.

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

Sec. 14. Applicability.

This act shall apply 180 days after its effective date.

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Sec. 15. 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. 16. 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
November 13, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-518

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 13, 2018

To officially designate the entire portion of the public alley system within Square 983, which is bounded by 11th Street, N.E., F Street, N.E., Maryland Avenue, N.E., 12th Street, N.E., and G Street, N.E., in Ward 6, as Bruce Robey Court.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Bruce Robey Court Designation Act of 2018".

Sec. 2. Pursuant to sections 401, 403, and 421 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01, 9-204.03, and 9-204.21) ("Act"), and notwithstanding the requirements of section 421(f) of the Act (D.C. Official Code § 9-204.21(f)), the Council officially designates the entire portion of the public alley system within Square 983, which is bounded by 11th Street, N.E., F Street, N.E., Maryland Avenue, N.E., 12th Street, N.E., and G Street, N.E., in Ward 6, as "Bruce Robey Court".

Sec. 3. 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. 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), 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
November 13, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-519

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 13, 2018

To amend, on a temporary basis, the Washington Convention Center Authority Act of 1994, An Act To provide for the drainage of lots in the District of Columbia, and Chapter 18 of Title 47 of the District of Columbia Official Code to clarify provisions supporting the Fiscal Year 2019 budget.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fiscal Year 2019 Budget Support Clarification Temporary Amendment Act of 2018".

Sec. 2. Section 208a(h) and (i) of the Washington Convention Center Authority Act of 1994, effective August 12, 1998 (D.C. Law 12-142; D.C. Official Code § 10-1202.08a(h) and (i)), are repealed.

Sec. 3. Section 5(b-1)(1) of An Act To provide for the drainage of lots in the District of Columbia, effective March 29, 1977 (D.C. Law 1-98; D.C. Official Code § 8-205(b-1)(1)), is amended by striking the phrase "addresses 1 to 177, and on the east side of Martin Luther King, Jr. Avenue, S.W., addresses 4250 to 4258" and inserting the phrase "addresses 3 to 177, on the east side of Martin Luther King, Jr. Avenue, S.W., addresses 4250 to 4258, and on the west side of South Capitol Street, S.W., addresses 4275 to 4289" in its place.

Sec. 4. Chapter 18 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-1807.14(d) is amended to read as follows:

"(d) This section shall not apply if:

"(1) The qualified corporation receives any tax credits towards payment of the real property tax for the qualified rental retail location or qualified owned retail location; or

"(2) The qualified rental retail location or qualified owned retail location is exempt from real property tax.".

(b) Section 47-1808.14(d) is amended to read as follows:

"(d) This section shall not apply if:

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"(1) The qualified unincorporated business receives any tax credits towards payment of the real property tax for the qualified rental retail location or qualified owned retail location; or

"(2) The qualified rental retail location or qualified owned retail location is exempt from real property tax.".

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

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

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 13, 2018

ENROLLED ORIGINAL

A RESOLUTION

22-637

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To confirm the appointment of Ms. Monte Monash to the Board of Library Trustees.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Library Trustees Monte Monash Confirmation Resolution of 2018".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Ms. Monte Monash
4520 River Road, N.W.
Washington, D.C. 20016
(Ward 3)

as a member of the Board of Library Trustees, established by section 4 of An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896 (29 Stat. 244; D.C. Official Code § 39-104), replacing Donald Richardson, for a term to end January 5, 2020.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

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A RESOLUTION

22-638

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To confirm the reappointment of Mr. Darrin Sobin to the Board of Ethics and Government Accountability.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Ethics and Government Accountability Darrin Sobin Confirmation Resolution of 2018".

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Mr. Darrin Sobin
955 26th Street, N.W., Apt. 203
Washington, D.C. 20037
(Ward 2)

as a member of the Board of Ethics and Government Accountability, established by section 202 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.02), for a term to end July 1, 2024.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-639

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To authorize and provide for the issuance, sale, and delivery in an aggregate principal amount not to exceed $15 million of District of Columbia revenue bonds in one or more series and to authorize and provide for the loan of the proceeds of such bonds to assist the American College of Cardiology Foundation in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "American College of Cardiology Foundation Revenue Bonds Project Approval Resolution of 2018".

Sec. 2. Definitions.

For the purpose of this resolution, the term:

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

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

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

(4) "Borrower" means the leasehold owner, operator, manager, and user of the assets financed, refinanced, or reimbursed with proceeds from the Bonds, which shall be, collectively, the:

(A) American College of Cardiology Foundation ("ACCF"), a nonprofit corporation organized under the laws of the District of Columbia and exempt from federal income taxes under 26 U.S.C § 501(a) as an organization described in 26 U.S.C. § 501(c)(3);

(B) American College of Cardiology, a nonprofit corporation organized and existing under the laws of the District of Columbia; and

(C) ACC I LLC, a limited liability company organized and existing under the laws of the State of Delaware.

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(5) "Chairman" means the Chairman of the Council of the District of Columbia.

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

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

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

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

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

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

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

(A) The renovation of a portion of an approximately 170,000-square-foot headquarters office building owned by ACCF and located at 2400 N Street, N.W., Washington, D.C. ("Building") and certain capital expenditures related to the renovation of the Building;

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

(C) Refinancing certain taxable debt the proceeds of which were used to finance or refinance the acquisition, renovation, and equipping of the Building; and

(D) Certain working capital and other expenditures directly related to the foregoing to the extent financeable including, without limitation, allowable costs of issuing the Bonds.

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Sec. 3. Findings.

The Council finds that:

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

(2) The Borrower has requested the District to issue, sell, and deliver revenue bonds, in one or more series, in an aggregate principal amount not to exceed $15 million, and to make the Loan for the purpose of financing, refinancing, or reimbursing costs of the Project.

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

(4) The Project is an undertaking that will contribute to the health, education, safety, or welfare, of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District within the meaning of section 490 of the Home Rule Act.

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

Sec. 4. Bond authorization.

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

(1) The issuance, sale, and delivery of the Bonds, in one or more series, in an aggregate principal amount not to exceed $15 million; and

(2) The making of the Loan.

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

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

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Sec. 5. Bond details.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 6. Sale of the Bonds.

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

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

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

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

Sec. 7. Payment and security.

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

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

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

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Sec. 8. Financing and Closing Documents.

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

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

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

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

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

Sec. 9. Authorized delegation of authority.

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

Sec. 10. Limited liability.

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

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

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

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

(e) All covenants, obligations, and agreements of the District contained in this resolution, the Bonds, and the executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of

the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this resolution.

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

Sec. 11. District officials.

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

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

Sec. 12. Maintenance of documents.

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

Sec. 13. Information reporting.

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

Sec. 14. Disclaimer.

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

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

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

Sec. 15. Expiration.

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

Sec. 16. Severability.

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

Sec. 17. Compliance with public approval requirement.

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

Sec. 18. Transmittal.

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

Sec. 19. Fiscal impact statement.

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

Sec. 20. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-640

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To authorize and provide for the issuance, sale, and delivery in an aggregate principal amount not to exceed $8.5 million of District of Columbia revenue bonds in one or more series and to authorize and provide for the loan of the proceeds of such bonds to assist Meridian Public Charter School in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Meridian Public Charter School Revenue Bonds Project Approval Resolution of 2018".

Sec. 2. Definitions.

For the purposes of this resolution, the term:

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

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

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

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

(5) "Chairman" means the Chairman of the Council of the District of Columbia.

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

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

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

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

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

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

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

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

(A) Refinancing of certain existing indebtedness, the proceeds of which were used to finance or refinance the costs of the acquisition of a leasehold interest in a facility used primarily as a public charter school campus located at 2120 13th Street, N.W., Washington, D.C., 20009 ("Facility");

(B) Purchasing of certain equipment and furnishings for the Facility relating to the Bonds, together with other property, real and personal, functionally related and subordinate thereto;

(C) Funding certain working capital costs, to the extent financeable relating to the Bonds;

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

(E) Paying cost of issuance and other related costs to the extent permissible relating to the Bonds.

Sec. 3. Findings.

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The Council finds that:

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

(2) The Borrower has requested the District to issue, sell, and deliver revenue bonds, in one or more series pursuant to a plan of finance, in an aggregate principal amount not to exceed $8.5 million, and to make the Loan for the purpose of financing, refinancing, or reimbursing costs of the Project.

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

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

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

Sec. 4. Bond authorization.

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

(1) The issuance, sale, and delivery of the Bonds, in one or more series, in an aggregate principal amount not to exceed $8.5 million; and

(2) The making of the Loan.

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

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

Sec. 5. Bond details.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 6. Sale of the Bonds.

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

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

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

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

Sec. 7. Payment and security.

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

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

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

Sec. 8. Financing and Closing Documents.

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

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

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

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

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

Sec. 9. Authorized delegation of authority.

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

Sec. 10. Limited liability.

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

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

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

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

(e) All covenants, obligations, and agreements of the District contained in this resolution, the Bonds, and the executed, sealed, and delivered Financing Documents and Closing

Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this resolution.

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

Sec. 11. District officials.

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

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

Sec. 12. Maintenance of documents.

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

Sec. 13. Information reporting.

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

Sec. 14. Disclaimer.

(a) The issuance of Bonds is in the discretion of the District. Nothing contained in this resolution, the Bonds, the Financing Documents, or the Closing Documents shall be construed as

obligating the District to issue any Bonds for the benefit of the Borrower or to participate in or assist the Borrower in any way with financing, refinancing, or reimbursing the costs of the Project. The Borrower shall have no claims for damages or for any other legal or equitable relief against the District, its elected or appointed officials, officers, employees, or agents as a consequence of any failure to issue any Bonds for the benefit of the Borrower.

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

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

Sec. 15. Expiration.

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

Sec. 16. Severability.

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

Sec. 17. Compliance with public approval requirement.

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

Sec. 18. Transmittal.

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

Sec. 19. Fiscal impact statement.

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

Sec. 20. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-641

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To approve an agreement to enter into a long-term subsidy contract for 15 years in support of the District's Local Rent Supplement Program to fund housing costs associated with affordable housing units for Contract No. 2017-LRSP-03A with 555 E Street SW Seniors LLC for program units at 555 E Street SW Senior Apartments, located at 555 E Street, S.W.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Local Rent Supplement Program Contract No. 2017-LRSP-03A Approval Resolution of 2018".

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

(b) In 2017, DCHA participated in a request for proposals issued by the District of Columbia Department of Housing and Community Development. Of the total proposals received, 7 developers were chosen to work with DCHA and other District agencies to develop affordable housing and permanent supportive housing units for extremely low-income families making zero to 30% of the area's median income, as well as the chronically homeless and individuals with mental or physical disabilities. Upon approval of the contract by the Council, DCHA will enter into an agreement to enter into a long-term subsidy contract ("ALTSC") with the selected housing providers under the LRSP for housing services.

(c) There exists an immediate need to approve the long-term subsidy contract with 555 E Street SW Seniors LLC under the LRSP in order to provide long-term affordable housing units for extremely low-income households for units located at 555 E Street, S.W.

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(d) The legislation to approve the contract will authorize an ALTSC between DCHA and 555 E Street SW Seniors LLC with respect to the payment of a rental subsidy and allows the owner to lease the rehabilitated units at 555 E Street SW Senior Apartments and house extremely low-income households with incomes at 30% or less of the area median income.

Sec. 3. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves the ALTSC with 555 E Street SW Seniors LLC to provide an operating subsidy in support of 7 affordable housing units in an initial amount not to exceed $214,032 annually.

Sec. 4. Transmittal.

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

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-642

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To approve an agreement to enter into a long-term subsidy contract for 15 years in support of the District's Local Rent Supplement Program to fund housing costs associated with affordable housing units for Contract No. 2016-LRSP-10A with Diane's House LP for program units at Diane's House Apartments, located at 2619 Bladensburg Road, N.E.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Local Rent Supplement Program Contract No. 2016-LRSP-10A Approval Resolution of 2018".

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

(b) In 2016, DCHA participated in a request for proposals issued by the District of Columbia Department of Housing and Community Development. Of the total proposals received, 13 developers were chosen to work with DCHA and other District agencies to develop affordable housing and permanent supportive housing units for extremely low-income families making zero to 30% of the area's median income, as well as the chronically homeless and individuals with mental or physical disabilities. Upon approval of the contract by the Council, DCHA will enter into an agreement to enter into a long-term subsidy contract ("ALTSC") with the selected housing providers under the LRSP for housing services.

(c) There exists an immediate need to approve the long-term subsidy contract with Diane's House LP under the LRSP in order to provide long-term affordable housing units for extremely low-income households for units located at 2619 Bladensburg Road, N.E.

(d) The legislation to approve the contract will authorize an ALTSC between DCHA and Diane's House LP with respect to the payment of a rental subsidy and allows the owner to lease

ENROLLED ORIGINAL

the rehabilitated units at Diane's House Apartments and house extremely low-income households with incomes at 30% or less of the area median income.

Sec. 3. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves the ALTSC with Diane's House LP to provide an operating subsidy in support of 39 affordable housing units in an initial amount not to exceed $662,940 annually.

Sec. 4. Transmittal.

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

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-643

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To approve the extension of the time limit for the disposition of certain District-owned real property located at 3012 Georgia Avenue, N.W., and known for tax and assessment purposes as Lot 0849 in Square 2890, a portion of the site of the former Bruce Monroe School.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Bruce Monroe Disposition Extension Approval Resolution of 2018".

Sec. 2. (a) Pursuant to section 1(d) 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(d)), the Mayor transmitted to the Council a request for approval of additional time for the disposition of a portion of certain District-owned real property located at 3012 Georgia Avenue, N.W., known for taxation and assessment purposes as Lot 0849 in Square 2890, previously the site of the former Bruce Monroe School ("Property"), which disposition was approved by the Council pursuant to the Bruce Monroe Disposition Approval Resolution of 2016, effective December 20, 2016 (Res. 21-721; 64 DCR 10453) ("Bruce Monroe Disposition Approval Resolution").

(b) The Mayor transmitted a detailed status report on efforts made to dispose of the Property, as well as the reasons for the inability to dispose of the Property within the time period authorized by the Bruce Monroe Disposition Approval Resolution.

(c) The Council approves the additional time requested by the Mayor to dispose of the Property and extends the time period to December 20, 2020.

Sec. 3. Transmittal.

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

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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 resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-644

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To declare the existence of an emergency with respect to the need to approve Modification Nos. 2 and 3 to Contract No. CW56028 with Food & Friends, Inc. to provide food bank and home delivered meals to clients receiving services through the DC Ryan White HIV/AIDS Program, 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. CW56028 Approval and Payment Authorization Emergency Declaration Resolution of 2018".

Sec. 2. (a) There exists a need to approve Modification Nos. 2 and 3 to Contract No. CW56028 with Food & Friends, Inc. to provide food bank and home delivered meals to clients receiving services through the DC Ryan White HIV/AIDS Program, and to authorize payment for the goods and services received and to be received under the modifications.

(b) By Modification No. 2, dated March 1, 2018, the Office of Contracting and Procurement, on behalf of the Department of Health, exercised option year one of Contract No. CW56028 with Food & Friends, Inc. for the period from March 1, 2018, to February 28, 2019, in the not-to-exceed amount of $950,000.

(c) The Office of Contracting and Procurement now seeks to increase the total not-to-exceed amount for option year one of Contract No. CW56028 to $2,500,000 for the period from March 1, 2018, to February 28, 2019.

(d) Council approval is necessary because the modifications will increase the total contract amount by more than $1 million during a 12-month period.

(e) Emergency approval is necessary to allow the continuation of these vital services. Without this approval, Food & Friends, Inc. cannot be paid for the goods and services provided in excess of $1 million for the period from March 1, 2018, to February 28, 2019.

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. CW56028 Approval and Payment Authorization Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-645

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To declare the existence of an emergency with respect to the need to approve Modification No. 1 to Contract No. NFPHC-2018-435A between the Not-for-Profit Hospital Corporation and George Washington University Medical Faculty Associates, Inc. to provide emergency department services, and to authorize payment for the services received and to be received under the modification.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Modification No. 1 to Contract No. NFPHC-2018-435-A Approval and Payment Authorization Emergency Declaration Resolution of 2018".

Sec. 2. (a) There exists an immediate need to approve Modification No. 1 to Contract No. NFPHC-2018-435A between the Not-for-Profit Hospital Corporation and George Washington University Medical Faculty Associates, Inc. to provide emergency department services, and to authorize payment for the services received and to be received under the modification.

(b) The Council approved the original base year of this contract in March 2018, but the parties subsequently terminated the contract after discovering an error in the pricing.

(c) The Council approved a new contract in July 2018 in the amount of $4,407,762 for a 6-month base period beginning in Fiscal Year 2018.

(d) Proposed Modification No. 1 would extend the contract from October 1, 2018, to March 22, 2019, in the amount of $4,407,762, for a total 12-month contract value of $8,815,524.

(e) Council approval is necessary because the modification increases the total contract amount to more than $1 million during a 12-month period.

(f) Emergency approval of this contract for a total value of $4,407,762 is necessary to prevent any impact to the hospital's provision of emergency department services.

(g) Without this approval, George Washington University Medical Faculty Associates cannot be paid for these critical services provided in excess of $1 million.

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 Modification No. 1 to Contract No. NFPHC-2018-435-A Approval and Payment Authorization Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-646

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To declare the existence of an emergency with respect to the need to approve Modification No. 1 to Contract No. NFPHC-2018-436-A between the Not-for-Profit Hospital Corporation and George Washington University Medical Faculty Associates, Inc. to provide inpatient hospitalists services, and to authorize payment for the services received and to be received under the modification.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Modification No. 1 to Contract No. NFPHC-2018-436-A Approval and Payment Authorization Emergency Declaration Resolution of 2018".

Sec. 2. (a) There exists an immediate need to approve Modification No. 1 to Contract No. NFPHC-2018-436-A between the Not-for-Profit Hospital Corporation and George Washington University Medical Faculty Associates, Inc. to provide inpatient hospitalists services, and to authorize payment for the services received and to be received under the modification.

(b) In March 2018, the Council approved the original base year of the contract, but the parties subsequently terminated the contract after discovering an error in the pricing.

(c) In July 2018, the Council approved a new contract in the amount of $1,614,227 for a 6-month base period to begin in Fiscal Year 2018.

(d) Proposed Modification No. 1 would extend the contract from October 1, 2018, to June 30, 2019, in the amount of $4,842,684, for a total 12-month contract value of $6,456,911.

(e) Council approval is necessary because the modification increases the total contract amount by more than $1 million during a 12-month period.

(f) Emergency approval of this contract for a total contract value of $4,842,684 is necessary to prevent any impact to the hospital's provision of inpatient hospital services.

(g) Without this approval, George Washington University Medical Faculty Associates, Inc. cannot be paid for these critical services provided in excess of $1 million.

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 Modification No. 1 to Contract No. NFPHC-2018-436-A Approval and Payment Authorization Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-647

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To declare the existence of an emergency with respect to the need to approve Modification No. 1 to Contract No. NFPHC-2018-465 between the Not-for-Profit Hospital Corporation and Mazars USA LLP to provide hospital operator services, and to authorize payment for the services received and to be received under the modification.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Modification No. 1 to Contract No. NFPHC-2018-465 Approval and Payment Authorization Emergency Declaration Resolution of 2018".

Sec. 2. (a) There exists an immediate need to approve Modification No. 1 to Contract No. NFPHC-2018-465 between the Not-for-Profit Hospital Corporation and Mazars USA LLP to provide hospital operator services, and to authorize payment for the services received and to be received under the modification.

(b) The base year of the contract, in the amount of $4,973,836, was deemed approved by Council on February 23, 2018.

(c) Since February 2018, Mazars USA LLP has provided vital hospital operator services to the Not-for-Profit Hospital Corporation, including performance assessments of critical areas of hospital operations, engagement efforts with the Office of the Chief Financial Officer to improve revenue cycles, analysis of key operating metrics, and the recommendation of information-technology improvements.

(d) Mazars USA LLP has made significant improvements in hospital operations during the course of its tenure with the Not-for-Profit Hospital Corporation and the failure to maintain its services would result in a regression in the management of the hospital. The work of Mazars USA LLP must continue to ensure continuity in the operation of the hospital.

(e) Emergency approval of this contract in the total amount of $6,760,774 is necessary to prevent any impact to the operation of the hospital.

(f) Council approval is necessary because this contract has an aggregate value that exceeds $1 million in a 12-month period.

(g) Without this approval, Mazars USA LLP, cannot be paid for these critical services provided in excess of $1 million.

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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 Modification No. 1 to Contract No. NFPHC-2018-465 Approval and Payment Authorization Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately

ENROLLED ORIGINAL

A RESOLUTION

22-648

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To declare the existence of an emergency with respect to the need to approve Contract No. CW60505 with First Vehicle Services, Inc. to provide fleet maintenance services for the Metropolitan Police Department vehicle fleet, and to authorize payment for the goods and services received and to be received under the contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. CW60505 Approval and Payment Authorization Emergency Declaration Resolution of 2018".

Sec. 2. (a) The Office of Contracting and Procurement, on behalf of the Metropolitan Police Department, proposes to enter into a multiyear contract with First Vehicle Services, Inc. to provide maintenance services for the Metropolitan Police Department vehicle fleet in the not-to-exceed amount of $21,729,947.12.

(b) Approval is necessary to allow the District to continue to receive the benefit of these vital goods and services from First Vehicle Services, Inc. without interruption.

(c) These critical goods and services can only be obtained through an award of the multiyear contract with First Vehicle Services, Inc.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Contract No. CW60505 Approval and Payment Authorization Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-649

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To declare the existence of an emergency with respect to the need to approve Modification Nos. 7 and 8 to Human Care Agreement No. DCRL-2016-H1-0034 with God's Anointed New Generation to provide teen bridge program services to protect children from abuse and neglect , and to authorize payment for the 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 Human Care Agreement No. DCRL-2016-H1-0034 Approval and Payment Authorization Emergency Declaration Resolution of 2018".

Sec. 2. (a) There exists a need to approve Modification Nos. 7 and 8 to Human Care Agreement No. DCRL-2016-H1-0034 with God's Anointed New Generation to provide teen bridge program services to protect children from abuse and neglect, and to authorize payment for the services received and to be received under the modifications.

(b) By Modification No. 7, dated September 26, 2018, the Child and Family Services Agency exercised a partial option of option year two of Human Care Agreement No. DCRL-2016-H1-0034 in the amount of $454,009.41, for the period from October 5, 2018, to February 4, 2019.

(c) By Modification No. 8, the Child and Family Services Agency proposes to exercise the remainder of option year two of Human Care Agreement No. DCRL-2016-H1-0034 in the not-to-exceed amount of $901,360.64, for the period from February 5, 2019 to October 4, 2019, which shall increase the total not-to-exceed amount for option year two of the contract for the period from October 5, 2018, to October 4, 2019 by $1,355,370.05.

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

(e) Approval is necessary to allow the continuation of these vital services. Without this approval, God's Anointed New Generation cannot be paid for services provided in excess of $1 million for the contract period from October 5, 2018, to October 4, 2019.

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

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Modifications to Human Care Agreement No. DCRL-2016-H1-0034 Approval and Payment Authorization Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-650

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To declare the existence of an emergency with respect to the need to approve Change Order Nos. 10 through 20 to Contract No. DCAM-15-CS-0075 with Lightbox-Bluefin Partners for roof management services, and to authorize payment in the not-to-exceed amount of $1,521,391.19 for the goods and services received and to be received under the change orders.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Change Orders to Contract No. DCAM-15-CS-0075 Approval and Payment Authorization Emergency Declaration Resolution of 2018".

Sec. 2.(a) There exists an immediate need to approve Change Order Nos. 10 through 20 to Contract No. DCAM-15-CS-0075 to fully exercise Option Year 2 of Contract No. DCAM-15-CS-0075 with Lightbox-Bluefin Partners for roof management services, and authorize payment in the not-to-exceed amount of $1,521,391.19 for the goods and services received and to be received under the change orders.

(b) On December 27, 2017, the Department of General Services ("Department") executed Change Order No. 10 (formerly Modification No. 1), which partially exercised Option Year 2 through January 17, 2018, in the not-to-exceed amount of $160,859.82. On January 17, 2018, the Department executed Change Order No. 11 (formerly Modification No. 2), which partially exercised Option Year 2 through March 31, 2018, but did not alter the not-to-exceed amount. On March 1, 2018, the Department executed Change Order No. 12 (formerly Change Order No. 10), which revised the scope of work to include additional services and increased the not-to-exceed amount of Option Year 2 by $193,618, to a total of $354,477.82. On March 30, 2018, the Department executed Change Order No. 13 (formerly Modification No. 3), which partially exercised Option Year 2 through June 30, 2018, but did not alter the not-to-exceed amount. On June 28, 2018, the Department executed Change Order No. 14 (formerly Modification No. 4), which exercised the remaining portion of Option Year 2 through December 27, 2018, re-obligated funds, and decreased the not-to-exceed amount by $0.50, to a total of $354,477.32. On June 28, 2018, the Department executed Change Order No. 15 (formerly Change Order No. 11), which revised the scope of work to include additional services and increased the not-to-exceed amount by $378,350, to a total of $732,837.32 (corrected to $732,827.32 per Change Order No.

18 (formerly Change Order No. 14)). On August 9, 2018, the Department executed Change Order No. 16 (formerly Change Order No. 12), which revised the scope of work to include additional services and increased the not-to-exceed amount by $154,753.87, to a total of $887,591 (corrected to $887,581.19 per Change Order No. 18 (formerly Change Order No. 14)). On September 27, 2018, the Department executed Change Order No. 17 (formerly Change Order No. 13), which revised the scope of work to include additional services and increased the not-to-exceed amount by $39,650, to a total of $917,241 (corrected to $927,231.19 per Change Order No. 18 (formerly Change Order No. 14)). On October 9, 2018, the Department executed Change Order No. 19, which corrected the not-to-exceed amounts stated in Change Order Nos. 15 (formerly Change Order No. 11), 16 (formerly Change Order No. 12), and 17 (formerly Change Order No. 13). As the aggregate amount of Change Order Nos. 10 through 19 did not exceed $1 million, Council approval was not required. Proposed Change Order No. 20, in the amount of $594,160, would cause the aggregate value of Change Order Nos. 10 through 20 to be $1,521,391.19 for Option Year 2.

(c) Proposed Change Order No. 20 would cause the aggregate value of all change orders issued to exercise Option Year 2 to exceed $1 million, thus Council approval of Change Order Nos. 10 through 20 is now required pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51).

(d) Approval is necessary to allow the continuation of these vital services. Without this approval, Lightbox-Bluefin Partners cannot be paid for goods and services provided in excess of $1 million under the contract.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Change Orders to Contract No. DCAM-15-CS-0075 Approval and Payment Authorization Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-651

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To declare the existence of an emergency with respect to the need to approve Modification No. 6 to Contract No. DOEE-2016-C-0002 with the Vermont Energy Investment Corporation to provide performance-based services in administering sustainable energy programs in the District.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Modification to Contract No. DOEE-2016-C-0002 Emergency Declaration Resolution of 2018".

Sec. 2. (a) The Office of the Deputy Mayor for Planning and Economic Development, on behalf of the Department of Energy and Environment, proposes to modify Contract No. DOEE-2016-C-0002 with Vermont Energy Investment Corporation, the designated Sustainable Energy Utility, to add the implementation of the Solar for All Program and the Emergency HVAC Program for low-income households.

(b) The price of Modification No. 6 to Contract No. DOEE-2016-C-0002 will be in the not-to-exceed amount of $33,351,666. With Modification No. 6, the total 5-year amount of Contract No. DOEE-2016-C-0002 will be in the not-to-exceed amount of $128,982,598.50.

(c) Approval is necessary to allow the District to receive the benefit of these vital services in a timely manner from Vermont Energy Investment Corporation.

(d) These critical services can only be obtained through modification of Contract No. DOEE-2016-C-0002 with Vermont Energy Investment Corporation.

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 Modification to Contract No. DOEE-2016-C-0002 Emergency Approval Resolution of 2018 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-652

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To approve, on an emergency basis, Modification No. 6 to Contract No. DOEE-2016-C-0002 with the Vermont Energy Investment Corporation to provide performance-based services in administering sustainable energy programs in the District.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Modification to Contract No. DOEE-2016-C-0002 Emergency Approval Resolution of 2018".

Sec. 2. Pursuant to section 451(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(c)(3)), the Council approves Modification No. 6 to Contract No. DOEE-2016-C-0002 with Vermont Energy Investment Corporation to provide performance-based services in administering sustainable energy programs in the District in the not-to-exceed amount of $33,351,666.

Sec. 3. Transmittal.

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

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-654

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To declare the existence of an emergency with respect to the need to amend the Drug Paraphernalia Act of 1982 to permit persons to use, or possess with the intent to use, testing equipment or other objects used, intended, or designed for use in testing personal use quantities of controlled substances, and to allow community-based organizations to deliver or sell, or possess with intent to deliver or sell, testing equipment for that same purpose.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Controlled Substance Testing Emergency Declaration Resolution of 2018".

Sec. 2. (a) In September 1982, the Council passed the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code § 48-1101 *et seq*.), which classified testing equipment or other objects used, intended, or designed for use in testing controlled substances as drug paraphernalia, and subjected the use of such testing equipment to criminal penalties.

(b) Testing equipment can be used to determine whether licit or illicit drugs contain unknown adulterants such as fentanyl and fentanyl analogues.

(c) Fentanyl and fentanyl analogues are synthetic opioids that are far more potent than heroin or morphine, and lethal at much lower doses. Consuming even a miniscule amount can cause overdose and death.

(d) Fentanyl and its analogues are often added as a cutting agent to heroin or other drugs high in the supply chain. Moreover, many drug users are not aware that fentanyl analogues have been added to the drugs they consume. Experts believe the majority of East Coast heroin supply now includes adulterants such as fentanyl. Fentanyl is also increasingly being detected in the cocaine supply.

(e) In the past several years, overdose deaths involving synthetic opioids such as fentanyl have increased rapidly throughout the United States and Canada. In the United States, the synthetic opioid overdose death rate increased 72.2% from 2014 to 2015, with a total of 9,580

deaths in 2015. In the District, opioid overdose deaths increased 89.5%, from 114 in 2015 to 216 in 2016. And in 2016, 64% of deaths involved fentanyl or its analogues.

(f) Testing opioids to ensure they do not contain fentanyl is a proven measure that can reduce mortality and harms to drug users. It also provides valuable information about trends in the drug supply that can be used to benefit public health.

(g) There is a need to allow for testing of opioids to reduce mortality. In 2016, however, the District arrested 634 individuals for possession of drug paraphernalia, which includes testing equipment.

(h) This emergency and temporary were previously moved at the November 30, 2017, legislative meeting, and the authority for the temporary legislation expires on November 8, 2018.

(i) The emergency legislation will have an applicability date of November 8, 2018.

(j) This emergency legislation will permit individuals in the District to use testing equipment to test personal use quantities of controlled substances, and will also allow community-based organizations to deliver or sell, or possess with intent to deliver or sell, testing equipment, for that same purpose.

Sec. 3. The Council of the District of Columbia determined that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Controlled Substance Testing Emergency Amendment Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-657

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To declare the existence of an emergency with respect to the need to protect and enhance the affordability and stability of premiums in the individual and small group health insurance markets by providing new protections to consumers who obtain insurance from multiple employer welfare arrangements and the short-term limited duration health insurance market.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Health Insurance Marketplace Improvement Emergency Declaration Resolution of 2018".

Sec. 2. (a) In June 2018, the United States Department of Labor issued a final rule that significantly changed the manner in which association health plans ("AHPs") are regulated. The rule makes it much easier for an association to be considered a single multi-employer plan under the Employee Retirement Income Security Act of 1974, approved September 2, 1974 (88 Stat. 829; 29 U.S.C. § 1002) (. If so considered, AHPs will not have to comply with many of the most important consumer protections provided by the Patient Protection and Affordable Care Act, approved March 23, 2010 (124 Stat. 119; 42 U.S.C. § 18001, note), as amended by the Health Care and Education Reconciliation Act of 2010, approved March 30, 2010 (124 Stat. 1029; 42 U.S.C. § 1305, note) ("ACA"), including provisions requiring essential health benefits and rating rules codified in the law.

(b) In August 2018, the United States Departments of Health and Human Services, Labor, and Treasury issued a final rule to dramatically expand the time individuals may use short-term, limited-duration ("STLD") health plans. The rule enlarges the maximum duration of these plans from 3 months to 36 months. Short-term plans do not have to comply with the market reforms of the ACA, and insurers are allowed to charge higher premiums based on health status, exclude coverage for pre-existing conditions, require higher out-of-pocket cost sharing, and opt not to cover entire categories of benefits.

(c) Both the Mayor and the Council memorialized their objections prior to the finalization of these rules in a comment letter sent to the U.S. Secretary of Labor. This missive explained the detrimental effects that each of these federal rules will have on health care coverage in the District and noted the potential destabilizing effects of the proposed rules on the District's insurance market.

ENROLLED ORIGINAL

(d) The federal rules on AHPs and STLD health plans take effect on September 1, 2018 and October 2, 2018, respectively, and could adversely impact the 2019 individual and small group market premiums. The Council must therefore act immediately to protect consumers from the negative effects of these newly-authorized insurance products and to prevent damage to the District's individual and small group health insurance markets.

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 Health Insurance Marketplace Improvement Emergency Amendment Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-658

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To declare the existence of an emergency with respect to the need to approve an amount of bonds to be issued in support of the New Communities Initiative.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "New Communities Initiative Bond Issuance Approval Emergency Declaration Resolution of 2018".

Sec. 2. Emergency legislation is necessary to ensure that the District can issue bonds in a timely manner and take advantage of favorable market conditions to provide funding for, or to reimburse the District for funds already expended on, projects approved and undertaken as part of the New Communities Initiative.

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 New Communities Initiative Bond Issuance Emergency Approval Resolution of 2018 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-659

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To approve, on an emergency basis, an amount of bonds to be issued in support of the New Communities Initiative.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "New Communities Initiative Bond Issuance Emergency Approval Resolution of 2018".

Sec. 2. Definitions.

For the purposes of this resolution, the term:

(1) "Authorizing Acts" means section 490 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 809; D.C. Official Code § 1-204.90), section 203 of the Housing Production Trust Fund Act of 1988, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 42-2812.03) ("HPTF act"), and Subchapter II-D of Chapter 3 of Title 47 of the District of Columbia Official Code.

(2) "Project" means the implementation of the Redevelopment Plans.

(3) "Redevelopment Plans" means the Northwest One Redevelopment Plan, pursuant to the Northwest One / Sursum Corda Affordable Housing Protection, Preservation and Production Act of 2006, effective November 16, 2006 (D.C. Law 16-188; 53 DCR 6750), the Lincoln Heights/Richardson Dwellings New Communities Revitalization Plan, pursuant to the Lincoln Heights/Richardson Dwellings New Communities Initiative Revitalization Plan Approval Resolution of 2006, effective December 19, 2006 (Res.16-923; 54 DCR 38), the Barry Farm Redevelopment Plan, pursuant to the Barry Farm/Park Chester/Wade Road Redevelopment Plan Approval Resolution of 2006, effective December 19, 2006 (Res. 16-922; 54 DCR 35), and the Park Morton Redevelopment Plan, pursuant to the Park Morton Redevelopment Initiative Plan Approval Resolution of 2008, effective February 19, 2008 (Res.17-538; 55 DCR 1881).

Sec. 3. Finding.

The Council finds that the Redevelopment Plans and other information accompanying the Mayor's transmittal of this resolution, transmitted on November 5, 2018, meet the requirements set forth in section 203(d) of the HPTF act.

ENROLLED ORIGINAL

Sec. 4. Approval.

(a) The Council approves the Redevelopment Plans and the areas covered by the Redevelopment Plans as part of the New Communities Initiative pursuant to section 203(a)(2) of the HPTF act.

(b)(1) Pursuant to the Authorizing Acts, the Council approves the issuance and sale of income tax secured bonds or notes in an aggregate principal amount not to exceed $60 million to assist in financing, refinancing, making loans for, or reimbursing costs of the project and all costs and expenses of issuing and delivering the bonds or notes, including underwriting, legal, accounting, financial advisory, bond insurance or other credit enhancement, marketing and selling the bonds or notes, and printing costs and expenses.

(2) The Chief Financial Officer is authorized to determine whether income tax secured bonds or notes will be issued to finance or refinance the project. If notes are issued to finance the project, the Chief Financial Officer shall determine when and whether New Communities Initiative income tax secured bonds or notes will be issued to refund or refinance the outstanding notes.

(c) The Council approves the execution and delivery by the Mayor, Deputy Mayor for Planning and Economic Development, or the Chief Financial Officer, on behalf of the District, of any agreement, document, contract, and instrument (including any amendment or supplement to any such agreement, document, contract, or instrument) in connection with the issuance, sale, and delivery of District of Columbia income tax secured bonds or notes issued pursuant to this resolution.

Sec. 5. Allocation of funds.

If the funds allocated to any agency pursuant to this resolution exceed the amount required by that agency to complete the project, the excess funds shall be made available to finance other New Communities Initiative projects approved by a subsequent New Communities Initiative project bond issuance resolution.

Sec. 6. Transmittal.

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

Sec. 7. 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. 8. Effective date.

This resolution shall take effect immediately.

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 22-166, "False Claims Amendment Act of 2017"

on

Thursday, December 20, 2018, 9:30 a.m.
Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on **Bill 22-166**, the "False Claims Amendment Act of 2017." The hearing will be held at 9:30 a.m. on Thursday, December 20, 2018 in Room 412 of the John A. Wilson Building.

The stated purpose of Bill 22-166 is to amend the District of Columbia Procurement Practices Act of 1985 to expand false claim liability to certain false claims made pursuant to those portions of Title 47 of the District of Columbia Official Code that refer or relate to taxation.

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or call Evan Cash, Committee and Legislative Director at (202) 724-7002, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Tuesday, **December 18, 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 December 18, 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 Friday, December 28, 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

Bill 22-525, "Micro-Business Startup Fee Relief Amendment Act of 2017"

on

Thursday, December 20, 2018
10:00 a.m. (or immediately following the preceding 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 22-525**, the "Micro-Business Startup Fee Relief Amendment Act of 2017." The hearing will be held at 10:00 a.m. (or immediately following the preceding hearing) on Thursday, December 20, 2018 in Room 412 of the John A. Wilson Building.

The stated purpose of Bill 22-525 is to amend section 47-2851.04 of the District of Columbia Official Code to reduce the total cost of a basic business license, and all required endorsements, taxes, and fees, for businesses with taxable income of $100,000 or less.

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or call Evan Cash, Committee and Legislative Director at (202) 724-7002, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Tuesday, **December 18, 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 December 18, 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 Friday, December 28, 2018.

Council of the District of Columbia
Committee on Finance and Revenue
Notice of Public Hearing
John A. Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004

COUNCILMEMBER JACK EVANS, CHAIR
COMMITTEE ON FINANCE AND REVENUE

ANNOUNCES A PUBLIC HEARING ON:

Bill 22-915, the "Randall School Museum and Housing Development Real Property Tax Abatement Act of 2018"
Bill 22-1008, the "Charter School Property Tax Clarification Amendment Act of 2018"

Wednesday, December 12, 2018
10:00 a.m.
Room 120- John A. Wilson Building
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public hearing to be held on Wednesday, December 12, 2018 at 10:00 a.m. in Room 120, of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

Bill 22-915, the "Randall School Museum and Housing Development Real Property Tax Abatement Act of 2018" would amend Chapter 46 of Title 47 of the District of Columbia Official Code to provide a 20- year abatement of real property taxes on real property located in Lot 801 in Square 643-S in Ward 6.

Bill 22-1008, the "Charter School Property Tax Clarification Amendment Act of 2018" would amend Chapter 10 of Title 47 of the District of Columbia Official Code to exempt from taxation certain properties owned or leased by Shaed School, LLC, 5601 East Capitol, LLC, Mamie D. Lee, LLC, and St. Paul on Fourth Street, Inc.

The Committee invites the public to testify at the hearing. Those who wish to testify should contact Sarina Loy, Committee Assistant at (202) 724-8058 or sloy@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization by 10:00 a.m. on Tuesday, December 11, 2018. Witnesses should bring 15 copies of their written testimony to the hearing. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to sloy@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004.

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

COUNCILMEMBER DAVID GROSSO
COMMITTEE ON EDUCATION
ANNOUNCES A PUBLIC HEARING

on

B22-947, the "Office of the State Superintendent of Education Amendment Act of 2018"

And

B22-0952, the "State Education Agency Independence Amendment Act of 2018"

on

Monday, December 17, 2018
11:00 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Councilmember David Grosso announces the scheduling of a public hearing on B22-947, the "Office of the State Superintendent of Education Amendment Act of 2018" and B22-0952, the "State Education Agency Independence Amendment Act of 2018." The hearing will be held at 11:00 a.m. on Monday, December 17, 2018 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of B22-974 is to make the Office of the State Superintendent of Education (OSSE) subordinate to the State Board of Education.

The stated purpose of B22-952 is to establish the Office of the State Superintendent of Education (OSSE) as an independent agency and increases the term of the State Superintendent of Education to 6 years.

The Committee invites the public to testify or submit written testimony. Those who wish to testify may sign-up online at http://bit.do/educationhearings or call the Committee on Education at (202) 724-8061 by 5:00 p.m. Friday, December 14, 2018. Persons wishing to testify are encouraged to bring 10-15 copies of their written testimony.

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 by email to Ashley Strange, Committee Assistant, at 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, NW, Washington, D.C. 20004. The record will close at 5:00 p.m. on Friday, December 21, 2018.

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

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

Bill 22-957, the "Open Movie Captioning Requirement Act of 2018"

on

Tuesday, December 11, 2018, 12:30 p.m.
Council Chamber, Room 500
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 22-957, the "Open Movie Captioning Requirement Act of 2018". ** The hearing will be held at 12:30 p.m. on **Tuesday, December 11, 2018** in the **Council Chamber** of the John A. Wilson Building. This notice has been revised to include room change from Hearing Room 412 to the Council Chamber and notice of the availability of interpreter services.

The stated purpose of **Bill 22-957** is to require that movie theatres captioning during movie showing at specified times; to provide that a violation shall be an unlawful discriminatory practice; and to require notice of the requirements of this act.

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or call Michael Battle at (202) 724-8032, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business **Friday December 7, 2018.** Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. **The Council will provide interpretation services if requested.** If submitted by the close of business on Friday December 7, 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. Lengthier testimony may be presented by prior arrangement with the Committee. Copies of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council's office or on http://lims.dccouncil.us. Hearing materials, including a draft witness list, can be accessed 24 hours in advance of the hearing at http://www.chairmanmendelson.com/circulation.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on December 21, 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

Bill 22-990, "Closing of a Portion of South Dakota Avenue, N.E., adjacent to Squares 3760 and 3766 Act of 2018"

on

Thursday, December 20, 2018
11:00 a.m. (or immediately following the preceding 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 22-990**, the "Closing of a Portion of South Dakota Avenue, N.E., adjacent to Squares 3760 and 3766 Act of 2018." The hearing will be held at 11:00 a.m. (or immediately following the preceding hearing) on Thursday, December 20, 2018 in Room 412 of the John A. Wilson Building.

The stated purpose of Bill 22-990 is to order the closing of a portion of South Dakota Avenue, N.E., adjacent to Squares 3760 and 3766 (and near Riggs Road, N.E.), in Ward 4. This closing would allow for the completion of a land disposition agreement approved by the Committee of the Whole in 2016 in Resolution 21-717, the "South Dakota Avenue Riggs Road Excess Property Disposition Approval Resolution of 2016."

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or call Evan Cash, Committee and Legislative Director at (202) 724-7002, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Tuesday, **December 18, 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 December 18, 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 Friday, December 28, 2018.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Placard Posting Date:	November 2, 2018
Protest Petition Deadline:	December 17, 2018
Roll Call Hearing Date:	December 31, 2018
Protest Hearing Date:	February 27, 2019
License No.:	ABRA-110084
Licensee:	Luam Mit, LLC
Trade Name:	Hunumanh
License Class:	Retailer's Class "C" Restaurant
Address:	1604 7th Street, N.W.
Contact:	Boby Pradachith: (703) 389-3960

WARD 6 ANC 6E SMD 6E01

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 December 31, 2018 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **February 27, 2019 at 1:30 p.m.**

NATURE OF OPERATION

New Restaurant serving Laotian Cuisine. **Summer Garden with 35 seats. Total Occupancy Load is 75 with seating for 40.

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

Sunday through Thursday 12pm – 12am, Friday and Saturday 12pm – 1am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date:	November 2, 2018
Protest Petition Deadline:	December 17, 2018
Roll Call Hearing Date:	December 31, 2018
Protest Hearing Date:	February 27, 2019
License No.:	ABRA-110084
Licensee:	Luam Mit, LLC
Trade Name:	Hunumanh
License Class:	Retailer's Class "C" Restaurant
Address:	1604 7th Street, N.W.
Contact:	Boby Pradachith: (703) 389-3960

WARD 6 ANC 6E SMD 6E01

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 December 31, 2018 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **February 27, 2019 at 1:30 p.m.**

NATURE OF OPERATION

New Restaurant serving Laotian Cuisine. **Sidewalk Café with 35 seats. Total Occupancy Load is 75 with seating for 40.

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

Sunday through Thursday 12pm – 12am, Friday and Saturday 12pm – 1am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	November 23, 2018
Protest Petition Deadline:	January 7, 2019
Roll Call Hearing Date:	January 22, 2019
Protest Hearing Date:	March 20, 2019
License No.:	ABRA-112163
Licensee:	2029 P St, LLC
Trade Name:	Sorelle
License Class:	Retailer's Class "C" Restaurant
Address:	2029 P Street, N.W.
Contact:	Stephen J. O'Brien, Esq.: (202) 625-7700

WARD 2 ANC 2B SMD 2B02

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 January 22, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **March 20, 2019 at 1:30 p.m.**

NATURE OF OPERATION

New Class "C" Restaurant. Fast casual Italian deli serving prepared foods with background music. Summer Garden with 6 seats. Total Occupancy Load of 35 with seating for 27 patrons inside.

HOURS OF OPERATION (INSIDE PREMISES)

Sunday through Thursday 7am – 12am
Friday and Saturday 7am – 2am

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

Sunday through Thursday 8am – 12am
Friday and Saturday 8am – 2am

HOURS OF OPERATION (SUMMER GARDEN)

Sunday through Thursday 7am – 11pm
Friday and Saturday 7am – 12am

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

Sunday through Thursday 8am – 11pm
Friday and Saturday 8am – 12am

BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, JANUARY 16, 2019
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 SIX

19898 ANC 6B — **Application of Michael Silvestro**, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5203.1 from the height requirements of Subtitle E § 303.1, and under Subtitle E §§ 206.2 and 5203.3 from the upper floor addition requirements of Subtitle E § 206.1, to construct a third story and rear addition to the existing, two-story, attached principal dwelling unit in the RF-1 Zone at premises 121 7th Street S.E. (Square 870, Lot 859).

WARD SIX

19899 ANC 6B — **Application of Christopher Turner and Elizabeth Repko**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E §§ 205.5 and 5201, from the rear addition requirements of Subtitle E § 205.4, to construct a two-story, rear addition to an existing, attached principal dwelling unit in the RF-1 Zone at premises 1322 D Street S.E. (Square 1041, Lot 812).

WARD SIX

19900 ANC 6D — **Application of Christopher and Katelyn Kimber**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, to construct a three-story rear addition to an existing, attached, principal dwelling unit in the RF-1 Zone at premises 1215 Carrollsburg Place SW. (Square 651, Lot 69).

WARD ONE

19896 ANC 1C — **Appeal of Adams Morgan Friends & Allies**, pursuant to 11 DCMR Subtitle Y § 302, from the decision made on August 3, 2018 by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue building permit B1800516, to construct a new three-story, 28-unit apartment house in the RC-1 Zone at premises 1731 Kalorama Road N.W. (Square 2563, Lot 98).

PLEASE NOTE:

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

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.
Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. **Persons seeking party status shall file with the Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application Form**.* This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning's website at: www.dcoz.dc.gov. All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

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

Do you need assistance to participate?

Amharic
ለማነጥ ዕርዳታ ያስፈልግዎታል?
የተለየ እርዳታ ካስፈለገዎት ወይምየ ቋንቋ እርዳታ አገልግሎቶች (ትርጉምወይምማሽተርጎም)
ካስፈለገዎት እባክዎን ከስብሰባውአምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይምበኤሜል Zelalem.Hill@dc.gov ይገናኙ። እነ ኝህ አገልግሎቶች የ ማከለሽ 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

Quí vị có cần trợ giúp gì để tham gia không?
Nếu quí 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
LORNA L. JOHN, MEMBER
CARLTON HART, VICE-CHAIRPERSON,
NATIONAL CAPITAL PLANNING COMMISSION
A PARTICIPATING MEMBER OF THE ZONING COMMISSION
CLIFFORD W. MOY, SECRETARY TO THE BZA
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING

DEPARTMENT OF INSURANCE, SECURITIES, AND BANKING

NOTICE OF PROPOSED RULEMAKING

The Commissioner of the Department of Insurance, Securities and Banking, pursuant to the authority set forth in Section 101(c) of the Federal Health Reform Implementation and Omnibus Amendment Act of 2014, effective May 2, 2015 (D.C. Law 20-265; D.C. Official Code § 31-3461(c) (2013 Repl. & 2017 Supp.)), and Section 207 of the Health Insurance Portability and Accountability Federal Law Conformity and No-Fault Motor Vehicle Insurance Act of 1998, effective April 13, 1999 (D.C. Law 12-209; D.C. Official Code § 31-3302.07 (2013 Repl.)), hereby gives notice of his intent to adopt a new Chapter 47 (Health Benefit Plan Network Access and Adequacy), of Title 26 (Insurance, Securities, and Banking), Subtitle A (Insurance), of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of these rules is to establish standards for health carrier provider networks that ensure adequacy and accessibility of medical and behavioral health care services. Specifically, the rules will address requirements for health carriers in recruiting and maintaining participating provider networks to sufficiently meet the needs of their enrollees.

A new Chapter 47, HEALTH BENEFIT PLAN NETWORK ACCESS AND ADEQUACY, of Title 26-A DCMR, INSURANCE, is added to read as follows:

CHAPTER 47 HEALTH BENEFIT PLAN NETWORK ACCESS AND ADEQUACY

4700 PURPOSE

4700.1 The purpose and intent of these rules are to:

(a) Establish standards for the creation and maintenance of networks by health carriers; and

(b) Ensure the adequacy, accessibility, transparency and quality of health care services offered under a network plan by:

(1) Establishing requirements for written agreements between health carriers offering network plans and participating providers regarding the standards, terms and provisions under which the participating provider will provide covered services to covered persons; and

(2) Requiring health carriers to maintain and follow Access Plans that consist of policies and procedures for ensuring the ongoing sufficiency of provider networks, including any requirements related to their availability to the public.

4701 APPLICABILITY AND SCOPE

4701.1 Except as provided in § 4701.2, this chapter applies to all health carriers that offer network plans.

4701.2 These rules shall not apply to health carriers that offer network plans that consist solely of limited scope dental plans or limited scope vision plans.

4702 NETWORK ADEQUACY

4702.1 A health carrier providing a network plan shall maintain a network that is sufficient in numbers and appropriate types of providers, including those that serve predominantly low-income, medically underserved individuals, to ensure that all covered services to covered persons, including children and adults, will be accessible without unreasonable travel or delay.

4702.2 Carriers shall submit to the Commissioner a Network Adequacy Report demonstrating compliance with this section, no later than September 1 of each year, for health plans being sold, issued, or renewed on or after January 1 of the subsequent year. If a carrier is unable to demonstrate compliance with any of the provisions set forth under this section, the carrier may submit a Request for Waiver Form along with their Network Adequacy Report for approval by the Commissioner. The Commissioner may request additional information, including but not limited to:

(a) A list of providers or physicians that the carrier attempted to contract with, identified by name, practice location, and specialty or facility type;

(b) A description of when and how many times the carrier last contacted each provider or physician;

(c) A description of any reason(s) each provider or physician gave for refusing to contract with the carrier;

(d) A description of any modifications to the contract or contracting process offered to providers or facilities described in paragraph (c);

(e) Steps the carrier will take to attempt to improve its network to meet the requirements of this section;

(f) Carriers that provide a majority of covered professional services through physicians employed by the carrier, or through a single medical group in contract with the carrier, shall include, in a waiver request, a description of how the carrier otherwise meets the access needs of its enrollees, and a description of expansion plans, if applicable; and

(g) Any other information required by the Commissioner.

4702.3 The Commissioner shall determine the sufficiency of a network in accordance with the requirements of this section.

4702.4 For any provider-to-covered person ratio referenced in this section, the ratio shall be formulated by dividing the number of providers in each network, as listed in the carrier's submitted Centers for Medicare and Medicaid Services (CMS) Qualified Health Plan (QHP) network template, by the number of covered persons with access to that same network. If a carrier submits more than one Network ID, then separate ratios shall be formulated for each Network ID.

4702.5 Carriers that provide a majority of covered professional services through physicians employed by the carrier, or through a single medical group in contract with the carrier, shall provide services consistent with the following requirements:

For Plans Sold, Issued, or Renewed on or After January 1, 2020

(a) Provider-to-covered person ratios by specialty using the following standards:

Neurology	**1:7,500**
Cardiology	**1:7,500**
Hematology/Oncology	**1:7,500**
Dermatology	**1:7,500**
Rheumatology	**1:7,500**
Orthopedics	**1:7,500**
Nephrology	**1:7,500**

(b) Provider-to-covered person ratios using the following standards:

Primary Care	**1:3,000**
(Medical Doctor, Nurse Provider)	
Pediatrics	**1:3,000**
(Board Certified Pediatrician or Family Medicine)	
OB/GYN	**1:3,000**
(Board Certified OB/GYN, Nurse Provider, or Midwife)	
Behavioral Health & Substance Use	**1:3,000**
(Board Certified Neurology or Psychiatry; PsyD, PhD, Masters level clinician in the areas of Social Work, Family Therapy, Licensed Professional Counselors)	
Habilitative Services	**1:3,000**
(Speech, Language and Occupational and Physical Therapists, Applied Behavior Analysis providers)	

For Plans Sold, Issued, or Renewed on or After January 1, 2020

(c) Physician Accessibility:

(1) The Commissioner may make available a list of physicians with a fully privileged, active license to practice medicine in the District of Columbia, and other qualified providers if applicable, their primary practice address in the District of Columbia, and identify the physicians with an office located within half (1/2) of a mile of a Metrorail stop. The Commissioner, in consultation with carriers, shall include additional data elements in the listing as necessary to allow for comparison with carrier data.

(2) The Commissioner shall provide a mechanism for a carrier to report providers who are improperly excluded from the list; included on the list; or improperly identified as having or not having an office within half (1/2) of a mile of a Metrorail stop.

(3) Carriers shall have in their network at least fifteen percent (15%) of providers with a primary practice address within the District of Columbia identified as having an office within half (1/2) of a mile of a Metrorail stop on the list of providers.

(d) Appointment Wait Times:

(1) Carriers shall establish the standards listed below for appointment wait times for services within the network. The standard shall not be defined in terms of an appointment with a specific provider, but rather any qualified provider employed by the carrier or single

contracted medical group who is available within a reasonable time frame to see a covered person.

SERVICE TYPE	TIME FRAME
First appointment with a new or replacement Primary Care physician	within 7 business days
First appointment with a new or replacement provider for Behavioral Health treatment	within 7 business days
First appointment with a new or replacement provider for Prenatal Care treatment	within 7 business days
First appointment with a new or replacement provider for Specialty Care treatment	within 15 business days

(2) Carriers shall communicate the appointment wait time standards to all covered persons in their welcome packet, and post or link the standards to the carrier's main web page and online provider directory pages. The language used shall be substantially similar to the following:

Requirements for Timely Medical Appointments

Some customers of [Company Name] have a right to an appointment with an in-network health care provider within a certain number of days. You have this right if:

(1) You buy your health insurance directly or receive it through your employer in the District of Columbia, **and**
(2) The appointment is for your **first visit** with a provider. A first visit includes when you:
    a. Schedule your first primary care visit with a provider;
    b. Have changed primary care providers and need to schedule your first visit with a new primary care provider; or
    c. Schedule your first visit with a provider other than your primary care provider for specialty treatment.

How quickly can you expect to be seen? The District of Columbia has set the standards below for appointments with an in-network provider.

SERVICE TYPE	TIME FRAME
First appointment with a new or replacement Primary Care physician	within 7 business days
First appointment with a new or replacement provider for	within 7 business days

Behavioral Health treatment	
First appointment with a new or replacement provider for Prenatal Care treatment	within 7 business days
First appointment with a new or replacement provider for Specialty Care treatment	within 15 business days

If you have trouble scheduling an appointment within the timeframes listed, please call [Phone Number] to speak to a [Company Name] representative. That person will help you schedule an appointment within the timeframes listed.

(3) Carriers shall maintain a toll-free number to a call center through which covered persons can speak to an individual who can assist them with identifying providers who have appointments available within the timeframes required based on the date of the initial call to the call center.

(4) Carriers shall include information in its Network Adequacy Report summarizing the activities of the call center, including statistics on the number of calls received, the issues addressed, and resolution of the calls.

(e) Covered persons with special needs:

(1) Covered persons with special needs may include low-income persons, children and adults with serious, chronic or complex health conditions or physical or mental disabilities or persons with limited English proficiency.

(2) Carriers are required to have a sufficient number and geographic distribution of providers employed by the carrier, or single medical group in contract with the carrier, to ensure reasonable and timely access to a broad range of services for low-income or medically underserved individuals in their service areas.

(3) Carriers shall demonstrate that at least twenty percent (20%) of the providers employed by the carrier, or the single medical group in contract with the carrier, are located within Health Professional Shortage Areas (HPSAs) or five-digit ZIP codes in which thirty percent (30%) or more of the population falls below two hundred percent (200%) of the federal poverty level (FPL).

4702.6 Carriers that do not provide a majority of covered professional services through physicians employed by the carrier, or through a single medical group in contract with the carrier, shall provide services consistent with the following requirements:

For Plans Sold, Issued, or Renewed on or After January 1, 2020

(a) Provider-to-covered person ratios by specialty using the following standards:

Neurology	**1:5,000**
Cardiology	**1:5,000**
Hematology/Oncology	**1:5,000**
Dermatology	**1:5,000**
Rheumatology	**1:5,000**
Orthopedics	**1:5,000**
Nephrology	**1:5,000**

(b) Provider-to-covered person ratios using the following standards:

Primary Care	**1:2,000**
(Medical Doctor, Nurse Provider)	
Pediatrics	**1:2,000**
(Board Certified Pediatrician or Family Medicine)	
OB/GYN	**1:2,000**
(Board Certified OB/GYN, Nurse Provider, or Midwife)	
Behavioral Health & Substance Use	**1:2,000**
(Board Certified Neurology or Psychiatry; PsyD, PhD, Masters level clinician in the areas of Social Work, Family Therapy, Licensed Professional Counselors)	
Habilitative Services	**1:2,000**
(Speech, Language and Occupational and Physical Therapists, Applied Behavior Analysis providers)	

For Plans Sold, Issued, or Renewed on or After January 1, 2020

(c) Physician Accessibility:

(1) The Commissioner may make available a list of physicians with a fully privileged, active license to practice medicine in the District of Columbia, and other qualified providers if applicable, their primary practice address in the District of Columbia, and identify the physicians with an office located within half (1/2) of a mile of a Metrorail stop. The Commissioner, in consultation with carriers, shall include additional data elements in the listing as necessary to allow for comparison with carrier data.

(2) The Commissioner shall provide a mechanism for a carrier to report providers who are improperly excluded from the list; included on the list; or improperly identified as having or not having an office within half (1/2) of a mile of a Metrorail stop.

(3) Carriers shall contract with a minimum of thirty percent (30%) of the providers on the list for each of the specialties listed below:

Primary Care
Pediatrics
OB/GYN
Behavioral Health & Substance Use
Neurology
Cardiology
Hematology / Oncology
Dermatology
Rheumatology
Orthopedics
Nephrology

(4) Carriers shall have in their network at least thirty percent (30%) of providers with a primary practice address within the District of Columbia identified as having an office within half (1/2) of a mile of a Metrorail stop on the list of providers.

(d) Appointment Wait Times:

(1) Carriers shall establish the standards listed below for appointment wait times for services within the network. The standard shall not be defined in terms of an appointment with a specific provider, but rather any qualified in-network provider with reasonable availability to see a covered person.

SERVICE TYPE	TIME FRAME
First appointment with a new or replacement Primary Care physician	within 7 business days
First appointment with a new or replacement provider for Behavioral Health treatment	within 7 business days
First appointment with a new or replacement provider for Prenatal Care treatment	within 7 business days
First appointment with a new or replacement provider for Specialty Care treatment	within 15 business days

(2) Carriers shall communicate the appointment wait time standards to all covered persons in their welcome packet, and post or link the standards to the carrier's main web page and online provider directory pages. The language used shall be substantially similar to the following:

Requirements for Timely Medical Appointments

Some customers of [Company Name] have a right to an appointment with an in-network health care provider within a certain number of days. You have this right if:

(1) You buy your health insurance directly or receive it through your employer in the District of Columbia. **and**
(2) The appointment is for your **first visit** with a provider. A first visit includes when you:
    a. Schedule your first primary care visit with a provider;
    b. Have changed primary care providers and need to schedule your first visit with a new primary care provider; or
    c. Schedule your first visit with a provider other than your primary care provider for specialty treatment.

How quickly can you expect to be seen? The District of Columbia has set the standards below for appointments with in-network providers.

SERVICE TYPE	TIME FRAME
First appointment with a new or replacement Primary Care physician	within 7 business days
First appointment with a new or replacement provider for Behavioral Health treatment	within 7 business days
First appointment with a new or replacement provider for Prenatal Care treatment	within 7 business days
First appointment with a new or replacement provider for Specialty Care treatment	within 15 business days

If you have trouble scheduling an appointment within the timeframes listed, please call [Phone Number] to speak to a [Company Name] representative. That person will help you schedule an appointment within the timeframes listed.

Please note:

1. The [Company Name] representative will likely give you the provider's contact information and you may need to schedule the appointment yourself.
2. The [Company Name] representative can't force the specific provider *you want to*

see to give you an appointment within the timeframe, as the provider may have already scheduled appointments with other patients or is otherwise unavailable. Instead, the representative will give you contact information for a qualified, in-network provider who *is available to see you* within the above timeframe.
3. The [Company Name] representative can't otherwise guarantee an appointment with a provider you've seen before.

(3) Carriers shall maintain a toll-free number to a call center through which covered persons can speak to an individual who can assist them with identifying providers who have appointments available within the timeframes required based on the date of the initial call to the call center.

(4) Carriers shall include information in its Network Adequacy Report summarizing the activities of the call center including statistics on the calls received and resolution of the calls.

(e) Covered persons with special needs:

(1) Covered persons with special needs may include low-income persons, children and adults with serious, chronic or complex health conditions or physical or mental disabilities or persons with limited English proficiency.

(2) Carriers are required to have a sufficient number and geographic distribution of essential community providers ("ECPs"), where available. An essential community provider is a provider that serves predominantly low-income, medically underserved individuals, including a health care provider defined in Section 340(B)(a)(4) of the Public Health Service Act (PHSA) (42 USC § 256b), or described in Section 1927(c)(1)(D)(i)(IV) of the Social Security Act (42 USC § 1396r-8); or a State-owned family planning service site, or governmental family planning service site that does not receive Federal funding under special programs, including under Title X of the PHSA (42 USC §§ 300 to 300a-6), unless any of the above providers has lost its status under either of these sections, Section 340(B) of the PHSA, or Section 1902 of the Social Security Act (42 USC § 1396a) as a result of violating Federal law.

(3) Carriers shall demonstrate in their Network Adequacy Report that at least forty percent (40%) of available ECPs in each plan's service area participate in the plan's network.

4702.7 A health carrier shall have procedures to ensure that a covered person obtains covered benefits from non-participating providers at in-network benefit levels,

including for cost-sharing, or shall make other arrangements acceptable to the Commissioner when:

(a) The health carrier has a sufficient network, but does not have participating providers available to provide covered benefits to covered persons, or no participating provider is available to provide the covered benefit to the covered person without unreasonable travel or delay; or

(b) The health carrier has an insufficient network and is unable to provide covered benefits to covered persons without unreasonable travel or delay.

4702.8 A health carrier shall provide instructions to covered persons explaining how to request access to covered benefits from non-participating providers under circumstances provided in § 4702.7 when:

(a) The covered person is diagnosed with a condition or disease that requires specialized health care services or medical services; and

(b) The health carrier:

(1) Does not have a participating provider of the required specialty with the professional training and expertise to treat or provide health care services for the condition or disease; or

(2) Cannot provide reasonable access to a participating provider with the required specialty with the professional training and expertise to treat or provide health care services for the condition or disease without unreasonable travel or delay.

(c) The carrier shall treat the health care services received by a covered person from a non-participating provider pursuant to §§ 4702.8(a)-(b) as if the services were provided by a participating provider, including crediting the cost-sharing for such services toward the applicable maximum out-of-pocket limit for services obtained from participating providers under the health benefit plan.

(d) The procedures described in § 4702.8(e) shall ensure that requests to obtain covered benefits from non-participating providers are addressed in a timely fashion relative to the covered person's condition.

(e) The carrier shall document and retain copies of all requests for covered benefits from non-participating providers, for as long as the enrollee maintains coverage plus a minimum of one (1) year after an enrollee terminates coverage and shall make the information available to the Commissioner upon request.

(1) The procedures established in this subsection are not intended to be used as a substitute for establishing and maintaining a sufficient provider network or to circumvent the use of covered benefits available through a health carrier's network.

(2) Nothing in this section prevents a covered person from exercising any right and remedy available under applicable state or federal law relating to internal and external claims grievance and appeals procedures.

4703 ACCESS PLAN

4703.1 A health carrier shall file an Access Plan, separate and apart from the Network Adequacy Report, meeting the requirements of this chapter with the Commissioner by September 1 of each year, prior to or at the time it files a new or amended network plan, in a manner and form set by the Commissioner.

4703.2 A health carrier shall make the Access Plans available to current and prospective covered persons electronically or by hard copy upon request.

4703.3 The Commissioner may publish the filed Access Plan online, and a health carrier may request that the Commissioner deem portions of its filed Access Plan confidential and strike those portions from publication.

4703.4 A health carrier shall notify the Commissioner of any material change to any existing network plan, as noted in the filed Access Plan, including but not limited to:

(a) A five percent (5%) or greater change in the carrier's overall network of providers;

(b) A five percent (5%) or greater reduction in the number of primary care providers in the carrier's network;

(c) A five percent (5%) or greater reduction in the number of specialty providers available in the carrier's network;

(d) A significant reduction in a specific type of provider, such that the provider type or a specific covered service is no longer available;

(e) A change to a tiered, multi-tiered, layered, or multi-level network plan structure, including a change of percent (5%) or greater in the number of providers in any tier, layer, or level;

(f) A change in the inclusion of a major health system in the carrier's network; or

(g) An increase or decrease of twenty percent (20%) or more covered persons since the previous filing.

4703.5 A health carrier's Access Plan shall describe or contain the following:

(a) The provider network, including the extent it supports the use of telemedicine or other technology to enhance network access;

(b) The procedures for making and authorizing referrals within and outside the network, if applicable;

(c) The process for monitoring and assuring the sufficiency of the network to meet the health care needs of populations that use the network;

(d) The factors used by the health carrier to build its provider network, including a description of the network and the criteria used to select or tier providers;

(e) The efforts to address the needs of covered persons, including children and adults, persons with limited English proficiency or literacy, persons with diverse cultural and ethnic backgrounds, and persons with physical or mental disabilities or other serious, chronic or complex medical conditions. This includes a health carrier's efforts, when appropriate, to include various types of essential community providers in its network;

(f) The methods for assessing the health care needs of covered persons and their satisfaction with the services provided;

(g) The method of informing covered persons of covered services and features, including but not limited to:

(1) The grievance and appeals procedures;

(2) The process for selecting and changing providers;

(3) The process for updating provider directories for each network plan;

(4) A statement of health care services offered, including services offered through the preventive care benefit, if applicable; and

(5) The procedures for covering and approving emergency, urgent and specialty care, if applicable;

(h) The system for ensuring the coordination and continuity of care:

(1) For covered persons referred to specialty providers; and

(2) For covered persons using ancillary services, including social services and other community resources, and for appropriate discharge planning;

(i) The process for covered persons to change primary care professionals, if applicable;

(j) A plan for providing continuity of care in the event of contract termination between the health carrier and any of its participating providers, or in the event of the health carrier's insolvency or other inability to continue operations. The plan shall explain how covered persons will be notified and transitioned to other providers, in a timely manner, due to termination of a provider contract, the health carrier's insolvency, or other cessation of operations; and

(k) Any other information required by the Commissioner to determine compliance with this chapter.

4704 REQUIREMENTS FOR HEALTH CARRIERS AND PARTICIPATING PROVIDERS

4704.1 A health carrier offering a network plan shall satisfy all the requirements contained in this section.

4704.2 A health carrier shall notify the participating providers which of the covered health care services the provider will be responsible for, including any limitations or conditions on those services.

4704.3 Every contract between a health carrier and a participating provider shall include a hold harmless provision. The requirement may be satisfied by including a provision identical or substantially similar to the following:

"[Physician/Hospital] hereby agrees that in no event, including, but not limited to non-payment by Corporation or entity with access to this Agreement by virtue of a contract with Corporation for any reason, including a determination that the services furnished were not Medically Necessary, Corporation's insolvency, [Physician/Hospital]'s failure to submit claims within the time period specified or breach of this Agreement, will [Physician/Hospital] bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against Members or persons other than Corporation for Covered Services furnished pursuant to this Agreement. This provision will not prohibit collection of applicable copayments, coinsurance or deductibles billed in accordance with the terms of Corporation's agreements with Members.

[Physician/Hospital] further agrees that this provision will survive the termination of this Agreement regardless of the cause giving rise to such termination and will be construed to be for the benefit of Members. Finally, this provision supersedes any oral or written agreement to the contrary now existing or hereafter entered into between [Physician/Hospital] and Members or persons acting on their behalf.

Any modifications, additions, or deletions to the provisions of this hold harmless clause will become effective on a date no earlier than thirty (30) days after the Commissioner has received written notice of such proposed changes."

4704.4 Carriers shall file with the Commissioner the language used for hold harmless provisions as described under § 4704.3 no later than thirty (30) days after the effective date of these rules.

4704.5 Every contract between a health carrier and a participating provider shall set forth that, in the event of a health carrier or intermediary insolvency or other cessation of operations, the provider's obligation to deliver covered services to covered persons without balance billing will continue until the earlier of:

(a) The termination of the covered person's coverage under the network plan, including any extension of coverage provided under the contract terms, or applicable state or federal law for covered persons who are in an active course of treatment or totally disabled; or

(b) The date the contract between the carrier and the provider would have terminated if the carrier or intermediary had remained in operation, including any required extension for covered persons in an active course of treatment.

4704.6 The contract provisions that satisfy the requirements of §§ 4704.2 and 4704.3 shall be construed in favor of the covered person, and shall survive the termination of the contract regardless of the reason for termination, including the insolvency of the health carrier, and shall supersede any oral or written contrary agreement between a provider and a covered person or the representative of a covered person if the contrary agreement is inconsistent with the hold harmless and continuation of covered services provisions required by §§ 4704.2 and 4704.3 of this section.

4704.7 In no event shall a participating provider collect or attempt to collect from a covered person any money owed to the provider by the health carrier.

4704.8 Health carrier selection standards for selecting and tiering (if applicable) participating providers shall be developed for providers and each health care professional specialty, if applicable. The standards shall be used in determining

the selection and tiering of participating providers by the health carrier and its intermediaries.

4704.9 Health carrier selection standards shall meet the requirements of the District's health care credentialing rules at 26-A DCMR §§ 4200 *et seq*.

4704.10 The health carrier selection standards may not:

(a) Allow a health carrier to discriminate against high-risk populations by excluding and/or tiering providers negatively because they are located in geographic areas that contain populations or providers presenting a risk of higher than average claims, losses or health care services utilization;

(b) Exclude or negatively tier providers because they treat or specialize in treating populations presenting a risk of higher than average claims, losses or health care services utilization; or

(c) Discriminate against a provider with respect to participation under the health benefit plan for acting within the scope of the provider's license or certification under applicable state law or regulations.

4704.11 § 4704.10 may not be construed to require a health carrier to contract with any provider willing to abide by the terms and conditions for participation established by the carrier, and shall not be construed to prohibit a carrier from declining to select a provider who fails to meet legitimate criteria in the health carrier selection standards developed in compliance with this section.

4704.12 A health carrier shall make its health carrier selection standards available for review by the Commissioner in the Access Plan. A description in plain language of the standards the health carrier uses for selecting and tiering shall be made available to the public.

4704.13 A carrier shall ensure its marketing and branding of network products is not misleading, and that any products described as value-based or quality-based are the result of health carrier selection standards that include quality metrics deemed acceptable by the Commissioner.

4704.14 A health carrier shall notify participating providers of the provider's responsibilities with respect to the health carrier's administrative policies and programs regarding, among others, payment terms; provider directory updates; utilization review; quality assessment and improvement programs; credentialing; grievance and appeals procedures; data reporting requirements; reporting requirements for timely notice of changes in practice, such as discontinuance of accepting new patients; confidentiality requirements; and any applicable federal or state programs.

4704.15 A health carrier shall not offer an inducement to a provider that would encourage or otherwise incent the provider to deliver less than medically necessary services to a covered person.

4704.16 A health carrier shall not prohibit a participating provider from discussing any treatment options with covered persons, irrespective of the health carrier's position on the treatment options; or from advocating on behalf of covered persons for medically necessary treatments during the utilization review, or grievance or appeals processes, or on behalf of other persons who have contracted with the carrier while enforcing any right or remedy available under applicable state or federal law.

4704.17 Every contract between a health carrier and a participating provider shall require the provider to make health records available to appropriate state and federal authorities to assess the quality of care or investigate the grievances or complaints of covered persons. Provider contracts shall also comply with applicable state and federal laws regarding the confidentiality of medical and health records, and a covered person's right to review, obtain copies of, or amend their medical and health records.

4704.18 A health carrier shall provide at least sixty (60) days written notice to a participating provider before the provider is removed from the network without cause.

4704.19 The health carrier shall make a good faith effort to provide written notice of a provider's removal or withdrawal from the network, within thirty (30) days of receipt or delivery of the notice issued to the provider, to all covered persons who are patients of the provider.

4704.20 The provisions of this chapter do not require a health carrier, its intermediaries, or the provider networks that it contracts with, to employ specific providers acting within the scope of their license or certification under applicable state law that may meet their selection criteria; or to contract with or retain more providers acting within the scope of their license or certification under applicable state law than are necessary to maintain a sufficient provider network under § 4702 of this chapter.

4704.21 The rights and responsibilities under a provider contract shall not be assigned or delegated by either party without the prior written consent of the parties.

4704.22 A health carrier is responsible for ensuring that participating providers furnish covered benefits to all covered persons without regard to the covered person's enrollment in the plan as a private purchaser, or as a participant in a publicly financed program. This requirement does not apply to circumstances when the provider should not render services due to limitations arising from lack of training, experience, skill or licensing restrictions.

4704.23 A health carrier shall notify the participating provider of the provider's obligations, if any, to collect applicable coinsurance, copayments or deductibles from covered persons pursuant to the evidence of coverage, and of the providers' obligations, if any, to notify covered persons of their personal financial obligations for non-covered services.

4704.24 A health carrier shall not penalize a provider because the provider, in good faith, reports to state or federal authorities any act or practice by the health carrier that jeopardizes patient health or welfare.

4704.25 A health carrier shall establish procedures for the resolution of administrative, payment, or other disputes between in-network providers and the health carrier.

4704.26 A provider contract shall not contain provisions that conflict with the provisions contained in the network plan, or the requirements of this chapter.

4704.27 At the time a provider contract is signed, a health carrier, and if appropriate, an intermediary, shall timely notify the participating provider of the following:

(a) All provisions and other documents incorporated by reference;

(b) While the provider contract is in force, any changes to incorporated provisions or documents that would result in material changes in the contract; and

(c) For purposes of this paragraph, the provider contract shall define what is considered timely notice and a material change.

4704.28 A health carrier shall inform a provider in a timely manner of the provider's network participation status on any health benefit plan in which the provider participates.

4704.29 A carrier shall make a good faith effort to provide written notice of discontinuation of a provider thirty (30) days prior to the discontinuation's effective date, or otherwise as soon as practicable, to covered persons who are seen on a regular basis by the discontinued provider or who receive primary care from the discontinued provider, irrespective of whether the contract is being discontinued due to a termination for cause or without cause, or due to a non-renewal.

4704.30 Where a provider is terminated without cause, a carrier shall allow a covered person receiving an active course of treatment to continue treatment until the treatment is complete, or until ninety (90) days after the discontinuation's effective date, whichever is shorter, at in-network cost-sharing rates.

4704.31 If applicable, for non-emergency services, a provider contract with a facility shall include a provision regarding the written disclosure or notice to be provided to a covered person, by either the carrier or the provider, at the time of authorization for services, or within ten (10) days of an appointment for in-patient or outpatient services at the facility, or at the time of a non-emergency admission at the facility, acknowledging that the facility is a participating provider of the covered person's network plan and disclosing that certain providers at the facility may not be participating providers, such as an anesthesiologist, pathologist or radiologist, but may be performing services for the covered person. The disclosure or notice shall state that the covered person may be subject to higher cost-sharing pursuant to the plan summary of benefits and coverage, including balance billing, if the covered services are performed by an out-of-network provider at a participating facility, and that information regarding how much the health plan will pay for covered services performed by out-of-network providers is available upon request. The disclosure or notice also shall inform a covered person, or their authorized representative, of the participating providers available to provide the covered services.

4705 PROVIDER DIRECTORIES

4705.1 A health carrier shall post electronically a current and accurate provider directory for each of its network plans. The directory should include at least the following information:

(a) The following identifiers for health care professionals:

(1) Name;

(2) Gender;

(3) Participating office location(s);

(4) Specialty;

(5) Facility affiliations;

(6) Languages spoken other than English; and

(7) Whether accepting new patients;

(b) The following identifiers for hospitals:

(1) Hospital name;

(2) Hospital type (*i.e.* acute, rehabilitation, children's, cancer); and

(3) Participating hospital location; and

(c) The following identifiers for facilities, other than hospitals, organized by type:

(1) Facility name;

(2) Facility type;

(3) Types of services performed; and

(4) Participating facility location(s).

4705.2 The directory for individual and small group plans shall be available to the District of Columbia Health Benefit Exchange Authority ("Exchange"), provided at regular intervals, and in a format approved by the Commissioner for use to populate the Exchange's single provider directory search tool.

4705.3 The directory available electronically on a carrier's own website shall allow the general public to view all of the current providers for a plan through a clearly identifiable link or tab without creating or accessing an account or entering a policy or contract number.

4705.4 Carriers shall make the directory available to covered persons or potential covered persons in hard copy upon request. The hard copy may be a print-out of all or part of the online directory sufficient to meet the needs of the requester and not a pre-printed book.

4705.5 To ensure directory accuracy, the health carrier shall do the following:

(a) Include in its directories a customer service email address or electronic link, and telephone number, that covered persons and the general public may use to notify the carrier of inaccurate information;

(b) Maintain a log of provider directory inaccuracies reported to the carrier, and make the log available to the Commissioner upon request;

(c) Validate reports that directories are inaccurate or incomplete, and correct flawed provider information within thirty (30) days;

(d) Verify, audit and update (if necessary), each network plan provider directory at least monthly, retain and make available to the Commissioner upon request the results and supporting documentation, and validate provider information when the provider has not filed a claim with a carrier in two (2) years or more.

(e) Conduct, at a minimum, an annual audit of at least fifteen percent (15%) of providers by specialty in each of its networks to determine whether their network status and contact information in the carrier's directory are accurate or require updates. Necessary updates shall be completed within one month of the completion of an audit; and

(f) Make it clear to which products its provider directory applies.

4705.6 Where a covered person receives covered services from a non-participating provider and there is a material error in the directory indicating that the provider is a participating provider, the carrier shall reimburse the covered person for the benefit claim as if the services were obtained from a participating provider, such that the covered person is responsible for only in-network cost-sharing, and the cost-sharing shall apply to the in-network deductible and out-of-pocket maximum.

(a) When it is demonstrated that the provider was at fault for not notifying the health carrier of any changes that resulted in the misrepresentation, including if the provider violated a specific contract provision requiring the provider to submit updated information regarding a change in the provider's network status or contact information, the carrier may seek payment from the provider for reimbursement.

(b) The carrier bears the burden of proof for demonstrating the provider is at fault.

4705.7 Covered persons who are believe they are entitled in-network benefits due to material error in a directory may appeal a denial of such benefits through internal and external appeals processes.

4705.8 In each network plan provider directory, a health carrier shall include in plain language that authorization or referral may be required to access some providers and the process to obtain an authorization or referral.

4705.9 Both electronic and print provider directories shall accommodate the communication needs of individuals with disabilities and include a link to or information regarding assistance for persons with limited English proficiency.

4705.10 A printed directory shall include a disclosure that the information provided is only accurate as of the date printed, and that a more current provider directory after that date may be available and obtained at a specific electronic link, or a customer service telephone number.

4706 INTERMEDIARIES

4706.1 This section is only applicable to the extent that a health carrier, provider, or medical group uses an intermediary.

4706.2 A contract between a health carrier and an intermediary shall satisfy all the requirements contained in this section.

4706.3 Intermediaries and participating providers with whom they contract shall comply with all the applicable requirements of § 4705 of this chapter.

4706.4 A health carrier's responsibility to monitor the offering of covered benefits to covered persons shall not be delegated or assigned to an intermediary.

4706.5 A health carrier shall have the right to approve or disapprove the participation status of a subcontracted provider in its own or a contracted network for the purpose of delivering covered benefits.

4706.6 A health carrier shall maintain copies of all intermediary health care subcontracts at its principal place of business in the District of Columbia, or ensure that it has access to all intermediary subcontracts, including the right to make copies to facilitate regulatory review, and provide copies of those subcontracts to the Commissioner within twenty (20) days of receiving written notice.

4706.7 If applicable, an intermediary shall transmit utilization documentation and claims paid documentation to the health carrier. A carrier shall monitor the timeliness and appropriateness of payments made to providers and health care services received by covered persons.

4706.8 If applicable, an intermediary shall maintain the books, records, financial information, and documentation of services provided to covered persons at its principal place of business in the District of Columbia and preserve them for seven (7) years.

4706.9 An intermediary shall allow the Commissioner access to the intermediary's books, records, financial information and any documentation of services provided to covered persons as necessary to determine compliance with this chapter.

4706.10 A health carrier shall have the right, in the event of the intermediary's insolvency, to require that the provisions of the provider contract addressing the provider's obligation to furnish covered services be assigned to the health carrier, and the health carrier shall then be obligated to pay the provider for furnishing covered services under the same terms and conditions as the intermediary prior to the insolvency.

4706.11 Notwithstanding any other provision of this section, to the extent the health carrier delegates its responsibilities to the intermediary, the carrier shall retain full responsibility for the intermediary's compliance with the requirements of this chapter.

4707 FILING REQUIREMENTS FOR CARRIER – PROVIDER AND INTERMEDIARY CONTRACTS

4707.1 At the time a health carrier files its initial Access Plan, the health carrier shall file with the Commissioner sample contract forms proposed for use with its participating providers and intermediaries.

4707.2 A health carrier shall submit through System for Electronic Rate and Form Filing ("SERFF") material changes to a contract that would affect a provision required under this chapter to the Commissioner at least thirty (30) days prior to use.

4707.3 A health carrier shall provide copies of provider and intermediary contracts to the Commissioner for regulatory review within twenty (20) days of receiving written notice and maintain the provider and intermediary contracts at its principal place of business, or otherwise having access to all of those contracts.

4707.4 The execution of a contract by a health carrier shall not relieve the health carrier of its liability to any person with whom it has contracted for the provision of services or of its responsibility for compliance with District of Columbia law or this chapter.

4707.5 All contracts between carriers and providers or facilities shall be in writing and subject to review by the Commissioner upon request.

4707.6 All contracts shall comply with applicable District of Columbia law.

4708 ENFORCEMENT

4708.1 The Commissioner may require a modification to the Access Plan, order an appropriate corrective action plan that shall be followed by the health carrier, or use any other enforcement powers to obtain the health carrier's compliance with this chapter, if the Commissioner determines that one or more of the following has occurred:

(a) The health carrier has not contracted with a sufficient number of participating providers to ensure that covered persons will have reasonably accessible health care services in a geographic area;

(b) The health carrier's Access Plan does not ensure reasonable access to covered benefits; or

(c) The health carrier has not complied with a provision of this chapter.

4708.2 The Commissioner will not arbitrate, mediate or settle disputes regarding a decision not to include a provider in a network plan or provider network, or regarding any other dispute between a health carrier, its intermediaries or

providers, arising under or by reason of a provider contract or the contract's termination.

4709 APPLICABILITY

4709.1 All health carriers offering or renewing network plans in the individual and small group markets in the District of Columbia shall file an Access Plan, and a Network Adequacy Report (including a Request for Waiver form, if necessary) that complies with this chapter, beginning with the 2020 plan year.

4709.2 All health carriers shall comply with the provisions in this chapter concerning notices and disclosures to consumers, including but not limited to, the requirements for timely medical appointments under §§ 4702.5(d) and 4702.6(d), and the circumstances to request covered benefits from non-participating providers under § 4702.8, for all plans sold, issued, or renewed on or after January 1, 2021.

4709.3 All provider and intermediary contracts shall comply with this chapter for all plans sold, issued, or renewed on or after January 1, 2021.

4710-4798 [RESERVED]

4799 DEFINITIONS

4799.1 For purposes of this chapter, the following terms and phrases shall have the meanings ascribed:

"Access Plan" – a document consisting of policies and procedures for assuring the ongoing sufficiency of provider networks, developed in accordance with § 4702 of this chapter.

"Active course of treatment" –

(a) An ongoing course of treatment for a life-threatening condition, defined as a disease or condition for which likelihood of death is probable unless the course of the disease or condition is interrupted;

(b) An ongoing course of treatment for a serious acute condition, defined as a disease or condition requiring complex ongoing care which the covered person is currently receiving, such as chemotherapy, radiation therapy, or post-operative visits;

(c) The second or third trimester of pregnancy, through the postpartum period; or

(d) An ongoing course of treatment for a health condition for which a treating physician or health care provider attests that discontinuing care by that physician or health care provider would worsen the condition or interfere with anticipated outcomes.

"Authorized representative" –

(a) A person to whom a covered person has given express written consent to represent the covered person;

(b) A person authorized by law to provide substituted consent for a covered person; or

(c) The covered person's treating health care professional; only when the covered person or a family member of the covered person is unable to provide consent.

"Balance billing" – the practice of a provider billing the covered person for the difference between the provider's charge and the health carrier's allowed reimbursement rate.

"Commissioner" – the Commissioner of the Department of Insurance, Securities and Banking.

"Covered benefit" or "benefit" – the health care services to which a covered person is entitled under the terms of a health benefit plan.

"Covered person" – a policyholder or other person participating in a health benefit plan.

"Emergency medical condition" – a physical, mental or behavioral health condition that manifests itself by acute symptoms of sufficient severity, including severe pain, that would lead a prudent layperson, possessing an average knowledge of medicine and health, to reasonably expect, in the absence of immediate medical attention, to result in:

(a) Serious jeopardy to the individual's physical, mental or behavioral health, or with respect to a pregnant woman, her unborn child's health;

(b) Serious impairment to a bodily function;

(c) Serious impairment of any bodily organ or part; or

(d) With respect to a pregnant woman who is having contractions:

(1) That there is inadequate time to effect a safe transfer to another hospital before delivery; or

(2) That transfer to another hospital may pose a threat to the health or safety of the woman or unborn child.

"Emergency services" – a medical or mental health screening examination that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate the emergency medical condition; and shall include any further medical or mental health examination and treatment to the extent they are within the capabilities of the staff and facilities available at the hospital to stabilize the patient.

"Facility" – an institution licensed pursuant to D.C. Official Code §§ 44-501 *et seq*.

"Health benefit plan" -- the same meaning as provided in D.C. Official Code § 31-3301.01(20).

"Health care professional" – a physician or other health care provider who is licensed, accredited or certified to perform specified physical, mental or behavioral health care services consistent with their scope of practice pursuant to D.C. Official Code §§ 3-1201 *et seq*.

"Health care provider" or "provider" – a "provider" as defined by D.C. Official Code § 31-3131(7).

"Health care services" – services for the diagnosis, prevention, treatment, cure or relief of a physical, mental or behavioral health condition, illness, injury or disease, including mental health and substance use disorders.

"Health carrier" or "carrier" – a "health insurer," as defined by D.C. Official Code § 31-3131(5).

"Intermediary" – a person not employed by a carrier or by a provider but is otherwise authorized to negotiate and execute provider contracts with health carriers on behalf of health care providers or on behalf of a network.

"Limited scope dental plan" – a plan that is provided under a separate policy, certificate, or contract of insurance, or is otherwise not an integral part of a health benefit plan, which provides coverage generally limited to treatment of the mouth, including any organ or structure within the mouth.

"Limited scope vision plan" – a plan that is provided under a separate policy, certificate, or contract of insurance, or is otherwise not an integral part of a health benefit plan, which provides coverage generally limited to treatment of the eye.

"Network" – the group or groups of participating providers and facilities rendering services under a network plan.

"Network plan" – a health benefit plan that requires, or creates incentives for, a covered person to use health care providers that are under contract with, or managed, owned, or employed by the health carrier.

"Participating provider" – a provider who has contractually agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments or deductibles, directly or indirectly from the health carrier.

"Person" – an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing.

"Primary care" – health care services for a range of common physical, mental or behavioral health conditions provided by a physician or non-physician primary care professional.

"Primary care professional" – a participating health care professional designated by the health carrier to supervise, coordinate or provide initial or continuing care to a covered person, and who may also be required by the health carrier to initiate a referral for specialty care and maintain overall supervision of the health care services rendered to the covered person.

"Specialist" – a physician or non-physician health care professional who:

(a) Focuses on a specific area of physical, mental or behavioral health or a group of patients;

(b) Has successfully completed required training and is recognized by the state in which he or she practices to provide specialty care; and

(c) Includes a subspecialist who has additional training and recognition above and beyond his or her specialty training.

"Specialty care" – advanced medically necessary care and treatment of specific physical, mental or behavioral health conditions, or health conditions which may manifest in particular ages or subpopulations, that are provided

by a specialist, preferably in coordination with a primary care professional or other health care professional.

"Telemedicine" – health care services provided through telecommunications technology by a health care professional who is at a location other than where the covered person is located, in accordance with the definition of telehealth as provided in D.C. Official Code §§ 31–3861 *et seq*.

"Tiered network" – a network that allows for different provider reimbursement, covered person cost-sharing, or provider access requirements, or any combination thereof, for the same services, as a result of grouping some or all types of providers and facilities.

"To stabilize" – with respect to an emergency medical condition, to provide medical treatment of the condition as may be necessary to ensure, within a reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual to or from a facility, or with respect to an emergency birth without complications that would result in a continued emergency, to deliver the child and the placenta.

"Transfer" – the movement, including the discharge, of an individual from a hospital's facilities at the direction of any person directly or indirectly employed by, or affiliated or associated with, the hospital, but does not include the movement of an individual who:

(a) Has been declared dead; or

(b) Leaves the facility without the permission of any such person.

Persons desiring to comment on these proposed rules should submit comments in writing to Christian Washington, Legislative Analyst, Department of Insurance, Securities, and Banking, 1050 First Street, N.E., Suite 801, Washington, D.C. 20002, or by email at Christian.Washington@dc.gov. Comments must be received not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules may be obtained from the Department at the address above.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

RM13-2018-01, IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO THE RULES GOVERNING LOCAL EXCHANGE CARRIER QUALITY OF SERVICE STANDARDS FOR THE DISTRICT

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice pursuant to Sections 34-802, 2-505, and 34-912(b) of the District of Columbia Code[1] of its intent to amend Chapter 13 (Rules Implementing the Public Utilities Reimbursement Fee Act of 1980) of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations ("DCMR") in not less than thirty (30) days from the date of publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.

2. The proposed amendments to Chapter 13 provide a mechanism to provide for supplemental assessments, credits, or refunds when the Commission's recalculation of assessment amounts after the issuance of assessment orders would create either an under- or over-reimbursement of the Office of the People's Counsel's and the Commission's appropriated budgets. The NOPR also makes some technical amendments to Subsection 1307.1.

Chapter 13, RULES IMPLEMENTING THE PUBLIC UTILITIES REIMBURSEMENT FEE ACT OF 1980, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended as follows:

Section 1304, SUPPLEMENTAL REIMBURSEMENTS, is amended as follows:

1304.1 Pursuant to the formula in § 1301, each public utility, competitive electric supplier, competitive natural gas supplier, and CLEC shall be required to reimburse:

(a) A fraction of any supplemental appropriation received by the Office of the People's Counsel or the Commission during the fiscal year; or

(b) A fraction of any supplemental assessment caused by a recalculation of assessments that would result in an under-collection of funds to reimburse the appropriated budgets of the Office of the People's Counsel or the Commission in a given fiscal year.

[1] D.C. Official Code § 34-802 (2012 Repl.); D.C. Official Code § 2-505 (2016 Repl.) and D.C. Official Code § 34-912(b) (2012 Repl.).

Section 1306, REFUNDS OR CREDITS, is amended as follows:

…

1306.2 If a recalculation of assessments would result in an over-collection of funds to reimburse the appropriated budgets of the Office of the People's Counsel or the Commission in a given fiscal year, this over-collection shall be refunded or credited against the next year's assessments to the public utilities, competitive electric suppliers, competitive natural gas suppliers, and CLECs according to the formula under § 1301. The decision to refund or credit the difference shall be at the Commission's discretion.

Section 1307, WAIVER OF RULES, is amended as follows:

1307.1 The Commission may grant exceptions to this chapter, in a manner consistent with D.C. Official Code § 34-912, for good cause shown to promote justice or to prevent hardship.

3. All persons interested in commenting on the subject matter of this proposed rulemaking action may submit written comments not later than thirty (30) days after publication of this notice in the *D.C. Register* to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005 or electronically on the Commission's website at https://edocket.dcpsc.org/public/public_comments. Copies of the proposed rules may be obtained by visiting the Commission's website at www.dcpsc.org or at cost, by contacting the Commission Secretary at the address provided above. Persons with questions concerning this NOPR should call (202) 626-5150 or send an email to psc-commissionsecretary@dc.gov.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Directors (Board) of the District of Columbia Water and Sewer Authority (DC Water), pursuant to the authority set forth in Sections 203(3) and (11) and 216 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111, §§ 203(3), (11) and 216; D.C. Official Code §§ 34-2202.03(3) and (11) and § 34-2202.16 (2012 Repl.)); and Section 6(a) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(a) (2016 Repl.)), hereby gives notice that at its regularly scheduled meeting on November 1, 2018, the Board adopted Resolution #18-72 to propose the amendment of Section 112 (Fees) of Chapter 1 (Water Supply), of Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR).

The purpose of these amendments is to amend the miscellaneous fees and charges, permit review fees, pretreatment fees, and add new fees for: events and equipment; fats oil and grease (FOG) facility monthly fee and Cross-Connection/Backflow Prevention fees.

The Board requests comments on these proposed regulations. Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

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

Section 112, FEES, Subsections 112.1 through 112.6, are amended to read as follows:

112 FEES

112.1 Fees for installation, inspection and removal/abandonment of water and sewer tap or connection, shall be as follows:

Inspection Type	**Fee**
Inspect Sewer Tap Removal/Abandonment	$306
Inspect Pointing Up Sewer Taps	$860
Inspect Insertion of Y-Branch	$306
Inspect Installation of Standard Cleanout	$306

Tap Insertion and Abandonment	**Fee**
Tap Insertion – 1” diameter	$425
Tap Insertion – 1-1/2” diameter	$500
Tap Insertion – 2” diameter	$540
Water Connection	Reimbursable
Water Tap Removal/Abandonment – 2” diameter or less	$400
Water Tap Removal/Abandonment – greater than 2” diameter	$800

112.2 Fees for fire hydrants flow tests; fire hydrant meter rentals; rentals of fire hydrant meters with backflow preventer; and for the installation and removal of water bubblers shall be as follows:

Fee Name	**Fee**
Fire Hydrant Flow Test (Field Test)	$300
Fire Hydrant Flow Test (Computer Model)	$200
Fire Hydrant Flow Test (Recent Test Record Available)	$125
Fire Hydrant Use – Water and Sewer Rate	Usage-Based, see 21 DCMR Chapter 41
Letter in Lieu of Hydrant Flow Test	$125
Fire Hydrant Permit Fee	$75
Private Fire Hydrant Flush	$81
3” Fire Hydrant Meter Deposit	$1,600 per rental
3” Fire Hydrant Meter Rental <15 days	$75
3” Fire Hydrant Meter Rental ≥15 days	$5 per day
3” Fire Hydrant Meter w/Backflow Preventer Deposit	$2,200 per rental
3” Fire Hydrant Meter w/Backflow Preventer Rental <15 days	$150 per rental
3” Fire Hydrant Meter w/Backflow Preventer Rental ≥15 days	$10 per day
5/8” Fire Hydrant Meter w/Backflow Preventer Deposit	$700 per rental
5/8” Fire Hydrant Meter w/Backflow Preventer Rental <15 days	$75 per rental
5/8” Fire Hydrant Meter w/Backflow Preventer Rental ≥15 days	$5 per day

Installation and Removal of Water Bubblers	**Fee**
1 Water Bubbler	$262
Each additional Water Bubbler after the first in the same general location	$54

112.3 For the purposes of § 112.2, the phrase "in the same general location" means that the distance between the first and last bubbler of the group is eight thousand feet (8,000 ft.) or less. A distance greater than eight thousand feet (8,000 ft.) shall require a separate crew.

112.4 Retail customer fees and charges; legal and copying fees; and event and equipment fees shall be as follows:

(a) Retail customer fees and charges shall be as follows:

Fee Name	**Fee**
Customer Bad Check Fee	$25.00
Declined Credit Card Fee	$35.00
Customer Penalty Late Payment Fee	10.00% after 30 days
Additional Penalty Late Payment Fee	1%/month after 60 days, compounded monthly
New Customer Account Initiation Fee	$50.00

Fee Name	Fee
Turn-Off Charges for Non-Payment	$50.00
Reconnection Fee	$50.00
Unauthorized Turn-On	$245.00
Broken Bypass Seal	$700.00
Second Water Audit within 24 months	$125.00
Manual Meter Read[1]	$20.00/month

[1] The Manual Meter Read Fee is charged if customer refuses or does not respond to install Automatic Meter Reader or if the meter transmission unit is not transmitting due to the customer's failure to provide appropriate transmission requirements.

(b) Legal and copying fees shall be as follows:

Witness Fee	Salary + Fringe
Standard Letter and Legal Pages Photocopying	$0.75 per sheet

(c) Event and Equipment fees shall be as follows:

Size of Event (Attendees)	Number of DC Water Personnel Per Event[1]	Cost per Event at $81/hour per person
100 – 2,000	2	$182/hour
2,000 – 5,000	4	$324/hour
5,000 or more	6	$486/hour

[1] Refers to the minimum number of personnel required for the event. Upon review of the event specifications, DC Water shall determine the appropriate number of personnel based on the assessed need.

Event Equipment	Cost per Unit per Event
Misting Tent[1]	$550
Mobile Brita Hydration Station[1]	$600
Cooling Station	$420
Quench Buggy	$2,500
DC Water Mascot	$50

[1]Refers to a per unit per event, assuming a single day event. For a multi-day event, the per unit cost would be multiplied by the number of days.

112.5 Fees for engineering reviews both standard and expedited, excessive submission, and as-builts shall be as follows:

(a) Small Plan Review fees (water service 2" or smaller) shall be as follows:

Fee Name	Standard Fee	Expedited Fee – 15 working days
Water and Sewer Availability Letter (small)	$125	$215
Small Sheet and Shore	$1,000	$1,750
Small basic non-residential project – 1 metered connection	$3,300	$5,800
Small basic non-residential project - 2 metered connections	$6,600	$11,600
Small basic non-residential project – 3 metered connections	$9,900	$17,400
Small basic non-residential project - 4 or more metered connections	$13,200+ Determined on a per project basis	$23,200+ Determined on a per project basis
Small Hybrid Non-Residential - 1 metered connection	$5,000	$8,700
Small Hybrid Non-Residential - 2 metered connections	$10,000	$17,400
Small Hybrid Non-Residential - 3 metered connections	$15,000	$26,100
Small Hybrid Non-Residential project - 4 or more metered connections	$20,000+ Determined on a per project basis	$34,800 Determined on a per project basis
Sanitary or combined Sewer connection - 6” or smaller	$700	$1,200
Storm Sewer Connection - less than 15”	$700	$1,200
Fire Service - greater than 2”	$4,600	$8,100
Single Family Residential – up to 50 metered connections	$700 each up to $25,000	$1,200 each
Town Houses – up to 50 metered connections	$700 each up to $25,000	$1,200 each
Single Family Units or Town Houses - More than 50 metered connections	$700+ each up to 50; and $350 each above 50	$1,200+ each up to 50 and $600 each above 50
Small Non-Residential or Residential Raze Utility Release Letter - No Abandonment	$330	$580
Small Non-Residential or Residential Raze Permit Review and Utility Release Letter - With Abandonments (2)	$700	$1,200
As part of a project review	$300	$600

(b) Large Plan Review fees (water service larger than 2-inch either domestic or fire or both services) shall be as follows:

Fee Name	Standard Fee	Expedited Fee – 15 working days
Base Plan Submission Administrative Fee –	$140	Not Applicable

Fee Name	Standard Fee	Expedited Fee – 15 working days
All Review Types		
Reject Plan Submission Administrative Fee – All Review Types	$75	Not Applicable
Large Permit Basic (per submission)	$10,000	$17,400
Foundation to Grade - Large Commercial	$1,000	Not Applicable
Approved Plan Revision (Field Conditions)	$1,000	$1,750
Large Project Sheeting and Shoring (Large Commercial)	$6,500	$11,300
Abandonment Waiver Request	$500	$880
Water and Sewer Availability Letter (Large)	$500	$880
Temporary Water Connections	$3,300	$5,800
Large Basic Plan Review Fee – 1 metered connection	$10,000	$17,400
Large Basic Plan Review Fee – 2 metered connections	$20,000	$34,800
Large Basic Plan Review Fee – 3 metered connections	$30,000	$52,200
Large Basic Plan Review Fee – 4 or more metered connections	$40,000+ Determined on a per project basis	$69,600+ Determined on a per project basis
Fire Service Only > 2” (no interior renovations)	$4,500	$7,800
Sanitary or Combined Connection 8” or larger	$4,500	$7,800
Sanitary or Combined Connection 6” or smaller	$700	$1,200
Storm Connection 15” or larger	$4,500	$7,800
Storm Connection less than 15”	$700	$1,200
Large Renovation no new water/sewer work - Project Document signoff only (inside a campus)	$400	$700
Large Project Approved Plan Revision (Project Scope/Design Change, or field change) (1)	$1,000	$1,750
Large Project Sheeting and Shoring (2)	$6,500	$11,300
Large water meter size reduction plan (no other work)	$3,300	$5,800
Large Project Raze Utility Release Letter - No Abandonments	$300	$500
Large Project Raze Utility Release Letter - With Abandonments	$700	$1,200

(c) Excessive Submission (Additional Fee for 4th Submission) shall be as follows:

Fee Name	Standard Fee	Expedited Fee – 15 working days
Large Plan Excessive Submission Review	$2,400	$4,200
Small Non-Residential Plan Excessive Submission Review	$600	$1,050
Residential Plan Excessive Submission Review (3)	$360	$630
Request for Information (RFI)	$30	$60
Letter in Lieu	$50	$90
Request for As-Built Drawings	$90/man hour	$150/man hour
Water Meter Sizing Computation	$90	$150
Water and Sewer Availability Letter	$500	$880
Delayed Abandonment or Waiver from Standards Letter	$500	$880
Processing of Standard Easement Covenant	$1,000	$1,750
Processing of Non-Standard Easement Covenant	$5,000	$8,750
One Day Plan Design and Review and approval (Velocity type program)	$20,000+ Determined on per project basis	Determined on per project basis

(d) Existing/Proposed As-Built shall be as follows:

Fee Name	Fee
Single Family Unit Residential Service Connection - Small Residential	$250
Townhouses or Single Family Units from Multi-Unit Project	$250
Small Non-Residential, Large Service Connection (per connection)	$500
Small Non-Residential Fire Service	$750
Large Non-Residential - water service 3” or larger, sewer service 8” or larger, fire service 3” or larger	$750
New Water or Sewer Main (20 to 100 feet) (each)	$2,500
Each additional 200 feet of water line	$2,000
Each additional 400 feet of sewer main/line	$2,000
If installing more than 200 linear feet or any Water line larger than 24" in diameter	Determined on a per project basis
If installing more than 200 linear feet of sewer or any sewer larger than 60” in diameter	Determined on a per project basis

112.6 Waste Hauler Permit and Disposal Fees; Pretreatment Industrial User Permit and Sampling Fees; High Strength Waste Fees; and FOG Facility fees shall be as follows:

Fee Name	Fee
Waste Hauler Discharge Annual Permit Fee per Vehicle	$30
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	$2,500
Permit Renewal Fee	$700
Industrial User Annual Compliance Fees	
Significant or Non-Significant Categorical Industrial User	
1 Outfall	$3,100
2 or more Outfalls	$4,300
Significant Non-Categorical Industrial User	
1 Outfall	$3,100
2 or more Outfalls	$4,300
Non-Significant Non-Categorical User	
1 Outfall	$700
2 or more Outfalls	$900
High Strength Waste Fees	
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
Fats, Oil and Grease (FOG) Facility Monthly Fee	$13.70 per month

Section 112, FEES, is amended by adding a new Subsection 112.12 to read as follows:

112.12 Cross-Connection/ Back Flow Prevention Fees and Turn-Off Charges

(a) The Cross-Connection/ Back Flow Prevention Fees and Turn-Off Charges shall be as follows:

Fee Name	Fee
Cross-Connection/Back Flow Prevention Monthly Fee per Assembly	$6.70
Cross-Connection Turn-off - 5/8” to 2”	$200
Cross-Connection Turn-off - 3” to 5”	$400
Cross-Connection Turn-off - 6” and larger	$900

Comments on these proposed rules should be submitted in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register* to Linda R. Manley, Secretary to the Board, District of Columbia Water and Sewer Authority, 5000 Overlook Ave., S.W., Washington, D.C. 20032, by email to Lmanley@dcwater.com, or by FAX at (202) 787-2795. Copies of these proposed rules may be obtained from the DC Water at the same address or by contacting Ms. Manley at (202) 787-2332.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
CONSTRUCTION CODES COORDINATING BOARD

NOTICE OF THIRD EMERGENCY RULEMAKING

The Chairperson of the Construction Codes Coordinating Board (Chairperson), pursuant to the authority set forth in Section 10 of the Construction Codes Approval and Amendments Act of 1986 (Act), effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409 (2012 Repl.)) and Mayor's Order 2009-22, dated February 25, 2009, as amended, hereby gives notice of the adoption of the following emergency rulemaking amending Chapter 1 (Administration and Enforcement) of Title 12 (D.C. Construction Codes Supplement of 2013), Subtitle A (Building Code Supplement of 2013) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking is necessitated by the immediate need to continue the Emergency and Proposed Rulemakings that revise provisions in the 2013 District of Columbia Building Code to clarify the requirements for registered design professionals for new construction, repair, expansion, addition or alteration projects submitted for permit. The internal process for the final rulemaking is ongoing. No comments were received on the Notice of Emergency and Proposed Rulemaking.

A Notice of Emergency and Proposed Rulemaking was adopted on January 5, 2018 and published into the *D.C. Register* on June 8, 2018 at 65 DCR 6188. A Notice of Second Emergency was adopted on May 2, 2018 and published in the *D.C. Register* at 65 DCR 12470 (November 9, 2018). This Third Emergency rulemaking was adopted on August 30, 2018 to become effective immediately.

The internal process for the final rulemaking is ongoing and the proposed amendment will be submitted to the Council of the District of Columbia for a forty-five (45) day period of review. Pursuant to Section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), this emergency rulemaking will remain in effect for up to one hundred twenty (120) days from the date of effectiveness, and will expire on December 28, 2018.

To clearly show the changes being made to the Construction Codes Supplement, additions are shown in <u>underlined</u> text and deletions are shown in ~~strikethrough~~ text.

Chapter 1, ADMINISTRATION AND ENFORCEMENT, of Title 12-A DCMR, BUILDING CODE SUPPLEMENT OF 2013, is amended as follows:

Section 105, PERMITS, is amended as follows:

<u>Strike Section 105.3.10 in the 2013 District of Columbia Building Code in its entirety and insert a new Section 105.3.10 in the 2013 District of Columbia Building Code in its place to read as follows:</u>

~~**105.3.10 Design Professional in Responsible Charge.** All design for new construction work, alteration, repair, expansion, addition or modification work involving the practice of professional architecture shall be prepared only by an architect licensed by the District and work involving the practice of professional engineering shall be prepared only by an engineer licensed by the District. All drawings, computations, and specifications required for a building permit application for such work shall be prepared by or under the direct supervision of a licensed architect or licensed engineer and shall bear the signature and seal of the architect or the engineer.~~

~~**105.3.10.1 Exemptions.** The professional services of a registered architect, professional engineer or an interior designer are not required for the following:~~

~~1. Work done under any of the exemptions from registration provided for in the laws of the District of Columbia governing the professional registration of architects, engineers and interior designers.~~

~~2. Nonstructural alteration of any *building* of R-3 occupancies or of any *building* under the jurisdiction of the *Residential Code*.~~

~~3. Preparation of drawings or details for cabinetry, architectural millwork, furniture, or similar interior furnishings, for any work to provide for their installation or for any work exempt from building permit by Section 105.2.~~

~~4. Preparation of drawings or details for the installation of water and sewer *building* connections to a single family residential *structure*. The *code official* is authorized to accept drawings and details prepared by a licensed plumber.~~

~~**105.3.10.2 Substitute Design Professional.** If the circumstances require, the *owner* shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge.~~

~~**105.3.10.3 Attestation.** An application for a building permit requiring a stamp from a design professional shall include an attestation by the design professional in responsible charge stating as follows:~~

~~(a) For architects: "I am responsible for determining that the architectural designs included in this application are in compliance with all laws and regulations of the District of Columbia. I have personally prepared, or directly supervised the development of, the architectural designs included in this application."~~

~~(b) For engineers: "I am responsible for determining that the engineering designs included in this application are in compliance with all laws and regulations of the District of Columbia. I have personally prepared, or directly supervised the development of, the engineering designs included in this application."~~

105.3.10 Registered Design Professional. The design of work for new construction, repair, expansion, addition or alteration projects submitted for permit shall comply with Sections 105.3.10.1 through 105.3.10.6 as applicable.

105.3.10.1 Architectural Services. Where the project involves the practice of architecture, as defined by D.C Official Code § 47-2853.61 (2015 Repl.), the corresponding permit documents shall be prepared by an architect licensed to practice architecture in the District of Columbia. All plans, computations, and specifications required to be submitted in connection with a permit application for such architectural work shall be prepared by or under the direct supervision of an architect with a valid and unexpired District of Columbia architecture license and shall bear the architect's signature and seal in accordance with the laws of the District of Columbia.

105.3.10.2 Engineering Services. Where the project involves the practice of engineering, as defined by D.C Official Code § 47-2853.131 (2015 Repl.), the corresponding permit documents shall be prepared by a professional engineer licensed to practice engineering in the District of Columbia. All plans, computations, and specifications required to be submitted in connection with a permit application for such engineering work shall be prepared by or under the direct supervision of a professional engineer with a valid and unexpired District of Columbia engineer license and shall bear the engineer's signature and seal in accordance with the laws of the District of Columbia.

Exception: An architect licensed in the District of Columbia is authorized to perform engineering work that is incidental to the practice of architecture, as permitted by D.C Official Code § 47-2853.61 (2015 Repl.).

105.3.10.3 Interior Design Services. Plans for non-structural alterations and repairs of a building, including the layout of interior spaces, which do not adversely affect any structural member, any part of the structure having a required fire resistance rating, or the public safety, health or welfare, and which do not involve the practice of architecture and engineering as defined by D.C Official Code §§ 47-2853.61 and 47-2853.131 (2015 Repl.), shall be deemed to comply with this section when such plans are prepared, signed and sealed by an interior designer licensed and registered in the District of Columbia in accordance with D.C Official Code § 47-2853.101 (2015 Repl.).

105.3.10.4 Exemptions. The professional services of a licensed architect, professional engineer or interior designer are not required for the following:

1. Work done under any of the exemptions from registration provided for in the laws of the District of Columbia governing the licensure of architects, professional engineers and interior designers.

2. Nonstructural alteration of any building of R-3 occupancies or of any building under the jurisdiction of the *Residential Code*.

3. Preparation of drawings or details for cabinetry, architectural millwork, furniture, or similar interior furnishings, for any work to provide for their installation or for any work exempt from permit by Section 105.2.

4. Drawings or details for the installation of water and sewer building connections to a single family residential structure prepared by a master plumber licensed pursuant to D.C Official Code § 47-2853.121 *et seq.* (2015 Repl.).

105.3.10.5. Registered Design Professional in Responsible Charge. The *code official* is authorized to require the *owner* to engage and designate on the permit application a *registered design professional* who shall act as the *registered design professional in responsible charge*. If the circumstances require, the *owner* shall designate a substitute *registered design professional in responsible charge* who shall perform the duties required of the *original registered design professional in responsible charge*. Where a *registered design professional in responsible charge* is required, the *code official* shall be notified in writing by the *owner* if the *registered design professional in responsible charge* is changed or is unable to continue to perform the duties. The *registered design professional in responsible charge* shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the *building*.

105.3.10.6 Attestations Required.

105.3.10.6.1 Registered Design Professional. The signature and seal of the *registered design professional*, where required by and in accordance with Section 105.3.10, shall serve as attestation of the following:

1. For architects: "I am responsible for determining that the architectural designs included in this application are in compliance with all relevant laws and regulations of the District of Columbia. I have personally prepared, or directly supervised the preparation of, the architectural designs included in this application."

2. For engineers: "I am responsible for determining that the engineering designs included in this application are in compliance with all relevant laws and regulations of the District of Columbia. I have personally prepared, or directly supervised the preparation of, the engineering designs included in this application."

105.3.10.6.2 Registered Design Professional in Responsible Charge. Where the *code official* determines that a *registered design professional in responsible charge* is required for any project, an attestation sealed and signed by the *registered design professional in responsible charge* engaged by the *owner* shall be submitted prior to the issuance of any and all *certificate(s) of occupancy* for the project. The attestation shall identify the *registered design professional in charge* by name and registration number, shall identify the project or portion thereof being attested to, and shall state, to the *code official*'s satisfaction, that the project or portion thereof has been completed in a manner that is substantially compatible with the design of the building that was the basis of the corresponding permit. Furthermore, the attestation shall state that changes from such permit documents, including but not limited to submittal documents prepared by others during the course of construction, and phased and deferred submittal items, have been reviewed and coordinated by the attesting *registered design professional in responsible charge.*

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2016 Repl. & 2018 Supp.)) and 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 102 of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), entitled "*My Health GPS* Program."

The *My Health GPS* program was established as a Health Home program under the authority of Section 1945 of the Social Security Act for District Medicaid beneficiaries who have three (3) or more chronic conditions. The *My Health GPS* program was developed to address the unmet care management needs of Medicaid beneficiaries with multiple chronic conditions. In order to meet the healthcare needs of this vulnerable population, the comprehensive care management services offered through the *My Health GPS* program are delivered by an interdisciplinary team embedded in the primary care setting, that coordinates patient-centered and population-focused care for these beneficiaries. Since the program was launched on July 1, 2017, twelve (12) primary care organizations have applied and been enrolled as *My Health GPS* entities. Those twelve (12) entities have enrolled over four thousand (4,000) beneficiaries, a process which includes beneficiary consent, a biopsychosocial needs assessment, and the development of a care plan. In order to improve the quality of, access to, and sustainability of *My Health GPS* services, DHCF is proposing programmatic and reimbursement changes to the *My Health GPS* program.

In this rulemaking, DHCF is proposing amendments to Section 10207 that will establish initial and annual payments to support the increased level of effort required of *My Health GPS* entities to develop or annually evaluate and revise the person-centered care plan. Previously, *My Health GPS* providers were eligible for a separate, additional payment for the development of an interim care plan for each beneficiary only during the first four (4) months of the program. While this incentive payment helped providers with ramp up costs and was instrumental in securing robust provider participation in the *My Health GPS* program, the program was not initially designed to provide a higher payment rate for the development of a care plan after this initial ramp up period. DHCF has observed that the costs associated with developing care plans, both initially and annually, are not fully accounted for in the monthly, acuity-based per member per month (PMPM) rates. For this reason, DHCF is proposing to establish a third PMPM rate that *My Health GPS* entities can claim for the months when the *My Health GPS* entity either develops the initial care plan or completes an annual update of the care plan.

In addition, DHCF is proposing amendments to the beneficiary risk stratification process set forth in Section 10207. Under the current process, DHCF uses a nationally-recognized risk stratification tool to determine the acuity of *My Health GPS* enrollees. Based on the results of that analysis, enrollees are placed in Group One or Group Two. DHCF has observed that using

the risk stratification tool alone is not capturing all of the highest acuity, high-need, beneficiaries for inclusion in the higher acuity Group Two. Therefore, DHCF is proposing to amend Section 10207 to consider additional criteria, as outlined in published policy guidance that will ensure *My Health GPS* beneficiaries are appropriately assigned.

DHCF is also proposing amendments to Section 10209 to delay implementation of the pay-for-performance program. Under the revised timeframe, DHCF will begin awarding performance payments in fiscal year (FY) 2021 based on a *My Health GPS* entity's performance in FY 2020. The previous timeframe posed a number of challenges that would have impacted the successful implementation of the pay-for-performance program.

DHCF is proposing additional changes to the quality measures set forth in Section 10209. The Centers for Medicare and Medicaid Services (CMS) have retired the Timely Transmission of Transition Record measure, so DHCF is updating the rulemaking to reflect that change. DHCF is also removing the Medication Reconciliation measure due to complications in the development of the Electronic Clinical Quality Measurement Tool.

DHCF is also proposing amendments to Section 10206 to explicitly include the provision of support to children transitioning from a pediatric practice to an adult practice, as an activity under the Care Coordination service.

In addition, DHCF is proposing amendments to the beneficiary assignment timeframe set forth in Subsection 10202.3. Currently, eligible beneficiaries who enter the program are assigned to a *My Health GPS* entity on a quarterly basis or within thirty (30) days of receipt of a referral. DHCF is proposing amendments to assign beneficiaries entering the program on a time-basis established in accordance with guidance published to the DHCF website.

DHCF is proposing technical edits to Subsection 10201.1 to correct grammar.

Finally, DHCF is also proposing conforming amendments to other sections of the rulemaking based on the changes set forth above.

These amendments are set forth on an emergency and proposed basis in order to maintain the health and welfare of this vulnerable population of District residents by preventing increased morbidity and mortality rates resulting from unmet healthcare needs. These changes are needed to prevent providers from disenrolling from the *My Health GPS* program and will thereby sustain access to life-saving care coordination services. The aggregate fiscal impact of the rate change is a decrease in Medicaid expenditures of $ 3,910,658 in FY 2019 and a decrease of $ 2,512,424 in FY 2020.

These rules correspond to a related State Plan amendment (SPA), which requires approval by CMS. Implementation of the proposed rules is contingent upon approval of the corresponding SPA by CMS with an effective date of December 1, 2018 or the effective date established by CMS in its approval of the corresponding SPA, whichever is later.

This rule was adopted on November 9, 2018 and shall become effective for services rendered on or after December 1, 2018. The emergency rules shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until March 9, 2019, 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 102, *MY HEALTH GPS* PROGRAM, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Subsection 10201.1 of Section 10201, ELIGIBILITY CRITERIA, is amended to read as follows:

10201.1 Except as set forth in § 10201.2, a Medicaid beneficiary shall be eligible to participate in the *My Health GPS* program if the beneficiary has current diagnoses of three (3) or more of the following chronic conditions:

(a) Asthma;

(b) Body Mass Index higher than thirty-five (35);

(c) Cerebrovascular disease;

(d) Chronic obstructive pulmonary disease;

(e) Chronic renal failure, indicated by dialysis treatment;

(f) Diabetes;

(g) Heart disease including:

(1) Cardiac dysrhythmias;

(2) Conduction disorders;

(3) Congestive heart failure;

(4) Myocardial infarction; and

(5) Pulmonary heart disease;

(h) Hepatitis;

(i) Human Immunodeficiency Virus;

(j) Hyperlipidemia;

(k) Hypertension;

(l) Malignancies;

(m) Mental health conditions including:

(1) Depression;

(2) Bipolar Disorder;

(3) Manic Disorder;

(4) Schizophrenia; and

(5) Personality Disorders;

(n) Paralysis;

(o) Peripheral atherosclerosis;

(p) Sickle cell anemia; and

(q) Substance use disorder.

Subsections 10202.3, 10202.9, and 10202.12 of Section 10202, BENEFICIARY ASSIGNMENT AND ENROLLMENT, are amended to read as follows:

10202. 3 The initial assignment of eligible beneficiaries shall occur after the initial application period described in § 10204.4(a) and shall be effective on the program implementation date. Eligible beneficiaries who enter the program after the initial assignment period shall be assigned on a time-basis established in accordance with guidance published to the DHCF website or within thirty (30) days of receipt of a referral.

10202.9 Any beneficiary assigned to a *My Health GPS* entity for whom the entity has not submitted an initial claim for a person-centered care plan in accordance with § 10207.12 within the first two (2) quarters following the effective date of the beneficiary assignment, as described in § 10202.3, may be re-assigned to another *My Health GPS* entity in accordance with the process described in § 10202.2.

10202.12 The effective date of a beneficiary's enrollment in the *My Health GPS* program shall be the date on which the *My Health GPS* provider completes the components of the beneficiary's person-centered plan of care in accordance with § 10207.12.

Subsections 10205.3, 10205.4, and 10205.6 of Section 10205, *MY HEALTH GPS* PROVIDER REQUIREMENTS, are amended to read as follows:

10205.3 Each *My Health GPS* provider serving lower-acuity (Group One) beneficiaries, as determined using the criteria set forth in § 10207.4, shall be comprised, at a minimum, of the following practitioners, or comparable practitioners as approved by DHCF on a case-by-case basis as set forth below:

(a) A Health Home Director, who has a Master's level education in a health-related field;

(b) A Nurse Care Manager, who has an advanced practice nursing license or a Bachelor of Nursing degree with appropriate care management experience; and

(c) A Peer Navigator, who is a health educator capable of linking beneficiaries with the health and social services they need to achieve wellness, who has either completed at least forty (40) hours of training in, or has at least six (6) months of experience in, community health.

10205.4 In addition to the practitioners described in § 10205.3, each *My Health GPS* provider serving higher-acuity (Group Two) beneficiaries, as determined using the criteria set forth in § 10207.4, shall also include the following practitioners, or practitioners with comparable qualifications as approved by DHCF on a case-by-case basis:

(a) A Care Coordinator, who has a Bachelor's degree in social work or has a Bachelor's degree in a health-related field with at least three (3) years' experience in a healthcare or human services field; and

(b) A licensed Clinical Pharmacist, who is a Doctor of Pharmacy with experience in direct patient care environments, including but not limited to experience providing services in medical centers and clinics.

10205.6 Each *My Health GPS* entity shall demonstrate that all its *My Health GPS* providers comply with the minimum staffing ratios set forth in § 10205.5 no later than the end of the second quarter following the effective date of the entity's enrollment in the *My Health GPS* program. A *My Health GPS* entity shall continue to comply with all minimum staffing ratios for the duration of the entity's enrollment in the program.

Subsection 10206.4 of Section 10206, *MY HEALTH GPS* SERVICES, is amended to read as follows:

10206.4 Care Coordination shall consist of implementation of the person-centered plan of care through appropriate linkages, referrals, and coordination with needed

services and supports. Care Coordination services include, but are not limited to, the following:

(a) Scheduling appointments and providing telephonic appointment reminders;

(b) Assisting the beneficiary in navigating health and social services systems, including behavioral health and housing supports as needed;

(c) Providing community-based outreach and follow-up, including face-to-face contact with beneficiaries in settings in which they reside, which may include shelters, the streets or other locations for homeless beneficiaries;

(d) Providing outreach and follow-up through remote means to beneficiaries who do not require in-person contact;

(e) Ensuring that all regular screenings are conducted through coordination with primary care or other appropriate providers;

(f) Ensuring medication reconciliation has been completed;

(g) Assisting with transportation to routine and urgent care appointments;

(h) Assisting with transportation for health-related activities;

(i) Assisting with completion of requests for durable medical equipment;

(j) Obtaining health records and consultation reports from other providers;

(k) Participating in hospital and emergency department transitions of care;

(l) Coordinating with Fire and Emergency Medical Services and DHCF initiatives to promote appropriate utilization of emergency medical and transport services;

(m) Facilitating access to urgent care appointments and ensuring appropriate follow-up care;

(n) Ensuring that the beneficiary is connected to and maintains eligibility for any public benefits to which the beneficiary may be entitled, including Medicaid; and

(o) Providing support to children transitioning from a pediatric practice to an adult practice.

Section 10207, REIMBURSEMENT, is amended to read as follows:

10207 REIMBURSEMENT

10207.1 DHCF shall reimburse *My Health GPS* entities for the provision of covered *My Health GPS* services described in § 10206 using a per member per month (PMPM) payment structure.

10207.2 Effective upon November 1, 2018, or the effective date established in the State Plan, whichever is later, DHCF shall establish three (3) distinct PMPM rates. A *My Health GPS* entity shall be eligible to receive only one of the following rates, per month, for each beneficiary enrolled in the *My Health GPS* program:

(a) The PMPM rate to support the initial development of the person-entered care plan and annual, comprehensive re-evaluations of the beneficiary's care needs for both higher acuity and lower acuity beneficiaries. This PMPM shall only be available in the month in which the care plan is initially developed or an annual, comprehensive, re-evaluation of the beneficiary's care needs is performed;

(b) The PMPM rate for higher acuity (Group Two) beneficiaries; and

(c) The PMPM rate for lower acuity (Group One) beneficiaries.

10207.3 The PMPM rate set forth in § 10207.2(a) shall be higher than the acuity based PMPM rates set forth in §§ 10207.2(b) and (c). The PMPM rate for Group Two beneficiaries established in § 10207.2(b) shall be higher than the PMPM rate for Group One beneficiaries established in § 10207.2(c), reflecting the greater anticipated needs of Group Two beneficiaries for *My Health GPS* services and the additional *My Health GPS* provider staff required to serve Group Two beneficiaries.

10207.4 Except as set forth in § 10207.6, DHCF shall use a nationally-recognized risk adjustment tool and other criteria to determine the acuity level of each beneficiary in accordance with guidance published on the DHCF website. Based upon the results of the analysis, DHCF shall place the beneficiary into the appropriate acuity group.

10207.5 DHCF shall publish guidance on the methodology used to determine the acuity level of beneficiary on the DHCF website at dhcf.dc.gov. DHCF shall publish any changes to the methodology on the DHCF website at least thirty (30) calendar days before the changes are scheduled to take effect.

10207.6 A *My Health GPS* entity may request re-determination of a beneficiary's assigned acuity level as follows:

(a) If re-determination is requested, a *My Health GPS* entity shall submit clinical documentation of a significant change in the beneficiary's health status to DHCF in the manner specified in the *My Health GPS* manual; and

(b) If the documentation submitted in accordance with the *My Health GPS* manual by the *My Health GPS* entity is complete, DHCF shall re-determine the beneficiary's acuity level in accordance with the procedure set forth in §§ 10207.4.

10207.7 DHCF shall provide the *My Health GPS* entity with written notification of the results of the re-determination described in § 10207.6, including a copy of the re-determination analysis.

10207.8 The base PMPM rates for the rates set forth in § 10207.2 shall be established based on the staffing model described in §§ 10205.3 through 10205.5, and adjusted to take into account regional salaries, including fringe benefits. The rates shall also take into account the average expected service intensity for beneficiaries and shall be determined in accordance with the requirements of 42 USC § 1396a(a)(30)(A).

10207.9 Two (2) payment enhancements shall be added to the each PMPM rate set forth in § 10207.2 to:

(a) Reflect the *My Health GPS* provider's overhead or administrative costs; and

(b) Support the *My Health GPS* provider in procuring, using, or modifying health information technology.

10207.10 DHCF shall review the PMPM rates set forth in § 10207.2 on an annual basis to ensure that the rates are consistent with requirements set forth in 42 USC § 1396a(a)(30)(A).

10207.11 The PMPM rates set forth in § 10207.2 shall be listed in the D.C. Medicaid fee schedule, available at: www.dc-medicaid.com.

10207.12 In order to receive the first PMPM payment for an eligible beneficiary, a *My Health GPS* provider shall:

(a) Inform the beneficiary about available *My Health GPS* program services;

(b) Obtain the beneficiary's informed consent to receive *My Health GPS* program services in writing; and

(c) Complete the following components of the person-centered plan of care in accordance with the standards for Comprehensive Care Management set forth in § 10206.3:

(1) Conduct an in-person needs assessment in accordance with § 10206.3(a);

(2) Enter available clinical information and information gathered at the in-person needs assessment into the person-centered plan of care which shall include individualized goals pursuant to § 10206.3(b)(4); and

(3) Retain documentation demonstrating the delivery of each of the activities described in (1) and (2) above.

10207.13 In order to receive a subsequent PMPM payment for an eligible beneficiary, a *My Health GPS* provider shall complete the person-centered plan of care in accordance with the standards set forth in § 10206.3, provide a copy of the completed plan of care to the beneficiary, and deliver at least one (1) *My Health GPS* program service to the beneficiary within the calendar month as follows:

(a) For Group One beneficiaries, the service(s) provided during the month may be delivered face to face or remotely; and

(b) For Group Two beneficiaries, at least one (1) service provided during the month shall be delivered face to face.

10207.14 *My Health GPS* entities shall be eligible for the PMPM payment set forth in § 10207.2(a) for the development of an initial person-centered care plan for each eligible beneficiary in Group One and Group Two. In order for the entity to receive the initial PMPM payment, the *My Health GPS* provider(s) shall meet all requirements set forth in § 10207.12 for each qualifying beneficiary.

10207.15 *My Health GPS* entities shall be eligible for the PMPM payment set forth in § 10207.2(a) for annual, comprehensive re-evaluations of the beneficiary's care needs for each eligible beneficiary in Group One and Group Two. In order for the entity to receive the annual PMPM payment, the *My Health GPS* provider(s) shall meet all requirements set forth in § 10207.12(c) for each qualifying beneficiary.

10207.16 For the initial and annual PMPM payment set forth in § 10207.2(a), *My Health GPS* entities shall be eligible to receive a maximum of one (1) payment per twelve (12) month period per beneficiary. If a *My Health GPS* entity received an incentive payment set forth in § 10209.2 for a beneficiary, no *My Health GPS* entity shall be eligible to receive an initial or annual PMPM payment set forth in § 10207.2(a) for the same beneficiary, until the twelfth (12^{th}) month following the original month of service.

10207.17 For the initial and annual PMPM payments set forth in § 10207.2(a), a maximum of one (1) initial and annual PMPM payment is claimable per twelve (12) month period per beneficiary, regardless of a beneficiary's election to receive services from a different *My Health GPS* entity or "opt-out" of the program.

10207.18 Each *My Health GPS* provider shall document each program service and activity provided in each beneficiary's EHR. Any Medicaid claim for program services shall be supported by written documentation in the EHR which clearly identifies the following:

(a) The specific service(s) rendered and descriptions of each identified service sufficient to document that each service was provided in accordance with the requirements set forth in § 10206;

(b) The date and time the service(s) were rendered;

(c) The *My Health GPS* provider staff member who provided the services;

(d) The setting in which the service(s) were rendered;

(e) The beneficiary's person-centered plan of care provisions related to the service(s) provided; and

(f) Documentation of any further action required for the beneficiary's well-being as a result of the service(s) provided.

10207.19 Each claim for a *My Health GPS* service shall meet the requirements of § 10206 and shall be documented in accordance with § 10207.18 in order to be reimbursed.

Section 10208, QUALITY REPORTING REQUIREMENTS, is amended to read as follows:

10208 QUALITY REPORTING REQUIREMENTS

10208.1 Each *My Health GPS* entity shall report to DHCF, quarterly, on the following two (2) measure sets:

(a) CMS "Core Set of Health Care Quality Measures for Health Home Programs" which may be located at the CMS website at: https://www.medicaid.gov/state-resource-center/medicaid-state-technical-assistance/health-homes-technical-assistance/downloads/health-home-core-set-manual.pdf, in accordance with 42 USC § 1396w-4(g); and

(b) The performance measures set forth in the table below:

My Health GPS Pay-for-Performance Measures				
Measure Name	**Measure Domain**	**National Quality Forum Number**	**Steward**	**Description**
1.Total Resource Use	Efficiency	1598	Health Partners	A risk adjusted measure of the frequency and intensity of services utilized by *My Health GPS* beneficiaries. Resource use includes all resources associated with treating *My Health GPS* beneficiaries including professional, facility inpatient and outpatient, pharmacy, lab, radiology, ancillary and behavioral health services.
2. Total Cost of Care	Efficiency	1604	Health Partners	A risk adjusted measure of *My Health GPS* entity's cost effectiveness at managing *My Health GPS* beneficiaries. Total cost of care includes all costs associated with treating *My Health GPS* beneficiaries including professional, facility inpatient and outpatient, pharmacy, lab, radiology, ancillary and behavioral health services.
3. Plan All-Cause Readmission	Utilization	1768	NCQA	For *My Health GPS* patients eighteen (18) years of age and older, 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 is reported in the following categories: 1. Count of Index Hospital Stays (denominator) 2. Count of thirty (30)-Day Readmissions (numerator) 3. Average adjusted Probability of Readmission

4. Potentially Preventable Hospitalization	Utilization	N/A	Agency for Healthcare Research and Quality	Percentage of inpatient admissions among *My Health GPS* beneficiaries for specific ambulatory care conditions that may have been prevented through appropriate outpatient care.
5. Low-Acuity Non-Emergent Emergency Department Visits	Utilization	N/A	DHCF	Percentage of avoidable low-acuity non-emergent ED visits among *My Health GPS* beneficiaries.

10208.2 DHCF shall notify *My Health GPS* entities of any changes in the performance measures or measure specifications in § 10208.1(b) through transmittals issued to *My Health GPS* entities at least ninety (90) days before the reporting of the data required for the measure begins.

10208.3 The baseline measurement period to determine the initial attainment and individualized improvement thresholds for measures outlined in § 10208.1(b) shall begin January 1, 2018 and end on December 31, 2018.

10208.4 All subsequent attainment and individualized improvement thresholds shall be determined for measures outlined in § 10208.1(b) on an annual basis from January 1 through December 31, unless otherwise specified by DHCF.

10208.5 Each *My Health GPS* entity shall utilize certified EHR technology to collect and report all data required for the quality measures described in §§ 10208.1(a) and 10208.1(b).

10208.6 Each *My Health GPS* entity shall submit hybrid data as required by CMS and DHCF in accordance with protocols outlined in the *My Health GPS* provider manual.

10208.7 Each *My Health GPS* entity shall report each sentinel event to DHCF within twenty-four (24) hours of occurrence in accordance with the procedure set forth in the *My Health GPS* provider manual.

10208.8 Each *My Health GPS* entity may also be required to submit an annual program evaluation report to DHCF, which may include, but is not limited to, the following components:

(a) The *My Health GPS* entity's approach to delivering services;

(b) Barriers to the current delivery of *My Health GPS* services;

(c) Interventions unique to the *My Health GPS* entity; and

(d) Strategies to improve future delivery of *My Health GPS* services.

Subsections 10209.2, 10209.3, 10209.6, 10209.11 and 10209.13 of Section 10209, INCENTIVE PAYMENTS, are amended to read as follows:

10209.2 During the period beginning July 1, 2017 and ending October 31, 2017, all *My Health GPS* entities shall be eligible for a single incentive payment for each eligible beneficiary to support development of the person-centered plan of care. In order for the entity to receive the incentive payment, its *My Health GPS* provider(s) shall meet all requirements of § 10207.12 for each qualifying beneficiary within the period beginning July 1, 2017 and ending October 31, 2017.

10209.3 Each *My Health GPS* entity shall participate in the *My Health GPS* pay-for-performance incentive program for all four (4) quarters of each measurement year. If an entity is not enrolled in the *My Health GPS* program for all four (4) quarters of a measurement year, the following provisions regarding participation in the pay-for-performance incentive program apply:

(a) If a *My Health GPS* entity enrolls in the *My Health GPS* program after the first day of the first quarter of the measurement year, the entity shall not be eligible for the performance payment described in § 10209.13 for that measurement year, but shall receive the full amount of the percentage withheld for that measurement year, as described in § 10209.6; and

(b) If a *My Health GPS* entity is enrolled in the *My Health GPS* program on the first (1st) day of the first quarter of the measurement year but is no longer enrolled in the program on the last day of the last quarter of the measurement year, the entity shall not be eligible for either the performance payment described in § 10209.13 or any portion of the percentage withheld for that measurement year, as described in § 10209.6.

10209.6 The first (1st) measurement year for the pay-for-performance incentive program shall begin on October 1, 2019. *My Health GPS* entities shall be subject to a percentage withheld from every PMPM payment for services rendered during the measurement year, as follows:

(a) Measurement Year One (Fiscal Year 2020): Ten percent (10%);

(b) Measurement Year Two (Fiscal Year 2021): Fifteen percent (15%); and

(c) Measurement Year Three (Fiscal Year 2022) and all subsequent performance periods: Twenty percent (20%).

10209.11 To determine the *My Health GPS* entity's annual performance in the pay-for-

performance incentive program, DHCF shall score each participating *My Health GPS* entity's performance in three (3) measurement domains. This scoring will be determined as follows:

(a) A maximum of one hundred (100) points will be awarded to each *My Health GPS* entity's across the efficiency, utilization, and process domains described in § 10208.1(b);

(b) Each measure in the domain is assigned points by dividing the total points by the number of measures in each domain. Points for each domain are described in the table set forth in (c);

(c)

***My Health GPS* Entity Performance Measure Point Distribution Methodology**			
	Measurement Year1 (FY 2020)	**Measurement Year 2 (FY 2021)**	**Measurement Year 3 and on (FY 2022)**
Total Efficiency Domain Points *(allowed points per measure)*	50 *(25)*	50 *(25)*	50 *(25)*
Total Utilization Domain Points *(allowed points per measure)*	50 *(16.66)*	50 *(16.66)*	50 *(16.66)*
Total Performance Points	**100**	**100**	**100**

(d) Points for each measure shall be awarded in cases where a *My Health GPS* entity meets either the attainment or improvement threshold based on the prior measurement year's performance as described below:

(1) A *My Health GPS* entity shall receive points if it met or exceeded the seventy-fifth (75th) percentile attainment benchmark;

(2) A *My Health GPS* entity performing below the attainment benchmark may be able to receive the allowed points per measure as described in (c) for each measure if it has met or exceeded its improvement threshold described in § 10209.7(b); and

(3) If a *My Health GPS* entity neither attains nor improves performance on a given measure, zero (0) points will be awarded for that measure;

(e) The amount of the incentive payment that a *My Health GPS* entity shall be eligible to receive shall be calculated as follows:

(1) Sum points awarded for each measure in the domain to determine the domain totals;

(2) Sum domain totals to determine total performance points;

(3) Divide total performance points by the maximum allowed points to determine the performance period percentage; and

(4) The amount in (3) shall be multiplied by one and one-half (1.5) times the performance period withhold amount for the *My Health GPS* entity, calculated in accordance with the withhold amount percentage for the measurement year, as set forth in § 10209.6.

10209.13 Beginning with FY 2020, and annually thereafter, performance payments for the pay-for-performance incentive program shall be calculated and distributed after the conclusion of each measurement year once all measures are calculated and have been validated for each *My Health GPS* entity.

Subsection 10210.3 of Section 10210, AUDITS AND REVIEWS, is amended to read as follows:

10210.3 DHCF shall perform audits of claims submitted by *My Health GPS* entities, including using statistically valid scientific sampling, to determine the appropriateness of *My Health GPS* services rendered and billed to Medicaid to ensure that Medicaid payments can be substantiated by documentation that meets the requirements set forth in § 10207.18 and are made in accordance with all requirements of this chapter and all other applicable federal and District laws.

Section 10299, DEFINITIONS, is amended to read as follows:

10299 DEFINITIONS

10299.1

Beneficiary - An individual deemed eligible for and in receipt of services provided through the District Medicaid program.

Corporate Entity – An organization that holds a single Employer Identification Number, as defined in 26 CFR § 301.7701-12.

Fair Hearing – A procedure whereby the District provides an opportunity for a hearing to any person whose claim for assistance is denied consistent with the requirements set forth in 42 CFR §§ 431.200 *et seq*.

Federally Qualified Health Center - An organization that meets the definition set forth in Section 1905(l)(2)(B) of the Social Security Act (42 USC § 1396d(1)(2)(B)).

District Fiscal Year - A twelve (12) month period beginning on October 1st and ending on September 30th.

Hybrid Data – A combination of administrative data (i.e. claims, encounters, and vital records) and clinical data contained in medical records.

***My Health GPS* Entity –** A primary care clinical individual practice, primary care clinical group practice, or Federally Qualified Health Center currently enrolled as a District Medicaid provider that incorporates a *My Health GPS* provider into its primary care service delivery structure.

***My Health GPS* Provider** – An approved interdisciplinary team that delivers *My Health GPS* services within a *My Health GPS* entity.

Opt Out – The process by which a beneficiary chooses not to participate in the *My Health GPS* program.

Outreach - Active and progressive attempts at beneficiary engagement, including direct communication (i.e. face-to-face, mail, email, telephone) with the beneficiary or the beneficiary's designated representative.

Performance Period – A full District fiscal year, beginning in Fiscal Year 2019.

Sentinel Event – Any unanticipated event in a healthcare setting resulting in death or serious physical or psychological injury to a patient and which is not related to the natural course of the patient's illness.

Comments on these rules should be submitted in writing to Angelique Martin, Interim Senior Deputy/State Medicaid Director, Department of Health Care Finance, Government of the District of Columbia, 441 4th Street, N.W., Suite 900, Washington D.C. 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomments@dc.gov or online at www.dcregs.dc.gov within thirty (30) days 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 2018-091
November 15, 2018

SUBJECT: Delegation - Authority – to the State Superintendent of Education - Promulgation of Rules under the District of Columbia Testing Integrity Act

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code §§ 1-204.22(6) and (11) (2016 Repl.), and pursuant to the District of Columbia Testing Integrity Act ("**Act**"), effective October 17, 2013, D.C. Law 20-27; D.C. Official Code §§ 38-771.01 *et seq.* (2017 Supp.), it is hereby **ORDERED** that:

1. The State Superintendent of Education ("**Superintendent**") is delegated the Mayor's authority under section 106 of the Act (D.C. Official Code § 38-771.06) to promulgate rules to implement the Act.

2. **EFFECTIVE DATE**: This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, NOVEMBER 28, 2018
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009

Donovan W. Anderson, Chairperson
Members: Nick Alberti, Mike Silverstein,
James Short, Donald Isaac, Sr., Bobby Cato, Rema Wahabzadah,

Show Cause Hearing (Status) **9:30 AM**
Case # 17-CIT-00056; Neighborhood Restaurant Group t/a Red Apron Butchery/The Partisan, 709-711 D Street NW, License #90742, Retailer CR ANC 2C
No ABC Manager on Duty

Show Cause Hearing (Status) **9:30 AM**
Case # 17-CIT-00078; Neighborhood Restaurant Group t/a Red Apron Butchery/The Partisan, 709-711 D Street NW, License #90742, Retailer CR ANC 2C
No ABC Manager on Duty

Show Cause Hearing (Status) **9:30 AM**
Case # 18-CMP-00147; Red & Black, LLC t/a 12 Twelve DC/Kyss Kyss, 1210 H Street NE, License #72734, Retailer CT, ANC
Substantial Change (Sidewalk Cafe)

Show Cause Hearing (Status) **9:30 AM**
Case # 18-CMP-00193; Neighborhood Restaurant Group XIII, LLC, t/a Bluejacket/The Arsenal, 300 Tingey Street SE, License #90281, Retailer CR, ANC 6D
No ABC Manager on Duty

Show Cause Hearing* **10:00 AM**
Case # 18-CMP-00142; Connexion Group, LLC, t/a 1230 DC, 1230 9th Street NW, License #100537, Retailer CR, ANC 2F
Exceeded Capacity, No ABC Manager on Duty, Operating After Hours, Cover Charge Without Endorsement, Summer Garden Endorsement

Board's Calendar
November 28, 2018

Show Cause Hearing* **10:00 AM**
Case # 18-CC-00053; Shredder, LLC, t/a Abigail Room, 1730 M Street NW License #107468, Retailer CN, ANC 2B
Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal Drinking Age

Show Cause Hearing* **11:00 AM**
Case # 18-CMP-00145; 801 Restaurant, LLC, t/a 801 Restaurant & Bar, 801 Florida Ave NW, License #103120, Retailer CT, ANC 1B
Exceeded Summer Garden Capacity

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

Public Hearing **1:30 PM**
Adams Morgan Moratorium

Fact Finding Hearing* **1:30 PM**
VD3, LLC, t/a Brown Street Market (No Location), License #108288, Retailer A
Request to Extend Safekeeping

Protest Hearing* **2:00 PM**
Case # 18-PRO-00071; Pax Liquor, Inc., t/a Pax Spirits, 4944 South Dakota Ave NE, License #110690, Retailer A, ANC 5A
Application for a New License

Fact Finding Hearing* **2:00 PM**
Case # 18-251-00157; CUBA LIBRE DC, LLC, t/a Cuba Libre Restaurant & Rum Bar, 801 9th Street NW, License #82457, Retailer CR, ANC 2C
Simple Assault

Fact Finding Hearing* **2:30 PM**
Benjamin J. Martucci
Application for a Manager's License

Show Cause Hearing* **3:30 PM**
Case # 18-CMP-00139; Partners at 723 8th St SE, LLC, t/a The Ugly Mug Dining Saloon, 723 8th Street SE, License #71793, Retailer CR, ANC 6B
No ABC Manager on Duty

Board's Calendar
November 28, 2018

Protest Hearing* **4:30 PM**

Case # 18-PRO-00066; Omar, LLC, t/a Costello Restaurant and Lounge, 5201 Georgia Ave NW, License #100259, Retailer CT, ANC 4D
Substantial Change (Request to Change Hours of Operation, Sales and Consumption and Live Entertainment inside of the Establishment)

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
CEASE AND DESIST AGENDA

WEDNESDAY, NOVEMBER 28, 2018
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

The ABC Board will be issuing Orders to Cease and Desist to the following Licensees for the reasons outlined below:

ABRA-088290 – **Climax Restaurant and Hookah Bar** – Retail – C – Tavern – 900 Florida Avenue NW
[Licensee did not renew Basic Business License, which expired on June 30, 2018.]

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, NOVEMBER 28, 2018 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Safekeeping – Original Request. ANC 7C. SMD 7C06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***A-1 Grocery***, 615 Division Avenue NE, Retailer B, License No. 023329.

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2. Review Application for Safekeeping – Original Request. ANC 1B. SMD 1B12. Pending enforcement matter/outstanding fine. No conflict with Settlement Agreement. ***Pal the Mediterranean Spot***, 1501 U Street NW, Retailer CR, License No. 092484.

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3. Review Application for Safekeeping – Original Request. ANC 2B. SMD 2B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Marrakech/Aura Lounge***, 2147 P Street NW, Retailer CT, License No. 090204.

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4. Review Application for Class Change from Retailer B Grocery to Retailer A Liquor Store. ANC 1A. SMD 1A10. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Kusa Market***, 3108 Georgia Avenue NW, Retailer B Grocery, License No. 002109.

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5. Review Application for Sidewalk Café with seating for 52 patrons. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption for Sidewalk Café:*** Sunday-Thursday 10am to 12am, Friday-Saturday 10am to 1am. ANC 6C. SMD 6C06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Elevate***, 15 K Street NE, Retailer CT, License No. 100316.

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6. Review Application for Summer Garden with seating for 28 patrons. ***Proposed Hours of Operation for Summer Garden:*** Sunday-Thursday 7am to 2am, Friday-Saturday 7am-3am. ***Proposed Hours of Alcoholic Beverage Sales and Consumption for Summer Garden:*** Sunday-Thursday 8am to 2am, Friday-Saturday 8am-3am. ANC 6E. SMD 6E05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Alta Strada***, 465 K Street NW, Retailer CR, License No. 100140.

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7. Review Application for rooftop Summer Garden with seating for 12 patrons. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption for Summer Garden:*** Sunday 11am to 2am, Monday-Friday 3pm to 2am, Saturday 12pm to 3am. ANC 6A. SMD 6A06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***The Elroy***, 1423 H Street NE, Retailer CT, License No. 096771.

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8. Review Request to add Dancing and Cover Charge to existing Entertainment Endorsement. ***Current Hours of Live Entertainment:*** Sunday-Thursday 8pm to 1:30am, Friday-Saturday 8pm to 2:30am. ANC 1B. SMD 1B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Al Crostino***, 1926 9th Street NW, Retailer CR, License No. 095433.

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9. Review Request to add Dancing and Cover Charge to existing Entertainment Endorsement. ***Current Hours of Live Entertainment:*** Sunday-Thursday 6pm to 2am, Friday-Saturday 6pm to 3am. ANC 1B. SMD 1B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Cloud Restaurant & Lounge***, 1919 9th Street NW, Retailer CT, License No. 093572.

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10. Review Request for Off-Premises Storage Permit to store alcoholic beverages at 1401 W Street, NE and 50 Massachusetts Avenue, NW. ANC 5C. SMD 5C05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Amtrak***, 1401 W Street NE, Retailer CX Common Carrier, License No. 111308.

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11. Review Application for Tasting Permit and letter of explanation regarding the nature of tasting events. ANC 3F. SMD 3F02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Cellar Trading***, 4221 Connecticut Avenue NW, Retailer AI, License No. 094230.

***In accordance with D.C. Official Code §2-547(b) of the Open Meetings Amendment Act, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.**

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE

The Department of Behavioral Health Establishment Act of 2013 authorizes the Department to "plan, develop, coordinate, and monitor comprehensive and integrated behavioral health systems of care for adults and for children, youth, and their families in the District, so as to maximize utilization of behavioral health services and behavioral health supports and to assure that services for priority populations identified in the Department's annual plan are funded within the Department's appropriations or authorizations by Congress and are available." The Department has identified a need for additional behavioral health service providers in order to provide high quality behavioral health services for District of Columbia residents.

Therefore, the Director of the Department of Behavioral Health, pursuant to the authority set forth in sections 5113, 5115, 5117, 5118 and 5119 of the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-0061; D.C. Official Code §§ 7-1141.02, 7-1141.04, 7-1141.06, 7-1141.07 and 7-1141.08)(2013 Supp.), hereby gives notice that effective November 23, 2018, the Department will not accept new certification applications for adult-serving Core Services Agencies. During the partial lift of the moratorium which began on May 19, 2017, the Department received 131 new certification applications from prospective providers. As of October 18, 2018, DBH certified 19 new Core Services Agencies. DBH will continue to process the certification applications which were received prior to the publication of this notice.

The Department will continue to accept new certification applications for the following services: All Levels of Care for Substance Use Disorder Treatment and Recovery Support Services, Medication Assisted Treatment, Adolescent Community Reinforcement Approach, Core Services Agencies serving Children/Youth, Assertive Community Treatment Teams, Child Parent Psychotherapy for Family Violence (CPP-FV), Trauma Focused Cognitive Behavioral Therapy (TF-CBT), Multisytemic Therapy (MST – CBI I), Functional Family Therapy (FFT – CBI IV), Supported Employment and Clubhouse.

Obtaining certification does not guarantee that the applicant will receive a Human Care Agreement. A Human Care Agreement, if available in the future, is subject to availability of funds. Additionally, a provider must meet all contract requirements as determined by the Office of Contracting and Procurement prior to receiving a Human Care Agreement.

All questions regarding this Notice should be directed to Atiya Frame-Shamblee, Director, Accountability Administration, DBH, at 64 New York Ave. NE, 3rd floor, Washington D.C. 20002; or Atiya.Frame@dc.gov; or (202) 673-2245.

D.C. CRIMINAL CODE REFORM COMMISSION

NOTICE OF PUBLIC MEETING

WEDNESDAY, DECEMBER 5, 2018 AT 10:00 AM
441 4TH STREET N.W., ROOM 1112, WASHINGTON, D.C., 20001

D.C. Criminal Code Reform Commission
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001
(202) 442-8715 www.ccrc.dc.gov

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, December 5, 2018 at 10am. The meeting will be held in Room 1112 of the Citywide Conference Center on the 11th Floor of 441 Fourth St., N.W., Washington, DC. The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, http://ccrc.dc.gov/page/ccrc-meetings. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or richard.schmechel@dc.gov.

MEETING AGENDA

I. Welcome and Announcements.

II. Discussion of Draft Reports and Memoranda Currently Under Advisory Group Review:

(A) First Draft of Report #26, *Sexual Assault and Related Provisions*
(B) First Draft of Report #27, *Human Trafficking and Related Statutes*
(C) First Draft of Report #28, *Stalking*
(D) First Draft of Report #29, *Failure to Arrest*
(E) First Draft of Report #30, *Withdrawal Defense & Exceptions to Legal Accountability and General Inchoate Liability*
(F) Advisory Group Memo #20 Supplementary Materials to the First Drafts of Reports #s 26-29.

III. Adjournment.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

ANNOUNCES NOVEMBER 29, 2018 PUBLIC MEETING FOR THE UNIFORM PER STUDENT FUNDING FORMULA (UPSFF) WORKING GROUP

The Office of the State Superintendent of Education is convening a Uniform Per Student Funding Formula (UPSFF) Working Group pursuant to section 112(c) of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2911(c)).

A public meeting for the UPSFF Working Group will be held as follows:

3:30 p.m. – 5:00 p.m.
Thursday November 29, 2018
1050 First St. NE, Washington, DC 20002
Conference Room 108 (Eleanor Holmes Norton I)

For additional information, please contact:

Ryan Aurori, Special Assistant for Budget and Finance
Office of the Chief of Staff
Office of the State Superintendent of Education
1050 First St. NE, Third Floor
Washington, DC 20002
(202) 899-6098
Ryan.Aurori@dc.gov

BOARD OF ELECTIONS

NOTICE OF PUBLICATION

The Board of Elections, at a Special Meeting held on Friday, November 9, 2018, formulated the short title, summary statement, and legislative text of the "Referendum on Law Repealing Initiative 77 – Minimum Wage Amendment Act of 2018." Pursuant to D.C. Code § 1-1001.16 (2016 Repl.), the Board hereby publishes the aforementioned formulations as follows:

REFERENDUM MEASURE

NO. 008

SHORT TITLE

Referendum on Law Repealing Initiative 77 – Minimum Wage Amendment Act of 2018

SUMMARY STATEMENT

A majority of District of Columbia voters approved Initiative 77 on June 19, 2018. Initiative 77 gradually increases the minimum wage for tipped employees from the current rate ($3.89/ hour), to the same minimum wage as non-tipped employees by 2026. In October 2018, the Council of the District of Columbia enacted a law to repeal Initiative 77. Referendum 008, if approved, would preserve Initiative 77 as originally passed and reject the repeal. Vote FOR Referendum 008 to keep Initiative 77 in effect, and reject the repeal. Vote AGAINST Referendum 008 to permit the repeal to become law, and repeal Initiative 77.

TEXT OF MEASURE

Shall the registered voters of the District of Columbia approve or reject section 2 of D.C. Act 22-489?

D.C. Act 22-489 -- "Tipped Wage Workers Fairness Amendment Act of 2018"

"Sec. 2. The Initiative No. 77 - - Minimum Wage Amendment Act of 2018, effective October 11, 2018 (D.C. Law 22-163; 65 DCR 8513), is repealed."

DEPARTMENT OF ENERGY AND ENVIRONMENT
NOTICE OF FUNDING AVAILABILITY

Lead Poisoning Prevention Outreach and Collaboration

The Department of Energy and Environment (the Department) seeks eligible entities to propose solutions to provide information to families about lead screening and prevention and to participate in available collaborative networks to address lead and other environmental health hazards in the home. This project is funded by the Centers for Disease Control and Prevention Childhood Lead Poisoning Prevention Program in the amount of $36,000. Three awards of approximately $12,000 each will be granted. This amount is subject to availability of funding and approval by the appropriate agencies.

Beginning 11/26/2018, 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.doee.dc.gov. Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to the announcement for this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

Email a request to 2019LeadOutreach.grants@dc.gov with "Request copy of RFA 2019-1905" 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 Lisa Gilmore at (202) 535-2624 and mention this RFA by name.

Write DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Lisa Gilmore RE: "RFA 2019-1905" on the outside of the envelope.

An informational meeting and conference call will be held on 12/13/18 at 2:00 p.m. The in-person informational meeting will be conducted at 1200 First Street NE, 5th Floor, Washington, DC 20002. The call number for the informational meeting is 1-877-680-0165 and the conference code is 5498641#.

The deadline for application submissions is 01/02/2019, at 4:30 p.m. Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to 2019LeadOutreach.grants@dc.gov.

Eligibility: The 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: 2019LeadOutreach.grants@dc.gov.

MAYA ANGELOU PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

High Definition Color (RGB) LED Signs

Overview of Facility:

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

Intent:

The intent of this solicitation is to procure two full-color, single-sided LED display signs. Signs will be mounted in view of traffic, which travels at speeds up to 40 mph.
Sign 1 will be for "Maya Angelou Public Charter High School".
Sign 2 will be for "Maya Angelou Young Adult Learning Center".

Contractor Expectations:

All inquiries regarding technical specifications and questions can be emailed to Heather Hesslink at hhesslink@seeforever.org.
Allowances will not be after contractor's proposal is received due to oversight, omission, error, or mistake of the contractor.

Bid Proposal Acceptance and Information:

All bid proposals will be accepted until **12:00 PM on December 10, 2018**.
Interested vendors will respond to the advertised Notice of RFP via upload to https://app.smartsheet.com/b/form/7117e2f75a6d446ba849722b176753e6

Complete RFP details can be found at www.seeforever.org/requestforproposals.
Any proposal received after **12:01 PM on December 10, 2018** is deemed non-responsive and will not be considered. Proposals will not be accepted by oral communications, telephone, electronic mail, telegraphic transmission, or fax.

MUNDO VERDE PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Site Work and Play Space

Mundo Verde PCS seeks bids for site work and play space construction. Companies may choose to bid on all or part of the proposal. The RFP with bidding requirements and supporting documentation can be obtained by contacting Robyn Pretlow at rpretlow@mundoverdepcs.org. **All bids not addressing all areas as outlined in the RFP will not be considered.**

The deadline for application submission is no later than 4pm on Monday, December 10, 2018.

MUNDO VERDE PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Travel Services to Puerto Rico for Fifth Grade Students

Mundo Verde PCS seeks bids for a Capstone Trip to Puerto Rico for Fifth Graders. Companies may choose to bid on all or part of the proposal. The RFP with bidding requirements and supporting documentation can be obtained by contacting Robyn Pretlow at rpretlow@mundoverdepcs.org. **All bids not addressing all areas as outlined in the RFP will not be considered.**

The deadline for application submission is no later than 4pm on Monday, December 10, 2018.

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA

RECOMMENDATIONS FOR APPOINTMENTS AS NOTARIES PUBLIC

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after January 2, 2019.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on November 23, 2018. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

D.C. Office of the Secretary **Effective: January 2, 2019**
Recommendations for Appointments as DC Notaries Public **Page 2**

Abatye	Mebratu B.	Bank of America 3401 Connecticut Avenue, NW	20008
Aguilar Espinoza	Yonny	Self (Dual) 1915 Calvert Street, NW, #403	20009
Ainsworth	Cassandra Jennifer	Antonoplos & Associates 1725 Desales Street, NW, Suite 600	20036
Ash	Dana	Self (Dual 1901 Spruce Drive, NW	20012
Barnes	Ann D.	Millennium Challenge Corporation 1099 14th Street, NW	20005
Bauer	Adrienne M.	Self (Dual) 2440 Virginia Avenue, NW, #D609	20002
Berger	Sarah L.	Brick Lane 3506 Connecticut Avenue, NW, Floor 2	20008
Biondo	Annita A.	National Railroad Retirement Investment Trust 2001 K Street, NW, Suite 1100	20006
Blalock	Michael	Educology Solutions Inc. 621 Upshur Street, NW	20011
Brown	Lisa Mclennan	National Abortion Federation 1090 Vermont Avenue, NW, Suite 1000	20005
Butler-LeFrancois	Robin	Stradley Ronon Stevens & Young, LLP 1250 Connecticut Avenue, NW, Suite 500	20006
Calza	Marilyn	Mindful Restaurant Group 323 7th Street, SE	20003
Cartner	David Wheatley	Highland Title & Escrow 1701 Q Street, NW	20009
Caster	Danielle L.	Caster, Turnage & Associates 1715 Fifth Street, NW	20001

D.C. Office of the Secretary **Effective: January 2, 2019**
Recommendations for Appointments as DC Notaries Public **Page 3**

Castillo	Rocio	Bank of America 915 Rhode Island Avenue, NE	20018
Coleman	DaShawn J.	Department of Labor Federal Credit Union 200 Constitution Avenue, NW, Room S-3220	20210
Corridan	Anne B.	Buckley Sandler, PLLC 1250 24th Street, NW, Suite 700	20037
Craig	Susan A.	Boston Properties, Inc 2200 Pennsylvania Avenue, NW, Suite 200W	20037
Deane	Damon	Bank Fund Staff Federal Credit Union 1725 I Street, NW	20006
Dicks	Deanna M.	Self 5210 3rd Street, NW, Apt. #303	20011
Dobson	Brenda	Self 3056 Thayer Street, NE	20018
Duncan	Twanna L.	Millennium Challenge Corporation 1099 14th Street, NW	20005
Evans-Cromer	Linda D.	State Farm Insurance 3201 New Mexico Avenue, NW	20016
Farringer	Tricia M.	Morgan, Lewis & Bockius, LLP 1111 Pennsylvania Avenue, NW	20004
Feyissa	Sena	AAA Club Alliance 1405 G Street, NW	20005
Fleming	Ida V.	Roots Activity Learning Center 6222 North Capitol Street, NW	20011
Flores	Monica	Sandy Spring Bank 1146 19th Street, NW	20036
Forgy Jr.	Lawson	The Lex Group DC 1050 Connecticut Avenue, NW, Suite 500	20036

D.C. Office of the Secretary **Effective: January 2, 2019**
Recommendations for Appointments as DC Notaries Public **Page 4**

Gates-Dukes	Ronnisha	Amerigroup, DC 609 H Street, NE, Suite 200	20002
Ghanim	Safia Chinye	USA Halal Chamber of Commerce, Inc 1712 Eye Street, NW, Suite 602	20006
Guerra Restrepo	David	Self 2325 42nd Street, NW, #304	20007
Hanson	Darshea	Andrews Federal Credit Union 1556 Alabama Avenue, SE	20032
Hawes	Torcelia S.	Pillsbury Winthrop Shaw Pittman, LLP 1200 17th Street, NW	20036
Henriquez	Sebastian	Collins Elevator Service, Inc 800 Hamlin Street, NE	20017
Hill	Betty C.	Friedlander Misler, PLLC 5335 Wisconsin Avenue, NW, Suite 600	20015
Hong	Emma	Washington Real Estate Investment Trust 1775 Eye Street, NW, Suite 1000	20006
Hurd	Alva M.	United States Court of Appeals 333 Constitution Avenue, NW	20001
Kaluthanthiri	Bawanthi	M & T Bank 1680 K Street, NW	20006
Kellogg	Sheree L.	Self (Dual) 3109 Cherry Road, NE, Unit 34	20018
Kirkwood	Joseph P.	Weiss, LLP 1750 K Street, NW, Suite 900	20006
Knight	Ollawatti	Bank Fund Staff Federal Credit Union 1725 I Street, NW, Suite 150	20006
Lee	Y. Kris	D4U USA Law Group, LLC 1200 G Street, NW, Suite 800	20005
Long	Carlisa V.	Department of Human Services 64 New York Avenue, NE	20002

Long	Khadijah Alima	Self (Dual) 1481 Howard Road, SE	20020
MacDonald	Ross Robert	Planet Depos 1100 Connecticut Avenue, NW, Suite 950	20036
Manco	Dina	Corporation for National and Community Service 250 E Street, SW	20525
McCoy	Natasha	Department of Human Services 64 New York Avenue, NE	20002
McDonald	Frances	Regan Zambri Long, PLLC 1919 M Street, NW, Suite 350	20036
McLean	Danielle	Self (Dual) 1122 8th Street, NE	20002
Michelbacher	Michelle Barrett	Neal R. Gross & Co., Inc 1323 Rhode Island Avenue, NW	20005
Moultrie	Nicole	The Public Defender Service for the District of Columbia 633 Indiana Avenue, NW	20004
Mudd	Steven Brian	Washington Council Home, Inc 5034 Wisconsin Avenue, NW, Suite 200	20016
Muhammad	Khadijah	University of District of Columbia David A. Clarke School of Law 4340 Connecticut Avenue, NW	20018
Noel	Jasmine	Fonkoze USA 1718 Connecticut Avenue, NW, #201	20009
Norris	Kenneth	Ace Federal Reporters, Inc 1625 I Street, NW	20006
Oliver	Jacqueline S.	District of Columbia Retirement Board 900 7th Street, NW	20871

D.C. Office of the Secretary **Effective: January 2, 2019**
Recommendations for Appointments as DC Notaries Public **Page 6**

Phillips	Audrey A.	City First Bank of DC, N.A 1432 U Street, NW	20009
Reiner	Karen	Easterly Government Properties, Inc 2101 L Street, NW, Suite 650	20037
Reyes	Nuria	The International Business Law Firm, PC 1915 I Street, NW, Suite 500	20006
Rivas	Jonathan	DCDB Group, LLC 2101 L Street, NW, Suite 800	20037
Rivera	Apolinar	Bank of America 3131 Mount Pleasant Street, NW	20010
Robinson	Cathryn	Miller & Chevalier Chartered 900 16th Street, NW	20006
Salamat	Alexandra	Planet Depos 1100 Connecticut Avenue, NW, Suite 950	20036
Schell	Jami McElhaney	Self 4819 41st Street, NW	20016
Scotto	Anne Marie	Holland & Knight, LLC 800 17th Street, NW	20006
Smith	Stephanie Mari	Mid-Atlantic Settlement Services 1617 14th Street, NW	20009
Spanos	Jennifer	Baker & Miller, PLLC 2401 Pennsylvania Avenue, NW, Suite 300	20037
Stancampiano	Susan	Self (Dual) 1234 Penn Street, NE, Apartment 3	20002
Taylor	Benjamin C.	Self (Dual) 4909 Central Avenue, NE	20019
Thompson	Evangela	Medstar Heart & Vascular Institute 110 Irving Street, NW, Suite 4B-1	20010

D.C. Office of the Secretary **Effective: January 2, 2019**
Recommendations for Appointments as DC Notaries Public **Page 7**

Travis	Adrienne	Friedlander Misler, PLLC 5335 Wisconsin Avenue, NW, Suite 600	20015
Upshaw	Amanda	Clasp 1401 K Street, NW, Suite1100	20005
Watts	Erika	AACRAO 1108 16th Street, NW, Suite 400	20036
Wertz	Darcy E.	Solidarity Center 1130 Connecticut Avenue, NW	20019
Wickramasinghe	Ganithri Navoda	Bank of America 3 Dupont Circle, NW	20006

THURGOOD MARSHALL ACADEMY PUBLIC CHARTER HIGH SCHOOL

REQUEST FOR PROPOSALS

Design-Build Firm—Foyer Project

Thurgood Marshall Academy—a nonprofit, college-preparatory, public charter high school-seeks a design-build firm for a small construction project at the entrance to the school. The bid is being administered by the Brailsford & Dunlavey project management firm.

Full RFP:
To receive the full RFP and be included in bid communications, email: dmartinez@programmanagers.com.
For reference purposes, the full RFP is available at: http://ftpsrv.programmanagers.com/main.html?download&weblink=e0c58947290c65f4725c5ac81183e76c&realfilename=TMA$20RFP.pdf

Site Visit: A site visit of Thurgood Marshall Academy will occur on **Wednesday, November 28, 2018**. This will be the only opportunity to visit the site during the procurement process. Further details appear in the full RFP.

Questions & Information:

- **To ensure fairness, no questions will be fielded by phone**.
- Please address your questions concerning this RFP to **Diego Martinez dmartinez@programmanagers.com no later than Friday, November 30, 2018, at 5:00 pm EST**. All questions submitted will be answered, and the collected questions and answers will be sent electronically to all firms that have provided email addresses. Questions will also be answered at the site visit.
- Amendments/changes (if any) to the RFP will likewise be circulated solely by email to firms that have provided email addresses.
- The full RFP also details project financing, including information regarding use of Federal funds.
- Further information about Thurgood Marshall Academy—including the school's nondiscrimination policy—may be found at www.thurgoodmarshallacademy.org.

Deadline & Submission: Submissions must respond to the full RFP. All submissions shall be sent by email **to Diego Martinez dmartinez@programmanagers.com** with a **25-page limit and a 10 MB file-size limit** (including exhibits) by **Friday, December 7, 2018 at 5:00 pm EST (COB)**. Earlier submissions are encouraged.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Order No. 19254-A of 1612 Seventh Street NW LP, pursuant to 11 DCMR Subtitle Y §§ 703 and 705.1, for a two-year time extension, with respect to the time periods in Subtitle Y § 702.1, and a modification of consequence to the plans approved in BZA Order No. 19254 in order to convert the second floor commercial space to a ninth residential unit in a mixed-use building in the MU-4 Zone at premises 1612-1616 7th Street N.W. (Square 420, Lot 38).

The original application (No. 19254) was, as amended,[1] pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions from the retail parking requirements of Subtitle C § 701.5, the retail loading requirements of Subtitle C § 901.1, the court requirements of Subtitle G § 202.1, the lot occupancy requirements of Subtitle G § 404.1, and the rear yard requirements of Subtitle G § 405.2, to allow the rehabilitation of, and addition to, a contributing historic structure for conversion to a mixed-use building with first and second floor retail uses, and eight residential units in the MU-4 Zone at premises 1612-1616 7th Street N.W. (Square 420, Lot 38).

HEARING DATE (Case No. 19254):	September 27, 2016
DECISION DATE (Case No. 19254):	September 27, 2016
FINAL ORDER ISSUANCE DATE (Case No. 19254):	October 11, 2016
MODIFICATION AND EXTENSION DECISION DATE:	November 7, 2018

SUMMARY ORDER ON REQUEST FOR MODIFICATION OF CONSEQUENCE AND TWO-YEAR TIME EXTENSION

BACKGROUND

On September 27, 2016, in Application No. 19254, the Board of Zoning Adjustment ("Board" or "BZA") approved the amended request by 1612 Seventh Street NW LP (the "Applicant") for special exceptions from the retail parking requirements of Subtitle C § 701.5, the retail loading requirements of Subtitle C § 901.1, the court requirements of Subtitle G § 202.1, the lot occupancy requirements of Subtitle G § 404.1, and the rear yard requirements of Subtitle G § 405.2, to allow the rehabilitation of, and addition to, a contributing historic structure for

[1] The original application was filed under the Zoning Regulations of 1958, which were then in effect, but were repealed on September 6, 2016 and replaced with new text (the "2016 Regulations"). The Applicant replaced its original application to instead request relief under the 2016 Regulations and to amend the application by including additional relief for courts, retail loading, and retail parking.

conversion to a mixed-use building with first and second floor retail uses, and eight residential units in the MU-4 Zone.

The application was granted, subject to three conditions, and the Board issued Order No. 19254 (the "Order") on October 11, 2016. (Exhibit 6.) Pursuant to Subtitle Y § 604.11, the Order became final on October 11, 2016 and took effect ten days later, on October 21, 2016. Under the Order and pursuant to Subtitle Y § 702.1, the Order was valid for two years from the time it was issued.

On September 14, 2018, the Applicant submitted a combined request for a modification of consequence to the plans approved in Order No. 19254 and a two-year extension, with respect to the time periods in Subtitle Y § 702.1, for that Order. (Exhibit 7.) The request was served on the Office of Planning ("OP") and Advisory Neighborhood Commission ("ANC") 6E on September 14, 2018. (Exhibit 4.) For the reasons explained below, the Board voted to approve the request on November 7, 2018.

MOTION FOR MODIFICATION OF CONSEQUENCE

The originally-approved project included 5,120 square feet of retail space on the cellar floor; 3,299 square feet of retail space on the first floor; and 1,068 square feet of retail space on the second floor. The approved plans also included four residential units on the second floor and four residential units on the third floor. The Applicant proposes to amend the approved plans in order to replace the retail space on the second floor with an additional residential unit. The Applicant submitted revised plans reflecting this proposed modification. (Exhibit 5.) In Application No. 19254, the Applicant requested relief from the parking requirements in order to provide two parking spaces where six spaces are required under Subtitle C § 701.5. The proposed modification converting the second floor retail space to an additional residential unit would decrease the off-street parking requirement to five spaces, and therefore, the proposed modification would lessen the amount of zoning relief required. (Exhibit 7.)

The Applicant submitted further revised plans, containing additional refinements to the two side courts on the second floor. (Exhibit 10A.) The Applicant notes that the adjustment increases the widths of the open courts – from four feet to five feet – but does not modify the lot occupancy and the floor area ratio from the plans originally approved by the Board. (Exhibit 10.) The Applicant indicated that the refinements shown in the final revised plans would not require a modification of consequence on their own; however, as the Applicant is already requesting a modification for the second-floor space, the Applicant wanted to provide the Board with the most recent set of floor plans for its consideration.

The Applicant indicated that the proposed modification of consequence does not require additional relief from the Zoning Regulations. Further, the Applicant does not seek to modify the three conditions of approval included in BZA Order No. 19254.

The Board finds that the Applicant's request complies with 11 DCMR Subtitle Y § 703.4, which defines a modification of consequence as a "proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board." Pursuant to Subtitle Y §§ 703.8-703.9, the request for modification of consequence shall be served on all other parties to the original application and those parties are allowed to submit comments within ten days after the request has been filed with the Office of Zoning and served on all parties. The Applicant provided proper and timely notice of the request for modification of consequence to ANC 6E, the only other party to Application No. 19254, as well as to OP. (Exhibit 4.)

MOTION FOR TWO-YEAR TIME EXTENSION

Along with the request for modification of consequence, the Applicant submitted a request for a two-year extension of Order No. 19254. (Exhibit 7.) This request for extension is pursuant to Subtitle Y § 705, which permits the Board to extend the time periods in Subtitle Y § 702.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval.

Pursuant to Subtitle Y § 705.1(a), the Applicant shall serve on all parties to the application and all parties shall be allowed 30 days to respond. Pursuant to Subtitle Y § 705.1(b), the Applicant shall demonstrate that there is no substantial change in any of the material facts upon which the Board based its original approval of the application. Finally, under Subtitle Y § 705.1(c), good cause for the extension must be demonstrated with substantial evidence of one or more of the following criteria: (1) an inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control; (2) an inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or (3) the existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

In this case, the Board finds that the only other party to the underlying case, ANC 6E, was served on September 14, 2018, and that the ANC had at least 30 days to respond. (Exhibit 4.) The Board has determined that there has been no substantial change in any of the material facts upon which the Board based its original approval of the application. As discussed above, the Board is simultaneously considering a modification of consequence to replace the originally-approved second-floor retail space with a residential unit, but aside from the modification requested, no other changes to the approved development are proposed as part of this extension request. Finally, the Board finds that the time extension is needed due to economic and market conditions beyond the Applicant's reasonable control. As attested to by the Applicant's affidavit in the record at Exhibit 16, the Board finds that the Applicant has not been able to secure a retail tenant for the second-floor commercial space, despite its diligent efforts, which has caused delays in the project financing and has required the Applicant to seek the related modification of consequence.

ANC AND OP REPORTS

ANC 6E submitted a written report recommending approval of the request for modification of consequence and two-year time extension. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 2, 2018, at which a quorum was present, the ANC voted 7-0-0 to support the request, with no issues or concerns. (Exhibit 12.)

OP submitted a report on October 30, 2018, in which it recommended approval of the proposed modification of consequence to the Applicant's plans, as well as the proposed time extension. (Exhibit 15.)

As directed by 11 DCMR Subtitle Y § 703.4, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a modification of consequence. The Board has also required the Applicant to satisfy the burden of proof for a time extension under Subtitle Y § 705.1. Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that in seeking a modification of consequence to the plans and two-year time extension, the Applicant has met its burden of proof under Subtitle Y §§ 703.4 and 705.1.

As noted, the only parties to the case were the ANC and the Applicant, therefore a decision by the Board to grant this application would not be adverse to any party. Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that the modification of consequence to the Board's approval in Order No. 19254 is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED MODIFIED PLANS IN EXHIBIT 10A, AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall designate six short-term bicycle parking spaces within public space, four long-term bicycle parking spaces for use by retail employees, and a shower and changing facility with lockers for use by all retail tenants. **Prior to the issuance of the Certificate of Occupancy,** the Applicant shall provide plans to the Zoning Administrator showing the location of the shower and changing facilities within the retail space.

2. The Applicant shall review its loading plan with DDOT.

3. The Applicant shall have minor flexibility for refinements to the approved plans, provided that zoning relief is not increased or affected, in the following respects:

    A. Interior partition locations, the number, size, and location of units, as well as stairs and elevators are preliminary and shown for illustrative purposes only. Final layouts, design, and interior plans may vary.

B. The Applicant may make refinements to parking and bicycle configurations, including layout, so long as the required parking and bicycle parking complies with the size, location, access, maintenance, and operation requirements of the Zoning Regulations.

C. The Applicant may vary the final selection of exterior materials within the color ranges and general material types proposed, pursuant to Historic Preservation Office staff approval and based on the availability at the time of construction, without reducing the quality of materials.

D. The Applicant may make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings and trim, window location, size and shape, or any other changes to comply with Historic Preservation Office staff approval or that are otherwise necessary to obtain a final building permit.

Pursuant to 11 DCMR Subtitle Y § 702, the Board of Zoning Adjustment hereby **ORDERS APPROVAL** of a two-year time extension of Order No. 19254, as modified by this Order, which shall be valid until **October 11, 2020**, within which time the Applicant must file plans for the proposed project with the Department of Consumer and Regulatory Affairs for the purpose of securing a building permit.

In all other respects, Order No. 19254 remains unchanged.

VOTE ON ORIGINAL APPLICATION ON SEPTEMBER 27, 2016: 3-0-2
(Anita Butani D'Souza, Marnique Y. Heath, and Michael G. Turnbull, to APPROVE; Frederick L. Hill and Jeffrey L. Hinkle, not participating or voting.)

VOTE ON MODIFICATION AND EXTENSION ON NOVEMBER 7, 2018: 4-0-1
(Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, and Lorna L. John, to APPROVE; Peter A. Shapiro not participating or voting.)

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: November 13, 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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19608 of Jonathan Meyer and Phillip Lawrence, pursuant to 11 DCMR Subtitle X, Chapter 10, for variances from the minimum court requirements of Subtitle F § 202.1 and from the nonconforming structure requirements of Subtitle C § 202.2 to construct a side addition to an existing semi-detached[1] dwelling and convert it to a nine-unit apartment house in the RA-2 Zone at premises 1310 Vermont Avenue, N.W. (Square 24, Lots 86 and 59).

HEARING DATES: October 25, 2017, November 1, 2017, and December 13, 2017
DECISION DATE: January 10, 2018

DECISION AND ORDER

The owner of 1310 Vermont Avenue, N.W. (the "Property"), Jonathan Meyer, together with the owner of the adjacent property at 1314 Vermont Avenue (the "Adjacent Property"), Phillip Lawrence (collectively with Mr. Meyer, the "Applicant"), submitted a self-certified application (the "Application") requesting area variance relief for the Property from (i) the court requirements of Subtitle F § 202.1 and (ii) the prohibition against additions to nonconforming structures that create new nonconformities of Subtitle C § 202.2 in order to allow the construction of a side addition to the existing single-household dwelling (the "Building") on the Property as part of the redevelopment of the Building with a portion of the Adjacent Property into a nine-unit apartment house. Based on the evidence of record, including extensive prehearing submissions and testimony received at the public hearing, and for the reasons set forth below, the Board of Zoning Adjustment (the "Board") voted to grant the Application.

The Board made no finding that the requested relief, which was self-certified pursuant to Subtitle Y § 300.6(b), 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.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. In accordance with 11-Y DCMR § 402.1, the Office of Zoning published the notice of the public hearing on the Application in the *D.C. Register* on September 8, 2017 (64 DCR 36) and provided notice of the Application and of the October 25, 2017 hearing date by inclusion on the Office of Zoning's online calendar of Board hearings and by a September 18, 2017 memorandum sent to the Applicant; to Advisory Neighborhood Commission ("ANC") 2F,the ANC in which the Property is located; to ANC

[1] The caption has been corrected to reflect the building's relation to the lot.

2F03, the Single Member District ("SMD") Commissioner in whose SMD the Property is located; to the owners of all property within 200 feet of the Property; to the Office of Planning ("OP"); to the District Department of Transportation ("DDOT"); to the Chairman and four At-Large Councilmembers of the District of Columbia; and to the Councilmember for Ward Two in which the Property is located.

Party Status. The Applicant and ANC 2F were automatically parties in this proceeding pursuant to Subtitle Y § 403.5. No request for party status was filed.

Applicant's Case. The Applicant provided evidence and testimony about the planned addition and asserted that the Application satisfied all requirements for approval of the requested zoning relief. The Applicant asserted that it had met its burden of proof to demonstrate that the area variances requested were due to the extraordinary conditions of the Property of a narrow nonconforming southern side yard with bay windows and façade protected by historic preservation restrictions, so that the strict application of the court requirements of Subtitle F § 202.1 created practical difficulties for the Applicant to reasonably use the Property. The Applicant asserted that requested area variances did not create a substantial detriment to the public good nor substantially impair the Zoning Regulations. After the initial hearing, the Applicant submitted additional plans and depictions at the request of the Board.

OP Report. By a memorandum dated October 11, 2017 (Exhibit 34), the Office of Planning recommended denial of an area variance request from the minimum court requirements of Subtitle F § 202.1 to fill in the existing non-conforming side yard. OP's report did not analyze or discuss the requested variance relief for Subtitle C § 202.2(b) that was triggered by the proposed nonconforming court. OP asserted that the Application did not meet any of the three required prongs of the variance standard. OP did not find that the existing nonconforming side yard was an exceptional circumstance resulting in a practical difficulty because the proposed enlargement of the Property would leave sufficient space to achieve the Applicant's development without requiring variance relief. OP also asserted that the proposed variance relief would substantially harm the public good by reducing the light coming through the two-foot, three-inch nonconforming southern side yard, and would substantially harm the Zoning Regulations by not allowing sufficient light and air into the proposed nonconforming court. OP reviewed the Applicant's final plans and depiction of the alternative Option B that the Board had requested but remained opposed to the Applicant's variance requests.

DDOT Report. By a memorandum dated October 13, 2017 (Exhibit 37), the District Department of Transportation stated that it had no objection to the approval of the application for the special exception.

ANC Report. By a letter to the Board dated September 14, 2017 (Exhibit 17), ANC 2F stated that at a regularly scheduled meeting, which was noticed and attended by a quorum of eight Commissioners, the Commission unanimously voted to support the Application for the variances from the minimum court requirements of Subtitle F § 202.1 and from the nonconforming

structure requirements of Subtitle C § 202.2. The ANC found that the proposed infill of the existing side court was minimal and unobjectionable.

Persons in support. The Board received a letter dated December 12, 2017 (Exhibit 54) from three persons residing at 1316 Vermont Avenue, N.W. stating that they were "not in opposition" to the Application based on their meeting with the Applicant and consultation of the plans for the proposed addition and had no objection to the requested variances.

Persons in opposition. The Board received letters from and heard testimony from three persons in opposition to the Application. One neighbor submitted a letter questioning how much parking would be provided. (Exhibit 31.) Another neighbor, Mr. Robinson, who resides at 1332 Vermont Avenue, N.W., challenged the sufficiency of the public notice provided and of the materials submitted to the record in support of the Application. (Exhibits 40, 43, 44, 47, 51, 52, and 53.) A representative of the adjacent neighbor to the south at 1308 Vermont Avenue, N.W., the Mount Olivet Evangelical Lutheran Church (the "Church"), testified as to the church's concerns of potential adverse impacts of the planned construction to the church's property.

FINDINGS OF FACT

Notice of Hearing

1. The Board administratively rescheduled the hearing from the publicly noticed October 25, 2017 date to November 1, 2017 in order to ensure compliance with the 40-day requirement of Subtitle Y § 402. This administrative rescheduling, due to the delayed publication of the notice, applied to all of the cases on the Board's schedule for October 25, 2017. The Board provided notice of this administrative rescheduling by a letter dated October 16, 2017 (Exhibit 38) and announced it at the October 25, 2017 meeting.

2. The Applicant submitted an affidavit of posting of public notice on the Property executed on October 24, 2017 and submitted to the record on October 30, 2017. (Exhibit 41.) This affidavit included photos of the posted sign.

3. The Applicant submitted additional photos of the posting on the Property showing that the revised hearing date of November 1, 2017 was included on the posting. (Exhibit 42.)

The Subject Property and Adjacent Property

4. The Property is located on the northern side of Vermont Avenue, N.W. approximately mid-block between N Street, N.W. and Logan Circle (Square 242, Lot 59), with an address of 1310 Vermont Avenue, N.W. The Property is in the RA-2 Zone.

5. The Property is almost rectangular, approximately 46 feet wide on Vermont Avenue, N.W. and approximately 120 feet deep, with a lot area of approximately 2,760 square feet.

6. The Property is improved with the three-story semi-detached Building, with a principal dwelling unit.

7. The Building is separated from the Property's southern lot line by an existing southern side yard.

8. The Church owns property that abuts the Property along the Property's southern side lot line, with an address of 1308 Vermont Avenue, N.W. (Square 242, Lot 60) ("Church's Property").

9. The Adjacent Property abuts the Property along the Property's northern side lot line, with an address of 1314 Vermont Avenue, N.W. (Square 242, Lot 86).

10. The Adjacent Property is almost rectangular, approximately 23 feet wide on Vermont Avenue, N.W. and approximately 127 feet deep, with a lot area of approximately 5,845 square feet.

11. The Adjacent Property is improved with a three-story building abutting its northern side lot line, with a 20-foot side yard that is open to the sky and abuts the Property and Building.

The Applicant's Project

12. The Applicant proposes to subdivide the Property and Adjacent Property, which are both owned by the Applicant, to transfer most of the Adjacent Property's open southern side yard of approximately 1,400 square feet to the Property to increase the Property's lot area to 4,158 square feet in order to enable the conversion of the Building into a nine-unit apartment house with an addition filling in the currently open south side yard of the Adjacent Property.

13. The Applicant's proposed conversion of the Building to a nine-unit apartment house would make the existing southern side yard nonconforming as it is less than the four feet required by Subtitle F § 306.2(b), unless this side yard is eliminated.

14. As part of that redevelopment of the Building, the Applicant proposes to construct a side addition to the Building that would fill in the existing southern side yard and thereby eliminate the requirement for a side yard by transforming the existing nonconforming side yard into an open court by closing off the rear side.

Zoning Relief Needed

15. This two-foot, three-inch wide court would not comply with Subtitle F § 202.1, which establishes a minimum court width proportional to building height for buildings with more than three residential units that provide a court. No court is required in the RA-2 Zone, but if provided must meet this requirement. In addition, because the Building is a

nonconforming structure due to the narrow southern side yard, the Applicant also requests variance relief from the prohibition of Subtitle C § 202.2(b) of adding to a nonconforming building in a manner that would create a new nonconformity, here being the court that would replace the existing nonconforming side yard.

16. Both of the variance requests qualify as area variances under Subtitle X §§ 1001.3(a) (for the court requirements of Subtitle F § 202.1) and 1001.3(e) (for the expansion of a nonconforming structure that creates a new nonconformity).

Exceptional Circumstances

17. The RA-2 Zone requires that a semi-detached single-household dwelling provide an eight-foot side yard (Subtitle F § 306.1), rendering the Building's two-foot, three-inch southern side yard nonconforming under its current use.

18. The RA-2 Zone does not require any side yard for a building with multiple dwelling units, but if one is provided, that side yard must be at least four feet (Subtitle F § 306.2(b)).

19. The single side yard is therefore nonconforming in width.

20. The side yard is exceptionally narrow with a width of two feet, three inches.

21. Two bay windows each project one foot, nine inches into the side yard.

22. Most of the buildings on this block of Vermont Avenue, N.W. are attached buildings, and the few semi-detached buildings have significantly larger side yards than the Building's nonconforming southern side yard.

23. The Property and Adjacent Property are contributing buildings in both the Logan Circle and Fourteenth Street D.C. Historic Districts, which are therefore subject to the provisions of the Historic Landmark and Historic District Protection Act of 1978 (D.C. Law 2-144, as amended, D.C. Official Code § 6-1101, *et seq.*) ("the Act"). Consequently, the Building cannot be altered unless the Mayor or her agent finds that the issuance of an alteration permit is necessary in the public interest, or that failure to issue a permit will result in unreasonable economic hardship to the owner. (D.C. Official Code § 6-1104(f).)

24. The Act defines "necessary in the public interest" to mean consistent with the purposes of the Act or necessary to allow the construction of a project of special merit. (D.C. Official Code § 6-1108 (b).) The Applicant is not claiming economic hardship or that this is a project of special merit. Therefore, the Applicant must demonstrate that the proposed alteration is not inconsistent with the applicable purposes of the Act.

25. The Historic Preservation Review Board ('HPRB") provides advice to the Mayor's Agent as to whether the standards of the Act have been met. An affirmative recommendation by the HPRB can allow for a building permit to be cleared through a delegated action. The HPRB receives recommendations from the staff of the Historic Preservation Office ("HPO").

26. The Applicant originally proposed to fill in the nonconforming side yard, which could be permitted as a special exception.

27. The Applicant stated that HPO opposed the Applicant's informal requests to completely fill in the nonconforming southern side yard of the Property because that would change the historic façade and remove the two bay windows located in the side yard, which HPO deemed incompatible with applicable historic preservation laws and regulations. The Applicant stated that HPO indicated no objections to alternative proposals for the side addition provided that the two bay windows on the south side of the Building were retained. (Exhibit 33 and testimony at the November 1 and December 13 hearings - Hearing Transcript ("Tr.") of November 1, 2017, pp. 30-31; Tr. of December 13, 2017, p. 9.)

28. The Applicant stated that it considered the alternative of narrowing the side addition to extend the existing nonconforming side yard but determined that this alternative would be burdensome by limiting the efficiency of the layout of the side addition and would still require variance and special exception relief. (Exhibit 33.)

Practical Difficulty

29. If the existing side yard been of a conforming width of eight feet required for a semi-detached dwelling, the proposed southern addition extending two feet, three inches into the side yard would not have created a court even with the bay windows. Instead, the reduced side yard of five feet, nine inches would have complied with the minimum four-foot side yard required for a multiple dwelling.

30. Had HPO not rejected the Applicant's original plan to fill in the nonconforming side yard, the Applicant could have accomplished its plans without the creation of a nonconforming court.

31. Following the initial hearing, the Applicant submitted plans illustrating the alternative of locating the addition off the rear of the Building instead of filling in the nonconforming side yard. (Exhibits 49, 49A, and 49B.) This "Option B" would not affect the existing nonconforming southern side yard and so would not require relief. However, the Applicant stated that Option B would (i) cast significant shadows to both neighboring properties, as illustrated in Exhibit 49B, (ii) prevent the Applicant's ability to locate parking (not required by zoning) in the rear of the Property, and (iii) diminish the efficacy of the layout.

Zone Plan

32. The purpose and intent of the RA-2 Zone is to provide for areas developed with moderate-density residential uses.

33. The Building with the proposed addition would meet all area requirements for RA-2, including those governing bulk.

Public Good

34. The minimal extent to which the side addition would fill in the existing southern nonconforming side yard would have no impact on the Church Property.

35. Following the second hearing, the Applicant submitted a draft Construction Management Agreement to be executed with the Church, its adjacent neighbor to the south.

CONCLUSIONS OF LAW

Notice Issue

As a preliminary matter, the Board notes concerns regarding the adequacy of public notice raised by Mr. Robinson in his filings to the record. (Exhibits 40, 43, 47, and 51.) The Board administratively rescheduled the original October 25, 2017 hearing date for November 1, 2017 upon learning that the delayed publication of the public notice required the postponement of all cases scheduled for the October 25, 2017 hearing date to comply with the 40-day notice period of Subtitle Y § 402. The Board provided notice of the rescheduled hearing (Exhibit 38) and at the October 25, 2017 public hearing announced the postponement. At the November 1, 2017 public hearing, the Board determined that this administrative rescheduling complied with the public notice requirements and that the hearing should proceed. The Board therefore concludes that under the authority of Subtitle Y § 402.11, the attendance of Mr. Robinson and other neighbors at the hearing, and the other means of notice provided, indicated that the intent and purpose of the public notice requirements had been met notwithstanding any failure or defect in the Applicant's posting.

Merits

The Applicant seeks area variance relief from the minimum court requirements of Subtitle F § 202.1 and from Subtitle C § 202.2's prohibition on enlarging an existing nonconforming structure in a manner that creates a new nonconformity in order to construct a side addition to an existing one-family dwelling and convert it to a nine-unit apartment house in the RA-2 Zone at premises 1310 Vermont Avenue, N.W. (Square 242, Lots 59 and 86).

The Board is authorized to grant variances from the strict application of the Zoning Regulations where "by reason of exceptional narrowness, shallowness, or shape of a specific piece of property ... or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,'' the strict application of any zoning regulation "would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property…." (D.C. Official Code 6-641.07(g)(3) (2012 Repl.); 11-X DCMR § 1002.)

The District of Columbia Court of Appeals has held that "an exceptional or extraordinary situation or condition" may encompass the buildings on a property, not merely the land itself, and may arise due to a "confluence of factors." See *Clerics of St. Viator v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291 (D.C. 1974); *Gilmartin v. District of Columbia Bd. Of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990).

A showing of "practical difficulties" must be made for an area variance, while the more difficult showing of "undue hardship" must be made for a use variance. *Palmer v. Board of Zoning Adjustment*, 287 A.2d 535 (D.C. 1972).

An area variance is defined by Subtitle X § 1001.2 as "a request to deviate from an area requirement applicable to the zone district in which the property is located," with Subtitle X § 1001.3 providing examples. The Applicant's request for a variance from the court requirements of Subtitle F § 202.1 falls into the area variance category of Subtitle X § 1001.3(a) as relief from "requirements that affect the size, location, and placement of buildings", and the request for a variance from Subtitle C § 202 falls into the area variance category of Subtitle X § 1001.3(e) as relief from "the prohibition against certain enlargements and additions to nonconforming structures as stated at Subtitle C § 202."

The Applicant is therefore required to show that the strict application of the zoning regulations would result in "practical difficulties." *French v. District of Columbia Bd. of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995), quoting *Roumel v. District of Columbia Bd. of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980). A showing of practical difficulty requires "'[t]he applicant [to] demonstrate that ... compliance with the area restriction would be unnecessarily burdensome.'" *Metropole Condominium Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 141 A.3d 1079, 1084 (D.C. 2016), quoting *Fleishman v. District of Columbia Bd. of Zoning Adjustment*, 27 A.3d 554, 561-62 (D.C. 2011).

Lastly, the Applicant must demonstrate that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. (11-X DCMR § 1002.)

Based on the above findings of fact, the Board concludes that the Applicant has satisfied the burden of proof and that the application should be granted.

Exceptional circumstance

The Board finds that the existing nonconforming southern side yard, just two feet, three inches wide, which is atypical of the immediate neighborhood, in combination with the presence of two bay windows in the nonconforming side yard subject to historic preservation restrictions creates an exceptional circumstance. As noted in Findings of Fact 29 and 30, if the side yard had been of a conforming width of eight feet as required for the existing semi-detached dwelling, the proposed two-foot, three-inch side yard addition would not have created a court. Instead, the resulting narrower side yard of five feet, nine inches would have complied with the minimum four-foot side yard required for a multiple dwelling. Alternatively, had the HPO not rejected the Applicant's original plan to fill in the nonconforming side yard in order to preserve the two historic bay windows, the Applicant could have accomplished its plans without the creation of a nonconforming court.

The Board recognizes that the Building's status as a contributing structure in the D.C. Historic District, which therefore restricts the Applicant's ability to change the bay windows in the nonconforming side yard, is not sufficient on its own to meet the exceptional condition prong of the variance standard. *Dupont Circle Citizens Ass'n v. D.C. Bd. of Zoning Adjustment*, 182 A.3d 138, 142 (2018). Instead, the Board determines that the bay windows that are subject to historic preservation restrictions, together with the extremely narrow nonconforming side yard, combine to create an extraordinary circumstance required for variance relief. *Gilmartin v. D.C. Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (1990) (confluence of carriage house and easement in rear yard create a single exceptional circumstance).

Practical Difficulty

The Board determined that interaction of the nonconforming side yard that could not be filled in due to the bay windows' protection under historic preservation regulation with the strict application of the Zoning Regulations would create exceptional practical difficulties for the Applicant by preventing the Applicant from enlarging the Building in any way that impinges upon the nonconforming side yard and thus limiting the efficiency of room layout of an addition.

There is no viable matter of right alternative. As noted in Finding of Fact No. 31, the Applicant submitted plans illustrating the alternative of locating the addition off the rear of the Building instead of filling in the nonconforming side yard. (Exhibits 49, 49A, and 49B.) This "Option B" would not affect the existing nonconforming southern side yard and so would not require relief. However, the Applicant stated that Option B would (i) cast significant shadows to both neighboring properties, as illustrated in Exhibit 49B, (ii) prevent the Applicant's ability to locate parking (not required by zoning) in the rear of the Property, and (iii) diminish the efficacy of the layout.

The Public Good and the Zone Plan

The Board concludes that relief can be granted without substantial detriment to the public good

and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

The Board finds the space was already substandard and so only minimal light and air would be lost by closing in the rear portion of the nonconforming side yard. Although OP asserted that the proposed in-fill of the narrow side yard would result in a loss of light and air, the adjacent neighbor to the south, the Church, did not object to the grant of the variance on this ground. Further, a new development on the site could be constructed without side yards and therefore what little light and air results from the existing side yard was always at risk.

The Church expressed concerns over the potential adverse impacts of the construction of the project on the Church Property, but these impacts would be the same as for a new development on the Property without a southern side yard. Since the impacts of construction do not flow from the relief being granted, those impacts are therefore not relevant to this Application. In any event, the Church appears to have had its concerns addressed by the Applicant with the construction management agreement submitted into the record by the Applicant.

As to the integrity of the Zone Plan, OP concluded that this prong was not met because the Zoning Regulations are intended to control building bulk in relation to adjacent lots, and minimum open court widths are intended to provide for light and air. Although the subject property is improved with a narrow side yard that the Zoning Regulations would permit the applicant to eliminate and fill in (but for the restrictions of the HPO), OP contended that the creation of a narrow dead-ended space does not support the development standards by controlling the location of building bulk in relation to adjacent lots.

However, the Zoning Act provides that every area requirement is eligible for a variance if the three prongs are met. Therefore, the integrity of the Zoning Regulations is only offended when the extent of the variance relief exceeds what the Zoning Act would reasonably contemplate. Here the court relief is being granted solely to the extent needed to create a viable project because the existing side yard is substandard and the Applicant is unable to fill in the nonconforming side yard due to the restrictions of the HPO.

The Board is required to give "great weight" to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04 (2012 Repl.).) For the reasons discussed above, the Board disagrees with OP's recommendation that the Board deny the Application. The Board notes that the OP report did not address the effect of the historic preservation restrictions on the bay windows and therefore its analysis as to the first two prongs was incomplete. For the reasons stated above, the Board also finds OP's concerns over the loss of light and the impairment of the integrity of the zone plan to be unpersuasive.

The Board is required to give "great weight" to the issues and concerns raised by the affected ANC, ANC 2F in its written report. (Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3)(A) (2012 Repl.).) ANC 2F's report supported the Application and specifically stated its belief that

the proposed infill of the rear portion of the existing nonconforming side yard, creating the nonconforming court, is minimal and unobjectionable. (Exhibit 17).

Having stated no issues or concerns, there is nothing in the ANC's report to which the Board can give great weight.

DECISION

Based on these findings of facts and conclusions of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for area variance relief from the court requirements of Subtitle F § 202.1 and the limitation on additions to nonconforming structures that create nonconformities of Subtitle C § 202.2 pursuant to Subtitle X, Chapter 10 to allow the construction at premises 1310 Vermont Avenue, N.W. (Square 24, Lots 86 and 59) in the RA-2 Zone of a side addition to a principal dwelling and to convert it to a nine-unit apartment house. Accordingly, it is **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 49A – FINAL PLANS.**

VOTE: 4-0-1 (Frederick L. Hill, Peter G. May, Carlton E. Hart, and Lesylleé M. White 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: November 7, 2018

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

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

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19662 of Demetrios Bizbikis, as amended[1], pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the residential conversion requirements of Subtitle U § 320.2, and pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the lot area per dwelling unit requirements of Subtitle E § 201.4 and Subtitle U § 320.2(d), to permit an existing four-unit apartment house in the RF-1 Zone at premises 924 N Street, N.W. (Square 368, Lot 890).

HEARING DATES: January 10, February 14, March 28, and April 18, 2018
DECISION DATE: April 18, 2018

DECISION AND ORDER

This application was submitted on October 27, 2017 by Demetrios Bizbikis, the owner of the property that is the subject of the application (the "Applicant"). The Applicant requests a special exception under the residential conversion requirements of Subtitle U § 320.2, and area variances from the lot area per dwelling unit requirements of Subtitle E § 201.4 and Subtitle U § 320.2(d), to permit an existing four-unit apartment house in the RF-1 Zone. Following a public hearing on April 18, 2018, the Board voted to approve the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Public Hearing. By memoranda dated November 20, 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 Two; Advisory Neighborhood Commission ("ANC") 2F, the ANC for the area within which the Subject Property is located; and the single-member district ANC 2F06. Pursuant to 11-Y DCMR § 402.1, on November 20, 2017, the Office of Zoning mailed notice of the hearings to the Applicant, ANC 2F, and the owners of all property within 200 feet of the subject property. Notice was published in the *D.C. Register* on November 24, 2017. (64 DCR 12068.)

[1] The memorandum from the Zoning Administrator ("ZA") originally submitted with the application noted that a use variance from Subtitle U § 303.1(b) is required. (Exhibit 9.) The Applicant submitted a revised ZA memorandum indicating that an area variance for lot area per unit under Subtitle E § 201.4 was required instead. (Exhibit 35.) At the public hearing on April 18, 2018, the Applicant verbally amended the application to add special exception relief for residential conversion under Subtitle U § 320.2 and a variance from Subtitle U § 320.2(d), after the issue was raised by the office of the Attorney General. The caption has been revised accordingly.

Party Status. The Applicant and ANC 2F were automatically parties in this proceeding. There were no requests for party status.

OP Report. In its initial report dated April 6, 2017, OP indicated that it needed additional time to review supplemental information submitted by the Applicant. (Exhibit 44.) By a report dated April 10, 2018, OP recommended approval of variance relief pursuant to 11-E DCMR § 201.4, subject to the condition that one of the four units is dedicated as affordable under Inclusionary Zoning ("IZ"). (Exhibit 49.) At the time OP's report was submitted, the Applicant had not amended its application to request special exception relief under Subtitle U § 320.2 and variance relief under Subtitle U § 320.2(d). Under Subtitle U § 320.2(b), the Applicant is required to set aside one IZ unit, as requested by OP; therefore, it need not be adopted as a condition of the Order.

DDOT Report. By memoranda dated December 29, 2017, DDOT indicated it had no objection to the originally requested variance relief. (Exhibit 33.)

ANC Report. At a regular public meeting on April 4, 2018, with a quorum present, ANC 2F voted 6-0-1 to oppose the application. (Exhibit 50.) The ANC determined that the Applicant failed to meet the three-prong test for an area variance. Specifically, the ANC raised the following issues: (1) the Subject Property is not affected by an exceptional or unique condition, as "numerous nearby corner lots that share nearly identical conditions conform to zoning code without practical difficulties;" (2) the Applicant's argument for "practical difficulties" has no merit, as the property's prior use as a four-unit apartment was illegal under the Zoning Regulations; and (3) approving the application would substantially impair the zone plan, as it would "create favorable and exceptional circumstances for a property owner who has continuously violated - and profited from the violation of - established zoning regulations to which others in nearly identical circumstances conform." (Exhibit 50.)

FINDINGS OF FACT

1. The property is located 924 N Street N.W. (Square 368, Lot 890) ("Subject Property") and is zoned RF-1. The Subject Property has a lot area of approximately 2,273 square feet. (Exhibit 46.)

2. A residential structure on the Subject Property was constructed prior to May 12, 1958 with its current building footprint. (Exhibit 46; BZA Public Hearing Transcript of April 18, 2018 ("Tr.") at p. 10.)

3. The prior owner of the Subject Property converted the building into a four-unit apartment building in the early 2000's.

4. The Subject Property had and still has 568 square feet of lot area per dwelling unit.

5. The Zoning Regulations in place at the time of the conversion allowed for any structure constructed prior to the May 7, 1958 of the existing regulations to be converted to an apartment house by right pursuant to 11 DCMR § 330 (e), but imposed a lot area requirement of 900 square feet per dwelling unit under 11 DCMR § 401.3.

6. Although the Subject Property did not meet that lot area requirement, there is no evidence that the then owner sought area variance relief and the Department of Consumer and Regulatory Affairs ("DCRA") is unable to verify that a building permit for this conversion was issued. (Exhibit 49.)

7. The Subject Property has been operating as a four-unit apartment house for over 15 years and has not been expanded since the time of its conversion. (Exhibit 46; Tr. at pp. 10, 11.)

8. The Applicant inherited the property in 2014. (Tr. at pp. 12-13.) The Applicant provided for the record a certificate of occupancy from 2004 indicating that the Subject Property contains a four-unit apartment building, and floor plans stamped by DCRA in 2001, which also indicate four units. (Exhibits 45, 47.) The Applicant considered these documents to be evidence that the conversion to four units was legally permitted and continued the property's use as a four-unit apartment house. (Exhibit 49.)

9. Effective June 26, 2015, the Zoning Commission in Case No. 14-11 repealed the provision permitting matter-of-right conversion, allowing for only matter-of-right conversions of pre-1958 non-residential buildings. (Former 11 DCMR § 330.7, presently 11-U DCMR § 301.2.) Conversion of pre-1958 residential structures would require special exception approval, and the fourth dwelling unit and every additional even number dwelling unit thereafter would be subjection to the Inclusionary Zoning Regulations. (11-U DCMR § 320.2.) In addition, the 900 square feet per unit requirement was made a condition of the special exception approval. (Former 11 DCMR § 336, currently 11-U DCMR § 320.2.)

10. At some point in 2017, DCRA became aware of the existence of the apartment house and did not consider the certificate of occupancy and stamped floor plans to be sufficient to prove that the conversion was permitted. In a memorandum dated December 2017, the Zoning Administrator ("ZA") determined that area variance relief is required from the lot area requirement of 11-E DCMR § 201.4. (Exhibit 35.)

11. Subtitle E § 201.4 also was adopted through Case No. 14-11, as 11 DCMR § 401.11, and provides:

> An apartment house in an R-4 Zone District, whether converted from a building or structure pursuant to former § 330.5(e) or existing §§ 330.7 or 336, or existing before May 12, 1958, may not be renovated or expanded so as to increase the number of dwelling units unless there are nine hundred square feet (900 sq. ft.) of lot area for each dwelling unit, both existing and new.

12. The apartment house was not "converted from a building or structure pursuant to former § 330.5(e) or existing §§ 330.7 or 336", it was not "existing before May 12, 1958", and even if it met either factor, the Applicant is not requesting that it be renovated or expanded, only that it be brought into compliance with the existing regulations. (Exhibit 46; Tr. at p. 10.)

13. Although both the predecessor provisions to 11-E DCMR § 201.4 and 11-U DCMR 320.2(d) were added at the same time through the same case, the ZA required a variance under the first, without referring the Applicant for a special exception under the second. Since Subtitle E § 201.4 does not apply to this application, but Subtitle U § 320.2(d) does, the Office of the Attorney General advised that the Applicant should apply for both the special exception - to validate its conversion under Subtitle U § 320.2 - and an area variance - because the conversion did not meet that provision's 900 square foot per dwelling unit limitation under Subtitle U § 320.2(d). The Applicant verbally amended its application at the public hearing to include a special exception under Subtitle U § 320.2 and an area variance from Subtitle U § 320.2(d). The originally-requested area variance from Subtitle E § 201.4 was retained as a part of this application in an abundance of caution, but since it is the same requirement, the same facts and law apply.

14. Based on the elevations provided, the existing structure does not exceed 35 feet in height. (Exhibit 8.)

15. As required by 11-U DCMR 320.2 (b), the Applicant is setting aside one of the four units as an Inclusionary Zoning Unit. (Tr. at p. 9.)

16. The Subject Property is bordered by N Street, N.W. to the north and Blagden Alley, N.W. to the west. (Exhibit 4.) A commercial building abuts the Subject Property on the southern lot line. The adjacent property to the east is also a three-unit apartment house that was in existence prior to May 12, 1958. (Tr. at pp. 10, 14.)

17. The owner of the Subject Property is unable to acquire additional land from an adjacent property owner in order to meet the lot area per dwelling requirement. (Tr. at pp. 10-11.)

18. The Applicant indicates that bringing the Subject Property into compliance with the Zoning Regulations would involve converting the second floor into one unit, relocating two bathrooms, reconfiguring plumbing, removing the second kitchen, demolishing fire separation walls, and reconfiguring the unit to meet building code standards. (Exhibit 34.) The Applicant also indicates that the reconfiguration may require partial demolition of the existing structure (Exhibit 46.) The Applicant's projected cost of reconfiguration is $300,000. (Exhibit 34.)

19. As noted by OP, the reconfiguration process would also require evicting existing tenants of the Subject Property. (Exhibit 49.)

20. The Subject Property has four designated on-site parking spaces for tenants at the rear of the building. (Exhibits 34, 49.)

21. The existing structure has a similar design to the adjacent building and to nearby buildings. (Exhibit 49.)

CONCLUSIONS OF LAW AND OPINION

Special Exception Relief

The Applicant requests special exception relief pursuant to 11-U DCMR § 320.2 of the Zoning Regulations in order to permit an existing four-unit apartment house in the RF-1 Zone. The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2008) 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, subject to specific conditions. (*See* 11-X DCMR § 901.2.)

Pursuant to Subtitle U § 320.2, the "specific conditions" include:

(a) The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft.);
(b) The fourth (4th) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the [inclusionary zoning set-aside requirements];
(c) There must be an existing residential building on the property at the time of filing an application for a building permit;
(d) There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit;
(e) An addition shall not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on the adjacent property;
(f) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of an operative chimney or other external vent on an adjacent property required by any municipal code;
(g) Any addition, including a roof structure or penthouse, shall not significantly interfere with the operation of an existing or permitted solar energy system (of at least 2kW) on an adjacent property;
(h) A roof top architectural element original to the house such as cornices, porch roofs, a turret, tower, or dormers shall not be removed or significantly altered, including shifting its location, changing its shape or increasing its height, elevation, or size;
(i) Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

(1) The light and air available to neighboring properties shall not be unduly affected;
(2) the privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and
(3) the conversion and any associated additions, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street or alley;

Based on the findings of fact, the Board concludes that the request for special exception relief, as represented by the submitted plans, testimony, and evidence, satisfies the requirements of 11-U DCMR § 320.2. Based on the elevations provided, the Board finds that the existing structure does not exceed 35 feet in height. As there are four units, the Inclusionary Zoning set-aside requirement of Subtitle U § 320.2(b) applies, and the Applicant's agent testified that he will set aside an Inclusionary Zoning unit accordingly. There is an existing residential building on the property; however, the lot does not provide 900 square feet of area as required by Subtitle U § 320.2(d). Accordingly, the Applicant has requested variance relief from that requirement. As the application does not involve new construction or alteration of the existing structure, the requirements of Subtitle U § 320.2(e)-(i) do not apply in this case. The Board concludes that the special criteria of Subtitle U § 320.2 are met.

Further, regarding the general special exception requirements, the Board finds that allowing the four-unit apartment house on the Subject Property will not adversely affect the use of neighboring properties as required by 11-X DCMR § 901.2. Granting the application would not introduce additional impacts on the neighboring properties, but rather, allow the continued use of the Subject Property as a four-unit apartment. No evidence or testimony was provided that the continued use of the property as an apartment house would cause adverse impacts on neighboring properties. The Board finds that the addition will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. Although the RF-1 Zone does not permit four-unit apartment houses as a matter of right, the Zoning Regulations allow for such a use when the special exception criteria enumerated above are met. Therefore, in finding that the criteria are met, including the variance request discussed below, the Board finds that this use would be in harmony with the purpose and intent of the Zoning Regulations.

Variance Relief

The Applicant requests area variances from the lot area per dwelling unit requirement as reflected in Subtitle E § 201.4 and Subtitle U § 320.2(d). As noted, only the latter relief is needed. Both provisions require that there be a minimum of 900 square feet of land area per dwelling unit, while the Subject Property provides 568 square feet per unit. The Board is authorized to grant variances from the strict application of the Zoning Regulations where "by reason of exceptional narrowness, shallowness, or shape of a specific piece of property. . . or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,'' the strict application of any zoning regulation "would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon

the owner of the property…." (D.C. Official Code 6-641.07(g)(3) (2008 Supp.); (11-X DCMR § 1002).)

A showing of "practical difficulties" must be made for an area variance, while the more difficult showing of "undue hardship," must be made for a use variance. *Palmer v. District of Columbia Bd. of Zoning Adjustment*, 287 A.2d 535, 541 (D.C. 1972). The Applicant in this case is requesting area variances and therefore is required to show that the strict application of the zoning regulations would result in "practical difficulties." *French v. District of Columbia Bd. of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995), *quoting Roumel v. District of Columbia Bd. of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980).

Exceptional Condition

The D.C. Court of Appeals has recognized that the "exceptional situation or condition" of a property "need not be inherent in the land, but can be caused by subsequent events extraneous to the land." *De Azcarate v. District of Columbia Bd. of Zoning Adjustment*, 388 A.2d 1233, 1237 (D.C. 1978). The zoning history of a property, including past actions of governmental authorities, can constitute the "events extraneous to the land" which create the requisite exceptional situation or condition. *Monaco v. District of Columbia Bd. of Zoning Adjustment*, 407 A.2d 1091, 1097 (D.C. 1979). In *Monaco*, a zoning history which implicitly approved a use and thereby gave rise to good-faith, detrimental reliance by the property owner, helped to establish the exceptional situation. Similarly, the D.C. Court of Appeals upheld the Board's decision to find an exceptional situation where an applicant detrimentally relied on the existing use of the property and the subsequent actions of city government officials, though the use of the property was not, in fact, permitted by the Zoning Regulations. *The Oakland Condominium v. District of Columbia Bd. of Zoning Adjustment*, 22 A.3d 748, 750-53 (D.C. 2011) (Finding exceptional zoning history in a case where the applicants purchased property that had been operating as a 15-unit rooming house, where the Certificate of Occupancy displayed inside the property contained no limit on the number of units, and where a Zoning Reviewer from DCRA indicated that only a "change of ownership" was needed, although a use exceeding eight units was not permitted as a matter of right.)

An exceptional zoning history exists in this case as well. The Board has found no evidence that the original conversion of the structure into an apartment house was permitted by DCRA; however, as in *Oakland Condominium* and *Monaco*, the Applicant relied on the long-standing, existing use of the property and subsequent documentation from DCRA, such as the Certificate of Occupancy listing a four-unit apartment house use issued in 2004, to draw the conclusion that the use was permitted on the Subject Property. The Board also notes that the Subject Property had been operating as a four-unit apartment house for over 15 years, and much of that time was prior to the Applicant's inheritance of the Subject Property in 2014. Moreover, the Board has found no evidence that the Applicant acted in bad faith when it detrimentally relied on the belief that the Subject Property's use as a four-unit apartment house was permitted. The Board

concludes that the Applicant's good faith, detrimental reliance creates an exceptional zoning history, which meets the first prong of the variance test.

Practical Difficulty

A showing of practical difficulty requires "'[t]he applicant [to] demonstrate that ... compliance with the area restriction would be unnecessarily burdensome….'" *Metropole Condominium Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 141 A.3d 1079, 1084 (D.C. 2016), *quoting Fleishman v. District of Columbia Bd. of Zoning Adjustment*, 27 A.3d 554, 561-62 (D.C. 2011). In assessing a claim of practical difficulty, proper factors for the Board's consideration include the added expense and inconvenience to the applicant inherent in alternatives that would not require the requested variance relief. *Barbour v. District of Columbia Bd. of Zoning Adjustment*, 358 A.2d 326, 327 (D.C. 1976).

In this case, the Board finds that compliance with the Zoning Regulations would be unnecessarily burdensome, as it would require the Applicant to either acquire additional land to meet the lot area requirement or undertake extensive renovations. As to the first alternative, the Applicant has been unable to acquire additional land from an adjacent neighbor. As to the option to reconfigure the structure, this process would require evicting current tenants and the Applicant estimates that the projected cost of reconfiguration is approximately $300,000. The Board concludes that requiring the Applicant to partially demolish and reconfigure the existing structure would create an undue burden on the Applicant in terms of added expense and inconvenience. The Board believes this situation presents a significant practical difficulty, and the Applicant therefore meets the second prong of the variance test.

No Detriment to the Public Good or Impairment of Zone Plan

Lastly, the Applicant must show that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. (11-X DCMR § 1002.) The Board is persuaded that the application has met the third prong of the variance test.

The Board concludes that approving the requested variance would not cause a substantial detriment to the public good. As noted above, the Subject Property has been operating as a four-unit apartment house for over 15 years, and no evidence was provided to the record that its operations have caused an adverse impact on the use and enjoyment of nearby properties. The Subject Property provides four off-street parking spaces, which mitigate any potential negative impacts on street parking in the neighborhood. Consistent with the requirement of 11-U § 320.2(b), the Applicant will set aside one of the four units as an affordable unit under the D.C. Inclusionary Zoning program.

The Board also concludes that granting the requested variance would not substantially impair the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. The Board agrees with OP's finding that the proposal will not impair the zone plan and credits OP's finding that "the potential harm to the regulations (since the zone was and is not intended to be an apartment zone) would need to be evaluated against the long-term nature of the existing use, and the potential harm to the current tenants within the building." Although the RF-1 Zone does not allow for four-unit apartment houses as a matter of right, the Zoning Regulations do provide the opportunity for the conversion of a residential structure into a multiple dwelling unit apartment use under 11-U DCMR § 320.2. Because this use is permitted by special exception in the zone, provided that certain criteria are met, the Board finds that the allowing the use does not impair the zone plan. Further, the adjacent property is a three-unit apartment house, and the structure on the Subject Property has a similar design to the adjacent building and to nearby buildings. Accordingly, the Board concludes that the third prong of the variance test has been met.

Great Weight

The Board is required to give "great weight" to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04 (2001).) In this case, as discussed above, the Board concurs with OP's recommendation that the application should be approved.

The Board is also required to give "great weight" to the issues and concerns raised by the affected ANC. (Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001)).) In this case, the ANC submitted a written report in opposition to the application and raised issues and concerns related to the three-prong test for an area variance. First, the ANC raised the issue that the Subject Property is not affected by an exceptional or unique condition, noting that "numerous nearby corner lots that share nearly identical conditions conform to zoning code without practical difficulties." (Exhibit 50.) In determining that there was an exceptional situation affecting the Subject Property, the Board did not conclude that the physical conditions of the lot were unique or exceptional. Instead, the Board found that the exceptional condition of the Subject Property arose from the unique zoning history of the property, as analyzed in more detail above. Therefore, the Board concurs with the ANC's contention that the physical characteristics of the Subject Property are not exceptional, yet finds that this criterion for variance relief is otherwise met.

With regard to the second prong, the ANC argued that the Applicant had not met its burden for showing "practical difficulties," as the property's prior use as a four-unit apartment was illegal under the Zoning Regulations. (Exhibit 50.) As discussed in this Order, the Board found that the Applicant would have to partly demolish or reconfigure the structure in order to comply with the Zoning Regulations, which amounts to a practical difficulty. The original conversion of the Subject Property was not part of the Board's analysis for this prong, as the Board found that the Applicant and current owner of the property acted in good faith and relied on the issuances from

DCRA in continuing the operations of the four-unit apartment house. Therefore, the Board was not persuaded by the ANC's claim that this prong of the variance test had not been met.

Finally, the ANC raised the concern that approving the application would substantially impair the zone plan, as it would "create favorable and exceptional circumstances for a property owner who has continuously violated – and profited from the violation of – established zoning regulations to which others in nearly identical circumstances conform." (Exhibit 50.) The Board concluded that approving the relief requested would not impair the public good or the zone plan, in that the use of the property has not had an adverse impact on the neighborhood and that residential conversions are permitted as a special exception in the RF-1 Zone. As previously discussed, the Board found no evidence that the original conversion of the Subject Property was permitted, but found that the Applicant, after inheriting the property in 2014, relied in good faith on representations that the use of the property was a four-unit apartment was lawful. Based in part on the uniqueness of this situation, the Board found that the Applicant met the burden of proof for variance relief. Because the Board's analysis was predicated on the finding that the current owner acted in good faith, the Board does not agree with the ANC's contention that granting the relief requested created favorable circumstances for property owners who knowingly violate the Zoning Regulations. The Board has considered the ANC's issues and concerns, but was ultimately not persuaded to deny the application.

Based on the case record, the testimony at the hearing, and the findings of fact and conclusion of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for a special exception under the residential conversion requirements of Subtitle U § 320.2, and pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the lot area per dwelling unit requirement of Subtitle E § 201.4 and the lot area requirement of Subtitle U § 320.2(d), to permit an existing four-unit apartment house. It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 8 – ARCHITECTURAL PLANS AND ELEVATIONS.**

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

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: November 6, 2018

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

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

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19849 of Stack Eight LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions from the theoretical subdivision requirements of Subtitle C § 305.1 and under Subtitle C § 703.1 from the minimum parking requirements of Subtitle C § 701.5, and pursuant to Subtitle X, Chapter 10, for variances from the lot occupancy requirements of Subtitle F § 304.1, and from the minimum rear yard requirements of Subtitle F § 305.1, to construct seven new flats and four attached-principal dwelling units of affordable housing in the RA-1 Zone at premises 3401 13th Street S.E. (Square 5936, Lot 802).

HEARING DATE: October 31, 2018
DECISION DATE: October 31, 2018

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated July 5, 2018, from the Zoning Administrator, certifying the required relief. (Exhibits 4 and 13 (duplicate).)

The Board of Zoning Adjustment ("Board") provided proper and timely notice of the public hearing on this application by publication in the D.C. Register and by mail to Advisory Neighborhood Commission ("ANC") 8E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8E, which is automatically a party to this application. The ANC did not submit a report for this application.

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 37.)

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application, subject to the condition that the Applicant provide 12 long-term, on-site bicycle spaces (Exhibit 38.) The Applicant subsequently submitted a site plan showing the long-term bicycle spaces (Exhibit 42.)

The Department of Energy and Environment ("DOEE") submitted a letter in support of the application (Exhibit 39.)

Variance Relief

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for area variances from the lot occupancy requirements of Subtitle F § 304.1, and from the minimum rear yard requirements of Subtitle F § 305.1, to construct seven new flats and four attached-principal dwelling units of affordable housing in the RA-1 Zone. The only parties to the

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

Based upon the record before the Board, and having given great weight to the OP report filed in this case, the Board concludes that in seeking variances from 11 DCMR Subtitle F §§ 304.1 and 305.1, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for special exceptions from the theoretical subdivision requirements of Subtitle C § 305.1 and under Subtitle C § 703.1 from the minimum parking requirements of Subtitle C § 701.5. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle C §§ 305.1, 701.5, and 703.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

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

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 15A-15D AS AMENDED BY THE UPDATED SITE PLAN AT EXHIBIT 42.**

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

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: November 7, 2018

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

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

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19859 of Alexandra Veitch, as amended[1], pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, the rear yard setback requirements of Subtitle E § 306.1, and the nonconforming structure requirements of Subtitle C § 202.2, to construct a rear deck addition to an existing, attached principal dwelling unit in the RF-1 Zone at premises 17 Rhode Island Avenue N.W. (Square 3112, Lot 88).

HEARING DATE: Applicant waived right to a public hearing
DECISION DATE: November 7, 2018 (Expedited Review Calendar)

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 9 (original) and 38 (revised).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

Pursuant to 11 DCMR Subtitle Y § 401, this application was tentatively placed on the Board's expedited review calendar for decision without hearing as a result of the Applicant's waiver of its right to a hearing. (Exhibit 2.)

Preliminary Matter – Waiver of Notice Requirements for Non-Compliant Notice: The Application meets most, but not all of the procedural notice requirements; however, the record reflects that there was no apparent publication of the public notice in the *District of Columbia Register* as required by Subtitle Y §§ 401.4(a) & 402.1(a) (reference to "public hearing" replaced with reference to "expedited review" as specified in § Y-401.5) and the notice to the Ward Councilmember, as required by Subtitle Y § 402.1(g), did not include the procedure for requesting removal of the application from the consent calendar, as required by Subtitle Y § 401.6.

[1] The original application did not include relief from the nonconforming structure requirements of Subtitle C § 202.2, but this relief was added based on OP's recommendation. The caption has been revised accordingly.

The Board may waive these two requirements per Subtitle Y § 101.9 if the Board determines that intent of the notice requirements were met and that the waiver would not prejudice the rights of any party and is not otherwise prohibited by the law. Here, the Board finds that the neighboring owners and affected Advisory Neighborhood Commission ("ANC") have received notice, based on their responses filed to the record, and all other notice requirements were satisfied. Consequently, the Board has waived these two requirements.

The Board provided proper and timely notice of the public hearing on this application by mail to ANC 5E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC5E, which is automatically a party to this application. The ANC submitted a report indicating that at a regularly scheduled and properly noticed meeting on October 16, 2018, at which a quorum was in attendance, the ANC voted 9-0-0 to support the application. (Exhibit 34.)

The Office of Planning ("OP") submitted a report, dated October 26, 2018, in support of the application. (Exhibit 37.) The District Department of Transportation ("DDOT") submitted a report, dated October 19, 2018, of no objection to the approval of the application. (Exhibit 35.)

Two letters of support from adjacent neighbors were submitted to the record. (Exhibits 10 and 11.)

No objections to expedited calendar consideration were made by any person or entity entitled to do so by Subtitle Y §§ 401.7 and 401.8. The matter was therefore called on the Board's expedited calendar for the date referenced above and the Board voted to grant the application.

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, the rear yard setback requirements of Subtitle E § 306.1, and the nonconforming structure requirements of Subtitle C § 202.2, to construct a rear deck addition to an existing, attached principal dwelling unit in the RF-1 Zone. No party status requests were received in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR, Subtitle X §§ 901.2, Subtitle E §§ 5201, 304.1, and 306.1, and Subtitle C § 202.2, 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 § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 12.**

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

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: November 13, 2018

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

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

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL

APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

BOARD OF ZONING ADJUSTMENT
PUBLIC MEETING NOTICE
WEDNESDAY, JANUARY 9, 2019
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.

FOR EXPEDITED REVIEW

WARD SIX

19893 ANC 6A	**Application of Elderidge Nichols and Lauren Santabar,** pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, and the rear yard setback requirements of Subtitle E § 306.1, to construct a rear deck addition to an existing attached principal dwelling unit in the RF-1 Zone at premises 1210 Maryland Avenue N.E. (Square 1005, Lot 80).

PLEASE NOTE:

Failure of an applicant to supply a complete application to the Board, and address the required standards of proof for the application, may subject the application or appeal to postponement, dismissal or denial. The public meeting 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. Individuals and organizations interested in any application may submit written comments to the Board.

An applicant is not required to attend for the decision, but it is recommended so that they may offer clarifications should the Board have questions about the case.

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.

The application will remain on the Expedited Review Calendar unless a request for party status is filed in opposition, or if a request to remove the application from the agenda is made by: (1) a Board member; (2) OP; (3) an affected ANC or affected Single Member District; (4) the Councilmember representing the area in which the property is located, or representing an area located within two-hundred feet of the property; or (5) an owner or occupant of any property located within 200 feet of the property.

The removal of the application from the Expedited Review Calendar will be announced as a preliminary matter on the scheduled decision date and then rescheduled for a public hearing on a later date. Notice of the rescheduled hearing will be posted on the Office of Zoning website calendar at http://dcoz.dc.gov/bza/calendar.shtm and on a revised public hearing notice in the OZ office. If an applicant fails to appear at the public hearing, this application may be dismissed.

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

Do you need assistance to participate?

Amharic
ለመሳተፍ ዕርዳታ ያስፈልግዎታል?
የተለየ እርዳታ ካስፈለገዎት ወይምየ ቋንቋ እርዳታ አገልግሎቶች (ትርጉምወይምመሸተርጎም) ካስፈለገዎት እባክዎን ከስብሰባውአምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይምበኤሜል Zelalem.Hill@dc.gov ይገናኙ። እነ ኝህ 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
Quí vị có cần trợ giúp gì để tham gia không?
Nếu quí 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
LORNA L. JOHN, MEMBER
CARLTON HART, VICE-CHAIRPERSON,
NATIONAL CAPITAL PLANNING COMMISSION
A PARTICIPATING MEMBER OF THE ZONING COMMISSION
CLIFFORD W. MOY, SECRETARY TO THE BZA
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING

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. 22-183 Request to reprogram $2,982,382 of Fiscal Year 2019 Local funds budget authority within the Department of Behavioral Health (DBH) was filed in the Office of the Secretary on November 16, 2018. This reprogramming is needed to support additional staff for School-Based Behavioral Health Services and to align the budget with projected expenditures.

RECEIVED: 14-day review begins November 19, 2018

Reprog. 22-184 Request to reprogram $7,000,000 of Fiscal Year 2019 Local funds budget authority within the Department of Energy and Environment (DOEE) was filed in the Office of the Secretary on November 16, 2018. This reprogramming is needed to ensure that DOEE can support personal service costs, contractual and grant services, supplies, IT costs, and other benefits associated with the Clean Rivers Area Charge Relief Program for FY 2019.

RECEIVED: 14-day review begins November 19, 2018

Reprog. 22-185 Request to reprogram $1,001,345 of Fiscal Year 2019 Local funds budget authority within the Office of the Senior Advisor (OSA) was filed in the Office of the Secretary on November 16, 2018. This reprogramming is needed to cover the costs of supporting the Statehood Campaign and to align the personal services budget accordingly.

RECEIVED: 14-day review begins November 19, 2018