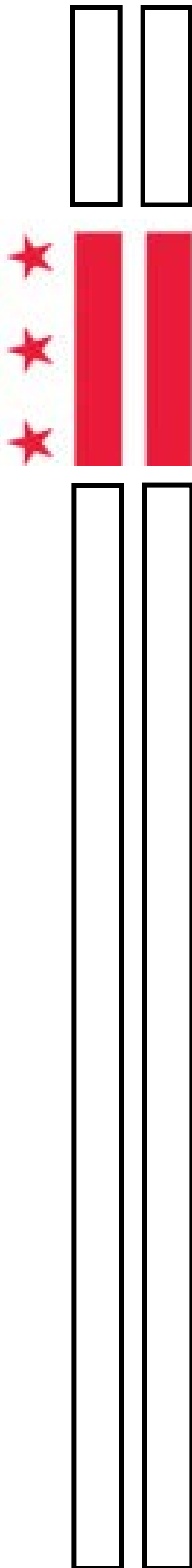

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District of Columbia

REGISTER

HIGHLIGHTS

- DC Commission on the Arts and Humanities announces funding availability for the Capitol View Neighborhood Public Library Public Art Project
- Department of Employment Services announces funding availability for the FY19 Workforce Development Innovation Initiatives
- Department of Energy and Environment updates the Reasonably Available Control Technology (RACT) requirements for nitrogen oxide (NOx) emissions from combustion turbines
- Department of Energy and Environment announces funding availability for the Flood Risk Outreach Campaign, the GreenWrench Technical Assistance Program, and the Washington, DC Carbon Neutrality Strategy initiative
- Department of Health Care Finance solicits applications from organizations to develop a Community Resource Inventory consisting of screening tools and resources to address social needs
- Public Service Commission clarifies consumer rights and the responsibilities of energy suppliers towards consumers
- Office of Risk Management proposes revisions to the Public Sector Workers' Compensation Benefits Program

DISTRICT OF COLUMBIA REGISTER

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ADMINISTRATOR

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AN ACT

D.C. ACT 22-526

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 10, 2018

To amend, on an emergency basis, the Health Insurance Portability and Accountability Federal Law Conformity and No-Fault Motor Vehicle Insurance Act of 1998 to revise definitions of the terms "bona fide association", "employer", and "group health plan", to apply the requirements of the act to multiple employer welfare arrangements, to expand the rulemaking authority of the Commissioner of the Department of Insurance, Securities and Banking, and to impose requirements on multiple employer welfare arrangements and short-term, limited-duration health insurance plans; to amend the Reasonable Health Insurance Ratemaking and Health Care Reform Act of 2010 to apply its requirements for small employers to certain multiple employer welfare arrangements; and to amend the Federal Health Reform Implementation and Omnibus Amendment Act of 2014 to specify that the requirements of the federal Patient Protection and Affordable Care Act and the federal Public Health Service Act are incorporated by reference as such requirements existed on December 15, 2017, and to apply the individual and small group requirements of those federal health care acts to multiple employer welfare arrangements.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Health Insurance Marketplace Improvement Emergency Amendment Act of 2018".

Sec. 2. 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 § 31-3301.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 31-3301.01) is amended as follows:

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

(A) Subparagraph (E) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(B) New subparagraphs (E-1) and (E-2) are added to read as follows:

"(E-1) Is domiciled and has its principal offices within the District;

"(E-2) Does not expand its membership based on geography; and".

(C) Subparagraph (F) is amended by striking the phrase "under the laws of the District of Columbia" and inserting the phrase "by the Commissioner by rule" in its place.

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(2) Paragraph (12) is amended by striking the phrase "except that such term" and inserting the phrase "as such section and its implementing regulations were in effect on December 15, 2017, except that such term" in its place.

(3) Paragraph (19) is amended by striking the phrase "to the extent" and inserting the phrase "as such section and its implementing regulations were in effect on December 15, 2017, to the extent" in its place.

(b) A new section 206a is added to read as follows:

"Sec. 206a. Application to multiple employer welfare arrangements.

"The individual market requirements of this title shall apply to a health benefit plan offered by a multiple employer welfare arrangement, including an association or any other entity, if the plan covers an individual in the District who is not an employee or dependent of a participating employer.".

(c) Section 207 (D.C. Official Code § (31-3302.07) is amended by adding a new subsection (b-1) to read as follows:

"(b-1) The Commissioner may adopt regulations to establish and administer such standards relating to the provisions of this act as may be necessary to improve access and affordability of health insurance in the District and to maintain the requirements of the Patient Protection and Affordable Care Act approved March 23, 2010 (124 Stat. 111; 42 U.S.C. § 18001, note).".

(d) Section 301 (D.C. Official Code § 31-3303.01) is amended as follows:

(1) Designate the existing text as subsection (a).

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

"(b) Small group market requirements under this titles shall apply to a health benefit plan offered by a multiple employer welfare arrangement including an association or any other entity, if the plan covers an employee of a small employer, as that term is defined in section 101(42), in the District.".

(e) New sections 313a, 313b, 313c, and 313d are added to read as follows:

"Sec. 313a. Treatment of certain multiple employer welfare arrangements.

"The Commissioner may issue rules to create a grandfathered status with respect to any of the requirements of this act for multiple employer welfare arrangements that existed and operated in the District as of December 15, 2017, and comply with federal law and regulations applicable to multiple employer welfare arrangements as of December 15, 2017. The Commissioner may also establish by rulemaking additional requirements for multiple employer welfare arrangements granted grandfathered status.

"Sec. 313b. License requirement for non-District multiple employer welfare arrangements.

"No multiple employer welfare arrangement located outside of the District may conduct any business in the District, including marketing, offering, or issuing a health benefit plan to any individual or employer, unless licensed as an insurer, a hospital and medical services corporation, a fraternal benefit society, or a health maintenance organization.

"Sec. 313c. Licensing requirement for certain multiple employer welfare arrangements.

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"(a) A multiple employer welfare arrangement that is not fully insured , as described in subsection (c) of this section, shall not operate in the District or market, offer, or issue a health benefit plan to any individual or employer in the District without first meeting the requirements for, and becoming licensed as, an insurer, a hospital and medical services corporation, a fraternal benefit society, or a health maintenance organization.

"(b) The existence of contracts of reinsurance shall not be considered in determining whether a multiple employer welfare arrangement is fully insured.

"(c) For the purposes of this section, a multiple employer welfare arrangement is not fully insured unless the covered benefits it provides are:

"(1) Insured on a direct basis by an insurance company licensed to transact the business of insurance in District; or

"(2) Arranged for or provided on a direct basis by

"(A) A hospital and medical services corporation;

"(B) A fraternal benefit society;

"(C) A health maintenance organization licensed in the District; or

"(D) Any combination of these entities.

"Sec. 313d. Short-term, limited-duration health insurance.

"(a) An insurer shall not provide short-term, limited-duration health insurance policies, certificates of coverage, or contracts unless the insurer obtains a certificate of authority from the Commissioner to offer health insurance.

"(b) An insurer offering for sale a short-term, limited-duration health insurance policy, certificate of coverage, or contract shall apply the same underwriting standards to all applicants for such coverage regardless of whether the applicant has previously been covered by a short-term, limited-duration health insurance policy, certificate of coverage, or contract.

"(c) A short-term, limited-duration health insurance policy, certificate of coverage, or contract shall not exclude from coverage as a pre-existing condition any medical or behavioral health condition for which an applicant sought treatment in the prior 12 months or for which an applicant is currently in an active course of treatment. An insurer shall not use underwriting related to such a condition to deny enrollment in short-term, limited-duration coverage to an applicant.

"(d) A short-term, limited-duration insurance policy, certificate of coverage, or contract shall terminate not more than 3 months after its effective date.

"(e) A short-term, limited-duration health insurance policy, certificate of coverage, or contract shall not be extended or renewed. The insurer shall not issue, directly or indirectly through an affiliate, a new short-term, limited-duration health insurance policy, certificate of coverage, or contract to an individual who had such a policy, certificate of coverage, or contract from the insurer within the preceding 9 months.

"(f) An insurer shall ensure that each policy, certificate of coverage, or contract for short-term, limited-duration health insurance and all application materials for enrollment in that coverage displays prominently, in at least 14-point type, a statement that the coverage does not constitute minimum essential coverage for the purposes of satisfying the individual responsibility requirement in the District of Columbia, and any other disclosures the Commissioner may

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require through rulemaking, including the types of benefits and consumer protections that are and are not included in the coverage.

"(g) A company offering for sale a short-term, limited-duration health insurance policy, certificate of coverage, or contract shall provide to the Commissioner any information the Commissioner requires by rulemaking.".

Sec. 3. The Reasonable Health Insurance Ratemaking and Health Care Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-360; D.C. Official Code § 31-3311.01 *et seq.*), is amended as follows:

(a) Section 111 (D.C. Official Code § 31-3311.10) is amended as follows:

(1) Designate the existing text as subsection (a).

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

"(b) Small group market requirements under this title shall apply to a health benefit plan offered by a multiple employer welfare arrangement, including an association or any other entity, if the plan covers an employee of a small employer, as that term is defined in section 101(42) 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 § 31-3301.01(42)), in the District.

"(c) Individual market requirements under this title shall apply to a health benefit plan offered by a multiple employer welfare arrangement, including an association or any other entity, if the plan covers an individual in the District who is not an employee or dependent of a participating employer.".

(b) Section 112(1) (D.C. Official Code § 31-3311.11(1)) is amended by striking the phrase "§ 18001, note)" and inserting the phrase "§ 18001, note), as the law and its implementing regulations were in effect on December 15, 2017" in its place.

Sec. 4. The Federal Health Reform Implementation and Omnibus Amendment Act of 2014, effective May 2, 2015 (D.C. Law 20-265; 62 DCR 1529), is amended as follows:

(a) Section 101(a) (D.C. Official Code § 31-3461(a)) is amended to read as follows:

"(a) Sections 1251, 1252, and 1304 of the Patient Protection and Affordable Care Act, approved March 23, 2010 (124 Stat. 119; 42 U.S.C. §§ 18011, 18021, and 18024), and sections 2701 through 2709, 2711 through 2719A, and 2794 of the Public Health Service Act, approved July 1, 1944 (58 Stat. 682; 42 U.S.C. §§ 300gg, 300gg-1, 300gg-2, 300gg-3, 300gg-4, 300gg-5, 300gg-6, 300gg-7, 300gg-8, 300gg-9, 300gg-11, 300gg-12, 300gg-13, 300gg-14, 300gg-15, 300gg-15A, 300gg-16, 300gg-17, 300gg-18, 300gg-19, 300gg-19A, and 300gg-94), (collectively "federal health acts") and any rules issued pursuant to the federal health acts, as the sections and implementing regulations were in effect on December 15, 2017, are incorporated by reference and shall apply to all insurers, hospital and medical services corporations, health maintenance organizations, and multiple employer welfare arrangements, including associations or any other entities providing a health benefit plan to a small employer, as that term is defined in section 101(42) 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.

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Official Code § 31-3301.01(42)), or an individual, that deliver or issue for delivery individual or group health insurance policies, contracts, or certificates of coverage in the District.".

(b) A new section 101a is added to read as follows:

"Sec. 101a. Applicability of federal health acts to multiple employer welfare arrangements.

"(a) Requirements in the federal health acts incorporated by reference in section 101(a) that apply to the small group market shall apply to health benefit plans offered by multiple employer welfare arrangements including associations or any other entity, if the plan covers an employee of a small employer, as that term is defined in section 101(42) 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 § 31-3301.01(42)), in the District.

"(b) Requirements in the federal health acts incorporated by reference in section 101(a) that apply to insurers in the individual market apply to health benefit plans offered by multiple employer welfare arrangements, including associations or any other entities, if the plan covers an individual in the District who is not an employee or dependent of a participating employer.".

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
December 10,2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-527

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 10, 2018

To approve, on an emergency basis, Contract No. CW60506 with First Vehicle Services, Inc. to provide 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.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contract No. CW60505 Approval and Payment Authorization Emergency Act of 2018".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Contract No. CW60506 with First Vehicle Services, Inc. to provide maintenance services for the Metropolitan Police Department vehicle fleet, and authorizes payment in the not-to-exceed amount of $21,729,947.12 for the goods and services received and to be received under the contract.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
December 10,2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-528

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 10, 2018

To amend, on an emergency basis, the Drug Paraphernalia Act of 1982 to permit persons testing personal use quantities of a controlled substance to use, or possess with the intent to use, testing equipment or other objects used, intended for use, or designed for use in identifying or analyzing the strength, effectiveness, or purity of a controlled substance, and to permit community-based organizations to deliver or sell, or possess with intent to deliver or sell, testing equipment or other objects used, intended for use, or designed for use for that same purpose.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Controlled Substance Testing Emergency Amendment Act of 2018".

Sec. 2. Section 4 of the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code § 48-1103), is amended as follows:

(a) Subsection (a) is amended by adding a new paragraph (1A) to read as follows:

"(1A)(A) Notwithstanding paragraph (1) of this subsection, it shall not be unlawful for a person to use, or possess with the intent to use, the materials described in section 2(3)(D) for the purpose of testing personal use quantities of a controlled substance.

"(B) For the purposes of this paragraph, the term "personal use quantities" means possession of a controlled substance in circumstances where there is no other evidence of an intent to distribute, or to facilitate the manufacturing, compounding, processing, delivering, importing, or exporting of any controlled substance.".

(b) Subsection (b) is amended by adding a new paragraph (1A) to read as follows:

"(1A) Notwithstanding paragraph (1) of this subsection, it shall not be unlawful for a community-based organization, as that term is defined in section 4(a)(1) of An Act To relieve physicians of liability for negligent medical treatment at the scene of an accident in the District of Columbia, effective February 18, 2017 (D.C. Law 21-186; D.C. Official Code § 7-404(a)(1)), to deliver or sell, or possess with intent to deliver or sell, the materials described in section 2(3)(D).".

ENROLLED ORIGINAL

Sec. 3. Applicability.
This act shall apply as of November 8, 2018.

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

Sec. 5. Effective date.
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 10,2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-529

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 10, 2018

To amend, on an emergency basis, the Housing Production Trust Fund Act of 2005 to allow the Mayor to issue certain bonds as a separate series of bonds for capital projects to alleviate market problems related to issuing a single independent series of taxable bonds.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "New Communities Bond Authorization Emergency Amendment Act of 2018".

Sec. 2. Section 203(e)(2) of the Housing Production Trust Fund Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 42-2812.03(e)(2)), is amended as follows.

(a) Strike the phrase "separate and independent" and insert the phrase "a separate series of" in its place.

(b) Strike the phrase "not as a part of an income tax" and insert the phrase "not combined into a single series with income tax" in its place.

Sec. 3. Fiscal impact statement.

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

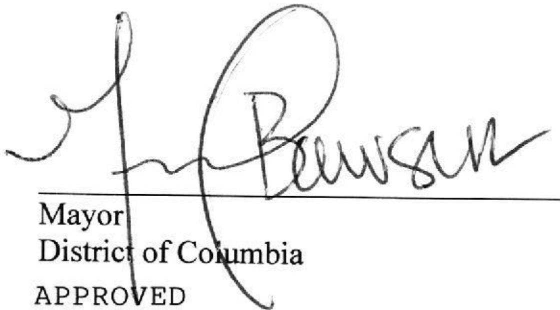
Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
December 10,2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-530

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 10, 2018

To approve, on an emergency basis, the first amendment to the employment agreement between the Board of Trustees of the University of the District of Columbia and Mr. Ronald F. Mason, Jr. for Mr. Mason to serve as President of the University of the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "First Amendment to the Employment Agreement of Mr. Ronald F. Mason, Jr., as President of the University of the District of Columbia Approval Emergency Act 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, retroactive to July 1, 2018, the first amendment to the employment agreement between the Board of Trustees of the University of the District of Columbia and Mr. Ronald F. Mason, Jr. for Mr. Mason to serve as President of the University of the District of Columbia, which was transmitted to the Council by the Chairperson of the Board of Trustees of the University of the District of Columbia on November 15, 2018, and is reflected in the contract and resolution adopted by the board at a meeting on September 26, 2018.

Sec. 3. Fiscal impact statement.

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

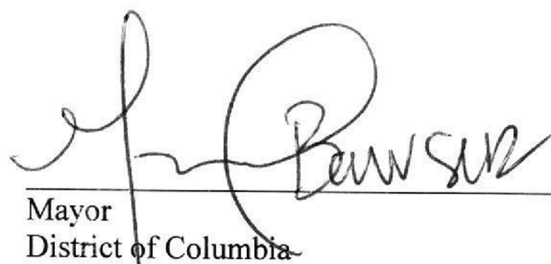
Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
December 10,2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-531

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 10, 2018

To authorize, on an emergency basis, the Mayor to exercise eminent domain to acquire certain property located on or near W Street, N.E., Lots 36 and 41 in Square 3942 and Parcel 0143/107, for the purposes of warehousing and storage.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Warehousing and Storage Eminent Domain Authority Emergency Act of 2018".

Sec. 2. Findings.

The Council finds that:

(1) The District government has a significant need for warehousing and storage space for equipment, records, property, and supplies maintained by District agencies.

(2) The District government has a need to properly store and maintain government records, equipment of agencies such as the Department of Parks and Recreation and the Department of Public Works, surplus property held by the Office of Contracting and Procurement, and emergency medical supplies for the Department of Health.

(3) The District's need for warehousing and storage is near to exceeding the District's current capacity at its owned facilities and there is a reduction in the supply of, and limited vacancy within, warehouse space available for lease in the District.

(4) The District has identified a site located on or near W Street, N.E., east of Brentwood Road, N.E. ("W Street Site") as a strong site for these purposes as the site allows for by-right use as a warehouse and storage facility and is large enough to accommodate the warehouse and storage needs of numerous District agencies.

(5) The W Street Site is currently occupied by a private trash transfer station.

(6) Acquisition of the W Street Site will allow the District to construct and operate a facility or multiple facilities to warehouse and store the equipment, records, property, and supplies of numerous District agencies in a District-owned facility.

ENROLLED ORIGINAL

Sec. 3. Exercise of eminent domain.

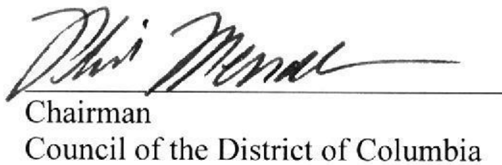
The Mayor may exercise eminent domain in accordance with the procedures set forth in subchapter II of Chapter 13 of Title 16 of the District of Columbia Official Code to acquire Lots 36 and 41 in Square 3942 and Parcel 0143/107 for warehousing and storage purposes.

Sec. 4. Fiscal impact statement.

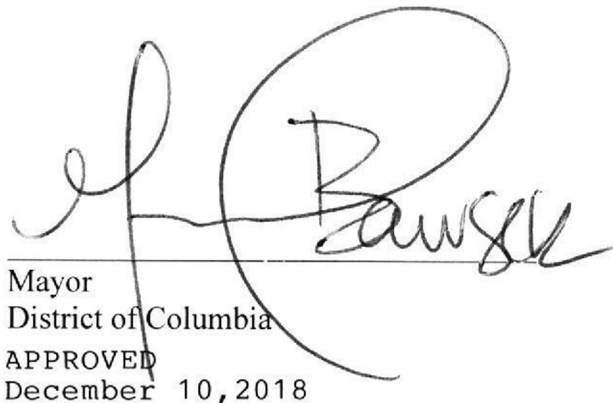
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 5. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
December 10,2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-532

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 10, 2018

To amend, on a temporary basis, the Prevention of Child Abuse and Neglect Act of 1977 to provide the Office of the State Superintendent of Education access to the Child Protection Register to conduct federally required suitability determinations of care givers in child development facilities.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Prevention of Child Abuse and Neglect Temporary Amendment Act of 2018".

Sec. 2. The lead-in language of section 203(a-1)(1) of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1302.03(a-1)(1)), is amended to read as follows:

"(a-1)(1) Except as provided in paragraph (3) of this subsection, the staff which maintains the Child Protection Register shall grant access to substantiated reports to the Office of the State Superintendent of Education for the purpose of conducting background checks of employees of licensed child development facilities pursuant to section 658H of the Child Care and Development Block Grant Act of 1990, approved November 19, 2014 (128 Stat. 1971; 42 U.S.C. § 9858f), and to the chief executive officers or directors of child development facilities, schools, or any public or private organizations working directly with children for the purpose of making employment decisions regarding employees and volunteers or prospective employees and volunteers, if:".

Sec. 3. Fiscal impact statement

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

Sec. 4. Effective date.

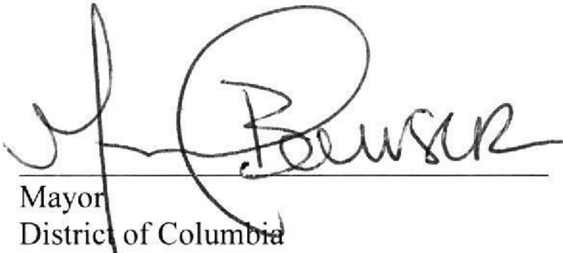
(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

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

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

Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
December 10,2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-533

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 10, 2018

To amend, on a temporary basis, the Health Services Planning Program Re-establishment Act of 1996 to clarify that the State Health Planning and Development Agency currently has the authority to approve or disapprove the closure or termination of services of a health care facility; and to amend the Health-Care and Community Residence Facility Hospice and Home Care Licensure Act of 1983 to authorize the Director of the Department of Health to issue a provisional license in the specified circumstance.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Clarification of Hospital Closure Procedure Temporary Amendment Act of 2018".

Sec. 2. Section 7(c) of the Health Services Planning Program Re-establishment Act of 1996, effective April 9, 1997 (D.C. Law 11-191; D.C. Official Code § 44-406(c)), is amended by striking the phrase "extent possible." and inserting the phrase "extent possible, which may include organizing meetings with affected stakeholders and providing planning and technical assistance for possible patient load transition, and, if the notice of closure is approved by SHPDA, continue to assist in the orderly transition by overseeing the placement of patients into new HCFs in a manner that ensures that the health and well-being of the patients is protected.".

Sec. 3. Section 7 of the Health-Care and Community Residence Facility Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-506), is amended as follows:

(a) Subsection (c) is amended by striking the phrase "Provisional licenses" and inserting the phrase "Except as provided in subsection (f) of this section, provisional licenses" in its place.

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

"(f)(1) If a notice of closure of a health care facility or health service is denied by the State Health Planning and Developmental Agency pursuant to section 7(c) of the Health Services Planning Program Re-establishment Act of 1996, effective April 9, 1997 (D.C. Law 11-191; D.C. Official Code § 44-406(c)), the Director of the Department of Health may issue a

1

ENROLLED ORIGINAL

provisional license to the health care facility or health service to continue to operate for up to 3 years.

"(2) For the purposes of this subsection, the terms "health care facility" and "health service" shall have the same meanings as provided in section 2(10) and (12) of the Health Services Planning Program Re-establishment Act of 1996, effective April 9, 1997 (D.C. Law 11-191; D.C. Official Code § 44-401(10) and (12)), respectively.".

Sec. 4. Fiscal impact statement.

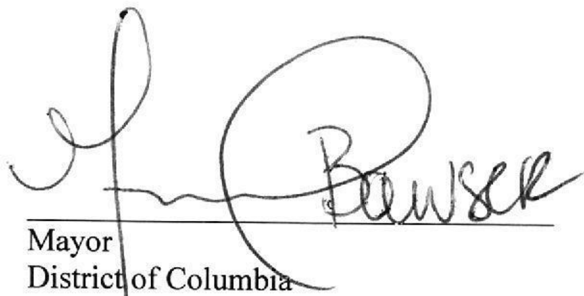
The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 5. Effective date.

(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
December 10, 2018

ENROLLED ORIGINAL

A RESOLUTION

22-665

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 4, 2018

To declare the existence of an emergency, due to congressional review, with respect to the need to amend the District of Columbia Uniform Controlled Substances Act of 1981 to add certain classes and substances to the list of Schedule I controlled substances.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Revised Synthetics Abatement and Full Enforcement Drug Control Congressional Review Emergency Declaration Resolution of 2018".

Sec. 2. (a) On October 2, 2018, the Council passed the Revised Synthetics Abatement and Full Enforcement Drug Control Emergency Amendment Act of 2018, effective October 5, 2018 (D.C. Act 22-464; 65 DCR 11377), which will expire on January 3, 2019.

(b) On October 16, 2018, the Council passed the Revised Synthetics Abatement and Full Enforcement Drug Control Temporary Amendment Act of 2018, enacted on October 31, 2018 (D.C. Act 22-503; 65 DCR 12338), which will be transmitted to Congress in January 2019.

(c) On November 13, 2018, the Council held the first reading of Bill 22-628, the Revised Synthetics Abatement and Full Enforcement Drug Control Amendment Act of 2018. The second reading of the bill is scheduled to take place on December 4, 2018.

(d) This congressional review emergency legislation is necessary to prevent a gap in the law between the expiration of the emergency act and the effective date of the temporary and permanent acts.

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 Revised Synthetics Abatement and Full Enforcement Drug Control Congressional Review Emergency Amendment Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-666

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 4, 2018

To declare the existence of an emergency, due to congressional review, with respect to the need to amend the Neighborhood Engagement Achieves Results Amendment Act of 2016 to require that all monies remaining in the operating budget of the Office of Neighborhood Safety and Engagement at the end of Fiscal Year 2018 shall be deposited into the Neighborhood Safety and Engagement Fund.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Neighborhood Safety and Engagement Fund Congressional Review Emergency Declaration Resolution of 2018".

Sec. 2. (a) On September 18, 2018, the Council passed the Neighborhood Safety and Engagement Fund Emergency Amendment Act of 2018, effective October 3, 2018 (D.C. Act 22-462; 65 DCR 11370), which will expire on January 1, 2019. This emergency legislation was necessary to clarify the Council's intent by explicitly providing that any excess monies remaining at the end of Fiscal Year 2018 in the Office of Neighborhood Safety and Engagement's operating budget shall be deposited into the Neighborhood Safety and Engagement Fund.

(b) On October 2, 2018, the Council passed the Neighborhood Safety and Engagement Fund Temporary Amendment Act of 2018, enacted on October 22, 2018 (D.C. Act 22-478; 65 DCR 12026). This act will be transmitted to Congress in January 2019.

(c) This congressional review emergency legislation is necessary to prevent a gap in the law between the expiration of the emergency act and the effective date of the temporary act.

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 Neighborhood Safety and Engagement Fund Congressional Review Emergency Amendment Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-670

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 4, 2018

To confirm the appointment of Dr. Unique Morris-Hughes as the Director of the Department of Employment Services.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Director of the Department of Employment Services Unique Morris-Hughes Confirmation Resolution of 2018".

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

Dr. Unique Morris-Hughes
39 Q Street, N.E.
Washington, D.C. 20002
(Ward 5)

as the Director of the Department of Employment Services, established by Reorganization Plan No. 1 of 1980, effective April 17, 1980, in accordance with section 2(a) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a)), to serve at the pleasure of the Mayor.

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

22-672

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 4, 2018

To confirm the appointment of Mr. Clarence Labor, Jr. to the Office of Employee Appeals.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Office of Employee Appeals Clarence Labor, Jr. Confirmation Resolution of 2018".

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

Mr. Clarence Labor, Jr.
2012 1st Street, N.W.
Washington, D.C. 20001
(Ward 5)

as a member of the Office of the Employee Appeals, established by section 601 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-606.01), for a term to end April 6, 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

22-673

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 4, 2018

To confirm the appointment of Ms. Lea Crusey to the Public Charter School Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Public Charter School Board Lea Crusey Confirmation Resolution of 2018".

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

Ms. Lea Crusey
314 6th Street, N.E.
Washington, D.C. 20002
(Ward 6)

as a member of the Public Charter School Board, established by section 2214 of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1802.14), for a term to end February 24, 2022.

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

22-675

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 4, 2018

To declare that the District-owned real property located at 261 17th Street, S.E., and known for tax and assessment purposes as Lot 0802 in Square 1088, is no longer required for public purposes.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Eastern Branch Boys and Girls Club Surplus Property Declaration Resolution of 2018".

Sec. 2. Findings.

(a) The District of Columbia is the owner of the real property located at 261 17th Street, S.E., known for tax and assessment purposes as Lot 0802 in Square 1088 ("Property"). The Property consists of a building containing approximately 31,028 square feet situated on approximately 11,125 square feet of land.

(b) The Property is no longer required for public purposes because the Property has no necessary use by the District. The most pragmatic solution for reactivating this site is to declare the Property surplus and dispose of the Property for redevelopment.

(c) The District has satisfied the public hearing requirements of section 1(a-1)(4) 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(a-1)(4)) ("Act"), by holding a public hearing on February 16, 2017 at Friendship Chamberlain Elementary School located at 1345 Potomac Avenue, S.E.

Sec. 3. Pursuant to section 1(a-1) of the Act, the Council determines that the Property is no longer required for public purposes.

Sec. 4. Transmittal.

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

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-677

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 $32 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 Launchpad Development Company or Launchpad Development One DC, LLC, 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 "Launchpad Development 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 Launchpad Development Company, a California nonprofit public benefit corporation or Launchpad Development One DC, LLC, a Delaware limited liability company, the sole member of which is Launchpad Development Company, a nonprofit corporation organized under the laws of the State of California, 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.

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(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, 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) Financing the acquisition of land and a facility located at 2335 Raynolds Place, S.E., Washington, D.C., which facility will be used as a public charter school campus designed to serve up to approximately 750 students in grades pre-K through 5th, commonly known as Rocketship Rise Academy PCS, and operated by Rocketship Education D.C., Public Charter School, Inc., a District of Columbia nonprofit corporation, and an affiliate of Rocketship Education, a California nonprofit public benefit corporation and operator of public charter schools;

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

(C) Paying cost of issuance and other related costs to the extent permissible.

Sec. 3. Findings.

The Council finds that:

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(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 $32 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 areas 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 $32 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 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.

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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 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.

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(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

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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, approved October 22, 1986 (100 Stat. 2635; 26 U.S.C. 147(f)), as amended, 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.

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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.

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A RESOLUTION

22-678

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 4, 2018

To declare the existence of an emergency with respect to the need to approve Change Order Nos. 007 through 011 to Contract No. DCAM-12-CS-0165 with Prince Construction Company/ W.M. Schlosser Company, Inc., Joint Venture for construction services for the renovation and expansion of the inmate processing center at the DC Central Detention Facility, and to approve payment in the aggregate amount of $4,574,980 for the goods and services 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-12-CS-0165 Approval and Payment Authorization Emergency Declaration Resolution of 2018".

Sec. 2. (a) There exists an immediate need to approve Change Order Nos. 007 through 011 to Contract No. DCAM-12-CS-0165 with Prince Construction Company/ W.M. Schlosser Company, Inc., Joint Venture for construction services for the renovation and expansion of the inmate processing center at the DC Central Detention Facility, and to approve payment in the aggregate amount of $4,574,980 for the goods and services received and to be received under the change orders.

(b) Change Order No. 006 was previously submitted to and approved by Council as CA21-0056 on May 31, 2015. Change Order No. 006 increased the contract value by $2,575,000 from $20,701,636 to $23,276,636. However, on July 15, 2015, the Department of General Services ("Department") issued Change Order No. 007, which voided Change Order No. 006, and increased the contract value by $996,443 from $20,701,636 to $21,698,079. Change Order No. 007 facilitated an interim progress payment for work originally included in Change Order No. 006. Subsequently, the Department submitted Change Order No. 008 for Council approval in the amount of $1,578,557 (the remaining unpaid balance contemplated in Change Order No. 006), however, on December 1, 2015, Change Order No. 008 was withdrawn from Council consideration and no funds were expended thereunder. On December 4, 2015, the Department issued Change Order No. 009, which increased the contract value by $1,578,557 (the remaining unpaid balance of former Change Order No. 006), from $21,698,079 to $23,276,636. Change Order No. 009 did not alter the scope of work. On July 13, 2016, the Department issued Change

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Order No. 010, which did not alter the contract value, but established an administrative term through September 30, 2016, and included scope of work revisions that were funded through the balances of various contract allowances. Subsequent to Change Order No. 006, certain claims and disputes arose between the Department and Prince Construction Company/ W.M. Schlosser Company, Inc., Joint Venture concerning the contract balance, final payment, schedule delays, and related issues. As a result of the ongoing claims and disputes, the Department and Prince Construction Company/ W.M. Schlosser Company, Inc., Joint Venture attended mediation, which resulted in the Settlement Agreement on March 8, 2018. Proposed Change Order No. 011 in the final Settlement Agreement amount of $1,999,980, which would close out the contract and increase the Contract value from $23,276,636 to $25,276,616, would cause the aggregate value of Change Order Nos. 007 through 011 to be $4,574,980.

(c) Proposed Change Order Nos. 009 and 011 cause the aggregate value of all change orders issued since the last Council approval to exceed $1 million, thus Council approval of Change Order Nos. 007 through 011 is required pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51).

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Change Orders to Contract No. DCAM-12-CS-0165 Approval and Payment Authorization Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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A RESOLUTION

22-679

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 4, 2018

To confirm the appointment of Mr. Peter Rosenstein to the Office of Employee Appeals.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Office of Employee Appeals Peter Rosenstein Confirmation Resolution of 2018".

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

Mr. Peter Rosenstein
1545 18th Street, N.W.
Washington, D.C. 20036
(Ward 2)

as a member of the Office of Employee Appeals, established by section 601 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-606.01), for a term to end April 6, 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.

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A RESOLUTION

22-680

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 4, 2018

To declare the sense of the Council that the District of Columbia is in support of the human rights and inherent dignity of transgender, non-binary, and gender non-conforming individuals and in opposition to proposed changes to federal interpretations of gender.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Sense of the Council in Support of Transgender, Intersex, and Gender Non-Conforming Communities Resolution of 2018".

Sec. 2. The Council finds that:

(1) On October 21, 2018, the New York Times reported that the U.S. Department of Health and Human Services is leading an effort at the federal level to publish new regulations that would define sex as either male or female, unchangeable, and determined by the genitals that a person is born with, in an effort to exclude transgender, intersex, and gender non-conforming people from civil rights protections under federal law. According to the reporting, the Trump administration is pushing for the U.S. Departments of Justice, Education, and Labor to adopt this definition in their regulations as well, to further the exclusion of these individuals from civil rights protections.

(2) The District of Columbia has long sought to ensure the equal protection of human and civil rights of all residents, workers, and visitors in our city, including those who are transgender, intersex, and gender non-conforming through:

(A) Inclusion of gender identity and expression as explicitly protected traits under the District of Columbia's Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), via amendment in 2006, after decades of inferred protection;

(B) Simplifying the processes for changing a person's name or gender marker on District of Columbia government documents including birth certificates, driver's licenses, and non-driver's identity cards, and creating a gender-neutral option on a driver's license or non-driver's identity card;

(C) Implementing and enforcing the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), including by:

(i) Adopting policies to ensure appropriate and equitable treatment for transgender, intersex, and gender non-conforming youth in schools, foster care, and the

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juvenile justice system, as well as prohibiting conversion therapy, and mandating comprehensive and inclusive sexual education curricula;

(ii) Prohibiting insurance companies from discriminating against transgender individuals by denying coverage for necessary medical care related to gender transition;

(iii) Adopting policies to ensure that individuals are treated consistent with their gender identity in all governmental service settings, including homeless shelters and jail; and

(iv) Mandating gender-neutral, single occupancy restrooms, and equal access to gender-segregated locations based on gender identity; and

(D) Mandating the collection of sexual orientation and gender identity data to better understand the implications of social bias and structural discrimination against these communities in order to address and prevent it.

(3) Transgender, intersex, and gender non-conforming people exist and deserve the full and equal protection under the laws of the District of Columbia and the United States, the U.S. Constitution, and international law, including the Universal Declaration of Human Rights.

(4) Stigma and discrimination based on gender identity or expression are well documented, including in a national survey of nearly 28,000 transgender individuals that found that 30% had experienced homelessness, nearly one in 7 had lost a job because of being transgender, and 1/3 of those who saw a doctor in the previous year faced discrimination.

(5) There is no evidence that ensuring civil rights protections for these communities causes harm to anyone else, and, in fact, leading national experts and associations in the fields of education, health care, child health and welfare, and support for survivors of domestic and sexual violence roundly reject any such claims and support nondiscrimination protections for transgender people.

(6) All residents, workers, and visitors in the District of Columbia should be able to go about their daily lives without fear of harassment, discrimination, or violence due to their gender identity or expression.

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

(1) We express the District of Columbia's commitment to protecting the human and civil rights of all people who are transgender, intersex, or gender non-conforming;

(2) We stand with our community members who are transgender, intersex, or gender non-conforming against efforts to deny their existence or humanity;

(3) We reject any attempt to redefine sex or otherwise reinterpret or decline to enforce laws to the detriment of transgender, intersex, or gender non-conforming individuals;

(4) We reject any argument that transgender individuals must be excluded from sex-segregated spaces that are consistent with their gender identity due to safety concerns; to the contrary, transgender individuals are often targeted for violence and in the decade that the District of Columbia has guaranteed transgender individuals rights to use the appropriate sex-segregated spaces including bathrooms and locker rooms, there has been no evidence of any increase in incidents of concern to public safety;

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(4) We are opposed to the proposal to exclude transgender, intersex, or gender non-conforming people from federal civil rights protections by redefining sex on the grounds that such an action would run counter to fundamental human and civil rights, law, and medical science, while directly harming our constituents through government-sanctioned discrimination; and

(5) We call upon the Department of Health and Human Services, Department of Justice, Department of Labor, and Department of Education to seek to support and defend the rights and dignity of transgender, intersex, and gender non-conforming individuals rather than stigmatize and discriminate against them.

Sec. 4. (a) The Council shall transmit copies of this resolution, upon its adoption, to the President and Vice President of the United States, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Education, and the Attorney General of the United States.

(b) The Council shall submit a copy of this resolution as public comment on any rule or regulation change proposed by the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Education, or the Attorney General of the United States regarding federal civil rights law interpretation of the definitions of the terms sex or gender.

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

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A RESOLUTION

22-681

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 4, 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-05A with Stanton Housing, LLC for program units at Stanton Square Apartments, located at 2395 Pomeroy Road, S.E.

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-05A 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 Stanton Housing, LLC under the LRSP in order to provide long-term affordable housing units for extremely low-income households for units located at 2395 Pomeroy Road, S.E.

(d) The legislation to approve the contract will authorize an ALTSC between DCHA and Stanton Housing, LLC with respect to the payment of a rental subsidy and allows the owner to

ENROLLED ORIGINAL

lease the rehabilitated units at Stanton Square 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 Stanton Housing, LLC to provide an operating subsidy in support of 13 affordable housing units in an initial amount not to exceed $255,012 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

22-682

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 4, 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-04A with TM DBT Limited Partnership for program units at 1550 1st Street Apartments, located at 1550 1st 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-04A 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 TM DBT Limited Partnership under the LRSP in order to provide long-term affordable housing units for extremely low-income households for units located at 1550 1st Street, S.W.

1

(d) The legislation to approve the contract will authorize an ALTSC between DCHA and TM DBT Limited Partnership with respect to the payment of a rental subsidy and allows the owner to lease the rehabilitated units at 1550 1st Street 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 TM DBT Limited Partnership to provide an operating subsidy in support of 16 affordable housing units in an initial amount not to exceed $672,108 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.

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE OF INTENT TO ACT ON NEW LEGISLATION

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

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

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

PROPOSED RESOLUTIONS

PR22-1159 Board of Medicine Joelle Simpson Confirmation Resolution of 2018

Intro. 12-6-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

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PR22-1160 Not-For-Profit Hospital Corporation Board of Directors Robert Bobb Confirmation Resolution of 2018

Intro. 12-6-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

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PR22-1161 Food Policy Director Ona Balkus Confirmation Resolution of 2018

Intro. 12-6-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

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COUNCIL OF THE DISTRICT OF COLUMBIA
EXCEPTED SERVICE APPOINTMENTS AS OF NOVEMBER 30, 2018

NOTICE OF EXCEPTED SERVICE EMPLOYEES

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

COUNCIL OF THE DISTRICT OF COLUMBIA			
NAME	**POSITION TITLE**	**GRADE**	**TYPE OF APPOINTMENT**
O'Hora, Margaret	Legislative Counsel	6	Excepted Service - Reg Appt

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Grant Budget Modifications

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

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

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

GBM 22-121: FY 2018 Grant Budget Modifications of October 29, 2018

RECEIVED: 14-day review begins December 7, 2018

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Reprogramming Requests

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

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

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

Reprog. 22-187: Request to reprogram $950,000 of Fiscal Year 2019 Local funds budget authority within the Office of the State Superintendent of Education (OSSE) was filed in the Office of the Secretary on December 6, 2018. This reprogramming is needed to procure contractors for the maintenance of information technology systems needed for licensing, subsidy, and early intervention services.

RECEIVED: 14-day review begins December 7, 2018

Reprog. 22-188: Request to reprogram $1,193,072 of Fiscal Year 2019 Local funds budget authority within the Office of the State Superintendent of Education (OSSE) was filed in the Office of the Secretary on December 6, 2018. This reprogramming is needed to procure contractors services for professional development, technical assistance, supportive services for schools, and data collection.

RECEIVED: 14-day review begins December 7, 2018

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 14, 2018
Protest Petition Deadline: January 28, 2019
Roll Call Hearing Date: February 11, 2019

License No.: ABRA-095433
Licensee: Biricoco, LLC
Trade Name: Al Crostino
License Class: Retailer's Class "C" Restaurant
Address: 1926 9th Street, N.W.
Contact: Juliana Nicolai, Managing Member: (202) 797-0523

WARD 1 ANC 1B SMD 1B02

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on February 11, 201 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.

NATURE OF SUBSTANTIAL CHANGE
Request to add Dancing and Cover Charge to existing Entertainment Endorsement.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION
Sunday through Thursday 11am – 1:30am
Friday and Saturday 11am – 2:30am

CURRENT HOURS OF LIVE ENTERTAINMENT
Sunday through Thursday 8pm – 1:30am
Friday and Saturday 8pm – 2:30am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 14, 2018
Protest Petition Deadline: January 28, 2019
Roll Call Hearing Date: February 11, 2019

License No.: ABRA-093572
Licensee: Kat, LLC
Trade Name: Cloud Restaurant & Lounge
License Class: Retailer's Class "C" Tavern
Address: 1919 9th Street, N.W.
Contact: Tesfit Kiflu, Owner: (703) 485-5680

WARD 1 ANC 1B SMD 1B02

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on February 11, 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.

NATURE OF SUBSTANTIAL CHANGE
Applicant requests to add a Cover Charge and Dancing to the existing Entertainment Endorsement.

CURRENT HOURS OF OPERATION
Sunday through Saturday 11am – 6am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION
Sunday through Thursday 11am – 2am, Friday and Saturday 11am – 3am

CURRENT HOURS OF LIVE ENTERTAINMENT
Sunday through Thursday 6pm – 2am, Friday and Saturday 6pm – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 14, 2018
Protest Petition Deadline: January 28, 2019
Roll Call Hearing Date: February 11, 2019
Protest Hearing Date: April 10, 2019

License No.: ABRA-112294
Licensee: ADBHS, LLC
Trade Name: Electric Cool-Aid
License Class: Retailer's Class "C" Tavern
Address: 512 Rhode Island Avenue, N.W.
Contact: Benjamin Schwartz: (973) 460-9261

WARD 6 ANC 6E SMD 6E02

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 February 11, 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 **April 10, 2019 at 4:30 p.m.**

NATURE OF OPERATION
A new Retailer's Class C Tavern with an outdoor Beer Garden. Seating Capacity of 8 on the inside of the premises. Seating capacity of 122 and standing capacity of 103 in the outdoor Beer Garden. Total Occupancy Load of entire establishment is 225. License will include an Entertainment Endorsement for the outdoor Summer Garden only.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR THE ENTIRE PREMISES INCLUDING THE OUTDOOR SUMMER GARDEN, AND HOURS OF LIVE ENTERTAINMENT FOR THE OURDOOR SUMMER GARDEN
Sunday through Thursday 11am – 2am, Friday and Saturday 11am – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Placard Posting Date: December 7, 2018
Protest Petition Deadline: January 22, 2019
Roll Call Hearing Date: February 4, 2019

License No.: ABRA-100316
Licensee: DC Live, LLC
Trade Name: Elevate
License Class: Retailer's Class "C" Tavern
Address: 15 K Street, N.E.
Contact: ** Ermiyas Asfaw, President: (202) 270-0642

WARD 6 ANC 6C SMD 6C06

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on February 4, 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.

NATURE OF SUBSTANTIAL CHANGE
Request to add a Sidewalk Cafe with 52 seats.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES)
Sunday – Thursday 10am – 2am
Friday and Saturday 10am – 3am

CURRENT HOURS OF LIVE ENTERTAINMENT (INSIDE PREMISES)
Sunday – Thursday 6pm – 2am
Friday and Saturday 6pm – 3am

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (SUMMER GARDEN)
Sunday – Thursday 10am – 12am
Friday and Saturday 10am – 1am

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (SIDEWALK CAFE)
Sunday – Thursday 10am – 12am
Friday and Saturday 10am – 1am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date: December 7, 2018
Protest Petition Deadline: January 22, 2019
Roll Call Hearing Date: February 4, 2019

License No.: ABRA-100316
Licensee: DC Live, LLC
Trade Name: Elevate
License Class: Retailer's Class "C" Tavern
Address: 15 K Street, N.E.
Contact: **Jeff Jackson, Agent: (202) 251-1566

WARD 6 ANC 6C SMD 6C06

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on February 4, 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.

NATURE OF SUBSTANTIAL CHANGE
Request to add a Sidewalk Cafe with 52 seats.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES)
Sunday – Thursday 10am – 2am
Friday and Saturday 10am – 3am

CURRENT HOURS OF LIVE ENTERTAINMENT (INSIDE PREMISES)
Sunday – Thursday 6pm – 2am
Friday and Saturday 6pm – 3am

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (SUMMER GARDEN)
Sunday – Thursday 10am – 12am
Friday and Saturday 10am – 1am

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (SIDEWALK CAFE)
Sunday – Thursday 10am – 12am
Friday and Saturday 10am – 1am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 14, 2018
Protest Petition Deadline: January 28, 2019
Roll Call Hearing Date: February 11, 2019
Protest Hearing Date: April 10, 2019

License No.: ABRA-112220
Licensee: Ivy City Smokehouse, Inc.
Trade Name: Ivy City Smokehouse
License Class: Retailer's Class "C" Restaurant
Address: 1356 Okie Street, N.E.
Contact: Sidon Yohannes: (202) 686-7600

WARD 5 ANC 5D SMD 5D01

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 February 11, 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 **April 10, 2019 at 1:30 p.m.**

NATURE OF OPERATION
A Restaurant located on the first floor below Ivy City Tavern that will serve sandwiches, seafood and bar food. The licensee is requesting a Summer Garden with seating for 10 patrons. Interior seating for 12, with a Total Occupancy Load of 20.

HOURS OF OPERATION/ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR INSIDE PREMISES/SUMMER GARDEN
Sunday through Thursday 8am – 2am, Friday and Saturday 8am – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 14, 2018
Protest Petition Deadline: January 28, 2019
Roll Call Hearing Date: February 11, 2019
Protest Hearing Date: April 10, 2019

License No.: ABRA-112322
Licensee: Gunju 1924, LLC
Trade Name: TBD
License Class: Retailer's Class "C" Restaurant
Address: 1921 8th Street, N.W., #115
Contact: Daniel E. Kramer: (301) 926-9920

WARD 1 ANC 1B SMD 1B01

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 February 11, 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 **April 10, 2019 at 1:30 p.m.**

NATURE OF OPERATION
New Restaurant serving Korean BBQ-Style cuisine. Sidewalk Café with 22 seats. Summer Garden with 16 seats. Total Occupancy Load is 150 with seating for 90 inside premises.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES
Sunday through Thursday 10am – 2am, Friday and Saturday 10am – 3am

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR SIDEWALK CAFÉ AND SUMMER GARDEN
Sunday through Thursday 10am – 1:30am, Friday and Saturday 10am – 2:30am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 14, 2018
Protest Petition Deadline: January 28, 2019
Roll Call Hearing Date: February 11, 2019
Protest Hearing Date: April 10, 2019

License No.: ABRA-112211
Licensee: Midtown Center Restaurant, LLC
Trade Name: TBD
License Class: Retailer's Class "C" Restaurant
Address: 1100 15th Street, N.W.
Contact: Stephen J. O'Brien, Esq.: (202) 625-7700

WARD 2 ANC 2B SMD 2B05

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 February 11, 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 **April 10, 2019 at 4:30 p.m.**

NATURE OF OPERATION
New Class "C" New Orleans themed Restaurant providing an elegant and relaxed dining atmosphere. Two Summer Gardens with a Total Occupancy Load of 171, with 97 seats on the north side and 74 seats on the south side. Total Occupancy Load of 362 with seating for 159 patrons inside premises. Entertainment Endorsement requested to provide live entertainment indoors and outdoors.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES AND SUMMER GARDEN)
Sunday through Thursday 8am – 2am
Friday and Saturday 8am – 3am

HOURS OF LIVE ENTERTAINMENT (INSIDE PREMISES)
Sunday through Thursday 8am – 2am
Friday and Saturday 8am – 3am

HOURS OF LIVE ENTERTAINMENT (SUMMER GARDENS)
Sunday through Saturday 8am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	December 14, 2018
Protest Petition Deadline:	January 28, 2019
Roll Call Hearing Date:	February 11, 2019
Protest Hearing Date:	April 10, 2019

License No.:	ABRA-111995
Licensee:	Union Kitchen, LLC
Trade Name:	Union Kitchen
License Class:	Retailer's Class "B" Full-Service Grocery Store
Address:	1301 K Street, N.W.
Contact:	Courtland Wilson II: (301) 256-4741

WARD 2 ANC 2F SMD 2F08

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 February 11, 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 **April 10, 2019 at 1:30 p.m.**

NATURE OF OPERATION
A Retailer Class "B" Full-Service Grocery store selling beer and wine with a Tasting Permit.

HOURS OF OPERATION/ALCOHOLIC BEVERAGE SALES
Sunday through Saturday 7am – 10pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 14, 2018
Protest Petition Deadline: January 28, 2019
Roll Call Hearing Date: February 11, 2019
Protest Hearing Date: April 10, 2019

License No.: ABRA-111554
Licensee: South Cap Hospitality, LLC
Trade Name: Walters
License Class: Retailer's Class "C" Tavern
Address: 1221 Van Street, S.E.
Contact: Jeremiah Gifford: (703) 507-4204

WARD 6 ANC 6D SMD 6D02

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 February 11, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, D.C 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 **April 10, 2019 at 1:30 p.m.**

NATURE OF OPERATION
New Tavern that will be a sports bar and offer American food with Live Entertainment both indoors and outside. Summer Garden with 100 seats and Sidewalk Café with 40 seats. Total Occupancy Load is 399 with seating for 210.

HOURS OF OPERATION/ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES
Sunday 8am – 2am, Monday through Thursday 10am – 2am, Friday 10am – 3am, Saturday 8am – 3am

HOURS OF LIVE ENTERTAINMENT INSIDE PREMISES
Sunday through Thursday 5pm – 1am, Friday and Saturday 12pm – 2am

HOURS OF OPERATION/ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR SUMMER GARDEN AND SIDEWALK CAFE
Sunday through Thursday 10am – 2am, Friday and Saturday 10am – 3am

HOURS OF LIVE ENTERTAINMENT OUTSIDE FOR SUMMER GARDEN AND SIDEWALK CAFE
Sunday through Saturday 5pm – 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

REVISED

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

TIME: 9:30 A.M.

WARD SEVEN

19841
ANC 7C

Application of Habitat for Humanity of Washington, DC, as amended, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle C § 305.1 from the subdivision regulations of Subtitle C § 302.2, and pursuant to 11 DCMR Subtitle X, Chapter 10, for an area variance from the side yard requirements of Subtitle D § 307.1, to replace two detached dwelling units with 17 new semi-detached and detached dwelling units on a single record lot in the R-2 Zone at premises 900-914 55th Street N.E. (Square 5204, Lot 22).

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).

BZA REVISED PUBLIC HEARING NOTICE
JANUARY 16, 2019
PAGE NO. 2

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
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የተለየ እርዳታ ካስፈለገዎት ወይምየቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም)
ካስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-
0312 ወይም በኤሜል Zelalem.Hill@dc.gov ይገናኙ። እነኝህ አገልግሎቶች የሚሰጡት በነጻ ነው።

Chinese

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Vietnamese
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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

BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, FEBRUARY 6, 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 ONE

19842
ANC 1A

Application of Ana DaCruz, pursuant to 11 DCMR Subtitle X, Chapter 10, for variances from the nonconforming structure requirements of Subtitle C § 202.2, from the lot occupancy requirements of Subtitle E § 304.1, from the rear yard requirements of Subtitle E § 306.1, and from the penthouse requirements of Subtitle C § 1500.4, to construct a third-story addition and penthouse and convert the existing attached principal dwelling unit to a flat in the RF-1 Zone at premises 1365 Meridian Place N.W. (Square 2835, Lot 15).

WARD THREE

19904
ANC 3C

Application of Aspasia Paroutsas, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201 from the rear yard requirements of Subtitle D § 306.2, to construct a second story rear addition to an existing, semi-detached principal dwelling unit in the R-3 Zone at premises 2921 28th Street N.W. (Square 2106, Lot 44).

WARD TWO

19905
ANC 2B

Application of Herb Hribar, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle F § 5201 from the lot occupancy requirements of Subtitle F § 604.1, to construct a rear deck and bay window addition to an existing semi-detached principal dwelling unit in the RA-8 Zone at premises 1410 15th Street N.W. (Square 195, Lot 107).

WARD TWO

19906
ANC 2E

Application of The 3323 P Street Trust, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201 from the nonconforming structure requirements of Subtitle C § 202.2, to construct rear shed dormer on the fourth story of an existing, detached principal dwelling unit in the R-20 Zone at premises 3323 P Street N.W. (Square 1254, Lot 223).

WARD FIVE

19910
ANC 5C

Application of 5935 Colorado Ave Associates LLC, pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the floor area ratio requirements of Subtitle F § 302.1, from the lot occupancy requirements of Subtitle F § 304.1, from the side yard requirements of Subtitle F § 306.1, and from the penthouse setback requirements of Subtitle C § 1502.1, to convert an existing detached principal dwelling unit to a five-unit apartment house in the RA-1 Zone at premises 5835 Colorado Avenue N.W. (Square 2937, Lot 832).

WARD SEVEN

19911
ANC 7C

Application of LaTrell Duncan-Fitchett, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the home occupation uses requirements of Subtitle U §§ 251.1(b)(3) and 251.6, to expand an existing child development home from nine to twelve children in the R-2 Zone at premises 508 60th Street N.E. (Square 5259, Lot 809).

WARD FIVE

19914
ANC 5C

Application of 3110 Monroe Street Associates LLC, pursuant to 11 DCMR Subtitle X, Chapter 10, for an area variance from the lot dimension requirements of Subtitle D § 302.1, to subdivide the existing lot and construct a new, detached principal dwelling unit in the R-1-B Zone at premises 3110 Monroe Street N.E. (Square 4310, Lot 2).

WARD SIX

19917
ANC 6C

Application of Sean Ward and Audrey Tomason, 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 913 7th Street N.E. (Square 888, Lot 46).

PLEASE NOTE:

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

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of

Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.
Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. **Persons seeking party status shall file with the Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application Form**.* This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning's website at: www.dcoz.dc.gov. All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

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

Do you need assistance to participate?

Amharic
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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

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING

TIME AND PLACE: **Thursday, January 31, 2019, @ 6:30 p.m.**
Office of Zoning Hearing Room
441 4th Street, N.W., Suite 220
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 02-38J (WFS2, LLC – Second-Stage Planned Unit Development for 1000 4th Street, S.W. (Lot 822, Square 542))

THIS CASE IS OF INTEREST TO ANC 6D

On May 15, 2018, the Office of Zoning received an application from WFS2 LLC, an affiliate of P.N. Hoffman & Associates, Inc. (“Applicant”). The Applicant is requesting review and approval of a Second-Stage Planned Unit Development in Zoning Commission Case No. 02-38J pursuant to Subtitle X, Chapter 3 and Subtitle Z, Chapter 3 of Title 11 DCMR (Zoning Regulations of 2016) for the construction of an eleven-story mixed-use building with ground/floor restaurant/retail, arts/cultural, and educational/daycare uses, approximately 456 residential units and approximately 214 below-grade parking spaces located within Waterfront Station. This application is made under the authority of Z.C. Case No. 02-38A, which modified the first-stage PUD approval for the subject property (the “First-Stage PUD”). As part of Z.C. Case 02-38A, the Zoning Commission granted a PUD-related map amendment fir the Site from C-3-B to C-3-C.

The property that is the subject of this application consists of approximately 59,044 square feet, and comprises a portion of what was referred to as the “NE Parcel” in the First-Stage PUD approval. The property is currently vacant and fronts on 4th Street, S.W. Immediately to the north of the NE Parcel is a tree-lined allee that separates it from the Christ United Methodist Church property at the corner of 4th Street, S.W., and I Street, S.W. Immediately to the south of the NE Parcel is a mixed-use office and retail building at 1000 4th Street, SW approved as part of the First-Stage PUD. Wesley Place, S.W. borders the subject property immediately to the east. The 1000 4th Street building contains various government offices on the upper levels, ground floor retail, including notably a full-size Safeway grocery store and a CVS Pharmacy, and below-grade parking. On July 20, 2018, the District Office of Planning filed a report recommending that the Zoning Commission set the application down for public hearing. On July 30, 2018, the Zoning Commission voted to set the application down for public hearing.

This public hearing will be conducted in accordance with the contested case provisions of the 2016 Zoning Regulations, Subtitle Z, Chapter 4. The application is vested under the substantive provisions of the 1958 Zoning Regulations.

How to participate as a witness.

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written

testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

How to participate as a party.

Any person who desires to participate as a party in this case must so request and must comply with the provisions of Subtitle Z § 404.1.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Zoning Regulations. If you are still unsure of what it means to participate as a party and would like more information on this, please contact the Office of Zoning at dcoz@dc.gov or at (202) 727-6311.

Except for an affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. Persons seeking party status **shall file with the Commission, not less than 14 days prior to the date set for the hearing, or 14 days prior to a scheduled public meeting if seeking advanced party status consideration, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning's website at: http://dcoz.dc.gov/services/app.shtm.** This form may also be obtained from the Office of Zoning at the address stated below.

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

All individuals, organizations, or associations wishing to testify in this case are encouraged to inform the Office of Zoning their intent to testify prior to the hearing date. This can be done by mail sent to the address stated below, e-mail (donna.hanousek@dc.gov), or by calling (202) 727-0789.

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

1.	Applicant and parties in support	60 minutes collectively
2.	Parties in opposition	60 minutes collectively
3.	Organizations	5 minutes each
4.	Individuals	3 minutes each

Pursuant to Subtitle Z § 408.4, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Written statements, in lieu of oral testimony, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at http://app.dcoz.dc.gov/Login.aspx; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Please include the case number on your submission. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, ROBERT E. MILLER, PETER G. MAY, PETER SHAPIRO AND MICHAEL G. TURNBULL -------- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

Do you need assistance to participate? If you need special accommodations or need language assistance services (translation or interpretation), please contact Zee Hill at (202) 727-0312 or Zelalem.Hill@dc.gov five days in advance of the meeting. These services will be provided free of charge.
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ለመሳተፍ ዕርዳታ ያስፈልግዎታል? የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም) ካስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኤሜል Zelalem.Hill@dc.gov ይገናኙ። እነኝህ አገልግሎቶች የሚሰጡት በነጻ ነው።

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING

TIME AND PLACE: **Thursday, January 24, 2019, @ 6:30 p.m.**
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220-South
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 17-21 (As You Like It, LLC – Consolidated Review and Approval of a Planned Unit Development @ Square 498, Lot 52 [501 I Street, S.W.])

THIS CASE IS OF INTEREST TO ANC 6D

On November 8, 2017, the Office of Zoning received an application from As You Like It, LLC ("Applicant"). The Applicant is requesting approval of a consolidated planned unit development and related Zoning Map Amendment from the current R-3 zone to the MU-4 zone for property located in Square 498, Lot 52. The Office of Planning provided its report on January 19, 2018 in support of setting down the application for a public hearing, and the case was set down for hearing on February 26, 2018. The Applicant provided its prehearing statement on September 27, 2018.

The property that is the subject of this application consists of approximately 36,476 square feet of land area. The property is located at the intersection of 6th Street and I Street, S.W., with an address of 501 I Street, S.W. The property is located in the Institutional land use category on the Future Land Use Map of the District of Columbia Comprehensive Plan.

The Applicant proposes to develop the property with (1) a four-story building with a habitable penthouse and (2) a five-story annex behind the main building. The project contains a mix of office, rehearsal, and educational space as well as housing for actors and fellows for use by the Shakespeare Theatre Company and approximately 69 for-sale residential units. The project will have a floor area ratio of 2.88 and a lot occupancy at the first floor of 79%. The requested maximum height of the proposed main building will be approximately 48 feet and approximately 48 feet 2 inches for the proposed annex building. The project will provide approximately 40 on-site and 15 additional off-site parking spaces.

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

How to participate as a witness.

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testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

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4.	Individuals	3 minutes each

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ለመሳተፍ ዕርዳታ ያስፈልግዎታል? የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም) ካስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኤሜል Zelalem.Hill@dc.gov ይገናኙ። እነኝህ አገልግሎቶች የሚሰጡት በነጻ ነው።

Z.C. NOTICE OF PUBLIC HEARING
Z.C. CASE NO. 17-21
PAGE 3

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING

TIME AND PLACE: **Thursday, January 10, 2019 @ 6:30 p.m.**
Office of Zoning Hearing Room
441 4th Street, N.W., Suite 220
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 18-20 (Forest City SEFC, LLC - "Parcel I" in the Southeast Federal Center (Square 744, part of Lot 807))

THIS CASE IS OF INTEREST TO ANC 6D

On October 12, 2018, the Office of Zoning received an application from Forest City SEFC, LLC ("Applicant"). The Applicant is requesting design review approval pursuant to 11-K §§ 202.2, 241, and 242 and related zoning relief of a proposed development on the property commonly known as "Parcel I" of the Yards (a portion of Lot 807 in Square 744, the "Property"). The Property is located in the SEFC-1B zone.

The Property consists of a lot in the 42-acre site formerly known as the Southeast Federal Center and now known as The Yards. Parcel I is bounded by N Street, S.E. on the north, Canal Street, S.E. on the east, and N Place, S.E. on the south. Parcel I consists of approximately 55,041 square feet of land area. Parcel I will be located on a single lot of record with Parcel H. Parcel I will be bounded by the future 1 ½ Street on the west, which will divide Parcel I from Parcel H. (Both Parcel H and Parcel I are currently improved with a surface parking lot.)

The Applicant proposes to develop Parcel I with a mixed-use development containing approximately 348 residential units, approximately 13,600 square feet of retail space, and approximately 243 parking spaces (the "Project"). The Project will have a maximum height of 110 feet. The Applicant also requests special exception relief from the penthouse setback requirements. Relief from the green area ratio requirements is also requested to accommodate the interim condition until the development of Parcel H. Concurrent with the Project, the Applicant will also build out the first phase of the street network within this portion of The Yards.

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

How to participate as a witness.

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

How to participate as a party.

Any person who desires to participate as a party in this case must so request and must comply with the provisions of Subtitle Z § 404.1.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Zoning Regulations. If you are still unsure of what it means to participate as a party and would like more information on this, please contact the Office of Zoning at dcoz@dc.gov or at (202) 727-6311.

Except for an affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. Persons seeking party status **shall file with the Commission, not less than 14 days prior to the date set for the hearing, or 14 days prior to a scheduled public meeting if seeking advanced party status consideration, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning's website at: http://dcoz.dc.gov/services/app.shtm.** This form may also be obtained from the Office of Zoning at the address stated below.

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

All individuals, organizations, or associations wishing to testify in this case are encouraged to inform the Office of Zoning their intent to testify prior to the hearing date. This can be done by mail sent to the address stated below, e-mail (donna.hanousek@dc.gov), or by calling (202) 727-0789.

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

1.	Applicant and parties in support	60 minutes collectively
2.	Parties in opposition	60 minutes collectively
3.	Organizations	5 minutes each
4.	Individuals	3 minutes each

Pursuant to Subtitle Z § 408.4, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

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DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FINAL RULEMAKING

Reasonably Available Control Technology Requirements for Combustion Turbines

The Director of the Department of Energy and Environment (DOEE or Department), pursuant to the authority set forth in Sections 5 and 6 of the District of Columbia Air Pollution Control Act of 1984 (the "Act"), effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code § 8-101.05 *et seq*. (2013 Repl. & 2018 Supp.)); Section 107(4) of the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.07(4) (2013 Repl.)); and Mayor's Order 2006-61, dated June 14, 2006; hereby adopts the following amendments to Chapter 1 (Air Quality - General Rules), and Chapter 8 (Air Quality - Asbestos, Sulfur, Nitrogen Oxides, and Lead), of Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR).

The Department is amending 20 DCMR Chapter 8, §§ 805.1(a), 805.1(a)(2) and 805.4 of the air quality regulations in order to establish updated Reasonably Available Control Technology (RACT) requirements for emissions of oxides of nitrogen (NOx) from combustion turbines. Additionally, the Department is adding related definitions and abbreviations to 20 DCMR Chapter 1, § 199. Previously the regulation established NOx RACT standards for combustion turbines with heat input capacities of 100 million British thermal units (BTU) per hour or more. Since the most recent update of § 805 (Final Rulemaking published at 51 DCR 3877 (April 16, 2004)), all combustion turbines located in the District with heat input capacities of 100 million BTU per hour or more have been decommissioned. However, several new combustion turbines with heat input capacities less than 100 million BTU per hour have been installed at major stationary sources of NOx since that time.

The Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on July 27, 2018 at 65 DCR 7876. Comments on the proposed rulemaking were received from Trinity Consultants and the New Jersey Department of Environmental Protection (NJDEP). DOEE accepted several comments proposed by Trinity Consultants and accordingly is clarifying in the final rulemaking that the averaging period for using Continuous Emissions Monitoring is one (1) hour, allowing stack tests completed in 2018 to be deemed acceptable for meeting the requirement of the final regulation if they demonstrate compliance with the new emissions limits, clarifying that the compliance period began with the publication of the emergency rulemaking on July 23, 2018, and clarifying that regulation of duct burners servicing combustion turbines under this section preempts other requirements under Section 800. DOEE did not accept the comments concerning inclusion of alternative output based emissions limits at this time, but is considering an evaluation of output based emissions limits for the RACT evaluation that will be needed to comply with the requirements of the 2015 Ozone National Ambient Air Quality Standards (NAAQS). Comments from NJDEP were generally supportive of adoption of the proposed rule and no changes were made as a result of these comments.

The Department will also submit this final rulemaking as an amendment to the District's State Implementation Plan (SIP) as noted in the proposed rulemaking.

These rules were adopted as final on November 27, 2018 and will be effective upon publication of this notice in the *D.C. Register*.

Chapter 1, AIR QUALITY – GENERAL RULES, of Title 20 DCMR, ENVIRONMENT, is amended to read as follows:

Section 199, DEFINITIONS AND ABBREVIATIONS, Subsection 199.1, is amended by adding the definitions as follows:

Duct burner – a device that combusts fuel and that is placed in the exhaust duct from another source, such as a stationary combustion turbine, internal combustion engine, kiln, etc., to allow the firing of additional fuel to heat the exhaust gases before the exhaust gases enter a heat recovery steam generating unit.

Gaseous fuel – any fuel or mixture of fuels that maintains a gaseous state at standard atmospheric temperature and pressure.

Heat recovery steam generating unit – a unit where the hot exhaust gases from the combustion turbine are routed in order to extract heat from the gases and generate steam, for use in a steam turbine or other device that utilizes steam. Heat recovery steam generating units can be used with or without duct burners.

Liquid fuel – any fuel that maintains a liquid state at standard atmospheric temperature and pressure.

Natural gas – a naturally occurring fluid mixture of hydrocarbons (e.g., methane, ethane, or propane) produced in geological formations beneath the Earth's surface that maintains a gaseous state at standard atmospheric temperature and pressure under ordinary conditions. Additionally, natural gas must either be composed of at least seventy percent (70%) methane by volume or have a gross calorific value between 950 and 1,100 British thermal units (Btu) per standard cubic foot. Natural gas does not include the following gaseous fuels: landfill gas, digester gas, refinery gas, sour gas, blast furnace gas, coal-derived gas, producer gas, coke oven gas, or any gaseous fuel produced in a process which might result in highly variable sulfur content or heating value.

Stationary combustion turbine – all equipment, including but not limited to the turbine, the fuel, air, lubrication and exhaust gas systems, control systems (except emissions control equipment), heat recovery system, and any ancillary components and sub-components comprising any simple cycle stationary combustion turbine, any regenerative/recuperative cycle stationary combustion turbine, any combined cycle combustion turbine,

and any combined heat and power combustion turbine based system. Stationary means that the combustion turbine is not self-propelled or intended to be propelled while performing its function. It may, however, be mounted on a vehicle for portability.

Subsection 199.2 is amended by adding an abbreviation to the table for "ppmvd" as follows:

ppmvd	Parts Per Million by Volume Dry Basis

Section 805, REASONABLY AVAILABLE CONTROL TECHNOLOGY FOR MAJOR STATIONARY SOURCES OF THE OXIDES OF NITROGEN, of Chapter 8, AIR QUALITY – ASBESTOS, SULFUR, NITROGEN OXIDES, AND LEAD, is amended as follows:

Subsection 805.1(a) is amended to read as follows:

805.1

…

(a) Any person owning, leasing, operating, or controlling any major stationary source having the potential to emit twenty-five (25) tons per year or more of oxides of nitrogen, including the following major stationary sources or parts thereof:

…

(2) Stationary combustion turbines of any size at major stationary source facilities, including any associated heat recovery steam generators and duct burners;

Subsection 805.4 is amended to read as follows:

805.4 Any person owning, leasing, operating or controlling any stationary combustion turbine subject to § 805 shall comply with the requirements of this subsection as of July 23, 2018:

(a) The following emission and operational requirements shall apply, as applicable:

(1) For any stationary combustion turbine that most recently commenced construction, modification, or reconstruction (as these terms are defined in 40 CFR 60, Subpart A, § 60.2 and § 60.15 as in effect on July 1, 2018) after February 18, 2005, and has a heat

input rating greater than fifty million (50,000,000) BTU per hour, based on the higher heating value of the fuel:

(A) Emissions, with any supplemental duct burner firing, shall not be greater than:

(i) Twenty-five (25) ppmvd, corrected to fifteen percent (15%) O_2 when fired on any combination of gaseous fuels; and

(ii) Seventy-four (74) ppmvd, corrected to fifteen percent (15%) O_2 when fired on any combination of liquid fuels;

(B) Only the peak heat input rating of the stationary combustion turbine shall be included when determining whether or not § 805.4(a)(1) is applicable. Any additional heat input to associated heat recovery steam generators or duct burners shall not be included when determining the peak heat input to the stationary combustion turbine; and

(C) When fifty percent (50%) or more of the total heat input is from gaseous fuels, the emission limitation in § 805.4(a)(1)(A)(i) applies, but when more than fifty percent (50%) of the total heat input is from liquid fuels, the emission limitation in § 805.4(a)(1)(A)(ii) applies;

(2) For any stationary combustion turbine that most recently commenced construction, modification, or reconstruction (as these terms are defined in 40 CFR 60, Subpart A, § 60.2 and § 60.15 as in effect on July 1, 2018) on or before February 18, 2005 and has a heat input rating greater than fifty million (50,000,000) BTU per hour, based on the higher heating value of the fuel:

(A) Emissions from a stationary combustion turbine alone shall not be greater than:

(i) Twenty-five (25) ppmvd, corrected to fifteen percent (15%) O_2 when fired on any combination of gaseous fuels; and

(ii) Except as provided in § 805.4(a)(2)(D), seventy-four (74) ppmvd, corrected to fifteen percent (15%) O_2 when fired on any combination of liquid fuels;

(B) Emissions from a stationary combustion turbine and all duct burners combined shall not be greater than twenty hundredths (0.20) pounds per million BTU, based on a calendar day average, when fired on any fuel or combination of fuels;

(C) Only the peak heat input rating of the stationary combustion turbine shall be included when determining whether or not § 805.4(a)(2) is applicable. Any additional heat input to associated heat recovery steam generators or duct burners shall not be included when determining the peak heat input to the stationary combustion turbine; and

(D) Any stationary combustion turbine being fired on liquid fuel, or any combination of gaseous and liquid fuels such that more than fifty percent (50%) of the total heat input is from liquid fuels, is not required to comply with the maximum allowable NOx emission rate in § 805.4(a)(2)(A)(ii) if it meets the following requirements:

(i) The only liquid fuel used is Number two (No. 2) fuel oil that does not contain sulfur in excess of fifteen parts per million (15 ppm) by weight (as determined in accordance with 20 DCMR § 502.6) ;

(ii) It burns liquid fuel only during periods of natural gas curtailment, natural gas supply interruption, startups, or periodic testing on liquid fuel, when such periodic testing does not exceed a combined total of forty-eight (48) hours during any calendar year;

(iii) The owner or operator shall maintain records of all instances of operation using liquid fuel, including the fuel used, the date and duration of the fuel use, the reason for operating using that fuel, and all notifications received from the natural gas supplier notifying the owner or operator of the beginning or end of a natural gas interruption; and

(iv) The owner or operator shall maintain a running calendar year sum of the duration of all liquid fuel use each year for purposes of periodic testing;

(3) For any stationary combustion turbine with a heat input rating less than or equal to fifty million (50,000,000) BTU per hour, based on the higher heating value of the fuel:

(A) Except as specified in § 805.4(a)(4), with any supplemental duct burner firing, emissions shall not be greater than:

(i) Twenty-five (25) ppmvd, corrected to fifteen percent (15%) O_2 when fired on any combination of gaseous fuels; and

(ii) Forty-two (42) ppmvd, corrected to fifteen percent (15%) O_2 when fired on liquid fuel;

(B) Only the peak heat input rating of the stationary combustion turbine shall be included when determining whether or not § 805.4(a)(3) is applicable. Any additional heat input to associated heat recovery steam generators or duct burners shall not be included when determining the peak heat input to the stationary combustion turbine; and

(C) When fifty percent (50 %) or more of the total heat input is from gaseous fuels, the emission limitation in § 805.4(a)(3)(A)(i) applies, but when more than fifty percent (50 %) of the total heat input is from liquid fuels, the emission limitation in § 805.4(a)(3)(A)(ii) applies;

(4) For any stationary combustion turbine with a heat input rating less than or equal to ten million (10,000,000) BTU per hour and fired exclusively on natural gas:

(A) Compliance with § 805.4(a)(7) shall be maintained; and

(B) Only the peak heat input rating of the stationary combustion turbine shall be included when determining whether or not § 805.4(a)(4) is applicable. Any additional heat input to associated heat recovery steam generators or duct burners shall not be included when determining the peak heat input to the stationary combustion turbine;

(5) No combustion turbine shall be fired on coal or a synthetic fuel derived from coal;

(6) Any stationary combustion turbine designed to be fired on any solid fuel other than coal or synthetic fuel derived from any other

solid than coal shall comply with the requirements of §§ 805.4(a)(7) and 805.7; and

(7) Any duct burner servicing a stationary combustion turbine regulated under § 805.4 is exempt from regulation under § 805.5.

(8) Any stationary combustion turbine subject to § 805 shall be maintained and operated in a manner consistent with good air pollution control practices for minimizing emissions at all times, including during startup, shutdown, and malfunction, and shall be maintained in accordance with one of the following:

(A) The manufacturer's emission-related written instructions; or

(B) An alternate written maintenance plan approved in writing by the Department;

(b) Any person required to comply with § 805.4 shall maintain continuous compliance at all times. Compliance shall be demonstrated by testing or by installing a continuous emissions monitoring system:

(1) The emissions monitoring system shall do the following:

(A) Continuously monitor the NOx emission rate from the major stationary source;

(B) Continuously record the NOx emission rate from the major stationary source;

(C) Be installed and operated in a manner approved by the Mayor and acceptable to the EPA; and

(D) Demonstrate that the NOx emission rate does not exceed the applicable maximum allowable NOx emission rate specified in § 805.4.

(2) Testing shall meet the following requirements:

(A) Be conducted using methods approved by the Department and acceptable to EPA;

(B) Demonstrate that the NOx emission rate does not exceed the applicable maximum allowable NOx emission rate specified in § 805.4, for each fuel subject to such an allowable rate; and

(C) Be performed according to the following frequencies:

(i) Once within one hundred and eighty (180) days of either initial start-up of the unit or the date of the applicability of § 805 to the unit, whichever is later;

(ii) Units may rely on NOx compliance testing completed after January 1, 2018 by submission of a written notification to the Department, to be provided within one hundred and eighty (180) days of July 23, 2018, that includes a summary of results indicating compliance with § 805 to fulfill the requirements of § 805.4(c)(2)(C)(i).

(iii) For units with heat input ratings greater than ten million (10,000,000) BTU per hour, based on the higher heating value of the fuel, subsequent tests shall be performed once each calendar year and no more than fourteen (14) calendar months following the previous performance test, unless the performance test results show emissions are less than or equal to seventy-five percent (75%) of the applicable emission limit, in which case the subsequent test must be performed once during the next two calendar years and no more than twenty-six (26) calendar months following the previous performance test; and

(iv) For units with heat input ratings less than or equal to ten million (10,000,000) BTU per hour, based on the higher heating value of the fuel, and subject to a maximum allowable NOx emission rate in § 805.4, subsequent tests shall be performed once every five (5) calendar years and no more than sixty-two (62) months after the previous performance test.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

RULEMAKING 3-2014-01 – UTILITY CONSUMER BILL OF RIGHTS

1. The Public Service Commission of the District of Columbia (Commission), pursuant to its authority under D.C. Official Code §§ 2-505 (2016 Repl.) and 34-802 (2012 Repl.), hereby gives notice of its adoption of the following amendments to Chapter 3 (Consumer Rights and Responsibilities) of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (DCMR), commonly referred to as the "Consumer Bill of Rights (CBOR)."

2. As indicated in the notices of proposed rulemaking (NOPR),[1] the purpose of the amendments was to clarify various requirements for Energy Suppliers[2] including Use of Customer's Information (Section 308), Privacy Protection Policy (Section 309), Grounds for Disconnection (Section 310), Field Service Identification and Payment Procedures (Section 313), Publication of Consumer Pamphlet (Section 321), Formal Hearing Procedures (Section 325), Decisions and Appeals (Section 326), Customer Protection Standards Applicable to Energy Suppliers (Section 327), and Definitions (Section 399). Accordingly, after fully considering the comments and reply comments filed, the Commission by Order No. 19759 adopted the revised rules as final on December 5, 2018. The Electric Utility and Energy Suppliers shall have until September 10, 2019, to comply with Subsections 327.29 and 327.35.

Chapter 3, CONSUMER RIGHTS AND RESPONSIBILITIES, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended as follows:

Section 308, USE OF CUSTOMER'S INFORMATION is amended as follows:

308.1 An Applicant or a Customer need not disclose his or her Social Security number to the Utility, Energy Supplier, or Telecommunications Service Provider to obtain or maintain service. Upon requesting a Customer's Social Security number, the Utility, Energy Supplier, or Telecommunications Service Provider shall inform the Customer that the provision of this number is voluntary and will not affect the provision of service to that Customer.

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[1] The published NOPRs are as follows: 1st NOPR *61 DCR* 010807 – 010822 (October 17, 2014); 2nd NOPR *64 DCR* 006128 – 006144 (June 30, 2017); 3rd NOPR *64 DCR* 013113 – 013129 (December 22, 2017); 4th NOPR *65 DCR* 002979 – 002995 (March 23, 2018); 5th NOPR *65 DCR* 006179 – 006180 (June 8, 2018); and 6th NOPR *65 DCR* 011734 – 011752 (October 19, 2018). The Sixth NOPR superseded all previous NOPRs that were not adopted as final.

[2] Energy Suppliers generally cover individuals or persons who are brokering, arranging or marketing electricity for sale to customers. Energy Suppliers are not representatives of utilities.

308.3 Unless a Customer consents in writing or through electronic means such as Third-Party Verification, recorded voice or electronic signature, the Utility, Energy Supplier or Telecommunications Service Provider may not disclose or use Customer information or the Customer's use of service (types and amounts) except to the Commission and in accordance with the Utility, Energy Supplier or Telecommunications Service Provider's Privacy Policy. The Utility, Energy Supplier, or Telecommunications Service Provider shall reasonably protect the confidentiality of customer information.

308.4 The restrictions in §§ 308.2 and 308.3 above do not apply to lawful disclosures for bill collection, credit rating reports, provision of service, legitimate business activities, to assist Customers who have had, or may have, their service involuntarily disconnected, or as otherwise authorized by law. It shall be the responsibility of the Utility, Energy Supplier or Telecommunications Service Provider to obtain and maintain the written or electronic consent, referred to in Subsections 308.2 and 308.3 above. A Customer's information shall be made available to the Commission upon request.

Section 309, [RESERVED], is amended as follows:

309 PRIVACY PROTECTION POLICY

309.1 Each Utility, Energy Supplier or Telecommunications Service Provider shall institute a Privacy Protection Policy to protect against the unauthorized disclosure of Customer information or a Customer's use of service (types and amounts). A copy of that Policy shall be made available once a year, including any updates or changes, through electronic means or a hardcopy to the Customer and to the Commission and posted in a prominent place on each company's website.

Section 310, GROUNDS FOR DISCONNECTION, Subsection 310.3, is amended as follows:

310.3 Disconnection of natural gas or electric utility service for non-payment of bills, failure to post a cash Security Deposit, or failure to comply with the terms of a DPA where natural gas or electricity is used as the primary source of heating or cooling the residence is prohibited:

(a) An electric utility shall not disconnect residential electric service during the day preceding and the day of a forecast of extreme temperature, when the National Weather Service forecast for the District of Columbia is ninety-five (95°) degrees Fahrenheit or above or thirty-two (32°) degrees Fahrenheit or below during any time of a day, or if the forecast of extreme temperature precedes a holiday or weekend day, on any day during a holiday or weekend; or

(b) A Natural Gas Utility shall not disconnect residential gas service during the day preceding and the day of a forecast of extreme temperature, when

the National Weather Service forecast for the District of Columbia is thirty-two (32°) degrees Fahrenheit or below during any time of a day, or if the forecast of extreme temperature precedes a holiday or weekend day, on any day during a holiday or weekend.

Section 313, FIELD SERVICE IDENTIFICATION AND PAYMENT PROCEDURES, Subsection 313.3, is amended as follows:

313.3 The natural gas or electric field service representative shall be authorized to accept payment. If payment in full of all Charges due and owing is tendered, service shall not be disconnected. Tender of payment by personal check shall be accepted unless the Customer has within the past twelve (12) months paid the Utility with a check not honored by a bank. However, the natural gas or electric field representative shall not accept payment by cash. Where the customer offers full payment of all charges by cash, the natural gas or electric field service representative shall make other payment arrangements with the customer to avoid disconnection.

Section 321, PUBLICATION OF CONSUMER PAMPHLET, Subsection 321.1, is amended as follows:

321.1 Each Utility, Energy Supplier, and Telecommunications Service Provider shall prepare a consumer pamphlet in English and Spanish in layman's terms summarizing the rights and responsibilities of Customers in accordance with the utilities' tariff provisions and the Commission's regulations. Prior to distribution, the Utility, Energy Supplier, or Telecommunication Service Provider shall provide the Commission and OPC with a copy of the consumer pamphlet. OPC shall submit any comments on the consumer pamphlet to the Commission and to the Utility, Energy Supplier, and Telecommunication Service Provider within ten (10) business days. If the Commission does not reject or otherwise act on the pamphlet within thirty (30) days of its filing, the consumer pamphlet shall be deemed approved.

Section 325, FORMAL HEARING PROCEDURES, is amended as follows:

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325.3 If a review of the Formal Complaint by the Hearing Officer determines that the Complainant is solely requesting monetary damages, compensatory or punitive damages, or if the Complaint alleges matters or legal grounds otherwise not within the Commission's jurisdiction, the Hearing Officer shall issue an order dismissing the case with prejudice for failure to state a claim upon which relief may be granted or for lack of jurisdiction by the Commission.

325.4 The Commission shall provide notice of the hearing by first-class mail or other technological means, as authorized by the Commission, to the Customer and the Customer's Designated Representative and to the Utility, Energy Supplier or Telecommunications Service Provider. Service shall be made by first-class mail

postage prepaid at least fourteen (14) days prior to the hearing date unless the parties agree on a shorter time. The notice shall also state that in the event that the Complainant fails to attend a scheduled hearing without evidence of good cause, the Hearing Officer may dismiss the Complaint with prejudice. The Hearing Officer may reschedule any hearing to a date or time agreed upon by the parties or, upon notice and for good cause shown, at the request of any party.

325.5 A party requesting a second continuance will be required to provide good cause for the continuance. If the party is the Complainant and he or she does not provide good cause, as determined by the Hearing Officer, the Complaint may be dismissed, with prejudice. If the party is a Utility, Energy Supplier or Telecommunications Service Provider and it fails to provide good cause, the matter may be heard, without continuance. The Hearing Officer may, at his or her discretion, postpone or adjourn a hearing for reasonable cause. If a hearing is continued, adequate notice shall be provided to the parties.

325.6 In the event the Complainant fails to attend any scheduled hearing without good cause, the Hearing Officer may dismiss the Complaint with prejudice.

325.7 In the event a Utility, Energy Supplier or Telecommunications Service Provider fails to attend a scheduled hearing without good cause, the Hearing Officer may hear evidence and render a decision.

325.8 Upon a reasonable request from each other, the parties shall, within the timeframe prescribed in Chapter 1 of Title 15, provide all information they have that is relevant to the matters at issue in the Complaint including relevant documents, Account data, files and the names of witnesses. Nothing herein shall preclude a party from filing a request or motion to compel responses to information requests.

325.9 Parties may examine any relevant records of the Commission. However, information deemed to be confidential may be reviewed in a manner that is consistent with the Commission's Rules of Practice and Procedure.

325.10 On any evidentiary issue or procedure where Chapter 3 of Title 15 is silent, the Hearing Officer may at his or her discretion utilize Chapter 1 of Title 15 regulations as appropriate.

325.11 Parties may represent themselves or be represented by counsel, conservator, legal guardian or someone with power of attorney. If a Complainant proceeds *pro se*, the Hearing Officer may construe the pleadings liberally. If it appears to the hearing officer that a party appearing without an attorney should be represented by an attorney, the Hearing Officer shall suggest that the party secure counsel or contact the Office of the People's Counsel concerning representation and allow a reasonable time to secure such representation.

325.12 Parties shall have the right to present evidence, call witnesses, and present written and oral argument.

325.13 Witnesses shall testify under oath, and the parties shall have the right to examine and cross-examine all witnesses.

325.14 The Hearing Officer may, in his or her discretion, limit any line of questioning, testimony and the time for argument.

325.15 Unless otherwise ordered by the Hearing Officer, the Complainant's witnesses shall testify first, followed by the Utility's, Energy Supplier's or Telecommunications Service Provider's witnesses. A reasonable opportunity will be afforded all parties to present rebuttal evidence.

325.16 The Hearing Officer may elicit testimony from any witness regarding the issue(s) in dispute.

325.17 The Hearing Officer has the obligation, especially when a Complainant is not represented by counsel, to ensure that all material facts are developed to the fullest extent consistent with his or her responsibility to preside impartially throughout the proceeding.

325.18 The formal rules of evidence shall not apply, but the Hearing Officer shall exclude irrelevant or unduly repetitious evidence.

325.19 Parties may stipulate to any facts, and such stipulation shall be put into evidence.

325.20 All proceedings shall be recorded or transcribed by a certified court reporter. The transcriptions shall be made available promptly to any party upon request, at the party's expense.

Section 326, DECISIONS AND APPEALS, is amended as follows:

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(c) Complaints requesting monetary, compensatory or punitive damages as the sole basis for relief shall be dismissed with prejudice by the Hearing Officer for failure to state a claim upon which relief may be granted or for lack of jurisdiction by the Commission.

Section 327, CUSTOMER PROTECTION STANDARDS APPLICABLE TO ENERGY SUPPLIERS, is amended as follows:

327 CUSTOMER PROTECTION STANDARDS APPLICABLE TO ENERGY SUPPLIERS

327.1 This section sets forth billing, Deposit, Enrollment, Termination of Contract, supplier switching, advertising and minimum Contract standards that apply to Energy Suppliers, Marketers, Aggregators, and Consolidators licensed to provide competitive electric and gas services by the Public Service Commission of the District of Columbia. If a Customer has a Complaint about an alleged violation of this section, the Complaint procedures in § 320 of these regulations shall apply.

327.2 An Energy Supplier may not engage in a marketing, advertising, Solicitation or trade practice that is unlawful, misleading, or deceptive as set forth in D.C. Code § 28-3904.

327.3 An Energy Supplier shall not engage in Cramming.

327.4 An Energy Supplier shall not engage in Slamming.

327.5 Any prohibition regarding the disclosure of Account status and Customer information should not preclude Energy Suppliers from obtaining or providing Account status and Customer information for acquisition or sale of a book of business as long as the review of such information during a proposed acquisition or sale is subject to confidentiality agreements.

327.6 Energy Suppliers must maintain documentation to substantiate any advertisement of energy supply that contains specific environmental claims. Such documentation shall be made available, upon request, through a hard copy or other technological means.

327.7 Any Solicitation of energy supply that contains any specific offering to a residential Customer must at a minimum include the following:

(a) The Energy Supplier's name, address, telephone number, and web site address, if applicable;

(b) The Energy Supplier's District of Columbia license number in a clear and conspicuous manner;

(c) The price offered for natural gas supply or electricity supply may be either a fixed or variable rate. An explanation of a variable rate should indicate that:

(1) A variable rate may be based on market conditions; and

(2) A variable rate may result in higher or lower costs over an initial introductory rate;

(d) A statement that the advertised rate is only for the specified natural gas supply or electricity supply and does not include any additional tax, Utility Distribution Service Charge, or other Utility fee or Charge;

(e) Any minimum Contract duration necessary to obtain an advertised price;

(f) A statement of minimum use requirements, if any; and

(g) If the advertisement offers several services and does not break out individual prices for the services, the following disclaimer must accompany the advertisement: "Disclaimer: This offer includes several services at a single price. You should compare this price to the total of the prices you currently pay for each of the individual services."

327.8 An electricity supply or natural gas supply Contract with a Customer shall, at a minimum, contain the following material terms and conditions:

(a) A list and description of the Contract services;

(b) A statement of minimum use requirements, if any;

(c) A description of any time of use restrictions, including the time of day or season;

(d) A price description of each service, including all fixed and variable costs;

(e) A notice that the Contract does not include Utility Charges;

(f) A billing procedure description;

(g) In the case of consolidated billing, a notice that the Customer acknowledges that Customer billing and payment information may be provided to the Energy Supplier;

(h) A statement of Contract duration, including initial time period and any rollover provision;

(i) A Deposit requirement, if any, including: the amount of the Deposit; a description of when and under what circumstances the Deposit shall be returned; a description of how the Deposit may be used; and a description of how the Deposit shall be protected;

(j) A description of any fee or Charge and the circumstances under which a Customer may incur a fee or Charge;

(k) A statement that the Customer may rescind the Contract within three (3) business days from the start of the Rescission Period;

(l) A statement that the Energy Supplier may terminate the Contract early including the circumstances under which early cancellation by the Energy Supplier may occur; the manner in which the Energy Supplier shall notify the Customer of the early cancellation of the Contract; the duration of the notice period before early cancellation; remedies available to the Customer if early cancellation occurs;

(m) A statement that the Customer may terminate the Contract early including the circumstances under which early cancellation by the Customer may occur; the manner in which the Customer shall notify the Energy Supplier of the early cancellation of the Contract; the duration of the notice period before early cancellation; and remedies available to the Energy Supplier if early cancellation occurs; and the amount of any early cancellation fee;

(n) A statement describing Contract renewal procedures, if any;

(o) A dispute resolution procedure;

(p) The Commission’s telephone number and website address; and

(q) The Office of the People’s Counsel’s telephone number and website address.

327.9 If an Energy Supplier receives a request from a Customer not to receive any Solicitations from that solicitor, the Energy Supplier shall no longer contact the Customer. If an Energy Supplier receives a request from a Customer not to receive a particular type of Solicitation from that solicitor, which includes, but is not limited to, in-person Solicitation, telephone Solicitation, electronic Solicitation or any form of mail or post card by the solicitor, the Energy Supplier shall not use that type of Solicitation with that Customer in the future.

327.10 Nothing in these regulations shall affect the applicability of any Federal or District Telephone Solicitation and consumer protection laws and regulations including, but not limited to, the fines and penalties thereunder for violation of such laws and regulations. Any Energy Supplier soliciting customers by telephone shall comply with all applicable District and federal laws, including the Telephone Consumer Protection Act of 1991 (15 USC §§ 6151 *et seq.*) and the Telemarketing Consumer Fraud and Abuse Prevention Act of 1994 (15 USC §§ 6101 *et seq.*).

327.11 There are three (3) principal ways in which a Customer may enter into a Contract with an Energy Supplier:

(a) Through a recorded verbal consent via telephone Solicitation;

(b) Electronic Contract; or

(c) Written Contract.

327.12 An Energy Supplier may not use "negative option contracts," in which Contracts are created if the Customer takes no action. Therefore, an Energy Supplier may not enter into a Contract with a Customer if the Customer simply refrains from action. However, Contract renewals are not negative option contracts.

327.13 If a Customer wishes to enter into a Contract with an Energy Supplier, the Energy Supplier may request from the Customer the following information, by telephone, in writing, or Internet or other technological means:

(a) The customer's name;

(b) Billing address;

(c) Service address;

(d) Electronic mail address;

(e) Telephone number;

(f) Utility Account and any other number designated by the utility as necessary to process an enrollment;

(g) Employment information; and

(h) Usage information.

327.14 An Energy Supplier may ask for additional information beyond that specified in Subsection 327.13 only after first informing the Customer of his or her right not to provide such information.

327.15 An Energy Supplier shall advise a Customer that he/she has the right to rescind the Contract agreement within the three (3) business day Rescission Period that begins on one of the following dates:

(a) When the Customer signs the Contract;

(b) When a positive Third-Party Verification or electronic recording has been made;

(c) When the Customer transmits the electronic acceptance of the Contract electronically; or

(d) When the Completed Written Contract is deposited in the U.S. Mail.

327.16 **FOR A TELEPHONE SOLICITATION**: Telephone Solicitations shall be made only between the hours of 9:00 a.m. and 9:00 p.m. If a Customer is solicited to enter into a Contract by telephone, whether the Energy Supplier or its authorized agent first contacts the Customer, or the Customer calls the Energy Supplier or its authorized agent in response to a direct mail Solicitation, the Energy Supplier or its authorized representative shall:

(a) Begin the conversation by accurately stating the following:

(1) His or her name;

(2) The name of the business or organization calling;

(3) The nature of the call, *i.e.*, a Solicitation;

(4) A brief description of the subject-matter being solicited; and

(5) An offer to the Customer to hear the full Solicitation;

(b) Describe the rates, terms, and conditions of the Contract;

(c) Arrange to have the Customer's intent to contract with the Energy Supplier independently verified. To verify a residential Customer's intent to contract with an Energy Supplier by telephone, an Energy Supplier must utilize either:

(1) An Independent Third-Party telephone verification;

(2) An automated, computerized system; or

(3) An electronic recording of the entire conversation between the Customer and the Energy Supplier which the Energy Supplier shall maintain for three (3) years.

327.17 All verifications performed pursuant to Subsection 327.16 shall be required to ask the Customer the following questions:

(a) "Are you the Customer of record?";

(b) "Did you agree to switch your natural gas supply service or electric supply service to [New Supplier]?"; and

(c) "Is [Customer's address] your correct address?" or "Is [Customer's Utility Account number] your correct Utility Account number?"

327.18 Once the Customer's choice of Energy Supplier is verified by an Independent Third-Party Verifier or an electronic recording is made, the Energy Supplier shall, within five (5) business days from the day the Customer agreed telephonically to

Contract with the Energy Supplier, provide to the Customer via U.S. Mail or electronic mail a copy of the Completed Written Contract.

327.19 Once a positive verification has been obtained or an electronic recording has been made, and a written Contract has been sent to the Customer, and after the Rescission Period has expired, the Energy Supplier shall transmit the Enrollment transaction to the Natural Gas or the Electric Utility, whichever is appropriate.

327.20 **FOR AN INTERNET SOLICITATION**: The Energy Supplier may post on its website an electronic version of its Solicitation for the supply of natural gas or electricity. The electronic solicitation shall include:

(a) An electronic application form for the Customer to enter into a Contract for the supply of natural gas or electricity;

(b) An electronic version of the actual Contract;

(c) Instructions on how the Customer may rescind the Contract; and

(d) A link to the Commission's website to obtain the applicable rules and regulations governing the relationship between the Customer and the Energy Supplier.

327.21 After the Customer completes the electronic application form and electronically accepts the Contract terms and conditions, the Customer has a three (3) business day Rescission Period from the completed online Contract authorization date to rescind his or her Contract.

327.22 Upon receipt of the Customer's electronic application and electronic acceptance of the Contract terms and conditions and after the Rescission Period has expired, the Energy Supplier shall transmit the enrollment transaction to the Natural Gas Utility or the Electric Utility, whichever is appropriate.

327.23 **FOR HOME SOLICITATIONS**: Home Solicitations shall be limited to the hours between 9:00 a.m. and sunset. During a home Solicitation, the Energy Supplier or its authorized agent shall:

(a) Present the Customer with a photo identification card that identifies the name of the person making the solicitation and the name of the Energy Supplier that he or she is representing;

(b) Begin the conversation by stating the following:

(1) The name of the business or organization;

(2) The nature of the visit, *i.e.*, a Solicitation;

(3) A brief description of the subject matter being solicited;

(4) Ask the customer if he/she would like to hear the full Solicitation;

(c) Present the Customer with a complete copy of the written or electronic Contract being offered and obtain the Customer's consent consistent with one of the methods described in Subsection 327.11;

(d) Obtain either an Independent Third-Party telephone verification of the Customer's intent or obtain a signed contract that includes a statement in the Contract under the conspicuous Caption" "BUYER'S RIGHT TO CANCEL" which states: "If this agreement was solicited at or near your residence, and you do not want the goods or services, you may cancel this agreement by mailing a notice to the seller. The notice must say that you do not want the goods or services and must be mailed before midnight on the third business day after you signed this agreement. This notice must be mailed to: (name and address of seller)"; and

(e) Transmit the enrollment transaction to the Natural Gas Utility or the Electric Utility, after the Rescission Period has expired.

327.24 **FOR DIRECT MAIL SOLICITATIONS**: If a Customer is solicited at home through a direct mail Solicitation by an Energy Supplier, the Energy Supplier shall follow the Solicitation and contracting requirements in Subsections 327.7 and 327.8, respectively, and Subsections 327.13 and 327.14 with respect to telephone Solicitation where the customer calls the Energy Supplier or its authorized representative in response to the direct mail Solicitation.

327.25 In the event of a dispute over the existence of a Contract, the Energy Supplier shall bear the burden of proving the Contract's existence.

327.26 When using any of the permitted forms of Solicitation, the Energy Supplier shall provide the Customer with a notification of his or her right to rescind the Contract pursuant to Subsection 327.15.

327.27 Upon completion of the Customer's electronic enrollment request and after the Recession Period has expired, the Energy Supplier shall transmit the enrollment transaction to the Natural Gas Utility or Electric Utility, whichever is appropriate.

327.28 For purposes of these rules, the electronic submission by the Customer of the application to Contract with the Energy Supplier constitutes an "electronic signature" and an executed Contract.

327.29 If the Customer submits an electronic application and electronic Contract, the Energy Supplier shall acknowledge the Customer's submission with a Confirmation of receipt of the electronic enrollment within twenty-four (24) hours of receipt.

327.30 It is the responsibility of the Energy Supplier to provide its website address to the Commission. The Natural Gas Utility, Electric Utility, and Energy Suppliers shall prominently display on their websites' homepages links to the Commission's website pages for Customer Retail Choice and Consumer Suppliers' Offers.

327.31 For electronic contracting, the Energy Supplier's website shall allow a Customer to print or save a copy of the Contract.

327.32 During the electronic enrollment procedure, each web screen shall clearly display a "Cancel" icon enabling the Customer to terminate the Enrollment transaction at any time. In addition, the cancellation feature shall be clearly explained to the Customer at the beginning of the electronic enrollment process.

327.33 At the completion of the electronic enrollment process, and at the end of the three (3) business day Rescission Period, the Energy Supplier, at the Customer's request, shall provide a secure website location or a telephone number where the Customer can verify that he or she has been enrolled in the Energy Supplier's program.

327.34 All online transactions between Energy Suppliers and Customers shall be encrypted using Secure Socket Layer (SSL) or similar encryption standards to ensure the privacy of Customer's information consistent with Subsection 309.1.

327.35 The Electric Utility shall transfer a Customer to a competitive electricity supplier in no later than three (3) business days after receiving the notice of an enrollment transaction from the competitive electricity supplier. The Electric Utility shall transfer a Customer to Standard Offer Service in no later than 3 business days after receiving the Customer's request. The Electric Utility shall accept the last enrollment received from the Energy Supplier at the relevant days' end.

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327.38 Energy Suppliers must process all Customer cancellation requests within three (3) business days after receipt of the cancellation request.

327.39 The transmittal of an EDI Transaction by the Electric Supplier to the Electric Utility shall not occur until after the three (3) business day Rescission Period.

327.40 The transmittal of an enrollment transaction by the Gas Supplier to the Gas Utility shall not occur until after the three (3) business day Rescission Period.

327.41 Upon an Energy Supplier's Enrollment of a Customer, the Energy Supplier shall provide to the Customer, within a reasonable period of time the following:

(a) A statement of enrollment;

(b) A description of the agreed-upon billing option and the Company's billing date, if applicable and if different from the Utility's; and

(c) Customer service information (including toll-free telephone number, mailing address, and dispute resolution process information).

327.42 The Customer shall notify the Energy Supplier, not the Utility, of his or her intent to rescind the Contract within the Rescission Period. If the Customer does request to rescind their Contract within the three (3) business day Rescission Period, the Enrollment shall be considered effective. If the Customer notifies the Energy Supplier of his or her intent to rescind the Contract within the three (3) business day Rescission Period, the Contract is deemed invalid and non-binding.

327.43 After the three (3) business day Rescission Period expires and the enrollment is processed by the Utility, the relationship between the Customer and the Energy Supplier shall be governed by the terms and conditions contained in the Contract.

327.44 An Energy Supplier shall provide the Customer with written notice of Contract expiration or termination at least thirty-five (35) days before the expiration or termination of the current Contract. The Energy Supplier's written expiration or termination notice shall include the following:

(a) Final Bill payment instructions;

(b) A statement informing the Customer that unless the Customer selects a new Energy Supplier, Termination of Contract shall return the Customer to the Utility; and

(c) The Commission's telephone number and website address.

327.45 If an Energy Supplier's Contract provides for voluntary renewal of the Contract or for automatic renewal of the Contract (also known as an "Evergreen Contract"):

(a) The Energy Supplier shall provide written notice to the Customer of the pending renewal of the Contract at least forty-five (45) days before the renewal is scheduled to occur;

(b) Written notice of any changes to the material terms and conditions (including, but not limited to, changes to the rate, the billing option or the Billing Cycle), shall be provided with or before the forty-five (45) day written notice. The notification of renewal and of any change in Contract terms shall be highlighted and clearly stated; and

(c) If the Contract is an Evergreen Contract, the forty-five (45) day written notice shall inform the Customer how to terminate the renewal of the Contract without penalty and advise the Customer that terminating the

Evergreen Contract without selecting another Energy Supplier shall return the Customer to Natural Gas Sales Service or Electric Standard Offer Service. The written notice shall also inform the Customer that the Commission has additional information on the energy supply choices available to the Customer. The telephone number and website for the Commission shall be included in the written notice.

327.46 ASSIGNMENT OF CONTRACT

(a) At least thirty (30) days prior to the effective date of any assignment or transfer of an Energy Supplier contract from one District of Columbia licensed Energy Supplier to another, the Energy Suppliers shall jointly provide written notice to the Customers of the Energy Supplier, the Commission, the utility and the Office of the People's Counsel of the assignment or transfer.

(1) Notice to Customer. The Energy Suppliers shall jointly send a letter to the Customer informing them of the assignment or transfer. The letter shall include:

(A) A description of the transaction in clear and concise language including the effective date of the assignment or transfer; and

(B) Customer service Contact information for the assignee;

(2) The terms and conditions of the Customer's Contract at the time of assignment shall remain the same for the remainder of the contract term; and

(3) The Energy Suppliers shall file a notice with the Commission, with a copy to the Office of the People's Counsel and the utility, of the assignment or transfer of the Customer Contracts and include a copy of the letter sent to Customers;

(b) Upon request by the Commission, the assignee shall be responsible for providing documents and records related to the assigned Contracts. Records shall be maintained for a period of three years or until the Contracts are expired, whichever is longer; and

(c) An assignment or transfer of an Energy Supplier Contract from one Energy Supplier to another is not an enrollment or drop.

327.47 An Energy Supplier shall post on its website current and understandable information about its rates, charges and services.

327.48 An Energy Supplier shall not conduct Meter test.

327.49 If an Energy Supplier's charges are based on usage, an Energy Supplier shall rely on the Meter reading (actual, estimated, or customer meter readings) provided to it by the respective Utility, unless the Energy Supplier has installed, owns, and reads metering equipment, consistent with the applicable Utility's tariff.

327.50 An Energy Supplier may, at the election of a Customer, Bill a Customer in accordance with a level payment billing plan. If an Energy Supplier utilizes the billing services of a Utility, an Energy Supplier may use the level payment plan as part of the Utility's billing service. The Energy Supplier shall inform the Customer of this option and explain how the monthly payments are calculated. Prior to implementation of the level payment billing plan, the Energy Supplier shall provide the Customer with the following information in writing:

(a) An acknowledgement that the Customer shall be on the level payment billing plan effective the next billing period;

(b) An estimate of the Customer's use on an annual basis and an explanation of how the monthly payment has been calculated;

(c) An indication that the final bill for the level payment billing plan effective period shall reflect the last level payment billing plan installment adjusted for any difference between actual and budgeted usage. Amounts overpaid shall be credited to the Customer's account or refunded, if requested by the Customer. Amounts underpaid that are equal to or greater than the monthly payment may be paid in up to three (3) monthly installments; and

(d) Final bills are issued when either a Customer account is closed or in the case of a Customer with an Energy Supplier, the supply Contract is closed or changed. Any level payment billing plan in effect shall be reconciled upon rendering the final bill. Amounts underpaid shall be due within twenty (20) days of final bill rendering. Amounts overpaid shall be refunded or credited to the Customer's utility account within twenty (20) days of final bill rendering.

327.51 The Energy Supplier may perform a periodic analysis of a Customer's level payment billing plan and notify the Customer, within twenty-one (21) days thereafter, if actual usage varies significantly from that upon which the level payment billing plan was based and give the Customer an opportunity for revision of the level payment billing plan. If an Energy Supplier utilizes the billing services of a Utility, the Customer may have an opportunity for revision of the level payment billing plan at the same time as the Utility allows under the Utility's level payment billing plan procedures or at a time designated by the Energy Supplier.

327.52 If the Customer enters into a Deferred Payment Agreement (DPA) with the Utility pursuant to § 306, and the Energy Supplier utilizes the billing services of the Utility, the Utility may include the Energy Supplier's balance as part of its DPA.

327.53 Pursuant to D.C. Official Code § 34-1671.11 (d)(1) and § 34-1508 (b)(1), any Energy Supplier that violates this section, either directly or through its authorized agent, may be subject to Sanctions and Penalties including license revocation, upon notice given by the Commission.

Section 399, DEFINITIONS, Subsection 399.1, is amended to include the following definitions:

Completed Written Contract: An agreement between a Customer and an Energy Supplier that specifies the terms, conditions and charges for the provision of electric or natural gas services to the Customer and the agreement is signed or acknowledged through Third Party Verification, an electronic signature, or an electronic recording.

Drop: the removal of a Customer from a supplier's service.

Energy Supplier: An Electricity Supplier or Natural Gas Supplier as defined below:

Electricity Supplier: A person, including an Aggregator, Broker, or Marketer, who generates electricity; sells electricity; or purchases, brokers, arranges or markets electricity for sale to Customers. The term excludes the following:

(a) Building owners, lessees, or managers who manage the internal distribution system serving such building and who supply electricity solely to the occupants of the building for use by the occupants;

(b) Any Person who purchases electricity for its own use or for the use of its subsidiaries or affiliates;

(c) Any apartment building or office building manager who aggregates electric service requirements for his or her building or buildings, and who does not: (1) Take title to electricity; (2) Market electric services to the individually-metered tenants of his or her building; or (3) Engage in the resale of electric services to others;

(d) Property owners who supply small amounts of power, at cost, as an accommodation to lessors or licensees of the property;

(e) Consolidators;

(f) A Community Renewable Energy Facilities (CREFs) as defined in 15 DCMR § 4199.1 and as described in 15 DCMR §§ 4109.1-4109.3 pursuant to the Community Renewable Energy Amendment Act of 2013 (D.C. Law 20-47; D.C. Official Code §§ 34-1518 et seq.);

(g) An Electric Company; and

(h) Any Person or entity that owns a behind-the-meter generator and sells or supplies the electricity from that generator to a single retail customer or customers behind the same meter located on the same premise.

Natural Gas Supplier: A licensed Person, broker, or marketer, who generates natural gas; sells natural gas; or purchases, brokers, arranges or markets natural gas for sale to customers.

Slamming (for Energy Suppliers): the practice of switching, or causing to be switched, a Customer's natural gas or electric supplier Account without the express authorization of the Customer.

Third Party Verification (TPV): the process of getting consent from a Customer to the below-listed material contract terms that is recorded by an independent person not party to the agreement or may be performed by an automated, computerized system. To be valid, the TPV must occur without the presence of the sales agent, and at the outset must describe how the Customer can cancel the TPV at any time prior to completion. The consent for the Customer must include an acknowledgement: (a) that he or she is voluntarily choosing to enroll with a supplier; (b) of the type of product offered such as variable, fixed, or a combination of both; (c) of the price and duration of the contract; (d) of the amount of an early termination fee if applicable; (e) that the Customer is authorized to make the switch; (f) of the contract renewal procedures;(g) that the Customer may access future pricing information; and (h) that the Customer has received the supplier's Customer support contact information.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

RM29-2018-01, IN THE MATTER OF 15 DCMR CHAPTER 29-RENEWABLE ENERGY PORTFOLIO STANDARD

1. The Public Service Commission of the District of Columbia (Commission), pursuant to D.C. Official Code §§ 2-505 (2016 Repl.) and 34-802 (2012 Repl.), hereby gives notice of its final rulemaking action amending Chapter 29 (Renewable Energy Portfolio Standard) of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (DCMR).

2. The purpose of amending Chapter 29 is to clarify the provisions of this chapter of the Commission's rules. Specifically, Commission, *inter alia*, proposed to revise the generator certification and eligibility requirements, eliminate redundancies, delete obsolete sections, update the definitions in this chapter, and otherwise clarify the rules. In addition, the Commission revised the rules to introduce the Renewable Energy Portfolio Standard (RPS) interactive feature in the eDocket system on the Commission's website at www.dcpsc.org to accommodate the filing of applications for certification of renewable energy standards generating facilities.

3. On October 19, 2018, at 65 DCR 011753, the Commission published a Notice of Proposed Rulemaking in the *D.C. Register* amending Chapter 29 in its entirety. No comments were filed in response to the proposed rulemaking.

4. By Order No. 19760 the Commission adopted the revised rules as final on December 5, 2018, and directed that the rules will be become effective upon publication of this Notice in the *D.C. Register*.

Chapter 29, RENEWABLE ENERGY PORTFOLIO STANDARD, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended, in its entirety, to read as follows:

2900 APPLICABILITY
2901 RPS COMPLIANCE REQUIREMENTS
2902 GENERATOR CERTIFICATION AND ELIGIBILITY
2903 CREATION AND TRACKING OF RENEWABLE ENERGY CREDITS
2904 RECOVERY OF FEES AND COSTS
2905 WAIVER
2999 DEFINITIONS

2900 APPLICABILITY

2900.1 This chapter establishes the Public Service Commission's (Commission) rules and regulations governing the Renewable Energy Portfolio Standard (RPS) applicable to all District of Columbia retail electricity sales as provided in D.C. Official Code §§ 34-1431 through 34-1439.

2901 RPS COMPLIANCE REQUIREMENTS

2901.1 An Electricity Supplier shall meet the Renewable Energy Portfolio Standard requirement by obtaining Renewable Energy Credits (RECs) that equal the annual percentage requirement for electricity sold at retail or by paying the specified compliance fee. An Electricity Supplier shall not apply any surplus RECs derived from voluntary purchases of energy from qualified renewable sources toward its mandatory compliance requirements.

2901.2 An Electricity Supplier shall meet the solar portion of the Tier One requirement by obtaining the equivalent amount of RECs from solar energy systems no larger than fifteen megawatts (15 MW) in capacity that are located within the District of Columbia or in locations served by a distribution feeder serving the District of Columbia, except that RECs generated by solar energy facilities that are not located within the District of Columbia nor in locations served by a distribution feeder serving the District of Columbia that the Commission certified prior to February 1, 2011, may be used to meet the solar requirement. However, an Electricity Supplier may also meet the solar requirement by obtaining RECs from solar energy systems larger than fifteen megawatts (15 MW) in capacity, provided that these solar energy systems are located on property owned by the Government of the District of Columbia or by any agency or independent authority of the Government of the District of Columbia. In addition, Electricity Suppliers may meet the non-solar portion of the Tier One renewable source requirement of the renewable energy portfolio standard by obtaining renewable energy credits from solar energy systems that are not located within the District of Columbia or in locations served by a distribution feeder serving the District of Columbia, regardless of capacity.

2901.3 Each Electricity Supplier shall establish and maintain a Generation Attribute Tracking System (GATS) account for the load it serves within the District of Columbia.

2901.4 Compliance with the Renewable Energy Portfolio Standard is on a calendar year basis.

2901.5 Each Electricity Supplier must prepare and submit an annual Compliance Report to the Commission containing the following information:

(a) The quantity of its annual District of Columbia retail electricity sales;

(b) A calculation of the annual quantity of required Tier One, Tier Two, and Solar Energy RECs;

(c) The quantity of Tier One, Tier Two, and Solar Energy RECs purchased and evidence of those purchases;

(d) The quantity of Tier One, Tier Two, and Solar Energy Credits transferred to the Electricity Supplier by a Renewable On-Site Generator;

(e) A calculation of any compliance fees that the Electricity Supplier owes;

(f) Certification of the accuracy and veracity of the report;

(g) All documentation supporting the data appearing in the annual compliance report; and

(h) A summary report of RECs retired during the reporting period.

2901.6 Each Electricity Supplier shall make available to the Commission through its GATS account all RECs and the total price paid in order to comply with the Renewable Energy Portfolio Standard.

2901.7 An Electricity Supplier's annual compliance report shall be submitted to the Commission by April 1 of the calendar year following the year of compliance. After notification of a decision of non-compliance by the Commission, a supplier shall, within ten (10) days, submit the appropriate payment, take the actions necessary to come into compliance, or file its response contesting the decision of non-compliance.

2901.8 Any Electricity Supplier that fails to file the annual compliance report as required by this chapter and D.C. Official Code § 34-1434(a) may be subject to Commission action to compel submission of the required report. Such action may include the issuance of an Order to Show Cause by the Commission.

2901.9 Any Electricity Supplier that fails to meet its Renewable Energy Portfolio Standard requirements shall submit the required annual Compliance Fee to the District of Columbia Renewable Energy Development Fund administered by the District of Columbia Department of Energy & Environment by April 1 of the calendar year following the year of compliance.

2901.10 An Electricity Supplier may apply the Solar Energy RECs, retired for compliance with the Solar Energy requirement, to meet the Tier One Renewable Energy requirement as well.

2901.11 After December 31, 2019, RECs from a Tier Two renewable resource shall not apply toward meeting the Renewable Energy Portfolio Standard requirements.

2901.12 Energy supply contracts entered into prior to August 1, 2011, shall not be subject to the increased solar energy requirement as required by the Distributed Generation Amendment Act of 2011 (D.C. Law 19-36); but any extension or

renewal of such contracts, executed on or after August 1, 2011, shall be subject to the increased solar energy requirement as required by this act. Energy supply contracts entered into prior to the effective date of the Renewable Portfolio Standard Expansion Amendment Act of 2016 (D.C. Law 21-154), October 8, 2016, shall not be subject to the increased solar energy compliance fees as required by that act until October 8, 2021; but any extension or renewal of such contracts shall be subject to the increased solar energy compliance fee as required by that act.

2901.13 The Compliance Fee shall be:

(a) Fifty dollars ($50) for each REC shortfall for Tier One resources;

(b) Ten dollars ($10) for each REC shortfall for Tier Two resources; and

(c) Three hundred dollars ($300) for each REC shortfall for Solar Energy resources in 2008; five hundred dollars ($500) for each REC shortfall for Solar Energy resources in 2009 through 2023; four hundred dollars ($400) for each REC shortfall for Solar Energy resources in 2024 through 2028; three hundred dollars ($300) for each REC shortfall for Solar Energy resources in 2029 through 2032; and fifty dollars ($50) for each REC shortfall for Solar Energy resources in 2033 and thereafter.

2902 GENERATOR CERTIFICATION AND ELIGIBILITY

2902.1 Renewable generators, including behind-the-meter (BTM) generators, must be certified as a qualified resource by the Commission. The Commission shall not certify any Tier One solar energy system larger than fifteen megawatts (15 MW) in capacity – except for solar energy systems larger than fifteen megawatts (15 MW) in capacity that are located on property owned by the Government of the District of Columbia or by any agency or independent authority of the Government of the District of Columbia – located within the District of Columbia or in locations served by a distribution feeder serving the District of Columbia. In addition, solar energy systems that are not located within the District of Columbia or in locations served by a distribution feeder serving the District of Columbia, regardless of capacity may be certified as a qualified resource to meet the non-solar portion of the Tier One renewable source requirement of the renewable energy portfolio standard.

2902.2 Renewable generators, including BTM generators, may be certified as a Tier One or Tier Two resource. In order to be certified, applicants must complete the Commission's "Application for Certification as an Eligible District of Columbia Renewable Energy Standards Generating Facility".

2902.3 An applicant submitting an Application for certification as a renewable resource shall state, at a minimum:

(a) The name of the Renewable Energy Facility for which the application is made and its address;

(b) The name of the owner of the facility and the owner's contact information;

(c) The name of the operator of the facility and the operator's contact information;

(d) The name of a contact person and the person's contact information;

(e) The renewable fuel type(s) and capacity information;

(f) The operational start date; and

(g) Whether the facility is a "behind-the-meter" generator.

2902.4 In addition to the information required in § 2902.3, an applicant submitting an Application must also attach:

(a) A current Certificate of Good Standing for the applicant issued by the state in which the business was formed, if applicable;

(b) A copy of the U.S. Department of Energy, Energy Information Administration Form EIA 860, if the rated capacity is greater than one megawatt (1 MW);

(c) A Certificate of Authorization to Conduct Business in the District of Columbia, if applicable;

(d) Documentation of authority to sign on behalf of the applicant;

(e) Documentation that the energy output of the non-residential solar heating, cooling, or process heat property systems producing or displacing greater than ten thousand kilowatt hours (10,000 kWh) per year is determined by an on-site energy meter that meets performance standards established by the International Organization of Legal Metrology (OIML) and the solar collectors used have a OG-100 certification from the Solar Rating and Certification Corporation (SRCC), if applicable;

(f) Documentation that the energy output of the non-residential solar heating, cooling, or process heat property systems producing or displacing ten thousand (10,000) or less kilowatt-hours per year is determined by the SRCC OG-300 annual system performance rating protocol applicable to the property or by an on-site energy meter that meets performance

standards established by OIML and the solar collectors used have a OG-100 certification from the SRCC, if applicable;

(g) Documentation that the residential solar thermal system energy output is determined by the SRCC OG-300 annual rating protocol or by an on-site energy meter that meets performance standards established by OIML and the solar collectors used have a OG-100 certification from the SRCC, if applicable; and

(h) Interconnection Approval for the renewable generator, if applicable.

2902.5 An applicant submitting an Application must attest to:

(a) Environmental Compliance, if the fuel type is not solar energy; and

(b) General Compliance that all information contained in the Application is true and accurate.

2902.6 An Application shall be submitted through the Commission's website at www.dcpsc.org using the RPS interactive feature in the eDocket system. Applications may be submitted through the RPS interactive feature twenty-four (24) hours a day, seven (7) days a week. Review of applications in accordance with §§ 2902.7 and 2902.8 shall commence on the next business day if the application is submitted after 5:30 p.m. on a business day or if submitted on a non-business day.

2902.7 The Commission shall issue a decision on the Application within thirty (30) business days of the submission date subject to the conditions set forth in § 2902.6 filing. The generation resource shall be considered certified if the Commission has not acted within the thirty (30) business-day period, except where the Commission has issued a request for additional information.

2902.8 In cases where the Commission determines that an Application is insufficient or incomplete, the Commission or its staff will send a written request for additional information within fifteen (15) business days of the submission date subject to the conditions set forth in § 2902.6. In such cases, the applicant shall have fifteen (15) days to submit the additional information.

2902.9 An application shall be accepted for filing and docketed within fifteen (15) business days of the submission date provided no additional information is requested.

2902.10 A request for additional information from the Commission shall toll the deadline in § 2902.7 for issuing a decision on the applicant's Application.

2902.11 Upon receipt of the additional information from the applicant or its authorized representative, the Application shall be accepted for filing and docketed, and the Commission shall issue a decision on the application in accordance with the time periods prescribed in § 2902.7.

2902.12 Upon approval of an application, the Commission shall assign a unique GATS certificate number to the eligible renewable energy generating resource. The Commission should be notified of any planned substantive changes in the operating characteristics of a certified generating facility at least thirty (30) days prior to the effective date of such changes. Substantive changes include, but are not limited to, changes in fuel type, fuel mix, and generator type. A revised application should be submitted for Commission review, subject to the time periods prescribed in § 2902.7. In addition, applicants and District-certified generating facilities shall notify the Commission of any substantive changes in information provided in an original or amended application within thirty (30) days. If a system is already certified, the changes to the system or facility shall be deemed approved unless the Commission requests additional information within fifteen (15) business days. If a request for additional information is issued for a system that is already certified, the changes to the system or facility shall be deemed approved within fifteen (15) business days after a response is received, unless further information is requested.

2902.13 A renewable generator may be decertified by the Commission if it is determined to no longer be an eligible renewable resource due to fraud or a material change in the nature of the resource. Before being decertified, a renewable electricity generator will be given thirty (30) days' written notice and an opportunity to show cause why it should not be decertified.

2902.14 Any renewable generator that is decertified due to fraud may not create any District of Columbia RECs for a three (3)-year period and may not retroactively create RECs for that same three (3)-year period.

2902.15 Any subsequent unrelated owner of the decertified renewable generator, pursuant to § 2902.14, is not subject to the three (3)-year exclusion beginning with its effective date of ownership.

2902.16 After December 31, 2019, a facility certified as a Tier Two renewable resource shall not be eligible to generate RECs for the District of Columbia's RPS program.

2902.17 Every facility using qualifying biomass to generate electricity and certified as a qualifying resource by the Commission shall submit annually by June 1, starting in 2016, information demonstrating each system's total system efficiency for the current calendar year consistent with the definitions of "total system efficiency," "fuel input," and "useful thermal energy output" in Subsection 2999.1.

2903 CREATION AND TRACKING OF RENEWABLE ENERGY CREDITS

2903.1 RECs shall be created and tracked through the PJM Environmental Information Service GATS (PJM-EIS GATS).

2903.2 Behind-the-Meter generators with a capacity of less than ten kilowatts (10 kW) may submit engineering-based estimates of their output if the generator is not directly metered by a revenue grade utility meter. For solar thermal energy systems that do not generate electricity:

(a) If the output is to be estimated, the Commission will provide PJM-EIS with the output in kilowatt-hour savings for the system, based on SRCC's estimated annual system performance of OG-300 certified systems; or

(b) If the solar thermal energy system uses an energy meter that meets the performance standards established by OIML, then the solar thermal energy produced by the system shall be credited with one kilowatt hour (1 kWh) of electricity generated for each three thousand four hundred twelve British thermal units (3,412 BTUs) produced by the solar thermal energy system.

2903.3 RECs created by behind-the-meter generators must be recorded in GATS at least once each calendar year in order to be eligible for compliance.

2903.4 RECs shall be valid for a three (3)-year period from the date of generation. A newly certified renewable generator can produce RECs starting from January 1st of the year in which it was certified, except that any renewable generator certified in January of any year can produce RECs starting January 1st of the year before that certification.

2903.5 A REC shall be retired after it is used to comply with any state's Renewable Energy Portfolio requirement.

2903.6 Retroactively created RECs must be created and tracked through PJM-EIS GATS.

2904 RECOVERY OF FEES AND COSTS

2904.1 Recovery of any fees and costs by the local electric distribution company and electric suppliers shall be in accordance with D.C. Official Code § 34-1435.

2904.2 No Electricity Supplier shall recover any compliance fee levied pursuant to D.C. Official Code § 34-1434 from its customers without receiving prior approval from the Commission.

2904.3 Pursuant to D.C. Official Code § 34-1435(a), the local electric distribution company may recover prudently incurred Renewable Energy Portfolio Standard compliance costs, including REC purchases and any compliance fees.

2904.4 Local electric distribution company compliance costs for Standard Offer Service (SOS) shall be considered prudent if SOS energy suppliers are selected through a competitive bid process and the cost of complying with the Renewable Energy Portfolio Standard is included in the supplier's bid prices.

2904.5 Local electric distribution company compliance costs for Market Price Service shall be recovered through the Market Price Service Procurement Rate Schedule.

2904.6 Any cost recovery approved by the Commission may be in the form of a non-bypassable surcharge to current applicable customers and shall be disclosed on their bills.

2905 WAIVER

2905.1 The Commission reserves the right to waive any provision of these rules for good cause shown.

2999 DEFINITIONS

2999.1 For the purposes of this chapter, the following terms and phrases have the following meanings:

Adjacent PJM State - a state that is adjacent to the PJM Interconnection Region. The following states are deemed adjacent to the PJM Interconnection Region as of October 2011: Alabama, Arkansas, Georgia, Iowa, Mississippi, Missouri, New York, South Carolina, and Wisconsin. The adjacent states will vary as the boundary of the PJM Interconnection Region changes over time.

Behind-the-meter generator or BTM generator - a renewable on-site generator that is located behind a retail customer meter such that no utility-owned transmission or distribution facilities are used to deliver the energy from the generating unit to the on-site generator's load.

Black liquor -- the spent cooking liquor from the Kraft process of paper making.

Brush - shrubs and stands of short, scrubby trees that do not reach merchantable size.

Commission - the Public Service Commission of the District of Columbia.

Customer generation - generation that is not principally dedicated for sale into the wholesale electricity market.

Dunnage - loose materials or padding used to support or protect cargo within shipping containers.

Energy Office - the District of Columbia Department of Energy & Environment's Energy Office.

"**Electricity Supplier**" means a person, including an Aggregator, Broker, or Marketer, who generates electricity; sells electricity; or purchases, brokers, arranges or markets electricity for sale to customers. The term excludes the following:

(a) Building owners, lessees, or managers who manage the internal distribution system serving such building and who supply electricity solely to the occupants of the building for use by the occupants;
(b) Any Person who purchases electricity for its own use or for the use of its subsidiaries or affiliates;
(c) Any apartment building or office building manager who aggregates electric service requirements for his or her building or buildings, and who does not: (i) Take title to electricity; (ii) Market electric services to the individually-metered tenants of his or her building; or (iii) Engage in the resale of electric services to others;
(d) Property owners who supply small amounts of power, at cost, as an accommodation to lessors or licensees of the property;
(e) Consolidators;
(f) Community Renewable Energy Facilities (CREFs) as defined in Section 4199.1 and as described in Sections 4109.1 through 4109.3 of Title 15, pursuant to the Community Renewable Energy Amendment Act of 2013 (D.C. Law 20-47; D.C. Official Code §§ 34-1518 *et seq.*);
(g) An Electric Company; and
(h) Any Person or entity that owns a behind-the-meter generator and sells or supplies the electricity from that generator to a single retail customer or customers behind the same meter located on the same premise.

Fuel input -- the higher heating value of the input fuel type, measured in BTU/LB, based on the standardized heating type of fuel type, multiplied by the annual fuel used in as delivered tons, multiplied by 2000.

Fund - the District of Columbia Renewable Energy Development Fund.

PJM Interconnection - the regional transmission organization that is regulated by the Federal Energy Regulatory Commission and functionally controls

the transmission system for the region that includes the District of Columbia.

PJM Interconnection region - the area within which the movement of wholesale electricity is coordinated by the PJM Interconnection, L.L.C. With respect to qualifying RECs, the following states are deemed within the PJM Interconnection Region as of October 2011: Delaware, the District of Columbia, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia.

Qualifying biomass - a solid, non-hazardous, cellulosic waste material that is segregated from other waste materials, and is derived from any of the following forest-related resources, with the exception of old growth timber, construction and demolition-derived wood and whole trees that are not part of a closed-loop biomass system, cleared solely for the purpose of energy production, unsegregated solid waste, or post-consumer wastepaper:

(a) Mill residue;

(b) Slash;

(c) Brush;

(d) Yard waste;

(e) A waste pallet, crate, or dunnage;

(f) Agricultural sources, including tree crops, vineyard materials, grain, legumes, sugar, and other crop by products or residues; or

(g) Cofired biomass, subject to the condition under D.C. Official Code § 34-1433(f).

Renewable energy credit or REC - a credit representing one megawatt (1 MWH) hour of electricity produced by a Tier One or Tier Two renewable resource located within the PJM Interconnection region or within a state that is adjacent to the PJM Interconnection region.

Renewable energy portfolio standard or standard - the percentage of electricity sales at retail in the District of Columbia that is to be derived from Tier One renewable sources and Tier Two renewable sources in accordance with D.C. Official Code § 34-1432(c).

Renewable generator - a person that produces energy from a Tier One renewable source or Tier Two renewable source.

Slash:

(a) Tree tops, branches, bark, or other residue left on the ground after logging or other forestry operations; or

(b) Tree debris left after a natural catastrophe.

Solar energy - radiant energy, direct, diffuse, or reflected, received from the sun at wavelengths suitable for conversion into thermal, chemical, or electrical energy, that is collected, generated, or stored for use at a later time.

Tier One renewable source - one (1) or more of the following types of energy sources:

(a) Solar energy;

(b) Wind;

(c) Qualifying biomass used at a generation unit that achieves a total system efficiency of at least sixty-five percent (65%) on an annual basis, can demonstrate that it achieved a total system efficiency of at least 65% on an annual basis through actual operational data after one year, and that started commercial operation after January 1, 2007;

(d) Methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant;

(e) Geothermal;

(f) Ocean, including energy from waves, tides, currents, and thermal differences;

(g) Fuel cells producing electricity from a Tier One renewable source under paragraph (c) or (d) of this paragraph; and

(h) Raw or treated wastewater used as a heat source or sink for a heating or cooling system.

Tier two renewable source - one (1) or more of the following types of energy sources:

(a) Hydroelectric power other than pumped storage generation;

(b) Waste-to-energy; or

(c) Qualifying biomass used at a generation unit that started commercial operation on or before December 31, 2006; or achieves a total system efficiency of less than 65%; or uses black liquor.

Total system efficiency - the sum of the net useful thermal energy output measured in BTUs divided by the total fuel input.

Useful thermal energy output - energy in the form of direct heat, steam, hot water, or other thermal form that is used in production and beneficial measures for heating, cooling, humidity control, process use, or other valid thermal end use energy requirements and for which fuel or electricity would otherwise be consumed. Useful thermal energy output does not include thermal energy used for the purpose of drying or refining biomass fuel.

Waste-to-energy - waste treatment, including the use of a licensed facility that burns waste resources in high-efficiency furnaces or boilers, to produce electricity. Such resources include municipal solid waste but exclude waste coal.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

RM41-2017-01 – DISTRICT OF COLUMBIA STANDARD OFFER SERVICE RULES

1. The Public Service Commission of the District of Columbia ("Commission"), pursuant to its authority under D.C. Official Code Sections 2-505 (2016 Repl.) and 34-802 (2012 Repl.), hereby gives notice of the adoption of amendments to Chapter 41 (The District of Columbia Standard Offer Service Rules), Section 4105 (Establishment and Re-Establishment of Standard Offer Service; Customer Switching Restrictions) of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations ("DCMR").

2. The amendments will harmonize Subsection 327.35 of the Consumer Bill of Rights rules with Subsection 4105.9 to require a three (3) business day transfer period from the electric company to the competitive electricity supplier when customers switch electricity providers.

3. Previous notices of proposed rulemaking seeking to amend these rules were published on December 15, 2017,[1] and March 23, 2018.[2] The Commission by Order No. 19761, adopted the revised rule as final on December 5, 2018. The Electric Company shall have until September 10, 2019, to comply with the revised Subsection 4105.9.

Chapter 41, THE DISTRICT OF COLUMBIA STANDARD OFFER SERVICE RULES, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended as follows:

Section 4105, ESTABLISHMENT AND RE-ESTABLISHMENT OF STANDARD OFFER SERVICE; CUSTOMER SWITCHING RESTRICTIONS, Subsection 4105.9, is amended as follows:

4105.9 Notice of Transfers; Transfer of Service; Bill Calculation:

(a) Notice of Transfer into SOS: A Customer who intends to transfer into SOS shall do so by notifying (by telephone, in writing, Internet or other technological means), both the Electric Company and the SOS Administrator, or by canceling service with its Competitive Electricity Supplier;

(b) Notice of Transfer out of SOS: Notice (by telephone, in writing, Internet or other technological means) that a SOS Customer will terminate SOS and obtain service from a Competitive Electricity Supplier shall be provided to the Electric Company and the SOS Administrator by the

[1] 64 *DCR* 12735 (December 15, 2017).

[2] 65 *DCR* 2996 (March 23, 2018).

Customer's Competitive Electricity Supplier pursuant to Chapter 3 of Title 15 of the District of Columbia Municipal Regulations; and

(c) The Electric Company shall transfer a Customer to a Competitive Electricity Supplier in no later than three (3) business days after the receipt of the notice of an enrollment transaction from the Competitive Electricity Supplier. The Electric Company shall transfer a Customer to SOS in no later than three (3) business days after receiving the customer's request. The Electric Company will accept the last enrollment received at the relevant days' end.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PROPOSED RULEMAKING

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in the Omnibus Alcoholic Beverage Amendment Act of 2004, effective September 30, 2004, (D.C. Law 15-187; D.C. Official Code § 25-211(b) (2012 Repl. & 2018 Supp.)), and delegated in Mayor's Order 2001-96, dated June 28, 2001, as revised by Mayor's Order 2001-102, dated July 23, 2001, hereby gives notice of its intent to amend Chapter 5 (License Applications), of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR).

In 2013, the Council of the District of Columbia (Council) passed the Omnibus Alcoholic Beverage Regulation Amendment Act of 2012 which, among other things, required the Board to promulgate rules defining the term, "full-service grocery store". *See* Section 2(c) of the Omnibus Alcoholic Beverage Regulation Amendment Act of 2012, effective May 1, 2013 (D.C. Law 19-310; D.C. Official Code § 25-112(a-1)(2)(A) (2012 Repl.)). The Board fulfilled this requirement in July 2013 when it adopted the *Full-Service Grocery Store Definition Notice of Final Rulemaking*. *See* 60 DCR 11574 (August 9, 2013).

Notwithstanding the Board's adoption of the 2013 rules, further clarification is necessary to eliminate confusion regarding the layout of the grocery store and the percentage of the store, aisles, and shelves that are to be dedicated to food and non-food items. The Board finds that the submission of architectural drawings by an applicant seeking to qualify as a full-service grocery store benefits both the Board and the applicant by addressing many issues the Board may initially have when reviewing the application; thereby, reducing the amount of time needed to review the application.

This proposed rulemaking, the *Full-Service Grocery Store Notice of Proposed Rulemaking*, seeks to amend Chapter 5 (License Applications) by adding a new Section 505 which would require applicants for a new off-premises retailer's license, class B, to submit an architectural drawing of their floor plan at the time their application is submitted to the Board. Additionally, the proposed rulemaking would create a methodology for calculating whether an applicant's floor plan satisfies the necessary criteria for qualifying as a full-service grocery store as defined by 23 DCMR § 199.

On September 26, 2018, the Board voted, seven (7) to zero (0) to approve the proposed rulemaking. Pursuant to D.C. Official Code § 25-211(b) (2012 Repl.), the proposed rules will be transmitted to the Council for a ninety (90)-day review period. The Board will not adopt the rules as final unless affirmatively approved by the Council. The Board further gives notice of its intent to adopt the final rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

A new Section 505, ARCHITECTURAL DRAWING, is added to Chapter 5, LICENSE APPLICATIONS, of Title 23 DCMR, ALCOHOLIC BEVERAGES, to read as follows:

505 ARCHITECTURAL DRAWING

505.1 An applicant for a new off-premises retailer's license, class B, that meets the definition of a full-service grocery store (hereinafter referred to as a "full-service grocery store") shall submit with their application an architectural drawing of their floorplan that satisfies the full-service grocery store requirements set forth in 23 DCMR § 199 and includes, at a minimum, the dimensions (*i.e*., length and width measurements) and total square footage of the establishment's:

(a) Entire leased or operated area;

(b) Non-selling area;

(c) Selling area;

(d) Food-selling area; and

(e) Non-food selling area.

505.2 For purposes of this section, the following terms shall have the meanings ascribed:

(a) **Entire leased or operated area**- the portion of the building where the retail establishment is located and is under the applicant's control.

(b) **Food category** – includes the following products:

(1) Fresh fruits and vegetables;

(2) Fresh and uncooked meats, poultry, and seafood;

(3) Dairy products;

(4) Canned foods;

(5) Frozen foods;

(6) Dry groceries and baked goods; and

(7) Non-alcoholic beverages.

(c) **Food-selling area** – the portion of the retail establishment that is dedicated to the sale of the seven (7) food categories as defined in paragraph (b) of this subsection.

(d) **Non-food selling area** – the portion of the retail establishment that is dedicated to selling of items other than the seven (7) food categories as defined in paragraph (b) of this subsection.

(e) **Non-selling Area** – the portion of the retail establishment that is not open to the public (*e.g.*, storage areas, preparation areas, and administrative offices) and the establishment's restrooms.

(f) **Selling area** – the area in the retail establishment that is open to the public and does not include storage areas, preparation areas or restrooms.

505.3 An applicant for a full-service grocery store license must establish that either:

(a) A minimum of fifty percent (50%) of the store's square feet of selling area is dedicated to the sale of the seven (7) food categories; or

(b) A minimum of six thousand square feet (6,000 sq. ft.) of the store's selling area is dedicated to the sale of the seven (7) food categories.

505.4 The architectural drawing for an establishment whose selling area is dedicated to the sale of the seven (7) food categories or is equal to or greater than six thousand square feet (6,000 sq. ft.) shall identify the portion of the store that is being sought to qualify under the full-service grocery store definition.

505.5 The architectural drawing shall include the dimensions (*i.e.*, length and width measurements) for each of the establishment's shelving or display cases and flooring used for displaying items identified in the seven (7) food categories. The architectural drawing shall also include the dimensions of the publicly accessible areas, including but not limited to the publicly accessible store aisles.

505.6 The architectural drawing shall include the following:

(a) The display area dedicated to each of the seven (7) food categories which shall, themselves, be identified and color-coded on the applicant's proposed floor plan;

(b) A listing of the total square footage of the selling area dedicated to each of the seven (7) food categories; and

(c) The square footage of each individual display area if one food category is divided between two (2) or more unconnected display areas separated by an area not associated with the food category (*i.e.*, non-food selling area, non-selling area or different food category).

505.7 For purposes of this section, the following shall apply:

(a) The **square footage of the "selling area" dedicated to a food category** shall be calculated by adding up to three feet (3 ft.) of available aisle space in all directions to the length and width of the dimensions of the display area containing the items of the food category;

(b) The **square footage of an applicant's non-selling area** shall be calculated by adding together the square footage of each area of the retail establishment that is not open to the public (*e.g.*, storage and food preparation areas) and the establishment's restrooms;

(c) The **total selling area** shall be calculated by subtracting the establishment's non-selling area from the total square footage of the establishment's entire leased or operated area;

(d) The **non-food selling area** shall be calculated by adding together the square footage of each selling area dedicated to items other than the seven (7) food categories (i.e., non-food items). The square footage of a selling area dedicated to non-food items shall be calculated by adding up to three (3) feet of available aisle space in all directions to the length and width of the dimensions of the display area holding the non-food items;

(e) The **food selling area** shall be calculated by subtracting the establishment's non-food selling area from the establishment's selling area; and

(f) The **amount of a store's square footage of selling area dedicated to the sale of each of the seven (7) food categories** shall be calculated by dividing the establishment's food selling area (numerator) by the establishment's total selling area (denominator).

505.8 The indoor seating area shall also be measured as part of an establishment's non-food selling area, whereas the establishment's outdoor seating area shall not be measured as part of the establishment's selling area or non-food selling area;

505.9 An applicant for a full-service grocery store class B retailer's license must dedicate a minimum of five percent (5%) of the store's food selling area to at least six (6) of the seven (7) food categories. The amount of the store's food selling area dedicated to each food category shall be calculated by dividing the total square footage of the selling area dedicated to that particular food category (numerator) by the square footage of the establishment's total food selling area (denominator).

Copies of the proposed rulemaking can be obtained from by contacting Martha Jenkins, General Counsel, Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., Suite 400, Washington, D.C. 20009. Persons with questions and comments concerning the rulemaking should contact Martha Jenkins at (202) 442-4456 or via e-mail at martha.jenkins@dc.gov. Comments 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 the above address.

DEPARTMENT OF FOR-HIRE VEHICLES

NOTICE OF EXTENDED COMMENT PERIOD TO PROPOSED RULEMAKING

This notice is to inform all interested members of the public that the Interim Director, Department of For-Hire Vehicles (DFHV), is extending the time to comment on the proposed rulemaking to amend the District of Columbia Municipal Regulations (DCMR) by adding a new Title 31 (Vehicles For-Hire), published in the *D.C. Register* on November 16, 2018 at 65 DCR 012649. The public comment period was originally scheduled to close on December 31, 2018. The public comment period will now close **at midnight on January 30, 2019.**

Copies of this proposed rulemaking can be obtained at www.dcregs.dc.gov or by contacting the Department of For-Hire Vehicles, 2235 Shannon Place, S.E., Suite 3001, Washington, D.C. 20020. All persons desiring to file comments on the proposed rulemaking action should submit written comments via e-mail to dfhv@dc.gov or by mail to the Department of For-Hire Vehicles, 2235 Shannon Place, S.E., Suite 3001, Washington, D.C. 20020, not later than midnight on January 30, 2019.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health Care Finance ("DHCF"), pursuant to the authority set forth in Section 6(6) of the Department of Health Care Finance Establishment Act of 2007 ("Establishment Act"), effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2013 Repl.)), hereby gives notice of the proposed adoption of a new Chapter 87 (District of Columbia Health Information Exchange) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations ("DCMR").

As set forth in Section 4 of the Establishment Act (D.C. Official Code § 7-771.03(2)) (2013 Repl.)), DHCF was established with the purpose of developing a comprehensive, efficient, and cost-effective health-care system for the District's uninsured, under-insured, and low-income residents. Further, as set forth in Section 8 of the Establishment Act (D.C. Official Code § 7-771.07(8) (2013 Repl.)), DHCF's duties include the development and maintenance of comprehensive information-technology infrastructure that accurately and efficiently processes claims, interfaces with other necessary public, private, and nonprofit information-technology systems, and collects information for data analysis of trending, cost measurement, performance management, policy development, and strategic planning.

DHCF leads the District's health information technology ("HIT") and health information exchange ("HIE") policy development effort and serves as the State Health IT Coordinator for the District. In its capacity as the State Health IT Coordinator, DHCF fulfills several complementary roles: DHCF administers the Medicaid Electronic Health Record Incentive Program; DHCF facilitates federal and local funding to support health IT projects that directly support Medicaid providers while building infrastructure to serve all District residents; DHCF develops health IT strategies for the District that are responsive to the complex health care needs of a diverse population; and DHCF coordinates ongoing, District-wide public input through the DC HIE Policy Board and stakeholder outreach activities.

The effective use of health information, especially when exchanged among organizations via HIE, is a fundamental component of DHCF's short term and long term health system reform efforts and a vital component of efficient health care delivery. There are significant gaps in access and use of HIT among providers serving District Medicaid beneficiaries. At the recommendation of the DC HIE Policy Board and the State Innovation Model HIE Workgroup, the District committed to undertake several initiatives aimed at bolstering the District's HIE capacities in the District's 2016 State Health Innovation Plan. Among those initiatives was DHCF's commitment to the creation of a District-wide HIE and the development of thresholds and standards for participation in that exchange.

To meet its commitment to the promotion of HIE in the District and in accordance with the purposes and duties set forth under the Establishment Act, DHCF is proposing regulations to establish the District of Columbia Health Information Exchange ("DC HIE"), govern the registration and designation of HIE entities in the District of Columbia, and set out guidance to regulate the efficient and secure transmission of health related-information according to

nationally recognized standards. The Health Information Technology for Economic and Clinical Health Act (Pub. L. No. 111-5, Title XIII, 123 Stat. 226 (2009)), guides the establishment of the DC HIE.

The DC HIE is proposed as a statewide, interoperable system of registered and designated HIE entities. Under the proposed framework, HIE entities operating in the District are eligible to apply for registration and designation by DHCF. Registered and designated HIE entities will work collaboratively within the DC HIE framework to facilitate person-centered care through the secure electronic exchange of health information among participating organizations. Registered and designated HIE entities participating in the DC HIE will work with DHCF to implement the District's health information exchange initiatives as outlined under the District's State Medicaid Health Information Technology Plan ("SMHP") in support of a District-wide health data infrastructure and service.

Several HIE entities currently operate in the District and already exchange health information among providers, patients, payers, and government agencies in accordance with applicable District and federal laws. These rules propose privacy, security, notice, and access standards for those HIE entities wishing to exchange health information and participate in the DC HIE.

Further, these rules propose: 1) the establishment of the processes and procedures for the voluntary registration and designation of HIE entities in the District; 2) specify DHCF's responsibilities for oversight of registered and designated HIE entities; 3) set forth a compliance and enforcement framework; 4) set forth eligibility requirements for HIE entities seeking to use DHCF's data; and 5) define terms related to health information exchange.

The Director 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*.

A new Chapter 87, DISTRICT OF COLUMBIA HEALTH INFORMATION EXCHANGE, of Title 29 DCMR, PUBLIC WELFARE, is added to read as follows:

CHAPTER 87 DISTRICT OF COLUMBIA HEALTH INFORMATION EXCHANGE

8700 GENERAL PROVISIONS
8701 THE DISTRICT OF COLUMBIA'S HEALTH INFORMATION EXCHANGE (DC HIE)
8702 HIE REGISTRATION REQUIREMENTS AND APPLICATION
8703 REGISTERED HIE ENTITY HEALTH INFORMATION ACCESS, USE, AND DISCLOSURE REQUIREMENTS
8704 AUDITING REQUIREMENTS FOR REGISTERED HIE ENTITIES
8705 REMEDIAL ACTIONS TO BE TAKEN BY A REGISTERED HIE ENTITY
8706 NOTICE OF HIPAA BREACH AND NON-HIPAA VIOLATION BY A REGISTERED HIE ENTITY
8707 REGISTERED HIE ENTITY CONSUMER PARTICIPATION, ACCESS, AND EDUCATION REQUIREMENTS

8708 **HIE DESIGNATION REQUIREMENTS AND APPLICATION**
8709 **DESIGNATED HIE ENTITY AUDITING REQUIREMENTS**
8710 **DESIGNATED HIE ENTITY REQUIREMENTS TO PROMOTE CONSUMER PARTICIPATION, ACCESS, AND EDUCATION**
8711 **OVERSIGHT AND ENFORCEMENT**
8712 **EXEMPTIONS**
8713 **APPEALS AND ADMINISTRATIVE REVIEW**
8799 **DEFINITIONS**

8700 GENERAL PROVISIONS

8700.1 This chapter governs the establishment of the District of Columbia's Health Information Exchange ("HIE"), the registration and designation of HIE entities in the District by the Department of Health Care Finance ("DHCF") that opt to participate in the DC HIE and sets forth requirements to maintain the privacy and security of health information exchanged by a registered or designated HIE entity.

8700.2 This chapter sets forth requirements for participation in the DC HIE by registered and designated HIE entities, in order to:

(a) Ensure the privacy and security of protected health information ("PHI") accessed, used, or disclosed through a registered or designated HIE entity, including protections for the Secondary Use of PHI obtained, accessed, or released through a registered or designated HIE entity;

(b) Govern the access, use, maintenance, and disclosure of PHI through or by a registered or designated HIE entity;

(c) Improve access to clinical records by treating providers and participating organizations in the District;

(d) Promote interoperable exchange of health information;

(e) Ensure registered and designated HIE entities in the District adhere to District requirements and nationally recognized operating standards; and

(f) Govern the DC HIE infrastructure and consumer services developed for implementation by registered and designated HIE entities participating in the DC HIE.

8700.3 DHCF shall provide ongoing monitoring to ensure compliance with criteria for registration and designation of HIE entities in a manner consistent with this chapter.

8700.4 Registered and designated HIE entities are subject to the following requirements:

(a) The Health Insurance Portability and Accountability Act of 1996, including all pertinent regulations (45 CFR Parts 160 and 164) issued by the U.S. Department of Health and Human Services, as amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), (Pub. L. No. 111-5, Title XIII, 123 Stat. 226 (2009));

(b) The Health Breach Notification Rule, 16 CFR Part 318, adopted by the Federal Trade Commission pursuant to the HITECH Act;

(c) The District's "Consumer Protection Procedures Act," effective July 22, 1976 (D.C. Law 1-76; D.C. Official Code §§ 28-3901 *et seq.*);

(d) Federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records under 42 CFR Part 2;

(e) The District's "Mental Health Information Act of 1978," effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code §§ 7-1201.01 *et seq.*); and

(f) All other applicable District and federal laws and regulations governing the use, access, maintenance, and disclosure of health information.

8701 THE DISTRICT OF COLUMBIA'S HEALTH INFORMATION EXCHANGE (DC HIE)

8701.1 The DC HIE shall be a privately-operated interoperable system of registered and designated HIE entities that facilitates person-centered care through the secure electronic exchange of health information among participating organizations in support of a District-wide health data infrastructure.

8701.2 DHCF shall provide governance and oversight of the DC HIE to enable the secure and efficient exchange of health information, as well as implement the District's health information exchange initiatives as outlined under the District's State Medicaid Health Information Technology Plan and otherwise set forth by DHCF.

8701.3 DHCF may issue grants, contracts, or agreements to design, develop, implement or maintain shared HIE infrastructure and consumer services for the DC HIE in accordance with the HITECH Act, Chapter 18 (Health Care Benefit Grants) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations, the "Procurement Practices Reform Act of 2010," effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code §§ 2–351.00 *et seq.*) and the "Grant Administration Act of 2013," effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code §§ 1-328.11 *et seq.*), as amended by the "Grant Administration Amendment Act of 2015," effective October 22, 2015 (D.C. Law 21-36; 62 DCR 10905 (August 14, 2015)).

8702 HIE REGISTRATION REQUIREMENTS AND APPLICATION

8702.1 An HIE entity wishing to participate in the DC HIE must apply for registration in a form and manner consistent with this section and policy guidance provided by DHCF. Application materials and guidance will be published by DHCF on its website at www.dhcf.dc.gov.

8702.2 HIE entities applying for registration shall comply with the requirements of the chapter and demonstrate they meet the following minimum criteria:

(a) The HIE entity or its managing business organization, is a business organization established under District or applicable state laws;

(b) The HIE entity or its managing business organization maintains a general business liability insurance and cyber liability insurance for the operation of the HIE entity;

(c) The HIE entity maintains a professional staff responsible to a governing body that has the capacity to ensure accountability to the organization's mission;

(d) The HIE entity can query health care consumer information in accordance with the requirements for accessing, using or disclosing health information through an HIE set forth under this chapter;

(e) The HIE entity submits the results of its latest third-party privacy and security audit;

(f) The HIE entity submits a policy that ensures reasonable notice will be provided to its participating organizations if the HIE entity ceases its operations or dissolves its services in the District of Columbia. The HIE entity’s policy submission shall be consistent with requirements set forth in guidance provided by DHCF and published on DHCF’s website at www.dhcf.dc.gov;

(g) The HIE entity shall provide a report for each of the past three (3) years, from a third-party auditor which shows no expression of doubt to the entity’s ability to continue as a going concern and resulting in an unqualified opinion with regard to the HIE entity’s financial statements;

(h) The HIE entity attests that no disciplinary actions were taken by federal, District, or state agencies against the entity, its principals, or officers in the two (2) years prior to applying for registration;

(i) If the HIE entity is not domiciled in the District of Columbia, the HIE entity shall provide the contact information of registered resident agent who shall accept service in the District of Columbia on behalf of the HIE entity;

(j) The HIE entity provides DHCF with a copy of its user access control policy;

(k) The HIE entity provides DHCF with a copy of its Notice of Privacy Practices and consumer opt-out form;

(l) The HIE entity submits its Incident Response Plan to DHCF;

(m) At the time of application, an HIE entity operating in the District of Columbia that applies for registration, shall meet or exceed the access, use, and disclosure requirements set forth in this chapter; and

(n) The HIE entity complies with any other requirements or requests for information made by DHCF, either directly or through policy guidance published on its website at www.dhcf.dc.gov.

8702.3 DHCF retains the right to waive certain application requirements or exempt an HIE entity from certain application requirements set forth in § 8702.2 in accordance with the provisions set forth in § 8712.

8702.4 Within ninety (90) calendar days after receipt of complete information from an applicant seeking to register as an HIE entity in the District of Columbia, DHCF shall take one of the following actions:

(a) Approve the registration application;

(b) Deny the registration application for failure to meet requirements for registration set forth in § 8702.2 to the applicant in writing; or

(c) Request additional information from the applicant, in writing, to determine an HIE entity's eligibility for registration.

8702.5 HIE entities that are denied registration, in accordance with § 8702.4, shall have the opportunity to appeal DHCF's determination in accordance with the procedure for appeals and administrative review as set forth in § 8713.

8702.6 As a condition of participation in the DC HIE, registered HIE entities shall:

(a) Submit operational information, as requested by DHCF.

(b) Comply with requirements for participation in the DC HIE set forth in this chapter or established by DHCF in policy guidance published on its website at www.dhcf.dc.gov.

8702.7 An HIE entity's registration shall be awarded in three (3) year terms. DHCF shall review an HIE entity's registration every three (3) years from the date of registration in accordance with requirements in § 8702.8 to determine whether the entity will be renewed for an additional three (3) year term.

8702.8 In order to renew their registration HIE entities must demonstrate continued compliance with § 8702 by providing the following information in a form and manner specified by DHCF:

(a) Any changes to information submitted with regard to the items set forth in § 8702.2 that affect the veracity of a prior submission;

(b) Results of a scheduled audit performed in compliance with § 8704; and

(c) Documentation of compliance with additional requirements as set forth by DHCF in policy guidance.

8703 REGISTERED HIE ENTITY HEALTH INFORMATION ACCESS, USE, AND DISCLOSURE REQUIREMENTS

8703.1 A registered HIE entity shall only disclose health information for an authorized purpose, as set forth in § 8703.2

8703.2 An authorized user may use, access, or disclose health information for Primary Use. Primary Use of health information is the use, access, and disclosure of data through or by a registered HIE entity for the purpose of:

(a) Treatment;

(b) Payment of claims and billing;

(c) Health care operations for conducting case management, conduct of quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that obtaining generalized knowledge is not the primary purpose of any studies resulting from such activities;

(d) Reporting to public health authorities in compliance with reporting requirements; or

(e) Other uses or disclosures required by District or federal law.

8703.3 Secondary Use of health information is the use, access, or disclosure of health information through the registered HIE entity that is not for a Primary Use; subject to any limitations under HIPAA or federal law. A registered HIE entity shall provide DHCF with policies governing disclosure for Secondary Use in accordance with policy guidance published to the DHCF website.

8703.4 A registered HIE entity shall only disclose PHI for a Primary Use in accordance with the requirements below:

(a) The disclosure shall only be to an authorized user for the specific purpose for which that authorized user is given access to the HIE; and

(b) All disclosures shall be in full compliance with this chapter, federal and District requirements indicated in § 8700.4.

8703.5 To assure that only an authorized user accesses, uses, or discloses PHI through or from a registered HIE entity, a registered HIE entity shall:

(a) Use and ensure that its participating organizations are using an authentication methodology that meets the minimum technical requirements set forth in the latest edition of the National Institute of Standards and Technology ("NIST"), Special Publication 800-63; and

(b) Take appropriate actions to mitigate the risk of unauthorized use, access, or disclosure of PHI when the registered HIE entity learns or has reason to believe that a participating organization's system or third-party system is not compliant with NIST guidelines. Appropriate actions include but are not limited to ceasing acceptance of the system's authentication of authorized users until the system demonstrates compliance with NIST guidelines to the satisfaction of the registered HIE entity.

8703.6 To assure that only an authorized user accesses, uses, or discloses PHI through or from a registered HIE entity, a registered HIE entity shall ensure that its enrolled participating organizations comply with all of the following requirements:

(a) Appoint a system administrator who is capable of carrying out the requirements set forth in § 8703.5 on behalf of the participating organization prior to exchanging any PHI;

(b) Promptly inform the registered HIE entity system administrator of any circumstances that require termination of an authorized users access as described under § 8703.8;

(c) Ensure that any third-party system it uses authenticates an authorized user in accordance with NIST guidelines prior to allowing that person's access to the HIE through the third-party system; and

(d) Inform the registered HIE entity concerning the following:

(1) The appointment of the system administrator, or any change in such an appointment, within a timely manner of any such appointment or change;

(2) A breach, as defined in 45 CFR § 164.402, or non-HIPAA violation by a person who had or has access to the HIE through the participating organization; or

(3) Any unusual finding, act, or event that it has a basis to believe is or may be a violation of this chapter.

8703.7 A registered HIE entity shall require that the participating organization's system administrator carries out each of the following measures on behalf of the participating organization:

(a) Identify each authorized user within the participating organization and note the user's assigned unique user name in accordance with the most recent applicable guidelines issued by NIST, or other nationally recognized standards identified by DHCF in policy guidance published to its website at www.dhcf.dc.gov;

(b) Coordinate with the registered HIE entity to determine a methodology for assigning each authorized user access to PHI;

(c) Assign to each authorized user an access level that appropriately corresponds to that person's role within the participating organization and the permitted access to PHI;

(d) Modify, in a timely manner, an authorized user's access level as appropriate to reflect any change in that user's role within the participating organization;

(e) Immediately inform the registered HIE entity of changes in an authorized user's role within the participating organization; and

(f) Confirm to the registered HIE entity the appropriateness of a staff member to be an authorized user and that the HIE access level assigned to that staff member corresponds to the authorized user's role within the participating organization.

8703.8 The registered HIE entity shall, within thirty (30) calendar days, terminate access to the PHI by any authorized user:

(a) Who is suspended by the participating organization;

(b) Who is no longer associated with the participating organization; or

(c) Who no longer requires access to the PHI.

8703.9 To mitigate the risks of improper access or disclosure of electronic PHI the registered HIE entity shall undergo annual assessments of the potential risks and vulnerabilities to the confidentiality, integrity, and availability of electronic PHI conducted in accordance with guidance published on the DHCF website. The registered HIE entity shall provide the DHCF Privacy and Security Officer with a copy of their risk assessment on an annual basis.

8703.10 Based on the findings of the assessment conducted in accordance with § 8703.9, the registered HIE entity shall implement security measures to reduce risks and vulnerabilities to:

(a) Protect against anticipated threats to the security or integrity of PHI; and

(b) Protect against any unauthorized uses or disclosures of such PHI in accordance with applicable District or federal laws.

8704 AUDITING REQUIREMENTS FOR REGISTERED HIE ENTITIES

8704.1 In order to ensure that only an authorized user, who is appropriately authenticated, is granted access and has access to health information, a registered HIE entity shall:

(a) Develop and implement protocols, methodologies, and a monitoring approach designed to discover any unusual finding, which may be identified within an audit of the user access logs, including conducting ongoing electronic monitoring of user access logs and investigate any unusual findings in accordance with this chapter;

(b) Conduct each audit under this section in accordance with nationally recognized standards and methodologies as identified by DHCF in policy guidance published on its website at www.dhcf.dc.gov;

(c) Conduct random audits of the user access logs to identify any unusual finding; and, if the registered HIE entity has been notified about an unusual finding or has reason to believe that inappropriate access has occurred;

(d) Investigate each unusual finding identified in the access log audit to determine if there has been a violation of § 8703;

(e) Resolve the matter surrounding an unusual finding by taking remedial actions under § 8705 of this chapter;

(f) Report any unusual finding to each participating organization involved in the unusual finding in a manner consistent with policy guidance set forth by DHCF and published on its website at www.dhcf.dc.gov; and

(g) Maintain an audit trail of user access logs in a retrievable storage medium in accordance with the requirements set forth below:

(1) The registered HIE entity shall perform periodic testing to ensure that the storage medium being used to maintain the user access logs shall allow the data to be recovered; and

(2) Maintenance and storage of the audit trail of user access log data shall comply with the most stringent requirements outlined in applicable District and federal requirements, including ensuring data storage for the longest duration of time identified in applicable District and federal requirements.

8704.2 When a registered HIE entity has identified a potential violation of this chapter, the registered HIE entity shall conduct an unscheduled audit that shall:

(a) Determine whether there is a violation;

(b) Identify the size and scope of the potential violation; and

(c) Identify and complete remedial actions required under § 8705 of this chapter.

8705 REMEDIAL ACTIONS TO BE TAKEN BY A REGISTERED HIE ENTITY

8705.1 A registered HIE entity shall immediately suspend an authorized user's access when it is necessary to avoid a HIPAA privacy breach, non-HIPAA violation, or a threat to the security of health information accessed, used, or disclosed through or from a registered HIE entity.

8705.2 If the registered HIE entity determines that harm to the privacy of persons or security of health information or an ongoing risk of improper use, access, maintenance, or disclosure of PHI may occur prior to conclusion of an investigation, it shall suspend an authorized user's access pursuant to this section before an investigation is complete. Such suspension shall continue until the underlying threat to the privacy of persons or security of health information is contained.

8705.3 A registered HIE entity shall conduct an investigation in accordance with the

requirements set forth below if there is reason to believe that a HIPAA breach or non-HIPAA violation has occurred:

(a) The registered HIE entity shall begin the investigation, no later than sixty (60) calendar days after learning of the allegations giving rise to a potential breach or violation;

(b) The registered HIE entity shall conduct the investigation in a thorough, timely, professional manner and take all necessary actions to gather information concerning the potential breach or violation that reflects the size and scope of such potential breach or violation;

(c) If appropriate, an investigation shall include an audit under the § 8704;

(d) Upon the completion of an investigation, a registered HIE entity shall:

(1) Make a written finding describing the results of the investigation and provide a copy to DHCF and the District of Columbia Office of the Attorney General within thirty (30) calendar days; and

(2) Maintain records of each investigation for at least five (5) years from the date of completion of such investigation or five (5) years from the date a minor health care consumer becomes an adult, whichever is longer.

8705.4 If a registered HIE entity has a reasonable belief that a HIPAA breach or a non-HIPAA violation has occurred, as a result of an audit conducted in accordance with § 8704 or investigation conducted in accordance with § 8705.3, the registered HIE entity shall carry out the following actions within ten (10) business days after acquiring the reasonable belief unless another time period is set forth below:

(a) The registered HIE entity shall determine any remedial action necessary to address the breach or violation as described below;

(1) The registered HIE entity may require that a remedial action include steps to correct an underlying problem; and

(2) The registered HIE entity shall provide a time frame for implementing the remedial action that is consistent with policy guidance set forth by DHCF and published on its website at www.dhcf.dc.gov; and

(b) Within thirty (30) calendar days, the registered HIE entity shall provide the following to DHCF and the District-wide Privacy and Security Official to the participating organization, and to each authorized user whom the

investigation indicates may have committed a breach or violation:

(1) A copy of the findings of the investigation, excluding any sensitive health information;

(2) A list of the remedial actions to be taken by each person and the associated time frame of the remedial action;

(3) A description of the actions necessary to mitigate the harm that may be caused by the breach or the non-HIPAA violation;

(4) A list of the authorized users that are responsible for carrying out the actions to mitigate harm; and

(5) A description of any future action that the HIE entity may take, including suspension, if the authorized user does not comply with the remedial action.

8705.5 Upon completion of the investigation, the registered HIE entity shall immediately suspend access for an authorized user or participating organization when available information indicates one of the following has occurred:

(a) An actual HIPAA breach;

(b) An actual non-HIPAA violation;

(c) An actual violation of District or federal law relevant to privacy or security;

(d) An authorized user or participating organization has sold health information in violation of these regulations; or

(e) An authorized user or participating organization has failed to carry out the remedial actions identified by the registered HIE entity.

8705.6 After the registered HIE entity verifies that the remedial action is complete, a registered HIE entity may reinstate a user's authorization to access information provided that the registered HIE entity modifies the authorized user's access as needed to ensure compliance with this chapter.

8706 NOTICE OF HIPAA BREACH AND NON-HIPAA VIOLATION BY A REGISTERED HIE ENTITY

8706.1 Notification of a HIPAA breach and non-HIPAA violation by a registered HIE entity shall be consistent with notification requirements under applicable federal and District laws and regulations, including HIPAA, the HITECH Act, and under

42 CFR Part 2.

8706.2 When federal or District law does not require a registered HIE entity to provide notification to a participating organization or to an affected health care consumer, or when 42 CFR Part 2 does not mandate other notification requirements, a registered HIE entity shall provide notification of a HIPAA breach and, if applicable, non-HIPAA violations in accordance to the requirements with this section.

8706.3 If an investigation under § 8705 of this chapter concluded that there was a HIPAA breach or non-HIPAA violation, in addition to applicable HIPAA notification requirements, the HIE entity shall notify:

(a) The person who notified the registered HIE entity of the potential HIPAA breach or non-HIPAA violation, if applicable, and to the extent permitted by HIPAA and other federal and District privacy laws;

(b) Any participating organization that has provided health information regarding the health care consumer involved;

(c) Each health care consumer whose PHI or sensitive health information was inappropriately accessed or disclosed due to a HIPAA breach or non-HIPAA violation; and

(d) The DHCF Privacy Officer and the District of Columbia Office of the Attorney General.

8706.4 The registered HIE entity shall include in its notification the contact information for the registered HIE entity, including the registered HIE entity's address, telephone number, website where the health care consumer can learn more information, and a description of the breach or the violation.

8706.5 A registered HIE entity, its enrolled participating organization, or its representative shall provide notification to a health care consumer following a HIPAA breach or non-HIPAA violation subject to the following requirements:

(a) If the registered HIE entity providing the notification under this Subsection has knowledge that another person is acting as the authorized representative for the health care consumer, the registered HIE entity shall provide the notification to that authorized representative instead of the health care consumer;

(b) Notice to the health care consumer required under this Subsection shall be provided in writing by first-class mail to the last known address of the health care consumer, if the health care consumer has made no prior election to method of notice;

(c) If there is insufficient or out-of-date contact information that precludes notice consistent with this chapter, a substitute form of notice shall be provided in accordance with the criteria set forth below:

(1) In the case in which there is insufficient or out-of-date contact information for fewer than ten (10) individuals, then such substitute notice may be provided by an alternative form of written notice, telephone, or other means; or

(2) In the case in which there is insufficient or out-of-date contact information for ten (10) or more individuals, then such substitute notice shall be posted on the home page of the registered HIE entity's website for a period of ninety (90) calendar days on the website or be conspicuous notice in major print or broadcast media in geographic areas where the individuals affected by the breach likely reside. The notice shall include a phone number that remains active for at least ninety (90) calendar days where a health care consumer can learn whether their health information may be included in the HIPAA breach or non-HIPAA violation;

(d) When notice about a HIPAA breach or non-HIPAA violation is required pursuant to this chapter, a registered HIE entity and its enrolled participating organization, as required, shall provide notice in writing within a reasonable time frame, but not later than sixty (60) days from the discovery of the breach or from the date that the registered HIE entity should have reasonably discovered the breach;

(e) If the HIPAA breach or non-HIPAA violation affects more than five hundred (500) health care consumers, in addition to providing individual notice to the affected health care consumers, a registered HIE entity shall provide notice to prominent media outlets serving the District without unreasonable delay and in no case later than sixty (60) calendar days after the discovery of a breach; and

(f) If the participating organization providing the notification keeps a medical record for the health care consumer, the notification shall be placed within the health care consumer's medical record.

8706.6 A registered HIE entity, its participating organizations, or its representative shall provide notification to appropriate authorities following HIPAA breach or non-HIPAA violation as follows:

(a) Report all violations of federal or District privacy or security law to those federal or District authorities to which reporting such violation is required by applicable law; and

(b) Send a copy of such report to the DHCF Privacy Officer and the District of Columbia Office of the Attorney General.

8706.7 If DHCF is notified of a breach under § 8706.6, DHCF shall forward such notification to the District of Columbia Office of the Attorney General within thirty (30) calendar days after receipt of the notification.

8707 REGISTERED HIE ENTITY CONSUMER PARTICIPATION, ACCESS, AND EDUCATION REQUIREMENTS

8707.1 A registered HIE entity shall require its enrolled participating organization to comply with the consumer participation, access, and education requirements set forth in this section.

8707.2 A participating organization shall provide written notice to each health care consumer no later than the first medical encounter following enrollment of the organization in a registered HIE entity, of:

(a) Such organization's participation with a registered HIE entity, including in such organization's Notice of Privacy Practices under HIPAA;

(b) Information concerning the health care consumer's ability to opt out from participation in the registered HIE entity and the process of opting out; and

(c) The types of information the participating organization shall disclose to the registered HIE entity and the extent that information accessed through the HIE entity may be used for treatment, payment, health care operations, and Secondary Use as defined in § 8703.3.

8707.3 A registered HIE entity shall provide written information to health care consumers concerning the process, means, and methods of accessing their PHI as follows:

(a) If the health care consumer's PHI is directly available electronically to the health care consumer, the registered HIE entity shall advise the health care consumer how to obtain the PHI electronically; and

(b) If the health care consumer's PHI is not directly available electronically to the health care consumer, the registered HIE entity shall, within seven (7) business days of receipt of a health care consumer's written notice or request, provide the health care consumer with the contact information for each participating organization that has access to the consumer's PHI, so that the health care consumer may gain access to the health care consumer's health information directly from each participating

organization.

8708 HIE DESIGNATION REQUIREMENTS AND APPLICATION

8708.1 Registered HIE entities that meet additional requirements and are selected by DHCF through a competitive application process shall become designated HIE entities. Designated HIE entities are partners with DHCF that operate or maintain DC HIE infrastructure or services in order to facilitate the secure, electronic exchange of health information among registered HIE entities and participating organizations in the District.

8708.2 To be eligible to apply for designation, an HIE entity must meet the requirements set forth below:

(a) Be a registered HIE entity;

(b) Meet or exceed the consumer education and auditing requirements as set forth in §§ 8709 and 8710; and

(c) Be organized in accordance with the District of Columbia "Nonprofit Corporation Act of 2010," effective July 2, 2011 (D.C. Law 18-378; D.C. Official Code §§ 29-401.01 *et seq.*) or organized as a nonprofit corporation in the jurisdiction where the entity is incorporated.

8708.3 An HIE entity must apply for designation in a form and manner consistent with this section and policy guidance provided by DHCF. Application materials and guidance will be published by DHCF on its website at www.dhcf.dc.gov. DHCF shall accept applications for designation on a time-limited and periodic basis.

8708.4 DHCF shall provide notice of the designation application period by publishing the opening and closing dates of the period to the DHCF website at least thirty (30) calendar days before the application period begins.

8708.5 To be eligible to be selected as a designated HIE entity, registered HIE entities shall demonstrate compliance with the following requirements:

(a) Develop and submit strategic and operational plans to address the needs of health providers (including but not limited to community health providers, individual and small group practices, and public health agencies) in achieving HIE capabilities;

(b) Attest to a commitment to interoperability and connectivity with registered HIE entities in the District to allow for the proliferation of DC HIE infrastructure and services and with national health information networks, if appropriate;

(c) Demonstrate necessary technical capacity to operate and implement publicly funded DC HIE infrastructure and tools;

(d) Detail the HIE entity's approach for maintaining financial sustainability, including public and private financing strategies, projected utilization, and rate structures;

(e) Provide DHCF with a copy of the HIE entity's most recently filed Internal Revenue Service Form 990;

(f) Demonstrate accreditation by a nationally recognized accreditation and certification organization for entities that electronically exchange health care data;

(g) Attest to having a plan or process in place to provide technical assistance and guidance to the system administrator of each participating organization in assigning the appropriate access to the HIE for each of its authorized users;

(h) Provide DHCF with a copy of its access and auditing plan as defined in §§ 8709.4 through 8709.6;

(i) Provide DHCF with a copy of its consumer education plan as set forth in § 8710.4; and

(j) Provide additional information requested by DHCF or required under policy guidance provided by DHCF and published on its website at www.dhcf.dc.gov.

8708.6 HIE entities may apply for registration and designation concurrently.

8708.7 Within ninety (90) calendar days after receipt of complete information from an applicant seeking to become a designated HIE entity in the District of Columbia, DHCF shall take one of the following actions:

(a) Approve or deny the designation application in writing based on the relative strength of the application, as determined by DHCF;

(b) Deny the designation application in writing for failure to meet requirements for designation set forth in § 8708.5; or

(c) Request additional information from the applicant, in writing, to determine eligibility for designation.

8708.8 Registered HIE entities that are denied designation, in accordance with § 8708.7, shall have the opportunity to appeal DHCF's determination in accordance with the

procedure for appeals and administrative review as set forth in § 8713.

8708.9 An HIE entity's designation shall be awarded in five (5) year terms. DHCF shall review an HIE entity's designation every five (5) years from the date of designation to determine whether the HIE entity will be renewed for an additional five (5) year term. DHCF may request an HIE entity submit updated information related to the requirements set forth in § 8708.5 during review of an HIE entity's designation.

8708.10 The designated HIE entity must comply with additional requirements as set forth in this chapter or otherwise established by DHCF through policy guidance published on its website at www.dhcf.dc.gov.

8708.11 A designated HIE entity must submit an annual report for review by DHCF that addresses:

(a) Updates to the Strategic and Operational plans developed and submitted in §8705.5(a), including plans for ensuring the necessary capacity to support clinical transactions;

(b) Rates of adoption, utilization, and transaction volume, and mechanisms to support health information exchange; and

(c) And other information as requested by DHCF.

8709 DESIGNATED HIE ENTITY AUDITING REQUIREMENTS

8709.1 A designated HIE entity shall conduct an annual privacy and security audit performed by a qualified third-party auditor, that:

(a) Detects inappropriate access, use, maintenance, and disclosure of information that are in violation of this chapter;

(b) Assesses security measures, related to the technical, physical and administrative safeguards of PHI.

8709.2 At the request of DHCF and consistent with the specifications in such request, a designated HIE entity shall:

(a) Provide the results of any audit that is required under this section, and any supporting documentation to DHCF; and

(b) Conduct an additional unscheduled audit and provide the results of such an audit to DHCF within the time frame specified by the agency.

8709.3 If a designated HIE entity's annual privacy and security audit reveals information

that demonstrates inappropriate access, use, maintenance, or disclosure of information that constitutes a breach or violation of this chapter, or if the health information of more than ten (10) health care consumers was improperly used, accessed, maintained, or disclosed during the twelve (12) months prior to the audit, then:

(a) The designated HIE entity shall use the findings from the audit to:

(1) Educate and train a participating organization or an authorized user on proper access, use, and disclosure of information through or from the HIE; or

(2) Evaluate and implement new control measures, including policies, procedures, or technology, to ensure proper use and access of the HIE;

(b) The designated HIE entity shall take the appropriate measures specified in § 8705; and

(c) The designated HIE entity shall post a publicly available summary report of the audit on its website within thirty (30) calendar days after completion of the audit and DHCF shall also post the report on its website.

8709.4 A designated HIE entity shall adopt and implement an access and auditing plan that requires the designated HIE entity and each participating organization, as applicable, to conduct a random audit of the HIE access logs on a periodic basis in accordance with the requirements set forth in §§ 8709.5 and 8709.6.

8709.5 The access and auditing plan shall prescribe responsibility for conducting random audits to either the designated HIE entity or its participating organizations according to the designated HIE entity's or participating organizations' technological capabilities.

8709.6 The access and auditing plan required under § 8709.4 shall include:

(a) The manner used to identify a non-HIPAA violation of this chapter or a HIPAA breach;

(b) The method used to report a non-HIPAA violation of this chapter or a HIPAA breach;

(c) The reasonable steps that shall be taken to promptly mitigate a non-HIPAA violation of this chapter or a HIPAA breach;

(d) A review of the designated HIE entity's access logs to ensure that only an authorized user is granted access to HIE information and is meeting the

requirements of this rule; and

(e) A plan to ensure that the designated HIE entity's participating organization conduct its own audit or review of the HIE access logs within ten (10) business days of receipt of the access logs from the designated HIE entity, if the designated HIE entity chooses to hold its participating organizations responsible for implementing the plan, as per § 8709.5.

8710 DESIGNATED HIE ENTITY REQUIREMENTS TO PROMOTE CONSUMER PARTICIPATION, ACCESS, AND EDUCATION

8710.1 A designated HIE entity and its participating organizations shall take affirmative steps to ensure health care consumers have:

(a) Information regarding the health care consumer's access and participation options under these regulations is readily available to assist the health care consumer in making an informed decision concerning:

(1) The accessibility of a health care consumer's PHI electronically through a designated HIE entity; and

(2) The risks and benefits of health information exchange;

(b) The ability to opt out of health information exchange at any time and refuse access to the health care consumer's PHI, except when a disclosure meets conditions identified in § 8710.2; and

(c) The ability to resume participation in an HIE entity at any point after the health care consumer has elected to opt out of participation. Any such resumption of participation shall be upon written notice or request to the designated HIE entity by the health care consumer.

8710.2 Designated HIE entity disclosures that meet one of the following criteria set forth below are not subject to consumer opt out:

(a) Information making up the designated HIE entity's or participating organization's core elements of the master patient index;

(b) A disclosure that a person is required to make under federal or State law requirements;

(c) Results of a diagnostic procedure sent to the health care provider who ordered the procedure or another provider as designated by the ordering provider;

(d) Information regarding prescription medications dispensed or filled by a

pharmacy, sent to the health care provider who ordered the prescriptions or another health care provider as designated by the ordering health care provider;

(e) Public health authorities for reporting purposes required, authorized, or otherwise compliant with applicable law; or

(f) Communications permitted under HIPAA or District law without a health care consumer's consent or authorization when using point-to-point transmission.

8710.3 A designated HIE entity shall provide information about the HIE to a health care consumer whose PHI is maintained by the designated HIE entity, or may be accessed, used, or disclosed through the HIE in accordance with the requirements set forth in §§ 8710.4 and 8710.5:

8710.4 A designated HIE entity shall make health care consumer educational materials available to participating organizations and their users. A designated HIE entity shall develop, adopt, implement, keep current, and make available to health care consumers a health care consumer education plan that includes:

(a) Definitions of the key terms and concepts underlying health information technology, including electronic health records and the exchange of electronic health information;

(b) Health information privacy and security laws;

(c) The general overview of individual benefits and risks to health care consumers of exchanging health information through an HIE entity as compared to opting- out and exchanging health information through a paper-based system; and

(d) Information on how the designated HIE entity shall make the following information available to health care consumers:

(1) A description of each type of PHI that is accessed or disclosed through the designated HIE entity;

(2) The health information maintained by the designated HIE entity;

(3) The specific details concerning who may access, use, or disclose a health care consumer's health information and for what purpose;

(4) The privacy and security measures that the designated HIE entity has implemented to protect health information, and a detailed explanation of what happens if there is a breach that results in

unauthorized access to PHI;

(5) A health care consumer's access and participation options regarding health information exchange and the control over, protection of, use of, and correction of each type of health information;

(6) The process provided for a health care consumer to exercise the health care consumer's access and participation options, including a detailed description of the steps a health care consumer can to opt out of participation in health information exchange;

(7) The implications of a health care consumer's decision to opt out of participation in health information exchange and not permit the disclosure of that consumer's PHI to authorized users, except as otherwise permitted under applicable law; and

(8) The designated HIE entity's policies and procedures, including without limitation, policies and procedures consistent with these regulations regarding how the health care consumer may gain access to the health care consumer's health information.

8710.5 The health care consumer education materials required under § 8710.4 must:

(a) Provide a balanced perspective, outlining the various points of view concerning each subject matter set forth in§ 8710.4 and set forth in policy guidance by DHCF and published on its website at http://dhcf.dc.gov, including the risks and benefits associated with sharing PHI electronically;

(b) Present accurate, and not misleading information;

(c) Minimize the use of technical terms and, when such terms are necessary, clearly define the technical terms;

(d) Use plain language that is easily understandable to each health care consumer population served, taking into account the various levels of education, understanding, and interest across that population;

(e) Use text and illustrations that are culturally sensitive, language appropriate, and that recognize user diversity including ethnicity, age, race, sexual orientation, and gender;

(f) Update material to include and incorporate new information; and

(g) Specify the time sensitivity of any material included.

8710.6 A designated HIE entity shall allow a health care consumer to obtain or correct information concerning the consumer's PHI by meeting the requirements set forth below:

(a) A designated HIE entity shall provide the following information to the health care consumer, upon written notice or request by the health care consumer, describing what PHI is available through the HIE concerning the specified health care consumer:

(1) The participating organization that disclosed the PHI to the designated HIE entity;

(2) The date the PHI was disclosed to the designated HIE entity; and

(3) The type of PHI disclosed to the designated HIE entity, if known by the designated HIE entity;

(b) A designated HIE entity shall inform the health care consumer how to correct perceived inaccurate information consistent with the requirements below:

(1) A designated HIE entity shall send information regarding the process for petitioning a participating organization or provider regarding the correction of inaccurate health information within twenty (20) calendar days of receiving notice from a health care consumer of a potential inaccuracy in the health care consumer's health information available through the HIE. The information shall include the contact information of relevant participating organizations that provided the perceived inaccurate information; and

(2) This process shall be in accordance with the requirements specified under federal HIPAA requirements, including but not limited to 45 CFR § 164.526.

8710.7 Upon receipt of written notice or request, a designated HIE entity shall provide each health care consumer with a report detailing any disclosure for a time period specified by the health care consumer, of the health care consumer's PHI. In instances where a health care consumer requests recurring disclosures to the same HIE entity for the same purpose, a summary report may be provided by the designated HIE entity.

8710.8 If the health care consumer requests the details of the summary report as described in § 8710.7, the designated HIE entity shall provide the health care consumer information consistent with the requirements set forth below:

(a) The time period specified by the health care consumer shall not exceed the data retention period as specified by HIPAA and federal regulations at 45 CFR § 164.528;

(b) Except as otherwise permissible under 45 CFR § 164.528(b)(3) through (4), the report shall specify the following for each instance that the health care consumer's PHI was disclosed during the time frame reflected in the report:

(1) The name of each authorized user;

(2) The name of the participating organization to which the authorized user is affiliated, if such information is kept by the HIE entity in the ordinary course of business;

(3) The date and time of the disclosure;

(4) The type of PHI disclosed, if known by the designated HIE entity; and

(5) The name of the participating organization that made the PHI available to the designated HIE entity.

8710.9 A designated HIE entity shall acknowledge a health care consumer's written notice or request, as described in § 8710.7, within ten (10) business days of receipt of the request.

8710.10 A designated HIE entity shall respond to a health care consumer's written notice or request, described in § 8710.7, with either the requested report or with a written explanation why such report is unavailable, when it shall be available, or where the health care consumer may obtain the requested information.

8710.11 The designated HIE entity shall respond within a reasonable time frame, but not later than thirty (30) calendar days after the initial written notice or request, as described § 8710.7, by the health care consumer:

(a) A designated HIE entity shall provide a summary report, as described in § 8710.7, upon request by the health care consumer, at least twice per calendar year at no cost to the health care consumer. If the summary report is available in an electronic format, it shall be provided to the consumer in a generally available electronic format, if so requested, at no additional charge; and

(b) For any additional report, the designated HIE entity may charge a reasonable fee not to exceed the cost to provide the additional report, but

no more than the allowable amount in accordance 45 CFR § 164.524(c)(4).

8710.12 A designated HIE entity shall implement a process to manage and enable consumer choice regarding the consumer's participation in an HIE, opting out from such participation, or opting to resume participation in the HIE system, in accordance with the requirements set forth below:

(a) A designated HIE entity shall maintain a log that records each health care consumer's participation status over time in accordance with the requirements set forth in paragraphs (a)(1) and (2) below;

(1) A designated HIE entity shall retain the log for the duration required by State or federal law, whichever requires a longer retention; and

(2) A designated HIE entity shall keep the log in a retrievable storage medium;

(b) A designated HIE entity shall not disclose a health care consumer's PHI if the health care consumer has submitted a written notice or request to opt-out of health information exchange in accordance with § 8710.1(b) except as otherwise permitted under applicable law and in accordance with this chapter; and

(c) A designated HIE entity shall not disclose information derived from a health care consumer's PHI, including for Secondary Use, if the health care consumer has submitted a written notice or request to opt-out of health information exchange, except as otherwise permitted under applicable law.

8710.13 The requirements set forth in §§ 8710.14 through 8710.19 shall apply to all communications between a designated HIE entity and a health care consumer.

8710.14 A designated HIE entity or its participating organizations shall implement a process to allow a health care consumer to communicate with a designated HIE entity about the health care consumer's participation status through an appropriate medium of the health care consumer's choice, including:

(a) By telephone, via a phone number;

(b) By mail, via a standardized form;

(c) By fax, via a standardized form;

(d) Online, via a secure website;

(e) Secure email or text message; and

(f) In-person at the designated HIE entity's offices during business hours.

8710.15 A health care consumer's communication opting out (or opting in if the consumer has already opted out) of health information exchange shall be made in:

(a) Writing;

(b) Online;

(c) Fax;

(d) Secure email or text message; or

(e) By telephone, if the designated HIE entity confirms the action with a written communication to the health care consumer in accordance with § 8710.18;

8710.16 A designated HIE entity shall take appropriate measures to assure that an individual who communicates with the designated HIE entity is authorized to act on behalf of the participating health care consumer.

8710.17 A designated HIE entity shall implement the health care consumer's requested action within five (5) business days of receipt of the health care consumer's written or online request concerning:

(a) Opting-out of the HIE; and

(b) Resuming participation in the HIE after previously opting-out.

8710.18 A designated HIE entity shall provide each health care consumer the option to receive confirmation of any change in the health care consumer's participation status. If a health care consumer requests confirmation in writing, the designated HIE entity shall:

(a) Send the confirmation of participation status change within three (3) business days of the effective date of change of the health care consumer's participation status; and

(b) If consistent with all applicable privacy and security law and regulations, including HIPAA and applicable District laws and regulations, send the confirmation of status change through one of the following methods as specified by the health care consumer:

(1) An email sent to the email address specified by the health care consumer;

(2) A letter to an address specified by the health care consumer;

(3) A letter by fax to a fax number specified by the health care consumer;

(4) A letter given to the health care consumer at the designated HIE entity during normal business hours; or

(5) A text message sent to the number specified by the health care consumer.

8710.19 When a health care consumer changes their participation status, the designated HIE entity shall provide the following to the health care consumer:

(a) Information concerning when the status change will become effective; and

(b) Information concerning what information shall be excluded from health information exchange regarding a health care consumer who opts out.

8711 OVERSIGHT AND ENFORCEMENT

8711.1 DHCF shall take enforcement actions as necessary, including the suspension or revocation of registration or designation in accordance with the requirements set forth below:

(a) When DHCF is considering suspension or revocation of an HIE entity's registration or designation as set forth in this section, all investigatory data that are collected, created, or maintained related to the suspension or revocation are classified as confidential data on persons and as protected nonpublic data; and

(b) DHCF may disclose data classified as protected nonpublic or confidential under § 8711.1 (a) if disclosing the data, as permissible under 45 CFR § 164.512(j), will protect the health, privacy, or safety of health care consumers.

8711.2 DHCF may take action as necessary to address violations of this chapter by requiring corrective action or suspending or revoking an HIE entity's registration or designation. DHCF shall notify the HIE entity in writing stating the grounds for the action taken. Notice shall include:

(a) A reference to the regulatory or statutory authority, including policy and program manuals, for the action;

(b) A description of the findings of fact regarding the violations with respect to which the action is proposed;

(c) The nature of the action;

(d) Any circumstances that were considered in determining the amount of the proposed action;

(e) Instructions for responding to the notice, including a statement of the HIE entity's ability to request administrative review; and

(f) The address to which the request for review must be sent.

8711.3 If DHCF suspends or revokes the registration or designation of a HIE entity, the HIE entity shall not, during the period of suspension or revocation, engage in any new advertising or solicitation or hold itself out as a registered or designated HIE entity.

8711.4 All suspensions of registration or designation shall be accompanied by a requirement for corrective action.

8711.5 A DHCF written request for corrective action shall include:

(a) Nature and scope of corrective action requested;

(b) Date by which corrective action must be completed by the registered or designated HIE entity; and

(c) Details on how DHCF will evaluate the registered or designated HIE entity's correction of underlying issues.

8711.6 DHCF may suspend or revoke a registration or designation issued to an HIE entity or issue a requirement for corrective action if the DHCF finds that:

(a) The HIE entity is operating outside of nationally recognized standards identified by DHCF in policy guidance, or in a manner contrary to that described in any other information submitted under §§ 8702.2 and 8708.5, unless amendments to the submissions have been filed with and approved by DHCF;

(b) The HIE entity is unable to fulfill its obligations to furnish comprehensive HIE services as required under its agreements with DHCF or with its participating organizations;

(c) The HIE entity is no longer financially solvent or is not reasonably expected to meet its obligations to DHCF or its participating organizations;

(d) The HIE entity, or any person acting with its sanction, has advertised or merchandised its services in an untrue, misleading, deceptive, or unfair manner;

(e) The continued operation of the HIE would pose risks to its participating organizations or the privacy and security of health care consumers served by the participating organizations;

(f) The HIE entity improperly discloses any PHI, or health information derived from PHI, that is available through the registered or designated HIE entity's infrastructure, except as consistent with or otherwise permitted by this chapter and applicable federal or District law; and

(g) The HIE entity has otherwise failed to substantially comply with the requirements of this chapter or other applicable federal or District law.

8711.7 Within thirty (30) calendar days of receipt of notice of enforcement action from DHCF pursuant to this section, an HIE entity may request an administrative review of the action taken by DHCF in accordance with the procedures set forth in § 8713.

8711.8 DHCF shall publish and maintain guidance on nationally recognized standards for the secure access, use, and disclosure of health information on the DHCF website at www.dhcf.dc.gov.

8711.9 All other Medicaid requirements outlined in District laws and regulations, are applicable to HIE entities.

8712 EXEMPTIONS

8712.1 DHCF may exempt a registered or designated HIE entity from certain requirements if such an exemption does not pose substantial risks to the privacy or security of health care consumers and:

(a) The HIE entity's infrastructure does not allow the registered or designated HIE entity to maintain compliance with this chapter; or

(b) The requirements of this chapter would cause an undue burden or hardship on the registered or designated HIE entity.

8712.2 A registered or designated HIE entity may request a one (1) year exemption from specific requirements set forth in this rule. An exemption request must:

(a) Be made in writing;

(b) Identify each specific requirement of this chapter from which the HIE entity is requesting an exemption;

(c) Identify the requested time period of the exemption;

(d) State the reason for each exemption request; and

(e) Include information that justifies the exemption request.

8712.3 Within forty-five (45) days after receipt of complete information from a registered or designated HIE entity requesting an exemption, DHCF shall take one of the following actions:

(a) Grant the exemption by providing written notification; or

(b) Deny the exemption request by providing written notification that enumerates the reasons for the denial to the registered or designated HIE entity.

8712.4 An exemption may not be made for any requirement within this rule that is required of a registered or designated HIE entity by federal or other District law.

8712.5 For good cause shown, DHCF may renew a one (1)-year exemption for up to an additional one (1) year period, upon request by the registered or designated HIE entity.

8713 APPEALS AND ADMINISTRATIVE REVIEW

8713.1 Within thirty (30) calendar days of receipt of notice of a DHCF enforcement action in accordance with § 8711 or notice from DHCF denying an HIE entity's application for registration or designation pursuant to §§ 8702.5 and 8708.8, an HIE entity may request an administrative review of the action taken by DHCF.

8713.2 The request for administrative review shall be made in writing to the Health Care Reform and Innovation Administration at DHCF.

8713.3 The request for administrative review shall identify the specific action for review, a written explanation of the HIE entity's cause for requesting administrative review, the requested relief, and any supporting documentation.

8713.4 DHCF shall review the submitted request for administrative review and shall issue a final notice to the HIE entity upon completion of the administrative

review. DHCF shall reserve the right to request additional documentation from the HIE entity during its administrative review.

8713.5 DHCF shall mail its final notice to the HIE entity no later than forty-five (45) calendar days from the date of receipt of the written request for administrative review and all supporting documentation, including any additional documentation requested by DHCF.

8713.6 The final notice shall include DHCF's decision to approve or deny the requested relief and detail the basis for the determination.

8713.7 Determinations made by DHCF and communicated in the final notice to an HIE entity may be appealed to the Office of Administrative Hearings (OAH) within thirty (30) calendar days of the date of issuance of the final notice.

8713.8 The filing of an appeal with OAH shall not stay any enforcement action taken by DHCF related to the request for administrative review or determinations communicated in the final notice to an HIE entity.

8799 DEFINITIONS

8799.1 When used in this this chapter, the following terms shall have the meanings ascribed:

Authentication - The process of establishing confidence in user identities electronically presented to an information system.

Authorization - Has the meaning provided in 45 CFR § 164.508.

Authorized user – A person identified by a participating organization or a health information exchange, including a health care consumer, who may use, access, or disclose protected health information through or from a health information exchange for a specific authorized purpose and whose HIE access is not currently suspended or revoked.

Breach – The meaning provided in 45 CFR § 164.402.

Business associate - The meaning provided in 45 CFR § 160.103.

Core elements of the Master Patient Index (MPI) - The minimum elements that are:

(a) Required for an HIE entity to identify a particular patient across separate clinical, financial, and administrative systems; and

(b) Needed to exchange health information electronically.

DC HIE - The District's statewide health information exchange, an interoperable system of registered and designated HIE entities that facilitates person-centered care through the secure, electronic exchange of health-related information among participating organizations supported by a District-wide health data infrastructure.

Designated HIE - An HIE entity that has applied for and received designation from the Department of Health Care Finance in accordance with Chapter 87, District of Columbia Health Information Exchange, of Title 29, Public Welfare, of District of Columbia Municipal Regulations.

DHCF - The District of Columbia's Department of Health Care Finance.

Disclosure - The release, re-disclosure, transfer, provision, access, transmission, communication, or divulgence in any other manner of information in a medical record, including an acknowledgment that a medical record on a particular health care consumer or recipient exists, outside the entity holding such information.

Electronic Health Record - An electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.

Health care consumer - Any actual or potential recipient of health care services, such as a patient in a hospital.

Health care provider –

(a) A person who is licensed, certified, or otherwise authorized under District law to provide health care in the ordinary course of business or practice of a profession or in an approved education or training program;

(b) Government agencies involved in the provision of health or social services;

(c) A facility where health care is provided to health care consumers or recipients; or

(d) An agent, employee, officer, or director of a health care facility, or an agent or employee of a health care provider.

Health information - Any information, whether oral or recorded in any form or medium, that:

(a) Is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and

(b) Relates to the past, present, or future physical or mental health or condition of a person, the provision of health care to a person, or the past, present, or future payment for the provision of health care to a person.

Health Information Exchange (HIE) - A system that facilitates person-centered care through the secure electronic exchange of health-related information among approved, qualifying partners in support of health data infrastructure according to nationally recognized standards.

HIE Entity - An entity that creates or maintains an infrastructure that provides organizational and technical capabilities in a system to enable the secure, electronic exchange of health-related information among participating organizations not under common ownership.

HIPAA - The Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub.L. No. 104-191, 110 Stat. 1938 (1996)).

HITECH Act - The Health Information Technology for Economic and Clinical Health Act (Pub. L. No. 111-5, Title XIII, 123 Stat. 226 (2009)).

Incident Response Plan - The documentation of a predetermined set of instructions or procedures to detect, respond to, and limit consequences of a malicious cyber attacks against an organization’s information system(s).

Master patient index - A database that maintains a unique index identifier for each patient whose protected health information may be accessible through an HIE entity and is used to cross reference patient identifiers across multiple participating organizations to allow for patient search, patient matching, and consolidation of duplicate records.

Non-HIPAA violation - An inappropriate use, access, maintenance, or disclosure of health information that is not a HIPAA violation, but is inconsistent with State or federal law or this chapter, including a violation of 42 CFR Part 2.

Opt-out – A health care consumer’s election not to participate in the HIE, so that the HIE entity shall not disclose such health care consumer's protected health information, or data derived from such health care consumer's health information, except as consistent with this chapter.

Participating organization - An entity that enters into an agreement with an HIE that governs the terms and conditions under which its authorized users may use, access, or disclose protected health information by the HIE entity.

Point-to-point transmission - A secure electronic transmission of PHI, including, but not limited to, records sent via facsimile or secure clinical messaging service, sent by a single entity that can be read only by the single receiving entity designated by the sender.

Protected health information (**PHI**) - A subset of health information that has the same meaning as given in 45 CFR § 160.103, and includes sensitive health information.

Registered Agent - An agent of an entity who is authorized to receive service of any process, notice, or demand required or permitted by law to be served on the entity.

Registered HIE - An HIE entity that has applied for and received registration from the Department of Health Care Finance in accordance with Chapter 87, District of Columbia Health Information Exchange, of Title 29, Public Welfare, of District of Columbia Municipal Regulations.

Sensitive health information - A subset of PHI, which consists of:

(a) 42 CFR Part 2 information; or

(b) Any other information that has specific legal protections in addition to those required under HIPAA, as implemented and amended in federal regulations.

System administrator - An individual employee within a participating organization (or an individual employed by a contractor to the participating organization) who is designated by the participating organization to manage the user accounts of specified persons within the participating organization in coordination with an HIE entity.

Third-party system - Hardware or software provided by an external entity to a participating organization, which interoperates with an HIE entity to allow an authorized user access to information through the HIE entity and may include an electronic health record system.

Unqualified opinion – A written statement by an auditor that financial statements fairly reflect the results of the business organization's operations and its financial position according to generally accepted accounting principles.

Unusual finding – A finding that there was an irregularity in the manner in which use, access, maintenance, disclosure, or modification of health information or sensitive health information transmitted to or through an HIE entity should occur that could give rise to a breach, a violation under this chapter or a violation of other applicable privacy or security laws.

Comments on these rules should be submitted in writing to Melisa Byrd, 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 or via email at DHCFPubliccomments@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.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING
Z.C. Case No. 12-08B
(Text Amendment – 11 DCMR)
(To Establish Maximum Building Heights and Permit Emergency Shelter Uses as a Matter of Right with no Limit on the Number of Persons in the StE-2 Zone)

The Zoning Commission for the District of Columbia, (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2012 Rep1.)), hereby gives notice of its intent to amend Subtitle K (Special Purpose Zones) of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR).

Substantively, the Zoning Commission proposes to amend 11-K DCMR § 603 to establish maximum building heights for the St-E 2 zone (none are presently specified) and to amend 11-K DCMR §§ 612 and 614 to permit emergency shelter uses a matter-of-right use in the StE-2 zone with no numeric limitation as to persons housed. As to all other StE zones, the matter of right limit for emergency shelter uses will remain at four (4) persons, with up to fifteen (15) permitted by special exception. Corrective amendments are also proposed to the first sentence of 11-K DCMR § 612.1 to fix a typographical error (singular for plural) and to paragraph (m) of that subsection to replace an erroneous reference to a "Health Care" use category with a correct reference to the "Medical Care" use category.

Final rulemaking action shall be taken not less than thirty (30) days from the date of publication of this notice in the *D.C. Register.*

The following amendments to Title 11 DCMR are proposed (additions are shown in **bold underlined** text and deletions are shown in ~~strikethrough~~ text):

Chapter 6, SAINT ELIZABETHS EAST CAMPUS ZONES – StE-1 THROUGH StE-19, of Title 11-K DCMR, SPECIAL PURPOSE ZONES, is amended as follows:

Section 603, HEIGHT (StE), is amended as follows:

Table K § 603, MAXIMUM PERMITTED BUILDING HEIGHT, PENTHOUSE HEIGHT, AND PENTHOUSE STORIES, is amended to read as follows:

TABLE K § 603.1: MAXIMUM PERMITTED BUILDING HEIGHT, PENTHOUSE HEIGHT, AND PENTHOUSE STORIES

Zone District	Maximum Building Height (ft.)	Maximum Penthouse Height	Maximum Penthouse Stories
StE-1	25	12 ft. except 15 ft. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space

StE-2	**Subtitle K § 603.3**	12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
StE-3	…[1]		

A new Subsection 603.3 is added to read as follows:

603.3 **The maximum permitted building height, not including the penthouse, for any portion of a building shall be as follows based on the building's distance from the property line along Martin Luther King, Jr. Avenue:**

(a) **For a distance of two-hundred thirty feet (230 ft.) or less, the maximum permitted building height, not including the penthouse, shall be forty feet (40 ft.);**

(b) **For a distance of more than two-hundred thirty feet (230 ft.) and less than five hundred sixty feet (560 ft.), the maximum permitted building height, not including the penthouse, shall be eighty feet (80 ft.); and**

(c) **For a distance of five hundred sixty feet (560 ft.) or more, the maximum permitted building height, not including the penthouse, shall be ninety feet (90 ft.).**

Paragraphs (j) and (m) of Subsection 612.1 of § 612, USE PERMISSIONS (STE), are amended as follows:

612.1 The following ~~uses~~ **use** categories shall be permitted as a matter of right in all of the StE zones, except as limited in Subtitle K §§ 613 and 614, or if specifically prohibited by Subtitle K § 615:

(a) …

(j) Emergency shelter uses that house no more than four (4) persons, not including resident supervisors or staff and their families**, except in the StE-2 Zone where no numeric limit applies**;

…

(m) ~~Health Care~~ **Medical Care**;

[1] The uses of this and other ellipses indicate that other provisions exist in the subsection being amended and that the omission of the provisions does not signify an intent to repeal.

Subsection 614.1 of § 614, USES PERMITTED BY SPECIAL EXCEPTION (StE), is amended as follows:

614.1 The uses in this section shall be permitted in the StE zones as a special exception if approved by the Board of Zoning Adjustment pursuant to the general standards of Subtitle X, the criteria set forth in Subtitle K § 615.2, and subject to applicable conditions of each section as stated below:

(a) **Except as permitted as a matter of right in the StE-2 zone by Subtitle K § 612.1(j), emergency** ~~Emergency~~ shelter **uses** for five (5) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the following conditions:

(1) …

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, through the Interactive Zoning Information System (IZIS) at https://app.dcoz.dc.gov/Login.aspx; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

OFFICE OF RISK MANAGEMENT

NOTICE OF EMERGENCY RULEMAKING

The Chief Risk Officer of the Office of Risk Management (ORM), Executive Office of the Mayor, pursuant to the authority set forth in Section 2344 of the District of Columbia Government Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-623.44 (2016 Supp.)); the Office of Administrative Hearings Establishment Act of 2001 (OAH Act), effective March 6, 2002 (D.C. Law 14-76, D.C. Official Code §§ 1-1831.01 *et seq.* (2014 Repl.)); Section 7 of Reorganization Plan No. 1 of 2003 for the Office of Risk Management, December 15, 2003; and Mayor's Order 2004-198, dated December 14, 2004, hereby gives notice of the adoption, on an emergency basis, of the following amendments to Chapter 1 (Public Sector Workers' Compensation Benefits) of Title 7 (Employment Benefits) of the District of Columbia Municipal Regulations (DCMR).

The purpose of these rules is to amend portions of the existing rules effective November 30, 2018. The need for these rules to take effect as of that date is for the immediate preservation and promotion of the health, safety, and welfare of the residents of the District by supporting the Program's transition from third-party administration to self-administration of the Public Sector Workers' Compensation Program (Program). The adoption of emergency rules is necessary to support the transition to self-administration by way of establishing: (1) new hearing procedures and standards to be employed by the Chief Risk Officer to resolve disputes between a medical care provider, employee, or the District of Columbia government on the issue of necessity, character, or sufficiency of the medical care or service furnished, or scheduled to be furnished, or the fees charged by the medical care provider under Sections 2323(a-2)(4) of the CMPA; (2) to clarify the type of hearings to be conducted by the Office of Administrative Hearings (OAH) under Sections 2324(b)(1) and (2) and D.C. Official Code § 2-1831.03(b)(1) (2012 Repl.); (3) uniform procedures for electronic claim filing and clarification of benefit calculations to allow for implementation of the Program's electronic system for managing claims and integration of the Program's new claims management system with the District's payroll system, both of which are integral to self-administration of the Program; (4) procedures and rules governing the creation, operation, and oversight of the PSWCP's Healthcare Provider Panel under Section 2303(d)(1) of the CMPA; (5) rules concerning the provision of medical care to injured workers by the Program's Healthcare Provider Panel under Section 2303(d)(1) and 2324 of the CMPA; and (6) rules and procedures to adjudicate bills for medical and other services afforded injured District employees under Subchapter 23 of the CMPA and to develop and maintain Provider Agreements for the provision of such services. All of these aforementioned rules and procedures were previously addressed by the private Third-Party Administrator (TPA) of the Program through the TPA's proprietary electronic claims management systems and contractual arrangements it had by virtue of its network and other agreements with medical providers. The TPA ceased its operations effective August 1, 2018. ORM adopted emergency rules at that time to establish a regulatory framework to substitute for the TPA's systems and contractual network procedures so as to ensure that injured workers would have uninterrupted access to medical care and the Program would have a means to effect payment to medical providers. Through implementation of those rules and administration of the Program, these emergency rules were developed in conjunction with a proposed final rulemaking.

These emergency rules were adopted on December 3, 2018 and will take effect December 3, 2018. The emergency rules will remain in effect for a period of one hundred twenty (120) days from adoption, until April 2, 2019, or until the publication of a Notice of Final Rulemaking, whichever occurs first. A Notice of Proposed Rulemaking will be published in conjunction with this Notice of Emergency Rulemaking.

Chapter 1, PUBLIC SECTOR WORKERS' COMPENSATION BENEFITS, of Title 7 DCMR, EMPLOYMENT BENEFITS, is amended as follows:

Section 104, NOTICE OF INJURY; EMPLOYEE OR REPRESENTATIVE ACTION, is amended as follows:

Subsections 104.1 – 104.4 are amended to read as follows:

104.1 Notice of an employee's injury or death shall be given in accordance with Section 2319 of the Act (D.C. Official Code § 1-623.19) or § 104.6 of this chapter. Notice of recurrence of disability or medical condition shall be given in the same manner as a notice of injury.

104.2 The notice required by Subsection § 104.1 of this chapter shall be deemed given upon:

(a) Electronic submission of a workers' compensation incident report through the Program's online portal, as designated on the Office of Risk Management's website, or the filing of Form 1 in hard copy with the Program or employee's immediate supervisor; and

(b) The Program or employee's immediate supervisor's receipt of the following completed documents:

(1) Form 4 – Employee Authorization for Release of Medical Records; and

(2) IRS Form 4506-T – Request for Transcript of Tax Return.

104.3 The workers' compensation incident report and Form 1 shall:

(a) Be in writing;

(b) Be signed by the individual giving notice; and

(c) Contain the email and physical mailing address of the individual giving notice.

104.4 (a) When notice is given in accordance with § 104.1 of this chapter, the person giving notice shall designate an email address(es) to receive notices and correspondence from the Program. The person giving notice shall be responsible for checking the designated email account for notices and correspondence from the Program. Anyone who cannot comply with this provision may apply to the Program for a waiver. A waiver shall be granted, where good cause is established.

(b) While the Program may mail notices or correspondence to the designated physical mailing address, any notice or correspondence sent to the designated email address, unless returned, shall be presumed received and the date of issuance shall be used to calculate any deadlines that arise from the notice or correspondence issued.

Section 105, NOTICE OF INJURY, DISEASE OR DEATH; EMPLOYING AGENCY ACTION, is amended as follows:

Subsections 105.1 – 105.5 are amended to read as follows:

105.1 In accordance with Section 2320 of the Act (D.C. Official Code § 1-623.20), the immediate supervisor of an employee shall report any injury to the employee that results in the employee's death, bodily harm, or probable disability to the Program by telephone or through the Program's online portal, as designated on the Office of Risk Management's (ORM) website.

105.2 (a) The immediate supervisor shall make an initial report of injury to the Program through the Program's online portal found on ORM's website within twenty-four (24) hours of learning of the injury, and preferably before the end of the shift during which the supervisor learned of the injury.

(b) No later than three (3) days after receipt of a grant access link requesting additional information from the Program, the immediate supervisor shall log onto the online portal through the grant access link and submit the requested information through the online portal.

105.3 If an immediate supervisor receives Form 1, the immediate supervisor shall report the incident in accordance with § 105.2 of this chapter.

105.4 The immediate supervisor shall supply all information identified in the online portal and upload all available supporting documentation through the online portal at the time the report of injury is submitted.

105.5 If an employee elects COP, the employing agency shall respond to the employee's request for COP in accordance with § 109 of this chapter.

Section 106, NOTICE OF INJURY; PSWCP ACTION, is amended as follows:

Subsection 106.1 is amended to read as follows:

106.1 (a) Promptly, after receiving notice of an employee's injury or death, the Program shall:

(1) In the event of injury, notify the employee or employee's representative that a report of injury has been received for the employee, if the report was filed by the employing agency;

(2) In the event of an employee's death, notify eligible beneficiaries of record that a report of death of the employee has been received; and

(3) Provide the employee, employee's representative, or eligible beneficiaries, as applicable, with instructions on how to file a claim for workers' compensation.

(b) The Program's failure to provide notification pursuant to this subsection shall not be prima facie evidence of good cause for a delay in submitting a claim.

Section 108, COP, EMPLOYEE'S RESPONSIBILITIES, is amended as follows:

Subsections 108.1 and 108.2 are amended to read as follows:

108.1 To file a claim for COP, the employee or employee's representative shall:

(a) Submit notice of injury pursuant to § 104 of this chapter and complete the indicated portion for COP as soon as possible, but no later than thirty (30) days after the traumatic injury;

(b) Submit Forms 3, 3A, 4, and IRS Form 4506-T to the Program through the Program's designated online portal or by mail or fax or to the employee's immediate supervisor by hand delivery;

(c) Ensure that medical evidence supporting disability resulting from the claimed traumatic injury, including a statement as to when the employee can return to his or her date of injury job, is provided to the employing agency's workers' compensation coordinator and the Program within ten (10) calendar days after the claim for COP is filed;

(d) Cooperate with the Program and the employing agency's workers' compensation coordinator in developing the claim; and

(e) Ensure that the qualified health professional specifies work limitations and that the work limitation information is provided to the employee's immediate supervisor, the employing agency's workers' compensation coordinator, and the Program within ten (10) calendar days after the claim for COP is filed.

108.2 An employee's COP status shall not be construed to preclude the employee from filing a claim for workers' compensation pursuant to § 115 of this chapter. COP payments shall terminate upon the Program's acceptance or denial of the claim for workers' compensation.

Section 109, COP, EMPLOYING AGENCY'S RESPONSIBILITIES, is amended as follows:

Subsections 109.1 - 109.2 are amended to read as follows:

109.1 After the employing agency learns of a work injury sustained by an employee, it shall:

(a) Refer the employee to ORM's Public Sector Workers' Compensation website;

(b) Advise the employee of the right to receive COP for any period of disability;

(c) Review and respond to the employee's claim for COP by completing the COP determination section of the Program's online form and uploading all relevant documents, forms, and pertinent information (including the basis for any controversion) to the Program online portal within three (3) business days after receiving a request for additional information through a grant access link or the employee's completed Form 1, Form 3, Form 3A, Form 4, and Form IRS 4506-T from the employee; and

(d) If controverting employee's claim for COP, inform the employee of the basis for doing so.

109.2 An employing agency that learns of a recurrent disability arising out an injury for which a claim for COP has already been accepted shall place the employee on COP status if:

(a) The employee has any time remaining from the last time the employee was on COP status for the same injury;

(b) No claim for wage-loss compensation has been accepted by the Program; and

(c) The employee submits evidence in support of the recurrence of disability and its causal relation to the original work injury.

Section 112, CALCULATION OF COP, is amended as follows:

Subsection 112.1 is amended to read as follows:

112.1 Once an employee makes a claim for COP, the first three (3) days of leave must be charged to leave without pay, unless the disability:

(a) Exceeds fourteen (14) calendar days; or

(b) Is followed by permanent disability.

Section 115, CLAIM FOR PSWCP BENEFITS; EMPLOYEE OR REPRESENTATIVE ACTION, is amended as follows:

The title of Section 115 is amended to read: CLAIM FOR PSWCP BENEFITS; CLAIMANT OR REPRESENTATIVE ACTION

Subsection 115.2 is amended to read as follows:

115.2 A claim for compensation is deemed filed only upon:

(a) The filing of a claim for workers' compensation through the Program's online portal, as designated on the Office of Risk Management's website, or the filing of Form CA7, Part A in hard copy with the Program; and

(b) The Program's receipt of the following completed documents:

(1) Form 3 – Physician's Report of Employee's Injury;

(2) Form 3A – Employee's Statement of Medical History;

(3) Form 4 – Employee Authorization for Release of Medical Records; and

(4) IRS Form 4506-T – Request for Transcript of Tax Return.

Subsections 115.4 - 115.5 are amended to read as follows:

115.4 At the time the claimant or claimant's representative submits a claim, an email address and physical mailing address must be provided for the claimant and if applicable the claimant's representative, for the purpose of receiving Program notices and correspondence. Any notice or correspondence sent to the designated email address or physical mailing address shall be presumed received, unless

returned.

115.5 In the case of the death of an employee, the claimant or claimant's representative shall also provide documentation establishing the claimant's relationship to the deceased. Documentation may include:

(a) A certified copy of a birth certificate;

(b) A certified copy of a marriage license;

(c) Documentation of the executor of the employee's estate; or

(d) Other documentation satisfactory to the Program.

Subsections 115.7 - 115.15 are amended to read as follows:

115.7 The employee shall complete, sign, and return to the Program, Form 3A, Employee's Statement of Medical History, which shall:

(a) Describe any and all accidents the employee was involved in, or physical disability or illness the employee suffered, prior or subsequent to the reported injury;

(b) For each accident, illness, or physical disability, identify the time, date, circumstance, and location of the accident or incident, the parties involved, the disposition of any subsequent trial or legal action(s), any injuries relating from the previous accident(s) or incident(s), and the hospital, medical facilities, doctors, physicians, dentists, or any other individual that treated any injury, illness, or physical disability;

(c) Identify the physician who treated the employee and the approximate dates of such treatments, if employee alleges aggravation of a previous injury or condition;

(d) Describe in detail each instance during the past five (5) years that the employee has been absent from employment due to an illness or injury, including the nature and dates of each such illness or injury. The employee or employee's representative shall specify the date and time for all absences from employment due to each illness and injury claimed; and

(e) Describe any similar condition, disability, or injury that occurred prior to the alleged injury or any pre-existing condition that may be related to the condition or disability caused by the injury.

115.8 The claimant or claimant's representative shall submit proper medical documentation as requested by the Program to document the employee's ongoing

injury and substantiate the employee's absence from work to justify continued payment of wage-loss compensation. These documents shall include, but are not limited to, the following:

(a) Statements and medical documentation regarding any similar condition, disability, or injury that occurred prior to the alleged injury or any pre-existing condition that may be related to the injury;

(b) Statements and medical documentation regarding any other injury or incident of a similar character; and

(c) A written statement showing why there was a delay in seeking medical care, if applicable.

115.9 After a claim is initiated, a claimant who wishes to continue representation by his or her representative must complete and return Form 15 – Declaration of Representative Form to the Program, so the claimant's representative may continue to receive communication and information related to the claim, unless the representative is appointed by a court of law or is the claimant's attorney, and a court order or retainer agreement, respectively, is submitted to the Program in lieu of Form 15. If the claimant is a minor child, documentation establishing legal guardianship may be submitted in lieu of Form 15.

115.10 The claimant or claimant's representative shall file supplemental reports when required by the Program or when there is any change in information provided to the Program.

115.11 A claimant seeking to supplement his or her original claim to add additional disabilities or conditions arising out of the same injury, but not already reported, shall:

(a) File a supplemental claim to add the additional disability or condition within two (2) years after the earlier of:

(1) The date on which the claimant first sought medical attention for the additional disability or condition and was aware or, by the exercise of reasonable diligence should have been aware, of the causal relationship between the claimant's condition and employment, whether or not the claimant ceased work; or

(2) The date on which the claimant became disabled and was aware or, by the exercise of reasonable diligence should have been aware, of the causal relationship between the claimant's disability and employment.

(b) The supplemental claim shall include a signed statement under penalty of perjury explaining the cause for delay in reporting the additional disability or condition.

115.12 Claims for aggravated injury shall be filed as an original claim for compensation pursuant to Section 2321 of the Act (D.C. Official Code § 1-623.21) and §§ 115.1 through 115.10 of this chapter within two (2) years from the injury that aggravated, worsened or exacerbated the employee's pre-existing disease, illness or condition, unless otherwise authorized by law.

115.13 Claims for latent disability shall be filed pursuant to Section 2322 of the Act (D.C. Official Code § 1-623.22) and §§ 115.1 through 115.10 of this chapter within two (2) years after the earlier of:

(a) The date on which the claimant first sought medical attention for the claimant's condition and was aware or, by the exercise of reasonable diligence should have been aware, of the causal relationship between the claimant's condition and employment, whether or not the claimant ceased work; or

(b) The date on which the claimant became disabled and was aware or, by the exercise of reasonable diligence should have been aware, of the causal relationship between the claimant's disability and employment.

115.14 Claims for the recurrence of disability shall include medical evidence to establish that the recurrence is for the same condition and injury for which the claim was originally accepted and be filed pursuant to §§ 115.1 through 115.10 of this chapter through within one (1) year after the date wage-loss compensation terminates or, if such termination is appealed, within one (1) year after the date of the final order was issued by a judicial entity, unless

(a) The inability to work occurred because a modified duty assignment made specifically to accommodate the employee's physical limitations due to his or her work-related injury or illness is withdrawn or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.

115.15 All other original claims for compensation for disability or death arising out of a single injury shall be filed within two (2) years after the injury or death pursuant to Section 2321 of the Act and § 115 of this chapter, except as provided by Section 2322(a) of the Act (D.C. Official Code § 1-623.22(a)).

Section 120, DECISIONS ON ENTITLEMENT TO BENEFITS, is amended as follows:

Subsection 120.10 is added to read as follows:

120.10 The Program shall issue a Notice of Benefits within fourteen (14) days of an ID or DRD granting an award of compensation. The Notice of Benefits shall set forth the calculation of benefits pursuant to the award.

Section 122, MEDICAL BENEFITS AND SERVICES; GENERAL, is amended as follows:

Subsection 122.1 is amended to read as follows:

122.1 Pursuant to Section 2303(a) of the Act (D.C. Official Code § 1-623.03(a)), the District government shall furnish to an employee or claimant who is injured while in the performance of duty the services, appliances, or supplies prescribed or recommended by a qualified health professional whom the Program has admitted into its Panel of Healthcare Providers, except as provided in § 125.7 of this chapter.

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A new Subsection 122.2 is added to read as follows:

122.2 Payment for services, appliances, or supplies pursuant to Section 2303 of the Act (D.C. Official Code § 1-623.03(a)) shall only be made, where the services, appliances, or supplies are:

(a) Rendered for treatment of a condition that has been accepted as compensable under the Act by the Program or necessary for the Program to issue a compensability determination, and

(b) Ordered by a District of Columbia government medical officer or hospital, or a qualified health professional pursuant to the rules prescribed at § 124 of this chapter, subject to utilization review.

Section 123, MEDICAL BENEFITS AND SERVICES; EMPLOYEE RESPONSIBILITY, is amended as follows:

Subsections 123.1 – 123.5 are amended to read as follows:

123.1

(a) All medical services, appliances, or supplies provided to an injured employee or claimant must be pre-authorized by the Program in order to be paid or reimbursed by the Program, except as provided in paragraph (b) of this subsection.

(b) If there is a need for emergency treatment the employee or claimant may, without prior authorization by the Program, select a healthcare provider to provide reasonably necessary emergency medical care prescribed by a qualified health professional for an injury sustained in the performance of duty, and such medical services, appliances, or supplies may be paid or reimbursed by the Program, subject to utilization review, if notice of such medical care is given to the Program no later than thirty (30) days after the care is rendered.

123.2 In order for the Program to pay for the medical services, appliances, or supplies provided by a healthcare provider and prescribed by a qualified health professional, the healthcare provider must be a member of the Program's Panel of Healthcare Providers, except as provided in §§ 123.1(b) and 123.4 of this chapter.

123.3 The Program's reimbursement for any expenses incurred for medical services, appliances, or supplies provided pursuant to Section 2303 of the Act (D.C. Official Code § 1-623.03) shall be limited by the fee schedule prescribed in this chapter.

123.4 Once an employee or claimant selects a qualified health professional from the Program's Panel of Healthcare Providers, the Program will not pay for or reimburse the costs of medical care provided or prescribed by another qualified health professional without authorization of the Program, except as provided in § 123.1(b) of this chapter.

123.5 An employee or claimant who is not satisfied with medical services provided by the qualified health professional selected from the Program's Panel of Healthcare Providers shall file Form M3 with the Program to request to change the qualified health professional, with justification in support of the request. The Program shall authorize a change where the Program finds the change is in the best interest of the employee or claimant.

Subsection 123.6 is added to read as follows:

123.6 An employee or claimant may request reimbursement of expenses for medical services, appliances, or supplies that are incurred prior to (i) acceptance of the claim or (ii) reinstatement of the claim pursuant to a compensation order by completing and submitting Form MR with a copy of the bill and medical record to the Program, provided such expenses have not otherwise been paid for by insurance.

(a) If the Program does not respond within thirty (30) days of receipt of a request for reimbursement submitted pursuant to this subsection, the Claimant may file a request for an audit to request review of the reimbursement request by the Chief Risk Officer pursuant to § 153 of this chapter.

Section 124, MEDICAL BENEFITS AND SERVICES; PROGRAM RESPONSIBILITY, is amended as follows:

Subsections 124.1 – 124.5 are amended to read as follows:

124.1 The Program shall establish a Program Panel of Healthcare Providers (hereinafter the "Panel") to furnish medical services, appliances, or supplies to District government employees or claimants who are injured while in the performance of duty, in accordance with the Act and rules and regulations of the Program.

124.2 (a) The Program shall select members of the Panel based on the healthcare provider's ability to cure, give relief, reduce the degree or length of injury, or aid in lessening the amount of the monthly compensation.

(b) A qualified health professional shall apply to be a member of the Panel, pursuant to an application issued by the Program. Any other healthcare provider may be designated a member by the Program without application.

(c) The Program may add and remove healthcare providers from the Panel at its discretion. A decision by the Program to remove a member from the Panel shall be final.

124.3 If the Program decides to remove a qualified health professional from the Panel, the Program shall give all of the claimants currently being treated by that qualified health professional notice of the decision, as well as a list of up to three (3) alternative Panel qualified health professionals, at least thirty (30) days before the qualified health professional is removed from the Panel.

124.4 The Program shall take appropriate steps to ensure that medical records are maintained in a confidential manner.

124.5 The Program may require a claimant to submit to physical examinations as frequently as may be reasonably required to investigate a claimant's initial and continued eligibility for benefits under the Act, as provided at § 136 of this chapter.

Subsections 124.6 – 124.12 are added to read as follows:

124.6 Upon notification of an injury or acceptance of a claim for compensation, the Program shall provide the employee or claimant with a list of up to three (3) qualified health professionals from the Panel and inform the employee or claimant of the requirements in § 123 of this chapter.

124.7 Within thirty (30) days after receipt of a written request for prior authorization for any medical care, supply, or service, the Program shall provide the claimant and qualified health professional written notice approving, denying, or disputing the

request. If no authorization is granted within thirty (30) days the medical care, supply, or service shall be deemed approved, provided the medical care, supply, or service is for a condition that has been accepted as compensable by the Program.

124.8 When the Program disputes or denies a request for prior authorization by a qualified health professional pursuant to § 124.7 of this chapter because the Program believes the necessity, character, or sufficiency of the medical care is improper, the Program shall:

(a) Provide written notice of the dispute or denial to the claimant and qualified health professional; and

(1) Initiate utilization review;

(2) Request a hearing on the matter before the Chief Risk Officer; or

(3) Provide, with the written notice of denial or dispute, information about the claimant's rights to initiate utilization review and the claimant and the qualified health professional's right to request a hearing before the Chief Risk Officer.

124.9 If the Program denies a request for prior authorization for medical care, pursuant to § 124.7 of this chapter on any basis other than the necessity, character, or sufficiency of the medical care, the Program shall:

(a) Provide written notice of the denial to the claimant and qualified health professional; and

(b) Provide, with the written notice of denial to claimant, information about the claimant's right to appeal the decision to the Chief Risk Officer pursuant to § 156 of this chapter.

124.10 The Program shall not reimburse or pay costs incurred for services rendered by a healthcare provider who is not a member of the Program's Panel of Healthcare Providers, unless otherwise authorized by law or regulation or awarded on appeal. Reimbursement for costs incurred for services rendered by non-Panel healthcare providers shall be subject to utilization review and limited by the fee schedule prescribed in this chapter.

124.11 The Program may enter into a provider agreement with a healthcare provider that sets forth the provisions of this chapter and additional terms and conditions relating to the provision of services to District government employees and claimants, as determined by the Program to be reasonable and necessary to ensure appropriate care, including fee and payment guidelines.

124.12 The Program shall issue a decision on a request for reimbursement of medical services, appliances, or supplies submitted by a claimant pursuant to § 123.6 of this chapter within thirty (30) days of receipt of Form MR and required supporting documentation. The Program's decision shall include notice of claimant's right to appeal pursuant to § 156 of this chapter.

Section 125, MEDICAL BENEFITS AND SERVICES; TREATING PHYSICIAN RESPONSIBILITY, is amended to read as follows: MEDICAL BENEFITS AND SERVICES; HEALTHCARE PROVIDER RESPONSIBILITY

Subsections 125.1 – 125.8 are amended to read as follows:

125.1 A healthcare provider who provides medical services, appliances, or supplies to an injured employee or claimant must comply with the provisions in this chapter.

125.2 Unless otherwise directed or required by the Program, the following information shall be included in a Form 3, Form 3S, Form 3RC, or other Program-approved medical report(s) submitted by a qualified health professional:

(a) Date(s) of examination and treatment, if any;

(b) History given by the employee;

(c) Physical findings;

(d) Results of diagnostic tests;

(e) Medical records reviewed;

(f) Diagnosis;

(g) Nature of injury;

(h) Manner and mechanism of injury, to include the qualified health professional's opinion, with medical reasons and bases, as to the probable cause and mechanism of injury;

(i) Description of any other conditions found that are not due to the claimed injury, including indications of pre-existing conditions that may be the cause of or contribute to any alleged disabling condition;

(j) Treatment given, if any;

(k) Course of treatment, including treatment plan recommended for the claimed injury or recurrence of disability to bring about maximum medical improvement, if any;

(l) In the case of a claimed recurrence of disability, the qualified health professional's opinion, with medical reasons and bases, as to causal relationship between the diagnosed condition(s) and the original work-place injury and resulting condition(s);

(m) Nature, extent, and expected duration of disability affecting the employee's or claimant's ability to work due to the injury;

(n) Prognosis for recovery, including an estimate regarding when the employee or claimant will be able to return to work; and

(o) All other material findings.

125.3 Unless otherwise authorized by the Program, a qualified health professional shall, within five (5) business days after any medical care is provided following the initial examination of the injured employee or claimant, transmit Form 3S or other Program-approved medical report(s) containing information required under § 125.4 of this chapter to the Program electronically at the email address or fax number designated on the Healthcare Provider Information Page of the Office of Risk Management website.

125.4 Unless otherwise authorized by the Program, within seven (7) business days after an initial examination of the injured employee or claimant, a qualified health professional shall transmit Form 3 or other Program-approved medical report(s) containing information required under § 125.4 of this chapter to the Program electronically at the email address or fax number designated on the Healthcare Provider Information Page of the Office of Risk Management website.

125.5 A healthcare provider who provides medical services, appliances or supplies, to an injured employee or claimant shall, at no cost, provide medical reports and records pertaining to the services, appliances, or supplies rendered no later than ten (10) days after receipt of the Program's request for such reports and records.

125.6 A healthcare provider shall include in each medical report for services rendered under the Act, the code, as published by the American Medical Association (AMA) in the most current edition of the Current Procedural Terminology (CPT codes), for detailing the billing of each medical procedure provided by the healthcare provider and the diagnosis code established by the most recent edition of the International Classification of Diseases (ICD), as published by the U.S. Department of Health and Human Services, for diagnosing the claimant's condition. If there is no standard CPT code for a procedure provided by the healthcare provider, additional CPT Codes may be prescribed by the Program, as published on the ORM website.

125.7 In order to be paid by the Program for compensable medical services, appliances, or supplies provided to an employee or a claimant, a healthcare provider must be a member of the Program's Panel of Healthcare Providers at the time service is provided, unless:

(a) The medical care is provided pursuant to § 123.1(b) of this chapter;

(b) The healthcare provider belongs to a network of healthcare providers to which the Program has secured access to care for employees or claimants through a license or working agreement and within two hundred and forty (240) days after first treating an injured District government employee or claimant as a healthcare provider participating within such a network:

(1) Is designated a member of the Panel by the Program; or

(2) With respect to a qualified health professional, applies for admission to the Program's Panel of Healthcare Providers (only for so long as the application is pending).

(c) The healthcare provider is a pharmacy or pharmacist licensed in the jurisdiction where medication or prescription drugs are dispensed.

125.8 A qualified health professional must apply to be a member of the Program's Panel of Healthcare Providers to provide or prescribe medical care to a claimant or employee, and any other healthcare provider must be designated a member of the panel by the Program in order to provide services, appliances or supplies, except as provided in §125.7.

Subsections 125.9 – 125.14 are added to read as follows:

125.9 A healthcare provider selected to be a member of the Program's Panel of Healthcare Providers shall:

(a) Submit the following documentation, as applicable, pertaining to the jurisdiction in which the healthcare provider is licensed

(1) License number;

(2) Board name;

(3) The name of the state in which the provider is certified or licensed; and

(4) At the Program's request, information regarding any sanctions the provider may have received since licensure or certification;

(b) Possess and maintain appropriate insurance as determined by the Program;

(c) Notify the Program of any material changes, including changes to licensure, insurance coverage, staff who provide treatment to injured employees or claimants, or certification or history of sanctions or adverse action taken against the provider or staff, within fourteen (14) days of a change;

(d) Comply with the payment guidelines prescribed by the District of Columbia Office of the Chief Financial Officer, published on the Healthcare Provider Information Page of the Office of Risk Management website; and

(e) Comply with the terms and conditions of a Provider Agreement (if any).

125.10 A healthcare provider who provides compensable medical care to a District government employee or claimant shall comply with the medical billing rules prescribed at §126 of this chapter as a condition for payment of services rendered.

125.11 Unless the medical care is needed for emergency care pursuant to § 123.1 of this chapter or the service to be rendered is limited to an office or clinic visit with a qualified health professional, any prescribed medical services, appliances, or supplies requires prior authorization from the Program.

125.12 To seek prior authorization, a qualified health professional shall complete and electronically submit Form 3PA to the Program in the manner prescribed on the Healthcare Provider Information page found at the ORM website.

125.13 The cost of physical examinations ordered by the Program shall be paid by the Program.

125.14 A Panel healthcare provider who provides medical services, appliances, or supplies to a District government employee or claimant for a condition that is accepted by the Program as compensable under the Act shall not attempt to collect payment for such medical services, appliances, or supplies from the employee or claimant.

Section 126, MEDICAL BILLS, is amended as follows:

Subsections 126.1 – 126.6 are amended to read as follows:

126.1

(a) Medical services, appliances, or supplies shall be billed and reimbursed at a rate that does not exceed the rate set forth on the medical fee schedule adopted by the Program.

(b) For medical services, appliances, or supplies included on a Medicare fee schedule, the rate set forth on the Program's fee schedule shall be one hundred-thirteen percent (113%) of Medicare's reimbursement rates. For purposes of this chapter, medical supplies include medication and prescription drugs.

(c) For medical services, appliances, or supplies not included on a Medicare fee schedule, the billing and reimbursement rate shall be the rate set forth for the services, appliances, or supplies on the Program's fee schedule published on the Healthcare Provider Information Page of the Office of Risk Management website.

(d) If a medical service, appliance, or supply is not included on a Medicare fee schedule or the Program's published fee schedule, the billing and reimbursement rates shall be limited to the reasonable and customary charges prevailing in the local medical community, as determined by the Program.

(e) Notwithstanding the foregoing, dispensing fees for prescription drugs shall not exceed five dollars ($5.00) per prescription filled.

126.2 If a healthcare provider intends to bill for medical services, appliances, or supplies, where prior authorization is required, that provider must request or verify the existence of such prior authorization from the Program before providing services, appliances, or supplies. All medical bills submitted to the Program lacking required prior authorization will be automatically denied.

126.3 Unless otherwise authorized by the Program, all bills for medical services, appliances, or supplies rendered under the Act must be submitted on a CMS1500, Health Insurance Claim Form and shall:

(a) Include the code, as published by the American Medical Association (AMA) in the most current edition of the Current Procedural Terminology (CPT codes) for each care, supply, and service rendered and the codes established by the most recent edition of the International Classification of Diseases (ICD), as published by the U.S. Department of Health and Human Services, for diagnosing the claimant's condition. If there is no standard CPT code for a care, supply, or service rendered, the health care provider shall refer to the Program's fee schedule for the procedure code prescribed by the Program;

(b) Include the "From" and "Through" dates with the appropriate units for each CPT code billed, when billing for care, supplies, or services over a period of time;

(c) Include the name, address, telephone number, signature, and date of signature of the healthcare provider who rendered care, supplies, or services;

(d) Be generated and submitted by the healthcare provider; and

(e) Be supported by medical evidence documented on Form 3, 3S, 3RC, or other Program approved forms, as provided in § 125 of this chapter.

126.4 The Program may withhold payment for an authorized service, appliance, or supply until a bill for such service, appliance, or supply is submitted in accordance with § 126.3 of this chapter.

126.5 A medical report or medical evidence that is not on a Program form submitted in support of a bill shall be typewritten on the healthcare provider's letterhead and signed and dated by the healthcare provider and include information required under § 125 of this chapter or as requested by the Program.

126.6 Unless otherwise authorized by the Program, all bills shall be submitted by first-class U.S. mail or electronically to the email address or fax number designated on the Healthcare Provider Information Page of the Office of Risk Management website.

Subsections 126.7 – 126.15 are added to read as follows:

126.7 No bill will be paid for expenses incurred if the bill is received more than one (1) year after the later of:

(a) The end of the calendar year in which the expense was incurred, or the medical service, appliance, or supply was provided; or

(b) The end of the calendar year in which the claim was first accepted as compensable by the Program.

126.8 Within thirty (30) days after receipt of a bill for medical services, appliances, or supplies submitted pursuant to the requirements of this section, the Program shall provide the claimant and healthcare provider with written notice approving, adjusting, denying, or disputing the bill.

126.9 If the Program fails to respond to a bill from a healthcare provider in accordance with this section and Section 2303(f) of the Act (D.C. Official Code § 1-623.03(f)), the Program shall be deemed to have authorized payment of the bill, provided that the medical service, appliance, or supply is:

(a) For a condition that has been accepted as compensable by the Program; and

(b) Prior authorization requirements are met.

126.10 If the Program adjusts, denies, or disputes a bill, the Program shall issue a written Explanation of Review to the claimant and healthcare provider.

126.11 The Explanation of Review shall inform the recipients of the recipients' right to request a hearing before the Chief Risk Officer to dispute the Program's decision, unless the Program has:

(a) Initiated utilization review; or

(b) Requested a hearing on the matter before the Chief Risk Officer.

126.12 A request for a hearing before the Chief Risk Officer to dispute the Program's decision regarding the bill pursuant to Section 2323(a-2)(4) of the Act (D.C. Official Code § 1-623.23(a-2)(4)) shall be submitted by filing Form 9H with the Office of Risk Management no later than six (6) months of the later of:

(a) The date of the bill;

(b) The date of initial payment of the bill; or

(c) The date of the initial Explanation of Review.

126.13 Prior to requesting a hearing before the Chief Risk Officer pursuant to § 126.12 of this chapter, a healthcare provider, but not a claimant, may seek reconsideration of the Program's adjustment, denial, or dispute of a bill as follows:

(a) For an Explanation of Review issued by the Program, complete and electronically submit Form 9R by email or fax to the email address or fax number designated on the Healthcare Provider Information Page of the Office of Risk Management website.

(b) For an Explanation of Review prepared by a bill review vendor and issued by the Program, resubmit the bill directly to the vendor or contact the vendor directly to discuss the bill.

126.14 A request for reconsideration does not toll the time to request a hearing as set forth in § 126.12 of this chapter.

126.15 Nothing in this section shall be construed to allow for payment of any medical service, appliance, or supply provided for a condition that is not accepted by the Program as being compensable under the Act.

Section 127, UTILIZATION REVIEW, is amended as follows:

Subsection 127.1 is amended to read as follows:

127.1 Any medical care or service furnished or scheduled to be furnished under the Act shall be subject to utilization review, regardless of whether prior authorization was required for the medical care or service. The utilization review may be performed before, during, or after the medical care or service is provided. Medical care under this section includes medical appliances and supplies.

Subsections 127.3 – 127.14 are amended to read as follows:

127.3 The claimant, the Program, or the Chief Risk Officer's hearing representative may initiate utilization review if it appears that the necessity, character, or sufficiency of medical care or services furnished or scheduled to be furnished is improper or needs to be clarified.

127.4 Utilization review shall be initiated only for medical care or services provided, or scheduled to be provided, for treatment of a condition that the Program has accepted as being compensable under the Act.

127.5

(a) If a utilization review is initiated under this section, the utilization review organization or individual shall make a decision no later than sixty (60) days after the utilization review is requested.

(b) If the utilization review is not completed within one hundred twenty (120) days of the request, the medical care or service under review shall be deemed approved if:

(1) The medical care or service was provided, or is scheduled to be provided to treat a condition that the Program has accepted as being compensable under the Act; and

(2) The medical care or service, is provided, or scheduled to be provided, by a member of the Program's Panel of Healthcare Providers.

127.6 The utilization review report shall specify the medical records considered and shall set forth rational medical evidence and standards to support each finding. The report shall be authenticated or attested to by the utilization review individual or by an officer of the utilization review organization. The report shall be provided to the claimant, qualified health professional, and the Program.

127.7 A utilization review report which conforms to the provisions of this section shall be admissible in all proceedings with respect to any claim to determine whether a

medical care or service was, is, or may be necessary and appropriate to treat a condition that has been accepted by the Program as being compensable under the Act.

127.8 A decision issued by the utilization review organization or individual under this section shall inform the claimant and qualified health professional of their right to reconsideration before the utilization review organization.

127.9 If the qualified health professional or claimant disagrees with the opinion of the utilization review organization or individual, the qualified health professional or claimant may submit a written request to the utilization review organization or individual for reconsideration of the opinion.

127.10 The request for reconsideration shall:

(a) Be in writing;

(b) Contain reasonable medical justification for the reconsideration;

(c) Provide additional information, if the medical care or service was denied because insufficient information was initially provided to the utilization review organization or individual; and

(d) Be made within sixty (60) calendar days after the claimant's receipt of the utilization review report if the claimant is requesting reconsideration, or within sixty (60) calendar days after the qualified health professional's receipt of the utilization review report, if the qualified health professional is requesting reconsideration.

127.11 A decision issued on reconsideration pursuant to Section 2323(a-2)(3) of the Act (D.C. Official Code § 1-623.23(a-2)(3)) is final and not subject to further review on the issue of necessity, character, or sufficiency of the medical care or service provided, or scheduled to be provided.

127.12 Where utilization review has not been initiated, a dispute regarding the issue of necessity, character, or sufficiency of the medical care or service provided, or scheduled to be provided may, pursuant to Section 2323(a-2)(4) of the Act (D.C. Official Code § 1-623.23(a-2)(4)), be resolved upon an application for a hearing before the Chief Risk Officer pursuant to § 157 of this chapter within thirty (30) calendar days after the date of the Program's decision denying authorization for medical care or services.

127.13 A request for a hearing under § 127.12 of this chapter may be made by the Program, qualified health professional, or claimant.

127.14 As provided in Section 2323(a-2)(4) of the Act (D.C. Official Code § 1-623.23(a-2)(4)), the Superior Court of the District of Columbia may review the Chief Risk Officer's decision. The decision may be affirmed, modified, revised, or remanded at the discretion of the court. The decision shall be affirmed if supported by substantial competent evidence of the record, pursuant to the District of Columbia Superior Court Rules of Civil Procedure Agency Review.

Subsections 127.15 – 127.18 are added to read as follows:

127.15 The District of Columbia government shall pay the cost of a utilization review if the claimant seeks the review and is the prevailing party. The claimant shall pay the cost of a utilization review if the claimant seeks the utilization review and the Program is the prevailing party. Utilization review services, if paid by the Program, may be recovered under Section 2329 of the Act (D.C. Official Code § 1-623.29).

127.16 The Program may deny a request by a qualified health professional for authorization for medical care or services furnished, or scheduled to be furnished, where insufficient information has been provided to initiate utilization review.

127.17 If the Program makes payment for medical care or services that are later denied pursuant to utilization review, the Program shall recoup such payment as an overpayment in accordance with Section 2329 of the Act (D.C. Official Code § 1-623.29).

127.18 The Program may enter into a working agreement with a utilization review organization or individual to carry out the utilization reviews authorized under this section. Each such agreement shall set forth terms and conditions to ensure appropriate review, including fee, and payment guidelines.

Section 130, COMPUTATION OF WAGE-LOSS COMPENSATION; PARTIAL DISABILITY, is amended as follows:

Subsections 130.1 – 130.9 are amended to read as follows:

130.1 A disability is partial, when a qualified health professional determines that a claimant can perform work with restrictions, provided that:

(a) The restrictions arise out of a work-related injury;

(b) A claim has been filed for the work-related injury and accepted by the Program; and

(c) The qualified health professional has examined the employee and reviewed his or her medical records.

130.2 If the disability is partial, subject to the limitations in Section 2306a of the Act (D.C. Official Code § 1-623.06a), the claimant's monthly monetary compensation shall be sixty-six and two-thirds percent (66 2/3%) (or seventy-five percent (75%), if an augmented rate of wage-loss compensation is permitted) of the difference between the claimant's monthly pay, as defined at Section 2301(4) of the Act (D.C. Official Code § 1-623.01(4)), and the claimant's monthly wage-earning capacity after the beginning of the partial disability.

130.3 (a) Determination based on actual wages. If the claimant has current or a history of actual earnings which fairly and reasonably represent his or her wage-earning capacity, those earnings shall form the basis for payment of wage-loss compensation for partial disability.

(b) Determination based on labor market survey. If the claimant's actual earnings do not fairly and reasonably represent his or her wage-earning capacity, or if the claimant has no actual earnings, the Program shall perform a labor market survey, using the factors set forth in § 130.5 of this chapter, to select a position that represents his or her wage-earning capacity.

(c) Determination pending labor market survey. If a claimant is released to work in any capacity, the Program may calculate earnings at the highest minimum wage rate in effect within a fifty (50) mile radius of the claimant's residence at the time, taking into account the total hours the claimant is medically authorized to work, to construct a temporary wage-earning capacity until a labor market survey is completed.

130.4 In establishing a wage-earning capacity, the Program is not obligated to secure employment for the claimant in the position selected for establishing a wage-earning capacity.

130.5 The phrase "labor market survey" means a determination of the types of positions that a claimant is capable of doing, based on the following factors, as set forth in Section 2315 of the Act (D.C. Official Code § 1-623.15):

(a) The nature of his or her injury;

(b) The degree of physical impairment;

(c) His or her usual employment;

(d) His or her age;

(e) His or her qualifications for other employment;

(f) The availability of suitable employment; and

(g) Other factors or circumstances which may affect his or her wage-earning capacity as a worker with a disability.

130.6 When conducting a labor market survey, the Program shall identify at least three (3) suitable positions that are available at the time. The claimant's wage-earning capacity shall be calculated based on the annual earnings of the lowest-paid position identified, taking into account the total hours the claimant is medically authorized to work, unless it is reasonable to select a higher-paid position based on the factors set forth in § 130.5 of this chapter.

130.7 The Program shall determine whether the positions selected are reasonably available and vocationally suitable. The fact that a claimant is not successful in securing employment does not establish that the selected positions are not vocationally suitable.

130.8

(a) When calculating wage-earning capacity pursuant to Section 2315 of the Act (D.C. Official Code § 1-623.15) and this section, it is necessary to establish that the selected positions are medically suitable given the claimant's injury-related and pre-existing impairments.

(b) A wage-earning capacity determination must be based on a current or contemporaneous medical evaluation.

(c) Medical conditions not related to the work-related injury or condition that has been accepted as compensable by the Program will not be considered, unless they pre-existed the accepted injury or condition.

(d) Considerations shall be based on well-defined work restrictions in the medical or claim record.

130.9 The positions selected for determining the wage-earning capacity must be reasonably available in the general labor market within fifty (50) miles of the claimant's residence.

Subsection 130.13 is added to read as follows:

130.13 The Program may apply a wage-earning determination retroactively if the evidence shows that partial, rather than total, disability existed. A claimant's receipt of actual earnings shall be deemed to support the retroactive application of a wage-earning capacity determination to at least the period when wages were first earned. Following the Program's initial determination, a retroactive determination based solely on a labor market survey may not encompass any period during which wage-loss benefits were actually paid.

Section 136, ADDITIONAL MEDICAL EXAMINATIONS, is amended as follows:

Subsection 136.14 is added to read as follows:

136.14 The Program may enter into a working agreement to provide AME services under this section. Each such agreement shall set forth terms and conditions to ensure appropriate evaluations, including fee and payment guidelines.

Section 141, VOCATIONAL REHABILITATION, is amended as follows:

Subsection 141.7 is added to read as follows:

141.7 The Program may enter into a working agreement with vocational counselors and organizations to provide vocational rehabilitation services to claimants. Each such agreement shall set forth terms and conditions necessary to ensure appropriate service, including fee and payment guidelines.

Section 144, MODIFICATION, FORFEITURE, SUSPENSION OR TERMINATION OF BENEFITS, is amended as follows:

The title to Section 144 is amended to read as follows: MODIFICATION OF AWARD OF COMPENSATION

Subsections 144.1 - 144.10 are amended to read as follows:

144.1 The Program may modify an award of compensation if the Program has reason to believe that the claimant's PSWCP file and records establish:

(a) A change of condition has occurred pursuant to Section 2324(d)(1) of the Act (D.C. Official Code § 1-623.24(d)(1));

(1) A change of condition means a change to a claimant's accepted medical condition or other circumstance, such as incarceration, vocational or other education studies, that affect the claimant's ability to earn wages; or

(b) A change to the claimant's accepted medical condition has occurred pursuant to Section 2324(d)(4) of the Act (D.C. Official Code § 1-623.24(d)(4)) for one of the following reasons:

(1) The disability for which compensation was paid has ceased or lessened;

(2) The disabling condition is no longer causally related to the accepted work injury;

(3) Claimant's condition has changed from total disability to partial disability;

(4) Claimant has been released to return to work with or without restrictions; or

(5) The Program determines based on compelling evidence that the initial decision was in error.

144.2 An "award of compensation" means a Program determination or Compensation Order issued pursuant to Section 2324 of the Act (D.C. Official Code § 1-623.24) and shall not include calculations set forth in a Notice of Benefits or adjustments to benefits made pursuant § 145 of this chapter.

144.3 Except as provided at Subsection 144.3(a), the Program will provide the claimant with prior written notice of the proposed action to modify an award of compensation pursuant to § 144 of this chapter and give the claimant thirty (30) days to submit relevant evidence or argument to support entitlement to continued payment of compensation prior to issuance of an Eligibility Determination (ED), where the Program has a reason to believe that compensation should be modified due to a change of condition pursuant to Sections 2324(d)(1) and (4) of the Act. An ED shall be accompanied by information identifying the employee's appeal rights and, for termination of wage loss benefits, claimant's one hundred eighty (180)-day time limitation from the date of the notice to make a claim for permanent disability compensation.

(a) Prior written notice will not be given when:

(1) The claimant dies;

(2) The Program either reduces or terminates compensation upon a claimant's return to work or release to return to work,

(3) The claimant has been convicted of fraud in connection with the claim;

(4) When the award of compensation was for a closed period, which has expired;

(5) The Program issues an initial determination where a claim has been deemed accepted pending such issuance; or

(6) The claimant's benefits are suspended for failure to:

(A) Participate in vocational rehabilitation, if the claimant is hired on or after January 1, 1980;

(B) Follow prescribed and recommended course of medical treatment from the treating physician; or

(C) Attend an appointment for Additional Medical Examination (AME), bring medical records under the claimant's possession and control, or any other obstruction of the examination.

144.4 Prior notice provided under this section will include a description of the reasons for the proposed action and a copy of the specific evidence upon which the Program is basing its determination. Payment of compensation will continue until any evidence or argument submitted has been reviewed and an appropriate decision has been issued, or until thirty (30) days have elapsed after the issuance of the notice if no additional evidence or argument is submitted.

144.5

(a) If a claimant timely files his or her response to the Program's prior written notice of proposed modification and identifies additional evidence the claimant wishes to submit, the Program shall allow the claimant additional time to submit evidence, where claimant establishes good cause for the delay in acquiring the evidence.

(b) If the claimant submits evidence or argument prior to the issuance of the decision, the Program will evaluate the submission in light of the proposed action and undertake such further development as it may deem appropriate, if any. Evidence or argument that is repetitious, cumulative, or irrelevant will not require any further development. If the claimant does not respond within thirty (30) days of the prior written notice, the Program will issue a decision consistent with its prior written notice. The Program will not grant any request for an extension of this thirty (30) day period.

(c) Evidence or argument that refutes the evidence upon which the proposed action was based will result in the continued payment of compensation. If the claimant submits evidence or argument that fails to refute the evidence upon which the proposed action was based but which requires further development of the evidence and basis for the decision, the Program will not provide the claimant with another notice of its proposed action upon completion of such development. Once any further development of the evidence is completed, the Program will either continue payment or issue a decision consistent with its prior written notice or further developed evidence.

144.6

(a) If substantial evidence in the claimant's Program file establishes that a claimant hired before January 1, 1980, without good cause failed to apply for or undergo vocational rehabilitation, when directed by the Program:

(1) The Program may propose a reduction of wage-loss compensation and present the proposed reduction to the Compensation Review Board (CRB) for review; and

(2) The CRB shall affirm the reduction in benefits, if it determines that there is substantial evidence in the record to show that the wage-earning capacity of the individual would probably have substantially increased, absent the claimant's failure to attend vocational rehabilitation, as directed by the Program.

(b) For the purposes of this subsection, the term "substantially increase" means an increase in wage-earning capacity of fifty percent (50%) or more.

(c) The Program shall compute the claimant's wage-earning capacity by conducting a labor market survey or applying the factors provided at Section 2315 of the Act (D.C. Official Code § 1-623.15) based on the assumption the claimant has enrolled completed in vocational rehabilitation. The claimant's annual wage-earning capacity shall be divided by twelve (12) to arrive at the claimant's monthly wage-earning capacity. The claimant's monthly wage-earning capacity assuming enrollment incompletion of vocational rehabilitation shall be compared against the claimant's wage-earning capacity without enrollment or incompletion of vocational rehabilitation. If the claimant's wage-earning capacity assuming enrollment in completion of vocational rehabilitation exceeds the claimant's wage-earning capacity without vocational rehabilitation by fifty percent (50%) or more, the Program may propose a reduction of wage-loss compensation.

144.7 Failure to apply for or undergo vocational rehabilitation shall include failure to attend meetings with the vocational rehabilitation counselor, failure to apply for jobs that have been identified for the claimant, or failure to otherwise participate in good faith in the job application process.

144.8 In all claims, the claimant is responsible for continual submission, or arranging for the continual submission of, a medical report from the attending physician as evidence supporting the reason for continued payment of compensation under the award of compensation.

144.9 For wage-loss compensation benefits, "reason to believe" that the disability for which compensation was paid has ceased pursuant to §§ 144.1(b)(1) and 144.3(a) of this chapter includes a claimant's failure to provide contemporaneous medical evidence to show that:

(a) The accepted condition remains disabling; and

(b) The nature and extent of the ongoing disability necessitate claimant's continued absence from work or restricts claimant from performing the full scope of pre-injury duties.

144.10 For medical compensation benefits, "reason to believe" that the condition for which compensation was paid has ceased pursuant to § 144.3(a) of this chapter includes a claimant's lack of treatment for the accepted condition for one year or more.

Subsection 144.11 is added to read as follows:

144.11 Compensation benefits that have been suspended under this section may be resumed if a claimant cures the deficiency that gave rise to the suspension, unless benefits have been terminated. Resumption of compensation benefits that have been suspended shall occur on a prospective basis.

Section 145, ADJUSTMENTS AND CHANGES TO BENEFITS, is amended as follows:

The title to Section 145 is amended to read as follows: ADJUSTMENTS TO BENEFITS

Subsections 145.1 – 145.6 are amended to read as follows:

145.1 A claimant's benefits shall be adjusted, where the claimant's PSWCP file and records establish substantial evidence that:

(a) The claimant's benefits shall be forfeited for failure to:

(1) Complete a report of earnings pursuant to § 138 of this chapter; or

(2) Accept a modified duty assignment offered within the time prescribed at § 142 of this chapter.

(b) The claimant's benefits shall be terminated because the claimant's compensation benefits have been subject to forfeiture for failure to complete a report of earnings for more than ninety (90) days;

(d) The claimant's eligibility for wage-loss compensation is subject to limitations provided at Section 2316 of the Act (D.C. Official Code § 1-623.16) and § 134 of this chapter; or

(d) The claimant is no longer eligible for benefits for reasons not otherwise prescribed at Section 2324(d) of the Act (D.C. Official Code § 1-623.24(d)).

145.2 The Program shall provide a written notice to a claimant when benefits are

adjusted pursuant to § 145.1 of this chapter and inform the claimant of his or her right to appeal to the Chief Risk Officer.

145.3 Prior written notifications pursuant to Section 2324(d) of the Act (D.C. Official Code § 1-623.24(d)) shall not apply to adjustments to benefits issued pursuant to § 145 of this chapter.

145.4 The Program shall provide a written Notice of Benefits to a claimant if there is an adjustment in the claimant's wage-loss compensation benefits or a correction of a technical error that results in a change to the claimant's wage-loss compensation benefits and inform the claimant of his or her right to appeal to the Chief Risk Officer.

145.5 Compensation benefits that have been forfeited under this section may be resumed if a claimant cures the deficiency that gave rise to the forfeiture, unless benefits have been terminated. Resumption of compensation benefits that have been forfeited shall occur on a prospective basis; except, that compensation benefits may be restored on a retroactive basis where a good cause determination has been made, pursuant to § 147 of this chapter, for reversal of the suspension or forfeiture decision.

145.6 Periods of forfeiture shall be counted toward the five hundred (500)-week limitation in Section 2306a of the Act (D.C. Official Code § 1-623.06a).

Subsections 145.7 – 145.9 are repealed and shall read as follows:

145.7 [REPEALED]

145.8 [REPEALED]

145.9 [REPEALED]

Section 149, COMPUTATION OF TIME, is amended as follows:

Subsection 149.4 is added to read as follows:

149.4 For the purposes of the Act and this chapter, a form or required document is deemed timely filed if it is received by the Program by the due date.

Section 153, REQUESTS FOR AUDIT OF INDEMNITY BENEFITS, is amended as follows:

The title to Section 153 is amended to read as follows: REQUESTS FOR AUDIT OF COMPENSATION BENEFITS

Subsection 153.1 is amended to read as follows:

153.1 A claimant who believes that the Program has incorrectly calculated his or her medical compensation, wage-loss compensation, or death benefit may request an audit of the Program's calculation by completing Form A-1 and submitting it to the Chief Risk Officer, provided that the claimant's medical compensation, wage-loss compensation or death benefits were not terminated more than three (3) years before the date of the Form A-1 submission.

Section 155, OFFICE OF ADMINISTRATIVE HEARINGS (OAH), JURISDICTION AND OFFICE OF HEARINGS AND ADJUDICATION (OHA), is amended as follows:

The title to Section 155 is amended to read as follows: OFFICE OF ADMINISTRATIVE HEARINGS (OAH), JURISDICTION

Subsection 155.1 is amended to read as follows

155.1 Beginning December 1, 2016, the following decisions shall be appealed to the Office of Administrative Hearings (OAH):

(a) Initial awards for or against compensation benefits pursuant to Section 2324(b) of the Act (D.C. Official Code § 1-623.24(b)); and

(b) Modification of awarded compensation benefits pursuant to Section 2324(d) of the Act (D.C. Official Code § 1-623.24(d)).

Section 156, OFFICE OF RISK MANAGEMENT, JURISDICTION, is amended as follows:

Subsection 156.1 is amended to read as follows:

156.1 A claimant who is dissatisfied with a decision issued by the Program, other than a decision subject to review by OAH as set forth in § 155 of this chapter, may only appeal the decision to the Chief Risk Officer.

Subsections 156.3 - 156.4 are amended to read as follows:

156.3 The Chief Risk Officer shall affirm the Program's decision if it is supported by substantial evidence in the record. Otherwise, at the discretion of the Chief Risk Officer, the claimant's appeal may be dismissed for failure to state a claim, lack

of jurisdiction, procedural errors, or other appropriate reason or the Program's decision may be affirmed, modified, or remanded to the Program with instructions.

156.4 The Chief Risk Officer shall notify the claimant in writing of his or her decision within thirty (30) days after the Program's receipt of the appeal. If no decision is issued within the thirty (30)-day period, the Program's decision shall be deemed the final decision of the agency for appeal to the Superior Court of the District of Columbia as provided in § 156.5 of this chapter, unless the Chief Risk Officer issues a decision before the date on which the appeal to the Superior Court is filed.

Subsections 156.6 - 156.7 are added to read as follows:

156.6 A dispute arising under Section 2323 of the Act (D.C. Official Code § 1-623.23) between a qualified health professional, claimant, or the Program on the issue of necessity, character, or sufficiency of the medical care, supply, or service furnished, or scheduled to be furnished, or the fees charged by the healthcare provider (including a physician or organization providing Additional Medical Examination or utilization review services) shall be resolved by the Chief Risk Officer upon application for a hearing by the Program, claimant, or healthcare provider, in accordance with the applicable hearing rules provided at § 157 of this chapter.

156.7 As provided in Section 2323(a-2)(4) of the Act (D.C. Official Code § 1-623.23(a-2)(4)):

(a) The decision of the Chief Risk Officer pursuant to § 156.6 of this chapter may be reviewed by the Superior Court of the District of Columbia;

(b) The decision may be affirmed, modified, revised, or remanded in the discretion of the court; and

(c) The decision shall be affirmed by the court if supported by substantial competent evidence on the record.

Section 157, OAH AND OHA, HEARING RULES, is amended as follows:

The title to Section 157 is amended to read as follows: HEARING RULES

Subsection 157.1 – 157.3 are amended to read as follows:

157.1 OAH Rules 2950 through 2969 (OAH Rules) shall apply to management of PSWCP cases filed pursuant to Section 2324 of the Act (D.C. Official Code § 1-623.24) with the Department of Employment Services, Office of Hearings and Adjudications (OHA) and Office of Administrative Hearings (OAH).

157.2 If no procedure is specifically prescribed by the OAH Rules, the Superior Court for the District of Columbia Rules may be used as guidance, to the extent practicable.

157.3 The OAH Rules shall govern the conduct of hearing of cases filed pursuant to Section 2324 of the Act (D.C. Official Code § 1-623.24), unless the ALJ determines that their application impairs the ALJ's ability to ascertain the claimant's rights pursuant to Section 2324(b)(2) of the Act (D.C. Official Code § 1-623.24(b)(2)).

Subsection 157.4 is added to read as follows:

157.4 Hearings before the Chief Risk Officer (CRO) requested pursuant to Section 2323 of the Act (D.C. Official Code § 1-623.23) shall be conducted under the following rules (the "ORM Hearing Rules"):

(a) Hearings before the CRO shall be held by a hearing representative appointed by the CRO.

(b) A claimant, healthcare provider, or the Program may request an oral hearing or a hearing on the written record and shall so indicate on Form 9H:

(1) Within thirty (30) calendar days after the date of the Program's decision denying authorization for medical care or services; or

(2) Within six (6) months of the later of the date of the bill, the date of initial payment of the bill, or the date of the initial Explanation of Review.

(c) The party requesting the hearing (hereinafter "hearing proponent") shall submit, with his or her request for a hearing, all evidence or written argument that he or she wants to present to the hearing representative.

(d) If the Program is requesting the hearing pursuant to Section 2323 of the Act (D.C. Official Code § 1-623.23), the Program shall mail a copy of the hearing request to all parties involved. Each other party shall have fifteen (15) days to file a written response with supporting evidence or written argument to the Program hearing request with the hearing representative.

(e) If requested by any party, the hearing representative shall schedule an oral hearing and determine, at his or her discretion, whether the oral hearing will be conducted in person, by teleconference, by videoconference, or by other electronic means. The hearing representative shall have sole discretion to set the time, place, and method of the hearing. The hearing

representative shall provide written notice through an acknowledgment letter to each party of the time, place, and method of the hearing. The acknowledgment letter shall be provided within a reasonable period of time prior to, but no less than seven (7) days before, the date and time of the hearing.

(f) After the oral hearing has been scheduled and the hearing representative has transmitted appropriate written notice to the parties, the hearing representative may, upon submission of proper written documentation of an unavoidable serious scheduling conflict (such as court-ordered appearance or trial, jury duty, or a previously scheduled medical procedure), grant a request from any party to reschedule the hearing, as long as the hearing can be rescheduled to a date and time that is no more than thirty (30) days after the originally scheduled date and time. When a request to postpone a scheduled hearing by the hearing proponent cannot be accommodated under this paragraph, no further opportunity for an oral hearing shall be provided. Instead, the hearing will take the form of a review of the written record.

(g) Where either party or its representative is hospitalized for a non-elective reason or where the death of the claimant's, healthcare provider's, or representative's parent, spouse, child, or other immediate family member prevents attendance by the party or its representative at the hearing, the hearing representative shall, upon submission of proper documentation, grant a postponement beyond the period prescribed in paragraph (f) of this subsection.

(h) A decision regarding rescheduling under paragraphs (d) through (g) of this subsection shall be in the sole discretion of the hearing representative.

(i) When the proponent of an oral hearing fails to appear at the scheduled hearing, the hearing shall take the form of a review of the written record and a decision shall issue accordingly.

(j) Before the date of the oral hearing, the hearing representative may change the format of the hearing from an oral hearing to a review of the written record upon the hearing proponent's request. The decision to grant or deny a change of format from an oral hearing to a review of the written record shall be in the sole discretion of the hearing representative.

(k) A request for reasonable accommodation by an individual with a disability shall be made through the procedure described in the initial acknowledgement letter.

(l) The hearing shall be an informal process, and the hearing representative shall not be bound by common law or statutory rules of evidence, by

technical or formal rules of procedure, or by the Administrative Procedure Act.

(m) During the hearing, the party requesting the hearing shall be given up to thirty (30) minutes to present argument in support of the relief sought; each responding party shall be given up to thirty (30) minutes to present argument in support of its position. The hearing representative may ask questions of those presenting information on behalf of any party.

(n) When conducting the hearing, the hearing representative may review the claim file and any additional evidence submitted by the parties that has already been exchanged between the parties in advance of the hearing.

(o) The hearing representative shall determine the conduct of the oral hearing. Oral hearings shall be limited to no more than ninety (90) minutes. The hearing representative may extend this limitation at his or her discretion or terminate the hearing at any time he or she determines that all relevant evidence has been obtained, or because of misbehavior on the part of the claimant and/or representative. The hearing representative may stay the hearing and direct the parties to address matters that come up during the hearing.

(p) Argument at an oral hearing, including an oral hearing conducted by teleconference, videoconference, or other electronic means, shall be recorded and placed in the record. The transcript of the hearing shall be the official record of the hearing.

(q) The Office of Risk Management shall file a transcript of the oral hearing with the Superior Court as a part of the agency record, upon request for a review of the hearing representative's decision made pursuant to Section 2323 of the Act (D.C. Official Code § 1-623.23).

(r) The hearing record shall be closed after the hearing is held, unless the hearing representative, in his or her discretion, grants an extension. A request for an extension must be made orally at the hearing or submitted in writing no later than ten (10) days after the hearing is held. Only one (1) such extension may be granted. A copy of the hearing representative's decision on the extension request shall be transmitted to all parties.

(s) When conducting a hearing on the written record, the hearing representative shall issue a decision within forty-five (45) days after receipt of the hearing request.

(t) When conducting an oral hearing, the hearing representative shall issue a decision within thirty (30) days after the date of the oral hearing.

(u) When conducting a hearing regarding the necessity, character, or sufficiency of medical care or service furnished, or scheduled to be furnished, the hearing representative may initiate a utilization review pursuant to Section 2323 of the Act (D.C. Official Code § 1-623.23), and the relevant time periods set forth in paragraphs (s) and (t) of this section shall be stayed pending completion of the utilization review. The hearing representative shall issue a notice to all parties informing the parties that a utilization review has been initiated and that the time period for a decision has been stayed pending completion of utilization review.

(v) The proponent of the hearing may withdraw the hearing request at any time up to the time the decision is issued.

Section 159, HEARINGS, BURDEN OF PROOF, is amended as follows:

Subsection 159.2 is amended to read as follows:

159.2 Burden of Proof, Termination, or Modification of Award.

(a) If the Program seeks to terminate or modify an award, it must present substantial evidence that the Program had reason to believe:

(1) Claimant's accepted medical condition or other circumstance that affects the claimant's ability to earn wages has sufficiently changed to warrant modification or termination of benefits; or

(2) The claimant's medical condition had sufficiently changed to warrant modification or termination of benefits;

(3) The claimant had been convicted of fraud in connection with the claim; or

(4) The initial decision was in error.

(b) Once the Agency presents such evidence, the claimant shall have the burden to prove, by a preponderance of the evidence, the entitlement to ongoing benefits, as well as the nature and extent of disability.

Subsection 159.4 is amended to read as follows:

159.4 Burden of Proof, Permanent Disability. The claimant shall have the burden to prove, by a preponderance of the evidence, that he or she is entitled to an award for permanent disability, when requesting a permanent disability award pursuant to Section 2306a of the Act (D.C. Official Code § 1-623.06a).

Subsections 159.5 - 159.6 are added to read as follows:

159.5 Burden of Proof, Necessity, Character, Sufficiency of Medical Service, Supply, or Care. The party that requests the hearing has the burden to prove, as applicable, by a preponderance of the evidence, that the medical care or service furnished or sought to be furnished:

(a) Is proper to treat a condition that has been accepted by the Program as compensable under the Act;

(b) Is improper to treat a condition that has been accepted by the Program as compensable under the Act; or

(c) Treated or would treat a condition that has not been accepted by the Program as compensable under the Act.

159.6 Burden of Proof, Healthcare Provider Fees. The healthcare provider shall have the burden to prove, by a preponderance of the evidence, that the healthcare provider is entitled to the relief sought.

Section 160, HEARING DECISIONS, COMPLIANCE AND ENFORCEMENT, is amended as follows:

Subsections 160.1 – 160.2 are amended to read as follows:

160.1 The ALJ shall issue an order to reverse, modify, affirm, or remand a determination rendered by the Program within thirty (30) days after the hearing ends or the record closes.

160.2 Unless the OHA or OAH decision is stayed by a reviewing administrative or judicial forum, the Program shall comply with the decision within thirty (30) calendar days after the date the decision becomes final.

Subsection 160.4 is amended to read as follows:

160.4 A claimant may dispute the Program's benefits calculations by appealing the Notice of Benefits to the Chief Risk Officer pursuant to §156 of this chapter.

Subsection 160.6 is added to read as follows:

160.6 A decision issued on an appeal filed pursuant to Section 2324 or 2328 of the Act (D.C. Official Code §§ 1-623.24 or 1-623.28) shall be limited to a decision for or against the payment of compensation. The Program shall calculate and issue a Notice of Benefits in accordance with a compensation order which determines the rate of compensation and period of award.

Section 199, DEFINITIONS, is amended as follows:

Subsection 199.1 is amended to read as follows:

199.1 The definitions set forth in Section 2301 of Title 23 (Workers' Compensation) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-623.01 *et seq.* (2016 Repl. & 2018 Supp.)) shall apply to this chapter. In addition, for purposes of this chapter, the following definitions shall apply and have the meanings ascribed:

The Act -- the District of Columbia Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-623.01 *et seq*. (2016 Repl. & 2018 Supp.)), as amended and as it may be hereafter amended.

Administrative Law Judge or ALJ -- a hearing officer of the Office of Hearings and Adjudication in the Administrative Hearings Division of the Department of Employment Services or Administrative Law Judge in the Office of Administrative Hearings.

Aggravated injury -- The exacerbation, acceleration, or worsening of a pre-existing disability or condition caused by a discrete event or occurrence and resulting in substantially greater disability or death.

Alive and well check -- an inquiry by the Program to confirm that a claimant who is receiving benefits still meets the eligibility requirements of the Program.

Award of Compensation -- a Program determination or Compensation Order issued pursuant to Section 2324 of the Act (D.C. Official Code § 1-623.24) and shall not include calculations set forth in a Notice of Benefits or adjustments to benefits made pursuant § 145 of this chapter.

Beneficiary -- an individual who is entitled to receive death benefits under the Act.

Claim -- an assertion properly filed and otherwise made in accordance with the provisions of this chapter that an individual is entitled to compensation benefits under the Act.

Claim file -- all program documents, materials, and information, written and electronic, pertaining to a claim, excluding that which is privileged or confidential under District of Columbia law.

Claimant -- an individual who receives or claims benefits under the Act (D.C. Official Code §§ 1-623.01 *et seq.*).

Claimant's Representative -- means an individual or law firm properly authorized by a claimant of this chapter to act for the claimant in connection with a claim under the Act or this chapter.

Controversion -- means to dispute, challenge or deny the validity of a claim for Continuation of Pay.

Disability -- means the incapacity, because of an employment injury, to earn the wages the employee was receiving at the time of injury. It may be partial or total.

Earnings -- for the purposes of § 138 of this chapter, any cash, wages, or salary received from self-employment or from any other employment aside from the employment in which the worker was injured. It also includes commissions, bonuses, and cash value of all payments and benefits received in any form other than cash. Commissions and bonuses earned before disability but received during the time the employee is receiving workers' compensation benefits do not constitute earnings that must be reported.

Eligibility Determination (ED) -- a decision concerning, or that results in, the termination or modification of a claimant's existing Public Sector Workers' Compensation benefits that is brought about as a result of a change to the claimant's condition.

Employee – means

(a) A civil officer or employee in any branch of the District of Columbia government, including an officer or employee of an instrumentality wholly owned by the District of Columbia government, or of a subordinate or independent agency of the District of Columbia government;

(b) An individual rendering personal service to the District of Columbia government similar to the service of a civil officer or employee of the District of Columbia, without pay or for nominal pay, when a statute authorizes the acceptance or use of the service or authorizes payment of travel or other expenses of the individual, but does not include a member of the Metropolitan Police Department or the Fire and Emergency Medical Services Department who has retired or is eligible for retirement pursuant to D.C. Official Code §§ 5-707 through 5-730 (2012 Repl. & 2016 Supp.)). The phrase "personal service to the District of Columbia government" as used for the definition of employee means working directly for a District government agency or

instrumentality, having been hired directly by the agency or instrumentality; it does not mean working for a private organization or company that is providing services to the District government or its instrumentalities; and

(c) An individual selected pursuant to federal law and serving as a petit or grand juror and who is otherwise an employee for the purposes of this chapter as defined by paragraphs (i) and (ii) above.

Employee's Representative -- means an individual or law firm properly authorized by an employee in writing of this chapter to act for the employee in connection with a request for continuation of pay under the Act or this chapter.

Employing agency -- the agency or instrumentality of the District of Columbia government which employs or employed an individual who is defined as an employee by the Act.

Good cause -- omissions caused by "excusable" neglect or circumstances beyond the control of the proponent. Inadvertence, ignorance or mistakes construing law, rules and regulations do not constitute "excusable" neglect.

Healthcare provider -- means any person or organization who or that renders medical services, appliances or supplies directly to claimants or employees and is licensed to practice or operate in the jurisdiction where care is provided.

Healthcare organization -- An organization comprised of allied health professionals, as defined under Section 2301 of the Act (D.C. Official Code § 1-623.01).

Immediate supervisor -- the District government officer or employee having responsibility for the supervision, direction, or control of the claimant, or one acting on his or her behalf in such capacity.

Indemnity -- See Wage-loss Compensation.

Initial Determination (ID) -- a decision regarding initial eligibility for benefits under the Act, including decisions to accept or deny new claims, pursuant to this chapter.

Latent disability -- a condition, disease or disability that arises out of an injury caused by the employee's work environment, over a period longer than one workday or shift and may result from systemic infection, repeated physical stress or strain, exposure to toxins, poisons, fumes or other

continuing conditions of the work environment.

Marriage –both civil marriage, which is represented by a marriage license, and common-law marriage, which must be proved by a preponderance of the evidence based on the law of the applicable jurisdiction.

Mayor -- the Mayor of the District of Columbia or a person designated to perform his or her functions under the Act.

Medical opinion -- a statement from a physician, as defined in Section 2301 of the Act (D.C. Official Code § 1-623.01) that reflects judgments about the nature and severity of impairment, including symptoms, diagnosis and prognosis, physical or mental restrictions, and what the employee or claimant is capable of doing despite his or her impairments.

Notice of Benefits -- a notice provided to a claimant that sets forth the Program's calculation of a claimant's benefits as a result of an initial award or subsequent change in benefits.

Office of Administrative Hearings (OAH) -- the office where Administrative Law Judges adjudicate public sector workers' compensation claims under Sections 2323(a-2)(4), 2324(b)(1), and (d)(2) of the Act (D.C. Official Code §§ 1-623.23 (a-2)(4), 1-623.24(b)(1) and (d)(2)), pursuant to jurisdiction under D.C. Official Code § 2-1831.03(b)(1) (2016 Repl.), Section 2306a of the Act, and rules set forth in this chapter.

Office of Hearings and Adjudication (OHA) -- the office in the Administrative Hearings Division of the Department of Employment Services where Administrative Law Judges adjudicate workers' compensation claims, including public sector workers' compensation claims under Sections 2323(a-2)(4), 2324(b)(1), and (d)(2) of the Act (D.C. Official Code §§ 1-623.23 (a-2)(f), 1-623.24(b)(1) and (d)(2)), and rules set forth in this chapter.

Office of Risk Management (ORM) -- the agency within the Government of the District of Columbia that is responsible for the District of Columbia's Public Sector Workers' Compensation Program (PSWCP).

Panel physician – means a physician approved by the Program pursuant to §§ 124 and 125 of this chapter to provide medical treatment to persons covered by the Act.

Pay rate for compensation purposes -- means the employee's pay, as determined under Section 2314 of the Act, at the time of injury, the time disability begins, or the time compensable disability recurs if the recurrence begins more than six months after the injured employee

resumes regular full-time employment with the District of Columbia government, whichever is greater, except as otherwise determined under Section 2313 of the Act (D.C. Official Code § 1-623.13) with respect to any period. Consideration of additional remuneration in kind for services shall be limited to those expressly authorized under Section 2314(e) of the Act (D.C. Official Code § 1-623.14(e)).

Permanent disability compensation -- schedule award compensation payable when a qualified physician has determined that a claimant has reached maximum medical improvement and has full or partial loss of use of a body part or disfigurement pursuant to Section 2307 of the Act (D.C. Official Code 1-623.07) and § 140 of this chapter.

Permanent total disability payment (PTD) -- schedule award and wage-loss compensation payable to a completely disabled claimant, when a qualified physician has determined that a claimant has reached maximum medical improvement and is unable to work on a permanent basis. PTD has been repealed since February 26, 2015. However, claimants who were awarded PTD prior to the repeal may continue to receive PTD benefits.

Program -- the Public Sector Workers' Compensation Program of the Office of Risk Management, including a third party administrator thereof.

Provider agreement – a working agreement developed by the Program in accordance with Section 2302b of the Act (D.C. Official Code § 1-623.02b) with a healthcare provider or other public or private organization comprised of healthcare providers to furnish medical care or services (including transport incident to such care or services) to an employee. Disputes regarding fees or the necessity, character or sufficiency of services pursuant to such agreements shall be resolved in accordance with Section 2323 of the Act (D.C. Official Code § 1-623.23) and § 156.6 and 156.7 of this chapter.

Qualified health professional – means a physician, as that term is defined by section 2301 of the Act (D.C. Official Code § 1-623.01) and includes a surgeon, podiatrist, dentist, clinical psychologist, optometrist, orthopedist, neurologist, psychiatrist, chiropractor, or osteopath practicing within the scope of his or her practice as defined by state law. The term includes a chiropractor only to the extent that reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist and subject to guidelines established by the Program. For purposes of initial treatment or emergency care, or with respect to of a managed care organization, as that term is defined by Section 2301 of the Act (D.C. Official Code § 1-623.01), the term also includes physician assistants and nurse practitioners who are authorized by the jurisdiction where they practice and who are performing

within the scope their practice as defined by said jurisdiction.

Recurrence of disability – means a disability that reoccurs within one (1) year after the date wage-loss compensation terminates or, if such termination is appealed, within one (1) year after the date of the final order issued by a judicial entity, caused by a spontaneous change in a medical condition which had resulted from a previous compensable injury or illness without an intervening injury or new exposure to the work environment that caused the illness.

Recurrence of medical condition -- means a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage. Continuous treatment for the original condition or injury is not considered a "need for further medical treatment after release from treatment," nor is an examination without treatment.

[Repealed]

Traumatic injury -- means a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including physical stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected.

Temporary partial disability payment (TPD) – wage-loss compensation payable to a claimant, who has a wage-earning capacity and has not reached maximum medical improvement, calculated pursuant to Section 2306 of the Act (D.C. Official Code § 1-623.06) and § 130 of this chapter.

Temporary total disability payment (TTD) – wage-loss compensation payable to a claimant, who has a complete loss of wage earning capacity and has not reached maximum medical improvement, calculated pursuant to Section 2305 of the Act (D.C. Official Code § 1-623.05) and § 129 of this chapter.

Treating physician -- the physician, as defined in Section 2301 of the Act (D.C. Official Code § 1-623.01), who provided the greatest amount of treatment and who had the most quantitative and qualitative interaction with the employee or claimant.

Wage-loss compensation -- the money allowance paid to a claimant by the Program to compensate for the wage-loss experienced by the claimant as a result of a disability directly arising out of an injury sustained while in the performance of his or her duty, calculated pursuant to the provisions of this chapter.

Working agreement – means a provider agreement or other agreement developed by the Program in accordance with Section 2302b of the Act (D.C. Official Code § 1-623.02b) with: (1) a utilization review organization or individual certified to perform such reviews, as specified in Section 2323 of the Act (D.C. Official Code § 1-623.23); (2) a physician or an organization comprised of physicians, including an organization with a proprietary panel of physicians affiliated exclusively with such organization, who conduct Additional Medical Examinations, as described in § 136 of this chapter; (3) a provider of vocational rehabilitation services; or (4) a physician or other public or private organization to facilitate the functions of the Program. The fees and other conditions contained in such agreements shall be approved by the Chief Risk Officer. Except in the case of a provider agreement, disputes arising under such agreements shall be resolved by the Superior Court for the District of Columbia, or as otherwise provided by law.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2018-096
December 6, 2018

SUBJECT: Reappointment and Appointment — National Capital Planning Commission

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with section 1 of An Act providing for a comprehensive development of the park and playground system of the National Capital, approved June 6, 1924, 43 Stat. 463, ch. 270, D.C. Official Code § 2-1002 (2016 Repl.), it hereby **ORDERED** that:

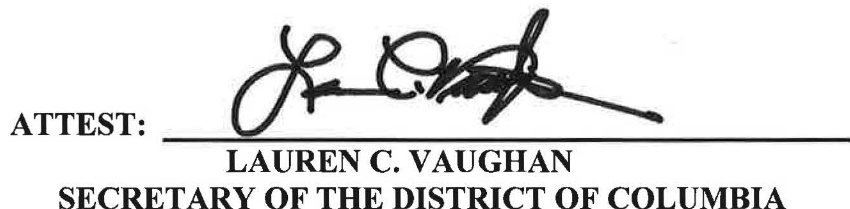
1. **ARRINGTON DIXON** is reappointed as a citizen member of the National Capital Planning Commission (the "**Commission**") for a term to end January 2, 2023.

2. **ANDREW TRUEBLOOD** is appointed as an *ex officio* member of the Commission, as the Interim Director of the Office of Planning and as the alternate designated by the Mayor.

3. **EFFECTIVE DATE:** This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST:



LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2018-097
December 6, 2018

SUBJECT: Appointments – Office to Affordable Housing Task Force

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with the Sections 2 and 3 of Office of Affordable Housing Task Force Establishment Act of 2018, effective June 5, 2018, D.C. Act 22-304; 65 DCR 6778, it is hereby **ORDERED** that:

1. The following persons are appointed as public members of the Office to Affordable Housing Task Force (the **Task Force**), to serve until expiration of the Office to Affordable Housing Task Force Establishment Act of 2018:

   a. **DWAYNE BRADFORD,** as the apartment building owner or office building owner representative member;
   b. **SHELDON CLARK**, as a representative of a philanthropic organization that funds affordable housing member;
   c. **LEILA FINUCANE**, as a representative of an organization that provides supportive housing services to low-income residents, including housing counseling, financial management, in-kind assistance, or legal representation member;
   d. **STEVE GLAUDE**, as a representative of an organization that advocates for the production, preservation, and rehabilitation, of affordable housing for lower-income households member;
   e. **AUBREY GRANT** as a residential architect member;
   f. **KIRK METTAM**, as a structural engineer professional member
   g. **AAKASH THAAKAR**, as a representative of the for-profit residential development community member;
   h. **KEYDA WALKER**, as the low-income renter member; and
   i. **DAVID WHITEHEAD**, as a representative with expertise in affordable housing policy from the academic or nonprofit community member.

2. The following persons are appointed as District agency representatives of the Task Force to serve at the pleasure of the Mayor:

    a. **SARA BARDIN**, as a representative of the Office of Zoning.
    b. **ALLISON LADD**, as a representative of the Department of Housing and Community Development.
    c. **ANDREW TRUEBLOOD**, as a representative of the Office of the Deputy Mayor of Planning and Economic Development.

3. **ANDREW TRUEBLOOD** is appointed as the Chairman of the Task Force and shall serve in that capacity at the pleasure of the Mayor.

4. **EFFECTIVE DATE:** This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST:

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2018-098
December 7, 2018

SUBJECT: Appointments — District of Columbia Commission on Aging

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with section 402 of the District of Columbia Act on the Aging, effective October 29, 1975, D.C. Law 1-24, D.C. Official Code § 7-504.02 (2018 Repl.), it is hereby **ORDERED** that:

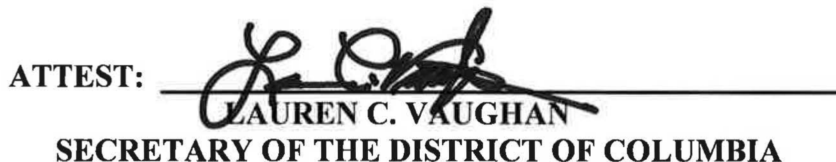
1. The following persons are appointed as public members to the Commission on Aging, for a term to end October 28, 2021:

   a. **LYSTRA HINDS**, replacing Brenda Atkinson-Willoughby.
   b. **NANCY MIRANDA**, replacing Constance Woody.
   c. **HATTIE PIERCE**, replacing Carolyn Dungee Nicholas.

2. **EFFECTIVE DATE:** This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST:



LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2018-099
December 7, 2018

SUBJECT: Delegation - Authority to the Deputy Mayor for Planning and Economic Development to Solicit Offers, Accept Unsolicited Offers, and Execute Certain Documents with Respect to the District-owned Real Property Located at 4650 Benning Road, S.E., and Known for Tax and Assessment Purposes as Lot 0802 in Square 5344.

ORIGINATING AGENCY: Office of the Mayor

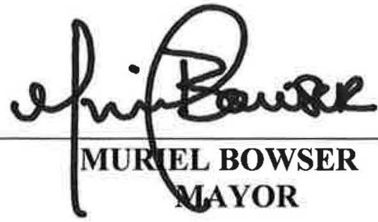
By virtue of the authority vested in me as Mayor of the District of Columbia by sections 422(6) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. No. 93-198; D.C. Official Code § 1-204.22(6) and (11) (2016 Repl.); section 1 of An Act authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939, 53 Stat. 1211; D.C. Official Code § 10-801 (2013 Repl. & 2018 Supp.); and section 1(c) of An Act to grant additional powers to the Commissioners of the District of Columbia and for other purposes, approved December 20, 1944, 58 Stat. 819; D.C. Official Code § 1-301.01(c) (2016 Repl. & 2018 Supp.), it is hereby **ORDERED** that:

1. The Deputy Mayor for Planning and Economic Development ("**Deputy Mayor**") is delegated the authority to solicit offers, accept unsolicited offers, and execute on behalf of the District of Columbia any and all documents related to the disposition, development, or use of the District-owned real property, known as the Fletcher-Johnson Middle School site located at 4650 Benning Road, S.E., and known for tax and assessment purposes as Lot 0802 in Square 5344 ("**Property**"), including, but not limited to, easements, license agreements, use agreements, deeds, lease agreements, right of entry agreements, covenants, and other associated documents, and to take all actions necessary or useful for or incidental to the solicitation, disposition, and development of the Property.

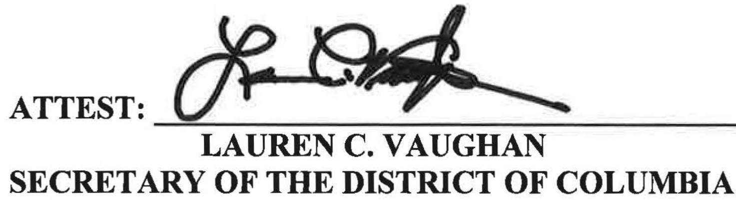
2. The authority delegated herein to the Deputy Mayor may be further delegated to subordinates under the jurisdiction of the Deputy Mayor.

3. This Order supersedes all previous Mayor's Orders to the extent of any inconsistency therein.

4. **EFFECTIVE DATE**: This Order shall become effective immediately.



MURIEL BOWSER
MAYOR



ATTEST: ______________________________
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2018-100
December 10, 2018

SUBJECT: Delegation - Authority to Announce and Support the 2018 United States Marine Corps Toys for Tots Campaign

ORIGINATING AGENCY: Office of the Mayor

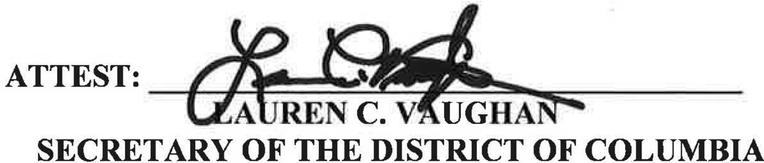
By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(6) (2016 Repl.), and under 6B DCMR § 1805.10, it is hereby **ORDERED** that:

1. The Chief of the Fire and Emergency Medical Services Department ("**Fire and EMS Chief**") is delegated the authority of the Mayor to announce and support the 2018 United States Marine Corps Toys for Tots Campaign. This delegation includes authorization for the Fire and EMS Chief to announce the 2018 United States Marine Corps Toys for Tots Campaign in a General Order sent to Fire and Emergency Medical Services Department employees.

2. **EFFECTIVE DATE:** This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST:



LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

OFFICE OF ADMINISTRATIVE HEARINGS

DISTRICT OF COLUMBIA ADVISORY COMMITTEE

DRAFT PUBLIC NOTICE OF MEETING

In accordance with D.C. Code § 2-576(1), the Advisory Committee to the Office of Administrative Hearings hereby gives notice that it will meet on Friday, December 14, 2018 at 11:00 a.m.. The meeting will be held at the following location:

Hearing Room
Board of Ethics and Government Accountability
441 Fourth Street NW, Suite 540 South
Washington, DC 20001

For further information, please contact Shauntinique Steele at nikki.steele@dc.gov or 202-741-5303.

AGENDA

I. **Welcome and Call to Order**

II. **Introductions**

III. **Approval of the Notes/Minutes**

IV. **Vote to Approve Transmission**

V. **Report from the Chief ALJ**

  a. **ALJ Hirings**
  b. **ALJ Evaluations**
  c. **Other relevant information regarding residency issue**

VI. **Open Time for comments or concerns from OAH ALJs and/or Agency GCs**

VII. **Old Business**

VIII. **New Business**

IX. **Adjournment**

DC COMMISSION ON THE ARTS AND HUMANITIES

NOTICE OF FUNDING AVAILABILITY

Capitol View Neighborhood Public Library Public Art Project Request for Applications

The DC Commission on the Arts and Humanities (CAH) and the DC Public Library (DCPL) announce the availability of grant funds to support an exterior permanent public art project on the plaza area of the Capitol View Neighborhood Library, 5001 Central Avenue, SE, Washington, DC.

The DC Commission on the Arts and Humanities with the support of the DC Public Library seek proposals for a work of public art to be permanently installed within the plaza area of the Capitol View Neighborhood Public Library (a branch of DCPL) to further enhance the newly renovated branch and contribute to the aesthetics of a dynamic neighborhood

Artist/Artist teams must meet eligibility criteria listed in the program's guidelines. All artists must possess a Citywide Clean Hands Certification at the time of application.

All eligible applications are reviewed through a competitive process. CAH will publish evaluation criteria and eligibility requirements in its forthcoming Capitol View Neighborhood Library Call for Proposals. All activities funded by the grant must be completed by August 15, 2019.

The Request for Proposals (RFA) will be available electronically beginning December 21, 2018 on the CAH website at http://dcarts.dc.gov/. Applicants must apply online. The deadline for this application is February 1, 2019.

For more information, please contact:

Lauren Dugas Glover
Public Art Manager
DC Commission on the Arts and Humanities
200 I (EYE) St. SE
Washington, DC 20003
(202) 724-5613 or lauren.glover@dc.gov

CHILD AND FAMILY SERVICES AGENCY
DISTRICT OF COLUMBIA CITIZEN REVIEW PANEL

NOTICE OF PUBLIC MEETING

The District of Columbia Citizen Review Panel will be holding a quarterly meeting on Tuesday, December 4, 2018 from 6:30 pm to 8:30 pm. The meeting will be held in CFSA, 200 I Street, SE, Room 2658, Washington, DC 20003. Blow is the agenda for this meeting.

December 4, 2018 Meeting of the DC Citizen Review Panel

Time: 6:30 to 8:30 PM
Day: Tuesday, December 4, 2018
Place: CFSA, 200 I Street, SE, Room 2658, Washington, DC 20003

PROPOSED AGENDA

1. Welcome – introduction of Justin Stephens, Chairperson
2. Formal Matters – Emily Smith Goering, Vice Chair
   a. Determination of Quorum
   b. Satisfaction of Public Notice
   c. Confidentiality Statement
   d. Request for Comments on Minutes of 9/11/2018

3. Background Information – new Chairperson, Justin Stephens
4. Treasures Report – Rick Bardach, CRP Treasurer
5. Status Report of Working Groups: 2018
   a. Status of In-Home Care Services – Marie Cohen, Chair
   b. Aging Out of Foster Care – Rick Bardach
   c. Status of Community Forum Planning Committee – Joy Graham

6. Report of the Facilitator – Joyce Thomas
7. Other Business
8. Next Quarterly Meeting – March 5, 2019

Adjourn (8:30 pm)

Useful Dates

a. The CWLA *2019* National *Conference*, Advancing Excellence in Practice & Policy: *Meeting* the Challenge of the Family First Prevention Services Act, will be held April 9 – 13 at the Hyatt Regency Capitol Hill in Washington, DC

b. The 21st National Conference on Child Abuse and Neglect (NCCAN) will take place from April 24-26, 2019, in Washington, D.C. sponsored by the Children's Bureau, HHS. Free. Marriott Wardman Park. http://www.nccan21.com/#&panel1-1

c. National CRP Conference Summer 2019 National CRP conference, *Albuquerque NM,* dates to be announced

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION

NOTICE OF PUBLIC MEETING

D.C. Boxing and Wrestling Commission
1100 4th Street SW, Room E200
Washington, DC 20024

MEETING AGENDA

December 20, 2018
7:00 PM.

1. Motion - Executive Session (Closed to the Public) to consult with an attorney pursuant to D.C. Official Code § 2-575(b)(4)(A); D.C. Official Code § 2-575(b)(9) to discuss complaints/legal matters, applications and legal counsel report.

2. Call to Order – 7:00 p.m.

3. Members Present

4. Staff Present

5. Comments from the Public

6. Review of Correspondence

7. Approval of Minutes

8. Old Business

9. New Business

10. Adjourn

11. Next Scheduled Board Meeting – January 17, 2018 at 7:00 p.m.

D.C. CRIMINAL CODE REFORM COMMISSION

NOTICE OF PUBLIC MEETING CANCELLATION

D.C. Criminal Code Reform Commission
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001
(202) 442-8715 www.ccrc.dc.gov

The previously scheduled meeting for Wednesday, December 5, 2018, at 10 am for the D.C. Criminal Code Reform Commission and its Criminal Code Revision Advisory Group was cancelled.

Any rescheduled meeting 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.

D.C. CRIMINAL CODE REFORM COMMISSION

NOTICE OF PUBLIC MEETING

WEDNESDAY, DECEMBER 19, 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 19, 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.

D.C. CRIMINAL CODE REFORM COMMISSION

NOTICE OF PUBLIC MEETING

WEDNESDAY, JANUARY 9, 2019 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, January 9, 2019 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 Advisory Group Members' Written Comments on Draft Reports:

(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*

III. Adjournment.

DC SCHOLARS PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Fiber Internet Services

Notice is hereby given that DC Scholars Public Charter School has released Request for Proposals (RFP) for Fiber Internet services. Details and service levels are identified within the formal posted RFPs. Interested Respondents must have an E-rate SPIN number and abide by the response directions in accordance with the RFPs and supporting documentation. Complete responses must be received on or before 12:00 P.M. E.S.T. on January 17, 2019.

To receive a copy of the RFPs view the website www.intelafunds.net and select the "E-Rate" tab then "Bid Opportunities" then select the RFP/service quote requests documents of interest posted for this school.

DC SCHOLARS PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Financial Advisory Services

DC Scholars Public Charter School (DC Scholars) as part of the 5601 East Capitol, LLC along with our Charter School Incubator Initiative partner invites written proposals from qualified firms interested in providing financial advisory services to DC Scholars relative to the refinancing of approximately $18MM in construction/mini permanent debt relative to our facility. **Hard copies of Proposals are due to DC SCHOLARS PUBLIC CHARTER SCHOOL located at 5601 E. Capitol Street, SE, Washington, DC 20019 ATTN: MS. SHARONDA MANN no later than 12:00PM on Friday, January 11, 2019**.

Please contact smann@dcscholars.org for the complete RFP specifications and with any questions or concerns.

E.L. HAYNES PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Strategic Planning Consultant

E.L. Haynes Public Charter School ("ELH") is seeking proposals from qualified vendors to help us create a new strategic plan, that is aligned to our core values of diversity, equity, and inclusion. The new strategic plan will help us consider key questions related to our identity, our school model, and our sustainability.

The contract will be assigned to the successful bidder who can complete all tasks related to the strategic plan.

Proposals are due via email to Kristin Yochum no later than 5:00 PM on Friday, January 25, 2019. We will notify the final vendor of selection and schedule work to be completed. Questions related to the RFP may only be submitted via email to Kristin Yochum. The RFP with bidding requirements can be obtained by contacting:

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

E.L. HAYNES PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Water Retention Management

E.L. Haynes Public Charter School ("ELH") is seeking proposals from qualified vendors to help us create a water management plan for our Kansas Ave NW Campus.

The contract will be assigned to the successful bidder who can provide all related materials and labor to complete the project.

Proposals are due via email to Kristin Yochum no later than 5:00 PM on Friday, January 25, 2019. We will notify the final vendor of selection and schedule work to be completed. Questions related to the RFP may only be submitted via email to Kristin Yochum. The RFP with bidding requirements can be obtained by contacting:

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

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
OFFICE OF PUBLIC CHARTER SCHOOL FINANCING AND SUPPORT

ANNOUNCES DECEMBER 20, 2018 PUBLIC MEETING FOR THE DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL CREDIT ENHANCEMENT COMMITTEE

The Office of the State Superintendent of Education (OSSE) hereby announces that it will hold a public meeting for the District of Columbia Public Charter School Credit Enhancement Committee as follows:

12:30 p.m. – 2:00 p.m.
Thursday Dec. 20, 2018
1050 First St. NE, Washington, DC 20002
Conference Room 536 (LeDroit Park)

For additional information, please contact:

Debra Roane
Financial Program Specialist
Office of Public Charter School Financing and Support
Office of the State Superintendent of Education
1050 First St. NE, Fifth Floor
Washington, DC 20002
(202) 478-5940
Debra.Roane@dc.gov

The draft agenda for the above-referenced meeting will be:

I. Call to Order
II. Approval of agenda for the Dec. 20, 2018, committee meeting
III. Approval of minutes from Nov. 15, 2018, committee meeting
IV. Review Conflict of Interest – Transaction Disclosure Checklist
V. Washington Global Public Charter School - $700,000 direct loan request

Any changes made to the agenda that are unable to be submitted to the DC Register in time for publication prior to the meeting will be posted on the public meetings calendar no later than two (2) business days prior to the meeting.

DEPARTMENT OF EMPLOYMENT SERVICES

NOTICE OF FUNDING AVAILABILITY (NOFA)

FISCAL YEAR 2019 (FY19)

The District of Columbia Department of Employment Services (DOES) is issuing this Notice of Funding Availability (NOFA) to announce its intent to solicit multiple grant applications for opportunities to support Workforce Development Innovation Initiatives. The purpose of the grants are to support innovative workforce development solutions for residents of the District of Columbia (District) to increase their success rate of entering in and sustaining employment that forges a path to the middle class and further stimulates the District's economy.

Eligibility: Applicants shall be a Non-Profit, For-Profit, or Institutions of Higher Education that are eligible to do business with the District government. Additional eligibility requirements will be detailed in the individual Request for Applications (RFA) and in the Notice of Grant Award. Where applicable, the individual RFAs will be released via the ARIBA e-Sourcing system, through the online Grants Management System or online on the DOES website.

Award Period: The grant period will be determined and established in each individual RFA or by DOES.

Available Funding: DOES has identified up to $4,000,000 in available local and federal funding and anticipates awarding multiple grants.

Selection Process: Pursuant to the "Workforce Job Development Grant-Making Authority Act of 2012" and Chapter 50 of the District of Columbia Municipal Regulations, DOES may award grants/subgrants through competitive, sole-source and unsolicited proposals.

Grant Application Responses: When responding to this NOFA with a grant application for sole-source consideration, please reference the following: **NOFA-FY19-Workforce Innovation Grant Solicitation.1-2019**. When responding to a specific RFA, please reference the unique identifier listed within the RFA.

Reservations: DOES reserves the right to issue amendments subsequent to the issuance of this NOFA or individual RFA or to rescind the NOFA or individual RFA.

If you have any questions about this NOFA, please contact:

Anthony Gamblin
Program Manager
Office of Grants Administration and Resource Allocation
Department of Employment Services
4058 Minnesota Avenue, NE, Suite 5300
Washington, DC 20019
Email: OGAGrants@dc.gov

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

AIR QUALITY TITLE V OPERATING PERMIT AND GENERAL PERMIT FOR JBG/FEDERAL CENTER, L.L.C.

Notice is hereby given that the JBG/Federal Center, L.L.C. has applied for a facility-wide Title V air quality permit pursuant to the requirements of Title 20 of the District of Columbia Municipal Regulations, Chapters 2 and 3 (20 DCMR Chapters 2 and 3) to operate the following emission units and miscellaneous sources of air emissions at the United States Department of Transportation (USDOT) Headquarters facility located at 1200 New Jersey Avenue SE Washington, DC 20590:

- One (1) Caterpillar diesel-fired emergency generator set, rated at 1,500 kW (owned by JBG);
- One (1) Caterpillar diesel-fired emergency generator set, rated at 1,250 kW (owned by JBG);
- Two (2) Caterpillar diesel-fired emergency generator sets, rated at 1,250 kW (owned by USDOT, operated by JBG);
- Four (4) 10.5 MMBTU/hr dual fuel natural gas and No. 2 fuel oil-fired boilers (owned by JBG);
- One 10,000 gallon above ground storage tank for diesel fuel; and
- Four small water heaters, two make up air units, and various kitchen burners, all fired by natural gas and with heat input ratings less than 5 MMBTU/hr and considered insignificant activities for purposes of this permitting action.

The contact person for the facility is Ms. Lesley Morrison, Senior Property Manager, at (202) 863-4460 or lmorrison@jbgsmith.com.

The following is an estimate of overall potential emissions from the facility:

FACILITY-WIDE EMISSIONS SUMMARY [TONS PER YEAR]	
Pollutants	**Potential Emissions**
Sulfur Dioxide (SO_2)	0.71
Oxides of Nitrogen (NO_x)	22.53
Total Particulate Matter (PM Total)	0.90
Volatile Organic Compounds (VOCs)	1.14
Carbon Monoxide (CO)	9.25
Total Hazardous Air Pollutants (HAPs)	0.19

JBG/Federal Center, L.L.C has the PTE 22.53 tons per year (TPY) of NO_x. This value does not exceed the major source threshold in the District of Columbia of 25 TPY of NO_x. However, the facility is required to obtain a Title V Operating permit as conditions of the Chapter 2 operating permits previously issued.

Under normal maximum operating condition assumptions for PTE determinations (i.e., 500 hours per year per emergency generator and 8,760 hours per year of operation on the highest emitting fuel for the boilers), the combined emissions of the generators and the boilers would have exceeded the major source thresholds, and thus trigger an NNSR procedure during the Chapter 2 permit review process. In order to avert this possibility, the facility opted for operating hour restrictions (maximum 800 hours per year of operations for all four generators in aggregate and a total of 17,520 hours per year for all four boilers in aggregate, only 800 of which may be on the higher-emitting No. 2 fuel oil/diesel fuel) to keep their potential to emit NO_x under the NNSR trigger source threshold. Since the District has no synthetic minor permitting program at this time, the Air Quality Division ("AQD") of the Department of Energy and Environment ("DOEE" or "the Department"), as a matter of policy, uses the Title V Operating Permit program as a vehicle for establishing federally enforceable limits limiting the facility's operations so as to not trigger NNSR and avoid the need to acquire emission offset and installation of lowest achievable emission rate ("LAER") equipment.

The Department of Energy and Environment (DOEE) has reviewed the permit application and related documents and has made a preliminary determination that the applicant meets all applicable air quality requirements promulgated by the U.S. Environmental Protection Agency (EPA) and the District. Therefore, draft permit No. 046 has been prepared.

The application, the draft permit and associated Fact Sheet and Statement of Basis, and all other materials submitted by the applicant [except those entitled to confidential treatment under 20 DCMR 301.1(c)] considered in making this preliminary determination are available for public review during normal business hours at the offices of the Department of Energy and Environment, 1200 First Street NE, 5th Floor, Washington DC 20002. Copies of the draft permit and related fact sheet are available at http://doee.dc.gov/service/public-notices-hearings.

A public hearing on this permitting action will not be held unless DOEE has received a request for such a hearing within 30 days of the publication of this notice. Interested parties may also submit written comments on the permitting action.

Comments on the draft permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
stephen.ours@dc.gov

No comments or hearing requests submitted after January 14, 2019 will be accepted.

For more information, please contact Olivia Achuko at (202) 535-2997 or olivia.achuko@dc.gov.

DEPARTMENT OF ENERGY AND ENVIRONMENT
NOTICE OF FUNDING AVAILABILITY

Flood Risk Outreach Campaign

The Department of Energy and Environment (the Department) seeks eligible entities to provide high quality, cost-effective services to develop and conduct a flood risk outreach campaign to District neighborhoods, including Watts Branch communities. The amount available for the project is approximately $57,000.

Beginning 12/14/2018, 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 this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.
>
> **Email** a request to 2019FloodOutreach.grants@dc.gov with "Request copy of RFA 2018-1906-NRA-01" 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 Phetmano Phannavong at (202) 439-5715 and mention this RFA by name.
>
> **Write** DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Phetmano Phannavong RE: 2018-1906-NRA-01" on the outside of the envelope.

The deadline for application submissions is 01/14/2019, 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 2019FloodOutreach.grants@dc.gov.

Eligibility: All the checked institutions below may apply for these grants:

☒-Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations
☒-Faith-based organizations
☒-Government agencies
☒-Universities/educational institutions
☒-Private Enterprises

For additional information regarding this RFA, write to: 2019FloodOutreach.grants@dc.gov.

DEPARTMENT OF ENERGY AND ENVIRONMENT
NOTICE OF FUNDING AVAILABILITY

GreenWrench Technical Assistance Program Expansion

The Department of Energy and Environment (the Department) seeks an eligible entity to expand the Department of Energy and Environment's (DOEE) GreenWrench Technical Assistance Program ("GreenWrench") for automotive repair shops ("shops"). GreenWrench encourages the adoption of pollution prevention (P2) measures. This program expansion will enable the program to reach 60 additional shops with existing services and incorporate two new elements. These new elements include having shops try out and provide feedback on alternative products made out of safer chemicals and training technical school students on P2.The amount available for the project is approximately $173,000.

Beginning 12/14/2018, 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 this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

Email a request to GWE@dc.gov with "Request copy of RFA 2018-1823-WPD" in the subject line.

Pick up a copy in person from the Department's reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call Clara Elias at (202) 645-4231 and mention this RFA by name.

Write DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Clara Elias RE:2018-1823-WPD" on the outside of the envelope.

DOEE will host the following public information sessions at 1200 First St NE, Room 612:

- Thursday, December 20, 2018 at 10:00 AM
- Monday, January 14, 2019 at 2:00 PM

Participants are welcome to join the sessions via phone using the following call-in information:

- Conference call number: 1 (866) 830-5784, Participant Code: 6971510

The deadline for application submissions is 1/21/2019, 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 GWE@dc.gov.

Eligibility: All the checked institutions below may apply for these grants:

☒-Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;
☐-Faith-based organizations;
☒-Government agencies
☒-Universities/educational institutions; and
☒-Private Enterprises.

For additional information regarding this RFA, write to GWE@dc.gov.

DEPARTMENT OF ENERGY AND ENVIRONMENT
NOTICE OF FUNDING AVAILABILITY

Washington, DC Carbon Neutrality Strategy

The Department of Energy and Environment (the Department) seeks eligible entities to develop a pathway to citywide carbon neutrality by 2050, building upon the Clean Energy DC plan which gets the District to a 50% emissions reduction by 2032. The applicant will propose a plan to help DOEE craft a strategy that: assesses the policy and technology pathways that will ensure that we achieve carbon neutrality and are climate resilient by 2050; identifies the highest priority next steps we need to accelerate in the near term; and fulfills the District's commitment to the Paris Climate Agreement by aligning with C40's Climate Action Planning Framework. The grantee's work will be the foundation for stakeholder engagement and ultimately for the final strategy, which the District has committed to adopting by the end of 2020. The amount available for the project is approximately $240,000.

Beginning 12/14/2018, 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 this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.
>
> **Email** a request to 2019CarbonNeutralRFA.grants@dc.gov with "Request copy of RFA 2018-1907-USA" 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 Jenn Hatch at (202) 535-2324 and mention this RFA by name.
>
> **Write** DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Jenn Hatch RE:2018-1907-USA" on the outside of the envelope.

The deadline for application submissions is 1/14/2019, 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 2019CarbonNeutralRFA.grants@dc.gov.

Eligibility: All the checked institutions below may apply for these grants:

☒-Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;
☒-Faith-based organizations;
☒-Government agencies
☒-Universities/educational institutions; and
☒-Private Enterprises.

For additional information regarding this RFA, write to:
2019CarbonNeutralRFA.grants@dc.gov.

DEPARTMENT OF FORENSIC SCIENCES

NOTICE OF PUBLIC MEETING

Science Advisory Board Meeting
Friday, January 18, 2019
9:00 a.m.
Draft Agenda

On Friday, January 18, 2019, the Department of Forensic Sciences will be hosting the Science Advisory Board Meeting at the Consolidated Forensic Laboratory, 401 E Street SW, Washington, DC 20024 in Room 1224. The meeting will commence at 9:00 a.m. Any questions should be directed to Herb Thomas, 202-727-8267. Mr. Thomas can also be reached at Herbert.Thomas@dc.gov.

Roll Call, Review of Minutes from last meeting, Approval of Minutes

Quality Update – Brittany Graham

Public Health Lab Update – Dr. Anthony Tran

Old Business, New Business

Future meeting dates and locations

Closing and adjournment

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH CARE FINANCE

HEALTH INFORMATION EXCHANGE POLICY BOARD

NOTICE OF 2019 MEETING SCHEDULE

The regular quarterly meetings of the DC Health Information Exchange Policy Board are held in open session in the months of January, April, July, and October. The following are dates and times for the regular quarterly meetings to be held in 2019. All meetings are held in Conference Room #1114 on the 11th floor at 441 4th Street, NW unless otherwise indicated. Notice of a location of a meeting other than 441 4th Street, NW Conference Room #1114 will be published on the DC HIE Policy Board's website (https://dhcf.dc.gov/page/hie-policy-board). A copy of the final agenda will be posted on the DC HIE Policy Board's website two business days prior to the meeting date and notice of the meeting will be posted on the 11th floor of the 441 4th Street, NW building the day of the meeting.

HIE Policy Board Meeting – January 2019
When: Thursday, January 17th, 3:00 – 5:00 PM
Where: DHCF 441 4th Street, NW (Conference Room #1114)

HIE Policy Board Meeting – April 2019
When: Thursday, April 25th, 3:00 – 5:00 PM
Where: DHCF 441 4th Street, NW (Conference Room #1114)

HIE Policy Board Meeting – July 2019
When: Thursday, July 18th, 3:00 – 5:00 PM
Where: DHCF 441 4th Street, NW (Conference Room #1114)

HIE Policy Board Meeting – October 2019
When: Thursday, October 24th, 3:00 – 5:00 PM
Where: DHCF 441 4th Street, NW (Conference Room #1114)

For more information, please contact:

Nina Jolani at Nina.Jolani@dc.gov or 202-478-1470

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FUNDING AVAILABIITY

The Department of Health Care Finance (DHCF) announces a Notice of Funding Availability (NOFA) for grant funds pursuant to the authority established by the Fiscal Year 2019 Budget Support Act of 2018, Title V, Subtitle G, Section 5062 to make grant funds available to facilitate:

1) The development of a community resource inventory (CRI) consisting of:
    a. screening tools of selected social determinants; and
    b. contact information on federal, District, and community resources available to address resident's social needs; and
2) The design of a technical infrastructure solution for a web-based bi-directional non-proprietary community resource inventory platform. This solution should have the capability to screen for selected social determinants of health and refer residents to appropriate services.

The Director of DHCF has authority to issue grants under the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code 7-771.05(4) (2012 Repl.).

A Request for Applications (RFA) for the below opportunity will be released under a separate announcement with guidelines for submitting the application, review criteria, and DHCF terms and conditions for applying for and receiving funding. The anticipated performance period for these grants is February 4th, 2018 to September 30th, 2019.

Descriptions of Opportunities:

Community Resource Inventory Needs Assessment and Design Grant: One (1) grant no more than $500,000 will be awarded to develop a CRI, including screening tools for selected social determinant of health domains and available community resources to address social needs.

In addition to the development of the CRI, the applicant must design, but not develop, the technical infrastructure solution for the web-based bi-directional non-proprietary platform through a comprehensive needs assessment and technical requirements gathering process. This platform should enable the ability to screen individuals for selected social determinants of health, and refer residents to appropriate federal, District, and community resources to address their health care and social needs.

The program shall include five components: 1) activities to engage and seek feedback from the relevant stakeholder community; 2) strategic planning to identify priorities and functionalities of the CRI and the technical infrastructure including an assessment of existing provider workflows; 3) identification, collection and organization of selected screening tools; 4) identification, collection and organization of sources of care needed to populate the CRI; and 5) completion of a

structured technical requirements gathering process inform the design of the technical infrastructure platform.

Eligibility Requirements:

Applicants must have a demonstrated record, experience working with groups and/or delivering work related to the following tasks:

- Conducting interviews, focus groups and environmental scans;
- Compiling, organizing and documenting information on health and social service resources into an inventory;
- Consolidating and presenting findings; and
- Assessing and documenting provider processes and workflows.

Applicants should also have an understanding of Health information technology (Health IT) such as Electronic Health Record (EHR) platforms, and health information exchange infrastructure. All applicants must also be registered organization in good standing with the DC Department of Consumer and Regulatory Affairs (DCRA), Corporation Division, the Office of Tax and Revenue (OTR), the Department of Employment Services (DOES), and the Internal Revenue Service (IRS), and demonstrate Clean Hands certification at the time of application.

A RFA will be released on or around December 28th, 2018. The RFA package will be available online at http://opgs.dc.gov/page/opgs-district-grants-clearinghouse and the DHCF website. Hard copies of the RFA package may be obtained at DHCF, 441 4th St. N.W., Ste 900S, Washington, D.C. 20001, 9th floor reception desk daily from 9:00 am until 4:00 pm. All eligible applications are reviewed through a competitive process.

DHCF will hold a pre-proposal conference on January 8, 2019 at 1:00 PM at 441 4th St. Conference Room 1028 Prospective applicants must provide an email address to DHCF to receive notification of amendments or clarifications to the RFA.

Completed applications must be received on or before 4:00 p.m. Eastern on January 28th 2019. Applications must be submitted in hard copy and in-person at DHCF, 441 4th St. N.W., Ste 900S, Washington, D.C. 20001, 9th floor reception desk. No applications will be accepted after the submission deadline.

For additional information regarding this NOFA, please contact DaShawn Groves, Lead Project Manager, DHCF, Health Care Reform and Innovation Administration at dashawn.groves@dc.gov or at 202-442-8956.

DEPARTMENT OF HEALTH (DC HEALTH)

PUBLIC NOTICE

The District of Columbia Board of Chiropractic ("Board") hereby gives notice of its regular meeting schedule pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2012 Repl.) ("Act").

The Board's regular meetings shall now be conducted on the second Tuesday of every other month starting on January 8, 2019. The meetings will held from 1:30 PM to 3:30 PM and will be open to the public from 1:30 PM until 2:30PM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, D.C. Official Code § 2-574(b), the meetings will be closed from 2:30 PM until 3:30 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations. The schedule of the Board's meetings during the next twelve-month period will be as follows:

January 8, 2019
March 12, 2019
May 14, 2019
July 9, 2019
September 10, 2019
November 12, 2019
January 14, 2020

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health Events link at http://doh.dc.gov/events for additional information.

DEPARTMENT OF HEALTH (DC HEALTH)

PUBLIC NOTICE

The District of Columbia Board of Optometry ("Board") hereby gives notice of its regular meeting schedule pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2012 Repl.) ("Act").

The Board's regular meetings shall now be conducted on the third Thursday of every other month starting on January 17, 2019. The meetings will held from 9:30 AM to 11:30 AM and will be open to the public from 9:30 AM until 10:30 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, D.C. Official Code § 2-574(b), the meetings will be closed from 10:30 AM until 11:30 AM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations. The schedule of the Board's meetings during the next twelve-month period will be as follows:

January 17, 2019
April 18, 2019
July 18, 2019
October 17, 2019
January 16, 2020

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health Events link at http://doh.dc.gov/events for additional information.

DEPARTMENT OF HEALTH (DC HEALTH)

PUBLIC NOTICE

The District of Columbia Board of Podiatry ("Board") hereby gives notice of its regular meeting schedule pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2012 Repl.) ("Act").

The Board's regular meetings shall now be conducted on the first Wednesday of each quarter starting on January 2, 2019. The meetings will held from 1:30 PM to 3:30 PM and will be open to the public from 1:30 PM until 2:30PM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, D.C. Official Code § 2-574(b), the meetings will be closed from 2:30 PM until 3:30 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations. The schedule of the Board's meetings during the next twelve-month period will be as follows:

January 2, 2019
April 3, 2019
July 3, 2019
October 2, 2019
January 8, 2020

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health Events link at http://doh.dc.gov/events for additional information.

DEPARTMENT OF HEALTH (DC HEALTH)

NOTICE OF TEMPORARY CLOSURE OF ALL OPERATIONS

Please take notice that the Department of Health will close its operations at 899 North Capitol Street, NE, Washington, DC 20002 on Tuesday, December 18, 2018 at 12:00 p.m. This includes the Vital Records Division and the Processing Unit of the Health Regulation and Licensing Administration. The Department of Health will reopen its operations at 899 North Capitol Street, NE, Washington, DC 20002 at 8:15 a.m. on Wednesday, December 19, 2018.

Please take additional notice that the Department of Health will close its (1) Tuberculosis Clinic located at 1900 Massachusetts Avenue, S.E., Washington, DC 20003; and, (2) Wellness Center located at 77 P Street, N.E., Washington, DC 20002 on Tuesday, December 18, 2018 at 12:00 noon. The Department of Health will reopen its operations at these locations at 8:30 a.m. on Wednesday, December 19, 2018.

KIPP DC PUBLIC CHARTER SCHOOLS

REQUEST FOR PROPOSALS

Architectural Services

KIPP DC is soliciting proposals from qualified vendors for Architectural Services. The RFP can be found on KIPP DC's website at www.kippdc.org/procurement. Proposals should be uploaded to the website no later than 5:00 PM EST, on December 26, 2018. Questions can be addressed to kevin.mehm@kippdc.org.

Construction Management Services

KIPP DC is soliciting proposals from qualified vendors for Construction Management Services. The RFP can be found on KIPP DC's website at www.kippdc.org/procurement. Proposals should be uploaded to the website no later than 5:00 PM EST, on December 26, 2018. Questions can be addressed to kevin.mehm@kippdc.org.

Real Estate Brokerage Services

KIPP DC is soliciting proposals from qualified vendors for Real Estate Brokerage Services. The RFP can be found on KIPP DC's website at www.kippdc.org/procurement. Proposals should be uploaded to the website no later than 5:00 PM EST, on December 26, 2018. Questions can be addressed to tania.honig-silbiger@kippdc.org.

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 15, 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 December 14, 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.

Abouye	Keily	Wells Fargo Bank 1700 Pennsylvania Avenue, NW	20006
Ahmad	Stephen	The UPS Store 611 Pennsylvania Avenue, SE	20003
Aparicio	Iris Lisset	HSBC Bank 1715 Wisconsin Avenue, NW	20007
Armstrong	Faye	Bain & Company 1717 K Street, NW	20006
Ayechew	Yohanness	EndYo CPAs 412 H Street, NE	20002
Bedell	Ashley	Tiger Woods Foundation 975 F Street, NW, Suite 1050	20004
Bell	Quiana B.	The Center for American Progress 1333 H Street, NW	20005
Blackson	Denise Elaine	Self (Dual) 1169 First Place, NW	20001
Boarman	Barbara Sue	The ALS Association 1275 K Street, NW, Suite 250	20005
Brodbeck	Kimberly S.	Rummell, Klepper& Kahl, LLP 300 M Street, SE, Suite 560, 5th Floor	20003
Burckhalter	Twyilla	Alvarez & Marsal Holdings, LLC 1001 G Street, NW, Suite 1100 West	20001
Burts	Robin	International Life Sciences Institute 740 15th Street, NW, Suite 600	20005
Cain	Abraham	DC Registered Agents, Inc 1120 20th Street, NW, Suite S-300	20036
Calderon	Jennifer	JP Morgan & Chase Co. 3100 14th Street, NW, Suite 118	20010
Chang	Emily	Sierra Club 50 F Street, NW	20001

Childress	Nicole	Wilson Sonsini Goodrich & Rosati 1700 K Street, NW	20006
Colberg	Lukas	Self (Dual) 1417 N Street, NW, Apt 200	20005
Cruz	Jocelyn	POST, LLC 1818 New York Avenue, NE, Suite 207	20002
Dailey	Kevin	The UPS Store 611 Pennsylvania Avenue, SE	20003
Daley-Renard	Nicole	Department of Human Services 64 New York Avenue, NE	20002
Desai	Aashka Devraj	RBH Global Wealth Partners 1701 Pennsylvania Avenue, NW	20006
Dunlap	Sharleeta A.	University of District of Columbia David A. Clarke School of Law 4340 Connecticut Avenue, NW	20018
Dunning	Brittany B.	Self (Dual) 5120 Bass Street, SE	20019
Estrin	Elaina	Self 45 U Street, NE	20002
Faught	Lynn	Rock Creek Global Advisors, LLC 800 Connecticut Avenue, NW, Suite 800	20006
Flanagan	Lango Wellington	DC Government Office of the Chief Technology Officer 200 I Street, SE	20003
Fujii	Christine	Central Union Mission 65 Massachusetts Avenue, NW	20001
Gebreyohannes	Henok	Bank of America 722 H Street, NE	20002
Ghanim	Aly E.	USA Halal Chamber of Commerce, Inc 1712 Eye Street, NW, Suite 602	20006

Godfrey	Sharon D.	Self 621 18th Street, NE	20002
Grabowski	Alexander	Self 1150 5th Street, NW, Unit 2	20001
Gross	Jay S.	Neal R. Gross & Company 1323 Rhode Island Avenue, NW	20005
Gross	Laura	Cultural Vistas 1250 H Street, NW, Suite 300	20005
Gurley	Lynne A.	Self 1615 Myrtle Street, NW	20012
Hall	Karey E.	District of Columbia Department of Disability Services 250 E Street, SW	20005
Harley	Sarita	Husch Blackwell 750 17th Street, NW, Suite 900	20006
Harris	Deatria	Self 1639 Kramer Street, NE	20002
Henderson	Michelle	Andrews Federal Credit Union 1556 Alabama Avenue, SE	20005
Hibbard	Gregory S.	Metropolitan Police Department 2000 14th Street, NW, Suite 302	20009
Hilton	Joi M.	Self (Dual) 340 Emerson Street, NW	20011
Hrdina	Chad M.	Self (Dual) 1716 4th Street, NW	20001
Jackson	Veronica A.	Self 1625 25th Street, SE	20020
Jasper	Sarah	Equal Justice Works 1730 M Street, NW, Suite 800	20036

Johnson	Lisa C.	Self 5010 South Dakota Avenue, NE	20017
Johnson	Natasha C.	TD Bank 905 Rhode Island Avenue, NE	20018
Jones	Shalique	The Washington Times 3600 New York Avenue, NW	20002
Jordan	Gregory	M & T Bank 555 12th Street, NW	20004
Keith	Andre' W.	Self(Dual) 1115 Massachusetts Avenue, NW	20005
Kerr	Catalina	House of Representatives Office of Official Reporters 1718 Longworth House Office Building	20515
Kim	So Myong	HSBC Bank 1715 Wisconsin Avenue, NW	20007
Kinder	Meredith P.	Caplin & Drysdale Chartered 1 Thomas Circle, NW, Suite 1100	20005
King	O. America	Continental Construction, Inc 3419 14th Street, NW	20010
Kizer II	Norman J.	Klein Hornig, LLP 1325 G Street, NW, Suite 770	20005
Lanning	D'Ann K.	Trent & Co 1313 14th Street, NW	20005
Larsen	Nina L.	Phillips & Cohen, LLP 2000 Massachusetts Avenue, NW	20036
Lawson	Toni	Husch Blackwell 750 17th Street, NW, Suite 900	20006
Layman	Tammy	Klein Hornig, LLP 1325 G Street, NW, Suite 770	20005

Lee	Renae C.	Metropolitan Police Department - Internal Affairs Bureau, EEO Investigations Division #6 Village Lane, SW	20032
Lewis	Cheryl S.	NATCA 1325 Massachusetts Avenue, NW	20005
Lord Jr.	Arturo	Department of Energy and Environment 2100 Martin Luther King Jr. Avenue, SE	20020
Macpherson	Paul C.	US Department of Veterans Affairs 810 Vermont Avenue, NW	20420
Manneh	Fatmata	Office of Neighborhood Safety and Engagement 100 42nd Street, NW	20019
McCauley-Jackson	Kiesha L.	District of Columbia Office of the Attorney General 441 4th Street, NW	20001
Morris	Jason	BB&T 1909 K Street, NW, Suite 850	20006
Muñiz	Carrie L.	Irreno Construction Co., Inc. 1207 34th Street, NW	20007
Munu	Jenaba	Agriculture Federal Credit Union 1400 Independence Avenue, SW	20250
Mushala	Jocelyn K.	Self 5014 10th Street, NE	20017
Nice Jr	Joseph J.	Rummel, Klepper & Kahl, LLP 300 M Street, SE, Suite 560	20003
Ragland	Delores	DC Office of the Attorney General Child Support Services Division 441 4th Street, NW	20001
Ramirez	Noelia	University of District of Columbia David A. Clarke School of Law 4340 Connecticut Avenue, NW	20018

Reed	Melissa N.	Grossberg, Yochelson, Fox & Beyda, LLP 1200 New Hampshire Avenue, NW, Suite 555	20036
Reed	Shonell R.	Public Defender Service 633 Indiana Avenue, NW, 2nd Floor	20004
Rico	Rick	JPMorgan Chase Bank 3100 14th Street, NW, Suite 118	20010
Rivera	Mario A.	Self 265 Missouri Avenue, NW	20011
Robey	Dodson	The Office of Neighborhood Safety and Engagement 100 42nd Street, NE	20019
Rodriguez	Lorena C.	Brody Kling, PLLC 5101 Wisconsin Avenue, NW, Suite 305	20016
Ruthman	Maureen J.	MBH Settlement Group, LC 1300 I Street, NW, Suite 400 E	20005
Schall	Kate Suzanne	Self (Dual) 810 7th Street, NE	20002
Schilling	Sandra K.	Danaher Corporation 2200 Pennsylvania Avenue, NW, 800W	20037
Scott	LaShawn	Self (Dual) 176 56th Place, SE	20019
Shelton	Thomas	Thomas Shelton Hair Design 2122 P Street, NW	20037
Sibert	Jarrod	The UPS Store 2500 Calvert Street, NW	20008
Siegel	Emma Mingzhen	Block & Leviton, LLP 1735 20th Street, NW	20009
Silverman	Lisa	Edlavitch DC Jewish Community Center 1529 16th Street, NW	20036

Sims	Charles J.	Bank of America 915 Rhode Island Avenue, NE	20018
Singleton	Harry M.	Harry M. Singleton, Attorney at Law 1250 Connecticut Avenue, NW, Suite 700	20036
Spanos	Jennifer	Baker & Miller, PLLC 2401 Pennsylvania Avenue, NW, Suite 300	20037
Stocks	Sheila R.	Morrison & Foerster, LLP 2000 Pennsylvania Avenue, NW, Suite 600	20006
Streeter	Spencer	Klein Hornig, LLP 1325 G Street, NW, Suite 770	20005
Sunbul	Yasemin	EPGD Attorneys at Law, PA 1900 M Street, NW, Suite 600	20036
Tahirukaj	Valon	Chase Bank 130 M Street, SE	20003
Thorn	Leana Vanessa	BayFirst Solutions, LLC 1025 Vermont Avenue, NW	20005
Toliver	Troy	The Toliver Group 626 Milwaukee Place, SE	20032
Vanzego	Deborah	Cohen Milstein Sellers & Toll PLLC 1100 New York Avenue, NW	20005
Vazquez	Marina	Nando's Restaurant Group, Inc. 819 7th Street, NW, 2nd Floor	20001
Wright	Shatelle	Achievement Prep Public Charter School 908 Wahler Place, SE	20032
Yeboah	Priscilla	Wells Fargo Bank 5100 Wisconsin Avenue, NW	20016
Yocum	Brian	Feldesman Tucker Leifer Fidell, LLP 1129 20th Street, NW, Suite 400	20036

York	Brian	Contact Government Services, LLC 1100 13th Street NW, Suite 925	20005

DISTRICT OF COLUMBIA SENTENCING COMMISSION

NOTICE OF PUBLIC MEETING

The Commission meeting will be held on Tuesday, December 11, 2018 at 5:00 p.m. The meeting will be held at 441 4th Street, N.W. Suite 430S Washington, DC 20001. Below is the planned agenda for the meeting. The final agenda will be posted on the agency's website at http://sentencing.dc.gov

For additional information, please contact: Mia Hebb, Staff Assistant, at (202) 727-8822 or email mia.hebb@dc.gov

Agenda

1. Review and Approval of the Minutes from the October 16, 2018 Meeting - Action Item, Judge Lee.

2. Literature Review for Offense Patterning - Informational Item, Mehmet Ergun.

3. Sentencing Guideline Training Strategy – Informational Item, Kara Dansky.

4. Continued Discussion of Criminal History Scenarios – Discussion Item, Mehmet Ergun and Barbara Tombs-Souvey.
    a. Additional CH Scenarios

5. Discussion of Post Release Issue - Discussion Item, Kara Dansky.

6. Schedule Next Meeting – January 15, 2019.

7. Adjourn.

TWO RIVERS PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

EST Fire Panel System Replacement

Two Rivers PCS invites all interested and qualified companies to submit proposals to replace existing EST Fire Panel System. Proposals are due no later than 2:00 PM January 10, 2019. The RFP with bidding requirements can be obtained by contacting, Gail Williams via email at procurement@tworiverspcs.org.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Environmental Quality and Operations Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Environmental Quality and Operations Committee will be holding a meeting on Thursday, December 20, 2018 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dcwater.com.

DRAFT AGENDA

1.	Call to Order	Committee Chairperson
2.	AWTP Status Updates 1. BPAWTP Performance	Assistant General Manager, Plant Operations
3.	Status Updates	Chief Engineer
4.	Project Status Updates	Director, Engineering & Technical Services
5.	Action Items - Joint Use - Non-Joint Use	Chief Engineer
6.	Water Quality Monitoring	Assistant General Manager, Consumer Services
7.	Action Items	Chief Engineer Assistant General Manager, Consumer Services
8.	Emerging Items/Other Business	
9.	Executive Session	
10.	Adjournment	Committee Chairperson

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Finance and Budget Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Finance and Budget Committee will be holding a meeting on Tuesday, December 18, 2018 at 11:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dcwater.com.

DRAFT AGENDA

1. Call to Order — Committee Chairperson
2. November, 2018 Financial Report — Committee Chairperson
3. Agenda for January, 2019 Committee Meeting — Committee Chairperson
4. Adjournment — Committee Chairperson

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19830 of Yasmine Sikder, pursuant to 11 DCMR Subtitle X, Chapter 10, for an area variance from side yard requirements of Subtitle D § 307.4 to construct a new principal dwelling unit in the R-3 Zone at premises 3902 1st Street S.E. (Square 6128, Lot 834).

HEARING DATE: October 24, 2018
DECISION DATES: November 14 and November 28, 2018

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11-Y DCMR § 300.6. (Exhibits 5 (original) and 30 (corrected)[1].) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 8C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8C, which is automatically a party to this application. The ANC did not submit a report in this case. However, the Single Member District Commissioner for ANC 8C04 submitted a letter in support of the application. (Exhibit 40.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 35.)

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application.[2] (Exhibit 36.)

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for an area variance from the side yard requirements of Subtitle D § 307.4 to construct a

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[1] The Applicant submitted a revised self-certification form that corrects the calculations, but does not amend the relief being requested. (Exhibit 30.)

[2] In its report, DDOT notes that the property may contain Heritage Trees or Special Trees, which may require the Applicant to redesign the site plan or seek a removal permit.

new principal dwelling unit in the R-3 Zone. The only parties to the case were the ANC and the Applicant. No parties appeared at 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 an area variance from 11 DCMR Subtitle D § 307.4, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 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 REVISED PLANS AT EXHIBIT 32.**

VOTE: **3-0-2** (Carlton E. Hart, Lorna L. John, and Peter G. May to APPROVE; Frederick L. Hill and Lesylleé M. White, not participating.)

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 29, 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. 19865 of Nform LLC, pursuant to 11 DCMR Subtitle X, Chapter 10, for a variance from the lot occupancy requirements of Subtitle G § 404.1, to construct a one-story rear addition to the existing flat in the MU-4 Zone at premises 905 N Street N.W. (Square 367, Lot 806).

HEARING DATE: November 29, 2018
DECISION DATE: November 29, 2018

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11-Y DCMR § 300.6. (Exhibits 5 (original) and 12 (corrected).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 2F and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2F, which is automatically a party to this application. The ANC submitted a report in support of the application. The ANC report indicated that at a duly noticed and scheduled public meeting on November 7, 2018, at which a quorum was present, the ANC voted 5-0 in support of the application. (Exhibit 42.)

The Office of Planning ("OP") submitted two reports in this case. In its second, supplemental report, OP recommended approval of the application. (Exhibit 43.) In its initial report, OP had stated that it could not make a recommendation. (Exhibit 41.)

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 38.)

Two letters of support for the application from nearby neighbors were submitted to the record. (Exhibits 33 and 34.)

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 a variance from the lot occupancy requirements of Subtitle G § 404.1, to construct a

one-story rear addition to the existing flat in the MU-4 Zone. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking an area variance from 11 DCMR Subtitle G § 404.1, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 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 7.**

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

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: December 3, 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. 19867 of Thomas Jefferson Real Estate LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle H § 1200.1 from the closed court requirements of Subtitle H § 707.1, to construct a four-story addition to an existing apartment house in the NC-6 Zone at premises 816 Potomac Avenue S.E. (Square 930, Lot 22).

HEARING DATE: November 28, 2018
DECISION DATE: November 28, 2018

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 5.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on November 13, 2018, at which a quorum was present, the ANC voted 10-0-0 to support the application. (Exhibit 38.)

The Office of Planning ("OP") submitted a timely report, dated November 16, 2018, in support of the application. (Exhibit 37.) The District Department of Transportation ("DDOT") submitted a report, dated November 2, 2018, of no objection to the approval of the application. (Exhibit 32.)

A letter of support from the adjacent neighbor to the west of the property was submitted to the record. (Exhibit 33.) The Capitol Hill Restoration Society submitted a letter to the record in support of the application. (Exhibit 31.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X §

901.2, for a special exception under Subtitle H § 1200.1 from the closed court requirements of Subtitle H § 707.1, to construct a four-story addition to an existing apartment house in the NC-6 Zone. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle H §§ 1200.1 and 707.1, 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 § 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 EXHIBITS 7A1-7A3.**

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

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: November 29, 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. 19869 of RLP Investments LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E §§ 206.2 and 5203.3 from the upper floor addition requirements of Subtitle E § 206.1, to construct a rear addition and convert the existing, semi-detached principal dwelling unit to a flat in the RF-1 Zone at premises 4222 8th Street N.W. (Square 3024, Lot 60).

HEARING DATE: November 28, 2018
DECISION DATE: November 28, 2018

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 15 (Updated); Exhibit 5 (Original).)[1] In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 4C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4C, which is automatically a party to this application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 10, 2018, at which a quorum was present, the ANC voted 8-0-0 to support the application. (Exhibit 38.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 42.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application. (Exhibit 36.)

[1] The original self-certification form indicated that the relief sought in the application was an area variance. (Exhibit 5.) The Applicant submitted a corrected form before the case was noticed to reflect that the relief requested is a special exception. (Exhibit 15.)

A request for party status in opposition was submitted to the record by Alexander Cohen on November 14, 2018. (Exhibit 39.) Pursuant to Subtitle Y § 404.2, "the Board shall determine whether to grant or deny party status requests at the opening of the first public hearing on the application" unless advance consideration is requested. Advance consideration allows the Board to consider a party status request at a public meeting date that is at least 14 days prior to the public hearing. Under Subtitle Y § 404.4, an individual requesting advance consideration must identify the requested public meeting date and must file their request with the Board not less than 14 days prior to that meeting date. Mr. Cohen's request for party status indicated that he requested advance party status consideration, but the request was not timely filed for the purposes of advance consideration. (Exhibit 39.) Accordingly, the Board considered his party status request at the opening of the public hearing on November 28, 2018. At the time the case was called, Mr. Cohen did not appear. Under Subtitle Y § 404.10, failure of an individual requesting party status or their representative to appear shall be deemed withdrawal of the party status request. Thus, the Board deemed his request withdrawn at that time.

After the party status request had been deemed withdrawn, but before the Board asked for public testimony, Mr. Cohen and his attorney appeared at the hearing. Both individuals provided testimony raising concerns about the proposed project. Mr. Cohen's testimony indicated that, while he is supportive of the lowered height shown in the Applicant's revised plans, he has not had the opportunity to have those plans analyzed by a structural engineer. Mr. Cohen requested that the Board continue the hearing in order to allow time for structural review. The Board noted that structural issues are outside the scope of the Board's review for the special exception relief requested, as those issues are within the jurisdiction of the Department of Consumer and Regulatory Affairs during building permit review. Two neighbors submitted letters in opposition to the record. (Exhibits 32 and 33.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle E §§ 206.2 and 5203.3 from the upper floor addition requirements of Subtitle E § 206.1, to construct a rear addition and convert the existing, semi-detached principal dwelling unit to a flat in the RF-1 Zone. As Mr. Cohen's party status request was deemed withdrawn, no parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle E §§ 206.1, 206.2, and 5203.3, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 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 46.**

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

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: December 3, 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.

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