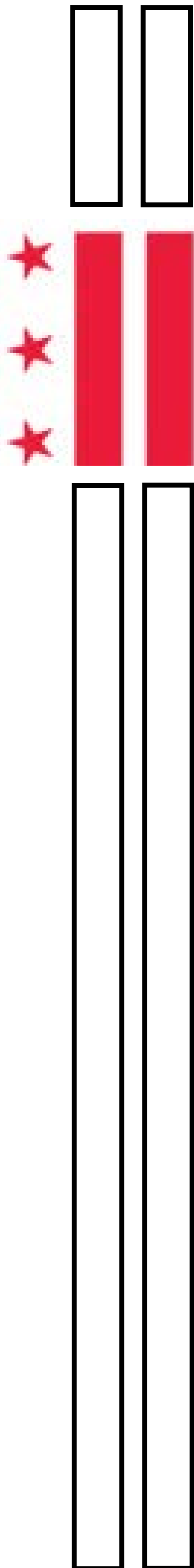

VOL. 66 – NO. 7 FEBRUARY 15, 2019

District of Columbia REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 22-640, Students in the Care of D.C. Coordinating Committee Act of 2018
- D.C. Council passes Adopted Ceremonial Resolution (ACR) 23-15, Tuskegee Airmen Commemoration Day Recognition Resolution of 2019
- Department of Behavioral Health revises infraction regulations for Mental Health Community Residence Facilities
- Department of Behavioral Health announces funding availability for implementing supported employment services for young adults
- Department of Energy and Environment solicits public comment on the revised Stormwater Management Guidebook
- Department of Health proposes regulations for quantifying the number of living marijuana plants at a cultivation center at any one time

DISTRICT OF COLUMBIA REGISTER

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OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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AN ACT

D.C. ACT 22-631

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 7, 2019

To amend the Jobs for D.C. Residents Amendment Act of 2007 to create one section of the District of Columbia Official Code with the requirements that heads of subordinate and independent agencies and instrumentalities, Executive Service employees, Excepted Service employees, Senior Executive Attorney Service employees, and attorneys employed by the Council reside in the District within 180 days of appointment and maintain residency in the District during their incumbency, to establish a requirement that highly compensated appointees establish and maintain residency in the District within 180 days of appointment, to streamline residency verification and enforcement procedures for subordinate and independent agencies and implement an electronic residency verification process conducted by the Mayor for appointees to District subordinate and independent agencies, and to establish a hardship waiver from residency requirements; to amend the District Government Comprehensive Merit Personnel Act of 1978 to conform its provisions to the amendments to the Jobs for D.C. Residents Amendment Act of 2007, to extend the District residency hiring preference to individuals in the foster care system regardless of place of residency, and to repeal an outdated provision regarding universal leave for certain District government employees; and to make conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District Government Employee Residency Amendment Act of 2018."

Sec. 2. Title I of the Jobs for D.C. Residents Amendment Act of 2007, effective February 6, 2008 (D.C. Law 17-108; D.C. Official Code § 1-515.01), is amended to read as follows:

"TITLE I. DISTRICT RESIDENCY PREFERENCES AND REQUIREMENT.

"Sec. 101. Definitions.

"For the purposes of this title:

"(1) The definitions set forth in section 301 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 § 1-603.01), shall apply.

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"(2) "District government" means the government of the District of Columbia, including:

"(A) Any department, agency, or instrumentality of the government of the District;

"(B) Any independent agency of the District established under part F of title IV of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 811; D.C. Official Code § 1-204.91 *et seq.*);

"(C) Any agency, board, or commission established by the Mayor or the Council and any other agency, public authority, or public benefit corporation which has the authority to receive monies directly or indirectly from the District (other than monies received from the sale of goods, the provision of services, or the loaning of funds to the District); and

"(D) The Council.

"(3) "Highly compensated appointee" means an individual appointed to a position in the Career, Educational, or Management Supervisory Service, except for individuals appointed to a position as an employee of the Board of Trustees of the University of the District of Columbia, for which the starting annual salary is not less than $150,000 or the threshold figure established by the relevant personnel authority pursuant to section 103(c).

"Sec. 102. District residency preference for applicants.

"(a)(1) All District subordinate agencies, independent agencies, and instrumentalities shall use a ranking system based on a scale of 100 points for all employment decisions for positions in, or positions equivalent to positions in, the Career Service, Educational Service, Legal Service, and Management Supervisory Service.

"(2) Except for attorneys in the Senior Executive Service Attorney Service and attorneys in the Legal Service employed by the Council, for positions in the Career Service, Educational Service, Legal Service, and Management Supervisory Service, an individual who is a District resident at the time of application shall be awarded a 10-point hiring preference over a nonresident applicant; provided, that the individual claims the preference.

"(3) For employees of subordinate agencies, independent agencies, and instrumentalities, the 10-point preference shall be in addition to any points awarded on the 100-point scale.

"(b)(1) At the time of appointment, an individual who claimed the 10-point residency preference provided in subsection (a) of this section shall agree, in writing, to remain a District resident for a period of 7 consecutive years from the effective date of appointment into the position for which the individual claimed the residency preference.

"(2) An individual who claimed the residency preference provided in subsection (a)(2) of this section and who fails to maintain District residency for 7 consecutive years from the individual's effective date of appointment shall forfeit the individual's District government employment.

"(c) A personnel authority shall verify an individual's residency to ensure compliance with this section in accordance with section 104.

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"(d) Each applicant for a position covered by subsection (a) of this section shall be informed in writing of the provisions of this section at the time of application.

"Sec. 103. District residency requirement for certain District government employees.

"(a) An individual appointed to a position in one of the following categories shall become a District resident within 180 days after appointment:

"(1) Subordinate agency head, independent agency head, or instrumentality head;

"(2) Executive Service (section 1059 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 § 1-610.59);

"(3) Excepted Service (section 906(a) 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 § 1-609.06(a));

"(4) Senior Executive Service Attorney Service (section 859(b) 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 § 1-608.59(b));

"(5) Legal Service of the Council (section 859(b) 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 § 1-608.59(b));

"(6) Highly compensated appointee, hired after the effective date of the District Government Employee Residency Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).

"(b) An individual appointed to a position covered by subsection (a) of this section who fails to remain a District resident for the duration of the individual's appointment shall forfeit the individual's District government employment.

"(c)(1) A personnel authority may decrease the threshold salary for its highly compensated appointees in a particular service.

"(2) A personnel authority may not raise the threshold salary for its highly compensated appointees higher than the increase by which the Mayor raised compensation for non-union employees in the same service in the same fiscal year.

"(3) The Mayor shall publish any adjustment the Mayor makes to the highly compensated appointee threshold salary level in the District of Columbia Register no later than 45 days after the level is adjusted.

"(d) The requirements of subsections (a) and (b) of this section shall not apply to an employee hired into a position covered by subsection (a)(1) of this section before the effective date of the District Government Employee Residency Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), to which such requirements did not apply as of the effective date of the District Government Employee Residency Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).

"Sec. 104. Proof of District residency and enforcement.

"(a)(1) A personnel authority shall verify District residency at the times described in paragraphs (2) and (3) of this subsection by requiring the individual to present:

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"(A) Physical proof that the individual possesses a valid non-expired driver's license or non-driver identification issued by the Department of Motor Vehicles; and

"(B) Proof that the District government will deduct and withhold District income tax from the individual's wages pursuant to D.C. Official Code § 47-1812.08 for the purpose of the District government position the individual holds or for which the individual applied.

"(2) For individuals appointed to a position covered by section 102(a)(1) after claiming the residency hiring preference provided in section 102(a)(2), the personnel authority shall verify District residency at the time of appointment.

"(3) For individuals appointed to a position covered by section 103(a) or other law requiring District residency, the personnel authority shall verify District residency no later than180 days after appointment.

"(b) The Mayor shall verify compliance with the District residency requirements of this title, the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), and other relevant District laws on at least an annual basis for all subordinate and independent agency employees to whom such requirements apply by:

"(1) Determining that:

"(A) The employee possesses a valid non-expired driver's license or non-driver identification issued by the Department of Motor Vehicles through data accessed pursuant to subsection (d) of this section; and

"(B) The District government deducts and withholds District income tax from the employee's wages pursuant to D.C. Official Code § 47-1812.08 for the purpose of the District government position held by the employee; and

"(2) Conducting audits, periodically, as determined by the Mayor, which:

"(A) Shall include:

"(i) At least 20% of employees randomly selected within subordinate agencies; and

"(ii) All employees within at least 3 randomly selected independent agencies; and

"(B) May include requiring employees to present physical documentation of District residency and checking residency against District electronic records.

"(c) If an individual subject to a residency requirement does not possess a valid non-expired driver's license or non-driver identification issued by the Department of Motor Vehicles at the time of verification, the individual shall provide other proof of residency as determined by the relevant personnel authority.

"(d) For the purpose of verifying employee residency pursuant to this section, the director of the Department of Human Resources shall have sufficient access, as determined by the Mayor, to the electronic databases of the Department of Motor Vehicles to facilitate automated verification of driver licenses and non-driver identifications.

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"(e)(1) If the Mayor finds that an employee in a subordinate agency has failed to maintain the required residency, the Mayor shall remove the employee from his or her position.

"(2)(A) If the Mayor finds that an employee in an independent agency has failed to maintain the required residency, the Mayor shall forward the finding to the corresponding personnel authority, which shall investigate and make a determination of whether the employee is a District resident.

"(B) If the employee is determined not to be a District resident, the personnel authority shall remove the employee from the employee's position in accordance with rules adopted by the relevant personnel authority.

"(f)(1) Before a personnel authority may remove an employee for failing to maintain District residency pursuant to the requirements of this title, the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), or other relevant District law, the employee shall receive notice of the removal decision and an opportunity to appeal the decision pursuant to rules adopted by the relevant personnel authority.

"(2) The Mayor shall establish the notice and appeal procedure required by this subsection for all subordinate agencies.

"(g) The Council shall adopt rules for annually verifying employee compliance with the District residency requirements of this title, the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), and other relevant District laws.

"(h) A personnel authority may adopt additional procedures, consistent with the requirements of this section, for verifying employee residency.

"Sec. 105. Hardship Waivers.

"(a)(1) When an employee in a subordinate agency suffers an extraordinary hardship because of exceptional circumstances beyond the employee's control, the employee may request that the Mayor suspend the residency requirements of sections 102 and 103, the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), or other relevant District law for a period of no more than one year for such individual employee.

"(2) The Mayor shall:

"(A) Review the request;

"(B) Verify if the hardship exists and necessitates residence outside of the District;

"(C) Determine if a waiver is in the best interest of District government; and

"(D) Determine whether to grant or deny a hardship waiver request within 30 days.

"(b)(1) When an employee of an independent agency or the Council suffers an extraordinary hardship because of exceptional circumstances beyond the employee's control, the employee may request that the personnel authority suspend the residency requirements of

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sections 102 and 103, the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), or other relevant District law for a period of no more than one year for such individual employee.

"(2) The personnel authority shall:

"(A) Review the request;

"(B) Verify if the hardship exists and necessitates residence outside of the District,

"(C) Determine if a waiver is in the best interest of District government; and

"(D) Determine whether to grant or deny a hardship waiver request within 30 days.

"(c) Notwithstanding subsections (a) and (b) of this section, a waiver of a residency requirement granted to an employee before the effective date the District Government Employee Residency Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), shall continue to apply for as long as the employee holds the position for which the residency waiver was granted.

"Sec. 106. Reporting.

"(a)(1) By December 1 of each year, the Mayor shall submit to the Council an annual report detailing for the previous fiscal year and for each District government entity:

"(A) The names of all new employees in District government and for each the:

"(i) Pay schedule;

"(ii) Position title; and

"(iii) Jurisdiction of residence;

"(B) The percent of new hires who are District residents;

"(C) The name, position title, pay schedule, and description of hardship circumstances of any employee who received a waiver in the previous year pursuant to section 105; and

"(D) The name, position title, and action taken with the reason for action taken, if any, for any incumbent employee who failed to maintain the residency requirements of sections 102 and 103 of this title, the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), or other relevant District law during the calendar year.

"(2) The Mayor shall integrate into each subordinate agency's annual performance objectives the target percentage of new hires and the target percentage of all employees who are District residents.

"(3) The Mayor shall integrate all reports received pursuant to subsection (b) of this section into the report submitted to the Council pursuant to this subsection.

"(b)(1) By November 1 of each year, each independent agency, board, commission, instrumentality, and other District government entity shall submit to the Mayor an annual report detailing for the previous fiscal year:

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"(A) The names of all new employees and for each the:

"(i) Pay schedule;

"(ii) Position title; and

"(iii) Jurisdiction of residence;

"(B) The percent of new hires who are District residents;

"(C) The name, position title, pay schedule, and description of hardship circumstances of any employee who received a waiver in the previous year pursuant to section 105; and

"(D) The name, position title, and action taken with the reason for action taken, if any, for any incumbent employee who failed to maintain the residency requirements of sections 102 and 103 of this title, the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), or other relevant District law during the fiscal year.

"Sec. 107. Construction with other laws.

"This title may not be construed to conflict with the personnel authority granted to the Chief Financial Officer or Water and Sewer Authority under the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 777; D.C. Official Code § 1-201.01 *et seq.*).

"Sec. 108. Rules.

"Within 180 days after the effective date of the District Government Employee Residency Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212):

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

"(2) Each independent agency shall, pursuant to title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), issue final rules to implement the provisions of this act; and

"(3) A District government entity not covered by paragraph (1) or (2) of this section to which the requirements of this title apply shall adopt rules or policies to implement the provisions of this title.".

Sec. 3. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) Section 203(c) (D.C. Official Code § 1-602.03(c)) is amended to read as follows:

"(c)(1)(A) Notwithstanding the provisions of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), the Board of Trustees of the University of the District of Columbia ("Board") shall use a ranking system based on a scale of 100 points for all employment decisions for all non-educational positions within the Board.

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"(B) An individual who is a District resident at the time of application shall be awarded a 10-point hiring preference over a nonresident applicant; provided, that the individual claims the preference. This 10-point preference shall be in addition to any points awarded on the 100-point scale.

"(C) At the time of appointment, an individual who claimed the 10-point residency preference shall agree, in writing, to maintain District residency for a period of 7 consecutive years from the effective date of appointment into the position for which the individual claimed the residency preference.

"(D) An individual who claimed the residency preference and who fails to maintain District residency for 7 consecutive years from the individual's effective date of appointment shall forfeit the individual's District government employment.

"(E) Each applicant for a position covered by this paragraph shall be informed in writing of the provisions of this paragraph at the time of application.

"(2) The Board shall verify and enforce District residency requirements pursuant to section 104 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).

"(3) By November 1 of each year and pursuant to section 106 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), the Board shall submit to the Mayor an annual report detailing, for the previous fiscal year, compliance with residency requirements.".

(b) Section 301(8A) (D.C. Official Code § 1-603.01(8A)) is amended to read as follows:

"(8A) The term "exceptional circumstances" means conditions or facts that are uncommon, deviate from or do not conform to the norm, or are beyond willful control.".

(c) Subsection 601(l) (D.C. Official Code § 1-606.01(l)) is amended to read as follows:

"(l)(1)(A) Notwithstanding the provisions of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), the Executive Director shall use a ranking system based on a scale of 100 points for all employment decisions for positions within the Office, except for the positions of Executive Director and the General Counsel.

"(B) An individual who is a District resident at the time of application shall be awarded a 10-point hiring preference over a nonresident applicant; provided, that the individual claims the preference. This 10-point preference shall be in addition to any points awarded on the 100-point scale.

"(C) At the time of appointment, an individual who claimed the 10-point residency preference shall agree, in writing, to maintain District residency for a period of 7 consecutive years from the effective date of appointment into the position for which the individual claimed the residency preference.

"(D) An individual who claimed the residency preference and who fails to maintain District residency for 7 consecutive years from the individual's effective date of appointment shall forfeit the individual's District government employment.

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"(E) Each applicant for a position covered by this paragraph shall be informed in writing of the provisions of this paragraph at the time of application.

"(F) The Executive Director shall verify and enforce District residency requirements pursuant to section 104 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).

"(2) The Office shall verify and enforce residency requirements applicable to the Executive Director and General Counsel pursuant to section 104 of the Jobs for D.C. Residents Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).

"(3)(A) By November 1 of each year and pursuant to section 106 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), the Executive Director shall submit to the Mayor an annual report detailing, for the previous fiscal year, compliance with residency requirements.

"(B) By November 1 of each year, the Office shall submit to the Mayor an annual report detailing for the previous fiscal year the Executive Director's and General Counsel's compliance with residency requirements pursuant to section 106 of the District Government Employee Residency Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).".

(d) Section 801 (D.C. Official Code § 1-608.01) is amended as follows:

(1) Subsection (a)(4) is amended by striking the phrase "with appropriate regard for affirmative action goals and veterans preference as provided in title VII of this act;" and inserting the phrase "with appropriate regard for:

"(A) Affirmative action goals;

"(B) The preferences provided in subsections (e) and (e-1) of this section; and

"(C) The veterans preference provided in title VII of this act;" in its place.

(2) Subsection (b-1) is amended by adding a new paragraph (4A) to read as follows:

"(4A)(A) Each subordinate agency head shall submit to the Mayor an annual report detailing, for each new employee hired into an entry-level job during the reporting period, whether the employee is a resident District graduate.

"(B) The Mayor shall integrate into each subordinate agency's annual performance objectives the target percentage of new hires into entry-level jobs who are resident District graduates.

"(C)(i) The Mayor shall conduct annual audits of each subordinate agency's personnel records to ensure that all persons receiving resident District graduate consideration priority submitted requisite proof of entitlement.

"(ii) Audit reports shall be submitted annually to the Council.".

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

(A) Paragraphs (1) and (2) are amended to read as follows:

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"(1) Notwithstanding any provision of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), and in accordance with section 102 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), an applicant for District government employment in the Career Service who is a District resident at the time of application shall be awarded a 10-point hiring preference over a nonresident applicant; provided, that the applicant claims the preference.

"(2)(A) Failure to maintain District residency for a period of 7 consecutive years from the individual's effective date of hire into the position for which the individual claimed the residency preference shall result in forfeiture of District government employment.

"(B) Verification and enforcement of residency shall occur pursuant to section 104 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).

"(C) Beginning on the effective date of the District Government Employee Residency Amendment Act of 2017, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), waivers for residency requirements applicable to employees in the Career Service shall be governed by section 105 of the Jobs for DC Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).".

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

"(5A)(A) An individual entitled to a hiring preference under subsection (e-1)(1)(B) of this section, regardless of place of residency, shall be deemed to be a District resident and shall be eligible for the District resident hiring preference described in paragraph (1) of this subsection.

"(B) If an individual covered by subsection (e-1)(1)(B) claims the residency preference under paragraph (1) of this subsection, the individual shall become a District resident within 180 days after separation from the foster care program and be subject to the requirements of section 102 of the Jobs for District Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).

"(C) Within 180 days of the effective date of the District Government Employee Residency Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), the Mayor shall, pursuant to title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), issue final rules to implement the preference system established by this paragraph.".

(C) Paragraph (7)(A) is amended by striking the phrase "subparagraph (B)" and inserting the phrase "section 103(a)(6) of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), and subparagraph (B) of this paragraph" in its place.

(2) Subsection (e-1)(1) is amended by striking the phrase "given a 10-point hiring preference if, at the time of application, the applicant:" and inserting the phrase "awarded a 10-

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point hiring preference; provided, that the applicant claims the preference, if, at the time of application, the applicant:" in its place.

(3) Subsection (g) is repealed.

(e) Section 801A (D.C. Official Code § 1-608.01a) is amended as follows:

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

(A) Paragraphs (1) and (2) are amended to read as follows:

"(1) Notwithstanding any provision of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), and in accordance with section 102 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), an applicant for District government employment in the Educational Service who is a District resident at the time of application shall be awarded a 10-point hiring preference over a nonresident applicant; provided, that the applicant claims the preference.

"(2)(A) Failure to maintain District residency for a period of 7 consecutive years from the individual's effective date of hire into the position for which the individual claimed the residency preference shall result in forfeiture of employment.

"(B) Verification and enforcement of residency shall occur pursuant to section 104 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).

"(C) Beginning on the effective date of the District Government Employee Residency Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), waivers for residency requirements applicable to employees in the Education Service shall be governed by section 105 of the Jobs for DC Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).".

(B) Paragraph (7)(A) is amended by striking the phrase "subparagraph (B)" and inserting the phrase "section 103(a)(6) of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), and subparagraph (B) of this paragraph" in its place.

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

"(f) The Board shall integrate into its yearly performance objectives the target percentage of new hires and target percentage of all employees who are District residents.".

(f) Section 859 (D.C. Official Code § 1-608.59) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "section 801(e)" and inserting the phrase "section 102 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212)," in its place.

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

(A) Strike the phrase "the provisions of section 801(e) and the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Code § 1-2501 *et seq.*)," and insert the phrase "the provisions of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Code § 1-2501 *et seq.*), and in accordance with section 103 of the

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Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212)," in its place.

(B) Strike the phrase "and attorneys employed by the Council of the District of Columbia shall become a bona fide resident" and insert the phrase "and an attorney appointed to the Legal Service at the Council shall become a resident" in its place.

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

"(c) Beginning on the effective date of the District Government Employee Residency Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), waivers for residency requirements applicable to employees in the Legal Service shall be governed by section 105 of the Jobs for DC Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212); provided, that a waiver of the residency requirement described in subsection (b) of this section issued before the effective date of the District Government Employee Residency Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), for an individual appointed to a hard-to-fill position in the Senior Executive Service Attorney Service, shall remain effective for the duration of the individual's appointment to the position for which the individual received the waiver.".

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

"(d) Verification and enforcement of District residency shall occur pursuant to section 104 of the Jobs for DC Residents Amendment Act of 2008, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).".

(g) Section 906 (D.C. Official Code § 1-609.06) is amended as follows:

(1) The heading is amended by striking the word "Domicile" and inserting the word "Residency" in its place.

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

"(a) An appointee to the Excepted Service shall become a resident of the District within 180 days after the effective date of the individual's appointment and shall remain a resident of the District during the period of appointment, pursuant to section 103 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212). The failure to become a District resident or to maintain District residency shall result in the forfeiture of the position to which the person has been appointed.".

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

"(b) Residency shall be verified and enforced pursuant to section 104 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).".

(4) Subsections (c) and (d) are repealed.

(5) Subsection (g) is amended to read as follows:

"(g) Beginning on the effective date of the District Government Employee Residency Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), waivers for residency requirements applicable to employees in the Excepted Service shall be governed by section 105 of the Jobs for DC Residents Amendment Act of 2007, passed

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on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212); provided, that a waiver of the residency requirement described in subsection (a) of this section issued before the effective date of the District Government Employee Residency Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), shall remain effective for the duration of the individual's appointment to the position for which the individual received the waiver.".

(6) Subsection (h) is repealed.

(7) Subsection (i)(3) is amended to read as follows:

"(3) At the request of the Inspector General, the Mayor shall have the authority to grant the Office of the Inspector General waivers of the residency requirement for new positions or hires in the Office of the Inspector General when those positions or hires present exceptional circumstances or for appointees or hires in hard to fill positions.".

(h) Section 957 (D.C. Official Code § 1-609.57) is amended to read as follows:

"Sec. 957. Residency preference.

"(a) Notwithstanding any provision of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), and in accordance with section 102 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), an applicant for District government employment in the Management Supervisory Service who is a District resident at the time of application shall be awarded a 10-point hiring preference over a nonresident applicant; provided that the applicant claims the preference. This preference shall be in addition to, and not instead of, qualifications established for the position.

"(b) Failure to maintain District residency for a period of 7 consecutive years from the individual's effective date of hire into the position for which the individual claimed the residency preference shall result in forfeiture of employment.

"(c) Verification and enforcement of residency shall occur pursuant to section 104 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).

"(d) Beginning on the effective date of the District Government Employee Residency Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), waivers for residency requirements applicable to employees in the Management Supervisory Service shall be governed by section 105 of the Jobs for DC Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).".

(i) Section 1059 (D.C. Official Code § 1-610.59) is amended to read as follows:

"Sec. 1059. District of Columbia residency.

"(a)(1) An appointee to the Executive Service shall become a resident of the District of Columbia within 180 days after the effective date of the person's appointment and shall remain a resident of the District of Columbia during the period of the appointment.

"(2) An appointee's failure to become a District of Columbia resident or to maintain residency shall result in the forfeiture of the position to which the person has been appointed.

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"(3) Residency shall be verified and enforced pursuant to section 104 of the Jobs for DC Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).

"(4) Beginning on the effective date of the District Government Employee Residency Amendment Act of 2017, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), waivers for residency requirements applicable to employees in the Executive Service shall be governed by section 105 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212); provided, that a waiver of the residency requirement described in subsection (a) of this section issued before the effective date of the District Government Employee Residency Amendment Act of 2017, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), shall remain effective for the duration of the individual's appointment to the position for which the individual received the waiver.".

(j) Subsection 1203(a) (D.C. Official Code § 1-612.03(a)) is amended as follows:

(1) Paragraph (5) is amended by striking the semicolon and inserting the phrase "; or" in its place.

(2) Paragraph (6) is repealed.

(k) Section 1203a (D.C. Official Code § 1-612.03a) is repealed.

Sec. 4. Section 121(g)(2)(B) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D.C. Official Code § 1-711(g)(2)(B)), is amended to read as follows:

"(B)(i)(I) Notwithstanding the provisions of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), the Board shall use a ranking system based on a scale of 100 points for all employment decisions for positions within the Board.

"(II) An individual who is a District resident at the time of application shall be awarded a 10-point hiring preference over a nonresident applicant; provided, that the individual claims the preference. This 10-point preference shall be in addition to any points awarded on the 100-point scale.

"(III) At the time of appointment, an individual who claimed the 10-point residency preference shall agree, in writing, to maintain District residency for a period of 7 consecutive years from the effective date of appointment into the position for which the individual claimed the residency preference.

"(IV) An individual who claimed the residency preference and who fails to maintain District residency for 7 consecutive years from the individual's effective date of appointment shall forfeit the individual's District government employment.

"(V) Each applicant for a position covered by this sub-subparagraph shall be informed in writing of the provisions of this sub-subparagraph at the time of application.

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"(ii) The Board shall verify and enforce District residency requirements pursuant to section 104 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).

"(iii) By November 1 of each year and pursuant to section 106 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), the Board shall submit to the Mayor an annual report detailing, for the previous fiscal year, compliance with residency requirements.".

Sec. 5. Section 5(e)(1)(C) of the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 700; D.C. Official Code § 1-1001.05(e)(1)(C)), is amended to read as follows:

"(C)(i)(I) Notwithstanding the provisions of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), the Board shall use a ranking system based on a scale of 100 points for all employment decisions for positions within the Board.

"(II) An individual who is a District resident at the time of application shall be awarded a 10-point hiring preference over a nonresident applicant; provided, that the individual claims the preference. This 10-point preference shall be in addition to any points awarded on the 100-point scale.

"(III) At the time of appointment, an individual who claimed the 10-point residency preference shall agree, in writing, to maintain District residency for a period of 7 consecutive years from the effective date of appointment into the position for which the individual claimed the residency preference.

"(IV) An individual who claimed the residency preference and who fails to maintain District residency for 7 consecutive years from the individual's effective date of appointment shall forfeit the individual's District government employment.

"(V) Each applicant for a position covered by this sub-subparagraph shall be informed in writing of the provisions of this sub-subparagraph at the time of application.

"(ii) The Board shall verify and enforce District residency requirements pursuant to section 104 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).

"(iii) By November 1 of each year and pursuant to section 106 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), the Board shall submit to the Mayor an annual report detailing, for the previous fiscal year, compliance with residency requirements.".

Sec. 6. Section 11 of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.08), is amended as follows:

(a) Subsection (d) (2) and (3) are repealed.

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

"(d-1) An Administrative Law Judge shall become a District resident within 180 days after appointment or reappointment pursuant to section 103(a)(3) of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), and section 859 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 § 1-608.59).".

Sec. 7. Section 16(f) of the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-215(f)), is amended to read as follows:

"(f)(1)(A) Notwithstanding the provisions of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), the Authority shall use a ranking system based on a scale of 100 points for all employment decisions for positions within the Authority.

"(B) An individual who is a District resident at the time of application shall be awarded a 10-point hiring preference over a nonresident applicant; provided, that the individual claims the preference. This 10-point preference shall be in addition to any points awarded on the 100-point scale.

"(C) At the time of appointment, an individual who claimed the 10-point residency preference shall agree, in writing, to maintain District residency for a period of 7 consecutive years from the effective date of appointment into the position for which the individual claimed the residency preference and shall provide proof of residency annually to the Authority for the first 7 years of employment.

"(D) An individual who claimed the residency preference and who fails to maintain District residency for 7 consecutive years from the individual's effective date of appointment shall forfeit the individual's District government employment.

"(E) Each applicant for a position covered by this paragraph shall be informed in writing of the provisions of this paragraph at the time of application.

"(2) All persons hired after the effective date of the Jobs for D.C. Residents Amendment Act of 2007, effective February 8, 2008 (D.C. Law 17-108; D.C. Official Code *passim*), shall submit proof of residency upon employment in a manner determined by the Board.

"(3) By November 1 of each year and pursuant to section 106 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), the Authority shall submit to the Mayor an annual report detailing, for the previous fiscal year, compliance with residency requirements.".

Sec. 8. Section 3(c) of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.02(c)), is amended to read as follows:

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"(c)(1)(A) Notwithstanding the provisions of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), the Director shall use a ranking system based on a scale of 100 points for all employment decisions for all positions within the Office.

"(B) An individual who is a District resident at the time of application shall be awarded a 10-point hiring preference over a nonresident applicant; provided, that the individual claims the preference. This 10-point preference shall be in addition to any points awarded on the 100-point scale.

"(C) At the time of appointment, an individual who claimed the 10-point residency preference shall agree, in writing, to maintain District residency for a period of 7 consecutive years from the effective date of appointment into the position for which the individual claimed the residency preference.

"(D) An individual who claimed the residency preference and who fails to maintain District residency for 7 consecutive years from the individual's effective date of appointment shall forfeit the individual's District government employment.

"(E) Each applicant for a position covered by this paragraph shall be informed in writing of the provisions of this paragraph at the time of application.

"(F)The Director shall verify and enforce District residency requirements pursuant to section 104 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).

"(2) The District members of the Zoning Commission shall verify and enforce residency requirements applicable to the Director pursuant to section 104 of the Jobs for D.C. Residents Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).

"(3)(A) By November 1 of each year and pursuant to section 106 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), the Director shall submit to the Mayor an annual report detailing, for the previous fiscal year, compliance with residency requirements.

"(B) By November 1 of each year and pursuant to section 106 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), the District members of the Zoning Commission shall submit to the Mayor an annual report detailing for the previous fiscal year the Director's compliance with residency requirements.".

Sec. 9. Section 216(2) of the Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code § 10-1202.16(2)), is amended to read as follows:

"(2)(A)(i) Notwithstanding the provisions of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), the Authority shall use a ranking system based on a scale of 100 points for all employment decisions for positions within the Authority.

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"(ii) An individual who is a District resident at the time of application shall be awarded a 10-point hiring preference over a nonresident applicant; provided, that the individual claims the preference. This 10-point preference shall be in addition to any points awarded on the 100-point scale.

"(iii) At the time of appointment, an individual who claimed the 10-point residency preference shall agree, in writing, to maintain District residency for a period of 7 consecutive years from the effective date of appointment into the position for which the individual claimed the residency preference and shall provide proof of residency annually to the Authority for the first 7 years of employment.

"(iv) An individual who claimed the residency preference and who fails to maintain District residency for 7 consecutive years from the individual's effective date of appointment shall forfeit the individual's District government employment.

"(v) Each applicant for a position covered by this subparagraph shall be informed in writing of the provisions of this subparagraph at the time of application.

"(B) All persons hired after the effective date of the Jobs for D.C. Residents Amendment Act of 2007, effective February 6, 2008 (D.C. Law 17-108; D.C. Official Code *passim*), shall submit proof of residency upon employment in a manner determined by the Authority.

"(C) By November 1 of each year and pursuant to section 106 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), the Authority shall submit to the Mayor an annual report detailing, for the previous fiscal year, compliance with residency requirements.".

Sec. 10. Section 1506(b-1) of the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 22-4235(b-1)), is amended to read as follows:

"(b-1)(1)(A) Notwithstanding the provisions of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), the CJCC shall use a ranking system based on a scale of 100 points for all employment decisions for positions within the CJCC.

"(B) An individual who is a District resident at the time of application shall be awarded a 10-point hiring preference over a nonresident applicant; provided, that the individual claims the preference. This 10-point preference shall be in addition to any points awarded on the 100-point scale.

"(C) At the time of appointment, an individual who claimed the 10-point residency preference shall agree, in writing, to maintain District residency for a period of 7 consecutive years from the effective date of appointment into the position for which the individual claimed the residency preference.

"(D) An individual who claimed the residency preference and who fails to maintain District residency for 7 consecutive years from the individual's effective date of appointment, shall forfeit the individual's District government employment.

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"(E) Each applicant for a position covered by this paragraph, shall be informed in writing of the provisions of this paragraph at the time of application.

"(2) The CJCC shall verify and enforce District residency requirements pursuant to section 104 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).

"(3) By November 1 of each year and pursuant to section 106 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), the CJCC shall submit to the Mayor an annual report detailing, for the previous fiscal year, compliance with residency requirements.".

Sec. 11. Paragraph 97(a) of Section 8 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen and for other purposes, approved March 4, 1913 (37 Stat. 995; D.C. Official Code § 34-801), is amended as follows:

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

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

"(2)(A)(i) Notwithstanding the provisions of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), the Commission shall use a ranking system based on a scale of 100 points for all employment decisions for positions within the Commission.

"(ii) An individual who is a District resident at the time of application shall be awarded a 10-point hiring preference over a nonresident applicant; provided, that the individual claims the preference. This 10-point preference shall be in addition to any points awarded on the 100-point scale.

"(iii) At the time of appointment, an individual who claimed the 10-point residency preference shall agree, in writing, to maintain District residency for a period of 7 consecutive years from the effective date of appointment into the position for which the individual claimed the residency preference.

"(iv) An individual who claimed the residency preference and who fails to maintain District residency for 7 consecutive years from the individual's effective date of appointment shall forfeit the individual's District government employment.

"(v) Each applicant for a position covered by this subparagraph shall be informed in writing of the provisions of this subparagraph at the time of application.

"(B) The Commission shall verify and enforce District residency requirements pursuant to section 104 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).

"(C) By November 1 of each year and pursuant to section 106 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), the Commission shall submit to the Mayor an annual report detailing, for the previous fiscal year, compliance with residency requirements.".

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Sec. 12. Section 1(c-1) of An Act to provide a People's Counsel for the Public Service Commission in the District of Columbia, and for other purposes, approved January 2, 1975 (88 Stat. 1975; D.C. Official Code § 34-804(c-1)) is amended to read as follows:

"(c-1)(1)(A) Notwithstanding the provisions of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), the People's Counsel shall use a ranking system based on a scale of 100 points for all employment decisions for positions within the Office of the People's Counsel.

"(B) An individual who is a District resident at the time of application shall be awarded a 10-point hiring preference over a nonresident applicant; provided, that the individual claims the preference. This 10-point preference shall be in addition to any points awarded on the 100-point scale.

"(C) At the time of appointment, an individual who claimed the 10-point residency preference shall agree, in writing, to maintain District residency for a period of 7 consecutive years from the effective date of appointment into the position for which the individual claimed the residency preference.

"(D) An individual who claimed the residency preference and who fails to maintain District residency for 7 consecutive years from the individual's effective date of appointment shall forfeit the individual's District government employment.

"(E) Each applicant for a position covered by this paragraph shall be informed in writing of the provisions of this paragraph at the time of application.

"(2) The People's Counsel shall verify and enforce District residency requirements pursuant to section 104 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212).

"(3) By November 1 of each year and pursuant to section 106 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), the People's Counsel shall submit to the Mayor an annual report detailing, for the previous fiscal year, compliance with residency requirements.".

Sec. 13. Section 2214(d)(3) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321-133; D.C. Official Code § 38-1802.14(d)(3)), is amended to read as follows:

"(3) District residency. — (A)(i) Notwithstanding the provisions of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), the Board shall use a ranking system based on a scale of 100 points for all employment decisions for positions within the Board.

"(ii) An individual who is a District resident at the time of application shall be awarded a 10-point hiring preference over a nonresident applicant; provided, that the individual claims the preference. This 10-point preference shall be in addition to any points awarded on the 100-point scale.

"(iii) At the time of appointment, an individual who claimed the 10-point residency preference shall agree, in writing, to maintain District residency for a period

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of 7 consecutive years from the effective date of appointment into the position for which the individual claimed the residency preference and shall provide proof of residency annually to the Director of Personnel for the first 7 years of employment.

"(iv) An individual who claimed the residency preference and who fails to maintain District residency for 7 consecutive years from the individual's effective date of appointment shall forfeit the individual's District government employment.

"(v) Each applicant for a position covered by this paragraph, shall be informed in writing of the provisions of this paragraph at the time of application.

"(B) All persons hired after the effective date of the Jobs for D.C. Residents Amendment Act of 2007, effective February 6, 2008 (D.C. Law 17-108; D.C. Official Code *passim*), shall submit proof of residency upon employment in a manner determined by the Board.

"(C) By November 1 of each year and pursuant to section 106 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), the Board shall submit to the Mayor an annual report detailing, for the previous fiscal year, compliance with residency requirements.".

Sec. 14. Section 203(c)(2) of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Official Code § 42-2702.03(c)(2)), is amended to read as follows:

"(2)(A)(i) Notwithstanding the provisions of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), the Agency shall use a ranking system based on a scale of 100 points for all employment decisions for positions within the Agency.

"(ii) An individual who is a District resident at the time of application shall be awarded a 10-point hiring preference over a nonresident applicant; provided, that the individual claims the preference. This 10-point preference shall be in addition to any points awarded on the 100-point scale.

"(iii) At the time of appointment, an individual who claimed the 10-point residency preference shall agree, in writing, to maintain District residency for a period of 7 consecutive years from the effective date of appointment into the position for which the individual claimed the residency preference and shall provide proof of residency annually to the Director of Personnel for the first 7 years of employment.

"(iv) An individual who claimed the residency preference and who fails to maintain District residency for 7 consecutive years from the individual's effective date of appointment shall forfeit the individual's District government employment.

"(v) Each applicant for a position covered by this subparagraph shall be informed in writing of the provisions of this subparagraph at the time of application.

"(B) All persons hired after the effective date of the Jobs for D.C. Residents Amendment Act of 2007, effective February 6, 2008 (D.C. Law 17-108; D.C. Official

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Code *passim*), shall submit 8 proofs of residency upon employment in a manner determined by the Board of Directors.

"(C) By November 1 of each year and pursuant to section 106 of the Jobs for D.C. Residents Amendment Act of 2007, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-212), the Agency shall submit to the Mayor an annual report detailing, for the previous fiscal year, compliance with residency requirements.".

Sec. 15. Section 2(c)(3) of the Pathways to District Government Careers Amendment Act of 2018, enacted November 7, 2018 (D.C. Act 22-512; 65 DCR 12603), is repealed.

Sec. 16. 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. 17. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

UNSIGNED

Mayor
District of Columbia
February 6,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-632

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 6, 2019

To amend the Unified Economic Development Budget Transparency and Accountability Act of 2010 to expand the annual reporting of economic development incentives by the Office of the Chief Financial Officer to include an estimate of the market value of additional types of incentives and to require the Mayor to include as part of her annual budget request to the Council each economic development or affordable housing project that receives incentives from the District of Columbia, any requirements established as a result of that support, and the impact of incentivized developments over the previous 5 years on certified business enterprises, affordable housing, employment, economic growth, and tax revenue.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Economic Development Return on Investment Accountability Amendment Act of 2018".

Sec. 2. The Unified Economic Development Budget Transparency and Accountability Act of 2010, effective September 24, 2010 (D.C. Law 18-223; D.C. Official Code § 2-1208.01, *et seq.*), is amended as follows:

(a) Section 2252 (D.C. Official Code § 2-1208.01) is amended as follows:

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

"(2) "Economic development incentive" or "incentive" means any expenditure of public funds by a granting body for the purpose of stimulating economic development or creating affordable housing within the District of Columbia, including any funds from the District or funds that, in accordance with a federal grant or otherwise, the District government administers, including land disposition and development agreements, financial subsidies, or expenditures of the Housing Production Trust Fund or of the Housing Preservation Fund, or any bond issuance, including pilot bond, tax increment financing bond, or revenue bond issuances, grant, loan, loan guarantee, fee waiver, land price subsidy, matching fund, tax abatement, tax exemption, tax credit, or any other tax expenditure.".

(2) Paragraph (5) is amended by striking the phrase "Government of the District of Columbia" and inserting the phrase "District government" in its place.

(b) Section 2253(b) (D.C. Official Code § 2-1208.02(b)) is amended as follows:

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

(2) Paragraph (2) is amended by striking the period and inserting a semicolon in its place.

(3) New paragraphs (3) and (4) are added to read as follows:

"(3) For each recipient listed in the most recent Unified Economic Development Budget Report prepared pursuant to subsection (a)(2)(A) of this section that has received an economic development incentive in anticipation of, or as the result of, the development or redevelopment of real property, the Mayor shall list all requirements imposed on the recipient in exchange for those incentives, including any requirements related to:

"(A) The production or preservation of affordable housing;

"(B) The employment of District residents;

"(C) The participation of certified business enterprises in the construction or operation of the real property; and

"(D) The production of community amenities; and

"(4) For each recipient that received an economic development incentive in anticipation of, or as the result of, the development or redevelopment of real property within the previous 5 years, the Mayor shall determine whether the recipient is in compliance with any requirements listed in paragraph (3) of this subsection for that recipient and shall list, when applicable:

"(A) The current number of affordable housing units on the property, their level of affordability, and the number of bedrooms per unit;

"(B) The number of District residents employed as a result of the development or redevelopment of the property, including the average wages of newly employed residents, the value and type of employment benefits provided, and whether the employees are full-time or part-time;

"(C) The participation of certified business enterprises in the construction or operation of the real property;

"(D) Any realized changes to overall tax revenue resulting from the development or redevelopment.".

Sec. 3. Applicability.

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

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

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

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

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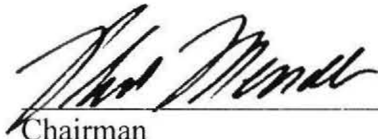
Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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



Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
February 6,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-633

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 6, 2019

To amend Chapter 5 of Title 16 of the District of Columbia Official Code to prevent wage garnishment from an individual making 40 times the minimum hourly wage or less, to limit the amount that can be garnished from the wages of an individual making more than 40 times the minimum hourly wage, to allow an individual to file a motion to exempt wages from attachment under section 16-572 by making a claim of undue financial hardship, and to require a judgment creditor to give notice to a judgment debtor whose wages will be garnished.

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

Sec. 2. Chapter 5 of Title 16 of the District of Columbia Official Code is amended as follows:

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

"16-572a. Motion to exempt wages from garnishment.

"16-572b. Notice to judgment debtor regarding wage garnishment.".

(b) Section 16-572 is amended to read as follows:

"§ 16-572. Attachment of wages; percentage limitations; priority of attachments.

"Notwithstanding any other provision of subchapter II of this chapter:

"(1)(A) Where an attachment is levied upon wages due a judgment debtor from an employer-garnishee, the attachment shall become a lien and a continuing levy upon the gross wages due or to become due to the judgment debtor for the amount specified in the attachment to the extent of 25% of the amount by which the judgment debtor's disposable wages for that week exceed 40 times the minimum hourly wage, as prescribed in section 4 of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003) ("minimum hourly wage"), in effect at the time the wages are payable.

"(B) In the case of wages for any pay period other than a week, the Mayor shall, by regulation, prescribe a multiple of the minimum hourly wage equivalent in effect to that set forth in subparagraph (A) of this paragraph.

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"(2) The levy shall be a continuing levy until the judgment, interest, and costs thereof are fully satisfied and paid, and in no event may moneys be withheld, by the employer-garnishee from the judgment debtor, in amounts greater than those prescribed by this section.

"(3) Only one attachment upon the wages of a judgment debtor may be satisfied at one time.

"(4) Where more than one attachment is issued upon the wages of the same judgment debtor and served upon the same employer-garnishee, the attachment first delivered to the marshal shall have priority, and all subsequent attachments shall be satisfied in the order of priority set forth in § 16-507.".

(c) New sections 16-572a and 16-572b are added to read as follows:

"§ 16-572a. Motion to exempt wages from garnishment.

"(a) Notwithstanding § 16-572, a judgment debtor may seek to exempt additional wages from attachment under § 16-572 by making a claim of undue financial hardship by filing a motion with the Superior Court of the District of Columbia ("court").

"(b) Upon the filing of a motion under subsection (a) of this section, the court shall hold a hearing as soon as practicable, but no later than 30 days after the motion is filed, unless the movant requests a later date.

"(c) The court shall prepare and make available a form that would allow a judgment debtor to easily identify the basis for the judgment debtor's request for wages to be exempt from attachment. The form shall include space for the judgment debtor to identify, at a minimum, the following:

"(1) That the judgment debtor receives public assistance from any of the following sources or programs, if applicable:

"(A) Temporary Assistance for Needy Families Program;

"(B) Program on Work, Employment, and Responsibility;

"(C) General Assistance for Children program;

"(D) Supplemental Security Income;

"(E) Interim Disability Assistance;

"(F) Medicaid; or

"(G) D.C. Healthcare Alliance or similar health benefits;

"(2) A list of the judgment debtor's household income;

"(3) The number of people in the judgment debtor's household; and

"(4) A list of the household expenses, including:

"(A) Housing;

"(B) Utilities;

"(C) Health-related expenses;

"(D) Child care;

"(E) Food and household supplies;

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"(F) Education;
"(G) Transportation;
"(H) Clothing;
"(I) Child support; and
"(J) Other circumstances, including recurring payments, creating financial hardship.

"(d)(1) At the hearing on a motion filed pursuant to this section, the court shall determine whether the amount required to be paid to the judgment creditor as calculated pursuant to § 16-572 creates an undue financial hardship for the judgment debtor; provided, that, for a movant who indicates that he or she receives public assistance from any of the sources listed in subsection (c)(1) of this section, there shall be a presumption that the amount required to be paid to the judgment creditor as calculated pursuant to § 16-572 creates an undue financial hardship.

"(2) If the court makes a determination of undue financial hardship pursuant to paragraph (1) of this subsection, the court shall grant the motion and:

"(A) Determine the amount of disposable wages to be exempted from attachment under § 16-572 necessary to avoid undue financial hardship;

"(B) Promptly issue an order modifying the existing writ of attachment, clearly identifying the dollar amount of disposable wages exempted from attachment, and instructing the employer-garnishee that the employer-garnishee shall not collect an amount during any pay period that causes the judgment debtor's disposable wages for the pay period to drop below the exempted amount determined pursuant to subparagraph (A) of this paragraph; and

"(C) Send a copy of the order to the employer-garnishee at the address stated on the existing writ of attachment.

"(e) A judgment creditor may file a motion requesting that the court review an order issued pursuant to subsection (d) of this section to see whether, due to changed circumstances, the amount required to be paid to the judgment creditor as calculated pursuant to § 16-572 would no longer create an undue financial hardship or whether the amount of disposable wages needed to be exempted from attachment under § 16-572 to avoid undue financial hardship has changed; provided, that the judgment creditor shall not file a motion pursuant to this subsection before 18 months have passed since the court issued the order pursuant to subsection (d) of this section or since the court most recently reviewed the order pursuant to this subsection.

"16-572b. Notice to judgment debtor regarding wage garnishment.

"On the date that the judgment creditor serves a writ of attachment on an employer-garnishee, the judgment creditor shall also mail to the judgment debtor at his or her last known address, by certified and first class mail, a copy of the writ of attachment. The writ of attachment shall be accompanied by a notice to the judgment debtor containing the following or substantively similar language:

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"Notice to Judgment Debtor Regarding Wage Garnishment
"Why am I receiving this? The enclosed Writ of Attachment is a copy of a legal document that has been issued to your employer. You are receiving this notice because the plaintiff in the court case shown on the Writ of Attachment obtained a money judgment against you. A money judgment is a court's decision that you owe money to someone else (the "judgment creditor"). The judgment creditor is now seeking garnishment of your wages. Garnishment is a process in which a portion of an employee's wages are taken each pay period in order to pay money owed to a judgment creditor.
"Will my wages be garnished? If so, how much? D.C. law automatically protects certain amounts of wages from garnishment. For example, if you earn 40 times the D.C. minimum hourly wage per week or less (in other words, if you work the equivalent of full-time hours at minimum wage, or less), your earnings are fully protected against garnishment and nothing will be taken from your paycheck. However, if you earn more than that, your employer may be required to withhold a portion of your wages to pay to the judgment creditor. The amount of garnishment is calculated based on the formula stated on the Writ of Attachment.
"Is there anything I can do? If you are already protected from garnishment, or if you can afford the amount that will be taken out of your paycheck to pay the judgment creditor, you do not need to do anything. However, judgment debtors subject to wage garnishment have the right under D.C. Official Code § 16-572a to request that the court adjust the amount of wages subject to garnishment based on financial hardship. To make such a request, you or your attorney must go to the court and file a motion. In addition, there may be circumstances under which you may be able to ask the court to undo the judgment. If you file a motion to adjust the amount of wages subject to garnishment based on financial hardship, you should provide a copy of the motion to your employer immediately so that the garnishment can be put on hold until the court makes a decision.".

(c) Section 16-573 is amended as follows:

(1) Subsection (a) is amended by striking the phrase "that percentage of the gross wages payable to the judgment debtor for the pay period or periods ending in such calendar month to which the judgment creditor is entitled under the terms of this section" and inserting the phrase "that percentage of wages payable to the judgment debtor for the pay period or periods ending in such calendar month to which the judgment creditor is entitled under the terms of this subchapter" in its place.

(2) Subsection (b) is amended by striking the phrase "on which it is based, the employer shall make no further payments to the judgment creditor" and inserting the phrase "on which it is based, or the filing of a motion seeking an exemption under § 16-572a, the employer shall not withhold from the judgment debtor or pay to the judgment creditor" in its place.

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

"(d) Under this section, except as provided in § 16-577, the employer-garnishee shall not withhold from the judgment debtor or pay to the judgment creditor any portion of the gross wages payable to the judgment debtor for any week in which the judgment debtor's disposable

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wages do not exceed 40 times the minimum hourly wage, as prescribed in section 4 of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003), in effect at the time the wages are payable.".

Sec. 3. Applicability.

(a) Section 2(b) shall not apply to a writ of attachment issued before the effective date of this act.

(b)(1) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

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

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

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

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

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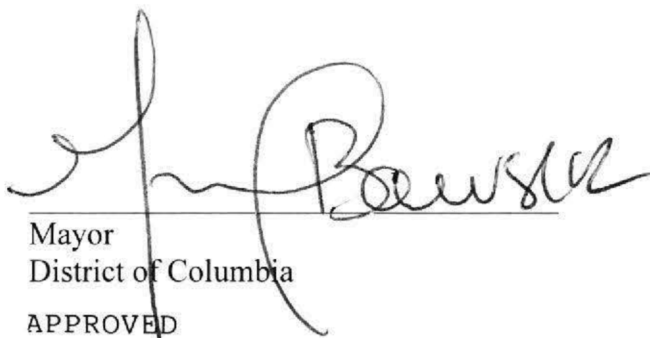
24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
February 6,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-634

IN THE COUNCIL OF DISTRICT OF COLUMBIA

FEBRUARY 6, 2019

To amend Chapter 8 of Title 47 of the District of Columbia Official Code to create a real property tax rebate for certain businesses that host performing artists.

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

Sec. 2. Chapter 8 of Title 47 of the District of Columbia Official Code is amended as follows:

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

"47-869. Performing arts venue real property tax rebate.".

(b) Section 47-802 is amended by adding a new paragraph (17) to read as follows:

"(17)(A) The term "qualified business" means a business that:

"(1) Hosts live performances by performing artists for a minimum of 48 hours per month; and

"(2) Has a seating capacity of under 300 seats.

"(B) For the purposes of this paragraph, the term "live performance" means an act of staging or presenting a play, concert, or other form of entertainment before an audience where the artist is paid according to experience, talent, and best community practices for their form of entertainment.".

(c) A new section 47-869 is added to read as follows:

"§ 47-869. Performing arts venue real property tax rebate.

"(a) For taxable years beginning after December 31, 2018, a qualified business that leases real property that is taxed under this chapter or under Chapter 10 of this title shall receive a rebate of that portion of the tax, if any, that represents the qualified business' pro rata share of the lessor's tax on the property if:

"(1)The qualified business is liable under the lease for the pro rata share of the tax;

"(2) The qualified business applies for the rebate of the tax on or before September 15; and

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"(3) The real property tax was paid.

"(b) The application shall include:

"(1) A copy of the lease with the lessor;

"(2) Documentation that the real property tax has been paid; and

"(3) Documentation that the qualified business met the requirements of § 47-802(17) during the tax year for which the rebate is being requested.

"(c) If a proper application has been submitted, the Chief Financial Officer shall rebate the real property tax on or before December 31 of the same calendar year.

"(d) The rebate provided pursuant to this section shall be:

"(1) The lesser of the qualified business' pro rata share of the real property tax that was paid, directly or indirectly, by the qualified business or $15,000 per applicant per year; and

"(2) In addition to, and not in lieu of, any other tax, financial, or development incentive, tax credit, or any other type of incentive provided to a qualified business under any District or federal program.".

Sec. 3. Applicability.

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

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

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

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

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

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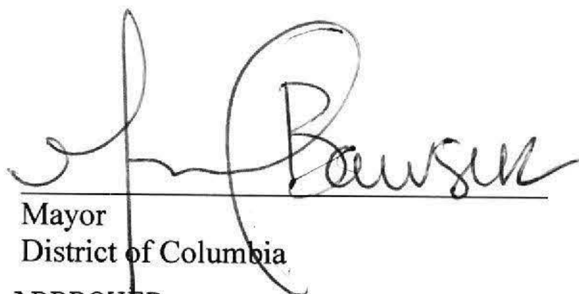
24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
February 6,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-635

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 6, 2019

To amend the District of Columbia Traffic Adjudication Act of 1978 to provide that a hearing examiner shall not dismiss a notice of infraction for not properly recording a vehicle's make and model number, if the notice of infraction contains sufficient additional information, to require the Mayor to file a facsimile of certain notices of infraction with the Department of Consumer and Regulatory Affairs, and to clarify that a hearing examiner shall not dismiss a notice of infraction because it lacks information that is not required by section 3000.1 of Title 18 of the District of Columbia Municipal Regulations; to amend the Performance Parking Pilot Zone Act of 2008 to allow the Mayor to establish Repeat Parking Violation Pilot Zones which would require higher fines for repeat parking infractions within a Repeat Parking Violation Pilot Zone, and to require the Mayor to report information to the Council about repeat parking violations in Repeat Parking Violation Pilot Zones; to amend section 3313 of Title 16 of the District of Columbia Municipal Regulations to provide that failure to clearly display a Mobile Roadway Vehicle Site Permit shall be a Class 5 infraction; and to amend section 535 of Title 24 of the District of Columbia Municipal Regulations to require a relevant vehicle clearly display an Mobile Roadway Vehicle Site Permit.

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

Sec. 2. The District of Columbia Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law 2-104; D.C. Official Code § 50-2301.01 *et seq.*), is amended as follows:

(a) Section 109(b) (D.C. Official Code § 50-2301.09(b)) is amended by striking the phrase "infraction." and inserting the phrase "infraction; provided, that the Department shall not dismiss an infraction issued pursuant to Title III solely because the notice of infraction failed to record the vehicle make and model, if the notice of infraction contains sufficient additional information, such as a photograph or a description of the vehicle, to determine that the vehicle matches the tag number provided in the notice of infraction." in its place.

(b) Section 303 (D.C. Official Code § 50-2303.03) is amended as follows:

(1) A new subsection (c-3) is added to read as follow:

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"(c-3) When a notice of infraction is issued under this title to a vehicle that is required to clearly display an MRV Site Permit, pursuant to 24 DCMR § 535.1(a-1), the Mayor shall file a facsimile of the notice of infraction with the Department of Consumer and Regulatory Affairs.".

(2) Subsection (e) is amended by striking the phrase "issued." and inserting the phrase "issued; provided, that a hearing examiner shall not enter an order dismissing a notice of infraction because the notice of infraction lacks information about the vehicle or infraction, other than the information required by 18 DCMR § 3000.1." in its place.

Sec. 3. The Performance Parking Pilot Zone Act of 2008, effective November 25, 2008 (D.C. Law 17-279, D.C. Official Code § 50-2531 *et seq.*), is amended by adding a new section 2b to read as follows:

"Sec. 2b Repeat Parking Violation Pilot Zones.

"(a) The Mayor may establish Repeat Parking Violation Pilot Zones for the purpose of dissuading repeat parking violations, managing curbside parking, and reducing congestion caused by repeat parking violations.

"(b) Notwithstanding any other provision of law, if a person who violates Chapter 24 of Title 18 of the District of Columbia Municipal Regulations in a Repeat Parking Violation Zone was previously found liable for a violation of Chapter 24 of Title 18 of the District of Columbia Municipal Regulations in a Repeat Parking Violation Zone within the same 12-month period, the fine for the second violation shall be triple the fine otherwise provided by law.

"(c) Notwithstanding any other provision of law, if a person who violates Chapter 24 of Title 18 of the District of Columbia Municipal Regulations in a Repeat Parking Violation Zone was previously found liable for 2 or more violations of Chapter 24 of Title 18 of the District of Columbia Municipal Regulations in a Repeat Parking Violation Zone within the same 12-month period, the fine for the third or subsequent violation shall be quadruple the fine otherwise provided by law.

"(d) Within one year after the effective date of the Repeat Parking Violations Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-619), the Mayor shall submit to the Council a report describing efforts to mitigate repeat parking violations, as described in subsections (b) and (c) of this section. The report shall identify, at a minimum:

"(1) The number of violations of Chapter 24 of Title 18 of the District of Columbia Municipal Regulations that were subject to the enhanced penalties in subsection (b) of this section; and

"(2) The number of violations of Chapter 24 of Title 18 of the District of Columbia Municipal Regulations that were subject to the enhanced penalties in subsection (c) of this section.".

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Sec. 4. Section 3313.4(e) of Title 16 of District of Columbia Municipal Regulations is amended to read as follows:

"(e) 24 DCMR §§ 535.1(a-1) (failure to clearly display an MRV Site Permit), (b) (failure to pay all parking meter fees), and (c) (failure to obey all posted time restrictions);".

Sec. 5. Section 535.1 of Title 24 of the District of Columbia Municipal Regulations is amended by adding a new paragraph (a-1) to read as follows:

"(a-1) Clearly display the MRV Site Permit required pursuant to § 533.2;".

Sec. 6. Fiscal impact statement.

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

Sec. 7. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
February 6, 2019

ENROLLED ORIGINAL

AN ACT
D.C. ACT 22-636

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 6, 2019

To amend the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996 to require the District of Columbia Water and Sewer Authority to disclose details regarding all customer inquiries, to grant the Office of People's Counsel authority to represent District of Columbia Water and Sewer Authority ratepayers in administrative hearings, judicial proceedings, and at public hearings to establish rates, and to advise and educate ratepayers on their rights and responsibilities, to require the Office of the People's Counsel to prepare and submit to the Mayor and Council a study of, and recommendation on how to improve, the Authority's billing activities, meter reading accuracy, and customer service operations, to require 45 days' notice before hearings to set water and sewer rates, and to require the Authority to respond to any recommendations provided by the Office of People's Counsel regarding water and sewer rate setting; and to amend An Act To provide a People's Counsel for the Public Service Commission in the District of Columbia, and for other purposes, to authorize the Office of People's Counsel to carry out the functions authorized by this act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "DC Water Consumer Protection Amendment Act of 2018".

Sec. 2. The Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Official Code § 34-2201.01 *et seq.*), is amended as follows:

(a) Section 205 (D.C. Official Code § 34-2202.05) is amended by adding a new subsection (c-1) to read as follows:

"(c-1) On an annual basis, the Board shall publish on its website details about all customer inquiries received during the preceding year.".

(b) A new section 205a is added to read as follows:

"Sec. 205a. Consumer protection, consumer education, rules.

"(a) The Office of People's Counsel ("OPC"), established by section 1 of An Act To provide a People's Counsel for the Public Service Commission in the District of Columbia, and for other purposes, approved January 2, 1975 (88 Stat. 1975; D.C. Official Code § 34-804), may:

ENROLLED ORIGINAL

"(1) Represent District of Columbia ratepayers at administrative hearings when these hearings involve the interests of users of the products of or services furnished by the Authority;

"(2) Represent the interests of and advocate for District of Columbia ratepayers at public hearings held by the Authority, pursuant to section 216(b), to establish and adjust water and sewer rates;

"(3) Represent and advocate for District of Columbia ratepayers at proceedings before local and federal regulatory agencies and courts when those proceedings involve the interests of users of the products of or services furnished by the Authority;

"(4) Investigate the services given by, and the rates charged by, the Authority, in response to complaints received by the OPC, including complaints regarding:

"(A) Billing practices and payment plans;

"(B) Service connection and disconnection;

"(C) Customer service; and

"(D) Notice of construction schedules; and

"(5) Advise and educate Authority customers about their legal rights and responsibilities pursuant to the rules governing service by the Authority.

"(b) Within one year after the applicability date of the DC Water Consumer Protection Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-662), the OPC, or a contractor selected by the OPC, shall prepare and submit to the Mayor and Council a study of, and recommendations on how to improve, the Authority's billing activities, meter reading accuracy, and customer service operations.

"(c)(1) The Authority shall provide the OPC, or, for the purposes of subsection (b) of this section, a contractor selected by the OPC, access to any accounts, books, papers, and documents considered necessary to carry out the functions described in subsections (a) and (b) of this section.

"(2) Before requesting access to a customer account from the Authority, OPC shall obtain permission from the customer holding the account to request such access.

"(d) The Authority shall, within 14 business days after receipt of an inquiry related to the functions described in subsection (a) or (b) of this section, from OPC or, for the purposes of subsection (b) of this section, a contractor selected by the OPC, respond on the merits to the inquiry; provided, that if the inquiry is made in the course of a formal proceeding before a court or agency, this subsection shall not apply and the Authority shall respond within the period of time required by the rules governing the proceeding.

"(e) Within 3 months after the applicability date of the DC Water Consumer Protection Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-662), a working group comprised of representatives from the Authority, the OPC, and the Department of Energy and Environment shall develop a Consumer Bill of Rights that delineates

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the rights and responsibilities of the Authority and its customers for consideration and enactment by the Authority.".

(c) Section 216(b) (D.C. Official Code § 34-2202.16(b)) is amended as follows:

(1) The existing text is designated as paragraph (1).

(2) New paragraphs (2) and (3) are added to read as follows:

"(2) At a public hearing held pursuant to paragraph (1) of this subsection, the public shall be given a timely opportunity to present its views, as evidence of record, with at least 45 days' notice, with notice widely and publicly distributed in a form sufficiently detailed and complete to permit the public to realize its specific and affected interest.

"(3) If the Office of People's Counsel submits written comments related to the establishment or adjustment of water and sewer rates under this subsection, the Authority shall respond in writing why it accepted or rejected, in whole or in part, any recommendations submitted by the Office of the People's Counsel.".

Sec. 3. Section 1 of An Act To provide a People's Counsel for the Public Service Commission in the District of Columbia, and for other purposes, approved January 2, 1975 (88 Stat. 1975; D.C. Official Code § 34-804), is amended as follows:

(a) Subsection (c) is amended by striking the phrase "section, and" and inserting the phrase "section, section 205a of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-662), and" in its place.

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

(1) Paragraph (4) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(2) Paragraph (5) is amended by striking the period and inserting the phrase "; and" in its place.

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

"(6) May perform the functions authorized by section 205a of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-662).".

Sec. 4. Applicability.

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

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

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

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

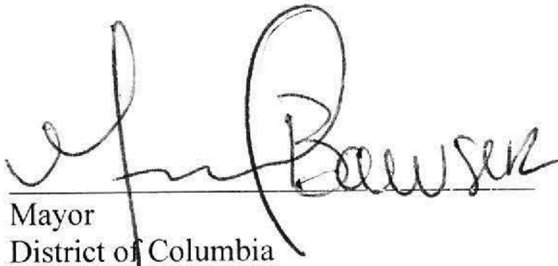
Sec. 5. Fiscal impact statement.

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

Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
February 6,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-637

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 6, 2019

To amend the District of Columbia Health Occupations Revision Act of 1985 to bar athletic trainers from rendering a medical diagnosis or opinion regarding a physical disability, to allow athletic trainers to massage the superficial soft tissues of the body, to amend the definition of the terms "athlete", "athletic injury", and "treatment", to authorize the Board of Medicine to regulate the practice of athletic trainers, and to authorize audiology assistants and speech-language pathology assistants to practice under indirect supervision; and to amend the Department of Health Functions Clarification Act of 2001 to establish an Advisory Committee on Athletic Trainers.

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

Sec. 2. The District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*), is amended as follows:

(a) Section 102(2A-ii) (D.C. Official Code § 3-1201.02(2A-ii)) is amended as follows:

(1) Subparagraph (B)(i) is amended by striking the phrase "The diagnosis of a physical disability, massaging of the superficial soft tissues of the body," and inserting the phrase "The rendering of a medical diagnosis or opinion regarding a physical disability" in its place.

(2) Subparagraph (D) is amended as follows:

(A) Sub-subparagraph (i) is amended as follows:

(i) Sub-sub-subparagraph (I) is amended by striking the phrase "; or" and inserting a semicolon in its place.

(ii) Sub-sub-subparagraph (II) is amended by striking the period and inserting the phrase "; or" in its place.

(iii) A new sub-sub-subparagraph (III) is added to read as follows:

"(III) Any physically active person seeking treatment for athletic injuries.".

(B) Sub-subparagraph (ii) is amended to read as follows:

"(ii) Athletic injury" means a musculoskeletal or orthopedic injury or other medical condition suffered by an athlete resulting from, or limiting participation in or

ENROLLED ORIGINAL

training for scholastic, recreational, professional, amateur athletic activities, or other physical activities.".

(C) Sub-subparagraph (iii) is amended by striking the phrase "and exercise equipment" and inserting the phrase "and passive or active exercise, temporary mechanical devices, mechanical equipment, or any other therapeutic modality" in its place.

(b) Section 203 (D.C. Official Code § 3-1202.03) is amended as follows:

(1) The section heading is amended by striking the phrase "and Trauma Technologists" and inserting the phrase "Trauma Technologists, and Athletic Trainers" in its place.

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

(A) Paragraph (2) is amended by striking the phrase "Committee on Trauma Technologists" and inserting the phrase "Committee on Trauma Technologists, and the practice of athletic trainers with the advice of the Advisory Committee on Athletic Trainers" in its place.

(B) Paragraph (8) is amended as follows:

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

(ii) Subparagraph (F) is amended by striking the period and inserting the phrase "; and" in its place.

(iii) A new subparagraph (G) is added to read as follows:

"(G) The practice of athletic trainers in accordance with guidelines approved by the Advisory Committee on Athletic Trainers.".

(c) Section 209(b) (D.C. Official Code § 3-1202.09(b)) is amended to read as follows:

"(b) The Board shall regulate the practice of physical therapy, including practice by physical therapist assistants.".

(d) Section 504(s) (D.C. Official Code § 3-1205.04(s)) is amended as follows:

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

(A) The lead-in language is amended by striking the phrase "Board of Physical Therapy" and inserting the phrase "Board of Medicine" in its place.

(B) Subparagraph (B) is amended by striking the phrase "Board of Physical Therapy" and inserting the phrase "Board of Medicine" in its place.

(2) Paragraph (2) is amended by striking the phrase "Board of Physical Therapy" and inserting the phrase "Board of Medicine" in its place.

(e) Section 909 (D.C. Official Code § 3-1209.09) is amended as follows:

(1) Subsection (a)(2) is repealed.

(2) Subsection (d)(2) is amended by striking the phrase "under the direct supervision" and inserting the phrase "under either the direct or indirect supervision" in its place.

(3) Subsection (e)(2) is amended by striking the phrase "under the direct supervision" and inserting the phrase "under either the direct or indirect supervision" in its place.

(4) Subsection (h) is amended by striking the phrase "under the direct supervision" and inserting the phrase "under either the direct or indirect supervision" in its place.

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(f) Section 910 (D.C. Official Code § 3-1209.10) is amended as follows:

(1) Subsection (a)(1) is repealed.

(2) Subsection (d)(2) is amended by striking the phrase "under the direct supervision" and inserting the phrase "under either the direct or indirect supervision" in its place.

(3) Subsection (e)(2) is amended by striking the phrase "under the direct supervision" and inserting the phrase "under either the direct or indirect supervision" in its place.

(4) Subsection (h) is amended by striking the phrase "under the direct supervision" and inserting the phrase "under either the direct or indirect supervision" in its place.

(g) Section 911(a)(2) (D.C. Official Code § 3-1209.11(a)(2)) is amended by striking the phrase "personal and direct" and inserting the word "personal" in its place.

Sec. 3. The Department of Health Functions Clarification Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731 *et seq.*), is amended by adding a new section 4948 to read as follows:

"Sec. 4948. Advisory Committee on Athletic Trainers.

"(a) There is established an Advisory Committee on Athletic Trainers to consist of 5 members as follows:

"(1) The Director of the Department of Health, or his or her designee; and

"(2) Four athletic trainers licensed in the District.

"(b) Of the appointees to the Advisory Committee on Athletic Trainers other than the Director, 2 shall serve an initial term of 2 years and 2 shall serve an initial term of 3 years. Subsequent appointments shall be for terms of 3 years.

"(c)(1) The Advisory Committee on Athletic Trainers shall develop and submit to the Board of Medicine guidelines for licensing, registration, and regulation of athletic trainers in the District. The guidelines shall set forth the education and experience requirements for registration and licensure and the actions that athletic trainers may perform.

"(2)(A) Guidelines approved by the Board of Medicine under section 203 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03), shall remain in effect until revised guidelines are submitted to and approved by the Board of Medicine.

"(B) The Advisory Committee on Athletic Trainers shall submit revised guidelines to the Board of Medicine by October 1, 2019.

"(3) The Advisory Committee on Athletic Trainers shall meet at least annually to review the guidelines and make necessary revisions for submission to the Board of Medicine.".

Sec. 4. Fiscal impact statement.

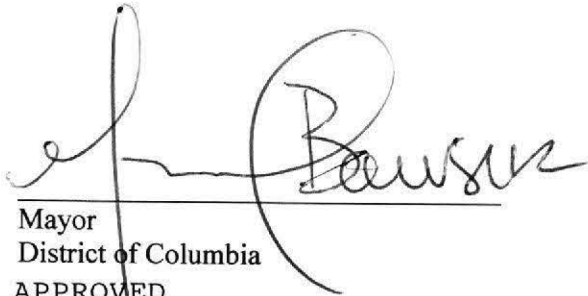
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

ENROLLED ORIGINAL

Sec. 5. Effective date.

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

Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 6,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-638

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 6, 2019

To provide equitable real property tax relief to certain real property owned by Hyacinth's Place LLC and the Institute of Urban Living Incorporated and located on Lots 0161 and 0124, Square 4074.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Hyacinth's Place Equitable Real Property Tax Relief Act of 2018".

Sec. 2. The Council of the District of Columbia orders that all real property taxes, interest, penalties, fees, and other related charges assessed from January 1, 2012, through January 1, 2017, against the real property owned by Hyacinth's Place LLC and known for assessment and taxation purposes as Lot 0161, Square 4074 and against the real property owned by the Institute of Urban Living Incorporated and known for assessment and taxation purposes as Lot 0124, Square 4074 be forgiven and that any payments made for this period be refunded to the person who made the payments.

Sec. 3. Applicability.

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

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

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

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

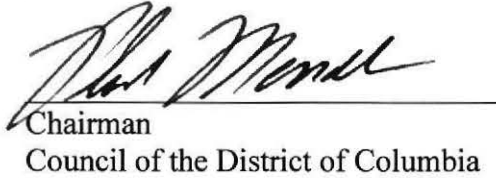
Sec. 4. Fiscal impact statement.

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

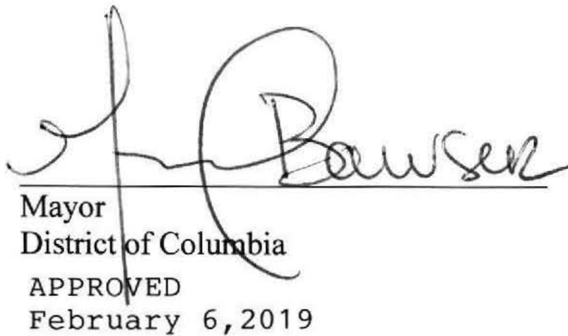
ENROLLED ORIGINAL

Sec. 5. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 6,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-639

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 6, 2019

To amend Chapter 46 of Title 47 of the District of Columbia Official Code to provide an abatement of real property taxes on real property leased by EAB Global, Inc.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Local Jobs and Tax Incentive Amendment Act of 2018".

Sec. 2. Chapter 46 of Title 47 of the District of Columbia Official Code is amended as follows:

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

(1) Section designations 47-4665.01 through 47-4665.05 are amended to read as follows:

"47-4665.01. The Advisory Board Company – definitions. Repealed.

"47-4665.02. The Advisory Board Company – tax abatement. Repealed.

"47-4665.03 The Advisory Board Company – compliance. Repealed.

"47-4665.04. The Advisory Board Company – community benefits. Repealed.

"47-4665.05. The Advisory Board Company – certification by the Mayor. Repealed.".

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

"47-4665.06. EAB Global, Inc. real property tax abatement.".

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

"47-4670. Chemonics International real property tax abatement.".

(b) Sections 47-4665.01 through 47-4665.05 are repealed.

(c) A new section 47-4665.06 is added to read as follows:

"§ 47-4665.06. EAB Global, Inc. real property tax abatement.

"(a) For the purposes of this section, the term:

"(1) "Abatement period" means October 1, 2020, through September 30, 2030, the time during which the incentive will be applied.

"(2) "Accumulated New District Resident Hires" means the goal for Net New District FTE Hires pursuant to the incentive agreement.

"(3) "Annual reporting date" means September 30 preceding every tax year of the Abatement Period.

"(4) "Company" means EAB Global, Inc.

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"(5) "Community Benefits Agreement" means the agreement entered into between the Mayor and the Company.

"(6) "District resident" means an FTE whose principal place of residence is located within the District and who is on the annual reporting date subject to District personal income tax.

"(7) "FTE" means an employee of the Company, or one of its subsidiaries or affiliates, who is eligible for the full employee healthcare benefits of the Company, or its applicable subsidiary or affiliate, in accordance with its standard policies.

"(8) "Incentive agreement" means the agreement entered into between the Mayor and the Company outlining the Company's incentive requirement, which shall include incentives for hiring 350 Net New District FTE hires.

"(9) "Lease commencement" means the date on which the Company occupies the Property with its employees.

"(10) "Lease execution" means the date on which the Company signs the lease for the Property.

"(11) "Net New District FTE Hires" means the aggregate number of District residents whose primary workplace is located in the District in excess of the resident employment baseline.

"(12) "Project" means the initial tenant improvements to the premises located at the Property undertaken by the Company or its contractor to construct the space for the initial occupancy.

"(13) "Property" means a building or a portion of a building that is subject to real property taxation under Chapter 8 of this title.

"(14) "Resident employment baseline" means the total number of District residents whose primary workplace is located in the District, as established in the incentive agreement.

"(15) "Total employment baseline" means the total number of FTEs, whose primary workplace is located in the District, as established in the incentive agreement, as of the date of the lease execution.

"(b) Subject to subsections (c) and (d) of this section, the real property taxes imposed by Chapter 8 of this title with respect to the Property shall be abated in an amount not to exceed $2.1 million per tax year during the abatement period. The abatement shall be apportioned equally between each tax year's installment billing. The abatement shall be non-refundable and shall not be credited to other tax years.

"(c) The amount of the abatement authorized in subsection (b) of this section shall be determined as follows:

"(1) If the Company exceeds the total employment baseline and meets the annual requirements for the Accumulated New District Resident Hires, as measured on the annual reporting date, then the abatement for each tax year shall equal $2.1 million;

"(2) If the Company's annual total of Net New District FTE Hires is less than the requirements for the Accumulated New District Resident FTE Hires for the same period, but the

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Company exceeds the total employment baseline, then the abatement for each such tax year shall be calculated based on the ratio of actual Net New District FTE Hires to the requirement for Accumulated New District Resident Hires as of the annual reporting date; or

"(3) If there are fewer FTEs than the total employment baseline as of the annual reporting date, then the abatement for each such tax year shall be zero.

"(d) The Property shall be eligible for the abatement authorized in subsection (b) of this section each year of the abatement period as long as the Company:

"(1) Maintains a lease for the premises located on the Property that meets the requirements in subsection (e) of this section;

"(2) Maintains the total employment baseline;

"(3) Fulfills the requirements of the Community Benefits Agreement; and

"(4) Complies with subsection (h) of this section, including the requirements of the incentive agreement.

"(e) The terms of the Company's lease for the Property shall meet the following requirements:

"(1) The premises subject to the lease shall be located in the District.

"(2) The lease execution shall occur on or before January 1, 2019.

"(3) The term of the initial lease shall be at least 10 years.

"(4) The premises leased by the Company shall be at least 148,750 square feet of net rentable area.

"(f) During the abatement period, the Property shall not be eligible for the abatement authorized under § 47-811.03.

"(g) The Company shall be deemed to be in compliance with the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.01 *et seq.*) ("FSEA act"), if the Mayor, pursuant to section 4a of the FSEA act, determines that the Company is in compliance with the hiring requirements of subsection (c) of this section and the incentive agreement.

"(h)(1) On or before October 31, the Company shall provide the Mayor with the following information pertaining to the previous tax year:

"(A) A detailed report as of the annual reporting date that identifies the:

"(i) Number of employees whose primary workplace is located in the District;

"(ii) Number of District resident employees;

"(iii) Median salary of the District resident employees;

"(iv) Median tenure of District resident employees; and

"(v) Total employment baseline; and

"(B) A certification of compliance with the Community Benefits Agreement.

"(2) The Company shall comply with requirements of section 2346 of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D. C. Official Code § 2-218.46), with regard to the Project.

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"(i) Within 30 days of effective date of this section, the Company shall enter into a Community Benefits Agreement with the Mayor that shall include requirements for training, employment, and youth development and free services to underserved communities in the District.

"(j) In each year of the abatement period, the Mayor shall certify to the Office of Tax and Revenue the Property's eligibility for the abatement set forth in subsection (b) of this section. The Mayor's certification shall include:

"(1) The Company's taxpayer identification number and the identity of any related entity that is occupying all or part of the eligible premises, including the entity's taxpayer identification number;

"(2) A description of the eligible property, by street address and square, lot, parcel, or reservation number, and a description of the eligible premises, including the number of floors, location, and square footage;

"(3) The date of lease commencement and the term of the lease; and

"(4) Any other information that the Mayor considers necessary or appropriate.

"(k)(1) Upon receiving the verifying documents from the Company, as required by subsection (j) of this section, the Mayor shall certify to the Office of Tax and Revenue by December 1 following each annual reporting date the Property's eligibility to receive an abatement pursuant section (b) of this section.

"(2) The Office of Tax and Revenue shall process the abatement before the first semi-annual billing of the tax year.".

(d) A new section 47-4670 is added to read as follows:

"§ 47-4670. Chemonics International real property tax abatement.

"(a) For the purpose of this section, the term:

"(1) "Abatement period" means October 1, 2022, through October 1, 2030, the time during which the incentive will be applied.

"(2) "Annual reporting date" means September 30 preceding every tax year of the Abatement Period.

"(3) Certified Business Enterprise" means a business enterprise or joint venture certified pursuant to the Small and Certified Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*).

"(4) "Company" means Chemonics International, Inc.

"(5) "District resident" means an FTE whose principal place of residence is located within the District and who is subject to District personal income tax on the annual reporting date.

"(6) "Employment target" means 1,000 FTEs, of which 500 are District residents.

"(7) "First Source Agreement" means an agreement with the District governing certain obligations of the Developer pursuant to section 4 of the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.03), and Mayor's Order 83-265, dated November 9, 1983, regarding job creation and employment generated as a result of the construction on the Property.

4

"(8) "FTE" means an employee of the Company, or one of its subsidiaries or affiliates, who is eligible for full employee healthcare benefits of the Company, or its applicable subsidiary or affiliate, in accordance with its standard policies.

"(9) "Incentive agreement" means the agreement entered into between the Mayor and the Company outlining the Company's incentive requirement, which shall include incentives for hiring and training District residents.

"(10) "Lease commencement" means the date on which the Company occupies the Premises with its employees.

"(11) "Lease execution" means the date on which the Company signs the lease for the Premises.

"(12) "Lessor" means the developer or landlord of the Property

"(13) "Premises" means a building or portion of a building on the Property that is leased and occupied by the Company.

"(14) "Project" means the initial tenant improvements to the Premises at the Property undertaken by the Company or its contractor to construct the space for the initial occupancy.

"(15) "Property" means a portion of the real property located at the northwest corner of New Jersey Avenue S.E. and N Street S.E., known for tax and assessment purposes as Lot 0094 in Square 0743 and subject to real property taxation under Chapter 8 of this title.

"(b) Subject to subsections (c) through (l) of this section, the real property taxes imposed by Chapter 8 of this title with respect to the Property shall be abated in an amount not to exceed $650,000 per tax year during the abatement period. The abatement shall be apportioned equally between each tax year's installment billing. The abatement shall be non-refundable and shall not be credited to other tax years.

"(c)(1) The amount of the abatement authorized in subsection (b) of this section shall be determined based on the requirements set forth in the incentive agreement.

"(2) As further described in the Incentive Agreement and while the Company is targeting approximately 1,200 FTEs, the abatement amount may be reduced if the Company does not achieve the annual incentive requirements, including the employment target.

"(d) The Property shall be eligible for the abatement authorized in subsection (b) of this section each year of the abatement period as long as the Company complies with subsections (e) through (l) of this section, including requirements of the incentive agreement.

"(e) The terms of the Company's lease for the Premises on the Property shall require that:

"(1) The Property be located in the District;

"(2) The lease or sub-lease execution occur on or before January 31, 2019;

"(3) Premises be a minimum of 240,000 square feet; and

"(4) The term of the initial lease term or sub-lease term be at least 12 years.

"(f) During the abatement period, the Property shall not be eligible for the abatement authorized under § 47-811.03.

"(g) The Company shall be deemed to be in compliance with the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official

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Code § 2-219.01 *et seq.*) ("FSEA act"), if the Mayor, pursuant to section 4a of the FSEA act, determines that the Company is in compliance with the hiring requirements of this section and the incentive agreement.

"(h)(1) On or before October 31, the Company shall provide the Mayor with the following information pertaining to the previous tax year:

"(A) A detailed report of the annual reporting date that identifies the:

"(i) Number of employees whose primary workplace is located in the District;

"(ii) Number of District resident employees;

"(iii) Median salary of the District resident employees;

"(iv) Median tenure of District resident employees; and

"(v) Total employment; and

"(B) A certification of compliance with the Incentive Agreement.

"(2) The Company shall comply with the requirements of section 2346 of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-333; D. C. Official Code § 2-218.46), with regard to the Project.

"(i) Within 60 days of the effective date of this section, the Company shall enter into an incentive agreement with the Deputy Mayor for Planning and Economic Development, which may include commitments for community sponsorship, community participation, education training, and apprenticeships.

"(j) Within 60 days of execution of the incentive agreement, the Company or Lessor shall:

"(1) Enter into a First Source Agreement with the District that shall govern certain obligations of the Company; and

"(2) Execute an agreement or acknowledgement that requires the Lessor to, at a minimum, contract with Certified Business Enterprises for at least 35% of the contract dollar volume of the Project.

"(k) In each year of the abatement period, the Mayor shall certify to the Office of Tax and Revenue the Property's eligibility for the abatement set forth in subsection (b) of this section. The Mayor's certification shall include:

"(1) The Company's tax payer identification number;

"(2) A description of the eligible Property, by street address and square, lot, parcel, or reservation number, and a description of the eligible Premises, including the number of floors, location, and square footage;

"(3) The date of lease or sub-lease commencement and the term of the lease or sub-lease;

"(4) Any other information that the Mayor considers necessary or appropriate.

"(l)(1) Upon receiving the verifying documents from the Company, as required by subjection (k) of this section, the Mayor shall certify to the Office of Tax and Revenue by December 1 following each annual reporting date, the Property's eligibility to receive an abatement pursuant to section (b) of this section.

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"(2) The Office of Tax and Revenue shall process the abatement before the first semi-annual billing of the tax year.

"(m) The Mayor may delegate the functions vested in the Mayor under this chapter with regard to this section to an appropriate executive office, agency or department.".

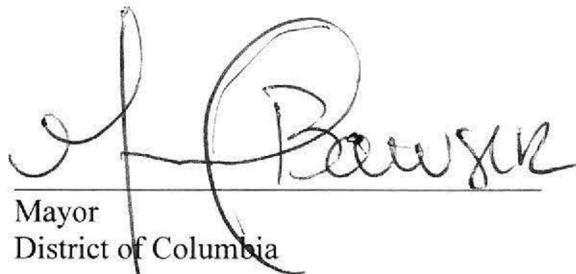
Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 6,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-640

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 6, 2019

To establish the Students in the Care of D.C. Coordinating Committee within the District government to identify challenges and resolve issues that students in detainment, commitment, incarceration, and foster care face in order to improve educational outcomes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Students in the Care of D.C. Coordinating Committee Act of 2018".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Coordinating Committee" means Students in the Care of D.C. Coordinating Committee.

(2) "Local education agency" means the District of Columbia Public Schools system or any individual or group of public charter schools operating under a single charter.

(3) "OSSE" means Office of the State Superintendent of Education.

(4) "Resident" means an individual who presently resides in the District or who was residing in the District at the time the individual became a student in the care of D.C.

(5) "Students in the Care of D.C." means District residents under 25 years of age who are incarcerated or detained by, committed to and under the custody of, or otherwise under the supervision of, the:

(A) Department of Youth Rehabilitation Services;

(B) Court Services and Offender Supervision Agency;

(C) Pretrial Services Agency for the District of Columbia;

(D) Family Court Social Services Division;

(E) Child and Family Services Agency;

(F) Department of Corrections; or

(G) Federal Bureau of Prisons.

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Sec. 3. Establishment of the Coordinating Committee.

(a) The Students in the Care of D.C. Coordinating Committee is established within the District government.

(b) The Coordinating Committee shall be headed by a Director appointed by the Mayor with the advice and consent of the Council 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)).

(c) The Coordinating Committee shall facilitate interagency, department-level leadership in planning, policymaking, program development, and budgeting for successful educational experiences and outcomes for students in the care of D.C.

(d) The Mayor shall designate an agency in the education sector to provide staff assistance and administrative support to the Coordinating Committee.

Sec. 4. Membership of the Coordinating Committee.

(a) The Coordinating Committee shall consist of 25 voting members and 4 nonvoting members, as follows:

(1) The following governmental voting members or their designees:

(A) State Superintendent, OSSE;

(B) Director, ReEngagement Center;

(C) Director, Department of Youth Rehabilitation Services;

(D) Director, Child and Family Services Agency;

(E) Director, Department of Corrections;

(F) Chancellor, District of Columbia Public Schools;

(G) Executive Director, Public Charter School Board;

(H) President, University of the District of Columbia Community College;

(I) Director, Family Court Social Services Division;

(J) Chief Judge, Superior Court of the District of Columbia;

(K) Executive Director, Corrections Information Council;

(L) Director, Department of Behavioral Health;

(M) Attorney General for the District of Columbia;

(N) Director, Department of Disability Services;

(O) Director, District of Columbia Public Defender Service; and

(P) Deputy Mayor for Education;

(2) The following nongovernmental voting members:

(A) A parent, guardian, or foster parent of a student in the care of D.C.;

(B) A current or former student involved in the juvenile or criminal justice system;

(C) A current or former student involved in the foster care system;

(D) A representative from an organization that provide services to students involved in the juvenile or criminal justice system;

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(E) A representative from an organization that provides services to students involved in the foster care system;

(F) An education attorney representing students in the care of D.C. involved in the juvenile and criminal system;

(G) An attorney representing students in the care of D.C. involved in the foster care system; and

(H) One representative each from 2 charter school local education agencies[SBW(1].

(3) The following nonvoting governmental members or their designees, who the Mayor shall invite to participate:

(A) Director, Court Services and Offender Supervision Agency for the District of Columbia;

(B) Director, Pretrial Services Agency for the District of Columbia; and

(C) Director, Bureau of Prisons; and

(4) The Director of the Coordinating Committee, who shall serve as a nonvoting member.

(b)(1) Within 60 days of the applicability date of this act, the Mayor shall nominate individuals to serve as the nongovernmental voting members identified in subsection (a)(2) of this section in accordance with section 2(f) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(f)).

(2)(A) Each nongovernmental voting member of the Coordinating Committee shall serve a term of 4 years; provided, that of the initial appointments, the Mayor shall designate:

(i) 4 members to serve terms of 4 years;

(ii) 3 members to serve terms of 3 years; and

(iii) 2 members to serve terms of 2 years.

(B) Terms for the initial nongovernmental voting members shall begin on the date that a majority of the members are sworn in, which shall become the anniversary date for all subsequent appointments.

(C) When a vacancy occurs, the Mayor shall appoint a new member in accordance with paragraph (1) of this subsection.

(D) Any individual appointed to fill a vacancy of a nongovernmental voting member occurring before the expiration of the predecessor's term shall be appointed only for the remainder of the predecessor's term.

(E) Nongovernmental voting members may serve no more than 2 consecutive terms; provided, that a member appointed pursuant to subparagraph (C) of this paragraph, who served less than one year in the member's initial term, may serve 2 consecutive terms beyond the member's initial term.

ENROLLED ORIGINAL

(F) No individual who has served the maximum number of terms permitted pursuant to subparagraph (E) of this paragraph may be eligible for reappointment.

Sec. 5. The Director of the Coordinating Committee.

(a)(1) The Director of the Coordinating Committee shall be appointed to the Excepted Service as a statutory officeholder pursuant to section 908 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 § 1-609.08).

(2) The Director shall report to the Mayor.

(b) At minimum, the Director shall meet the following qualifications:[SBW(2]

(1) Be familiar with the District public education system and member agencies;

(2) Have project management experience; and

(3) Possess expertise providing guidance and best practices for educating youth involved in the foster care and criminal justice systems.

(c) The Mayor is encouraged to consult with the Coordinating Committee on the specific qualifications and job description for this position.

(d) The Director shall have the following duties:

(1) Be responsible for and oversee the daily operations of the Coordinating Committee;

(2) Supervise Coordinating Committee staff;

(3) Recommend and institute internal policies, procedures, and processes for the Coordinating Committee to ensure efficient operations;

(4) Lead and coordinate the Coordinating Committee;

(5) Provide ongoing technical assistance to members of the Coordinating Committee in carrying out the recommendations in accordance with best practices, local laws, and federal laws;

(6) Be responsible for drafting the annual report mandated pursuant to section 7(c);

(7) Share best practices from around the country and facilitate knowledge sharing with other states and jurisdictions to increase knowledge of best practices and intervention strategies; and

(8) Work with executive agencies, community stakeholders, and the Coordinating Committee to create, coordinate, and implement the strategic plan created pursuant to section 7(d) to improve educational outcomes for students in the care of D.C.

Sec. 6. Operations of the Coordinating Committee.

(a) The Coordinating Committee shall vote on internal policies, procedures, and processes for its operation pursuant to section 5(d)(3).

(b)(1) The Coordinating Committee shall meet at least quarterly.

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(2) All meetings of the Coordinating Committee shall have a quorum of 2/3 of the voting members in order to conduct business.

(c)(1) The Coordinating Committee may establish subcommittees as needed.

(2) Subcommittees may include persons who are not members of the Coordinating Committee; provided, that each subcommittee shall be chaired by a Coordinating Committee member.

(3) No meeting of a subcommittee of the Coordinating Committee shall qualify as a meeting of the Coordinating Committee for purposes of fulfilling the requirements in subsection (b) of this section.

Sec. 7. Duties and responsibilities of the Coordinating Committee.

(a) The Coordinating Committee shall provide leadership in the development of strategies and policies that guide the implementation of the District's policies and programs to improve educational outcomes for students in the care of D.C.

(b) To accomplish the goals of subsection (a) of this section, the Coordinating Committee shall:

(1) Assess current efforts in place to educate students in the care of D.C.;

(2) Cooperate with and support members in fully implementing all relevant agreements and memorandum of understanding;

(3) Review existing data collection and sharing efforts within and across agencies and make recommendations regarding the exchange and sharing of data for students in the care of D.C.; provided, that all such recommendations comply with local and federal law;

(4) Establish an effective system for monitoring the progress of general education and special education for students in the care of D.C.;

(5) Determine educational outcomes for students in the care of D.C., build capacity to track and measure outcomes, and implement strategies in accordance with the strategic plan created pursuant to subsection (d) of this section;

(6) Foster collaborative relationships with agency counterparts in Maryland and Virginia for students in the care of D.C. who are placed outside of the District; and

(7) Make recommendations concerning the coordination of the activities, implementation of practices, strategies, or programs, and the mobilization of the resources of member agencies to improve educational outcomes for students in the care of D.C.

(c)(1) The Coordinating Committee shall report, within 24 months following the applicability date of this act, and on an annual basis thereafter, on the status and progress of each member agency on fulfilling the goal in subsection (a) of this section and the strategic plan referenced in subsection (d) of this section.

(2) The Coordinating Committee shall transmit a publicly-available report to the Mayor and the Council.

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(d) Within 12 months after the applicability of this act, and every 4 years thereafter, the Coordinating Committee shall draft and approve a strategic plan that encourages interagency and community coordination and improves educational outcomes for students in the care of D.C. At minimum, the plan required by this subsection shall:

(1) Clearly articulate a vision statement for students in the care of D.C.;

(2) State the goals and operational priorities of member agencies for improving educational outcomes for students in the care of D.C.;

(3) Include a District-wide needs assessment that takes into account existing data;

(4) Establish a timeline for implementing the strategic plan;

(5) Include an analysis of strategies that have been successful in improving educational outcomes for students in custody of the government;

(6) Be developed pursuant to a process that will identify, prioritize, and target needs for services for students in the care of D.C.;

(7) Provide estimates of the costs of carrying out various components of the plan; and

(8) Recommend policy and legislative changes, if needed, to improve educational outcomes for students in the care of D.C.

Sec 8. Conforming Amendments.

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

(1) Paragraph (65) is amended by striking phrase "; and" and inserting a semicolon in its place.

(2) Paragraph (66) is amended by striking the period at the end and inserting the phrase "; and" in its place.

(3) A new paragraph (67) is added to read as follows:

"(67) The Students in the Care of D.C. Coordinating Committee established pursuant to the Students in the Care of D.C. Coordinating Committee Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-950).

(b) Section 908 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 § 1–609.08), is amended as follows:

(1) Paragraph (16) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(2) Paragraph (17) is amended by striking the period and inserting the phrase "; and" in its place.

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

"(18) Director of the Students in the Care of D.C. Coordinating Committee.".

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Sec. 9. Applicability.

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

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

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

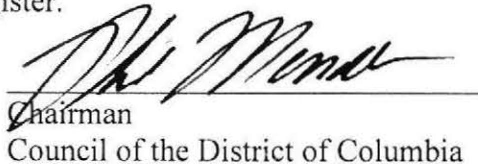
(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 10. 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. 11. Effective date.

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



Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
February 6,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-641

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 6, 2019

To amend, on a temporary 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 Temporary Amendment Act of 2018".

Sec. 2. Section 203(e)(2) of the Housing Production Trust Fund Act of 1988, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 42-2812.03(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.

(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

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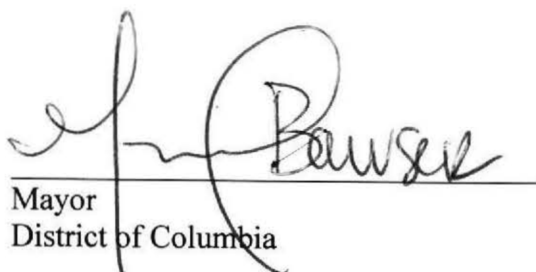
24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

(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
February 6,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-642

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 6, 2019

To amend, on a temporary basis, the Anti-Intimidation and Defacing of Public or Private Property Criminal Penalty Act of 1982 to make it unlawful to deface or burn a religious or secular symbol on any property of another without permission or to place or display on such property a physical impression that a reasonable person would perceive as a threat to physically damage the property of another.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Community Harassment Prevention Temporary Amendment Act of 2019".

Sec. 2. Section 3(a) of the Anti-Intimidation and Defacing of Public or Private Property Criminal Penalty Act of 1982, effective March 10, 1983 (D.C. Law 4-203; D.C. Official Code § 22-3312.02(a)), is amended as follows:

(a) The lead-in language is amended by striking the phrase "private premises or property in the District of Columbia primarily used for religious, educational, residential, memorial, charitable, or cemetery purposes, or for assembly by persons of a particular race, color, creed, religion, or any other category listed in section 101 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01)," and inserting the phrase "private property of another without the permission of the owner or the owner's designee" in its place.

(b) Paragraph (3) is amended by striking the word "person" and inserting the phrase "person or property" in its place.

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.

(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

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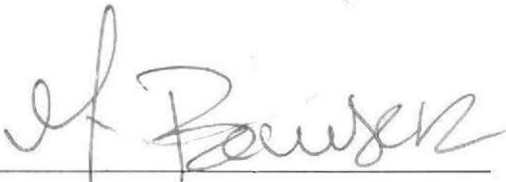
24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(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
February 6,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-643

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 6, 2019

To amend, on a temporary basis, the Electric Company Infrastructure Improvement Financing Act of 2014 to clarify the requirements related to the utilization of certified business enterprises and procurements for certain architectural and engineering services.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Power Line Undergrounding Program Certified Business Enterprise Utilization Temporary Act of 2019".

Sec. 2. Title I of the Electric Company Infrastructure Improvement Financing Act of 2014, effective May 3, 2014 (D.C. Law 20-102; D.C. Official Code § 34-1311.01 *et seq.*), is amended as follows:

(a) The title heading is amended to read as follows:

"TITLE I. DEFINITIONS AND FINDINGS; PROCUREMENT".

(b) Section 101 (D.C. Official Code § 34-1311.01) is amended by adding new paragraphs (4A) and (4B) to read as follows:

"(4A) "Certified business enterprise" shall have the same meaning as provided in section 2302(1D) of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(1D)).

"(4B) "Certified joint venture" shall have the same meaning as provided in section 2302(1E) of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(1E)).".

(c) Section 102(7) (D.C. Official Code § 34-1311.02(7)) is amended by striking the phrase "100% of the construction contracts are awarded to District businesses" and inserting the phrase "100% of the construction contracts are awarded to certified business enterprises or certified joint ventures" in its place.

(d) A new section 103 is added to read as follows:

"Sec. 103. Procurements.

"Section 604 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-356.04) ("PPRA"), shall apply to procurements for architectural and engineering services, as that term is defined in section 104(3) of the PPRA

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ENROLLED ORIGINAL

(D.C. Official Code § 2-351.04(3)), to carry out the purposes of this act; provided, that the District may:

"(1) Set aside contracts for such services for certified business enterprises and certified joint ventures; or

"(2) Award preferences to certified business enterprises as provided in section 2343 of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.43), as part of the evaluation of statements of qualifications submitted in response to a request for qualifications.".

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 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
February 6,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-644

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 6, 2019

To amend, on an emergency basis, the Anti-Intimidation and Defacing of Public or Private Property Criminal Penalty Act of 1982 to make it unlawful to deface or burn a religious or secular symbol on any property of another without permission or to place or display on such property a physical impression that a reasonable person would perceive as a threat to physically damage the property of another.

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

Sec. 2. Section 3(a) of the Anti-Intimidation and Defacing of Public or Private Property Criminal Penalty Act of 1982, effective March 10, 1983 (D.C. Law 4-203; D.C. Official Code § 22-3312.02(a)), is amended as follows:

(a) The lead-in language is amended by striking the phrase "private premises or property in the District of Columbia primarily used for religious, educational, residential, memorial, charitable, or cemetery purposes, or for assembly by persons of a particular race, color, creed, religion, or any other category listed in section 101 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01)," and inserting the phrase "private property of another without the permission of the owner or the owner's designee" in its place.

(b) Paragraph (3) is amended by striking the word "person" and inserting the phrase "person or property" 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).

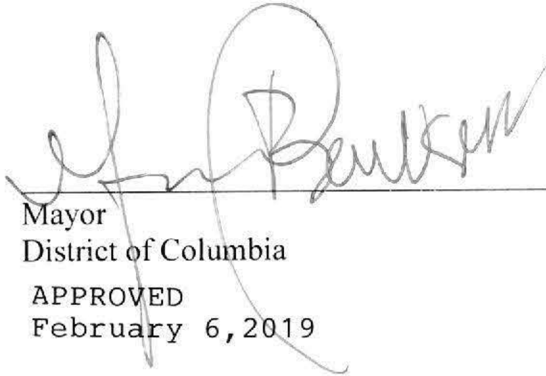
Sec. 4. Effective date.

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 Mayor), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 6,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-645

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 6, 2019

To amend, on an emergency basis, section 7 of the Legalization of Marijuana for Medical Treatment Initiative of 1999 to authorize a dispensary, cultivation center, or testing laboratory to relocate to any election ward subject to the approval of the Mayor; provided, that no more than 2 dispensaries and 6 cultivation centers may operate within an election ward.

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

Sec. 2. Section 7(g-2) of the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.06(g-2)), is amended to read as follows:

"(g-2) A dispensary, cultivation center, or testing laboratory may be permitted to relocate to any election ward upon approval from the Mayor; provided, that no more than 2 dispensaries and 6 cultivation centers may be registered to operate within an election ward.".

Sec. 3. Fiscal impact statement.

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

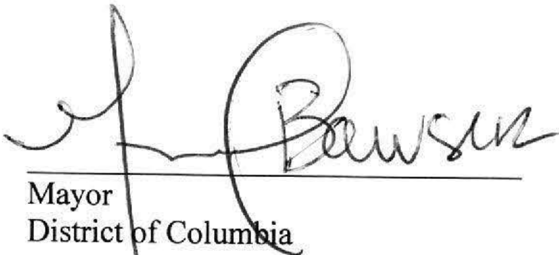
Sec. 4. Effective date.

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

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
February 6,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-3

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 6, 2019

To approve, on an emergency basis, Modification Nos. 8, 10, 13, 14, 14A, 16, and 17 to Human Care Agreement No. DCRL-2015-H8-0093 with Boys Town Washington DC, Inc. to provide traditional congregate care group home services for children and youth, and to authorize payment for the services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modifications to Human Care Agreement No. DCRL-2015-H8-0093 Approval and Payment Authorization Emergency Act of 2019".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 8, 10, 13, 14, 14A, 16, and 17 to Human Care Agreement No. DCRL-2015-H8-0093 with Boys Town Washington DC, Inc. to provide traditional congregate care group homes for children and youth, and authorizes payment in the total not-to- exceed amount of $1,596,171.43 for the services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in 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
February 6,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-4

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 6, 2019

To amend, on an emergency basis, the Rental Housing Act of 1985 to extend the due date for the Office of the Tenant Advocate to complete the re-registration component of the rent control housing database; and to reset the due date when housing providers are required to file online re-registration statements to within 90 days after the launching of the database.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Rental Housing Registration Extension Emergency Amendment Act of 2019".

Sec. 2. The Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.*), is amended as follows:

(a) Section 203c (D.C. Official Code § 42-3502.03e) is redesignated as section 203e.

(b) The second section 203a (D.C. Official Code § 42-3502.03c) is redesignated as section 203c.

(c) The newly redesignated section 203c is amended as follows:

(1) Subsection (a) is amended by striking the phrase "and administer".

(2) Subsection (e-1)(1) is amended to read as follows:

"(e-1)(1) Notwithstanding subsections (a) and (e) of this section, OTA shall develop an online portal and database for the filing of registration statements and claims of exemption under section 205(f), which OTA shall integrate into the database created pursuant to subsection (a) of this section by December 13, 2019.".

(d) The second section 203b (D.C. Official Code § 42-3502.03d) is redesignated as section 203d.

(e) The newly redesignated section 203d is amended as follows:

(1) The section heading is amended by striking the phrase "and registration".

(2) The text is amended to read as follows:

"Upon completion of the publicly accessible rent control housing database created pursuant to section 203c, a housing provider shall use the online housing provider portal developed pursuant to section 203c(b)(1) to file all documents and data required to be filed

ENROLLED ORIGINAL

pursuant to this title and all regulations promulgated pursuant to this title.".

(f) Section 205(f) (D.C. Official Code § 42-3502.05(f)) is amended as follows:

(1) Paragraphs (1) and (2) are amended to read as follows:

"(1) Within 90 days after completion of the publicly accessible rent control housing database created pursuant to section 203c, each housing provider of a housing accommodation for which the housing provider is receiving rent or is entitled to receive rent shall file a new registration statement and, if applicable, a new claim of exemption via the online housing provider portal developed pursuant to section 203c(e-1).

"(2) A person who becomes a housing provider of a housing accommodation 90 days or more after completion of the publicly accessible rent control housing database created pursuant to section 203c, shall file a registration statement and, if applicable, claim of exemption, within 30 days after becoming a housing provider.".

(2) Paragraph (3) is amended by striking the phrase "A housing provider shall file a registration statement and, if applicable, a claim of exemption, with the Division in accordance with section 203d, which shall solicit" and inserting the phrase "The registration statement and claim of exemption shall solicit" in its place.

(3) Paragraph (4) is amended as follows:

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

"(A) No penalties for failure to previously register the housing accommodation shall be assessed against a housing provider who registers a housing accommodation under this section within 90 days after completion of the publicly accessible rent control housing database created pursuant to section 203c.".

(B) Subparagraph (B)(i) is amended by striking the phrase "Beginning 241 days after October 30, 2018" and inserting the phrase "Beginning 91 days after completion of the publicly accessible rent control housing database created pursuant to section 203c" in its place.

Sec. 3. Fiscal impact statement.

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

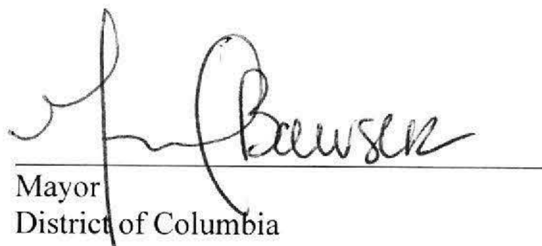
Sec. 4. Effective date.

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

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
February 6,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-5

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 6, 2019

To protect, on an emergency basis, unpaid federal workers, employees of contractors of the federal government, and household members of federal workers and employees of contractors from eviction, late fees, and foreclosure during a federal government shutdown.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Federal Worker Housing Relief Emergency Act of 2019".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Borrower" shall have the same meaning as provided in section 539b(a)(1) of An Act To establish a code of law for the District of Columbia, effective March 12, 2011 (D.C. Law 18-314; D.C. Official Code § 42-815.02(a)(1)).

(2) "Contractor" shall have the same meaning as provided in 41 U.S.C. § 7101(7).

(3) "Covered period" means:

(A) For a federal worker, the period from the date of a federal worker's first unpaid payday during a shutdown through the earlier of:

(i) 30 days after the effective date of an appropriations act or continuing resolution that funds a federal worker's government agency; or

(ii) 90 days after the date of the federal worker's first unpaid payday.

(B) For an employee of a contractor, the period from the date an employee of a contractor is laid off or otherwise stops receiving pay because of the shutdown through the earlier of:

(i) 30 days after the effective date of an appropriations act or continuing resolution that funds the agency with which the contractor has a contract; or

(ii) 90 days after the employee of a contractor is laid off or otherwise stops receiving pay because of the shutdown.

(4) "Federal worker" means an employee of a government agency.

(5) "Government agency" means each authority of the executive, legislative, or

ENROLLED ORIGINAL

judicial branch of the government of the United States, or the District of Columbia Courts.

(6) "Household member" means an individual who resides with a federal worker or an employee of a contractor in a housing unit.

(7) "Housing provider" shall have the same meaning as provided in section 103(15) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.03(15)).

(8) "Housing unit" means any room or group of rooms forming a single-family residential unit, including an apartment, semi-detached condominium, cooperative, or semi-detached or detached home that is used or intended to be used for living, sleeping, and the preparation and eating of meals by human occupants.

(9) "Lender" shall have the same meaning as provided in section 539b(a)(3) of An Act To establish a code of law for the District of Columbia, effective March 12, 2011 (D.C. Law 18-314; D.C. Official Code § 42-815.02(a)(3)).

(10) "Mediation Administrator" shall have the same meaning as provided in section 539b(a)(6) of An Act To establish a code of law for the District of Columbia, effective March 12, 2011 (D.C. Law 18-314; D.C. Official Code § 42-815.02(a)(6)).

(11) "Residential mortgage" shall have the same meaning as provided in section 539a(a) of An Act To establish a code of law for the District of Columbia, effective May 8, 1984 (D.C. Law 5-82; D.C. Official Code § 42–815.01(a)).

(12) "Shutdown" means any period in which there is a lapse in appropriations for a government agency that continues through any unpaid payday for a federal worker employed by that agency.

(13) "Superior Court" means the Superior Court of the District of Columbia.

Sec. 3. Stay of proceedings for evictions and foreclosures.

(a)(1) Notwithstanding any other provision of law, if a housing provider initiates an eviction proceeding in Superior Court against a federal worker, an employee of a contractor, or a household member during the covered period, the federal worker, employee of a contractor, or household member eligible for relief under subsection (c) or subsection (d) of this section, as applicable, may move the court to stay proceedings until the covered period elapses. The movant shall attach to the motion the documentation required by subsection (c) or subsection (d) of this section, as applicable, to establish the movant's eligibility under this section. The court shall grant the motion to stay the proceeding if the court determines that the federal worker, employee of a contractor, or household member has submitted the required documentation necessary to establish eligibility for relief in accordance with subsection (c) or subsection (d) of this section, as applicable.

(2) Notwithstanding any other provision of law, a federal worker, an employee of a contractor, or a household member eligible for relief under subsection (c) or subsection (d) of this section, as applicable, may also move the court to void late fees charged by a housing provider pursuant to section 531 of the Rental Housing Act of 1985, effective July 17, 1985

ENROLLED ORIGINAL

(D.C. Law 6-10; D.C. Official Code § 42-3505.31). The court shall grant the motion if the late fees accrued during the covered period.

(b)(1) Notwithstanding the requirements set forth in section 539b of An Act To establish a code of law for the District of Columbia, effective March 12, 2011 (D.C. Law 18-314; D.C. Official Code § 42-815.02), upon the request of a borrower who is a federal worker, an employee of a contractor, or a household member eligible for relief under subsection (c) or subsection (d) of this section, as applicable, the Mediation Administrator shall stay the mediation and shall not issue a mediation certificate to a lender until the covered period elapses. The borrower shall provide the documentation required by subsection (c) or subsection (d) of this section, as applicable, to establish the borrower's eligibility.

(2) Notwithstanding any other provision of law, if during the covered period but before the effective date of this act, the Mediation Administrator issued a mediation certificate and the lender gave written notice of the intention to foreclose on a residential mortgage, a federal worker, employee of a contractor, or household member eligible for relief under subsection (c) or subsection (d) of this section, as applicable, may petition the Superior Court to stay the sale until the covered period has elapsed. The petitioner shall attach to the petition the documentation required by subsection (c) or subsection (d) of this section, as applicable, to establish the petitioner's eligibility under this section. The court shall grant the petition to stay the sale if the court determines that the federal worker, employee of a contractor, or household member has submitted the required documentation necessary to establish eligibility for relief in accordance with subsection (c) or subsection (d) of this section, as applicable.

(3) Notwithstanding any other provision of law, if a lender initiates a foreclosure proceeding in Superior Court against a federal worker, an employee of a contractor, or a household member during the covered period, the federal worker, employee of a contractor, or household member eligible for relief under subsection (c) or subsection (d) of this section, as applicable, may move the court to stay the proceeding until the covered period elapses. The movant shall attach to the motion the documentation required by subsection (c) or subsection (d) of this section, as applicable, to establish the movant's eligibility under this section. The court shall grant the motion to stay the proceeding if the court determines that the federal worker, employee of a contractor, or household member has submitted the required documentation necessary to establish eligibility for relief in accordance with subsection (c) or subsection (d) of this section, as applicable.

(c) To be eligible for the relief set forth in this section:

(1) A federal worker shall submit to the court or Mediation Administrator one of the following:

(A) A pay stub issued by a government agency showing zero dollars in earnings for the federal worker for a pay period within the period of the shutdown; or

(B) A copy of a furlough notification letter or essential employee status letter; and

(2) An employee of a contractor shall submit to the court or Mediation

ENROLLED ORIGINAL

Administrator a letter from the contractor, issued and signed by an officer or owner of the company or by the company's human resources director, stating:

(A) That the employee of the contractor was laid off or is otherwise not receiving pay from the contractor because of the shutdown;

(B) The date that the employee of the contractor was laid off or otherwise stopped receiving pay from the contractor; and

(C) The name of the government agency with which the contractor had a contract.

(d)(1) A household member who is a party to the rental agreement subject to an eviction action or the residential mortgage subject to a foreclosure proceeding shall be eligible for the relief set forth in this section if the household member submits to the court or Mediation Administrator:

(A) Sufficient documentation that a federal worker or employee of a contractor resides in the same household unit as the household member, which shall include any 2 of the following that displays a name and home address for the federal worker or employee of a contractor:

(i) A current government-issued photo identification;

(ii) A utility bill dated no more than 60 days before the beginning of the covered period;

(iii) A bank or credit card statement dated no more than 60 days before the beginning of the covered period;

(iv) A student loan statement dated no more than 60 days before the beginning of the covered period; or

(v) Official mail received from a government agency or a District government agency dated no more than 60 days before the beginning of the covered period;

(B) The documentation required to be submitted by the federal worker or the employee of the contractor under subsection (c) of this section; and

(C) Sufficient documentation that the federal worker or employee of a contractor contributes at least 25% of the monthly rent or mortgage payment, which shall include any of the following for at least 2 of the 6 months before the beginning of the covered period:

(i) Cancelled checks;

(ii) Bank statements;

(iii) Electronic records of payment; or

(iv) Receipts.

(2) A household member shall continue to timely pay the household member's percentage share of the rent or mortgage payments. Failure of a household member to make timely payment of the household member's share of the rent or mortgage payment shall be grounds for lifting a stay of the proceeding.

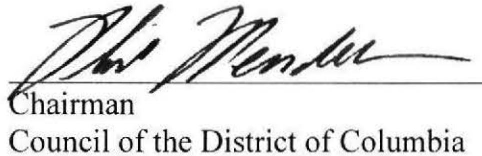
ENROLLED ORIGINAL

Sec. 4. Fiscal impact statement.

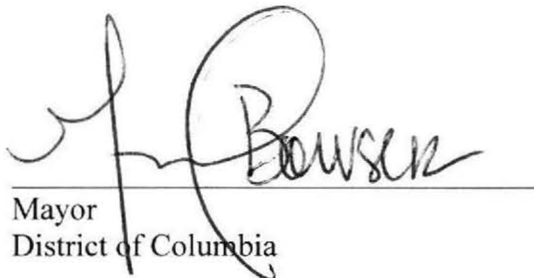
The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

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
February 6,2019

ENROLLED ORIGINAL

A RESOLUTION

23-12

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To declare the existence of an emergency with respect to the need to amend the District of Columbia Election Code of 1955 to exempt the current Executive Director of the District of Columbia Board of Elections from the domicile requirement.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Elections Domicile Requirement Emergency Declaration Resolution of 2019".

Sec. 2. (a) On April 10, 2018, the Council passed the Board of Elections Domicile Requirement Temporary Amendment Act of 2018, effective July 3, 2018 (D.C. Law 22-115; 65 DCR 5030) ("temporary act"). The temporary act expires on February 13, 2019.

(b) On October 16, 2018, the Council passed the Elections Modernization Amendment Act of 2018, enacted on October 31, 2018 (D.C. Act 22-504; 65 DCR 12361) ("permanent act"), which will make permanent the provisions of the temporary act. The permanent act is projected to become law on February 26, 2019.

(c) This emergency legislation is necessary to prevent a gap in legal authority in between the expiration of the temporary act and the effective date of the permanent 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 Board of Elections Domicile Requirement Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-13

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To declare the existence of an emergency, due to congressional review, with respect to the need to amend the Child Development Facilities Regulation Act of 1998 to exempt parent-led play cooperatives from the requirements of the Child Development Facilities Regulation Act of 1998.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Parent-led Play Cooperative Congressional Review Emergency Declaration Resolution of 2019".

Sec. 2. (a) On October 2, 2018, the Council approved the Parent-led Play Cooperative Emergency Amendment Act of 2018, effective October 23, 2018 (D.C. Act 22-494; 65 DCR 12074), which expired on January 21, 2019. The legislation ensured that long-standing parent-led play cooperatives could continue to operate with certainty that they are exempted from the requirement to obtain a license pursuant to the Child Development Facilities Regulation Act of 1998, effective April 13, 1999 (D.C. Law 12-215; D.C. Official Code § 7-2031 *et seq.*), while the Council and Mayor considered a permanent policy solution.

(b) On October 16, 2018, the Council approved the Parent-led Play Cooperative Temporary Amendment Act of 2018, enacted on October 31, 2018 (D.C. Act 22-502; 65 DCR 12336), which is currently under congressional review and expected to become effective on February 26, 2019.

(c) The Parent-led Play Cooperative Congressional Review Emergency Amendment Act of 2019 is necessary to ensure that there is no gap in legal authority between January 21, 2019, and February 26, 2019.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Parent-led Play Cooperative Congressional Review Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-14

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To declare the existence of an emergency, due to congressional review, with respect to the need to amend 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.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Clarification of Hospital Closure Procedure Congressional Review Emergency Declaration Resolution of 2019".

Sec. 2. (a) Emergency legislation is necessary to prevent a gap in the law as the temporary legislation, the Clarification of Hospital Closure Procedure Temporary Amendment Act of 2018, enacted on December 10, 2018 (D.C. Act 22-533; 65 DCR 13441), has not completed congressional review and is not projected to become law until February 26, 2019.

(b) Emergency legislation, the Clarification of Hospital Closure Procedure Emergency Amendment Act of 2018, effective November 1, 2018 (D.C. Act 22-498; 65 DCR 12327), expired on January 30, 2019.

(c) Because the temporary legislation will not become law until after the expiration of the emergency legislation, a congressional review emergency is needed to prevent a gap in the law.

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 Clarification of Hospital Closure Procedure Congressional Review Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-15

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To confirm the appointment of Ms. Kymber Menkiti to the Commission on the Arts and Humanities.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Commission on the Arts and Humanities Kymber Menkiti Confirmation Resolution of 2019".

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

Ms. Kymber Menkiti
1673 Myrtle Street, N.W.
Washington, D.C. 20012
(Ward 4)

as a member of the Commission on the Arts and Humanities, established by section 4 of the Commission on the Arts and Humanities Act, effective October 21, 1975 (D.C. Law 1-22; D.C. Official Code § 39-203), for a term to end June 30, 2021.

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

23-16

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To confirm the reappointment of Ms. Kay Kendall to the Commission on the Arts and Humanities.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Commission on the Arts and Humanities Kay Kendall Confirmation Resolution of 2019".

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

Ms. Kay Kendall
2412 Tracy Place, N.W.
Washington, D.C. 20008
(Ward 2)

as a member of the Commission on the Arts and Humanities, established by section 4 of the Commission on the Arts and Humanities Act, effective October 21, 1975 (D.C. Law 1-22; D.C. Official Code § 39-203), for a term to end June 30, 2021.

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

23-17

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To confirm the reappointment of Ms. Gretchen Wharton to the Commission on the Arts and Humanities.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Commission on the Arts and Humanities Gretchen Wharton Confirmation Resolution of 2019".

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

Ms. Gretchen Wharton
1726 5th Street, N.W.
Washington, D.C. 20001
(Ward 6)

as a member of the Commission on the Arts and Humanities, established by section 4 of the Commission on the Arts and Humanities Act, effective October 21, 1975 (D.C. Law 1-22; D.C. Official Code § 39-203), for a term to end June 30, 2021.

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

23-18

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To declare the existence of an emergency with respect to the need to approve Modification Nos. 7 and 8 to Contract No. CW40855 with CELLCO Partnership dba Verizon Wireless to provide District-wide wireless services, and to authorize payment in the not-to-exceed amount of $10 million for the goods and services received and to be received under the modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Modifications to Contract No. CW40855 Approval and Payment Authorization Emergency Declaration Resolution of 2019".

Sec. 2. (a) There exists an immediate need to approve Modification Nos. 7 and 8 to Contract No. CW40855 with CELLCO Partnership dba Verizon Wireless to provide District-wide wireless services, and to authorize payment for the goods and services received and to be received under the modifications.

(b) On November 19, 2018, the Office of Contracting and Procurement ("OCP"), on behalf of the Office of the Chief Technology Officer, exercised a partial option of Option Year 3 from December 1, 2018, through January 7, 2019, in the not-to-exceed amount of $999,999.

(c) OCP now desires to exercise the remainder of Option Year 3 and increase the total not-to-exceed amount for the contract to $10 million, for the period December 1, 2018, through November 30, 2019.

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

(e) Approval is necessary to allow the continuation of these vital services. Without this approval, CELLCO Partnership dba Verizon Wireless cannot be paid for goods and services provided in excess of $1 million for the period December 1, 2018, through November 30, 2019.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Contract No. CW40855Approval and Payment Authorization Emergency Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-19

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To declare the existence of an emergency with respect to the need to approve Modification Nos. 46 and 47 to Contract No. POKV-2006-C-0064 with Conduent State & Local Solutions, Inc. to provide ticket processing and related services for the Department of Motor Vehicles, and to authorize payment for the goods and services received and to be received under the modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Modifications to Contract No. POKV-2006-C-0064 Approval and Payment Authorization Emergency Declaration Resolution of 2019".

Sec. 2. (a) There exists a need to approve Modification Nos. 46 and 47 to Contract No. POKV-2006-C-0064 with Conduent State & Local Solutions, Inc. to provide ticket processing and related services for the Department of Motor Vehicles, and to authorize payment for the goods and services received and to be received under the modifications.

(b) By Modification No. 46, dated December 18, 2018, the Office of Contracting and Procurement, on behalf of the Department of Motor Vehicles, extended the term of the contract for the period from January 3, 2019, through February 17, 2019, in the estimated amount of $996,368.

(c) Modification No. 47 is now necessary to extend the term of the contract for the period from February 18, 2019, through January 2, 2020, in the estimated amount of $7.74 million.

(d) The total estimated amount for the contract extensions is $8,736,368.

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

(f) Approval is necessary to allow the continuation of these vital services. Without this approval, Conduent State & Local Solutions, Inc. cannot be paid for the goods and services provided in excess of $1 million of the previously approved amount for the contract period January 3, 2019, through January 2, 2020.

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

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Modifications to Contract No. POKV-2006-C-0064 Approval and Payment Authorization Emergency Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-20

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To declare the existence of an emergency with respect to the need to approve Modification Nos. 7, 8, 9, 10, 11, and 12 to Contract No. CW36154 with WM Recycle America, LLC to transport, process, and market recyclables from the District's residential recycling drop-off facilities, and to authorize payment for the goods and services received and to be received under the modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Modifications to Contract No. CW36154 Approval and Payment Authorization Emergency Declaration Resolution of 2019".

Sec. 2. (a) There exists a need to approve Modification Nos. 7, 8, 9, 10, 11, and 12 to Contract No. CW36154 with WM Recycle America, LLC to transport, process, and market recyclables from the District's residential recycling drop-off facilities, and to authorize payment for the goods and services received and to be received under the modifications.

(b) By Modification No. 7, dated August 2, 2018, the Office of Contracting and Procurement ("OCP"), on behalf of the Department of Public Works, exercised a partial Option Year 3 of Contract No. CW36154 for the period from September 1, 2018, through November 31, 2018, in the amount of $622,500.

(c) Modification No. 8 was an administrative modification that added no money.

(d) By Modification No. 9, dated November 7, 2018, the OCP, exercised a partial Option Year 3 of Contract No. CW36154 for the period from December 1, 2018, through January 20, 2019, in the amount of $345,840.

(e) By Modification No. 10, dated December 20, 2018, OCP exercised a partial Option Year 3 of Contract No. CW36154 for the period from January 21, 2019, through February 7, 2019, at no cost to the District.

(f) Modification No. 11 was an administrative modification that added no money.

(g) Modification No. 12 is now necessary to exercise the remainder of Option Year 3 of Contract No. CW36154 for the period from February 8, 2019, through September 1, 2019, in the amount of $1,531,660, which will set the total contract amount for Option Year 3 at $2.5 million.

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

(i) Approval is necessary to allow the continuation of these vital services. Without this approval, WM Recycle America, LLC cannot be paid for goods and services provided in excess of $1 million for the contract period beginning September 1, 2018, through August 31, 2019.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Contract No. CW36154 Approval and Payment Authorization Emergency Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-21

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To declare the existence of an emergency with respect to the need to approve Modification Nos. 9, 10, and 11 to Contract No. CW46486 with Tandem Conglomerate, LLC, to provide mission-oriented business integrated services, and to authorize payment in the not-to-exceed amount of $10 million for the goods and services received and to be received under the modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Modifications to Contract No. CW46486 Approval and Payment Authorization Emergency Declaration Resolution of 2019".

Sec. 2. (a) There exists a need to approve Modification Nos. 9, 10, and 11 to Contract No. CW46486 with Tandem Conglomerate, LLC, to provide mission-oriented business integrated services, and to authorize payment for the goods and services received and to be received under the modifications.

(b) On September 20, 2018, by Modification No. 9, the Office of Contracting and Procurement ("OCP") exercised a partial option of Option Year 2 from September 21, 2018 through December 31, 2018, in the not-to-exceed amount of $950,000.

(c) On September 20, 2018, by Modification No. 10, the OCP extended the partial option of Option Year 2 from January 1, 2019, through February 28, 2019, within the ceiling of $950,000.

(d) OCP now desires to exercise the remainder of Option Year 2 and increase the total not-to-exceed amount for the contract to $10 million for the period September 21, 2018, through September 20, 2019.

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

(f) Approval is necessary to allow the continuation of these vital services. Without this approval, Tandem Conglomerate, LLC, cannot be paid for goods and services provided in excess of $1 million for the period September 21, 2018, through September 20, 2019.

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Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Contract No. CW46486 Approval and Payment Authorization Emergency Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-22

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To approve multiyear Contract No. SO-19-016-0001820 with Hi-Tech Solutions, Inc., to provide Microsoft software licenses and the accompanying Software Assurance program to the Washington Convention and Sports Authority.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Hi-Tech Solutions, Inc. Contract No. SO-19-016-0001820 Approval Resolution of 2019".

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 multiyear Contract No. SO-19-016-0001820 with Hi-Tech Solutions, Inc., to provide 4 Microsoft software licenses and the accompanying Software Assurance program to the Washington Convention and Sports Authority for a term of 3 years, in the amount of $23,120.

Sec. 3. Transmittal.
The Council shall transmit a copy of this resolution, upon its adoption, to the Mayor.

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

Sec. 5. Effective date.
This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-23

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To declare the existence of an emergency with respect to the need to amend the District of Columbia Unemployment Compensation Act to provide that a furlough-excepted federal employee is eligible for unemployment benefits during a federal-government shutdown; and to amend the Federal Worker Housing Relief Emergency Act of 2019 to provide protections to employees of the District of Columbia Public Defender Service.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Supporting Essential Workers Unemployment Insurance Emergency Declaration Resolution of 2019".

Sec. 2. (a) The federal government was partially shut down for over a month due to President Trump's demand for funding in excess of $5 billion to build a wall at the southern border of the United States.

(b) Despite the opposition of a majority of Americans to funding the construction of the proposed wall, the President refused to sign legislation to fund the federal government unless it included full funding for the wall.

(c) As a result of the President's position, the federal government was partially closed, and over 800,000 federal employees did not receive pay.

(d) Federal employees who are deemed essential and are required to continue work during a shutdown are not eligible for unemployment benefits, even though they are not receiving their pay during the shutdown.

(e) The shutdown caused extreme financial hardship for federal employees, their families, and the service providers, including daycare providers, they regularly use, especially for those federal employees who are required to continue working without compensation.

(f) Although the federal government is now open, it is operating under a continuing resolution that expires on February 15, 2019, and another shutdown is possible at that point.

(g) If another shutdown occurs, federal employee who are required to work during the shutdown again will face extreme financial hardship.

(h) The provision of unemployment compensation to these employees during a shutdown will ease the burden on the employees and help enable them to meet their families' basic needs.

ENROLLED ORIGINAL

(i) Immediate legislative action is necessary to be able to provide important financial relief during a shutdown to essential federal employees.

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 Supporting Essential Workers Unemployment Insurance Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-24

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To declare the existence of an emergency with respect to the need to amend the Bryant Street Tax Increment Financing Act of 2016 to extend the deadline to terminate the Bryant Street TIF Area from March 1, 2019, to March 1, 2020, and to ensure the District's ability to refund the bonds.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Bryant Street Tax Increment Financing Emergency Declaration Resolution of 2019".

Sec. 2. Emergency legislation is necessary because the authority to issue tax increment financed bonds pursuant to the Bryant Street Tax Increment Financing Act of 2016, effective April 7, 2017 (D.C. Law 21-262; D.C. Official Code § 2-1217.37a *et seq.*), will expire on March 1, 2019. Due to project delays outside of the District's control, the District will be unable to issue the tax increment financed bonds before the expiration of authority, and, as currently drafted, the expiration of authority to issue the tax increment financed bonds inadvertently prohibits the District's from issuing refunding bonds should future market conditions warrant.

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 Bryant Street Tax Increment Financing Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-7

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To honor and recognize Dorothy Butler Gilliam for her incredible career as both a journalist and civil rights activist, and for her efforts to promote more inclusivity in the field of journalism.

WHEREAS, Dorothy Butler Gilliam was born in December 1936 and spent her childhood in Memphis, Tennessee before her family moved to Louisville, Kentucky;

WHEREAS, Dorothy Butler Gilliam has 3 children, 3 grandchildren, is a longtime resident of the District of Columbia and currently resides in Ward 4, and has been an active and devoted member of Metropolitan AME Church since 1997;

WHEREAS, Dorothy Butler Gilliam began attending Ursuline University in Louisville and transferred to Lincoln University to study journalism;

WHEREAS, while attending Ursuline University, Dorothy Butler Gilliam began working as a typist for the *Louisville Defender*, but at 17 years of age, she was named the society editor;

WHEREAS, in 1957, Dorothy Butler Gilliam was hired by *JET,* where she worked until 1959;

WHEREAS, in 1959, Dorothy Butler Gilliam continued her education at Tuskegee Institute, and in 1960, she was accepted at Columbia University in the graduate school of journalism;

WHEREAS, in 1961, Dorothy Butler Gilliam began work for *The Washington Post*, becoming the first black woman reporter for the newspaper;

WHEREAS, Dorothy Butler Gilliam worked for *The Washington Post* for nearly 40 years as an editor and columnist covering issues such as politics, education, and race;

ENROLLED ORIGINAL

WHEREAS, in 1976, Dorothy Butler Gilliam authored the biography *Paul Robeson, All American*;

WHEREAS, Dorothy Butler Gilliam served as the president of the National Association of Black Journalists from 1993 to 1995;

WHEREAS, in 1997, Dorothy Butler Gilliam became director of the Young Journalists Development Project, which helps local high schools develop journalism programs;

WHEREAS, Dorothy Butler Gilliam is a former fellow of the Freedom Forum at the Media Studies Center at Columbia University and the Institute of Politics at the John F. Kennedy School of Government at Harvard University;

WHEREAS, in 2003, Dorothy Butler Gilliam joined the School of Media and Public Affairs at the George Washington University as the Shapiro Fellow, and in 2004, as a Shapiro Fellow, she founded Prime Movers Media, the nation's first journalism mentorship program to focus on urban schools;

WHEREAS, among Dorothy Butler Gilliam's many accolades are her induction into the Society of Professional Journalists' Hall of Fame; the University of Missouri Honor Medal in Journalism (1998); and the Ann O'Hare McCormick Award from the New York Newspaper Women's Club;

WHEREAS, in 2010, The Washington Press Club awarded Dorothy Butler Gilliam its Lifetime Achievement Award;

WHEREAS, on January 8, 2019, Dorothy Butler Gilliam's memoir, *Trailblazer: A Pioneering Journalist's Fight to Make the Media Look More Like America*, was published; and

WHEREAS, Dorothy Butler Gilliam is a pioneering journalist with an illustrious career as a columnist and editor and has remained committed to spurring diversity in the media.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Dorothy Butler Gilliam Recognition Resolution of 2019".

Sec. 2. The Council of the District of Columbia honors Dorothy Butler Gilliam for her commitment to the field of journalism and civil rights and recognizes her for her many philanthropic endeavors.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-8

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To recognize and honor the 20th Anniversary Celebration of Jazz Night in D.C. at Westminster Presbyterian Church in Southwest Washington, D.C.

WHEREAS, Jazz Night in D.C. commenced weekly performances on January 22, 1999 at Westminster Presbyterian Church, an historic local congregation jointly pastored by Brian and Ruth Hamilton, and the first performance featured Washington's own Buck Hill;

WHEREAS, but for 3 weather events in 20 years, 1,040 lively performances have happened every week from 6:00 to 9:00 p.m. at the church;

WHEREAS, the audience regularly assembled always represents many of the most dedicated, knowledgeable, and passionate jazz lovers in the region;

WHEREAS, this 20-year span has contributed to jazz history at a time when jazz has diminished in general appreciation within our popular mass culture;

WHEREAS, the constant devotion to jazz from both staff, performers, and audience alike has maintained a consistently high level of performance as demonstrated every week;

WHEREAS, the Jazz Night in D.C. agenda has expanded toward outreach activities, including special performances for students, educational programs presenting a featured jazz artist or movement within jazz, and youth jazz programs to support next generations of jazz innovators;

WHEREAS, Jazz Night in D.C. at Westminster is one of the largest jazz venues in Washington, D.C. and the most affordable and accessible for District of Columbia residents, especially fixed-income seniors, who are brought in by the busload by community centers throughout the Washington, D.C. area every week;

WHEREAS, it has been a mission of Jazz Night in D.C. to be intergenerational and there have been moments where 15- and 70-year-olds share the dance floor;

ENROLLED ORIGINAL

WHEREAS, a great many sacrifices have been made to maintain the $5 admission level throughout all these years; and

WHEREAS, Jazz Night in D.C. has won numerous awards and been recognized by arts institutions and organizations for excellence in support of jazz.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "20th Anniversary Celebration of Jazz Night in D.C. at Westminster Presbyterian Church Recognition Resolution of 2019".

Sec. 2. The Council of the District of Columbia acknowledges and honors the 20th Anniversary Celebration of Jazz Night in D.C. at Westminster Presbyterian Church.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-9

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To recognize and honor the contributions of Betty Ann Kane whose life is a testament to over 44 years of public service to the residents of the District of Columbia.

WHEREAS, Betty Ann Kane was born and raised in Teaneck, New Jersey;

WHEREAS, in 1963, Betty Ann Kane was Phi Beta Kappa and earned a Bachelor of Arts degree from Middlebury College in Middlebury, Vermont, and in 1964 received a Master of Arts in English from Yale University in New Haven, Connecticut;

WHEREAS, Betty Ann Kane relocated to Washington, D.C. in 1967, where she was an Assistant Professor of English at The Catholic University of America from 1967 through 1969;

WHEREAS, Betty Ann Kane was the Assistant to the Director of Public Programs at Folger Shakespeare Library from 1969 until 1973, where she established and served as editor of the Folger Library Newsletter and administered federal grants for educational and public programs, developed volunteer programs, and arranged for traveling exhibits;

WHEREAS, Betty Ann Kane was Head of Public Programs for the Folger Shakespeare Library from 1973-1975, where she developed and administered the library's programs for the general public and represented the library on various boards and organizations, including the public television station, WETA;

WHEREAS, Betty Ann Kane was elected to an At-Large seat on the District of Columbia School Board and served from 1974 until 1978;

WHEREAS, Betty Ann Kane served as the Development Officer for the Museum of African Art and was responsible for federal grant and corporate fundraising and congressional relations from 1976 until 1978;

WHEREAS, Betty Ann Kane was elected in 1978 as an At-Large member of the Council of the District of Columbia and served from 1979 until 1990;

ENROLLED ORIGINAL

WHEREAS, Betty Ann Kane was a Delegate to the Democratic National Convention in 1980, 1984, and 1988;

WHEREAS, Betty Ann Kane served as Chairman of the Metropolitan Council of Governments in 1990, as Vice Chairman in 1981, 1988, and 1989; as a member of the Board of Directors from 1979 through 1981, 1985, and 1988 through 1990; as Chairman of the Subcommittee on Federal Office Space in 1981 and a member of the Budget Priorities Committee from 1988 through 1990;

WHEREAS, Betty Ann Kane was appointed in 1985 by the U.S. Secretary of Transportation, Elizabeth Dole, to the Holton Commission to study transfer of National and Dulles airports to regional control;

WHEREAS, Betty Ann Kane represented the Council of the District of Columbia on missions to the Taiwan, Republic of China in 1987, Israel in 1987, and the People's Republic of China in 1988;

WHEREAS, Betty Ann Kane served as a Development Consultant on fundraising for the Calvary Women's Shelter from 1990-1991, and as an Education Consultant for the Defenders of Wildlife from 1990 through 1992;

WHEREAS, Betty Ann Kane served as Co-Chair of the Transition Committee on Administration and Management for the first woman elected Mayor of the District of Columbia, Sharon Pratt Dixon, in 1990;

WHEREAS, Betty Ann Kane served as a member of the Board of Directors for the National League of Cities ("NLC") in 1990; as a member of the Board of Directors for Women in Municipal Government and other NLC committees from 1987 through 1989;

WHEREAS, Betty Ann Kane served as the Executive Director of Miller & Holbrooke Information Services, where she was the founding editor of the Cable Update, a monthly report for cities and counties on legislative and legal developments in telecommunication policy in Congress, state legislatures, federal agencies, and the courts; she also served as a consultant to local governments on cable television franchising and regulation from 1989 through 1996;

WHEREAS, Betty Ann Kane served as the Executive Director of PRO-NAFTA, a nonprofit organization in support of the North American Free Trade Agreement from 1992 through 1993;

ENROLLED ORIGINAL

WHEREAS, Betty Ann Kane served as the Co-Chairman of the District of Columbia Democratic Leadership Council from 1992 until 1995;

WHEREAS, Betty Ann Kane was appointed as a Trustee to the District of Columbia Retirement Board and served from 1993 until 2002;

WHEREAS, Betty Ann Kane served on the Federal Aviation Advisory Committee from 1994 through 1999;

WHEREAS, Betty Ann Kane served on the Transportation Research Board Transportation Noise Committee from 1995until 2000;

WHEREAS, Betty Ann Kane served as the Executive Director from 1995-1997 of the National Organization to Insure a Sound Controlled Environment ("NOISE"), a nonprofit organization of local governments impacted by airport and aircraft noise to insure a sound-controlled environment; and from 1997 through1998 she served as a NOISE lobbyist;

WHEREAS, Betty Ann Kane served on the National Aeronautics and Space Administration ("NASA") Committee on Quiet Advances Supersonic Aircraft Technology from 1995 through 1999 and NASA's Environmental Compatibility Task Force from 1998 through 1999;

WHEREAS, Betty Ann Kane was an Administrator at the D.C. Insurance Regulatory Trust Fund Bureau, where she provided administrative and legislative monitoring and lobbying support to an organization of regulated insurers established by the Council of the District of Columbia to advise the District of Columbia government and monitor expenses and operations of the District of Columbia Department of Insurance Securities Regulation from 1996 until 2002;

WHEREAS, Betty Ann Kane received a Certificate in Pension Fund and Trusteeship Management in 1998 from the Wharton School of Finance at the University of Pennsylvania;

WHEREAS, Betty Ann Kane served as a Government Affairs Specialist from 1999 through 2000 to the District of Columbia court system, where she advised the Chief Executive Officer and Chief Judges on congressional relations, budget, and personnel matters related to implementation of the Revitalization Act of 1997;

WHEREAS, Betty Ann Kane was appointed by Mayor Anthony Williams as Chairman of the Task Force on Associations Attraction and Retention Board and led the successful effort to develop a website and information system in 1999;

ENROLLED ORIGINAL

WHEREAS, Betty Ann Kane served on the Old Naval Hospital Foundation Board, which was instrumental in the rehabilitation of the Old Naval Hospital, which is designated as a landmark of its Capitol Hill neighborhood;

WHEREAS, Betty Ann Kane served as a member of the Government Accounting Standards Advisory Council from 2001 until 2005;

WHEREAS, Betty Ann Kane was appointed in 2002 as Executive Director of the District of Columbia Retirement Board, where she successfully led the agency's transition from an investment board to a full-service retirement agency;

WHEREAS, Betty Ann Kane joined the Public Service Commission ("PSC") of the District of Columbia on March 7, 2007 as a Commissioner after being nominated by Mayor Adrian Fenty and confirmed by the Council of the District of Columbia;

WHEREAS, Betty Ann Kane was appointed by Mayor Vincent Gray, confirmed by the Council of the District of Columbia, and served as Chairman of the PSC for more than 9 years, from March 3, 2009 until December 18, 2018;

WHEREAS, Betty Ann Kane, during her tenure as PSC Chairman, served as an active member of the National Association of Regulatory Utility ("NARUC") Commissioners' Board of Directors, and as a member of the Telecommunications Committee;

WHEREAS, Betty Ann Kane, during her tenure as PSC Chairman, served on the Nominating Committee, and the Virtual Working Group on Education Training and Best Practices for the International Confederation of Energy Regulators;

WHEREAS, Betty Ann Kane, during her tenure as PSC Chairman, served as Chairman and Treasurer of the National Regulatory Research Institute, which provides research to NARUC and its members, the utility regulatory commissions of the 50 states and the District of Columbia;

WHEREAS, Betty Ann Kane, during her tenure as PSC Chairman, served as Chairman of the Board for the Mid-Atlantic Conference of Regulatory Utilities Commissioners, an organization which promotes the region-wide advancement of public utility regulation and related regulatory, legislative, and policy interest of member state public utility commissions;

ENROLLED ORIGINAL

WHEREAS, Betty Ann Kane, during her tenure as PSC Chairman, was appointed by the Federal Communications Commission ("FCC") as Chairman of the North American Numbering Council, which advises the FCC and makes recommendations that foster efficient and impartial number administration; and was appointed to the Federal-State Joint Conference on Advanced Telecommunications Services, which ensures that advanced services are deployed as rapidly as possible to all Americans;

WHEREAS, Betty Ann Kane, during her tenure as PSC Chairman, has improved employee morale and motivated PSC employees by promoting continued professional development, through annual Employee Appreciation and Recognition Awards; authorization of the formation of staff unions, commission-wide meetings, and special workshops on teambuilding, ethics, equal employment opportunity, and sexual harassment;

WHEREAS, Betty Ann Kane, during her tenure as PSC Chairman, improved the commission's public engagement by increasing the quality of the commission's interactions with the general public, redesigning and streamlining the commission's website, enhancing transparency, increasing the commission's social media presence, and engaging with community leaders through the annual Winter Ready DC campaign;

WHEREAS, Betty Ann Kane, during her tenure as PSC Chairman, spearheaded the celebration of the Public Service Commission's Centennial with the release of a book that provides a historical review of the Commission's creation and changing role as well as the changing nature of the public utilities and services that the commission regulates and recognizes how the District's citizens continue to be an essential component to the regulatory work of the commission;

WHEREAS, Betty Ann Kane, during her tenure as PSC Chairman, served on the Mayor's Undergrounding Task Force;

WHEREAS, during Betty Ann Kane's tenure as PSC Chairman, the commission's office was relocated to 1325 G Street, N.W., Washington, D.C.;

WHEREAS, Betty Ann Kane, during her 11-year tenure as a PSC Commissioner and Chairman, the PSC issued more than 5,256 orders;

WHEREAS, Betty Ann Kane has received numerous honors and recognition for leadership in the community for public service, including Capitol Hill Kiwanis Woman of the Year, Washington Area Bicyclists Association, Common Cause, D.C. Hospital Association, Maryland Municipal League, Retired Police Officers Association, and the National Energy

ENROLLED ORIGINAL

Marketers Association's Lifetime Achievement Award;

WHEREAS, Betty Ann Kane, through her outstanding leadership and advocacy, has made a positive impact on the District of Columbia and its residents; and

WHEREAS, the District of Columbia recognizes and honors Betty Ann Kane whose life is a testament to over 44 years of outstanding contributions and invaluable service to the residents of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Betty Ann Kane Distinguished Service Recognition Resolution of 2019".

Sec. 2. The Council of the District of Columbia recognizes and honors Betty Ann Kane whose life is a testament to over 44 years of outstanding contributions and invaluable service to the residents of the District of Columbia.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-10

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To recognize the importance of public transportation in the District of Columbia, encourage the use of traveling by bus, and to declare February 4, 2019 as "Bus to Work Day" in the District of Columbia.

WHEREAS, thousands of District residents rely on public transit buses to provide safe, efficient, and dependable transportation to work, school, shopping centers, and various appointments each and every day;

WHEREAS, public transportation is an immediate way to conserve energy and support the environment by improved air quality, stimulation of local economies and business centers, and reduced road congestion;

WHEREAS, for every passenger mile traveled, public transportation is twice as fuel-efficient as private automobiles;

WHEREAS, buses emit 20% less carbon monoxide, 10% as much hydrocarbons, and 75% as much nitrogen oxides per passenger mile than an automobile with a single occupant;

WHEREAS, the National Safety Council estimates that riding the bus is over 170 times safer than automobile travel;

WHEREAS, traveling by bus is financially responsible, and saves on monthly expenses by cutting back on gas, car payments, insurance, and car maintenance;

WHEREAS, increased bus ridership will benefit the District by improved air quality, decreased congestion, cost and time savings, and increased social connections;

WHEREAS, "Bus to Work Day" encourages trips by transit, and promotes broader community sustainability and climate goals; and

ENROLLED ORIGINAL

WHEREAS, "Bus to Work Day" coincides with Transit Equity Day, a collaborative effort of several organizations and unions to promote public transit as a civil right and a strategy to combat climate change.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Bus to Work Day Recognition Resolution of 2019".

Sec. 2. The Council of the District of Columbia recognizes the importance of public transportation, encourages District residents and visitors to travel by bus, and declares February 4, 2019 as "Bus to Work Day" in the District of Columbia.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-11

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To recognize and honor Christianne Ricchi and Ristorante i Ricchi on the occasion of the celebration of Ristorante i Ricchi's 30th anniversary and to declare February 9, 2019, as "Ristorante i Ricchi Day" in the District of Columbia. .

WHEREAS, Christianne Ricchi was born in New York and went to Florence, Italy to study while in college in the 1970s, where she met Francesco Ricchi and the Ricchi family;

WHEREAS, after graduation, she returned and worked with Francesco to establish one of the most well-known restaurants outside of Florence;

WHEREAS, Christianne and Francesco came to the United States because they learned that Americans had begun to discover authentic Italian regional cuisine and they settled in the District of Columbia because it is an international city with highly educated and well-traveled people and there were no other Tuscan restaurants here at the time;

WHEREAS, Ristorante i Ricchi opened the same month George Herbert Walker Bush was inaugurated as President and has been in the Golden Triangle/Dupont neighborhood for 5 presidential administrations;

WHEREAS, on February 13, 1989, President Bush came to the restaurant for the first time when Ristorante i Ricchi had only been open for a month, but that visit propelled the restaurant to international fame;

WHEREAS, during Bill Clinton's inauguration as President, the restaurant was filled with celebrities from Oprah to Sidney Poitier, James Garner, Harry Belafonte, Mariah Carey, and many more;

WHEREAS, Ristorante i Ricchi specializes in regional cooking made from recipes handed down from generation to generation and the most well-known Tuscan dish is "Penne Strascicate" where the sauce simmers for 12 hours and is unlike anything else you have ever tasted;

ENROLLED ORIGINAL

WHEREAS, almost everything at the restaurant is done from scratch, from baking its own breads to making its own gelato and desserts daily, and all of the pastas are made in house as are all of the sauces;

WHEREAS, Ristorante i Ricchi works very hard to insure authenticity – right down to the art of making the perfect espresso or cappuccino; and

WHEREAS, Christianne Ricchi, along with a few other restaurant owners, started Restaurant Week in the District of Columbia in January 2002 to encourage people to dine out again following 9/11.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Ristorante i Ricchi 30th Anniversary Recognition Resolution of 2019".

Sec. 2. The Council of the District of Columbia recognizes and honors the many contributions of Christianne Ricchi and Ristorante i Ricchi to the citizens and city of Washington, D.C. and declares February 9, 2019, as "Ristorante i Ricchi Day" in the District of Columbia.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-12

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To commemorate the 20th Annual Washington, D.C. Gala Benefit, and honor the Alvin Ailey American Dance Theater for its incredible legacy.

WHEREAS, the Washington, D.C. Gala Benefit kicks off Alvin Ailey American Dance Theater's annual engagement at the John F. Kennedy Center for the Performing Arts;

WHEREAS, proceeds from the Washington, D.C. Gala Benefit support Ailey's Washington, D.C. programs, including the creation of new works, arts-in-education activities, and scholarships to talented young dance students in the Washington, D.C. area to attend The Ailey School in New York;

WHEREAS, the Alvin Ailey American Dance Theater, recognized by a U.S. congressional resolution as a vital American "Cultural Ambassador to the World," grew from a now fabled March 30, 1958 performance in New York that changed forever the perception of American dance;

WHEREAS, the Alvin Ailey American Dance Theater was founded by Alvin Ailey, posthumous recipient of the Presidential Medal of Freedom – the nation's highest civilian honor -- guided by Judith Jamison from 1989 to 2011, and the company is now led by Robert Battle, whom Judith Jamison chose to succeed her on July 1, 2011.

WHEREAS, the Alvin Ailey American Dance Theater has performed for an estimated 25 million people in 71 countries on 6 continents – as well as millions more through television broadcasts, film screenings, and online platforms - promoting the uniqueness of the African American cultural experience and the preservation and enrichment of the American modern dance tradition;

WHEREAS, in addition to being the Principal Dance Company of New York City Center, where its performances have become a year end tradition, the Ailey company performs annually at Lincoln Center for the Performing Arts, the John F. Kennedy Center for the

ENROLLED ORIGINAL

Performing Arts in Washington, D.C., the Auditorium Theatre in Chicago, the Adrienne Arsht Center for the Performing Arts of Miami Dade County in Miami, The Fox Theatre in Atlanta, Zellerbach Hall in Berkeley, California, and at the New Jersey Performing Arts Center in Newark (where it is the Principal Resident Affiliate), and appears frequently in other major theaters throughout the United States and the world during extensive yearly tours;

WHEREAS, the Alvin Ailey American Dance Theater embodies 6 decades of achievement, celebrating the human spirit with performances that unite and inspire all, and continues to move forward under the leadership of Robert Battle;

WHEREAS, the Alvin Ailey American Dance Theater marks its annual Washington, D.C. engagement from February 5-10, 2019 with 7 dynamic performances at the John F. Kennedy Center for the Performing Arts;

WHEREAS, the 2019 20th Annual Opening Night Gala Benefit Co-Chairs include Lyndon K. Boozer, Sela Thompson Collins, DeDe Lea, Ruth and Arne Sorenson, and Yelberton R. Watkins, and Gala Vice Chairs are Joyce Brayboy, Larry Duncan III, Kim Sheftall Humphries, Anthony A. Lewis, Tanya Leah Lombard, Vanessa Reed, Nicole Venable, and Katharine Weymouth; and

WHEREAS, the Washington, D.C. Gala Benefit will take place on February 5, 2019 at the John F. Kennedy Center for the Performing Arts.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “20th Annual Washington, D.C. Opening Night Gala Benefit Recognition Resolution of 2019”.

Sec. 2. The Council of the District of Columbia celebrates the Annual Washington, D.C. Gala Benefit on the occasion of its 20th anniversary and honors the Alvin Ailey American Dance Theater for its incredible legacy.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-13

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To recognize The Clash, a band from the United Kingdom, for its notable and important contributions to music, and to proclaim February 7, 2019, as "International Clash Day" in the District of Columbia.

WHEREAS, legendary United Kingdom band The Clash formed in 1976, establishing its unique sound combining punk with reggae, dub, funk, and ska, behind socially conscious lyrics;

WHEREAS, throughout its career, The Clash used the power of music to share messages of peace, unity, anti-imperialism, anti-racism, poverty awareness, and freedom of expression;

WHEREAS, The Clash chose to play The Ontario Theatre in Washington, D.C. on February 15, 1979, as the 6th show of its very first North American tour, and returned to The Lisner Auditorium on April 8, 1984, further endearing the band to a legion of fans that would go on to proclaim them "the only band that matters;"

WHEREAS, The Clash inspired socially conscious bands such as Bad Brains to form in order to advocate for disadvantaged people in their city;

WHEREAS, the Council of the District of Columbia affirms that this city is a Hate Free Zone, committed to a set of values including inclusivity, tolerance, diversity, and hope;

WHEREAS, the civically and globally minded District of Columbia wishes to join with other like-minded cities across the globe in celebrating International Clash Day; and

WHEREAS, the District of Columbia adheres to the belief in the immortal words of Joe Strummer: "People can change anything they want to, and that means everything in the world."

ENROLLED ORIGINAL

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "International Clash Day Recognition Resolution of 2019".

Sec. 2. The Council of the District of Columbia recognizes The Clash for its notable and important contributions to music and declares February 7, 2019, as "International Clash Day" in the District of Columbia.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-14

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To honor and acknowledge the Korean-American Grocers Association of Greater Washington, DC for its advocacy on behalf of Korean-American business owners in the District of Columbia, and for its commitment to expanding access to education for District youth.

WHEREAS, KAGRO International is a global organization dedicated in furthering the interests of the grocers and food distributors of Korean descent around the world;

WHEREAS, in 1987, 2 groups of grocers located in California and Philadelphia collaborated to form KAGRO in 1989;

WHEREAS, by 1991, 6 additional chapters in Atlanta, Baltimore, Dallas, New York, Seattle, and Washington D.C., were included within KAGRO;

WHEREAS, currently 29 chapters make up KAGRO International across the North American hemisphere, representing roughly 35,000 members, with purchasing revenue of roughly $30 billion;

WHEREAS, KAGRO assists Korean-American retailers in adaptation to American culture, lifestyle ,and business, and plays a vital role as an information exchange and clearinghouse on matters concerning business, legislation, and legal and regulatory issues essential to the successful operation of a retail enterprise;

WHEREAS, KAGRO has been involved in implementing programs for purchasing, distribution, import and export, and has provided research and development to its domestic and international membership;

WHEREAS, KAGRO serves to work towards the betterment of the Korean-American community as well as other communities in which KAGRO members conduct their business;

WHEREAS, the Korean-American Grocers Association of Greater Washington, DC (“KAGRO-DC”) is a charter chapter of National KAGRO and formerly known as the Korean-American Business Association;

ENROLLED ORIGINAL

WHEREAS, KAGRO-DC is an advocacy organization dedicated to furthering the interests of Korean American business owners in the District;

WHEREAS, KAGRO-DC was founded with the hope of creating a united information-sharing, problem-solving network;

WHEREAS, Korean Americans have contributed greatly to the social, economic, and political development of the District throughout its history and have added cultural vibrancy;

WHEREAS, countless residents of Korean heritage serve the District of Columbia in areas of public service, education, business, technology, healthcare, family services, the arts, and culture;

WHEREAS, KAGRO-DC holds an annual scholarship award banquet where it awards a financial scholarship to promising District high school seniors who have committed to attending college in the fall;

WHEREAS, since 1987, KAGRO-DC has awarded over $300,000 to more than 300 District students through the Annual Scholarship Award Banquet;

WHEREAS, on January 27, 2019, KAGRO-DC held its 30th Annual Scholarship Banquet at the Ukrainian Catholic National Shrine of the Holy Family; and

WHEREAS, under the leadership of its President, John Yoo, the Korean-American Grocers Association of Greater Washington, DC continues to be a valued community partner with the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Korean-American Grocers Association of Greater Washington, DC Recognition Resolution of 2019".

Sec. 2. The Council of the District of Columbia heartily congratulates and acknowledges the Korean-American Grocers Association of Greater Washington, DC for aiding in the distribution of goods and services, for its earnest advocacy on behalf of Korean-American business owners in the District, and for its commitment to expanding access to education for District youth.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-15

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To recognize the fourth Thursday in March of each year as Tuskegee Airmen Commemoration Day and to honor the more than 15,000 men and women involved in the "Tuskegee Experience," who were trained by the Army Air Corps to fly and maintain combat aircraft, and to serve as navigators, bombardiers, instructors, and support staff, each of whom, known collectively as the Tuskegee Airmen, played an essential role in keeping the planes in the air.

WHEREAS, before World War II, African Americans had very limited roles in the defense of our nation with none in military aviation;

WHEREAS, when the United States was drawn into World War II, African Americans were aspiring to more meaningful jobs in the military, including flying and maintaining aircraft;

WHEREAS, the rapid expansion of aircraft production during the war created a greater need for military pilots;

WHEREAS, the public outcry from diverse groups across the country exhorted the War Department to extend the opportunity to fly airplanes to all military members;

WHEREAS, the United States War Department's Civilian Pilot Training ("CPT ") Program authorized selected colleges, universities, and vocational schools around the country to provide training to civilians;

WHEREAS, Tuskegee Institute in Alabama was one of 6 historically black schools, along with Delaware State, Hampton Institute, Howard University, North Carolina A&T, and West Virginia State, chosen to participate in the CPT Program;

WHEREAS, Tuskegee Institute was selected to offer advanced CPT training, and finally was the sole site for segregated military flying training;

ENROLLED ORIGINAL

WHEREAS, Benjamin O. Davis, Jr., who was born in Washington, D.C., was a 1936 graduate of the U. S. Military Academy at West Point and a graduate in the first class of pilots from Tuskegee Army Flying School;

WHEREAS, Benjamin O. Davis, Jr., later became commander of the 99th Fighter Squadron, the 332nd Fighter Group, and subsequent Tuskegee Airmen units, and ultimately became the first African-American general in the United States Air Force;

WHEREAS, the outstanding performance of the Tuskegee Airmen was unprecedented in military aviation history;

WHEREAS, the month of March is a special month for the Tuskegee Airmen, as it is the month the first maintenance crews began training at Chanute Field, Illinois; the first aviation cadets received their wings; the first Pursuit Squadron, the 99th, was activated; and the month in which President George W. Bush presented the Tuskegee Airmen with the Congressional Gold Medal;

WHEREAS, many Tuskegee Airmen have lived and worked in the District and have made significant contributions to the city long after their WW II service;

WHEREAS, original Tuskegee Airmen who currently reside within the District of Columbia include (Private) Major Anderson, (Aviation Cadets) William Fauntroy and Walter Robinson, and (Twin engine pilot) John Curry; and

WHEREAS, other Tuskegee Airmen who have lived in the District before, during, or following their military careers, include Benjamin O. Davis, Jr., Harry Sheppard, James Hurd, Vance Marchbanks, Thomas Money, Ira O'Neal, William Campbell, James L. Hall, Jr., Lee Rayford, Andrew Turner, William T. Mattison, Curtis C. Robinson, Harold Martin, Sidat Singh, Albert Manning, Jr., Wiley Selden, Elmer D. Jones, Clarence D. Lester, Gordon T. Boyd, Jr., Woodrow W. Crockett, Alfred McKenzie, Philip Lee, and John Suggs.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Tuskegee Airmen Commemoration Day Recognition Resolution of 2019".

Sec. 2. The Council of the District of Columbia recognizes and honors the sacrifice, dedication, and commitment to service exhibited by the 15,000 Tuskegee Airmen and to their connections to the District of Columbia.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-16

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 5, 2019

To recognize and honor LaShada Ham-Campbell for her contributions and service in educating the youth and residents of Ward 5 and the District of Columbia.

WHEREAS, LaShada Ham-Campbell was born and raised in Ward 5 and is a lifelong resident of the District of Columbia;

WHEREAS, LaShada Ham-Campbell grew up on the 2900 block of 12th Street, N.E., and attended Brookland Elementary and Wilson High School, and graduated from Coolidge Senior High School with the class of 1994;

WHEREAS, LaShada Ham-Campbell attended and graduated from Howard University in 1998 with a Bachelor of Science, earned a Master's in Educational Psychology from Howard University in 2001, and earned a Master's of School Administration from Trinity Washington University;

WHEREAS, from 2002 until 2004, LaShada Ham-Campbell taught elementary school as a math specialist with Teach for America;

WHEREAS, LaShada Ham-Campbell worked for District of Columbia Public Schools as a 2nd grade teacher and math specialist;

WHEREAS, in 2005, LaShada Ham-Campbell became a Resident Principal and then Principal of Raymond Education Campus, from 2006 until 2010;

WHEREAS, LaShada Ham-Campbell became Principal of the Center City Public Charter School – Petworth Campus from 2011 until 2013;

WHEREAS, LaShada Ham-Campbell followed her passion for education by opening up Petit Scholars, located at 12th Street and Hamlin Street, N.E.;

ENROLLED ORIGINAL

WHEREAS, the location of her first Petit Scholars was the same location where the former store owner provided LaShada and her family credit to purchase food when her family did not have the means;

WHEREAS, Petit Scholars has expanded to 3 locations, all based in Ward 5, including: Petit Scholars South at the corner of 12th and Hamlin, N.E., Petit Scholars North, located at 10th Street, N.E., and the third, located along Rhode Island Avenue, Woodridge, N.E.;

WHEREAS, Petit Scholars strives to provide children with care, guidance, respect, and a beautiful environment; and

WHEREAS, Petit Scholars serves more than 60 families and continues to grow in size.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "LaShada Ham-Campbell Petit Scholars Recognition Resolution of 2019".

Sec. 2. The Council of the District of Columbia recognizes and honors LaShada Ham-Campbell, for her service and commitment to educating the youth of the District of Columbia.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

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

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

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

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

BILLS

B23-118 Debt Buying Limitation Amendment Act of 2019

Intro. 02 - 05 - 2019 by Councilmember Cheh and referred sequentially to the Committee on Business and Economic Development and the Committee of the Whole

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B23-119 Insurance Claims Consumer Protection Amendment Act of 2019

Intro. 02 - 05 - 2019 by Councilmember Cheh and referred to the Committee on Business and Economic Development

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B23-120 Center for Firearm Violence Prevention Research Establishment Act of 2019

Intro. 02 - 05 - 2019 by Councilmembers McDuffie, Evans, Cheh, R. White, Silverman, Allen, Nadeau, Grosso, and Bonds and referred to the Committee on Judiciary and Public Safety with comments from the Committee on Health

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B23-121 Housing Authority Board of Commissioners Qualifications and Expansion Amendment Act of 2019

Intro. 02 - 05 - 2019 by Councilmembers Bonds, Grosso, R. White, Silverman, and Evans and referred to the Committee on Housing and Neighborhood Revitalization

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B23-122 Cashless Retailers Prohibition Act of 2019

Intro. 02 - 05 - 2019 by Councilmembers Grosso, Nadeau, Gray, Bonds, T. White, and Chairman Mendelson and referred to the Committee of the Whole

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B23-123	Housing Production Trust Fund Transparency Amendment Act of 2019 Intro. 02 - 05 - 2019 by Councilmembers Silverman, R. White, Evans, Nadeau, Grosso, and Bonds and referred to the Committee on Housing and Neighborhood Revitalization
B23-124	Student Loan Authority Establishment Act of 2019 Intro. 02 - 05 - 2019 by Councilmembers Silverman, Cheh, Nadeau, R. White, Grosso, Bonds, Allen, Evans, and Gray and referred sequentially to the Committee on Education and the Committee of the Whole
B23-125	District of Columbia Housing Authority Amendment Act of 2019 Intro. 02 - 05 - 2019 by Councilmembers Nadeau, Silverman, Evans, Grosso, R. White, Allen, Todd, and Chairman Mendelson and referred to the Committee on Housing and Neighborhood Revitalization with comments from the Committee on Judiciary and Public Safety
B23-126	Improving Voter Registration for New Tenants and Homeowners Amendment Act of 2019 Intro. 02 - 05 - 2019 by Councilmembers Allen, Nadeau, Bonds, Evans, and R. White and referred to the Committee on Judiciary and Public Safety
B23-127	Second Look Amendment Act of 2019 Intro. 02 - 05 - 2019 by Councilmembers Allen, Evans, McDuffie, R. White, Bonds, Cheh, Grosso, and Nadeau and referred to the Committee on Judiciary and Public Safety
B23-128	District Wounded Warrior Parking Permit Act of 2019 Intro. 02 - 05 - 2019 by Councilmembers Todd, Grosso, R. White, Nadeau, Silverman, and Bonds and referred to the Committee on Transportation and the Environment
B23-129	Veteran Retirement Income Tax Exclusion Amendment Act of 2019 Intro. 02 - 05 - 2019 by Councilmembers Todd, Cheh, Grosso, and R. White and referred to the Committee on Finance and Revenue
B23-130	District of Columbia Office of Resilience Establishment Act of 2019 Intro. 02 - 05 - 2019 by Councilmembers Todd, Evans, Cheh, and Nadeau and referred to the Committee on Government Operations with comments from the Committee on Transportation and the Environment
B23-131	Ward 7 and Ward 8 Restaurant Incentive Program Establishment Act of 2019 Intro. 02 - 05 - 2019 by Councilmembers T. White and Gray and referred to the Committee on Business and Economic Development

B23-132	Indoor Mold Remediation Enforcement Amendment Act of 2019 Intro. 02 - 05 - 2019 by Chairman Mendelson and Councilmembers R. White, Evans, McDuffie, T. White, Bonds, Nadeau, Todd, Allen, and Grosso and referred sequentially to the Committee on Transportation and the Environment and the Committee of the Whole
B23-133	Supporting Essential Workers Unemployment Insurance Amendment Act of 2019 Intro. 02 - 05 - 2019 by Chairman Mendelson and Councilmember Silverman and referred to the Committee on Labor and Workforce Development
B23-134	Community Harassment Prevention Amendment Act of 2019 Intro. 02 - 06 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
B23-135	Power Line Undergrounding Program Certified Business Enterprise Utilization Amendment Act of 2019 Intro. 02 - 06 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
B23-136	District's Opportunity to Purchase Amendment Act of 2019 Intro. 02 - 07 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Neighborhood Revitalization

PROPOSED RESOLUTIONS

PR23-94	Sense of the Council Supporting the National Cherry Blossom Festival Resolution of 2019 Intro. 02 - 05 - 2019 by Councilmembers Evans, Todd, R. White, Nadeau, Gray, Silverman, Cheh, Grosso, Allen, McDuffie, Bonds, T. White, and Chairman Mendelson and Retained by the Council
PR23-95	Maternal Mortality Review Committee Dr. Connie Bohon Confirmation Resolution of 2019 Intro. 02 - 06 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
PR23-96	Maternal Mortality Review Committee Roberta Bell Confirmation Resolution of 2019 Intro. 02 - 06 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety

PR23-97	Maternal Mortality Review Committee Donna Anthony Confirmation Resolution of 2019 Intro. 02 - 06 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
PR23-98	Maternal Mortality Review Committee Kristin Atkins Confirmation Resolution of 2019 Intro. 02 - 06 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
PR23-99	Maternal Mortality Review Committee Dr. Rita Calabro Confirmation Resolution of 2019 Intro. 02 - 06 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
PR23-100	Maternal Mortality Review Committee Dr. Christine Colie Confirmation Resolution of 2019 Intro. 02 - 06 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
PR23-101	Maternal Mortality Review Committee Janeen Cross Confirmation Resolution of 2019 Intro. 02 - 06 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
PR23-102	Maternal Mortality Review Committee Courtney Edwards Confirmation Resolution of 2019 Intro. 02 - 06 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
PR23-103	Maternal Mortality Review Committee Shakira Franklyn Confirmation Resolution of 2019 Intro. 02 - 06 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
PR23-104	Maternal Mortality Review Committee Karen George Confirmation Resolution of 2019 Intro. 02 - 06 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
PR23-105	Maternal Mortality Review Committee Dr. Melissa Fries Confirmation Resolution of 2019 Intro. 02 - 06 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
PR23-106	Maternal Mortality Review Committee Iman Newsome Confirmation Resolution of 2019 Intro. 02 - 06 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety

PR23-107	Maternal Mortality Review Committee Aza Nedhari Confirmation Resolution of 2019 Intro. 02 - 06 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
PR23-108	Maternal Mortality Review Committee Dr. Jamila Perritt Confirmation Resolution of 2019 Intro. 02 - 06 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
PR23-109	Maternal Mortality Review Committee Evette Herandez Confirmation Resolution of 2019 Intro. 02 - 06 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
PR23-110	Maternal Mortality Review Committee Christina Marea Confirmation Resolution of 2019 Intro. 02 - 06 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
PR23-111	Maternal Mortality Review Committee Ebony Marcelle Confirmation Resolution of 2019 Intro. 02 - 06 - 2019 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety

COUNCIL OF THE DISTRICT OF COLUMBIA
ABBREVIATED NOTICE OF PUBLIC HEARINGS
AGENCY PERFORMANCE OVERSIGHT HEARINGS
FISCAL YEAR 2018-2019

2/12/2019

SUMMARY

February 4, 2019	Committee of the Whole Public Briefing on the Fiscal Year 2018 Comprehensive Annual Financial Report (CAFR) at 1:30 p.m. in Room 500
February 6, 2019 to March 1, 2019	Agency Performance Oversight Hearings on Fiscal Year 2018-2019

The Council of the District of Columbia hereby gives notice of its intention to hold public oversight hearings on agency performances for FY 2018 and FY 2019. The hearings will begin Wednesday, February 6, 2019 and conclude on Friday, March 1, 2019 and will take place in the Council Chamber (Room 500), Room 412, Room 123, and Room 120 of the John A. Wilson Building; 1350 Pennsylvania Avenue, N.W.; Washington, DC 20004.

Persons wishing to testify are encouraged, but not required, to submit written testimony in advance of each hearing to the committee at which you are testifying. If a written statement cannot be provided prior to the day of the hearing, please have at least 10 copies of your written statement available on the day of the hearing for immediate distribution to the Council. Unless otherwise stated by the Committee, the hearing record will close two business days following the conclusion of each respective hearing. Persons submitting written statements for the record should observe this deadline. For more information about the Council's budget performance oversight hearing schedule, please contact the committee of interest.

ADDENDUM OF CHANGES TO THE PUBLIC HEARING SCHEDULE

New Date	*Original Date*	*Hearing*
2/7/2019	2/21/2019	Office of Partnerships & Grants (Government Operations; Room 500; 11:00 a.m.)
2/14/2019	2/14/2019	Committee on Government Operations; Room 120; Time change from 10:00 a.m to 1:00 p.m.
2/14/2019	2/14/2019	Committee on Labor & Workforce Development; Room 123; Time change from 10:00 a.m. to 1:00 p.m.
2/15/2019	2/15/2019	Committee on the Judiciary & Public Safety; Room 123; Time change from 9:30 a.m. to 10:30 a.m.
2/20/2019	2/11/2019	Committee on Recreation and Youth Affairs; Room 123; 11:00 a.m.
2/21/2019	2/14/2019	Serve DC (Government Operations; Room 123; 11:00 a.m.)
2/21/2019	2/25/2019	Metropolitan Washington Council of Governments (COW; Room 123; 9:30 a.m.)
2/22/2019	2/12/2019	Committee on Recreation and Youth Affairs; Room 123; 11:00 a.m.
2/26/2019	2/20/2019	Committee on Business & Economic Development; Room 120; 2:00 p.m.
2/26/2019	2/26/2019	District of Columbia Public Schools (Education & COW; Room 500; Time change from 10:00 a.m. to 12:00 p.m.)
2/26/2019	2/26/2019	Committee on Housing and Neighborhood Revitalizaton; Room 500; Time Change from 11:00 a.m. to 1:00 p.m.
2/26/2019	2/26/2019	Committee on Transportation and the Environment; Room 120; Time Change from 11:00 a.m. to 10:00 a.m.

PUBLIC HEARING SCHEDULE

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

MONDAY, FEBRUARY 4, 2019; COUNCIL CHAMBER (Room 500)	
Time	**Subject**
1:30 p.m. - End	Committee of the Whole Public Briefing on the Fiscal Year 2018 Comprehensive Annual Financial Report (CAFR)

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Charles Allen**

WEDNESDAY, FEBRUARY 6, 2019; COUNCIL CHAMBER (Room 500)	
Time	**Agency**
9:30 a.m. - 4:00 p.m.	Office of Victim Services and Justice Grants
	Office of the Chief Medical Examiner
	Office of Unified Communications

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON HEALTH **Chairperson Vincent Gray**

WEDNESDAY, FEBRUARY 6, 2019; Room 412	
Time	**Agency**
10:00 a.m. - End	Deputy Mayor for Health and Human Services
	Department of Health Care Finance
	United Medical Center
	United Medical Center Board

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Malcolm Cameron (mcameron@dccouncil.us) or by calling 202-654-6179.

COMMITTEE ON GOVERNMENT OPERATIONS **Chairperson Brandon Todd**

THURSDAY, FEBRUARY 7, 2019; COUNCIL CHAMBER (Room 500)	
Time	**Agency**
11:00 a.m. - End	Executive Office of the Mayor
	Mayor's Office of Legal Counsel
	Office of the City Administrator
	Office of the Senior Advisor
	Secretary of the District of Columbia
	Office of Partnerships and Grants

Persons wishing to testify about the performance of any of the foregoing agencies may email: governmentoperations@dccouncil.us or by calling 202-724-6663.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Charles Allen**

THURSDAY, FEBRUARY 7, 2019; Room 412	
Time	**Agency**
9:30 a.m. - 4:00 p.m.	Criminal Justice Coordinating Council
	Office of Police Complaints
	Metropolitan Police Department

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION **Chairperson Anita Bonds**

THURSDAY, FEBRUARY 7, 2019; Room 123	
Time	**Agency**
10:00 a.m. - End	Real Estate Commission
	Board of Real Estate Appraisers
	Rental Housing Commission
	Housing Finance Agency
	Office of the Tenant Advocate
	Condominium Association Advisory Council

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Oscar Montiel (omontiel@dccouncil.us) or by calling 202-724-8198.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Charles Allen**

FRIDAY, FEBRUARY 8, 2019; COUNCIL CHAMBER (Room 500)	
Time	**Agency**
11:00 a.m. - 5:00 p.m.	District of Columbia Sentencing Commission
	Criminal Code Reform Commission
	Deputy Mayor for Public Safety and Justice
	Office of Neighborhood Safety and Engagement

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON HEALTH **Chairperson Vincent Gray**

FRIDAY, FEBRUARY 8, 2019; Room 412	
Time	**Agency**
10:00 a.m. - End	Department of Health

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Malcolm Cameron (mcameron@dccouncil.us) or by calling 202-654-6179.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Charles Allen**

MONDAY, FEBRUARY 11, 2019; Room 412	
Time	**Agency**
12:00 p.m. - End	Fire and Emergency Medical Services Department
	Office of the Attorney General

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON HEALTH **Chairperson Vincent Gray**

TUESDAY, FEBRUARY 12, 2019; COUNCIL CHAMBER (Room 500)	
Time	**Agency**
10:00 a.m. - End	Department of Behavioral Health

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Malcolm Cameron (mcameron@dccouncil.us or by calling 202-654-6179.

COMMITTEE ON EDUCATION **Chairperson David Grosso**

TUESDAY, FEBRUARY 12, 2019; Room 412	
Time	**Agency**
11:00 a.m. - End	State Board of Education
	Office of the Ombudsman
	Office of the Student Advocate

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: http://bit.do/educationhearings or by calling 202-724-8061.

COMMITTEE ON FINANCE & REVENUE **Chairperson Jack Evans**

WEDNESDAY, FEBRUARY 13, 2019; COUNCIL CHAMBER (Room 500)	
Time	**Agency**
10:00 a.m. - End	Washington Metropolitan Area Transit Authority

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Sarina Loy (sloy@dccouncil.us) or by calling 202-724-8058.

COMMITTEE ON GOVERNMENT OPERATIONS **Chairperson Brandon Todd**

WEDNESDAY, FEBRUARY 13, 2019; Room 412	
Time	**Agency**
10:00 a.m. - End	Office on Women's Policy and Initiatives
	Office of Veterans' Affairs
	Office of Lesbian, Gay, Bisexual, Transgender & Questioning Affairs

Persons wishing to testify about the performance of any of the foregoing agencies may email: governmentoperations@dccouncil.us or by calling 202-724-6663.

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT **Chairperson Kenyan McDuffie**

WEDNESDAY, FEBRUARY 13, 2019; Room 123	
Time	**Agency**
10:00 a.m. - End	Department of Small and Local Business Development
	Department of Insurance, Securities and Banking
	Department of For-Hire Vehicles
	For-Hire Vehicle Advisory Council

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Chanell Autrey (cautrey@dccouncil.us) or by calling 202-724-8053.

COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION **Chairperson Anita Bonds**

THURSDAY, FEBRUARY 14, 2019; COUNCIL CHAMBER (Room 500)	
Time	**Agency**
9:30 a.m. - End	District of Columbia Office on Aging
	Commission on Aging
	Age Friendly DC Task Force

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Oscar Montiel (omontiel@dccouncil.us) or by calling 202-724-8198.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT **Chairperson Mary Cheh**

THURDAY, FEBRUARY 14, 2019; Room 412	
Time	**Agency**
11:00 a.m. - End	Commission on Climate Change and Resiliency
	Department of Energy and the Environment

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Aukima Benjamin (abenjamin@dccouncil.us) or by calling 202-724-8062.

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT **Chairperson Elissa Silverman**

THURSDAY, FEBRUARY 14, 2019; Room 123	
Time	**Agency**
1:00 p.m. - End	Office of Employee Appeals
	Public Employees Relations Board

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Charnisa Royster (croyster@dccouncil.us) or by calling 202-724-7772.

COMMITTEE ON GOVERNMENT OPERATIONS **Chairperson Brandon Todd**

THURSDAY, FEBRUARY 14, 2019; Room 120	
Time	**Agency**
1:00 p.m. - End	Office on African Affairs
	Office of African American Affairs
	Office of Asian and Pacific Islander Affairs
	Office of Latino Affairs

Persons wishing to testify about the performance of any of the foregoing agencies may email: governmentoperations@dccouncil.us or by calling 202-724-6663.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT **Chairperson Mary Cheh**

FRIDAY, FEBRUARY 15, 2019; Room 412	
Time	**Agency**
11:00 a.m. - End	Food Policy Council
	Department of Public Works

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Aukima Benjamin (abenjamin@dccouncil.us) or by calling 202-724-8062.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Charles Allen**

FRIDAY, FEBRUARY 15, 2019; Room 123	
Time	**Agency**
10:30 a.m. - End	Judicial Nomination Commission
	Commission on Judicial Disabilities and Tenure
	District of Columbia National Guard
	Homeland Security and Emergency Management Agency

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

JOINT HEARING WITH COMMITTEE ON EDUCATION & **Chairperson David Grosso**
COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

FRIDAY, FEBRUARY 15, 2019; Room 120	
Time	**Agency**
10:00 a.m. - End	Deputy Mayor for Education
	District of Columbia Public Charter School Board

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: http://bit.do/educationhearings or by calling 202-724-8061.

COMMITTEE ON RECREATION AND YOUTH AFFAIRS **Chairperson Trayon White, Jr.**

TUESDAY, FEBRUARY 19, 2019; COUNCIL CHAMBER (Room 500)	
Time	**Agency**
1:00 p.m. - End	Department of Youth Rehabilitation Services
	Juvenile Abscondence

Persons wishing to testify about the performance of any of the foregoing agencies may email: Nate Fleming (nfleming@dccouncil.us) or by calling 202-727-7903.

COMMITTEE ON HEALTH **Chairperson Vincent Gray**

TUESDAY, FEBRUARY 19, 2019; Room 123	
Time	**Agency**
1:30 p.m. - End	District of Columbia Health Benefit Exchange Authority

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Malcolm Cameron (mcameron@dccouncil.us) or by calling 202-654-6179.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY — Chairperson Charles Allen

TUESDAY, FEBRUARY 19, 2019; Room 120	
Time	**Agency**
1:00 p.m. - End	Board of Elections
	Office of Campaign Finance
	Board of Ethics and Government Accountability

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON FACILITIES AND PROCUREMENT — Chairperson Robert C. White, Jr.

WEDNESDAY, FEBRUARY 20, 2019; COUNCIL CHAMBER (Room 500)	
Time	**Agency**
10:00 a.m. - End	Office of Advisory Neighborhood Commission

Persons wishing to testify about the performance of any of the foregoing agencies may email: facilities@dccouncil.us or by calling 202-741-8593.

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT — Chairperson Elissa Silverman

WEDNESDAY, FEBRUARY 20, 2019; Room 412	
Time	**Agency**
10:00 a.m. - End	Office of Human Resources
	Office of Labor Relations and Collective Bargaining

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Charnisa Royster (croyster@dccouncil.us) or by calling 202-724-8835.

COMMITTEE ON RECREATION AND YOUTH AFFAIRS — Chairperson Trayon White, Jr.

WEDNESDAY, FEBRUARY 20, 2019; Room 123	
Time	**Agency**
11:00 a.m. - End	Deputy Mayor for Greater Economic Opportunity
	Commission on Fathers, Men, and Boys

Persons wishing to testify about the performance of any of the foregoing agencies may email: Nate Fleming (nfleming@dccouncil.us) or by calling 202-727-7903.

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT — Chairperson Kenyan McDuffie

WEDNESDAY, FEBRUARY 20, 2019; Room 120	
Time	**Agency**
10:00 a.m. - End	Public Service Commission
	Office of the People's Counsel
	Office of Cable Television, Film, Music and Entertainment
	Alcoholic Beverage Regulation Administration

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Chanell Autrey (cautrey@dccouncil.us) or by calling 202-724-8053.

COMMITTEE ON HUMAN SERVICES — Chairperson Brianne Nadeau

THURSDAY, FEBRUARY 21, 2019; COUNCIL CHAMBER (Room 500)	
Time	**Agency**
10:00 a.m. - End	Department of Disability Services
	Office of Disability Rights

Persons wishing to testify about the performance of any of the foregoing agencies may email: humanservices@dccouncil.us or by calling 202-724-8170.

JOINT HEARING WITH COMMITTEE ON EDUCATION & COMMITTEE OF THE WHOLE — Chairperson David Grosso, Chairman Phil Mendelson

THURSDAY, FEBRUARY 21, 2019; Room 412	
Time	**Agency**
9:30 a.m. - 10:00 a.m.	Metropolitan Washington Council of Governments
10:00 a.m. - End	Office of the State Superintendent

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: http://bit.do/educationhearings or by calling 202-724-8061.

COMMITTEE OF GOVERNMENT OPERATIONS Chairperson Brandon Todd

THURSDAY, FEBRUARY 21, 2019; Room 123	
Time	Agency
11:00 a.m. - End	Office of Nightlife and Culture
	Office of Public-Private Partnerships
	Serve DC

Persons wishing to testify about the performance of any of the foregoing agencies may email: governmentoperations@dccouncil.us or by calling 202-724-6663.

COMMITTEE ON FACILITIES AND PROCUREMENT Chairperson Robert C. White, Jr.

THURSDAY, FEBRUARY 21, 2019; Room 120	
Time	Agency
10:00 a.m. - End	Office of Returning Citizen Affairs
	Commission on Re-Entry and Returning Citizen Affairs

Persons wishing to testify about the performance of any of the foregoing agencies may email: facilities@dccouncil.us or by calling 202-741-8593.

COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION Chairperson Anita Bonds

FRIDAY, FEBRUARY 22, 2019; COUNCIL CHAMBER (Room 500)	
Time	Agency
3:00 p.m. - End	District of Columbia Housing Authority

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Oscar Montiel (omontiel@dccouncil.us) or by calling 202-724-8198.

COMMITTEE ON FINANCE & REVENUE Chairperson Jack Evans

FRIDAY, FEBRUARY 22, 2019; Room 412	
Time	Agency
10:00 a.m. - End	Commission on the Arts and Humanities

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Sarina Loy (sloy@dccouncil.us) or by calling 202-724-8058.

COMMITTEE ON RECREATION AND YOUTH AFFAIRS Chairperson Trayon White, Jr.

MONDAY, FEBRUARY 22, 2019; Room 123	
Time	Agency
11:00 a.m. - End	Department of Parks and Recreation

Persons wishing to testify about the performance of any of the foregoing agencies may email: Nate Fleming (nfleming@dccouncil.us) or by calling 202-727-7903.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT Chairperson Mary Cheh

MONDAY, FEBRUARY 25, 2019; COUNCIL CHAMBER (Room 500)	
Time	Agency
11:00 a.m. - End	Bicycle Advisory Council
	Pedestrian Advisory Council
	District Department of Transportation

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Aukima Benjamin (abenjamin@dccouncil.us) or by calling 202-724-8062.

COMMITTEE ON FINANCE & REVENUE Chairperson Jack Evans

MONDAY, FEBRUARY 25, 2019; Room 412	
Time	Agency
10:00 a.m. - End	Real Property Tax Appeals Commission
	DC Lottery
	Office of the Chief Financial Officer

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Sarina Loy (sloy@dccouncil.us) or by calling 202-724-8058.

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

MONDAY, FEBRUARY 25, 2019; Room 123	
Time	**Agency**
10:30 a.m. - End	New Columbia Statehood Commission
	Metropolitan Washington Airports Authority
	District of Columbia Auditor
	Office of Budget and Planning
	District Retiree Health Contribution
	District of Columbia Retirement Board/Funds

Persons wishing to testify about the performance of any of the foregoing agencies may email: cow@dccouncil.us or by calling 202-724-8196.

COMMITTEE ON EDUCATION **Chairperson David Grosso**

MONDAY, FEBRUARY 25, 2019; Room 120	
Time	**Agency**
11:30 a.m. - End	District of Columbia Public Library

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: http://bit.do/educationhearings or by calling 202-724-8061.

JOINT HEARING WITH COMMITTEE ON EDUCATION & COMMITTEE OF THE WHOLE **Chairperson David Grosso** **Chairman Phil Mendelson**

TUESDAY, FEBRUARY 26, 2019; COUNCIL CHAMBER (Room 500)	
Time	**Agency**
12:00 p.m. - End	District of Columbia Public Schools

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: http://bit.do/educationhearings or by calling 202-724-8061.

COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION **Chairperson Anita Bonds**

TUESDAY, FEBRUARY 26, 2019; Room 412	
Time	**Agency**
1:00 p.m. - End	Department of Housing and Community Development **(Public Witnesses Only)**
	Housing Production Trust Fund **(Public Witnesses Only)**

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Oscar Montiel (omontiel@dccouncil.us) or by calling 202-724-8198.

COMMITTEE ON HUMAN SERVICES **Chairperson Brianne Nadeau**

TUESDAY, FEBRUARY 26, 2019; Room 123	
Time	**Agency**
11:00 a.m. - End	Child and Family Services Agency

Persons wishing to testify about the performance of any of the foregoing agencies may email: humanservices@dccouncil.us or by calling 202-724-8170.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT **Chairperson Mary Cheh**

TUESDAY, FEBRUARY 26, 2019; Room 120	
Time	**Agency**
10:00 a.m. - End	DC Water
	Washington Aqueduct

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Aukima Benjamin (abenjamin@dccouncil.us) or by calling 202-724-8062.

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT **Chairperson Kenyan McDuffie**

TUESDAY, FEBRUARY 26, 2019; Room 120	
Time	**Agency**
2:00 p.m. - End	Public Service Commission
	Office of the People's Counsel
	Office of Cable Television, Film, Music and Entertainment
	Alcoholic Beverage Regulation Administration

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Chanell Autrey (cautrey@dccouncil.us) or by calling 202-724-8053.

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT **Chairperson Kenyan McDuffie**

WEDNESDAY, FEBRUARY 27, 2019; COUNCIL CHAMBER (Room 500)	
Time	**Agency**
10:00 a.m. - End	Deputy Mayor for Planning and Economic Development

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Chanell Autrey (cautrey@dccouncil.us) or by calling 202-724-8053.

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

WEDNESDAY, FEBRUARY 27, 2019; Room 412	
Time	**Agency**
10:00 a.m. - End	Department of Consumer and Regulatory Affairs

Persons wishing to testify about the performance of any of the foregoing agencies may email: cow@dccouncil.us or by calling 202-724-8196.

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT **Chairperson Elissa Silverman**

WEDNESDAY, FEBRUARY 27, 2019; Room 123	
Time	**Agency**
10:00 a.m. - End	Department of Employment Services **(Public Witnesses Only)**
	Workforce Investment Council **(Public Witnesses Only)**

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Charnisa Royster (croyster@dccouncil.us) or by calling 202-724-7772.

COMMITTEE ON FACILITIES AND PROCUREMENT **Chairperson Robert C. White, Jr.**

WEDNESDAY, FEBRUARY 27, 2019; Room 120	
Time	**Agency**
10:00 a.m. - End	Office of Contracting and Procurement
	Contract Appeals Board

Persons wishing to testify about the performance of any of the foregoing agencies may email: facilities@dccouncil.us or by calling 202-741-8593.

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

THURSDAY, FEBRUARY 28, 2019; COUNCIL CHAMBER (Room 500)	
Time	**Agency**
10:00 a.m. - End	University of the District of Columbia
	Office of Zoning
	Office of Planning

Persons wishing to testify about the performance of any of the foregoing agencies may email: cow@dccouncil.us or by calling 202-724-8196.

COMMITTEE ON FACILITIES AND PROCUREMENT **Chairperson Robert C. White, Jr.**

THURSDAY, FEBRUARY 28, 2019; Room 412	
Time	**Agency**
10:00 a.m. - End	Department of General Services

Persons wishing to testify about the performance of any of the foregoing agencies may email: facilities@dccouncil.us or by calling 202-741-8593.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT **Chairperson Mary Cheh**

THURSDAY, FEBRUARY 28, 2019; Room 123	
Time	**Agency**
11:00 a.m. - End	Department of Motor Vehicles

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Aukima Benjamin (abenjamin@dccouncil.us) or by calling 202-724-8062.

COMMITTEE ON GOVERNMENT OPERATIONS **Chairperson Brandon Todd**

THURSDAY, FEBRUARY 28, 2019; Room 120	
Time	**Agency**
10:00 a.m.	Office of Administrative Hearings
	Office of the Inspector General
2:00 p.m.	Office of the Chief Technology Officer
	Office of Human Rights
	Office of Risk Management

Persons wishing to testify about the performance of any of the foregoing agencies may email: governmentoperations@dccouncil.us or by calling 202-724-6663.

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT **Chairperson Elissa Silverman**

FRIDAY, MARCH 1, 2019; COUNCIL CHAMBER; Room 500	
Time	**Agency**
10:00 a.m. - End	Department of Employment Services **(Government Witnesses Only)**
	Workforce Investment Council **(Government Witnesses Only)**

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Charnisa Royster (croyster@dccouncil.us) or by calling 202-724-7772.

JOINT HEARING WITH COMMITTEE ON HUMAN SERVICES AND COMMITTEE ON HOUSING AND NEIGHBORHOOD REVITALIZATION — **Chairperson Brianne Nadeau**, **Chairperson Anita Bonds**

FRIDAY, MARCH 1, 2019; Room 412	
Time	**Agency**
10:00 a.m. - End	Department of Human Services
	Interagency Council on Homelessness

Persons wishing to testify about the performance of any of the foregoing agencies may email: humanservices@dccouncil.us or by calling 202-724-8170.

COMMITTEE ON FINANCE & REVENUE — **Chairperson Jack Evans**

FRIDAY, MARCH 1, 2019; Room 123	
Time	**Agency**
9:30 a.m. - 12:00 p.m.	Events DC
	Destination DC

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Sarina Loy (sloy@dccouncil.us) or by calling 202-724-8058.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY — **Chairperson Charles Allen**

FRIDAY, MARCH 1, 2019; Room 123	
Time	**Agency**
1:00 p.m. - End	Department of Forensic Sciences
	Department of Corrections
	Corrections Information Council

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION — **Chairperson Anita Bonds**

FRIDAY, MARCH 1, 2019; Room 120	
Time	**Agency**
12:00 p.m. - End	Department of Housing and Community Development **(Government Witnesses Only)**
	Housing Production Trust Fund **(Government Witnesses Only)**

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Oscar Montiel (omontiel@dccouncil.us) or by calling 202-724-8198.

Council of the District of Columbia
Committee on Finance and Revenue
Notice of Public Roundtable
John A. Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004

COUNCILMEMBER JACK EVANS, CHAIR
COMMITTEE ON FINANCE AND REVENUE

ANNOUNCES A PUBLIC ROUNDTABLE ON:

PR 23-74, the "Commission on the Arts and Humanities Derek Younger Confirmation Resolution of 2019"

Friday, February 22, 2019
9:30 a.m.
Room 412 - John A. Wilson Building
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public roundtable to be held on Friday, February 22, 2019 at 9:30 a.m. in Room 412, of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

PR 23-74, the "Commission on the Arts and Humanities Derek Younger Confirmation Resolution of 2019" would confirm the appointment of Derek Younger as a member of the Commission on the Arts and Humanities, to serve a term ending June 30, 2022.

The Committee invites the public to testify at the roundtable. Those who wish to testify should contact Sarina Loy, Committee Assistant at (202) 724-8058 or sloy@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization by 9:30 a.m. on Thursday, February 21, 2019. Witnesses should bring 15 copies of their written testimony to the roundtable. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to sloy@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004.

COUNCIL OF THE DISTRICT OF COLUMBIA
EXCEPTED SERVICE APPOINTMENTS AS OF JANUARY 31, 2019

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
Barrera Gomez, Mayra	Administrative Assistant	2	Excepted Service - Reg Appt
Whitehouse, Katherine	Legislative Assistant	6	Excepted Service - Reg Appt
Williams, Dexter	Legislative Assistant	5	Excepted Service - Reg Appt
Suri, Kirti	Legislative Assistant	5	Excepted Service - Reg Appt
Jackson, Tracey	Legislative Director	6	Excepted Service - Reg Appt

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Grant Budget Modifications

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

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

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

GBM 23-10: FY 2019 Grant Budget Modifications of January 22, 2019

RECEIVED: 14-day review begins February 8, 2019

GBM 23-11: FY 2019 Grant Budget Modifications of January 24, 2019

RECEIVED: 14-day review begins February 8, 2019

GBM 23-12: FY 2019 Grant Budget Modifications of January 30, 2019

RECEIVED: 14-day review begins February 8, 2019

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	February 15, 2019
Protest Petition Deadline:	April 1, 2019
Roll Call Hearing Date:	April 15, 2019
Protest Hearing Date:	June 12, 2019

License No.:	ABRA-112748
Licensee:	Yegna Restaurant and Lounge, Inc.
Trade Name:	Asefu's Palace
License Class:	Retailer's Class "C" Tavern
Address:	1920 9th Street, N.W., Basement Level
Contact:	Asefu Alemayehu: (202) 421-5868

WARD 1 ANC 1B SMD 1B02

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on April 15, 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 **June 12, 2019 at 4:30 p.m.**

NATURE OF OPERATION

A new C Tavern with a seating capacity of 38, and a Total Occupancy Load of 38. The license will include an Entertainment Endorsement, Dancing and Cover Charge.

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

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

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: February 15, 2019
Protest Petition Deadline: April 1, 2019
Roll Call Hearing Date: April 15, 2019

License No.: ABRA-106193
Licensee: Contreras, Inc.
Trade Name: Barrilito Bar and Restaurant
License Class: Retailer's Class "C" Restaurant
Address: 3911 14th Street, N.W.
Contact: Maria Martinez: (202) 413-0634

WARD 4 ANC 4C SMD 4C05

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 April 15, 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 an Entertainment Endorsement with a Dance Floor and Cover Charge to provide live entertainment inside only.

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

PROPOSED HOURS OF LIVE ENTERTAINMENT INSIDE PREMISES
Sunday through Saturday 8pm – 2am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: February 15, 2019
Protest Petition Deadline: April 1, 2019
Roll Call Hearing Date: April 15, 2019
Protest Hearing Date: June 12, 2019

License No.: ABRA-112530
Licensee: Cre8tive Capacity, LLC
Trade Name: Pop Social
License Class: Retailer's Class "C" Tavern
Address: 470 L'Enfant Plaza, S.W.
Contact: Tendani Mpulubusi: (202) 817-9144

WARD 6 ANC 6D SMD 6D01

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on April 15, 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 **June 12, 2019 at 1:30 p.m.**

NATURE OF OPERATION
A new Tavern that showcases art, cultural and private events. Seating Capacity of 120. Total Occupancy Load of 141. The license will include an Entertainment Endorsement, Dancing and Cover Charge.

HOURS OF OPERATION, HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION, AND HOURS OF LIVE ENTERTAINMENT
Sunday through Thursday 8am – 2am, Friday and Saturday 8am – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: February 15, 2019
Protest Petition Deadline: April 1, 2019
Roll Call Hearing Date: April 15, 2019
Protest Hearing Date: June 12, 2019

License No.: ABRA-112478
Licensee: Metropolitan Management, LLC
Trade Name: TBD
License Class: Retailer's Class "C" Restaurant
Address: 2300 Wisconsin Avenue, N.W.
Contact: Micheline Lovink: (202) 415-8863

WARD 3 ANC 3B SMD 3B02

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 April 15, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **June 12, 2019 at 1:30pm.**

NATURE OF OPERATION
New Class "C" Restaurant serving light American food and heavy hors d'oeuvres. Total Occupancy Load of 100 with seating for 50. Summer Garden with 50 seats.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES AND FOR SUMMER GARDEN
Sunday 4pm – 12am, Monday and Tuesday 4pm – 11pm, Wednesday and Thursday 4pm – 12am and Friday and Saturday 4pm – 1am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Placard Posting Date:	February 1, 2019
Protest Petition Deadline:	March 18, 2019
Roll Call Hearing Date:	April 1, 2019
Protest Hearing Date:	May 22, 2019

License No.:	ABRA-112538
Licensee:	Wine with Friends, LLC
Trade Name:	Wine with Friends
License Class:	Retailer's Class "A" Internet
Address:	4221 Connecticut Avenue, N.W., Rear Access
Contact:	Andrea Stover: **(202) 469-4506

WARD 3 ANC 3F SMD 3F02

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 April 1, 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 **May 22, 2019 at 4:30 p.m.**

NATURE OF OPERATION

New Class AI retailer selling beer, wine, and spirits online for off-premises consumption. This location will not be open to the public.

HOURS OF OPERATION/ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 7am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date: February 1, 2019
Protest Petition Deadline: March 18, 2019
Roll Call Hearing Date: April 1, 2019
Protest Hearing Date: May 22, 2019

License No.: ABRA-112538
Licensee: Wine with Friends, LLC
Trade Name: Wine with Friends
License Class: Retailer's Class "A" Internet
Address: 4221 Connecticut Avenue, N.W., Rear Access
Contact: Andrea Stover: **(808) 384-5186

WARD 3 ANC 3F SMD 3F02

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 April 1, 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 **May 22, 2019 at 4:30 p.m.**

NATURE OF OPERATION
New Class AI retailer selling beer, wine, and spirits online for off-premises consumption. This location will not be open to the public.

HOURS OF OPERATION/ALCOHOLIC BEVERAGE SALES
Sunday through Saturday 7am – 12am

BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, APRIL 10, 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

19952
ANC 1B

Application of Atlantic Residential A, LLC., pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle C § 1500.3(c), to permit a rooftop bar and lounge in the penthouse of the existing mixed use building in the MU-10 Zone at premises 2112 8th Street N.W. (Square 2875, Lot 1109).

WARD ONE

19953
ANC 1B

Application of Atlantic Residential C, LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the penthouse requirements Subtitle C § 1500.3(c), to permit a rooftop bar and lounge use in an existing mixed-use building in the MU-10 Zone at premises 945 Florida Avenue N.W. (Square 2873, Lot 799).

WARD ONE

19955
ANC 1B

Application of Atlantic Residential C, LLC, pursuant to 11 DCMR 3104.1, for a special exception under §2204.13 from the loading requirements of §§2204.8, 2204.9 and 2204.10, to permit flexible/non-loading use of three of the existing loading docks in an existing mixed-use building in the MU-10 Zone at premises 945 Florida Avenue N.W. (Square 2873, Lot 799).

WARD SEVEN

19962
ANC 7D

Application of District Properties.com, pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the lot dimension requirements of Subtitle D § 302.1, the side yard requirements of Subtitle D §§ 307.1 and 307.4, to construct a new detached principal dwelling in the R-2 Zone at premises 917 43rd Place N.E. (Square 5096, Lot 20).

WARD SEVEN

19963
ANC 7C

Application of District Properties.com, pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the lot dimension requirements of Subtitle D § 302.1, and the side yard requirements of Subtitle D § 307.1, to construct a new detached principal dwelling unit in the R-2 Zone at the premises at 5705 Eads Street N.E. (Square 5228, Lot 19).

WARD FIVE

19967
ANC 5C

Application of District Properties.com, pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the lot dimension requirements of Subtitle D § 302.1, and the side yard requirements of Subtitle D § 307.1, to construct a new detached principal dwelling unit in the R-1-B Zone at the premises at 2429 Girard Place, N.E. (Parcel 155/9).

WARD SEVEN

19968
ANC 7F

Application of District Properties.com, pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the lot dimension requirements of Subtitle D § 302.1, and the side yard requirements of Subtitle D § 307.1, to construct a new detached principal dwelling unit in the R-2 Zone at the premises at 4461 B Street S.E. (Square 5351, Lot 62).

WARD EIGHT

19971
ANC 8D

Application of GRID Alternatives Mid-Atlantic for the District of Columbia, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the use provisions of Subtitle U §§ 420.1(a) and 203.1(p), to permit the installation of a community solar facility in the RA-1 Zone at premises South Capitol Street, S.E. (Square 6274, Lots 800, 801, 802).

BZA PUBLIC HEARING NOTICE
APRIL 10, 2019
PAGE NO. 3

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
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።

Chinese
您需要有人帮助参加活动吗？
如果您需要特殊便利设施或语言协助服务（翻译或口译），请在见面之前提前五天与 Zee Hill 联系，电话号码 (202) 727-0312，电子邮件
Zelalem.Hill@dc.gov。这些是免费提供的服务。

French
Avez-vous besoin d'assistance pour pouvoir participer ? Si vous avez besoin d'aménagements spéciaux ou d'une aide linguistique (traduction ou interprétation), veuillez contacter Zee Hill au

(202) 727-0312 ou à Zelalem.Hill@dc.gov cinq jours avant la réunion. Ces services vous seront fournis gratuitement.

Korean
참여하시는데 도움이 필요하세요?
특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면, 회의 5일 전에 Zee Hill 씨께 (202) 727-0312로 전화 하시거나 Zelalem.Hill@dc.gov 로 이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

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

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

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

FREDERICK L. HILL, CHAIRPERSON
LESYLLEÉ M. WHITE, MEMBER
LORNA L. JOHN, MEMBER
CARLTON HART, VICE-CHAIRPERSON,
NATIONAL CAPITAL PLANNING COMMISSION
A PARTICIPATING MEMBER OF THE ZONING COMMISSION
CLIFFORD W. MOY, SECRETARY TO THE BZA
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING

TIME AND PLACE: **Thursday, April 4, 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. 06-10D (The Morris and Gwendolyn Cafritz Foundation – First-Stage PUD Modification and Second Stage-PUD @ Square 3765, Lots 1-4 & 7-9 and Square 3767, Lots 2-4 [generally bound by Kennedy Street, N.E., South Dakota Avenue, N.E., a 20-foot public alley running parallel to South Dakota Avenue, N.E., and Ingraham Street, N.E.])

THIS CASE IS OF INTEREST TO ANCs 5A AND 4B

On September 4, 2018, the Office of Zoning received an application from The Morris and Gwendolyn Cafritz Foundation (the "Applicant"). The Applicant is requesting review and approval of a second-stage planned unit development and modification of the first-stage order in Z.C. Case No. 06-10D pursuant to Subtitle X, Chapter 3 and Subtitle Z, Chapter 3 for the construction of a mixed use approximately 270 residential units (30 residential units will be reserved for development containing artists) with amenity space and artist studio space, and a cultural, arts, retail and entertainment building known as the "Family Entertainment Zone."

The property that is the subject of this application consists of a lot area of approximately 214,269 square feet and is formally designated as Square 3765, Lots 1-4 and 7-9, Square 3767, Lots 2-4, 4th Street, N.E. between Ingraham Street, N.E. and Kennedy Street, N.E. to be closed and a parallel 16-foot alley running between Kennedy Street, N.E. and Ingraham Street, N.E. to be closed (collectively, "Block B"). Block B is currently occupied by multi-family residential apartment buildings that are part of the Riggs Plaza Apartments complex. The subject property is generally bound by Kennedy Street, N.E., South Dakota Avenue, N.E., a 20-foot public alley running parallel to South Dakota Avenue, N.E., and Ingraham Street, N.E. The Applicant is requested zoning flexibility from the rear yard requirement of Subtitle G § 405 for a portion of the west residential building.

This application proposes to redevelop Block B with (i) a west residential building consisting of two residential towers of 80 feet in height and containing a total of approximately 180 units, connecting by an amenity terrace at the second level of the building, (ii) an east residential building of approximately five stories in height and containing approximately 90 residential units, including 30 artist units, and (iii) a mixed use Family Entertainment Zone building, which will contain approximately 77,000 square feet of gross floor area for the Meow Wolf arts collective, approximately 30,000 square feet of gross floor area for Explore! Children's Museum, approximately 95,000 square feet for cultural uses and gala space, approximately 24,500 square

feet for grocery store use, and approximately 87,000 square feet of retail uses. The west residential building will have a maximum height of 80 feet. The east residential building B will have a maximum height of 72 feet. The Family Entertainment Zone building will have a maximum height of 77.5 feet. The overall FAR for Block B is 2.73 and Block B will include approximately 930 parking spaces.

The Office of Planning provided its report on November 9, 2018 and the case was set down for hearing on November 19, 2018. The Applicant provided its prehearing statement on January 25, 2019.

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.

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: https://app.dcoz.dc.gov/Help/Forms.html.** This form may also be obtained from the Office of Zoning at the address stated below.

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

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

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

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

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

Written statements, in lieu of oral testimony, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at https://app.dcoz.dc.gov/Login.aspx; however, written statements may also be submitted by mail to 441 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 A. SHAPIRO, AND MICHAEL G. TURNBULL -------- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

Do you need assistance to participate? If you need special accommodations or need language assistance services (translation or interpretation), please contact Zee Hill at (202) 727-0312 or Zelalem.Hill@dc.gov five days in advance of the meeting. These services will be provided free of charge.

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

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

참여하시는데 도움이 필요하세요? 특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면, 회의 5일 전에 Zee Hill 씨께 (202) 727-0312 로 전화 하시거나 Zelalem.Hill@dc.gov 로 이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

您需要有人帮助参加活动吗？如果您需要特殊便利设施或语言协助服务（翻译或口译），请在见面之前提前五天与 Zee Hill 联系，电话号码 (202) 727-0312, 电子邮件 Zelalem.Hill@dc.gov 这些是免费提供的服务。

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

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።

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF FINAL RULEMAKING

The Interim Director of the Department of Behavioral Health (DBH), as the successor-in-interest to the Department of Mental Health, pursuant to the authority set forth in Sections 5113, 5117(10) and (13), and 5118 *et seq.* of the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-0061; D.C. Official Code §§ 7-1141.02, 7-1141.06(10) and (13), and 7-1141.07 (2018 Repl.)), and Sections 104(8) and 114(5)(A) of the Mental Health Service Delivery Reform Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code §§ 7-1131.04(8) and 7-1131.14(5)(A) (2018 Repl.)) (the "Act"), hereby gives notice of the adoption of amendments to Chapter 35 (Department of Mental Health (DMH) Infractions) of Title 16 (Consumers, Commercial Practices, and Civil Infractions) of the District of Columbia Municipal Regulations (DCMR).

This Notice of Final Rulemaking revises the existing infraction regulation for Mental Health Community Residence Facilities (MHCRFs) to conform to the new MHCRF licensing regulation in Chapter 38 of Title 22-A DCMR. In order to maintain accountability of this provider network and ensure resident health and safety, the Department needs to maintain the right to issue Notices of Infractions and fines for regulatory violations. The proposed regulation consolidates the current four (4) classes of infractions into three (3) classes, and reorders and renumbers the infractions to conform to the new Chapter 38 requirements.

A Notice of Proposed Rulemaking was published on March 23, 2018 in the *D.C. Register* at 65 DCR 002974 for a thirty (30) day public comment period. The public comment period expired on April 22, 2018. DBH received no public comments and no changes were made to the rule as proposed in the proposed rulemaking. On March 21, 2018, an Emergency Rulemaking was adopted and published in the *D.C. Register* at 65 DCR 5826 (May 25, 2018). It expired on September 17, 2018.

These final rules were adopted on February 7, 2019, and shall become effective upon publication of this notice in the *D.C. Register*.

Chapter 35, DEPARTMENT OF MENTAL HEALTH (DMH) INFRACTIONS, of Title 16 DCMR, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, is amended as follows:

Chapter 35 is renamed DEPARTMENT OF BEHAVIORAL HEALTH (DBH) INFRACTIONS.

Section 3501, COMMUNITY RESIDENCE FACILITY INFRACTIONS, is amended to read as follows:

3501 MENTAL HEALTH COMMUNITY RESIDENCE FACILITY INFRACTIONS

3501.1 Violation of the following provisions shall be a Class 1 infraction:

(a) 22-A DCMR § 3801.1 (operating a MHCRF without proper licensure);

(b) 22-A DCMR § 3803.1 through § 3803.5 (failure to grant Department or designee right of entry or access to facility records and personnel);

(c) 22-A DCMR §§ 3811.3 and 3811.4 (failure to correct deficiencies as directed by the Department);

(d) 22-A DCMR § 3826.8 (failure to operate effective pest control program, application of pesticides or traps on resident bedding);

(e) 22-A DCMR §§ 3829.1 through 3829.7 (failure to comply with plumbing and water supply requirements);

(f) 22-A DCMR § 3831.2 (placement of sleeping facilities near furnace, space heater, water heater or gas meter);

(g) 22-A DCMR §§ 3833.1 through 3833.19 (failure to comply with fire safety requirements);

(h) 22-A DCMR §§ 3834.1 through 3834.32 (failure to comply with dietary services requirements);

(i) 22-A DCMR §§ 3835.1 through 3835.5 (failure to comply with therapeutic diet requirements);

(j) 22-A DCMR §§ 3838.1 through 3838.9 (failure to comply with resident finances requirements);

(k) 22-A DCMR §§ 3839.1 through 3839.10 (failure to comply with medication requirements);

(l) 22-A DCMR §§ 3845.1 through 3845.4 (failure to comply with restraint and seclusion prohibitions);

(m) 22-A DCMR §§ 3852.1 through 3852.5 (failure to comply with staffing requirements);

(n) 22-A DCMR §§ 3853.1 through 3853.2 (failure to comply with operator and residence director responsibilities); and

(o) 22-A DCMR §§ 3861.1 through 3861.15 (failure to comply with transfer, discharge and relocation requirements).

3501.2 Violation of the following provisions shall be a Class 2 infraction:

(a) 22-A DCMR §§ 3810.1 and 3810.2 (failure to comply with applicable law or inspections);

(b) 22-A DCMR §§ 3810.3 and 3810.4 (failure to submit Major Unusual Incident report);

(c) 22-A DCMR §§ 3810.5 and 3810.7 (failure to correct deficiencies or comply with statement of deficiency process);

(d) 22-A DCMR §§ 3810.9 and 3810.10 (failure to remove staff member subject to abuse or neglect complaint);

(e) 22-A DCMR § 3810.12 (failure to maintain records);

(f) 22-A DCMR §§ 3810.14 through 3810.16 (failure to comply with emergency move requirements);

(g) 22-A DCMR §§ 3822.1 through 3822.7 (failure to comply with insurance requirements);

(h) 22-A DCMR §§ 3823.1 through 3823.34 (failure to comply with resident's rights and responsibilities requirements);

(i) 22-A DCMR §§ 3825.1 through 3825.10 (failure to comply with general eligibility and admission requirements);

(j) 22-A DCMR §§ 3826.1 through 3826.25, not including 3826.8 (failure to comply with environmental requirements)

(k) 22-A DCMR §§ 3827.1 through 3827.4 (failure to comply with structural and maintenance requirements);

(l) 22-A DCMR §§ 3828.1 through 3828.5 (failure to comply with lighting and ventilation requirements);

(m) 22-A DCMR §§ 3830.1 through 3830.6 (failure to comply with heating and cooling requirements);

(n) 22-A DCMR §§ 3831.1, 3831.3 through 3831.7 (failure to comply with bedroom requirements);

(o) 22-A DCMR §§ 3832.1 through 3832.5 (failure to comply with bathing and toilet facilities requirements);

(p) 22-A DCMR §§ 3836.1 through 3836.9 (failure to comply with housekeeping and laundry services);

(q) 22-A DCMR §§ 3837.1 through 3837.8 (failure to comply with personal property of residents requirements);

(r) 22-A DCMR §§ 3840.1 through 3840.8 (failure to comply with medical services requirements);

(s) 22-A DCMR §§ 3841.1 through 3841.5 (failure to comply with resident activities requirements);

(t) 22-A DCMR §§ 3842.1 through 3842.2 (failure to assist residents to receive mental health services);

(u) 22-A DCMR §§ 3843.1 through 3843.5 (failure to coordinate with core services agencies);

(v) 22-A DCMR §§ 3844.1 through 3844.4 (failure to comply with individual recovery plan requirements);

(w) 22-A DCMR §§ 3846.1 through 3846.6 (failure to comply with resident's records requirements);

(x) 22-A DCMR §§ 3847.1 through 3847.3 (failure to comply with confidentiality of records requirements);

(y) 22-A DCMR §§ 3848.1 through 3848.6 (failure to comply with major unusual incident reporting requirements);

(z) 22-A DCMR §§ 3850.1 through 3850.14 (failure to comply with minimum qualifications for persons working in MHCRF requirements);

(aa) 22-A DCMR §§ 3851.1 through 3851.2 (failure to comply with qualifications applicable to operators and residence directors);

(bb) 22-A DCMR §§ 3854.1 through 3854.5 (failure to comply with personnel records requirements);

(cc) 22-A DCMR §§ 3855.1 through 3855.7 (failure to comply with financial records requirements);

(dd) 22-A DCMR §§ 3857.1 through 3857.8 (failure to comply with supported residence requirements);

(ee) 22-A DCMR §§ 3858.1 through 3858.14 (failure to comply with supported rehabilitative residence requirements);

(ff) 22-A DCMR §§ 3859.1 through 3859.13 (failure to comply with intensive residence requirements); and

(gg) 22-A DCMR §§ 3860.1 through 3860.10 (failure to comply with transitional residential beds requirements).

3501.3 Violation of the following provisions shall be a Class 3 infraction:

(a) 22-A DCMR §§ 3824.1 through 3824.4 (failure to comply with residency contract requirements); and

(b) 22-A DCMR §§ 3849.1 through 3849.5 (failure to comply with resident status procedure requirements).

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF PROPOSED RULEMAKING

Stormwater Management and Soil Erosion and Sediment Control Amendments

The Director of the Department of Energy and Environment, under the authority set forth in the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code §§ 8-151.01 *et seq.* (2013 Repl. & 2018 Supp.)); Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code §§ 8-103.01 *et seq.* (2013 Repl. & 2018 Supp.)); and Mayor's Order 2006-61, dated June 14, 2006, hereby gives notice of the intent to adopt the following amendments to Chapter 5 (Water Quality and Pollution) of Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR) in not less than forty-five (45) days from the date of publication of this notice in the *D.C. Register*.

In the five and a half years since the finalization of the 2013 Rule on Stormwater Management and Soil Erosion and Sediment Control (2013 Stormwater Rule), the Department of Energy and Environment (DOEE) has learned from its implementation of the regulations. The 2013 Stormwater Rule has achieved its intended objectives, setting the District on a long-term path to reducing stormwater runoff so District streams and rivers can once again become fishable and swimmable without inhibiting the development that provides valuable benefits to the District. Over seven hundred (700) projects have been successfully designed in compliance with the regulations, designing runoff-reducing green infrastructure that will capture stormwater from more than 770 acres of the District, while the annual average number of development projects has increased by approximately twenty percent (20%).

Though the regulations have generally achieved DOEE's intent, compliance has been a disproportionate burden for certain types of projects. DOEE's primary regulatory focus in developing the 2013 Stormwater Rule was on development, meaning relatively large new and renovated buildings and parking lots. For these projects, the cost to design and install runoff-reducing green infrastructure is small relative to the total project cost. However, for projects with a relatively low total project cost, the cost to achieve stormwater compliance can be relatively high. This includes affordable housing projects building single- and two-family houses, as well as projects to install or maintain playing fields, trails for walking and biking, and landscaping maintenance. DOEE recognizes that many of these projects primarily consist of pervious area that produces less runoff than impervious surfaces, and that stormwater management is enhanced by the maintenance of healthy vegetation. DOEE also recognizes that these projects provide a public benefit and does not want to create disincentives to completing them. The proposed rulemaking provides compliance flexibility and exemptions to these projects for which compliance with the 2013 Stormwater Rule is a disproportionate burden.

The proposed rulemaking also includes amendments to the Stormwater Retention Credit (SRC) program. DOEE proposes changes to encourage more SRC generation in the Municipal Separate Storm Sewer system (MS4), which maximizes benefits to the District. DOEE proposes that projects in certain locations served by the combined sewer system may use MS4-generated SRCs

for more than fifty percent (50%) of the regulatory requirement. DOEE also proposes that in certain circumstances, the use of SRCs be limited to MS4-generated SRCs. Additionally, as required by the District's Municipal Separate Storm Sewer System (MS4) Permit issued on May 23, 2018, DOEE proposes to limit SRC eligibility for projects that were built prior to July 1, 2013.

The proposed rulemaking also includes annual inflation adjustments to fees, updates to reflect current Department processes, and other changes. A full explanation of the proposed changes is available on the Department's website at doee.dc.gov/service/2019SWRegs.

Chapter 5, WATER QUALITY AND POLLUTION, of Title 21 DCMR, WATER AND SANITATION, is amended as follows:

Section 500, GENERAL PROVISIONS, is amended as follows:

By adding a new Subsection 500.10 to read as follows:

500.10 Except as otherwise provided in this chapter, all submittals to the Department shall be made through the Department's submittal database, which is available on the Department's website from any device with an internet connection. Computers are also available for use by the public at the Department of Consumer and Regulatory Affairs. Instructions for submittal of any printed plans required by this chapter will be provided on the Department's website or through the Department's submittal database.

Section 501, FEES, is amended as follows:

Subsection 501.2 is amended to read as follows:

501.2 An applicant shall pay a supplemental review fee for each Department review after the review for the first resubmission of a plan, and the fee shall be paid before a building permit may be issued, except that a supplemental review fee for a review specified for a design phase under the Maximum Extent Practicable (MEP) process described in the Department's Stormwater Management Guidebook (SWMG) shall not be required for a project or portion of a project entirely in the existing public right-of-way (PROW).

Subsection 501.3 is amended to read as follows:

501.3 An applicant for Department approval of a soil erosion and sediment control plan shall pay the fees in Table 1 for Department services at the indicated time, as applicable:

Table 1. Fees for Soil Erosion and Sediment Control Plan Review

Payment Type	Payment Requirement	Fees by Land Disturbance Type		
		Residential	All Other	
		≥ 50 ft^2 and < 500 ft^2	≥ 50ft^2 and < 5,000 ft^2	≥ 5,000 ft^2
Initial	Due upon filing for building permit	$53.96	$469.44	$1,154.70
Final	Due before building permit is issued			
• Clearing and grading > 5,000 ft^2		n/a		$0.16 per 100 ft^2
• Excavation base fee		n/a	$469.44	
• Excavation > 66 yd^3		$0.11 per yd^3		
• Filling > 66 yd^3		$0.11 per yd^3		
Supplemental	Due before building permit is issued	$107.92	$107.92	$1,079.16

Subsection 501.4 is amended to read as follows:

501.4 An applicant for Department approval of a Stormwater Management Plan (SWMP) shall pay the fees in Table 2 for Department services at the indicated time, as applicable:

Table 2. Fees for Stormwater Management Plan Review

Payment Type	Payment Requirement	Fees by Combined Area of Land Disturbance and Substantial Improvement Building Footprint	
		≥ 5,000 ft^2 and ≤ 10,000 ft^2	> 10,000 ft^2
Initial	Due upon filing for building permit	$3,561.24	$6,582.90
Final	Due before building permit is issued	$1,618.75	$2,589.99
Supplemental	Due before building permit is issued	$1,079.16	$2,158.33

Subsection 501.6 is amended to read as follows:

501.6 An applicant shall be required to pay the fees in Table 3 for review of a Stormwater Pollution Prevention Plan (SWPPP) only if the site is regulated under the Construction General Permit issued by Region III of the Environmental Protection Agency.

Table 3. Additional Fees

Review or Inspection Type	Fees by Combined Area of Land Disturbance and Substantial Improvement Building Footprint	
	≤ 10,000 ft^2	> 10,000 ft^2
Soil characteristics inquiry	$161.87	
Geotechnical report review	$75.54 per hour	

Pre-development review meeting	No charge for first hour $75.54 per additional hour	
After-hours inspection fee	$53.96 per hour	
Stormwater pollution plan review	$1,187.08	
Dewatering pollution reduction plan review	$1,187.08	$1,187.08
Application for relief from extraordinarily difficult site conditions	$539.58	$539.58

Subsection 501.7 is amended to read as follows:

501.7 An applicant for Department approval of a SWMP for a project being conducted solely to install a Best Management Practice (BMP) or land cover for Department certification of a Stormwater Retention Credit (SRC) shall pay the fees in Table 4 for Department services at the indicated time, as applicable, except that:

(a) A person who is paying a review fee in Table 2 for a major regulated project shall not be required to pay a review fee in Table 4 for the same project; and

(b) A person who has paid each applicable fee to the Department for its review of a SWMP shall not be required to pay a review fee in Table 4 for the same project:

Table 4. Fees for Review of Stormwater Management Plan to Certify Stormwater Retention Credits

Payment Type	**Payment Requirement**	**Fees by Combined Area of Land Disturbance and Substantial Improvement Building Footprint**	
		≤ 10,000 ft²	**> 10,000 ft²**
Initial	Due upon filing for building permit	$620.52	$917.29
Final	Due before building permit is issued	$134.90	$215.83
Supplemental	Due before building permit is issued	$539.58	

Subsection 501.9 is amended to read as follows:

501.9 A person who requires the Department's review of a proposed or as-built SWMP solely for the purpose of applying for a stormwater fee discount under this chapter shall not be required to pay a plan review fee to the Department for that project, except that a person who subsequently applies for SRC certification for the same project shall pay each applicable fee for initial and final plan review before the Department will consider the application for SRC certification.

Subsection 501.10 is amended to read as follows:

501.10 An applicant for Department approval of a Green Area Ratio plan shall pay the fees in Table 5 for Department services at the indicated time:

Table 5. Fees for Review of Green Area Ratio Plan

Payment Type	Payment Requirement	Fees by Combined Area of Land Disturbance and Substantial Improvement Building Footprint	
		≤ 10,000 ft²	> 10,000 ft²
Initial	Due upon filing for building permit	$620.52	$917.29
Final	Due before building permit is issued	$134.90	$215.83
Supplemental	For reviews after first resubmission	$539.58	

Subsection 501.11 is amended to read as follows:

501.11 The in-lieu fee shall be three dollars and seventy-eight cents ($3.78) per year for each gallon of Off-Site Retention Volume (Offv). In accordance with the court-approved consent decree, including court-approved modifications, for reducing Combined Sewer Overflows (CSOs) in the District of Columbia:

(a) In-lieu fees paid by regulated projects in drainage areas that are targeted for green infrastructure implementation under a court-approved consent decree will be used to fund construction of green infrastructure in those drainage areas; and

(b) In-lieu fees paid by regulated projects in combined sewersheds will not be used to fund projects in combined sewersheds controlled by Gray CSO Controls required by a court-approved consent decree.

Subsection 501.13 is amended to read as follows:

501.13 A person shall pay the fees in Table 6 for the indicated resource before receipt of the printed resource:

Table 6. Fees for Printed Resources

Paper Copies of Documents	Cost
District Standards and Specifications for Soil Erosion and Sediment Control	$53.96
District Stormwater Management Guidebook	$94.34
District Erosion and Sediment Control Standard Notes and Details (24 in x 36 in)	$26.98
District Erosion and Sediment Control Manual	$45.00
District Erosion and Sediment Control Handbook	$45.00

Section 517, STORMWATER MANAGEMENT: EXEMPTIONS, is amended as follows:

Subsection 517.2 is amended to read as follows:

517.2 A land-disturbing or substantial improvement activity shall be exempt from the requirements of §§ 520 (Stormwater Management: Performance Requirements For Major Land-Disturbing Activity), 522 (Stormwater Management: Performance Requirements For Major Substantial Improvement Activity), and 529 (Stormwater Management: Covenants and Easements) if the Department determines that the activity is conducted solely to install a best management practice or land cover that retains stormwater for one or more of the following purposes:

(a) To generate SRCs;

(b) To earn a stormwater fee discount under the provisions of this chapter;

(c) To voluntarily reduce stormwater runoff in a manner that would be eligible to either generate SRCs or a stormwater fee discount, even if the person conducting the activity does not intend to apply to either program;

(d) To provide for off-site retention through in-lieu fee payments;

(e) To comply with a Watershed Implementation Plan established under a Total Maximum Daily Load for the Chesapeake Bay; or

(f) To reduce Combined Sewer Overflows (CSOs) in compliance with a court-approved consent decree, including court-approved modifications, for reducing CSOs in the District, or in compliance with a National Pollutant Discharge Elimination System permit.

Subsection 517.6 is amended to read as follows:

517.6 A land-disturbing activity in the existing PROW is exempt from the requirements in § 520 (Performance Requirements for Major Land-Disturbing Activity) for maintaining post-development peak discharge rates.

A new Subsection 517.7 is added to read as follows:

517.7 For single-family or two-family houses constructed as affordable housing, the Department may approve a SWMP that does not achieve the stormwater management performance requirements of this chapter, provided that:

(a) All of the following conditions are satisfied:

(1) Land-disturbing activity on any single record lot or tax lot is less than five thousand square feet (5,000 ft^2);

(2) The applicant submits a request to the Department using the procedure for a request for relief from extraordinarily difficult site conditions, as described in § 526;

(3) The Department reviews the request using the same procedure by which the Department reviews and makes determinations for relief from extraordinarily difficult site conditions, as described in § 526; and

(4) The Department determines that the project takes all practicable steps to comply with the stormwater management performance requirements; and

(b) Within thirty (30) days of sale of the house that received SWMP approval pursuant to § 517.7, the purchaser shall provide proof to the Department that the purchaser's household income is no greater than eighty percent (80%) of Area Median Income. If the owner fails to provide proof, the Department may require full compliance with the stormwater management performance requirements.

A new Subsection 517.8 is added to read as follows:

517.8 The Department may exempt a land-disturbing activity from the stormwater management requirements of this chapter if the activity consists solely of constructing trails for pedestrians or non-motorized vehicles as follows:

(a) This exemption shall not apply to:

(1) Areas where the pre-project land cover is natural cover;

(2) Reconstruction of a roadway and its adjacent sidewalks; or

(3) A project that includes, or is part of a common plan of development with a project that includes, other activity that constitutes a major land disturbing activity or major substantial improvement activity independent of the trails;

(b) An applicant shall submit a request for this exemption with the application for review of a soil erosion and sediment control plan;

(c) In determining whether to grant this exemption, the Department may consider:

(1) The intended use of the trail;

(2) The size and location of the trail;

(3) The applicant's submittal;

(4) Other site-related information;

(5) An alternative design;

(6) The Department's SWMG;

(7) BMPs that comply with the requirements of this chapter; and

(8) Relevant scientific and technical literature, reports, guidance, and standards; and

(d) After considering a request for this exemption, the Department may:

(1) Require additional information;

(2) Grant the exemption;

(3) Grant the exemption, with conditions;

(4) Deny the exemption; or

(5) Deny the exemption in part.

A new Subsection 517.9 is added to read as follows:

517.9 The portion of a land-disturbing activity that consists of the installation or replacement of athletic playing fields, permeable athletic tracks, or permeable playground surfaces shall be exempt from the stormwater management requirements of this chapter, provided that:

(a) The pre-project land cover is compacted cover or impervious cover; and

(b) The athletic playing field, permeable athletic track, or permeable playground surface is located in a publicly accessible area.

A new Subsection 517.10 is added to read as follows:

517.10 The Department may exempt a land-disturbing activity at a publicly accessible park from the stormwater management requirements of this chapter if it consists solely of a pavilion, shed, dugout, or similar structure that does not include typical building infrastructure to support year-round use, as follows:

(a) This exemption shall not apply to areas that are natural land cover pre-project;

(b) An applicant shall submit a request for this exemption with the application for review of a soil erosion and sediment control plan;

(c) In determining whether to grant this exemption, the Department may consider:

(1) The intended use of the structure;

(2) The size and location of the structure for which the exemption is requested;

(3) Whether the project includes, or is part of a common plan of development with a project that includes, other activity that constitutes a major land disturbing activity or major substantial improvement activity;

(4) The applicant's submittal;

(5) Other site-related information;

(6) An alternative design;

(7) The Department's SWMG;

(8) BMPs that comply with the requirements of this chapter; and

(9) Relevant scientific and technical literature, reports, guidance, and standards; and

(d) After considering a request for this exemption, the Department may:

(1) Require additional information;

(2) Grant the exemption;

(3) Grant the exemption, with conditions;

(4) Deny the exemption; or

(5) Deny the exemption in part.

Section 518, STORMWATER MANAGEMENT: PLAN REVIEW PROCESS, is amended as follows:

Subsection 518.3 is amended to read as follows:

518.3 The owner of a site shall submit an initial application for the Department's approval of a major regulated project in accordance with § 500.10, including:

(a) One (1) electronic set of the SWMP, certified by a professional engineer licensed in the District of Columbia;

(b) Each supporting document specified in the Department's SWMG; and

(c) If requested by the Department, one (1) paper set of the SWMP, certified by a professional engineer licensed in the District of Columbia.

Subsection 518.8 is amended to read as follows:

518.8 After receiving notification that an application meets the requirements for the Department's approval, the applicant shall submit a final preconstruction application to the Department's submittal database in accordance with § 500.10, including:

(a) The complete electronic SWMP, certified by a professional engineer licensed in the District of Columbia; and

(b) Each supporting document specified in the Department's SWMG.

Subsection 518.9 is amended to read as follows:

518.9 After the applicant submits a final preconstruction application that meets the requirements for the Department's approval, the Department shall approve the plan electronically through the Department's submittal database.

Subsection 518.10 is amended to read as follows:

518.10 The Department shall provide the applicant with access to the approved plan in the Department's submittal database after the applicant submits proof to the Department:

(a) That the declaration of covenants and each applicable easement has been filed at the Recorder of Deeds; and

(b) That each applicable fee for Department services has been paid.

Subsection 518.11 is amended to read as follows:

518.11 The Department may provide the applicant with access to the approved plan in the Department's submittal database before the declaration of covenants is filed if:

(a) The Government of the District of Columbia has conditioned transfer of the property upon the successful acquisition of an approved SWMP or building permit; and

(b) The declaration is to be filed at closing.

Subsection 518.12 is amended to read as follows:

518.12 Within twenty-one (21) days of the Department's final construction inspection, the applicant shall submit an as-built package to the Department's submittal database, including:

(a) The complete as-built SWMP certified by a professional engineer licensed in the District of Columbia; and

(b) Each supporting document specified in the Department's SWMG.

Section 519, STORMWATER MANAGEMENT: PLAN, is amended as follows:

Subsection 519.9 is amended to read as follows:

519.9 A SWMP for a project shall be consistent with all other permitting submittals to the District.

Section 520, STORMWATER MANAGEMENT: PERFORMANCE REQUIREMENTS FOR MAJOR LAND-DISTURBING ACTIVITY, is amended as follows:

Subsection 520.3 is amended to read as follows:

520.3 A site that undergoes a major land-disturbing activity shall achieve retention of the rainfall from a 1.2 inch rainfall event, which is the ninetieth (90th) percentile rainfall event for the District of Columbia, measured for a twenty-four (24)-hour rainfall event with a seventy-two (72)-hour antecedent dry period by:

(a) Employing each BMP necessary to retain the 1.2 inch Stormwater Retention Volume (SWRv), calculated as follows:

$$SWRv = P \times [(Rv_I \times I) + (Rv_C \times C) + (Rv_N \times N)] \times 7.48 / 12$$

SWRv	=	volume, in gallons, required to be retained
P	=	90th percentile rainfall event for the District (1.2 inches)
Rv_I	=	0.95 (runoff coefficient for impervious cover)
Rv_C	=	0.25 (runoff coefficient for compacted cover)
Rv_N	=	0.00 (runoff coefficient for natural cover)
I	=	post-development site area in impervious cover
C	=	post-development site area in compacted cover
N	=	post-development site area in natural cover

where the surface area under a BMP shall be calculated as part of the impervious cover (I);

(b) Employing each post-development land cover factored into the SWRv; and

(c) Calculating separately and achieving the SWRv, with P equal to 1.2 inches, for the portion of land-disturbing activity that is in the existing PROW, in compliance with the section of this chapter pertaining to performance requirements in the existing PROW.

Subsection 520.4 is amended to read as follows:

520.4 A site that undergoes a major land-disturbing activity may achieve the 1.2 inch SWRv on-site or through a combination of on-site retention and off-site retention, under the following conditions:

(a) The site shall retain on-site a minimum of fifty percent (50%) of the 1.2 inch SWRv, calculated for the entire site, unless:

(1) The Department approves an application for relief from extraordinarily difficult site conditions; or

(2) The site drains into the combined sewer system (CSS) from a drainage area that is not targeted for green infrastructure implementation under a court-approved consent decree, as determined using the tools available in the Department’s submittal database; and

(b) The site shall use off-site retention for the portion of the SWRv that is not retained on-site.

Subsection 520.5 is amended to read as follows:

520.5 A site that undergoes a major land-disturbing activity may achieve on-site retention by retaining more than the 1.2 inch SWRv for an area of the site, subject to the following conditions:

(a) Unless a Site Drainage Area (SDA) drains into the CSS or the Department approves an application for relief from extraordinarily difficult site conditions, at least fifty percent (50%) of the 1.2 inch SWRv from the SDA shall be:

(1) Retained; or

(2) Treated to remove eighty percent (80%) of total suspended solids;

(b) Unless an SDA drains into the CSS or the Department approves an application for relief from extraordinarily difficult site conditions, the entirety of an area intended for use or storage of motor vehicles shall drain to each necessary BMP so that at least fifty percent (50%) of the 1.2 inch SWRv flowing from that entire area is retained or treated;

(c) Retention in excess of a 1.2 inch SWRv for one area of the site may be applied to the volume required for another area of the site;

(d) Unless the Department approves an application for relief from extraordinarily difficult site conditions, the requirement for retention of a minimum of fifty percent (50%) of the 1.2 inch SWRv for the entire site shall be achieved; and

(e) Retention of volume greater than that from a 1.7 inch rainfall event, calculated using the SWRv equation as stated in § 520.3(a) with a P equal to 1.7 inches, shall not be counted toward on-site retention.

Section 521, STORMWATER MANAGEMENT: PERFORMANCE REQUIREMENTS FOR MAJOR LAND-DISTURBING ACTIVITY CONSISTING OF BRIDGE, ROADWAY, AND STREETSCAPE PROJECTS IN THE EXISTING PUBLIC RIGHT OF WAY, is amended as follows:

Subsection 521.6 is amended to read as follows:

521.6 A major regulated project in the existing PROW may achieve on-site retention by retaining more than the 1.2 inch SWRv for an area of the site or for an area that drains to the site, subject to the following conditions:

(a) Unless an SDA drains into the CSS or the Department approves an application for relief from extraordinarily difficult site conditions, at least fifty percent (50%) of the 1.2 inch SWRv from the SDA shall be:

(1) Retained; or

(2) Treated to remove eighty percent (80%) of total suspended solids to the MEP;

(b) Unless an SDA drains into the CSS or the Department approves an application for relief from extraordinarily difficult site conditions, the entirety of an area intended for use or storage of motor vehicles shall drain to each necessary BMP so that at least fifty percent (50%) of the 1.2 inch SWRv flowing from that entire area is retained or treated to the MEP;

(c) Retention in excess of a 1.2 inch SWRv for one area of the site or an area that drains to the site may be applied to the volume required for another area of the site;

(d) The requirement for retention of a minimum of fifty percent (50%) of the 1.2 inch SWRv for the entire site shall be achieved, unless the project achieves retention of the SWRv to the MEP;

(e) Any site that achieves less than fifty percent (50%) of the SWRv on-site shall use off-site retention generated outside the CSS, unless the project achieves retention of the SWRv to the MEP; and

(f) Retention of volume greater than that from a 1.7 inch rainfall event, calculated using the SWRv equation with a P equal to 1.7 inches, shall not be counted toward on-site retention.

Section 522, STORMWATER MANAGEMENT: PERFORMANCE REQUIREMENTS FOR MAJOR SUBSTANTIAL IMPROVEMENT ACTIVITY, is amended as follows:

Subsection 522.1 is amended to read as follows:

522.1 If land disturbance associated with a major substantial improvement activity constitutes a major land disturbing activity, or is part of a common plan of development with a major land disturbing activity, then it shall comply with the performance requirements for a major land disturbing activity; otherwise it shall comply with the provisions of this section.

Subsection 522.4 is amended to read as follows:

522.4 A site that undergoes a major substantial improvement activity shall achieve retention of the rainfall from a 0.8 inch rainfall event, which is the eightieth (80th) percentile rainfall event for the District of Columbia, measured for a twenty-four (24)-hour storm with a seventy-two (72)-hour antecedent dry period by:

(a) Employing each BMP necessary to retain the 0.8 inch SWRv, calculated as follows:

$$SWRv = P \times [(Rv_I \times I) + (Rv_C \times C) + (Rv_N \times N)]] \times 7.48 / 12$$

SWRv	=	volume, in gallons, required to be retained
P	=	80th percentile rainfall event for the District (0.8 inches)
Rv_I	=	0.95 (runoff coefficient for impervious cover)
Rv_C	=	0.25 (runoff coefficient for compacted cover)
Rv_N	=	0.00 (runoff coefficient for natural cover)
I	=	post-development site area in impervious cover
C	=	post-development site area in compacted cover
N	=	post-development site area in natural cover

where site area includes substantially improved building footprint plus land disturbance and where the surface area under a BMP shall be calculated as part of the impervious cover (I);

(b) Employing each post-development land cover factored into the SWRv; and

(c) Calculating separately and achieving the SWRv, with P equal to 1.2 inches, for the portion of land-disturbing activity that is in the existing PROW, in compliance with § 521.

Subsection 522.5 is amended to read as follows:

522.5 A site that undergoes a major substantial improvement activity may achieve the 0.8 inch SWRv on-site or through a combination of on-site retention and off-site retention, under the following conditions:

(a) The site shall retain on-site a minimum of fifty percent (50%) of the 0.8 inch SWRv, calculated for the entire site, unless:

(1) The Department approves an application for relief from extraordinarily difficult site conditions; or

(2) The site drains into the CSS from a drainage area that is not targeted for green infrastructure implementation under a court-

approved consent decree, as determined using the tools available in the Department's submittal database; and

(b) The site shall use off-site retention for the portion of the SWRv that is not retained on-site.

Subsection 522.6 is amended to read as follows:

522.6 A site that undergoes a major substantial improvement activity may achieve on-site retention by retaining more than the 0.8 inch SWRv for an area of the site, subject to the following conditions:

(a) Unless an SDA drains into the CSS or the Department approves an application for relief from extraordinarily difficult site conditions, at least fifty percent (50%) of the 0.8 inch SWRv from the SDA shall be:

(1) Retained; or

(2) Treated to remove eighty percent (80%) of total suspended solids;

(b) Unless an SDA drains into the CSS or the Department approves an application for relief from extraordinarily difficult site conditions, the entirety of an area intended for use or storage of motor vehicles shall drain to each necessary BMP so that at least fifty percent (50%) of the 0.8 inch SWRv flowing from that entire area is retained or treated;

(c) Retention in excess of a 0.8 inch SWRv for one area of the site may be applied to the volume required for another area of the site;

(d) Unless the Department approves an application for relief from extraordinarily difficult site conditions, the requirement for retention of a minimum of fifty percent (50%) of the 0.8 inch SWRv for the entire site shall be achieved; and

(e) Retention of volume greater than that from a 1.7 inch rainfall event, calculated using the SWRv equation with a P equal to 1.7 inches, shall not be counted toward on-site retention.

Section 524, STORMWATER MANAGEMENT: PERFORMANCE REQUIREMENTS FOR MAJOR REGULATED PROJECTS IN THE ANACOSTIA WATERFRONT DEVELOPMENT ZONE, is amended as follows:

Subsection 524.4 is amended to read as follows:

524.4 An AWDZ site that undergoes a major land-disturbing activity shall achieve treatment of the rainfall from a 1.7 inch rainfall event, which is the ninety-fifth

(95th) percentile rainfall event for the District of Columbia, measured for a twenty-four (24)-hour rainfall event with a seventy-two (72)-hour antecedent dry period by:

(a) Employing each BMP necessary to treat the 1.7 inch WQTv equal to the difference between:

(1) The post-development runoff from the 1.7 inch rainfall event; and

(2) The 1.2 inch SWRv;

(b) Calculating the WQTv in subsection (a) as follows:

$$WQTv = (P \times [(Rv_I \times I) + (Rv_C \times C) + (Rv_N \times N)] \times 7.48 / 12) - SWRv$$

WQTv = volume, in gallons, required to be retained or treated, above and beyond the SWRv
SWRv = volume, in gallons, required to be retained
P = 95th percentile rainfall event for the District (1.7 inches)
Rv_I = 0.95 (runoff coefficient for impervious cover)
Rv_C = 0.25 (runoff coefficient for compacted cover)
Rv_N = 0.00 (runoff coefficient for natural cover)
I = post-development site area in impervious cover
C = post-development site area in compacted cover
N = post-development site area in natural cover

where site area includes substantially improved building footprint plus land disturbance and where the surface area under a BMP shall be calculated as part of the impervious cover (I); and

(c) Employing each post-development land cover factored into the WQTv.

Subsection 524.5 is amended to read as follows:

524.5 An AWDZ site that undergoes a major substantial improvement activity and does not undergo a major land-disturbing activity shall:

(a) Comply with the performance requirements for major substantial improvement activity, except that the SWRv shall be equal to the post-development runoff from a 1.0 inch rainfall event, which is the eighty-fifth (85th) percentile rainfall event for the District of Columbia, measured for a twenty-four (24)-hour rainfall event with a seventy-two (72)-hour antecedent dry period;

(b) Achieve treatment of the rainfall from a 1.7 inch rainfall event, which is the ninety-fifth (95th) percentile rainfall event for the District of

Columbia, measured for a twenty-four (24)-hour rainfall event with a seventy-two (72)-hour antecedent dry period by:

(1) Employing each BMP necessary to treat the 1.7 inch WQTv equal to the difference between:

(A) The post-development runoff from the 1.7 inch rainfall event; and

(B) The 1.0 inch SWRv;

(2) Calculating the WQTv in subsection (b) as follows:

$$WQTv = (P \times [(Rv_I \times I) + (Rv_C \times C) + (Rv_N \times N)] \times 7.48 /12) - SWRv$$

WQTv = volume, in gallons, required to be retained or treated, above and beyond the SWRv
SWRv = volume, in gallons, required to be retained
P = 95th percentile rainfall event for the District (1.7 inches)
Rv_I = 0.95 (runoff coefficient for impervious cover)
Rv_C = 0.25 (runoff coefficient for compacted cover)
Rv_N = 0.00 (runoff coefficient for natural cover)
I = post-development site area in impervious cover
C = post-development site area in compacted cover
N = post-development site area in natural cover

where site area includes substantially improved building footprint plus land disturbance and where the surface area under a BMP shall be calculated as part of the impervious cover (I); and

(3) Employing each post-development land cover factored into the WQTv.

Subsection 524.7 is amended to read as follows:

524.7 An AWDZ site may achieve part of the WQTv by using off-site retention if:

(a) Site conditions make compliance technically infeasible, environmentally harmful, or of limited appropriateness in terms of impact on surrounding landowners or overall benefit to District waterbodies;

(b) The Department approves an application for relief from extraordinarily difficult site conditions; and

(c) The off-site retention is from outside the CSS.

Section 526, STORMWATER MANAGEMENT: RELIEF FROM EXTRAORDINARILY DIFFICULT SITE CONDITIONS, is amended as follows:

Subsection 526.1 is amended to read as follows:

526.1 The applicant may apply for relief from extraordinarily difficult site conditions if it is technically infeasible or environmentally harmful:

(a) For a site to comply with the minimum on-site retention requirement (fifty percent (50%) of Stormwater Retention Volume (SWRv));

(b) For an Anacostia Waterfront Development Zone (AWDZ) site to comply with any portion of its WQTv or SWRv on-site, except that AWDZ sites may also apply based on the limited appropriateness of on-site stormwater management; or

(c) For a site to comply with the minimum on-site retention or treatment requirements for SDAs (fifty percent (50%) retention or treatment of the SWRv from each SDA and fifty percent (50%) retention or treatment of the SWRv from the entire vehicular access area).

Subsection 526.3 is amended to read as follows:

526.3 In order to support its case for relief, the applicant shall provide the following information demonstrating technical infeasibility or environmental harm:

(a) Detailed explanation of each opportunity for on-site installation of a Best Management Practice (BMP) that was considered and rejected, and the reasons for each rejection; and

(b) Evidence of site conditions limiting each opportunity for a BMP, including, as applicable:

(1) Data on soil and groundwater contamination;

(2) Data from percolation testing;

(3) Documentation of the presence of utilities requiring impermeable protection or a setback;

(4) Evidence of the applicability of a statute, regulation, court order, pre-existing covenant, or other restriction having the force of law;

(5) Evidence that the installation of a retention BMP would conflict with the terms of a non-expired approval, applied for prior to the

end of Transition Period Two A for a major land-disturbing activity or before the end of Transition Period Two B for a major substantial improvement activity, of a:

(A) Concept review by the Historic Preservation Review Board;

(B) Concept review by the Commission on Fine Arts;

(C) Preliminary or final design submission by the National Capital Planning Commission;

(D) Variance or special exception from the Board of Zoning Adjustment; or

(E) Large Tract Review by the District Office of Planning;

(6) For a utility, evidence that a property owner on or under whose land the utility is conducting work objects to the installation of a BMP;

(7) For a major substantial improvement activity, evidence that the structure cannot accommodate a BMP without significant alteration, because of a lack of available interior or exterior space or limited load-bearing capacity; and

(8) For single-family and two-family affordable housing, evidence of the high cost of a BMP relative to the overall cost of the project or impracticability of a BMP with respect to impact on the usability of the indoor or outdoor living space.

Subsection 526.4 is amended to read as follows:

526.4 An applicant for relief shall submit to the Department's submittal database:

(a) A complete application; and

(b) Proof of payment of the applicable fee.

Section 527, STORMWATER MANAGEMENT: USE OF OFF-SITE RETENTION THROUGH THE IN-LIEU FEE OR STORMWATER RETENTION CREDITS, is amended as follows:

Subsection 527.3 is amended to read as follows:

527.3 A person shall achieve each gallon of Offv for each year by:

(a) Using one (1) Department-certified Stormwater Retention Credit (SRC) subject to the conditions in § 527.9; or

(b) Paying the in-lieu fee to the Department.

Subsection 527.9 is amended to read as follows:

527.9 Except for as specified for an Anacostia Waterfront Development Zone site, a person using a Department-certified SRC to achieve a gallon of Offv shall use an SRC generated in the following location:

(a) For a site that drains to the CSS:

(1) If the site achieves at least fifty percent (50%) of the SWRv on-site, the SRC can be generated without regard to the location; or

(2) If the site achieves less than fifty percent (50%) of the SWRv on-site:

(A) If the site is located in a part of the CSS that is not targeted for green infrastructure implementation under a court-approved consent decree, the SRC must be generated outside the CSS; or

(B) If the site is located in a part of the CSS that is targeted for green infrastructure implementation under a court-approved consent decree, the SRC must be generated in a part of the CSS that is targeted for green infrastructure implementation under a court-approved consent decree or outside the CSS; or

(b) For a site that does not drain to the CSS, the SRC must be generated outside the CSS, except:

(1) If a site has a SWMP with an Offv approved by the Department prior to three (3) months after the effective date of this rulemaking, then an SRC generated by the site owner may be used from a site in the CSS that received SWMP approval from the Department prior to three (3) months after the effective date of this rulemaking; or

(2) If SRCs are purchased prior to three (3) months after the effective date of this rulemaking, or are purchased in accordance with a contract signed three (3) months after the

effective date of this rulemaking, then the SRCs may be used without regard to the location where they were generated.

Section 528, STORMWATER MANAGEMENT: MAINTENANCE, is amended as follows:

A new Subsection 528.12 is added to read as follows:

528.12 The Department may approve the elimination of an Offv obligation for a previously approved project that would be exempt from the stormwater management performance requirements of this chapter under § 517.7 or § 517.9 provided that each on-site BMP is maintained in accordance with the approved SWMP for the project.

A new Subsection 528.13 is added to read as follows:

528.13 A person seeking Departmental approval to eliminate an Offv obligation in accordance with § 528.12 shall submit a request through the Department's submittal database and attach a letter explaining why the project would be exempt under § 517.7 or § 517.9. In determining whether to approve the request, the Department may consider the criteria for an exemption in §§ 517.7 and 517.9.

A new Subsection 528.14 is added to read as follows:

528.14 If the Department approves the elimination of an Offv obligation, the Department may pro-rate the amount of SRCs used or in-lieu fee payment through the date of approval and return any unused SRCs or refund any excess in-lieu fee payment in accordance with § 527.17 and the applicant shall revise the declaration of covenants, if necessary, in accordance with § 529.4.

Section 531, STORMWATER MANAGEMENT: CERTIFICATION OF STORMWATER RETENTION CREDITS, is amended as follows:

Subsection 531.14 is amended to read as follows:

531.14 The Department may refuse to certify an SRC for a person:

(a) Who is currently out of compliance with an Offv obligation for a property; or

(b) Who is an original SRC owner for another SRC but is currently not maintaining the associated BMP or land cover as promised to receive certification for that other SRC pursuant to § 531.9.

A new Subsection 531.16 is added to read as follows:

531.16 A person may apply for certification of an SRC for a gallon of retention capacity in a BMP or land cover only if:

(a) The first complete application for certification of an SRC for retention capacity in the BMP or land cover is filed within three (3) years of the Department's final inspection or completion of the BMP installation if no final inspection was required, or before six (6) months after the effective date of this rulemaking, whichever is later; and

(b) Any subsequent complete application for certification of an SRC for retention capacity in the BMP or land cover is submitted not later than six (6) months after the end of the preceding period of time for which the Department had certified an SRC for the retention capacity.

Section 534, STORMWATER MANAGEMENT: CERTIFICATION OF STORMWATER RETENTION CREDITS FOR A BEST MANAGEMENT PRACTICE OR LAND COVER INSTALLED BEFORE EFFECTIVE DATE OF STORMWATER RETENTION PERFORMANCE REQUIREMENTS, is amended as follows:

A new Subsection 534.4 is amended to read as follows:

534.4 The Department may certify an SRC for a gallon of retention capacity in a BMP or land cover installed before July 1, 2013, only if:

(a) The first complete application for certification of an SRC for retention capacity in the BMP or land cover is filed on or before six (6) months after the effective date of this rulemaking; and

(b) Any subsequent complete application for certification of an SRC for retention capacity in the BMP or land cover is submitted not later than six (6) months after the end of the preceding period of time for which the Department had certified an SRC for the retention capacity.

Section 541, SOIL EROSION AND SEDIMENT CONTROL: EXEMPTIONS, is amended as follows:

Subsection 541.1 is amended to read as follows:

541.1 The following land-disturbing activities are exempt from the requirement to comply with the soil erosion and sediment control provisions of this chapter, except as noted below and in § 540 (Soil Erosion and Sediment Control: Applicability):

(a) For a single- or two-family house, townhouse, or rowhouse:

(1) Gardening;

(2) Landscaping;

(3) Repairs;

(4) Maintenance;

(5) Stormwater retrofits, provided that:

(A) The soil allows for percolation; and

(B) The retrofit location is no closer than ten feet (10 ft) from a building foundation;

(6) Utility service connection, repair, or upgrade;

(b) A project for which the total cost is less than nine thousand, eight hundred and twenty-two dollars and twenty-nine cents ($9,822.29);

(c) Installation of fencing, a gate, signpost, or a pole;

(d) Emergency work to protect life, limb or property, and emergency repairs, except that the following is not exempted to the extent described:

(1) The land disturbed must still be shaped and stabilized in accordance with the requirements of this chapter;

(2) Generally applicable control measures shall be used; and

(3) A plan shall be submitted to the Department's submittal database within three (3) weeks after beginning the emergency work; and

(e) Activities that disturb less than fifty square feet (50 ft^2).

Section 542, SOIL EROSION AND SEDIMENT CONTROL: PLAN, is amended as follows:

Subsection 542.8 is amended to read as follows:

542.8 The applicant shall submit one (1) electronic set of the soil erosion and sediment control plan to the Department for review via the Department's submittal database. For projects that receive a walkthrough permit review, the applicant

shall also submit one (1) paper set of the soil erosion and sediment control plan to the Department.

Subsection 542.10 is amended to read as follows:

542.10 After receiving notification that a soil erosion and sediment control plan meets the requirements for the Department's approval, the applicant shall submit to the Department's submittal database a final preconstruction application including:

(a) The complete plan; and

(b) Proof that each applicable fee for Department services has been paid.

Section 543, SOIL EROSION AND SEDIMENT CONTROL: REQUIREMENTS, is amended as follows:

Subsection 543.10 is amended to read as follows:

543.10 A site disturbing five thousand or more square feet ($\geq$5,000 ft^2) of land shall:

(a) Adhere to a SWPPP that:

(1) The Department provides in its SWMG;

(2) The Department approves as including the minimum measures in the Department-provided SWPPP; or

(3) Is required under the Construction General Permit issued by Region III of the United States Environmental Protection Agency; and

(b) Post a legible copy of the SWPPP on-site.

Section 547, SOIL EROSION AND SEDIMENT CONTROL: RESPONSIBLE PERSONNEL, is amended as follows:

Subsection 547.3 is amended to read as follows:

547.3 A responsible person shall be:

(a) Licensed in the District of Columbia as a land surveyor, architect, or civil, environmental, or geotechnical engineer; or

(b) Certified through a training program that the Department approves, including a course on erosion control provided by another jurisdiction or professional association.

Section 552, TRANSITION, is amended as follows:

Subsection 552.3 is amended to read as follows:

552.3 A major regulated project shall comply with the stormwater management requirements of §§ 552.1 and 552.2 that are enforced at the time it submits a complete SWMP, as required under § 518.4, if:

(a) The project must re-apply for a building permit because the preceding permit has expired under 12-A DCMR § 105.5 or the permit application had been abandoned under 12-A DCMR § 105.3.7; or

(b) The project applies for a building permit after the approving body's approval of an Advanced Design (AD) has expired.

A new Subsection 552.5 is amended to read as follows:

552.5 This section shall not apply to a complete stormwater management plan submitted to the Department six (6) months after the effective date of this rulemaking.

Section 599, DEFINITIONS, Subsection 599.1, is amended as follows:

By amending the following definitions to read as follows:

Anacostia Waterfront Development Zone (AWDZ) - the following areas of the District of Columbia, as delineated on a map in the Department's Stormwater Management Guidebook:

(a) Interstate 395 and all rights-of-way of Interstate 395, within the District, except for the portion of Interstate 395 that is north of E Street, S.W., or S.E.;

(b) All land between that portion of Interstate 395 that is south of E Street, S.W. or S.E., and the Anacostia River or Washington Channel;

(c) All land between that portion of Interstate 695, and all rights of way, that are south of E Street, S.W. or S.E., and the Anacostia River;

(d) The portion of Interstate 295 that is north of the Anacostia River, within the District, and all rights-of-way of that portion of Interstate 295;

(e) All land between that portion of Interstate 295 that is north of the Anacostia River and the Anacostia River;

(f) The portions of:

(1) The Anacostia Freeway that are north or east of the intersection of the Anacostia Freeway and Defense Boulevard and all rights-of-way of that portion of the Anacostia Freeway;

(2) Kenilworth Avenue that extend to the northeast from the Anacostia Freeway to Eastern Ave; and

(3) Interstate 295, including its rights-of-way that are east of the Anacostia River and that extends to the southwest from the Anacostia Freeway to Defense Boulevard;

(g) All land between those portions of the Anacostia Freeway, Kenilworth Avenue, and Interstate 295 described in subparagraph (f) of this definition and the Anacostia River;

(h) All land that is adjacent to the Anacostia River and designated as parks, recreation, and open space on the District of Columbia Generalized Land Use Map, dated January 2002, except for the land that is:

(1) North of New York Avenue, N.E.;

(2) East of the Anacostia Freeway, including rights-of-way of the Anacostia Freeway;

(3) East of the portion of Kenilworth Avenue that extends to the northeast from the Anacostia Freeway to Eastern Avenue;

(4) East of the portion of Interstate 295, including its rights-of-way, that is east of the Anacostia River and that extends to the southwest from the Anacostia Freeway to Defense Boulevard, but excluding the portion of 295 and its rights-of-way that go to the northwest across the Anacostia River;

(5) Contiguous to that portion of the Suitland Parkway that is south of Martin Luther King, Jr. Avenue; or

(6) South of a line drawn along, and as a continuation both east and west of the center line of the portion of Defense Boulevard between Brookley Avenue, S.W., and Mitscher Road, S.W.;

(i) All land, excluding Eastern High School, that is:

(1) Adjacent to the land described in subparagraph (h) of this definition;

(2) West of the Anacostia River; and

(3) Designated as a local public facility on the District of Columbia Generalized Land Use Map, dated January 2002;

(j) All land that is:

(1) South or east of that portion of Potomac Avenue SE, between Interstate 295 and 19th Street, S.E.; and

(2) West or north of the Anacostia River;

(k) The portion of the Anacostia River within the District; and

(l) The Washington Channel.

Major land-disturbing activity - Activity that disturbs, or is part of a common plan of development that disturbs, a land area of five thousand square feet (5,000 ft^2) or greater, and either:

(a) Some area of the pre-project land cover is natural; or

(b) Two thousand five hundred square feet (2,500 ft^2) or greater of the post-project land cover is impervious.

Multiple distinct areas that each disturb less than five thousand square feet (5,000 ft^2) of land and that are in separate, non-adjacent sites do not constitute a major land-disturbing activity.

Major substantial improvement activity - Substantial improvement activity and associated land-disturbing activity, including such activities that are part of a common plan of development, for which the combined footprint of improved building and land-disturbing activity is five thousand square feet (5,000 ft^2) or greater, and either:

(a) Some area of the pre-project land cover is natural; or

(b) Two thousand five hundred square feet (2,500 ft^2) or greater of the post-project land cover is impervious.

A major substantial improvement activity may include a substantial improvement activity that is not associated with land disturbance.

Site Drainage Area (SDA) - The area that drains stormwater from the site to a single discharge point or sheet flows from a single area off the site.

Stormwater Management Guidebook (SWMG) - The current manual published by the Department, and available on the Department's website, containing design criteria, specifications, and equations to be used for planning, design, construction, operation, and maintenance of a site and each best management practice on the site.

Stormwater Retention Credit (SRC) - One gallon (1 gal.) of retention for one (1) year, as certified by the Department.

By adding the following definitions to read as follows:

Affordable Housing – a single-family or two-family house that is built to be offered for rent or for sale for residential occupancy below market value and is made available to, and affordable to, a household whose income is equal to, or less than, eighty percent (80%) of the Area Median Income calculation provided by the United States Department of Housing and Urban Development.

Athletic playing fields - Compacted land cover and synthetic surfaces that are constructed primarily for use for athletic activities at public parks and schools. Compacted land cover and synthetic surfaces for which athletic activities are not the primary use are not considered athletic playing fields, unless these areas are necessary to support use of an adjacent area that is primarily used for athletic activities.

Combined sewer overflow (CSO) – The discharge of untreated effluent into a water body as a result of the combined volume of stormwater and sanitary water exceeding the capacity of the combined sewer system and wastewater treatment plant.

Combined sewer system (CSS) – Sewer system in which stormwater runoff is conveyed together with sanitary wastewater through sewer lines to a wastewater treatment plant.

Department's submittal database - An online platform managed by the Department and accessible to the public that the Department uses to receive applications and make approval determinations.

Permeable athletic track - A surface, including a surface made of synthetic material, located at a school or public park that is used for athletic purposes including biking, running, and walking, and that allows the infiltration of water into the ground.

Permeable playground surface - A surface, including a surface made of synthetic material, located under a playground area at a school or public park, which allows the infiltration of water into the ground.

Single- or two-family house - An individual house, townhouse, or rowhouse designed and used for occupancy by one or two families. An individual house, townhouse, or rowhouse that has been physically altered for use by more than one or two families is not considered a single- or two-family house.

All persons desiring to provide written comments on the proposed regulations should file comments in writing no later than forty-five (45) days after the publication of this notice in the *D.C. Register*. Comments should identify the commenter and be clearly marked "DOEE Stormwater Management, and Soil Erosion and Sediment Control Regulations." Comments may be (1) mailed or hand-delivered to DOEE, 1200 First Street N.E., 5th Floor, Washington, D.C. 20001, Attention: DOEE Stormwater Management and Soil Erosion and Sediment Control Regulations, or (2) sent by e-mail to James.Dunbar@dc.gov, with the subject indicated as "DOEE Stormwater Management and Soil Erosion and Sediment Control Regulations." Comments that are hand-delivered or sent via email will be accepted no later than April 1, 2019, at 4:30 PM.

Persons wishing to comment may also attend a public hearing that will be held on March 20, 2019, at 4 PM in Room 509 at 1200 First Street N.E., Washington, D.C. Persons wishing to present testimony at the hearing should furnish their name, address, telephone number, and affiliation, if any, to Regan Wilhelm at Regan.Wilhelm@dc.gov or (202) 671-5004 by 4:00 PM, March 19, 2019. Persons may also register online from the DOEE website.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to Section 14 of the Legalization of Marijuana for Medical Treatment Amendment Act of 2010, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.13 (2018 Repl.)), and Mayor's Order 2011-71, dated April 13, 2011, hereby gives notice of her intent to adopt the following amendments to Chapters 57 (Prohibited and Restricted Activities) and 99 (Definitions) of Subtitle C (Medical Marijuana) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR), in final, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register,* and upon completion of the thirty (30) day Council period of review if the Council does not act earlier to adopt a resolution approving the rules.

The purpose of this rulemaking is to clarify and establish the parameters for when a marijuana "clone" becomes a "plant." These amendments are necessary to ensure uniformity in the quantification of the number of living marijuana plants at a cultivation center at any one time.

Chapter 57, PROHIBITED AND RESTRICTED ACTIVITIES, of Title 22-C DCMR, MEDICAL MARIJUANA, is amended as follows:

Section 5704, PLANT LIMITATIONS, is amended to read as follows:

5704.1 A cultivation center shall be permitted to possess and cultivate up to one-thousand (1,000) living marijuana plants at any one (1) time for the sole purpose of producing medical marijuana in a form permitted under this subtitle.

5704.2 A dispensary shall not be permitted to possess or sell marijuana plants or clones. It shall be a violation of this subtitle for a dispensary to possess or sell marijuana plants or clones, or for a cultivation center to sell marijuana plants or clones to a dispensary.

5704.3 For purposes of this subtitle, a "clone" shall be considered a marijuana plant when:

(a) There is readily observable evidence of root formation that is either at least three (3) inches in length or that has sprouted hair-like fibers that are visible to the naked eye; or

(b) The clone has reached eight (8) inches in height.

5704.4 Cultivation centers shall tag and track all marijuana plants, in any stage of growth, from seed to sale in the Marijuana Enforcement Tracking Reporting Compliance (METRC) system.

5704.5 All clones shall be tagged and tracked in the METRC system upon being placed in the water or propagation solution, regardless of whether they have reached plant status.

Chapter 99, DEFINITIONS, is amended as follows:

Section 9900, DEFINITIONS, is amended as follows:

Subsection 9900.1 is amended as follows:

The following terms with the ascribed meaning are added as follows:

Clone – means a plant clipping from a female marijuana plant that is less than eight (8) inches in height, is not yet root-bound, is growing in a propagation solution or water, and that is capable of developing into a new marijuana plant.

Marijuana Plant – means a plant of the genus Cannabis in any stage of growth except for clones.

Seedling- means a marijuana plant that has no flowers, is at least eight (8) inches in height but less than twelve (12) inches in height, and that is less than twelve (12) inches in diameter.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to Phillip Husband, General Counsel, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 6th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 8:00 a.m. and 4:00 p.m. at the address listed above, or by contacting Angli Black, Paralegal Specialist, at Angli.Black@dc.gov, (202) 442-5977.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING
Z.C. Case No. 18-07
Lean Development, LLC
(Zoning Map Amendment @ Square 750, Lots 128 and 156-158)

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 (2018 Rep1.)), hereby gives notice of its intent to amend the Zoning Map to rezone Lot 128 and Lots 156-158 in Square 750 from the PDR-1 to the MU-4 zone consistent with the Future Land Use Map (FLUM), which identifies Square 750 as appropriate for a mix of low-density commercial and moderate density residential uses.

Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The following rulemaking action is proposed:

The Zoning Map of the District of Columbia is amended as follows:

SQUARE	LOT	Map Amendment
750	128	PDR-1 to MU-4
750	156-158	PDR-1 to MU-4

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.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia (District) to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2016 Repl. & 2018 Supp.)), and the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2018 Repl.)), hereby gives notice of the adoption, on an emergency basis, of amendments to Chapter 9 (Medicaid Program); and Chapter 42 (Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The purpose of this emergency and proposed rulemaking is to update the requirements of the Long Term Care Services and Supports (LTCSS) assessment process to align with the new standardized needs-based assessment tool utilized by the District, and to add Licensed Independent Clinical Social Worker (LICSW) as a provider type allowed to conduct the LTCSS assessment, as was recently authorized by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services in its approval of DHCF's Elderly and Persons with Physical Disabilities HCBS Waiver (EPD Waiver) amendment on June 5, 2018.

DHCF published notice of the assessment tool change in the June 29, 2018 edition of the *D.C. Register* at 65 DCR 007106. Utilization of the new needs-based assessment tool for initial assessments and annual reevaluations went into effect on July 16, 2018. To ensure that beneficiaries currently receiving State Plan Personal Care Aide (PCA) services or EPD Waiver services have their LTCSS eligibility determined using the new assessment tool, this rulemaking adds a requirement that all evaluations conducted prior to August 1, 2019 must include a face-to-face reassessment. Each beneficiary receiving State Plan PCA services or EPD Waiver services must be evaluated at least once every twelve (12) months, so the addition of this requirement will result in the majority of beneficiaries currently receiving these services having been reassessed with the new assessment tool by August 1, 2019. For beneficiary evaluations for State Plan PCA services or EPD Waiver services conducted on or after August 1, 2019, face-to-face reassessments are required only when it is determined that there is significant change in the beneficiary's health status. DHCF does not anticipate any fiscal impact resulting from the implementation of these emergency and proposed rules.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of Medicaid beneficiaries eligible for and in need of covered long-term care services. These rules are being enacted on an emergency basis to ensure that, by authorizing LICSWs to begin conducting LTCSS assessments immediately, beneficiaries continue to receive assessments in the timely manner required in order to retain eligibility for necessary services; and to ensure that, by requiring that all evaluations conducted before August 1, 2019 include a face-to-face reassessment with the new assessment tool, all beneficiaries receiving State Plan PCA or EPD Waiver services have been accurately determined eligible for the appropriate services.

These emergency rules were adopted on February 7, 2019 and became effective on that date. The emergency rules and shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until June 7, 2019, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

The Director also gives notice of the intent to take final rulemaking action to adopt these rules not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

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

Section 989, LONG TERM CARE SERVICES AND SUPPORTS ASSESSMENT PROCESS is amended as follows:

Subsection 989.3 is amended to read as follows:

989.3 A Registered Nurse (R.N.) or Licensed Independent Clinical Social Worker (LICSW) employed by DHCF or its designated agent shall conduct an initial face-to-face assessment following the receipt of a request for an assessment for LTCSS made by any individual identified in Subsection 989.5.

Subsection 989.6 is amended to read as follows:

989.6 With the exception of hospital discharge timelines, which are referenced under Subsection 989.15, the R.N. or LICSW employed by DHCF or its designated agent shall be responsible for conducting the face-to-face assessment of each person using a standardized needs-based assessment tool within five (5) calendar days of the receipt of a request for an assessment, unless:

(a) The person's condition requires that an assessment be conducted sooner to expedite the provision of LTCSS to that person;

(b) The person has requested an assessment at a later date;

(c) DHCF or its designated agent is unable to contact the person to schedule the assessment after making three (3) attempts to do so within five (5) calendar days of receipt of the assessment request; or

(d) DHCF determines that an extension is necessary due to extenuating circumstances.

Subsection 989.8 is amended to read as follows:

989.8 The standardized needs-based assessment tool and corresponding user's manual are available for review in-person at the DHCF offices. A summary of the assessment tool and instructions on how to access a paper copy of the complete

assessment tool and corresponding user's manual are available on DHCF's website at www.dhcf.dc.gov.

Subsection 989.11 is amended to read as follows:

989.11 Each of the assessments that comprise the total numerical score contains the following components:

(a) The functional assessment evaluates the type and frequency of assistance the person requires for each of the following activities of daily living (ADLs) and instrumental activities of daily living (IADLs) based on typical experience under ordinary circumstances within the last three (3) days prior to assessment:

(1) Bathing;

(2) Dressing;

(3) Eating/Feeding;

(4) Transfer;

(5) Mobility;

(6) Toileting;

(7) Urinary Continence and Catheter Care;

(8) Bowel Continence and Ostomy Care; and

(9) Medication Management, for which the score is not considered for State Plan PCA service eligibility in accordance with § 989.9(a).

(b) The cognitive/behavioral assessment evaluates the presence of and frequency with which the following conditions and behaviors occur:

(1) Serious mental illness or intellectual disability;

(2) Difficulty with receptive or expressive communication;

(3) Hallucinations;

(4) Delusions;

(5) Physical behavioral symptoms directed toward others (*e.g.*, hitting, kicking, pushing, grabbing, sexual abuse of others);

(6) Verbal behavioral symptoms directed toward others (*e.g.*, threatening, screaming, cursing at others);

(7) Other physical behaviors not directed toward others (*e.g.*, self-injury, pacing, public sexual acts, disrobing in public, throwing food or waste);

(8) Rejection of assessment or health care; and

(9) Eloping or wandering.

(c) The skilled care needs assessment evaluates whether and how frequently the following treatments and procedures were required during their applicable look-back period:

(1) Whether and how frequently each of the following treatments were required during the last three (3) days prior to assessment:

(A) Chemotherapy;

(B) Dialysis;

(C) Infection Control;

(D) IV Medication;

(E) Oxygen Therapy;

(F) Radiation;

(G) Suctioning;

(H) Tracheostomy Care;

(I) Transfusion;

(J) Ventilator or Respirator; and

(K) Wound Care.

(2) Whether and how frequently each of the following programs were required during the last three (3) days prior to assessment:

(A) Scheduled toileting program;

(B) Palliative care program; and

(C) Turning/repositioning program.

(3) Whether and how frequently (days and total minutes) each of the following types of formal care were required during the last seven (7) days prior to assessment:

(A) Home health aides;

(B) Home nurse;

(C) Homemaking services;

(D) Meals;

(E) Physical therapy;

(F) Occupational therapy;

(G) Speech-language pathology and audiology; and

(H) Psychological therapy by any licensed mental health professional.

(4) Whether and how frequently each of the following types of medical visits were required during the last ninety (90) days prior to assessment:

(A) Inpatient acute hospital with overnight stay;

(B) Emergency room visit with no overnight stay; and

(C) Physician visit (includes authorized assistant or practitioner).

(5) For persons in a hospital or nursing facility, whether physical restraints were required during the last three (3) days prior to the assessment.

Subsection 989.16 is amended to read as follows:

989.16 An R.N. or LICSW employed by DHCF or its designated agent shall conduct a face-to-face reassessment of each person’s need for the receipt of LTCSS as follows:

(a) For ADHP services, a reassessment shall be conducted at least every twelve (12) months or upon a significant change in the person's health status or acuity level.

(b) For State Plan PCA services, the supervisory nurse employed by the home health agency shall conduct an evaluation of each person's need for the continued receipt of PCA services at least once every twelve (12) months or upon a significant change in the person's health status, as follows:

(1) The evaluation shall determine whether there is a significant change in the person's health status.

(2) Prior to August 1, 2019, regardless of whether the evaluation results in a determination that there is or is no significant change, the supervisory nurse shall request that a face-to-face reassessment be conducted in accordance with § 989.5.

(3) Effective August 1, 2019, the following shall apply:

(A) If the evaluation results in a determination that there is no significant change, the supervisory nurse shall attest that a face-to-face reassessment is not required, and services shall continue to be provided at the level set forth in the current assessment determination; and

(B) If the evaluation results in a determination that there is a significant change, the supervisory nurse shall request that a face-to-face reassessment be conducted in accordance with § 989.5.

(c) For all EPD Waiver services, effective April 1, 2018, the case manager shall conduct an evaluation of each person's health status at least once every twelve (12) months or upon a significant change in the person's health status, as follows:

(1) The evaluation shall determine whether there is a significant change in the person's health status.

(2) Prior to August 1, 2019, regardless of whether the evaluation results in a determination that there is or is no significant change, the supervisory nurse shall request that a face-to-face reassessment be conducted in accordance with § 989.5.

(3) Effective August 1, 2019, the following shall apply:

(A) If the evaluation results in a determination that there is no significant change, the supervisory nurse shall attest that a face-to-face reassessment is not required, and services shall continue to be provided at the level set forth in the current assessment determination; and

(B) If the evaluation results in a determination that there is a significant change, the supervisory nurse shall request that a face-to-face reassessment be conducted in accordance with § 989.5.

Subsection 989.17 is amended to read as follows:

989.17 For nursing facility services, DHCF or its designated agent shall conduct utilization reviews at six (6) months and twelve (12) months post admission, and annually thereafter, as follows:

(a) The utilization review shall determine whether the person continues to be appropriate for nursing facility care; and

(b) If the utilization review results in a determination that there has been an improvement in the person's health status, DHCF or its designated agent shall request that a face-to-face re-assessment be conducted in accordance with policy guidance issued by DHCF.

Subsection 989.24 is amended to read as follows:

989.24 If the R.N. or LICSW employed by DHCF or its designated agent is unable to conduct the face-to-face assessment or reassessment described in this section after making three (3) attempts to do so within five (5) calendar days, an initial Administrative Denial Letter shall be issued to the person. The initial Administrative Denial Letter shall contain the following information:

(a) A clear statement of the administrative denial of the assessment request;

(b) An explanation of the reason for the administrative denial, including documentation of the three (3) attempts that were made to conduct the assessment;

(c) Citation to regulations supporting the administrative denial;

(d) A clear statement that the person has twenty-one (21) days from the date the letter was issued to contact DHCF or its designated agent to request the assessment, including all necessary contact information; and

(e) For re-assessment requests, a clear statement that if the person fails to contact DHCF or its designated agent within twenty-one (21) days of the date the letter was issued, the person's current LTCSS shall be terminated.

Subsection 989.99 is amended to read as follows:

989.99 DEFINITIONS

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

Acuity Level - The intensity of services required for a Medicaid beneficiary wherein those with a high acuity level require more care and those with lower acuity level require less care.

Beneficiary - A person deemed eligible to receive Medicaid services.

Face-to-Face Assessment - An assessment that is conducted in-person by a Registered Nurse (R.N.) or Licensed Independent Clinical Social Worker (LICSW) to determine an applicant's need for long-term care services.

Informal Supports - Assistance provided by the person's family member or another individual who is unrelated to the person, and the frequency of supports provided.

Level of Need - A determination used to assess a person's need for supports for the purposes of allocating Medicaid resources or services.

Non-Medicaid Resources - The person's utilization of resources including but not limited to, housing assistance, vocational rehabilitation or job help, and transportation.

Person - An applicant who submits a service assessment request to DHCF and/or its designated agent to determine his/her level of need for long-term care services and supports.

Person-Centered Planning Process - A process used to assess a person's needs and options for choices of services that focuses on the person's strengths, weaknesses, needs, and goals.

Provider - The individual, organization, or corporation, public or private, that provides long-term care services and seeks reimbursement for providing those services under the Medicaid program.

Representative - Any person other than a provider:

(a) Who is knowledgeable about the applicant's circumstances and has been designated by that applicant to represent him or her with his/her express consent or those with appropriate legal authority; or

(b) Who is legally authorized either to administer an applicant's financial or personal affairs or to protect and advocate for his/her rights.

Support Team - A team chosen by the beneficiary that includes, including, but is not limited to, the person's family, friends, community social worker, and/or medical providers.

Section 4201, ELIGIBILITY, of Chapter 42, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR PERSONS WHO ARE ELDERLY AND INDIVIDUALS WITH PHYSICAL DISABILITIES, is amended as follows:

Subsection 4201.4 is amended to read as follows:

4201.4 A Registered Nurse (R.N.) or Licensed Independent Clinical Social Worker (LICSW) hired by or under contract to DHCF or its designee shall conduct a face-to-face assessment to determine if a beneficiary or applicant meets a nursing facility level of care. The assessment shall utilize a standardized assessment tool which will include an assessment of the individual's support needs across three domains including:

(a) Functional – impairments including assistance with activities of daily living such as bathing, dressing, eating or feeding;

(b) Skilled Care – sensory impairments, other health diagnoses and the need for skilled nursing or other skilled care (*e.g.*, wound care, infusions); and

(c) Behavioral – communications impairments including the ability to understand others, presence of behavioral symptoms such as hallucinations, or delusions.

Comments on these rules should be submitted in writing to Melisa Byrd, Senior Deputy Director/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 at (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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2019-007
February 11, 2019

SUBJECT: Delegation - Authority to the Director of the District of Columbia State Athletic Association – Promulgation of Rules Under the District of Columbia State Athletics Consolidation Act of 2016

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790; D.C. Official Code § 1-204.22 (6) and (11) (2016 Repl.), and pursuant to the District of Columbia State Athletics Consolidation Act of 2016 ("**Act**"), effective April 7, 2017, D.C. Law 21-263; D.C. Code § 38-2661.01 *et seq.,* it is hereby **ORDERED** that:

1. The Director of the District of Columbia State Athletic Association ("**Director**") is delegated the Mayor's authority under section 113 of the Act (D.C. Code § 38-2661.31) to issue rules to implement the Act.

2. No rules shall be issued by the Director pursuant to paragraph 1 of this Order without the Director first receiving written approval of the rules from the Deputy Mayor for Education.

3. This Order supersedes Mayor's Order 2017-293, dated November 8, 2017, which is hereby rescinded.

4. **EFFECTIVE DATE:** This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST:

KIMBERLY A. BASSETT
INTERIM SECRETARY OF THE DISTRICT OF COLUMBIA

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF FUNDING AVAILABILITY
RFA No. RM0 NITT: HT / OurTime 021519

Now is the Time: Healthy Transitions/ OurTime Transition Age Youth (TAY) Supported Employment Provider Grant

Purpose/Description of Project

The Government of the District of Columbia seeks to, through sub-grant funding, to support the implementation of Transition Age Youth (TAY) specific supported employment intervention programs. The Now is the Time: Healthy Transitions (NITT:HT), or OurTime Initiative, will allocate funding to develop and further expand the TAY System of Care within the provider's network.

The TAY System of Care addresses the highly-specific, largely unmet needs of young adults (16-25 years old) residing in the District who are at high risk for or diagnosed with serious emotional disturbance (SED), substance use disorders (SUD) or co-occurring disorders. The TAY-focused supported employment will support identified young adults in obtaining and sustaining career-focused employment. Approximately $128,333 is available to fund two (2) providers for supported employment. The grant will be awarded with funds provided by the NITT: HT grant. The selected provider will participate in the overall evaluation of the NITT: HT/ OurTime Initiative in partnership with DBH identified evaluators.

Eligibility

Applicant must:

1. Have 2 years of experience providing supported employment services to young adults of transition age (16–25 years old);

2. Comply with all DC licensing, accreditation, and certification requirements, and;

3. Have at least one service location physically within the District of Columbia;

4. Have experience providing services and support to the TAY population;

5. Must have current DBH Evidenced Based Supported Employment Certification

Please see Request for Application for implementation requirements.

Length of Award

The grant award will be made for a period of six (6) months from the date of award. The grant recipient will be expected to begin project implementation on March 29, 2019.

Available Funding

Approximately One Hundred Twenty-Eight Thousand, Three Hundred and Thirty-Three dollars ($128,333) is available to fund two (2) grant awards. The grant will be awarded using funds provided by the NITT: HT grant. No mini-grants or sub-grants are permitted for any entity awarded funding. The grant award is contingent upon available funding.

Anticipated Number of Awards

DBH will fund two (2) projects.

Request for Application (RFA) Release

The RFA will be released Friday, February 15, 2019. The RFA will be posted on the DBH website, www.dbh.gov under Opportunities, and on the website of the Office of Partnerships and Grants, www.opgs.dc.gov under the District Grants Clearinghouse. A copy of the RFA may be obtained at DBH located at 64 New York Avenue, NE, Washington, DC 20002, 3rd Floor, from Helen Jones, NITT: HT Program Monitor, during the hours of 9:00 a.m. – 5:00 p.m. beginning Friday, February 15, 2019.

Pre-Application Conference

A pre-application conference will be held at DBH, 64 New York Avenue NE, Washington, DC 20002, 3rd Floor, Rm. 320 on Tuesday, February 26, 2019 from 10:00 a.m.-12:00 p.m. ET.

For more information, please contact Helen Jones, NITT: HT Program Monitor at helen.jones@dc.gov or (202) 727-8468.

Deadline for Application

The deadline for submission is Friday, March 15, 2019 at 4:45 p.m. ET.

DC INTERNATIONAL PUBLIC CHARTER SCHOOL

INVITATION FOR BID

ELA and Math Coaching Plan

RFP for ELA and Math Coaching: DCI invites written proposals from qualified firms interested in helping DCI's leadership team develop an ELA and Math coaching plan for our Middle Years IB program this spring. Please send estimated daily costs and an outline of your services. Please email bid to rfp@dcinternationalschool.org. Proposals are due no later than 12:00PM on Friday, February, 22, 2019.

E.L. HAYNES PUBLIC CHARTER SCHOOL

NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT

Security Cameras and Controlled Access – Smart Security Pros

Through publicly bid contract awards in previous year, and grant funding this year, Smart Security Pros has installed and provided support to our current security camera and controlled entry systems. As the manager of our current systems Smart Security Pros is uniquely qualified to install additions to these systems. E.L. Haynes plans to contract with Smart Security Pros on an annual and automatically renewal basis in amounts which may exceed $25,000 annually.

If you have questions or concerns regarding this notice, please contact our Procurement Officer:

Kristin Yochum
E.L. Haynes Public Charter School
kyochum@elhaynes.org
202.667-4446

OFFICE OF THE DEPUTY MAYOR FOR EDUCATION

NOTICE OF PUBLIC MEETING
COMMISSION ON OUT OF SCHOOL TIME GRANTS AND YOUTH OUTCOMES

Commission on Out of School Time Grants and Youth Outcomes (OST Commission) Public Meeting
Washington, DC – The Commission on Out of School Time Grants and Youth Outcomes will hold a public meeting on Thursday, February 21, 2019 from 6:30 pm to 8:00 pm at One Judiciary Square, 441 4th Street NW, Room 1107 South. The OST Commission will hear updates from the Office of Out of School Time Grants and Youth Outcomes, hear from DC Policy Center on the Funding Landscape of OST Programs in DC, and discuss items from the four strategic priorities committees about the strategic plan.

Individuals and representatives of organizations who wish to comment at a public meeting are asked to notify the OST Office in advance by phone at (202) 481-3932 or by email at learn24@dc.gov. Individuals should furnish their names, addresses, telephone numbers, and organizational affiliation, if any, and if available, submit one electronic copy of their testimony by the close of business on Tuesday, February 19th at 5:00 pm.
Below is the draft agenda for the meeting.

I. Call to Order
II. Public Comment
III. Announcement of a Quorum
IV. Approval of the Agenda
V. Approval of Minutes
VI. Updates: Office of Out of School Time Grants and Youth Outcomes
VII. Presentation DC Policy Center
VIII. Strategic Priorities Committee Reports and Discussion
IX. Adjournment

The Office of Out of School Time Grants and Youth Outcomes (OST Office) and the OST Commission support the equitable distribution of high-quality, out-of-school-time programs to District of Columbia youth through coordination among government agencies, grant-making, data collection and evaluation, and the provision of technical assistance to service providers. The OST Commission's purpose is to develop a District-wide strategy for equitable access to out-of-school-time programs and to facilitate interagency planning and coordination for out-of-school time programs and funding.

Date: February 21, 2019
Time: 6:30 p.m. – 8:00 p.m.
Location: One Judiciary Square
Room 1107 South
441 4th Street, NW
Washington, DC 20001
Contact: Debra Eichenbaum
Grants Management Specialist
Office of Out of School Time Grants and Youth Outcomes
Office of the Deputy Mayor for Education
(202) 478-5913
Debra.eichenbaum@dc.gov

BOARD OF ELECTIONS

CERTIFICATION OF ANC/SMD VACANCY
CORRECTED NOTICE

This notice corrects an error in the notice of Certification of ANC/SMD Vacancy published in the *D.C. Register* on February 8, 2019 at 66 DCR 1925.

The notice incorrectly listed a vacancy in **ANC/SMD 7E07.**

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF PROPOSED REVISION TO STORMWATER MANAGEMENT GUIDEBOOK

Notice is hereby given that the Department of Energy and Environment intends to adopt a revised Stormwater Management Guidebook (SWMG). DOEE has updated and expanded the SWMG to be consistent with proposed regulatory amendments that are included in this issue of the *D.C. Register*. DOEE has also updated and expanded the SWMG to incorporate technical changes to stormwater Best Management Practice design standards and to clarify existing guidelines and processes. These updates also include changes that DOEE published as Clarifications in 2014 and 2017 at doee.dc.gov/node/1047552. The revision of the Stormwater Management Guidebook that DOEE is proposing is available at doee.dc.gov/service/2019SWRegs. One version of the revision shows all changes tracked relative to the 2013 SWMG, except that the Clarifications posted in 2014 and 2017 are not tracked. The other version is clean, without changes tracked.

During the public comment period, DOEE will be hosting a free public training that gives an overview of the key changes. This training is primarily focused on the design community, but others are welcome to attend. Scheduling information is available at doee.dc.gov/service/2019SWRegs.

All persons desiring to provide written comments on the proposed revision should file comments in writing no later than forty-five (45) days after the publication of this notice in the *D.C. Register.* Comments should identify the commenter and be clearly marked "DOEE Stormwater Management Guidebook." Comments may be (1) mailed or hand-delivered to DOEE, 1200 First Street NE, 5th Floor, Washington, D.C. 20001, Attention: DOEE Stormwater Management Guidebook, or (2) sent by e-mail to James.Dunbar@dc.gov, with the subject indicated as "DOEE Stormwater Management Guidebook." Comments that are hand-delivered or sent via email will be accepted no later than March 25, 2019, at 4:30 PM.

Persons wishing to comment may also attend a public hearing that will be held on March 13, 2019, at 4:00 PM in Room 509 at 1200 First Street NE, Washington, DC. Persons wishing to present testimony at the hearing should furnish their name, address, telephone number, and affiliation, if any, to Regan Wilhelm at Regan.Wilhelm@dc.gov or (202) 671-5004 by 4:00 PM, March 12, 2019. Persons may also register online at the DOEE website.

DEPARTMENT OF HEALTH (DC HEALTH)
HEALTH PROFESSIONAL LICENSING ADMINISTRATION

NOTICE OF MEETING

Board of Medicine
February 27, 2019

On FEBRUARY 27, 2019 at 8:30 am, the Board of Medicine will hold a meeting to consider and discuss a range of matters impacting competency and safety in the practice of medicine.

The meeting will be open to the public from 8:30 am to 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, the meeting will then move to Closed Session from 10:30 am until 4:45 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 meeting location is 899 North Capitol Street NE, 2nd Floor, Washington, DC 20002.

Meeting times and/or locations are subject to change – please visit the Board of Medicine website www.doh.dc.gov/bomed and select BoMed Calendars and Agendas to view the agenda and any changes that may have occurred.

Executive Director for the Board – Frank B. Meyers, JD

DC DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

DISTRICT OF COLUMBIA HOUSING PRODUCTION TRUST FUND BOARD MEETINGS

Notice of the 2019 Public Meeting Schedule

The DC Department of Housing and Community Development hereby announces that the District of Columbia Housing Production Trust Fund Board will hold regularly scheduled public meetings in the year 2019, on the fourth Thursday of each month (with two exceptions) at 2:00 p.m. on the following dates:

February 28, 2019 Regular Meeting
March 28th Regular Meeting
April 25th Regular Meeting
May 23rd Regular Meeting
June 27th Regular Meeting
July 25th Regular Meeting
August 22nd Regular Meeting
September 26th Regular Meeting
October 24th Regular Meeting
November 21st* Regular Meeting
December 19th* Regular Meeting

The public meetings shall take place at the DHCD Headquarters, 1800 Martin Luther King Jr., Avenue, SE, room 318. For additional information, please call 202-442-7200.

*third Thursday of the month

INSPIRED TEACHING DEMONSTRATION PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Legal Services

The Inspired Teaching Demonstration Public Charter School on behalf of the Shaed School, LLC and its Charter School Incubator Initiative partner is advertising the opportunity to bid on legal services relative to the refinancing of the existing debt on our facility, which may also include new money for additional leasehold improvements to facility.

All financing options are being considered, including tax exempt bonds and commercial financing, so the preferred bidder will have a broad range of experience in closing financing transactions.

For the full RFP please contact Kate Keplinger at kate.keplinger@inspiredteachingschool.org.

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

MAYA ANGELOU PUBLIC CHARTER SCHOOL

NOTICE OF INTENT TO ENTER SOLE SOURCE CONTRACT

Case Management Software Platform and Services

Maya Angelou Public Charter School intends to enter into a sole source contract with Social Solutions Global for their Efforts to Outcomes software, which supports accountability data & metrics for past 7-years of data. The cost of this contract is approximately $27,750.

MAYA ANGELOU PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Curriculum and Instruction Support

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

The intent of this solicitation is to procure a contract for professional development and instructional coaching for MAPCS staff that is consistent with MAPCS' "Beyond the Diploma" philosophy and common core standards. "Beyond the Diploma" means that MAPCS strives to prepare students for life beyond the diploma, setting each student on a pathway to college or career through personalized learning, a standards-based curriculum, and social-emotional learning support.

All bid proposals will be accepted until **12:00 PM on March 1, 2019**. Interested vendors will respond to the advertised Notice of RFP via upload to https://app.smartsheet.com/b/form/6ce9cdea9c33448eb8d605a2011e23f8. Complete RFP details can be found at www.seeforever.org/requestforproposals. Any proposal received after **12:01 PM on March 1, 2019** is deemed non-responsive and will not be considered. Proposals will not be accepted by oral communications, telephone, electronic mail, telegraphic transmission, or fax.

OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT

NOTICE OF PUBLIC MEETING SCHEDULE OF THE AUTONOMOUS VEHICLES WORKING GROUP

The Autonomous Vehicles Working Group ("Working Group"), established by Mayor's Order 2018-018, hereby gives notice of the schedule of meetings for the 2019 Calendar Year. The AV Working Group holds monthly public meetings at the Office of the Deputy Mayor for Planning and Economic Building located at 1350 Pennsylvania Avenue, NW, Washington DC.

DATE	TIME	LOCATION
February 21, 2019	4:00-5:00pm	1350 Pennsylvania Avenue, NW, Washington, DC 20004
March 21, 2019	4:00-5:00pm	1350 Pennsylvania Avenue, NW, Washington, DC 20004
April 18, 2019	4:00-5:00pm	1350 Pennsylvania Avenue, NW, Washington, DC 20004
May 23, 2019	4:00-5:00pm	1350 Pennsylvania Avenue, NW, Washington, DC 20004
June 20, 2019	4:00-5:00pm	1350 Pennsylvania Avenue, NW, Washington, DC 20004
July 18, 2019	4:00-5:00pm	1350 Pennsylvania Avenue, NW, Washington, DC 20004
August 22, 2019	4:00-5:00pm	1350 Pennsylvania Avenue, NW, Washington, DC 20004
September 20, 2019	4:00-5:00pm	1350 Pennsylvania Avenue, NW, Washington, DC 20004

October 24, 2019	4:00-5:00pm	1350 Pennsylvania Avenue, NW, Washington, DC 20004
November 21, 2019	4:00-5:00pm	1350 Pennsylvania Avenue, NW, Washington, DC 20004
December 19, 2019	4:00-5:00pm	1350 Pennsylvania Avenue, NW, Washington, DC 20004

Any changes to this schedule will be reflected on the Working Group webpage: https://dmped.dc.gov/page/autonomous For questions regarding this schedule of meetings, please contact:

Yari Greaney
Program Analyst
Office of the Deputy Mayor for Planning and Economic Development
Division of Health and Wellness
1350 Pennsylvania Ave NW
Washington, DC 20004
202-729-2158
yari.greaney@dc.gov

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Finance and Budget Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Finance and Budget Committee will be holding a meeting on Thursday, February 28, 2019 at 9:30 a.m. The meeting will be held in the Board Room (2nd floor) at 125 O Street, S.E. (1385 Canal Street, S.E.), Washington, D.C. 20003. 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.	January, 2019 Financial Report	Committee Chairperson
3.	Agenda for February, 2019 Committee Meeting	Committee Chairperson
4.	Adjournment	Committee Chairperson

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Retail Water and Sewer Rates Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Retail Water and Sewer Rates Committee will be holding a meeting on Tuesday, February 26, 2019 at 9:30 a.m. The meeting will be held in the Board Room (2nd floor) at 125 O Street S.E. (1385 Canal Street, S.E.), Washington, D.C. 20003. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or lmanley@dcwater.com.

DRAFT AGENDA

1.	Call to Order	Committee Chairman
2.	Monthly Updates	Executive VP, Finance & Procurement
3.	Committee Work plan	Executive VP, Finance & Procurement
4.	Other Business	Executive VP, Finance & Procurement
5.	Adjournment	Committee Chairman

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 18906-B of Endeka Enterprises and 1320 Penelope LLC, pursuant to 11 DCMR Subtitle Y § 703, for a modification of consequence to the plans approved in BZA Order Nos. 18906 and 18906-A, to expand the proposed mechanical penthouse area into a partial seventh floor for use as an accessory restaurant space in a mixed-use building in the DC/SP-1 and C-3-C Districts at premises 1337 Connecticut Avenue, N.W. (Square 137, Lot 55).

HEARING DATES (18906):	January 27, March 3, April 28, and June 30, 2015
DECISION DATE (18906):	June 30, 2015
FINAL ORDER ISSUANCE DATE (18906):	July 9, 2015
MINOR MODIFICATION ISSUANCE DATE (18906-A):	August 3, 2016
MODIFICATION OF CONSEQUENCE DECISION DATE (18906-B):	February 6, 2019

SUMMARY ORDER ON REQUEST FOR MODIFICATION OF CONSEQUENCE

BACKGROUND

On June 30, 2015, in Application No. 18906, the Board of Zoning Adjustment ("Board" or "BZA") approved the request by Endeka Enterprises and 1320 Penelope LLC (the "Applicant") for variances from the width of court requirements under §§ 536 and 776, the off-street parking requirements under § 2101.1, the loading requirements under § 2201.1, and the zone district boundary line requirements under § 2514.2, and special exceptions from the hotels and inns requirements under § 512, and the roof structure setback requirements under §§ 400.7(b), 411.11, and 777.1 of the Zoning Regulations of 1958[1] to allow conversion of an existing office building into a mixed-use building in the DC/SP-1 and C-3-C Districts. The Board issued Order No. 18906 on July 9, 2015. (Exhibit 3.)

On June 7, 2016, the Applicant submitted a request for a minor modification to the plans approved by the Board in Order No. 18906. The Applicant proposed to amend the approved

[1] The original application was filed under the Zoning Regulations which were then in effect (the "1958 Zoning Regulations") but which were repealed on September 6, 2016 and replaced with new text of Title 11, DCMR (the "2016 Regulations"). Other than the description of the original application and its caption, the other references in this Order to provisions contained in Title 11 DCMR are to the 2016 Regulations. The repeal of the 1958 Zoning Regulations and their replacement with the 2016 Regulations has no effect on the vesting and validity of the original application.

plans in order to replace the office use on the second floor with additional inn space, to replace the restaurant use on the sixth floor with additional inn space, and to reduce the amount of parking in the garage from seven to six parking spaces. The proposed additional inn space on the second and sixth floors would result in an increase in the number of inn rooms from the 50 originally proposed to 73 proposed in the modified plans. The Board granted this request for minor modification on July 16, 2016 and issued Order No. 18906-A on August 3, 2016.

MOTION FOR MODIFICATION OF CONSEQUENCE

On December 20, 2018, the Applicant submitted a request for modification of consequence to the plans approved by the Board in Orders No. 18906 and 18906-A. (Exhibits 1-5.) The Applicant proposes to expand the proposed mechanical penthouse area into a partial seventh floor to use as an accessory restaurant space. The Applicant submitted revised plans reflecting these modifications. (Exhibit 2.) The Applicant indicated that the proposed modification of consequence does not required additional relief from the Zoning Regulations.

The Applicant's request complies with 11 DCMR Subtitle Y § 703.4, which defines a modification of consequence as a "proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board." Pursuant to Subtitle Y §§ 703.8-703.9, the request for modification of consequence shall be served on all other parties to the original application and those parties are allowed to submit comments within ten days after the request has been filed with the Office of Zoning and served on all parties. The Applicant provided proper and timely notice of the request for modification of consequence.

Advisory Neighborhood Commission ("ANC") 2B, the only other party to the underlying case, submitted a report in support. The ANC indicated that at a regularly scheduled, properly noticed public meeting on January 9, 2019, at which a quorum was present, the ANC voted 9-0-0 to support the request. (Exhibit 7.) Office of Planning ("OP") submitted a report recommending approval of the proposed modification of consequence to the Applicant's plans. (Exhibit 8.)

As directed by 11 DCMR Subtitle Y § 703.4, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a modification of consequence of approved plans. Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that in seeking a modification of consequence to the plans approved in Orders No. 18906 and 18906-A, the Applicant has met its burden of proof under as directed by 11 DCMR Subtitle Y § 703.4.

As noted, the only parties to the case were the ANC and the Applicant. Accordingly, a decision by the Board to grant request would not be adverse to any party. Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application for modification of consequence of the Board's approval in Orders No. 18906 and 18906-A is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED MODIFIED PLANS IN EXHIBIT 2.**

In all other respects, Orders No. 18906 and 18906-A remain unchanged.

VOTE: 5-0-0 (Frederick L. Hill, Carlton E. Hart, Lorna L. John, Lesylleé M. White, and Anthony J. Hood 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: February 7, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 18916-C of 49th Street Developer LLC, pursuant to 11 DCMR Subtitle Y, § 705.1, for a second two-year time extension of BZA Order No. 18916 approving special exception from the new residential developments requirements under § 353, to construct a new affordable multi-family residential development for seniors and 21 affordable one-family dwellings in the R-5-A District on undeveloped land at the intersection of East Capitol Street, S.E. and 47th Street, S.E. (Square 5348, Lots 1-8).

HEARING DATE (18916): February 10, 2015
DECISION DATE (18916): February 10, 2015
ORDER ISSUANCE DATE (18916): February 12, 2015
FIRST TIME EXTENSION DECISION DATE: January 18, 2017
SECOND TIME EXTENSION DECISION DATE: January 6, 2019

SUMMARY ORDER ON SECOND REQUEST FOR TWO-YEAR TIME EXTENSION

BACKGROUND

On February 10, 2015, the Board of Zoning Adjustment (the "Board") approved the Applicant's request for a special exception from the new residential developments requirements under § 353 of the Zoning Regulations of 1958,[1] to construct a new affordable multi-family residential development for seniors and 21 affordable one-family dwellings in the R-5-A District on undeveloped land at the intersection of East Capitol Street, S.E. and 47th Street, S.E. (Square 5348, Lots 1-8). The Board issued Order No. 18916 on February 12, 2015. Under the Order and pursuant to Subtitle Y § 702.1 of the Zoning Regulations, the Order was valid for two years from the time it was issued -- until February 12, 2017.

On April 28, 2016, the Applicant filed a request for a two-year time extension as Application No. 18916-A, but withdrew that request. On December 8, 2016, the Applicant filed a subsequent request for a two-year extension of Order No. 18916 as Application No. 18916-B. The Board granted the request for time extension on January 18, 2017 and issued Order No. 18916-B on

[1] The original application was filed under the Zoning Regulations of 1958, which were repealed on September 6, 2016 and replaced with new text of Title 11, DCMR (the "2016 Regulations"). Other than the description of the original application and its caption, the other references in this Order to provisions contained in Title 11 DCMR are to the 2016 Regulations. The repeal of the 1958 Zoning Regulations and their replacement with the 2016 Regulations has no effect on the vesting and validity of the original application.

February 1, 2017. (Exhibit 1.) By granting the two-year time extension, the Board extended the time period of the underlying Order's validity until February 12, 2019.

SECOND MOTION TO EXTEND THE VALIDITY OF THE ORDER

On December 19, 2019, the Applicant submitted a request that the Board grant a second two-year extension of Order No. 18916. (Exhibits 1-6.) This request for extension is pursuant to Subtitle Y § 705 of the Zoning Regulations, which permits the Board to extend the time periods in Subtitle Y § 702.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval.

Pursuant to Subtitle Y § 705.1(a), the Applicant shall serve on all parties to the application and all parties shall be allowed 30 days to respond. Pursuant to Subtitle Y § 705.1(b), the Applicant shall demonstrate that there is no substantial change in any of the material facts upon which the Board based its original approval of the application. Finally, under Subtitle Y § 705.1(c), good cause for the extension must be demonstrated with substantial evidence of one or more of the following criteria: (1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control; (2) an inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or (3) the existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

The Applicant served the request on Advisory Neighborhood Commission ("ANC") 7E, the only other party to the underlying application, on December 19, 2018. (Exhibit 3.) ANC 7E did not submit a written report to the record. The Applicant also served the request on the Office of Planning ("OP") and the District Department of Transportation ("DDOT"). OP submitted a report recommending approval of the proposed time extension. (Exhibit 7.) DDOT did not submit a report to the record.

Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board finds that the Applicant has met the criteria of Subtitle Y § 705.1 to extend the validity of the underlying order. As noted, the only parties to the case were the ANC and the Applicant. Accordingly, a decision by the Board to grant request would not be adverse to any party. Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that request for two-year time extension to the validity of the Board's approval in Order No. 18916, as previously extended by Order No. 18916-B, is hereby **GRANTED**, and the Order shall be valid until **February 12, 2021**.

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

BZA APPLICATION NO. 18916-C
PAGE NO. 2

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: February 7, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19385 of Shahid Q. Qureshi, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the R-use requirements of Subtitle U § 203.1(j) to allow a parking lot in the R-1-B Zone at premises 2200 Channing Street, N.E. (Square 4255, Lot 28).

HEARING DATES: December 7, 2016, April 5 and July 12, 2017
DECISION DATE: July 12, 2017

DECISION AND ORDER

This self-certified application was submitted on September 30, 2016 by Shahid Qureshi, the owner of the property that is the subject of the application (the "Applicant"). The application requested a special exception under the R-use requirements of Subtitle U § 203.1(j) to allow a parking lot for up to 40 vehicles in the R-1-B district at 2200 Channing Street, N.E. (Square 4255, Lot 28). After a public hearing, the Board of Zoning Adjustment ("Board" or "BZA") voted to deny the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated October 12, 2016, the Office of Zoning provided notice of the application to the Office of Planning ("OP"); the District Department of Transportation ("DDOT"); the Councilmember for Ward 5; the chairman and the four at-large members of the D.C. Council; Advisory Neighborhood Commission ("ANC") 5C, the ANC in which the subject property is located; and Single Member District/ANC 5C02. Pursuant to 11 DCMR Subtitle Y § 402.1, on October 12, 2016 the Office of Zoning also mailed letters providing notice of the hearing to the Applicant, the owners of all property within 200 feet of the subject property, the Councilmember for Ward 5, and ANC 5C.[1] Notice was published in the *District of Columbia Register* on October 14, 2016 (63 DCR 12781).

Party Status. The Applicant and ANC 5C were automatically parties in this proceeding. There were no requests for party status.

Applicant's Case. The Applicant provided evidence and testimony about the parking lot use, which was already in operation. According to the Applicant, the "subject property is operated by the Applicant's business All Star Towing Inc. in order to serve the sole needs and governmental

[1] The public hearing was originally scheduled for December 7, 2016 but was postponed and ultimately rescheduled to July 12, 2017.

purposes of the District of Columbia through the D.C. Department of Transportation, D.C. Parking Enforcement, D.C. Metropolitan Police and D.C. Fire and Rescue Departments and in such capacity is performing as an instrumentality of the District Government in support of its responsibility to provide for the public health safety and welfare of its residents, invitees, tourist and visitors as well as for the Federal Government in the Nation's Capital." (Exhibit 2.) The Applicant asserted that, with proposed "new and enhanced fencing and landscape treatments," the parking lot use at the subject property would meet the requirements for special exception relief. (Exhibit 41.)

OP Report. By memorandum dated November 23, 2016, the Office of Planning declined to provide a recommendation with respect to the application, stating that the Applicant had not yet provided sufficient information about the proposed use, especially with respect to the applicable screening and landscaping requirements. (Exhibit 27.) In its Supplemental Report dated February 13, 2017, the Office of Planning recommended denial of the application, stating that the Applicant had not provided the necessary information. (Exhibit 32.)

DDOT. By memorandum dated November 21, 2016, the District Department of Transportation indicated no objection to approval of the application provided that the Applicant met the landscaping requirements set forth in the Zoning Regulations. (Exhibit 26.)

ANC Report. At a public meeting on January 18, 2017, with a quorum present, ANC 5C voted to adopt a resolution in opposition to the application, stating issues and concerns about the use of the subject property for any nonresidential purpose. (Exhibit 29.) The ANC voted to approve a similar resolution, reaffirming its opposition to the application, on June 21, 2017. (Exhibit 39.)

Persons in opposition. The Board received a letter in opposition to the application from the Langdon Park Community Association, which objected that the subject property "is zoned for residential use R-1-B and yet All Star Towing stores junk vehicles contributing to the blight of the neighborhood" at a location abutting "a house in the residential neighborhood within the community where … no buffer exists between the commercial zone and the residential zone." (Exhibit 30.)

FINDINGS OF FACT

1. The property that is the subject of this application is an L-shaped parcel located at the northeast corner of the intersection of Channing Street and 22nd Street, N.E. (2200 Channing Street, N.E.; Square 4255, Lot 28). The lot area is approximately 8,750 square feet.

2. The subject property is not improved with any structures except for a small shelter for use by a parking attendant. Vehicular access is provided via a curb cut on Channing Street. The property is substantially covered with asphalt paving, and a portion of the property is

bounded by a chain link fence or a retaining wall. No significant landscaping has been installed at the site.

3. The property is owned by the Applicant and used for operation of the Applicant's business, All-Star Towing, Inc., pursuant to a certificate of occupancy that the Department of Consumer and Regulatory Affairs subsequently determined had been issued in error.[2] The Applicant described the parking lot use as being "for the purpose of serving the District of Columbia government needs." (Exhibit 41.)

4. The Applicant indicated an intent to replace the existing chain link fence with a solid wood fence, and asserted that "the Applicant will meet all landscaping requirements for the site … including the adding of trees and shrubbery with the interior and exterior of the Property." (Exhibit 41.) The Applicant also stated that no signs are posted "to display any rates because this [parking lot] use is not provided to the public at any time." (Exhibit 2.)

5. The subject property is zoned R-1-B. The R-1 districts were designed (a) to protect quiet residential areas now developed with one-family detached dwellings and adjoining vacant areas likely to be developed for those purposes, and (b) to stabilize the residential areas and promote a suitable environment for family life. (Subtitle D § 300.1.) The R-1-B zone is intended to provide for areas predominantly developed with detached houses on moderately sized lots. (Subtitle D § 300.3.)

6. Properties to the north and west of the subject property are also located in the R-1-B zone and are characterized by low-density residential uses, primarily detached dwellings and some small apartment buildings. The area to the southwest of the subject property is zoned RA-1 (Residential Apartment), and is also predominantly residential.

7. Properties immediately south and east of the subject property are zoned PDR-1. The Production, Distribution, and Repair (PDR) zones provide for: (a) heavy commercial and light manufacturing activities employing large numbers of people and requiring some heavy machinery under controls that minimize any adverse effect on other nearby, more restrictive zones and (b) areas suitable for development as heavy industrial sites, but at the same time protect those industrial developments from the intrusion of nonindustrial uses that impede the full utilization of properly located industrial sites. (Subtitle J § 100.1.)

8. Properties located in the PDR zone along Channing Street to the east of the subject property are used for a variety of commercial purposes, including a vehicle repair service.

[2] In a related proceeding, the Board upheld a decision by the Department of Consumer and Regulatory Affairs to issue a notice of revocation to the Applicant for the certificate of occupancy that had authorized the parking lot operation on the ground that the certificate of occupancy had been issued in error. *See* Appeal No. 19334, order dated January 16, 2019.

9. The properties adjoining the subject property are used for residential purposes (to the north) and as a warehouse (to the east).

CONCLUSIONS OF LAW AND OPINION

The Applicant seeks a special exception under the R-use requirements of Subtitle U § 203.1(j) to allow a parking lot for up to 40 vehicles in the R-1-B district at 2200 Channing Street, N.E. (Square 4255, Lot 28). The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2012 Repl.) to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions. (11 DCMR Subtitle X § 901.2.)

Pursuant to Subtitle U § 203.1, certain uses may be permitted as a special exception in R-Use Group A if approved by the Board under Subtitle X, Chapter 9 subject to applicable conditions of each section.[3] In the case of a parking lot, in accordance with Subtitle U § 203.1(j), the requirements include that the parking spaces must be in an open parking lot area; all parking must meet the conditions of Subtitle C, Chapter 7; no commercial advertising signs may be posted outside a building, except a sign advertising the rates as required by Chapter 6 of Title 24 DCMR, Public Space and Safety; at least 80% of the parking surface must be of pervious pavement; and the parking spaces must be located, and facilities in relation to the parking lot must be designed, so that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions. The proposed parking lot must not adversely affect the present character and future development of the neighborhood, and the parking must be reasonably necessary and convenient to other uses in the vicinity. With respect to parking as a principal use, the parking lot must be located in its entirety within 200 feet of an existing MU, NC, D, or PDR zone; the parking lot must be contiguous to or separated only by an alley from a MU, NC, D, or PDR zone; and a majority of the parking spaces must serve residential uses or the short-term parking needs of retail, service, and public facility uses in the vicinity.

Based on the findings of fact, the Board concludes that the application does not satisfy all the requirements for special exception relief in accordance with Subtitle U § 203.1(j) and Subtitle X, chapter 9. The Applicant did demonstrate that the subject property is presently configured as an open parking lot area, and no commercial advertising signs have been posted outside any building at the site. The subject property is contiguous to the PDR zone, and the entire parking lot would be located within 200 feet of the adjoining PDR zone.

However, the Applicant did not demonstrate that the proposed use would comply with other applicable requirements of Subtitle U § 203.1(j). As proposed, none of the parking spaces at the subject property would serve residential uses or the short-term parking needs of retail, service,

[3] The R-1-B district is included in R-Use Group A. *See* Subtitle U § 200.2.

and public facility uses in the vicinity. Instead, the Applicant stated that the parking lot would be used in the operation of Applicant's towing business. The Applicant provided no evidence indicating a demand for parking created by the residential uses or any retail, service, or public facility uses in the vicinity of the subject property. Based on the evidence in the record, the Board does not find that a parking lot use at the subject property would be reasonably necessary and convenient to other uses in the vicinity.

The Applicant stated an intent to improve the fencing and landscaping at the subject property. However, the Applicant did not submit a site plan or any other evidence specifically describing the proposed fence or demonstrating the types and locations of plantings sufficient to satisfy zoning requirements. The Applicant did not indicate that at least 80% of the parking surface is of pervious pavement, or show compliance with the conditions of Subtitle C, Chapter 7, which are intended to ensure that a vehicular parking area is safe, accessible, and located and designed to minimize negative impacts on adjacent property, urban design, the pedestrian environment, and public spaces, and to ensure that the parking area is planted and landscaped to be compatible with its surroundings and to reduce environmental impacts. (Subtitle C § 700.1.) In particular, the Applicant did not provide any evidence of compliance with, or otherwise address, the applicable requirements for access (Subtitle C § 711), size and layout (Subtitle C § 712), maintenance (Subtitle C § 713), screening (Subtitle C § 714), and landscaping (Subtitle C § 715).

The Board does not find that the parking spaces at the subject property would be located so that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions. The subject property abuts a parcel improved with a residential building and is close to many other residences that likely would be adversely affected by noise, traffic, and other objectionable conditions associated with the operation of a parking lot. The Applicant did not demonstrate that the operation of a parking lot in close proximity to numerous residential uses would not give rise to objectionable conditions.

The Board finds that the proposed parking lot use would adversely affect the present character and future development of the neighborhood. As noted by ANC 5C, operation of a parking lot at the subject property jeopardizes efforts to "maintain the general characteristics of single-family dwellings" in the neighborhood. (Exhibit 29.) Especially in light of the Applicant's failure to provide specific information about purported improvements to the fencing and the planting of suitable landscaping, and because the parking lot is not intended to serve any local demand for parking, the Board concludes that the proposed parking lot use would adversely affect the present character of the neighborhood. The Applicant's proposed use of the subject property would also adversely affect the future development of the neighborhood because the parking lot operation would not further the goals of the R-1-B zone to protect the residential character of the area.

With respect to Subtitle X § 901.2, the Board concludes that approval of the requested special exception would not be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and would tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. The subject property is located in

an area characterized by relatively low-density residential uses. The parcel is zoned R-1-B, a district designed to protect quiet residential areas as well as to stabilize the residential areas and promote a suitable environment for family life. The Applicant did not demonstrate how the proposed parking lot use would be compatible with the residential purposes of the R-1-B zone, or show that operation of a parking lot would not adversely affect the existing residential use of neighboring properties.

The Board is required to give "great weight" to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04 (2012 Repl.).) For the reasons discussed above, the Board concurs with OP's recommendation that the application should be denied.

The Board is also required to give "great weight" to the issues and concerns raised by the affected ANC. (Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3)(A) (2012 Repl.)).) In this case ANC 5C expressed opposition to the Applicant's request for zoning relief, stating issues and concerns about the operation of the Applicant's business at the subject property as "a storage lot for inoperable junk vehicles" in violation of the R-1-B zoning. ANC 5C stated its opposition to "any commercial use" of the subject property, which "directly abuts single-family home[s] and neighboring residential community" where the existing "commercial area has zero buffer and junk vehicles add to the blight of the neighborhood." (Exhibit 29.) For the reasons discussed above, the Board concurs with the ANC's concerns.

Based on the findings of fact and conclusion of law, the Board concludes that the Applicant has not satisfied the burden of proof with respect to the request for a special exception under the R-use requirements of Subtitle U § 203.1(j) to allow a parking lot for up to 40 vehicles in the R-1-B district at 2200 Channing Street, N.E. (Square 4255, Lot 28).

Accordingly, it is **ORDERED** that the application is **DENIED**.

VOTE: **4-0-1** (Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, and Robert E. Miller to DENY; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: February 7, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Appeal No. 19441 of Richardson Place Neighborhood Association, pursuant to 11 DCMR §§ 3100 and 3101, from decisions made on September 27, 2016 and October 20, 2016 by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue Building Permits No. B1611469 and B1611470, and subsequently to issue Certificates of Occupancy No. CO1700955 and CO1700918, to allow two adjacent flats in the R-4 District at premises 410 and 412 Richardson Place, N.W. (Square 507, Lots 101 and 102).[1]

HEARING DATE: March 22, 2017
DECISION DATE: May 17, 2017

ORDER GRANTING APPEAL

This appeal was submitted on December 16, 2016 by James J. Wilson on behalf of the Richardson Place Neighborhood Association (the "Appellant"), a non-profit citizens' association comprising owners of approximately ten residences on or adjacent to Richardson Place, N.W., to challenge the decision of the Department of Consumer and Regulatory Affairs ("DCRA") to issue two building permits and two related certificates of occupancy that allowed two flats on adjacent lots in the R-4 Zone.[2] Following a public hearing, the Board of Zoning Adjustment ("Board" or "BZA") voted to grant the appeal and to reverse the determination of the Zoning Administrator ("ZA").

PRELIMINARY MATTERS

Notice of Appeal and Notice of Hearing. By memoranda dated January 30, 2017, the Office of Zoning provided notice of the appeal to the Zoning Administrator at the Department of Consumer and Regulatory Affairs; the Office of Planning; the Councilmember for Ward 5 as well as the Chairman of the Council and the four At-Large Councilmembers; Advisory Neighborhood Commission ("ANC") 5E, the ANC in which the subject property is located; and Single Member District/ANC 5E06. The Office of Zoning mailed letters, dated January 30, 2017, providing notice of the hearing to the Appellant; the ZA; Oaktree Development LLC, doing business as OTD 410-412 Richardson Place LLC, the owner of the property that is the subject of the appeal; Common Living, Inc., the tenant for the commercial operation of the

[1] This order refers to provisions and zone districts in effect under the Zoning Regulations of 1958 when the decision was made. The 1958 Regulations were repealed as of September 6, 2016 and replaced by the 2016 Regulations; however, the repeal and adoption of the replacement text has no effect on the validity of the Board's decision in this case or of this order.

[2] On the motion of the Department of Consumer and Regulatory Affairs, the Board amended the appeal at the public hearing to include the certificates of occupancy in light of the Appellant's stated intention to appeal their issuance and its willingness to consolidate the two matters. (Exhibit No. 33.) The Property Owner "concede[d] that the issues regarding the issuance of the Certificates of Occupancy for the properties are identical to the issues outlined [by the Property Owner]. As a result, this appeal should include the question of whether the Certificates of Occupancy were properly issued by DCRA." (Exhibit No. 32)

property; the Councilmember for Ward 5; and ANC 5E. Notice was published in the *D.C. Register* on February 3, 2017 (64 DCR 1036).

Party Status. Parties in this proceeding were automatically the Appellant, DCRA, ANC 5E, and Oaktree Development LLC ("OTD" or the "Property Owner"). There were no requests for party status.

Appellant's Case. The Appellant argued that the building permits and certificates of occupancy for Oaktree's development at 410 and 412 Richardson Place, N.W. were improperly issued because, notwithstanding Oaktree's assertion that the development would comprise two flats, Oaktree actually intended to use the development as an apartment house, rooming house, or tenement operated by its lessee, Common Living, Inc., and therefore the development should have been limited to 40% lot occupancy rather than the 60% permitted as a matter of right for a flat in R-4. The Appellant objected that "Oaktree constructed a building covering 60% of the lot, representing that it was building two adjacent '2 family flats'" when in fact the Property Owner and its lessee were "on the cusp of opening a newly-constructed, 24-unit dormitory for young professionals on two adjoining, formerly vacant parcels." (Exhibit No. 9.)

DCRA. DCRA asserted that the ZA correctly approved the building permit at issue as compliant with the Zoning Regulations because the permit applications and plan "depicted buildings that complied with the [zoning] definition of two-family flats based on the layout of each unit in each flat as composed of six bedrooms with private baths and shared kitchen, dining, and living areas." (Exhibit No. 33.)

ANC 5E. At a public meeting on February 21, 2017, ANC 5E voted to adopt a resolution in support of the appeal without stating any issues or concerns. (Exhibit No. 28.) At a public meeting on March 22, 2017, ANC 5E adopted another resolution indicating its support for the appeal. (Exhibit No. 36.)

Property Owner. Oaktree Development LLC, dba OTD 410-412 Richardson Place LLC argued that the appeal was without merit because the Property Owner had obtained building permits for, and had completed construction of a flat on each lot of the subject property. The Property Owner asserted that each flat contained two dwelling units, each of which would be occupied by no more than six residents, for a total maximum of 12 residents in each building.

FINDINGS OF FACT

1. The property that is the subject of this appeal is two adjoining lots located at 410 Richardson Place, N.W. (Square 507, Lot 102) and 412 Richardson Place, N.W. (Square 507, Lot 101).

2. The properties were zoned R-4, which was designed to include those areas now developed primarily with row dwellings, but within which there have been a substantial

number of conversions of the dwellings into dwellings for two or more families. The primary purpose of the R-4 District was "the stabilization of remaining one-family dwellings." (11 DCMR §§ 330.1, 330.2.) The R-4 Zone "shall not be an apartment house district…." (11 DCMR § 330.3.)

3. The maximum lot occupancy permitted as a matter of right in the R-4 Zone was limited to 60% for a row dwelling, flat, church, or public school, and 40% for all other structures. (11 DCMR § 403.2.)

4. In 2005, Wilbur Mondie, then the owner of the subject property, submitted an application for area variances to allow the construction of four flats at 410, 412, 414, and 416 Richardson Place, N.W. (Square 507, Lots 810, 812, 814, and 816). (*See* BZA Application No. 17404.) After a public hearing, the Board declined to vote on a motion to deny the application when the applicant indicated an intent to withdraw the application. (*See* BZA Public Hearing Transcript of February 7, 2006 at 79.) The application was subsequently withdrawn.

5. Building Permit No. B1002882 (an "Original Permit") was issued on August 31, 2011 to Wilbur Mondie with a description of work as "Build a Three Story + Cellar Flat" at 412 Richardson Place. The permit was later extended and the Property Owner filed for revised permits to reflect a change in ownership.

6. Building Permit No. B1214832 (also an "Original Permit") was issued on April 22, 2013 to Wilbur Mondie for 410 Richardson Place. The description of work was "New 54 Ft. x 26.5 Ft. 3-Story Flat, Row Dwelling and One Required 9 Ft. x 16 Ft. Automobile Parking Space on the Lot. The Width of the Proposed Structure [Shall] Span the Complete 26.5 Ft. Lot Width. Conversion to a Two Family Flat." The permit was later extended and the Property Owner filed for revised permits to reflect a change in ownership.

7. By early 2014 the parcel "was an empty foundation with a dug-out basement. There was no structure in place apart from the foundation walls." In late August 2014, Wilbur Mondie "trucked in 12 prefabricated, shipping-container-shaped housing units and stacked them on top of the existing foundation." According to the Appellant, no further development occurred, except for the installation of a chain-link construction fence, before the property was sold to the current owner in April 2016. (Exhibit No. 2.) The Property Owner stated that, when OTD purchased the subject property, "the majority of the flats were already constructed" pursuant to the two Original Permits issued to Wilbur Mondie. (Exhibit No. 32.)

8. Building Permit No. B1611470 was issued to the Property Owner on September 27, 2016 for 412 Richardson Place, with the description of work as "Completion of an existing 2 family flat to include minor reconfiguration of space, finish material changes, building

system revisions to accommodate reconfiguration …." The existing and proposed use of the property were both shown as "Flat (Two Family)" in a three-story building.

9. Building Permit No. B1611469 was issued to the Property Owner on October 20, 2016 for 410 Richardson Place, with the description of work as "Completion of an existing 2 family flat to include minor reconfiguration of space, finish material changes, building system revisions to accommodate reconfiguration…." The existing and proposed use of the property were both shown as "Flat (Two Family)" in a three-story building.

10. The Appellant described meeting with a representative of the Property Owner, on October 31, 2016, for the purpose of learning more about the planned operation of the new construction. The Property Owner indicated that Oaktree Development LLC would enter into a master lease of the subject property with Common Living, Inc., which would operate the buildings as a total of 24 living units, each with a bathroom, and four common areas. Each of the living units would be individually leased in an arrangement known as "co-living." One of the units would be leased to a representative of Common Living, who would act "as a sort of superintendent of the entire property." (Exhibit No. 9.)

11. This appeal was submitted on December 16, 2016.

12. Certificate of Occupancy No. CO1700918 was issued February 2, 2017 to authorize a "Flat (Two Family Dwelling)" at 412 Richardson Place.

13. Certificate of Occupancy No. CO1700955 was issued February 13, 2017 to authorize "A Two-Family Flat With (2) Off-Street Parking Spaces" at 410 Richardson Place.

CONCLUSIONS OF LAW AND OPINION

The Board is authorized by § 8 of the Zoning Act to "hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, determination, or refusal" made by any administrative officer in the administration or enforcement of the Zoning Regulations. (D.C. Official Code § 6-641.07(g)(1) (2008 Repl.).) *See also* 11 DCMR Subtitle Y § 100.4. Appeals to the Board of Zoning Adjustment "may be taken by any person aggrieved, or organization authorized to represent that person, … affected by any decision of an administrative officer … granting or withholding a certificate of occupancy … based in whole or part upon any zoning regulations or map" adopted pursuant to the Zoning Act. (D.C. Official Code § 6-641.07(f) (2008 Repl.); *See also* 11 DCMR Subtitle Y § 302.1.)

Pursuant to Subtitle Y § 302.2, a zoning appeal must be filed within 60 days from the date the person appealing the administrative decision had notice or knowledge of the decision complained of, or reasonably should have had notice or knowledge of the decision complained of, whichever is earlier. A zoning appeal may be taken only from the first writing that reflects the

administrative decision complained of to which the appellant had notice; no subsequent document, including a building permit or certificate of occupancy, may be appealed unless the document modifies or reverses the original decision or reflects a new decision. (Subtitle Y § 302.5.) The Board may extend the 60-day deadline for the filing of a zoning appeal only if the appellant demonstrates that (a) exceptional circumstances, outside of the appellant's control and that could not have been reasonably anticipated, substantially impaired the appellant's ability to file a zoning appeal to the Board; and (b) the extension of time would not prejudice the parties to the appeal. (Subtitle Y § 302.6.)

The Property Owner argued that the "first writing" that reflected the administrative decision of the Zoning Administrator to allow the construction of flats at the subject property were the permits issued in 2011 and 2013, both of which identified the use of the two lots as flats. The Property Owner also asserted that no subsequent permit or certificate of occupancy altered the administrative decision made in those original permits to allow flats at the subject property. According to the Property Owner, the Appellant reasonably should have had notice of the ZA's administrative decision underlying the original permits as early as July 2014 "when James J. Wilson, the President of the RPNA, purchased his home at 415 Richardson Place, N.W., which is directly across the street from the Properties, and saw an empty foundation with a 'dug-out basement.'" (Exhibit No. 32.) For the same reasons argued by the Property Owner, DCRA also contended that the appeal should be dismissed as untimely.

The Appellant argued that the appeal was timely because it was filed within 30 days of the time when the Appellant learned, on October 31, 2016, of the Property Owner's plan to lease the property to Common for use as "co-living space." According to the Appellant, that date was the earliest time that an appeal could be filed to challenge the Property Owner's intended use of the subject property as something other than a two-family flat – that is, the Property Owner's failure to indicate on its permit applications the "use that most accurately describes the intended use." The Appellant also argued that the Property Owner's misrepresentation of the intended use was an event outside the Appellant's control that would justify the filing of an appeal more than 60 days after issuance of permits that allowed the Property Owner to complete construction that had begun almost two years before the property was acquired by Oaktree.

The Board concludes that the appeal was timely filed because exceptional circumstances, which were outside of the Appellant's control and could not have been reasonably anticipated, substantially impaired the Appellant's ability to file an appeal with the Board within 60 days of the issuance of the revised permits in 2016. While some members of the Appellant association could have known that the Original Permits were issued in 2011 and that construction was subsequently undertaken at the subject property, the Appellant's representative who filed the appeal did not yet live in the neighborhood in 2011.[3] The Appellant could not have known of the "co-living" arrangement, and how that might affect the purported use of the property as flats, until the meeting of the Appellant's representative with the Property Owner on October 31, 2016.

[3] James Wilson purchased his house on Richardson Place in July 2014. (Exhibit No. 2.)

The Board finds no prejudice to any party resulting from an extension of time allowed for the appeal because the Property Owner was able to complete construction of the buildings as permitted.

With respect to the merits, the Appellant challenged the issuance of the 2016 building permits based on the Property Owner's statement of the intended use of the property, where the permitted lot occupancy was 60%, as two flats when "the actual intended use of the property … is as [a] single, commercially operated 24-unit apartment, rooming, or tenement house, whose units are individually leased to occupants" or as a "co-living facility," a use not recognized in the Zoning Regulations. According to the Appellant, the Property Owner's actual intended use was not permitted as a matter of right in the R-4 Zone and should have been limited to 40% lot occupancy. The Appellant argued that issuance of the permits was arbitrary and capricious in light of the intent of the R-4 Zone not to become an apartment house zone.

The Board agrees with the Appellant that the proposed use of the subject property as a "co-living facility" was not consistent with the Property Owner's stated intention to use the buildings as two flats.[4] As the Appellant notes, "co-living" is not a use designation contained in the Zoning Regulations. Accordingly, the Zoning Administrator should not have relied on the statement of intended use, as two flats, made by the prior owner of the property when issuing the Revised Permits to the Property Owner.

The Zoning Regulations defined a "flat" or "two-family dwelling" as "a dwelling used exclusively as a residence for two families living independently of each other," where "family" was defined as "one or more persons related by blood, marriage, or adoption, or not more than six persons who are not so related, including foster children, living together as a single house-keeping unit, using certain rooms and housekeeping facilities in common …." (11 DCMR § 199.1.) The Appellant provided evidence showing that the planned co-living use potentially would not be established and operated consistent with a two-family flat as that use is defined in the Zoning Regulations; for example, a group of unrelated people living together might not constitute a single house-keeping unit, or the control of the premises by Common might negate the required characteristic of residences functioning independently of each other. In addition, the "co-living" arrangement could potentially alter the character of the neighborhood in a manner inconsistent with the R-4 zoning designation of the subject property by introducing a use inconsistent with the zoning definition of "flat" as a two-family dwelling.

The Board is required to give "great weight" to the issues and concerns raised by the affected ANC. (Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001).).) In this case, ANC 5E

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[4] The Board finds no merit in the Appellant's contention that the two buildings at issue should be considered one building since the Property Owner's use would function as one facility. Each building is located on a separate record lot, and the Appellant provided no evidence that any communication would exist between the two structures, or that they are not separated from the ground up or from the lowest floor up. (*See* 11 DCMR § 199.1, definition of "building.")

adopted a resolution indicating its support for the appeal as a means "to ensure that … developments are given a public hearing so that our community's input maybe included" when "developers may seek to avoid [community] input by pursuing 'as a matter of right' development for uses that are not clearly and unambiguously allowed by our zoning code." The ANC "recognize[d] that the community concerns expressed before the BZA in the first iteration[5] of this project – specifically, that the projects' density is out of conformity with both the neighborhood and the purposes of an R-4 Zone – have not been mitigated by the 410-412 OakTree development …." (Exhibit No. 36.) For the reasons discussed in this order, the Board shares the ANC's concerns about a co-living use that is not "clearly and unambiguously allowed" by the Zoning Regulations and its conformity with the purposes of the R-4 District.

Based on the findings of fact and conclusion of law, the Board concludes that the Appellant has satisfied the burden of proof in its claims of error in the decision of the Zoning Administrator to issue Building Permits No. B1611469 and B1611470 and issue Certificates of Occupancy No. CO1700955 and CO1700918 to allow two adjacent flats in the R-4 District at 410 and 412 Richardson Place, N.W. (Square 507, Lots 101 and 102). Accordingly, it is therefore **ORDERED** that the **APPEAL** is **GRANTED** and the Zoning Administrator's determination is **REVERSED**.

VOTE: **3-1-1** (Frederick L. Hill, Lesylleé M. White, and Anthony J. Hood to GRANT the appeal and REVERSE the determination of the Zoning Administrator; Carlton E. Hart opposed; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of Board members approved the issuance of this order.

FINAL DATE OF ORDER: February 4, 2019

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 § 110.5.3.2 OF THE CONSTRUCTION CODES, 12-A DCMR, WHEN A WRITTEN ORDER OF THE BOARD OF ZONING ADJUSTMENT CONCLUDES THAT A CERTIFICATE OF OCCUPANCY WAS ISSUED IN ERROR, THE CERTIFICATE OF OCCUPANCY SHALL BE REVOKED EFFECTIVE TEN DAYS AFTER THE BOARD OF

[5] The "first iteration" presumably refers to Application No. 17404, which concerned a different proposal at the subject property prior to its subdivision into two record lots, and is not related to the development that is the subject of this appeal.

ZONING ADJUSTMENT ORDER BECOMES FINAL PURSUANT TO THE PROVISIONS OF THE ZONING REGULATIONS.

PURSUANT TO § 110.6.1 OF THE CONSTRUCTION CODES, NO APPEAL MAY BE TAKEN TO THE BOARD OF ZONING ADJUSTMENT WHEN A GROUND FOR THE REVOCATION IS A BOARD OF ZONING ADJUSTMENT ORDER FINDING THAT THE CERTIFICATE OF OCCUPANCY WAS ISSUED IN ERROR. THE REVOCATION IN SUCH CASES MAY BE APPEALED TO THE DISTRICT OF COLUMBIA COURT OF APPEALS PURSUANT TO D.C. OFFICIAL CODE § 2-510.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19828 of 3423 Holmead Place LLC, as amended,[1] pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the non-residential conversion requirements of Subtitle U § 320.3, and under Subtitle E § 5201 from the minimum court requirements of Subtitle E § 203.1 and the nonconforming structure requirements of Subtitle C § 202.2, and pursuant to Subtitle X, Chapter 10, for a variance from the front setback requirements of Subtitle B § 315.1(c), to convert an existing church to a seven-unit apartment house in the RF-1 Zone at premises 3423 Holmead Place N.W. (Square 2834, Lot 163).

HEARING DATES: October 17, 2018 and January 16, 2019
DECISION DATES: November 28, 2018 and January 30, 2019

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 39A (Revised), as amended by plans in Exhibit 51 and withdrawal of relief in Exhibit 55; Exhibits 11 and 15 (Original).) 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") 1A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1A, 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 4-3-0 to support the application. (Exhibit 42.) The ANC submitted a supplemental written report, indicating that it

[1] The Applicant originally requested relief from the front setback provisions of Subtitle B § 315.1(c) as a special exception, but amended the application to request that relief as an area variance instead. (Exhibit 39A.) On November 28, 2018, the Board denied variance relief for number of stories under Subtitle E § 303.1 and reopened the record to hold a continued hearing on this case. The Applicant subsequently submitted revised plans no longer requiring that area of relief (Exhibit 51) and a letter clarifying that it thereby withdraws its request for relief from Subtitle E § 303.1. (Exhibit 55.) The caption has been revised accordingly.

considered the Applicant's revised plans at a regularly scheduled, properly noticed public meeting on January 9, 2019 and voted 12-0-0 in support of the application. (Exhibit 52.)

The Office of Planning ("OP") submitted two reports for the record, both recommending denial of variance relief for number of stories under Subtitle E § 303.1 and recommending approval of all other areas of requested relief. (Exhibits 37 and 48.) The Board denied the request for variance relief under Subtitle E § 303.1, and it was subsequently withdrawn by the Applicant. (Exhibits 51 and 55.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application. (Exhibit 33.)

The Board received one letter in support of the application. (Exhibit 40.) At the public hearing of October 17, 2018, William Jordan testified in opposition. On November 28, 2018, the Board denied a request to reopen the record filed by Mr. Jordan on November 6, 2018. The request indicated that Mr. Jordan wished to file a request for party status; however, the Board noted that the deadline to request party status had passed and that Mr. Jordan had been given the opportunity to testify on the application at the prior public hearing.

Variance Relief

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for an area variance from the front setback requirements of Subtitle B § 315.1(c). 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 the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for special exceptions under the non-residential conversion requirements of Subtitle U § 320.3, and under Subtitle E § 5201 from the minimum court requirements of Subtitle E § 203.1 and the nonconforming structure requirements of Subtitle C § 202.2. 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 that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that any other specified conditions for special exception relief have been met, pursuant to Subtitle X § 901.2(c).

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 51.**

VOTE: **4-0-1** (Frederick L. Hill, Lorna L. John, Lesylleé M. White (by absentee), and Anthony J. Hood (by absentee) to APPROVE; Carlton E. Hart 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: February 1, 2019

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. 19875 of the Embassy of the Republic of Nepal, pursuant to 11 DCMR Subtitle X, Chapter 2, to relocate a chancery use to the existing Ambassador's residence in the R-12 Zone at premises 2730 34th Place, N.W. (Square 1939, Lot 33).

HEARING DATE: November 28, 2018
DECISION DATE: November 28, 2018

NOTICE OF FINAL RULEMAKING

and

DETERMINATION AND ORDER

The Board of Zoning Adjustment (the "Board" or "BZA"), pursuant to the authority set forth in § 306 of the Foreign Missions Act, approved August 24, 1982 (96 Stat. 283; D.C. Official Code § 6-1306 (2012 Repl.)) and Chapter 2 of Subtitle X of the Zoning Regulations of the District of Columbia, Title 11 DCMR, and after having held a public hearing on November 28, 2018, hereby gives notice that it took final action not to disapprove the application of the Embassy of the Republic of Nepal ("Applicant") to relocate a chancery use to the existing Ambassador's residence in the R-12 Zone at premises 2730 34th Place, N.W. (Square 1939, Lot 33) (the "Subject Property".)

A Notice of Proposed Rulemaking was published in the September 28, 2018 edition of the *D.C. Register*. (65 DCR 10079.) In accordance with Subtitle Y § 402.1, the Board provided written notice to the public more than 40 days in advance of the public hearing. On October 9, 2018, the Office of Zoning referred the application to the United States Department of State, the District of Columbia Office of Planning ("OP"), Advisory Neighborhood Commission ("ANC") 3C, whose boundaries encompass the Subject Property, the Single Member District Commissioner for ANC 3C08, the District Department of Transportation ("DDOT"), Historic Preservation Review Board ("HPRB"), the Department of Housing and Community Development, the National Capital Planning Commission, and the Councilmember for Ward Three.

The Office of Zoning scheduled a public hearing on the application for November 28, 2018 and provided notice of the hearing by mail to the Applicant, ANC 3C, and the owners of all property within 200 feet of the Subject Property. Notice of the hearing was published in the *D.C. Register* on September 28, 2018. (65 DCR 9941.)

Background

The Subject Property is the existing official residence of the Embassy of the Republic of Nepal's Ambassador to the United States. The Applicant proposes to instead use the Subject Property as the chancery for the Embassy of the Republic of Nepal. The Applicant's chancery is currently located at 2131 Leroy Place, N.W. and employs 12 officers and staff. The chancery is open to the public on Monday through Friday from 9:00 A.M. to 5:00 P.M. The Applicant indicates that the chancery receives approximately five visitors per day. The Applicant plans to maintain the same number of officers and staff, as well as the same hours of operation at the proposed location. The Applicant does not anticipate a change in the average number of daily visitors to the chancery. When the chancery is relocated to the Subject Property, the Ambassador will move to a new residence off-site. Therefore, special evening events hosted by the Ambassador with 70-100 attendees would no longer be held at the Subject Property.

Of the 12 officers and staff, two individuals currently drive to the chancery. The Applicant expects that the relocation of the chancery would not change or increase the number of staff traveling to the chancery by automobile. The Applicant proposes to maintain two off-street parking spaces accessible by a public alley to the rear of the Subject Property. Three on-street spaces are assigned to the Subject Property as diplomatic parking spaces on 34th Place, N.W.

Location in a Mixed Use Area

The Subject Property is located in the R-12 Zone, which is a low-density residential zone. For applications requesting to locate, replace, or expand a chancery in a low- to medium-density residential zone, the Board must first determine that the proposed location is in a "mixed-use area" on the basis of existing uses. (11-X DCMR §§ 201.3 – 201.7.) Pursuant to Subtitle X § 201.4, the "area" shall be the area that the Board determines most accurately depicts the existing mix of uses adjacent to the proposed location of the chancery. Pursuant to Subtitle X § 201.5, an area shall be considered to be a mixed-use area if more than 50% of the zoned land within the area is devoted to uses other than residential uses.

In this case, the Board concurs with the Applicant that the relevant "area" includes Square 1939 and portions of Square 2122 that are adjacent to 34th Street, N.W. The Zoning Regulations do not limit the Board's consideration to the square in which the property is located, but provide that "[i]f … an area other than a square has been used to calculate the percentage of existing uses pursuant to Subtitle X § 201.4, a statement shall be included explaining the basis for using the area, which shall not be based solely on previous Board action for another location." (11-Y DCMR § 301.7.) The Applicant provided the required statement, explaining that Square 1939 and the portions of Square 2122 adjacent to 34th Street, N.W. most accurately depict that the surrounding area contains a mix of chanceries, religious uses, and detached one-family dwellings. (Exhibit 5.) The Applicant further notes that the prevalence of chanceries and religious uses in the area represents the character of the broader surrounding community,

including the nearby Embassy Row, Naval Observatory, and Vice President's residence. (Exhibit 5.)

Neighbors of the Subject Property submitted letters and written testimony to the record raising concerns about this element of the Board's consideration. (Exhibits 37, 39, 44, and 45.) The neighbors specifically argue that only Square 1939 is the proper area for the Board's consideration, for several reasons: (1) Square 1939 is a cohesive whole, with natural boundaries formed by Massachusetts Avenue, 34th Street, and Fulton Street; (2) Square 1939 has a different zoning designation than adjacent sites to the north and east; (3) the chancery and non-profit uses in Square 1939 all front on Massachusetts Avenue and no other chancery or non-profit uses front on any other streets in the square; (4) the street frontage on all other streets in the Square is either entirely residential or primarily residential. (Exhibit 39.) The letters raise the concern that the Applicant's definition of the relevant area improperly includes the chancery uses in Square 2122 for the purpose of altering the land area calculations to misrepresent the character of the surrounding neighborhood. (Exhibits 37 and 39.) At the public hearing, testimony was provided by Colleen Daly raising similar concerns that accepting the Applicant's proposed area would set a precedent that would be detrimental to the character of the neighborhood by creating an "arbitrary mixed-use area." (Exhibit 44.) Ms. Daly further argued that using only Square 1939 would be the approach consistent with the Zoning Regulations, citing Zoning Commission ("Z.C") Order 08-06A.[1] (Exhibit 44.)

In its written report, ANC 3C echoes the concerns of neighbors and asks the Board to find that only Square 1939 is the relevant area for the purpose of the mixed-use determination. (Exhibit 41.) ANC 3C also raises the issue that the Applicant's proffered "area" is the same as that recently approved in BZA Application No. 19788 of the Royal Norwegian Embassy, located within the same square as the Subject Property, despite the requirement in 11-Y DCMR § 301.7 that the Board's determination "shall not be based solely on previous Board action for another location."

The Board finds that limiting its consideration of the relevant area to Square 1939 would be overly narrow in this case, as it would not take into account the presence of diplomatic and religious uses that also influence the character of the neighborhood. As raised by Ms. Daly in her testimony, Z.C. Order No. 08-06A contains a discussion of OP's recommendations regarding the Board's mixed-use area determination. In that Order OP recommended that the "square within which the proposed chancery is to be located should be the area within which the Board should focus its mixed-use inquiry," however, the discussion added that "in order to afford flexibility to the inquiry, OP proposed that the Board could use a larger area if that area provides a more accurate depiction of the existing mix of adjacent uses." (Z.C. Order No. 08-06A, p. 12.) In this case, OP found that the Applicant has sufficiently documented that the defined area for purposes of the mixed-use inquiry is Square 1939 and a portion of Square 2122. (Exhibit 40.)

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[1] Z.C. Order No. 08-06A is a final rulemaking approving comprehensive revisions to the Zoning Regulations of 2016. The part referenced by Ms. Daly in her testimony contains a discussion of OP's recommendation for how the Board should focus its mixed-use inquiry in the broader context of amendments to the chancery regulations. (Z.C. Order No. 08-06A, pp. 11-12.)

The Board concurs with OP's finding and concludes that the using the Applicant's proposed area would provide a more accurate depiction of the existing mix of adjacent uses.

Although OP's written recommendation also mentions that using the area proffered by the Applicant would be consistent with BZA Application No. 19788 of the Royal Norwegian Embassy, the Board's determination is not made solely on the basis of its action in that case, as the ANC suggests. In this case, the Board finds that the area including Square 1939 and a portion of Square 2122 more accurately depicts that the surrounding area contains a mix of chanceries, religious uses, and detached one-family dwellings. Though neighbors suggested that 34th Street forms a natural boundary line, the Board was not persuaded that the presence of a major arterial street is a basis for considering only Square 1939. The Board finds that 34th Street does not form a clear boundary with regard to the use of surrounding properties, as lots to both the east and west of 34th Street include non-residential uses.

Further, though Square 1939 is zoned R-12 (Naval Observatory Residential House zone) and Square 2122 is zoned R-11 (Naval Observatory/Tree and Slope Protection Residential House zone), the purpose and intent of both zone districts as reflected in the Zoning Regulations are nearly identical. (11-D DCMR §§ 600.1 and 700.1.) The Board finds that the difference in zone district is not a basis for the exclusion of Square 2122 from its consideration in this case. Finally, the Board was not persuaded by the argument that, because the existing non-residential uses in Square 1939 exclusively front on Massachusetts Avenue, the consideration of a part of Square 2122 is improper. The Board considered the non-residential uses located within Square 1939 when evaluating the mix of uses in the area, but did not find that the placement of those uses within the area was significant to its determination. For those reasons, the Board concluded that the inclusion of several lots within Square 2122 is not arbitrary, but rather, is the most accurate depiction of the existing mix of adjacent uses to the proposed location of the chancery. Thus, the Board has determined to consider the area proposed by the Applicant as the "area" for the purpose of Subtitle X § 201.4.

Considering the uses in Square 1939 and parts of Square 2122, the Board determines that this area is mixed-use and thus meets the requirement of Subtitle X § 201.3. The Board credits the information provided by the Applicant in Exhibits 5 and 8, that the entirety of the area consists of approximately 333,211 square feet of land area and, of such area, approximately 196,131 square feet is utilized for nonresidential, religious, or diplomatic uses. Based on this analysis, nonresidential uses account for approximately 59% of the area, which exceeds the 50% threshold for presumptive treatment as mixed-use.

As the Board has concluded that the area that includes the Subject Property is a mixed-used area, the Board shall determine the merits of the application based on the criteria provided in the Foreign Missions Act, also found in Subtitle X § 201.8 of the Zoning Regulations. (11-X DCMR § 201.6.)

Foreign Missions Act Criteria

Pursuant to § 406(d) of the Foreign Missions Act, D.C. Official Code § 6-1306(d), the Board must consider six enumerated criteria when reviewing a chancery application. The provision further dictates who is to make the relevant finding for certain factors. The factors and relevant findings are as follows:

1. **The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital.**

In a letter dated October 12, 2018, the Department of State determined that favorable action on this application would fulfill the international obligation of the United States to facilitate the Embassy of the Federal Democratic Republic of Nepal in acquiring adequate and secure premises to carry out their diplomatic mission. (Exhibit 33.) Based on this determination, the Board finds that this requirement has been met.

2. **Historic preservation, as determined by the Board of Zoning Adjustment in carrying out this section; and in order to ensure compatibility with historic landmarks and districts, substantial compliance with District of Columbia and federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.**

The Office of Planning ("OP"), which includes the Historic Preservation Office, indicates that the Subject Property is not a historic landmark, nor is it located in a historic district. (Exhibit 40.) OP also notes that the Applicant proposes no changes or additions to the exterior of the structure. (Exhibit 40.) Based on the evidence and testimony in the record, the Board finds this criterion is met.

3. **The adequacy of off-street or other parking and the extent to which the area will be served by public transportation to reduce parking requirements, subject to such special security requirements as may be determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.**

The Applicant is required under 11-C DCMR § 701.5 to provide one vehicle parking space and proposes to maintain two parking spaces accessible by a public alley to the rear of the Subject Property. Three on-street spaces are assigned to the Subject Property as diplomatic parking spaces on 34th Place, N.W. The Board concurs with the findings reached by the District Department of Transportation ("DDOT") that the impacts of the expansion of the chancery building will have no adverse impacts on the travel conditions of the District's transportation network. (Exhibit 35.) A neighbor raised concerns that granting the application would increase traffic and parking issues (Exhibit 37); however, the evidence in the record does not support this claim. As indicated by the Applicant, the chancery is expected to receive approximately five visitors per day and two individuals of the 12 on staff will access the site by automobile. Given the number of parking spaces provided on-site, the Applicant will be able to accommodate the

parking needs of its staff and visitors. In addition, the Subject Property is also accessible by Metrobus. DDOT notes that there may be a "minor increase in vehicular, transit, pedestrian, and bicycle trips during business hours," but that would be offset by "fewer embassy event based trips in the evening." (Exhibit 35.) Accordingly, the Board finds that the off-street parking spaces provided by the chancery will be adequate, based on the proposed intensity of use.

The Department of State, after consulting with the Federal agencies authorized to perform protective services, determined that there are no special security requirements related to parking in this case. (Exhibit 33.) Based on this finding and determination, the Board concludes that this criterion is met.

4. **The extent to which the area is capable of being adequately protected, as determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.**

The Department of State, after consulting with the Federal agencies authorized to perform protective services, determined that the subject site and area are capable of being adequately protected. (Exhibit 33.) Based on this determination, the Board finds that this criterion has been met.

5. **The municipal interest, as determined by the Mayor.**

OP, on behalf of the Mayor of the District of Columbia, determined that approving the application was in the municipal interest. (Exhibit 40.) OP found that the Subject Property is within a mixed-use area consistent with Subtitle X §§ 201.3 - 201.7 and that the use would not be detrimental to the public good nor is it contemplated to bring substantial harm to the privacy and use of enjoyment of neighboring property.

Further, OP noted that there were no public space considerations with this application. DDOT's report separately determined that the proposal would not have adverse impacts on the travel conditions of the District's transportation network and raised no issues related to public space. (Exhibit 35.)

6. **The federal interest, as determined by the Secretary of State.**

The Department of State determined that there is federal interest in this project. Specifically, the Department of State acknowledged the Government of the Federal Democratic Republic of Nepal's assistance in addressing the United States' land use needs in Kathmandu. The Department of State also noted that "such cooperation was essential for successfully achieving the Federal Government's mission for providing safe, secure, and functional facilities for the conduct of U.S. diplomacy and the promotion of U.S. interests worldwide." (Exhibit 33.) Based on this determination, the Board finds that this criterion has been met.

Great Weight

The Board is required under § 13(d) of the Advisory Neighborhood Commission Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001) to give great weight to the issues and concerns raised in the written report of the affected ANC, which is ANC 3C. The ANC submitted a resolution indicating that it voted to oppose the Applicant's conclusion that the Subject Property is located in a mixed-use area. (Exhibit 41.) Specifically, the ANC recommends that the Board find that only Square 1939 should be used to determine an accurate area, rather than the area identified by the Applicant which includes Square 1939 and part of Square 2122. (Exhibit 41.) The ANC distinguished the current application from BZA Application No. 19788 of the Royal Norwegian Embassy, in which the ANC agreed with the Applicant's proposal that the appropriate area for the Board's consideration included Squares 1939 and 2122. The ANC claims that in that case, the Norwegian embassy and chancery had a large presence on Massachusetts Avenue and 34th Street and therefore was more closely related to the diplomatic uses across the street in Square 2122. (Exhibit 41.) The ANC argues that the Subject Property, in contrast, "is in the middle of square 1939 and appears consistent with and functions almost seamlessly in the square's residential neighborhood centered on 34th Place." (Exhibit 41.) In addition, the ANC cited the requirement in 11-Y DCMR § 301.7 that the Board's determination "shall not be based solely on previous Board action for another location," to raise the issue that the Applicant's proffered "area" is the same as in BZA Application No. 19788.

The Board considered the ANC's concerns when it made its determination under Subtitle X § 201.4 of the area that most accurately depicts the existing mix of uses adjacent to the proposed location of the chancery. As explained in further detail above, the Board determined that the area including Square 1939 and a portion of Square 2122 more accurately depicts that the surrounding area contains a mix of chanceries, religious uses, and detached one-family dwellings. Though the ANC relied on factors like the presence of the chancery and its location within the Square to make a distinction between this application and Application No. 19788, the Board was not persuaded to reach the same conclusion. The Board finds that the existing chancery and non-profit uses in Square 1939, regardless of their presence or location, demonstrate that the character of the area surrounding the Subject Property contains a mix of uses. Finally, the Board's determination was not based solely on its recent action in BZA Application No. 19788, as the Board provided an independent basis for its determination supported by the evidence in the record.

Based upon its consideration of the six criteria discussed above, and having given great weight to the ANC, the Board has decided not to disapprove the application. Accordingly, it is hereby **ORDERED** that the application is **NOT DISAPPROVED.**

VOTE: 5-0-0 (Frederick L. Hill, Marcel C. Acosta, Lesylleé M. White, Lorna L. John, and Peter G. May to NOT DISAPPROVE.)

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: February 7, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.12, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL UPON PUBLICATION IN THE *D.C. REGISTER*.

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. 19891 of 1657-1661 Gales Street, LLC, pursuant to 11 DCMR Subtitle X, Chapter 10, for an area variance from the lot dimension requirements of Subtitle E § 201.1, to construct two new flats in the RF-1 Zone at premises 1657-1661 Gales Street, N.E. (Square 4540, Lots 184, 185, 186).

HEARING DATE: January 30, 2019
DECISION DATE: January 30, 2019

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 19 (Final Updated); Exhibit 16 (Prior Updated); Exhibit 6 (Original).) 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") 6A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, 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 8, 2018, at which a quorum was present, the ANC voted 6-0 to support the application. (Exhibit 22.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 48.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 49.) One letter signed by five neighbors in support of the application was submitted into the record. (Exhibit 13.)

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for an area variance from the lot dimension requirements of Subtitle E § 201.1, to construct two new flats in the RF-1 Zone. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking a variance from 11 DCMR Subtitle E § 201.1, 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 44 – REVISED ARCHITECTURAL PLANS AND ELEVATIONS AND EXHIBIT 45 – REVISED DC SURVEYOR'S PLAT.**

VOTE: **3-0-2** (Frederick L. Hill, Carlton E. Hart, and Peter G. May to APPROVE; Lesylleé M. White and Lorna L. John 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: February 4, 2019

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. 19892 of Staci Walkes, pursuant to 11 DCMR Subtitle X, Chapter 9, and under the Capitol Interest Zone criteria of Subtitle E § 5202, for special exceptions under the penthouse regulations of Subtitle C § 1500.4, and under Subtitle C § 1504 from the penthouse setback provisions of Subtitle C § 1502.1(c)(1)(A), to construct a penthouse stair enclosure addition to the existing, attached principal dwelling unit in the RF-3 Zone at premises 434 4th Street N.E. (Square 780, Lot 51).[1]

HEARING DATE: January 30, 2019
DECISION DATE: January 30, 2019

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 7.) 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") 6C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on January 9, 2019, at which a quorum was present, the ANC voted 6-0-0 to support the application. (Exhibit 35.)

The Office of Planning ("OP") submitted a timely report, dated January 18, 2019, in support of the application. (Exhibit 36.) According to OP, the proposal was reviewed and approved by the Historic Preservation Review Board on September 28, 2017. The District Department of Transportation ("DDOT") submitted a report, dated January 18, 2019, expressing no objection to the approval of the application. (Exhibit 37.)

[1] The caption has been revised to include reference to the Capitol Interest Zone criteria of Subtitle E § 5202, as required for special exceptions in the RF-3 zone and as indicated in Office of Planning's report. (Exhibit 36.) This reference was not included in the caption as originally advertised.

Eight letters of support for the application were submitted to the record by neighbors (Exhibit 10.) A letter of support from the Capitol Hill Restoration Society was submitted to the record. (Exhibit 38.) Mr. and Mrs. Lonnie and Cynthia Zeigler of 426 4th Street, N.E. testified in opposition to the application.

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under the penthouse regulations of Subtitle C § 1500.4, under Subtitle C § 1504 from the penthouse setback provisions of Subtitle C § 1502.1(c)(1)(A), and under Subtitle E § 5202 of the Capitol Interest Zone criteria, to construct a penthouse stair enclosure addition to the existing, attached principal dwelling unit in the RF-3 Zone. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, Subtitle C §§ 1500.4, 1504, and 1502.1(c)(1)(A), and Subtitle E § 5202, 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 4, AS REVISED IN PART BY THE ROOF LEVEL PLANS AT EXHIBIT 29.**

VOTE: **4-0-1** (Peter G. May, Carlton E. Hart, Frederick L. Hill, and Lorna L. John to APPROVE; 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: February 5, 2019

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. 19901 of HIP West St Partners LLC, as amended,[1] pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle C § 1002.2 from the inclusionary zoning minimum lot requirements of Subtitle C § 1001.2(e)(3), and pursuant to 11 DCMR Subtitle X, Chapter 10, for an area variance from the side yard requirements of Subtitle D § 307.4, to construct six new, attached principal dwelling units in the R-3 Zone at premises 2501-2509 West Street S.E. (Square 5808, Lots 824, 69 and 50).

HEARING DATE: January 30, 2019
DECISION DATE: January 30, 2019

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 36 (Revised); Exhibit 5 (Original).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 8A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8A, which is automatically a party to this application. The ANC submitted a report, indicating that at a regularly scheduled, properly noticed public meeting on November 13, 2018, at which a quorum was present, the ANC voted 4-0-1 to support the application. (Exhibit 43.)

The Office of Planning ("OP") submitted a timely report recommending approval of the amended application. (Exhibit 41.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application, but noting that it expects the Applicant to file for public space permits prior to construction because the building

[1] The original application was amended to add special exception relief for inclusionary zoning bonus density (Subtitle C § 1001.2(e)(3)) and to remove area variance relief for lot dimension. (Subtitle D § 302.1).

design may change if the proposed curb cuts are not approved. (Exhibit 42.) The Board adopted a condition to the Order allowing the Applicant flexibility to modify this aspect of the plan, in the event curb cuts are not permitted.

Variance Relief

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for an area variance from the side yard requirements of Subtitle D § 307.4. 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 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.

Special Exception Relief

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle C § 1002.2 from the inclusionary zoning minimum lot requirements of Subtitle C § 1001.2(e)(3). 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 C §§ 1002.2 and 1001.2(e)(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 38 AND WITH THE FOLLOWING CONDITION:**

1. The Applicant shall construct the project in accordance with the approved plans except that the Applicant shall have flexibility, based on their coordination with DDOT, to remove the proposed garages, driveways, and curb cuts without affecting the relief granted in this Order.

VOTE: **3-0-2** (Frederick L. Hill, Carlton E. Hart, and Peter G. May to APPROVE; Lesylleé M. White and Lorna L. John 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: February 1, 2019

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

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19903 of Tim Baird, as amended,[1] pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, the rear yard requirements of Subtitle E § 306.1, and the nonconforming structure requirements of Subtitle C § 202.2, to construct a third floor and rear addition to an existing semi-detached principal dwelling unit and convert it to a flat in the RF-1 Zone at premises 410 Franklin Street N.W. (Square 510, Lot 139).

HEARING DATE: January 30, 2019
DECISION DATE: January 30, 2019

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 44 (final revised); Exhibit 34 (prior revised) and Exhibit 2 (original).) 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") 6E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6E, 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 December 4, 2018, at which a quorum was present, the ANC voted 6-0-0 to support the application. (Exhibit 37.)
The Office of Planning ("OP") submitted a timely report, dated January 18, 2019, in support of the application. (Exhibit 39.) The District Department of Transportation ("DDOT") submitted a report, dated January 18, 2019, expressing no objection to the approval of the application. (Exhibit 41.)

[1] The Applicant amended the application by adding to the original request a special exception for the nonconforming structure requirements of Subtitle C § 202.2 based on the recommendation of the Office of Planning. The Applicant submitted a revised self-certification form to the record. (Exhibit 44.) The caption has been revised accordingly.

Five letters of support for the application were submitted to the record by neighbors. (Exhibits 27-31.)

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 special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, the rear yard requirements of Subtitle E § 306.1, and the nonconforming structure requirements of Subtitle C § 202.2, to construct a third floor and rear addition to an existing semi-detached principal dwelling unit and convert it to a flat in the RF-1 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 E §§ 5201, 304.1 and 306.1, and Subtitle C § 202.2, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE REVISED APPROVED PLANS AT EXHIBIT 40.**

VOTE: **4-0-1** (Frederick L. Hill, Lorna L. John, Carlton E. Hart, and Peter G. May to APPROVE; 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: February 6, 2019

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. 19906 of 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).

HEARING DATE: February 6, 2019
DECISION DATE: February 6, 2019

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 3.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 2E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2E, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on January 2, 2019, at which a quorum was present, the ANC voted 6-0-0 to support the application. (Exhibit 35.)

The Office of Planning ("OP") submitted a timely report, dated January 25, 2019, in support of the application. (Exhibit 36.) The District Department of Transportation ("DDOT") submitted a report, dated January 25, 2019, expressing no objection to the approval of the application. (Exhibit 37.)

A letter of support from the U.S. Commission of Fine Arts ("CFA") was submitted to the record. (Exhibit 9.)

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 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. No parties appeared at the public

hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle D § 5201 and Subtitle C § 202.2, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 4A1 - 4A2.**

VOTE: **5-0-0** (Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, Lorna L. John, and Anthony J. Hood 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: February 7, 2019

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. 19907 of Greystar GP II, LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle I § 203.3 from the front build-to line requirements of Subtitle I § 203.1, to construct a hotel with ground floor retail uses in the D-5 Zone at premises 861 New Jersey Avenue S.E. (Square 695, Lots 820 and 823).

HEARING DATE: January 30, 2019
DECISION DATE: January 30, 2019

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 3.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commissions ("ANC") 6D and 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 6D and borders on the boundary line for ANC 6B, therefore both ANCs are automatically parties to this application. ANC 6B did not file a report; however, ANC 6D submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on December 10, 2019, at which a quorum was present, the ANC voted 5-0-2 to support the application, with conditions agreed to by the Applicant. (Exhibit 29.) The Board adopted the conditions, except those dealing with construction management, as it found that those conditions were not sufficiently related to the zoning relief requested.

The Office of Planning ("OP") submitted a timely report recommending approval of the application with the conditions agreed to by the Applicant, which have been adopted in this order. (Exhibit 32.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 34.)

No one testified or filed correspondence either in support of or opposition to the application.

As directed by 11-X DCMR § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under the front build-to line requirements of Subtitle I § 203.1 to construct a hotel with ground floor retail uses in the D-5 Zone. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11-X DCMR § 901.2, and Subtitle I §§ 203.1 and 203.3, 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 30B – APPLICANT'S SUPPLEMENTAL INFORMATION: TAB B (UPDATED PLANS), AND EXHIBIT 35 – UPDATED ARCHITECTURAL PLANS AND ELEVATIONS (TO SHOW INCREASE IN SIDEWALK WIDTHS) - AND WITH THE FOLLOWING CONDITIONS:**

Loading Management Plan

1. The hotel operator shall encourage vehicular traffic coming to the hotel to use the interior street for the drop-off and pick-up of hotel guests.

2. The Applicant shall seek approval from DDOT to establish a loading zone along New Jersey Avenue, S.E. in front of the hotel that would accommodate at least 3 vehicles.

3. The Applicant shall start a dialogue with DDOT regarding the creation of a protected bike lane on the south-bound side of New Jersey Avenue, S.E.

4. The hotel operator shall use best efforts to prohibit vehicles (taxis, Uber/Lyft) from double parking on New Jersey Avenue, S.E. when dropping-off/picking up guests of the hotel.

5. The hotel operator shall meet with ANC 6D and/or appropriate representatives of the nearby apartment buildings within six months after the hotel has started operations to

evaluate the effectiveness of the New Jersey Avenue loading zone and to address general vehicular access issues.

6. The hotel operator shall designate an on-site employee as the loading dock manager who shall use best efforts to require that all deliveries to the hotel arrive between the hours of 7:00 am – 7:00 pm.

7. The loading dock manager shall use best efforts to prohibit the idling of any trucks that are waiting to access the loading facilities of the building. The hotel operator shall install signs in the truck loading areas noting that idling is prohibited.

Additional Commitments of the Applicant

8. The Applicant shall ensure that the design of the building along New Jersey Avenue, S.E. and the adjacent streetscape shall prevent the possibility of pedestrians being hit by doors opening out into the pedestrian travelway.

9. The Applicant shall investigate the need for security camera coverage across the entire site upon completion of the project.

10. The Applicant shall create a dog park, for the exclusive use by residents of the project and their guests, within the boundaries of the site.

11. The Applicant shall fully embrace and utilize the area underneath the freeway for amenity spaces that will be reserved for use by hotel guests and residents of the project.

12. The sidewalk abutting New Jersey Avenue, S.E. shall be maintained as a publicly accessible sidewalk at all times of the day.

VOTE: **4-0-1** (Frederick L. Hill, Lorna L. John, Carlton E. Hart, and Peter G. May to APPROVE; 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: February 1, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

BZA APPLICATION NO. 19907
PAGE NO. 3

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

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

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

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19917 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).

HEARING DATE: February 6, 2019
DECISION DATE: February 6, 2019

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 2.) 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") 6C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on January 9, 2019, at which a quorum was present, the ANC voted 6-0-0 to support the application. (Exhibit 30.)

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. (Exhibit 34.) A letter in opposition was submitted by the Capitol Hill Restoration Society. (Exhibit 37.) Two letters were submitted in support of the application from the adjacent neighbors. (Exhibits 8 and 9.)

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 §§ 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. The only parties to the case were the ANC and the

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

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle E §§ 205.5, 205.4, and 5201, 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 4 - ARCHITECTURAL PLANS AND ELEVATIONS – AS REVISED BY EXHIBIT 32 – UPDATED ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: **4-1-0** (Frederick L. Hill, Lorna L. John, Lesylleé M. White, and Anthony J. Hood to APPROVE; Carlton E. Hart opposed).

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: February 7, 2019

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.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 18-08
Z.C. Case No. 18-08
BSREP II Dupont Circle, LLC
(Map Amendment @ Square 72, Lot 74)
December 17, 2018

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on October 25, 2018 to consider an application by BSREP II Dupont Circle, LLC ("Applicant") for approval of a Zoning Map Amendment pursuant to Subtitle X § 500.1 of the District of Columbia Zoning Regulations ("Zoning Regulations"), Title 11 of the District of Columbia Municipal Regulations. The application is to amend the Zoning Map from the RA-5 zone to the MU-10 zone for Lot 74 in Square 72 (1143 New Hampshire Avenue, N.W.)

The Commission considered the application for the Map Amendment pursuant to Subtitles X and Z of the Zoning Regulations of 2016 (Title 11 DCMR). The public hearing was conducted in accordance with the provisions of 11-Z DCMR § 400, *et seq*. For the reasons set forth below, the Commission hereby approves the application.[1]

On June 12, 2018, the Applicant filed an application for approval of the Map Amendment. (Exhibits ["Ex."] 1, 2.) The property that is the subject of the Map Amendment consists of Lot 74 in Square 72 ("Property"). (Ex. 2.) The Property is currently in the RA-5 zone. The Property is in the Mixed-Use land use category on the Future Land Use Map of the Comprehensive Plan. The Future Land Use Map indicates areas where the mixing of two or more land uses is encouraged. The combination of uses desired in a given area is depicted in striped patterns, with striped colors corresponding to the land use categories defined in the Framework Element. For this site, there are two stripes corresponding to the Mixed-Use, High-Density Residential and High-Density Commercial land use categories. (Ex. 2, 2B, 2C.)

Prior to filing the application, on April 23, 2018, the Applicant mailed a notice of intent to file the Map Amendment application to all property owners within 200 feet of the Property as well as Advisory Neighborhood Commission ("ANC") 2A. Also prior to filing the application, the Applicant contacted ANC 2A. Accordingly, the Applicant satisfied the notice requirements of 11-Z DCMR §§ 304.5, 304.6. (Ex. 2D.)

The application satisfied the filing requirements of 11-Z DCMR § 300 et seq. (Ex. 2E.) The application also included an explanation of the individual policy objectives of the Comprehensive Plan with which the application is consistent. There is no evidence in the record that the application is in any way inconsistent with the Comprehensive Plan. Since this case was filed as an application, and not a petition, it was heard under the contested case procedures of Subtitle X, Chapter 4. However, the Commission did not consider the Applicant's plans for its property, since the Commission cannot limit the Applicant's use of the property to a particular matter-of-right use or size.

On July 30, 2018, the Commission set the case down for a public hearing based on the recommendation of the Office of Planning ("OP"). (Ex. 10.) On August 14, 2018, the Applicant filed a pre-hearing statement that requested detailed the Applicant's planned presentation for the hearing, and the Applicant

[1] As discussed below, no party opposed the grant of this application. Because the Commission's decision to grant this application would not be adverse to any party, this Order is not required to be accompanied by findings of fact and conclusions of law. (See D.C. Official Code § 2-509 (e) (2012 Repl.); 11-Z DCMR § 604.7.)

proffered Ellen McCarthy as an expert in land use planning. (Ex. 12.) Notice of the public hearing was provided in accordance with the requirements of 11-Z DCMR § 400 et seq. (Ex. 13-15.)

On October 5, 2018, the Applicant filed a supplemental prehearing submission. (Ex. 21.)

The Property is located entirely within ANC 2A, which therefore was an automatic party to this case. At a duly noticed public meeting with a quorum present, the ANC voted in support of the application and submitted a report in support, which stated no issues or concerns. (Ex. 25.)

No requests for party status were made.

On October 25, 2018, the Commission held a public hearing in accordance with 11-Z DCMR § 408 and accepted Ms. McCarthy as an expert in land use planning. (Transcript of Public Hearing, Z.C. Case No. 18-08, October 25, 2018 at page 4.) No person or entity appeared in support of or in opposition to the application. The District Department of Transportation submitted a report stating no objection to approval of the application. (Ex. 22.) OP submitted a report recommending approval of the application and testified in support of the application at the public hearing. (Ex. 23.)

Pursuant to 11-Z DCMR § 408.11, at the close of the public hearing, the Commission took proposed action to refer the application to the National Capital Planning Commission ("NCPC") for review and comment pursuant to the Home Rule Act. The referral was made by the Office of Zoning on October 29, 2018. (Ex. 28.)

By letter dated December 6, 2018, the NCPC Executive Director advised the Commission that pursuant to a delegated action dated November 29, 2018, he found that the proposed Map Amendment would not be inconsistent with the Comprehensive Plan for the National Capital nor would it adversely affect any other identified federal interests. (Ex. 30.)

Pursuant to 11-Z DCMR § 408.8, the Commission has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for approval of a Zoning Map amendment pursuant to 11-X DCMR § 500.

As required by law, the Commission must give "great weight" to the recommendations of OP and to the issues and concerns raised in the written recommendations of ANC 2A, the affected ANC. The great weight requirement is satisfied by the Commission acknowledging the written reports of OP and ANC 2A and stating whether or not they offer persuasive advice under the circumstances. OP's report recommends approval of the application and the Commission finds this evidence to be persuasive. ANC 2A's report also recommends approval of the application but states no issues and concerns for the Commission to give great weight to.

Based upon the record before the Commission, it concludes that the proposed map amendment from the RA-5 zone to the MU-10 zone is not inconsistent with the Comprehensive Plan, where the Property is located within the Mixed-Use Category, on the Future Land Use Map of the Comprehensive Plan, which for this property which in this case encourages a combination of high-density residential, and high-density commercial uses. Further, the rezoning would further multiple policies of the Comprehensive Plan. Pursuant to 11-X DCMR § 500.3 and the Home Rule Act, the Commission concludes that the map amendment is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property, as detailed in the case record and in the OP Report.

DECISION

On October 25, 2018, upon the motion of Commissioner May, as seconded by Vice Chairman Miller, the Zoning Commission took **PROPOSED ACTION** at the close of the public hearing by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter G. May, Peter A. Shapiro, and Michael G. Turnbull to approve).

On December 17, 2018, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; Peter A. Shapiro, not present, not voting).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on February 15, 2019.

BY THE ORDER OF THE D.C. ZONING COMMISSION
A majority of the Commission members approved the issuance of this Order.

Government of the District of Columbia
Public Employee Relations Board

In the Matter of: District of Columbia Public Schools Petitioner v. Washington Teachers' Union Local 6, American Federation of Teachers, AFL-CIO Respondent	)	PERB Case No. 18-A-13 Opinion No. 1692

DECISION AND ORDER

I. Introduction

On July 20, 2018, the District of Columbia Public Schools ("DCPS") filed this Arbitration Review Request ("Request") pursuant to the Comprehensive Merit Personnel Act, section 1-605.02(6) of the D.C. Official Code. DCPS seeks review of an arbitration award ("Award") issued on July 9, 2018, that sustained the grievance filed by the Washington Teachers' Union ("WTU") concerning the termination of the Grievant.

DCPS argues that the Award is contrary to law and public policy. WTU filed a timely Opposition to the Request.

Pursuant to section 1-605.02(6) of the D.C. Official Code, the Board may modify, set aside, or remand a grievance arbitration award only when (1) the arbitrator was without or exceeded his or her jurisdiction; (2) the award on its face is contrary to law and public policy; or (3) the award was procured by fraud, collusion, or other similar unlawful means. Upon consideration of the Arbitrator's conclusions, applicable law, and record presented by the parties, for the reasons stated herein, the request is denied.

II. Statement of the Case

The Grievant was a teacher at a DCPS elementary school. On June 15, 2009, the Grievant was terminated pursuant to the Professional Performance Evaluation Process (PPEP).[1] On June 22, 2009, WTU invoked Step III of the grievance procedure under the Collective Bargaining Agreement ("CBA") that required a hearing and decision by the agency.[2] DCPS received the Step III request but failed to hold a hearing and issue a decision.[3] On March 20, 2017, WTU filed a demand for arbitration challenging the termination.[4]

III. Arbitrator's Award

The parties presented three issues for arbitration: whether the grievance was procedurally arbitrable, whether DCPS discharged the Grievant without cause, and whether DCPS discharged the Grievant in retaliation for his protected speech and/or based on anti-union animus.[5]

Before the Arbitrator, DCPS argued that the delay between invoking Step III of the grievance procedure (June 20, 2009) and the request for arbitration at Step IV (March 20, 2017) was prejudicial.[6] DCPS maintained that arbitration should be barred under the doctrine of laches in the absence of a contractually imposed time limit for requesting arbitration.[7] In addition, DCPS argued that it should not be liable for damages because WTU waived its right to pursue arbitration by the extraordinary delay in requesting arbitration. Notwithstanding the delay, DCPS contended that, to the extent that any liability existed, damages should be apportioned between the parties.[8]

WTU argued that DCPS presented no evidence that the termination of the Grievant was for just cause.[9] WTU presented evidence of Grievant's employment history, union activity, and performance evaluations prior to the PPEP.[10] WTU stated that it initiated a Step III grievance in compliance with the CBA.[11] Furthermore, WTU argued that the equitable defense of laches was inapplicable because DCPS breached its obligation to hold a hearing and issue a Step III decision.[12]

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[1] Award at 2.
[2] *Id*.
[3] Award at 13.
[4] Award at 2. WTU states that the 8-year delay in requesting arbitration was caused by a significant case backlog related to large numbers of teacher terminations.
[5] Award at 3.
[6] Award at 3-4.
[7] Laches Doctrine is a common law defense that prevents a party from waiting to pursue a remedy after a recognized injury. As recognized in *Bauman v. D.C. Board of Zoning* 894 A.2d 423, 431 (2006). Laches has two elements (1) claiming party must show prejudice caused by delay and (2) that the delay was unreasonable.
[8] Award at 6.
[9] Award at 7.
[10] Award at 8.
[11] Award at 9.
[12] Award at 7.

The Arbitrator found that the grievance was procedurally arbitrable because WTU timely invoked Step III of the grievance procedure and DCPS "should have held a Step III hearing and issued a Step III decision as a precursor to arbitration."[13] The Arbitrator held that DCPS terminated the Grievant without just cause and ordered reinstatement with backpay.[14]

IV. Discussion

DCPS requests review on the basis that the Award is contrary to law and public policy.[15] DCPS contests the holdings that (1) DCPS violated the CBA by failing to hold a hearing and issue a decision, (2) WTU made a timely request to arbitrate, and (3) DCPS is solely liable for the Grievant's damages.

The law and public policy exception is "extremely narrow".[16] The narrow scope limits potentially intrusive judicial reviews under the guise of public policy.[17] DCPS has the burden to demonstrate that the award itself violates established law or compels an explicit violation of "well defined public policy grounded in law and or legal precedent."[18] The violation must be so significant that the law and public policy mandates a different result.[19] Here, there is no such violation.

Herein, the holding that DCPS violated the CBA does not present an occasion for the Board to act under section 1-605.02(6) of the D.C. Official Code. DCPS admits that it failed to hold a Step III hearing but disputes whether its failure was a contract violation. DCPS argues that it relied, to its detriment, on WTU's apparent abandonment of the grievance.[20] WTU argues that there was no abandonment, and DCPS' position is a mere disagreement with the Arbitrator.[21]

The Arbitrator has the authority to resolve issues of fact including determinations regarding the credibility, significance, and weight of the evidence.[22] The Arbitrator found that WTU did not abandon the grievance because it timely invoked Step III of the grievance procedure. The Arbitrator held that DCPS should have conducted a grievance hearing and issued a decision, and the failure to do so was a violation of the contract.[23]

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[13] Award at 13.
[14] Award at 14.
[15] Request at 3.
[16] *American Postal Workers Union, AFL-CIO v. United States Postal Service*,789 F.2d 1, 8 (D.C. Cir. 1986). *See MPD v. FOP/MPD Labor Comm. ex rel. Pair*, 61 D.C. Reg. 11609, Slip Op. 1487 at 8, PERB Case No. 09-A-05 (2014). *MPD v. FOP/MPD Labor Comm. ex rel. Johnson*, 59 D.C. Reg. 3959, Slip Op. 925 at 11-12, PERB Case No. 08-A-01 (2012).
[17] *Id*.
[18] *Id.*
[19] *Id*.
[20] Request at 4.
[21] Opposition to Request at 9.
[22] *DCDHCD v. AFGE Local 2725 AFL-CIO*, 45 D.C. Reg. 326, Slip Op. 527 at 2, PERB Case No. 97-A-03(1998). *AFSCME District Council 20 AFL-CIO v. D.C. General Hospital*, 37 D.C. Reg. 6172, Slip Op. 253, PERB Case No. 90-A-04 (1990).
[23] Award at 13.

By agreeing to submit a grievance to arbitration "the parties agree to be bound by the Arbitrator's interpretation of the parties' agreement, related rules and regulations, as well as the evidentiary findings on which the decision is based."[24] Moreover, "[t]he Board will not substitute its own interpretation for that of the duly designated arbitrator."[25] DCPS simply disagrees with the award of the arbitrator. Disagreement with the Arbitrator is not sufficient reason to modify, set aside, or remand an Award.[26]

Likewise, the Board will decline the invitation to set aside, modify, or remand the holding that WTU's arbitration request was timely and arbitrable after an eight-year delay. DCPS raises several issues related to the procedural arbitrability of the Award and argues that the Arbitrator failed to consider the defenses of laches, abandonment, and the lack of timeliness.[27] DCPS cites to *Charles Sisson v. District of Columbia Board of Zoning Adjustment* [28] which held in zoning matters, that absent a time-limit, it is reasonable for the aggrieved party to file an appeal within two months of notice of a decision. DCPS' reliance on this zoning case is misplaced.

Issues of procedural arbitrability are for the arbitrator to decide.[29] Questions of timeliness, estoppel, laches, and other prerequisites to arbitration are exclusively for the arbitrator.[30] As discussed above, the parties agree to be bound by the arbitrator's interpretation of the contract. Here, the Arbitrator found no contractually imposed time limit for requesting arbitration.[31] The Arbitrator specifically held that the underlying grievance was arbitrable.[32] DCPS has not raised any law or public policy that would require a different result. Therefore, we defer to the Arbitrator.

Finally, the Board will decline the invitation to set aside, modify, or remand the holding that DCPS is solely liable for damages resulting from the termination of the Grievant. DCPS disagrees with the findings of the Arbitrator but does not point to a specific law and policy that would mandate a different result. To find that a decision is contrary to law and public policy DCPS must specify the applicable law and definite public policy that mandate the Arbitrator arrive at a different result. Mere disagreement with the arbitrator does not make the decision contrary to law and public policy.[33]

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[24] *FOP v. Dept. of Corrections* 59 D.C. Reg. 9798, Slip Op. 1271 at 2, PERB Case No. 10-A-20 (2012). *See MPD v. FOP/MPD Labor Comm.*, 47 D.C. Reg. 7217, Slip Op. 633 at p. 3, PERB Case No. 00-A-04 (2000); *MPD v. FOP/MPD Labor Comm. ex rel. Fisher*, 51 D.C. Reg. 4173, Slip Op. 738, PERB Case No. 02-A-07 (2004).
[25] *FEMS v. AFGE, LOCAL 3721,* 51 D.C. Reg. 4158, Slip Op. 728, PERB Case No. 2-A-08 (2004).
[26] *AFSCME District Council 20 AFL-CIO v. D.C. General Hospital*, 37 D.C. Reg. 6172, Slip Op. 253 at 3, PERB Case No. 90-A-04 (1990).
[27] Request at 3-8.
[28] 805 A.2d 964, 969 (D.C. Ct App. 2002).
[29] *DYRS v. FOP/ DYRS Labor Comm.*, 62 D.C. Reg. 5913, Slip Op. 1513 at 4, PERB Case No. 15-A-02 (2015).
[30] *Washington Teachers Union, Local No.6, AFT v. D.C. Public Schools*, 77 A.3d 441, 446 n. 10 (2013). *See*, *MPD v. FOP/MPD Labor Comm. ex rel. Pair* 61 D.C. Reg. 11609, Slip Op. 1487 at 6, PERB Case No. 09-A-05 (2014).
[31] Award at 13.
[32] *Id.*
[33] *MPD v. FOP/MPD Labor Comm. ex rel. Pair*, Slip Op. 1487 at 7.

DCPS challenges the Award because of its potential cost and burden to taxpayers.[34] DCPS contends that the Arbitrator should have relied on the *Johnson-Whitehead* [35]arbitration decision that found issues arbitrable after an eight-year delay with the caveat that limited DCPS' liability to reinstatement of the employee without back pay.[36] However, there is no law, statute, rule, or public policy that requires different arbitrators to implement the same remedy. Each arbitration stands on its own and "arbitrations do not create binding precedent even when based upon the same collective bargaining agreement."[37]

An arbitrator is provided with wide latitude and flexibility in crafting remedies for CBA violations.[38] DCPS' disagreement with the Award's high estimated cost and claim of a general taxpayer burden is insufficient to cause us to remand, modify, or set aside the Award on a basis of law and public policy.

V. Conclusion

The Board rejects DCPS' arguments and finds no cause to modify, set aside, or remand the Award. Accordingly, DCPS' request is denied, and the matter is dismissed in its entirety.

ORDER

IT IS HEREBY ORDERED THAT:

1. The arbitration review request is hereby denied.

2. Pursuant to Board Rule 559, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Charles Murphy, Members Ann Hoffman, Barbara Somson, Douglas Warshof, and Mary Anne Gibbons

Washington, D.C.
December 20, 2018

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[34] Request at 7.
[35] *Washington Teachers Union ex rel. Johnson-Whitehead v. District of Columbia Public Schools*, AAA Case No. 01-17-0001-4339 (Rogers 2018).
[36] Request at 7.
[37] *MPD v. FOP/MPD Labor Comm.*, 59 D.C. Reg. 6881, Slip Op. 1210 at 3, PERB Case No. 10-A-11a (2012)
[38] *MPD v. FOP/MPD Labor Comm. ex rel. Gutterman*, 39 D.C. Reg. 6232, Slip Op. 282 at 3-4, PERB Case No. 87-A-04 (1991). *Univ. of D.C. v. AFSCME, Council 20, Local 2087*, 59 D.C. Reg. 15167, Slip Op. 1333 at 6, PERB Case No.12-A-01 (2012).

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 18-A-13, Opinion No. 1692 was sent by File and ServeXpress to the following parties on this the 20th day of December 2018.

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Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	
National Association of Government Employees	PERB Case No. 18-RC-02
Petitioner	
	Opinion No. 1693
and	
District of Columbia Office of the Chief Medical Examiner	
Respondent	

DECISION ON UNIT DETERMINATION AND DIRECTION OF ELECTION

On April 26, 2018, the National Association of Government Employees ("Petitioner") filed a "Petition for Recognition" ("Petition"), seeking to represent the following proposed bargaining unit for the purpose of collective bargaining:

> All non-professional employees employed by the District of Columbia Office of the Chief Medical Examiner, excluding all management officials, supervisors, confidential employees or any employees engaged in personnel work other than in a purely clerical capacity and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.[1]

As required by PERB Rule 502.1(d), the Petition was accompanied by a roster of the Petitioner's officers and a copy of Petitioner's constitution and bylaws. In addition, the Petitioner submitted evidence of the employees' showing of interest in having Petitioner as their exclusive representative for collective bargaining.

[1] Petition at 1-2.

On October 5, 2018, as required by PERB Rule 502.3, the District of Columbia Office of the Chief Medical Examiner ("Agency") submitted a list of employees. Pursuant to PERB Rule 502.4, the Board determined that the Petitioner met its showing of interest. A notice of the recognition petition was issued October 10, 2018. PERB Rule 502.6 requires that the notice be conspicuously posted for fourteen (14) consecutive days where employees in the proposed unit are located. No comments or requests for intervention were received by the Board.

The Comprehensive Merit Personnel Act, as codified in section 1-617.09(a) of the D.C. Official Code, requires that a community of interest exist among employees for a unit to be found appropriate by the Board for collective bargaining over terms and conditions of employment. An appropriate unit must also promote effective labor relations and efficiency of agency operations.

After reviewing the Petition, the Board finds that a community of interest exists among the employees in the proposed bargaining unit and recognition of the unit would promote effective labor relations and efficiency of agency operations. The employees in the proposed unit are subject to the same organizational structure, working conditions, pay schedule, and supervision.[2] The unit was previously certified by the Board in PERB Case No. 10-RC-03, Certification No. 153.[3] Therefore, the Board finds that the proposed bargaining unit constitutes an appropriate unit under the Comprehensive Merit Personnel Act.

The employees in the proposed unit are currently represented by the Alliance of Independent Workers ("AIW"). There is no collective bargaining agreement in effect between the Agency and AIW. Although served with notice of this proceeding by Petitioner, AIW has not made any attempt to intervene in these proceedings. As a result, the Board orders that an election be held to determine the will of the eligible employees in the unit described above to be represented by the Petitioner, National Association of Government Employees, AIW, or no representative. The Board finds that an on-site ballot election is appropriate in this case.

ORDER

IT IS HEREBY ORDERED THAT:

1. The following unit is an appropriate unit for collective bargaining over terms and conditions of employment:

> All non-professional employees employed by the District of Columbia Office of the Chief Medical Examiner, excluding all management officials, supervisors, confidential employees or any employees engaged in personnel work other than in a purely clerical capacity and employees engaged in administering the

[2] Statement Regarding Community of Interest at 1.
[3] *Alliance of Indep. Workers Labor Org. and D.C. Office of the Chief Med. Exam'r*, Cert. No. 153, PERB Case No. 10-RC-03 (September 2, 2011).

provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

2. An on-site ballot election shall be held in accordance with the provisions of D.C. Official Code § 1-617.10 and Board Rules 510, 511, 513, 514, and 515 in order to determine whether a majority of eligible employees in the above-described unit desire to be represented for the bargaining on terms and conditions of employment by either the National Association of Government Employees, the Alliance of Independent Workers, or no union.

3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Charles Murphy and Board Members Mary Anne Gibbons, Ann Hoffman, Barbara Somson, and Douglas Warshof.

Washington, D.C.

December 20, 2018

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 18-RC-02, Opinion No. 1693 was sent by File and ServeXpress to the following parties on this the 21st day of December, 2018.

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Government of the District of Columbia
Public Employee Relations Board

In the Matter of: Fraternal Order of Police/ Department of Youth Rehabilitation Services Labor Committee Complainant v. Department of Youth Rehabilitation Services Respondent	PERB Case No. 17-U-18 Opinion No. 1694

DECISION AND ORDER

I. Introduction

On January 23, 2017, Petitioner Fraternal Order of Police/Department of Youth Rehabilitation Services Labor Committee ("Union") filed an unfair labor practice complaint ("Complaint") against the Respondent Department of Youth Rehabilitation Services ("DYRS" or "Agency") alleging that DYRS violated the Comprehensive Merit Personnel Act ("CMPA"), D.C. Official Code § 1-617.04(a)(1) and (5), by failing to bargain in good faith regarding the establishment and implementation of a seniority-based bidding system.[1] The Complaint further alleged that DYRS repudiated its verbal agreement with the Union with respect to the seniority-based bidding system and requested certain remedies.[2]

On February 10, 2017, DYRS filed a response denying any unlawful actions under the CMPA and asserting affirmative defenses.[3]

[1] Report at 1-2.
[2] Report at 1.
[3] Report at 2.

The matter was referred to a Hearing Examiner.[4] A hearing was held before a Hearing Examiner on March 19, 2018, and on June 26, 2018, a Hearing Examiner's Report and Recommendation ("Report") was issued, recommending that the Complaint be dismissed in its entirety.[5]

On July 11, 2018, the Union filed exceptions to the Report. No opposition or exceptions were filed by DYRS. The Report and the Union's exceptions are before the Board for disposition.

As discussed below, the Board finds that the Hearing Examiner's conclusions are reasonable, supported by the record, and consistent with Board precedent. Therefore, the Complaint is dismissed in its entirety.

II. The Hearing Examiner's Report and Recommendations

A. Factual Determinations

The material facts in this case are largely undisputed. The Union represents approximately 250-260 dental hygienists, juvenile justice counselors, and youth development representatives employed by DYRS.[6] DYRS operates three facilities where pre-adjudicated or committed juvenile offenders are housed.[7] Employees work three, eight-hour shifts to assure that the facilities are staffed 24 hours a day.[8] Andre Phillips, Chairman of the Union, testified that the employees view some of the shifts and the assignments to certain facilities as being more favorable than others.[9]

Based on its concern that DYRS was granting choice assignments out of favoritism, the Union, through Phillips, requested that DYRS establish and implement a system for assigning employees based on seniority.[10] Deputy Director of Secured Programming, Willie Fullilove, was amenable to this request.[11] Phillips testified that the Union wanted to bargain over the seniority proposal within the current contract and not negotiate over a successor agreement.[12] It was the Union's position that the seniority matter could be incorporated into the existing contract by way of a memorandum of understanding or a "side letter."[13] Management evidently concurred with this approach.[14]

[4] Report at 2.
[5] Report at 29.
[6] Report at 8.
[7] Report at 8.
[8] Report at 8.
[9] Report at 8-9.
[10] Report at 9, 27.
[11] Report at 27.
[12] Report at 10, 27.
[13] Report at 27.
[14] Report at 27.

In April 2016, Phillips drafted a memorandum of understanding which set out the Union's proposal to establish and implement a seniority-based bidding system for post assignments and forwarded the memorandum to Fullilove for his consideration.[15] Thereafter, the parties were engaged in negotiations for a memorandum of understanding that would establish a seniority-based bidding system for post assignments, as well as reductions in force, promotions, tours of duty, leave approvals, and transfers.[16] In June 2016, the Union submitted another proposed memorandum of understanding regarding the seniority-based bidding system, which defined seniority as (1) the grade and step of the employee and (2) the employee's District-wide service computation date.[17] DYRS did not agree with the Union's inclusion of step and grade in the definition of seniority.[18]

In September 2016, Fullilove filled a vacant transportation position using the applicant's District-wide service computation date, but not his/her grade or step in awarding the position.[19]

In October 2016, Fullilove sent the Union a proposed memorandum which included a detailed description of the seniority bidding process to be implemented on December 13, 2016.[20] The memorandum proposed that employees would be assigned a seniority number in accordance with the District-wide government service computation.[21] The Union countered, requesting that the memorandum also include the grade and step of the employee in the seniority definition as well as add details for options for selection. Soon after, Phillips submitted to Fullilove a seniority list, which included the grade, step, and service computation for the respective members of the bargaining unit.[22]

In November 2016, Fullilove responded in an email that he did not agree with the seniority-based bidding process and formula.[23] Fullilove desired Agency service in the computation.[24] Phillips, believing that the parties previously agreed to use District-wide service, responded to Fullilove's email stating that the Union stood firm on its position regarding step, grade, and service computation.[25] Phillips testified that Fullilove replied by email on November 15, stating that he was going to delay the process until he consulted with a DYRS labor liaison.[26] On November 17, Fullilove informed Phillips that the seniority-based bidding system was cancelled, with no further plans to move forward with the proposals.[27] In the end, the parties did

[15] Report at 9.
[16] Report at 27-28.
[17] Report at 11, 28.
[18] Report at fn. 12; 28.
[19] Report at 11, 28.
[20] Report at 11.
[21] Report at 28.
[22] Report at 12.
[23] Report at 12.
[24] Report at 28.
[25] Report at 12.
[26] Report at 12.
[27] Report at 12.

not reach agreement and DYRS did not implement the seniority bidding system. Thereafter, the Union filed the instant Complaint.[28]

A hearing was held on March 19, 2018. The parties submitted post-hearing briefs. On June 26, 2018, the Hearing Examiner issued a Hearing Examiner's Report and Recommendation.

B. Hearing Examiner's Recommendations

The Hearing Examiner determined the issues for resolving the Union's allegations were the following:

1. Did DYRS' management (Fullilove) have the authority to bargain with the Union regarding the establishment and implementation of a seniority-based bidding system under the parties['] collective bargaining agreement.
2. Did DYRS and the Union arrive at an agreement regarding the seniority-based bidding system.
3. Did DYRS rescind any agreement it may have made with the Union regarding the seniority-based bidding system in violation of the Act.[29]

Before the Hearing Examiner, the Union conceded that the parties' current agreement did not include any provisions or articles that addressed seniority, and that seniority is a mandatory subject of bargaining.[30] In addition, in 2016, DYRS waived any objections based on management rights.[31] Given these circumstances, the Union argued that DYRS was obligated to bargain in good faith.[32] The Union contended that it reached an agreement with DYRS on the issue of seniority, complete with the wording and relevant documents.[33] The Union also contended that this agreement was in place, even though DYRS did not sign it.[34]

The Union further argued that, in a November 15, 2016 email, Fullilove first expressed his objection to the agreed upon seniority agreement.[35] The Union stated that, despite its response that the Union was open to further discussion, on November 17, 2016, Fullilove informed the Union that the proposal for the seniority-based bidding system was cancelled, with no plans to move forward.[36] The Union contended that DYRS' failure to implement the terms of the seniority-based bidding process agreement was a violation of the duty to bargain in good faith. In the alternative, the Union submitted that, even if an agreement was not reached, DYRS failed to bargain in good faith by refusing to continue negotiations with the Union.

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[28] Report at 28.
[29] Report at 22.
[30] Report at 18.
[31] Report at 18.
[32] Report at 18.
[33] Report at 18.
[34] Report at 19.
[35] Report at 19.
[36] Report at 19.

As to DYRS' argument that it could not be held liable for an unfair labor practice because DYRS officials lacked authority to reach an agreement, the Union countered that Fullilove had apparent authority to bind the Agency to an agreement and that DYRS' use of a representative to bargain without authority is evidence of bad faith.[37]

The Union requested DYRS be bound to the terms of the agreement reached with the Union.[38]

DYRS maintained that the Office of Labor Relations and Collective Bargaining ("OLRCB") is its exclusive bargaining representative. DYRS asserted that it did not violate the CMPA in any respect because (1) the Union failed to establish that there was a duty to bargain; (2) the parties did not reach a binding agreement because Fullilove lacked authority to bargain on DYRS' behalf; and (3) the Union is precluded from asserting detrimental dependence on Fullilove's apparent authority due to the holding in *Perkins v. District of Columbia*.[39, 40]

The Hearing Examiner's conclusions and recommendations are discussed below in the order addressed in the Report.

(1) <u>Did DYRS' management (Fullilove) have the authority to bargain with the Union regarding the establishment and implementation of a seniority-based bidding system under the parties['] collective bargaining agreement?</u>

The Hearing Examiner determined that, under the parties' collective bargaining agreement and the "credible" evidence of the custom and practice at DYRS, Fullilove had the requisite authority to enter into negotiations with the Union for the establishment and implementation of the seniority-based bidding system.[41] The Hearing Examiner noted that, while the parties' contract was negotiated by, and with the approval of OLRCB, its participation in the administration of the contract ended once it was approved.[42] Thereafter, DYRS bargained on its own on matters pertaining to the administration, interpretation and modification of the agreement.[43]

The Hearing Examiner stated that this conclusion is supported by four provisions of the agreement.[44] First, the preamble of the collective bargaining agreement states, in pertinent part, that no new provisions shall be proposed during the term of the Agreement, unless provided for elsewhere in the Agreement, or such proposal is entertained by mutual agreement of the parties.[45] In the current matter, the Hearing Examiner notes, the parties did not dispute that DYRS, through

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[37] Report at 19.
[38] Report at 20.
[39] Report at 21.
[40] 987 A.2d 442 (D.C. CA. 2016)
[41] Report at 26-27.
[42] Report at 25.
[43] Report at 25.
[44] Report at 25.
[45] Report at 25.

Fullilove agreed to "entertain" the seniority bidding system.[46] Second, there is a contract provision which states "In the event [that] any DC laws, Government-wide rule or regulation or Department rule issuance policy is in conflict with this Agreement, the terms of this Agreement shall prevail."[47] The Hearing Examiner noted that, although DYRS contends that the Mayoral Order requires that OLRCB be the exclusive representative of the Agency, the provision dictates that the collective bargaining agreement prevails.[48] Third, according to the Hearing Examiner, in Article 3 of the agreement, it is clear that DYRS is contemplated as the entity responsible for bargaining management rights under the contract.[49] Fourth, the Hearing Examiner points to Article 6, where the parties agreed to establish a committee comprised of one Union and one management representative to make recommendations to DYRS regarding agenda items.[50]

The Hearing Examiner found no merit to DYRS' contention that Fullilove did not possess the authority to enter into negotiations on behalf of the Agency.[51] The Hearing Examiner stated that Phillips credibly testified that he was never advised that OLRCB should be involved in negotiations regarding the contract and in fact, was instructed by Agency managers not to involve OLRCB in internal matters.[52] Further, the Hearing Examiner determined that, as a new Union leader, Phillips was entitled to rely upon Fullilove's apparent authority.[53] The Hearing Examiner also noted that, in spite of the testimony by Fullilove's Chief of Staff, Adam Aljoburi, that OLRCB had to be involved in negotiations, Aljoburi evidently did not advise Fullilove that OLRCB should be consulted.[54]

Given the aforementioned facts regarding the practice and custom of DYRS, the Hearing Examiner concluded that OLRCB's involvement was not required and that OLRCB was intentionally not consulted.[55]

(2) Did DYRS and the Union arrive at an agreement regarding the seniority-based bidding system?

After extensively detailing the parties' conduct during negotiations, the Hearing Examiner concluded that, in spite of their respective efforts, the parties did not reach agreement.[56] The Hearing Examiner noted that, from the early stages of bargaining, DYRS was resistant to the Union's inclusion of the employees' step and grade in the definition of

[46] Report at 25.
[47] Report at 26.
[48] Report at 26.
[49] Report at 26.
[50] Report at 26.
[51] Report at 26.
[52] Report at 26.
[53] Report at 26.
[54] Report at 26. The Hearing Examiner noted that Fullilove did not testify at the hearing.
[55] Report at 26.
[56] Report at 29.

seniority.[57] The Hearing Examiner concluded that the parties did not agree on the definition of seniority.[58]

Additionally, the Hearing Examiner determined that Fullilove's filling a vacant position based on the applicant's service computation date was "emblematic of good faith bargaining, especially since the Union believed that the transportation position was a preferred job and one that the membership believed was subject to favoritism."[59] The Hearing Examiner also determined that Fullilove's October 2016 memorandum, which proposed that employees would be assigned a seniority number in accordance with their District-wide employment was "emblematic of his attempt to bargain with the Union in good faith."[60]

In reaching this conclusion, the Hearing Examiner noted that he did not consider it material that the purported agreement was not signed or in writing.[61] Having determined that the parties did not reach agreement, the Hearing Examiner did not address whether DYRS rescinded any agreement with the Union.

III. Union's Exceptions

On July 11, 2018, the Union filed Exceptions to the Hearing Examiner's Report, countering the Hearing Examiner's findings that (1) DYRS engaged in good faith bargaining with the Union over the establishment and implementation of the seniority-based bidding system and (2) DYRS did not renege or repudiate any purported agreement because the parties did not arrive at a binding and enforceable agreement over the seniority-based bidding system.[62]

As to the first exception, the Union contends that DYRS engaged in bad faith bargaining first by withdrawing its commitment to adopt a seniority-based bidding system using District-wide service computation and then by subsequently breaking off negotiations despite the Union's willingness to collaborate.[63] The Union argues that the Hearing Examiner's conclusion that the Agency did not engage in bad faith bargaining is at odds with precedent as well as the Hearing Examiner's factual conclusions.[64] The Union maintains that DYRS' actions in the current matter are similar to those by the employer in *Hydrotherm, Inc v. Petroleum, Construction, Tankline Drivers, Yeast, Soft Drink Workers And Driver-Salesmen, Amusement And Vending Servicemen And Allied Workers, Local Union No. 311 Of Baltimore And Vicinity*.[65] In *Hydrotherm*, the National Labor Relations Board ("NLRB") determined that the Union's failure to seek further negotiation sessions was justified in light of the employer's behavior which "made it entirely

[57] Report at 29.
[58] Report at 29.
[59] Report at 28.
[60] Report at 28.
[61] Report at 29.
[62] Exceptions at 1.
[63] Exceptions at 3-4.
[64] Exceptions at 6.
[65] Exceptions at 3-4. 302 N.L.R.B. 990 (1991).

clear that further meetings were not likely to result in good faith bargaining."[66] The Union also counters the Hearing Examiner's finding that DYRS engaged in good faith bargaining.[67] The Union notes that the Hearing Examiner found that the parties agreed to use the District-wide service computation to determine seniority and then DYRS "evidently reconsidered the service computation component of seniority" which led to DYRS cancelling the December 2016 seniority-based bidding process.[68]

Regarding its second exception to the Hearing Examiner's conclusion that DYRS did not repudiate the purported agreement, the Union contends that the Hearing Examiner's facts support a finding that there was an agreement between the parties.[69] The Union notes that the Hearing Examiner concluded that the parties agreed to use a District-wide service computation date, which was memorialized in an October 2016 memo authored by DYRS.[70] The Union disagrees with the Hearing Examiner's determination that the Union's response to the memo was a counteroffer.[71] The Union contends that its request to include step and grade in seniority-based bidding was not a counteroffer because (1) the parties already agreed to District-wide service computation and (2) because DYRS filled a position using District-wide service computation in September 2016.[72]

IV. Discussion

The Board will affirm a hearing examiner's findings and recommendations when they are reasonable, supported by the record, and consistent with Board precedent.[73]

A. The Board adopts the Hearing Examiner's finding that DYRS' management had the authority to bargain with the Union over the establishment and implementation of a seniority-based bidding system under the parties' collective bargaining agreement.

The Board agrees with the Hearing Examiner's finding that DYRS' management and specifically, Fullilove, had the authority to engage in collective bargaining with the Union regarding the seniority-based bidding system. The Hearing Examiner's findings are supported by the parties' collective bargaining agreement as well as the practice and custom of DYRS. Therefore, the Board finds that the Hearing Examiner's conclusion is reasonable, supported by the record, and consistent with Board precedent.

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[66] 302 NLRB at 996.
[67] Exceptions at 4.
[68] Exceptions at 5-6.
[69] Exceptions at 6.
[70] Exceptions at 8.
[71] Exceptions at 8-9.
[72] Exceptions at 8.
[73] *Am. Fed'n of Gov't Emp., Local 872 v. D.C. Water and Sewer Auth.*, 52 D.C. Reg. 2474, Slip Op.. 702, PERB Case No. 00-U-12 (2003).

B. The Board adopts the Hearing Examiner's finding that DYRS (1) engaged in good faith bargaining and (2) the parties did not arrive at an agreement regarding the seniority-based bidding system.

After reviewing the record, the Board adopts the Hearing Examiner's findings of fact on these issues. First, the Board adopts the Hearing Examiner's finding that DYRS engaged in good faith bargaining. DYRS' actions herein demonstrate that it was attempting to bargain in good faith. It is undisputed that, in early 2016, DYRS accepted the Union's request to bargain. Phillips testified that "management responded favorably to the suggestion of a seniority based bidding process."[74] The parties engaged in negotiations from April 2016 until November 2016. The Union does not allege that DYRS engaged in any bad faith bargaining during this time. Notably, in September 2016, DYRS filled a vacancy for a transportation position based on seniority. The Board agrees that DYRS' actions, when viewed as a whole, reflect an intention to bargain in good faith.

In its Exceptions, the Union argues that DYRS bargained in bad faith in November 2016, by reconsidering its position on a District-wide service computation date. The Union argues that DYRS' actions made it clear that further negotiations were not likely to result in good faith bargaining. While the Board has not considered this issue specifically, the NLRB has provided guidance when one party withdraws a proposal. The NLRB has repeatedly held that the withdrawal of previous proposals does not *per se* establish the absence of good faith.[75] The NLRB instead looks to the totality of the circumstances to decide if the facts indicate that a party intentionally frustrated the bargaining process.[76] This Board finds, similarly, that DYRS' reconsideration of the service computation component of seniority does not alone establish bad faith absent other evidence of bad faith.

Further, contrary to the Union's position, the facts in the current matter are not analogous to *Hydrotherm*. In that case, the NLRB held that the employer engaged in bad faith bargaining by submitting proposals on key issues which "amounted to little more than the surrender of certain [statutory] rights" while offering little more than the status quo in return.[77] In addition, the NLRB found that the employer in that case compounded its bad faith by falsely portraying the union's position on wages in a letter to employees.[78] The NLRB concluded that the employer's proposals, together with other indicia of bad faith, established the surface-bargaining violation.[79] The assertion by the Union that DYRS' behavior in this case is analogous to those of the employer in *Hydrotherm* is not accurate. In *Hydrotherm*, the facts suggest that the employer's objective was to avoid reaching agreement.

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[74] Report at 9.
[75] *E.g., Hercules Drawn Steel Corp. v. Local 174, Int'l Union, United Auto., Aerospace and Agric. Implement Workers*, 352 N.L.R.B. 10, 34 (2008); *Telescope Casual Furniture, Inc.*. 326 NLRJ3 588 (1998); *Nat'l Steel & Shipbuilding Co.*, 324 NLRB 1031, 1041 (1997*); Frontier Hotel & Casino*, 323 NLRB 815, 836 at fn. 15 (1997) (regressive proposals are not *per se* indicia of surface bargaining), citing *Reichhold Chemicals*, 288 NLRB 69 (1988); *Aero Alloys*, 289 N.L.R.B. 497, 497 (1988); *Hendrick Mfg. Co*., 287 NLRB 310 (1987).
[76] *Id*.
[77] 302 N.L.R.B. at 994.
[78] *Id*. at 996.
[79] *Id*.

Second, the Board adopts the Hearing Examiner's finding that the parties never reached agreement. The Board finds that it is clear from the undisputed facts of this case that the parties never reached agreement on the definition of seniority. The Union in its Exceptions argues that DYRS engaged in bad faith bargaining by reneging on its agreement with the Union regarding seniority. Central to the Union's exceptions is its contention that the parties agreed to use the District-wide service computation date. However, the Board disagrees with this argument in light of the undisputed facts. The Union repeatedly proposed the inclusion of grade and step in the definition of seniority during negotiations between the parties in April 2016, in a proposal in June 2016, and in response to DYRS' October 2016 memorandum.[80] While continuing to entertain the Union's proposals, DYRS resisted the inclusion of an employee's grade and step. DYRS filled a position using the District-wide service computation date and proposed in the October 2016 memorandum that employees would be assigned a seniority number in accordance with their date of employment with the District government.[81] In any event, there was no conformity in the party's respective proposals regarding the definition of seniority. Therefore, the Board finds that the Hearing Examiner's conclusion that the parties never reached agreement was reasonable, supported by the record, and consistent with Board precedent.

V. Conclusion

The Board has reviewed the findings, conclusions, and recommendations of the Hearing Examiner, and concludes that DYRS did not violate section 1-617.04(a)(1) and (5) of the D.C. Official Code. Therefore, the Complaint is dismissed.

[80] Report at 28.
[81] Report at 28.

ORDER

IT IS HEREBY ORDERED THAT:

1. This Complaint is dismissed.

2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Charles Murphy and Board Members Mary Anne Gibbons, Ann Hoffman, Barbara Somson, and Douglas Warshof.

December 20, 2018

Washington, D.C.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 17-U-18, Opinion No. 1694 was sent by File and ServeXpress to the following parties on this the 21st day of December, 2018.

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/s/ Sheryl Harrington
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Government of the District of Columbia
Public Employee Relations Board

In the Matter of: Fraternal Order of Police/Metropolitan Police Department Labor Committee (on behalf of Malcom Rhinehart) Petitioner v. Metropolitan Police Department Respondent	PERB Case No. 19-E-01 Opinion No. 1695

DECISION AND ORDER

I. Statement of the Case

On November 16, 2018, the Fraternal Order of Police/Metropolitan Police Department Labor Committee ("FOP") filed this Petition for Enforcement ("Petition") pursuant to Rule 560.1, alleging that the Metropolitan Police Department ("MPD") failed to comply with the Board's order in *FOP/MPD Labor Committee v. MPD*, 65 D.C. Reg.10100, Slip Op. No. 1674, PERB Case No. 18-U-19 (2018), ("Opinion No. 1674"). In that case, the Board ordered MPD to comply with an arbitration award. On December 5, 2018, MPD filed an Answer admitting the material facts alleged in the Petition. As MPD acknowledges that it has not complied, the petition is granted.

The Board finds that the Answer's admissions and the Board's records establish the following facts.

On November 4, 2011, Officer Malcolm Rhinehart ("Grievant") was removed from his employment at MPD. Thereafter, on November 8, 2011, Grievant demanded arbitration and the parties entered arbitration in 2017. During the spring of 2017, counsel for the Union and the MPD agreed upon the selection of Judge Ronald Wertheim to arbitrate the discharge of Grievant.

In accordance with the contract between the parties, the arbitration was by record review only. By August 5, 2017, the parties had fully briefed the issues to be resolved by the arbitrator and had forwarded to him all pertinent documents that constituted the record.

On October 6, 2017, the arbitrator issued an award, which is Attachment 1 to the Complaint.[1] The award rescinded Grievant's termination in its entirety and ordered "his reinstatement with full back pay from the date of his termination to the date of reinstatement, less any income earned from other work during the interim between those dates." The arbitrator also awarded reasonable attorney's fees and expenses to the Grievant. Attachment 1 (Opinion and Award) at 4-5.

On October 27, 2017, MPD filed an arbitration review request with the Public Employee Relations Board challenging the award. On November 14, 2017, MPD withdrew its arbitration review request.

On February 1, 2018, the FOP filed an unfair labor practice complaint against MPD, case number 18-U-19, regarding the Grievant's arbitration. The Board's records reflect that the complaint alleged MPD failed to comply with the arbitration award.

On July 31, 2018, the Board issued a decision and order in case number 18-U-19, Opinion No. 1674, Attachment 2 to the Complaint.[2] Opinion No. 1674 granted FOP's unfair labor practice complaint against MPD, ordered MPD to "cease and desist" from violating D.C. law by failing to implement the arbitration award, and to fully comply with the terms of the arbitration award within ten (10) days from the issuance of the decision and order. Opinion No. 1674 stated that it was final upon issuance.

Following the issuance of Opinion No. 1674, MPD did not file a petition for review in D.C. Superior Court.

On October 30, 2018, FOP's counsel sent a letter to MPD's human resources director regarding Grievant's case.

MPD has not reinstated Grievant. In addition, MPD acknowledges that it has not complied with any other aspect of the award.[3]

II. Discussion

The Board has the authority to seek judicial enforcement of its orders.[4] Opinion No. 1674 is a final order of the Board. It is undisputed that by disregarding the arbitrator's award MPD has failed to comply with that order. MPD does not suggest that there are any disputes over the terms of the award. Rather, it simply refuses to comply without giving a reason for its refusal.

The Petition is granted. The Board will seek judicial enforcement of its July 31, 2018 decision and order, as provided in sections 1-605.05(16) and 1-617.13(b) of the D.C. Official Code.

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[1] MPD does not object to the attachment. MPD states that Attachment 1 speaks for itself.
[2] MPD does not object to the attachment. MPD states that Attachment 2 speaks for itself.
[3] Telephone interview with Nicole Lynch, counsel for respondent (Dec. 11, 2018).
[4] D.C. Official Code §§ 1-605.05(16), 1-617.13(b).

The Board has "the authority to require the payment of reasonable costs incurred by a party to a dispute from the other party or parties as the Board may determine."[5] In *American Federation of Government Employees, Local 2725 v. D.C. Housing Authority*,[6] the Board found that the Housing Authority had refused to implement an arbitration award and then went on to say, "We further conclude that DCHA has established a pattern and practice of refusing to implement arbitration awards. We therefore conclude that it would be in the interest-of-justice to accord AFGE its requested costs in these proceedings for prosecuting DCHA's latest violation of this same nature."[7] The grounds for awarding costs in that case are present in this case as well. This is the sixth enforcement case that FOP has had to file in the past year in which FOP alleged noncompliance with an arbitration award, MPD admitted noncompliance, and MPD offered no explanation for its noncompliance.[8] Four of the cases were settled and withdrawn. This case and two others were resolved by decision of the Board in favor of FOP. Although some of the cases were settled, MPD's noncompliance compelled FOP to file its petitions in order to gain any relief for the grievants it represented.

We therefore conclude that MPD has exhibited a pattern and practice of refusing to implement arbitration awards. Because of that pattern and practice, it would be in the interest of justice to award FOP its costs for bringing two actions, the present case and 18-U-19, to obtain compliance with the award in favor of Officer Rhinehart.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Fraternal Order of Police/Metropolitan Police Department Labor Committee's petition for enforcement is granted.

2. The Board shall proceed with enforcement of Opinion No. 1674 pursuant to sections 1-605.02(16) and 1-617.13(b) of the D.C. Official Code if full compliance with Opinion No. 1674 is not made and documented within ten (10) days of the issuance of this decision and order.

3. Within fourteen (14) days of the service of this order, Petitioner must submit to Respondent a written statement of the actual costs it incurred in processing Case Nos. 19-E-01 and 18-U-19. The statement must be accompanied by supporting documentation. Respondent must pay Petitioner's costs in this matter within thirty (30) days of receiving Petitioner's written statement and supporting documentation.

4. Pursuant to Board Rule 559.1, this decision and order is final upon issuance.

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[5] *Id.* at § 1-617.13(d).
[6] 46 D.C. Reg. 8356, Slip Op. No. 597, PERB Case No. 99-U-23 (1999).
[7] *Id.* at 2,
[8] The other five cases were Case Nos. 18-E-02, 18-E-03, 18-E-04, 18-E-05, and 18-E-06.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Charles Murphy, Members Ann Hoffman, Barbara Somson, Douglas Warshof, and Mary Anne Gibbons

Washington, D.C.

December 20, 2018

CERTIFICATE OF SERVICE

This is to certify that this Decision and Order in Case No. 19-E-01 was sent by File & ServeXpress to the following parties on this the 4th day of January 2019.

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