

***District of Columbia***

**REGISTER**

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**HIGHLIGHTS**

- D.C. Council recognizes the *Express* newspaper journalists and distributors for their service to District commuters over the last 16 years
- D.C. Council schedules a public hearing on Bill 23-186, Protection of Seniors and Vulnerable Adults from Financial Exploitation Act of 2019
- Commission on the Arts and Humanities announces availability of the Fiscal Year 2021 Public Art Building Communities Grants
- Office of the State Superintendent of Education announces availability of Adult and Family Education Consolidated Competitive Grant
- Department of Health requires registration with the District’s Prescription Drug Monitoring Program as a prerequisite to renewing a District of Columbia Controlled Substance Registration
- Office of Lottery and Gaming introduces guidelines for District operated sports wagering
- D.C. State Athletic Association revises the District’s interscholastic athletics regulations

The Executive Office of the Mayor declares a Public Emergency and a Public Health Emergency in the District of Columbia in response to the Coronavirus (COVID-19) (Mayor’s Orders 2020-045 & 2020-046)

# DISTRICT OF COLUMBIA REGISTER

## Publication Authority and Policy

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## DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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VICTOR L. REID, ESQ.  
ADMINISTRATOR

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ENROLLED ORIGINAL

## A RESOLUTION

23-350

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To declare the sense of the Council opposing implementation of the Department of Homeland Security's public charge rule because of the negative effect the proposed rule will have on our immigrant communities' access to vital services and cost-saving initiatives that keep families healthy and on a path toward economic success.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Sense of the Council Opposing Implementation of Public Charge Rule Resolution of 2020".

Sec. 2. The Council finds that:

(1) On January 27, 2020, by a 5-to-4 vote, the Supreme Court of the United States granted an order to stay previous preliminary injunctions issued by lower federal courts, thereby allowing the Trump Administration to begin implementation of the public charge rule on February 24, 2020.

(2) Since the 1800s, federal immigration laws have indicated that if an individual is a "public charge," he or she may be prohibited from entering or staying in the United States. Since 1999, "public charge" has been interpreted to mean that United States Citizenship and Immigration Services ("USCIS") officers would consider whether a foreign national was likely to become primarily dependent on government services, and "primarily dependent" has been interpreted to mean that a person receives at least half of their support in the form of cash assistance from the government.

(3) On October 10, 2018 the U.S. Department of Homeland Security ("DHS") issued a proposed regulation that would drastically alter this long-standing practice, allowing USCIS immigration officers to refuse entry to those lawfully seeking to enter, or deny immigrants lawfully in United States the ability to remain permanently (i.e. those seeking to obtain a green card), when the immigration officer believes that the foreign national would be likely to receive *any* benefits, in *any* amount and at *any* point in the future. Instead of individuals having to be *primarily* dependent, the new regulation allows an immigration officer to examine 15 "negative factors," such as whether an individual is older than 61, speaks English, or has "inadequate" education or skills to hold a job. Based on these subjective or speculative criteria,

## ENROLLED ORIGINAL

and other criteria, an immigration officer will determine if an individual may become a public charge, and thereby deny an individual's entry or right to stay in the United States.

(4) On August 14, 2019, DHS published a final version of the regulation, and thus the new regulation promulgated by DHS makes it much easier for immigration officials and the Trump Administration to deny entry or legal status to people deemed likely to require government assistance in any amount or at any point in their lives.

(5) Several lawsuits were brought against the United States government in response to the final regulations and several United States District Courts throughout the country enjoined the federal government from enforcing the new regulations. Two United States Courts of Appeals decided to stay their lower courts' enjoinder decisions, but the United States Court of Appeals for the Second Circuit ("2nd Circuit") agreed with a United States District Court in New York enjoining the implementation of the regulations.

(6) Given this enjoinder, the United States appealed the 2nd Circuit's decision to the Supreme Court. The Supreme Court voted 5-4 to grant the United States' request to stay the 2nd Circuit's decision while the Supreme Court decides whether to grant a writ of certiorari to hear the case on its merits and to provide an opinion on the matter.

(7) Once the Supreme Court stayed the 2nd Circuit's decision to enjoin the federal government from implementing its new interpretation of the public charge rule, DHS announced that it would begin implementation of the rule on February 24, 2020.

(8) Implementation of the new interpretation of the public charge rule creates a "wealth test" that also would disproportionately bar non-white immigrants. Implementation also will likely deter individuals who rightfully qualify for public benefits – including important safety net benefits like SNAP, Section 8 housing, and Medicaid – from seeking them for themselves or their family due to fear that the utilization of benefits would negatively impact their immigration status (or a family member's), even if that fear is not based in fact. Organizations that serve immigrant populations are particularly concerned about the chilling effect this regulation will have on immigrants' healthcare as families may forego preventative and emergency medical care, as well as vaccinations and treatments for contagious diseases, which would have a negative impact on public health as a whole.

(9) The Migration Policy Institute estimates that the new standards for determining when an immigrant is likely to become a public charge could cause a significant share of the nation's nearly 23 million noncitizens and U.S. citizens in immigrant families using public benefits to disenroll. Even if the number affected is fewer, the impact of the new rule will be substantial.

**ENROLLED ORIGINAL**

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

(1) The District of Columbia strongly opposes the implementation of the Department of Homeland Security’s public charge rule and reaffirms its commitment to defend and protect the rights and safety of the immigrant and refugee community of the District of Columbia.

(2) The District of Columbia believes that all individuals, regardless of their income, ethnicity, or national origin, should be treated fairly, equally, and respectfully, and it does not support policies that evoke fear or discourage individuals from seeking rights and benefits to which they are entitled.

(3) The District of Columbia embraces a diverse citizenry, welcoming individuals from different racial, ethnic, religious, and national backgrounds, as such is vital to weaving together a strong and vibrant city.

(4) The United States Congress should promptly enact legislation accomplishing comprehensive immigration reform that treats all immigrants justly and reflects the basic principles of human dignity and human rights.

Sec. 4. The Council shall transmit a copy of this resolution and its legislative report to the President of the United States, the Leaders of both the Democratic and Republican party of the United States House of Representatives and of the United States Senate, the Attorney General of the United States, the Acting Secretary of the Department of Homeland Security, and the Mayor.

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

ENROLLED ORIGINAL

## A RESOLUTION

23-351

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To confirm the reappointment of Mr. Timothy Thomas to the Commission on Human Rights.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Commission on Human Rights Timothy Thomas Confirmation Resolution of 2020”.

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

Mr. Timothy Thomas  
Eastern Avenue, N.E.  
Washington, D.C. 20017  
(Ward 5)

as a member of the Commission on Human Rights, established by section 401 of the Human Rights Act of 1977 (D.C. Law 15-216; D.C. Official Code § 2-1404.01), for a term to end December 31, 2022.

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

Sec. 4. This resolution shall take effect immediately.



ENROLLED ORIGINAL

## A RESOLUTION

23-353

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To confirm the reappointment of Ms. Karen Mulhauser to the Commission on Human Rights.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Commission on Human Rights Karen Mulhauser Confirmation Resolution of 2020”.

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

Ms. Karen Mulhauser  
7th Street N.E.  
Washington, D.C. 20002  
(Ward 6)

as a member of the Commission on Human Rights, established by section 401 of the Human Rights Act of 1977 (D.C. Law 15-216; D.C. Official Code § 2-1404.01), for a term to end December 31, 2022.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

23-354

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To confirm the reappointment of Ms. Motoko Aizawa to the Commission on Human Rights.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Commission on Human Rights Motoko Aizawa Confirmation Resolution of 2020”.

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

Ms. Motoko Aizawa  
Upton Street, N.W.  
Washington, D.C. 20008  
(Ward 3)

as a member of the Commission on Human Rights, established by section 401 of the Human Rights Act of 1977 (D.C. Law 15-216; D.C. Official Code § 2-1404.01), for a term to end December 31, 2022.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-355

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To confirm the appointment of Mr. Richard Jarvis to the Commission on Re-Entry and Returning Citizen Affairs.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Commission on Re-Entry and Returning Citizen Affairs Richard Jarvis Confirmation Resolution of 2020”.

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

Mr. Richard Jarvis  
16th Street, N.E.  
Washington, D.C., 20018  
(Ward 5)

as a public member of the Commission on Re-Entry and Returning Citizen Affairs, established by section 4 of the Office on Ex-Offender Affairs and Commission on Re-Entry and Ex-Offender Establishment Act of 2006, effective March 8, 2007 (D.C. Law 16-243; D.C. Official Code § 24-1303), for a term to end August 4, 2022.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-356

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To authorize and provide for the issuance, sale, and delivery in an aggregate principal amount not to exceed \$15.5 million of District of Columbia revenue bonds in one or more series and to authorize and provide for the loan of the proceeds of such bonds to assist The Corporation of the Washington Latin School in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Washington Latin Public Charter School Revenue Bonds Project Approval Resolution of 2020”.

Sec. 2. Definitions.

For the purpose of this resolution, the term:

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

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

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

(4) “Borrower” means the owner of the assets financed, refinanced, or reimbursed with proceeds from the Bonds, which shall be The Corporation of the Washington Latin School – A Public Charter School (d/b/a Washington Latin Public Charter School), a District of Columbia corporation and exempt from federal income taxes under 26 U.S.C. § 501(a) as an organization described in 26 U.S.C. § 501(c)(3).

(5) “Chairman” means the Chairman of the Council of the District of Columbia.

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

(7) “District” means the District of Columbia.

## ENROLLED ORIGINAL

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

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

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

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

(12) “Project” means the financing, refinancing or reimbursing of the Borrower for all or a portion of the Borrower’s costs incurred in connection with the:

(A) Refinancing of certain indebtedness, the proceeds of which were used to acquire, finance or refinance the costs of leasehold improvements to the Borrower’s public charter school facility located at 5200 – 2nd Street, N.W., Washington, D.C. 20011 (Square 3327, Lot 800), together with all equipment, furnishings and other property, real and personal, functionally related and subordinate thereto;

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

(C) Funding of certain Issuance Costs.

### Sec. 3. Findings.

The Council finds that:

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

(2) The Borrower has requested the District to issue, sell, and deliver revenue bonds, in one or more series, in an aggregate principal amount not to exceed \$15.5 million and to make the Loan for the purpose of financing, refinancing, or reimbursing costs of the Project.

ENROLLED ORIGINAL

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

(4) The Project is an undertaking in the area of a capital project as facilities used to house and equip operations related to the Borrower’s operations as a public charter school and in commercial development within the meaning of section 490 of the Home Rule Act.

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

Sec. 4. Bond authorization.

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

(1) The issuance, sale, and delivery of the Bonds, in one or more series, in an aggregate principal amount not to exceed \$15.5 million; and

(2) The making of the Loan.

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

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

Sec. 5. Bond details.

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

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

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

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

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

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

## ENROLLED ORIGINAL

- (6) Provisions for the registration, transfer, and exchange of the Bonds and the replacement of mutilated, lost, stolen, or destroyed Bonds;
- (7) The creation of any reserve fund, sinking fund, or other fund with respect to the Bonds;
- (8) The time and place of payment of the Bonds;
- (9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure that the proceeds are properly applied to the Project and used to accomplish the purposes of the Home Rule Act and this resolution;
- (10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the Bonds are marketed; and
- (11) The terms and types of credit enhancement, if any, under which the Bonds may be secured.
- (b) The Bonds shall contain a legend, which shall provide that the Bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve the faith and credit or the taxing power of the District, do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.
- (c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary of the District of Columbia's manual or facsimile signature. The Mayor's execution and delivery of the Bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the Bonds.
- (d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds.
- (e) The Bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee to be selected by the Borrower subject to the approval of the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act.
- (f) The Bonds may be issued at any time or from time to time in one or more issues and in one or more series.

**Sec. 6. Sale of the Bonds.**

- (a) The Bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interest of the District.
- (b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the Bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters and may authorize the distribution of the documents in connection with the sale of the Bonds.

**ENROLLED ORIGINAL**

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

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

**Sec. 7. Payment and security.**

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

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

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

**Sec. 8. Financing and Closing Documents.**

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

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

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

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

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and



**ENROLLED ORIGINAL**

delivery of the Bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

**Sec. 9. Authorized delegation of authority.**

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

**Sec. 10. Limited liability.**

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

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

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

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

(e) All covenants, obligations, and agreements of the District contained in this resolution, the Bonds, and the executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this resolution.

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

**Sec. 11. District officials.**

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

**ENROLLED ORIGINAL**

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

**Sec.12. Maintenance of documents.**

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

**Sec.13. Information reporting.**

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

**Sec. 14. Disclaimer.**

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

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

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

**Sec. 15. Expiration.**

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

**Sec. 16. Severability.**

If any particular provision of this resolution or the application thereof to any person or circumstance is held invalid, the remainder of this resolution and the application of such provision

**ENROLLED ORIGINAL**

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

**Sec. 17. Compliance with public approval requirement.**

This approval shall constitute the approval of the Council as required in section 147 (f) of the Internal Revenue Code of 1986, as amended, approved October 22, 1986 (100 Stat. 2635; 26 U.S.C. § 147(f)), and section 490(k) of the Home Rule Act, for the Project to be financed, refinanced, or reimbursed with the proceeds of the Bonds. This resolution approving the issuance of the Bonds for the Project has been adopted by the Council after a public hearing held at least 7 days after publication of notice in a newspaper of general circulation in the District.

**Sec. 18. Transmittal.**

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

**Sect. 19. Fiscal impact statement.**

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

**Sec. 20. Effective date.**

This resolution shall take effect immediately.

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A RESOLUTION

23-357

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To authorize and provide for the issuance, sale, and delivery in an aggregate principal amount not to exceed \$28 million of District of Columbia revenue bonds in one or more series and to authorize and provide for the loan of the proceeds of such bonds to assist Vital Voices Global Partnership, Inc., in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Vital Voices Global Partnership, Inc., Revenue Bonds Project Approval Resolution of 2020”.

Sec. 2. Definitions.

For the purpose of this resolution, the term:

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

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

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

(4) “Borrower” means the owner of the assets financed or refinanced with proceeds from the Loan, which shall be Vital Voices Global Partnership, Inc., a nonprofit corporation organized and existing under the laws of the State of Delaware, duly authorized to transact business as a foreign corporation in the District of Columbia, and exempt from federal income taxes as an organization described in 26. U.S.C. § 501(c)(3).

(5) “Chairman” means the Chairman of the Council of the District of Columbia.

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

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

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

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

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

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

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

(A) Acquisition, construction, renovation, and equipping of:

(i) A stand-alone building located at 1509 16th Street, N.W., Washington, D.C. 20005, totaling 32,000 square feet, consisting of 7 levels above-ground and one cellar level with partial windows, to serve as the Borrower's new administrative headquarters; and

(ii) The adjoining parcel of real property located at 1522-1526 Church Street, N.W., Washington, D.C. 20005, to be used for parking for the headquarters building;

(B) Funding of a Debt Service Reserve Fund, if any;

(C) Funding of interest on the Bonds for up to 3 years from the issuance thereof or, if later, one year after the Project is placed in service; and

(D) Funding of Issuance Costs.

### Sec. 3. Findings.

The Council finds that:

(1) Section 490 of the Home Rule Act provides that the Council may by resolution authorize the issuance of District revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance, refinance, or reimburse costs, and to assist in the financing, refinancing, or reimbursing of the costs of undertakings in certain areas designated in section 490 and may affect the financing, refinancing, or reimbursement by loans

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made directly or indirectly to any individual or legal entity, by the purchase of any mortgage, note, or other security, or by the purchase, lease, or sale of any property.

(2) The Borrower has requested the District to issue, sell, and deliver revenue and refunding bonds, in one or more series, in an aggregate principal amount not to exceed \$28 million and to make the Loan for the purpose of financing, refinancing, or reimbursing costs of the Project.

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

(4) The Project is an undertaking in the area of facilities for the creation and preservation of jobs in the District within the meaning of section 490 of the Home Rule Act.

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

Sec. 4. Bond authorization.

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

(1) The issuance, sale, and delivery of the Bonds, in one or more series, in an aggregate principal amount not to exceed \$28 million; and

(2) The making of the Loan.

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

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

Sec. 5. Bond details.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Sec. 6. Sale of the Bonds.

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

**ENROLLED ORIGINAL**

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

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

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

**Sec. 7. Payment and security.**

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

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

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

**Sec. 8. Financing and Closing Documents.**

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

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

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



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

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

Sec. 9. Authorized delegation of authority.

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

Sec. 10. Limited liability.

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

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

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

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

(e) All covenants, obligations, and agreements of the District contained in this resolution, the Bonds, and the executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this resolution.

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

**ENROLLED ORIGINAL**

## Sec. 11. District officials.

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

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

## Sec.12. Maintenance of documents.

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

## Sec.13. Information reporting.

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

## Sec. 14. Disclaimer.

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

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

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

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## Sec. 15. Expiration.

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

## Sec. 16. Severability.

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

## Sec. 17. Compliance with public approval requirement.

This approval shall constitute the approval of the Council as required in section 147(f) of the Internal Revenue Code of 1986, as amended, approved October 22, 1986 (100 Stat. 2635; 26 U.S.C. § 147(f)), and section 490(k) of the Home Rule Act, for the Project to be financed, refinanced, or reimbursed with the proceeds of the Bonds. This resolution approving the issuance of the Bonds for the Project has been adopted by the Council after a public hearing held at least 7 days after publication of notice in a newspaper of general circulation in the District.

## Sec. 18. Transmittal.

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

## Sec. 19. Fiscal impact statement.

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

## Sec. 20. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

23-358

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To confirm the appointment of Mr. Ed Grandis as a member of the Alcoholic Beverage Control Board.

RESOLVED, BY COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Alcoholic Beverage Control Board Ed Grandis Confirmation Resolution of 2020”.

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

Mr. Ed Grandis  
Swann Street, N.W.  
Washington, D.C. 20009  
(Ward 2)

as a member of the Alcoholic Beverage Control Board, established by D.C. Official Code 25-201, succeeding Mike Silverstein, for a term to end May 7, 2023.

Sec. 3. Transmittal.

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. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-359

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To confirm the appointment of Mr. Andrew Fois to the Clemency Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Clemency Board Andrew Fois Confirmation Resolution of 2020”.

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

Mr. Andrew Fois  
Sedgwick Street, N.W.  
Washington, D.C. 20016  
(Ward 3)

as a member, who is a member of the District of Columbia Bar in good standing with experience in criminal law, of the Clemency Board, established by section 203 of the Clemency Board Establishment Act of 2018, effective December 13, 2018 (D.C. Law 22-197; D.C. Official Code § 24-481.03), for a 3-year term.

Sec. 3. The Council 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

23-360

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To confirm the appointment of Rev. Samuel Whittaker to the Clemency Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Clemency Board Samuel Whittaker Confirmation Resolution of 2020”.

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

Rev. Samuel Whittaker  
Park Road, N.W.  
Washington, D.C. 20010  
(Ward 1)

as a District resident community member of the Clemency Board, established by section 203 of the Clemency Board Establishment Act of 2018, effective December 13, 2018 (D.C. Law 22-197; D.C. Official Code § 24-481.03), for a 4-year term.

Sec. 3. The Council 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

23-363

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To declare the existence of an emergency with respect to the need to approve modifications to Contract No. NFPHCSUPP-20-C-1 between the Not-for-Profit Hospital Corporation and Morrison Management Specialist, Inc., to provide Food and Nutrition services to the Not-for-Profit Hospital Corporation, and to authorize payment for the services received and to be received under the modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract No. NFPHCSUPP-20-C-1 Modifications between the Not-for-Profit Hospital Corporation and Morrison Management Specialist, Inc., Approval and Payment Authorization Emergency Declaration Resolution of 2020”.

Sec. 2. (a) There exists an immediate need to approve modifications to Contract No. NFPHCSUPP-20-C-1 (“Contract”) between the Not-for-Profit Hospital Corporation (“Hospital”) and Morrison Management Specialist, Inc., (“Morrison”) to provide Food and Nutrition services to the Hospital and to authorize payment for the services received and to be received under the modifications.

(b) Due to several factors, including leadership changes, the Hospital was unable to effectuate its planned competitive procurement for food and nutrition services prior to the expiration of option year 4 of the last Council approved contract with Morrison (Act 22-557).

(c) To avoid a gap in these critical services, the parties entered into a 120-day sole source letter contract in August 2019 in amount of \$739,391.33.

(d) Under new executive leadership, all procurements are being reviewed, so prior to the expiration of the letter contract and pursuant to its terms, the parties agreed to definitize the contract with an 8-month extension for \$1,478,782.81.

(e) The new definitized contract consisting of the letter contract and the 8-month extension covers the period of August 1, 2019, to July 31, 2020, in the not-to-exceed amount of \$2,218,174.14.

(f) The Contract has an aggregate value that exceeds \$1 million in a 12-month period, and therefore Council approval is necessary.

**ENROLLED ORIGINAL**

(h) Emergency approval of the Contract for \$2,218,174.14 is necessary to prevent any impact to the hospital's provision of food and nutrition services.

(i) Without this approval, Morrison Management Specialist, Inc., cannot be paid for these critical services provided and to be provided in excess of \$999,999.99.

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that Contract No. NFPHCSUPP-20-C-1 Modifications between the Not-for-Profit Hospital Corporation and Morrison Management Specialist, Inc. Approval and Payment Authorization Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.



ENROLLED ORIGINAL

A RESOLUTION

23-364

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To declare the existence of an emergency with respect to the need to approve Modification No. M029 and proposed Modification No. M030 to Contract No. DCRL-2016-C-0005 with Georgia Avenue Family Support Collaborative to provide community-based child welfare services during option year 4, and to authorize payment for the services received and to be received under these modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Contract No. DCRL-2016-C-0005 with Georgia Avenue Family Support Collaborative Approval and Payment Authorization Emergency Declaration Resolution of 2020”.

Sec. 2. (a) There exists a need to approve Modification No. M029 and proposed Modification No. M030 to Contract No. DCRL-2016-C-0005 with Georgia Avenue Family Support Collaborative to provide community-based child welfare services, and to authorize payment for the services received and to be received under these modifications.

(b) By Modification No. M029, issued on September 26, 2019, the Child and Family Services Agency (“CFSA”) partially exercised option year 4 of Contract No. DCRL-2016-C-0005 in the not-to-exceed amount of \$950,554.85 for the period October 1, 2019, through April 30, 2020.

(c) By Modification No. M030, CFSA proposes to exercise the remainder of option year 4 for the period May 1, 2020, through September 30, 2020, in the not-to-exceed amount of \$678,967.65, making the total not-to-exceed amount for option year 4 \$1,629,522.50 for the period October 1, 2019, through September 30, 2020.

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

(e) Approval is necessary to allow the continuation of these vital services. Without Council approval, Georgia Avenue Family Support Collaborative cannot be paid for services provided in excess of \$1 million.

**ENROLLED ORIGINAL**

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Contract No. DCRL-2016-C-0005 with Georgia Avenue Family Support Collaborative Approval and Payment Authorization Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

23-365

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To declare the existence of an emergency with respect to the need to amend the Minimum Wage Act Revision Act of 1992 to provide that a third-party payroll provider shall certify that a tipped employee was paid the required minimum wage based only on the information it receives from an employer; and to amend the Commission on the Arts and Humanities Act to clarify the term requirements for the Executive Director.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Substantive Technical Emergency Declaration Resolution of 2020”.

Sec. 2. (a) As of January 1, 2020, third-party payroll providers have to certify to the Mayor on a quarterly basis that each tipped employee was paid the required minimum wage pursuant to the Tipped Wage Workers Fairness Amendment Act of 2018, effective December 13, 2018 (D.C. Law 22-196; 65 DCR 12049). Under D.C. Law 22-196, both the third-party payroll providers and the employers must certify that tipped employees are being paid at least the minimum wage.

(b) Third-party payroll providers have raised objections to this requirement because they have indicated that payroll providers are not able to police an employer’s compliance with the District’s wage and hour laws. Further, payroll providers do not believe they should be held liable if an employer does not comply with the law.

(c) The goal of this provision is to ensure that employees are properly compensated, but not to add requirements on an industry that does not provide the services required under the law.

(d) The emergency legislation cures this situation by clarifying that third-party payroll providers need only to certify that a tipped employee is being paid the minimum wage based on the information that the payroll provider receives from an employer.

(e) This emergency legislation is necessary to immediately address this issue as third-party payroll providers are required now to be in compliance with this law.

(f) The Commission on the Arts and Humanities Independence and Funding Restructuring Amendment Act of 2019, effective September 11, 2019 (D.C. Law 23-16; 66 DCR

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8621), provides that the Commission on the Arts and Humanities (Commission) shall nominate, and, with the advice and consent of the Council, appoint an Executive Director of the Commission.

(g) D.C. Law 23-16 provides that the Executive Director's 4-year term shall begin on October 1 in the year of his or her appointment. The intent was for the Executive Director's term to begin on October 1, 2019. However, a new Executive Director was never nominated or appointed in 2019.

(h) Under the current law, if the Commission were to appoint someone as Executive Director his or her term would not begin until October 1, 2020.

(i) This emergency legislation is needed to reflect that the Executive Director's term will begin once he or she is confirmed by the Council so there is no delay in filling this position.

(j) Immediate legislative action is necessary because the Commission just nominated a new Executive Director, but the appointment will be unnecessarily delayed until this technical fix to the law is made.

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 Substantive Technical Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

23-366

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To declare the existence of an emergency with respect to the need to extend the District of Columbia Housing Finance Agency's Reverse Mortgage Insurance and Tax Payment Program, and to include condominium fees and homeowners association fees as approved uses of the financial assistance provided by the program.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Reverse Mortgage Insurance and Tax Payment Program Emergency Declaration Resolution of 2020".

Sec. 2. (a) The District of Columbia Housing Finance Agency's ("DCHFA") Reverse Mortgage Insurance and Tax Payment Program ("ReMIT") was initiated as an 18-month pilot program in the Reverse Mortgage Foreclosure Prevention Amendment Act of 2018, effective October 30, 2018 (D.C. Law 22-168; D.C. Official Code § 42-2703.07a), and funded with \$500,000 in Fiscal Year 2019.

(b) ReMIT is an assistance program for seniors who are facing foreclosure on a reverse mortgage. ReMIT provides assistance in the form of a subsidy payment for reverse mortgage borrowers who are in the process of losing their homes to foreclosure from unpaid property taxes and insurance. Qualified homeowners can receive up to \$25,000 to help them pay delinquent property taxes and homeowners insurance.

(c) A growing number of seniors across the country are facing foreclosure because of overdue property taxes and insurance. These overdue amounts are generally small in comparison to the value of the home and the loan balance of the reverse mortgage but still endanger the senior's ability to maintain ownership of their property and to continue aging in place.

(d) According to the National Reverse Mortgage Lenders Association, there are currently 2,246 reverse mortgage loans in the District. Of those reverse mortgage loans, just over 11% of them are in some stage of delinquency or foreclosure due to nonpayment of taxes and insurance. One hundred and forty cases, or 6% of delinquent mortgages, are in default status but are not yet in a loss mitigation payment plan.

(e) ReMIT provides much needed foreclosure prevention assistance, while at the same time placing a lien on the house to ensure the District recoups its investment once the house is sold.

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(f) ReMIT has successfully saved 12 senior households from foreclosure over the past 12 months, thereby allowing the seniors to age in place.

(g) ReMIT still has funds remaining to continue the program as currently only \$113,184 of assistance has been disbursed out of the total \$327,353 set aside for assistance. Based upon an average assistance amount of about \$10,230, the remaining undisbursed funds could provide assistance to many additional households. However, as a pilot program, ReMIT is set to end on March 31, 2020.

(h) Unless ReMIT is extended, DCHFA would be prevented from offering any further assistance to other seniors facing foreclosure due to delinquent taxes or insurance.

(i) Additionally, DCHFA reports that there is a need for ReMIT recipients to be able to use ReMIT funds for condominium fees and homeowners association fees because without such assistance, they may be facing foreclosure.

(j) It is important that these changes be made to the ReMIT program so that the program may be extended for another 6 months, condominium fees and homeowners association fees may be included in the program, and the program may continue to help needy District residents avoid foreclosure.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that Reverse Mortgage Insurance and Tax Payment Program Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-369

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To declare the existence of an emergency with respect to the need to authorize the issuance of tax increment financing bonds to support the development project on a portion of the land known as Reunion Square, located to the east of Martin Luther King Jr. Avenue, S.E., to the north of Chicago Street, S.E., to the west of Railroad Avenue, S.E., and to the south of W Street, S.E.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Reunion Square Tax Increment Financing Emergency Declaration Resolution of 2020”.

Sec. 2. (a) The Tax Increment Financing Authorization Act of 1998, effective September 11, 1998 (D.C. Law 12-143; D.C. Code § 2-1217.01 *et seq.*)(“TIF Act”), was enacted to promote development of projects of special merit in the District.

(b) Tax increment financing, as authorized by the TIF Act, is intended to bridge the feasibility gap for worthwhile projects that offer special economic, cultural, social, or financial benefits to the District.

(c) The Reunion Square project is a 1.5 million square-foot mixed-use development project that will create affordable housing for seniors and support small business growth in Ward 8. The project is adjacent to Martin Luther King, Jr. Avenue, S.E., Shannon Place, S.E., Railroad Avenue, S.E., V Street, S.E., and W Street, S.E. in Anacostia (“Project”) by Four Points, LLC, Curtis Investment Group, and Blue Sky Housing, LLC.

(d) The Project will provide jobs, affordable housing, and new opportunities for residents of Ward 8 to participate in prosperity. The Project will include affordable space for local retail and will include a relocated headquarters for the Department of Health.

(e) The Mayor needs authority authorize the issuance of tax increment financing bonds for the development of Reunion Square to move forward, including for the Department of Health to move forward with its relocation.

**ENROLLED ORIGINAL**

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Reunion Square Tax Increment Financing Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.



ENROLLED ORIGINAL

A RESOLUTION

23-370

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To declare the existence of an emergency with respect to the need to amend the Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Act of 2012 to provide grant-making authority to the Deputy Mayor to issue a grant to Check It Enterprises to enable its acquisition of a certain facility located in the Anacostia Historic District.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Deputy Mayor for Planning and Economic Development Limited Grant Making Authority for Check It Enterprises Emergency Declaration Resolution of 2020”.

Sec. 2. (a) On February 4, 2020, the Council passed on first reading the Deputy Mayor for Planning and Economic Development Limited Grant Making Authority for Check It Enterprises Amendment Act of 2020 (Engrossed version of Bill 23-404) (“permanent legislation”). The permanent legislation authorizes the Deputy Mayor for Planning and Economic Development to issue a grant to Check It Enterprises to purchase the property that it occupies with We Act Radio and District Culture. The purpose of the permanent legislation is to prevent the displacement of these 3 organizations, which have served as anchors of the Historic Anacostia community. This purpose is threatened by an arrangement that would nullify Check It Enterprises’ opportunity to purchase the property that it occupies with We Act Radio and District Culture if the transaction is not closed by March 28, 2020.

(b) The permanent legislation, which must complete the Council’s legislative process and then be transmitted to Congress for the 30-day review period required by 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)), will not become law until, at the earliest, April.

(c) It is important that the provisions of the permanent legislation become law as soon as possible.

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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 Deputy Mayor for Planning and Economic Development Limited Grant Making Authority for Check It Enterprises Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

23-371

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To declare the existence of an emergency with respect to the need to amend the Firearms Control Regulations Act of 1975 to establish an Extreme Risk Protection Order Implementation Working Group, to provide for its membership, and to specify its duties.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Extreme Risk Protection Order Implementation Working Group Emergency Declaration Resolution of 2020”.

Sec. 2. (a) On December 18, 2018, the Council passed the Firearms Safety Omnibus Amendment Act of 2018, effective May 10, 2019 (D.C. Law 22-314; 66 DCR 1672), which created the District’s “red flag” law.

(b) The District’s “red flag” law allows concerned family and household members, mental health professionals, and law enforcement officials to file extreme risk protection orders with the Superior Court to have firearms and ammunition removed from people who pose a significant danger to themselves or others.

(c) Extreme risk protection orders have been hailed as valuable tools to prevent self-harm and harm to others, including in suicide, domestic violence, and – importantly – community violence situations. For example, a study of the effectiveness of Connecticut’s red flag law estimated that one suicide was averted for every 10 to 11 guns seized.

(d) Between October 1, 2018, and August 7, 2019, Maryland’s courts received approximately 788 requests for extreme risk protection orders. Between March and July 2019, Florida’s red flag law was used nearly 2,400 times.

(e) Many jurisdictions have successfully coordinated government agencies, non-governmental organizations, and community advocates to drive effective implementation and save lives, but the District lags significantly behind. Since the District’s red flag law took effect, only 2 petitions have been granted.

(f) In the District, there were 129 homicides and 709 assaults with a dangerous weapon, in 2019, that involved a firearm. As of February 26, 2020, there have been 21 homicides and 108 assaults with a dangerous weapon, year-to-date, that involved a firearm.

(g) The gun violence epidemic is unacceptable and preventable. Emergency legislation is necessary to formally coordinate the efforts of District agencies, federal partners, firearms safety

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experts, and community members to implement the District's red flag law, including through enhanced public education and training.

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 Extreme Risk Protection Order Implementation Working Group Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

23-372

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To declare the existence of an emergency with respect to the need to amend the District of Columbia Election Code of 1955 to provide students with an excused absence of at least 2 hours to vote in person in any election held under the District of Columbia Election Code of 1955, or, if the student is not registered to vote in the District, in any election run by the jurisdiction in which the student is registered to vote, and to allow the educational institution to specify the hours during which the student may take leave, including by requiring that the student take leave during a period designated for early voting instead of on the day of the election.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Leave to Vote Emergency Declaration Resolution of 2020”.

Sec. 2. (a) Over the last several years, the Council has taken great strides through legislation to promote voter engagement, particularly among historically lower-turnout populations, such as young people and communities of color. The District of Columbia Board of Elections (“Board”) has also worked actively to engage students through registration drives at high schools. However, in the District’s 2018 general election, according to the Board’s data, 18- to 24-year-olds had a turnout rate of just 18% in Ward 8 and 23% in Ward 7, the lowest rates in the District.

(b) To promote voter participation among eligible students, the Council must provide accessible opportunities to vote and reduce barriers that may stand in the way. Students often must find time before or after school to vote, which is the busiest time at polls, resulting in the longest wait times. Many students must also juggle other priorities during these times, such as homework, afterschool activities, family commitments, and part-time jobs.

(c) This legislation would provide students with an excused absence from school of at least 2 hours on election day or during the early voting period in order to vote in person. In doing so, the legislation eliminates the dilemma some students may face between voting and commitments outside of school by providing an opportunity to vote during school hours.

(d) The District will hold a primary election on June 2, 2020, and a special election for Ward 2 on June 16, 2020. Therefore, there is an immediate need to allow students leave from school to vote so that they may have greater access to the polls during these elections.

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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 Leave to Vote Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-374

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To approve, on an emergency basis, the salary increases, other compensation ordered by the interest arbitration award, and the collective bargaining agreement submitted by the Mayor for employees of the District of Columbia Public Schools and the Office of the State Superintendent of Education who are represented by the American Federation of State County and Municipal Employees, District Council 20, Local 2921, AFL-CIO.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Interest Arbitration Award and Collective Bargaining Agreement between the District of Columbia Public Schools and the Office of the State Superintendent of Education and the American Federation of State, County and Municipal Employees, District Council 20, Local 2921, AFL-CIO Emergency Approval Resolution of 2020”.

Sec. 2. Pursuant to section 1717(j) of the District of Columbia Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §1-617.17(j)), the Council approves the interest arbitration award, pay schedules, and the collective bargaining agreement for the District of Columbia Public Schools and the Office of State Superintendent of Education and American Federation of State, County and Municipal Employees (“AFSCME”), Local 2921, AFL-CIO, which were transmitted to the Council by the Mayor on January 30, 2020, and which include the following:

October 1, 2017	3% wage increase
October 14, 2018	2% wage increase
October 13, 2019	8% wage increase
October 11, 2020	5% wage increase

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).

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Sec. 4. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to AFSCME, District Council 20, Local 2921 and the Mayor.

Sec. 5. Effective date.

This resolution shall take effect immediately.



## ENROLLED ORIGINAL

## A RESOLUTION

23-375

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To declare the existence of an emergency with respect to the need to approve the negotiated compensation agreement submitted by the Mayor for employees employed by the Department of Behavioral Health, who are represented by the Psychologists Union of the Department of Behavioral Health, Metropolitan District 1199DC, National Union of Hospital and Healthcare Employees, American Federation of State, County and Municipal Employees, AFL-CIO Chapter 3758.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Compensation Agreement between the Department of Behavioral Health and the Psychologists Union of the Department of Behavioral Health, Metropolitan District 1199DC, National Union of Hospital and Healthcare Employees, American Federation of State, County and Municipal Employees, AFL-CIO, Chapter 3758 Emergency Declaration Resolution of 2020”.

Sec. 2. (a) There exists an immediate need to approve the negotiated compensation agreement submitted by the Mayor for employees of the Department of Behavioral Health (“DBH”), who are represented by the Psychologists Union of the Department of Behavioral Health, Metropolitan District 1199DC, National Union of Hospital and Healthcare Employees, American Federation of State, County and Municipal Employees, AFL-CIO Chapter 3758 (“NUHHCE 1199DC”).

(b) The District of Columbia negotiated a compensation agreement (“negotiated agreement”) for certain DBH employees represented by NUHHCE 1199DC that requires compensation increases over a period of 3 years.

(c) The negotiated agreement provides for a retroactive 3% wage increase for Fiscal Year 2018, effective beginning the first full pay period commencing on or after October 1, 2017. The negotiated agreement also provides for a retroactive 2% wage increase for Fiscal Year 2019 effective beginning the first full pay period commencing on or after October 1, 2018, and a 3% increase for Fiscal Year 2020, retroactive in part, effective beginning the first full pay period commencing on or after October 1, 2019.

(d) The negotiated agreement significantly increases compensation for DBH employees, including clinical psychologists. DBH values a positive work environment and opportunities for

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professional growth for their clinical psychologists. The negotiated agreement will enhance DBH’s strong system of support by providing employees represented by NUHHCE 1199DC with additional professional compensation and benefits.

(e) Council approval is necessary because the failure to immediately effectuate the terms of the negotiated agreement may result in undermining the confidence of union members in the District of Columbia government and its leadership and may jeopardize the future relationship between labor and management in the District of Columbia.

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 Compensation Agreement between Department of Behavioral Health and the Psychologists Union of the Department of Behavioral Health, Metropolitan District 1199DC, National Union of Hospital and Healthcare Employees, American Federation of State, County and Municipal Employees, AFL-CIO Chapter 3758 Emergency Approval Resolution of 2020 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

23-376

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To approve, on an emergency basis, the negotiated compensation agreement submitted by the Mayor for employees employed by the Department of Behavioral Health who are represented by the Psychologists Union of the Department of Behavioral Health, Metropolitan District 1199DC, National Union of Hospital and Healthcare Employees, American Federation of State, County and Municipal Employees, AFL-CIO, Chapter 3758.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Compensation Agreement between the Department of Behavioral Health and the Psychologists Union of the Department of Behavioral Health, Metropolitan District 1199DC, National Union of Hospital and Healthcare Employees, American Federation of State, County and Municipal Employees, AFL-CIO, Chapter 3758 Emergency Approval Resolution of 2020”.

Sec. 2. Pursuant to section 1717(j) of the District of Columbia Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-617.17(j)), the Council approves the collective bargaining agreement and related pay schedules, which were transmitted to the Council by the Mayor on January 30, 2020, between the Department of Behavioral Health and the Psychologists Union of the Department of Behavioral Health, Metropolitan District 1199DC, National Union of Hospital and Healthcare Employees, American Federation of State, County and Municipal Employees, AFL-CIO, Chapter 3758 (“NUHHCE 1199DC”).

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. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to NUHHCE 1199DC and the Mayor.

Sec. 5. Effective date.

This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

23-377

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To declare the existence of an emergency with respect to the need to amend the Firearms Control Regulations Act of 1975 to prohibit the issuance of a registration certificate for ghost guns, and to prohibit the sale or transfer of ghost guns; and to amend and An Act To control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes to prohibit the possession of ghost guns.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Ghost Guns Prohibition Emergency Declaration Resolution of 2020”.

Sec. 2. (a) The term “ghost gun” may be used to refer generally to guns that are undetectable, untraceable, or both. The term “ghost gun” includes firearms built to avoid detection, missing serial numbers, able to be manufactured using 3-D printers and other cutting-edge technology, or able to be manufactured or assembled through commercially available kits and without the expenditure of substantial time and effort.

(b) Undetectable guns pose an imminent threat to public safety because they may thwart security screening systems and endanger people, particularly in any building or at any event requiring visitors to be screened to gain entrance.

(c) Untraceable guns pose an imminent threat because they are readily available to individuals prohibited from purchasing or possessing a commercially-manufactured firearm and because untraceable gun trafficking occurs outside the scope of existing background checks, serial numbering, waiting periods, manufacturing quality control, and other established means of firearm regulation.

(d) As part of its longstanding and common sense gun regulation policy, the District of Columbia prohibits the unlicensed manufacturing, sale, or possession of firearms, and as such, District law contains prohibitions that could be applied to ghost guns, but need to be explicitly applicable.

(e) In just one year, between 2018 and 2019, the District saw a 364% increase in the recovery of ghost guns. In 2017, the Metropolitan Police Department recovered only 3 ghost

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guns in the District; in 2018, 25 ghost guns were recovered; and in 2019, 116 ghost guns were recovered. In just the first 6 weeks of this year, 28 ghost guns have already been recovered.

(f) The types of ghost guns recovered in the District include handguns and rifles, including assault weapons such as AR-15s. Ghost guns have been used in the commission of violent crimes, including at least one homicide and at least one instance where Metropolitan Police Department officers were targeted for assassination.

(g) There is an immediate need to clarify that District law prohibits the manufacture, sale, and possession of untraceable or undetectable firearms in the District of Columbia in order to protect the lives of residents, workers, and visitors.

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 Ghost Guns Prohibition Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A CEREMONIAL RESOLUTION

23-186

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2019

To recognize Church of Jesus Christ, Inc. on the occasion of the 90th anniversary.

WHEREAS, Church of Jesus Christ, Inc. in Washington, D.C. was started as part of the Pentecostal Assemblies of the World (P.A.W.) organization in 1929 by Lena Sears, who later came to be known as Mother Sears, a soft-spoken but fiery Virginia-born woman preacher who organized the church at its first location 440 M Street, N.W. in Washington, D.C. on November 24, 1929 at a time when the church world largely frowned on women preachers and women pastors;

WHEREAS, Church of Jesus Christ, Inc. moved in 1930 to a larger building at 400 M Street, N.W.;

WHEREAS, Church of Jesus Christ, Inc. purchased a former Jewish synagogue across the street at 415 M Street, N.W. in 1945;

WHEREAS, Church of Jesus Christ, Inc. formally elected Evangelist Marian Miller, who was then called Mother Miller, as pastor in 1954;

WHEREAS, Church of Jesus Christ, Inc. split from the P.A.W and joined the Pentecostal Churches of the Apostolic Faith (P.C.A.F.) in 1957;

WHEREAS, Church of Jesus Christ, Inc. received Assistant Pastor Naomi Azivedo, a renowned national evangelist, as the pastor after the death of Pastor Miller;

WHEREAS, Church of Jesus Christ, Inc. outgrew the sanctuary at 415 M Street N.W. and later moved to its present location at 3456 Pennsylvania Avenue S.E. in Ward 7, with a sanctuary that could seat 300 people and featured a 50-car parking lot and annex house;

WHEREAS, Church of Jesus Christ, Inc. received Elder John T. Leslie as the officially appointed and installed fourth pastor of the Church of Jesus Christ in 1980;

WHEREAS, Church of Jesus Christ, Inc.'s presence continued to grow, especially after the church began broadcasting, "The Apostolic Revival Hour" on WYCB 1340 AM;

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WHEREAS, Church of Jesus Christ, Inc. was officially dedicated on June 24, 1984 by Bishop D. Rayford Bell, then the second assistant presiding bishop of the P.C.A.F.;

WHEREAS, Elder John T. Leslie, Jr. was consecrated to the Office of Bishop in 1991;

WHEREAS, Church of Jesus Christ, Inc. experienced another growth spurt, and by 1993, finished an addition to the building that included more sanctuary seating, administrative offices, an expanded dining area and a daycare center that served a capacity of 80 children;

WHEREAS, Church of Jesus Christ, Inc.'s radio broadcast was heard on three radio stations by the early 2000s, Bishop Leslie's sermons also began airing on cable in the District of Columbia and Prince George's County, Maryland, and the church began reaching a worldwide audience through the internet;

WHEREAS, Church of Jesus Christ, Inc.'s current sanctuary has a seating capacity of nearly 600, including an overflow room that accommodates another 200, an expanded daycare center that serves 120 children; and

WHEREAS, Church of Jesus Christ, Inc. is the fourth-oldest Apostolic assembly in Washington, D.C., has faithfully served as a house of worship in the District of Columbia for 90 years.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Church of Jesus Christ, Inc. 90th Anniversary Recognition Resolution of 2019".

Sec. 2. The Council of the District of Columbia honors and celebrates Church of Jesus Christ, Inc. for 90 years as a house of worship and faith community 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

23-187

## COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2019

To recognize and congratulate the Walter Reed Army Institute of Nursing class of 1969 on their 50<sup>th</sup> class reunion.

WHEREAS, the Walter Reed Army Institute of Nursing, also known as WRAIN, was established on May 1, 1964, as a class II activity under the jurisdiction of the Surgeon General in cooperation with the University of Maryland School of Nursing, with the academic aspects of the program under the jurisdiction of the university;

WHEREAS, upon completion of the program, a Bachelor of Science Degree in Nursing was conferred by the University of Maryland and following state licensure, participants were commissioned as second and first lieutenants in the United States Army Reserve and were obligated to serve on active duty for 3 years;

WHEREAS, Major Ilandene H. Filer was appointed as the first Administrative Director of WRAIN and 4 other ANC officers followed in serving as Administrative Director, including Lieutenant Colonels Margaret Ewen, Colonel Drusilla Poole, LTC Billie J. Barcus, and Colonel Hazel W. Johnson;

WHEREAS, the program initially provided financial assistance to 135 qualified high school graduates who desired to complete a four-year program in nursing;

WHEREAS, WRAIN differed from many other nursing programs because it drew students from across the country and attracted large numbers of males and African Americans;

WHEREAS, WRAIN officially closed on June 30, 1978 after 11 years of operations in which a total of 1,219 students graduated from the program;

WHEREAS, during WRAINs' 11 years, the program was considered one of the most prestigious nursing programs in the country and produced noted nursing alums in both military and civilian fields;



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WHEREAS, the WRAIN Class of 1969 was the second class to graduate from the program;  
and

WHEREAS, on November 9, 2019 the Walter Reed team will be hosting 60 veterans from the Walter Reed Army Institute of Nursing class of 1969 as they celebrate their 50<sup>th</sup> class reunion.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Walter Reed Army Institute of Nursing Class of 1969 50th Class Reunion Ceremonial Recognition Resolution of 2019”.

Sec. 2. The Council celebrates the Walter Reed Army Institute of Nursing class of 1969 on their 50<sup>th</sup> anniversary and recognizes them as “the second class, but second to none”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

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## A CEREMONIAL RESOLUTION

23-188

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2019

To recognize and honor John S. Mulholland and the John S. Mulholland Family Foundation for their service to the poor in the District of Columbia.

WHEREAS, the late, John S. Mulholland cared about poor people, cared about the District, and cared about his country. John S. Mulholland was a deeply spiritual man who taught his sons the meaning of charity. He often said that life has meaning when we serve others;

WHEREAS, John S. Mulholland served in World War II and as a member of the Federal Bureau of Investigation;

WHEREAS, John S. Mulholland devoted his career to serving the public and always assisted those in need;

WHEREAS, John S. Mulholland passed on Thursday, April 5, 2012;

WHEREAS, the family of John S. Mulholland continued his legacy of service to the District of Columbia by founding the John S. Mulholland Family Foundation to honor him and his commitment to those in need in the District of Columbia;

WHEREAS, the John S. Mulholland Family Foundation has been in operation for 6 years, and this volunteer organization has assisted those in District of Columbia who have trouble making ends meet by distributing food to them. The John S. Mulholland Family Foundation and has delivered over 800,000 cans of food, and just under 40 tons of fresh food via food pantries, serving a couple thousand people per month;

WHEREAS, November 22, 2019, is the 6<sup>th</sup> Annual Gala in Washington, DC named in his honor, in order to provide funding to feed the working poor.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "John S. Mulholland Recognition Resolution of 2019".

**ENROLLED ORIGINAL**

Sec. 2. The Council of the District of Columbia recognizes and honors John S. Mulholland for his lifetime of service to the nation and to the District of Columbia and declares . November 22, 2019 as the John S. Mulholland Day.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

## A CEREMONIAL RESOLUTION

23-189

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2019

To recognize the *Express* newspaper journalists and distributors for their service over the last 16 years bringing news, entertainment, and a human touch to the morning commute in the District of Columbia.

WHEREAS, the *Express* was a District daily newspaper, published by the *Washington Post*;

WHEREAS, the *Express* began publication on August 4, 2003;

WHEREAS, the paper was distributed for free at Metro stations and throughout the region and was read by as many as 239,500 people every day;

WHEREAS, the *Express* employed 20 journalists who prepared local news stories and content on entertainment, culture, and advice;

WHEREAS, 75 distributors of the *Express* rose before the sun to deliver each day's news to commuters in and around the District;

WHEREAS, these distributors made it to their posts every morning, despite rain, snow, or hot and humid District weather;

WHEREAS, these distributors provided many District residents with their first greeting each morning and built relationships with residents over many years;

WHEREAS, the 75 distributors and 20 journalists who made the *Express* possible were relieved of their duties, with little notice, and without severance after the *Express* published its final edition on September 12, 2019;

WHEREAS, the loss of the *Express* contributes to the national decline in local journalism, which leaves all residents less informed and equipped to engage as citizens; and

WHEREAS, District residents will miss their daily interactions with the distributors of the *Express*.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Express Distributor and Journalist Appreciation Recognition Resolution of 2019”.

Sec. 2. The Council of the District of Columbia recognizes and celebrates the dedication, hard work, and endurance of the friendly distributors and the hard-working journalists of the *Express*.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

## A CEREMONIAL RESOLUTION

23-190

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2019

To recognize the 550th Anniversary of Gurburab, the birth anniversary of Sri Guru Nanak Dev Ji, the founder and first Guru of the Sikh faith.

WHEREAS, November 12, 2019, will be the 550th Anniversary of the birth of the founder of the Sikh faith, Guru Nanak Dev Ji, also known to Sikh followers as Gurburab;

WHEREAS, Guru Nanak was the first of 10 Gurus, whose teachings became the core values and tenets of Sikhism, developed in the Punjab region of the Indian Subcontinent at the end of the 15th Century;

WHEREAS, the main tenet of Sikhism is embodied as 'Ik Onkar,' or Oneness, which is explained as one creator of the world and equality of all as all are one, regardless of faith, race, ethnicity, gender, or caste;

WHEREAS, the 3 core principles Guru Nanak promoted and remain the central values for the Sikh religion are 'Naam Jappo', meaning remembrance of God by repeating and meditating on His name or identity, 'Kirt Karo', meaning earn your living honestly, and 'Vand Chakko', meaning share with everyone;

WHEREAS, Sikhism is the 5th largest religion in the world with over 25 million followers worldwide and over 750,000 followers in the United States;

WHEREAS, the District of Columbia Metropolitan Police Department was the first police department in the nation to allow Sikhs to serve with features of their faith, including their beards and turbans;

WHEREAS, the District of Columbia is home to Sikh Gurdwara DC temple, located at 3801 Massachusetts Avenue, N.W., which opened its doors in 2005, and is a place of worship, reflection, and community gathering, open 7 days a week, to people of all faiths, race, or ethnicity;

WHEREAS, Sikh Gurdwara DC will celebrate the 550<sup>th</sup> Anniversary of Guru Nanak's Gurburab on Sunday, November 17<sup>th</sup> at 2:00 P.M. and invites the greater Washington, DC community to attend, learn, and celebrate;

WHEREAS, Sikh Gurdwara DC offers many services for the public, including religious services, Punjabi language classes, Indian drum and other instrument lessons, and hosts the National Library and Museum of Pingalwara;

WHEREAS, Sikh Gurdwara DC's 'Sangat' or congregation prepares and serves full meals called 'Langar,' after religious services to anyone who comes to the temple, as a means of 'Seva' or selfless service to the community;

WHEREAS, the provision of the 'Langar' meal is an important component practiced by all Sikh temples as an act that embodies all of Guru Nanak's core values; in fact, the Golden Temple, the most prominent Sikh temple in the world, feeds over 50,000 visitors and local community members every day;

WHEREAS, Sikh Gurdwara DC donates money collected by the temple to the Pingalwara Charitable Society, which serves the less fortunate who are sick, disabled, forlorn, suffering, and in efforts to promote college education, gives 2 annual awards to students on the basis of merit and need;

WHEREAS, per a 2017 National Public Radio article about Sikhism, 60% of Americans know nothing about Sikhs;

WHEREAS, Sikhs have often been targeted in hate crimes, particularly after the September 11, 2001 attacks due to the use of turbans in their religious garb; and

WHEREAS, education and awareness about other cultures and faiths can help to achieve a greater appreciation for our diversity.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "550th Gurburab Celebration Recognition Resolution of 2019".

Sec. 2. The Council of the District of Columbia recognizes the 550th Anniversary of Gurburab as an opportunity to expand education and awareness of the District's growing Sikh community.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

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A CEREMONIAL RESOLUTION

23-191

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2019

To recognize Curtis Lawrence, III for his academic achievement of being dually enrolled at School Without Walls High School and beginning college at George Washington University at age 14.

WHEREAS, Curtis K. D. Lawrence, III is a District resident in Ward 5;

WHEREAS, Curtis is dually enrolled at School Without Walls High School with a 4.04 GPA and at George Washington University as a college freshman at 14 years old, an age when most students begin high school;

WHEREAS, Curtis’s accelerated education plan began as a young child, when he was able to read and do basic math before beginning pre-school and continued as his teachers recognized his inquisitive nature and gifted ability to learn quickly and encouraged him to test into higher grades than anticipated;

WHEREAS, Curtis took the SATs at age 10;

WHEREAS, Curtis is currently in his freshman year of college at George Washington University and is the youngest student in their traditional undergraduate program;

WHEREAS, Curtis intends to double major in environmental or marine biology and in computer science;

WHEREAS, Curtis’s career aspirations include becoming a paleontologist and computer programmer, and he is continuing his efforts to learn Mandarin to further support his career;

WHEREAS, Curtis was an active student at the School Without Walls High School, serving as Vice President of the African Culture Club, and is a member of the STEAM Club, Programming Club, Film Club, and the Learn Serve Program;



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WHEREAS, Curtis is the Founding President of the DMV National Society of Black Engineers, Jr. Chapter at Howard University, an organization through which Curtis has successfully competed nationally in robotics and math competitions;

WHEREAS, Curtis, through his involvement with the National Society of Black Engineers chapters at George Washington and Howard Universities, is planning a District-wide robotics tournament on February 8th and an environmental engineering challenge on April 25th at Howard University;

WHEREAS, Curtis volunteers his time to expose underrepresented students to engineering and STEM with the goal of helping more DCPS elementary and middle schools start their own robotics teams;

WHEREAS, in his spare time, Curtis enjoys drawing paleo-illustrations, playing piano, and practicing capoeira, an Afro-Brazilian martial art;

WHEREAS, recognizing Curtis’s achievements would be incomplete without also recognizing his support system including his parents, Malene Lawrence and Curtis Lawrence Jr., Curtis’s younger brother, Corey Lawrence, and Curtis’s grandparents, Curtis and Josephine Lawrence Sr., and Gloria Giles.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Curtis Lawrence, III Academic Achievement Recognition Resolution of 2019”.

Sec. 2. The Council of the District of Columbia recognizes and celebrates the scholastic achievement of Curtis Lawrence, III and his family and wishes him well in college and future endeavors.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

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A CEREMONIAL RESOLUTION

23-192

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2019

To declare the week of November 10 through November 16, 2019, as Opportunity Week in the District of Columbia and emphasize the promise of young people who are out of school and out of work (or “Opportunity Youth”).

WHEREAS, approximately 10,200 young people aged 16-24 in the District of Columbia are Opportunity Youth;

WHEREAS, with a 11.9 percent Opportunity Youth rate, the District ranks 33<sup>rd</sup> in the nation by states;

WHEREAS, people who experience a period of disconnection as young adults go on to earn less and are less likely to be employed, own a home, or report good health by the time they reach their thirties;

WHEREAS, the District needs a comprehensive strategy to reconnect Opportunity Youth to education and employment opportunities;

WHEREAS, Measure of America has identified four major areas for action to tackle the problem of youth disconnection: confronting intergenerational disadvantage, supporting youth who are most vulnerable, keeping youth connected, and reengaging those who are already out of school and work;

WHEREAS, newly passed District law, the Fiscal Year 2020 Budget Support Act of 2019, which contains the East End and Opportunity Youth Careers Amendment Act of 2019 that permits Opportunity Youth to remain in the Marion Barry Summer Youth Employment Program (MBSYEP) for 6 additional weeks; and

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WHEREAS, during Opportunity Week, organizations including the National Youth Employment Coalition and Opportunity Youth Network will host convenings in Washington, D.C. to lift up best practices in serving Opportunity Youth, connect leaders in the field, and advocate for more resources to reconnect young people with education and employment.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Opportunity Week Recognition Resolution of 2019”.

Sec. 2. The Council of the District of Columbia recognizes the continuing importance of reconnecting young people to education and employment throughout the District and declares November 10 through November 16, 2019, as Opportunity Week 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

23-193

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2019

To declare the week of November 11 through November 17, 2019, as Apprenticeship Week in the District of Columbia, in celebration of the benefits of apprenticeships in preparing a highly-skilled workforce to meet the talent needs of employers across diverse industries.

WHEREAS, National Apprenticeship Week is a national celebration commissioned by the U.S. Department of Labor during the week of November 11 through November 17, 2019;

WHEREAS, the national registered apprenticeship system enables residents to earn a paycheck while they learn workplace skills, reducing their need to take on student debt and helping employers build a talented workforce by ensuring high-quality, on-the-job training;

WHEREAS, there are over 585,000 apprentices nationwide who are developing skills in nearly 1,400 occupations and are on the path toward long-term, living wage employment;

WHEREAS, workers who complete an apprenticeship program have earned up to \$300,000 more in wages over the span of their career than non-apprenticeship participants;

WHEREAS, apprenticeship programs have been shown to be highly cost-effective methods of developing workplace skills with potential to also reduce youth unemployment, raise wages for working adults, ease transitions after graduation from school to the workforce, and use limited federal resources more effectively;

WHEREAS, apprenticeship programs have also been shown to produce high returns for employers through benefits that include highly skilled employees, reduced turnover costs, lower investment in recruitment, higher productivity, and a more diverse workforce;

WHEREAS, the vast majority of current apprentices are men, there is a need to ensure that apprenticeship opportunities are also available and accessible to women.

**ENROLLED ORIGINAL**

WHEREAS, the vast majority of registered apprenticeship programs in the District are in the construction trades, and there is a need to expand apprenticeships into other high-demand industries in the District;

WHEREAS, the Pathways to District Government Careers Act of 2018, funded in Fiscal Year 2020, establishes a public-sector apprenticeship initiative that requires District government to create apprenticeship programs in 5 high-demand occupations, including one in healthcare and one in information technology, to ensure District government leads by example and provides the benefits of apprenticeships to District agencies, employees, and residents;

WHEREAS, by contacting the D.C. Department of Employment Services, District residents can learn how apprenticeships provide an avenue toward long-term, living wage careers and District businesses can learn how apprenticeships can address long-term hiring needs;

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this resolution may be cited as the “Apprenticeship Week Recognition Resolution of 2019”.

Sec. 2. The Council recognizes the continued impact of apprenticeship programs on improving long-term employment outcomes and declares the week of November 11 through November 17, 2019, as Apprenticeship Week 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

23-195

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2019

To recognize and honor Alysha Butler as the 2019 National History Teacher of The Year.

WHEREAS, Alysha Butler is a social studies teacher at McKinley Technology High School located in Ward 5 of the District of Columbia;

WHEREAS, Alysha Butler serves as the District Course Chair for 2019;

WHEREAS, Alysha Butler is a recipient of the 2019 Daughters of the American Revolution Outstanding Teacher of United States History award;

WHEREAS, in 2019, Alysha Butler received a grant from the GrantEd Foundation, an organization that helps teachers to provide their students with the best opportunities and experiences;

WHEREAS, Alysha Butler was selected as the 2010 Miramar High School Teacher of the Year;

WHEREAS, Alysha Butler was awarded the Gilder Lehrman Institute’s 2019 Teacher of the Year Award;

WHEREAS, Alysha Butler is a master teacher creating lesson plans through diverse themes and literature which connects her students to real world experiences;

WHEREAS, Alysha Butler is known to use a variety of strategic instructional techniques supporting student’s curiosity and imagination while relating the past to the present;

WHEREAS, Alysha Butler is known to execute such teaching tools such as: Socratic seminar, role playing, editorial writing, and *Griot* as she introduces events and people who had an impact on historical occurrences;

**ENROLLED ORIGINAL**

WHEREAS, Alysha Butler uses best practices through innovative technology while successfully engaging students to understand historic times.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Alysha Butler Recognition Resolution of 2019”.

Sec. 2. The Council of the District of Columbia recognizes and honors “Alysha Butler as the 2019 National History Teacher of the Year”;

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](http://www.dccouncil.us).

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

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|---------|--|
| B23-690 | SMA Screening Act of 2020<br><br>Intro. 3-2-20 by Councilmember Todd and referred to the Committee on Health   |
| B23-692 | ROSA Loophole Elimination Amendment Act of 2020<br><br>Intro. 3-3-20 by Councilmember Todd and referred to the Committee on Transportation and the Environment                                 |
| B23-693 | Lottery Winner Protection Amendment Act of 2020<br><br>Intro. 3-3-20 by Councilmembers Cheh, Bonds, Nadeau, and Grosso and referred to the Committee on Business and Economic Development      |
| B23-694 | TOPA Reporting Amendment Act of 2020<br><br>Intro. 3-3-20 by Councilmembers Bonds, Grosso, R. White, Cheh, and Nadeau and referred to the Committee on Housing and Neighborhood Revitalization |
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B23-695 Limited Equity Cooperative Property Tax Assistance Amendment Act of 2020  
Intro. 3-3-20 by Councilmembers Bonds, Todd, Nadeau, T. White, Cheh, Grosso, and R. White and referred to the Committee on Business and Economic Development with comments from the Committee on Housing and Neighborhood Revitalization

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B23-696 Limited Equity Cooperative Advisory Council Act of 2020  
Intro. 3-3-20 by Councilmembers Bonds, Todd, Nadeau, Cheh, Grosso, and T. White and referred to the Committee on Housing and Neighborhood Revitalization

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B23-697 Student Loan Borrower Bill of Rights Amendment Act of 2020  
Intro. 3-3-20 by Councilmembers Grosso, Nadeau, R. White, Bonds, Cheh, and Silverman and referred to the Committee on Business and Economic Development with comments from the Committee on Education

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B23-698 Metro for D.C. Amendment Act of 2020  
Intro. 3-3-20 by Councilmembers Allen, Cheh, Nadeau, T. White, Bonds, McDuffie, R. White, Grosso, Todd, and Chairman Mendelson and referred sequentially to the Committee on Transportation and the Environment and the Committee of the Whole with comments from the Committee on Facilities and Procurement and the Committee on Business and Economic Development

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B23-699 End Gun Violence Motor Vehicle Identification Tags Amendment Act of 2020  
Intro. 3-3-20 by Councilmembers Todd, Nadeau, Cheh, T. White, Allen, Grosso, Bonds, and Chairman Mendelson and referred to the Committee on Transportation and the Environment

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B23-700 Reporting Sexual Misconduct in Schools Amendment Act of 2020  
Intro. 3-3-20 by Councilmembers R. White, Nadeau, Cheh, and Silverman and referred sequentially to the Committee on Education and the Committee of the Whole with comments from the Committee on Judiciary and Public Safety

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B23-701 Birth-to-Three for All D.C. and Metro for D.C. Dedicated Funding Amendment Act of 2020

Intro. 3-3-20 by Councilmembers Gray and Bonds and referred to the Committee of the Whole with comments from the Committee on Business and Economic Development

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B23-702 Ensuring the Public Trust in Human Services Through Customer Satisfaction Survey Act of 2020

Intro. 3-3-20 by Councilmembers T. White, McDuffie, Cheh, and Bonds and referred to the Committee on Human Services

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B23-706 District of Champions Extension of Hours Amendment Act of 2020

Intro. 3-5-20 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development

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### **PROPOSED RESOLUTIONS**

PR23-752 Clemency Board Michael Eric Dyson Confirmation Resolution of 2020

Intro. 3-2-20 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety

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PR23-754 DC Scholars Public Charter School, Inc. Revenue Bonds Project Approval Resolution of 2020

Intro. 3-5-20 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development

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PR23-755 Alcoholic Beverage Regulations Technical Amendments Approval Resolution of 2020

Intro. 3-5-20 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development

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**Council of the District of Columbia**  
**COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT**  
**NOTICE OF PUBLIC HEARING**  
**1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

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**COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON**  
**COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT**

**ANNOUNCE A PUBLIC HEARING ON**

**B23-0351 - THE “REUNION SQUARE TAX INCREMENT FINANCING ACT OF 2019”**

**B23-0186 – THE “PROTECTION OF SENIORS AND VULNERABLE ADULTS FROM  
FINANCIAL EXPLOITATION ACT OF 2019”**

**Thursday, April 2, 2020, 9:00 a.m.**  
**Room 123, John A. Wilson Building**  
**1350 Pennsylvania Avenue, N.W.**  
**Washington, D.C. 20004**

On **Thursday, April 2, 2020**, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on Business and Economic Development will hold a public hearing to consider Bill 23-0351, the “Reunion Square Tax Increment Financing Act of 2019” and Bill 23-0186, the “Protection of Seniors and Vulnerable Adults from Financial Exploitation Act of 2019”.

The stated purpose of Bill 23-0351, the “Reunion Square Tax Increment Financing Act of 2019” is to authorize the issuance of tax increment financing bonds to support the development project on a portion of the land known as Reunion Square, located to the east of Martin Luther King Jr. Avenue S.E., to the north of Chicago Street S.E., to the west of Railroad Avenue S.E., and to the south of W Street S.E.

The stated purpose of Bill 23-0186, the “Protection of Seniors and Vulnerable Adults from Financial Exploitation Act of 2019” is to provide for a mandatory reporting requirement of suspected instances of financial exploitation of seniors and vulnerable adults applicable to qualified individuals of financial institutions, insurers, insurance producers, broker-dealers and investment advisers; to provide for notification to third parties of potential financial exploitation with advance consent of eligible adults; to provide authority to temporarily delay disbursement of funds in cases of suspected financial exploitation; to provide for immunity from civil and administrative liability for reporting, disclosure, and disbursement delays; and to provide for mandatory sharing of records related to financial exploitation of seniors and vulnerable adults with the Department of Insurance, Securities and Banking, Adult Protective Services, and law enforcement.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact the Committee on Business and Economic Development via email at [jroberts@dccouncil.us](mailto:jroberts@dccouncil.us) or at (202) 724-8053, and provide their name, telephone number, organizational affiliation, and title (if any), by **close of business Monday, March 30, 2020**. Witnesses who anticipate needing language interpretation or who require sign language interpretation are requested to inform the Committee on Business and Economic Development office of the need as soon as possible, but no later than five (5) business days before proceeding. We will make every effort to fulfill timely requests, however requests received in less than five (5) business days may not be fulfilled and alternatives may be offered. Representatives of organizations will be allowed a maximum of five minutes for oral testimony and individuals speaking in their own capacity will be allowed a maximum of three minutes.

Witnesses are encouraged to bring **five single-sided copies** of their written testimony and, if possible, to submit a copy of their testimony electronically to [jroberts@dccouncil.us](mailto:jroberts@dccouncil.us) in advance of the hearing. For witnesses who are unable to testify at the hearing, submitted written statements will be made part of the official record. Copies of written statements should be submitted to the Committee on Business and Economic Development at [jroberts@dccouncil.us](mailto:jroberts@dccouncil.us), or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. **The record will close at the end of the business day on Friday, April 3, 2020.**

**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
COMMITTEE ON EDUCATION  
NOTICE OF JOINT PUBLIC HEARING**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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**CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
&  
COUNCILMEMBER DAVID GROSSO  
COMMITTEE ON EDUCATION  
ANNOUNCE A JOINT PUBLIC HEARING**

on

Bill 23-441, the “Reading Equity Acceleration Declaration Act of 2019”

on

**Monday, March 30, 2020  
10:30 a.m., Hearing Room 412, John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004**

Chairman Phil Mendelson and Councilmember David Grosso announce the scheduling of a joint public hearing of the Committee of the Whole and the Committee on Education on Bill 23-441, the “Reading Equity Acceleration Declaration Act of 2019.” The hearing will be held on Monday, March 30, 2020 at 10:30 A.M. in Room 412 of the John A. Wilson Building.

The stated purpose of Bill 23-441 is to require Local Education Agencies (“LEA”) to submit to the Office of the State Superintendent of Education (“OSSE”), for its approval, plans to administer an annual academic assessment for all students in kindergarten, first, second, and third grades to determine adequate progress in reading and comprehension. The bill also would establish accelerated reading intervention programs and reading development plans for students reading below grade level and would require LEAs to inform parents and guardians of a student’s reading deficiency.

Those who wish to testify may sign-up online at [cow@dccouncil.us](mailto:cow@dccouncil.us) or call the Committee of the Whole at (202) 724-8196 and provide your name, telephone number, organizational affiliation, and title (if any) by 5:00pm on Thursday, March 26, 2020. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Witnesses appearing on his or her own behalf should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. Copies of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council’s office or on <http://lims.dccouncil.us>. Hearing materials, including a draft witness list, can be accessed 24 hours in advance of the hearing at <http://www.chairmanmendelson.com/circulation>.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Statements should be submitted by email to LeKisha Jordan at [ljordan@dccouncil.us](mailto:ljordan@dccouncil.us), or by post to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, D.C. 20004. The record will close at 5:00 p.m. on Monday April 13, 2020.

For reasonable accommodation requests, please inform the Committee of the Whole of the need as soon as possible but no later than five business days before the hearing. We will make every effort to fulfill timely requests, however requests received in less than five business days may not be fulfilled and alternatives may be offered.

COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE ON HOUSING AND NEIGHBORHOOD REVITALIZATION  
NOTICE OF PUBLIC HEARING  
1350 Pennsylvania Avenue, NW, Washington, DC 20004

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COUNCILMEMBER ANITA BONDS, CHAIRPERSON  
COMMITTEE ON HOUSING AND NEIGHBORHOOD REVITALIZATION  
ANNOUNCES A PUBLIC HEARING OF THE COMMITTEE

*on*

Bill 23-0643, the “Keeping Cool Elderly Tenants and Tenants with a Disability  
Amendment Act of 2020”

Friday, April 03, 2020, at 9:00 a.m.  
John A. Wilson Building, Room 500  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

On Friday, April 03, 2020, Councilmember Anita Bonds, Chairperson of the Committee on Housing & Neighborhood Revitalization, will hold a public hearing on Bill 23-0643. The hearing will take place in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 9:00 a.m.

The purpose of Bill 23-0643, the “Keeping Cool Elderly Tenants and Tenants with a Disability Amendment Act of 2020”, is to require landlords to provide air conditioning to apartments that are rented to elderly tenants and tenants with a disability, upon request by the tenant. With the global rise in temperatures in recent years, both groups are increasingly at risk to the consequences of heat-related illnesses.

Those who wish to testify are requested to telephone the Committee on Housing and Neighborhood Revitalization at 202.724.8198 or email [housing@dccouncil.us](mailto:housing@dccouncil.us) and provide their name, address, telephone number, organizational affiliation and title (if any), by close of business on Thursday, April 2, 2020. Persons wishing to testify are encouraged to **submit 15 copies of written testimony**. Oral testimony will be limited to 3 minutes.

Witnesses who anticipate needing language interpretation or require sign language interpretation are requested to inform the Committee of the need as soon as possible but no later than five business days before the proceeding. The Committee will make every effort to fulfill timely requests, however requests received in less than five business days may not be fulfilled and alternatives may be offered.

If you are unable to testify at the public hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee on Housing and Neighborhood Revitalization, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite G6, Washington, D.C. 20004 or email [housing@dccouncil.us](mailto:housing@dccouncil.us). The record will close at 5:00 p.m. on Friday, April 17, 2020.

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

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**CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC HEARING**

on

**PR 23-694, “Commission on the Arts and Humanities Dr. Heran Sereke-Brhan  
Confirmation Resolution of 2020”**

on

**Tuesday, April 7, 2020, 3:30 p.m.  
(or immediately following preceding hearing)  
Hearing Room 123, John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of Whole on PR 23-694, “Commission on the Arts and Humanities Dr. Heran Sereke-Brhan Confirmation Resolution of 2020.” The hearing will be held **Tuesday, April 7, 2020, 3:30 p.m.** (or immediately following the preceding hearing) in **Hearing Room 123** of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

The stated purpose of **PR 23-694** is to confirm the appointment of Dr. Heran Sereke-Brhan as the Executive Director of the Commission on the Arts and Humanities. Dr. Sereke-Brhan has been nominated by the Commission on the Arts and Humanities. The Commission is an independent body that consists of 18 members. Its role is to evaluate and initiate action on matters relating to the arts and humanities and to encourage programs and the development of programs which promote progress in the arts and humanities. Dr. Sereke-Brhan has been serving in an acting capacity since October 2019.

Those who wish to testify are asked to email the Committee of the Whole at [cow@dccouncil.us](mailto:cow@dccouncil.us), or call Evan Cash at (202) 724-7002, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business **Friday, April 3, 2020**. Witnesses who anticipate needing spoken language interpretation, or require sign language interpretation, are requested to inform the Committee office of the need as soon as possible but no later than five business days before the proceeding. We will make every effort to fulfill timely requests, although alternatives may be offered. Requests received in less than five business days may not be fulfilled.

Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on April 3, 2020 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. Copies of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council’s office or on <http://lims.dccouncil.us>. Hearing materials, including a draft witness list, can be accessed at <http://www.chairmanmendelson.com/circulation>, 24 hours in advance of the hearing.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on April 14, 2020.

COUNCIL OF THE DISTRICT OF COLUMBIA  
**COMMITTEE ON FACILITIES AND PROCUREMENT**

ROBERT C. WHITE, JR., CHAIR

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**NOTICE OF PUBLIC ROUNDTABLE**

on

**PR23-0655, the “Board of Directors of the Washington Metrorail Safety Commission Victoria Wassmer Confirmation Resolution of 2020”****and****PR23-0656, the “Board of Directors of the Washington Metrorail Safety Commission Robert Bobb Confirmation Resolution of 2020”**Monday, March 16<sup>th</sup>, 2020, 3:00 PM  
Room 123, John A. Wilson Building  
1350 Pennsylvania Avenue, N.W.  
Washington, DC 20004

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On Monday, March 16<sup>th</sup>, 2020, Councilmember Robert C. White Jr., Chair of the Committee on Facilities and Procurement, will hold a public roundtable on PR23-0655, the “Board of Directors of the Washington Metrorail Safety Commission Victoria Wassmer Confirmation Resolution of 2020” and on PR23-0656, the “Board of Directors of the Washington Metrorail Safety Commission Robert Bobb Confirmation Resolution of 2020.” The public roundtable will take place in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 3:00 PM.

The stated purpose of PR23-0655, the “Board of Directors of the Washington Metrorail Safety Commission Victoria Wassmer Confirmation Resolution of 2020” is to confirm the appointment of Ms. Victoria Wassmer to the Washington Metrorail Safety Commission as an alternate member, replacing Christopher Geldart, for a term to end February 6, 2021.

The stated purpose of PR23-0656, the “Board of Directors of the Washington Metrorail Safety Commission Robert Bobb Confirmation Resolution of 2020” is to confirm the re-appointment of Mr. Robert Bobb to the Washington Metrorail Safety Commission for a term to end February 6, 2024.

The Committee invites the public to testify in person or to submit written testimony. Anyone wishing to testify should contact the Committee via e-mail at [facilities@dccouncil.us](mailto:facilities@dccouncil.us) or at (202) 741-8593, and provide their name, phone number or e-mail, organizational affiliation, and title (if any) by **close of business on Friday, March 13<sup>th</sup>, 2020.**

All public witnesses will be allowed a maximum of four minutes for oral testimony, while Advisory Neighborhood Commissioners will have a maximum of five minutes to testify. At the discretion of the Chair, the length of time provided for oral testimony may be reduced if there are



a large number of witnesses. Witnesses are encouraged, but not required, to bring **twenty single-sided copies** of their testimony in writing and submit their written testimony electronically in advance to [facilities@dccouncil.us](mailto:facilities@dccouncil.us).

Witnesses who anticipate needing language interpretation, or require sign language interpretation, are requested to inform the Committee on Facilities and Procurement of the need as soon as possible but no later than five (5) business days before the proceeding. We will make every effort to fulfill timely requests, however requests received in less than five (5) business days may not be fulfilled and alternatives may be offered.

Witnesses are advised that should the public roundtable extend beyond 12:00 p.m. or 6:00 p.m., the Committee will recess for a period of twenty minutes at each time. Should more than one hundred witnesses request to testify in person, the public roundtable will recess after the first one hundred witnesses and any witnesses signed up after the first one hundred will, at the discretion of the chair, be given the opportunity to either provide oral testimony when the roundtable reconvenes at a later date or submit written testimony for the record.

For witnesses who are unable to testify at the roundtable, written testimony will be made part of the official record. Copies of written testimony should be submitted to the Committee at [facilities@dccouncil.us](mailto:facilities@dccouncil.us) or to Nyasha Smith, Secretary of the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, DC 20004. **The record will close at the close of business on Monday, March 30<sup>th</sup>, 2020.**

COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
COMMITTEE ON EDUCATION  
NOTICE OF JOINT PUBLIC ROUNDTABLE

1350 Pennsylvania Avenue, NW, Washington, DC 20004

REVISED

CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
&  
COUNCILMEMBER DAVID GROSSO  
COMMITTEE ON EDUCATION  
ANNOUNCE A JOINT PUBLIC ROUNDTABLE

on

PR23-0658, the “Public Charter School Board James Sandman  
Confirmation Resolution of 2020”

On

Thursday, March 26, 2020  
2:00 p.m., Hearing Room 123, John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

Chairman Phil Mendelson and Councilmember David Grosso announce the scheduling of a joint public roundtable of the Committee of the Whole and the Committee on Education on PR23-0658, the “Public Charter School Board James Sandman Confirmation Resolution of 2020.” The roundtable will be held on Thursday, March 26, 2020 at 2:00 p.m. or immediately following the joint Budget Oversight Hearing on the Public Charter School Board, in Room 123 of the John A. Wilson Building.

The stated purpose of PR23-0658 is to confirm the reappointment of James Sandman as a member of the Public Charter School Board in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01), and pursuant to section 2214 of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1802.14).

Those who wish to testify may sign-up online at [bit.do/EducationHearings](http://bit.do/EducationHearings) or call the Committee on Education at (202) 724-8061 by 5:00 p.m. on Tuesday, March 24. Persons wishing to testify are encouraged, but not required, to submit 10-15 copies of written testimony. Witnesses appearing on his or her own behalf should limit their testimony to three minutes; witnesses representing organizations should limit their testimony to five minutes.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Statements should be submitted by email to Ashley Strange, Committee Assistant, at [astrange@dccouncil.us](mailto:astrange@dccouncil.us), or by post to the Committee on Education, Council of the District of Columbia, Suite 116 of the John A. Wilson Building, 1350 Pennsylvania

Avenue, NW, Washington, D.C. 20004. The record will close at 5:00 p.m. on Friday March 27, 2020

Witnesses who anticipate needing spoken language interpretation, or require sign language interpretation, are requested to inform Education Committee of the need as soon as possible but no later than five (5) business days before the proceeding. We will make every effort to fulfill timely requests, however requests received in less than five (5) business days may not be fulfilled and alternatives may be offered.

*This revised notice reflects the change in the record closure date from Thursday April 9 to Friday March 27.*

COUNCIL OF THE DISTRICT OF COLUMBIA  
**COMMITTEE ON FACILITIES AND PROCUREMENT**

ROBERT C. WHITE, JR., CHAIR

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**NOTICE OF PUBLIC ROUNDTABLE****on****PR23-0698, the “Chief Procurement Officer of the Office of Contracting and Procurement George Schutter Confirmation Resolution of 2020”**

Monday, March 16<sup>th</sup>, 2020, 10:00 AM  
Room 123, John A. Wilson Building  
1350 Pennsylvania Avenue, N.W.  
Washington, DC 20004

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On Monday, March 16<sup>th</sup>, 2020, Councilmember Robert C. White Jr., Chair of the Committee on Facilities and Procurement, will hold a public roundtable on PR23-0698, the “Chief Procurement Officer of the Office of Contracting and Procurement George Schutter Confirmation Resolution of 2020.” The public roundtable will take place in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 10:00 AM.

The stated purpose of PR23-0698, the “Chief Procurement Officer of the Office of Contracting and Procurement George Schutter Confirmation Resolution of 2020” is to confirm the reappointment of Mr. George Schutter as Chief Procurement Officer of the Office of Contracting and Procurement, for a term to end July 14, 2025.

The Committee invites the public to testify in person or to submit written testimony. Anyone wishing to testify should contact the Committee via e-mail at [facilities@dccouncil.us](mailto:facilities@dccouncil.us) or at (202) 741-8593, and provide their name, phone number or e-mail, organizational affiliation, and title (if any) by **close of business on Friday, March 13<sup>th</sup>, 2020.**

All public witnesses will be allowed a maximum of four minutes for oral testimony, while Advisory Neighborhood Commissioners will have a maximum of five minutes to testify. At the discretion of the Chair, the length of time provided for oral testimony may be reduced if there are a large number of witnesses. Witnesses are encouraged, but not required, to bring **twenty single-sided copies** of their testimony in writing and submit their written testimony electronically in advance to [facilities@dccouncil.us](mailto:facilities@dccouncil.us).

Witnesses who anticipate needing language interpretation, or require sign language interpretation, are requested to inform the Committee on Facilities and Procurement of the need as soon as possible but no later than five (5) business days before the proceeding. We will make every effort to fulfill timely requests, however requests received in less than five (5) business days may not be fulfilled and alternatives may be offered.

Witnesses are advised that should the public roundtable extend beyond 12:00 p.m. or 6:00 p.m., the Committee will recess for a period of twenty minutes at each time. Should more than one hundred witnesses request to testify in person, the public roundtable will recess after the first one hundred witnesses and any witnesses signed up after the first one hundred will, at the discretion of the chair, be given the opportunity to either provide oral testimony when the roundtable reconvenes at a later date or submit written testimony for the record.

For witnesses who are unable to testify at the roundtable, written testimony will be made part of the official record. Copies of written testimony should be submitted to the Committee at [facilities@dccouncil.us](mailto:facilities@dccouncil.us) or to Nyasha Smith, Secretary of the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, DC 20004. **The record will close at the close of business on Monday, March 30<sup>th</sup>, 2020.**

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

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

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

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

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**Reprog. 23-84:** Request to reprogram \$1,318,825 in Special Purpose Revenue Funds budget authority within the District of Columbia Public Schools was filed in the Office of the Secretary on March 6, 2020. This reprogramming is needed to ensure that DCPS' budget is properly aligned to support the food services program.

RECEIVED: 14-day review begins March 6, 2020

**Reprog. 23-85:** Request to reprogram \$310,000 in Special Purpose Revenue Funds budget authority within the District of Columbia Public Schools was filed in the Office of the Secretary on March 6, 2020. This reprogramming is needed to cover salaries and Fringe Benefits for staff in the Food and Nutrition Services Self-Operating Pilot program.

RECEIVED: 14-day review begins March 6, 2020

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

**\*\*CORRECTION**

Placard Posting Date: March 6, 2020  
Protest Petition Deadline: April 20, 2020  
Roll Call Hearing Date: May 4, 2020

License No.: ABRA-111740  
Licensee: Annabelle, LLC  
Trade Name: Annabelle  
License Class: Retailer’s Class “C” Restaurant  
Address: 2130 Florida Avenue, N.W.  
Contact: Sidon Yohannes, Esq.: (202) 686-7600

WARD 2                      ANC 2B                      SMD 2B01

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 May 4, 2020 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date.

**NATURE OF SUBSTANTIAL CHANGE**

Request to add a Sidewalk Cafe with 31 seats.

**CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES)**

Sunday through Saturday 10am – 2am

**\*\*PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (SIDEWALK CAFE)**

Sunday through Thursday 10am – 11pm

Friday and Saturday 10am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

**\*\*RESCIND**

Placard Posting Date: March 6, 2020  
Protest Petition Deadline: April 20, 2020  
Roll Call Hearing Date: May 4, 2020

License No.: ABRA-111740  
Licensee: Annabelle, LLC  
Trade Name: Annabelle  
License Class: Retailer’s Class “C” Restaurant  
Address: 2130 Florida Avenue, N.W.  
Contact: Sidon Yohannes, Esq.: (202) 686-7600

WARD 2                      ANC 2B                      SMD 2B01

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 May 4, 2020 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline.

**NATURE OF SUBSTANTIAL CHANGE**

Request to add a Sidewalk Cafe with 31 seats.

**CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES)**

Sunday through Saturday 10am – 2am

**\*\*PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (SIDEWALK CAFE)**

Sunday through Saturday 10am – 2am



ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
3/13/2020

Notice is hereby given that:

License Number: ABRA-115645

License Class/Type: C Tavern

Applicant: Family's, LLC

Trade Name: Climaxx Bar and Restaurant

ANC: 2F06

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

1414 9TH ST NW, WASHINGTON, DC 20001

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
4/27/2020

A HEARING WILL BE  
5/11/2020

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

ENDORSEMENT(S): Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 1 am	11 am - 1 am	6 pm - 1 am
Monday:	10 am - 1 am	11 am - 1 am	6 pm - 1 am
Tuesday:	10 am - 1 am	11 am - 1 am	6 pm - 1 am
Wednesday:	10 am - 1 am	11 am - 1 am	6 pm - 1 am
Thursday:	10 am - 1 am	11 am - 1 am	6 pm - 1 am
Friday:	10 am - 2 am	11 am - 2 am	6 pm - 2 am
Saturday:	10 am - 2 am	11 am - 2 am	6 pm - 2 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

## ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

## NOTICE OF PUBLIC HEARING

Placard Posting Date: March 13, 2020  
Protest Petition Deadline: April 27, 2020  
Roll Call Hearing Date: May 11, 2020  
Protest Hearing Date: June 24, 2020

License No.: ABRA-116654  
Licensee: Equity K, LLC  
Trade Name: Koi  
License Class: Retailer's Class "C" Nightclub  
Address: 1413 K Street, N.W.  
Contact: Danielle Balmelle, Agent: (202) 714-2976

WARD 2

ANC 2F

SMD 2F05

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 May 11, 2020 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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 24, 2020 at 1:30 p.m.**

**NATURE OF OPERATION**

New Retailer's Class "C" Nightclub serving sushi and other hot foods. Applicant is applying for a Sidewalk Cafe Endorsement with 24 seats. Total seating inside is 55 with a Total Occupancy Load of 350.

**HOURS OF OPERATION (INSIDE PREMISES)**

Sunday through Saturday 12am – 12am (24-hour operations)

**HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES)**

Sunday through Thursday 8am – 2am

Friday and Saturday 8am – 3am

**HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (SIDEWALK CAFE)**

Sunday through Thursday 8am – 2am

Friday and Saturday 8am – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: March 13, 2020
Protest Petition Deadline: April 27, 2020
Roll Call Hearing Date: May 11, 2020
Protest Hearing Date: June 24, 2020

License No.: ABRA-111118-2
Licensee: Potomac Paddle Pub, LLC
Trade Name: Potomac Paddle Club
License Class: Retailer's Class "DX" Marine Vessel
Address: 101 Market Square, S.W.
Contact: Hunter Campbell: (301) 775-7444

WARD 6

ANC 6D

SMD 6D04

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 May 11, 2020 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 24, 2020 at 4:30 p.m.

NATURE OF OPERATION

Request for a second Marine Vessel, resulting in a fleet of two vessels, located at 101 Market Square, S.W. Seating Capacity of 18, with a Total Occupancy Load of 18.

HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION

Sunday through Saturday 9am - 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: March 13, 2020
Protest Petition Deadline: April 27, 2020
Roll Call Hearing Date: May 11, 2020
Protest Hearing Date: June 24, 2020

License No.: ABRA-115992
Licensee: Whole Foods Market Group, Inc.
Trade Name: Whole Foods Market
License Class: Retailer's Class "D" Restaurant
Address: 967 Florida Avenue, N.W.
Contact: Sidon Yohannes, Esq.: (202) 686-7600

WARD 1 ANC 1B SMD 1B11

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 May 11, 2020 at 11 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 24, 2020 at 1:30 p.m.

NATURE OF OPERATION

The Establishment will be a restaurant located inside of a full-service grocery store offering hot and cold meals, including entrees and sides. Seating Capacity of 96 inside and a Total Occupancy Load of 115. Sidewalk Café with 22 seats. Summer Garden with 24 seats.

HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR INSIDE PREMISES, SUMMER GARDEN, AND SIDEWALK CAFE

Sunday through Saturday 8am – 12am

## DEPARTMENT OF ENERGY AND ENVIRONMENT

**NOTICE OF PUBLIC HEARING AND  
SOLICITATION OF PUBLIC COMMENT****Fiscal Year 2021 Weatherization Assistance Program Draft State Plan  
Public Hearing Notice**

The Department of Energy and Environment (the Department) invites the public to present its comments at a public hearing on the fiscal year (FY) 2021 Weatherization Assistance Program (WAP) Draft State Plan.

**Public Hearing: Friday, April 24, 2020**

**HEARING DATE:** Friday, April 24, 2020  
**TIME:** 6:00 p.m.  
**PLACE:** Department of Energy and Environment  
1200 First Street NE, Washington, DC 20002  
5th Floor  
NOMA Gallaudet (Red Line) Metro Stop

Beginning 3/17/2020, the full text of the **FY 2021 WAP Draft State Plan** will be available online at the Department's website. A person may obtain a copy of the FY 2021 WAP Draft State Plan by any of the following means:

**Download** from the Department's website, <http://doee.dc.gov/service/weatherization-assistance-program>. Look for "FY21 WAP Draft State Plan" near the bottom of the page. Follow the link to the page, where the document can be downloaded in a PDF format.

**Email** a request to [WAPStatePlan@dc.gov](mailto:WAPStatePlan@dc.gov) with "Request copy of **FY 2021 WAP**" in the subject line.

**Pick up a copy in person** from the Department's reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call the Department's reception at (202) 535-2600 and mention this Notice by name.

**Write** the Department at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Kenley Farmer RE: **FY21 WAP Draft State Plan**" on the outside of the envelope.

**The deadline for comments is 4/24/2020 at the conclusion of the public hearing.** All persons present at the hearing who wish to be heard may testify in person. All presentations shall be limited to five minutes. Persons are urged to submit duplicate copies of their written statements.

Persons may also submit written testimony by email, with a subject line of "FY21 WAP Draft State Plan", to [WAPStatePlan@dc.gov](mailto:WAPStatePlan@dc.gov). Comments clearly marked "FY21 WAP Draft State Plan" may also be hand delivered or mailed to the Department's offices at the address listed above. All comments should be received no later than the conclusion of the public hearing on Friday, April 24, 2020. The Department will consider all comments received in its final decision.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF FOR-HIRE VEHICLES**

**NOTICE OF FOR-HIRE VEHICLES ADVISORY COUNCIL MEETING**

The For-Hire Vehicle Advisory Council will hold a meeting on Tuesday, March 17, 2020 at 10:00 am. The meeting will be held at the Department of For-Hire Vehicles, 2235 Shannon Place, SE, Washington, DC 20020, inside the Hearing Room, Suite 2032. Visitors to the building must show identification and pass through the metal detector. Allow ample time to find street parking or to use the pay-to-park lot adjacent to the building.

The final agenda will be posted no later than seven (7) days before the For-Hire Vehicle Advisory Council Meeting on the DFHV website at [www.dfhv.dc.gov](http://www.dfhv.dc.gov).

Members of the public are invited to participate in the Public Comment Period. You may present a statement to the Council on any issue of concern; the Council generally does not answer questions. Statements are limited to five (5) minutes for registered speakers. Time and agenda permitting, nonregistered speakers may be allowed two (2) minutes to address the Council. To register, please call 202-645-6002 no later than 3:00 p.m. on March 16, 2020. Registered speakers will be called first, in the order of registration. **Registered speakers must provide ten (10) printed copies of their typewritten statements to the Advisory Council Recorder no later than the time they are called to the podium.**

**DRAFT AGENDA**

- I. Call to Order
- II. Advisory Council Communication
- III. Advisory Council Action Items
- IV. Department of For-Hire Vehicles staff reports
- V. Government Communications and Presentations
- VI. Public Comment Period
- VII. Adjournment

**BOARD OF ZONING ADJUSTMENT  
PUBLIC HEARING NOTICE  
WEDNESDAY, MAY 6, 2020  
441 4<sup>TH</sup> 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 TWO**

20254  
ANC 2D                    **Application of The Government of the Republic of the Zambia,** pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the R-Use group requirements of Subtitle U § 203.1(b), Subtitle X § 201.1, and Subtitle X §201.8, to permit the renovation of the chancery building in the R-1-B Zone at premises 2419 Massachusetts Avenue N.W. (Square 2506, Lot 22).

**WARD FIVE**

20263  
ANC 5E                    **Application of Gilbert Garcia,** pursuant to 11 DCMR Subtitle X, Chapter 10, for a variance from the lot occupancy requirements of Subtitle D § 304.1, to construct a two-story rear addition to an existing attached principal dwelling unit in the R-3 Zone at premises 206 Channing Street N.E. (Square 3553, Lot 40).

**WARD FIVE**

20269  
ANC 5B                    **Application of Harold Tran,** pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201, from the lot occupancy requirements of Subtitle D § 304.1, to add a one-story rear deck addition to an existing detached principal dwelling unit in the R-2 Zone at premises 3000 10th Street N.E. (Square 3837, Lot 16).

**WARD ONE**

20270  
ANC 1A                    **Application of 753 Columbia Road NW, LLC,** pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the RF-use requirements of Subtitle U § 320.2, to construct a third story addition and a three-story rear addition and convert the principal dwelling unit into a three-unit apartment house in the RF-1 Zone at premises 753 Columbia Road N.W. (Square 2890, Lot 117).

## BZA PUBLIC HEARING NOTICE

MAY 6, 2020

PAGE NO. 2

WARD ONE

20271                    **Application of 755 Columbia Road NW, LLC**, pursuant to 11  
ANC 1A                DCMR Subtitle X, Chapter 9, for a special exception under the RF-use  
                             requirements of Subtitle U § 320.2, to construct a third story addition  
                             and a three-story rear addition and convert the principal dwelling unit  
                             into a three-unit apartment house in the RF-1 Zone at premises 755  
                             Columbia Road N.W. (Square 2890, Lot 116).

WARD ONE

20272                    **Application of 757 Columbia Road NW, LLC**, pursuant to 11  
ANC 1A                DCMR Subtitle X, Chapter 9, for a special exception under the RF-use  
                             requirements of Subtitle U § 320.2, to construct a third story addition  
                             and a three-story rear addition and convert the principal dwelling unit  
                             into a three-unit apartment house in the RF-1 Zone at premises 757  
                             Columbia Road N.W. (Square 2890, Lot 101).

## 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, pursuant to Subtitle Y § 600.4.**

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](http://www.dcoz.dc.gov). All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4<sup>th</sup> 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.*



BZA PUBLIC HEARING NOTICE

MAY 6, 2020

PAGE NO. 3

**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 በኢሜል [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡት በነጻ ነው።

Chinese

您需要有人帮助参加活动吗?

如果您需要特殊便利设施或语言协助服务（翻译或口译），请在见面之前提前五天与 Zee Hill 联系，电话号码 (202) 727-0312，电子邮件 [Zelalem.Hill@dc.gov](mailto: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](mailto: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](mailto: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](mailto:Zelalem.Hill@dc.gov) cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

Vietnamese

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

Nếu quý vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc [Zelalem.Hill@dc.gov](mailto: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.

BZA PUBLIC HEARING NOTICE

MAY 6, 2020

PAGE NO. 4

**FREDERICK L. HILL, CHAIRPERSON  
LESYLLEE 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:** **Monday, May 4, 2020, @ 6:30 p.m. – 1<sup>st</sup> Case  
Jerrily R. Kress Memorial Hearing Room  
441 4<sup>th</sup> Street, N.W., Suite 220-South  
Washington, D.C. 20001**

**FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:**

**Z.C. Case No. 20-05 (Office of Planning – Text Amendment to Subtitle K, Chapter 8, to the Use Requirements of the Arts Zones)**

**THIS CASE IS OF INTEREST TO ALL ANCs**

On February 14, 2020, the Office of Planning (“OP”) filed with the Office of Zoning a report (the “OP Setdown Report”) that served as a petition to the Zoning Commission (the “Commission”) proposing the following amendments to Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016 [the “Zoning Regulations] to which all references herein refer unless otherwise specified):

Subtitle K, Special Purpose Zones

Chapter 8, Mixed-Use Arts Zones – ARTS-1 through ARTS-4

§ 811.9 – technical correction of the linear footage numbers for eating and drinking establishments

The proposed text amendment is a technical correction to update the linear footage measurements of the eating and drinking establishment uses in properties in the ARTS zones.

At its February 24, 2020, public meeting, the Commission voted to grant OP’s request to set down the proposed text amendment for a public hearing.

The OP Setdown Report also serves as the pre-hearing report required by Subtitle Z § 501.

The complete record in the case, including the OP Setdown Report and the transcript of the February 24, 2020, public meeting, can be viewed online at the Office of Zoning website, through the Interactive Zoning Information System (IZIS), at <https://app.dcoz.dc.gov/Content/Search/Search.aspx>

**PROPOSED TEXT AMENDMENT**

The proposed amendments to the text of the Zoning Regulations are as follows) text to be deleted is marked in ~~bold and strikethrough~~ text; new text is shown in **bold and underline** text).

**I. Proposed Amendments to Subtitle K, SPECIAL PURPOSE ZONES**

Subsection 811.9 of § 811, USE PERMISSIONS (ARTS), of Chapter 8, MIXED-USE UPTOWN ARTS ZONES – ARTS-1 THROUGH ARTS-4, of Subtitle K, SPECIAL PURPOSE ZONES, is proposed to be amended by revising paragraph (a), to read as follows:

811.9 Eating and drinking establishments shall be subject to the following limitations:

- (a) No ~~portion of an eating and drinking establishment located on the ground floor is permitted to occupy~~ more than fifty percent (50%) of the ground floor linear frontage ~~of on the named street within~~ each individual square as set forth in the table below, and within an ARTS zone, shall be devoted to eating and drinking establishments;

**TABLE K § 811.9(a):  
LINEAR FRONTAGE OF EATING AND DRINKING ESTABLISHMENTS**

14th Street, N.W.		U Street, N.W.	
Square	Frontage (feet)	Square	Frontage (feet)
202	222.5	204	305.3
203	310.0	205	618.0
204	320.0	236	523.4
205	430.6	237	538.5
206	399.8	273	<del>225.3</del> <b>303.3</b>
207	450.1	274	340.9
208	400.0	304	192.2
209	380.0	305	186.0
210	203.5	332	189.7
211	<del>304.2</del> <b>296.1</b>	333	187.7
234	253.1	359	96.8
235	310.0	360	<del>230.4</del> <b>240.4</b>
236	320.0	361	251.7
237	380.0		
238	450.0		
239	200.0		
240	391.0		
241	450.0		
242	363.1		
242N	154.5		

- (b) An eating and drinking establishment ...

Proposed amendments to the Zoning Regulations of the District of Columbia are authorized pursuant to the Zoning Act of June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01, *et seq.* (2018 Repl.)).

This public hearing will be conducted in accordance with the rulemaking case provisions of Subtitle Z, Chapter 5.

**How to participate as a witness – oral presentation**

Interested persons or representatives of organizations may be heard at the public hearing. All individuals, organizations, or associations wishing to testify in this case are encouraged to inform OZ of 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](mailto:donna.hanousek@dc.gov)), or by calling (202) 727-0789.

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

- |    |               |                |
|----|---------------|----------------|
| 1. | Organizations | 5 minutes each |
| 2. | Individuals   | 3 minutes each |

**How to participate as a witness – written statements**

Written statements, in lieu of personal appearances or oral presentation, 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 4<sup>th</sup> Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to [zsubmissions@dc.gov](mailto:zsubmissions@dc.gov); or by fax to (202) 727-6072. Please include the case number on your submission.

**“Great weight” to written report of ANC**

Subtitle Z § 505.1 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 § 505.2, an ANC that wishes to participate in the hearing 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.

**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](mailto: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](mailto: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](mailto: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](mailto: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](mailto:Zelalem.Hill@dc.gov) 这些是免费提供的服务。

**Quý vị có cần trợ giúp gì để tham gia không?** Nếu quý vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

**ለሙሳተፍ 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 በኢሜል [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡት በነጻ ነው።

**DEPARTMENT OF BEHAVIORAL HEALTH**

**NOTICE OF FINAL RULEMAKING**

The Director of the Department of Behavioral Health (“the Department”), pursuant to the authority set forth in Sections 5113, 5115, 5117 and 5118 of the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code §§ 7-1141.02, 7-1141.04, 7-1141.06 and 7-1141.07 (2018 Repl.)), hereby gives notice of the adoption of amendments to Chapter 57 (Mental Health Community Residence Facility Per Diem) of Subtitle A (Mental Health), Title 22 (Health) of the District of Columbia Municipal Regulations (“DCMR”).

This final rulemaking codifies the locally funded per diem rate to be paid to all Mental Health Community Residence Facility (“MHCRF”) operators licensed by the Department as previously established by emergency rulemaking. The rates will be paid to the MHCRF operators in accordance with their level of licensure (Transitional Supported Residence (TSR), Supported Residence (SR), Supported Rehabilitative Residence (SRR), and Intensive Residence (IR)). To be eligible for the per diem, an MHCRF shall be required to enter into a contract with the Department. The per diem will be paid per resident and billed to the Department. The per diem is subject to availability of funds.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on January 31, 2020 at 67 DCR 001004. The Department did not receive any comments and no changes were made in this final rulemaking. This rule was adopted as final on March 2, 2020 and will be effective on the publication of this notice in the *D.C. Register*.

**Chapter 57, MENTAL HEALTH COMMUNITY RESIDENCE FACILITY PER DIEM, of Title 22-A DCMR, MENTAL HEALTH, is amended by deleting Section 5701 in its entirety and inserting a new Section 5701 in its place, to read as follows:**

**5701 REIMBURSEMENT RATE**

5701.1 The MHCRF Per Diem rates effective October 1, 2019, are as set forth below:

<b>SERVICE</b>	<b>CODE</b>	<b>RATE</b>	<b>UNIT</b>
Transitional Supported Residence MHCRF Per Diem	TSR01	\$68.56	Daily
Supported Residence MHCRF Per Diem	SR01	\$65.37	Daily
Supported Rehabilitative Residence MHCRF Per Diem	SRR01	\$106.15	Daily
Supported Rehabilitative Residence MHCRF Per Diem – Hearing Impaired	SRR02	\$130.09	Daily
Intensive Residence MHCRF Per Diem	IR01	\$163.67	Daily

## DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health (Department), pursuant to § 302(14) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), Mayor's Order 98-140, dated August 20, 1998, and the HIV/AIDS Continuing Education Requirements Amendment Act of 2012, effective July 13, 2012 (D.C. Law 19-156; D.C. Official Code §§ 3-1205.10(b)(4) and (b-1) (2016 Repl.)), hereby adopts the following amendment to Sections 4606 (Continuing Education Requirements for Nonpracticing Physicians), 4614 (Continuing Education Requirements for Practicing Physicians) and 4699 (Definitions) of Chapter 46 (Medicine) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

The rulemaking is necessary to update the District of Columbia Municipal Regulations pertinent to the Board of Medicine in order to amend continuing education requirements so that a minimum number of hours cover required subject matters that reflect identified health priorities relevant to the physicians' individual practices. This amendment will also eliminate the mandated three-hour HIV/AIDS specific requirement, as that subject matter for continuing education will be included in the identified health priorities for continuing education. Consistent with the aim of the Health Occupations Revision Act, this rulemaking will enhance professionalism within the community and operate in support of the health and welfare of the public.

The Proposed Rulemaking was published in the *D.C. Register* on December 20, 2019 at 66 DCR 016421. One comment was received from the Medical Society of the District of Columbia (MSDC). MSDC supports the amendment but requested that the statutorily mandated two hours of continuing education outlined in Subsection 4604.4(c) be able to be included as part of the continuing education requirements of Subsection 4606.4(d). The Director has determined that the requirements of Subsections 4606.4(c) and (d) are "stand-alone" requirements and must be satisfied using separate courses. Therefore, no changes have been made to the proposed rule. The amendment was adopted as final on February 4, 2010, and shall become effective upon publication in the *D.C. Register*.

**Chapter 46, MEDICINE, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:**

**Section 4606, CONTINUING EDUCATION REQUIREMENTS FOR NONPRACTICING PHYSICIANS, is amended as follows:**

**Subsection 4606.4 is amended to read as follows:**

4606.4        An applicant for renewal, reactivation, or reinstatement of a license who has not been actively practicing medicine for a period of one (1) to five (5) years shall submit proof pursuant to § 4606.7 that the applicant has completed acceptable



continuing medical education for each year after December 31, 1988, that the applicant has not been actively practicing medicine as follows:

- (a) Twenty-five (25) hours of credit in continuing medical education meeting the requirements of Category 1;
- (b) Twenty-five (25) hours of credit in continuing medical education meeting the requirements of either Category 1 or Category 2;
- (c) Beginning with the renewal period ending December 31, 2018, two (2) AMA/PRA Category I or Category I-equivalent hours in cultural competence or appropriate clinical treatment specifically for individuals who are lesbian, gay, bisexual, transgender, gender nonconforming, queer, or questioning their sexual orientation or gender identity and expression (LGBTQ) that meets the requirement of § 4607.4, and which shall count towards the hours required under paragraphs (a) and (b). Category I-equivalent hours shall be acceptable so long as they have been prescribed by the American Academy of Family Physicians or another entity approved by the Board;
- (d) At least ten percent (10%) of the total required continuing medical education shall be in the subjects determined by the Director as public health priorities of the District, which shall be published every five (5) years or as deemed appropriate; and
- (e) Pursuant to D.C. Official Code § 3-1205.10(b-1)(3), the requirements of D.C. Official Code § 3-1205.10(b)(4) are waived.

**Section 4614, CONTINUING EDUCATION REQUIREMENTS FOR PRACTICING PHYSICIANS, is amended as follows:**

**Subsection 4614.2 is amended to read as follows:**

4614.2 Physicians actively practicing medicine in the District of Columbia shall submit proof of having completed fifty (50) American Medical Association Physician Recognition Award (AMA/PRA) Category I hours or Board of Medicine approved continuing education credit during the two-year period preceding the date the license expires. At least ten percent (10%) of the total fifty (50) hours of required continuing medical education shall include subjects determined by the Director as public health priorities of the District of Columbia, which shall be published every five (5) years or as deemed appropriate. The continuing education requirement:

- (a) Shall include, beginning with the renewal period ending December 31, 2018, two (2) AMA/PRA Category I or Category I-equivalent hours in cultural competence or appropriate clinical treatment specifically for

individuals who are lesbian, gay, bisexual, transgender, gender nonconforming, queer, or questioning their sexual orientation or gender identity and expression (LGBTQ) which meet the requirements of § 4614.9. Category I-equivalent hours shall be acceptable so long as they have been prescribed by the American Academy of Family Physicians or another entity approved by the Board; and

- (b) Pursuant to D.C. Official Code §§ 3-1205.10(b-1)(3), the requirements of D.C. Official Code § 3-1205.10(b)(4) are waived.

**Section 4699, DEFINITIONS, is amended as follows:**

**Subsection 4699.1 is amended to read as follows:**

**The following definition is added before the definition of “In-person”:**

**Director** – The Director of the Department of Health, or his or her designee.

## DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health (Department), pursuant to § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (Act), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), Mayor's Order 98-140, dated August 20, 1998, and the HIV/AIDS Continuing Education Requirements Amendment Act of 2012, effective July 13, 2012 (D.C. Law 19-156; D.C. Official Code § 3-1205.10(b)(4) and (b-1) (2016 Repl.)), hereby adopts the following amendment to Sections 4906 (Continuing Education Requirements), 4914 (Supervision) and 4999 (Definitions) of Chapter 49 (Physician Assistants) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

The amendment to Section 4906 (Continuing Education Requirements) is necessary so that the minimum number of hours covers required subject matters that reflect identified health priorities relevant to the physician assistants' individual practices. This amendment will also eliminate the mandated three-hour HIV/AIDS specific requirement, as that subject matter for continuing education will be included in the identified health priorities for continuing education. Consistent with the aim of the Act, this rulemaking will enhance professionalism within the community and operate in support of the health and welfare of the public.

The amendment to Section 4914 (Supervision) is necessary to clarify that while physicians may be identified as "supervising physicians" on more than four (4) delegation agreements at one time, a physician cannot actively supervise more than four (4) on-duty physician assistants at one time. This clarification is necessary in order that health organizations with many physician assistants and rotating physicians, such as hospital emergency rooms, are able to ensure the physicians in charge of a duty shift are appropriately identified on the delegation agreements for the on-duty physician assistants even with staff and schedule changes. At the same time, the public is protected by limiting the number of on-duty physician assistants a single physician can supervise at one time.

The Proposed Rulemaking was published in the *D.C. Register* on December 20, 2019 at 66 DCR 016424. No comments were received to the Notice of Proposed Rulemaking and no changes have been made to the proposed rule. The amendment was adopted as final on February 4, 2020 and shall become effective upon publication of this Notice of Final Rulemaking in the *D.C. Register*.

**Chapter 49, PHYSICIAN ASSISTANTS, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:**

**Section 4906, CONTINUING EDUCATION REQUIREMENTS, is amended as follows:**

**Subsection 4906.4 is amended to read as follows:**

4906.4           An applicant for renewal of a license to practice as a physician assistant shall submit proof pursuant to § 4906.7 of having completed during the two-year (2)

period preceding the date the license expires approved continuing medical education as follows:

- (a) Forty (40) hours of credit in continuing medical education meeting the requirements of Category 1, as specified in § 4907.2;
- (b) Sixty (60) hours of credit in continuing medical education meeting the requirements of either Category 1 or Category 2, as specified in § 4907.2 or § 4907.3;
- (c) Beginning with the renewal period ending December 31, 2018, two (2) hours of credit in Category 1 or Category 1-equivalent continuing medical education coursework focusing on cultural competence or appropriate clinical treatment specifically for individuals who are lesbian, gay, bisexual, transgender, gender nonconforming, queer, or questioning their sexual orientation or gender identity and expression (LGBTQ), which shall meet the requirements of § 4906.8, and which shall count towards the hours required under paragraph (b). Category I-equivalent hours shall be acceptable so long as they have been prescribed by the American Academy of Family Physicians or another entity approved by the Board;
- (d) At least ten percent (10%) of the total hours of required continuing medical education shall include subjects determined by the Director as public health priorities of the District every five (5) years or less frequently as deemed appropriate by the Director with notice of the subject matter published in the *D.C. Register*. The Board shall disseminate the identified subjects to its licensees when determined by the Director via electronic communication and through publication on its website; and
- (e) Pursuant to D.C. Official Code § 3-1205.10(b-1)(3), the requirements of D.C. Official Code § 3-1205.10(b)(4) are waived.

**Subsection 4906.5 is amended to read as follows:**

4906.5 An applicant for reactivation of an inactive license or reinstatement of a license to practice as a physician assistant shall submit proof pursuant to § 4906.7 of having completed during the two-year (2) period immediately preceding the date of application approved continuing medical education as follows:

- (a) Forty (40) hours of credit in continuing medical education meeting the requirements of Category 1;
- (b) Sixty (60) hours of credit in continuing medical education meeting the requirements of either Category 1 or Category 2;

- (c) Beginning with the renewal period ending December 31, 2018, two (2) hours of credit in Category 1 or Category 1-equivalent continuing medical education coursework focusing on cultural competence or appropriate clinical treatment specifically for individuals who are LBGTQ, which shall meet the requirements of § 4906.8, and which shall count towards the hours required under paragraph (b). Category I-equivalent hours shall be acceptable so long as they have been prescribed by the American Academy of Family Physicians or another entity approved by the Board;
- (d) At least ten percent (10%) of the total hours of required continuing medical education shall include subjects determined by the Director as public health priorities of the District every five (5) years or less frequently as deemed appropriate by the Director with notice of the subject matter published in the *D.C. Register*. The Board shall disseminate the identified subjects to its licensees when determined by the Director via electronic communication and through publication on its website; and
- (e) Pursuant to D.C. Official Code § 3-1205.10(b-1)(3), the requirements of D.C. Official Code § 3-1205.10(b)(4) are waived.

**Subsection 4906.6 is amended to read as follows:**

4906.6 A physician assistant who is required to obtain continuing medical education credits pursuant to § 4906.4 or 4906.5 may, in lieu of meeting the requirements of those sections, furnish proof satisfactory to the Board that the physician assistant holds a current valid certificate from the National Commission on Certification of Physician Assistants (NCCPA) that entitles the physician assistant (under the by-laws of the NCCPA) to use the designation "Physician Assistant-Certified" or "PA-C." Nothing in this subsection shall waive the requirement of §§ 4906.4(c) and (d) and 4906.5(c) and (d).

**Section 4914, SUPERVISION, is amended as follows:**

**Subsection 4914.10 is amended to read as follows:**

4914.10 A physician shall not actively supervise more than four (4) on-duty physician assistants at one time.

**Section 4999, DEFINITIONS, is amended as follows:**

**Subsection 4999.1 is amended as follows:**

**The following definition is added before the definition of "Dispense":**

**Director** – The Director of the Department of Health, or his or her designee.

## DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health (“Department”), pursuant to the authority set forth in Section 19(a)(3) of the District of Columbia Pharmacist and Pharmacy Regulation Act of 1980, effective September 16, 1980 (D.C. Law 3-98; D.C. Official Code § 47-2885.18(a)(3) (2015 Repl.)); the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code §§ 48-901.01 *et seq.*, and § 48-903.01 (2014 Repl.)); Mayor’s Order 98-48, dated April 15, 1998; Section 4902 of the Fiscal Year 2002 Budget Support Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731 (2018 Repl.)); Section 15 of the District of Columbia Drug Manufacture and Distribution Licensure Act of 1990, effective June 13, 1990 (D.C. Law 8-137; D.C. Official Code § 48-714(a) (2014 Repl.)); Section 401 of the Opioid Overdose Treatment and Prevention Omnibus Act of 2018, effective April 11, 2019 (D.C. Law 22-288; D.C. Official Code § 48-853.03a (2019 Supp.)); and Mayor’s Order 98-88, dated May 29, 1998, hereby gives notice of the adoption of the following amendments to Chapter 10 (Controlled Substance Registration for Manufacturers, Distributors, and Dispensers) of Subtitle B (Public Health and Medicine) of Title 22 (Health) of the District of Columbia Municipal Regulations (“DCMR”).

The purpose of these amendments is to require registration with the District’s Prescription Drug Monitoring Program as a prerequisite to renewing a District of Columbia Controlled Substance Registration.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on October 4, 2019 at 66 DCR 013009. The Department did not receive any comments in response to the notice. Therefore, no changes have been made to the rulemaking. These final rules will be effective upon publication of this notice in the *D.C. Register*.

**Chapter 10, CONTROLLED SUBSTANCE REGISTRATION FOR MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS, of Title 22-B DCMR, PUBLIC HEALTH AND MEDICINE, is amended as follows:**

**Section 1003, REGISTRATION, is amended as follows:**

**The existing Subsections 1003.2 through 1003.18 are renumbered as 1003.4 through 1003.20.**

**New Subsections 1003.2 and 1003.3 are added to read as follows:**

- 1003.2 Beginning August 1, 2019, prior to applying for renewal of a controlled substance registration, a practitioner shall be registered with the District of Columbia Prescription Drug Monitoring Program (PDMP).
- 1003.3 The Department shall not renew a controlled substance registration for a practitioner that is not registered with the PDMP.

**JUDICIAL NOMINATION COMMISSION****NOTICE OF FINAL RULEMAKING**

The Judicial Nomination Commission (Commission), pursuant to the authority set forth in Section 434(c)(2) of the District of Columbia Home Rule Act, effective December 24, 1973 (87 Stat. 796; D.C. Official Code § 1-204.34(c)(2) (2016 Repl.)), hereby gives notice of the adoption of a new § 2102 (Applications for Judicial Nominations) of Chapter 21 (Judicial Nomination Commission) of Title 28 (Corrections, Courts, and Criminal Justice) of the District of Columbia Municipal Regulations (DCMR).

The purpose of this rulemaking is to clarify certain application procedures for judicial candidates. This rulemaking supersedes any prior rules of the Commission to the extent of any inconsistency.

A Notice of Proposed Rulemaking, which included a proposed § 2102 regarding certain application procedures for judicial candidates, was published in the *D.C. Register* on August 30, 2019, at 66 DCR 11713. The Legal Aid Society of the District of Columbia (Legal Aid) and the Washington Council of Lawyers (Council of Lawyers) submitted comments on the proposed § 2102. Responses to those comments resulted in alterations to § 2102.1 of the proposed rulemaking, which required a Notice of Second Proposed Rulemaking that was published in the *D.C. Register* on December 20, 2019, at 66 DCR 16440.

Legal Aid submitted comments on the second proposed § 2102.1, and responses to those comments have resulted in alterations that include the addition or deletion of material that serves only to clarify the intent, meaning, or application of the proposed rule. Subsection 2102.1 of the rulemaking was adopted as final by the Commission on March 5, 2020, and shall become effective upon publication of this Notice of Final Rulemaking in the *D.C. Register*.

Below, the Commission summarizes the comments that were received, the Commission's responses to the comments, and any differences between the second proposed § 2102.1 and the final rule.

**Comments Regarding Applications for Judicial Nominations (§ 2102)**

In its Notice of Second Proposed Rulemaking, the Commission amended proposed § 2102.1 to reflect that any combination of the qualifying professional activities listed in § 2102.1(c) would qualify an applicant for consideration by the Commission. The Commission received a comment from Legal Aid expressing support for this amendment to proposed § 2102.1(c). Legal Aid also suggested amending proposed § 2102.1(c) so that the deadline for accumulating five years of relevant experience is the date that the Commission recommends the person to the President rather than the date on which the person submits an application, which would render this provision consistent with the Commission's amendment to proposed § 2102.1(d), which is described below.

Commission response: The Commission concurs with this comment, and it has amended the proposed regulation to reflect that an applicant must accumulate five years of qualifying experience immediately prior to the date that the Commission recommends the person to the President.

In its Notice of Second Proposed Rulemaking, the Commission amended proposed § 2102.1(d) to

require that applicants be *bona fide* residents of the District of Columbia, and have maintained an actual place of abode in the District for at least ninety (90) days immediately prior to the date the Commission recommends the person to the President. *See* D.C. Official Code § 1-204.33(b)(3) (requiring that no person may be nominated or appointed unless the person “has maintained an actual place of abode in the District for at least ninety days immediately prior to the nomination”); *see also id.* § 1-204.33(d)(3) (providing that “in no instance shall the Commission recommend any person, who in the event of timely nomination following a recommendation by the Commission, does not meet, upon such nomination, the qualifications specified in § 1-204.33”). The Commission received a comment from Legal Aid supporting the Commission’s amendment to bring the proposed § 2102.1(d) in line with the statutory requirement that any nominee must be a *bona fide* resident of the District of Columbia for at least 90 days immediately prior to the nomination.

Commission response: The Commission acknowledges and appreciates Legal Aid’s support for the amendment to proposed § 2102.1(d).

The Commission received a comment from Legal Aid that the second proposed rulemaking sometimes referred to applicants in the singular and at other times in the plural, and it suggested technical edits to promote consistency by referring to applicants exclusively in the singular.

Commission response: The Commission concurs with Legal Aid’s suggested technical edits, and it has amended the proposed regulation by referring to applicants exclusively in the singular.

#### Commission Determination

The Commission will finalize the second proposed § 2102.1, with the following amendments:

- An applicant must accumulate five years of qualifying experience immediately prior to the date that the Commission recommends the person to the President
- Subsection 2102.1 refers to applicants exclusively in the singular.

**Chapter 21, JUDICIAL NOMINATION COMMISSION, of Title 28 DCMR, CORRECTIONS, COURTS, AND CRIMINAL JUSTICE, is amended by adding a new Section 2102, as follows:**

#### **2102 APPLICATIONS FOR JUDICIAL NOMINATIONS**

2102.1 To be considered for nomination for a vacancy in the position of judge of a District of Columbia court, a person must submit an application to the Commission. An applicant shall:

- (a) Be a United States citizen;
- (b) Be an active member of the unified District of Columbia Bar;



- (c) For the five (5) years immediately prior to the date that the Commission recommends the person to the President:
  - (1) Have practiced law in the District of Columbia;
  - (2) Have been on the faculty of a law school in the District of Columbia;
  - (3) Have been employed as a lawyer by the United States government or the District of Columbia government; or
  - (4) Have engaged in any combination of the activities described in paragraphs (1)-(3);
- (d) Be a *bona fide* resident of the District of Columbia, and have maintained an actual place of abode in the District for at least ninety (90) days immediately prior to the date the Commission recommends the person to the President;
- (e) Have not served, within two (2) years prior to the deadline for applications, as a member of the District of Columbia Commission on Judicial Disabilities and Tenure, or as a member of the Commission; and
- (f) Be under the statutory age of mandatory retirement for District of Columbia judges.

**THE OFFICE OF LOTTERY AND GAMING**

**NOTICE OF FINAL RULEMAKING**

**(DISTRICT OPERATED SPORTS WAGERING)**

The Executive Director of the Office of Lottery and Gaming, pursuant to the authority set forth in Section 4 of the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Official Code §§ 36-601.06(a), 36-621.02, and 36-621.11 (2018 Repl.)), and Office of the Chief Financial Officer Management Control Order No. 96-22, effective September 24, 1996, hereby gives notice of the adoption of amendments to Chapter 20 (Reserved) of Title 30 (Lottery and Charitable Games) of the District of Columbia Municipal Regulations (DCMR).

The purpose of this rulemaking is to implement provisions of the Sports Wagering Lottery Amendment Act of 2018, effective May 3, 2019 (D.C. Law 22-312; 66 DCR 1402 (February 1, 2019)).

A Notice of Proposed Rulemaking was published in the *D.C. Register* on January 31, 2020 at 67 DCR 937. No comments were received, and no substantive changes were made to the rulemaking.

These rules were adopted as final on March 3, 2020, and will become effective upon publication of this notice in the *D.C. Register*.

**Title 30 DCMR, LOTTERY AND CHARITABLE GAMES, is amended to as follows:**

**Chapter 20, [RESERVED], is amended to read as follows:**

**CHAPTER 20 DISTRICT OPERATED SPORTS WAGERING**

- 2000 USE OF THE OFFICE’S SPORTS WAGERING MOBILE APPLICATION OR WEBSITE**
- 2001 ACCOUNTS**
- 2002 ACCOUNT FUNDING**
- 2003 BONUSES AND PROMOTIONAL OFFERS**
- 2004 GEOLOCATION**
- 2005 WAGERS**
- 2006 PRIZE CLAIMS**
- 2007 WITHDRAWING PRIZES**
- 2008 SPORTS WAGERS AND WAGER TYPES**
- 2009 FOOTBALL**
- 2010 BASKETBALL**
- 2011 BASEBALL**
- 2012 ICE HOCKEY**
- 2013 SOCCER**
- 2014 TENNIS**

- 2015 **BOXING/COMBAT SPORTS (MMA)**
- 2016 **GOLF**
- 2017 **MOTOR SPORTS**
- 2018 **AUSTRALIAN RULES FOOTBALL**
- 2019 **CRICKET**
- 2020 **DARTS**
- 2021 **FUTURES AND SPECIAL WAGERS**
- 2022 **RESPONSIBLE GAMING PROGRAM**
- 2099 **DEFINITIONS**

**2000 USE OF THE OFFICE’S SPORTS WAGERING MOBILE APPLICATION OR WEBSITE**

2000.1 To Deposit funds and/or place a Wager using Office’s Mobile App or Site a Player must:

- (a) Be at least eighteen (18) years of age;
- (b) Have a valid Account;
- (c) Have sufficient funds in their Account to Wager;
- (d) Be able to be positively identified by the Office’s Know Your Customer (KYC) procedures;
- (e) Be physically located within the legal boundaries of District of Columbia and in a location within those boundaries of the District of Columbia not otherwise prohibited by law to place a Wager; and
- (f) Be in compliance with all applicable District, federal, state, and local laws, rules, and regulations.

2000.2 A Player shall not use or attempt to use the Services in any way that:

- (a) Violates any District, federal, state, or local law, regulation, or court order;
- (b) Misrepresents the Player’s identity or personal information;
- (c) Circumvents any method the Office uses to verify information about the Player’s age, identity, or physical location;
- (d) Impersonates another person, business, entity, physical location, or IP address;
- (e) Allows any third party to use the Player’s Account;
- (f) Attempts to reverse, deny, charge-back, or otherwise block our receipt of any funds the Player has Deposited into their Account;

- (g) Deposits or attempts to Deposit any funds derived from an unlawful or fraudulent activity into the Player's Account, including money laundering;
- (h) Accesses or attempts to access, collects, or stores personal information of another person;
- (i) Accesses or attempts to access or circumvents any security measures;
- (j) Gains or attempts to gain unauthorized access to the Services or any of the Office's, or its contractors, computers, networks, servers, data, code, or other equipment or information of any kind;
- (k) Damages or overburdens the Services or any of the Office's, or its contractors, computers, network, servers, data, code, or other equipment or information of any kind;
- (l) Modifies or interferes with the use or operation of the Services;
- (m) Alters, damages, deletes, or otherwise affects any software or code used for the Services;
- (n) Introduces a computer virus or other disruptive, damaging, or harmful files or programs;
- (o) Violates the Office's, or its contractors, proprietary or intellectual property rights in any way; or
- (p) Violates any rule, regulation, or directive of the Office or any specific game rules.

## **2001 ACCOUNTS**

- 2001.1 To apply for an Account, a Player must provide all information requested on the registration form including, the Player's full legal name, address, date of birth, and last four digits of the Player's Social Security number.
- 2001.2 By submitting an application for an Account, a Player represents and warrants that:
- (a) They are applying for an Account in their own name;
  - (b) They are using their own personal information;
  - (c) The information they provide is true, complete, and accurate to the best of their knowledge;
  - (d) They will keep their username and password confidential;
  - (e) They do not already have an open Account;

(f) They are not prohibited from gambling, wagering on Sports Events, or otherwise prohibited from using the Services; and

(g) They are not opening the Account for any illegal purpose.

2001.3 The Office may require a Player to provide additional information, provide copies of documents, or appear in person at the Office's headquarters in order to complete the Account application.

2001.4 The Office may require a Player to change or update Account information at any time, including the Player's username and password.

2001.5 Players may not open more than one Account.

2001.6 By submitting an application for an Account, a Player consents to the Office's use of any age-verification and identity-verification technology or method the Office deems appropriate to validate age and identification. A Player may be required to show additional evidence of the Player's age and identification, provide copies of documents, or appear in person at the Office's headquarters.

2001.7 A Player's application for an Account shall be denied if the Player's age or identity cannot be verified.

2001.8 The Office may close an Account if the Player has not logged into the Account for eighteen (18) consecutive months.

2001.9 A Player may close their Account at any time except that the Account may remain in pending closure status if there are outstanding confirmed Wagers, such as a Wager on a future Sports Event.

## **2002 ACCOUNT FUNDING**

2002.1 A Player may Deposit funds into their Account using by a credit card, debit card, ACH bank transfer, electronic wallet, or any other method approved by the Office.

2002.2 By initiating a Deposit, the Player represents and warrants that they:

(a) Have authority to use the payment source and method selected;

(b) Have the authority to use the funds for the purpose of making a Deposit into their Account;

(c) Are not using a payment source that lists an individual unable to provide consent as a joint Account holder or an authorized user;

(d) Are not depositing funds derived from any fraudulent or unlawful source;

(e) Are not depositing funds in order to create or participate in any unlawful activity, including money laundering;

- (f) Will not attempt to reverse, charge-back, block, cancel, or in any way attempt to prevent the Office from receiving the Deposit;
- (g) Consent to the Office sharing their personal information with any third parties that are used to process their requested Deposit; and
- (h) Consent to the Office performing any background check or investigation deemed necessary to ensure that their payment source and method are authorized.

- 2002.3 The Office may require a Player to provide additional information and documents.
- 2002.4 The Office does not guarantee that a Deposit will be processed and made available in any specific period of time.
- 2002.5 The Office is not liable for any damages or losses resulting from any delay, denial or error in processing a Deposit.
- 2002.6 Players must abide by all applicable terms and conditions required by their financial institution or payment processor.
- 2002.7 Players are responsible for any transaction fees or penalties imposed by any financial institution, payment processor or other third party associated with processing their transaction.
- 2002.8 Players must reimburse the Office for any losses suffered by the Office as a result of any transaction fees or penalties of any kind associated with the Player's transaction and the Office may collect any amount it is owed as a result of any such fees or penalties.
- 2002.9 Player Deposits into an Account cannot be withdrawn, returned, charged-back, re-credited, or transferred to another Account. It is the Player's responsibility to refrain from depositing more funds than they intend to use.
- 2002.10 The Office may set or change a minimum required or maximum allowed Deposit amount.
- 2002.11 The Office may make the appropriate adjustments to a Player's Account if funds are mistakenly credited to or deducted from the Account.
- 2002.12 Players must promptly notify the Office if funds are incorrectly credited to or deducted from their Account.
- 2002.13 The Office may withhold incorrectly deposited amounts from any Deposit or prize, or seek recovery if a Player Withdraws funds that were incorrectly credited to their Account.

2002.14 The Office may void any Wagers and refuse to pay any prizes or recover any prizes already paid if a Player used funds that were incorrectly credited to their Account to purchase the Wager.

2002.15 Players will not receive any interest, dividends, premiums, or loss of use compensation of any kind on funds Deposited or held in their Account, including any claimed or unclaimed prizes.

### **2003 BONUSES AND PROMOTIONAL OFFERS**

2003.1 The Office may offer Bonuses or similar promotional incentives. Bonuses appear as funds in the Player's Account and may be used to play Games as described in the specific rules for the particular Bonus or promotional offering. Bonuses have no cash value and are not eligible for Withdrawal.

2003.2 Each Bonus or promotional offering may have additional terms and conditions that will be disclosed to Players on the Mobile App and Site.

2003.3 Players must comply with any published terms and conditions to be eligible to use Bonuses or similar promotional offering.

2003.4 Closure of the Account will render a Bonus void.

2003.5 Bonuses are not transferable between Accounts.

2003.6 Bonuses must be played at least once in order to have the corresponding Winnings available for Withdrawal.

### **2004 GEOLOCATION**

2004.1 Players consent to the Office transmitting, collecting, maintaining, processing and using their location data to provide and improve location-based Services. Players may withdraw this consent at any time by turning off the location settings on their device or by notifying the Office in writing that they would like to withdraw such consent; however, a Player who withdraws consent to providing location data will not be able to place Wagers.

2004.2 The Office's ability to geolocate a Player, may require a high-speed internet connection ("wi-fi"). The Office is not responsible for any charges associated with a Player's use of high-speed internet connection.

2004.3 In some cases, a Player's location may need to be verified through their browser location services. A Player's location will only be obtained from the browser with additional consent from them. If verification through a Player's browser is required, an interactive message will appear when they try to purchase a Wager through the Services.

2004.4 Information relating to a Player's location and the location of their device may be shared with Office contractors, sub-contractors, affiliates and other third parties for a variety of reasons, including but not limited to: providing the product, service or transaction the Player requested, legal compliance purposes, and marketing purposes. A record confirming the Player's location may be retained by the Office.

## **2005 WAGERS**

2005.1 The Office will only accept Wagers through the Mobile App, Site and licensed Lottery Sports Wagering retailers that are recorded on the Office's gaming system.

2005.2 Mobile and Site-based Wagers are placed through the internet connection between the Player's device and the Office's sports wagering system.

2005.3 A Wager is only considered placed when it is Confirmed by the Office.

2005.4 All confirmed Wagers are final.

2005.5 A Player cannot cancel or refund Wagers once they have been Confirmed by the Office.

2005.6 Wagers lost in transmission will not be recorded and therefore will not be confirmed. A Player will be required to have a high-speed internet connection to place Wagers for geolocation purposes. The Office is not responsible for costs associated with use of a high-speed internet connection.

2005.7 A Wager can only be placed on a given Sports Event if it is available on the Mobile App or Site and the terms for placing the Wager have not expired. The Office has the sole discretion to determine what Wagers are available at any given time on the Mobile App and Site. The Office only allows Wagers on Sport Events with a Governing Body.

2005.8 Wagers are processed in the order they are received. Unless otherwise stated, all times shown on the Mobile App or Site or terminal are Eastern Time (ET). Generally, Pre-Game Wagers must be placed prior to the start time of the Sports Event. The start time for a Sports Event is the official start time declared by the competition's Governing Body. For Sports Events in which an official start time is not declared, the advertised start time of the Sports Event is considered the start time. At the discretion of the Office, Pre-Game Wagers may be accepted after the start time of the Sports Event if the final result is not known and no team or participant has achieved a material advantage (such as, but not limited to, scoring a goal or touchdown or expulsion of a player) at the time the Pre-Game Wager is placed. Disputes regarding the time a Wager is placed are resolved by the Office.

2005.9 The Office reserves the right to void any Wager at any time for any reason. If the outcome of the Sports Event is known or a material advantage has occurred, the Office reserves the right to void the Wager, regardless of its outcome. If an In-Game Wager has been placed after the outcome of the Event Wagered on is known



or a team or participant has achieved a material advantage (e.g., scoring a goal or touchdown or expulsion of a player), the Office reserves the right to void the In-Game Wager, regardless of its outcome. If the Office cannot satisfactorily determine the official Sports Event results, then the Office may void and refund the Wager amount only as provided in the House Rules. A Wager is void and no Winnings will be paid if the Office determines a Player placed the Wager illegally or otherwise violated these rules.

- 2005.10 The Wager amount is at the sole risk and discretion of the Player, except that the Office may impose minimum and maximum Wager amount limits or prize amount limits at any time. Such limits will be communicated to the Player on the Mobile App and Site. The Wager amount may not exceed the amount in the Account. When a Player places a Wager, the Wager amount is deducted from the Account and ultimately withdrawn from the Account. Notwithstanding the foregoing, a Player may self-impose limits in accordance with the Office's Responsible Gaming Program.
- 2005.11 The Office determines if a Wager is a winning Wager based on the official Sports Event results. The scores and results for a game become the official Sports Event results when the Office enters the results in the Office gaming system. Before the results are declared official by the competition's Governing Body, the Office may recognize changes to the results and resettle Wagers, but once the results are declared official, the Office will generally not recognize changes including, but not limited to, the game's final score, or any protests, overturned decisions, or statistical changes made by the competition's Governing Body that changes the final score or call on a particular play.
- 2005.12 A "push" means that the official result of a Sports Event ends right on the listed point spread or finishes in a draw or tie. For such Wagers, the Winnings are equal to the original Wager amount and subject to Offsets as referenced in these rules.
- 2005.13 Subject to 30 DCMR § 400 (Hearings), Players agree that the Office's decision are final and binding on all matters in relation to Wagering, or the Player's eligibility for a prize, claim or Winnings.
- 2005.14 The Player accepts that, from time to time, errors may be involved with Wagers and a resettlement of the Wager may be required. Errors for purposes of resettlement include, operator errors, the competition's Governing Body changes a call on a particular play or final score or a malfunction may cause Winnings to be incorrectly credited to the Player's Account.
- 2005.15 If there is a discrepancy between the numbers that the Player believes they entered or the graphic display of the Game and those in the Office's gaming system or any of Office's service provider's databases, the numbers in the database are considered valid.

2005.16 If it appears that a series of Wagers contain duplicative or identical selections made by, or on behalf of, the same person or group of people, or in their favor, the Office reserves the right to suspend the Players' Accounts involved until an investigation is completed. These Wagers are ineligible for Winnings.

## **2006 PRIZE CLAIMS**

2006.1 Winnings are only paid if the Office has previously verified all relevant information including, name, age and Physical Address of the Player.

2006.2 Prize payments are subject to tax withholding and reporting.

2006.3 Prize payments may be subject to delinquent child support offsets and other offsets required by law.

2006.4 The Foreign Account Tax Compliance Act (FATCA) requires U.S. taxpayers to report certain foreign financial accounts and offshore assets. It also requires certain foreign financial institutions to report all U.S. account holders who are specified U.S. citizens. Players are responsible for complying with any FATCA requirements they may be subject to.

2006.5 A Claim may not be premised upon the human or electronic error in the communication, display or transmission of data regardless of how that data is recorded, displayed or transmitted. A Claim may not be premised upon any intentional human, electronic or other form of communication or transmission that was not authorized by the Office. The Office is not liable for any damages or losses resulting from any erroneous or unauthorized communication, display or transmission of data.

## **2007 WITHDRAWING PRIZES**

2007.1 Players may Withdraw prizes in their Account.

2007.2 Players may not Withdraw Deposits that are made into their Account.

2007.3 It is the Player's responsibility not to Deposit more than they intend to Wager.

2007.4 Prizes may be Withdrawn by ACH, bank transfer, electronic wallet, bank draft or other method the Office approves. Players may initiate a Withdrawal through their Account. By initiating a Withdrawal, Players consent that the Office may:

- (a) Deduct the Withdrawal amount from their Account;
- (b) Retain any amount owed to the Office under these terms; and
- (c) Share their personal information with any third parties the Office uses to process the request.

- 2007.5 Players cannot make any Withdrawal, including any prize amount, until they have successfully completed at least one verified Deposit. The Office is not liable for any damages or losses resulting from delay in processing a Withdrawal.
- 2007.6 Before processing a Withdrawal, the Office may require Players to provide additional information, provide copies of documents, or appear in person at Office headquarters. Players may also be required to complete additional Claim forms and/or certify documentation detailing their Deposits, Withdrawals, and other Account transactions.
- 2007.7 The Office may hold any Withdrawal if it is suspected that a Player may be engaging in or have engaged in fraudulent, collusive, unlawful or improper activity pending completion of an investigation. Players are required to cooperate in any investigation into such activity. A Player's refusal to cooperate with an investigation may lead to a hold being placed on their Withdrawal. The Office is not liable for any damages or losses resulting from any delay or denial of a Withdrawal resulting from an investigation.

## **2008 SPORTS WAGERS AND WAGER TYPES**

- 2008.1 The Office may offer the following Wagers and Wager types:
- (a) Money Line—A Money Line or straight up wager is a bet on the outright winner of the game or event without any point spread odds;
  - (b) Point Spread/Handicap—A Point Spread Wager is when a plus or minus Handicap (line) is assigned to either team and then it is added or subtracted to each final score to determine the winner. The Point Spread represents the margin of points in which the favored team must win by to “cover the spread”;
  - (c) Total Over/Under—Total Over/Under Wagers are placed on a line set by the Office that is the total combined score at certain points during the game, including any extra time added if the score was tied at the end of regulation time. In a Total Over/Under Wager, a Player predicts the score to be lower or higher than the set line to win the Wager;
  - (d) Head to Head—Head to Head Wagers are available for games or events in which a direct comparison can be made between two teams or two individual participants in a game or event;
  - (e) Odd/Even—Odd/Even involves predicting whether the total points scored in a game or event will be an odd or even number. This Wager can be offered for an individual team separately, or for a specified period of the game, or for any combination of team and period in which case the prediction will only involve the score in these specific periods. In all circumstances, zero (0) is considered to be an even number;

- (f) Proposition “Prop” Wagers—Proposition Wagers are wagers on a specific outcome during an event that does not relate to the final score. They may be offered as “Team Props,” “Player Props” and “Special Props.”;
- (g) Single Wager—A Single Wager is the most commonly used wager type. It is a straight bet based on the outcome of an event. Winnings are calculated by multiplying the odds of the selection by the stake;
- (h) Futures/Outrights—A Future Wager is a Wager placed on a game or event typically held far in advance such as which team will win a championship or series;
- (i) Parlay Wager—Parlay Wagers combine multiple individual Wagers into one Wager on a single ticket. The total odds in a Parlay Wager are calculated by multiplying the odds of all the individual picks. A Parlay Wager does not pay out anything unless all the selections on the ticket are correct;
- (j) System Wager—System Wagers require at least three or more selections on a single ticket. The main difference between System Wagers and Parlay Wagers is that a System Wager can be won without all selections on the ticket being correct;
- (k) Banker—Bankers are available only with System Wagers. The Player will usually choose a Banker Wager to be the wager within a System Wager that they feel has the highest probability of success. A Banker Wager must be correct otherwise the entire Wager fails. The amount of the winnings on a System Wager with a Banker depends on how many of the selections are correct. If the Banker is incorrect or the System Wager criterion is not satisfied, the Player loses the Wager;
- (l) In-Game Wagering—In-Game Wagering involves placing a Wager during a game or event. Odds for In-Game Wagers change after almost every play or possession throughout the game; and
- (m) Dead Heat—Dead Heat is a situation in which two or more competitors achieve the same result. In the case of Dead Heat Wagers the stake money is proportionately divided according to the number of selections which had a Dead Heat result and are paid at full-odds.

**2009****FOOTBALL**

## 2009.1

Overtime is taken into account for football Wagers except for the following Wager types: Final Result in the form of Home/Tie/Away or 1X2; Half Time/Full Time (Home/Tie/Away or 1X2); and, those Wagers that have to do with second (2<sup>nd</sup>) half or fourth (4<sup>th</sup>) quarter in which the score of the specific time period of the game is taken into account. In the instance where the game is suspended before the completion of regulation time, but with five (5.00) or less minutes remaining on the clock (based on the individual rules per competition) and the game is not continued

within the next twenty-four (24) hours, then all Wagers take into account the result at the time of suspension.

2009.2 The Office may offer the following football Wager types:

- (a) Money Line—In a “Money Line” Wager, the Player predicts the outright winner of the game (either for the home team or away team to win). There is no Point Spread involved in a Money Line Wager. In the event of a tie, the stake will be returned to the Player.
- (1) In a 3way “Money Line” Wager the Player has three options, to predict either the home team to win, the away team to win, or for the game to end in a tie (not taking into account any overtime played).
  - (2) In a 3way Money Line “1<sup>st</sup> Half Winner” Wager, the Player predicts the result of the 1<sup>st</sup> half of a game by correctly selecting either for the home team to win, for the away team to win, or for the first (1<sup>st</sup>) half to end in a tie.
  - (3) In a 3way Money Line “2<sup>nd</sup> Half Winner” Wager, the Player predicts the result of the 2<sup>nd</sup> half of a game by selecting either for the home team to win, for the away team to win, or for the 2<sup>nd</sup> half to end in a tie, taking into account only the points scored in the 2<sup>nd</sup> half. In a 3way Money Line “2<sup>nd</sup> Half Winner, including Overtime,” the Player predicts the result of the 2<sup>nd</sup> half of a game (home team to win, away team to win, or tie), taking into account the points scored in the 2<sup>nd</sup> half, including overtime played.
  - (4) In a 3way Money Line “Quarter Winner” Wager, the Player predicts the result of each quarter of a game by selecting either for the home team to win, for the away team to win, or for the quarter to end in a tie, taking into account only the points scored in the quarter wagered on.
  - (5) In a 3way Money Line “4<sup>th</sup> Quarter Winner, Including Overtime” Wager, the Player predicts the result of the 4<sup>th</sup> quarter of a game by selecting either for the home team to win, for the away team to win, or for the quarter to end in a tie, taking into account only the points scored in the 4<sup>th</sup> quarter, including overtime played.
  - (6) In a “Half Time/Full Time” Wager, the Player predicts the result of the 1<sup>st</sup> half in combination with the final result of the 2<sup>nd</sup> half, not taking overtime into account. To make a “Half Time/Full Time” Wager, the Player selects either for the home team to win, for the away team to win, or for the 1<sup>st</sup> half to end in a tie and does the same (home team to win, away team to win, or tie) for the 2<sup>nd</sup> half result.

- (b) Point Spread/Handicap—A Point Spread Wager is when a plus or minus Handicap (line) is assigned to either team and then it is added or subtracted to each final score to determine the winner. The Point Spread represents the margin of points in which the favored team must win by to “cover the spread.”
- (1) In a “Final Result with Point Spread” Wager, the Player predicts the final result of a game by selecting either for the home team to win, or for the away team to win, taking into account the Point Spread offered to one of the two teams (which can be a whole number or not). The Point Spread is taken into account when determining a winning prediction. If the Point Spread is not a whole number, then a tie cannot be a resulting outcome (no tie). This Wager can be offered for one half (“1<sup>st</sup> Half with Point Spread”; “2<sup>nd</sup> Half with Point Spread”; and, “2<sup>nd</sup> Half with Point Spread, Including Overtime”), or quarter (“1<sup>st</sup> Quarter with Point Spread”; “2<sup>nd</sup> Quarter with Point Spread”; “3<sup>rd</sup> Quarter with Point Spread”; “4<sup>th</sup> Quarter with Point Spread”; and, “4<sup>th</sup> Quarter with Point Spread, Including Overtime”) or for any specified time period of the game in which case the prediction involves the points scored for this specific time period of the game.
- (2) In a “Spread Winning Margin” Wager, the Player predicts if the total number of points scored in a game is within a range of points publicized. This Wager can be offered for only one team (home or away), or one half (1<sup>st</sup> half or 2<sup>nd</sup> half) or quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter), or for any specified time period of the game, or any combination of team and period in which case the prediction involves the points scored for this specific time period of the game.
- (c) Total Over/Under—In a “Total Over/Under” Wager, the Player predicts if the total number of points scored in a specific time period, or time of a game, is greater or less than a range publicized. This Wager can be offered for only one team (home or away) or both teams (home and away), or for one half of the game (1<sup>st</sup> half or 2<sup>nd</sup> half or 2<sup>nd</sup> half, including overtime), or any combination of team and time period in which case the prediction involves the points scored for this specific time period of the game.
- (d) Odd/Even—In an “Odd/Even” Wager, the Player predicts whether the total points scored in a regulation game will be an odd or even number. This Wager can also be offered as regulation time, including overtime. This Wager can be offered for only one half (1<sup>st</sup> half, 2<sup>nd</sup> half, or 2<sup>nd</sup> half, including overtime), or for any specified time period of the game, or any combination of team and time period in which case the prediction involves the points scored for this specific time period of the game.

- (e) Proposition “Prop” Wagers—Proposition Wagers are wagers on a specific outcome during an event that does not relate to the final score. They may be offered as “Team Props,” “Player Props” and “Special Props.”
- (1) In a “Highest Scoring Half/Quarter” Wager, the Player predicts in which half (1<sup>st</sup> half or 2<sup>nd</sup> half) or quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter) the most points will be scored. This Wager can be offered for each team (home and away) separately.
  - (2) In a “1<sup>st</sup> Team to Score” Wager, the Player predicts which team (home or away) will score the first point(s) in a game. This Wager can be offered per half (1<sup>st</sup> half or 2<sup>nd</sup> half) or per quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter) in which case the prediction involves the points scored for this time period or the specified time period of the game.
  - (3) In a “1<sup>st</sup> Scoring Play” Wager, the Player predicts the manner in which the first point(s) of the game will be scored. This Wager can be offered for only one team (home or away), or one half (1<sup>st</sup> half or 2<sup>nd</sup> half) or quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter), or for any specified time period of the game, or any combination of team and period in which case the prediction involves the points scored for this specific time period of the game.
  - (4) In a “1<sup>st</sup> Touchdown” Wager, the Player predicts if and which team (home or away) will succeed in scoring the first touchdown in a game. This Wager can be offered for only one team (home or away), or one half (1<sup>st</sup> half or 2<sup>nd</sup> half), or quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter), or for any specified time period of the game, or any combination of team and time period in which case the prediction involves the points scored for this specific time period of the game.
  - (5) In an “Overtime Yes/No” Wager, the Player predicts whether or not overtime will be played in a game.
  - (6) In a “Coin Toss” Wager, the Player predicts which team (home or away) will win the customary pre-game coin toss (heads or tails) that determines the team to start the game in possession of the ball.
  - (7) In a “Race To” Wager, the Player predicts which team (home or away) will be first to score a specified number of points (*e.g.*, “Race to 20 Points” – which team will be first to score twenty (20) points). This Wager can be offered for only one half (1<sup>st</sup> half or 2<sup>nd</sup> half) or quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter), or for any specified time period of the game, or any combination of team and

time period in which case the prediction involves the points scored for this specific time period of the game.

- (8) In a “Player Specials” Wager, the Player predicts if selected players/athletes on the active roster of a team will achieve specific results in specified statistical categories in the form of: A greater or lesser result within a specified limit; or within a specified range; or which player/athlete will achieve the highest statistical result (*e.g.* pass for the most yards) amongst all or some specifically named players/athletes; or as a “Yes/No” option or as single “Yes” option. For all “Player Specials,” Wagers placed on players/athletes that were not on the active roster will be refunded. Wagers on players/athletes that were on the active roster but were not used (did not play in the game), are considered as non-winning Wagers.

## **2010 BASKETBALL**

2010.1 Overtime is taken into account for Basketball Wagers, except for the following Wager types: Final Result in the form Home/Tie/Away or 1X2; Half Time/Full Time (Home/Tie/Away or 1X2); and, those Wagers that have to do with 2<sup>nd</sup> half or 4<sup>th</sup> quarter in which the score of specific time period of the game is taken into account. In the instance where the game is suspended before the completion of regulation time, but with five (5.00) or less minutes remaining on the clock (based on the individual rules per competition) and the game is not continued within the next twenty-four (24) hours, then all Wagers take into account the result at the time of game suspension.

2010.2 The Office may offer the following basketball Wager types:

- (a) Money Line—In a “Money Line” Wager the Player predicts the outright winner of the game (either for the home team or away team to win). There is no Point Spread involved in a Money Line Wager. In the event of a tie, the stake will be returned to the Player.
  - (1) In a 3way “Money Line” Wager, the Player predicts either for the home team to win, for the away team to win, or for the game to end in a tie (not taking into account any overtime played).
  - (2) In a 2way and 3way Money Line “1<sup>st</sup> Half Winner” Wagers, the Player predicts the result of the 1<sup>st</sup> half of a game. This can be offered as a 2way (home team to win or away team to win) in which case if there is a tie at the end of the 1<sup>st</sup> half the Wager is refunded, or as a 3way (home team to win, or away team to win, or for the 1<sup>st</sup> half to end in a tie).
  - (3) In a 2way and 3way Money Line “2<sup>nd</sup> Half Winner” Wagers, the Player predicts the result of the 2<sup>nd</sup> half of a game. This can be offered as a 2way (home team to win or away team to win) in which



case if there is a tie at the end of the 2nd half the Wager is refunded, or as a 3way (home team to win, or away team to win, or for the 2<sup>nd</sup> half to end in a tie).

- (4) In a 2way and 3way Money Line “Quarter Result” Wagers, the Player predicts the result of a specific quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter) taking into account only the points scored in these quarters. This can be offered as a 2way (home team to win or away team to win) in which case if there is a tie at the end of the quarter the Wager is refunded, or as a 3way (home team to win, or away team to win, or for the quarter to end in a tie).
- (5) In a “Half Time/Full Time” Wager, the Player predicts the result of the 1<sup>st</sup> half in combination with the final result without taking into account any overtime played. To make a “Half Time/Full Time” Wager, the Player selects either for the home team to win, for the away team to win, or for the 1<sup>st</sup> half to end in a tie and does the same (home team to win, away team to win, or tie) for the 2<sup>nd</sup> half result.
- (6) In a “Home No Wager” Wager, the Player predicts the game’s final result without factoring in a “home win.” The Wager will be refunded if the home team wins. In cases where the final result of a game is the one that is not factored into the Wager, then all Wagers will be refunded. This Wager can be offered for each half (1<sup>st</sup> half or 2<sup>nd</sup> half), or quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter), or for any specified time period of the game in which case the prediction involves only the points scored during the specified period of the game.
- (7) In a “Tie No Wager” Wager, the Player predicts the game’s final result without factoring in a tie. The Wager will be refunded is the game’s final result is a tie. In cases where the final result of a game is the one that is not factored into the Wager, then all Wagers will be refunded. This Wager can be offered for each half (1<sup>st</sup> half or 2<sup>nd</sup> half), or quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter), or for any specified time period of the game in which case the prediction involves only the points scored during the specified period of the game.
- (8) In an “Away No Wager” Wager, the Player predicts the game’s final result without factoring in an away win. The Wager will be refunded if the away team wins. In cases where the final result of a game is the one that is not factored into the Wager, then all Wagers will be refunded. This Wager can be offered for each half (1<sup>st</sup> half or 2<sup>nd</sup> half), or quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter), or for any specified time period of the game in which case the

prediction involves only the points scored during the specified period of the game.

- (b) Point Spread/Handicap—A Point Spread Wager is when a plus or minus Handicap (line) is assigned to either team and then it is added or subtracted to each final score to determine the winner. The Point Spread represents the margin of points in which the favored team must win by to “cover the spread.”
- (1) In a “Final Result with Point Spread, Including Overtime” Wager, the Player predicts the final result of a game, including overtime played, by selecting either for the home team to win or for the away team to win, taking into account the Point Spread offered to one of the two teams (which can be a whole number or not). This Point Spread is taken into account when determining a winning prediction. If the Point Spread is a non-whole number, then a tie cannot be a resulting outcome (no tie). This Wager can be offered for either half (1<sup>st</sup> half or 2<sup>nd</sup> half) or quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter), or for any specified time period of the game and may also include overtime in which case the prediction involves the points scored for this specific time period of the game.
- (2) In a “Spread Winning Margin, Including Overtime” Wager, the Player predicts the difference in points that the winning team will score within the choices of time ranges publicized. This Wager can be offered for either half (1<sup>st</sup> half or 2<sup>nd</sup> half), or quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter), or for any specified time period of the game in which case the prediction involves the points scored for this specific time period of the game.
- (c) Total Over/Under—In a “Total Over/Under” Wager, the Player predicts if the total number of points scored in a game is greater or less than a range publicized. This Wager can be offered for only one team (home or away), or in either half (1<sup>st</sup> half or 2<sup>nd</sup> half), or quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter), or for any specified time period of the game, or any combination of team and time period (including and excluding overtime) in which case the prediction involves the points scored for this specific time period of the game.
- (d) In an “Odd/Even” Wager, the Player predicts whether the total points scored will be an odd or even number. This Wager can be offered for only one team (home or away), or either half (1<sup>st</sup> half or 2<sup>nd</sup> half), or quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter), or for any specified time period of the game, or any combination of team and time period in which case the prediction involves the points scored for this specific time period of the game.

- (e) Proposition “Prop” Wagers—Proposition Wagers are wagers on a specific outcome during an event that does not relate to the final score. They may be offered as “Team Props,” “Player Props” and “Special Props.”
- (1) In a “Highest Scoring Half/Quarter” Wager, the Player predicts in which half (1<sup>st</sup> half or 2<sup>nd</sup> half) or quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter) the most points will be scored. This Wager can be offered for each team (home and away) separately.
  - (2) In a “1<sup>st</sup> Team to Score” Wager, the Player predicts which team will score the first point(s) in a game. This Wager can be offered for only one team (home or away), or either half (1<sup>st</sup> half or 2<sup>nd</sup> half), or quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter), or for any specified time period of the game in which case the prediction involves the points scored for this specific time period of the game.
  - (3) In a “1<sup>st</sup> Scoring Play” Wager, the Player predicts whether the first point(s) scored in a game will be a “2 pointer,” a “3 pointer” or a “free throw.” This Wager can be offered for only one team (home or away), or either (1<sup>st</sup> half or 2<sup>nd</sup> half), or quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter), or for any specified time period of the game in which case the prediction involves the points scored for this specific time period of the game.
  - (4) In a “1st 3 Pointer” Wager, the Player predicts if a team, and which team, will succeed in scoring the first 3 pointer in a game. This Wager can be offered for only one team or either team (home or away), or either half (1<sup>st</sup> half or 2<sup>nd</sup> half), or quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter), or for any specified time period of the game in which case the prediction involves the points scored for this specific time period of the game.
  - (5) In an “Overtime Yes/No” Wager, the Player predicts whether or not overtime will be played in a game.
  - (6) In a “Race To” Wager, the Player predicts which team (home or away) will be first to score a specified number of points (*e.g.*, “Race to 20 Points” – which team will be first to score twenty (20) points). This Wager can be offered for only either half (1<sup>st</sup> half or 2<sup>nd</sup> half), or quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter), or for any specified time period of the game in which case the prediction involves the points scored for this specific time period of the game.
  - (7) In a “Player Specials” Wager, the Player predicts if selected players/athletes on the active roster of a team will produce specific results in specified statistical categories or will achieve specific accomplishments in the form of: a greater or lesser result within a

specified value; or within a specified range; or which player/athletes will achieve the highest statistical result (*e.g.*, score the most points); or with a “Yes/No” option; or a single “Yes” option – amongst all or some specifically named players/athletes. For all Player Specials, Wagers placed on players/athletes that were not on the active roster will be refunded. Wagers on players/athletes that were on the active roster but were not used (did not play in the game), are considered non-winning Wagers.

- (f) In a “Game Combo” Wager, the Player predicts any double combination of Money Line and Total Over/Under. Any of the above combinations, or legs of the combination, can refer to a specific half (1<sup>st</sup> half or 2<sup>nd</sup> half), or for a specified period of the game in which case the prediction will only involve these specific periods.

## **2011 BASEBALL**

2011.1 For all Baseball Wagers, the complete game is taken into account as well any additional extra innings that may need to be played to determine a game winner. When a Baseball game is suspended and not continued from the moment of suspension and completed within the next calendar day, then the final result will be considered the result at the time of suspension when the game is concluded at the bottom of the ninth (9<sup>th</sup>) inning (8.5 innings played) with the home team ahead in runs or when the “Mercy Rule” is applied and the game is suspended before completion. (The “Mercy Rule” refers to one team having a very large and presumably insurmountable lead over the other team.)

2011.2 The Office may offer the following baseball Wager types:

- (a) In a “Money Line” Wager, the Player predicts the outright winner of the game (either for the home team or away team to win). There is no Point Spread involved in a Money Line Wager. In the event of a tie, the stake will be returned to the Player.
- (1) In a 3way “Money Line Excluding Extra Innings” Wager, the Player predicts the final outcome of a game after the game is concluded at the bottom of the ninth (9<sup>th</sup>)inning (8.5 innings played with the home team ahead in runs) by selecting either for the home team to win, for the away team to win, or for the game to end in a tie. This Wager type does not take into account any extra innings played.
- (2) In an “Innings Betting” Wager, the Player predicts the result of an inning (1<sup>st</sup> inning, 2<sup>nd</sup> inning, 3<sup>rd</sup> inning, 4<sup>th</sup> inning, etc.) of a game (Home, Tie, Away).
- (3) In a “Half Time/Full Time” Wager, the Player predicts the result of the 1<sup>st</sup> half of a game (defined as the first 4.5 innings) in combination with the final result of the game by correctly selecting home team to

win, away team to win or a tie for each specific time period of the Wager.

- (b) Point Spread/Handicap—A Point Spread Wager is when a plus or minus Handicap (line) is assigned to either team and then it is added or subtracted to each final score to determine the winner. The Point Spread represents the margin of points in which the favored team must win by to “cover the spread”;
- (1) In a “Final Result with Run Spread” Wager, the Player predicts the game’s final outcome (Home, Tie, Away), including any extra innings played, taking into account a Handicap given to one of the two teams. The Handicap can be a whole number or not. If it is not a whole number, then a tie cannot be a resulting outcome. This Wager type can be offered for one inning of a game or for a specified time period of the game in which case the prediction will only involve these specific periods.
- (2) In a “Spread Winning Margin” Wager, the Player predicts the difference in runs of the winning team in a game. This Wager can be offered for each team (home and away) separately or per inning (1<sup>st</sup> inning, 2<sup>nd</sup> inning, 3<sup>rd</sup> inning, 4<sup>th</sup> inning, etc.) or for a specified time period of the game in which case the prediction will only involve the runs scored in these specific time periods.
- (c) Total Over/Under Runs/Hits—In a “Total Over/Under Runs/Hits” Wager, the Player predicts if the total number of runs or hits scored in a game will be greater or less than a limit publicized. This Wager can be offered in the form of a “Yes/No” proposition, or for each team (home and away) separately, or per inning (1<sup>st</sup> inning, 2<sup>nd</sup> inning, 3<sup>rd</sup> inning, 4<sup>th</sup> inning, etc.), or for a specified time period of the game, or any combination of team and time period in which case the prediction will only involve the runs scored in these specific time periods.
- (d) Odd/Even Runs/Hits—In an “Odd/Even Runs/Hits” Wager, the Player predicts whether the total runs or hits scored in a game will be an odd or even number. This Wager can be offered for each team (home and away) separately, or per inning (1<sup>st</sup> inning, 2<sup>nd</sup> inning, 3<sup>rd</sup> inning, 4<sup>th</sup> inning, etc.), or for any specified time period of the game, or any combination of team and time period in which case the prediction involves only the number runs that were scored during the specified time period of the game. In all circumstances, zero (0) is considered to be an even number.
- (e) Proposition “Prop” Wagers—Proposition Wagers are wagers on a specific outcome during an event that does not relate to the final score. They may be offered as “Team Props,” “Player Props” and “Special Props.”

- (1) In a “Total Runs/Hits” Wager, the Player predicts the exact number of runs or hits scored in a game or the range they will be in. This Wager can be offered for each team (home and away) separately, or per inning (1<sup>st</sup> inning, 2<sup>nd</sup> inning, 3<sup>rd</sup> inning, 4<sup>th</sup> inning, etc.), or for a specified period of the game, or any combination of team and time period in which case the prediction will only involve the runs scored in these specific time periods.
- (2) In a “Most Hits 1<sup>st</sup>/Next Innings” Wager, the Player predicts which team (home or away) will be credited with the most hits in the 1<sup>st</sup> inning and every subsequent inning.
- (3) In a “Race To” Wager, the Player predicts which team (home or away) will be the first to score a specified number of runs (*e.g.*, “Race to 3 Runs” –which team will be first score three runs). This Wager can be offered for a specified period of the game or any combination of team and period in which case the prediction will only involve the runs scored in these specific periods.
- (4) In a “Lead After” Wager, the Player predicts which team (home or away) will be in the lead after a set number of innings (*e.g.*, “Lead After 5 Innings” – which team will be in the lead after five innings).
- (5) In an “Extra Innings” Wager, the Player predicts whether extra innings will be needed to determine the winner of a game.

## 2012 ICE HOCKEY

2012.1 For ice hockey, only regulation time (1<sup>st</sup> three (3) periods) play is taken into account for Wagers. Overtime periods played, or any other method used for determining the winner of the game, are not taken into account for ice hockey Wagers, unless stated or in the Wager type’s description.

2012.2 The Office offer the following ice hockey Wager types:

- (a) In a “Money Line, Including Overtime” Wager, the Player predicts the outright winner of the game, including any overtime and shootout periods. In a “Money Line” Wager, the Player selects either for the home team to win or away for the away team to win.
  - (1) In a 3way “Money Line” Wager, the Player predicts the winner of the game at the end of regulation play by correctly selecting home team to win, away team to win, or at the end of the 1st three (3) periods to end in a tie. A 3way “Money Line” does not take into account any overtime played.
  - (2) In a 3way “Period” Wager, the Player predicts the result of one period (1<sup>st</sup> period, 2<sup>nd</sup> period, or 3<sup>rd</sup> period) or for any specified time

period of the game in which case the prediction involves the goals scored for this specific time period of the game.

- (3) In a “Period Tie No Wager” Wager, the Player predicts the final result of the period without factoring in a result. In cases where the final result of the period is the one that is not factored into the Wager, then all Wagers will be refunded.
- (b) Point Spread/Handicap—A Point Spread Wager is when a plus or minus Handicap (line) is assigned to either team and then it is added or subtracted to each final score to determine the winner. The Point Spread represents the margin of points in which the favored team must win by to “cover the spread.” Puck Lines are a Point Spread Wagering variant of ice hockey Wagering.
- (1) In a 3way “Puck Line/Goal Spread” Wager, the Player predicts the final result of a game, taking into account the Spread offered to one of the two teams. The Point/Goal Spread can be a whole number or not. If it is not a whole number, then a tie cannot be a resulting outcome. This Wager type can be offered for one period of a game (1<sup>st</sup> period, 2<sup>nd</sup> period, or 3<sup>rd</sup> period) or for a specified time period of the game in which case the prediction will only involve this specific period of the game. This Wager can also be offered to include any overtime played in which case a tie result is not possible.
  - (2) In a “Spread Winning Margin” wager, the Player predicts the margin of victory of one team (home or away) by the exact number of goals. This Wager can be offered for a specific period (1<sup>st</sup> period, 2<sup>nd</sup> period, or 3<sup>rd</sup> period) or for a specified time period of the game in which case the prediction will only involve the goals scored in these specific time periods.
- (c) In a “Total Over/Under” Wager, the Player predicts if the total number of goals scored in a game will be greater or less than a limit of goals publicized by the Office. This Wager can be offered for an individual team (home and away) separately, or for a specific period (1<sup>st</sup> period, 2<sup>nd</sup> period, or 3<sup>rd</sup> period) of a game, or for a specified time period of the game, or any combination of team and period in which case the prediction will only involve the goals scored in these specific periods. This Wager can also be offered to include any overtime played.
- (d) In an “Odd/Even “Wager, the Player predicts whether the total goals scored in a game will be an odd or even number. This Wager can be offered for an individual team (home and away) separately or for a specific period (1<sup>st</sup> period, 2<sup>nd</sup> period, or 3<sup>rd</sup> period) of a game, or for a specified time period of the game, or any combination of team and time period in which case the

prediction will only involve the goals scored in these specific time periods. In all circumstances, zero (0) is considered to be an even number.

- (e) Proposition “Prop” Wagers—Proposition Wagers are wagers on a specific outcome during an event that does not relate to the final score. They may be offered as “Team Props,” “Player Props” and “Special Props.”
- (1) In a “Total Goals” Wager, the Player predicts the exact number of goals that will be scored in a game. This Wager can be offered for an individual team (home and away) separately, or for a specific period (1<sup>st</sup> period, 2<sup>nd</sup> period, or 3<sup>rd</sup> period) of a game, or for a specified time period of the game, or any combination of team and time period in which case the prediction will only involve the goals scored in these specific time periods.
  - (2) In a “Highest Scoring Period” Wager, the Player predicts the period in which most goals will be scored in a game. This Wager can be offered for each team (home and away) separately.
  - (3) In a “Correct Score” Wager, the Player predicts the correct number of goals scored in a game. This Wager can be offered for a specific period (1<sup>st</sup> period, 2<sup>nd</sup> period, or 3<sup>rd</sup> period) of a game or for a specified time period of the game in which case the prediction will only involve the goals scored in these specific time periods.
  - (4) In a “Both Teams to Score” Wager, the Player predicts if both teams (home and away) will score at least one goal during a game (this will be called “Goal”) or if any one of the two teams (home or away) or both teams will not score during a game (this will be called “No Goal”). This Wager can be offered for each period (1<sup>st</sup> period, 2<sup>nd</sup> period, or 3<sup>rd</sup> period) of a game separately or for any specified time period of the game in which case the prediction involves only the number goals that were scored during the specified time period of the game.
  - (5) In a “Team to Score 1st/Next/Last Goal” Wager, the Player predicts which team (home or away) will score the first goal, every subsequent (Next) goal, or the final goal (Last Goal) of a game. This Wager can be offered for a specific period (1<sup>st</sup> period, 2<sup>nd</sup> period, or 3<sup>rd</sup> period) or for any specified time period of the game in which case the prediction involves only the number goals that were scored during the specified time period of the game.
  - (6) In a “Race To” Wager, the Player predicts which team (home or away) will be the first to score a specified number of goals (*e.g.*, “Race to 3 Goals” – which team will first score three goals) in a game. This Wager can be offered for a specific period (1<sup>st</sup> period,



2<sup>nd</sup> period, or 3<sup>rd</sup> period) of a game or for a specified time period of the game in which case the prediction will only involve the goals scored in these specific time periods.

- (7) In a “Winner of the Rest of the Game” Wager, the Player predicts the result of the game from the moment of placing the Wager through the end of the game.
- (f) In a “Game Combo” Wager, the Player predicts any combination of Money Line or Total Over/Under.
  - (1) In a 2way “Game Combo Total Over/Under” Wager, the Player predicts any double combination of Money Line and Total Over/Under. Any of the above combinations or legs of the combination can refer to a specific period (1<sup>st</sup> period, 2<sup>nd</sup> period, or 3<sup>rd</sup> period) or for a specified time period of the game in which case the prediction will only involve these specific time periods.
  - (2) In a 3way “Game Combo Total Over/Under” Wager, the Player predicts any double combination of home team win, tie, or away team win and Total Over/Under. The above combinations are “Under and Home Team Win,” “Under and Away Team Win,” “Under and Tie Result,” “Over and Home Team Win,” “Over and Away Team Win,” and “Over and Tie Result.”

## 2013 SOCCER

2013.1 For soccer Wagers, the result of regulation time is taken into account plus time added to the game in respective of possible delays. Extra time and penalties are not taken into account for soccer Wagers, unless stated in the program or in the Wager type’s description.

2013.2 The Office may offer the following soccer Wagers:

- (a) Money Line—A “Money Line” or straight up Wager is a bet on the outright winner of the game or event without any Point Spread odds.
  - (1) In a 3way “Money Line” Wager, the Player predicts the final outcome of a game by correctly selecting home team to win, away team to win, or a tie at the end of the game (not taking into account any overtime played). An exception to the general provisions rules is when a game is suspended after the start of the 2<sup>nd</sup> half and the remaining game is not played within the next twenty-four (24) hours, then the result at the time of suspension is considered as the final result.
  - (2) In a 3way “1<sup>st</sup> Half Winner” and 3way “2<sup>nd</sup> Half Winner” Wager(s), the Player predicts the result of the 1<sup>st</sup> half or 2<sup>nd</sup> half of a game by

correctly selecting home team to win, away team to win or a tie at the end of the specified half.

- (3) In a “Winner Interval” Wager, the Player predicts the result of a specified period (home/tie/away) of a game (*e.g.*, 1-15 minute(s) of the game).
  - (4) In a “Winner of the Rest of the Match” Wager, the Player predicts the result of the game (home/tie/away) from the moment a Wager is placed until the end the game. This Wager can also be offered per half (1<sup>st</sup> half or 2<sup>nd</sup> half), or any other specified time period where the prediction will only involve these specific time periods.
  - (5) In a “Half Time/Full Time” Wager, the Player predicts the combination of the result of the 1st half with the final result of a game.
  - (6) In a “Home No Wager” Wager, the Player predicts the game’s final result without factoring in a “home win.” The Wager will be refunded if the home team wins. In cases where the final result of a game is the one that is not factored into the Wager, then all Wagers will be refunded. This Wager can be offered for each half (1<sup>st</sup> half or 2<sup>nd</sup> half) or for any specified time period of the game. In the latter case, the prediction involves only the number goals that were scored during the specified time period of the game.
  - (7) In a “Tie No Wager” Wager, the Player predicts the game’s final result without factoring in a tie. The Wager will be refunded is the game’s final result is a tie. In cases where the final result of a game is the one that is not factored into the Wager, then all Wagers will be refunded. This Wager can be offered for each half (1<sup>st</sup> or 2<sup>nd</sup> half) or for any specified time period of the game. In the latter case, the prediction involves only the number goals that were scored during the specified time period of the game.
  - (8) In an “Away No Wager” Wager, the Player predicts the game’s final result without factoring in an away win. The Wager will be refunded if the away team wins. In cases where the final result of a game is the one that is not factored into the Wager, then all Wagers will be refunded. This Wager can be offered for each half (1<sup>st</sup> half or 2<sup>nd</sup> half) or for any specified time period of the game. In the latter case, the prediction involves only the number goals that were scored during the specified time period of the game.
- (b) Point Spread/Handicap—A Point Spread Wager is when a plus or minus Handicap (line) is assigned to either team and then it is added or subtracted to each final score to determine the winner. The Point Spread represents the

margin of points in which the favored team must win by to “cover the spread.”

- (1) In a “Final Result with Points Spread/Handicap” Wager, the Player predicts the final outcome of a game, taking into account a Point Spread/Handicap given to one of the two teams, correctly selecting home team to win, away team to win, or a tie at the end of the game (not taking into account any overtime played). The Point Spread/Handicap can be a whole number or not. This Point Spread/Handicap is taken into account when determining a winning prediction. If the Point Spread/Handicap is not a whole number, then a tie cannot be a resulting outcome. This Wager type can be offered for one half of a game (1<sup>st</sup> half or 2<sup>nd</sup> half) or for a specified time period of the match in which case the prediction will only involve this specific time period.
- (2) “Asian Handicap” are types of Wagers used in soccer in which teams are Handicapped, so that the stronger team must win by more goals than the weaker team. Asian Handicap involves the Player predicting the result of a match after the Handicap or spread has been applied to the teams.
  - (A) A head-start of one half or more goals will be given to one of the teams which will be added to the actual number of goals scored.
  - (B) Whole goal Handicap is a Handicap of +/- one or more goals will be given to each of the teams which will be added to the actual number of goals scored. Wagers placed will be void if the match ends in a tie.
  - (C) Half goal Handicap is a Handicap of +/- 0.5 (half of one) or more goals will be given to each of the teams which will be added to the actual number of goals scored. Wagers placed cannot end in a tie.
  - (D) Split Handicap is a Handicap of +/- 0.25 (quarter of one) or more goals will be given to each of the teams. The Wager will be divided equally between two Wagers, with one half of the Wager placed on the whole Handicap +/- 0.0 (scratch) or more and the other half of the Wager placed on the half Handicap 0.5 (half of one) or more, which will be added or subtracted to the actual number of goals scored by each team. The split Handicap is always the half-way point between the whole Handicap and the half Handicap.

- (E) The split is shown as follows (Handicaps can go as high as the operator desires under similar logic):

Handicap	Whole Goal Handicap	Half Goal Handicap
+/- 0.25	+/- 0.00	+/- 0.50
+/- 0.75	+/- 1.00	+/- 0.50
+/- 1.25	+/- 1.00	+/- 1.50

**EXAMPLE: Team A (+ 0.25) vs. Team B (- 0.25)**

If a Wager is placed on Team B and the game result is Team A 1-1 Team B:

50% of the Wager will be placed on the whole goal Handicap of 0.00. The Handicap result will be Team A 1-1 Team B. This half of the Wager is void.

50% of the Wager will be placed on the whole goal Handicap of - 0.50. The Handicap result will be Team A 1-½ Team B. This half of the Wager has lost.

If a Wager is placed on Team A and the game result is Team A 1-1 Team B:

50% of the Wager will be placed on the whole goal Handicap of 0.00. The Handicap result will be Team A 1-1 Team B. This half of the Wager is void.

50% of the Wager will be placed on the whole goal Handicap of + 0.50. The Handicap result will be Team A 1½-1 Team B. This half of the Wager has won.

- (c) In a “Total Over/Under Goals” Wager, the Player predicts if the total number of goals scored in a game will be greater or less than a limit of goals publicized. This Wager can be offered for an individual team (home and away) separately or for a specific half (1<sup>st</sup> half or 2<sup>nd</sup> half) or for a specified time period of the game, or any combination of team and interval in which case the prediction will only involve these specific time periods.

- (1) In an “Exact Number of Goals” Wager, the Player predicts the exact number of goals that will be scored in a game. This Wager can be offered for each team (home and away) separately, or for each half (1<sup>st</sup> half or 2<sup>nd</sup> half) or for any specified time period of the game, or any combination of team and time period. In the latter case, the prediction involves only the number of goals that were scored during the specified time period of the game.

- (2) In a “Total Goals Aggregated” Wager, the Player predicts the number of goals that will be scored in a game where their selected number of goals will be within a specified range. This Wager can be offered for each team (home and away) separately, or for each half (1<sup>st</sup> half or 2<sup>nd</sup> half), or for any specified time period of the game, or any combination of team and time period. In the latter case, the prediction involves only the number of goals that were scored during the specified time period of the game.
- (d) In an “Odd/Even” Wager, the Player predicts whether the total goals scored in a game will be an odd or even number. This Wager can be offered for each team (home and away) separately or for each half (1<sup>st</sup> half or 2<sup>nd</sup> half) or for any specified time period of the game, or any combination of team and time period. In the latter case, the prediction involves only the number goals that were scored during the specified period of the game. In all circumstances, zero (0) is considered to be an even number.
- (e) Proposition “Prop” Wagers—Proposition Wagers are wagers on a specific outcome during an event that does not relate to the final score. They may be offered as “Team Props,” “Player Props” and “Special Props.”
  - (1) In “Scorer” Proposition Wagers the following rules apply:
    - (A) If a Wager is placed on which player/athlete will score the 1<sup>st</sup> goal of a game and the selected player/athlete did not take part in the game or entered the game after the first goal was scored, the Wager is refunded.
    - (B) If a Wager is placed on which player/athlete will score the last goal of the game and the selected player/athlete did not take part in the game or had been substituted before the last goal was scored, the Wager is refunded.
    - (C) If a Wager is placed on which player/athlete will score any goal in the game and the player/athlete did not take part in the game, the Wager is refunded.
    - (D) A Wagering line can include only one prediction for the Wager type “Any Goal Scorer.”
    - (E) If a goal scored is an “Own Goal” (a player/athlete scores on their own side of the playing area rather than the one defended by the opposing team), then this is not taken into account unless there are odds offered for “Own Goal.”
    - (F) The following “Scorer” Proposition Wager Types may be offered:

- (i) In a “1<sup>st</sup> Goal Scorer” Wager, the Player predicts which player/athlete will score the first goal of the game.
  - (ii) In a “Last Goal Scorer” Wager, the Player predicts which player/athlete will score the last/final goal of the game.
  - (iii) In an “Anytime Goal Scorer” Wager, the Player predicts which player/athlete will score at least one goal in the game.
- (2) The following “Corner” Proposition Wagers may be offered:
- (A) In a “Total Over/Under Corners” Wager, the Player predicts whether the total amount of corners awarded during a game is greater or less than a limit publicized or predicts whether there will be a corner awarded in the form of “Yes/No.” This Wager can be offered for one team (home or away), or one half (1<sup>st</sup> half or 2<sup>nd</sup> half), or for any specified time period of the game, or any combination of team and time period in which case the prediction involves only the corners awarded for this specific time period of the game.
  - (B) In an “Odd/Even Corners” Wager, the Player predicts whether the total number of corners awarded is an odd or even number. This Wager can be offered for one team (home or away), or one half (1<sup>st</sup> half or 2<sup>nd</sup> half), or for any specified time period of the game, or any combination of team and time period in which case the prediction involves only the corners awarded for this specific time period of the game. In all circumstances, zero (0) is considered to be an even number.
  - (C) In a “Sum of Corners” Wager, the Player predicts the total numbers of corners that will be awarded where the choice will be given as an exact number of corners or in a specified range of corners. This Wager can be offered for one team (home or away), or one half (1<sup>st</sup> half or 2<sup>nd</sup> half), or for any specified time period of the game, or any combination of team and time period in which case the prediction involves only the corners awarded for this specific time period of the game.
  - (D) In a “1<sup>st</sup>/Next/Last Corner” Wager, the Player predicts which team (home or away) will be awarded the 1<sup>st</sup> corner, every subsequent (Next) corner or the final (Last Corner)

corner of a game. This Wager can be offered for one half (1<sup>st</sup> half or 2<sup>nd</sup> half) or for any specified time period of the game in which case the prediction involves only the corners awarded for this specific time period of the game.

- (E) In a “Most Corners” Wager, the Player predicts which team will be awarded the most corners in a game. This Wager can be offered for one team (home or away), or one half (1<sup>st</sup> half or 2<sup>nd</sup> half) or for any specified time period of the game, or any combination of team and period in which case the prediction involves only the number of corners awarded for this specific time period of the game. This Wager can be offered with a Handicap of corners awarded to one team. The Handicap can be a whole number or not which is taken into account when considering the winning outcome. If the Handicap is not a whole number, then a tie cannot be a resulting outcome.
  - (F) In a “Corner Handicap” Wager, the Player predicts which team (home or away) will be awarded the most corners in a game, taking into account a Handicap for one of the two teams. This Wager can be offered for each half (1<sup>st</sup> half or 2<sup>nd</sup> half) separately, or for any specified time period of the game, or any combination of team and time period in which case the prediction involves only the number of corners awarded for this specific time period of the game. This Wager can be offered with a Handicap of corners awarded to one team. The Handicap can be a whole number or not which is taken into account when considering the winning outcome. If the Handicap is not a whole number, then a tie cannot be a resulting outcome.
- (3) The following “Bookings” Proposition Wager rules apply:
- (A) There are certain cards that are not taken into account for Wager purposes, including: Cards shown following the end of the game, or during the interval between 1<sup>st</sup> and 2<sup>nd</sup> half, or to members of the team that are not players/athletes (*e.g.*, managers, coaches, etc.), or to players/athletes that did not take part in the game, or to players/athletes that had already been substituted when the card was shown to them.
  - (B) In the instance where a player is shown a second yellow card in a game and then shown a red one, both yellow cards and the one red card are taken into account.

- (C) In the instance where the referee shows two or more yellow or red cards during the same incident of the game, the order with which the referee showed the cards to the player(s) is taken into account. If this cannot be verified by any reliable means, then the cards are considered to have been shown simultaneously.
- (D) The Office may offer the following “Bookings” Proposition Wager Types.
- (E) The following Wager types for cards may be offered for both color (yellow or red) of cards (Bookings).
  - (i) In a “Total Over/Under Bookings” Wager, the Player predicts if the total cards shown in a game are greater or less than a limit publicized or predicts whether there will there be a card shown in the form of “Yes/No.” This Wager can be offered for one team (home or away), or one half (1<sup>st</sup> half or 2<sup>nd</sup> half), or for any specified time period of the game, or any combination of team and time period in which case the prediction involves only the number of cards shown for this specific time period of the game.
  - (ii) In an “Odd/Even Bookings” Wager, the Player predicts if the total number of cards shown in a game is an odd or an even number. This Wager can be offered for one team (home or away), or one half (1<sup>st</sup> half or 2<sup>nd</sup> half), or for any specified time period of the game, or any combination of team and time period in which case the prediction involves only the number of cards shown for this specific time period of the game. In all circumstances, zero (0) is considered to be an even number.
  - (iii) In a “Sum of Bookings” Wager, the Player predicts the total number of cards shown in a game, where the selections are made with an exact number of cards or within a range of cards. This Wager can be offered for one team (home or away), or one half (1<sup>st</sup> half or 2<sup>nd</sup> half), or for any specified time period of the game, or any combination of team and time period in which case the prediction involves only the number of cards shown for this specific time period of the game.



- (iv) In a “1<sup>st</sup>/Next/Last Booking” Wager, the Player predicts which team will be the 1<sup>st</sup> to be shown a card, every subsequent (Next) team to be shown a card, or the final (Last) team to be shown a card in a game. This Wager can be offered for one team (home or away), or one half (1<sup>st</sup> half or 2<sup>nd</sup> half), or for any specified time period of the game, or any combination of team and time period in which case the prediction involves only the number of cards shown for this specific time period of the game.
  - (v) In a “Most Bookings” Wager, the Player predicts which team will be shown the most cards in a game. This Wager can be offered for one team (home or away), or one half (1<sup>st</sup> half or 2<sup>nd</sup> half), or for any specified time period of the game, or any combination of team and time period in which case the prediction involves only the number of cards shown for this specific time period of the game.
- (4) The Office may offer the following other Proposition Wagers:
- (A) In a “Half with Most Goals” Wager, the Player predicts which half of a game (1<sup>st</sup> half or 2<sup>nd</sup> half) that the most goals will be scored in.
  - (B) In a “Correct Score” Wager, the Player predicts the number of goals scored in a game. This Wager can be offered separately for each half (1<sup>st</sup> half or 2<sup>nd</sup> half) or interval which means that only the score of the half (or interval) is taken into account. This Wager can also be offered with selections of groups of scores (*e.g.*, 1-0, 2-0, 2-1 combined).
  - (C) In a “Both Teams to Score” Wager, the Player predicts if both teams will score at least one goal during a game (called “Goal”) or if any one of the two teams (home or away), or both teams, will not score during a game (called “No Goal”). This Wager can be offered for each half separately (1<sup>st</sup> half or 2<sup>nd</sup> half) or for any specified time period of the game. In the latter case, the prediction involves only the number goals that were scored during the specified time period of the game. This Wager can also be offered as a combination of the two halves, with the Player having to predict whether both teams will score during the 1<sup>st</sup> half combined with whether both teams will score in the 2<sup>nd</sup> half.

- (D) In a “Team to Score 1<sup>st</sup>/Next/Last Goal” Wager, the Player predicts which team (home or away) will score the first, every subsequent (Next) goal or the final (Last Goal) goal of a game. This Wager can be offered for each half (1<sup>st</sup> half or 2<sup>nd</sup> half) or for any specified time period of the game. In the latter case, the prediction involves only the number goals that were scored during the specified time period of the game.
- (E) In a “Score Both Halves Home/Away” Wager, the Player predicts whether one of the two teams (home or away) will score at least one goal in both halves (1<sup>st</sup> half and 2<sup>nd</sup> half) of the game.
- (F) In a “Win Both Halves Home/Away” Wager, the Player predicts whether the team selected (home or away) will score more goals than its opponent in both halves (1<sup>st</sup> half and 2<sup>nd</sup> half) separately.
- (G) In a “Winner 1<sup>st</sup> Half or Full Time” Wager, the Player predicts whether the team selected (home or away) will score more goals than their opponent in either the 1<sup>st</sup> half or the match.
- (H) In a “Winner 1<sup>st</sup> Half or 2<sup>nd</sup> Half” Wager, the Player predicts whether the team selected (home or away) will score more goals than its opponent during the 1<sup>st</sup> half of the game or in the 2<sup>nd</sup> half of the game.
- (I) In a “Home Win to Zero, Away Win to Zero” Wager, the Player predicts whether the selected team (home or away) will win the game with a clean sheet (without conceding any goals to its opponent).
- (J) In a “Margin of Victory” Wager, the Player predicts the margin of victory of one team (home or away) by the exact number or ranges of goals. This Wager can be offered for each half (1<sup>st</sup> half or 2<sup>nd</sup> half) or for any specified time period of the game. In the latter case, the prediction involves only the number goals that were scored during the specified time period of the game.
- (K) In a “Race To” Wager, the Player predicts which team (home or away) will be the first to score a specified number of goals (*e.g.*, “Race to 2 Goals” – which team will be the first to score two (2) goals) in a game. This Wager can be offered for each half (1<sup>st</sup> half or 2<sup>nd</sup> half) or for any specified time

period of the game. In the latter case, the prediction involves only the number goals that were scored during the specified time period of the game.

- (L) In a “Time of 1<sup>st</sup> Next/Last Goal” Wager, the Player predicts the time, in minutes, when the 1<sup>st</sup> goal, every subsequent (Next) goal or final (Last Goal) goal of the game will be scored. This can be a range in minutes (*e.g.*, 1-10’, 11-20’, etc.) or take the form of “before or after” or “Total Over/Under” a specific minute (*e.g.*, 1-30’, after the 31<sup>st</sup> minute, etc.). For Wager settling purposes, the time of the goal is considered the time that it was scored and not the time it was confirmed as a valid goal. For example, if goal is scored at 28:36 and after an original referee call that disallows it, a VAR (Virtual Assistant Referee) is used and the goal is then deemed valid at 30:45, the goal time will count at 28:36.
- (f) In a “Game Combo” Wager, the Player predicts any double combination of Final Result or double chance with Total Over/Under of a specified limit, or Both Teams to Score, or Sum of Goals, or any double combination of Total Over/Under of a specified limit and Both Teams to Score, or any double combination of Final Result and 1<sup>st</sup>/Next/Last Goal team to score by choosing the combination of the respective selections or any combination of Half-Time/Full-Time result and Total Over/Under of a specified limit. Any of the above combinations, or legs of the combination, can refer to a specific half (1<sup>st</sup> half or 2<sup>nd</sup> half) or for a specified time period of the game, in which case the prediction will only involve these specific time periods.

## 2014

## TENNIS

### 2014.1

In the instance where a tennis match is cancelled, or postponed, or suspended and is not completed within the competition’s time frame it was scheduled for, then all Wagers that involve this match are refunded. An exception to this rule is for Wagers whose results have already been decided and cannot change even if the match was played on. In the event where less sets are played than were originally scheduled, then all Wagers that include this match will be refunded.

### 2014.2

The Office may offer the following tennis Wager types:

- (a) Money Line—A “Money Line” or straight up wager is a bet on the outright winner of the game or event without any point spread odds.
- (1) In a “Match Winner” Wager, the Player predicts the final result of a tennis match by correctly selecting tennis player (or team) A to win or tennis player (or team) B to win.

- (2) In a “Set Winner” Wager, the Player predicts the final result of a specific set of a tennis match (1<sup>st</sup> set 2<sup>nd</sup> set, 3<sup>rd</sup> set, etc.) by correctly selecting tennis player (or team) A to win or tennis player (or team) B to win.
  - (3) In a “To Win a Set” Wager, the Player predicts whether a tennis player (player A or player B) will win at least one set in a match.
  - (4) In a “1<sup>st</sup>/2<sup>nd</sup> Service Game” Wager, the Player predicts which tennis player will serve in the first or the second game in combination with the winner of this game (*e.g.*, in the 1<sup>st</sup> Game tennis player A to Serve and tennis player B to Win the game).
  - (5) In a “1<sup>st</sup> Next Game” Wager, the Player predicts which tennis player (player A or player B) will win the first (1<sup>st</sup>) game or every subsequent (Next) game in a tennis match. This Wager can be offered for a specified set (1<sup>st</sup> set, 2<sup>nd</sup> set, 3<sup>rd</sup> set, etc.), or for a specified period of the match, in which case the prediction involves only the games in that segment of the match.
- (b) Point Spread/Handicap—A “Point Spread” Wager is when a plus or minus Handicap (line) is assigned to either team and then it is added or subtracted to each final score to determine the winner. The Point Spread represents the margin of points in which the favored team must win by to “cover the spread.”
- (1) In a “Winner Most Games with a Spread” Wager, the Player predicts which tennis player (player A or player B) will win the most games in a match, taking into account a spread in games given to one of the two (2) players/athletes. The spread can be a whole number or not. This spread is taken into account when determining a winning prediction. If the spread is not a whole number, then a tie cannot be a resulting outcome. This Wager can be offered per specified set (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, etc.), in which case the prediction involves only the games that will be played in that segment of the match.
  - (2) In a “Set Spread” Wager, the Player predicts which tennis player (player A or player B) will win the most sets in a match taking into account a spread in sets given to one of the two (2) Players. The spread can be a whole number or not. This spread is taken into account when determining a winning prediction. If the spread is not a whole number, then a tie cannot be a resulting outcome.
- (c) Total Over/Under Games—In a “Total Over/Under Games” Wager, the Player predicts if the total number of games that will be played in a match is greater or less than a specific range as publicized by the Office. This Wager can be offered for a specified set (1<sup>st</sup> set, 2<sup>nd</sup> set, 3<sup>rd</sup> set, etc.), in

which case the prediction involves only the games that will be played in that segment of the match.

- (1) In a “Total Over/Under Per Player” wager, the Player predicts if the total number of games that a tennis player will win in a match is greater or less than a specific range as publicized by the Office. This Wager can be offered for a specified set (1<sup>st</sup> set, 2<sup>nd</sup> set, 3<sup>rd</sup> set, etc.), in which case the prediction involves only the games that the tennis player wins in that segment of the match.
- (2) In a “Total Games” Wager, the Player predicts the total number of games that will be played where the selection made will be within a specific range of games as publicized by the Office. This Wager can be offered for a specified set (1<sup>st</sup> set, 2<sup>nd</sup> set, 3<sup>rd</sup> set, etc.), in which case the prediction involves only the games that will be played in that segment of the match.
- (3) In a “Total Tie Breaks” Wager, the Player predicts the total number of tie breaks that will be played in a match, either predicting from a specified range or in the form of a “Yes/No” proposition. This Wager can be offered for a specified set (1<sup>st</sup> set, 2<sup>nd</sup> set, 3<sup>rd</sup> set, etc.), in which case the prediction involves only the games that will be played in that segment of the match. In the event where a match or a set is suspended with a score of 6-6 (when the set will be decided by a tie breaker), for Wager settlement purposes a tie break is assumed to have been played. In the event where a match is suspended during the last set where based on tournament rules, a tie breaker is not played (*e.g.*, the last set of a men’s single finals), for Wager settlement purposes a tie break is assumed not to have been played.
- (d) Odd/Even—In an “Odd/Even” Wager, the Player predicts whether the total number of games that will be played is an odd or even number. This Wager can be offered for each tennis player (player A or player B) separately, or for a specified set (1<sup>st</sup> set, 2<sup>nd</sup> set, 3<sup>rd</sup> set, etc.), or any combination of player and set in which case the prediction involves only the games that will be played in that segment of the match.
- (e) Proposition “Prop” Wagers—Proposition Wagers are wagers on a specific outcome during an event that does not relate to the final score. They may be offered as “Team Props,” “Player Props” and “Special Props.”
  - (1) In a “Correct Score” Wager, the Player predicts the correct score in sets of a tennis match.
  - (2) In a “Set Correct Score” Wager, the Player predicts the exact score in games of a specific set (1<sup>st</sup> set, 2<sup>nd</sup> set, 3<sup>rd</sup> set, etc.) of a tennis

match. This Wager may be offered for parts of a set (*e.g.*, first 4 games, first 6 games, etc.), in which case only the score after those games will count. This Wager could also be offered as a “Yes/No” or single “Yes” option for one or more of its selections (*e.g.*, “Any Set to End 6-0” or “player A to Win 6-0 or 6-1 or 6-2,” etc.).

- (3) In a “Race To” Wager, the Player predicts which tennis player (player A or player B) will be the first to win a predefined number of games (*e.g.*, “Race to 3 Games”— which tennis player will first win 3 games). This Wager can be offered per specified set (1<sup>st</sup> set, 2<sup>nd</sup> set, 3<sup>rd</sup> set, etc.), in which case the prediction involves only the games that will be played in that segment of the match.
- (4) In a “1<sup>st</sup>/Next Game Correct Score” Wager, the Player predicts the correct score of the first (1st) game or every subsequent (Next) game in a match. This Wager type may be offered with a “Yes/No” option, or “Per Player” option, or single “Yes” option for specific Correct Scores (*e.g.*, “Which Player Will Win Game 4 of 1st Set After Deuce” or “Will Any Player Win Game 4 of 1st Set After Deuce”).
- (5) In a “Point Winner” Wager, the Player predicts which tennis player (player A or player B) will win a specific number point or the next point in a match. This Wager can be offered per game in which case the prediction involves only the points that will be won in that specific game.

## 2015 BOXING/COMBAT SPORTS (MMA)

2015.1 The result of a boxing match (or any other combat sport) is determined in accordance with the rules established by the competition’s Governing Body, unless otherwise stated.

2015.2 All Wagers will be refunded under the following conditions:

- (a) If the fight is cancelled;
- (b) If the fight is postponed and does not occur (in the Sports Event’s local time) within two (2) days from the date initially stated in program;
- (c) If the fight is suspended; or
- (d) If a fight ends in a draw and no odds have been offered for this option.

2015.3 The Office may offer the following boxing/combat (MMA) sports Wager types:

- (a) Money Line—A “Money Line” or straight up wager is a bet on the outright winner of the game or event without any point spread odds.

- (1) In a 2way “Winner of a Fight” Wager, the Player predicts the winner of a fight (fighter A or fighter B).
  - (2) In a 3way “Winner of a Fight” Wager, the Player predicts the winner of a fight, including a draw result at the end of the match.
  - (3) In “Round by Round Wagering in a Fight,” the Player predicts in which round the fight will end, either in exact number, or within a range, or as a “Total Over/Under” option. This Wager can also be offered as a combination of Fighter and Round Wagering (*e.g.*, “Fighter A to Win Within Rounds 4-6”). The bell will signal the end of a round and the bell being sounded again will signal the start of the next round. In the event where, for whatever reason, a points decision is awarded before the full number of rounds is completed, Wager settlements will be determined on the round in which the fight was stopped. Wagers placed on the prediction “To Win on Points” will be considered as winning if the full number of rounds is completed. In the event where, for whatever reason, it is decided that the fight is completed in a total number of rounds differently than initially offered, then all Wagers received for this type of Wager will be given odds of one (1.00). If a fighter withdraws during the period between rounds, the fight will be considered ended in the previous round.
- (b) Total Over/Under—In a “Total Over/Under” Wager, the Player predicts if the total number of rounds in a fight will be greater or less than a limit of rounds as publicized by the Office.
- (c) Proposition “Prop” Wagers—Proposition Wagers are wagers on a specific outcome during an event that does not relate to the final score. They may be offered as “Team Props,” “Player Props” and “Special Props.”
- (1) In a “Method of Result in a Fight” Wager, the Player predicts the method by which the result in a match will be decided. The possible outcomes for this type of Wager can be such as, but not limited to, Knock Out (KO), Technical Knock Out (TKO), Judges’ Decision, etc. This Wager can also be offered as a combination of fighter and method of result (*e.g.*, “Fighter A to Win by Judges’ Decision”).
  - (2) In a “Will the Fight go the Distance -Yes/No” Wager, the Player predicts whether the fight will go the full number of rounds in a “Yes/No” proposition.
  - (3) In a “Knockouts/Knockdowns” Wager, the Player predicts whether knockouts or knockdowns will be achieved, either for the whole fight or per fighter. This could be predicted as a “Yes/No” option, or as a range, or as a “Total Over/Under” option. Only knockdowns

that lead to a “count” from the referee, or if the referee initiates a “count,” are taken into account for this Wager. Combination Wagers can also be offered predicting whether knockouts will be achieved and who will win the fight.

**2016 GOLF**

2016.1 For Golf Wagers, the following provisions are valid:

- (a) A golfer awarded the winner's trophy will be deemed an official result.
- (b) A golfer is deemed to have played, once they have teed off.
- (c) In the event of a golfer withdrawing after having teed off, Wagers will not be refunded.
- (d) In tournaments where the number of rounds scheduled to be played are reduced for any reason, winners of specific Wager types will be settled on the official result published by the competition’s Governing Body (regardless of the number of rounds played), unless there is no further play in the tournament after a Wager has been placed in which case the Wager will be refunded.
- (e) In Golf team events where no price is offered for the tie, in the event of a tie, Wagers will be refunded.

2016.2 The Office may offer the following golf Wager types:

- (a) Money Line—A “Money Line” or straight up wager is a bet on the outright winner of the game or event without any Point Spread odds.
  - (1) In “18-Hole Wagers,” the Player predicts the golfer with the lowest score after 18 holes are played.
    - (A) In the event of a 2 or 3 Ball matchup being re-arranged, Wagers will be settled on the original pairings/groups. In the event there are any non-participant(s), then the 2 or 3 Ball Wager will be given odds of one (1.00).
    - (B) For “2 Ball” Wagers, a price will be offered for the tie.
    - (C) For “3 Ball” Wagers, the Dead Heat rules will apply. A Dead Heat is calculated by dividing the stake proportionally between the number of winners in the event.
    - (D) If a golfer is disqualified, their opponent will be deemed the winner, unless play in the next round has started in which case Wagers will be decided on the original scores.



- (E) Where both/all golfers are disqualified, Wagers will be given odds of one (1.00), unless play in the next round has started in which case Wagers will be settled on the original scores.
- (2) In “Next Hole Wagers,” the Player predicts the score that an individual golfer will achieve on a specific hole.
- (b) Head to Head—“Head to Head” Wagers are available for games or events in which a direct comparison can be made between two teams or two individual participants in a game or event.
  - (1) In “2/3 Ball Wagers”, the Player predicts the winner of the 2-or 3-Ball Head to Head matchup.
- (c) Proposition “Prop” Wagers—Proposition Wagers are wagers on a specific outcome during an event that does not relate to the final score. They may be offered as “Team Props,” “Player Props” and “Special Props.”
  - (1) In “Leader Through X Holes” Wagers, the Player is asked to predict the leader after any other specified number of holes.

## 2017 MOTOR SPORTS

- 2017.1 In Motor Sports or racing events, for the settlement of Wagers pertaining to “Pole Position,” the valid positioning is the one publicized by the competition’s Governing Body. For the settlement of Wagers pertaining to winner of a racing event, the valid winning positions are the ones recognized during the prize award ceremony. If, for whatever reason, the ceremony is not held, the winning positions are those initially publicized by the competition’s Governing Body.
- 2017.2 Any changes after the initially publicized announcement of results are not taken into account. All Wagers on drivers in a pole position or in a Grand Prix race receive refunds if the driver is not listed in the official results as publicized by the competition’s Governing Body.
- 2017.3 For “Head to Head” and “Group Wagering,” all Wagers receive refunds, if even one driver offered is not included in the officially publicized results of the competition’s Governing Body. If a race or any part of it is called off, cancelled, postponed, or suspended, and not continued within the next calendar day, or if official results are not publicized for whatever reason within two (2) calendar days, then all Wagers will be refunded. Excluded are Wagers that have already been decided – when the result will not change even with the continuation of the event.
- 2017.4 The Office may offer the following motor sports Wager types:
- (a) Money Line—A “Money Line” or straight up wager is a bet on the outright winner of the game or event without any point spread odd.

- (1) In a “Win Race” Wager, the Player predicts which driver will win the race.
  - (2) In a “Place Race” Wager, the Player predicts if a driver will finish in a certain position or higher in a race independent of order. This Wager can be offered for whichever range of places (*e.g.*, place 1-5— if a driver will finish from the first to the fifth (5<sup>th</sup>) position in a race).
- (b) Total Over/Under—Total Over/Under Wagers are placed on a line set by the Office that is the total combined score at certain points during the game, including any extra time added if the score was tied at the end of regulation time. In a Total Over/Under Wager, a Player predicts the score to be lower or higher than the set line to win the Wager.
- (1) In a “Total Drivers to Classify Total Over/Under” Wager, the Player predicts whether the total number of drivers to classify during a race are over or under a specified limit.
- (c) Head to Head - “Head to Head Wagers are available for games or events in which a direct comparison can be made between two (2) teams or two (2) individual participants in a game or event.
- (1) In a “To Qualify Head to Head” Wager, the Player predicts which two drivers will finish with a better classification in a qualifying race. In the instance where one of the two drivers does not qualify, that driver will be considered having lost. If neither of the two drivers qualify, then the winner will be considered the one who has achieved the highest qualifying position.
  - (2) In a “Pole Position Head to Head” Wager, the Player predicts which two drivers will finish with a better classification in a pole position race. In the instance where one of the two drivers does not classify based on their time, that driver will be considered having lost. If neither of the two drivers classify, then Wagers received on these two drivers are refunded by receiving odds of one (1.00).
  - (3) In a “Race Head to Head” Wager, the Player predicts which two drivers will finish with a better classification in a race. In the instance where one of the two drivers do not classify, that driver will be considered having lost. If neither of the two drivers classify, then the winner will be considered the driver who has completed more rounds. This is independent of the distance that each one has driven, the time that each one withdrew and/or the position that each one occupied at the time of withdrawal. If neither of the two drivers classifies, having completed the same number of rounds, then

Wagers received on these two drivers are refunded by receiving odds of one (1.00).

- (d) Proposition “Prop” Wagers—Proposition Wagers are wagers on a specific outcome during an event that does not relate to the final score. They may be offered as “Team Props,” “Player Props” and “Special Props.”
- (1) In a “Winning Margin” Wager, the Player predicts the finishing time difference between the first and second driver. Choices will be given in the form of a range of time differences or with the choice of “more or less” than a specified time range.
  - (2) In a “Winning Car/Bike” Wager, the Player predicts the manufacturer of the car or motorcycle that the winning driver of a race or pole position race will be driving.
  - (3) In a “First Driver to Retire” Wager, the Player predicts which driver will first withdraw from a race. Two drivers are considered to have withdrawn simultaneous when they have both completed the same number of rounds in a race. This is independent of the distance they have both driven, the time they withdrew and/or the position that each occupied at the time of withdrawal.
  - (4) In a “Fastest Lap” Wager, the Player predicts which driver will perform the fastest lap/stage or any other separately timed part in a race.
  - (5) In a “To Classify/Not to Classify” Wager, the Player predicts if a driver classifies during a race.
  - (6) In a “Race Group Betting” Wager, the Player predicts which of the offered drivers will finish in a better position during a race. In the instance where one or more drivers do not classify, each driver will be considered having lost. If none of the offered drivers classify, then the winner of this Wager will be considered the driver who has completed more rounds. This is independent of the distance that each one has driven, the time that each one withdrew and/or the position that each one occupied at the time of withdrawal. If none of the offered drivers classify and they have all completed the same number of rounds, then Wagers received on all these drivers are refunded by receiving odds of one (1.00).
  - (7) In a “Safety/Car” Wager, the Player predicts whether there will be a need for the Safety/Pace car to enter the circuit during the race. This Wager does not include the warm-up round.

- 2018.1 For Australian Rules Football, overtime is taken into account, except for the following Wager types: Final Result in the form of Home/Tie/Away or 1X2, and those Wagers that pertain to the 2<sup>nd</sup> half or 4<sup>th</sup> quarter in which the score of the section of the game is taken into account.
- 2018.2 The Office may offer the following Australian rules football Wager types:
- (a) Money Line—In a “Money Line” Wager, the Player predicts the outright winner of the game by correctly selecting either for the home team to win or for the away team to win. There is no Point Spread involved in a “Money Line” Wager.
    - (1) In a 3way “Money Line” Wager, the Player has three options: To predict either for the home team to win, for the away team to win, or for the game to end in a draw (not taking into account any overtime played).
    - (2) In a “Quarter Result” Wager, the player predicts the result of a specific quarter (1<sup>st</sup> quarter, 2<sup>nd</sup> quarter, 3<sup>rd</sup> quarter, or 4<sup>th</sup> quarter) taking into account only the points scored in these quarters.
  - (b) Point Spread/Handicap—A Point Spread Wager is when a plus or minus Handicap (line) is assigned to either team and then it is added or subtracted to each final score to determine the winner. The Point Spread represents the margin of points in which the favored team must win by to “cover the spread.”
    - (1) In a “Final Result with Point Spread/Handicap” Wager, the Player predicts the final result of a game taking into account the Point Spread/Handicap given to one of the two teams. The Point Spread/Handicap can be a whole number or not. This Point Spread/Handicap is taken into account when determining a winning prediction. If the Point Spread/Handicap is a non-whole number, then a draw cannot be a resulting outcome. This Wager can be offered for one half (1<sup>st</sup> half or 2<sup>nd</sup> half) or for any specified time period of the game in which case the prediction involves the points scored for this specific time period of the game.
  - (c) Total Over/Under—In a “Total Over/Under” Wager, the player predicts if the total number of points scored in a game is greater or less than a range publicized. This Wager can be offered for only one team (home or away), or one half (1<sup>st</sup> half or 2<sup>nd</sup> half), or for any specified time period of the game, or any combination of team and time period in which case the prediction involves the points scored for this specific time period of the game.

**2019****CRICKET**

- 2019.1 In cricket Wagers the following provisions are valid:

- (a) The winner of a cricket match, a cricket series, top bowler, top batsman, team top bowler, team top batsman in a certain competition or in a part of it; or any other cricket result, is determined in accordance with the rules established by the competition's Governing Body, unless otherwise stated.
- (b) If the competition or series is cancelled, all Wagers will be given odds of one (1.00).
- (c) Wagers received on totals in a County Championship or Test Match (*e.g.*, sixes, boundaries, runs, etc.) are valid if at least one ball is bowled.
- (d) If there is a rain delay or any other delay which results in the number of overs being reduced from that scheduled when the Wager was placed, then all open Wagers on totals in a Twenty20 (T20) match will be given odds of one (1.00), as well as in the circumstances where the reduction is by three (3) or more overs and in other limited overs matches if the reduction is by or more overs.
- (e) For Wagers involving a specified number of overs:
  - (1) If there is a rain delay or any other delay which results in the reduction of the stated number of overs, then all Wagers placed will be given odds of one (1.00).
  - (2) In the instances where a Wager is offered for a single over and the full over is not completed, then all Wagers placed will be given odds of one (1.00) unless at the moment of suspension there is a winning outcome (an outcome or result that could not be changed even if the match was continued and completed).
- (f) For Wagers in which any player in the match is predicted to reach a specific target:
  - (1) In the instance where a player withdraws due to injury and does not return to the match, then all Wagers placed will be given odds of one (1.00) unless at the moment of suspension there is a winning outcome (an outcome or result that could not be changed even if the match was continued and completed).
  - (2) Subject to if a player withdraws due to injury and does not return to the match, then all Wagers placed will be given odds of one (1.00) unless at the moment of suspension there is a winning outcome (an outcome or result that could not be changed even if the match was continued and completed), for Wagers to remain valid the batsman must face at least one ball or be given out before the first ball is faced.

2019.2

The Office may offer the following cricket Wager types:

- (a) Money Line—A “Money Line” or straight up wager is a bet on the outright winner of the game or event without any Point Spread odds.
- (1) In a “Final Result of a Cricket Match” Wager, the Player predicts the final result of a match. The final result of a match used to settle Wagers is the result achieved at the conclusion of play, according to the announcement by the competition’s Governing Body. If the competition’s Governing Body at the conclusion of the match announces “No Result,” all Wagers received on the final result will be given odds of one (1.00).
  - (2) The possible outcome for a draw between the two teams can be offered for all types of matches, except in one-day matches. In the case of a draw, in all matches for which “Draw” is not offered as a possible outcome, all Wagers received on the final result will be given odds of one (1.00).
  - (3) If the match (Test or 3-5 days international) is suspended after the match has been started and one at least one ball has been bowled, all Wagers for final result will stand.
  - (4) If a one-day match (20 overs) is suspended after at least five (5) overs have been bowled by each of the two teams, then all Wagers will stand, and the winning outcome is determined according to the Duckworth Lewis method. In all other circumstances, Wagers for the final result will be given odds of one (1.00).
  - (5) If a one-day match (40 or 50 overs) is suspended after at least twenty (20) overs have been played by each of the two teams, then all Wagers will stand, and the winning outcome is determined according to the Duckworth Lewis method. In all other circumstances, Wagers for the final result will be given odds of one (1.00).
  - (6) Winner Interval Wager—In a “Winner Interval” Wager, the Player predicts the result of a specified period of a match in overs (*e.g.*, “Winner After 6 Overs” – which team will score most runs in their first 6 overs).
- (b) Total Over/Under—In a “Total Over/Under” Wager, the Player predicts if the total number of runs scored in a match will be greater or less than a limit of runs publicized. This Wager can be offered for a specific team, or for a specific range of the match (in number of overs), or any combination of team and range of the match in which case only the runs scored from this team and/or the specific range is taken into account.
- (1) In a “Total Runs” Wager, the Player predicts if the total number of runs scored in a match will be within a certain range. This Wager

can be offered for a specific team, or for a specific range of the match (in number of overs), or any combination of team and range of the match in which case only the runs scored from this team and/or the specific range is taken into account.

- (c) Odd/Even—In an “Odd/Even” Wager, the Player predicts if the total number of runs scored in a match will be odd or even. This Wager can be offered for a specific team, or for a specific range of the match (in number of overs), or any combination of team and range of the match in which case only the runs scored from this team and/or the specific range is taken into account. In all circumstances, zero (0) is considered to be an even number.
- (d) Proposition “Prop” Wagers—“Proposition” Wagers are wagers on a specific outcome during an event that does not relate to the final score. They may be offered as “Team Props,” “Player Props” and “Special Props.”
  - (1) In a “Next Man Out” Wager, the Player predicts which cricket player will be the next man to be dismissed a match or series. Both players/athletes must be at the crease at the same time for Wagers to remain valid. In the event of neither player being dismissed or one of the players/athletes withdrawing through injury before a wicket has fallen, then all Wagers placed will be given odds of one (1.00).
  - (2) In a “Fall of Next Wicket” Wager, the Player predicts whether the next wicket will fall before or after a specified number of runs have been scored. Wagers will be given odds of one (1.00), if the wicket stated does not fall unless a winning outcome has already been established. If a player withdraws due to injury, then all Wagers placed on that wicket are carried over onto the next partnership until a wicket falls.
  - (3) In a “Method of Dismissal” Wager, the Player predicts how the next wicket will fall. If no wicket falls, Wagers will be given odds of one (1.00).

2019.3 Winner of a Cricket Series (Futures)—In a “Winner of a Cricket Series” Wager, the Player predicts the outcome of a cricket series (team A to win, team B to win, neither team to win). The number of wins per team is the number of wins officially announced by the competition’s Governing Body at the end of the series. Wagers received on a team, who for whatever reason, was disqualified or withdrawn from the series, are not winning Wagers unless otherwise stated. Wagers received for any team, who for whatever reason, did not participate in the series will be given odds of one (1.00). If the series is suspended before the scheduled number of matches is completed, then the team that is ahead at the time will be the winner. If no team is ahead at the time of suspension, the winning outcome is a draw.

2020

**DARTS**

- 2020.1 The results of a Darts match include all possible parts within a match until a final winner is determined.
- 2020.2 The Office may offer the following darts Wager types:
- (a) Money Line—A “Money Line” or straight up wager is a bet on the outright winner of the game or event without any point spread odds.
    - (1) In a “Match Winner” Wager, the Player predicts the final result of a darts match by correctly selecting darts player (or team) A to win or darts player (or team) B to win or a draw (whenever available). In the event of a darts match in a knockout competition of a 2way format starting, but for whatever reason not being completed, the player progressing to the next round will be deemed the winner.
    - (2) In a “Set/Leg Winner” Wager, the Player predicts the final result (player A to win, player B to win, or draw) of a specific set or leg of a match (1<sup>st</sup> set, 2<sup>nd</sup> set, 3<sup>rd</sup> set, etc.).
  - (b) Point Spread/Handicap—A “Point Spread” Wager is when a plus or minus Handicap (line) is assigned to either team and then it is added or subtracted to each final score to determine the winner. The “Point Spread” represents the margin of points in which the favored team must win by to “cover the spread.”
    - (1) In a “Winner with Spread/Handicap” Wager, the Player predicts which darts player will win the most sets or legs in a match, taking into account a Point Spread/Handicap in sets or legs for one of the two players/athletes. A Point Spread/Handicap can be a whole number or not. This Point Spread/Handicap is taken into account when determining a winning prediction. If the Point Spread/Handicap is not a whole number, then a draw cannot be a resulting outcome. This Wager can be offered per specified set (1<sup>st</sup> set, 2<sup>nd</sup> set, 3<sup>rd</sup> set, etc.), in which case the prediction involves only the legs that will be played in that segment of the match.
  - (c) Total Over/Under –In a “Total Over/Under” Wager, the Player predicts if the total number of points scored that will be played in a match is greater or less than a specific range. This Wager can be offered for a specified set or leg (1<sup>st</sup> set, 2<sup>nd</sup> set, 3<sup>rd</sup> set, etc.), or for specific darts player, or a combination of player and sets/legs in which case the prediction involves only the points that will be played in that segment of the match and/or the player.
    - (1) In a “Total Sets/Legs” Wager, the Player predicts the exact number of sets that will be played in a match or the exact number of legs that will be played within a set.



- (d) Odd/Even—In an “Odd/Even” Wager, the Player predicts whether the total number of points scored will be played in a match is odd or even. This Wager can be offered for a specified set or leg (1<sup>st</sup> set, 2<sup>nd</sup> set, 3<sup>rd</sup> set, etc.), or for specific darts player, or a combination of player and sets/legs in which case the prediction involves only the points that will be played in that segment of the match and/or the darts player. In all circumstances, zero (0) is considered to be an even number.
- (e) Proposition “Prop” Wagers—“Proposition” Wagers are wagers on a specific outcome during an event that does not relate to the final score. They may be offered as “Team Props,” “Player Props” and “Special Props.”
  - (1) In a “Correct Score” Wager, the Player predicts the correct score in sets or legs (1<sup>st</sup> set, 2<sup>nd</sup> set, 3<sup>rd</sup> set, etc.) of a darts match.
  - (2) In a “180s” Wager, predictions refer to the specific statistical measurement of 180 (the highest possible score with three darts). Players can predict “Player with Most 180s,” “Player with Most 180s with Handicap,” “Total 180s.” This Wager can be offered for a specified set or leg (1<sup>st</sup> set, 2<sup>nd</sup> set, 3<sup>rd</sup> set, etc.), or for specific darts player, or a combination of player and sets/legs in which case the prediction involves only the points that will be played in that segment of the match and/or the darts player.

## **2021 FUTURES AND SPECIAL WAGERS**

- 2021.1 Futures Wagers are Wagers placed far in advance of an event taking place. Special Wagers may include the determination of the winner of a competition; the final positioning order; the precise order; qualification to the next round; or statistical accomplishments (*e.g.*, first scorer, group with the most goals, total number of goals, etc.) within the framework of a competition or part of it, and decided based on the rules of conduct for each competition, irrespective of how these were determined and including any and every method of determining results.
- 2021.2 Except where part of the competition has already been determined and the wager has been settled, Wagers received for team, player/athlete, driver, or any type of participant that is disqualified or has withdrawn from the competition are considered non-winning Wagers.
- 2021.3 Wagers placed on a team, player/athlete, driver, or any type of participant that, for whatever reason, did not take part in the competition are refunded.
  - (a) For any player/athlete-related Wagers, any athletes that were part of the official roster for at least one game or any other actual part of the competition are considered to have taken part in the competition, regardless of their actual participation in a game.

- (b) It is considered that a team participated in a competition if it took part in any qualifying stage in whatever form.
- 2021.4 If there is a final suspension of a competition, for whatever reason, then all Wagers will be refunded, unless they involve Wagers on a part of the competition that has already concluded and received a result.
- 2021.5 The determination of the winner of a competition; the final positioning order; the precise order; qualification to the next round; or statistical accomplishments (*e.g.*, first scorer, group with the most goals, total number of goals) within the framework of a competition or part of it, is decided based on the rules of conduct for each competition, irrespective of how these were determined and including any and every method of determining results.
- 2021.6 It is considered that a team participated in a competition if it took part in any qualifying stage in whatever form.
- 2021.7 If there is a final suspension of a competition, for whatever reason, then all Wagers receive odds of one (1.00), unless they involve Wagers on a part of the competition that has already concluded and received a result.
- 2021.8 The Office may offer the following Futures and Special Wagers types:
- (a) In a “Winner of a Competition or Part of It” Wager, the Player predicts the winner of a competition or part of it such as group winner, qualification winner, etc.
- (1) This Wager can be offered in a combination of two or more competitions (*e.g.*, “Who Will Win All 4 Grand Slams” or “Which Team Will Win the Championship (Cup, etc.).”
  - (2) This Wager can be offered through the “Yes/No” option, separately for each team (or athlete or driver or any participant).
  - (3) This Wager can be offered with options that group teams with common characteristics, such as same continent, same country, previous wins, etc.
- (b) In a “Medal Winner” Wager, the Player predicts which player/athlete, team, or any participant will win a medal in a specific competition. Wagering option may include winning a specific medal (*e.g.*, Gold, Silver, Bronze), or any medal.
- (1) This Wager can be offered in a combination of two or more competitions.
  - (2) This Wager can be offered through the “Yes/No” option for any player/athlete, team, or any participant.

- (3) For the settlement of Wagers involving medals, the valid winning positions are those announced during the respective medal ceremony. If the medal ceremony is not held, the winning positions are those initially publicized by the competition's Governing Body. If, the ceremony is not held, the winning positions are those initially publicized by the competition's Governing Body. Any changes after the initially publicized announcement of results are not taken into account.
- (c) In a "Winner of a Competition or Part of it Without a Certain Option" Wager, the Player predicts the winner of a competition or part of it such as group winner, qualification winner, etc., without taking into account the position of a specific participant.
    - (1) This Wager can be offered through the "Yes/No" option separately for each team (or athlete or driver or any participant).
    - (2) This Wager can be offered with options that group teams with common characteristics, such as same continent, same country, previous wins, etc.
  - (d) In a "Qualification to the Final or to a Stage of a Competition" Wager, the Player predicts if a team (or athlete or driver or any participant) will qualify for the final of a competition or a specific stage of it (*e.g.*, group stage, semi-final, etc.).
    - (1) This Wager can be offered through the "Yes/No" option separately for each team (or athlete or driver or any participant).
    - (2) This Wager can also be offered for combination of teams/players/participants (*e.g.*, "Which 4 Teams Will Qualify to the Semi-Finals of a Competition").
  - (e) In a "Correct Placing/Elimination Stage/Relegation" Wager, the Player predicts what will be the exact place or the precise elimination phase of a team (or athlete, or driver, or any participant) or which team will be relegated.
    - (1) This Wager can be offered with a choice of ranges for the place or stage group. This Wager can be offered in reference to a combination of correct places for two or more teams (*e.g.*, predicting 1<sup>st</sup> and 2<sup>nd</sup> place with or without exact order) or for athletes, drivers, or for any participant.
    - (2) This Wager can be offered through the "Yes/No" option separately for each team (or athlete or driver or any participant).

- (3) This Wager can also be offered for combination of teams/players/participants (*e.g.*, teams to get 1<sup>st</sup> and 2<sup>nd</sup> place in a tournament).
- (f) In a “Group Betting” Wager, the Player predicts which team (or athlete or driver or any participant) will occupy the top spot in a competition (or part of it) within a group of participants, by group not necessarily being an actual and official group designated by the competition.
  - (1) This Wager can be offered through the “Yes/No” option separately for each team (or athlete or driver or any participant).
- (g) In a “Top Scorer of a Competition or Part of It” Wager, the Player predicts which player/athlete will achieve the most goals (or points, etc.) within the framework of a competition or part of it.
  - (1) This Wager can be offered for any other statistical measure or for specific teams separately.
  - (2) This Wager can be offered and with choices within a group of teams, an example but not limited to, is the top scorer of a continent, or the team of the top scorer, etc.
  - (3) This Wager can be offered through the “Yes/No” option separately for each player/athlete or driver or any participant.
- (h) In a “The Winner’s Group” Wager, the Player predicts the group from which the winner of the competition will come from.
  - (1) This Wager can be offered and with choices within a group of teams besides the ones designated by the competition, an example but not limited to, can be in reference to the Continent from which the winner of the competition will come from or in reference to the gender of the winner, etc.
  - (2) This Wager can be offered through the “Yes/No” option separately for each group.
- (i) In a “Group with the Most Goals or Points or Other Statistical Measure” Wager, the Player predicts the group of a competition that the most goals or points or other statistical measure will be scored.
  - (1) In the instance where not all games from all groups have concluded, then all Wagers receive odds of one (1.00).
  - (2) This Wager can be offered through the “Yes/No” option separately for each group.

- (j) In a “Head to Head” Wager, the Player predicts the team (or athlete or driver or any other participants) that will occupy a better position or will achieve the best statistical result between a couple within the framework of a competition or part of it.
- (k) In a “Winning Margin” Wager, the Player predicts what the winning margin will be between the winner of competition (or part of it) and the runner up, either as a ”Total Over/Under” option from a predefined limit, or within ranges, or as a ”Yes/No” option.
  - (1) This Wager can be offered in a combination of two or more competitions or options that group teams, players, athletes, or participants with common characteristics, such as same continent, same country, same gender, etc.
- (l) In a “Time of Goals” Wager, the Player predicts the interval in which a goal or a number of goals will be scored, either in the form of a “Total Over/Under” value, or within a range, or as a ”Yes/No” option. Non exhaustive examples include: “Time of Fastest Goal within a Tournament,” “Number of Goals Scored within a Certain Number of Matches,” etc. This Wager can be offered for any other documented incident or statistical measure and can also be offered for specific teams, players, athletes, etc.
- (m) In an “Awards Winner” Wager, the Player predicts the team, or athlete, driver, or any other participants that will be given a certain award. The results are in accordance with the association, committee, or any other official party that is responsible for the award. Non exhaustive examples include: “Player of the Tournament” award, “Golden Ball” award, “MVP” award, etc. In the case Wagers are offered for a certain award that is finally not awarded, then Wagers on all participants will be void and refunded.
- (n) In the “Next Manager” Wager, the Player predicts which will be the next manager of a specific team. This Wager could be offered as a “Next Permanent Manager” option in which case an official appointment from the respective team must take place, or as a “Next Match Manager” option, in which case the next manager of whichever status is taken into account.
- (o) In “Statistics/ Future Proposition” Wagers, the Player predicts any statistical measure (points, wins, etc.) or sporting achievement that will be achieved by teams, players/athletes or any kind of participants within the framework of a competition, a part of it, or a single match or part of the game or event.
- (p) Such Wagers can be offered in the form of a choice of ranges, exact results, in the form of “Total Over/Under” choices or as a ”Yes/No” option or a single “Yes” option or as a “Head to Head” option. Examples include the following:

- (1) Team points during a group stage; player to score a goal with a free kick; combination of players/athletes to score a goal; a player to achieve X points and X rebounds in a Basketball game; a tennis player to win a tournament without losing a set; number of deuce games in a tennis match; number of cars classified in a F1 race; finish time of a Track and Field race; number of medals won by an athlete/country, etc.
- (q) Such Wagers can be offered for a single team/player/competitor, etc., or for a combination of them, not necessarily from the same game or match (e.g. team A and team B to have a red card) and also as a combination of statistical measures or achievements (e.g., player A to receive a yellow card and player B to score with a free kick).
- (r) In all circumstances, the official stat sheet/box score will determine the final outcomes of single matches and the official statistic reports or other official document from the competition's Governing Body will determine the final outcomes for tournaments.

**2022****RESPONSIBLE GAMING PROGRAM**

## 2022.1

The Office's Responsible Gaming Program shall include, at a minimum, the following:

- (a) Display signage and written materials, in conspicuous places in their sports Wagering Facilities, and on their websites and mobile applications information on the availability of problem gambling treatment or counseling, procedures for self-exclusion, and promotion of the National Council on Problem Gambling's twenty-four (24)-hour toll-free confidential National Helpline—1-800-522-4700 (call or text);
- (b) Provide information on all print, billboard, sign, online, or broadcast advertisements, information about available programs to prevent, treat, or monitor compulsive or problem gambling, procedures for self-exclusion, and promotion of the National Council on Problem Gambling's 24-hour toll-free confidential National Helpline—1-800-522-4700 (call or text);
- (c) Post in every Lottery retailer licensed for sports Wagering, on the Office's websites and mobile application, a statement referring Players to the National Council on Problem Gambling's 24-hour toll-free confidential National Helpline—1-800-522-4700 (call or text) and other information;
- (d) Will prohibit an individual, group of individuals or entity that places Wagers with the Office from establishing more than one active Account with;
- (e) Will permit an individual, group of individuals or entity that places Wagers with the Office to terminate their Account at any time and for any reason;

- (f) Will train its employees on responsible gaming initiatives;
- (g) Will prohibit underage gambling;
- (h) Will take reasonable measures to prevent intoxicated or impaired Players from gambling;
- (i) The Office's sports Wagering websites and mobile applications will include a description of the possible repercussions for an underage player who circumvents or attempts to circumvent controls to prevent underage play, such as immediate stoppage of play, account closure, and confiscation of winnings.

2022.2 The Office shall implement a Self-Limiting System to allow Players to set Account limits, including responsible gaming limits set forth below. Any decrease to these limits shall be effective no later than the Player's next log in. Any increase to these limits shall become effective only after the time period of the previous limit has expired and the player reaffirms the requested increase.

- (a) A deposit limit, which shall be offered on a daily, weekly and monthly basis and shall specify the maximum amount of money a Player may Deposit into their Account during a particular period of time;
- (b) A spending limit, which shall be offered on a daily, weekly and monthly basis and shall specify the maximum amount of Player funds that may be put at risk during a particular period of time; and
- (c) A time-based limit, which shall be offered on a daily basis and shall specify the maximum amount of time, measured hourly from the Player's log in to log off, a Player may spend playing on the Office's gaming system.

2022.3 The Office shall take reasonable steps to prevent individuals from overriding their self-imposed limits, including, at the request of the individual, sharing the requested limitations with Office licensed Operators and Management Service Providers for the sole purpose of disseminating the request to other Operators.

2022.4 The Office shall prohibit an individual from Wagering over the limit they have set.

2022.5 The Office shall implement and maintain reasonable security procedures and practices that are appropriate to the nature of the personal information of individuals who place a Wagers with the Office from unauthorized access, use, modification or disclosure.

2022.6 Operators and Management Service Providers shall abide by all requirements issued by the Office pertaining to training employees about compulsive and problem gambling.

- 2022.7 The Office's Self-Exclusion Program is established for the purpose of allowing persons who wish to refrain from sports Wagering and other types of gambling offered by the Office, to notify the Office that they will accept responsibility for refraining from engaging in Sports Wagering and other gambling activities offered by the Office and its Licensees. Each person seeking placement in the Self-Exclusion Program acknowledges that it is their responsibility to refrain from engaging in Sports Wagering and other gambling activities under the jurisdiction of the Office.
- 2022.8 An individual may request to have their name placed on the Self-Exclusion List by completing the application and following the procedure outlined in the Office's website or printed material available from the Office.
- 2022.9 An application for placement on the Self-Exclusion List may only be accepted, and an intake performed, by a designated agent approved by the Office.
- 2022.10 Failure to provide any information or to execute any forms deemed necessary by the Office may result in a denial of a request for placement in the Self-Exclusion Program.
- 2022.11 Self-Exclusion List application forms may include a request to waive the liability of the Office and its agents, sports Wagering Licensees and their agents, the District and any person licensed pursuant to the Act, or other such persons as deemed necessary by the Office, for any damages that may arise out of any act or omission related to placement in the Self-Exclusion Program.
- 2022.12 Upon the filing of an application for placement in the Self-Exclusion Program, the Office may file a Notice of Placement in the Self-Exclusion Program and such application and notice may be disclosed to Sports Wagering Operator Licensees, Management Services Providers and their agents and employees, as approved by the Office.
- 2022.13 Upon submission of an application, a designated agent shall review with the applicant the contents and statements contained in the application. If the application is complete, the designated agent shall sign the application indicating that the review has been performed and the application has been accepted.
- 2022.14 A designated agent may not sign an application if (a) any required information is not provided or (b) they are of the belief that the applicant is not capable of understanding the responsibilities and consequences of being placed on the Self-Exclusion List.
- 2022.15 Upon receipt of an application, the Office, or its designee, shall review it for completeness. If the application meets all requirements of this chapter, the application shall be approved, and the individual's name shall be added to the Self-Exclusion List. If the application is incomplete, the Office, or its designee, may deny the application and make efforts to contact the applicant advising them of such.



- 2022.16 The Office shall update its database at least every seventy-two (72) hours with names of individuals being added or removed from the Self-Exclusion List.
- 2022.17 Any person may request placement on the list of self-excluded persons, and the person during any period of voluntary exclusion may not collect any winnings or recover any losses resulting from any sports Wagering or lottery gaming activity, regardless of whether the Wager was placed prior to being voluntarily placed on the list of self-excluded persons. All winnings and Wagering instruments subject to this section shall be withheld by the Office.
- 2022.18 The Office, or its designee, shall add to the Self-Exclusion List the name of any individual provided from a gaming jurisdiction outside of the District, with which the Office has entered into an intergovernmental agreement, upon a determination that the individual voluntarily requested that their name be added to the list of the referring jurisdiction and that they were notified, either directly or by operation of law, that their name may be placed on similar lists in other jurisdictions.
- 2022.19 A person does not have to admit they are a problem gambler when placing themselves in the Self-Exclusion Program.
- 2022.20 If the applicant has elected to seek services available within the District, the Office, or its designee, shall contact the designated coordinating organization for the provision of requested services. The Executive Director shall determine the information and forms to be required of a person seeking placement on the Self-Exclusion List. Such information shall include, but not be limited to, the following:
- (a) Name, home address, email address, telephone number, date of birth, and Social Security number of the applicant;
  - (b) A passport-style photo of the applicant;
  - (c) A statement from the applicant that one or more of the following apply:
    - (1) They identify as a “problem gambler,” meaning an individual who believes their gambling behavior is currently, or may in the future without intervention, cause problems in their life or on the lives of their family, friends, or co-workers;
    - (2) They feel that their gambling behavior is currently causing problems in their life or may, without intervention, cause problems in their life; or
    - (3) There is some other reason why they wish to add their name to the Self-Exclusion List.
  - (d) Election of the duration of the exclusion in accordance with Subsection 2022.22 of this chapter;

- (e) An acknowledgment by the applicant that the individual will not be participating in sports Wagering or any other form of gambling offered by the Office and that it is their sole responsibility to refrain from doing so;
- (f) An acknowledgment by the applicant that the applicant shall not collect any winnings or recover any losses resulting from any gambling activity under the jurisdiction of the Office for the duration of the exclusion period;
- (g) An acknowledgment by the applicant that the individual will forfeit all rewards or points earned through any player reward or another promotional program they engage in sports Wagering while on the Self-Exclusion List;
- (h) An offer by the Office or the designated agent completing the self-exclusion application to assist the applicant to access information about gambling disorders, self-guided help or counseling services with a clinician approved by the District of Columbia Department of Behavioral Health;
- (i) An acknowledgment of understanding by the applicant that by placing their name on the Self-Exclusion List, the prohibitions identified in § 2129 apply to all sports Wagering or gambling activities offered by the Office or its Licensees or affiliates, whether within the District or another jurisdiction, and that the Office may share the Self-Exclusion List with other domestic or international gaming jurisdictions resulting in placement on those lists;
- (j) An acknowledgment by the applicant that the individual is submitting the application freely, knowingly, and voluntarily;
- (k) A statement that the individual is not under the influence of a substance or suffering from a mental health condition that would impair their ability to make an informed decision;
- (l) An acknowledgment by the applicant that if they knowingly violate their agreement to refrain participating in any gambling activity offered by the Office or its Licensees or affiliates during the exclusion period, the applicant shall notify the Office of such violation within twenty-four (24) hours of such gambling activity; and releasing the District, the Office and all affiliated employees, entities and persons licensed by the Office and their affiliates, from any claims associated with their breach of the agreement;
- (m) An affidavit verifying that the applicant wishes to be placed on the Self-Exclusion List, that the Office is specifically authorized and requested to release all contents of the person's application to persons who, in the sole discretion of the Office, are necessary to implement the policies and procedures contained in this chapter. Such persons shall be subject to terms of confidentiality prescribed by the Office, which shall be contained in the application. Such persons shall include, but not be limited to the following:

- (1) Employees or contractors of the Office involved in the administration, supervision or activities related to the administration or supervision of this chapter;
  - (2) Licensees of the Office or their affiliates, agents and employees;
  - (3) Designated agents; and
  - (4) Law enforcement personnel involved in the administration, supervision or investigation of activities contained in this chapter.
- (n) An acknowledgment by the applicant that once their name is placed on the Self-Exclusion List, they may be refused entry or ejected from areas specifically devoted to sports Wagering or other forms of gambling under the jurisdiction of the Office by a person licensed by the Office, an agent of the Office, or law enforcement personnel.
- 2022.21 The Office may provide procedures permitting online self-exclusion if it determines that the goals, objectives and protections of the in-person self-exclusion process can be accomplished online.
- 2022.22 As part of the request for self-exclusion, the individual must select the duration for which they wish to be excluded. An individual may select any of the following time periods as a minimum length of exclusion:
- (a) One (1) year;
  - (b) Eighteen (18) months;
  - (c) Three (3) years;
  - (d) Five (5) years; or
  - (e) Lifetime (an individual may only select the lifetime duration if their name has previously appeared on the Self-Exclusion List for at least six (6) months).
- 2022.23 An individual on the Self-Exclusion List may not apply to decrease the duration of exclusion. An individual who is on the Self-Exclusion List may submit a request to increase the minimum length of exclusion.
- 2022.24 Upon expiration of the selected duration of exclusion, individuals may request that their name be removed from the Self-Exclusion List or petition for exclusion for a new duration. Individuals shall remain on the Self-Exclusion List after the expiration of the selected duration of exclusion until such time as they submit a petition for removal, and it is approved by the Office or its designee.

- 2022.25 At any time after the expiration of the selected duration of exclusion, an individual may request that their name be removed from the Self-Exclusion List by submitting a petition for removal on a form approved by the Office. The petition shall include confirmation from a designated agent that the individual completed an exit session. Any petition for removal received by the Office prior to the expiration of the duration of the selected exclusion period shall be denied.
- 2022.26 The Office shall approve a completed petition for removal. An individual who has selected a lifetime duration may not submit a petition for the removal of their name from the Self-Exclusion List. An incomplete application, including one that fails to demonstrate completion of an exit session shall be denied until such time as the application is completed.
- 2022.27 To be eligible for removal from the Self-Exclusion List the petitioner shall participate in an exit session with a designated agent. The exit session shall include a review of the risks and responsibilities of gambling, budget setting and a review of problem gambling resources should the petitioner wish to seek them. Upon completion of the exit session, the designated agent shall sign the individual's petition for removal from the Self-Exclusion List attesting to the fact that the exit session was conducted.
- 2022.28 Upon approval of a petition for removal from the Self-Exclusion List, a written notice of removal from the Self-Exclusion List shall be forwarded by the Office, or its designee, to each gaming Licensee and to the petitioner. Notice may be forwarded to the petitioner by email or first-class mail to the email address or home address provided by the petitioner in the petition. The petitioner shall be deemed to be removed from the Self-Exclusion List when the notice is sent by the Office or its designee.
- 2022.29 If a petitioner does not meet the eligibility requirements for removal from the Self-Exclusion List, the petition shall be denied. The petitioner shall be notified of the denial by email or first-class mail to the email address or home address provided by the petitioner in the petition. In the event of a denial of a petition, the individual shall remain on the Self-Exclusion List until such time as the eligibility requirements have been satisfied.
- 2022.30 An individual whose name has been removed from the Self-Exclusion List may reapply for placement on the Self-Exclusion List at any time by submitting an application in accordance with this chapter;
- 2022.31 An individual whose name was added to the Self-Exclusion List in the District in accordance with this chapter shall be removed from the Self-Exclusion List upon receipt of written notice from the referring jurisdiction that the individual's name has been removed from that jurisdiction's list.
- 2022.32 The Office shall maintain an up-to-date database of the Self-Exclusion List. Licensees designated by the Office shall be afforded access to the Self-Exclusion

List. The Self-Exclusion List may only be accessed by individuals authorized in accordance with the Licensee's approved system of internal controls. All information contained in approved applications for exclusion may be disclosed to a designated Licensee.

- 2022.33 Except as authorized by this chapter, the Office's Self-Exclusion List shall be kept confidential. Except as authorized or required by this chapter, Sports Wagering Operators and Management Services Providers shall not disclose the names included in the Self-Exclusion Program.
- 2022.34 The Self-Exclusion List shall not be publicly disclosed by a Licensee, agent, affiliate or other person authorized to access the Self-Exclusion List. However, a Licensee may share the Self-Exclusion List with other designated Licensees in the District or its affiliates in other jurisdictions for the purpose of assisting in the proper administration of responsible gaming programs operated by affiliated sports Wagering or lottery retailer establishments.
- 2022.35 The Office may disclose de-identified information from the Self-Exclusion List to one or more research entities selected by the Office for the purpose of evaluating the effectiveness and ensuring the proper administration of the self-exclusion program.
- 2022.36 Any person placed on the Self-Exclusion List pursuant to this chapter is deemed ineligible to place a Wager at any Sports Wagering Facility, licensed Lottery retailer, or mobile application or website under the jurisdiction of the Office. Persons on the Self-Exclusion List shall not be entitled to recover losses resulting from their gambling activity since the Wager was void from its beginning.
- 2022.37 Sports Wagering Licensees and Lottery retailers shall have the following responsibilities relative to the administration of the Self-Exclusion Program:
- (a) Once aware that a person who is on the Self-Exclusion List is on Premises, the Licensee or retailers shall refuse such person entry to or eject such person from areas specifically devoted to sports Wagering, lottery or other forms of gambling product approved by the Office;
  - (b) To refuse to accept a Wager or to allow the purchase of any gambling product approved by the Office to any individual that the Licensee or retailer has identified as being on the Self-Exclusion List or a person such Licensee or retailer suspects of being on the Self-Exclusion List;
  - (c) To promptly notify the Office, or its designee, if an individual on the Self-Exclusion List attempts to place or is discovered to have placed a sports Wager or purchased or attempted to purchase a lottery ticket;
  - (d) Remove self-excluded persons from player loyalty or reward card programs and targeted print, online or other forms of advertising or promotions;

- (e) Refrain from marketing to individuals on the Self-Exclusion List;
- (f) Deny access to complimentary services or items, check cashing privileges, player reward programs, and other similar benefits to persons on the Self-Exclusion List;
- (g) Deny a person identified to be on the Self-Exclusion List from any winnings derived from gambling. Winnings derived from gambling shall include, but not be limited to, such things as proceeds derived from a sports Wagering or from the purchase of any gambling product approved by the Office. Where reasonably possible, the Licensee or retailer shall withhold from the individual in a lawful manner, or shall refuse to pay any such winnings derived from gambling or any money or thing of value that the individual has converted or attempted to convert into a gambling instrument whether actually Wagered or not. A Wagering instrument shall include, but not be limited to, tickets, vouchers, prizes, non-complimentary pay vouchers, electronic credits on a mobile Wagering system or any other implement of value representing a prize won from gambling. Upon withholding or refusing to pay an individual on the Self-Exclusion List, the Licensee or retailer shall promptly notify the Office. The monetary value of the withheld winnings and Wagering instrument shall be paid to the Office within forty-five (45) days;
- (h) If an individual on the Self-Exclusion List wishes to contest the forfeiture of winnings or things of value, the individual may request a hearing in writing with the Office within fifteen (15) business days of the date of the forfeiture. The request shall identify the reason why the winnings or things of value should not be forfeited. A hearing shall be conducted to determine whether the subject funds were properly forfeited in accordance with this chapter; and
- (i) In cooperation with the Office, and where reasonably possible, the Licensee or retailer shall determine the amount Wagered and lost by an individual who is prohibited from gambling. The monetary value of the losses shall be paid to the Office within forty-five (45) days.

2022.38

Programs and policies created by this chapter are intended to prevent problem gambling, treat problem gamblers and promote responsible gaming. The sole remedy for failure to comply with this chapter shall be disciplinary actions imposed by the Office. The Office, its Licensees and retailers, or employees thereof will not be liable for damages in any civil action, which is based on the following:

- (a) Compliance or noncompliance with this chapter or a plan adopted pursuant to this chapter;
- (b) An action or failure to take action under this chapter or a plan adopted under this chapter;

- (c) Failure to withhold gambling privileges from an individual; or
- (d) Permitting an individual to gamble.

2022.39

The Office shall maintain an Involuntary Exclusion List that consists of the names of people who the Executive Director determines meet anyone of the following criteria:

- (a) Any person whose presence in a gaming facility would be inimical to sports Wagering in the District of Columbia, including the following:
  - (1) Any person who cheats;
  - (2) Any person who poses a threat to the safety of the patrons or employees;
  - (3) Persons who pose a threat to themselves;
  - (4) Persons with a documented history of conduct involving the disruption of a gaming facility;
  - (5) Persons included on another jurisdiction's exclusion list; or
  - (6) Persons subject to a Court order excluding those persons from any gaming facility;
- (b) Any felon or person who has been convicted of any crime or offense involving moral turpitude and whose presence in a Sports Wagering Facility would be inimical to sports Wagering in the District of Columbia; or
- (c) Any person who enhances a risk of unfair or illegal practices in the conduct of sports Wagering.

2022.40

The Executive Director's determination of inimicality may be based upon any of the following:

- (a) The nature and notoriety of the person to be excluded from Sports Wagering Facilities;
- (b) The history and nature of the involvement of the person with a Sports Wagering Facility in the District of Columbia or any other jurisdiction or with any particular licensee or licensees or any related company of any licensee;
- (c) The nature and frequency of any contacts or associations of the person with any licensee; or

- (d) Any other factor reasonably related to the maintenance of public confidence in the regulatory process or the integrity of sports Wagering in the District of Columbia.

2022.41 The Involuntary Exclusion List shall contain the following information, if known, for each excluded person:

- (a) The full name and all known aliases and the date of birth;
- (b) A physical description;
- (c) The date the person's name was placed on the Involuntary Exclusion List;
- (d) A photograph, if available;
- (e) The person's occupation and current home and business addresses; and
- (f) Any other relevant information as deemed necessary by the Office.

2022.42 The Office shall distribute the Involuntary Exclusion List to Operators and Management Services Providers.

2022.43 The Office shall establish reasonable procedures designed to prevent entry of an involuntarily excluded person into the sportsbook area of a licensed sports Wagering retailer.

2022.44 The Office shall establish a system to exclude from sports Wagering individuals who are on the Office's Involuntary Exclusion List.

2022.45 The Office shall attempt to provide notice to any person who is placed on the Involuntary Exclusion List.

2022.46 Each excluded person who has been listed on the Involuntary Exclusion List and wishes to contest being placed on the Involuntary Exclusion List may request an administrative hearing pursuant to § 2135.

## 2099 DEFINITIONS

2099.1 The following definitions shall apply to this chapter:

**"Account"** means a digital gaming account that a Player opens on the Mobile App or Site.

**"Bonus"** means free plays or a similar promotional incentive that is added to the Player's Account when a Player meets betting requirements in accordance with the applicable rules for the particular promotion. Bonuses may be used to play Games and place Wagers, but have no cash value.



**“Cash Out”** means a feature which allows a Player to cash a Wager before all events selected in Player’s Wager are complete.

**"Confirmed"** means a Wager was placed by a Player, the Office accepted the Wager, the Wager amount was successfully debited from the Player’s Account, the Wager was recorded by the Lottery, and the Player received a Wager identification number or similar confirmation number.

**"Deposit"** means money a Player adds to their Account and may be used to play Games and place Wagers.

**"Game"** means a DC Lottery Game made available to Players via the Mobile App and/or Site.

**"Governing Body"** means a recognized organization that has a regulatory or sanctioning function over a particular sport.

**"In-Game Wager"** means a Wager placed during the course of a Sports Event or match.

**“Involuntary Exclusion List”** means a list of persons who are to be excluded or ejected from licensed Sports Wagering Facilities in the District of Columbia. The Involuntary Exclusion List consists of persons who have violated or conspired to violate laws related to gaming, cheats, willful tax evaders, individuals whose presence in a licensed gaming establishment would adversely affect public confidence and trust in the gaming industry, and persons whose presence in a licensed gaming establishment poses the potential of injurious threat to the interests of the District of Columbia.

**"Malfunction"** means an error in the functioning of a Game, the Mobile App, or Site including, the front-end application not being accessible to Players or a Game not working.

**"Mobile Application or App"** mean any mobile application or interactive platform used the Office for the operation of online sports wagering.

**"Net Winnings"** means total Winnings reduced by the amount of the Wager.

**"Office"** means the Office of Lottery and Gaming.

**"Offset"** means money that the Office is required by to deduct from a Player's Winnings for certain debts owed to the District of Columbia, for delinquent child support obligations or as otherwise required by the applicable Laws and Rules.

**"Physical Address"** means for an individual, a residential or business street address; for an individual who does not have a residential or business street

address, an Army Post Office, Fleet Post Office box number, the residential or business street address of next of kin, or of another contact individual.

**"Player"** means an individual who is eighteen (18) years of age or older that uses the Mobile App, Site or Services or any combination thereof.

**"Online"** refers to the use of the internet to access the Services.

**"Pre-Game Wager"** means a Wager placed prior to the start of a Sports Event or match.

**"Privacy Policy"** means a statement that discloses the type of information the Office may collect and how the Office will secure, use, and disclose information that is periodically updated and published on the Office's website.

**"Self-Exclusion List"** means the list of persons who have applied for and been placed in the Self-Exclusion Program.

**"Self-Exclusion Program"** means the program established by the Office for the purpose of allowing persons who wish to refrain from sports wagering and other types of gambling offered by the Office, to notify the Office that they will accept responsibility for refraining from engaging in sports wagering and other gambling activities offered by the Office and its Licensees.

**"Services"** means the Games and all services, functions and features offered by the Office through the Mobile App or Site from time and time and accessed by the Player via a device, the Internet, retail locations, or other means.

**"Site"** means any website operated by the Office through which a Player can access their Account to play Games.

**"Sports Event"** means a game, match, race or similar competitive event associated with a Governing Body in its entirety or a particular in-game, live occurrence such as, but not limited to, a particular play or score.

**"Wager"** means the amount of money being risked in a bet or to place a bet. A Wager may also be referred to as a Stake.

**"Winnings"** means the prize a Player wins, including the amount of the Wager in the course of playing any Game from the Mobile App, Site or at a retail location.

**"Withdraw" or "Withdrawal"** means any request by a Player to transfer funds from the Account.

DISTRICT OF COLUMBIA STATE ATHLETIC ASSOCIATION

NOTICE OF FINAL RULEMAKING

The District of Columbia State Athletic Association, pursuant to the authority set forth in Section 113 of the District of Columbia State Athletics Consolidation Act of 2016, effective April 7, 2017 (D.C. Law 21-263; D.C. Official Code §§ 38-2661.31 (2013 Repl.)) (“Athletics Act”); and Mayor’s Order 2019-007, dated February 11, 2019, and with the approval of the Deputy Mayor for Education, hereby gives notice of the adoption of a new Subtitle F (District Of Columbia State Athletic Association) of Title 5 (Education), of the District of Columbia Municipal Regulations (DCMR), and the repeal of Chapter 27 (Interscholastic Athletics) of Title 5 (Education), Subtitle A (Office of the State Superintendent of Education) DCMR.

The purpose of this rulemaking is to align the District’s interscholastic athletics regulations with the governance structure and requirements established in the Athletics Act. This rulemaking is necessary to ensure the health, safety, and welfare of District students before the new school year and athletic seasons begin.

A Notice of Emergency and Proposed Rulemaking was published into the *D.C. Register* on Friday, November 22, 2019 at 66 DCR 15564. No comments were received. No changes have been made to the text of the proposed rules as published with that notice.

These rules were adopted as final on March 2, 2020 and will be effective upon publication of this notice in the *D.C. Register*.

**Chapter 27, INTERSCHOLASTIC ATHLETICS, of Subtitle 5-A DCMR, OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION, is repealed in its entirety.**

**A new Subtitle 5-F DCMR, DISTRICT OF COLUMBIA STATE ATHLETIC ASSOCIATION, is established as follows.**

**A new Chapter 1, INTERSCHOLASTIC ATHLETICS, is established to read as follows:**

**CHAPTER 1 INTERSCHOLASTIC ATHLETICS**

- 100 GENERAL PROVISIONS**
- 101 STATE ATHLETIC ASSOCIATION: DUTIES**
- 102 MEMBER SCHOOLS**
- 103 MEMBER SCHOOL: CERTIFICATION OF ELIGIBILITY**
- 104 STUDENT ELIGIBILITY TO PARTICIPATE**
- 105 STUDENT ELIGIBILITY TO PARTICIPATE: INTERNATIONAL STUDENT**
- 106 STUDENT ELIGIBILITY TO PARTICIPATE: DESIRED SPORT AT OTHER SCHOOL**
- 107 STUDENT ELIGIBILITY TO PARTICIPATE: TRANSFERS**
- 108 STUDENT INELIGIBILITY TO PARTICIPATE**
- 109 WAIVER OF STUDENT ELIGIBILITY REQUIREMENTS**

- 110 COMPLAINTS OR CHALLENGES PROCEDURES**
- 111 STATE ATHLETIC COMMISSION: ATHLETICS APPEALS PANEL**
- 112 ALL-STAR CONTESTS**
- 113 MEMBER SCHOOL AND LEA REGULATIONS AND POLICIES**
- 199 DEFINITIONS**

**100 GENERAL PROVISIONS**

- 100.1 The purpose of this chapter is to establish standards, procedures and requirements for the following:
  - (a) The operation and governance of the District of Columbia State Athletics Commission (DCSAC);
  - (b) The operation of the District of Columbia State Athletic Association (DCSAA);
  - (c) The operation of the DCSAA Athletic Appeals Panel; and
  - (d) Student eligibility and participation in interscholastic athletic programs and competitions.

**101 STATE ATHLETIC ASSOCIATION: DUTIES**

- 101.1 The DCSAA shall interpret, enforce, and implement the provisions set forth in the Act, this chapter and the DCSAA Handbook.
- 101.2 The DCSAA shall update and publish the DCSAA Handbook annually, including an update of all approved sports and/or activities.
- 101.3 The DCSAA shall establish policies addressing probationary actions based on determinations of ineligibility in accordance with this chapter. The member school shall provide copies of their athletic policies and guidelines to DCSAA no later than August 1 of each school year.
- 101.4 The DCSAA may challenge the members school’s eligibility determination in accordance with § 111.
- 101.5 The DCSAA may request any documentation maintained by a member school and/or Local Education Agency (LEA) to verify a member school’s compliance with the Act, this chapter and the DCSAA Handbook.

**102 MEMBER SCHOOLS**

- 102.1 Each District of Columbia Public School with an interscholastic athletics program serving grades 9 to 12 shall be a member of the DCSAA.

- 102.2 Any secondary school located within the boundaries of the District of Columbia containing grades 9 through 12, or any grouping of some or all of such grade levels including nonpublic, private, public and public charter schools, may voluntarily become a member school of the DCSAA.
- 102.3 Each member school shall:
- (a) Be subject to the DCSAA membership standards as set forth in this chapter and in the DCSAA Handbook;
  - (b) Ensure that students with disabilities consistently have appropriate opportunities to participate in extracurricular athletic activities;
  - (c) Provide, to the DCSAA, a copy of their fall, winter, and spring sports schedules for interscholastic competition. Schedules are due by the date designated, pursuant to the DCSAA Handbook, at the beginning of each season;
  - (d) Ensure that all sports and activities offered by the school are covered by an insurance policy;
  - (e) Ensure that students provide written authorization to participate for each team that he or she wishes to participate on, and that the authorization contains the signature of a parent, legal guardian, or adult student;
  - (f) Prior to the first official contest of each sport, establish and maintain a record of a student's eligibility for each school year of a student's participation on a junior varsity or varsity team for the duration of the student's enrollment in the school, unless otherwise provided for in federal or local law; and
  - (g) By July 1 of each year preceding the next school year, submit a membership application and declaration form, in the manner provided by DCSAA, that includes:
    - (1) Affirmation of membership;
    - (2) Agreement to comply with the Act, this chapter, and the Handbook; and
    - (3) Declaration of the sports in which they will compete for any District of Columbia State Championships.
      - (A) A school that previously withdrew from DCSAA membership in a sport and wishes to declare as a member

school for that sport for the next season must comply with member school re-entry requirements as established in the DCSAA Handbook.

- 102.4 Each member school shall ensure all coaches, officials, and other personnel, including covered volunteers engaged with students participating in interscholastic athletic programs at a member school biannually obtain any required background check and, if appropriate for their position and role, demonstrate expertise with regard to a respective sport, applicable rules, safety, and first aid standards. Officials shall submit background clearances directly to DCSAA and coaches shall submit background clearances to their member school.
- 102.5 All high school coaches coaching interscholastic athletics in a DCSAA-approved sport at a DCSAA member school shall meet the coaching certification requirements set forth in the DCSAA handbook, and officiants at DCSAA-approved competitions shall meet the certification requirements set forth in the DCSAA handbook. Certifications are good for two (2) years from the date of issuance and shall be submitted to the member school.
- 102.6 A member school shall not exclude a student from participation in interscholastic athletics, deny the benefits of, treat differently from other students, or otherwise unlawfully discriminate against based on, 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, status as a victim of an intra-family offense, or place of residence or business.
- 102.7 A member school shall limit a high school varsity team to eligible students enrolled in that member school in grades nine (9), ten (10), eleven (11), and twelve (12), except as provided in § 106.
- 102.8 A member school shall limit a high school junior varsity team to eligible students enrolled in that high school in grades nine (9), ten (10), and eleven (11), except as provided in § 106.
- 102.9 Notwithstanding § 102.6, a member school may operate a separate sports team for members of each sex, provided that the selection for such team is based upon competitive skill or the activity involved is a contact sport, as described in the DCSAA Handbook.
- 102.10 Notwithstanding § 102.6, a member school may operate a sports team for members of a single sex, so long as the member school operates a sports team for an underrepresented sex when there is sufficient interest to maintain a team. In the event there is insufficient interest, the member shall allow members of the underrepresented sex to try out for existing teams and qualify based on appropriate skill level, safety, and other standards for participation on such team.

- 102.11 LEAs or member schools that receive federal funding and maintain athletic programs in the District shall designate at least one (1) employee for purposes of athletics to coordinate with the LEAs' or member schools Title IX (20 USC §§ 1681 – 1688) coordinator, to ensure that the requirements of Title IX are met regarding athletics.
- 102.12 Representatives of member schools, including school administrators, coaches, players, school approved volunteers, and boosters, shall not engage in any activity seeking to influence a student to transfer from one (1) member school to another for the purpose of participating in interscholastic athletics.
- 102.13 It shall not constitute a violation of § 102.6 to exclude a student if the student lacks medical clearance to participate under § 104.7 if the coaches and/or trainers reasonably believe that the student's participation in the sport would be unreasonably dangerous to the student; if the exclusion is based on skill or fitness relevant to the activity rather than a disability; or if the student suffers an injury or illness precluding participation following the issuance of the medical approval specified under § 104.7. However, schools shall not preclude participation based on fear, such as when a student has asthma, allergies, diabetes, or epilepsy, if manifestation of such conditions can ordinarily be addressed successfully on the field.

### **103 MEMBER SCHOOL: CERTIFICATION OF ELIGIBILITY**

- 103.1 The LEA or member school shall make the initial determination of a student's eligibility to participate in interscholastic athletics and certify eligibility status for all enrolled and participating students as set forth in this section.
- 103.2 Before the first official contest for each team sport:
- (a) The LEA or member school shall determine the initial eligibility of the students participating in interscholastic athletics in accordance with this chapter; and submit a master eligibility roster by sport to the LEA and/or school athletic director, in a manner prescribed by its LEA and/or athletic director, so long as it does not conflict with the process established in these rules for submitting eligibility rosters to the DCSAA; and
  - (b) Each LEA and/or school athletic director shall submit each certification of eligibility roster by sport and by season to the DCSAA fourteen (14) days after the start of the official season for the sport but prior to the first official date of competition, in a form and manner established by this chapter and as interpreted in the DCSAA Handbook.
- 103.3 After the first official contest for each team sport:

- (a) The LEA and/or member school may submit a supplemental eligibility list to the LEA and/or school athletic director, in a manner prescribed by its LEA and/or athletic director, so long as it does not conflict with the process established in these rules for submitting supplemental eligibility rosters to the DCSAA;
- (b) The LEA and/or member school shall submit each supplemental eligibility list to the DCSAA no later than twenty-one (21) days after the first official contest; and
- (c) Students on a supplemental eligibility roster may not participate in an official contest without prior written approval of the member school's principal and athletic director.

103.4 A certification of eligibility roster shall contain the following information:

- (a) Full name of Eligible Athlete (Last, First, MI);
- (b) Address of Residence (Street, City, State);
- (c) Age and Date of Birth;
- (d) Date of First Entry into Ninth (9<sup>th</sup>) Grade (Month and Year);
- (e) Identify if the student is a transfer student and the name of the school from which the student transferred and the date of the transfer.

103.5 The information provided on an eligibility roster shall be considered "directory information" in accordance with 34 CFR § 99.31(a)(11). The member school shall provide this information to the DCSAA unless the parent(s) or the adult student has opted out of allowing directory information disclosure and refuses to sign a consent authorizing disclosure for this specific purpose.

103.6 If a member school is not authorized to disclose the above information on the eligibility roster, the applicable student shall not be certified as eligible to participate in a DCSAA approved sport or activity.

103.7 The DCSAA shall review the certified eligibility rosters to ensure compliance with the Act, this chapter, the DCSAA Handbook and membership standards.

103.8 The DCSAA may request that the member school provide supporting documentation to verify the certification including, the name of the parent or legal guardian of the student-athlete and contact information for the parent or legal guardian. The DCSAA may request additional information for circumstances including, the following: (1) if it determines that the information provided in the certification of eligibility roster is incomplete or (2) if it determines that the



information provided is inconsistent with information that the DCSAA has on file, and will provide the LEA and/or member school with a letter detailing information being requested and how the information relates to eligibility verification.

103.9 If the LEA or member school fails to provide the aforementioned documentation, the student shall not be certified as eligible to participate in DCSAA-approved sports or activities.

103.10 The DCSAA may challenge a student's eligibility pursuant to § 111.

#### **104 STUDENT ELIGIBILITY TO PARTICIPATE**

104.1 Requirements for students to be eligible to participate in interscholastic athletics at a member school shall be applied uniformly to all member schools and amongst all students participating or seeking to participate in interscholastic athletics at a member school.

104.2 Any information in regard to any aspect of student eligibility that is provided by the student, the parent(s), legal guardian, or the member school shall be accurate and complete.

104.3 In order to establish eligibility to participate in interscholastic athletics at a member school, a student shall:

(a) Meet the requirements set forth in this subsection regarding:

(1) Age, semester and grade level;

(2) Residency;

(3) Academics;

(4) Health and fitness; and

(5) Attendance; and

(b) Comply with any other eligibility requirements set forth in this chapter.

104.4 In order to be eligible to participate in a DCSAA-approved sport and/or activity, a student shall meet the following age, semester and grade level requirements:

(a) A student who turns nineteen (19) years old on or before August 1 shall not be eligible to participate in interscholastic athletics in the upcoming school year;

- (b) A student shall be eligible to participate in regular season, playoff, or championship interscholastic athletic contests for no more than eight (8) semesters following initial enrollment in the ninth grade. Eligibility beyond eight (8) semesters requires a waiver approved by the DCSAA. Completion of a summer school program shall not be counted as a semester of attendance; and
- (c) The student shall not have graduated from high school, provided that an eligible student whose graduation exercises are held before the end of the school year may continue to participate in interscholastic athletics through the conclusion of the athletic season that began before graduation, or until the end of that school year, whichever comes later; and
- (d) A student who is repeating the twelfth 12<sup>th</sup> grade, or who seeks eligibility for a fifth (5<sup>th</sup>) year, and who requires two (2) or fewer courses to graduate, and has not attempted course or credit recovery, is prohibited from participating in interscholastic athletics or activities and must request a waiver in order to participate.

## 104.5

In order to be eligible to participate in interscholastic athletics at a member school, a student shall meet the following residency requirements:

- (a) If the student is attending a District of Columbia public school or District of Columbia public charter school, or other school or educational program with funding provided by the District of Columbia, free of charge, the student shall establish *bona fide* residency in the District of Columbia pursuant to the requirements set forth in Chapter 50 of Subtitle 5-A in the DCMR (5-A DCMR §§ 5000 *et seq.*) unless the student is a valid non-resident current on tuition payments owed; or
- (b) If the student is a non-resident, the non-resident student is either:
  - (1) Validly enrolled in a District of Columbia public school, District of Columbia public charter school, or other school or educational program with funding provided by the District of Columbia consistent with the requirements set forth in Chapter 50 of Subtitle 5-A of the DCMR (5-A DCMR §§ 5000 *et seq.*) and has paid or is current in payment of his or her nonresident tuition fee; or
  - (2) Enrolled in a private, independent or parochial member school.
- (c) If the student is a resident of the District of Columbia and is home schooled, under the conditions set forth at § 106.4. Residency in the District of Columbia must be established through the same criteria as employed by the Office of the State Superintendent of Education (OSSE), currently set forth at 5-A DCMR §§ 5000 *et seq.*, and the member school

is in charge of verifying the District residency of a home-schooled student who seeks to participate on its team.

- 104.6 Each member school and/or LEA shall establish standards which assure that students involved in interscholastic athletics are making satisfactory progress towards graduation. In order to be eligible for participation in interscholastic athletic contests and activities a student must pursue a regular course of study, or its equivalent as approved by the member school and/or LEA, and shall maintain a 2.0 grade point average (GPA), or its equivalent as officially calculated by the member school and/or LEA grading scale, per marking period. For those member schools which do not calculate a GPA, such member school shall submit a certification to the DCSAA, in a manner established by the DCSAA, stating that the school does not calculate GPAs and that all students participating in a DCSAA-approved sport have a minimum equivalence of a 2.0 GPA and are in good academic standing as consistent with this chapter.
- 104.7 In order to be eligible to participate in a DCSAA-approved sport and/or activity, a student shall provide a current medical certification, to the student's member school and/or LEA, confirming that the student has been examined by a licensed physician, or other qualified medical practitioner, and is physically fit to participate in try-outs, practices, and contests for the sport in which the student seeks to participate.
- 104.8 In order to be eligible to participate in a DCSAA-approved sport and/or activity, a student shall maintain compliance with state attendance regulations and shall maintain eighty-five percent (85%) attendance per marking period in order to maintain eligibility and any additional attendance requirements established by the student's LEA and/or member school. Additionally, a student must be in attendance at school for the full day during the regularly scheduled school day in order to participate in any try-out, practice, or contest, which is scheduled on that day, unless the student has an excused absence.
- 104.9 In order to maintain eligibility to participate in interscholastic athletics at a member school, a student shall maintain compliance with the requirements set forth in § 104.3 to establish eligibility and:
- (a) Participate only under the name by which he or she is registered in the school he or she is enrolled;
  - (b) Represent only one (1) school in the same sport during a school year;
  - (c) Not participate in junior varsity competition if the student participated in varsity competition in the same sport during the same school year;
  - (d) Not participate in the same individual or team sport outside of school, or with a team, an organized league, tournament meet, match or contest

between the first (1<sup>st</sup>) and last scheduled contest of the school team during the season of the sport; provided, that a student who is selected to represent the United States in international amateur competition shall not become ineligible in school competitions for participating in qualifying trials. The following sports shall be exempted from the restrictions of this requirement: Baseball; Bowling; Competitive Cheer; Crew; Cross Country; Field Hockey; Golf; Gymnastics; Lacrosse; Rugby; Soccer; Softball; Squash; Swimming; Tennis; Track & Field; Ultimate Frisbee; Volleyball; and Wrestling; and

- (e) Preserve amateur standing by engaging in sports only for the physical, educational, and social benefits derived from sports and by not accepting, directly or indirectly, a remuneration, gift, or donation based on his or her participation in a sport other than those approved or waived by the DCSAA.

104.10 Notwithstanding the provisions in §§ 104.3 to 104.9, a student that is granted a hardship waiver by the DCSAA shall be eligible to participate in interscholastic athletics at a member school.

**105 STUDENT ELIGIBILITY TO PARTICIPATE: INTERNATIONAL STUDENT**

105.1 An international student participating in a foreign exchange program shall be considered immediately eligible for a maximum period of one (1) calendar school year if the student:

- (a) Has not completed the country of origin's secondary school program;
- (b) Meets all other eligibility requirements of this section;
- (c) Has been randomly assigned to his or her host parents and school and neither the school the student attends nor any person associated with the school has had input in the selection of the student and no member of the school's coaching staff, paid or voluntary, serves as the resident family of the student;
- (d) Possesses a current J-1 visa issued by the U.S. State Department; and
- (e) Is attending school under a foreign exchange program on the current Advisory List of International Educational Travel and Exchange Programs published by the Council on Standards for International Education Travel and such program assigns students to schools by a method which ensures that no student, school, or other interested party may influence the assignment.

105.2 An international student not participating in a foreign exchange program shall be treated as all other students who transfer schools.

**106 STUDENT ELIGIBILITY TO PARTICIPATE: DESIRED SPORT AT OTHER SCHOOL**

106.1 Students in grade nine (9), ten (10), eleven (11), or twelve (12) attending a member school in which a desired sport is not offered (school of enrollment), may request authorization to participate from the athletic director at any member school offering the desired sport (school of choice). If the student athlete participates pursuant to this rule, the student and/or school of choice must notify the DCSAA.

106.2 The student's school of enrollment will serve as their primary school for athletic participation. If a student wishes to participate in one or more sports that their school of enrollment does not offer, the student must participate in those sports at the same school of choice if all of the sports are offered there. If all of the sports in which the student desires to participate are not offered at the school of choice, the student may participate in those sports at another school of choice.

106.3 Students who are not enrolled in a member school but home schooled pursuant to 5-A DCMR §§ 5200 *et seq.* may participate in interscholastic athletics at a member school if:

- (a) The principal and the athletic director of the member school provides the student with written authorization to participate in the desired sport; and
- (b) The student requests and is granted a waiver of student eligibility requirements as set forth in this chapter.

106.4 Students under this section seeking to participate at another school may only participate if it is allowed in the written policy of the member school in which the student seeks to participate, and the student meets the eligibility requirements of the DCSAA and/or member school. A member school may require actual costs associated with a student's participation and the sending school may be required to provide funding for the costs.

**107 STUDENT ELIGIBILITY TO PARTICIPATE: TRANSFERS**

107.1 A student who transfers enrollment from any school, including a member school, to any member school in grades nine (9), ten (10), eleven (11), or twelve (12) is ineligible to participate in interscholastic athletics unless he or she meets one (1) of the following exceptions:

- (a) A student in grade nine (9) may transfer one (1) time during that school year without loss of eligibility. They shall be eligible immediately upon

registration provided they meet all other DCSAA eligibility requirements. However, a student shall not participate in a contest at the varsity level for two different schools in the same sport during the same school year. A student is considered a ninth (9<sup>th</sup>) grader until the first day of school of their tenth (10<sup>th</sup>) grade year;

- (b) A student attending a member school has a valid change of address, as defined in this chapter;
- (c) The transfer is caused by court action, court action being an order from a court of law affecting legally committed students. In the case of a transfer of guardianship or custody, the transfer shall be the result of a court order signed by a judge, commissioner, or master of a court of competent jurisdiction. A petition for the transfer of guardianship or custody, an affidavit, or a notarized statement signed by the affected parties shall not be sufficient to render the student eligible to participate in interscholastic athletics. For purposes of eligibility, a child placed within Child and Family Services Agency (CFSA) custody is eligible to participate in interscholastic athletics immediately at the school they attend;
- (d) A student who registers on the basis of a petition for the transfer of guardianship is not eligible to compete until the custodial legal guardian has provided the aforementioned required documentation or has received a signed court order designating them as the student's custodial legal guardian.
- (e) If the student is in their second, third or fourth year of eligibility and the transfer is a result of a seat opening in the receiving school if the student had previously applied to the school and had been rejected due to a lack of capacity or a result of admission via the DC school based lottery. For this exception to apply, the receiving school shall have appropriate documentation including: a dated and school stamped student application from a previous school year; a letter in response to the application notifying the student that they were not accepted; and a letter dated after the start of the school year offering the student a seat in the receiving school or a notification of admission from the lottery school.
- (f) Transfer because of promotion or administrative assignment to the ninth (9<sup>th</sup>) grade from a school whose terminal point is the eighth (8<sup>th</sup>) grade, or to the tenth (10<sup>th</sup>) grade from a junior high school whose terminal point is the ninth (9<sup>th</sup>) grade, shall not constitute a transfer. Students so promoted or administratively assigned shall be eligible.
- (g) The sending school dropping their entire athletic program. Dropping their athletic program is defined as the school discontinuing all of their interscholastic athletics sports programs;

- (h) The closure of the sending school;
- (i) The sending school discontinuing a single sport that the student sought to participate in at the varsity level;
- (j) The student has special needs, as identified by the Individualized Education Program (IEP) or Section 504 Plan, and is transferred to another public school for the delivery of a free appropriate public education;
- (k) A transfer is the result of the student's being homeless as defined by OSSE, except if the student's homeless status is shown to have been created by the student or his/her family for the primary reason of eligibility in interscholastic athletics;
- (l) The transfer is a result of a student exercising transfer options (*i.e.*, persistently dangerous schools (5-E DCMR § 3805) or victim of a violent crime (5-E DCMR § 3809)) as allowed by D.C. law;
- (m) The student is a qualified foreign exchange student under § 105.1 or an international student residing in the District with his or her parent(s); or
- (n) A student who has not previously participated in the sport for which they are interested in competing; who is released by a proper school authority from a sending school, and has completed the registration process at the receiving school shall be eligible, provided they meet all other DCSAA eligibility requirements. The receiving school shall submit, to the DCSAA, an electronic or signed statement from the athletic director of the sending school that states the student did not participate in the specific sport the preceding year in which they wish to participate.

107.2 The student-athlete may submit, to the DCSAA, a Student-Athlete Transfer release form which shall be signed by the parent, the athletic director and principal of the sending school and the athletic director and principal of the receiving school stating that the transfer is for non-athletic purposes.

## **108 STUDENT INELIGIBILITY TO PARTICIPATE**

108.1 A student who is ineligible to participate in interscholastic athletics is prohibited from playing with a DCSAA member school team during the period of such ineligibility. The student shall, however, be permitted to practice with the teams of the school in which the student is properly enrolled or, where the student's school of enrollment does not offer the desired sport, the teams of the school for which the student has secured permission to play.

- 108.2 A student who participates in interscholastic athletics and is found ineligible to participate is prohibited for one (1) calendar year from the date of the finding of ineligibility, except for academic and attendance-based ineligibility for which eligibility can be regained immediately upon satisfaction of the requirements. Additionally, in order to be considered for eligibility when the calendar year has passed, the student shall show that all of the eligibility requirements are satisfied.
- 108.3 The period of ineligibility for students that transfer absent an exception shall be one (1) calendar year commencing with the first (1st) day of official attendance in the receiving school.
- 108.4 A student who is ineligible to participate in interscholastic athletics at the time of transfer from one (1) school to another, for any reason other than failing to meet the requirements of this chapter, shall not be considered for eligibility at the receiving school until one (1) full calendar year has passed from the date it was determined that the student was ineligible.
- 108.5 Any member school carrying an ineligible student as a member of the team shall forfeit each contest played by such student.
- 108.6 If any forfeiture creates a tie among teams participating in a DCSAA tournament and/or championship contest, a coin toss as mutually agreed by the member school ADs shall determine the requisite order.
- 108.7 A member school including, without limitation, a coach, trainer, or volunteer assisting in athletics, who knows, or should have known, that an ineligible student is participating or has participated in an interscholastic athletic program or contest, shall be subject to probation, suspension, or disqualification from participating in any DCSAA-approved sport or activity.
- 108.8 If a member school, LEA, or the DCSAA takes any action pursuant to § 108.7, the member school or LEA shall electronically submit the action to the DCSAC for review by the DCSAC Athletic Appeals Panel (AAP) no later than five (5) calendar days after the date of such action. The DCSAC AAP within five (5) calendar days will conduct a review and determine if the violation merits any additional probation, suspension or disqualification from any DCSAA-approved sport or activity. Any additional action taken by the DCSAC AAP will be issued via a written decision.

## **109 WAIVER OF STUDENT ELIGIBILITY REQUIREMENTS**

- 109.1 The DCSAA may grant a student a waiver of any of the student eligibility requirements set forth in this chapter, subject to the following:
- (a) A request for a waiver due to hardship, as defined in this chapter, shall include supporting documentation; and



- (b) A request for a waiver of the age requirement in § 104.4 shall only be considered for participation in non-contact or non-collision sports.

109.2 Waiver requests should be filed promptly when it becomes apparent to the student-athlete, principal, and head of school or other affected party that a waiver will be required. When a member school and/or LEA receives a request for waiver from a student, the member school and/or LEA must forward that request for waiver to the DCSAA for decision, regardless of whether the member school and/or LEA supports the request for waiver. If the waiver request is submitted by the member school and/or LEA to the DCSAA on behalf of a student, it must be submitted within five (5) school days of receipt of the request for waiver by the school. When the member school and/or LEA submits the request for waiver to the DCSAA on behalf of the student, the athletic director of a member school and/or LEA may include any additional information they are authorized to release that is relevant to the request for waiver. If the student submits a completed request for waiver directly to DCSAA, the DCSAA shall notify the member school and/or LEA of the waiver submission within two (2) school days of receipt of the request for waiver. If the student submits the request for waiver directly to the DCAA, the member school and/or LEA may include any additional information they are authorized to release that is relevant to the request for waiver within five (5) days of being notified by the DCSAA that a request for waiver has been submitted.

109.3 In order to request a waiver, the student or a member school and/or LEA on behalf of the student, shall submit a completed waiver request to the DCSAA. Waiver requests shall include the following:

- (a) The student's name, date of birth, school, grade, parent/legal guardian name, address, telephone number, and email address;
- (b) A complete list of interscholastic sports the student played on school teams, including the level of competition (*e.g.*, junior varsity or varsity);
- (c) Identification of the sport(s) for which the student is seeking a waiver to play;
- (d) Identification of the section and paragraph of this chapter that the student wishes the DCSAA to waive;
- (e) A statement of the student's reason for requesting the DCSAA to waive an athletic rule, including an explanation of the situation, the reason for the request, and supporting documentation;

- (f) Official transcripts from the ninth (9<sup>th</sup>) grade through the current school year, medical records (if applicable), and Individualized Education Plans (IEP) (if applicable);
- (g) Signature of the student's parent or legal guardian if the student is under eighteen (18) years of age, or of the student if the student is 18 years of age or older; and
- (h) Any additional supporting documentation such as letters of support from the school administration, athletic director, LEA, etc.

109.4 When a request for waiver is submitted from the member school to DCSAA, and the DCSAA has confirmed receipt, the DCSAA shall issue a written decision to grant or deny a request for a waiver within five (5) school days. When a request for waiver is submitted from a student athlete to the DCSAA, the DCSAA shall issue a written decision to grant or deny the request for waiver within five (5) days of the date by which the member school may submit additional information.

109.5 The DCSAA may request further supporting documentation necessary to make a determination to grant or deny the waiver request pursuant to §103.9. If the DCSAA requests additional supporting documentation, the request for the documentation shall state a date by which the additional documentation must be submitted.

109.6 Failure to provide all required documentation to the DCSAA, within the timeframe provided in writing by the DCSAA, may result in an unfavorable inference or decision for the party that fails to provide the required information.

109.7 The DCSAA decision to grant or deny a request for a waiver may be appealed to the DCSAC AAP in the manner set forth in § 111.

109.8 If a decision is not appealed to the DCSAC AAP within five (5) business days, the decision to deny or grant a request for a waiver shall be final. If a student's circumstances have altered, the student shall submit a new waiver request.

## **110 COMPLAINTS OR CHALLENGES PROCEDURES**

110.1 The DCSAA, on its own motion, or upon receipt of a complaint or challenge submitted in accordance with this section, may investigate conduct that would constitute a violation of the requirements of this chapter. The DCSAA shall hear and decide complaints or challenges:

- (a) Related to its membership standards;
- (b) Arising under the DCSAA handbook including sections that pertain to school membership, member school staff conduct, member school staff

responsibilities, duties, and requirements, conduct of practices, scrimmages, and contests, health safety and wellness, DCSAA policies, and penalties; or

- (c) Related to participant eligibility arising between a DCPS and non-DCPS member school participating in a DCSAA-approved competition or arising between a member school and non-member school participating in a DCSAA-approved competition.

110.2 Any complaints or challenges shall be submitted to the DCSAA as follows:

- (a) A complaint or challenge shall be presented in writing and signed by the submitting party and mailed, hand delivered, or sent electronically to the DCSAA; and
- (b) The complaint or challenge shall include any necessary supporting documentation.

110.3 Once the written complaint or challenge is submitted to DCSAA, the DCSAA shall:

- (a) Confirm receipt of the complaint or challenge;
- (b) Inform the member school and/or LEA of the complaint or challenge; and
- (c) Provide the member school with the opportunity to respond, in writing, to the complaint or challenge within five (5) school days of the date on which the DCSAA notification of complaint was received by the member school pursuant to § 110.3(b).

110.4 The DCSAA may request further supporting documentation necessary to make findings or issue a decision regarding a complaint or challenge. If the DCSAA requests additional supporting documentation, the request for the documentation shall state a date by which the additional documentation must be submitted. Parties shall comply with DCSAA requests for information related to the allegations in the complaint or challenge.

110.5 Failure to provide all required documentation to the DCSAA may result in an unfavorable decision for the party that fails to provide the required information.

110.6 The DCSAA shall issue written findings and/or a decision regarding the complaint or challenge within ten (10) school days of the DCSAA receiving the report described in § 110.3.

110.7 If an eligibility question arises that requires a review of a member school or LEA's eligibility determination, the DCSAA may request to review the

documents that were used by the member school or LEA to determine eligibility subject to relevant federal and local student privacy laws, regulations, and policies. The DCSAA will request, through a member school and/or LEA, from a parent, legal guardian, or the adult student, to sign a consent form, for release of information authorizing the release of eligibility files. Such DCSAA requests will include the reasons supporting the request and will specify the record or records needed for review. Failure to provide consent upon written request from the DCSAA will result in the student whose eligibility is being questioned to be deemed ineligible to participate in any official contest of an approved DCSAA sport or activity.

110.8 The DCSAA's decision may be appealed to the DCSAC AAP in the manner set forth in § 111. Failure of the DCSAA to adhere to the procedures for processing a complaint may be submitted to the DCSAC AAP for remedy. If a decision is not appealed to the DCSAC AAP within five (5) business days, the DCSAA decision shall be final.

## **111 STATE ATHLETIC COMMISSION: ATHLETICS APPEALS PANEL**

111.1 The DCSAC shall establish Athletics Appeals Panels (AAP) to hear appeals of:

- (a) LEA decisions related to student eligibility; and
- (b) Final written decisions of the DCSAA.

111.2 The Chairperson of the DCSAC shall appoint a separate AAP for each matter brought before the DCSAC.

111.3 The Chairperson of the DCSAC shall maintain the integrity of the appeal process.

111.4 Any Commissioner of the DCSAC who may be directly affected or whose member school or LEA may be directly affected by a potential decision related to an appeal shall disclose the conflict of interest, recuse himself or herself from consideration of the matter and shall not be appointed to an appeals panel for that matter.

111.5 In order to request an appeal of the decision of an LEA or the DCSAA, a party shall submit written notice of appeal to the Chairperson.

111.6 The Chairperson shall appoint the three voting members AAP and the assigned AAP within three (3) school days of receipt of a request for an appeal. The AAP shall schedule a hearing to occur within seven (7) calendar days of the appointment of the members of the AAP, where all parties shall be provided with the opportunity to present facts and all relevant arguments. The AAP shall notify the parties of the date, time, and location of the hearing. If a party is unable to be

present on the date and time selected by the AAP, the party may request a continuance of the hearing.

111.7 The DCSAC AAP shall issue a written decision within five (5) school days of the hearing affirming or denying the decision of an LEA or the DCSAA.

111.8 An AAP shall be conducted as follows:

- (a) An athletic appeals panel shall hear all issues relating to an appeal *de novo*, except that the evidence before the panel shall be limited to the record made before the LEA or the DCSAA unless a party seeks to introduce relevant evidence that, in the exercise of reasonable diligence, it could not have produced during the initial hearing on the complaint or that was improperly excluded from the initial hearing on the complaint;
- (b) The presence of all members of the AAP is required in order for the hearing to take place. If all members of the AAP are not present, the hearing shall be postponed until a time when all members of the AAP are able to be present;
- (c) All testimony given before the AAP shall be under oath or affirmation;
- (d) All persons at the AAP shall maintain decorum and good order at all times, and the AAP may exclude, or have removed, from the hearing any person deemed to be disruptive to the hearing process;
- (e) If a party who requested an appeal does not appear for the hearing, and a continuance was not requested pursuant to § 111.6 was not granted, the AAP may proceed to act, and render a decision, based on the evidence before it;
- (f) All hearings shall be recorded and the DCSAA shall compile a complete record of all evidence presented during the course of the hearing; and
- (g) The DCSAA shall make a transcript of a hearing upon the request of a party, and if the DCSAA does not make a transcript of the hearing, it shall maintain an electronic copy of the hearing as part of the record.

111.9 The decision of the Commission shall be final. The party may appeal the Commission's final decision to the D.C. Superior Court, pursuant to D.C. Official Code § 11-921. Appeals must be received by the Clerk of the Superior Court no later than thirty (30) days after the date of the final decision.

111.10 A student whose eligibility is in question may play in DCSAA-approved interscholastic athletic competition during the appeal process. If the AAP finds

against the student, the DCSAA may issue penalties against the member school and/or student, retroactively and for future events.

- 111.11 In the event a member requires forfeiture of a contest already played, the AAP shall review the decision affirming or denying the forfeiture and shall provide the results of its findings and recommendations to the member school not later than five (5) school days after the date the matter is initially reported to the DCSAA.

## **112 ALL-STAR CONTESTS**

- 112.1 A student who participates in a team sport may participate in an “all-star” competition for the sport that occurs outside the interscholastic season of the sport without jeopardy to his or her eligibility if:

- (a) The all-star competition is an activity approved by the DCSAA or another National Federation of State High School Association (“NFHS”) member;
- (b) All participants in the all-star competition are graduating seniors or students completing their athletic eligibility at the end of the school year or they have received a waiver from DCSAA to participate;
- (c) The student has played in no more than one (1) other all-star competition in his or her sport; or
- (d) The all-star competition occurs after the student has participated in his or her final contest for his or her school.

- 112.2 A student athlete who fails to comply with § 112.1 may be subject to a penalty that may result in the loss of athletic eligibility for the balance of the school year or for the next season in the sport in which the student participated in the all-star competition.

## **113 MEMBER SCHOOL AND LEA REGULATIONS AND POLICIES**

- 113.1 Member school and/or LEA regulations or policies shall not be in conflict with this chapter or the DCSAA handbook. Member school and/or LEA standards shall meet the state minimum standards and requirements.

- 113.2 Member schools and/or LEA policies and procedures related to interscholastic athletics shall comply with the provisions of this chapter.

- 113.3 Upon request, member schools and/or LEAs shall provide the DCSAA with copies of their respective policies and procedures.

**199**            **DEFINITIONS**

199.1            When used in this chapter, the following terms shall have the meanings ascribed:

**Adult Student** - A student who is eighteen (18) years of age or older, or who has been emancipated from parental control by marriage, operation of statute, or the order of a court of competent jurisdiction.

**Amateur Standing** - eligibility status for a student athlete who is a nonprofessional and not receiving profit from their participation in athletic activities

**Athletic Appeals Panel (AAP)** - A review panel composed of three (3) voting members of the District of Columbia State Athletics Commission.

**Athletic Director (“AD”)** – A person who holds the position of athletic director or a person or entity that performs the functions of an athletic director.

**Athletic League** – Includes the District of Columbia Interscholastic Athletic Association or its successor, the Public Charter School Athletic Association or its successor, and any other collaborative of LEA’s or schools for the purpose of which is to organize interscholastic athletic competitions against other members of the collaborative.

**Commission** – the District of Columbia State Athletics Commission (DCSAC).

**Day** – One (1) calendar day, unless otherwise stated.

**DCPS** - means the District of Columbia Public Schools.

**DCSAA** - means the District of Columbia State Athletic Association.

**DCSAA-approved sport or activity** - a sport in which DCSAA hosts a state championship and/or is governed by the National Federation of State High School Association rules.

**DCSAA Handbook** –an annual publication containing playing rules, codes of conduct, sanctions and guidelines for each DCSAA-sanctioned sport, consistent with this chapter, the District of Columbia State Athletics Consolidation Act of 2016, effective April 7, 2017 (D.C. Law 21-263; D.C. Official Code §§ 38-2661.01 *et seq.*), and the National Federation of State High School Associations’ Rules Books.

**DCSAA-approved competition** - an interscholastic athletic event or program governed by DCSAA membership standards.

**Enroll and Enrollment** -- A process through which a student obtains admission to a public or public charter school that includes, at a minimum the following stages:

- (a) Application by student to attend the school;
- (b) Acceptance and notification of an available slot to the student by the school;
- (c) Acceptance of the offered slot by the student (signified by completion of enrollment forms and parent signature on a “letter of enrollment agreement form”);
- (d) Registration of the student in the Student Information System (SIS) by school upon receipt of required enrollment forms and letter of enrollment agreement; and
- (e) Receipt of educational services, which are deemed to begin on the first official school day.

**First year of eligibility** – The school year a student first enters ninth (9<sup>th</sup>) grade for the first (1<sup>st</sup>) time.

**Hardship** - A hardship is defined as an unforeseeable, unavoidable, and uncorrectable act, condition or event, which causes the imposition of a severe and non-athletic burden upon the student or his/her family.

**Interscholastic Athletics Program** - all athletic activities or sports offered within a school, the purpose of which is to provide opportunities for students to compete with other students on like teams in other schools.

**Local Education Agency or LEA** – the District of Columbia Public Schools system or any individual or group of public charter schools operating under a single charter.

**Member School** - a public, public charter, parochial, or private school in the District that is a member of the DCSAA.

**Ninth Grade** - A student is considered to be in grade nine (9) upon the student’s promotion from the eighth (8<sup>th</sup>) grade to the ninth (9<sup>th</sup>) grade) on the last school day of the student’s eighth (8<sup>th</sup>) grade (8<sup>th</sup>) grade academic year. The ninth (9<sup>th</sup>) grade year is considered to be completed on the last day of summer vacation prior to the first day of the new academic (tenth (10<sup>th</sup>) grade) year.

**OSSE** – The District of Columbia’s Office of the Superintendent of State Education.

**Parent** – Consistent with the terms as defined in 5-A DCMR § 5099, the natural parent, stepparent, or parent by adoption who has custody or control of a student, including joint custody; a person who has been appointed legal



guardian of a student by a court of competent jurisdiction; or other primary caregiver as verified pursuant to 5-A DCMR § 5005.

**Participate** – Inclusion on the tryout roster or team roster as a member of a recognized school team to tryout or play in practices, contests, and competitions, or otherwise engaging in other activities as part of the team.

**Previous participation** – Prior participation in interscholastic athletics in grades nine (9) through twelve (12).

**Receiving school** - The school a student enrolls in, after leaving his or her previous school.

**Sending School** – A school that a student withdraws from, in order to attend a different school.

**Title IX** - Title IX is a portion of the Education Amendments of 1972, approved June 23, 1972 (Pub. L. No. 92318, 86 Stat. 235; 20 USC §§ 1681 - 1688).

**Transfer** - The student has withdrawn from a sending school and has enrolled in a receiving school.

**Valid Change of Residence** – when a student moves from the residence where the enrolling parent(s) lived with the student, and that has been vacated by the entire family for use as its residence, to a new residence with the enrolling parent(s).

**Week** – Seven (7) calendar days, unless otherwise stated.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA****NOTICE OF FINAL RULEMAKING<sup>1</sup>****Z.C. CASE NO. 18-07****Lean Development, LLC****(Zoning Map Amendment @ Square 750, Lots 128 and 156-158)****March 25, 2019**

The Zoning Commission for the District of Columbia (the “Commission”), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 (2018 Repl.)), and pursuant to § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206, as amended; D.C. Official Code § 2-505 (2013 Repl.)), hereby gives notice of its adoption of the following amendments to the Zoning Map:

- Rezone Lots 128 and 156-158 in Square 750 (the “Property”) from the PDR-1 zone to the MU-4 zone

**Procedures Leading to Adoption of the Amendment****Petition**

On May 22, 2018, Lean Development, LLC (the “Petitioner”) filed a petition requesting that the Commission under its rulemaking authority rezone:

- Portions of Lots 156-158 in Square 750 from the PDR-1 zone to the MU-4 zone; and
- All of Lot 128 and portions of Lots 156-158 in Square 750 from the PDR-1 zone to the MU-5A zone.

**The Property and Zoning**

The Property is the only portion of Square 750 zoned PDR-1.<sup>2</sup> The remaining lots in the Square – to the east and south of the Property and comprising almost 95% of the square – are zoned MU-5A. The lots to the west of the Property across 2<sup>nd</sup> Street, N.E. are zoned PDR-4, and to the north of the Property across K Street, N.E. are zoned PDR-3.

The Property’s PDR-1 zone is intended to permit moderate-density commercial and PDR activities employing a large workforce and requiring some heavy machinery under controls that minimize any adverse impacts on adjacent, more restrictive zones. (Subtitle J § 200.1 of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the “Zoning Regulations,” to which all references herein are made unless otherwise specified.) The PDR-1 zone

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<sup>1</sup> For Office of Zoning tracking purposes only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 18-07.

<sup>2</sup> As discussed in the OP Supplemental Report, as defined below, at the time this case was filed, the Zoning Map incorrectly included Lot 811 and part of Lot 812 in Square 750 in the PDR-1 zone. Pursuant to Z.C. Order No. 821, in Z.C. Case No. 95-4, the Commission had rezoned “Square 750 – all lots *except* Lots 808 through 810, and Lot 128” (p. 6, emphasis in the original) from the C-M-1 Zone District to the C-2-B Zone District (the current PDR-1 and MU-5A zones, respectively). Lots 808 through 810 were subsequently recorded as Lots 156 through 158, including portions of the closed alley between Lots 128 and 808 through 810, as recorded in Subdivision Book 197, Page 141 in the Office of the Surveyor. The Zoning Map has since been corrected.

has a maximum height of 50 feet and a maximum floor area ratio (“FAR”) of 3.5. The PDR-1 zone does not allow residential uses, except for an apartment for an on-site watchman, janitor, or caretaker; an artist’s live-work studio; or a residential dwelling existing prior to the adoption of the 1958 Zoning Regulations. (Subtitle U § 801.1(w).)

The proposed MU-4 zone is intended to permit moderate-density development and provide facilities for shopping and business needs, and housing and mixed-uses in low- and moderate-density residential areas outside the central core with access to main roadways or rapid transit stops. (Subtitle G § 400.3.) The MU-4 zone has a maximum height of 50 feet (65 feet for developments subject to Inclusionary Zoning (“IZ”)), and a maximum FAR of 2.5 (3.0 for IZ developments), of which no more than 1.5 FAR can be devoted to non-residential uses.

The proposed MU-5A zone is intended to permit medium-density compact mixed-use development and provide facilities for shopping and business needs, housing, and mixed-uses on arterial streets, in uptown and regional centers outside the central core, and at rapid transit stops. (Subtitle G § 400.4.) The MU-5A zone has a maximum height of 65 feet (70 feet for IZ developments) and a maximum FAR of 3.5 (4.2 for IZ developments), of which no more than 1.5 FAR can be devoted to non-residential uses.

Both the MU-4 and MU-5A zones allow residential uses as a matter of right, as well as a broad range of other uses including service, retail, and office.

#### Comprehensive Plan (“CP”) and Small Area Plan (“SAP”)

Square 750, including the Property, is designated on the General Policy Map (the “GPM”) of the Comprehensive Plan (Title 10A of the District of Columbia Municipal Regulations, the “CP”) as a Neighborhood Conservation Area, as primarily residential in character and in which existing land uses and community character are to be maintained, although with some redevelopment in which the appropriate density is guided by the designation of the CP’s Future Land Use Map (the “FLUM”). (CP §§ 223.4, 223.5.)

Although the CP’s FLUM has a specific designation for PDR within the Commercial Use category, the FLUM instead designates Square 750, including the Property, for Mixed Use: Moderate-Density Residential and Low-Density Commercial. The FLUM defines Moderate-Density Residential as incorporating both row houses and low-rise garden apartment complexes and identifies the R-3, R-4, and R-5-A zones (the current R-3, RF-1, and RA-1 zones), and in certain circumstances, the R-5-B zone (the current RA-2 zone), as appropriate for this designation, although other zones may apply. (CP § 225.4.) The FLUM defines Low-Density Commercial as incorporating retail, office, and service businesses in one- to three-story commercial buildings and identifies the C-1 Zone District and C-2-A Zone District (currently the MU-3 and MU-4 zones) as appropriate for this designation, although other zones may apply. (CP § 225.8.)

Square 750, including the Property, together with Square 749 immediately to the north across K Street, N.E., is designated in the NoMA Small Area Plan (the “SAP”) as appropriate for a mix of “residential/neighborhood-serving retail” of “Moderate to Medium Densities” – specifically the C-2-A and C-2-B Zone Districts (the current MU-4 and MU-5A zones, respectively). (SAP at 5.6

and 5.11.) The SAP designated Square 750 in the East NoMa Neighborhood that should serve as a “carefully designed transition between high and low buildings” given its location between the high-density developments to the west along the railroad tracks and the low-density residential neighborhoods of Capitol Hill to the east. The SAP, which was adopted by the Council in 2009, is not a part of the CP, but provides supplemental guidance to the CP’s FLUM and Elements (CP §§ 104.2, 104.8, and 226(d)), particularly because the CP’s Central Washington Area Element specifically calls for the implementation of the SAP. (CW-2.8A; CP §1618.14.)

### The Petition

The Petition proposed MU-4/MU-5A split zoning as not inconsistent with the CP based on an in-depth analysis of the applicability of the CP’s GPM, FLUM, and various Elements, as well as the SAP. The Petition noted that:

- The proposed MU-4/MU-5A split zoning was not a significant change in density or height from what is allowed under the current PDR-1 zoning, but does bring the Property into conformity with the residential uses that exist in most of Square 750 and that are called for by the FLUM;
- The proposed MU-4/MU-5A split zoning would be consistent with the SAP’s call for Square 750 to be the transition between the much taller and denser buildings to the north, west, and south, and the lower residential areas to the east; and
- The CP’s Land Use, Transportation, and Housing Elements call for mixed-use near Metro stations, with PDR-zoned land near Metro stations to be rezoned for non-industrial uses.

### Revised Petition

In response to the Commission’s request at its November 18, 2018 public hearing to consider other potential zones for the Property that would not be inconsistent with the CP, the Petitioner submitted a January 7, 2019 letter (the “Revised Petition”) that amended the Petition to request the rezoning of the entire Property to the MU-4 zone, instead of the initial request for MU-4/MU-5A split zoning. The Revised Petition analyzed eight potential zones for the Property for CP inconsistency and asserted that only two zones – the MU-4 and MU-5A – would not be inconsistent with the CP, particularly the FLUM. The Revised Petition rejected the MU-3B zone proposed by Advisory Neighborhood Commission (“ANC”) 6C, the “affected ANC” per Subtitle Z § 101.8, because the Revised Petition asserted that the low-density mixed-use of the MU-3B zone would be inconsistent with the FLUM’s designation of Square 750 for a mix of moderate-density residential and low-density commercial uses. (Exhibit [“Ex.”] 60.)

### Responses to Petition

#### DDOT Report

The District Department of Transportation (“DDOT”) submitted an October 29, 2018, report (the “DDOT Report”) that: (Ex. 44.)

- Analyzed the potential impact on the District’s transportation network if the Property was developed to the maximum potential under the proposed MU-4/MU-5A split zoning compared to the current PDR-1 zoning;

- Noted that the Property was approximately 0.3 miles from both the Union Station and NoMA-Gallaudet U Metro Stations;
- Noted that the residential uses only allowed in the proposed MU-4/MU-5A split zoning generate fewer transportation trips than the office uses only allowed in the PDR-1 zoning;
- Calculated that the maximum development potential of the Property would be slightly less or the same under the proposed MU-4/MU-5A split zoning compared to the current PDR-1 zoning;
- Calculated that the maximum development potential of the Property would generate fewer or the same transportation trips under the proposed MU-4/MU-5A split zoning compared to the current PDR-1 zoning;
- Noted that the most likely increase of transportation trips would be retail or restaurant uses allowed in both the proposed MU-4/MU-5A split zoning and the current PDR-1 zoning;
- Concluded that the proposed MU-4/MU-5A zoning “would likely not lead to an increase in the number of peak hour vehicle trips on the District’s transportation network if redeveloped” under the maximum intensity of matter-of-right uses under the proposed MU-4/MU-5A split zoning when compared to that allowed under the current PDR-1 zone.

The DDOT Report noted that any future development of the Property, whether under the proposed MU-4/MU-5A split zoning or the current PDR-1 zoning, would be reviewed by DDOT based on the specific permit application, with any relevant conditions based on the specific development application.

The DDOT Report therefore concluded that DDOT had no objection to the Petition.

#### OP Reports

The Office of Planning (“OP”) submitted three reports (collectively, the “OP Reports”):

- On July 20, 2018 (the “OP Setdown Report”); (Ex. 12.)
- On October 29, 2018 (the “OP Hearing Report”); and (Ex. 45.)
- On January 7, 2019 (the “OP Final Report”). (Ex. 62.)

The OP Setdown Report recommended the Commission set down the Petition for a public hearing, based on OP’s analysis that the Petition would not be inconsistent with the CP. The OP Setdown Report found that:

- The current PDR-1 zoning of the Property is inconsistent with the CP’s GPM, because the PDR-1 zone bars the residential uses currently in existence in the majority of the Neighborhood Conservation Area in which the Property is located;
- The current PDR-1 zoning of the Property is similarly inconsistent with the CP’s FLUM, which anticipated mixed residential and commercial uses;
- The Petition’s proposed MU-4/MU-5A zoning would not be inconsistent with the GPM and FLUM because it would allow the residential uses called for the Property in the GPM and FLUM that are not allowed in the current PDR-1 zone;
- The Petition’s proposed MU-4/MU-5A zoning would not be inconsistent with the FLUM because it would allow the low-density commercial uses called for the Property in the FLUM

but which do not currently exist in Square 750, and so the proposed MU-4/MU-5A zoning would be similar in this aspect to the current PDR-1 zone that also allows these low-density commercial uses;

- The context of the current MU-5A zoning for the remainder of Square 750, which is all currently developed with moderate density residential uses except for one five-story apartment building, as well as the developments to the north, west, and south of the Property that are taller and denser; and
- Both the CP's Central Washington Area Element applicable to the Property's NoMA neighborhood and the SAP called for the Property's neighborhood to serve as a transition from the high-density development east of the railroad tracks and the lower density residential neighborhoods to the east of the Property.

At the November 8, 2018 public hearing, OP testified that the Property's current PDR-1 zoning is clearly inconsistent with the CP and summarized the task of the Commission as follows:

“[T]he question is, [in order] to get [the Property] to be consistent with the Comprehensive Plan, what's the appropriate intensity for the new zoning that would permit residential on the site and commercial also?” (Public Hearing Transcript at 37.)

The OP Final Report addressed the concern the Commission raised at its July 30, 2019 public meeting, at which the Commission set down the Petition – namely, the potential incongruity between the existing moderate-density residential buildings and uses of the neighborhood and the higher density allowed under the proposed MU-4/MU-5A split zoning. OP recommended the Commission approve the Petition because its proposed MU-4/MU-5A rezoning would allow the residential uses not permitted under the current PDR-1 zoning but that are consistent with the neighborhood's current uses. The OP Final Report concluded that:

- The Property's current PDR-1 zoning is inconsistent with the FLUM's mixed-residential and commercial designation for the Property because it effectively bars residential uses;
- The proposed MU-4 and MU-5A zones would not be inconsistent with the FLUM as these zones allow residential and commercial uses; and
- The density and height allowed in these zones, which are not significantly different from that allowed under the current PDR-1 zone, would be appropriate with the vision of the CP and SAP of this area as a transition between the higher and denser development to the west bordering the railroad tracks and the lower residential development to the east in Capitol Hill.

The OP Final Report responded to the Commission's request at the public hearing to analyze alternative zones for the Property that would address the current inconsistency of the Property's PDR-1 zoning. The OP Final Report analyzed several zones to determine which would be more consistent with the CP's GPM and FLUM by allowing residential uses, while limiting the maximum height and density to more closely approximate the height and density of the existing buildings on Square 750. The OP Final Report:

- Recommended approval of the Revised Petition's proposed MU-4 zoning because that zone retained the mix of residential and commercial uses called for in the GPM and FLUM, but with

a lower maximum height and density than the MU-5A zone that covers the rest of Square 750 – so that the proposed MU-4 zone permitted a maximum height and density standards closer to the existing buildings on the rest of Square 750;

- Did not support the MU-3B zone proposed by the ANC because that zone is intended for low-density mixed-use development and is significantly less dense than the current MU-5A zoning of the rest of Square 750, including the new taller and denser building at Parker and 2<sup>nd</sup> Streets, N.E.; and
- Concluded that the MU-4 zone created a transition between the higher density development to the north, west, and south of Square 750 with the existing urban fabric of the rest of Square 750 to the east of the Property, which is zoned MU-5A.

### ANC Reports

ANC 6C filed three reports (collectively, the “ANC Reports”):

- A June 14, 2018, letter (the “ANC Setdown Report”); (Ex. 11.)
- A November 8, 2018, letter (the “ANC Hearing Report”); and (Ex. 54.)
- A January 7, 2019, letter (the “ANC Final Report”). (Ex. 61.)

The ANC Setdown Report took no position on the merits of the Petition but instead recommended that the Commission reject the Petitioner’s request to set down the Petition as a rulemaking case and instead set it down as a contested case. The ANC Setdown Report asserted that the Petition proposed to upzone the Property to permit additional height and density (for projects subject to Inclusionary Zoning) over the maximum allowed under the Property’s current PDR-1 zone and therefore required the Commission to consider “adjudicative” facts about a single property instead of “legislative” facts based on policy decisions. The ANC Setdown Report expressed a concern that the rulemaking process would provide less notice of the Commission’s review of the Petition than the contested case process, which require notice be mailed to the owners of all property within 200 feet of the Property in addition to the posting and *D.C. Register* publication of the notice that is all that is required for a rulemaking case.

The ANC Hearing Report agreed that the Property’s current PDR-1 zoning “made no sense,” and was inconsistent with the CP and existing residential uses of most of Square 750. Nevertheless, the ANC opposed the Petition’s proposed MU-4/MU-5A split zoning as antithetical to the CP’s GPM designation of Square 750 as a Neighborhood Conservation Area, which the ANC emphasized called for limited redevelopment with only minor changes in density. The ANC recognized that all of the rest of Square 750 was already zoned MU-5A, but argued that the existing buildings of the square, which were lower and less dense than the maximum allowed under their MU-5A zoning, were protected by the GPM. The ANC Hearing Report also cited a concern that the proposed rezoning would create adverse impacts on the local transportation network.

The ANC Final Report, recognizing that the Property’s current PDR-1 zoning was inconsistent with the CP and existing residential uses of most of Square 750, proposed that the Property be rezoned to the MU-3B zone, instead of the Petition’s proposed MU-4/MU-5A split zoning. The ANC recognized that the MU-3B zone, which is defined as a “low-density” zone (Subtitle G § 400.2) is also inconsistent with the CP’s FLUM that designates Square 750 for Mixed-Use

Moderate-Density Residential and Low-Density Commercial. The ANC particularly opposed the MU-5A zone that covered the rest of Square 750, believing that it allowed too much height in contrast to the existing building fabric. The ANC recognized that the MU-4 zone is a “moderate-density” zone but objected to some of the permitted uses in the MU-4 zone that are prohibited in the MU-3B zone. The ANC viewed such uses as incompatible with the existing uses of Square 750. The ANC Final Report also raised a concern that the closed portion of the alley that bisected the Property was subject to a 14-foot surface easement for truck travel, although the curb cut serving this access has been removed.

#### Other Responses

The Commission received letters in support of the Petition from neighbors and from the Capitol Hill Restoration Society, which noted the current incongruity of the Property’s PDR-1 zoning isolated in a square the vast majority of which is zoned MU-5A.

The Commission also received letters in opposition to the Petition as well as testimony at the public hearing. This opposition included a letter from multiple neighbors that focused on potential traffic congestion caused by potential residential development made possible under the Petition’s proposed MU-4/MU-5A split zoning. Opponents also raised the concern that the Petition’s proposed MU-4/MU-5A split zoning would increase the possible density to be built on the Property.

#### Decision

Subtitle X § 500.3, establishes the standards for the Commission’s approval of a proposed map amendment:

*In all cases, the Zoning Commission shall find that the amendment is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site.*

Based on the record in the case, the Commission concludes that the Property’s current PDR-1 zoning is inconsistent with the CP and other public policies because the PDR-1 zone is intended for production, distribution, and repair uses that are incompatible with the existing residential uses in Square 750 and because the PDR-1 zone also effectively prohibits residential uses, which is inconsistent with:

- The GPM’s Neighborhood Conservation Area designation of Square 750 (in which the Property is located) that calls for the preservation of the current residential uses that characterize Square 750;
- The FLUM’s designation of Square 750 for Mixed-Use Moderate-Density Residential and Low-Density Commercial uses (and not PDR uses);
- The SAP’s character development guidelines for Square 750 as a residential neighborhood with neighborhood-oriented retail;
- The current MU-5A zoning of almost 95% of Square 750, which allows for residential and mixed uses but not PDR uses; and
- The current residential and non-PDR uses of almost all of Square 750.



Therefore, the Commission concludes that the Property, as a matter of public policy, must be rezoned to resolve this inconsistency between the Property's current PDR-1 zoning and the CP's designation of the Property for primarily moderate-density residential uses with associated low-density commercial uses.

The Commission concludes that the MU-4 zoning proposed by the Revised Petition for the Property would not be inconsistent with the CP and other public policies including the SAP because the proposed MU-4 zoning would:

- Allow for moderate-density residential uses as called for in the GPM, FLUM, and SAP and that typifies the current uses of Square 750;
- Allow for low-density commercial uses associated with the primarily residential uses, up to a 1.5 FAR limit, as called for in the FLUM and SAP;
- Allow for a transition from the current higher-density mixed uses of the property to the north, west, and south of the Property to the current lower-density residential uses of the property to the east of the Property; and
- Be more consistent with the lower, less dense current residential uses that characterize the vast majority of Square 750 because the proposed MU-4 zoning would:
  - Decrease the maximum density allowed on the Property to 2.5 FAR (3.0 for IZ developments) from the maximum 3.5 FAR allowed under the current PDR-1 zoning; and
  - Retain the current 50-foot maximum height allowed under the current PDR-1 zoning, except for IZ developments that can rise to 65 feet tall.

The Commission considered the alternative potential zones for the Property as analyzed by the Applicant and OP, including the MU-3B zone proposed by ANC 6C, for consistency with the CP and other public policies and concludes that the only zones that would not be inconsistent with the CP and other public policies would be the MU-4 and MU-5A zones. Nonetheless, the Commission further concluded that the MU-4 zone is more appropriate given the current lower and less dense buildings of most of Square 750.

At its January 28, 2019 public hearing, the Commission voted to take **PROPOSED ACTION** to authorize a Notice of Proposed Rulemaking for the Revised Petition to zone all of the Property to the MU-4 zone.

**VOTE (Jan. 28, 2019):**      **4-0-1** (Michael G. Turnbull, Peter A. Shapiro, Anthony J. Hood, and Peter G. May to **APPROVE**; Robert E. Miller, not present, not voting).

**Notice of Proposed Rulemaking (“NOPR”)**

A Notice of Proposed Rulemaking was published in the *D.C. Register* on February 15, 2019 (66 DCR 2174).

### National Capital Planning Commission (“NCPC”)

The Commission referred the proposed map amendment to NCPC for the thirty- (30) day review period required by § 492 of the District Charter on January 30, 2019. NCPC did not submit a report in this case.

### NOPR Comments

In response to the NOPR, the Commission received only one comment – from Concerned Residents of Washington DC (“CROW”), a group of neighbors residing in the 200 block of K Street, N.E., that includes the Property. CROW’s comment opposed the Petition being considered as a rulemaking map amendment for three reasons:

- The Petition constitutes illegal spot zoning;
- The Petition should have been filed instead as a planned unit development (“PUD”); and
- The Petition should have been filed as a contested case map amendment, not a rulemaking.

The Commission rejects each of CROW’s assertions for the reasons stated below.

### Spot Zoning

The District of Columbia Court of Appeals has established that illegal spot zoning:

“... (1) must pertain to a single parcel or a limited area – ordinarily for the benefit of a particular property owner of specially interested part – **and** (2) must be inconsistent with the city’s comprehensive plan ...” (*Daro Realty, Inc. v. D.C. Zoning Comm’n*, 581 A.2d, 295, 299 (1990) (emphasis added).)

Although the Revised Petition covers a limited area and benefits a particular owner, it is not inconsistent with the Comprehensive Plan; therefore, it does not constitute spot zoning. The Court has affirmed that simply satisfying the first prong of the spot zoning test – the limited size of the parcel(s) proposed to be rezoned – is insufficient by itself to constitute illegal spot zoning. In several cases where this first prong was satisfied, the Court nonetheless upheld the proposed rezoning based on the Commission’s having concluded that the rezoning was not inconsistent with the CP and public policies and was not “wrenched” from the rezoned property’s surroundings. (*Daro*, 581 A.2d, at 299-302.)

In evaluating the Revised Petition’s proposed rezoning of the Property, the Commission considered evidence from the Applicant and OP that:

- The Property’s current PDR-1 zoning is inconsistent with the CP and other relevant public policies;
- The Property’s current PDR-1 zoning does not match the current MU-5A zoning for the rest of Square 750;
- The Revised Petition’s proposed MU-4 zoning would not be inconsistent with the CP and other relevant public policies; and
- The Revised Petition’s proposed MU-4 zoning would be more consistent with the current lower and less dense residences in most of Square 750 by decreasing the maximum density and

retaining the same maximum height (except for IZ developments) allowed under the current PDR-1 zoning.

Based on its consideration of this evidence, the Commission concluded that the proposed MU-4 zoning proposed by the Revised Petition was the appropriate public policy response to the current inconsistency between the PDR-1 zoning and CP. The Commission concluded that the proposed MU-4 zone balanced the various policies of the CP's maps and elements and the SAP to ensure the Property no longer was inconsistent with the CP. Having concluded that the MU-4 zoning furthered many of the CP's goals and was not inconsistent with the CP, the Commission found CROW's assertion that approving the Revised Petition constitutes illegal spot zoning unpersuasive because it failed the second prong of the spot zoning test.

#### PUD

The Commission found this assertion by CROW unpersuasive because it concluded that the Revised Petition complied with the requirements of a map amendment per Subtitle X § 500.3. Had the Petitioner chosen to file a PUD, the Commission would have evaluated that application, but that was not before the Commission in this case. The Commission disagrees with CROW's characterization of the Petition as "seeking flexibility" in "building controls" because the Petition addresses the policy question of the appropriate zoning district to be applied to the Property based on not being inconsistent with the CP, a policy mandate given to the Commission by the Zoning Act. A map amendment establishes the rules for property in the specific zone – it does not involve "flexibility" from the Zoning Regulations, which is instead key to an application for a PUD or Design Review, or for special exception or variance relief.

#### Contested Case Map Amendment

The Commission rejects CROW's assertion that the Revised Petition should have been considered under the contested case procedure because the Revised Petition raised broad questions of public policy in determining the appropriate zoning for the Property to resolve the inconsistency between the current PDR-1 zoning that effectively bars the residential uses that the CP and other public policies designate for the Property. The Commission therefore concluded that the Revised Petition required the Commission to determine "legislative facts," which the Court of Appeals has stated are "general fact which help the tribunal decide questions of law and policy and discretion." (*Chevy Chase Citizens Ass'n v. D.C. Council*, 327 A.2d 310, 314 (D.C. 1974)(internal quotations omitted).)

In evaluating the Revised Petition, the Commission did not consider "questions of who did what, where, when, how, why, with what motive or intent [or] ... the kind of facts that go to a jury in a jury case," or "adjudicative facts" as identified by the Court of Appeals. (*Id.*) The Commission did not consider a specific project and notified the public at hearings that the Commission's review of the Revised Petition did not include any potential project. Instead, the Commission evaluated the location of the Property in relation to the uses and building size and density existing in Square 750 in relationship to the surrounding neighborhood, the uses and density called for the neighborhood by the CP and SAP, and the uses and density permitted under various zones. To address these issues required the Commission to balance the goals of the CP and other public policies and to apply them to achieve the most appropriate outcome to resolve the current inconsistency between

the CP's designation for the Property and the current PDR-1 zoning. The Commission therefore concludes that its evaluation of the Revised Petition correctly fell under the rulemaking process.

**“Great Weight” to the Recommendations of OP**

The Commission must give “great weight” to the recommendation of OP, pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 504.6. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1086-87 (D.C. 2016).)

The Commission found OP's recommendations that the Map Amendment is not inconsistent with the Comprehensive Plan and other public policies and that the Commission approve the Map Amendment to rezone the Property to the MU-4 zone persuasive and concurred in that judgment.

**“Great Weight” to the Written Report of the ANC**

The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 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) (2012 Repl.) and Subtitle Z § 505 .1.) To satisfy this great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” *Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)

The ANC Reports raised the following issues and concerns:

- The Petition proposed to increase the height and density allowed on the Property, and so should be evaluated as a contested case due to the expanded additional notice requirements;
- The Petition's proposed MU-4/MU-5A split zoning failed to conserve the existing lower and less dense existing buildings of Square 750 and so was inconsistent with the CP's GPM designation of Square 750 as a Neighborhood Conservation Area;
- The proposed MU-4/MU-5A zones allowed uses that the ANC deemed incompatible with the existing uses of Square 750;
- Traffic congestion caused by any development under the increased density allowed by the Petition;
- The appropriate resolution of the inconsistency between the Property's CP designation and the current PDR-1 zoning is the MU-3B zone as a “moderate density” zone most appropriate for the existing uses and building; and
- The easement to Department of Public Works for truck traffic over the closed portion of the alley located on the Property.

The Commission considered each of the concerns raised in the ANC Reports and was persuaded by the ANC Report's suggestion that the Petition should be accorded the more expansive notice requirements of a contested case to include mailed notices to all owners of property within 200

feet of the Property. However, the Commission found the remaining ANC concerns unpersuasive for the following reasons:

- The Revised Petition’s proposed MU-4 zoning would actually decrease the density allowed for the Property and maintain the current height limit except for IZ developments, and so would be more consistent with the GPM’s Neighborhood Conservation Area designation for the Property than the current PDR-1 zoning;
- The uses allowed under the MU-4 zone to which the ANC objected were already allowed as a matter of right in the rest of Square 750 under its MU-5A zoning and so allowing them on the Property would not change the character of the square;
- The DDOT Report’s conclusion that the potential traffic congestion caused by the maximum development allowed under the Revised Petition’s MU-4 zoning would generate less than or the same transportation trips as allowed under the current PDR-1 zoning;
- The MU-3B zone proposed by the ANC is defined by Subtitle G § 400.2 as intended for “low-density mixed-use development,” as the ANC itself recognized, which is less consistent with the Property’s FLUM designation for Mixed-Use Moderate-Density Residential and Low-Density Commercial than the Revised Petition’s MU-4 zoning that is intended for “moderate-density mixed-use development”; and
- The easement is an issue that is relevant in the context of a review of a specific project, not the determination of the appropriate zone for the Property given its current PDR-1 zoning’s inconsistency with the CP.

At its March 25, 2019 public meeting, in consideration of the case record and for the reasons stated above, the Commission took **FINAL ACTION** to amend the Zoning Map as follows:

Square	Lot(s)	Map Amendment
750	128, 156-158	PDR-1 to MU-4

**VOTE (March 25, 2019):** **4-0-1** (Peter A. Shapiro, Anthony J. Hood, Michael G. Turnbull, and Peter G. May to **APPROVE**; Robert E. Miller, not present, not voting).

In accordance with the provisions of Subtitle Z § 604.9, this Notice of Final Rulemaking shall become final and effective upon publication in the *D.C. Register*; that is, on March 13, 2020.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health (Department), pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), Mayor's Order 98-140, dated August 20, 1998, and the Omnibus Health Regulation Amendment Act of 2014, effective March 26, 2014 (D.C. Law 20-0096; 61 DCR 3751 (April 11, 2014)) (the Act), hereby gives notice of her intent to adopt the following new Chapter 107 of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), entitled “Dentist and Dental Facility Certification to Administer Sedation or General Anesthesia,” and to amend Chapter 42 (Dentistry) of Title 17 DCMR to update the requirements for administration of anesthesia.

The adoption of Chapter 107 is necessary to implement Section 102(e) of the Act; D.C. Official Code § 3-1202.01(b), which authorizes the Board of Dentistry to issue certifications to dentists and dental facilities for the administration of sedation or general anesthesia.

The Director also gives notice of her intent to take final rulemaking action to adopt these rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

**Chapter 107, DENTIST AND DENTAL FACILITY CERTIFICATION TO ADMINISTER SEDATION OR GENERAL ANESTHESIA, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is added as follows:**

**CHAPTER 107 DENTAL AND DENTAL FACILITY CERTIFICATION TO ADMINISTER SEDATION OR GENERAL ANESTHESIA**

- Secs.**
- 10700 General Provisions**
- 10701 Anxiolysis**
- 10702 Term of Certification**
- 10703 Classification of Certifications**
- 10704 Qualifications for An Individual Obtaining A Dental Certification to Administer Sedation or General Anesthesia**
- 10705 Competency Examination, Clinical Evaluation, and On-Site Inspection**
- 10706 Application for An Individual Dental Certification to Administer Sedation or General Anesthesia**
- 10707 Qualifications for Obtaining A Dental Facility Certification to Administer Sedation or General Anesthesia**
- 10708 Application for A Dental Facility Certification to Administer Sedation or General Anesthesia**
- 10709 Personnel and Equipment Requirements**
- 10710 Monitoring and Documentation**
- 10711 On-Site Physical Facility Inspections**

- 10712**      **Facility Owners and Anesthesia and Sedation Performed by Itinerant Providers**
- 10713**      **Itinerant Dentist Providers of Anesthesia and Sedation Services**
- 10714**      **Continuing Education Requirements**
- 10715**      **Renewal of Dentist Certification**
- 10716**      **Renewal of Dental Facility Certification**
- 10717**      **Morbidity and Mortality Reports**
- 10718**      **Transfer of Certification Prohibited**
- 10799**      **Definitions**

**10700**      **GENERAL PROVISIONS**

- 10700.1      This chapter applies to all applicants and holders of a dentist or dental facility certification to administer general or sedation anesthesia.
- 10700.2      The use of nitrous oxide or local anesthesia by a dentist is governed by Chapter 42 (Dentistry) of Title 17 of the District of Columbia Municipal Regulations and is not governed by this chapter.
- 10700.3      The administration of anesthesia and sedation by dentists in hospitals licensed in good standing in the District of Columbia is not governed by this chapter.
- 10700.4      No applicant or holder of a dentist or dental facility certification shall administer anesthesia or sedation in a mobile unit or in a temporary structure.
- 10700.5      A dentist shall not administer anesthesia or sedation unless the dentist has obtained the appropriate certification or provisional certification for each location.
- 10700.6      A dentist shall notify the Board in writing, and surrender his or her certification, within thirty (30) days of ceasing to administer anesthesia or sedation at a location.
- 10700.7      The Board shall maintain a record of each location for which a dentist has been issued a certification to administer anesthesia or sedation.
- 10700.8      Chapter 40 (Health Occupations: General Rule), 41 (Health Occupations Administrative Procedures), and 42 (Dentistry) of Title 17 of the District of Columbia Municipal Regulations shall supplement this chapter.

**10701**      **ANXIOLYSIS**

- 10701.1      A dentist is not required to obtain a certification under this chapter to administer anxiolysis.
- 10701.2      The administering, prescribing, or dispensing of more than one type of sedative, narcotic, class of drug, or medication for the purpose of anesthesia to be taken the

evening before a procedure, or the morning of a procedure, is not anxiolysis and shall require the appropriate anesthesia or sedation certification.

10701.3 A dentist who intends to administer anxiolysis shall indicate the intent to administer anxiolysis in the patient's records.

10701.4 A dentist who administers anxiolysis shall not administer a dose that is inappropriate for a patient's:

- (a) Age;
- (b) Weight;
- (c) Medical condition;
- (d) Infirmities; or
- (e) Other propensities.

10701.5 Medications used to produce anxiolysis shall not exceed current limits set by the manufacturer for unmonitored use by the individual.

10701.6 A dentist who administers anxiolysis shall maintain a margin of safety and a level of consciousness that does not approach moderate sedation and other deeper states of sedation and general anesthesia.

## **10702 TERM OF CERTIFICATION**

10702.1 After July 1, 2021, only a dentist who holds an appropriate Class I, II, or III certification or provisional certification issued by the Board may administer an anesthetic technique in order to attain a level beyond anxiolysis for the practice of dentistry.

10702.2 A dentist or dental facility's certification to administer sedation or general anesthesia issued pursuant to this chapter shall expire at 12:00 midnight of December 31<sup>st</sup> every fourth (4th) year beginning 2025.

10702.3 An itinerant provider permit issued pursuant to this chapter shall expire at 12:00 midnight of December 31<sup>st</sup> every fourth (4th) year beginning 2025.

10702.4 To ensure the continuity of care, the Board may issue provisional certifications as set forth in this chapter. However, beginning January 1, 2026, the Board shall no longer issue provisional certifications for dental certifications or dental facility certifications. A full certification shall be required for the administration of anesthesia and sedation in the District of Columbia.



10702.5 If the Director changes the renewal system pursuant to Section 4006.3 of Chapter 40 of this title, a certification issued pursuant to this chapter shall expire at 12:00 midnight of the last day of the month of the birthdate of the holder of the certification, or other date established by the Director.

**10703 CLASSIFICATION OF CERTIFICATIONS**

10703.1 The following certifications shall be issued by the Board:

- (a) A Class I certification shall authorize a dentist or dental facility to administer:
  - (1) Moderate sedation.
- (b) A Class II certification shall authorize a dentist or dental facility to administer:
  - (1) Deep sedation; and
  - (2) Any procedure allowed under a Class I certification.
- (c) A Class III certification shall authorize a dentist or dental facility to administer:
  - (1) General anesthesia; and
  - (2) Any procedure allowed under a Class I, or Class II certification.
- (d) A provisional certification for any of the certifications set forth in subparagraphs (a) through (c) of this subsection.

**10704 QUALIFICATIONS FOR AN INDIVIDUAL OBTAINING A DENTAL CERTIFICATION TO ADMINISTER SEDATION OR GENERAL ANESTHESIA**

10704.1 Because sedation is a continuum, it is not always possible to predict how an individual patient will respond. Therefore, dentists and dental facilities intending to produce a given level of sedation shall have the training, skills, and knowledge to be able to recover, manage, and/or reverse as indicated patients whose level of sedation becomes deeper than initially intended, and shall meet the following requirements:

- (a) Holders of a Class I dentist or dental facility certification shall be able to recover, manage, and/or reverse patients who enter a state of moderate or deep sedation;

- (b) Holders of a Class II dentist or dental facility certification shall be able to recover, manage, and/or reverse patients who enter a state of moderate or deep sedation, or general anesthesia; and
- (c) Holders of a Class III dentist or dental facility certification shall be able to recover, manage, and/or reverse patients who enter a state of moderate or deep sedation, or general anesthesia.

10704.2 To qualify for a Class I dental certification, all applicants without exception shall furnish proof satisfactory to the Board that the applicant:

- (a) Successfully completed an educational program in the practice of dentistry at an institution recognized by the Commission on Dental Accreditation of the American Dental Association (ADA) at the time the applicant graduated in accordance with § 504(d) of the Act, D.C. Official Code § 3-1205.04(d);
- (b) Is currently licensed to practice dentistry in the District of Columbia;
- (c) Successfully passed the Dental Sedation/Anesthesia Competency Assessment Exam required in § 10705 of this chapter for the specific level of sedation for the level of certification sought;
- (d) Successfully passed the clinical evaluation required in § 10705 of this chapter;
- (e) Holds current certification in Advanced Cardiac Life Support (ACLS), and if sedating patients twelve (12) years of age or under, shall also have a current certification in Pediatric Advanced Life Support (PALS), both of which the applicant may not allow to expire; and
- (f) Has successfully completed a Board-approved course of instruction that documents training of at least one hundred and twenty (120) hours of didactic instruction plus management of at least twenty (20) dental patients, of which not more than five (5) may be simulated, per participant in moderate sedation; or
- (g) Has successfully completed a postdoctoral training program accredited by the Commission on Dental Accreditation or its successor organization that affords comprehensive and appropriate training necessary to administer and manage moderate sedation; or

- (h) Has successfully completed a Board-approved postdoctoral training program that affords comprehensive and appropriate training necessary to administer and manage moderate sedation.

10704.3 To qualify for a Class II dental certification, all applicants without exception shall furnish proof satisfactory to the Board that the applicant:

- (a) Successfully completed an educational program in the practice of dentistry at an institution recognized by the Commission on Dental Accreditation of the American Dental Association (ADA) at the time the applicant graduated in accordance with § 504(d) of the Act, D.C. Official Code § 3-1205.04(d);
- (b) Is currently licensed to practice dentistry in the District of Columbia;
- (c) Successfully passed the Dental Sedation/Anesthesia Competency Assessment Exam required in § 10705 of this chapter for the specific level of sedation for the level of certification sought;
- (d) Successfully passed the clinical evaluation required in § 10705 of this chapter;
- (e) Successfully completed an on-site facility inspection evaluation conducted by an organization recognized by the Board;
- (f) Holds current certification in Advanced Cardiac Life Support (ACLS), and if sedating patients twelve (12) years of age or under, shall also have a current certification in Pediatric Advanced Life Support (PALS), both of which the applicant may not allow to expire; and
- (g) Has successfully completed a Board-approved course of instruction that documents training of at least one hundred and twenty (120) hours of didactic instruction plus management of at least twenty (20) dental patients, of which not more than five (5) may be simulated, per participant in deep sedation; or
- (h) Has successfully completed a postdoctoral training program accredited by the Commission on Dental Accreditation or its successor organization that affords comprehensive and appropriate training necessary to administer and manage deep sedation; or
- (i) Has successfully completed a Board-approved postdoctoral training program that affords comprehensive and appropriate training necessary to administer and manage deep sedation.

- 10704.4 To qualify for a Class III dental certification, all applicants without exception shall furnish proof satisfactory to the Board that the applicant:
- (a) Successfully completed an educational program in the practice of dentistry at an institution recognized by the Commission on Dental Accreditation of the American Dental Association (ADA) at the time the applicant graduated;
  - (b) Is currently licensed to practice dentistry in the District of Columbia;
  - (c) Successfully passed the clinical evaluation required in § 10705 of this chapter;
  - (d) Holds current certification in Advanced Cardiac Life Support (ACLS), and if sedating patients twelve (12) years of age or under, shall also have a current certification in Pediatric Advanced Life Support (PALS), both of which the applicant may not allow to expire; and
  - (e) Has successfully completed a Board-approved course of instruction that documents training of at least one hundred and twenty (120) hours of didactic instruction plus management of at least twenty (20) dental patients, of which not more than five (5) may be simulated, per participant in general anesthesia; or
  - (f) Has successfully completed a postdoctoral training program accredited by the Commission on Dental Accreditation or its successor organization that affords comprehensive and appropriate training necessary to administer and manage general anesthesia; or
  - (g) Has successfully completed a Board-approved postdoctoral training program that affords comprehensive and appropriate training necessary to administer and manage general anesthesia.
- 10704.5 To protect the continuity of patient care, an applicant for any Class of dental certification who does not meet all of the requirements for certification at the time of submitting the application may apply for a provisional certification.
- 10704.6 Except as provided in § 10702.4 of this chapter, the Board may approve a provisional certification, not to exceed one (1) year, if the Board finds that the applicant substantially meets the requirements for a certification, and can be reasonably expected to satisfy the outstanding requirements within one (1) year.
- 10704.7 The Board may approve an extension, not to exceed six (6) months, of a provisional certification if good cause is found, such as circumstances beyond the control of the applicant. However, the Board shall not approve the renewal of a provisional certification for an applicant who has not demonstrated a good faith

effort to fully satisfy the requirements for certification, such as failing to take actions within the applicant's control.

10704.8 In addition to the requirements outlined in this chapter, before sedating patients twelve (12) years of age or under, a dentist shall have completed a formal residency training program, such as oral and maxillofacial surgery, pediatric dentistry, and dental anesthesiology, or an equivalent training program or course(s), acceptable to the Board.

10704.9 In addition to the requirements outlined in this chapter, an applicant for a dental certification to administer sedation or general anesthesia shall:

- (a) Receive a successful evaluation by the Board or its designee;
- (b) Provide an affidavit to the Board indicating whether the applicant has ever had an incident while treating a patient under general anesthesia; and
- (c) Submit any other pertinent documents or information requested by the Board.

10704.10 An affidavit provided to the Board under § 10704.9(b) of this chapter shall include the following:

- (a) The date of the incident;
- (b) The name, age, and address of the patient;
- (c) The type of anesthesia and dosages of drugs administered to the patient;
- (d) The location where the incident took place;
- (e) The techniques used in administering the drugs;
- (f) The preoperative physical condition of the patient;
- (g) The name and contact information of all other persons present during the incident;
- (h) The patient's original complete dental records;
- (i) Any adverse occurrence including:
  - (1) The patient's signs and symptoms;
  - (2) The treatments instituted in response to adverse occurrences;

- (3) The patient's response to the treatment; and
- (4) The patient's condition on termination of any procedures undertaken; and
- (j) A narrative description of the incident, including approximate times, the evolution of symptoms, and the outcome of the incident.

**10705 COMPETENCY EXAMINATION, CLINICAL EVALUATION, AND ON-SITE INSPECTION**

10705.1 In order to receive a certification for a Class I, II, or III certification, the dentist who will perform the administration shall pass prior to receiving a certification from the Board the following:

- (a) The Dental Sedation/Anesthesia Competency Assessment Exam for the specific level of sedation for the level of certification sought that is administered by an organization recognized by the Board; and
- (b) A clinical evaluation conducted by an organization recognized by the Board, consistent with the age level of the patients treated by the dentist, which shall include a demonstration of:
  - (1) The administration to a patient who is receiving dental treatment of the type of anesthesia or sedation for which the dentist is applying for a certification;
  - (2) Simulated emergencies in the surgical area of the dental office with participation by the members of the staff who are trained to handle emergencies;
  - (3) A dental procedure utilizing the type of anesthesia or sedation for which the dentist is applying for a certification;
  - (4) Any anesthesia or sedation technique that is routinely employed during the administration of anesthesia or sedation;
  - (5) The appropriate monitoring of a patient during anesthesia or sedation; and
  - (6) The observation of a patient during recovery and the time allowed for recovery.

10705.2 The dentist who will perform the administration shall undergo an on-site physical facility inspection of the facility conducted by an organization recognized by the

Board, of the facility's equipment, and the credentials of the personnel to determine if the personnel, equipment, and facility requirements have been met.

10705.3 The clinical evaluation required by § 10705.1(b) of this chapter shall require the participation of the clinical office staff, and shall include evaluating the treatment of at least the following:

- (a) Laryngospasm;
- (b) Foreign body airway obstruction;
- (c) Emergency airway management;
- (d) Emesis and aspiration;
- (e) Acute allergic reaction;
- (f) Bronchospasm;
- (g) Angina;
- (h) Conditions requiring advanced cardiac life support, including:
  - (1) Bradycardia;
  - (2) Tachycardia;
  - (3) Ventricular fibrillation;
  - (4) Cardiac arrest;
  - (5) Hypotension;
  - (6) Hypoglycemia;
  - (7) Hypertension;
  - (8) Seizure;
  - (9) Syncope; and
  - (10) Venipuncture complications.

10705.4 The clinical evaluator shall hold a certification at the same or higher level as the certification sought by the applicant being evaluated.

10705.5 To the extent practicable, the clinical evaluator shall provide the results of the evaluation to the Board in writing within seven (7) days of an applicant's evaluation.

10705.6 The Board shall:

- (a) Review the results of the evaluation; and
- (b) Notify the applicant of the results in a timely manner.

10705.7 If requested, an applicant shall be provided with a copy of the evaluation provided to the Board.

10705.8 The applicant shall be responsible for all evaluation, inspection, and examination costs.

**10706 APPLICATION FOR AN INDIVIDUAL DENTAL CERTIFICATION TO ADMINISTER SEDATION OR GENERAL ANESTHESIA**

10706.1 To apply for a Class I, Class II, or Class III Individual dental certification, an applicant shall:

- (a) Submit a completed application to the Board on the required forms and include:
  - (1) The applicant's social security number on the application;
  - (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2") which clearly expose the area from the top of the forehead to the bottom of the chin
- (b) Submit a copy of his or her current license with the application;
- (c) Submit the name and address of each location where the dentist intends to administer anesthesia or sedation;
- (d) Identify all forms of anesthesia or sedation for which the dentist is seeking certification;
- (e) Submit proof of having successfully passed the clinical evaluation required by § 10705 of this chapter.
- (f) Pay all the required fees; and
- (g) Submit all required supporting documents.



**10707 QUALIFICATIONS FOR OBTAINING A DENTAL FACILITY CERTIFICATION TO ADMINISTER SEDATION OR GENERAL ANESTHESIA**

10707.1 In addition to the other requirements in this chapter, to obtain a Class I, Class II, or Class III dental facility certification, each facility in which the dentist wishes to administer an anesthesia technique shall pass a facility evaluation in order to attain:

- (a) A level beyond anxiolysis;
- (b) Moderate sedation; or
- (c) Deep sedation and general anesthesia.

10707.2 Except as otherwise provided in this regulation, to qualify for a certification, the facility and the applicant shall pass an evaluation of facility equipment, medications, and clinical records to include at least the following and ensure that they are properly utilized and maintained:

- (a) Oxygen and gas delivery system, backup system fail-safe;
- (b) Gas storage facility;
- (c) Safety indexed gas system;
- (d) Suction and appropriate backup system;
- (e) Auxiliary lighting system;
- (f) Suitability of operating room:
  - (1) Size;
  - (2) Lighting;
  - (3) Communications; and
  - (4) EMT accessibility;
- (g) Recovery area, including oxygen, suction, and visual and electronic monitoring, which may include the operating room;
- (h) Appropriate emergency drugs;
- (i) Nonexpired drugs;

- (j) Appropriate devices to maintain an airway with positive pressure ventilation;
- (k) Appropriate preoperative medical history and physical evaluation forms;
- (l) Appropriate anesthesia records, including monitoring and discharge records;
- (m) Monitoring equipment, including pulse oximeter and blood pressure monitoring;
- (n) Anesthesia and monitoring equipment to ensure they are in proper working order;
- (o) Defibrillator or automated external defibrillator (AED) for adult patients;
- (p) For Class I certifications:
  - (1) Pulse oximeter;
  - (2) A capnograph measuring device; and
  - (3) An electrocardiogram (ECG) may be used, however, continuous ECG monitoring shall be used for patients with significant cardiovascular disease;
- (q) For Class II and Class III certifications:
  - (1) An electrocardiogram (ECG);
  - (2) A capnograph measuring device; and
  - (3) Pulse oximeter;
- (r) For moderate or deep sedation, or general anesthesia in pediatric patients:
  - (1) Pulse oximeter;
  - (2) A capnograph; and
  - (3) Continuous ECG monitoring.

10707.3

The dentist who will perform the administration and the dentist's staff shall be present in the operatory during the evaluation.

- 10707.4 An applicant for a dental facility certification shall not transport anesthesia or sedation equipment from one dental office to another for facility examination purposes.
- 10707.5 A Board authorized evaluator shall hold a certification at the same or higher level as the certification sought by the applicant being evaluated.
- 10707.6 To the extent practicable, a Board authorized evaluator shall provide the results of the evaluation to the Board in writing within seven (7) days of an applicant's evaluation.
- 10707.7 The Board shall:
- (a) Review the results of the evaluation; and
  - (b) Notify the applicant of the results in a timely manner.
- 10707.8 If requested, an applicant shall be provided with a copy of the evaluation provided to the Board.
- 10707.9 An applicant who fails either an administration evaluation or a facility evaluation twice shall be required to pay a fee equal to the renewal fee for the certification sought by the applicant before either the third evaluation or any subsequent evaluations.
- 10707.10 A dentist who has passed an administration and facility evaluation for a Class I, Class II, or Class III certification may receive the same type of certification for another facility or facilities if:
- (a) The dentist holds an active Class I, Class II, or Class III certification for which the dentist has passed an administration and facility evaluation; and
  - (b) Each facility for which the dentist seeks another certification has at least one dentist who has passed an administration and facility evaluation for that type of certification at that location within two (2) years of the date of application for the additional certification.
- 10707.11 Alternatively, an applicant who has passed an administration and facility evaluation for a Class I, Class II, or Class III certification may receive the same type of certification for another facility or facilities if:
- (a) The dentist holds an active Class I, Class II, or Class III certification for which the dentist has passed an administration and facility evaluation; and
  - (b) The dentist seeking the additional certification:

- (1) Is present during a facility evaluation at which the dentist and the dentist's staff pass a facility evaluation; and
- (2) Passes an evaluation, appropriate for the certification level, that includes simulated management of emergencies with the participation of the clinical office staff trained to handle emergencies.

10707.12 In addition to the requirements of §§ 10707.10 and 10707.11 of this subchapter, the dentist seeking the additional certification or certifications shall:

- (a) Submit an application to the Board on a form provided by the Board; and
- (b) Pay the appropriate fee.

**10708 APPLICATION FOR A DENTAL FACILITY CERTIFICATION TO ADMINISTER SEDATION OR GENERAL ANESTHESIA**

10708.1 To apply for a Class I, Class II, or Class III dental facility certification, an applicant shall:

- (a) Submit a completed application to the Board on the required forms;
- (b) Submit a copy of his or her current license with the application;
- (c) Submit the name and address of the location for which the applicant is seeking certification;
- (d) Identify all forms of anesthesia or sedation for which the applicant is seeking certification;
- (e) Submit proof of having met the requirements required by § 10706 of this chapter.
- (f) Pay all the required fees; and
- (g) Submit all required supporting documents.

10708.2 To protect the continuity of patient care, an applicant for a dental facility certification in any class who does not meet all of the requirements for certification at the time of submitting the application may apply for a provisional certification.

10708.3 Except as provided in § 10702.4 of this chapter, the Board may approve a provisional certification, not to exceed one (1) year, if the Board finds that the

applicant substantially meets the requirements for a certification, and can be reasonably expected to satisfy the outstanding requirements within one (1) year.

10708.4 The Board may approve a one-time renewal of a provisional certification if good cause is found, such as circumstances beyond the control of the applicant. However, the Board shall not approve the renewal of a provisional certification for an applicant who has not demonstrated a good faith effort to fully satisfy the requirements for certification, such as failing to take actions within the applicant's control.

## **10709 PERSONNEL AND EQUIPMENT REQUIREMENTS**

10709.1 A dentist or dental facility with a Class I certification shall ensure that the following requirements are met before administering moderate sedation:

- (a) A dentist qualified and certified to administer moderate sedation shall administer the moderate sedation;
- (b) At least two (2) additional persons trained in Basic Life Support for Healthcare Providers shall be present in addition to the dentist, one of whom is trained in PALS if the patient is age twelve (12) or under;
- (c) When the dentist administering the moderate sedation is also the same dentist performing the dental procedure, one of the other trained personnel present shall be designated to perform the patient monitoring. The person designated to perform the monitoring shall be trained in PALS if the patient is age twelve (12) or under;
- (d) A positive-pressure oxygen delivery system suitable for the patient being treated shall be immediately available;
- (e) Documentation of compliance with manufacturer's recommended maintenance of monitors, anesthesia delivery systems, and other anesthesia-related equipment shall be maintained;
- (f) A pre-procedural check of equipment for each administration of sedation shall be performed;
- (g) When inhalation equipment is used, it shall have a fail-safe system that is appropriately checked and calibrated;
- (h) The equipment shall also have either (1) a functioning device that prohibits the delivery of less than thirty percent (30%) oxygen or (2) an appropriately calibrated and functioning in-line oxygen analyzer with audible alarm;

- (i) The equipment necessary for monitoring end-tidal carbon dioxide and auscultation of breath sounds shall be immediately available;
- (j) An appropriate scavenging system shall be utilized if gases other than oxygen or air are used;
- (k) The equipment necessary to establish intravascular or intraosseous access shall be available until the patient meets discharge criteria; and
- (l) A pulse oximeter shall be used.

10709.2 A dentist or dental facility with a Class II certification shall ensure that the following requirements are met before administering deep sedation:

- (a) A dentist qualified and certified to administer deep sedation shall administer the deep sedation;
- (b) At least two (2) additional persons trained in Basic Life Support for Healthcare Providers shall be present in addition to the dentist, one of which shall be trained in ACLS and if the patient is age twelve (12) or under shall also be trained in PALS;
- (c) When the dentist administering the deep sedation is also the same dentist performing the dental procedure, one of the other trained personnel present shall be designated to perform the patient monitoring. The person designated to perform the monitoring shall be trained in ACLS and if the patient is age twelve (12) or under shall also be trained in PALS;
- (d) A positive-pressure oxygen delivery system suitable for the patient being treated shall be immediately available;
- (e) Documentation of compliance with manufacturer's recommended maintenance of monitors, anesthesia delivery systems, and other anesthesia-related equipment shall be maintained;
- (f) Perform a pre-procedural check of equipment for each administration of sedation;
- (g) When inhalation equipment is used, it shall have a fail-safe system that is appropriately checked and calibrated;
- (h) The equipment shall also have either (1) a functioning device that prohibits the delivery of less than thirty percent (30%) oxygen or (2) an appropriately calibrated and functioning in-line oxygen analyzer with audible alarm;

- (i) The equipment necessary for monitoring end-tidal carbon dioxide and auscultation of breath sounds shall be utilized;
- (j) An appropriate scavenging system shall be utilized if gases other than oxygen or air are used;
- (k) The equipment necessary to establish intravenous access shall be available;
- (l) The equipment and drugs necessary to provide advanced airway management, and advanced cardiac life support shall be immediately available;
- (m) Resuscitation medications and an appropriate defibrillator shall be immediately available; and
- (n) A pulse oximeter shall be used.

10709.4 A dentist or dental facility with a Class III certification shall ensure that the following requirements are met before administering general anesthesia:

- (a) A dentist qualified and certified to administer general anesthesia shall administer the general anesthesia;
- (b) At least three (3) additional persons trained in Basic Life Support for Healthcare Providers shall be present in addition to the dentist, one of which shall be trained in ACLS or if the patient is age twelve (12) or under shall also be trained in PALS;
- (c) When the dentist administering the general anesthesia is also the same dentist performing the dental procedure, one of the other trained personnel present shall be designated to perform the patient monitoring. The person designated to perform the monitoring shall be trained in ACLS and if the patient is age twelve (12) or under shall also be trained in PALS;
- (d) A positive-pressure oxygen delivery system suitable for the patient being treated shall be immediately available;
- (e) Documentation of compliance with manufacturer's recommended maintenance of monitors, anesthesia delivery systems, and other anesthesia-related equipment shall be maintained;
- (f) A pre-procedural check of equipment for each administration of general anesthesia shall be performed;

- (g) When inhalation equipment is used, it shall have a fail-safe system that is appropriately checked and calibrated;
- (h) The equipment shall also have either (1) a functioning device that prohibits the delivery of less than thirty percent (30%) oxygen or (2) an appropriately calibrated and functioning in-line oxygen analyzer with audible alarm;
- (i) The equipment necessary for monitoring end-tidal carbon dioxide and auscultation of breath sounds shall be utilized;
- (j) An appropriate scavenging system shall be utilized if gases other than oxygen or air are used;
- (k) The equipment necessary to establish intravenous access shall be available;
- (l) Equipment and drugs necessary to provide advanced airway management, and advanced cardiac life support shall be immediately available;
- (m) Resuscitation medications and an appropriate defibrillator shall be immediately available;
- (n) A pulse oximeter shall be used; and
- (o) Continuous ECG monitoring of patients is required.

## **10710 MONITORING AND DOCUMENTATION**

10710.1 A dentist administering moderate sedation, deep sedation, or general anesthesia to a patient:

- (a) Shall remain in the operatory room to monitor the patient continuously until the patient meets the criteria for recovery;
- (b) Shall not induce a second patient until the first patient:
  - (1) Is conscious;
  - (2) Is spontaneously breathing;
  - (3) Has stable vital signs;
  - (4) Is ambulatory with assistance; and
  - (5) Is under the care of a qualified auxiliary; and



- (c) Shall not leave the facility until the patient meets the criteria for discharge and is discharged from the facility.

10710.2 When moderate sedation is administered, monitoring shall include:

- (a) Consciousness: the patient's level of sedation and responsiveness to verbal commands shall be continually assessed;
- (b) Oxygenation: the oxygen saturation shall be continuously evaluated by pulse oximetry;
- (c) Ventilation:
  - (1) The dentist shall continuously observe chest excursions and monitor ventilation and breathing by monitoring end-tidal carbon dioxide, unless precluded by the nature of the patient, procedure, or equipment; and
  - (2) The dentist shall ensure that the patient's ventilation is monitored by continual observation of qualitative signs, including auscultation of breath sounds with a precordial or pretracheal stethoscope;
- (d) Circulation:
  - (1) The dentist shall continually evaluate the patient's blood pressure and heart rate unless invalidated by the nature of the patient, procedure, or equipment and this is noted in the time-oriented anesthesia record; and
  - (2) Circulation shall be monitored by continuous ECG monitoring of patients with significant cardiovascular disease.

10710.3 When deep sedation or general anesthesia is administered, monitoring shall include:

- (a) Oxygenation: oxygen saturation shall be continuously evaluated by pulse oximetry;
- (b) Ventilation:
  - (1) For an intubated patient, end-tidal carbon dioxide shall be continually monitored and evaluated unless precluded or invalidated by the nature of the patient, procedure, or equipment; and

- (2) Ventilation shall also be monitored and evaluated by continual observation of qualitative signs, including auscultation of breath sounds with a precordial or pretracheal stethoscope, unless precluded by use of appropriate equipment;
- (c) Respiration rate shall be continually monitored and evaluated;
- (d) Circulation: the dentist shall continuously evaluate heart rate and rhythm via ECG throughout the procedure, as well as pulse rate via pulse oximetry;
- (e) The dentist shall also continually evaluate blood pressure;
- (f) Temperature: a device capable of measuring body temperature shall be readily available during the administration of deep sedation or general anesthesia; and
- (g) The equipment to continuously monitor body temperature shall be available and shall be performed whenever triggering agents associated with malignant hyperthermia are administered.

10710.4 Appropriate time-oriented anesthetic record shall be maintained, including the names of all drugs, dosages, and their administration times, including local anesthetics, dosages, and monitored physiological parameters. Additionally, pulse oximetry, end-tidal carbon dioxide measurements (if taken), heart rate, respiratory rate, blood pressure, and level of consciousness (if appropriate) shall be recorded continually.

10710.5 A treating dentist who allows a physician, another dentist, or certified registered nurse anesthetist to administer moderate sedation, deep sedation, or general anesthesia under this chapter shall ensure that the physician, dentist, or certified registered nurse anesthetist is properly licensed and authorized to administer anesthesia or sedation in the District and does not leave the site until the patient meets the criteria for discharge and is discharged from the facility:

10710.6 A treating dentist who allows a physician, another dentist, or certified registered nurse anesthetist to administer moderate sedation, deep sedation, or general anesthesia shall ensure that the physician, dentist, or certified registered nurse anesthetist does not induce a second patient until the first patient:

- (a) Is conscious;
- (b) Is spontaneously breathing;
- (c) Has stable vital signs;

- (d) Is ambulatory with assistance; and
- (e) Is under the care of a qualified auxiliary.

**10711 ON-SITE PHYSICAL FACILITY INSPECTIONS**

10711.1 All offices holding a Class I, II, or III dental facility certification shall have an on-site physical inspection of the facility as follows:

- (a) Before receiving a certification from the Board;
- (b) At least once every four (4) years at each office facility; and
- (c) If the Board receives a complaint alleging a violation of this chapter and the Board finds that the complaint warrants investigation.

10711.2 At the discretion of the Board, an inspection or re-inspection of an office, dentist, and staff may be scheduled at any time. The Board shall consider such factors as it deems pertinent including, but not limited to, patient complaints and reports of adverse occurrences.

10711.3 A dentist or dental facility may, due to extenuating circumstances, apply for an extension of time to meet the requirements of § 10711.1 by making a written request to the Board. If the Board grants an extension, the length of the extension will be determined by the Board. The written request must include:

- (a) A complete explanation of the circumstances; and
- (b) The dentist's or dental facility's plan for completing the on-site inspection requirement.

10711.4 During reasonable business hours, the Board or its designee may conduct unannounced inspection visits of any dental office or facility if the Board has:

- (a) Received a complaint or has initiated a complaint; and
- (b) Reason to believe that anesthesia or sedation has been administered:
  - (1) Without an appropriate certification; or
  - (2) In violation of this chapter.

10711.5 Dentists and all associated personnel shall cooperate with the inspectors.

**10712 FACILITY OWNERS AND ANESTHESIA AND SEDATION PERFORMED BY ITINERANT PROVIDERS**

- 10712.1 In order to obtain a permit from the Board for an itinerant provider to administer anesthesia or sedation in his or her facility the owner of the facility shall demonstrate the following to the satisfaction of the Board:
- (a) The itinerant provider is certified by the Board at the appropriate individual certification class level, if he or she is a dentist, or
  - (b) The itinerant provider is licensed in good standing with the District of Columbia Board of Medicine or Nursing, as applicable, and authorized to administer anesthesia and sedation.
- 10712.2 The owner of a facility shall prominently display the itinerant provider's permit at the dental facility.
- 10712.3 The owner of a facility shall ensure that the facility:
- (a) Is certified by the Board at the appropriate facility certification class level;
  - (b) Is properly equipped in accordance with this chapter;
  - (c) Is properly staffed in accordance with this chapter; and
  - (d) Has appropriate non-expired drugs and non-expired emergency drugs.
- 10712.4 The owner of a facility or the treating dentist who wishes to allow an itinerant provider to administer anesthesia and sedation to a patient at his or her dental facility shall:
- (a) Obtain a permit from the Board before allowing the itinerant provider to administer anesthesia and sedation at his or her dental facility;
  - (b) Ensure the proper maintenance of all required oxygen equipment, emergency equipment, monitors, back up equipment, suction, and lighting; and
  - (c) Require the itinerant provider to contractually agree that he or she will accompany a patient to the emergency room if a patient is transported to the emergency room.
- 10712.5 A separate permit shall be required for each itinerant provider and for each separate facility location.
- 10712.6 The owner of a facility or the treating dentist shall ensure that:

- (a) The operatory size is appropriate;
- (b) The dental chair facilitates management of anesthesia emergencies;
- (c) There is adequate lighting in the operatory;
- (d) There is adequate staff present for the level of anesthesia level being administered;
- (e) Appropriate suction is in place at all times; and
- (f) The itinerant provider does not leave the dental facility until after the last patient is stable and discharged.

10712.7 To apply for a permit to allow an itinerant provider to administer anesthesia and sedation, the owner of a facility or the treating dentist shall:

- (a) Apply to the Board on a form approved by the Board;
- (b) Provide an affidavit to the Board stating whether an incident has ever occurred while the owner or treating dentist, as applicable, treated a patient under moderate sedation, deep sedation, or general anesthesia, in accordance with the requirements set forth in § 10717.3 of this chapter;
- (c) Provide documentation acceptable to the Board that the itinerant provider is a dentist that is registered with the Board at the appropriate individual certification class level, or is a physician or certified registered nurse anesthetist that is licensed and in good standing with the appropriate District of Columbia Health Occupations Board and authorized to administer anesthesia and sedation;
- (d) Submit any other pertinent documents or information requested by the Board, which may include patient records; and
- (e) Pay a nonrefundable application fee.

10712.8 The owner or treating dentist who holds a certification to allow an itinerant provider to administer anesthesia or sedation at his or her facility shall be present in the operatory as the clinical provider of treatment during the administration of the anesthesia or sedation.

10712.9 A certification issued to an owner or treating dentist allowing an itinerant provider to administer anesthesia and sedation at his or her facility shall expire at 12:00 midnight on December 31<sup>st</sup> on the fourth (4th) year following the effective date of the certification.

10712.10 An owner or treating dentist may apply to renew his or her certification to allow an itinerant provider to administer anesthesia or sedation by submitting a renewal application on a form approved by the Board, which shall require the same type of documentation and information as was required for the initial certification, and payment of a nonrefundable fee.

**10713 ITINERANT DENTIST PROVIDERS OF ANESTHESIA AND SEDATION SERVICES**

10713.1 An itinerant dentist provider shall obtain certification from the Board before administering anesthesia or sedation to a patient at a practice location other than his or her own dental facility.

10713.2 To apply for certification to administer anesthesia and sedation to a patient at a practice location other than the dentist's own dental facility, an itinerant dentist provider shall:

- (a) File an application with the Board on a form approved by the Board;
- (b) Possess an individual Class I, Class II, or Class III certification, as applicable;
- (d) Provide an affidavit to the Board stating whether the itinerant dentist provider has ever provided moderate sedation, deep sedation, or general anesthesia with an incident, which shall meet the requirements set forth in § 10717.3 of this chapter;
- (e) Submit any other pertinent documents or information requested by the Board, which may include patient records; and
- (f) Pay a nonrefundable application fee.

10713.3 A separate certification shall be required for each itinerant provider and for each separate facility location.

10713.4 An itinerant dentist provider who holds a certification to administer anesthesia or sedation at a practice location other than his or her own dental facility shall be present in the operatory during the administration of the anesthesia or sedation.

10713.5 A certification issued to an itinerant dentist provider to administer anesthesia and sedation at a practice location other than his or her own dental facility shall expire at 12:00 midnight on December 31<sup>st</sup> on the fourth (4th) year following the effective date of the certification.

- 10713.6 An itinerant dental provider may apply for renewal of his or her certification to administer anesthesia or sedation at a practice location other than his or her own dental facility by submitting a renewal application on a form approved by the Board, which shall require the same type of documentation and information as was required for the initial certification, and payment of a nonrefundable fee.
- 10713.7 To protect the continuity of patient care, an itinerant dental provider who does not meet all of the requirements for certification at the time of submitting the application may apply for a provisional certification.
- 10713.8 Except as provided in § 10702.4 of this chapter, the Board may approve a provisional certification, not to exceed one (1) year, if the Board finds that the applicant substantially meets the requirements for a certification, and can be reasonably expected to satisfy the outstanding requirements within one (1) year.
- 10713.9 The Board may approve a one-time renewal of a provisional certification if good cause is found, such as circumstances beyond the control of the applicant. However, the Board shall not approve the renewal of a provisional certification for an applicant who has not demonstrated a good faith effort to fully satisfy the requirements for certification, such as failing to take actions within the applicant's control.

#### **10714 CONTINUING EDUCATION REQUIREMENTS**

- 10714.1 An applicant who seeks renewal of a Class I, II, or III dental certification to administer general anesthesia or sedation shall:
- (a) Complete not less than twenty-four (24) hours of clinical continuing education related to sedation or anesthesia setting during the term of the certification;
  - (b) Maintain current certification in Advanced Cardiac Life Support (ACLS), which the applicant may not allow to expire; and
  - (c) Maintain current certification in Pediatric Advanced Life Support (PALS) if the applicant sedates patients twelve (12) years of age or under.
- 10714.2 The Board may, in its discretion, grant an extension of the sixty (60) day period to renew after expiration if the applicant's failure to submit proof of completion was for good cause. As used in this section, "good cause" includes the following:
- (a) Serious and protracted illness of the applicant; and
  - (b) The death or serious and protracted illness of a member of the applicant's immediate family.

**10715 RENEWAL OF DENTIST CERTIFICATION**

10715.1 The Board shall mail a renewal application to each dentist holding a Class I, Class II, or Class III certification to administer sedation or general anesthesia, within ninety (90) days of the expiration of the certification.

**10716 RENEWAL OF DENTAL FACILITY CERTIFICATION**

10716.1 The Board shall send a renewal notice to each dental facility holding a Class I, Class II, or Class III certification to administer sedation or general anesthesia, at least ninety (90) days before the expiration of the certification.

**10717 MORBIDITY AND MORTALITY REPORTS**

10717.1 Certified dentists and dental facilities shall report to the Board, in writing, any complication or disabling incident requiring admission to a hospital for a period greater than twenty (24) hours, or for purposes other than observation, as a result of the dentist's or dental facility's administration of anxiolysis, moderate sedation, deep sedation, or general anesthesia within seventy-two (72) hours after its occurrence.

10717.2 Certified dentists and dental facilities shall report to the Board, in writing, any death caused by or resulting from the dentist's or dental facility's administration of anxiolysis, moderate sedation, deep sedation, or general anesthesia within seventy-two (72) hours after its occurrence.

10717.3 The written report to the Board required in §§ 10717.1 and 10717.2 of this section shall include:

- (a) The date of the incident;
- (b) The name, age, and address of the patient;
- (c) The type of anesthesia used; and
- (d) A narrative description of the incident, including approximate times and evolution of symptoms, and the outcome of the incident.

**10718 TRANSFER OF CERTIFICATION PROHIBITED**

10718.1 Certifications issued pursuant to this chapter may not be transferred to another dentist, location, or dental facility.

**10799 DEFINITIONS**

10799.1 As used in this chapter, the following terms have the meaning ascribed:



**Advanced Cardiac Life Support (ACLS)** – a certification that an individual has successfully completed an advanced cardiac life support course that includes hands on training and skills demonstration of airway management and automated external defibrillator (AED) use offered by the American Heart Association or other entity approved by the Board.

**Anesthesia** – an artificially induced insensibility to pain usually achieved by the administration of gases or the use of drugs.

**Anesthesia and sedation -**

- (a) Moderate sedation;
- (b) Deep sedation; and
- (c) General anesthesia.

**Anxiolysis-** the oral administration in a single dose of one type of legally prescribed sedative, narcotic, class of drug, or medication to decrease anxiety taken the evening before a procedure or the day of a procedure or both. Anxiolysis is used to achieve a drug induced state in which patients are expected to appropriately respond to tactile stimulation and verbal commands. The patient maintains consciousness, although cognitive function and coordination may be impaired. Ventilatory and cardiovascular functions are maintained and require no assistance.

**Deep sedation-** is an induced state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently or to respond purposefully to physical stimulation or verbal command, and is produced by a pharmacologic or non-pharmacologic method or a combination thereof. Airway intervention may be needed. Spontaneous ventilation may be inadequate and cardiovascular function is usually maintained. Patients cannot be easily aroused but respond purposefully following repeated or painful stimulation.

**Director** – the Director of the Department of Health, or designee.

**Facility**– any location in which anesthesia or sedation is administered for the practice of dentistry, including a dental school recognized by the Commission on Dental Accreditation or its successor organization or a hospital that is not in good standing with the District or the Joint Commission, but does not include a van or any mobile or temporary structure.

**General Anesthesia** – an induced state of consciousness, accompanied by partial or complete loss of protective reflexes, including the inability to continually maintain an airway independently and respond purposefully to physical stimulation or verbal command, and is produced by a

pharmacologic or non-pharmacologic method or a combination thereof. Patients are not arousable even by painful stimulation. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation, drug-induced depression, or changes in neuromuscular function. Cardiovascular function may be impaired.

**Itinerant Provider-** a licensed physician, certified registered nurse anesthetist, or dentist that administers anesthesia and sedation to a treating dentist's patients at the treating dentist's practice location or by traveling from practice site to practice site.

**Local Anesthesia-** the technique of reducing or eliminating the body's response to noxious stimuli by the regional injection or application of a drug to a specific area of the body that inhibits nerve excitation or conduction without affecting or altering consciousness.

**Moderate Sedation-** a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command and that is produced by a pharmacologic or non-pharmacologic method or a combination thereof. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is maintained. Patients whose only response is reflex withdrawal from repeated painful stimuli shall not be considered to be in a state of conscious sedation.

**Nitrous Oxide and Oxygen-** an inhalation combination used to reduce pain and anxiety which could also depress the level of consciousness. The quantity of Nitrous Oxide administered shall not produce levels of altered consciousness beyond that which has been defined in this chapter as anxiolysis.

**On-site Physical Facility Evaluation-** an on-site inspection to determine if a facility where the applicant proposes to provide anesthesia and sedation is adequately supplied, equipped, staffed, and maintained in a condition to support the provision of anesthesia and sedation services in a manner that meets the requirements of this chapter.

**Pediatric Advanced Life Support (PALS) certification -** a certification that an individual has successfully completed a pediatric advanced cardiac life support course that includes hands on training and skills demonstration of airway management and automated external defibrillator (AED) use offered by the American Heart Association or other entity approved by the Board.

**Provisional Certification-** a one-year certification issued to an applicant for a dental certification, a dental facility certification, or to an itinerant dental

provider applicant at the time that the application is received by the Department, that substantially meets the requirements for a certification, and can reasonably be expected to meet the outstanding requirements within a year.

**Renewal Evaluation-** an on-site inspection by the Board or its designee before the renewal of a certification to determine if a facility where the applicant proposes to provide anesthesia and sedation is adequately supplied, equipped, staffed, and maintained in a condition to support the provision of anesthesia and sedation services in a manner that meets the requirements of this chapter.

**Sedation-** any altered or decreased state of consciousness beyond that which is defined in this chapter as anxiolysis, regardless of the method or route of administration of the drug, medication or inhalation agent. The levels of sedation are (a) Moderate Sedation, (b) Deep Sedation, and (c) General Anesthesia.

**Treating Dentist-** the dentist who will perform the dental treatment, procedures, or services for which the administration of anesthesia or sedation to the patient is required.

10799.2 The definitions in § 4099 of Chapter 40 of this title are incorporated by reference into and are applicable to this chapter.

**Chapter 42, DENTISTRY, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:**

**Section 4212, REQUIREMENTS FOR ADMINISTRATION OF ANESTHESIA, is amended to read as follows:**

**4212 REQUIREMENTS FOR ADMINISTRATION OF ANESTHESIA**

4212.1 A dentist shall not administer anesthesia or sedation unless the dentist has obtained certification from the Board to do so pursuant to the requirements and processes set forth in Chapter 107 (Dental and Dental Facility Certification To Administer Sedation or General Anesthesia) of Title 17 of the District of Columbia Municipal Regulations.

4212.2 To be qualified to administer nitrous oxide alone, or nitrous oxide in combination with a single oral drug, a dentist shall have met the following requirements prior to administering nitrous oxide:

- (a) Hold an active license to practice dentistry in the District of Columbia in good standing;
- (b) Maintain current certification in cardiopulmonary resuscitation for health care providers as evidenced by a certificate; and

- (c) Maintain current DEA (Drug Enforcement Agency) and District of Columbia controlled substance registrations.

4212.3 A dentist who administers local anesthesia or nitrous oxide shall report to the Board any death, substantially disabling incident, or hospitalization caused by the administration of local anesthesia or nitrous oxide by the dentist or a dental hygienist authorized by the Board of Dentistry to administer local anesthesia and nitrous oxide acting under his or her supervision, within seventy-two (72) hours after the occurrence.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Phillip L. Husband, General Counsel, Office of the General Counsel, 899 North Capitol Street, N.E., 6<sup>th</sup> Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained during the hours of 9 a.m. to 5 p.m., Monday through Friday, excluding holidays, at the address listed above, or by contacting Angli Black, Paralegal, at [Angli.Black@dc.gov](mailto:Angli.Black@dc.gov), (202) 442-5977.

## OFFICE OF TAX AND REVENUE

NOTICE OF PROPOSED RULEMAKING

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR) of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-1816.01 (2015 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019, Pub.L. 109-356; D.C. Official Code § 1-204.24d (2016 Repl.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of its intent to amend Chapter 11 (Qualified High Technology Company), of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR).

The proposed regulations provide updated guidance related to legislative changes to wage credits for Qualified High Technology Companies.

**Chapter 11, QUALIFIED HIGH TECHNOLOGY COMPANY, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:**

**Section 1103, TAX CREDITS TO QHTCS: WAGES PAID TO QUALIFIED EMPLOYEES, is amended as follows:**

- 1103.1 For tax years beginning after December 31, 2000 and ending on or before December 31, 2019, a QHTC shall be allowed a credit against the tax imposed by D.C. Official Code § 47-1817.6 equal to ten percent (10%) of the wages paid during the first twenty-four (24) calendar months to a qualified employee who is employed in the District by the QHTC in any of the activities defined in D.C. Official Code § 47-1817.1(5)(A)(iii) and hired after December 31, 2000.
- 1103.2 For tax years beginning after December 31, 2019, a QHTC shall be allowed a credit against the tax imposed by D.C. Official Code § 47-1817.6 equal to five percent (5%) of the wages paid during the first 24 calendar months to a qualified employee who is employed in the District by the QHTC in any of the activities defined in D.C. Official Code § 47-1817.1(5)(A)(iii) and hired after December 31, 2017.
- 1103.3 The applicable credit amount taken under § 1103.1 and § 1103.2, and as limited by § 1103.4 and § 1103.5 below, shall be based on the taxable year in which the credits are taken, not on the hire date of the relevant employee.
- 1103.4 For tax years beginning after December 31, 2000 and ending on or before December 31, 2019, the credit shall not exceed, for each qualified employee, five thousand dollars (\$5,000) in a taxable year.
- 1103.5 For tax years beginning after December 31, 2019, the credit shall not exceed, for each qualified employee, three thousand dollars (\$3,000) in a taxable year.
- 1103.6 The credit shall not be allowed if:

- (a) The employee is a key employee;
  - (b) The QHTC accords the qualified employee lesser benefits or rights than it accords other employees in similar jobs; or
  - (c) The qualified employee is employed as the result of:
    - (1) The displacement of another employee;
    - (2) A strike or lockout;
    - (3) A layoff in which other employees are awaiting recall; or
    - (4) A reduction of the regular wages, benefits, or rights of others in similar jobs.
- 1103.7 A credit allowable under this section may be carried forward for ten (10) years if:
- (a) The amount of the credit allowable under this section exceeds the tax otherwise due from a Qualified High Technology Company; and
  - (b) The amount of the credit allowable under this section was obtained for wages of a qualified employee hired before October 1, 2019.
- 1103.8 A credit allowable under this section obtained for wages of a qualified employee hired on or after October 1, 2019 shall not be carried forward.
- 1103.9 The following are examples of the application of §§ 1103.1 to 1103.5:
- (a) On January 1, 2019, Company D, a QHTC, hires ten (10) employees at an annual salary of \$40,000 each. Since the workers perform the activities described in D.C. Official Code § 47 -1817.1(5)(A)(iii); they are classified as qualified employees. None of the qualified employees are affected by the restrictions of § 1103.6. The annual payroll each year for the 10 qualified employees is \$400,000. For tax year 2019, Company D is entitled to a tax credit equal to 10% of the annual salaries of \$400,000 received by the 10 qualified employees, or \$40,000. For tax year 2020, Company D is entitled to a tax credit equal to 5% of the annual salaries of \$400,000 received by the 10 qualified employees, or \$20,000, as § 1103.2 would apply.
  - (b) Assume the same facts as in Example 1, except the annual payroll for each year is \$600,000. For tax year 2019, Company D is entitled to a tax credit of only \$5,000.00 for each qualified worker, or \$50,000, since the limitation of § 1103.4 would apply. For tax year 2020, Company D is entitled to a tax credit of only \$3,000.00 for each qualified worker, or \$30,000, since the limitation of § 1103.5 would apply.

- (c) Assume the same facts as in Example 1, except five (5) of the qualified employees are entry level and are paid \$30,000 each and 5 of the qualified employees are highly skilled and are paid \$70,000 each. For tax year 2020, the limitation of § 1103.2 applies to the 5-entry level qualified employees and the limitation of § 1103.5 applies to the highly skilled qualified employees. Therefore, Company D is entitled to a tax credit of \$22,500, calculated as follows: (1) the total annual wages paid to the entry level qualified employees is \$150,000 of which five percent (5%), or \$7,500, is available for the credit, (2) the total annual wages paid to the highly skilled qualified employees is \$350,000 and since the credit for each of the five highly skilled qualified employee exceeds \$3,000, only \$15,000 is available for the credit, (3) \$7,500 plus \$15,000 totals \$22,500.

Comments on this proposed rulemaking should be submitted to Jessica Brown, Assistant General Counsel, Office of Tax and Revenue, no later than thirty (30) days after publication of this notice in the *D.C. Register*. Jessica Brown may be contacted by: mail at D.C. Office of Tax and Revenue, 1101 4<sup>th</sup> Street, S.W., Suite 750, Washington, D.C. 20024; telephone at (202) 442-6462; or, email at [jessica.brown@dc.gov](mailto:jessica.brown@dc.gov). Copies of this rule and related information may be obtained by contacting Jessica Brown as stated herein.

## OFFICE OF TAX AND REVENUE

NOTICE OF PROPOSED RULEMAKING

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR) of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-1816.01 (2015 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019, Pub.L. 109-356; D.C. Official Code § 1-204.24d (2016 Repl.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of its intent to amend Chapter 11 (Qualified High Technology Company), of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR).

The proposed regulations provide updated guidance related to legislative changes to applicable franchise tax rates for Qualified High Technology Companies.

**Chapter 11, QUALIFIED HIGH TECHNOLOGY COMPANY, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:**

**Section 1106, TAX ON QUALIFIED HIGH TECHNOLOGY COMPANIES, is amended as follows:**

**1106 TAX ON QUALIFIED HIGH TECHNOLOGY COMPANIES**

1106.1 For tax years ending on or before December 31, 2019, in lieu of the tax on taxable income imposed by D.C. Official Code § 47-1807.2, subject to the credits applicable thereto, a tax on taxable income at a rate of six percent (6%) shall be imposed upon QHTCs that are corporations except as modified by D.C. Official Code § 47-1817.06(a)(2)(A).

1106.2 For tax years beginning after December 31, 2019, a QHTC shall be allowed a credit against taxes imposed by § 47-1807.02 as follows:

- (a) The credit shall be allowed in an amount equal to the lesser of:
  - (1) \$250,000 per taxable year; or
  - (2) The difference between the amount of tax that would otherwise be due based on the applicable rate of tax imposed by § 47-1807.02 and the reduced rate of six percent (6%).
- (b) The credit shall be allowed for five (5) taxable years from the later of:
  - (1) The tax year ending December 31, 2019 for annual year filers, or for fiscal year filers, the first tax year ending after December 31, 2019; or
  - (2) The last tax year the Qualified High Technology Company is eligible to receive an exemption under D.C. Official Code § 47-1817.06(a)(2).



- (c) After the expiration of the period outlined in paragraph (B), the QHTC will pay franchise tax at the general rate as required by D.C. Official Code § 47-1807.02.

1106.3 Notwithstanding § 1106.1 or § 1106.2, a QHTC certified pursuant to § 47-1805.05 shall not be subject to tax imposed under Chapter 18 of Title 47 of the D.C. Official Code for five (5) taxable years from the first tax year that the QHTC has District taxable income. The total amount that each QHTC may receive in benefits under this paragraph shall not exceed fifteen million dollars (\$15,000,000). This \$15 million cap is cumulative and applies to all benefits received by a QHTC under D.C. Official Code § 47-1817.06(2) beginning from the original enactment of the program in 2001.

1106.4 *Examples.*

- (a) Newly Formed QHTC Example. Assume a QHTC that enters into business in the District for the first time in 2020, and has District taxable income for the first time in tax year 2021. The QHTC will be entitled to pay District franchise tax at a zero percent rate for 5 taxable years from tax year 2021, or until the cumulative franchise tax benefits received by the QHTC exceed \$15 million. Beginning in tax year 2026, the QHTC will be allowed the credit provided for under § 1106.2(B) for a period of 5 years.
- (b) Existing QHTC Example. Assume a QHTC that entered into business in the District for the first time in 2017, had District taxable income for the first time in 2017, and has received \$2 million in QHTC franchise tax benefits. Under § 1106.3, the QHTC continues to be eligible for the 0% tax rate only through tax year 2021, so long as the cumulative benefits from the exemption do not exceed \$15 million. Thereafter, the QHTC would be eligible only for the credit allowable under § 1106.2.
- (c) Credit Calculation Example. Assume a QHTC entitled to the credit under § 1106.2 in a year in which its District taxable income was \$15 million and the franchise tax rate under § 47-1807.02 is 8.25%. In order to calculate the credit to which it is entitled, the QHTC must first determine the tax it would be required to pay on its District taxable income if it were not a QHTC by applying the standard franchise tax rate found in § 47-1807.02 to its District taxable income ( $\$15 \text{ million} \times 8.25\% = \$1,237,500$ ). The QHTC must then apply the QHTC reduced rate of six percent (6%) to the QHTC's District taxable income ( $\$15 \text{ million} \times 6\% = \$900,000$ ). The taxpayer must then compare the two tax due amounts to determine the difference ( $\$1,237,500 - \$900,000 = \$337,500$ ). Since the calculated difference of \$337,500 exceeds \$250,000, the taxpayer is entitled to a franchise tax credit of \$250,000.

1106.5        The transfer of ownership of a QHTC shall not affect the provisions of this section. If a transfer of ownership of a QHTC occurs, the benefits and limitations of this section shall continue to apply as if no transfer occurred. A QHTC which has exhausted the franchise tax benefits allowable under this chapter will not be entitled to additional benefits after a transfer of ownership.

Comments on this proposed rulemaking should be submitted to Jessica Brown, Assistant General Counsel, Office of Tax and Revenue, no later than thirty (30) days after publication of this notice in the *D.C. Register*. Jessica Brown may be contacted by: mail at D.C. Office of Tax and Revenue, 1101 4<sup>th</sup> Street, S.W., Suite 750, Washington, D.C. 20024; telephone at (202) 442-6462; or, email at [jessica.brown@dc.gov](mailto:jessica.brown@dc.gov). Copies of this rule and related information may be obtained by contacting Jessica Brown as stated herein.

## OFFICE OF TAX AND REVENUE

NOTICE OF PROPOSED RULEMAKING

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR) of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-1816.01 (2015 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019, Pub.L. 109-356; D.C. Official Code § 1-204.24d (2016 Repl.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of its intent to amend Chapter 11 (Qualified High Technology Company), of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR).

The proposed regulations provide updated guidance related to the repeal of sales tax exemptions for Qualified High Technology Companies.

**Chapter 11, QUALIFIED HIGH TECHNOLOGY COMPANY, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:**

**Section 1111, SALES AND USE TAX EXEMPTION FOR QHTCS, is amended to read as follows:**

**1111 SALES AND USE TAX EXEMPTION FOR QHTCS**

- 1111.1 Sales tax exemptions for sales by Qualified High Technology Companies under D.C. Official Code § 47-2001(n)(2)(G) are repealed effective October 1, 2019.
- 1111.2 Sales tax exemptions for sales to Qualified High Technology Companies under D.C. Official Code § 47-2005(31) are repealed effective October 1, 2019.
- 1111.3 All QHTC Exempt Purchases Certificates, regardless of the expiration date on the QHTC Exempt Purchases Certificate, are terminated as of October 1, 2019.

Comments on this proposed rulemaking should be submitted to Jessica Brown, Assistant General Counsel, Office of Tax and Revenue, no later than thirty (30) days after publication of this notice in the *D.C. Register*. Jessica Brown may be contacted by: mail at D.C. Office of Tax and Revenue, 1101 4<sup>th</sup> Street, S.W., Suite 750, Washington, D.C. 20024; telephone at (202) 442-6462; or, email at [jessica.brown@dc.gov](mailto:jessica.brown@dc.gov). Copies of this rule and related information may be obtained by contacting Jessica Brown as stated herein.

**OFFICE OF TAX AND REVENUE****NOTICE OF PROPOSED RULEMAKING**

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR) of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-1816.01 (2015 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019, Pub.L. 109-356; D.C. Official Code § 1-204.24d (2016 Repl.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of its intent to amend Chapter 11 (Qualified High Technology Company), of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR).

The proposed regulations provide updated guidance related to definitions related to Qualified High Technology Companies.

**Chapter 11, QUALIFIED HIGH TECHNOLOGY COMPANY, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:****Section 1199, DEFINITIONS, is amended as follows:**

1199.2 For purposes of D.C. Official Code § 47-1817.01(5)(A), the following terms and phrases shall have the meaning ascribed:

- (a) “Deriving at least 51% of its gross revenues earned in the District” shall require the taxpayer to receive its gross revenues as payment for directly performing or producing one or more of the QHTC services or products enumerated in D.C. Official Code § 47-1817.01(5)(A)(iii), not from mere use of technology in its business.
- (b) “Having 2 or more qualified employees in the District” shall require that the qualified employees spend the majority of their time working in an office owned or leased by the taxpayer in the District of Columbia and directly engaging in one or more of the activities enumerated in D.C. Official Code § 47-1817.01(5)(A)(iii).
- (c) “Leasing an office in the District of Columbia” shall require a written contract conveying real property for a specified term and for a specified rent where the lessee has continuous use of the premises during business and non-business hours. “Leasing an office in the District of Columbia” shall not include maintaining a virtual office, contracting for use of a co-working office space or a licensing arrangement. A lease must be maintained for the entirety of the period for which QHTC status is sought.
- (d) “Office” shall mean a building, room, or series of rooms in which the affairs of the taxpayer are carried on, but will not include warehouses, garages, studios, trailers, temporary structures, outdoor space, equipment storage facilities, equipment rooms, home offices, or other similar locations.

- (e) “Owning an office in the District of Columbia” shall require the taxpayer to own real property in fee simple for the entirety of the tax year for which QHTC status is sought.

Comments on this proposed rulemaking should be submitted to Jessica Brown, Assistant General Counsel, Office of Tax and Revenue, no later than thirty (30) days after publication of this notice in the *D.C. Register*. Jessica Brown may be contacted by mail at D.C. Office of Tax and Revenue, 1101 4<sup>th</sup> Street, S.W., Suite 750, Washington, D.C. 20024; telephone at (202) 442-6462; or, email at [jessica.brown@dc.gov](mailto:jessica.brown@dc.gov). Copies of this rule and related information may be obtained by contacting Jessica Brown as stated herein.

## DEPARTMENT OF HEALTH CARE FINANCE

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2016 Supp. & 2018 Repl.)), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2018 Repl.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Chapter 97 (Adult Day Health Program Services), of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These rules establish standards for adult day program services that govern eligibility criteria for beneficiaries, conditions of participation for providers, and provider reimbursement. Adult day health services are designed to encourage older adults to live in the community by offering non-residential medical supports; provide supervised therapeutic activities in an integrated community setting that foster opportunities for community inclusion; and deter more costly facility-based care. This rulemaking corresponds to an amendment to the District of Columbia State Plan for Medical Assistance (State Plan). The corresponding amendment to the State Plan Amendment must be approved by Centers for Medicare and Medicaid (CMS).

This emergency and proposed rule gives notice of the DHCF's intent to renew the 1915(i) Adult Day Health Program (ADHP), effective April 1, 2020, and incorporates changes to the the program consistent with federal requirements and updates made to the 1915(i) State Plan Home and Community-Based Services (HCBS) template, issued CMS. DHCF expects total Medicaid expenditures to increase by \$6,401,470 in Fiscal Year 2020 as a result of the proposed changes.

DHCF is proposing amendments to Section 9701, governing eligibility requirements, to clarify eligibility requirements set forth under the State Plan with respect to a beneficiary's indication of need for services. In accordance with 42 CFR 441.710(c) and 441.720(a)(5), individuals are considered enrolled in the State Plan HCBS benefit only if they (1) meet the eligibility and needs-based criteria for the benefit, and are (2) also assessed to require and receive at least one home and community-based service offered under the State Plan for medical assistance, at a frequency determined by the state. The current regulations lacked specificity with regard to the frequency at which a beneficiary must be assessed to be eligible for enrollment in the ADHP program. DHCF is proposing amendments under § 9701.1(e) to clarify this program eligibility requirement. An individual must require the provision of at least one 1915(i) ADHP service, as documented in the person-centered service plan, on a monthly-basis, to be eligible for enrollment into the 1915(i) ADHP.

Additionally, DHCF is proposing amendments to Section 9721, governing service limitations, to eliminate the cap on hours for individuals receiving Personal Care Aide (PCA) services under the State Plan on the same day as the individual receives ADHP services. The service limitation was creating barriers for Medicaid beneficiaries who needed both services in a single day. The

limitation also posed challenges for providers with regard to billing for the concurrent provision of PCA and ADHP services. For these reasons, DHCF is removing the limitation.

Finally, DHCF is proposing amendments to Section 9723, governing reimbursement policy, to reflect that, effective April 1, 2020, ADHP services shall be reimbursed in accordance with the District of Columbia Medicaid Fee Schedule.

DHCF is also considering whether additional policy changes are needed to improve the accessibility of ADHP services for individuals who are homebound. DHCF invites interested stakeholders to provide information on any policy changes that might support this goal for consideration as part of their comments.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare to ensure that the District’s Adult Day Health program delivering critically important healthcare services to vulnerable District Medicaid beneficiaries in need of home and community-based services without interruption.

These emergency rules were adopted on February 28, 2020 and shall become effective on April 1, 2020, contingent upon approval of the corresponding SPA by CMS. The emergency rules will remain in effect for one hundred and twenty (120) days or until June 27, 2020, 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 this emergency and proposed rule not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

**Chapter 97, ADULT DAY HEALTH PROGRAM SERVICES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:**

**Section 9701, ELIGIBILITY REQUIREMENTS, is amended to read as follows:**

**9701 ELIGIBILITY REQUIREMENTS**

9701.1 To qualify for ADHP services under these rules, the Medicaid beneficiary shall meet the following criteria:

- (a) Be age fifty-five (55) and older;
- (b) Be an adult with a chronic medical condition diagnosed by a physician;
- (c) Have income up to one hundred fifty percent (150%) of the federal poverty level (FPL);
- (d) Be in receipt of an assessment determination authorizing, and specifying the level of need for ADHP services in accordance with Section 9709 of this chapter; and

- (e) Require provision of at least one (1) ADHP service on a monthly basis, as reflected in the beneficiary's assessment documentation described in Subsection 9709.3(d).

**Section 9721, SERVICE LIMITATIONS, is amended to read as follows:**

**9721 SERVICE LIMITATIONS**

- 9721.1 A person shall not receive ADHP services if they reside in an institutional setting or any setting that is not in compliance with the HCBS setting requirements consistent with 42 CFR § 441.301 and 42 CFR § 441.710.
- 9721.2 A provider shall not be reimbursed for ADHP services under these rules if the participant is concurrently receiving the following services:
- (a) Day Habilitation and Individualized Day Supports under the Section 1915 (c) Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD);
  - (b) Intensive day treatment or day treatment mental health rehabilitative services (MHRS);
  - (c) Personal Care Aide (PCA) services (State Plan and 1915 (c) waivers); or
  - (d) Adult day care or day services funded by the Older Americans Act of 1965, approved July 14, 1965 (Pub. L. No. 89-73, 79 Stat. 218), as amended by the Older Americans Act Amendments of 2000, approved November 13, 2000 (Pub. L. No. 106-501, 114 Stat. 2226), as amended by the Older Americans Act Amendments of 2006, approved October 17, 2006 (Pub. L. No. 109-365, 120 Stat. 2522).
- 9721.3 DHCF shall not reimburse ADHP services if the participant is also receiving or being billed for the services listed under Subsection 9721.2 at the same time the participant is in attendance at the ADHP site.
- 9721.4 A provider shall not be reimbursed for ADHP services if the participant is receiving intensive day treatment mental health rehabilitation services during a twenty-four (24) period that immediately precedes or follows the receipt of ADHP services, to ensure that the participant is receiving services in the setting most appropriate to his/her clinical needs.
- 9721.5 ADHP services shall not be provided for more than five (5) days per week and for more than eight (8) hours per day.



Section 9723, REIMBURSEMENT POLICY, is amended to read as follows:

**9723 REIMBURSEMENT POLICY**

- 9723.1 Reimbursement rates shall be based on a uniform per diem rate that is differentiated based on the participant's acuity level as established by the standardized need- based assessment tool and process described under Section 9709, as follows:
- (a) Acuity Level One (1) represents the health and support needs of a beneficiary whose needs based assessment reflects a minimum score of four (4); and
  - (b) Acuity Level Two (2) represents the health and support needs of a beneficiary whose needs based assessment reflects a score of six (6) or higher.
- 9723.2 Beginning April 1, 2020, the reimbursement rate for ADHP services shall be as follows:
- (a) Acuity Level One (1): The daily rate for a program serving participants with minimum acuity levels with at least one staff member during all hours shall be reimbursed in accordance with the District of Columbia Medicaid Fee Schedule schedule available online at [www.dc-medicaid.com](http://www.dc-medicaid.com); and
  - (b) Acuity Level Two (2): The daily rate for a program serving participants with a maximum acuity level with at least one staff member shall be reimbursed in accordance with the District of Columbia Medicaid Fee Schedule schedule available online at [www.dc-medicaid.com](http://www.dc-medicaid.com).
- 9723.3 DHCF may make periodic adjustments to the uniform per-diem rates. Uniform per-diem rates may be inflated by the corresponding CMS Market Basket Index for Nursing Facilities for that period.
- 9723.4 All future updates to the reimbursement rates for ADHP services shall comply with the public notice requirements set forth under § 988.4 of Chapter 9 of Title 29 of the District of Columbia Municipal Regulations (DCMR) and provide an opportunity for meaningful comment.
- 9723.5 A public notice of ADHP rate changes shall be published in the *D.C. Register* at least thirty (30) calendar days in advance of the change, and shall include a link to the Medicaid fee schedule and information on how written comments can be submitted to DHCF.

Comments on these rules should be submitted in writing to Melisa Byrd, Senior Deputy and Medicaid Director, Department of Health Care Finance, Government of the District of Columbia, 441 4<sup>th</sup> Street, N.W., Suite 900, Washington D.C. 20001, via telephone on (202) 442-8742, via email at [DHCFPubliccomments@dc.gov](mailto:DHCFPubliccomments@dc.gov), or online at [www.dcregs.dc.gov](http://www.dcregs.dc.gov), within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these rules are available from the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2020-038  
March 5, 2020

**SUBJECT:** Appointment — Child Support Guideline Commission

**ORIGINATING AGENCY:** Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. No. 93-198, D.C Official Code § 1-204.22(2) (2016 Repl.), and pursuant to section 3 of the Child Support Guideline Amendment Act of 1990, effective July 25, 1990, D.C. Law 8-150, D.C. Official Code § 16-916.02 (2012 Repl.), it is hereby **ORDERED** that:

1. **DAVID E. MARTÍNEZ**, is appointed as a member of the District of Columbia Bar and an expert in the field of family law and child support member of the Child Support Guideline Commission, for a term to end December 31, 2023.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.


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**MURIEL BOWSER**  
**MAYOR**

**ATTEST:**   


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**KIMBERLY A. BASSETT**  
**SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA**

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2020-039  
March 5, 2020

**SUBJECT:** Appointments — District of Columbia Education Research Practice Partnership Review Panel

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with section 4(d)(1) of the District of Columbia Education Research Practice Partnership Establishment and Audit Act of 2018, effective March 28, 2019, D.C. Law 22-268, 66 DCR 3984 (April 5, 2019), it is hereby **ORDERED** that:

1. The following persons are appointed as members of the District of Columbia Education Research Practice Partnership Review Panel, to serve at the pleasure of the Mayor:
  - a. **JENNIFER COMEY;**
  - b. **HANSEUL KANG;** and
  - c. **SAM QUINNEY.**
  
2. **EFFECTIVE DATE:** This Order shall become effective immediately.




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MURIEL BOWSER  
MAYOR

ATTEST:   
 KIMBERLY A. BASSETT  
 SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

## ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2020-040  
March 5, 2020

**SUBJECT:** Reappointments and Appointments — Open Government Advisory Group

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with Mayor's Order 2016-094, dated June 9, 2016, it is hereby **ORDERED** that:

1. The following persons are reappointed as public members of the Open Government Advisory Group (“Advisory Group”), for terms to end June 9, 2022:
  - a. **ROBERT BECKER**; and
  - b. **KAREN PETTIT**.
2. **VAN FREEMAN** is appointed as a public member, replacing Tiffany Crowe, for a term to end June 9, 2022.
3. The following persons are appointed as members of the Advisory Group, to serve at the pleasure of the Mayor:
  - a. **NIQUELLE ALLEN**, as the designee of the Office of Open Government, replacing Traci Hughes;
  - b. **RUNAKO ALLSOPP**, as the designee of the Office of the Attorney General, replacing Elaine Block;
  - c. **TIFFANY CROWE**, as the designee of the Executive Office of the Mayor, replacing Rebecca Katz;
  - d. **RONNIE DAMPIER**, as the designee of the Deputy Mayor for Operations and Infrastructure, replacing Faith Leach;
  - e. **CAROLINE FISHEROW**, as the designee of the Deputy Mayor for Education, replacing Jennifer Comey;
  - f. **HELDER GIL**, as the designee of the Deputy Mayor for Public Safety and Justice, replacing Michelle Vanneman;
  - g. **JULIA HUDSON**, as the designee of the Director of the Mayor's Office of Legal Counsel, replacing Bijan Hughes;
  - h. **JAY MELDER**, as the designee of the City Administrator, replacing Alan Karnofsky;
  - i. **ERIKA SATTERLEE**, as the designee of the Deputy Mayor for Planning and Economic Development, replacing Marie Whittaker; and

- j. **RAYNA SMITH**, as the designee of the Deputy Mayor for Health and Human Services, replacing Amelia Whitman.
  
- 4. **TIFFANY CROWE** is appointed as Chairperson of the Advisory Group, to serve at the pleasure of the Mayor.
  
- 5. **EFFECTIVE DATE:** This Order shall become effective immediately.

  
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MURIEL BOWSER  
MAYOR

ATTEST:   
\_\_\_\_\_  
KIMBERLY A. BASSETT  
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

**GOVERNMENT OF THE DISTRICT OF COLUMBIA****ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2020-041  
March 5, 2020

**SUBJECT:** Reappointments and Appointments — Commission for Women

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with section 3 of the District of Columbia Commission for Women Act of 1978, effective September 22, 1978, D.C. Law 2-109, D.C. Official Code § 3-702 (2016 Repl.), it is hereby **ORDERED** that:

1. The following persons are reappointed as public members of the Commission for Women (“Commission”), for terms to end April 20, 2021:
  - a. **GABRIELLE ALFONSO;**
  - b. **FERIAL BISHOP;**
  - c. **DONELLA BROCKINGTON;**
  - d. **ARYN BUSSEY;**
  - e. **BRANDY BUTLER;**
  - f. **COURTNEY CHRISTIAN;**
  - g. **ABBY FENTON;**
  - h. **JACQUELYN GLOVER;**
  - i. **TIFFINI GREENE;**
  - j. **CAMELIA MAZARD;**
  - k. **PRINCESS MCDUFFIE;**
  - l. **VERONICA NELSON;**
  - m. **SHELLY TOMKIN; and**

- n. **ABIGAIL TRUHART.**
- 2. The following persons are appointed, as public members of the Commission, for terms to end April 20, 2021:
  - a. **NIA HOPE BESS**, replacing Elizabeth O'Hara;
  - b. **ANGIE SUE LUNDY**, replacing Monte Monash;
  - c. **JENNIFER LURAY**, replacing Carolyn Rudd; and
  - d. **JESSICA TUNON**, replacing Margaret HacsKaylo.
- 3. **PRINCESS MCDUFFIE**, is designated as Chairperson of the Commission for Women, replacing Carolyn Rudd, to serve at the pleasure of the Mayor.
- 4. **EFFECTIVE DATE:** Sections 1 and 2 of this Order shall be *nunc pro tunc* to April 20, 2018. Section 3 of this Order shall become effective immediately.

  
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 MURIEL BOWSER  
 MAYOR

ATTEST:   
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 KIMBERLY A. BASSETT  
 SECRETARY OF STATE THE DISTRICT OF COLUMBIA



GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2020-042  
March 6, 2020

**SUBJECT:** Appointments — Police and Firefighters Retirement Relief Board

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), in accordance with section 122 of An Act To increase compensation for District of Columbia policemen, firemen, and teachers; to increase annuities payable to retired teachers in the District of Columbia; to establish an equitable tax on real property in the District of Columbia; to provide for additional revenue for the District of Columbia; and for other purposes, approved September 3, 1974, 88 Stat. 1041, Pub. L. 93-407, D.C. Official Code § 5-722 (2019 Repl.), it is hereby **ORDERED** that:

1. The following persons are appointed as employees of the District of Columbia and Metropolitan Police Department alternate members of the Board, to serve at the pleasure of the Mayor:
  - a. **MICHAEL COLIGAN**, replacing Vendette Parker;
  - b. **KIMBERLY DICKERSON**, replacing Brian Grogan; and
  - c. **RAMEY KYLE**, replacing Michael Gottert.
  
2. **EFFECTIVE DATE:** This Order shall become effective immediately.

  
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 MURIEL BOWSER  
 MAYOR

ATTEST:   
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 KIMBERLY A. BASSETT  
 SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor’s Order 2020-043  
March 6, 2020

**SUBJECT:** Appointments — Opioid Fatality Review Board

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with Mayor’s Order 2019-024, dated May 2, 2019, it is hereby **ORDERED** that:

1. **JEWELL REDDICK**, is appointed as a District resident member, who is not an employee of the District, who has been affected by a drug overdose death of an immediate family member or has been a direct recipient of drug treatment services in the District, of the Opioid Fatality Review Board (“Board”), replacing Maurice Harrison, to fill an unexpired term to end June 15, 2021.
2. **DANIEL SMITH** is appointed as a community-based service provider to District residents member of the Board, replacing Edwin Chapman, to fill an unexpired term to end June 15, 2021.
3. **ELLIOT TOMMINGO** is appointed as a representative from the Mayor’s Office of Veterans Affairs member of the Board, replacing Robert Pearson, to serve at the pleasure of the Mayor.
4. **EFFECTIVE DATE:** This Order shall become effective immediately.

  
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 MURIEL BOWSER  
 MAYOR

**ATTEST:**   
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 KIMBERLY A. BASSETT  
 SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2020-044  
March 9, 2020

**SUBJECT:** Reappointment— Eastern Market Community Advisory Committee

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with section 12 of the Eastern Market Real Property Asset Management and Outdoor Vending Act of 1998, effective April 16, 1999, D.C. Law 12-288, D.C. Official Code § 37-111 (2018 Repl.), it is hereby **ORDERED** that:

1. **JONATHAN PAGE**, is reappointed as a voting member of the Eastern Market Community Advisory Committee, for a term to end October 6, 2021.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.

  
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 MURIEL BOWSER  
 MAYOR

ATTEST: Kimberly A. Bassett  
 KIMBERLY A. BASSETT  
 SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

**GOVERNMENT OF THE DISTRICT OF COLUMBIA****ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2020-045  
March 11, 2020

**SUBJECT:** Declaration of Public Emergency: Coronavirus (COVID-19)

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in the Mayor of the District of Columbia pursuant to section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(11) (2016 Repl.), in accordance with section 5 of the District of Columbia Public Emergency Act of 1980, effective March 5, 1981, D.C. Law 3-149, D.C. Official Code § 7-2304 (2018 Repl.), and section 2 of the Natural Disaster Consumer Protection Act of 1992 ("Natural Disaster Consumer Protection Act"), effective March 20, 1992, D.C. Law 9-80, D.C. Official Code § 28-4102 (2013 Repl.), it is hereby **ORDERED** that:

**I. FINDINGS AND DECLARATION (NATURE OF A PUBLIC EMERGENCY)**

- A. This Order is issued in response to several presumptive and confirmed cases of the coronavirus (COVID-19) in the Washington, DC metropolitan region and Washington, DC being a hub for visitors from around the country and world. COVID-19 has been detected in numerous states, with more than 1,000 confirmed cases and at least 29 fatalities in the United States. On January 31, 2020, the federal Department of Health and Human Services declared a public health emergency (PHE) for the United States to aid the nation's health care community in responding to COVID-19. The World Health Organization and the Centers for Disease Control and Prevention ("CDC") have declared COVID-19 to be a "public health emergency of international concern" (PHEIC). On March 11, 2020, the World Health Organization declared COVID-19 a pandemic.
- B. Cities in the United States and foreign cities experiencing COVID-19 outbreaks have had significant health, safety, and economic impacts on their residents, businesses, and visitors. Mandatory quarantines, self-isolation, business supply chain interruptions, and cancellations of college classes and conventions are increasingly affecting peoples' lives and livelihoods.
- C. The person-to-person spread of COVID-19 and the increased availability of testing kits make it virtually certain that the District of Columbia will have a growing number of reported cases, and COVID-19 is already having significant impacts on District of Columbia residents, businesses, visitors, students, and at-risk populations.

- D. The spread of COVID-19 is an imminent threat to the health, safety, and welfare of District residents that requires emergency protective actions be undertaken by the District Government.
- E. The District Government will need to take action on immediate timeframes that will accelerate procedures related to procurement, personnel, changes to collective bargaining agreements, fund and make disbursements, and to undertake other activities necessary to respond to the public emergency.
- F. By this Order, the worldwide spread of coronavirus COVID-19 and the declaration of COVID-19 as a PHEIC is declared to be a natural disaster for purposes of the Natural Disaster Consumer Protection Act of 1992.
- G. By this Order, a public emergency is declared in the District of Columbia, effective immediately.

## II. EMERGENCY MEASURES AND REQUIREMENTS

- A. The City Administrator, in consultation with the directors of the Department of Health (“DOH” or “DC Health”) and the Homeland Security and Emergency Management Agency (“HSEMA”), is authorized to implement any measures as may be necessary or appropriate to protect persons and property in the District of Columbia from the impacts of COVID-19. Such measures may include:
  - 1. Actions authorized under D.C. Official Code § 7-2304(b), including requesting federal disaster assistance and mandatory medical quarantining of any person for whom there is probable cause to believe he or she is affected with a communicable disease;
  - 2. Taking measures under the District Response Plan to the extent necessary or appropriate to effectuate the relief contemplated by this Order; and
  - 3. Enforcing the District’s Natural Disaster Consumer Protection Act, D.C. Official Code § 28-4102.
- B. The District’s Emergency Operations Center (“EOC”) shall be partially or fully activated at the discretion of the City Administrator, in consultation with the Deputy Mayor for Public Safety and Justice and the HSEMA Director. All relevant District agencies shall designate and detail personnel to staff the EOC if called upon.
- C. The City Administrator, in consultation with the Assistant City Administrator, and the directors of DOH and the Department of Human Services, shall procure locations that will be available for use as quarantine sites.

- D. The Mayor's Chief of Staff, in consultation with the Mayor's Director of Communications, shall direct all public communications and maintain coronavirus.dc.gov as a central repository for all government information relating to COVID-19 response.
- E. The City Administrator, in consultation with the Assistant City Administrator, shall, if necessary, deploy personnel in a manner that may contravene provisions of existing collective bargaining agreements and may designate employees as essential at any time, or delegate such designation responsibilities to agency heads.
- F. Within one (1) day of this Order, the Department of Human Resources ("DCHR") shall issue a policy ratified by the City Administrator, for all District government employees relating to travel, designation of emergency and essential employees, employee responsibilities, and guidance on workplace flexibility, leave options, and workplace protections.
- G. Within one (1) day of this Order, the Mayor's Chief of Staff, in consultation with the Mayor's Office of Community Affairs, shall continue outreach to institutions in the District of Columbia to inform:
1. Businesses, community groups, religious institutions, and other community leaders on CDC guidance on preventing the spread of illnesses; and
  2. District residents and businesses of the Department of Health recommendation that non-essential gatherings of more than 1,000 persons, be postponed until March 31 at the earliest.
- H. The City Administrator, in consultation with the DOH Director and the Deputy Mayor for Planning and Economic Development, shall determine whether public venues can operate safely during a pandemic and, if not, identify measures that can be undertaken to minimize health risks, including temporary closures, and provide recommendations to the Mayor.
- I. The City Administrator, in consultation with the DOH Director, shall issue guidance to businesses and organizations that host large gatherings in the District to ensure they may operate those events safely during a pandemic.
- J. The City Administrator, in consultation with the DOH director, the Deputy Mayor for Education, the Chancellor of the DC Public Schools, the Executive Director of the Public Charter School Board, and the President of the University of the District of Columbia (UDC), shall determine whether UDC and public schools, both DCPS and DC public charter schools, can operate safely during a pandemic and, if not, identify measures that can be undertaken to minimize health risks, including online learning, temporary closures, and modifications to the school

year, and provide recommendations to the Mayor. Before any closure of a school, UDC, DCPS and public charter schools shall inform and consult with the Deputy Mayor for Education and the Director of DOH.

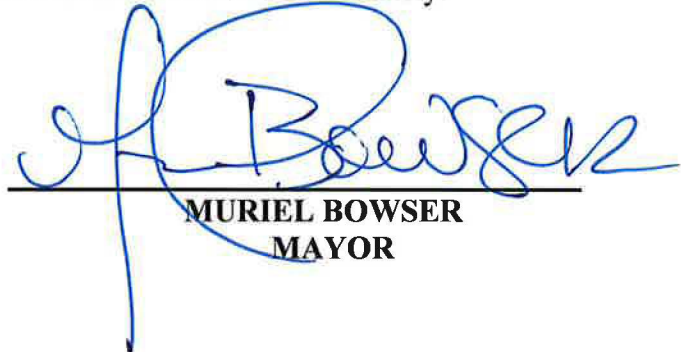
- K. The City Administrator, in consultation with the DOH director, the General Manager of the Washington Metropolitan Area Transit Authority, and the Director of the District Department of Transportation, shall determine whether public transportation can operate safely during a pandemic and, if not, identify measures that can be undertaken to minimize health risks, including temporary closures and installation of alcohol-based cleaning stations, and provide recommendations to the Mayor.
- L. The City Administrator, in consultation with Deputy Mayors and the Office of Budget and Performance Management, shall draft legislative proposals to provide financial and regulatory assistance to individuals and businesses experiencing significant economic hardships directly related to COVID-19.
- M. The Deputy Mayor for Health and Human Services, the Acting Director of the Department of Insurance, Securities, and Banking, and the Executive Director of Health Benefits Exchange shall immediately identify and work to resolve any insurance-related issues that could affect patient care directly related to COVID-19 and the prevention of its spread.
- N. The inter-agency working groups established by Mayor's Order 2020-035, dated February 28, 2020, shall continue their work to identify and address issues that are likely to arise from the impacts of COVID-19.
- O. Agency directors shall authorize temporary personnel assignments within and across District agencies as appropriate and needed.
- P. All procurement requests associated with COVID-19 response and continuity of government operations shall be submitted through the EOC's WebEOC procurement process for centralized and streamlined processing by the Office of Contracting and Procurement.
- Q. Agency directors shall track employees' time worked on COVID-19 preparations and response in accordance with guidance from DCHR and EOC. Agency directors may authorize overtime for activities directly related to the District's response to COVID-19.
- R. Notwithstanding the District of Columbia Procurement Practices Reform Act of 2010, as amended, D.C. Official Code §§ 2-351.01 *et seq.*, or any other law governing contracts, grants, or partnerships or the incurring of obligations, the Chief Financial Officer of the District of Columbia is authorized to approve disbursement of all appropriations necessary to carry out this Order.

- S. The City Administrator, in coordination with the Deputy Mayor for Public Safety and Justice, the HSEMA Director, DOH Director, and the Chief Financial Officer, is authorized to apply for financial assistance through any federal, private, or nonprofit disaster relief and recovery organizations, and any other appropriate agencies of the United States government to recoup expenditures incurred, or obtain funding needed to carry out necessary actions, under this Order.
- T. District agency directors are authorized to activate, implement, and coordinate any applicable mutual aid agreements between the District of Columbia and federal, state, or local jurisdictions, as needed to assist in the District's response to COVID-19.
- U. The District Response Plan is hereby implemented immediately.
- V. Pursuant to D.C. Official Code § 28-4102 (Overcharging), it shall be unlawful for any person to charge more than the normal average retail price for any merchandise or service sold. This provision will remain in effect for the duration of the declared state of emergency or thirty (30) calendar days from the effective date of this Order, whichever is shorter.
- W. This Order shall apply to all departments, agencies, and instrumentalities of the District government as necessary or appropriate to implement this Order.

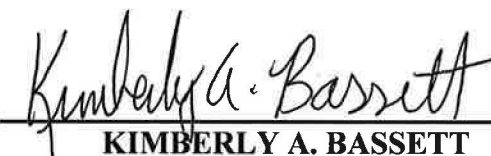
**III. DURATION OF ORDER**

This Order shall remain in effect until fifteen (15) days after its effective date, unless earlier rescinded or superseded.

**IV. EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER  
MAYOR

ATTEST:   
 \_\_\_\_\_  
 KIMBERLY A. BASSETT  
 SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA



**GOVERNMENT OF THE DISTRICT OF COLUMBIA****ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2020-046  
March 11, 2020

**SUBJECT:** Declaration of Public Health Emergency: Coronavirus (COVID-19)

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in the Mayor of the District of Columbia pursuant to section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(11) (2016 Repl.), in accordance with section 5 of the District of Columbia Public Emergency Act of 1980, effective March 5, 1981, D.C. Law 3-149, D.C. Official Code § 7-2304 (2018 Repl.), and section 5a of District of Columbia Public Emergency Act of 1980, effective October 17, 2002, D.C. Law 14-194, D.C. Official Code § 7-2304.01 (2018 Repl.), it is hereby **ORDERED** that:

**I. FINDINGS AND DECLARATION (NATURE OF A PUBLIC HEALTH EMERGENCY)**

- A. This Order follows upon the Mayor's Order 2020-045, dated March 11, 2020, declaring a Public Emergency in the District of Columbia.
- B. There is reasonable cause to believe that there is an imminent hazard of or actual occurrence of widespread exposure to an infectious agent (COVID-19) that poses a significant risk of substantial future harm to a large number of people in the District of Columbia.
- C. On January 31, 2020, the United States Department of Health and Human Services declared a public health emergency (PHE) for the United States to aid the nation's health care community in responding to COVID-19. There have been several presumptive and confirmed cases of COVID-19 in the Washington, DC metropolitan region. COVID-19 has been detected in numerous states, with more than 1,000 confirmed cases and at least 29 fatalities in the United States. The World Health Organization and the Centers for Disease Control and Prevention (CDC) have declared COVID-19 to be a "public health emergency of international concern" (PHEIC). On March 11, 2020, the World Health Organization declared COVID-19 a pandemic.
- D. Cities in the United States and foreign cities experiencing COVID-19 outbreaks have had significant health, safety, and economic impacts on their residents, businesses, and visitors. Mandatory quarantines, self-isolation, business supply chain interruptions, and cancellations of college classes and conventions are increasingly affecting peoples' lives and livelihoods.

- E. The person-to-person spread of COVID-19 and the increased availability of testing kits make it virtually certain that the District of Columbia will have more confirmed cases and that COVID-19 will have significant impacts on District of Columbia residents, businesses, visitors, students, and at-risk populations.
- F. The spread of COVID-19 is an imminent threat to the health, safety, and welfare of District residents that requires emergency protective actions be undertaken by the District Government.
- G. By this Order, a public health emergency is declared in the District of Columbia, effective immediately.

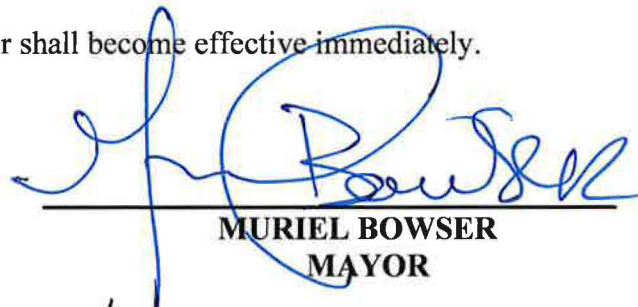
**II. EMERGENCY MEASURES AND REQUIREMENTS**

- A. The Mayor's Chief of Staff, in consultation with the Communications Director, shall direct all public communications and maintain coronavirus.dc.gov as a central repository for all government information relating to COVID-19 response.
- B. Within one (1) day of this Order, the Director of the Department of Health (DOH) shall issue an administrative order, approved by the City Administrator and in consultation with the Deputy Mayor for Health and Human Services, consistent with and authorized by section 5a(d) of the Public Health Protection Amendment Act, D.C. Official Code § 7-2304.01(d), and may issue updates during the period of this emergency, and notwithstanding any other laws or rules to the contrary.
- C. This Order shall apply to all departments, agencies, and instrumentalities of the District Government as necessary or appropriate to implement this Order.


**III. DURATION OF ORDER**

This Order shall remain in effect until fifteen (15) days after its effective date, unless earlier rescinded or superseded.

- IV. **EFFECTIVE DATE:** This Order shall become effective immediately.



**MURIEL BOWSER**  
**MAYOR**

ATTEST:   
**KIMBERLY A. BASSETT**  
**SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS  
CALENDAR

WEDNESDAY, MARCH 18, 2020  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S  
WASHINGTON, D.C. 20009

Donovan W. Anderson, Chairperson

Members: James Short, Bobby Cato, Rema Wahabzadah, Rafi A. Crockett, Jeni Hansen,  
Edward S. Grandis

**Protest Hearing (Status)** **9:30 AM**  
**Case # 19-PRO-00146;** Park Place, Inc., t/a The Park Place at 14<sup>th</sup>, 920 14th  
Street NW, License #75548, Retailer CN, ANC 2F  
**Petition to Amend or Terminate Settlement Agreement**

**Protest Hearing (Status)** **9:30 AM**  
**Case # 19-PRO-00147;** Park Place, Inc., t/a the Park Place at 14<sup>th</sup>, 920 14th  
Street NW, License #75548, Retailer CN, ANC 2F  
**Application to Renew the License**

**Protest Hearing (Status)** **9:30 AM**  
**Case # 19-PRO-00165;** Etete Ethiopian Cuisine, Inc., t/a 1942 DC, 1942 9th  
Street NW, License #70728, Retailer CT, ANC 1B  
**Substantial Change (Request to Add a Summer Garden with 14 seats)**

**Protest Hearing (Status)** **9:30 AM**  
**Case # 19-PRO-00163;** Toppromo, Inc., t/a Ultrabar/Chroma, 911 F Street NW  
License #74767, Retailer CN, ANC 2C  
**Application to Renew the License**

**Protest Hearing (Status)** **9:30 AM**  
**Case # 19-PRO-00160;** Vivid, LLC, t/a Vivid, 1334 U Street NW, License  
#105922, Retailer CT, ANC 1B  
**Application to Renew the License**

**Show Cause Hearing (Status)** **9:30 AM**  
**Case # 19-AUD-00041;** Quara Ethiopian Fusion Restaurant, LLC, t/a Quara  
Ethiopian Fusion Restaurant, 818 H Street NE, License #105042, Retailer CR  
ANC 6A

Board's Calendar

March 18, 2020

**Failed to File Quarterly Statement**

**Show Cause Hearing (Status)**

**9:30 AM**

**Case # 19-AUD-00085;** Po Boy Jim 2, LLC, t/a Po Boy Jim 2, 709 H Street NW  
License #87903, Retailer CR, ANC 2C

**Failed to File Quarterly Statement**

**Show Cause Hearing (Status)**

**9:30 AM**

**Case # 19-CMP-00162;** Rosa Mexicano DC, LLC, t/a Rosa Mexicano, 575 7th  
Street NW, License #60757, Retailer CR, ANC 2C

**No ABC Manager on Duty**

**Show Cause Hearing (Status)**

**9:30 AM**

**Case # 19-AUD-00081;** Guapo's Restaurant, Inc., t/a Guapo's Restaurant, 4515  
Wisconsin Ave NW, License #16332, Retailer CR, ANC 3E

**Failed to File Quarterly Statement**

**Show Cause Hearing (Status)**

**9:30 AM**

**Case # 19-CC-00134;** JLC, Inc., t/a Towne Wine & Liquor, 1326 Wisconsin  
Ave NW, License #93813, Retailer A, ANC 2E

**Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal  
Drinking Age**

**Show Cause Hearing (Status)**

**9:30 AM**

**Case # 19-CMP-00124;** Only Paradise Restaurant, Inc., t/a Golden Paradise  
Restaurant, 3903 14th Street NW, License #98205, Retailer CR, ANC 4C

**No ABC Manager on Duty, Failed to have a Sidewalk Café Endorsement,  
Substantial Change Without Board Approval**

**Show Cause Hearing (Status)**

**9:30 AM**

**Case # 19-CMP-00191;** Southeast Restaurant Group, LLC, t/a DCity  
Smokehouse, 203 Florida Ave NW, License #98368, Retailer CT, ANC 5E

**No ABC Manager on Duty**

**Fact Finding Hearing\***

**11:00 AM**

**Case # 20-CMP-00004;** The Phillips Collection, t/a The Phillips Collection  
1600 21st Street NW, License #19017, Retailer CX, ANC 2B

**Failed to Obtain Board Approval to add a Trade Name to the License,  
Allowed a Third Party to use its License to Purchase Alcohol and Operate  
without Board Approval**

Board's Calendar  
March 18, 2020

**BOARD RECESS AT 12:00 PM  
ADMINISTRATIVE AGENDA  
1:00 PM**

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

*\*This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).*

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
CEASE AND DESIST AGENDA

WEDNESDAY, MARCH 18, 2020  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

The ABC Board will be issuing Orders to Cease and Desist to the following Licensees for the reasons outlined below:

ABRA-076011 – **Red Lounge Hookah** – Retail – C – Tavern – 2013 14<sup>th</sup> Street NW  
[Licensee did not file a second renewal application.]

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ABRA- 014759 – **Chuck & Bill Bison Lounge** – Retail – C – Tavern – 2718 Georgia Avenue NW  
[Licensee did not file a second renewal application.]

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ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
LICENSING AGENDA

WEDNESDAY, MARCH 18, 2020 AT 1:00 PM  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for a Change of Hours to open earlier for breakfast. Hours of alcohol service will not be changed. **Approved Hours of Operation:** Sunday-Thursday 11am to 3am, Friday-Saturday 11am to 4am. **Approved Hours of Alcoholic Beverage Sales and Consumption:** Sunday-Thursday 11am to 2am, Friday-Saturday 11am to 3am. **Proposed Hours of Operation:** Sunday-Thursday 8am to 3am, Friday-Saturday 8am to 4am. ANC 2B. SMD 2B06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **Bub and Pop's**, 1815 M Street NW, Retailer CR, License No. 093492.

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2. Review Application for a Summer Garden endorsement with 40 seats. **Proposed Hours of Operation for Summer Garden:** Sunday-Saturday 8am to 10pm. **Proposed Hours of Alcoholic Beverage Sales and Consumption for Summer Garden:** Sunday-Thursday 8am to 9pm, Friday-Saturday 8am to 10pm. ANC 2B. SMD 2B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **Hotel Palomar/Urbana Restaurant and Wine Bar**, 2121 P Street NW, Retailer CH, License No. 112818.

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**\*In accordance with D.C. Official Code §2-547(b) of the Open Meetings Amendment Act, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend. This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).**

## DC COMMISSION ON THE ARTS AND HUMANITIES

## NOTICE OF FUNDING AVAILABILITY

## FY 2021 Public Art Building Communities Grant

The DC Commission on the Arts and Humanities (CAH) invites submissions from eligible individuals and nonprofit organizations, including registered DC Business Improvement Districts and designated DC Main Streets organizations, that are seeking support for their public art projects in the District of Columbia during Fiscal Year 2021.

The Public Art Building Communities (PABC) grant program awards project funding to support individual artists and nonprofit organizations in their effort to design, fabricate and install new temporary or permanent works of public art that connect artists and artworks to the community. The maximum funding request is \$50,000 for individual applicants, \$125,000 for organizational applicants, and \$250,000 for Business Improvement District applicants.

Individual applicants must be residents of the District of Columbia. Organizational applicants must be a District of Columbia-based nonprofit organization. For additional eligibility requirements, evaluation criteria, and application instructions, please review the Request for Applications (RFA), which will be posted online at <http://dcarts.dc.gov/> by **Friday, March 27, 2020**.

All eligible applications are reviewed through a competitive process. All activities funded by the grant must occur between October 1, 2020 and be completed by September 30, 2021.

**All applicants must submit their completed applications online on or before 4:00 pm on Friday, July 17, 2020.** CAH will not accept applications submitted via hand delivery, mail or courier service. Late submissions and incomplete applications will not be forwarded to the review panel.

For more information, please contact:

Alissa Maru / Lauren Dugas Glover  
Arts Program Coordinator  
Commission on the Arts and Humanities  
Government of the District of Columbia  
200 I (EYE) St. SE, Suite 1400  
Washington, DC 20003  
(202) 724-5613 or [Alissa.Maru@dc.gov](mailto:Alissa.Maru@dc.gov) / [Lauren.Glover@dc.gov](mailto:Lauren.Glover@dc.gov)



**D.C. BILINGUAL PUBLIC CHARTER SCHOOL****NOTICE: FOR REQUEST FOR PROPOSAL**

D.C. Bilingual Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for vendors to provide the following services for SY19.20:

- General Contractor-for 27,000 sf addition
  - March 13th: RFP issued with 100% CDs for bid
  - March 20th: 11:00 AM - Open site walk - RSVP required by March 18th
  - April 3rd: RFP due at 3:00 pm
  - April 7-9: Interviews
  - April 10: Selection

**Proposal Submission**

A Portable Document Format (pdf) election version of your proposal must be received by the school no later than **3:00 p.m. EST on Friday April 3, 2020**. Proposals should be emailed to [bids@dcbilingual.org](mailto:bids@dcbilingual.org) or at **33 Riggs Rd NE, Washington, DC 20011**.

No phone call submission or late responses please. Contact [bids@dcbilingual.org](mailto:bids@dcbilingual.org) for a copy of the Scope of Work.

## OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

## NOTICE OF FUNDING AVAILABILITY

## FISCAL YEARS 2020-21

## ADULT AND FAMILY EDUCATION (AFE) CONSOLIDATED COMPETITIVE GRANT

**Request for Application (RFA) Release Date: March 30, 2020 at noon**

The Office of the State Superintendent of Education (OSSE) is the District of Columbia agency responsible for the supervision of adult education and adult literacy. OSSE will award on a competitive basis both federal and local funding in partnership with the D.C. Workforce Investment Council (WIC) to eligible providers that have demonstrated effectiveness in providing adult education activities.

The federal funds are authorized by the Adult Education and Family Literacy Act under the Workforce Innovation and Opportunity Act of 2014. The local funds are authorized under the Mayor's Order 2016-086, Workforce Investment Implementation Act of 2000 (DC Code 32-1601 *et seq.*) and the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)), as amended.

**Eligibility and Selection Criteria:** An eligible provider is an organization that has demonstrated effectiveness in providing adult education activities to eligible individuals and may include: 1) a local educational agency; 2) a community-based organization; 3) a faith-based organization; 4) a volunteer literacy organization; 5) an institution of higher education; 6) a library; 7) a public housing authority; 8) a public or private nonprofit organization that is not described above and has the ability to provide adult education and literacy activities to eligible individuals; 9) any other organization or entity; 10) a consortium, of agencies, organizations, institutions, libraries or authorities described above; and 11) a partnership between an employer and an entity described above.

Applications will be scored on the following categories (1) project information, which includes sub-categories including, but not limited to organization mission and goals and statement of need; (2) program design; (3) other program elements, such as instructional program or student assessment; and (4) fiscal management. Grant funds will be used to provide 1) adult education and literacy activities, 2) workforce preparation activities, 3) workforce training, 4) supportive services, and 5) transition services to District residents with basic skills deficiencies, limited English proficiency and barriers to employment to pursue their desired career paths.

**Length of the Award:** Funding will be used to serve eligible District residents from July 1, 2020 through September 30, 2021. Based on continued funding availability, sub-grantee performance, and student progress and outcomes during and at the end of this grant period, providers with evidence of demonstrated effectiveness may be eligible to receive continuation funding, if available, for up to four additional years.

**Available Funding for Award:** OSSE expects to award multiyear funding to eight to twelve eligible providers of demonstrated effectiveness in the range of \$250,000 to \$500,000 per year, with a per customer amount of \$5,000. There is no minimum or maximum grant award amount.

**Application Process:** The Request for Applications (RFA) and paper-based application will be posted on the [District of Columbia Office of Partnerships and Grant Services website](http://opgs.dc.gov/) at <http://opgs.dc.gov/> and on the AFE web-page at <http://osse.dc.gov/service/adult-and-family-education-grant-competitions-matching-funds-and-re-grants> on March 30, 2020. Applicants will be able to submit applications through OSSE’s Enterprise Grants Management System (EGMS) at [grants.osse.dc.gov](http://grants.osse.dc.gov) starting May 1<sup>st</sup>.

A pre-application conference will be held on the following dates/times at the Office of the State Superintendent of Education, 1050 First Street, NE, Washington, DC 20002.

Pre-Application Conferences		
Date	Time	Floor/Room
Tuesday, April 21, 2020	1 – 3:30 p.m.	First Floor, Eleanor Holmes Norton II
Monday, May 4, 2020	9:30 a.m. - 12 p.m.	First Floor, Eleanor Holmes Norton II
Register for a Pre-Application Conference date <a href="#">here</a> .		

Participation in a pre-application conference is optional. The purpose of the pre-application conference is to answer questions to clarify the RFA requirements and provide supplemental information to potential eligible providers to respond to the RFA. Interested individuals only need to attend one of the optional pre-conference sessions.

Eligible providers may also wish to submit a Notice of Intent to Apply. While the submission of this notice is optional, it is helpful for the review process in determining the resources needed to efficiently conduct the application review process. Interested individuals should click on the [link here to complete a Notice of Intent to Apply form online](#).

An external review panel will be convened to review, score, and rank each application for a competitive grant. The review panel will be composed of external neutral, qualified, professional individuals selected for their expertise, knowledge or related experiences. Each application will be scored against a rubric and applications will have multiple reviewers to ensure accurate scoring. Upon completion of its review, the panel shall make recommendations for awards based on the scoring rubric(s). The State Superintendent or her designee will make all final award decisions. Applications must be submitted in EGMS by **May 21, 2020 at 3pm**. Late applications will not be accepted. Awards will be announced by **June 30, 2020**.

For additional information, please email [OSSE.AFETA@dc.gov](mailto:OSSE.AFETA@dc.gov) or contact the staff below in the Office of the State Superintendent of Education, Adult and Family Education program.

Name	Email Address	Phone Number
Stacey Downey	<a href="mailto:Stacey.Downey@dc.gov">Stacey.Downey@dc.gov</a>	(202) 727-8446
Nakia Lynch	<a href="mailto:Nakia.Lynch@dc.gov">Nakia.Lynch@dc.gov</a>	(202) 741-5530
Cynthia Brown	<a href="mailto:Cynthia.Brown2@dc.gov">Cynthia.Brown2@dc.gov</a>	(202) 741-5532
Tracy Richard	<a href="mailto:Tracy.Richard@dc.gov">Tracy.Richard@dc.gov</a>	(202) 741-5531

## BOARD OF ELECTIONS

CERTIFICATION OF ANC/SMD VACANCY

The District of Columbia Board of Elections hereby gives notice that there are vacancies in three (3) Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 1C02, 3C05 and 7D05

Petition Circulation Period: **Monday, March 16, 2020 thru Monday, April 6, 2020**

Petition Challenge Period: **Thursday, April 9, 2020 thru Wednesday, April 15, 2020**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections  
1015 - Half Street, SE, Suite 750  
Washington, DC 20003**

For more information, the public may call **727-2525**.

## DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FILING OF AN APPLICATION  
TO PERFORM VOLUNTARY CLEANUP2310 4<sup>th</sup> Street, NE  
Case No. VCP2020-067

Pursuant to § 636.01(a) of the Brownfield Revitalization Amendment Act of 2000, effective June 13, 2001 (D.C. Law 13-312; D.C. Official Code §§ 8-631 et seq., as amended April 8, 2011, DC Law 18-369 (herein referred to as the “Act”)), the Voluntary Cleanup Program in the Department of Energy and Environment (DOEE), Land Remediation and Development Branch, is informing the public that it has received an application to participate in the Voluntary Cleanup Program (VCP). The applicant for real property located at 2310 4<sup>th</sup> Street, NE, Washington, DC 20002, is Edgewood Lots LLC, located at 1501 11<sup>th</sup> Street NW #2 Washington DC 20001. The application identifies the presence of trace levels of chlorinated solvents in the soil and soil vapor. The applicant intends to redevelop the subject property into a residential structure with a cellar.

Pursuant to § 636.01(b) of the Act, this notice will also be mailed to the Advisory Neighborhood Commission (ANC-2B) for the area in which the property is located. The application is available for public review at the following location:

Voluntary Cleanup Program  
Department of Energy and Environment (DOEE)  
1200 First Street, NE, 5<sup>th</sup> Floor  
Washington, DC 20002

Interested parties may also request a copy of the application by contacting the Voluntary Cleanup Program at the above address or by calling (202) 535-2289. An electronic copy of the application may be viewed at <http://doee.dc.gov/service/vcp-cleanup-sites>.

Written comments on the proposed approval of the application must be received by the VCP program at the address listed above within twenty-one (21) days from the date of this publication. DOEE is required to consider all relevant public comments it receives before acting on the application, the cleanup action plan, or a certificate of completion.

Please refer to Case No. VCP2020-067 in any correspondence related to this application.  
05/2020

**HEALTH BENEFIT EXCHANGE AUTHORITY****NOTICE OF PUBLIC MEETING (DATE CHANGE)****Executive Board of the Health Benefit Exchange Authority**

The Executive Board of the Health Benefit Exchange Authority, pursuant to the requirements of Section 6 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-0094), hereby announces a public meeting of the Executive Board. The meeting will be held on **Wednesday, April 1, 2020 at 5:30 pm**. The call in number is 1-650-479-3208, and access code is 731 476 505. The Executive Board meeting is open to the public. If you have any questions, please contact Debra Curtis at (202) 741-0899.

## DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Veterinary Medicine (“Board”) hereby gives notice of a change in its regular meetings, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, D.C. Official Code § 3-1204.05 (b)) (2016 Repl.).

The Board meets monthly on the third Thursday of each month from 9:30 AM to 12:30 PM. However, due to schedule conflict and the Emancipation holiday, the March and April meetings will be combined and held on Thursday, April 9, 2020. There will be no meeting in March. The April 9 meeting will be open to the public from 9:30 AM until 10:30 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Act of 2010, D.C. Official Code § 2-574(b), the meeting will be closed from 10:30 AM to 12:30 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

Subsequent meetings in 2020 will be held according to the schedule below:

May 21, 2020  
June 18, 2020  
July 16, 2020  
August 20, 2020  
September 17, 2020  
October 15, 2020  
November 19, 2020  
(December cancelled)

The meetings will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health’s Events webpage at [www.doh.dc.gov/events](http://www.doh.dc.gov/events) to view the agenda.



**KIPP DC PUBLIC CHARTER SCHOOLS****REQUEST FOR PROPOSALS****General Contractor Services**

KIPP DC is soliciting proposals from qualified vendors for General Contractor Services. The RFP can be found on KIPP DC's website at [www.kippdc.org/procurement](http://www.kippdc.org/procurement). Proposals should be uploaded to the website no later than 5:00 PM ET on March 27, 2020. Questions should be addressed to [kevin.mehm@kippdc.org](mailto:kevin.mehm@kippdc.org).

**LATIN AMERICAN MONTESSORI BILINGUAL PUBLIC CHARTER SCHOOL  
REQUEST FOR PROPOSALS**

**Shuttle Van Transportation Services**

Latin American Montessori Bilingual Public Charter School (LAMB) is seeking transportation services (van services – zoning won't allow buses) for school year 2020-21 from qualified vendors licensed and insured to conduct operation in the District of Columbia. Service to include AM/PM runs between 1800 Perry Street NE and 5000 14<sup>th</sup> Street NW

RFP details may be requested at [accounting@lambpcs.org](mailto:accounting@lambpcs.org). Proposals should be submitted no later than March 20, 2020.

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

## NOTICE OF PROPOSED TARIFF

**FORMAL CASE NO. 988, IN THE MATTER OF THE DEVELOPMENT OF UNIVERSAL SERVICE STANDARDS AND THE UNIVERSAL SERVICE TRUST FUND FOR THE DISTRICT OF COLUMBIA**

1. The Public Service Commission of the District of Columbia (Commission), pursuant to its authority under D.C. Official Code § 34-802 (2013 Repl.) and D.C. Official Code § 34-2003 (2013 Repl.), hereby gives notice of its intent to act upon the Application of Verizon Washington, DC Inc. (Verizon DC)<sup>1</sup> in the above-captioned matter. Pursuant to D.C. Official Code § 2-505 (2018 Repl.), the Commission will act upon the Application in not less than thirty (30) days after the date of publication of this Notice of Proposed Tariff (NOPT) in the *D.C. Register*.

2. On February 28, 2020, Verizon DC filed an Application requesting authority to amend the following tariff page:

**GENERAL REGULATIONS TARIFF P.S.C.-D.C.-No. 201  
Section 1A, 13<sup>th</sup> Revised Page 3**

3. Verizon DC identifies the proposed tariff amendment as an update to its District of Columbia Universal Service Trust Fund (DC USTF) surcharge, which is required by Chapter 28 of Title 15 of the District of Columbia Municipal Regulations (DCMR). The surcharge is being updated to true-up the 2018-2019 payments with the amounts actually billed to customers, and to adjust the surcharge for the 2020 assessment. Verizon DC provides confidential calculations in its Attachment I. Verizon DC notes that its calculations in Attachment I are based on an implementation date of April 1, 2020. Any differential will be trued-up in the next DC USTF surcharge filing pursuant to 15 DCMR § 2815.4.<sup>2</sup>

4. With the approval of this Application, the monthly per line surcharge will be \$0.04 per non-Centrex line and \$0.01 per Centrex line. Verizon DC represents that this Application does not change the surcharge for Centrex lines but decreases the surcharge for non-Centrex lines by \$0.01. Verizon DC requests approval of this tariff by mid-March 2020 so that this tariff would become effective April 1, 2020.<sup>3</sup>

5. The complete text of this Application is on file with the Commission. The proposed tariff revision is on file with the Commission and may be reviewed at the Office of the Commission

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<sup>1</sup> *Formal Case No. 988, In the Matter of the Development of Universal Service Standards and the Universal Service Trust Fund for the District of Columbia*, District of Columbia Universal Service Trust Fund Surcharge Compliance Filing - 2020 Surcharge (Verizon DC Application), filed February 28, 2020.

<sup>2</sup> Verizon DC Application at 2.

<sup>3</sup> Verizon DC Application at 2.

Secretary, Public Service Commission of the District of Columbia, 1325 G Street, NW, Suite 800, Washington, DC, 20005, between the hours of 9:00 a.m. and 5:30 p.m. Monday through Friday. Copies of Verizon DC's Application may be obtained by visiting the Commission's website at [www.dcpsec.org](http://www.dcpsec.org). Once at the website, open the "eDocket" tab, click on the "Search Database" and input "FC988" as the case number and "1267" as the item number. Copies of the Verizon DC Application may also be purchased, at cost, by contacting the Commission Secretary at (202) 626-5150 or [psc-commissionsecretary@dc.gov](mailto:psc-commissionsecretary@dc.gov).

6. All persons interested in commenting on Verizon DC's Application may submit written comments not later than thirty (30) days after publication of this notice in the *D.C. Register* with Brinda Westbrook-Sedgwick, Commission Secretary, at the above address, or at the Commission's website at [https://edocket.dcpsec.org/public/public\\_comments](https://edocket.dcpsec.org/public/public_comments). After the comment period has expired, the Commission will take final action on Verizon DC's Application.

**OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA**  
**RECOMMENDATIONS FOR APPOINTMENTS AS NOTARIES PUBLIC**

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after April 1, 2020.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4<sup>th</sup> Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on February 28, 2020. Additional copies of this list are available at the above address or the website of the Office of the Secretary at [www.os.dc.gov](http://www.os.dc.gov).

D.C. Office of the Secretary  
Recommendations for Appointments as DC Notaries PublicEffective: April 1, 2020  
Page 2 of 7

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Aguilar	Elizabeth E.	Community Title Network 1614 14th Street, NW, 2nd Floor	20009
Al Salem	Ahmad	Wells Fargo Bank 3314 Wisconsin Avenue, NW	20016
Amieva	Michelle	Gilbert LLP 1100 New York Avenue, NW, Suite 700	20005
Baker	Teal	Invariant, LLC 901 7th Street, NW, Suite 600	20001
Barnes	Crystal T.	Self 2555 Elvans Road, SE, #402	20020
Berkley	Leroy	Self 723 Kennedy Street, NW	20011
Berry	Tamisha Marie	Universal Service Administrative Co. 700 12th Street, NW	20005
Braggs	Dominique Carmichael	Braggs Law Offices, PLLC 700 12th Street, NW, 700	20005
Bullard	Angel	Apostille Courier Express 1629 K Street, NW, Suite 300	20006
Burger	Jacob Samuel	Neal R. Gross and Co., Inc. 1323 Rhode Island Avenue, NW	20005
Bynum	Catherine A	Paul Hastings LLP 875 15th Street, NW	20005
Clarke	Cydonni	OTJ Architects 555 11th Street, NW, Suite 200	20004
Darcey	Elizabeth Grace	Wash REIT 1775 I Street, NW, Suite 1000	20006
Davis	Sarah F.	Self 1328 Riggs Street, NW	20009

D.C. Office of the Secretary  
Recommendations for Appointments as DC Notaries PublicEffective: April 1, 2020  
Page 3 of 7

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DeHart	Justin	Tax Foundation 1325 G Street, NW, Suite 950	20005
Dove	Lamont	PNC Bank 800 17th Street, NW	20006
Drew-Hargrove	Tamarkus	The Real Estate Experts 641 S Street, NW, Suite 300	20001
Dubose	Chelsea Romaine	Gilbert LLP 1100 New York Avenue, NW, Suite 700	20005
Duncan	Jasmine	GW Medical Faculty Associates 2120 L Street, NW, Suite 450	20037
Dyson	Ava Denise	Innovo Construction, LLC 6230 Georgia Avenue, NW, Suite 200	20011
Eastlick	Kristen	Capital Research Center 1513 Sixteenth Street, NW	20036
Escamilla Orellana	Elsa Guadalupe	Aleman Construction, LLC  1024 47th Street, NE	20019
Fair	Kashanna	Center for International Private Enterprise 1211 Connecticut Avenue, NW, Suite 700	20036
Ferguson	Carla D.	Office of Disciplinary Counsel 515 5th Street, NW,	20001
Ferrick	Deirdre M.	National Public Radio, Inc. 1111 North Capitol Street, NE	20002
Fraker	Mariah	Self (Dual) 407 Seward Square, SE	20003
Frye	Jay L.	Jay L. Frye State Farm Agent 1611 Connecticut Avenue, NW, Suite 500	20009

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Gerk	Ali	Self 4520 MacArthur Boulevard, NW, Unit 2	20007
Gibbs	Teresa	DC Child and Family Services Agency 200 I Street, SE	20003
Giordano	Martin J.	U.S. House of Representatives 27 Independence Avenue, SE, Suite B86	20515
Goren	Lilach	The Alliance For Climate Protection 555 11th Street, NW, 601	20004
Goumballa	Moustapha	Department of State 2201 C Street, NW	20520
Hair	Karen A	Suntrust 2845 Alabama Avenue, SE	20020
Holt	Nolan M.	Self 4018 South Capitol Street, SE, #103	20032
Howard	Madison	del Cuadro-Zimmerman & Mount, PLLC 777 6th Street, NW	20001
Hughes Turner	Sidnice	Self 4212 18th Street, NW	20011
James	Andrea M.	Consilio 1101 Vermont Avenue, NW, Suite 900	20005
Jobe	Victoria	Self 1607 31st Street, NW	20007
Johnson	Sarah E.	Crowe LLP 1455 Pennsylvania Avenue, NW, Suite 700	20004
Johnston	Hayden	Chase Bank 1212 18th Street, NW	20036



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Jones	Jean-Marie	Stinson, LLP 1775 Pennsylvania Avenue, NW	20006
Jordan	Emily R.	Lincoln Policy Group, LLC 300 New Jersey Avenue, NW, Suite 1025	20001
Juan	Mariana A.	Arnold & Porter 601 Massachusetts Avenue, NW	20001
Kearney	Arden Lydell	Office of Inspector General, Export-Import Bank U.S. 811 Vermont Avenue, NW	20505
Krause	Helen	New World Title & Escrow 1701 Pennsylvania Avenue, NW, Suite 200	20006
Lee	Krisy	ACON Investments, L.L.C. 1133 Connecticut Avenue, NW, Suite 700	20036
Lesesne	Katherine	National Labor Relations Board 1015 Half Street, SE	20003
Makel	Antanice Phyllis	NASA Federal Credit Union 300 E Street, SW, GC-21	20546
McBride	Shawn	Chase Bank 501 H Street, NE	20002
McTyre	Susana	Greenberg Traurig, LLP 2101 L Street, NW, Suite 1000	20037
Mehvish	Kiani	Bank Of America 2001 Pennsylvania Avenue, NW	20006
Mejia	Seydy	Wells Fargo 1901 7th Street, NW	20001
Mutersbaugh	Linda L.	R B Properties, Inc 1054 31st Street, NW, Suite 1000	20007

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Perez	Sheila Altenize	Wells Fargo Bank 1901 7th Street, NW	20001
Platero	Ana Elizabeth	Law Office of Jose Pertierra 1010 Vermont Avenue, NW, Suite 514	20005
Plews	Susan M.	Society of Mary/Marist Society 815 Varnum Street, NE	20017
Pound	Aubrey	National Center on Sexual Exploitation 440 1st Street, NW, Suite 840	20001
Pridgen	Jacqueline	U.S. Department of State 2201 C Street, NW	20520
Proietta	Matthew Rene	Federal Bureau of Prisons 400 1st Street, NW, 3rd FL	20534
Rice	Carolyn	PNC Bank 1779 Columbia Road, NW	20009
Rice	Kim	Gibson, Dunn & Crutcher, LLP 1050 Connecticut Avenue, NW	20036
Rivera	Nancy I.	United Therapeutics Corporation 1735 Connecticut Avenue, NW	20009
Roizin	Ronny	HSBC 1715 Wisconsin Avenue, NW	20007
Saint	Beverly A.	Womble Bond Dickinson (US) LLP 1200 Nineteenth Street, NW, Suite 500	20036
Shaw	Auzhane B.	RGS Title, LLC 4400 Jenifer Street, NW, Suite 260	20015
Shifflett	Justin Lawrence	Schulze & Pederson, Chtd. 5039 Connecticut Avenue, NW	20008
Starling	Alethia Patricia	DCI Group AZ LLC 1828 L Street, NW, #400	20036

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Stewart	Sable Dominique	EDENS 1272 5th Street, NE, Suite 200	20002
Suggs-Moore	Vickie	Universal Service Administrative Company 700 12th Street, NW, Suite 900	20005
Talhame	Amal A.	Maggio Kattar Nahajzer + Alexander, PC 1800 Massachusetts Avenue, NW, Suite 300	20036
Taliaferro	Essray	Campbell Construction 1425 H Street, NE	20002
ten Houten	Marguerita	Catalist LLC 1310 L Street, NW, Suite 500	20005
Tilman	Amy	C-SPAN 400 North Capitol Street, NW, Suite 650	20001
Underdue	Shanita	F&L Construction, Inc 1512 Good Hope Road, SE	20020
Wilkins	Cheryl	Self 1901 Otis Street, NE	20018
Williams	Christina	DLA Piper, LLP (US) 500 Eighth Street, NW	20004
Wilson	Shari Renee	Harbour Square Owners Inc. 500 N Street, SW	20024
Wilson	Zettica A.	NexTus Settlement Services LLC 1155 F Street, NW, Suite 1050	20004

**OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA**  
**RECOMMENDATIONS FOR APPOINTMENTS AS NOTARIES PUBLIC**

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after April 15, 2020.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4<sup>th</sup> Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on March 13, 2020. Additional copies of this list are available at the above address or the website of the Office of the Secretary at [www.os.dc.gov](http://www.os.dc.gov).

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Achá	Jacqueline	Womble Bond Dickinson, LLP 1200 19th Street, NW, Suite 500	20036
Ahmed Ould Sneyba	Mohamed Saleck	Wells Fargo Bank, N.A.  1350 New York Avenue, NW	20005
Al Najjar	May	CitiBank N.A. 1400 G Street, NW	20005
Ashley	Helen B.	Capital City Real Estate, LLC 1515 14th Street, NW, Suite 201	20090
Averytt	Mercedes	Bricklayers & Trowel Trades International Pension Fund 620 F Street, NW, Suite 700	20004
Ayres	Pamela J.	National Museum of Women in the Arts 1250 New York Avenue, NW	20005
Barker	Chenelyn	Self (Dual) 900 Quincy Street, NE, #3	20017
Benson	Iva	Squire Patton Boggs 2550 M Street, NW	20037
Bishop	Jamie Miller	United States International Development Finance Corporation 1100 New York Avenue, NW	20527
Braun	Andrew Steven	Curtis, Mallet-Prevost, Colt and Mosle 1717 Pennsylvania Avenue, NW, Suite 1300	20006
Camacho	Denise B.	Karn Charuhas Chapman & Twohey (KCCT) 1120 Connecticut Avenue, NW, Suite 1250	20036
Campana	Catherine	Dexis Consulting Group 1412 Eye Street, NW	20005

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Cantalupo	Dean Albert	Self 300 Massachusetts Avenue, NW, Apartment 324	20001
Charles	Dominique	Prince Construction Company, Inc. 1918 13th Street, SE	20020
Chibani	J.	Birch Horton Bittner & Cherot 1100 Connecticut Avenue, NW, Suite 825	20036
Claybaugh	Daniel	Manas Consulting, LLC 611 Pennsylvania Avenue, SE, Suite 256	20003
Cook	Wahneek L.	Chicago Title Insurance Company 1901 Pennsylvania Avenue, NW, Suite 201	20006
Cunningham	Regina	Share Our Strength 1030 15th Street, NW, Suite 1100	20005
DeShields	Michelle	White & Case 701 13th Street, NW	20005
Dunning	Laura L.	Akin Gump Strauss Hauer & Feld, LLP 2001 K Street, NW	20006
Felton	T'Wanna J.	Justice Federal Credit Union 935 Pennsylvania Avenue, NW	20004
Gann	Jordan Andrew	Linklaters, LLP 601 13th Street, NW, Suite 400 South	20005
Gill	Amy R.	American Farm Bureau Federation 600 Maryland Avenue, SW, #1000W	20024
Hamilton Jr.	Gustav Edward	Potomac Electric Power Company 701 Ninth Street, NW, Suite 4214	20068
Hample	Langdon D.	Congressional Commercial 1616 H Street, NW, Suite 200	20006

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Haseley	Rachel	Compass Lexecon 555 12th Street, NW, Suite 501	20004
Hemmis	Matthew John	Marriott Vacation Club 1130 Connecticut Avenue, NW	20036
Himes	Daniel	Chase Bank 501 H Street, NE	20002
Hussain	Nadia	J P Morgan Chase 1212 18th Street, NW	20036
Jean-Baptiste	Keisha	Medstar Washington Hospital Center 110 Irving Street, NW	20010
Johnson	Brandi C.	Self 57 54th Street, SE	20019
Jones	Damara Renee	CIBC Private Wealth Management 1201 F Street, NW, Suite 900	20004
Jones	Patricia	Bynum & Jenkins 1677 K Street, NW, Suite 677	20006
Jordan	Tiffany Nicole	Columbia Property Trust 701 Pennsylvania Avenue, NW	20004
Keller	Susan Mendelsohn	Self (Dual) 5014 Cathedral Avenue, NW	20016
Kelley	Marcus	BNY Mellon 1250 H Street, NW, Suite 1100	20005
King	David Bradford	Distilled Spirits Council of the United States 1250 I Street, NW, Suite 400	20005
Klotz	Diana C.	Verizon 1300 I Street, NW, Suite 500 East	20005
Lehner	Sharon	Davis & Harman, LLP 1455 Pennsylvania Avenue, NW	20004

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Levy-Haque	Sabarri	U.S. Department of State 2201 C Street, NW	20520
Liao	Florence Hernandez	Lho Tom Joad Circle Dc Lessee Llc 1155 14th Street, NW	20005
Louderback	Matthew	District Legal Services, LLC 1615 New Hampshire Avenue, NW, Suite 400	20009
Mantilla	Michelle	Standard Title Group, LLC 1734 20th Street, NW	20009
Mayassi	Ali M.	Nattak Holdings LLC 818 18th Street, NW, Suite 400	20006
McGuire	Tamara	University of District of Columbia Law School 4340 Connecticut Avenue, NW	20008
McKay	Novlett N.	MERCK 601 Pennsylvania Avenue, NW, Suite 1200	20004
McMillian	Aneitra	HYL Architecture 401 9th Street, NW	20004
Miguel	Aguero	UDC LAW 4340 Connecticut Avenue, NW	20008
Mitchell	Madeleine L.	Cleary Gottlieb Steen & Hamilton, LLP 2112 Pennsylvania Avenue, NW	20037
Morgan	Taresa Monique	CTI District Services, Inc. 6856 Eastern Avenue, NW, Suite 211	20012
Morris	Michelle	Self 134 Joliet Street, SW	20032
Morse	Yazzmen	Wells Fargo Bank 99 M Street, SE	20003
Noiade	Atara	Business Group on Health	



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		20 F Street, NW	20001
Ogungbayo	Olakunle Idowu	Dexis Consulting Group 1412 I Street, NW	20005
Oliver	Brittney	Accenture 800 Connecticut Avenue, NW	20006
Orozco	Maria Concepcion	Community Capital Corporation 514 V Street, NE	20009
Ortiz	Emilie	IDB Global Federal Credit Union 1300 New York Avenue, NW	20577
Peters	Sharon T.	The National Capital Bank of Washington 316 Pennsylvania Avenue, SE	20003
Pickman	Nava	Lautman Maska Neill & Company 1730 Rhode Island Avenue, NW, Suite 301	20036
Pittinger	Alexander Jonathon	Self (Dual) 120 Fort Drive, NE, #2	20011
Queen	A. G.	Southern Baptist Church Praise and Worship Center 134 L Street, NW	20001
Roberts	Marcia Elaine	Wells Fargo Commercial Real Estate 1750 H Street, NW, Suite 400	20006
Rojas	Victoria	IDB Global Federal Credit Union 1300 New York Avenue, NW	20577
Shaub	Rhiannon M.	Smithsonian Institution 1000 Jefferson Drive, SW, Room 302, MRC 012	20560
Simms	LeRoy M.	District Department of Energy and Environment 2100 Martin Luther King Jr. Avenue, SE, Suite 404	20020
Sinkfield	Chanetta	Office of Official Reporters	

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		27 Independence Avenue, SE, Suite 193	20024
Smith	Michelle Diamantes	KVS Title, LLC 230 6th Street, NE	20002
Snow	Aimee L	US Court of Federal Claims 717 Madison Place, NW	20439
Sorto	Paula	Chase Bank 501 H Street, NE	20002
Southerland	Shemekia Midgette	Capital Auto Auction 1905 Brentwood Road, NE	20018
Stephens	Lamar Ericado	The UPS Store 5801 1380 Monroe Street, NW	20010
Stroud	Jalysia	Self 237 Savannah Street, SE, Unit E	20032
Swanson	Jerry D.	S & K Security Consultants, Inc 1818 New York Avenue, NE, Suite 223	20002
Taylor	Anthony L.	Self 240 M Street, SW, #E603	20024
Toney	Crystal Tamika	WKM Solutions, LLC 900 17th Street, NW, Suite 650	20006
Troutman	Diane L.	Eop, Inc 1616 H Street, NW, Suite 5	20006
Vasquez	Priscilla	Deloitte Services, LP 555 12th Street, NW, Suite 400	20004
Velazquez	Edison I.	Wells Fargo 3325 14th Street, NW	20010
Ventura Salgado	Miguel	The UPS Store 1380 Monroe Street, NW	20010
Walker	Denise M.	Folger Nolan Fleming Douglas	

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		725 15th Street, NW, Suite 200	20005
Walker	Stephanie	Self 2729 Central Avenue, NE	20018
Wall	Amanda Jean	U.S. Department of State 2201 C Street, NW	20520
Wolcott	Brian	Self 757 Gallatin Street, NE	20017
Wolf	Catherine C.	Self 4000 Massachusetts Avenue, NW, #518	20016
Yarborough	Ernestine Floretta	The George Washington University 2600 Virginia Avenue, NW, T100	20037

**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, March 26, 2020 at 11:00 a.m. The meeting will be held in the Board Room (2<sup>nd</sup> floor) at 1385 Canal Street, S.E. (use 125 O Street, S.E. for directions), 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.dewater.com](http://www.dewater.com).

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or [linda.manley@dewater.com](mailto:linda.manley@dewater.com).

**DRAFT AGENDA**

- |    |   |                       |
|----|---|-----------------------|
| 1. | Call to Order                           | Committee Chairperson |
| 2. | February 2020 Financial Report          | Committee Chairperson |
| 3. | Agenda for April 2020 Committee Meeting | Committee Chairperson |
| 4. | Adjournment                             | Committee Chairperson |

**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**

**BOARD OF DIRECTORS**

**NOTICE OF PUBLIC MEETING**

**District of Columbia Retail Water and Sewer Rates Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) District of Columbia Retail Water and Sewer Rates Committee will be holding a meeting on Tuesday, March 24, 2020 at 9:30 a.m. The meeting will be held in the Board Room (2nd floor) at 1385 Canal Street, S.E. (use 125 O Street, S.E. for directions), 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.dewater.com](http://www.dewater.com).

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or [lmanley@dewater.com](mailto:lmanley@dewater.com).

**DRAFT AGENDA**

- |    |                     |  |
|----|---------------------|--|
| 1. | Call to Order       | Committee Chairperson                  |
| 2. | Monthly Updates     | Executive VP,<br>Finance & Procurement |
| 3. | Committee Work Plan | Executive VP,<br>Finance & Procurement |
| 4. | Other Business      | Executive VP,<br>Finance & Procurement |
| 5. | Adjournment         | Committee Chairperson                  |

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

**Application No. 19669-A of David B. Douglas II**, pursuant to 11 DCMR Subtitle Y § 705, for a two-year time extension for BZA Order No. 19669 approving special exceptions under Subtitle D § 5201 from the lot occupancy requirements of Subtitle D § 304.1, and from the rear yard requirements of Subtitle D § 306.2, and under Subtitle C § 703.2 from the minimum parking requirements of Subtitle C § 701.5, to construct a two-story rear addition to an existing one-family dwelling in the R-3 Zone at premises 2339 3rd Street N.E. (Square 3558, Lot 51).

<b>HEARING DATES</b> (19669):	January 24, 2018
<b>DECISION DATES</b> (19669):	January 24, 2018
<b>ORDER ISSUANCE DATE</b> (19669):	January 29, 2018
<b>TIME EXTENSION DECISION DATE:</b>	March 4, 2020

**SUMMARY ORDER ON REQUEST FOR TWO-YEAR TIME EXTENSION**

Original Application. In Application No. 19669, the Board of Zoning Adjustment (“Board” or “BZA”) approved the request by David B. Douglas II (the “Applicant”) for special exceptions to construct a two-story rear addition to an existing one-family dwelling. The Board issued Order No. 19669 on January 29, 2018. (Exhibit 3.) Pursuant to Subtitle Y § 604.11, the Order became effective ten days after issuance. Pursuant to Subtitle Y § 702.1, the Order was valid for two years from the time it became effective.

Request for Two-Year Time Extension. On January 28, 2020, the Applicant submitted a request that the Board grant a two-year extension of Order No. 19669. (Exhibits 1-4.)

Notice of the Request. Pursuant to Subtitle Y §§ 705.1(a), the Applicant provided proper and timely notice of the request for time extension to the parties to the underlying case. (Exhibit 4.)

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission (“ANC”) 5E.

ANC Report. The ANC did not submit a written report to the record for this case.

OP Report. Office of Planning submitted a report recommending approval of the time extension. (Exhibit 6.)

**Request to Extend the Validity of the Order**

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.

Based upon the record before the Board and having given great weight to the appropriate recommendations and reports 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.

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. 19669 is hereby **GRANTED**, and the Order shall be valid until **January 29, 2022**.

**VOTE: 4-0-1** (Frederick L. Hill, Carlton E. Hart, Lorna L. John, and Anthony J. Hood, to APPROVE; no other Board members 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:** March 5, 2020

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. 19669-A  
PAGE NO. 2**

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

**Application No. 19695-A of KWHP DC LLC**, pursuant to 11 DCMR Subtitle Y § 705 for a one-year time extension of BZA Order No. 19695, approving special exceptions from the use permissions under Subtitle U § 504.1(f) and from the penthouse requirements of Subtitle C § 1500.3(c) to construct a new penthouse restaurant in an existing hotel in the MU-15 Zone at premises 1315 16th Street, N.W. (Square 195, Lot 846).

<b>HEARING DATE (19695):</b>	February 21, 2018
<b>DECISION DATE (19695):</b>	February 21, 2018
<b>ORDER ISSUANCE DATE (19695):</b>	February 28, 2018
<b>TIME EXTENSION DECISION DATE:</b>	February 26, 2020

**SUMMARY ORDER ON REQUEST FOR ONE-YEAR TIME EXTENSION**

Original Application. In Application No. 19695, the Board of Zoning Adjustment (“Board” or “BZA”) approved the request by LHO Washington Hotel Three, LLC for special exceptions to establish a new penthouse restaurant in an existing hotel on the Property. The Board issued Order No. 19695 on February 28, 2018. (Exhibit 3.) Pursuant to Subtitle Y § 604.11, the Order became effective ten days after issuance. Pursuant to Subtitle Y § 702.1, the Order was valid for two years from the time it became effective.

Request for One-Year Time Extension. On January 28, 2020, the current owner of the Property, KWHP DC LLC (the “Applicant”), submitted a request that the Board grant a one-year extension of Order No. 19695. (Exhibits 1-5.)

Notice of the Request. Pursuant to Subtitle Y §§ 705.1(a), the Applicant served the only other party to the underlying case, ANC 2B, with notice of the request on January 28, 2020. (Exhibit 4.) The Applicant requested that the Board waive the requirement that parties have 30 days to respond in order to allow instead a 29-day response period. (Exhibit 6.) The Board granted this request for waiver and scheduled the time extension for decision on February 26, 2020.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission (“ANC”) 2B.

ANC Report. The ANC’s report indicated that at a regularly scheduled, properly noticed public meeting on February 12, 2020, at which a quorum was present, the ANC voted 7-0-1 to support the request. (Exhibit 9.)



OP Report. Office of Planning submitted a report recommending approval of the time extension. (Exhibit 7.)

### **Request to Extend the Validity of the Order**

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.

Based upon the record before the Board and having given great weight to the appropriate recommendations and reports filed in this case, and based on the waiver granted to the 30-day requirement of Subtitle Y § 705.1(a), the Board finds that the Applicant has met the criteria of Subtitle Y § 705.1 to extend the validity of the underlying order.

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 one-year time extension to the validity of the Board's approval in Order No. 19695 is hereby **GRANTED**, and the Order shall be valid until **February 28, 2021**.

**VOTE: 3-0-2** (Frederick L. Hill, Carlton E. Hart, and Peter A. Shapiro to APPROVE; no other Board members 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:** March 2, 2020

**BZA APPLICATION NO. 19695-A  
PAGE NO. 2**

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. 19695-A  
PAGE NO. 3**

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

**Application No. 20202 of DuVon Floyd**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201, from the lot occupancy requirements of Subtitle D § 304.1 and the rear yard alley centerline setback requirements of Subtitle E § 5004.1, to permit the construction of a one-story garage in the R-2 Zone at premises 6223 8th Street, N.W. (Square 3161, Lot 58).

**HEARING DATE:** February 26, 2020

**DECISION DATE:** February 26, 2020

**SUMMARY ORDER**

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 14 (Updated); Exhibits 3 and 7 (Original).)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 4B.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on January 27, 2020, at which a quorum was present, the ANC approved a resolution by a vote of 9-0-0 to support the application. (Exhibit 32.)

OP Report. The Office of Planning submitted a report, dated February 14, 2020, recommending approval of the application. (Exhibit 37.)

DDOT Report. The District Department of Transportation submitted a report, dated February 3, 2020, indicating that it had no objection to the application. (Exhibit 33.)

Persons in Support. The Board received a letter from Rebeka Bautista of 6221 8th Street, N.W. and a letter from Porter Lawson of 732 Sheridan Street, N.W. in support of the application. (Exhibits 17 and 18.)

**Special Exception Relief**

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under Subtitle D § 5201, from the lot occupancy requirements of Subtitle D § 304.1 and the rear yard alley centerline setback requirements of Subtitle E § 5004.1 to permit the construction of a one-story garage in the R-2 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, 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, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

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<sup>1</sup> AT EXHIBIT 5.**

**VOTE: 3-0-2** (Frederick L. Hill, Carlton E. Hart, and Peter A. Shapiro to APPROVE; no other Board members 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 28, 2020

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.

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<sup>1</sup>Self-certification: In granting the self-certified relief, the Board made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

PURSUANT TO 11 DCMR SUBTITLE Y § 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. 20207 of Amanda J. Lepof and Clint G. Burkholder**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201 from the rear addition requirements of Subtitle D § 1206.3, to construct a two-story rear addition to an existing attached principal dwelling unit in the R-20 Zone at premises 3518 S Street, N.W. (Square 1303, Lot 30).

**HEARING DATE:** February 26, 2020

**DECISION DATE:** February 26, 2020

**SUMMARY ORDER**

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 5 and 12<sup>1</sup>.)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 2E.

ANC Report. The ANC did not file a report related to the application.

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 33.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 34.)

Persons in Support. Three letters were submitted in support of the application. (Exhibits 9, 30, and 32.)

Persons in Opposition. The neighbor adjacent to the property testified at the hearing in opposition to the application.

**Special Exception Relief**

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under Subtitle D §

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<sup>1</sup> Exhibit 12 contains the signed page 1 of Self-Certification Form with calculations at Exhibit 5.

5201 from the rear addition requirements of Subtitle D § 1206.3, to construct a two-story rear addition to an existing attached principal dwelling unit in the R-20 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, 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, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

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<sup>2</sup> AT EXHIBIT 6 – ARCHITECTURAL PLANS AND ELEVATIONS.**

**VOTE: 3-0-2** (Frederick L. Hill, Carlton E. Hart, and Peter A. Shapiro to APPROVE; no other Board members 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:** March 2, 2020

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

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<sup>2</sup> In granting the certified relief, the Board 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.

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. 20211 of Opal, LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the use provisions of Subtitle U § 301.1(g), and under Subtitle E § 5201 from the accessory structure rear yard setback requirements of Subtitle E § 5004.1, and pursuant to 11 DCMR Subtitle X, Chapter 10, for an area variance from the lot occupancy requirements of Subtitle E § 304.1, to construct a second-floor addition to an existing carriage house in the RF-1 Zone at premises 934 O Street N.W. (Square 367, Lot 843).

**HEARING DATE:** March 4, 2020  
**DECISION DATE:** March 4, 2020

**SUMMARY ORDER**

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 3.)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 2F.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on November 11, 2019, at which a quorum was present, the ANC voted 7-0 to support the application. (Exhibit 14.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 34.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 31.)

Persons in Support. The Board received three letters in support of the application. (Exhibits 28, 30, and 35.)

### Variance Relief

The Applicant seeks relief under Subtitle X § 1002.1 for area variance from the lot occupancy requirements of Subtitle E § 304.1, to construct a second-floor addition to an existing carriage house in the RF-1 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations 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, in the case of an area variance, or an undue hardship, in the case of a use variance, 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

The Applicant seeks relief under Subtitle X § 901.2, for special exceptions under the use provisions of Subtitle U § 301.1(g) and under Subtitle E § 5201 from the accessory structure rear yard setback requirements of Subtitle E § 5004.1 to construct a second floor addition to an existing carriage house in the RF-1 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, 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, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

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<sup>1</sup> AT EXHIBIT 32C1-32C2.**

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<sup>1</sup> Self-certification: In granting the certified relief, the Board 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.

**VOTE:** 4-0-1 (Frederick L. Hill, Carlton E. Hart, Lorna L. John, and Anthony J. Hood to APPROVE; no other members 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:** March 5, 2020

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

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

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

**BZA APPLICATION NO. 20211**

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**BOARD OF ZONING ADJUSTMENT  
PUBLIC MEETING NOTICE  
WEDNESDAY, MAY 6, 2020  
441 4<sup>TH</sup> 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 TWO**

19134C      **Application of The Embassy of Zambia**, pursuant to 11 DCMR Subtitle  
ANC 2D      Y § 703, for a modification of consequence to the time limit conditions of  
BZA Order No. 19134-B to allow the temporary location of a chancery in  
the in the R-3 Zone at premises 2200 R Street N.W. (Square 2512, Lot  
808).

**PLEASE NOTE:**

Failure of an applicant to supply a complete application to the Board, and address the required standards of proof for the application, may subject the application or appeal to postponement, dismissal or denial. The public meeting in these cases will be conducted in accordance with the provisions of Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11. Individuals and organizations interested in any application may submit written comments to the Board.

An applicant is not required to attend for the decision, but it is recommended so that they may offer clarifications should the Board have questions about the case.

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

The application will remain on the Expedited Review Calendar unless a request for party status is filed in opposition, or if a request to remove the application from the agenda is

BZA PUBLIC MEETING NOTICE

MAY 6, 2020

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made by: (1) a Board member; (2) OP; (3) an affected ANC or affected Single Member District; (4) the Councilmember representing the area in which the property is located, or representing an area located within two-hundred feet of the property; or (5) an owner or occupant of any property located within 200 feet of the property.

The removal of the application from the Expedited Review Calendar will be announced as a preliminary matter on the scheduled decision date and then rescheduled for a public hearing on a later date. Notice of the rescheduled hearing will be posted on the Office of Zoning website calendar at <http://dcoz.dc.gov/bza/calendar.shtm> and on a revised public hearing notice in the OZ office. If an applicant fails to appear at the public hearing, this application may be dismissed.

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

**Do you need assistance to participate?**

Amharic

ለመሳተፍ ዕርዳታ ያስፈልግዎታል?

የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም) ካስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡት በነጻ ነው።

Chinese

您需要有人帮助参加活动吗?

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

## BZA PUBLIC MEETING NOTICE

MAY 6, 2020

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interpretación), por favor comuníquese con Zee Hill llamando al (202) 727-0312 o escribiendo a [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

*Vietnamese*

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

Nếu quý vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc [Zelalem.Hill@dc.gov](mailto: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**  
**ZONING COMMISSION ORDER NO. 06-11R**  
**Z.C. CASE NO. 06-11R**  
**The George Washington University**  
**(Campus Plan Further Processing @ Square 122)**  
**December 2, 2019**

Pursuant to notice, at its public hearing on December 2, 2019, the Zoning Commission for the District of Columbia (the “Commission”) considered an application (the “Application”) of The George Washington University (the “University”) for the review and approval of:

- A special exception under Subtitle X § 101.9 to allow further processing within the Foggy Bottom Campus Plan of 2006-2025 (the “Campus Plan”) approved by Z.C. Order No. 06-11/06-12 (the “Original Order”), as amended by Z.C. Order Nos. 06-11A through 06-11P;
- A special exception from the lot occupancy requirements of Subtitle G § 304.1; and
- Three special exceptions from the penthouse requirements of Subtitle C §§ 1500.8, 1500.9, and 1502.

Of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016 [“the “Zoning Regulations”], to which all subsequent citations refer unless otherwise specified). The Commission reviewed the Application pursuant to its Rules of Practice and Procedures, which are codified in Subtitle Z and for the reasons stated below, the Commission **APPROVES** the Application.

**FINDINGS OF FACT**

**Notice**

1. On April 19, 2019, the University mailed a Notice of Intent to all required property owners and the parties to the Campus Plan – Advisory Neighborhood Commission (“ANC”) 2A, the “affected ANC” per Subtitle Z § 101.8, the Foggy Bottom Association (“FBA”), and the West End Citizens Association (“WECA”) – in satisfaction of the requirement of Subtitle Z § 302.6. In accordance with Subtitle Z § 302.8, University representatives attended ANC 2A’s July 17, 2019 public meeting. (Exhibit [“Ex.”] 3E.)
2. On October 1, 2019, the Office of Zoning (“OZ”) sent notice of the public hearing to: (Ex. 6.)
  - The affected ANC 2A;
  - The affected ANC Single Member District (“SMD”) 2A01;
  - The Office of Planning (“OP”);
  - The District Department of Transportation (“DDOT”);
  - The Council of the District of Columbia (“DC Council”); and
  - Property owners within 200 feet of the Property. (Ex. 6.)
3. OZ also published notice of the December 2, 2019 public hearing in the *D.C. Register* on October 11, 2019 (66 DCR 13364) as well as through the calendar on OZ’s website. (Ex.

6.) The Applicant also posted notice of the public hearing in accordance with the requirements of the Zoning Regulations. (Ex. 10, 19.)

### Parties

4. The parties to the Campus Plan other than the University, were ANC 2A, FBA, and WECA, which was in support but nonetheless requested party status, and which the Commission granted. (Ex. 7.)

### The Site

5. The property that is the subject of the Application is located in Square 122, Lot 30 (the "Property").<sup>1</sup>
6. The Property is located in the MU-2 zone and is a part of the Campus Plan/First-Stage Planned Unit Development ("PUD") approved by the Commission in the Original Order.
7. The Property contains approximately 27,600 square feet and is the location of Thurston Hall, a residence hall housing first-year University students ("Thurston Hall").

### The Application

8. On August 19, 2019, the University filed the Application seeking approval of a further processing to renovate Thurston Hall to provide an updated residence hall (the "Renovation"). (Ex. 1, 2, 3, 3A-3O, 13, 13A-G, 21, 21A-B.)
9. Thurston Hall was constructed in 1929 as an apartment building, and since 1964, the building has served as a residence hall for the University. Thurston Hall currently provides approximately 1,080 beds for first-year students. (Ex. 3.)
10. Through the Renovation, the University intends to renovate Thurston Hall to provide approximately 825 beds in single- and double-accommodation rooms and a 250-seat dining venue on the lower level. (Ex. 3, 13.)
11. In order to accommodate the relocation of the students who would otherwise be housed in Thurston Hall, the University filed three modification applications (collectively, the "Modification Applications") to temporarily house the students displaced by the Renovation (the "Temporary Housing Plan"): (Ex. 3, 13.)
  - a. Z.C. Case No. 01-17E, which applied for a modification to the PUD for 1959 E Street, N.W.;
  - b. Z.C. Case No. 06-11Q, which applied for a modification to the Campus Plan; and
  - c. Z.C. Case No. 06-12Q, which applied for a modification to the first-stage PUD for the campus.<sup>2</sup>

<sup>1</sup> Note that the Application was filed referencing Lot 825 in Square 122, which was subsequently converted to Record Lot 30 in Square 122 on September 17, 2019.

<sup>2</sup> The Commission combined Z.C. Case Nos. 06-11Q and 06-12Q for the purposes of a decision and final order.



12. As part of the Renovation, the University proposes to carve out a “notch” in the Thurston Hall’s south elevation to increase light and air to the central courtyard. The notch will remove three stories of the building on the south façade but will rebuild the façade of the lowest story to give the appearance of a two-story removal. The University will infill the open part of the notch with a mix of glass fiber reinforced concrete and metal with a screen that evokes the pattern of the old façade but provides ample transparency for light and air to enter the central courtyard. The University also proposes to construct a canopy on the roof that will provide cover to the courtyard and the upper terraces created by the notch, making it a usable space for students, even in inclement weather. (Ex. 3, 13, 13F, 21, 21A-B.)
13. The University also proposes to construct new habitable penthouse space and mechanical equipment and structures on the Thurston Hall’s roof. (Ex. 3, 13, 13F, 21, 21A-B.)
14. The Renovation will decrease the gross floor area at the Property from 190,430 square feet to 187,685 square feet, resulting in a decreased floor area ratio (“FAR”) for the Property from 6.89 to 6.80. Because the Renovation does not change the use or increase the gross floor area of the building, no second-stage PUD approval is required under the campus plan-related first-stage PUD for the Foggy Bottom campus. (Ex. 3, 13, 13F.)
15. The Renovation will maintain the building height of Thurston Hall at 86.5 feet. (Ex. 3, 13, 13F.)
16. The Renovation will increase the lot occupancy of the Property from 73.3% to 84%. (Ex. 3, 13, 13F.)
17. The Renovation will incorporate a series of sustainable features that represent an improvement over the existing Thurston Hall and will reduce the impact of the renovation. These include approximately 2,500 square feet of green roof and approximately 2,000 square feet devoted to solar panels on the penthouse roof. Overall, the Renovation is designed to a minimum level of Silver under LEED v.4. (Ex. 3, 13, 13F.)
18. The Renovation will also include improvements in public space, framing the primary F Street entrance with outdoor seating, paving consistent with the Campus Plan, plantings within the public parking area, and bicycle parking. (Ex. 3, 13, 13F.)
19. The Renovation will continue to provide no vehicular parking and will maintain one loading berth. The Renovation will provide 36 long-term and 36 short-term bicycle parking spaces. (Ex. 13, 13F.)
20. The University provided evidence that the Renovation received concept approval from the U.S. Commission of Fine Arts (“CFA”) and the Historic Preservation Review Board (“HPRB”). The University refined the Renovation based on feedback from both CFA and HPRB, and the final design presented to the Commission reflected these refinements. (Ex. 13, 21.)

21. The University supplemented the Application with a prehearing submission on November 12, 2019, and a hearing submission on December 2, 2019. (Ex. 13, 13A-G, 21, 21A-B.)

### **Relief Requested**

22. The Application requested five special exceptions: (Ex. 3, 13, 13F.)
- To allow the further processing of Thurston Hall under the Campus Plan pursuant to Subtitle X § 101.9 to authorize the Renovation;
  - For relief from the maximum 80% lot occupancy requirement in the MU-2 zone (Subtitle G § 304.1) to allow the canopy that will increase the lot occupancy to 84% because the currently uncovered courtyard will become covered lot space, although the building footprint itself will remain at 73%; (Subtitle G § 304.1.)
  - For relief from the penthouse setback requirements for the canopy's support structure. (Subtitle C § 1502.) The University originally requested setback relief for the entire canopy, but based on feedback from CFA, the University set the overall canopy back on a 1:1 basis. However, a small portion of the support structure for the canopy intrudes into the 1:1 setback area and cannot be further set back without negatively impacting the intent of the canopy to cover the upper terraces. Without this cover, the terraces would not be occupiable during inclement weather;
  - For relief from the uniform height requirements for the cooling towers. (Subtitle C § 1500.8.) The cooling towers need to be 19 feet in height to accommodate the operations of the building. However, the other penthouse structures do not need to be this tall, and rather than increase the height of other elements, the University requests relief for a different height for the cooling towers; and
  - For relief from the screening requirements for the cooling towers. (Subtitle C § 1500.9.) The University proposes to only half-screen the cooling towers. While the towers themselves meet the setback requirements, providing screening for the full height of the towers would result in the need for additional setback relief for the screen wall to allow for air circulation. Instead, the University proposes to keep the screen wall at the lower height needed to screen the rest of the mechanical equipment which will minimize the height and visual impact of the roof structures.

### **Applicant's Statements**

#### **Renovation Impacts**

23. The Renovation will provide greater student gathering space in the building, including the courtyard. The Renovation will also provide an on-site dining option for students and improved room conditions. The Renovation will also improve building sustainability with the addition of solar panels and green roof as well as building envelope efficiency improvements. All of these impacts will create a more positive student environment and enhance the first-year experience at the University. (Ex. 3, 13.)

24. The Renovation will increase the outdoor space for students to gather, largely in the courtyard and terrace areas. While more outdoor congregation space could potentially have an adverse impact on the surrounding neighborhood, the Application notes that the design of the courtyard, including the canopy cover, as well as the fact that the courtyard is completely surrounded by building walls, will minimize any impacts. (Ex. 3, 13.)
25. During construction, Thurston Hall will not be occupiable. During this time, first-year students who would have been housed in Thurston will be housed in other buildings on campus. Upper-level students displaced by the first-year students will be housed in other locations, including two properties outside of the Campus Plan. All of the impacts and mitigations related to the Temporary Housing Plan are detailed in the Modification Applications. To minimize the impacts of the Renovation, the University has committed to only employing the Temporary Housing Plan for two years, as detailed in the Modification Applications. (Ex. 3, 13; Z.C. Order Nos. 01-17E, 06-11Q/06-12Q.)
26. The University also provided a Comprehensive Transportation Review (“CTR”) that was prepared by Rob Schiesel of Gorove/Slade and includes a Loading Management Plan. (Ex. 9, 9A-B.) The CTR concluded that the Renovation “[would] not have a detrimental impact on the local transportation network and would not result in any significant increase in vehicular travel.” The CTR also noted that the existing loading areas and access would not be changing and that the University had proposed Traffic Demand Management (“TDM”) and Loading Management Plans.

#### **Not Inconsistent with the Comprehensive Plan**

27. The Application asserts that the Renovation will not be inconsistent with the Comprehensive Plan (Title 10A of the DCMR, the “CP”), including the Generalized Policy Map (the “GPM”), the Future Land Use Map (the “FLUM”), and multiple written policies as further described below. The Application did not identify any potential inconsistencies with the CP. (Ex. 3, 17.)
28. The GPM and FLUM designate the Property in the Institutional land use category, which is consistent with the University’s use and the Renovation. (Ex. 3, 17.)
29. The Renovation will advance the following policies of the Land Use element of the CP:
  - a. Policy LU-3.2.1: Transportation Impacts of Institutional Uses – Support ongoing efforts by District institutions to mitigate their traffic and parking impacts by promoting ridesharing, carpooling, public transportation, shuttle service and bicycling; providing on-site parking; and undertaking other transportation demand management measures; and
  - b. Policy LU-3.2.2: Corporate Citizenship – Support continued “corporate citizenship” among the city’s large institutions, including its colleges, universities, hospitals, private schools, and non-profits. Given the large land area occupied by these uses and their prominence in the community, the city’s institutions (along with the District itself) should be encouraged to be role models for smaller employers in efforts to improve the city’s physical environment. This should

include a continued commitment to high quality architecture and design on local campuses, expanded use of “green building” methods and low impact development, and the adaptive reuse and preservation of historic buildings.

(Ex. 3.)

30. The Renovation will advance the following policies of the Education Facilities element of the CP: (Ex. 3, 17.)
- 31.
- a. Policy EDU-3.3.2: Balancing University Growth and Neighborhood Needs – Encourage the growth and development of local colleges and universities in a manner that recognizes the role these institutions play in contributing to the District’s character, culture, economy, and is also consistent with and supports community improvement and neighborhood conservation objectives. Discourage university actions that would adversely affect the character or quality of life in surrounding residential areas;
  - b. Policy EDU-3.3.3: Campus Plan Requirements – Continue to require campus plans for colleges and universities located in residential and mixed-use zone districts. These plans should be prepared by the institutions themselves, subject to District review and approval, and should address issues raised by the surrounding communities. Each campus plan should include provisions that ensure that the institution is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other similar conditions; and
  - c. Policy EDU-3.3.4: Student Housing – Encourage the provision of on-campus student housing in order to reduce college and university impacts on the housing stock in adjacent neighborhoods. Consider measures to address the demand for student housing generated by non-District institutions with local branches.
32. The Renovation will advance the following policies of the Economic Development element of the CP: (Ex. 3.)
- a. Policy ED-1.1.2: Economic Linkages – Leverage the potential of core industries to provide new employment opportunities, particularly the growth of businesses that supply essential goods and services to the government, universities, hospitals, law firms, hotels, non-profits, and other major employers in the city; and
  - b. Policy ED-2.4.1: Institutional Growth – Support growth in the higher education and health care sectors. Recognize the potential of these industries to provide employment and income opportunities for District residents, and to enhance the District’s array of cultural amenities and health care options.
33. The Renovation will advance the following policies of the Historic Preservation element of the CP: (Ex. 3.)

- a. Policy HP-2.4.4: Suitability to the Historic Context – Apply design standards in a manner that accounts for different levels of historic significance and different types of historic environments. Encourage restoration of historic landmarks while allowing enhancements of equivalent design quality, provided such enhancements do not damage the landmark. Exercise greater restraint in residential historic districts and areas with a clear prevailing development pattern or architectural style. Allow greater flexibility where the inherent character of historic properties can accommodate greater intervention or more dramatic new design, for example, in non-residential areas and in areas without a significant design pattern;
  - b. Policy HP-2.4.5: Protecting Historic Building Integrity – Protect historic buildings from demolition whenever possible and protect the integrity of whole buildings. Discourage treatments like façadism or relocation of historic buildings, allowing them only when there is no feasible alternative for preservation, and only after a finding that the treatment is necessary in the public interest. Waivers or administrative flexibility should be provided in the application of building and related codes to permit maximum preservation and protection of historic resources while ensuring the health and safety of the public; and
  - c. Action HP-2.4.A: Conceptual Design Review Process – Sustain and improve the conceptual design review process as the most effective and most widely used means to promote good preservation and compatible design. Support the use of this process by property owners and developers by committing sufficient resources and appointing highly qualified professionals to the Historic Preservation Review Board. Enhance public participation and transparency in the process through increased use of electronic means to provide public notice, process applications, and post documents for public review.
34. The Renovation will advance the following policies of the Transportation element of the CP: (Ex. 3.)
- a. Action T-2.2.C: Bicycle and Car-Pool Parking – Increase investment in bicycle parking and provide more visible parking for car-sharing operations at Metrorail stations, key transit stops, and future streetcar stations; and
  - b. Action T-2.3.A: Bicycle Facilities – Wherever feasible, require large new commercial and residential buildings to be designed with features such as secure bicycle parking and lockers, bike racks, shower facilities, and other amenities that accommodate bicycle users.
35. The Renovation will advance the following policies of the Environmental Protection element of the CP: (Ex. 3.)
- a. Policy E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff – Promote an increase in tree planting and landscaping to reduce stormwater runoff, including the expanded use of green roofs in new construction and adaptive reuse, and the

- application of tree and landscaping standards for parking lots and other large paved surfaces; and
- b. Policy E-2.2.5: Energy Efficient Building and Site Planning – Include provisions for energy efficiency and for the use of alternative energy sources in the District’s planning, zoning, and building standards. The planning and design of new development should contribute to energy efficiency goals.
36. Finally, the Renovation will advance the following policies of the Near Northwest Area element of the CP: (Ex. 3, 17.)
- a. Policy NNW-1.1.8: Student Housing – Support and promote efforts by the area’s universities to develop on-campus dormitories in order to reduce pressure on housing in nearby neighborhoods;
  - b. Policy NNW-2.5.1: GWU/Foggy Bottom Coordination – Encourage continued efforts to improve communication and coordination between George Washington University (GWU) and the Foggy Bottom and West End communities. Campus Plans for the university must demonstrate how the campus can manage its academic mission within its current boundaries and enrollment. These efforts must ensure protection of the residential character of Foggy Bottom; and
  - c. Policy NNW-2.5.2: Student Housing and Parking Issues – Support efforts by George Washington University to place students in residential facilities within the campus boundaries or at the Mount Vernon campus to alleviate pressure on the housing stock in Foggy Bottom/West End and to develop transportation demand management programs and facilities that reduce parking problems on residential streets in the campus area.

### **Responses to Application**

#### **OP Report**

37. By report dated November 22, 2019, (the “OP Report”), OP recommended approval of the Application and the related Modification Applications with no comments or conditions. (Ex. 17.) The OP Report noted that the Application was consistent with the CP’s GPM, FLUM, and the Education Facilities and the Near Northwest Area Elements of the CP. The OP Report also recommended approval of the requested zoning relief and detailed how the Renovation meets the requirements for these areas of relief and the overall further processing standards.

#### **DDOT Report**

38. By report dated November 22, 2019 (the “DDOT Report”), DDOT expressed no objection to the Renovation or the Modification Applications provided that the University implement the Loading Management Plan and the TDM Plan for the temporary relocation of the students as outlined in the CTR.<sup>3</sup> (Ex. 18.)

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<sup>3</sup> The TDM requirement was related to the Modification Applications and is contained in those orders.

**ANC Report**

39. ANC 2A submitted a report (the “ANC Report”) stating that at its duly noticed meeting on November 20, 2019, at which a quorum was present, ANC 2A voted to support the Renovation and the relief requested. (Ex. 24.) The ANC Report did not raise any issues or concerns with the Renovation.

**Other Parties and Persons**

40. WECA’s written response commended the University for outreach to the community and designing a Renovation that would improve the student experience at the University. (Ex. 7.)
41. The Commission received numerous letters from University students in support of the Renovation. These support letters generally commended the University for designing a Renovation focusing on a space with natural light and air for students, gathering and community spaces for students, a new dining facility, and the sustainability features of the Renovation. (Ex. 20, 23.)

**Public Hearing of December 2, 2019**

42. The Commission held a public hearing on the Application on December 2, 2019. On behalf of the University, the Commission accepted Dade Van Der Werf as an expert in architecture and Rob Schiesel as an expert in traffic engineering. (Ex. 13G.) The Applicant provided testimony from Dade Van Der Werf, as well as from others.
43. OP rested on the record of its report and recommended approval of the Renovation. (12/2/19 Transcript [“12/2 Tr.”] at 36.)
44. DDOT testified in support of the Renovation subject to the conditions outlined in its report. (12/2 Tr. at 36-37.)
45. Chairperson Smith and Commissioner Epstein from ANC 2A both testified in support of the Renovation and commended the University on its extensive public outreach and willingness to compromise on the Renovation and the Modification Applications. (12/2 Tr. at 37-43.)
46. Sara Maddux, representing WECA, also testified in support of the Renovation as it will improve life for students and provide space for socializing. (12/2 Tr. at 45-49.)
47. Three University students testified in support of the Renovation, noting the importance of the student gathering spaces, dining facility, and sustainability features incorporated into the renovated Thurston Hall. (12/2 Tr. at 51-61.)

**CONCLUSIONS OF LAW**

1. The Commission may approve a campus plan, and any amendment and further processing thereof, as a special exception upon determining that the applicant has demonstrated the satisfaction of the requirements of Subtitle X § 101 and Chapter 9.
2. The Commission concludes that the University has satisfied the burden of proof for further processing approval of the Renovation. The Commission concludes, as detailed below, that the Renovation:
  - a. Will cause no objectionable impacts;
  - b. Is not inconsistent with the Comprehensive Plan; and
  - c. Is in harmony with the general purpose and intent of the Zoning Regulations.

Subtitle X § 101.2 - *The uses shall be located so that they are not likely to become objectionable to neighboring property because of noise, traffic, parking, number of students, or other objectionable conditions.*

3. The Commission concludes that the Renovation is not likely to become objectionable to neighboring properties due to noise. The Property was approved for use as student housing under the Campus Plan and has been used as such since 1964. The Commission notes that while the Renovation is increasing areas for student congregation and socialization, it is also decreasing the overall number of students to be housed in the building. The Commission also notes that the congregation areas will be located within the building, thereby mitigating any impacts from noise. (Findings of Fact [“FF”] 6, 9-10, 23-24.)
4. The Commission also concludes that the Renovation is not likely to become objectionable to neighboring properties due to traffic, parking, or other transportation impacts. Consistent with the approved Campus Plan, the Renovation does not contain any parking. The Commission finds that the reintroduction of the dining venue will generate few additional trips because the students who will use the facilities would be coming from the Property or other locations on the University campus. The Renovation also includes secured long-term bicycle storage and short-term bicycle parking adjacent to the building, which will help encourage this non-auto mode of transportation. The Renovation will maintain the existing loading berth in the private alley at the rear of the building, which will provide a space for off-street service and delivery activity. Finally, the Commission credits the findings of the CTR and the DDOT report, that the Renovation’s trip generation is unlikely to create a detrimental impact on the surrounding transportation network. (FF 26, 38.)
5. The Commission concludes that the Renovation is not likely to become objectionable due to the number of students, as the Renovation will not increase the overall student population and will in fact decrease the student population at the Property. The Renovation will also create areas for student socialization and congregation within the residence hall, ranging from the new outdoor terraces to the dining venue to the penthouse, as well as smaller



lounge and study areas on each floor, which will provide students with inward-focused community-building spaces and reduce any external impacts. (FF 9-10, 23-24.)

6. Finally, the Commission concludes that the Renovation is not likely to become objectionable due to other objectionable conditions and notes that no other objectionable conditions related to the Renovation were raised by parties or persons as part of the Application. The Commission notes that all impacts and mitigations related to the Temporary Housing Plan are addressed in the Modification Applications.
7. Therefore, the Commission finds the Renovation's overall impacts are not adverse and any potential adverse impacts are mitigated by the Renovation's overall design and the University's agreement to limit the Temporary Housing Plan to two years. (Ex. 3, 13.)

Subtitle X § 101.3 - *Any commercial use customarily incidental to a university use in an R, RF, or RA zone, or as an adjunct use to a university building, shall be subject to the following conditions:*

- (a) *There shall be a demonstrated and necessary relationship between the use and the university functions;*
  - (b) *The total floor area of all commercial uses, including basement or cellar space, shall occupy no more than ten percent (10%) of the gross floor area of the total campus plan floor area; and*
  - (c) *The commercial use shall be located so that it will not become objectionable to non-university residential neighbors due to hours of operation, noise, parking, loading, lighting, trash, or other operational characteristics that are not customarily associated with a residential use.*
8. The Commission notes that the Renovation is not located in an R, RF or RA zone and that the Application does not propose to change the zoning of the Property. (FF 6.)

Subtitle X § 101.4 - *The campus plan process shall not serve as a process to create general commercial activities or developments unrelated to the educational mission of the applicant or that would be inconsistent with the Comprehensive Plan.*

9. The Commission concludes that the Renovation would not create general commercial activities on the campus unrelated to the mission of the University. (FF 10.)

Subtitle X § 101.5 - *The following development standards shall apply to the maximum total density of all buildings and structures on the campus in an R, RF, RA, or RC-1 zone.*

10. The Commission notes that the Renovation is not located in an R, RF, RA, or RC-1 zone and that the Application does not propose to change the zoning of the Property. The Commission notes that upon completion of the renovation, the zoning height of Thurston Hall would remain at 86.5 feet, and the FAR for residentially zoned portions of the campus would be 3.12, below the 3.69 permitted by the Campus Plan (FF 6 at 14-15.)

Subtitle X § 101.6 - *Because of permissive increases as applicable to normal bulk requirements in the low-density zones regulated by this title, it is the intent of this subsection to prevent unreasonable campus expansion into improved low-density zones.*

11. The Commission finds that the use is not located in a low-density zone and that the Application does not propose to change the zoning. (FF 6.)

Subtitle X § 101.7 - *In calculating floor area ratio (FAR), the land area shall not include public streets and alleys, but may include interior private streets and alleys within the campus boundaries.*

12. The Commission finds that the FAR calculation for the Property is based only on the lot, which includes private alleys, and does not include the adjacent public streets.

Subtitle X § 101.8 - *As a prerequisite to requesting a further processing for each college or university use, the applicant shall have submitted to the Zoning Commission for its approval a plan for developing the campus as a whole, showing the location, height, and bulk, where appropriate, of all present and proposed improvements including, but not limited to, the following:*

- (a) *Buildings and parking and loading facilities;*
- (b) *Screening, signs, streets, and public utility facilities;*
- (c) *Athletic and other recreational facilities; and*
- (d) *A description of all activities conducted or to be conducted on the campus, and of the capacity of all present and proposed campus development.*

13. The Commission notes that pursuant to Z.C. Case Nos. 06-11 and 06-12, it approved a combined campus plan and campus wide first-stage PUD. The Application is made pursuant to the guidelines of the Campus Plan.

Subtitle X § 101.9 - *The further processing of specific buildings, structures, and uses within an approved campus plan shall be processed as a special exception unless the campus plan approval was included in an order granting a first-stage planned unit development (PUD) for the campus, in which case the further processing shall be in the form of second-stage planned unit development applications filed consistent with the conditions of the approved campus plan/PUD.*

14. The Commission concludes that the Application is appropriate for the Renovation and follows the conditions set forth in the Campus Plan. According to Conditions P-2 and P-14 of the Original Order, only development or renovations resulting in a change of use or an increase in floor area require a second-stage PUD approval. (FF 14.)

Subtitle X § 101.10 - *Within a reasonable distance of the college or university campus, and subject to compliance with Subtitle X § 101.2, the Zoning Commission may also permit the interim use of*

*land or improved property with any use that the Zoning Commission may determine is a proper college or university function. The land need not be included in the campus plan. When a major new building that has been proposed in a campus plan is instead moved off-campus, the previously designated site shall not be designated for, or devoted to, a different major new building unless the Zoning Commission has approved an amendment to the campus plan applicable to the site; provided, that for this purpose a major new building is defined as one specifically identified in the campus plan.*

15. The Commission finds that the Application does not propose an interim use of the Property. (FF 25.)

*Subtitle X § 101.11 - In reviewing and deciding a campus plan application or new building construction pursuant to a campus plan, the Zoning Commission shall consider, to the extent they are relevant, the policies of the District Elements of the Comprehensive Plan.*

16. The Commission concludes that the Renovation is not inconsistent with the CP maps because the Renovation is consistent with the GPM and FLUM designations for Institutional Use. (FF 27-28.)
17. The Commission concludes that the Renovation furthers the goals of the CP's Education Facilities Element to provide quality on-campus student housing; the goals of the Economic Development element to support the growth of higher education; the Historic Preservation element's goals of protection of historic resources; the Transportation element's goals of transit-oriented development; and the Environmental element's goals for energy efficiency. (FF 29-34.)
18. Finally, the Commission concludes the Renovation is not inconsistent with the Near Northwest Area Element's goals of coordination between the University and the community and providing quality student housing on campus. (FF 35.)

*Subtitle X § 101.12 - As an integral part of the application requesting approval of new building construction pursuant to a campus plan, the college or university shall certify and document that the proposed building or amendment is within the FAR limit for the campus as a whole, based upon the computation included in the most recently approved campus plan and the FARs of any other buildings constructed or demolished since the campus plan was approved.*

19. The Commission concludes that upon completion of the Renovation the FAR for residentially zoned portions of the campus would be 3.12, below the 3.69 permitted by the Campus Plan.

*Subtitle X § 101.13 - Pursuant to Subtitle Z § 405.1, as soon as the application is accepted, the Office of Zoning shall refer the application to the Office of Planning, the Department of Transportation, and the Department of Energy and Environment for review and written reports.*

20. The Commission concludes that the Application was properly referred to all relevant District agencies. The Commission notes that OP and DDOT both provided timely reports on the Application.

Subtitle X § 101.14<sup>4</sup> - *Approval of a campus plan shall be based on the determination by the Zoning Commission that the application 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 Maps, subject to the special conditions specified in this section.*

21. The Commission concludes that the Renovation is in harmony with the general purpose and intent of the Zoning Regulations because the Renovation provides enhanced first-year housing at the Property, reduces the number of students in Thurston Hall, and increases student gathering spaces in Thurston Hall and so minimizes impacts on the surrounding neighborhood, is consistent with the neighborhood scale and uses, and improves the sustainability of the Property. (FF 23-24.)

#### Zoning Relief

22. The Commission concludes that the University has satisfied the burden of proof for the special exception relief from the lot occupancy requirements and the roof structure setback, uniform height, and screening requirements, as detailed below.

#### *Lot Occupancy*

23. The Commission concludes that the lot occupancy relief is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and the relief will not tend to adversely affect the use of neighboring properties. The Commission notes that the lot occupancy relief is necessitated by the canopy and related notch, and that Thurston Hall's footprint will remain at the existing 73% lot occupancy. The Commission further notes that providing daylight to the interior courtyard actually improves the light and air at the Property and will not alter significantly the relationship between Thurston Hall and surrounding properties. (FF 22.)

#### *Penthouse Relief*

24. Based on the Findings of Fact above, the Commission concludes that the University has satisfied the standards for roof structure relief because:
- a. While the canopy membrane is setback on a 1:1 basis, the support structure slightly intrudes into this area. However, setting the support structure back to comply with the requirements would minimize the effectiveness of the canopy, damaging the underlying intent of the Renovation to create covered outdoor spaces within the Renovation for student gathering. Additionally, the small extent of the relief and limited height and extent of the support structure overall minimizes the visual intrusion of the canopy, and the lack of setback for the structural support is not visible from surrounding streets and does not impact the light and air of adjacent buildings; (FF 22.)

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<sup>4</sup> Subtitle X § 101.14 encapsulates the general Special Exception criteria of Subtitle X § 901.2.

- b. The height of the cooling towers is necessitated by the size of the building, but the remainder of the mechanical equipment does not need to be of the same height. Therefore, providing a separate height for the cooling towers allows the rest of the mechanical equipment to be at a lower, less visually intrusive height that will not impact the light and air of adjacent buildings; and (FF 22.);
- c. By not enclosing the cooling towers entirely, the screen wall is able to meet the setback requirements and will be less visually intrusive than if it screened the cooling towers entirely. Therefore, the screening relief will not negatively impact the light and air of adjacent buildings and is consistent with the intent of the Zoning Regulations (FF 22).

#### **“Great Weight” to the Recommendations of OP**

25. The Commission must give “great weight” to the recommendation of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 405.8) (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)
26. The Commission finds persuasive OP’s recommendation that the Commission approve the Application and therefore concurs in that judgment.

#### **“Great Weight” to the Written Report of the ANC**

27. The Commission must give “great weight” to the issues and concerns raised in a written report of an affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public pursuant to § 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) (2012 Repl.); see Subtitle Z § 406.2.) To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)
28. The Commission notes that the ANC Report did not raise any issues or concerns regarding the Renovation. The Commission notes the ANC Report’s support for the Applications persuasive and concurs in that judgment.

### **DECISION**

In consideration of the record and the Findings of Fact and Conclusions of Law herein, the Zoning Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the application for the following, subject to the following guidelines, conditions, and standards (whenever compliance is required prior to, on or during a certain time, the timing of the obligation is noted in **bold and underlined** text)::

- Further Processing under the Foggy Bottom Campus Plan of 2006-2025; (Subtitle X § 101.9)
- Lot Occupancy Relief; (Subtitle G § 304.1)
- Penthouse Setbacks; (Subtitle C § 1502)
- Penthouse Mechanical Height; and (Subtitle C § 1500.8)
- Penthouse Mechanical Screening; (Subtitle C § 1500.9.)

1. **Renovation Development.** The Renovation shall be built in accordance with the plans and elevations dated November 8, 2019, and marked as Exhibit 13F of the record as amended and updated by the plans dated December 2, 2019, and marked as Exhibits 21A and 21B (collectively the “**Approved Plans**”), except for flexibility from the Approved Plans in the following areas:

- a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;
- b. To vary the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed in the Approved Plans or as approved by the Historic Preservation Review Board, the U.S. Commission of Fine Arts, or their respective staffs;
- c. To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior design shown on the Approved Plans, or as required to secure final approval from the Historic Preservation Review Board, the U.S. Commission of Fine Arts, or their respective staffs. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;
- d. To provide a range in the approved number of dwelling units and number of beds of plus or minus 10%;
- e. To vary the location, attributes, and general design of the approved streetscape and public space to comply with the requirements of, and the approval by, the DDOT Public Space Division;
- f. To vary the final landscaping materials on private property as shown on the Approved Plans based on availability and suitability at the time of construction or otherwise in order to satisfy any permitting requirements of DC Water, DDOT, DOEE, DCRA, or other applicable regulatory bodies;
- g. To vary the amount, location and type of green roof, solar panels, and paver areas to meet stormwater requirements and sustainability goals or otherwise satisfy

permitting requirements, so long as the Renovation provides a minimum of 2,000 square feet of solar panels;

- h. To vary the final design and layout of the mechanical penthouse to accommodate changes to comply with Construction Codes or address the structural, mechanical, or operational needs of the building uses or systems;
  - i. To vary the final design and layout of the indoor and outdoor amenity spaces to reflect their final design and programming; and
  - j. To vary the final design of the ground-floor signage, awnings, canopies, and similar features to accommodate the specific uses within the building or as approved by the Historic Preservation Review Board, the U.S. Commission of Fine Arts, or their respective staffs.
2. **Bicycle Parking.** **For the life of the Renovation,** the Renovation shall provide 36 long-term bicycle parking spaces and, subject to approval by public space officials, 36 short-term bicycle parking spaces.
3. **Loading Management Plan.**
- a. A loading dock manager will be designated by the University. The dock manager will coordinate with the office of GW Housing and the dining hall operator to schedule deliveries;
  - b. All loading, delivery, and trash collection activity will be required to take place in the alleyway remaining on private property at all times;
  - c. The dock manager will schedule deliveries and ensure loading area capacity is not exceeded. In the case of unscheduled deliveries arriving while the loading area is full, the driver will be directed to return at a different time so as to not impede traffic flow on any adjacent streets;
  - d. Trucks using the loading area will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, § 900 (Engine Idling), the regulations set forth in DDOT’s Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System;
  - e. The dock manager will be responsible for disseminating DDOT’s Freight Management and Commercial Vehicle Operations document to drivers as needed to encourage compliance with District laws and DDOT’s truck routes. The dock manager will also post these documents in a prominent location within the service area; and

- f. The dock manager and/or a representative of the University will be on call during scheduled deliveries to address compliance issues.
4. The application approved by the Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application for building permit must be filed as specified in Subtitle Z § 702.2. Construction must begin within three years after the effective date of this Order as required by Subtitle Z § 702.3.

**VOTE (Dec. 2, 2019): 5-0-0** (Robert E. Miller, Michael G. Turnbull, Anthony J. Hood, Peter A. Shapiro, and Peter G. May to **APPROVE**)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 06-11R shall become final and effective upon publication in the *D.C. Register*; that is, on March 13, 2020.

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. 15-20C**  
**Z.C. Case No. 15-20C**  
**TBSC Owner I, LLC**  
**(Modification to First-Stage PUD and Approval of Second-Stage PUD)**  
**@ Square 620, Lots 252, 253, 254, 255, 904, and 905)<sup>1</sup>**  
**October 21, 2019**

Pursuant to notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public hearing on September 26, 2019, to consider an application filed by TBSC Owner I, LLC (the “Applicant”) for a modification of the first-stage planned unit development (“PUD”) and second-stage approval (collectively, the “Application”) for the South Parcel of the PUD (Lots 252 and 255 in Square 620, the “South Parcel”) approved pursuant to Z.C. Order No. 15-20 (the “Original Order”) for Lots 252, 253, 254, 255, 904, and 905 (the “PUD Site”). The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations (Title 11 of the DCMR) to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

**FINDINGS OF FACT**

**Notice**

1. By letter dated September 12, 2018, as subsequently amended and resent on October 1, 2018, the Applicant notified Advisory Neighborhood Commission (“ANC”) 6E, the “affected” ANC pursuant to Subtitle Z § 101.8, and all property owners within 200 feet of the Property, of its intent to file the Application. (Exhibit [“Ex.”] 2N.)
2. On July 30, 2019, the Office of Zoning (“OZ”) sent notice of the public hearing to:
  - ANC 6E;
  - The affected ANC Single Member District (“SMD”) 6E06;
  - The Office of Planning (“OP”);
  - The District Department of Transportation (“DDOT”);
  - The Department of Energy and Environment (“DOEE”);
  - The District of Columbia Housing Authority (“DCHA”);
  - The Council of the District of Columbia (“D.C. Council”); and
  - Property owners within 200 feet of the Property.

(Ex. 32.)

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<sup>1</sup> In the application, the lots that comprised the Property were identified as Lots 250, 893, 894, 895, 898, 900, 904, and 905 in Square 620. However, the Property, except Lots 904 and 905, was subdivided into new record lots as shown on the plat marked as Exhibits 53A.

3. A description of the proposed development and the notice of the public hearing in this matter were published in the *D.C. Register* on August 2, 2019. (Ex. 31.)

#### **Parties**

4. The only parties to the case were the Applicant and ANC 6E.

#### **The PUD Site**

5. The PUD Site consists of approximately 6.7 acres in the northwest quadrant of the city and is generally bounded by M Street, N.W. on the north, First Place, N.W. on the east, L Street, N.W. on the south, and First Street, N.W. on the west.
6. The majority of the PUD Site was formerly the site of the Sursum Corda Cooperative, a 199-unit townhouse community. The PUD Site was also improved with a 14-unit, four-story apartment building at 76 M Street, and included two adjoining vacant parcels. All of the structures have been demolished.
7. The Original Order divided the PUD Site into the North Block (Theoretical Lots 2A/2B and 2C/2D, the “North Parcel”) and the South Block (Theoretical Lots 1A and 1B, the “South Parcel”) separated by the private Pierce Street, N.W. The Original Order also included Theoretical Lots 3A and 3B as Green Space.
8. The Comprehensive Plan’s (“CP”) Generalized Policy Map (“GPM”) designates the site as a Land Use Change Area and the Future Land Use Map (“FLUM”) designates the site for Moderate Density Residential and Parks, Recreation, and Open Space. In addition, the Mid-City Small Area Plan identifies high-density residential and medium-density commercial uses as appropriate for the Property. (CP §104.8.)

#### **First-Stage PUD Approval**

9. Pursuant to the Original Order, the Commission approved a PUD (the “Approved First-Stage PUD”) for the PUD Site having concluded that the requested first-stage PUD and related zoning map amendment to change the zoning of the PUD Site from the R-4 Zone District the C-3-C Zone District were not inconsistent with the CP and would result in a better than matter-of-right development and meaningful public benefits.
10. In the Original Order, the Commission also granted flexibility from:
  - a. The loading requirements (§ 2201.1 of the 1958 Zoning Regulations<sup>2</sup>);
  - b. The side yard width requirements (§ 775.5 of the 1958 Zoning Regulations); and
  - c. The requirements for the number of buildings on a single record lot (§ 2516 of the 1958 Zoning Regulations).

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<sup>2</sup> The first-stage PUD was approved pursuant to the Zoning Regulations of 1958 and is so vested under these rules. (Subtitle A § 102.3(a).) However, the 2016 Zoning Regulations apply to the Application and any modifications to the approved first-stage buildings and the second-stage PUD. (Subtitle A § 102.4.)

11. The Original Order approved the Approved First-Stage PUD with:
  - a. Approximately 1,269,165 square feet of residential use (approximately 1,131 units);
  - b. Approximately 49,240 square feet of non-residential uses;
  - c. An overall density of 4.02 floor area ratio (“FAR”), including the area for Pierce Street, and a density of 5.42 FAR excluding the area for Pierce Street; and
  - d. Building heights in a range from 62.5 feet to 110 feet.
  
12. The Original Order required the PUD Site to be developed as follows:
  - a. South Parcel (Phase I – the subject of this Application)
    - i. Theoretical Lot/Building 1A: 184,775 square feet of gross floor area yielding 176 dwelling units; maximum of 8 stories; maximum building height of 72.45 feet; and a lot density of 4.13 FAR;
    - ii. Theoretical Lot/Building 1B: 194,900 square feet of gross floor area yielding 182 dwelling units; maximum of 8 stories; maximum building height of 78 feet; and a lot density of 4.92 FAR; and
    - iii. Theoretical Lot/Building 1C: 101,225 square feet of gross floor area yielding 63 dwelling units, maximum of 6 stories; maximum building height of 65.76 feet; and a lot density of 3.73 FAR.
  - b. North Parcel (Phase II)
    - i. Theoretical Lot/Building 2A/2B: 425,225 square feet of gross floor area yielding 348 dwelling units; a range of 6 to 11 stories; building heights ranging from 62.5 feet to 110 feet; and a lot density of 6.50 FAR; and
    - ii. Theoretical Lot/Building 2C/2D: 439,460 square feet of gross floor area yielding 362 dwelling units; a range of 6 to 10 stories; building heights ranging from 68.93 feet to 106.93 feet; and a lot density of 7.06 FAR.
  - c. Green Space
    - i. Theoretical Lot 3A: lot area of 6,241 square feet to be maintained as green/open space; and
    - ii. Theoretical Lot 3B: lot area of 6,367 square feet to be maintained as green/open space.
  
15. The Original Order also granted design flexibility from requirements to construct the PUD in accordance with the plans approved by the Original Order in the following areas:

- a. To provide a range in the number of residential units of plus or minus 10% from the 1,131 proposed for the development;
  - b. To vary the number, location, and arrangement of parking spaces, provided that the maximum number of parking spaces for the PUD does not exceed 746 parking spaces and the minimum number of parking spaces is not reduced below the number required under the Zoning Regulations; and
  - c. To vary the sustainable design features of the building, provided the project meets a minimum of LEED-Silver certification.
16. Under the Original Order, the first-stage PUD approval was valid until June 30, 2023, provided that a second-stage PUD application for the South Parcel was filed by June 30, 2017.
  17. Pursuant to Z.C. Order No. 15-20A, the Commission granted a two-year extension of the PUD approval, extending the deadline to file a second-stage PUD application for the South Parcel to June 30, 2019.
  18. Pursuant to ZC Order No. 15-20B, the Commission approved modifications to the conditions of the Original Order as follows:
    - a. Condition No. B.2.a., requiring the Applicant to certify to DCRA the list of Sursum Corda Households; and
    - b. Condition No. B.2.e.i, requiring notice by the Applicant to Sursum Corda Households within 10 days of applying for a raze permit.
  19. Pursuant to Decision No. A.3 of the Original Order, the Commission also granted a waiver from compliance with the Inclusionary Zoning (“IZ”) Regulations set forth in Chapter 26 of the 1958 Zoning Regulations because the Affordable Units will remain affordable for the life of the project. (Original Order Finding of Fact [“FF”] I.48.e.)

### **Application**

20. The Applicant filed the Application on November 19, 2018 for review of modifications to the first-stage PUD approved pursuant to the Original Order and approval of the second-stage PUD for the South Parcel (Phase 1) as described below.
21. The Application divides the PUD Site as follows:
  - a. The North Parcel consisting of approximately 124,628 square feet of land area, excluding the area to be dedicated for the First Street, N.W. right-of-way and the area to be used as a sidewalk for Pierce Street, N.W.; and
  - b. The South Parcel including the following elements:

- i. Theoretical Lots 1A and 1B, situated between First Street, N.W. and First Place, N.W., and consisting of approximately 2.4 acres, excluding the area to be dedicated for the First Street, N.W. right-of-way;
- ii. The rectangular parcel of land to the east of First Place, N.W. (Theoretical Lots 3A and 3B), which consists of 12,608 square feet of land area;
- iii. The private Pierce Street, N.W., except for the parallel parking on the north side of the street, which consists of approximately 34,604 square feet of land area; and
- iv. The dedication of the southern portion of the First Street N.W. right-of-way, as depicted on Sheet 13a of the plans, which consists of approximately 5,118 square feet of land area.

Modification of Approved First-Stage PUD

- 22. As finally proposed based on the Applicant’s multiple submissions as described below, the Application proposed to modify the Approved First-Stage PUD as follows:
  - a. Reflect the dedication of the First Street, N.W. right-of-way on the plans for the North and South Parcels;
  - b. To construct two buildings on the South Parcel instead of three – Building 1A (the “Southwest Building”) and Building 1B (the “Southeast Building”);
  - c. To include the Green Space located at Theoretical Lots 3A and 3B in the second-stage PUD/South Parcel;
  - d. Change the building heights proposed for the South Parcel from eight stories to a range of eight to ten stories within maximum heights approved by the Original Order (maximum 78 feet to 110 feet);
  - e. Reallocate the density and units from the North to South Parcel, while not changing the overall Approved First-Stage PUD density as follows: (Ex. 39A1 – 39A10.)

	<b>Approved First Stage PUD</b>	<b>Initial Application (Ex. 2G1-2G14)</b>	<b>Final Application (Ex. 39A1-39A10)</b>	<b>Change from Approved First-Stage PUD</b>
Southwest Building	<ul style="list-style-type: none"> <li>• 472,585 sf residential GFA</li> <li>• 8,315 sf non-residential GFA</li> <li>• 421 dwelling units</li> <li>• 6-8 stories (65 - 78 feet)</li> <li>• 4.31 combined</li> </ul>	<ul style="list-style-type: none"> <li>• 167,047 sf residential GFA</li> <li>• 160 dwelling units</li> <li>• Max 7 stories - 79.54 feet high</li> <li>• 4.22 FAR</li> </ul>	<ul style="list-style-type: none"> <li>• 239,348 sf residential GFA</li> <li>• 0 sf non-residential GFA</li> <li>• 216 dwelling units</li> <li>• Max 9 stories - 95.7 feet high</li> <li>• 6.04 FAR</li> </ul>	<ul style="list-style-type: none"> <li>• + 159,079 sf residential GFA</li> <li>• - 8,315 sf of non-residential GFA</li> <li>• + 141 dwelling units</li> <li>• + 2-4 stories</li> <li>• + 1.6 FAR (5.9</li> </ul>

	Approved First Stage PUD	Initial Application (Ex. 2G1-2G14)	Final Application (Ex. 39A1-39A10)	Change from Approved First-Stage PUD
Southeast Building	FAR (3 bldgs)	<ul style="list-style-type: none"> <li>• 388,096 sf GFA</li> <li>• 365 dwelling units</li> <li>• 8-10 stories - 88.67-110 feet high</li> <li>• 5.82 FAR</li> </ul>	<ul style="list-style-type: none"> <li>• 392,316 sf GFA</li> <li>• 0 sf non-residential GFA</li> <li>• 0 sf non-residential GFA</li> <li>• 346 dwelling units</li> <li>• 8-10 stories - 84.5-110 feet high</li> <li>• 5.88 FAR</li> </ul>	combined FAR)
Northwest Building	<ul style="list-style-type: none"> <li>• 823,580 sf residential GFA</li> <li>• 41,105 sf non-residential GFA</li> <li>• 710 dwelling units</li> </ul>	<ul style="list-style-type: none"> <li>• 388,715 sf residential GFA</li> <li>• 298 dwelling units</li> <li>• 6-11 stories - 62.5 -110 feet high</li> <li>• 6.24 FAR</li> </ul>	<ul style="list-style-type: none"> <li>• 315,061 sf residential GFA</li> <li>• 19,100 sf non-residential GFA</li> <li>• 280 dwelling units</li> <li>• 5-10 stories - 62.5-110 feet high</li> <li>• 5.63 FAR</li> </ul>	<ul style="list-style-type: none"> <li>• - 160,851 sf residential GFA</li> <li>• - 22,005 sf non-residential GFA</li> <li>• - 141 dwelling units</li> <li>• - 1.05 FAR</li> </ul>
Northeast Building	<ul style="list-style-type: none"> <li>• 6-11 stories (110 ft)</li> <li>• 6.77 FAR</li> </ul>	<ul style="list-style-type: none"> <li>• 401,727 sf GFA</li> <li>• 308 dwelling units</li> <li>• 6-10 stories - 68.93-106.93 feet high</li> <li>• 6.45 FAR</li> </ul>	<ul style="list-style-type: none"> <li>• 347,668 sf residential GFA</li> <li>• 0 sf non-residential GFA</li> <li>• 289 dwelling units</li> <li>• 6-10 stories - 68.93-106.93 feet high</li> <li>• 5.82 FAR</li> </ul>	

- f. Request new development incentives in the form of zoning flexibility from the MU-9 Zone regulations for court and side yards in order to permit the court and side yard condition along the southern theoretical lot line for the Southwest Building as reflected on the South Parcel Court and Yard Diagram on Sheet A-02 of the plans for the second-stage PUD approval at Ex. 39AA2 of the record; (September 26, 2019 Public Hearing Transcript [“9/26/19 Tr.”] at 20.)
- g. The Application also proposed to add the following new public benefits as conditions of the Order:
  - i. Dedication of First Street, N.W. Right-of-Way. The Applicant shall dedicate Lot 252 in Square 620 for the southern segment of the First Street, N.W. right-of-way (“ROW”); and (Sheet A.13a, Ex. 39A2.)
  - ii. Minimum Two- and Three-Bedroom Units for South Parcel. The South Parcel shall have a minimum of 52 two-bedroom units and 27

three-bedroom units. Each two-bedroom unit that is not a Reserved Unit shall have a minimum floor area of 850 square feet, and each three-bedroom unit that is not a Reserved Unit shall have a minimum floor area of 1,000 square feet. This will allow the Applicant to maintain the number of family-sized units despite reducing the number of Reserved Units as described below;

h. Modify the following public benefits as stated in the conditions of the Original Order:

i. Condition B.1 to clarify that

1. The South Parcel will provide at least 100 Affordable Units of the required 199 Affordable Units required for the Overall PUD, with the North Parcel providing the remainder (the size, mix, and location of the North Parcel’s Affordable Units shall be consistent with the Inclusionary Zoning (“IZ”) requirements in effect at the time of the second-stage PUD application for the North Parcel);
2. The 199 Affordable Units required for the Overall PUD shall be available to households with incomes not exceeding 80% of MFI, so long as the blended affordability level does not exceed 60% of MFI for the life of the Project; and
3. The 199 Affordable Units required for the Overall PUD may include the units reserved for Sursum Corda Households (the “Reserved Units”) with incomes not exceeding 80% MFI<sup>3</sup>. Reserved Units for Sursum Corda Households with incomes exceeding 80% MFI shall not be counted towards the 199 Affordable Units; and

ii. Condition B.2.a. to reduce the number of residential units on the South Parcel reserved for Sursum Corda households, regardless of income, from 136 to 122 based on an updated list of the Sursum Corda Households provided by Lonnie Duren, chair of the board for the Sursum Corda Housing Cooperative Association (“SCHCA”) indicating that fewer households intended to return. The Application proposed the following revised unit mix:

Reserved Sursum Corda Units			
No. of Units	Change from Original Order	No. of Bedrooms	Approximate Unit Size

<sup>3</sup> The Application also proposed a minor change to clarify that affordability levels would be determined by Median Family Income (“MFI”) as opposed to Area Median Income (“AMI”) used in the Original Order.

Reserved Sursum Corda Units			
0	(-15)	Studio	545 s.f.
39	(+8)	1 bdrm	715 s.f.
48	(-5)	2 bdrm	1,100 s.f.
26	(-1)	3 bdrm	1,390 s.f.
9	(-1)	4 bdrm	1,580 s.f.

- iii. Condition B.2.c. to grant the Applicant flexibility to further change the number and location of Reserved Units based on an updated list of the Sursum Corda Households intending to return, certified by the SCHCA at the time of building permit;
- iv. Condition B.2.g. to allow the conversion of Reserved Units to either market rate or non-reserved affordable units in the event a Sursum Corda Household elects not to return or fails to enter into an occupancy agreement in a timely manner. The revised condition also notes that the South Parcel shall have a minimum of 100 Affordable Units, including Reserved Units, and that the blended affordability level for the Affordable Units was not to exceed 60% MFI for the life of the Project; and
- v. Condition B.7.b. to allow for the installation of playground equipment on Lot 904 (Theoretical Lot 3A) prior to the issuance of certificate of occupancy instead of prior to the issuance of a building permit.

Second-Stage PUD Approval for the South Parcel

- 23. As part of the second-stage PUD, the Application requested to relocate the loading access from L Street, N.W. to First Place, N.W. for the South Parcel;
- 24. The second-stage PUD included a request for the following areas of design flexibility from the plans approved by this Order for the South Parcel:
  - a. Loading - Flexibility to have a 30-foot loading space along Pierce Street, N.W. with a width of 8 feet where a width of 12 feet is required and a 20-foot service/delivery service space with a width of 8 feet where a width of 10 feet is required;
  - b. Solar Panels - Flexibility to change the actual location, number and configuration of the solar panels so long as the overall layout of the roof plan, including, but not limited to the location of the penthouses, substantially complies with the plans for the Second-Stage PUD approval, and all of the requirements/standards for the rooftop penthouses and equipment have been met;
  - c. Retail/Commercial Option in Southwest Building - Flexibility to have approximately 1,850 square feet of retail/commercial use in lieu of residential amenity space as depicted on Sheet A05-b of the Second-Stage Plans;



- d. Number of Units - To provide a range in the number of residential units for the Southwest Building of plus or minus 10% from the 216 units proposed for that building; and to provide a range in the number of residential units for the Southeast Building of plus or minus 10% from the 346 units proposed for that building;
- e. Parking Layout - To vary the number, location, and arrangement of parking spaces, provided that the maximum number of parking spaces for the South Parcel does not exceed 304 parking spaces<sup>4</sup>, and minimum number is not reduced below the number required for the South Parcel under the Zoning Regulations;
- f. Interior Components - To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria, and mechanical rooms, provided that the variations do not change the exterior configuration of the building as shown on the plans approved by the order;
- g. Exterior Materials – Color - To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges shown on the plans approved by the order;
- h. Exterior Details – Location and Dimension - To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior configuration of the building or design shown on the plans approved by the order. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;
- i. Streetscape Design - To vary the location, attributes, and general design of the approved streetscape to comply with the requirements of, and the approval by, the DDOT Public Space Division;
- j. Signage - To vary the font, message, logo, and color of the approved signage, provided that the maximum overall dimensions and signage materials are consistent with the signage on the plans approved by the order and are compliant with the D.C. signage regulations; and
- k. Sustainable Features - To vary the approved sustainable features of the project, provided the total number of LEED points achievable for the project does not decrease below the minimum required for LEED-NC Silver Certification, and to revise the GAR checklist for the project so long as the project meets the minimum GAR requirement of 0.2.

### Applicant's Submissions

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<sup>4</sup> In the DDOT Response filed on July 11, 2019, the Applicant agreed to reduce the number of parking spaces from 364. (FF 28F; Ex. 23-23F.)

25. The Applicant submitted a total of nine submissions to the record in support of the Application:
- a. A pre-hearing statement dated May 15, 2019 (the “Pre-hearing Statement”); (Ex. 15-15BK.)
  - b. Comprehensive Transportation Review, as required pursuant to Subtitle Z § 401.8, dated June 10, 2019 (the “CTR”); (Ex. 20-20A.)
  - c. A supplemental pre-hearing statement dated July 5, 2019 (the “Supplemental Statement”); (Ex. 21-22E.)
  - d. A response to the issues raised in the DDOT Report dated July 11, 2019 (the “Response to DDOT”); (Ex. 23-23F.)
  - e. A response to MPD’s comments dated, September 4, 2019, (the “Response to MPD”); (Ex. 37.)
  - f. A response to the OP Hearing Report, dated September 6, 2019, (the “Response to the OP Hearing Report”); (Ex. 39-39C.)
  - g. A Memorandum of Agreement between the Applicant and MRP Realty, dated September 16, 2019 (the “MRP Realty Agreement”); (Ex. 42-42A.)
  - h. A supplemental response to the OP Supplemental Hearing Report, dated September 26, 2019 (“Supplemental OP Response”); and (Ex 48-48A.)
  - i. A post-hearing statement dated October 10, 2019 (the “Post-hearing Statement”). (Ex. 53-53F.)

#### **The Pre-hearing Statement**

26. The Pre-hearing Statement addressed the comments raised by the OP Setdown Report (FF 40) and the Commission at setdown, specifically by providing:
- a. Details about the uses proposed in the amenity space;
  - b. Confirmation of the relocation of the transformers from First Street, N.W. to Pierce Street, N.W.;
  - c. Discussion of the incorporation of balconies in the building design;
  - d. An updated list of the Sursum Corda Households and confirmation of the affordable units for the PUD; and
  - e. A discussion the LEED-Silver certification and the sustainable design elements for the project.

**The CTR**

27. The CTR analyzed the impacts of the second-stage approval for the South Parcel and concluded that it would not result in a detrimental impact to the surrounding transportation network if all planned site design elements and mitigation measures were implemented.
28. The CTR noted the Property's proximity to existing public transit, as well as the improvements to the pedestrian and vehicular facilities proposed as part of the Project. The CTR also concluded that the proposed TDM and Loading Management Plans would adequately mitigate the Project's impacts.

**The Supplemental Statement**

29. The Supplemental Statement provided a further response to the questions raised by the Commission and OP at setdown including:
  - a. Revised plans; (Ex. 21A1-22B18.)
  - b. A signage plan for the South Parcel; (Ex. 22C.)
  - c. The First-Source Agreement for the Original Order; and (Ex. 22D.)
  - d. A draft of the current First-Source Agreement. (Ex. 22E.)
30. In addition, the Supplemental Statement also proposed the following changes to the Application:
  - a. A request for flexibility to provide a retail/commercial use option in the Southwest Building (see Sheet A-05b);
  - b. A request for flexibility to locate one 30-foot loading space with a width of eight feet (12 feet required) and one 20-foot service space with a width of eight feet (10 feet required) on Pierce Street;
  - c. A request for flexibility to change the actual location, number and configuration of the proposed solar panels so long as the overall layout of the roof plan substantially complies with the approved plans for the second-stage PUD; and
  - d. An agreement to install a plaque, artwork, or mural on an interior courtyard, or similar element that celebrates the history of Sursum Corda.

**Response to DDOT**

31. The Response to DDOT provided the following documents responding to the issues raised in the DDOT Report: (FF 53.)

- a. A revised building layout relocating the loading area to First Place, N.W., and the truck maneuvers for same, and the truck maneuvers for loading on the North Parcel; (Ex. 23A)
- b. A Pierce Street, N.W. Street; (Ex. 23B)
- c. A revised conceptual design for L Street, N.W., showing the center line for L Street, N.W. and the curb line in front of the Mount Airy Baptist Church as a post development condition; (Ex. 23C.)
- d. Updated public space plans with the L Street, N.W. Street corresponding to the updated civil drawings; (Ex. 23D)
- e. An updated loading management plan, detailing the trash operations for the project; and (Ex. 23E.)
- f. A revised parking plan, eliminating the 26 tandem spaces resulting in:
  - i. A reduction in the number of vehicle parking spaces from 330 spaces to 304 spaces; and
  - ii. An increase in the number long-term bicycle parking spaces from 188 to 198.

#### **Response to MPD**

32. On September 4, 2019, the Applicant filed a letter in response to the MPD Report (FF 58) addressing all three of MPD's comments as follows:
  - a. The townhomes and apartment complex to the east and south of the PUD site are both owned and controlled by DCHA and these buildings are currently scheduled for demolition and disposition of the underlying property;
  - b. Theoretical Lot 3A is owned by Mt. Airy Baptist Church and will improved as a green space and playground pursuant to the proposed modification of Condition No. B.7.b. The park land at the intersection of First and L Streets, N.W. is currently owned by the National Park Service and is currently pending transfer of jurisdiction to the District; and
  - c. The Applicant is proposing a security plan including the use of a closed-circuit television system. The Applicant also noted that the Property will be well lit and offer clear sight lines to enhance public safety.

#### **Response to the OP Hearing Report**

33. The Response to the OP Hearing Report addressed several of the issues raised in the OP Hearing Report, including: (FF 41-44.)

- a. Revised architectural plans, specifically with changes to the architectural facades of the South Parcel Buildings and landscape plans;
- b. An updated comprehensive signage plan;
- c. Additional information, including tables, regarding the unit mix and size of both the Reserved and Affordable units; and
- d. A documented commitment to provide a minimum square footage and number of affordable units in South Parcel buildings.

#### **The MRP Realty Agreement**

34. The MRP Agreement concerned the responsibility for design and improvement of L Street, N.W. In the Memorandum, the Applicant and MRP Realty agreed on two alternatives for the construction of the segment of L Street, N.W., between North Capitol Street, N.W. and the private drive proposed for the Northwest One Development contingent on which project is constructed first.
35. The parties also agreed to enter into an agreement to modify the traffic signal at North Capitol Street, N.W. and L Street, N.W., including striping and crosswalk improvements and sharing.

#### **Response to Supplemental OP Report**

36. On September 26, 2019, in response to the Supplemental OP Report, the Applicant filed an exhibit outlining the activation/programming of the amenity spaces for the building in Phase 1 of the PUD. (FF 45-46.)

#### **Post-Hearing Statement**

37. The Post-hearing Statement provided the additional information requested by the Commission at the public hearing as follows:
  - a. Comprehensive Plan - The Applicant analyzed the PUD's consistency with the Comprehensive Plan;
  - b. Building Design - The Applicant provided the following:
    - i. Floor plans showing the balconies, including the Reserved Units with balconies;
    - ii. For the Southeast Building, a different building material and a darker color;
    - iii. A delineation between the Southwest Building and the public proposed at First and L Streets;
    - iv. Elevations of the courtyard areas;

- v. A ramp instead of a lift in the loading/service area; and
  - vi. Additional solar panels on the roof of the buildings.
- c. First Source Agreement - The Applicant confirmed that it is not seeking a modification to this condition of the Order, and the Applicant committed to making a good faith effort to ensure that 51% of all new hires are District residents;
- d. The Post-hearing Statement also included the subdivision plat for the PUD Site, which was recorded on September 27, 2019, in Book 216, Page 72;
- e. The Post-hearing Statement included memoranda from Gorove/Slade, dated October 10, 2019 and September 16, 2019. (Ex. 53D, 53E.) The memoranda respond to the issues listed in the Second Supplemental DDOT Report and set forth a revised set of mitigations for the Project as follows: (FF 54-56.)
- i. Finalize the negotiated settlement for the removal of the heritage trees and transmit the payment to DDOT prior to the Certificate of Occupancy for the first building on the site;
  - ii. Commit to the L Street, N.W. commitments outlined in Ex. 42 of the record in conjunction with the adjacent Northwest One development;
  - iii. Commit to pedestrian improvements at the following locations:
    - 1. North side of L Street N.W. - The reconfigured L Street, N.W. with Northwest One developing first enables the creation of a standard sidewalk width on the north side of L Street, N.W. between First Street, N.W. and North Capitol Street, N.W. in the ultimate buildout. If Sursum Corda redevelops first, the Applicant should commit to striping or another treatment to be determined in front of Mt. Airy Baptist Church;
    - 2. First Street - commit to the creation of a standard sidewalk section between L Street, N.W. and M Street, N.W. facilitated by the re-establishment of the historic First Street ROW along the site's frontage; and
    - 3. Missing or substandard sidewalks along the perimeter - All missing or substandard curb ramps and crosswalks along the perimeter of Phase 1 will be required to be upgraded to DDOT standards as part of the public space permitting process. This includes upgrading the receiving curb ramps on the opposite side of the street as the development;

- iv. Implement the loading management plan as outlined in Ex. 23E of the record;
- v. Supplement the TDM plan to include the elements identified in the DDOT report, including:
  1. Designate a TDM Coordinator;
  2. Establish a TDM marketing plan;
  3. Unbundle all parking costs from the cost of lease and set the cost at no less than the charges of the lowest fee garage located within a quarter-mile of the site;
  4. Dedicate two (2) parking spaces in each garage for car sharing services to use with the right of first refusal;
  5. Install electronic displays in each building's residential lobby; and
  6. Install a 50-foot (19-dock) Capital Bikeshare station within the site as part of the Phase 1 development and include one year's operating expenses; and
- vi. Revise the Pierce Street, N.W. plans to show a minimum of six (6) bicycle racks.

#### Applicant's Public Hearing Testimony

38. At the September 26, 2019 public hearing (the "Public Hearing"), the following persons testified on behalf of the Applicant: Paige Hackler, Director of Development for Toll Brothers; Robert Keane of WDG Architects; and Dan VanPelt of Gorove Slade Associates. Mr. Keane testified as an expert in the area of architecture and Mr. VanPelt testified as an expert in the area of transportation planning.

#### Responses to the Application

##### OP Reports

39. OP submitted a total of four reports on the following dates:
- a. A report dated February 15, 2019, recommending that the Commission setdown the Application for a public hearing (the "OP Setdown Report"); (Ex. 11.)
  - b. A pre-hearing report dated July 15, 2019 (the "OP Hearing Report"); (Ex. 27.)
  - c. A supplemental pre-hearing report dated September 6, 2019 (the "Supplemental OP Hearing Report"; and (Ex. 43.)

- d. A post-hearing report dated October 16, 2019, responding to questions raised by the Commission during the Public Hearing (the “OP Post Hearing Report”). (Ex. 54.)

#### **The OP Setdown Report**

40. The OP Setdown Report analyzed the Application’s compliance with the CP and concluded that the Application was consistent with a number of CP policies approved by the Original Order and would not result in any substantive changes to the CP analysis of the Commission in the Approved First-Stage PUD.

#### **The OP Hearing Report**

41. The OP Hearing Report recommended approval of the Application subject to the Applicant addressing several conditions.
42. The OP Hearing Report did note that potential adverse impacts of the Application included:
  - a. Increases in vehicular traffic;
  - b. Demand on public utilities; and
  - c. That not all current Sursum Corda residents would qualify or choose to return, but the OP Hearing Report ultimately concluded that:

While the development has these impacts on city services, the impacts would be significantly mitigated, and other quality benefits would accrue from the new development including new and improved greenspace and play areas, and new market rate and affordable housing.” (Ex. 27 at 13.)

43. The OP Hearing Report also encouraged the Applicant to integrate additional environmental and sustainable measures that would be consistent with and supportive of The Clean Energy DC Plan.
44. The Applicant responded to the OP Hearing Report comments in its response to the OP Hearing Report. (FF 33.)

#### **The Supplemental OP Hearing Report**

45. The Supplemental OP Hearing Report analyzed the Applicant’s response to the OP Hearing Report, including: (FF 33.)
  - a. Building signage details;
  - b. The unit/bedroom mix for the project;
  - c. Unit sizes;



- d. Number of affordable units for the South Parcel; and
  - e. Revisions to the building design.
46. However, the Supplemental OP Report noted that the Applicant did not address OP's prior comments regarding the First Source Agreement or the programming of the amenity spaces.
47. The Applicant subsequently addressed these issues in its Response to the Supplemental OP Hearing Report and its Post-Hearing Statement. (FF 36, 37.)

### **The OP Post Hearing Report**

48. The OP Post Hearing Report responded to questions raised by the Commission as follows:
- a. Response to the Applicant's post-hearing submission;
  - b. An update on the agreement to allow the Applicant to upgrade and maintain the public park at the intersection of L Street, N.W., and First Street, N.W.;
  - c. A further analysis of the Project's Comprehensive Plan compliance;
  - d. Confirmation that DMPED and the Applicant are still working to develop a development and maintenance agreement for the park and a recommendation that this Order contains a condition requiring the Applicant to obtain approval for the construction and maintenance of the park;
  - e. Updates on OP's opinion of the impacts and potential adverse effects of the Project in light of the changes to the Project since it issued the OP Report.
49. In response to a request of the Commission, OP responded to the Applicant's post-hearing statement and addressed any impacts on the Comprehensive Plan's GPM, FLUM, elements or public policies that may result due to the Project.
50. The OP Post Hearing Report concluded that:
- a. "The additional density gained by the development would be commensurate with the benefits and amenities provided. The buildings would be at a scale that is reflective of the wider neighborhood...";
  - b. That the Applicant was proposing a sufficient number of both on-site amenities and community contributions as public benefits; and
  - c. That potential adverse impacts from the Project were being suitably mitigated by the Applicant's various mitigation measures and proposals.

### The DDOT Reports

51. DDOT filed a total of four reports on the following dates:

- a. July 11, 2019 (the “DDOT Report”); (Ex. 25.)
- b. September 16, 2019 (the “Supplemental DDOT Report”); (Ex. 44.)
- c. September 23, 2019 (the “Second Supplemental DDOT Report”); and (Ex. 47.)
- d. October 16, 2019 (the “Final DDOT Report”). (Ex. 55.)

**The DDOT Report**

52. The DDOT Report stated that DDOT was unable to make a determination on the Application because of several unresolved issues that further response from the Applicant.

**The Supplemental DDOT Report**

53. The Supplemental DDOT Report stated that DDOT was still unable to provide a full assessment of the Application because there had been no progress to resolve the heritage tree conflicts.

**The Second Supplemental DDOT Report**

54. The Second Supplemental DDOT Report stated that DDOT had no objection to the Second-Stage PUD, provided the following the Applicant agreed to several additional mitigations to mitigate the following potential adverse impacts:

- a. The destruction of eight Heritage Trees that are rare and uniquely valuable;
- b. The Project is expected to “negatively impact operations at North Capitol Street, L Street, First Street, and M Street”; and
- c. “The combination of the size of the Project and the location of the southwest building’s loading facilities has the potential to cause loading impacts.”

55. The Second Supplemental DDOT Report also stated that the Applicant is expected to continue to work with DDOT on several items related to the public streets, mitigations, transportation improvements, and elements in the public realm.

56. The Applicant responded to DDOT’s comments in its Post-hearing Statement. (FF 37.)

**The Final DDOT Report**

57. The Final DDOT Report stated that DDOT had reviewed the Applicant’s post-hearing statement and found that “the Applicant has satisfactorily addressed the requested conditions identified in DDOT’s [prior] report.” (Ex. 55.)

**MPD Report**

58. In its report filed on July 11, 2019 (the “MPD Report”), MPD raised three concerns regarding the second-stage PUD. (Ex. 24.)

59. The Applicant addressed these concerns in its response to MPD. (FF 37.)
60. MPD did not respond to the Applicant's response.

#### ANC 6E Report

61. ANC 6E submitted a report stating that at its regularly scheduled and duly noticed public meeting on February 5, 2019, the ANC voted to support the Application for the modifications to the first-stage PUD approval and the second-stage PUD approval for the South Parcel (the "ANC Report"). (Ex. 14.) The ANC Report did not express any issues or concerns about the Application and urged the Commission's approval.

#### Other Responses to the Application

62. Mr. Lonnie Duren, Chair of the Board of the Sursum Corda Cooperative Association, Inc., testified in support of the Application at the Public Hearing. Ms. LaTeasa Hill and Ms. Claudette Morton, members of the Sursum Corda Cooperative Association, Inc., also testified in support of the application.
63. No persons testified in opposition to the Application.

### CONCLUSIONS OF LAW

1. The Applicant requested approval, pursuant to Subtitle X, Chapter 3 and Subtitle Z, Chapter 7, of a second-stage PUD and related Approved First-Stage PUD modifications. The Commission is authorized under the Zoning Act to approve a second-stage PUD and PUD modifications consistent with the requirements set forth in Subtitle X §§ 302, 304 and 309 and Subtitle Z § 704.
2. *The purpose of the PUD process is to provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD:*
  - a. *Results in a project superior to what would result from the matter-of-right standards;*
  - b. *Offers a commendable number or quality of meaningful public benefits; and*
  - c. *Protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan.*

(Subtitle X § 300.1.)
3. In evaluating a PUD, the Commission shall find that the proposed development:
  - a. *Is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site;*

- b. *Does not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project; and*
- c. *Includes specific public benefits and project amenities of the proposed development that are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the subject site.*

(Subtitle X § 304.4.)

### **First-Stage PUD Modifications**

- 4. Pursuant to Subtitle X § 302.2:
  - (a) The first-stage application involves general review of the site's suitability as a PUD and any related map amendment; the appropriateness, character, scale, height, mixture of uses, and design of the uses proposed; and the compatibility of the proposed development with the Comprehensive Plan, and city-wide, ward, and area plans of the District of Columbia, and the other goals of the project; and (emphasis added)
- 5. *"The scope of the hearing conducted pursuant to this section shall limited to the impact of the modification on the subject of the original application, and shall not permit the Commission to revisit its original decision."* (Subtitle Z § 704.4.)
- 6. The Commission finds that the modifications sought through this Application:
  - a. Do not result in any consequential changes to the Commission's prior decision that the first-stage PUD is not inconsistent with the Comprehensive Plan and other adopted public policies and active programs because the density and heights for the PUD Site remain consistent; (FF 22(d), (e).)
  - b. Will have the primary effect of shifting density within the PUD Site with no change to the overall density approved by the Original Order; (FF 22(e).)
  - c. Will revise the requested development incentives by requesting relief from the court and side yard requirements; (FF 22(f).)
  - d. Will balance the minimal additional development incentives requested by providing the additional public benefits of the dedication a portion of the First Street N.W. ROW of way and maintaining the number of family-sized units on the South Parcel regardless of the final number of Reserved Units; and (FF 22(g).)

- e. Will make some additional minor, non-substantive changes to the benefits package to reflect the reduction in the number of Sursum Corda Households that will be returning. (FF 22(h).)

The Commission therefore concludes that the Application only proposes minor changes that do not alter the Original Order's PUD balancing test and decision.

Potential Adverse Impacts - How Mitigated or Outweighed (Subtitle X §§ 304.3 & 304.4(b).)

7. The OP Hearing Report identified two potential adverse impacts stemming from the modifications to the Approved First-Stage PUD which the Applicant has addressed as follows:

- a. **Utility Demand** – The OP Hearing Report stated that the Project would increase demand on public utilities such as water, sewer, and public stormwater management systems.

The Commission concludes that there is no change in this potential impact from the Approved First-Stage PUD and therefore does not require further analysis by the Commission. (Ex. 27.)

- b. **Resident Displacement:** The OP Hearing Report noted that some residents may not qualify to return or choose not to return to the Property. (Ex. 27.)

Mitigation: The Applicant provided a detailed Tenant Relocation and Replacement Plan (the "Tenant Relocation Plan") that addresses the unique characteristics of the cooperative ownership of Sursum Corda. The Tenant Relocation Plan provides 122 Reserved Units for former Sursum Corda Residents that have been set aside within the new buildings. The Tenant Relocation Plan also stipulates that those returning residents would be accommodated in the Phase 1 redevelopment. The Sursum Corda Cooperative Association will monitor the development and maintain a list and location of former residents who want to return once the Project is complete. The members of the Cooperative will be kept up to date on the progress of the development including mandated notifications. On return, the residents will be provided unit sizes and rental rates that are similar to those of the original buildings.

The Commission notes that the only change to the Tenant Relocation Plan is the reduction in the number of Reserved Units, based on a reduction in the number of residents who wish to return. As such, the Commission believes that the Tenant Relocation Plan this will adequately mitigate this issue and has included conditions in this Order to ensure that the Applicant adheres to its commitments. The Commission believes that given these protections it is unlikely that any current residents may not qualify or choose to return, but that it is still possible. The Commission believes this risk is acceptable given the quality of the public benefits of the Project. In reaching this conclusion the Commission credits the

public hearing testimony in support from members of the Sursum Corda Cooperative Association. (FF 22(h), 63.)

Requested Flexibility Balanced by Public Benefits (Subtitle X § 304.3)

7. The Commission considered all of the public benefits and project amenities, the degree of development incentives, and any potential adverse effects of the Project as it has been amended through this Application and concludes it warrants approval. The Commission notes that the Application is seeking only a minor increase in development incentives, and that this is balanced by a significant increase in the public benefits. Therefore, the Commission concludes that there is no change to the PUD balancing test of the Original Order.

Second-Stage PUD Approval

8. *“The second-stage application is a detailed site plan review to determine transportation management and mitigation, final building and landscape materials and compliance with the intent and purposes of the first-stage approval, and this title”* (Subtitle X § 302.2.)
9. *“If the Zoning Commission finds the application to be in accordance with the intent and purpose of the Zoning Regulations, the PUD process, and the first-stage approval, the Zoning Commission shall grant approval to the second-stage application, including any guidelines, conditions, and standards that are necessary to carry out the Zoning Commission's decision.”* (Subtitle X § 309.2.)

In Accordance with the First-Stage Approval

10. Based on the Application, the OP and DDOT Reports, and the testimony provided at the Public Hearing, the Commission finds that the Application is in accordance with the intent and purpose of the Zoning Regulations, and CP Elements applicable to the PUD Site as analyzed in the Original Order. Therefore, the Commission concludes that the Second-Stage PUD is consistent with the First-Stage approval.

Potential Adverse Impacts of the Second Stage PUD - How Mitigated or Outweighed (Subtitle X §§ 304.3 & 304.4(b))

11. The Commission concludes that the only change from the First-Stage Approval is to the potential adverse impacts of the South Parcel. However, the Commission concludes that the Second Stage PUD will not result in any unacceptable project impacts because the potential adverse impacts are localized to the South Parcel and capable of being mitigated, or acceptable given the quality of the public benefits of the overall Project as follows:
12. **Heritage Trees** – The DDOT Report noted that the Project will result in the destruction of eight Heritage Trees, which are considered rare and uniquely valuable, as well as being protected by the Tree Canopy Protection Amendment Act of 2016. The Commission concurs with the assessment of DDOT that the loss of the Heritage Trees would be an adverse impact.

Mitigation: The Commission concludes that the “negotiated settlement” reach between the Applicant and DDOT is an adequate mitigation of the issue. The settlement requires the Applicant to make a payment to DDOT in the amount of \$270,354 to be used to plant new trees to strengthen the District’s tree canopy and permits the removal of the Heritage Trees on the Property. (Ex. 47.) Per the suggestion of DDOT, the Commission will include a condition in the Order requiring the Applicant to finalize the agreement and make this payment prior to the issuance of a Certificate of Occupancy for the Project.

13. **Traffic Issues** – The OP Report noted that the Project will cause “an increase in traffic as a result of its size” and the DDOT Report also noted that the Project is expected to “negatively impact operations at North Capitol Street, L Street, First Street, and M Street.” (Ex. 27, 47.) The Commission concurs in these assessments and finds that the Project will increase traffic and congestion, and this will have consequential and adverse effects on the District transportation network.

Mitigation: The Commission concludes that the extensive package of transportation mitigations, agreed to by the Applicant and included as conditions in the Order are adequate mitigations of the issues. The Commission notes that DDOT has evaluated the proposed mitigation measures and believes that they are adequate. (Ex. 55.) As such, the Commission considers this to be an adequate mitigation of the issue.

14. **Loading Issues**: The DDOT Report stated that “[t]he combination of the size of the Project and the location of the Southwest Building’s loading facilities has the potential to cause loading impacts.” The Commission concurs in this assessment and finds that it is a potential project impact and/or adverse effect of the Project.

Mitigation: The Commission concludes that the Loading Management Plan, agreed to by the Applicant and included as a condition in the Order, will not completely mitigate the issue because it concurs with DDOT’s assessment that the plan will result in additional trash trips to the site compared to a better designed and located loading facility. (Ex. 47.) However, the Commission believes that these adverse impacts are ultimately acceptable given the quality of the public benefits of the Project.

#### **“Great Weight” to the Recommendations of OP**

15. Pursuant to § 13(d) of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)) and Subtitle Z § 405.8, the Commission must give “great weight” to the recommendations of OP. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)
16. The Commission notes OP’s thorough analysis of the Application, including analysis of its consistency with the Comprehensive Plan and finds persuasive OP’s recommendation that the Commission approve the Application and therefore concurs in that judgment.

#### **“Great Weight” to the Written Report of the ANC**

17. The Commission must give “great weight” to the issues and concerns raised in a written report of the affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public pursuant to § 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) (2012 Repl.); see Subtitle Z § 406.2.) To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)
18. The Commission notes that the ANC Report did not raise any specific issues or concerns regarding the Application. Nevertheless, the Commission considered the ANC’s support of the Application and recommendation of Approval and concurs in that judgement.

### DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the following subject to the guidelines, conditions, and standards set forth below, which replace those stated in Z.C. Order No. 15-20, as modified by Z.C. Order No. 15-20B:

- The modification to the first-stage PUD approval granted under ZC Order No. 15-20; and
- The second-stage PUD approval for the South Parcel as defined herein,

**A. Modified First-Stage PUD and Second-Stage PUD Approval for the South Parcel (Phase 1)**

First-Stage Approval

1. The PUD (the “Project”) shall be developed in accordance with the plans titled “Sursum Corda PUD/Modification to First-Stage PUD Approval in Z.C. Order No. 15-20C,” prepared by WDG Architecture, PLLC, dated September 5, 2019 (the “First-Stage Plans”) as modified by the South Parcel Plans and subject to the other conditions of this Order. (Ex. 39A1-39A10.)
2. In accordance with the Zoning Tabulations provided on Sheet A.12 and A.12a of the First-Stage Plans, the Project shall:
  - a. Provide 1,131 dwelling units;
  - b. Have an overall density of 4.62 FAR, if Pierce Street, N.W., and the First Street, N.W. dedications are included in the calculations, and 5.52 FAR, if Pierce Street, N.W. and the right-of-way dedications for First Street are excluded; and



- c. Have building heights ranging from 62.5 feet to 110 feet.
3. The Applicant shall have design flexibility from the First-Stage Plans in the following areas:
  - a. To be able to provide a range in the number of residential units of plus or minus 10% from the 1,131 proposed for the development;
  - b. To vary the number, location, and arrangement of parking spaces, provided that the maximum number of parking spaces for the PUD does not exceed 746 parking spaces and the minimum number of parking spaces is not reduced below the number required under the Zoning Regulations; and
  - c. To vary the sustainable design features of the building, provided the project meets a minimum of LEED-Silver certification.
4. The Overall PUD shall be divided into two phases:
  - a. The South Parcel (Phase I) includes the following elements:
    - i. The South Parcel (Lots 1A and 1B), which is situated between First Street and First Place, and consists of approximately 2.4 acres, excluding the area to be dedicated for the First Street ROW;
    - ii. The rectangular parcel of land to the east of First Place (Theoretical Lots 3A and 3B), which consists of 12,608 square feet of land area;
    - iii. The private Pierce Street, except for the parallel parking on the north side of the street, which consists of approximately 34,604 square feet of land area; and
    - iv. The dedication of the southern portion of the First Street ROW, as depicted in the South Parcel Plans (defined below), which consists of approximately 5,118 square feet of land area. (Ex. 39A2, Sheet 13a.)
  - b. North Parcel (Phase II) contains the Northwest Building and the Northeast Building which shall be constructed as follows:
    - i. The Northwest Building:
      1. A gross floor area of 351,106 square feet yielding approximately 280 units;

2. A range of 5 to 10 stories, and heights ranging from 62.5 feet to 110 feet; and
  3. A density of 5.63 FAR (on Theoretical Lot 2A/2B);
- ii. The Northeast Building:
1. A gross floor area of 362,815 square feet yielding approximately 289 units;
  2. A range of 6 to 10 stories, and heights ranging from 68.93 feet to 106.93 feet; and
  3. A density of 5.82 FAR (on Theoretical Lot 2C/2D).

Second-Stage Approval – South Parcel

5. The South Parcel of the Project (Phase 1) shall be developed in accordance with the plans titled “Sursum Corda PUD/Second-Stage PUD Application for Phase 1,” prepared by WDG Architecture, PLLC, dated September 5, 2019, and marked as Exhibits 39AA1 – 39AA8, except as modified by:
  - a. The Revised Building Elevations – Southeast, dated October 10, 2019; (Ex. 53B2.)
  - b. The Supplemental Landscape Drawings Related to Park, dated October 10, 2019; (Ex. 53B4.)
  - c. The Supplemental Courtyard Elevations, dated October 10, 2019; (Ex. 53B5.)
  - d. The Revised Plans – P1 and Main Roof; (Ex. 53B6.)
  - e. The Supplemental Renderings Package, dated September 5, 2019; (Ex. 39B.)
  - f. The Supplemental Unit Matrix, dated September 5, 2019; (Ex. 41A.)
  - g. The Revised Supplemental Amenity Package, dated October 10, 2019; (Ex. 53B3.)
  - h. The Supplemental Balconies & Terraces Plan, dated October 10, 2019; and (Ex. 53B1.)
  - i. The Comprehensive Signage Plan dated October 10, 2019; (Ex. 53C1-53C2.)

Said plans are collectively referred to as the “South Parcel Plans” and subject to the conditions below.

6. The Southwest Building will be constructed to the following standards:
  - a. A gross floor area of 239,348 square feet yielding approximately 216 residential units;
  - b. A maximum of nine stories and a maximum building height of 95.79 feet; and
  - c. A density of 6.04 FAR (on Theoretical Lot 1A).
7. The Southeast Building will be constructed to the following standards:
  - a. A gross floor area of 392,316 square feet yielding approximately 346 residential units;
  - b. A maximum of 10 stories with a maximum building height of 110 feet. That portion of the Southeast Building fronting on L Street will be limited to eight stories and a maximum building height of 84.5 feet; and
  - c. A density of 5.88 FAR (on Theoretical Lot 1B).
8. The South Parcel shall have 304 parking spaces, inclusive of tandem parking spaces; 199 long-term bicycle parking spaces; and 29 short-term bicycle parking spaces.
9. The South Parcel also includes Theoretical Lot 3A (record Lot 904), which consists of 6,241 square feet, and Theoretical Lot 3B (record Lot 905), which consists of 6,347 square feet, both of which will be maintained as green/open space except for the playground to be provided pursuant to Condition No. B.7.b below.
10. The Applicant shall have design flexibility from the South Parcel Plans in the following areas:
  - a. Court / Side Yard. Flexibility from the court and side yard requirements to permit the court and side yard conditions along the southern theoretical lot line for the Southwest Building as reflected on the South Parcel Court and Yard Diagram on Sheet A-02 of the South Parcel Plans at Ex. 39AA2 of the record;
  - b. Solar Panels. Flexibility to change the actual location, and configuration of the solar panels so long as the overall layout of the roof plan, including, but not limited to, the location of the penthouses and number of solar panels, complies with the plans for the second-stage PUD approval, and

all of the requirements/standards for the rooftop penthouses and equipment have been met;

- c. Retail/Commercial Option in Southwest Building. Flexibility to have approximately 1,850 square feet of retail/commercial use in lieu of residential amenity space as depicted on Sheet A05-b of the South Parcel Plans at Ex. 39AA3 of the record;
- d. Number of Units. To provide a range in the number of residential units for Building 1A of plus or minus 10% from the 216 units proposed for that building; and to provide a range in the number of residential units for Building 1B of plus or minus 10% from the 346 units proposed for that building;
- e. Parking Layout. To vary the number, location, and arrangement of parking spaces, provided that the maximum number of parking spaces for the South Parcel does not exceed 304 parking spaces, and the minimum number is not reduced below the number required for the South Parcel under the Zoning Regulations;
- f. Interior Components. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria, and mechanical rooms, provided that the variations do not change the exterior configuration of the building as shown on the plans approved by the order;
- g. Exterior Materials – Color. To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges shown on the plans approved by the order;
- h. Exterior Details – Location and Dimension. To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior configuration of the building or design shown on the plans approved by the order. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;
- i. Streetscape Design. To vary the location, attributes, and general design of the approved streetscape to comply with the requirements of, and the approval by, the DDOT Public Space Division;
- j. Signage. To vary the font, message, logo, and color of the approved signage, provided that the maximum overall dimensions and signage materials are consistent with the signage on the plans approved by the order and are compliant with the DC signage regulations; and

- k. Sustainable Features. To vary the approved sustainable features of the project, provided the total number of LEED points achievable for the project does not decrease below the minimum required for LEED-NC Silver Certification and the number of solar panels is not reduced, and to revise the GAR checklist for the project so long as the project meets the minimum GAR requirement of 0.2 and the number of solar panels is not decreased.

**B. Amended and Restated Public Benefits**

The Applicant shall comply with all of the PUD Public Benefits in Z.C. Order No. 15-20, as amended and restated below.

1. Affordable Units

**For the life of the Project**, the Overall PUD shall include 199 affordable housing units on-site (the “Affordable Units”). The Affordable Units shall be reserved for and available to households with incomes not exceeding 80% MFI, provided that the overall blended affordability limits for the Affordable Units within the PUD shall not exceed 60% of the median family income (“MFI”).

- a. Minimum Affordable Units for South Parcel. **For the life of the Project**, the South Parcel shall have a minimum of 100 Affordable Units, which shall be available to households with incomes not exceeding 80% of MFI; and
- b. Affordable Units for North Parcel. **For the life of the Project**, the number of affordable units required for the North Parcel shall be the difference between the 199 affordable units required for the PUD and the number of affordable units constructed on the South Parcel as determined by the Zoning Administrator at the time of building permit issuance for the South Parcel. The size, mix, and location of the affordable units shall be consistent with the Inclusionary Zoning (“IZ”) Regulations in effect at the time of the second-stage PUD application for the North Parcel.

2. Reserved Units for Sursum Corda Households

**Prior the issuance of a Certificate of Occupancy for the South Parcel**, the Applicant shall provide evidence to the Zoning Administrator that it has completed the following:

- a. Reserved Units. The Applicant shall reserve 122 residential units on the South Parcel for Sursum Corda households (“Sursum Corda Households”), regardless of household MFI (the “Reserved Units”);

- b. Reserved Units Exceeding 80% MFI. **For the life of the Project**, the Reserved Units for Sursum Corda Households exceeding 80% MFI shall not be counted toward the 199 Affordable Units required for the PUD;
- c. Affordability Level. The Reserved Units shall be made available to Sursum Corda Households at their respective income eligibility levels. For those households who qualify for Section 8 vouchers, the household’s contribution to the rent shall be based on the household income and/or changes resulting from the annual income recertification process with the U.S. Department of Housing and Urban Development (“HUD”) and/or the D.C. Housing Authority;
- d. The Reserved Unit Mix. The Reserved Units shall be dispersed throughout the South Parcel and shall include the following unit mix:

Reserved Sursum Corda Units		
No. of Units	No. of Bedrooms	Approximate Unit Size
0	Studio	545 s.f.
39	1 bdrm	715 s.f.
48	2 bdrm	1,100 s.f.
26	3 bdrm	1,390 s.f.
9	4 bdrm	1,580 s.f.

The number of Reserved Units, the unit mix, and location of Reserved Units may be adjusted to reflect the actual number of Sursum Corda Households, changes in the composition of the Sursum Corda Households, the number of households that elect not to occupy a reserved unit, and/or HUD standards relating to the number of bedrooms required for each household, based upon an updated list of the Sursum Corda Households certified by the Sursum Corda Cooperative at the time of building permit in accordance with Condition B.2.of the Order;

- e. Communication Plan. The Applicant shall implement the communication plan in Exhibit 48B of the record for ZC Case No. 15-20;
- f. Notice for Sursum Corda Households. **During construction of the South Parcel**, the Applicant, or its representative, shall maintain updated contact information for each Sursum Corda Household and shall provide notice, via certified mail or hand delivery, to each household as follows:
  - i. Demolition of Existing Structures. Within 10 days of applying for a raze permit for any structure on the Property, the Applicant shall notify the Sursum Corda Households of the raze permit application. Upon application of a raze permit for any of the existing structures on the Property, the Applicant shall certify to the DCRA the list of Sursum Corda Households and their contact information. Violations of this condition shall not result in the

denial of a raze permit, building permit, or certificate of occupancy for the PUD. **Certification of said notice, including a copy of same, shall be furnished to DCRA prior to the issuance of a raze permit for any structure of the Property;**

- ii. **Issuance of a Building Permit.** Within seven days of the issuance of the first building permit for the above grade construction (the “Building Permit”), the Applicant shall notify the Sursum Corda Households that the Building Permit has been issued and the date it was issued. **Certification of said notice, include a copy of same, shall be submitted to DCRA within 14 days of the issuance of the Building Permit;**
  - iii. **Assignment of Units.** No more than 12 months from the issuance of the Building Permit, the Applicant shall notify Sursum Corda Households of the estimated completion date of the South Parcel and the unit that has been assigned to their individual household (including number of bedrooms and unit size). Said notice shall include renderings and floor plans for the unit. Each head of household, or designated household member, shall have 90 days from the date of receiving notice of their assigned unit to inform the Applicant of its intention to occupy the Reserved Unit. **Certification of said notice, including copies of same, shall be furnished to DCRA no later than 14 months from the issuance of the Building Permit;** and
  - iv. **Occupancy Date.** After issuance of the Building Permit, the Applicant shall notify those Sursum Corda Households that elect to return to the Property of the occupancy date for their Reserved Unit (the “Occupancy Date Notice”). Each Sursum Corda Household shall have at least one year from the date of the Occupancy Date Notice to: (i) walk through a model unit; and (ii) enter into an agreement for the occupancy of their Reserved Unit. **Certification of the Occupancy Date Notice, including copies of same, shall be furnished to DCRA prior to the issuance of a certificate of occupancy for each building within the South Parcel;**
- g. **Report to DCRA.**
- i. **Prior to the issuance of a raze permit for any structure of the Property,** certification of the notice required by Condition No. B.2.e.i., including a copy of same, shall be furnished to DCRA; and

- ii. **Prior to the issuance of certificates of occupancy for each building in the South Parcel**, the Applicant shall submit to DCRA:
- (1) a list of the Sursum Corda Households that elected to occupy a Reserved Unit, including:
    - (a) The type/size of unit;
    - (b) Unit number; and
    - (c) The affordability level for said household; and
  - (2) Evidence of compliance with the notice requirements specified in Condition No. B.2.e.; and
- h. **Conversion of Reserved Units**. In the event that a Sursum Corda Household: (i) elects not to return to the Property to occupy a Reserved Unit or (ii) fails to timely enter into an agreement for the occupancy of its Reserved Unit that is also an affordable unit, said unit may be converted to a market rate unit (or units), or occupied as an affordable unit (or units), not restricted to a Sursum Corda Household provided that the number of Affordable Units remains in compliance with Condition No. B.1.
3. **Minimum Unit Size**
- Minimum Two- and Three-Bedroom Units for South Parcel**. The South Parcel shall have a minimum of 52 two-bedroom units and 27 three-bedroom units. Each two-bedroom unit that is not a Reserved Unit shall have a minimum floor area of 850 square feet, and each three-bedroom unit that is not a Reserved Unit shall have a minimum floor area of 1000 square feet.
4. **Landscape and Open Space Improvements**
- Prior to the issuance of the first certificate of occupancy for the South Parcel**, the Applicant shall seek approvals from the National Park Service, its designee, or the agency with jurisdiction over Lots 896 and 901 in Square 620, for the construction and long-term maintenance of park space at the corner of First and L Streets, as depicted on Sheets A-16, A-17, L-6, and L-7 of the Plans, and if approved, shall construct the park space.
5. **Employment and Training Opportunities**
- Prior to the issuance of the first building permit for the South Parcel**, the Applicant shall enter into a First Source Agreement with the Department of Employment Services.



6. Environmental Benefits
- a. **Prior to the issuance of the first certificate of occupancy for the South Parcel**, the Applicant shall:
- i. Furnish a copy of its LEED certification application to the Green Building Certification Institute. The South Parcel shall fulfill or exceed LEED-Silver Certification;
  - ii. Install two parking spaces reserved for a car-sharing service;
  - iii. Install two electric car charging stations in the parking garage; and
  - iv. Install outlets for charging e-bicycles in Phase 1 of the PUD; and
- b. **Prior to the issuance of the first certificate of occupancy for the North Parcel**, the Applicant shall furnish a copy of its LEED certification application to the Green Building Certification Institute. The North Parcel shall fulfill or exceed LEED-Silver Certification;
7. Support of Neighborhood Uses and Organizations
- a. **Prior to the issuance of the first building permit for the Overall PUD**, the Applicant shall:
- i. Contribute \$222,000 to the Boys and Girls Club #2 to support the operation of its programs;
  - ii. Contribute to \$60,000 to the Perry School Community Services Center, Inc. to support the operation of its programs;
  - iii. Contribute \$25,000 to the Walker-Jones Parent Teacher Association to assist with funding for school activities and the purchase of classroom equipment;
  - iv. Contribute \$15,000 to the Girls in Action at the Sursum Corda Youth Center, 1175 First Terrace, NW, to support the operation of its programs;
  - v. Contribute \$25,000 to the Dunbar High School Parent Teacher Association to assist with funding for school activities and the purchase of classroom equipment;
  - vi. Donate equipment and uniforms valued at approximately \$10,000 to support programming at the RH Terrell Recreation Center; and
  - vii. Donate \$15,000 to support programming at the Northwest One Library; and

- b. **Prior to the issuance of the first certificate of occupancy for the South Parcel**, the Applicant shall install playground equipment valued at \$28,000 on Lot 904:

Playground on Lot 904 / Theoretical Lot 3 - For the playground equipment required above, the Applicant shall install equipment of the type and level of activity depicted on Sheet L-04d of the Second-Stage Plans. Also, the playground shall include a seating area.

8. Historic Preservation

- a. **Prior to the issuance of the first certificate of occupancy for the South Parcel**, the Applicant shall install the commemorative element - a plaque, artwork, mural on an interior courtyard, or similar element that celebrates the history of Sursum Corda – in coordination with Cultural Tourism DC.

C. **Transportation Public Benefits and Mitigations**

1. **Prior to the issuance of a Certificate of Occupancy for the South Parcel the Applicant shall:**

- a. Create a new pedestrian promenade through the center of the site from M Street, N.W. to L Street, N.W. as shown on the South Parcel Plans., the Applicant shall construct the southern half of the promenade. The northern half of the promenade shall be constructed during the construction of the North Parcel;
- b. Construct the extension of Pierce Street N.W., from First Street N.W. to First Place, N.W. **The Applicant shall be responsible for the maintenance of the road for the life of the project;**
- c. Construct the extension of First Place, N.W. from M Street, N.W. to L Street, N.W.;
- d. Improve the north side of L Street, N.W. in between First Street, N.W. and First Place, N.W. in order for it to function as a two-way drive;
- e. Install a minimum of six bicycle racks on Pierce Street, N.W.; and
- f. Cause the installation of a Capital Bikeshare station in proximity to the Property.

2. **First Street ROW Dedication - Prior to the issuance of a certificate occupancy for the South Parcel** of the PUD, the Applicant shall:

- a. Dedicate Lot 252 in Square 620, for the southern segment of the First Street N.W. ROW, as depicted on Sheet A.13a of the First-Stage Plans at Ex. 39A2 of the record; and
  - b. Improve a 30-foot-wide strip of the Property frontage along First Street, N.W. in order to effectively modify the existing sidewalk from a variable six to eight feet in width to a sidewalk that is a minimum of six feet with landscaping and street trees.
3. **Prior to the issuance of a Certificate of Occupancy for the North Parcel**, the Applicant shall improve the segment of First Street, N.W. from Pierce Street, N.W. north. **The Applicant shall maintain said improvements for the life of the project.**
4. **L Street Improvements**: The Applicant agrees to construct or cause the construction of the L Street, N.W. improvements between North Capitol Street, N.W. and the private drive proposed for the Northwest One development, as reflected in the Memorandum of Agreement between the Applicant and MRP Realty that is marked as Exhibit 42A of the record (the “Memorandum”) as follows:
- a. **Prior to the issuance of the first building permit for South Parcel**, the Applicant shall enter into an agreement with MRP Realty to modify the traffic signal at North Capitol Street, N.W. and L Street, N.W., including striping and crosswalk improvements and sharing; and
  - b. **Prior to the issuance of the first certificate of occupancy for the South Parcel**, Specifically, this segment of L Street, N.W. shall be constructed as follows:
    - i. **If the Northwest One Development is Constructed First**:
      - (1) 50’ ROW dedication for L Street, N.W., from the Northwest One site, to re-establish the 90-foot ROW for L Street, from First Place, N.W. to North Capitol Street, N.W.; and
      - (2) L Street improved as a two-way street from North Capitol Street, N.W. to the proposed private drive; 10-foot travel lanes; 6-foot sidewalk, and eight feet of parking on the south side of L Street, N.W.; 10-foot parking lane on the north side of L Street N.W.; a striping line between the proposed private drive and the alley adjacent to the church; a sidewalk that is between 8 feet and 24.9 feet in front of the church. L Street, N.W. will function as a one-way street with 12-foot travel lane westbound from the proposed private drive to First Street, N.W.; and

- (3) Striping along the north side of L Street, N.W. along the Sursum Corda PUD site from the alley adjacent to the church property to First Street, N.W.

ii. **If the Sursum Corda PUD is Constructed First:**

- (1) L Street, N.W. will function as a one-way street with a 12-foot travel lane from First Place, N.W. eastbound to North Capitol Street, N.W., and as a one-way street with a 12-foot travel lane from First Place westbound to First Street, N.W.;
- (2) 8' wide striped walkway on the north side of L Street, N.W. in front of Mt. Airy Baptist Church from the alley adjacent to the church to North Capitol Street N.W. The striped walkway will be used to accommodate parking for the church for religious services; and
- (3) Curb on the north side of L Street, N.W., from First Place, N.W. west to First Street, N.W. Curb on the north side of L Street, N.W., from First Place, N.W. to the proposed striping in front of the church.

5. **DDOT Conditions. Prior to the issuance of the first certificate of occupancy for the South Parcel,** As provided in the DDOT Report at Exhibit 47 of the record, the Applicant shall provide the following:

- a. Heritage Trees. - the Applicant shall transmit payment to DDOT for the negotiated settlement of the Heritage Tree issue as described in the DDOT's Report dated September 23, 2019. (Ex. 47.)
- b. North side of L Street, N.W. - The reconfigured L Street, N.W. with Northwest One developing first enables the creation of a standard sidewalk width on the north side of L Street, N.W. between First Street, N.W. and North Capitol Street, N.W. in the ultimate buildout.
- c. First Street – the Applicant shall provide the dedication and improvements per Condition No. C.3 above.
- d. Missing or substandard sidewalks along the perimeter - All missing or substandard curb ramps and crosswalks along the perimeter of the South Parcel shall be upgraded to DDOT standards as part of the public space permitting process. This includes upgrading the receiving curb ramps on the opposite side of the street as the development.

6. **For the life of the Project,** the Applicant shall implement the Loading Management Plan at Exhibit 23E of the record.

7. **For the life of the Project**, the Applicant shall implement the following Transportation Demand Management (“TDM”) Plan:
- a. Designate a TDM Coordinator;
  - b. Establish a TDM marketing plan;
  - c. Provide Transportation Coordinators' contact information to goDCgo, conduct an annual commuter survey of employees on-site, and report TDM activities and data collection efforts to goDCgo once per year;
  - d. Transportation Coordinators will develop, distribute, and market various transportation alternatives and options to the residents, including promoting transportation events (i.e. Bike to Work Day, National Walking Day, Car Free Day) on property website and in any internal building newsletters or communications;
  - e. Transportation Coordinators will receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM Plan;
  - f. Provide welcome packets to all new residents that should, at a minimum, include the Metrorail pocket guide, brochures of local bus lines (Circulator and Metrobus), carpool and vanpool information, CaBi coupon or rack card, Guaranteed Ride Home (GRH) brochure, and the most recent DC Bike Map. Brochures can be ordered from DDOT’s goDCgo program by emailing [info@godcgo.com](mailto:info@godcgo.com);
  - g. Install electronic displays in each building's residential lobby;
  - h. Provide residents who wish to carpool with detailed carpooling information and refer them to other carpool matching services sponsored by the Metropolitan Washington Council of Governments (MWCOG) or other comparable service if MWCOG does not offer this in the future; and
  - i. Transportation Coordinator will subscribe to goDCgo's residential newsletter;
    - i. Post all TDM commitments on website, publicize availability, and allow the public to see what commitments have been promised;
    - ii. Install a 50-foot (19-dock) Capital Bikeshare station within the site as part of the Phase 1 development and include one year's operating expenses;

- iii. Provide an annual Capital Bikeshare membership to each affordable dwelling unit resident for five years after the building opens;
- iv. Provide a complimentary Capital Bikeshare coupon good for one ride to each market-rate dwelling unit at initial occupancy (annual memberships will be provided to each Affordable Unit and each Reserved Unit resident for a period of five years);
- v. Provide a free SmarTrip card to each dwelling unit at initial occupancy;
- vi. Long-term bicycle storage rooms will accommodate non-traditional sized bikes including cargo, tandem, and kids' bikes;
- vii. Provide a bicycle repair station in each long-term bicycle parking storage room;
- viii. Provide electric outlets in the long-term bicycle parking storage rooms for charging electric bikes;
- ix. Provide a bicycle lounge with amenities for cyclists;
- x. Unbundle all parking costs from the cost of lease and set the cost at no less than the charges of the lowest fee garage located within a quarter-mile of the site;
- xi. Dedicate two parking spaces in each garage for car sharing services to use with the right of first refusal;
- xii. Unused residential parking spaces will not be leased to anyone aside from tenants of Phase 1 or Phase 2 of the project, visitors of tenants, or visitors to Mt. Airy Church (e.g. will not lease to other nearby office employees, single family home residents, or sporting events);
- xiii. Provide one collapsible shopping cart (utility cart) for every 50 residential units, for a total of 11 to encourage residents to walk to grocery shopping and run errands; and
- xiv. Hold a transportation event for residents, employees, and members of the community once per year for a total of five years. Examples include resident social, walking tour of local transportation options, goDCgo lobby event, transportation fair, WABA Everyday Bicycling seminar, bicycle safety/information class, bicycle repair event, etc.)

**D. Miscellaneous**

1. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct and use the Property in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
2. The first-stage approval is now vested by the timely filing of an Application for a Second-Stage PUD within the time period set by the Original Order, as extended by Condition No. D1 of Z.C. Order No. 15-20B. The second-stage PUD approved by the Commission shall be valid for a period of two years from the effective date of this Order. Within such time, the Applicant shall file a building permit for the construction of the development, and shall commence construction within three years of the effective date of this Order.

**VOTE (Oct. 21, 2019): 5-0-0** (Chairman Anthony J. Hood, Vice Chairman Robert E. Miller, Peter A. Shapiro, Peter G. May (via absentee ballot), and Michael G. Turnbull (via absentee ballot) to **APPROVE**).

In accordance with the provisions of Subtitle Z § 604.9 of the Zoning Regulations, this Order No. 15-20C shall become final and effective upon publication in the *D.C. Register*; that is on March 13, 2020.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of 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.

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