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District of Columbia REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 23-407, Fiscal Year 2021 Budget Support Act of 2020 and Act 23-408, Fiscal Year 2021 Local Budget Act of 2020
- D.C. Council enacts Act 23-409, Fiscal Year 2021 Federal Portion Budget Request Act of 2020
- D.C. Council schedules a public hearing to discuss bills related to redevelopment project real property limited tax abatement
- D.C. Council schedules a public hearing to discuss bills related to public sector workers' compensation and injured workers' equality
- Department of Behavioral Health updates regulations for mental health rehabilitation services
- Office of the Chief Financial Officer solicits public comment on the Community Development Plans for Wells Fargo Bank and Citibank
- Department of Energy and Environment solicits partners to pilot the deployment of advanced heat pump water heaters (HPWHs) in multifamily properties in the District of Columbia
- Department of Housing and Community Development publishes the Tenant Payment Plan Complaint Form for filing rent payment plan rejection complaints during the public emergency

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

The District of Columbia Office of Documents and Administrative Issuances publishes the *District of Columbia Register* (ISSN 0419-439X) every Friday under the authority of the *District of Columbia Documents Act,* D.C. Law 2-153, effective March 6, 1979, D.C. Official Code § 611 et *seq*. (2012 Repl.). The policies which govern the publication of the *Register* are set forth in the Rules of the Office of Documents and Administrative· Issuances (1 DCMR §§300, *et seq.*). The Rules of the Office of Documents and Administrative Issuances are available online at dcregs.dc.gov. Rulemaking documents are also subject to the requirements of the *D.C. Administrative Procedure Act,* D.C. Official Code §§2-50l et *seq.* (2012 Repl.).

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The deadline for filing documents for publication for District of Columbia Agencies, Boards, Commissions, and Public Charter schools is THUSDAY, NOON of the previous week before publication. The deadline for filing documents for publication for the Council of the District of Columbia is WEDNESDAY, NOON of the week of publication. If an official District of Columbia government holiday falls on Thursday, the deadline for filing documents is Wednesday. Email the Office of Documents and Administrative Issuances at dcdocuments@dc.gov to request the *District of Columbia Register* publication schedule.

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Legal Effect of Publication - Certification

Except in the case of emergency rules, no rule or document of general applicability and legal effect shall become effective until it is published in the *Register.* Publication creates a rebuttable legal presumption that a document has been duly issued, prescribed, adopted, or enacted and that the document complies with the requirements of the *District of Columbia Documents Act* and the *District of Columbia Administrative Procedure Act.* The Administrator of the Office of Documents and Administrative Issuances hereby certifies that this issue of the *Register* contains all documents required to be published under the provisions of the *District of Columbia Documents Act.*

DISTRICT OF COLUMBIA
OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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MAYOR

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ADMINISTRATOR

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-406

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 31, 2020

To adopt, on an emergency basis, the local portion of the budget of the District of Columbia government for the fiscal year ending September 30, 2021.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fiscal Year 2021 Local Budget Emergency Act of 2020".

Sec. 2. Adoption of the local portion of the Fiscal Year 2021 budget.

The following expenditure levels are approved and adopted as the local portion of the budget for the government of the District of Columbia for the fiscal year ending September 30, 2021.

DISTRICT OF COLUMBIA BUDGET FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2021

The following amounts are appropriated for the District of Columbia government for the fiscal year ending September 30, 2021 ("Fiscal Year 2021"), out of the General Fund of the District of Columbia ("General Fund"), except as otherwise specifically provided; provided, that notwithstanding any other provision of law, except as provided in section 450A of the District of Columbia Home Rule Act, approved November 22, 2000 (114 Stat. 2440; D.C. Official Code § 1-204.50a), and provisions of this act, the total amount appropriated in this act for operating expenses for the District of Columbia for Fiscal Year 2021 shall not exceed the lesser of the sum of the total revenues of the District of Columbia for such fiscal year or $16,856,690,000 (of which $8,619,754,000 shall be from local funds, $529,276,000 shall be from dedicated taxes, $1,123,981,000 shall be from federal grant funds, $2,551,351,000 shall be from Medicaid payments, $778,415,000 shall be from other funds, $4,756,000 shall be from private funds, $413,023,000 shall be from funds requested to be appropriated by the Congress as federal payments pursuant to the Fiscal Year 2021 Federal Portion Budget Request Act of 2020, passed on July 21, 2020 (Enrolled version of Bill 23-762) (the "Fiscal Year 2021 Federal Portion Budget Request Act of 2020") and federal payment funds for COVID relief, and $2,836,134,000

shall be from enterprise and other funds); provided further, that of the local funds, such amounts as may be necessary may be derived from the General Fund balance; provided further, that of these funds the intra-District authority shall be $700,114,000; provided further, that amounts appropriated under this act may be increased by proceeds of one-time transactions, which are expended for emergency or unanticipated operating or capital needs; provided further, that such increases shall be approved by enactment of local District law and shall comply with all reserve requirements contained in the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*); provided further, that local funds are appropriated, without regard to fiscal year, in such amounts as may be necessary to pay vendor fees, including legal fees, that are obligated in this fiscal year, to be paid as a fixed percentage of District revenue recovered from third parties on behalf of the District under contracts that provide for payment of fees based upon and from such District revenue as may be recovered by the vendor; provided further, that amounts appropriated pursuant to this act as operating funds may be transferred to enterprise and capital funds and such amounts, once transferred, shall retain appropriation authority consistent with the provisions of this act; provided further, that there may be reprogrammed or transferred for operating expenses any local funds transferred or reprogrammed in this or the 4 prior fiscal years from operating funds to capital funds, and such amounts, once transferred or reprogrammed, shall retain appropriation authority consistent with the provisions of this act, except, that there may not be reprogrammed for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects; provided further, that the local funds (including dedicated tax) and other funds appropriated by this act may be reprogrammed and transferred as provided in subchapter IV of Chapter 3 of Title 47 of the District of Columbia Official Code, or as otherwise provided by law, through November 15, 2021; provided further, that local funds and other funds appropriated under this act may be expended by the Mayor for the purpose of providing food and beverages, not to exceed $30 per employee per day, to employees of the District of Columbia government while such employees are deployed in response to or during a declared snow or other emergency; provided further, that local funds and other funds appropriated under this act may be expended by the Mayor to provide food and lodging, in amounts not to exceed the General Services Administration per diem rates, for youth, young adults, and their parents or guardians who participate in a program of the District of Columbia government that involves overnight travel outside the District of Columbia; provided further, that funds appropriated under this act shall not be expended in a manner inconsistent with the Balanced Budget and Financial Plan Freeze on Salary Schedules, Benefits, and Cost-of-Living Adjustments Act of 2020, passed on 2nd reading on July 28, 2020 (Enrolled version of Bill 23-760), including emergency and temporary versions of such act, except as authorized under the Revised Revenue Estimate heading of this act; provided further, that notwithstanding any other provision of law, local funds are appropriated, without regard to fiscal year, to the extent such funds are certified as available by the Chief Financial Officer of the District of Columbia, to pay termination costs of multiyear contracts entered into by the District of Columbia during this fiscal year, to design, construct, improve, maintain, operate, manage, or

finance infrastructure projects procured pursuant to the Public-Private Partnership Act of 2014, effective March 11, 2015 (D.C. Law 20-228; D.C. Official Code § 2-271.01 *et seq.*), including by way of example and not limitation, a project for the replacement and modernization of the District of Columbia's streetlight system and a project for the rehabilitation and modernization of the Henry J. Daly Building, and such termination costs may be paid from appropriations available for the performance of such contracts or the payment of termination costs or from other appropriations then available for any other purpose, not including the emergency cash reserve fund (D.C. Official Code § 1-204.50a(a)) or the contingency cash reserve fund (D.C. Official Code § 1-204.50a(b)), which, once allocated to these costs, shall be deemed appropriated for the purposes of paying termination costs of such contracts and shall retain appropriations authority and remain available until expended; provided further, that any unspent amount remaining in a non-lapsing fund described below at the end of Fiscal Year 2020 is to be continually available, allocated, appropriated, and expended for the purposes of such fund in Fiscal Year 2021 in addition to any amounts deposited in and appropriated to such fund in Fiscal Year 2021; provided further, that the Chief Financial Officer shall take such steps as are necessary to assure that the foregoing requirements are met, including the apportioning by the Chief Financial Officer of the appropriations and funds made available during Fiscal Year 2021.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $968,055,000 (including $838,950,000 from local funds, $1,514,000 from dedicated taxes, $32,219,000 from federal grant funds, $94,809,000 from other funds, and $563,000 from private funds), to be allocated as follows; provided, that any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District:

(1) Board of Elections. - $9,551,000 from local funds;

(2) Board of Ethics and Government Accountability. - $3,134,000 (including $2,953,000 from local funds and $181,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Lobbyist Administration and Enforcement Fund, the Open Government Fund, and the Ethics Fund;

(3) Captive Insurance Agency. - $4,412,000 (including $3,744,000 from local funds and $668,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Captive Trust Fund, the Medical Captive Insurance Claims Reserve Fund, and the Subrogation Fund;

(4) Contract Appeals Board. - $1,780,000 from local funds;

(5) Council of the District of Columbia. - $28,657,000 from local funds; provided, that not to exceed $25,000 of this amount shall be available for the Chairman for official reception and representation expenses and for purposes consistent with the Discretionary Funds Act of 1973, approved October 26, 1973 (87 Stat. 509; D.C. Official Code § 1-333.10); provided

further, that all funds deposited, without regard to fiscal year, into the Council Technology Projects Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(6) Department of General Services. - $330,572,000 (including $323,892,000 from local funds, $1,514,000 of dedicated taxes, and $5,167,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Eastern Market Enterprise Fund and the West End Library and Fire Station Maintenance Fund;

(7) Department of Human Resources. - $11,112,000 (including $10,519,000 from local funds and $593,000 from other funds);

(8) Employees' Compensation Fund. - $22,147,000 from local funds;

(9) Executive Office of the Mayor. - $17,264,000 (including $11,868,000 from local funds and $5,397,000 from federal grant funds); provided, that not to exceed $25,000 of such amount, from local funds, shall be available for the Mayor for official reception and representation expenses and for purposes consistent with the Discretionary Funds Act of 1973, approved October 26, 1973 (87 Stat. 509; D.C. Official Code § 1-333.10); provided further, that all funds deposited, without regard to fiscal year, into the Emancipation Day Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(10) Mayor's Office of Legal Counsel. - $1,638,000 from local funds;

(11) Metropolitan Washington Council of Governments. - $586,000 from local funds;

(12) Office of Advisory Neighborhood Commissions. - $1,630,000 from local funds; provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Office of Advisory Neighborhood Commission Security Fund and the Advisory Neighborhood Commissions Technical Support and Assistance Fund;

(13) Office of Campaign Finance. - $8,577,000 from local funds; provided, that all funds deposited, without regard to fiscal year, into the Fair Elections Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(14) Office of Contracting and Procurement. - $26,284,000 (including $24,413,000 from local funds and $1,871,000 from other funds);

(15) Office of Disability Rights. - $1,813,000 (including $1,153,000 from local funds and $660,000 from federal grant funds);

(16) Office of Employee Appeals. - $2,234,000 from local funds;

(17) Office of Finance and Resource Management. - $30,950,000 (including $30,650,000 from local funds and $300,000 from other funds);

(18) Office of Risk Management. - $4,266,000 from local funds; provided, that all funds deposited, without regard to fiscal year, into the Subrogation Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(19) Office of the Attorney General for the District of Columbia. - $139,021,000

(including $86,377,000 from local funds, $22,651,000 from federal grant funds, $29,430,000 from other funds, and $563,000 from private funds); provided, that not to exceed $25,000 of this amount, from local funds, shall be available for the Attorney General for official reception and representation expenses and for purposes consistent with the Discretionary Funds Act of 1973, approved October 26, 1973 (87 Stat. 509; D.C. Official Code § 1-333.10); provided further, that local and other funds appropriated under this act may be used to pay expenses for District government attorneys at the Office of the Attorney General for the District of Columbia to obtain professional credentials, including bar dues and court admission fees, that enable these attorneys to practice law in other state and federal jurisdictions and appear outside the District in state and federal courts; provided further, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Child Support-Temporary Assistance for Needy Families Fund, the Child Support-Reimbursements and Fees Fund, the Child Support-Interest Income Fund, the Drug-, Firearm-, or Prostitution-Related Nuisance Abatement Fund, and the Litigation Support Fund; provided further, that this amount may be further increased by amounts deposited into the Attorney General Restitution Fund and the Vulnerable and Elderly Person Exploitation Restitution Fund, which shall be continually available, without regard to fiscal year, until expended;

(20) Office of the Chief Financial Officer. - $189,698,000 (including $143,909,000 from local funds, $450,000 from federal grant funds, and $45,339,000 from other funds); provided, that not to exceed $10,600 of such amount, from local funds, shall be available for the Chief Financial Officer for official reception and representation expenses and for purposes consistent with the Discretionary Funds Act of 1973, approved October 26, 1973 (87 Stat. 509; D.C. Official Code § 1-333.10); provided further, that amounts appropriated by this act may be increased by the amount required to pay banking fees for maintaining the funds of the District of Columbia; provided further, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021; the Recorder of Deeds Automation Fund and the Other Post-Employment Benefits Fund;

(21) Office of the Chief Technology Officer. - $79,955,000 (including $69,802,000 from local funds and $10,154,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the DC-NET Services Support Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(22) Office of the City Administrator. - $10,897,000 from local funds; provided, that not to exceed $10,600 of such amount, from local funds, shall be available for the City Administrator for official reception and representation expenses and for purposes consistent with the Discretionary Funds Act of 1973, approved October 26, 1973 (87 Stat. 509; D.C. Official Code § 1-333.10);

(23) Office of the District of Columbia Auditor. - $5,653,000 from local funds; provided, that all funds deposited, without regard to fiscal year, into the Audit Engagement Fund

are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(24) Office of the Inspector General. - $18,911,000 (including $15,849,000 from local funds and $3,062,000 from federal grant funds);

(25) Office of the Secretary. - $4,806,000 (including $3,706,000 from local funds and $1,100,000 from other funds);

(26) Office of the Senior Advisor. - $3,344,000 from local funds;

(27) Office of Veterans' Affairs. - $843,000 (including $838,000 from local funds and $5,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the Office of Veterans Affairs Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(28) Office on Asian and Pacific Islander Affairs. - $1,335,000 from local funds;

(29) Office on Latino Affairs. - $5,386,000 from local funds;

(30) Public Employee Relations Board. - $1,296,000 from local funds;

(31) Statehood Initiatives. - $241,000 from local funds; provided, that all funds deposited, without regard to fiscal year, into the New Columbia Statehood Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021; and

(32) Uniform Law Commission. - $60,000 from local funds.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $414,126,000 (including $264,192,000 from local funds, $37,848,000 from dedicated taxes, $39,858,000 from federal grant funds, $72,218,000 from other funds, and $10,000 from private funds), to be allocated as follows:

(1) Business Improvement Districts Transfer. - $51,125,000 (including $1,125,000 from local funds and $50,000,000 from other funds);

(2) Commission on the Arts and Humanities. - $38,567,000 (including $37,848,000 from dedicated taxes and $719,000 from federal grant funds); provided, that all dedicated taxes shall be deposited into the Arts and Humanities Fund; provided, further that all funds deposited, without regard to fiscal year, into the Arts and Humanities Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021; provided further, that funds in the available fund balance of the Arts and Humanities Fund may be obligated in Fiscal Year 2021, pursuant to grant awards, through September 30, 2024, and that such funds so obligated are authorized for expenditure and shall remain available for expenditure until September 30, 2024;

(3) Department of Housing and Community Development. - $61,923,000 (including $19,287,000 from local funds, $38,045,000 from federal grant funds, and $4,590,000from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Negotiated Employee Affordable Housing Fund, the Department of Housing and Community Development Unified Fund, the Home Again Revolving

Fund, the Home Purchase Assistance Program-Repayment Fund, and the Housing Preservation Fund; provided further, that all funds deposited, without regard to fiscal year, into the Rental Housing Registration Fund are authorized for expenditure by the Department of Housing and Community Development starting at the beginning of the applicable time period set forth section in 203c(d) of the Rental Housing Act of 1985, effective October 30, 2018 (D.C. Law 22-168; D.C. Official Code § 42-3502.03e(d)), and shall remain available for expenditure by the Department of Housing and Community Development until September 30, 2021;

(4) Department of Small and Local Business Development. - $16,783,000 (including $16,224,000 from local funds and $559,000 from federal grant funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Small Business Capital Access Fund, the Streetscape Business Development Relief Fund, and the Ward 7 and Ward 8 Entrepreneur Grant Fund;

(5) Housing Authority Subsidy. - $158,453,000 from local funds; provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the DCHA Rehabilitation and Maintenance Fund and the Tenant-Based Rental Assistance Fund;

(6) Housing Production Trust Fund Subsidy. - $17,538,000 from local funds;

(7) Office of Cable Television, Film, Music, and Entertainment. - $14,230,000(including $2,634,000 from local funds and $11,595,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: Film, Television, and Entertainment Rebate Fund and the OCTFME Special Account;

(8) Office of Planning. - $12,010,000 (including $11,315,000 from local funds, $535,000 from federal grant funds, $150,000 from other funds, and $10,000 from private funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Historic Landmark-District Protection (Local) Fund and the Historical Landmark-District Protection (O-Type) Fund;

(9) Office of the Deputy Mayor for Planning and Economic Development. - $33,101,000 (including $27,762,000 from local funds and $5,339,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Industrial Revenue Bond Account, the H Street Retail Priority Area Grant Fund, the Soccer Stadium Financing Fund, the Economic Development Special Account, the Walter Reed Redevelopment Fund, the Walter Reed Reinvestment Fund, and the St. Elizabeths East Campus Redevelopment Fund;

(10) Office of the Tenant Advocate. - $4,010,000 (including $3,467,000 from local funds and $543,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the Rental Housing Registration Fund are authorized for expenditure by the

Office of the Tenant Advocate until the end of the applicable time period set forth in section 203c(d) of the Rental Housing Act of 1985, effective October 30, 2018 (D.C. Law 22-168; D.C. Official Code § 42-3502.03e(d)), and shall remain available for expenditure by the Office of the Tenant Advocate until such time;

(11) Office of Zoning. - $3,232,000 from local funds;

(12) Real Property Tax Appeals Commission. - $1,826,000 from local funds; and

(13) Rental Housing Commission - $1,328,000 from local funds.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, $1,553,819,000 (including $1,291,902,000 from local funds, $189,562,000 from federal grant funds, $150,000 from Medicaid payments, $68,979,000 from other funds, $62,000 from private funds, and $3,163,000 from federal payment funds, including $600,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for Judicial Commissions" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020, $413,000 requested to be appropriated by the Congress under the heading "Federal Payment for the District of Columbia National Guard" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020, and $2,150,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment to the Criminal Justice Coordinating Council" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020), to be allocated as follows:

(1) Commission on Judicial Disabilities and Tenure. - $407,000 (including $82,000 from local funds and $325,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for Judicial Commissions" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020);

(2) Corrections Information Council. - $878,000 from local funds;

(3) Criminal Code Reform Commission. - $813,000 from local funds;

(4) Criminal Justice Coordinating Council. - $3,891,000 (including $1,666,000from local funds, $75,000 from federal grant funds, and $2,150,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment to the Criminal Justice Coordinating Council" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020);

(5) Department of Corrections. - $177,790,000 (including $148,000,000 from local funds and $29,790,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Correction Trustee Reimbursement Fund, the Inmate Welfare Fund, and the Correction Reimbursement-Juveniles Fund;

(6) Department of Forensic Sciences. - $28,615,000 (including $28,427,000from local funds and $188,000 from federal grant funds); provided, that all funds deposited, without regard to fiscal year, into the Department of Forensic Sciences Laboratory Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(7) Department of Youth Rehabilitation Services. - $84,176,000 from local funds; provided, that of the local funds appropriated for the Department of Youth Rehabilitation Services, $12,000 shall be used to fund the requirements of the Interstate Compact for Juveniles;

(8) District of Columbia National Guard. - $15,241,000 (including $5,088,000 from local funds, $9,593,000 from federal grant funds, $148,000 from other funds, and $413,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for the District of Columbia National Guard" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020); provided, that the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard; provided further, that such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available pursuant to this act, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved;

(9) District of Columbia Sentencing Commission. - $1,258,000 from local funds;

(10) Fire and Emergency Medical Services Department. - $265,287,000 (including $261,802,000 from local funds and $3,485,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the Fire and Emergency Medical Services Department EMS Reform Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(11) Homeland Security and Emergency Management Agency. - $169,636,000 (including $5,531,000 from local funds and $164,104,000 from federal grant funds);

(12) Judicial Nomination Commission. - $311,000 (including $36,000 from local funds and $275,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for Judicial Commissions" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020);

(13) Metropolitan Police Department. - $534,592,000 (including $523,217,000 from local funds, $3,975,000 from federal grant funds, and $7,400,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the Asset Forfeiture Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(14) Office of Administrative Hearings. - $10,473,000 (including $10,323,000 from local funds and $150,000 from Medicaid payments);

(15) Office of Human Rights. - $8,280,000 (including $7,942,000 from local funds and $339,000 from federal grant funds);

(16) Office of Neighborhood Safety and Engagement. - $10,355,000 from local funds, provided, that the Office of Neighborhood Safety and Engagement is authorized to spend appropriated funds for the purposes set forth in section 101 of the Neighborhood Engagement

Achieves Results Amendment Act of 2016, effective June 30, 2016 (D.C. Law 21-125; D.C. Official Code § 7-2411); provided further, that all funds deposited, without regard to fiscal year, into the Neighborhood Safety and Engagement Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(17) Office of Police Complaints. - $2,613,000 from local funds;

(18) Office on Returning Citizen Affairs. - $1,890,000 from local funds;

(19) Office of the Chief Medical Examiner. - $12,257,000 (including $12,195,000from local funds and $62,000 from private funds);

(20) Office of the Deputy Mayor for Public Safety and Justice. - $1,687,000 from local funds;

(21) Office of Unified Communications. - $53,244,000 (including $30,373,000 from local funds, and $22,871,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the Emergency and Non-Emergency Number Telephone Calling Systems Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(22) Office of Victim Services and Justice Grants. - $60,189,000 (including $43,616,000 from local funds, $11,288,000 from federal grant funds, and $5,284,000 from other funds); provided, that $12,089,000 shall be made available to award a grant to the District of Columbia Bar Foundation for the purpose of administering the Access to Justice Initiative and the Civil Legal Counsel Projects Program, of which not less than $300,000 shall be available to fund the District of Columbia Poverty Lawyer Loan Repayment Assistance Program, and of which not less than $4,600,000 shall be available to fund the Civil Legal Counsel Projects Program; provided further, that the funds authorized for expenditure for the District of Columbia Poverty Lawyer Loan Repayment Assistance Program and the Civil Legal Counsel Projects Program shall remain available for expenditure, without regard to fiscal year, until September 30, 2021; provided further, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Crime Victims Assistance Fund, the Shelter and Transitional Housing for Victims of Domestic Violence Fund, the Community-Based Violence Reduction Fund, and the Private Security Camera Incentive Fund; and

(23) Police Officers' and Firefighters' Retirement System. - $109,933,000 from local funds.

PUBLIC EDUCATION SYSTEM

Public education system, $3,184,546,000 (including $2,629,090,000 from local funds, $5,696,000 from dedicated taxes, $359,875,000 from federal grant funds, $89,109,000 from other funds, $775,000 from private funds, and $60,000,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for School Improvement" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020, and $40,000,000 from federal payment funds requested to be appropriated by Congress under the

heading "Federal Payment for Resident Tuition Support" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020 for the purposes specified in section 3004(b) of the Scholarships for Opportunity and Results Act, approved April 15, 2011 (125 Stat 200; D.C. Official Code § 38-1853.04(b)), to be allocated as follows:

(1) Department of Employment Services. - $160,033,000 (including $56,001,000 from local funds, $42,084,000 from federal grant funds, $61,689,000 from other funds, and $260,000 from private funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Workers' Compensation Administration Fund, the Unemployment Insurance Administrative Assessment Tax Fund, the Unemployment Insurance Interest/Penalties Fund, the Workers' Compensation Special Fund, the Reed Act Fund, and the Universal Paid Leave Fund; provided further, that the Department of Employment Services shall execute an intra-District transfer of $1,853,227 in local funds to the Office of Human Rights and an intra-District transfer of $939,806 in local funds to the Office of Administrative Hearings, consistent with section 1153(c) of the Universal Paid Leave Implementation Fund Act of 2016, passed on 2nd reading on July 28, 2020 (Enrolled version of Bill 23-760), including emergency and temporary versions of such section;

(2) Department of Parks and Recreation. - $57,691,000 (including $54,896,000from local funds and $2,795,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Recreation Enterprise Fund; provided further, that the Department of Parks and Recreation is authorized to spend appropriated funds from the Recreation Enterprise Fund for the purposes set forth in section 4 of the Recreation Act of 1994, effective March 23, 1995 (D.C. Law 10-246; D.C. Official Code § 10-303);

(3) District of Columbia Public Charter School Board. - $10,087,000 from other funds;

(4) District of Columbia Public Charter Schools. - $934,900,000 from local funds; provided, that there shall be quarterly disbursement of funds to the District of Columbia public charter schools, with the first payment to occur within 15 days of the beginning of the fiscal year; provided further, that if the entirety of this allocation has not been provided as payments to any public charter schools currently in operation through the per pupil funding formula, the funds shall remain available for expenditure until September 30, 2021 for public education in accordance with section 2403(b)(2) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1804.03(b)(2)); provided further, that of the amounts made available to District of Columbia public charter schools, $230,000 shall be made available to the Office of the Chief Financial Officer as authorized by section 2403(b)(6) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1804.03(b)(6)); provided further, that, notwithstanding the amounts otherwise provided under this heading or any other provision of

law, there shall be appropriated to the District of Columbia public charter schools on July 1, 2021, an amount equal to 35 percent, or for new charter school local education agencies that opened for the first time after December 31, 2020, an amount equal to 45 percent, of the total amount of the local funds appropriations provided for payments to public charter schools in the proposed budget of the District of Columbia for Fiscal Year 2022 (as adopted by the District), and the amount of such payment shall be chargeable against the final amount provided for such payments for Fiscal Year 2022; provided further, that the annual financial audit for the performance of an individual District of Columbia public charter school shall be funded by the charter school;

(5) District of Columbia Public Library. - $73,049,000 (including $70,672,000 from local funds, $1,130,000 from federal grant funds, $1,230,000 from other funds, and $17,000 from private funds); provided, that not to exceed $8,500 of such amount, from local funds, shall be available for the Chief Librarian of the District of Columbia Public Library for official reception and representation expenses and for purposes consistent with the Discretionary Funds Act of 1973, approved October 26, 1973 (87 Stat. 509; D.C. Official Code § 1-333.10); provided further, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Copies and Printing Fund, the E-Rate Reimbursement Fund, the Library Collections Account, the Books From Birth Fund, and the DCPL Revenue-Generating Activities Fund;

(6) District of Columbia Public Schools. - $1,030,234,000 (including $982,009,000 from local funds, $5,879,000 from federal grant funds, $12,037,000 from other funds, $308,000 from private funds, and $30,000,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for School Improvement" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020); provided, that not to exceed $10,600 of such local funds shall be available for the Chancellor for official reception and representation expenses and for purposes consistent with the Discretionary Funds Act of 1973, approved October 26, 1973 (87 Stat. 509; D.C. Official Code § 1-333.10); provided further, that, notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia Public Schools on July 1, 2021, an amount equal to 10 percent of the total amount of the local funds appropriations provided for the District of Columbia Public Schools in the proposed budget of the District of Columbia for Fiscal Year 2022 (as adopted by the District), and the amount of such payment shall be chargeable against the final amount provided for the District of Columbia Public Schools for Fiscal Year 2022; provided further, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the E-Rate Education Fund, the Reserve Officer Training Corps Fund, the Afterschool Program-Copayment Fund, the At-Risk Supplemental Allocation Preservation Fund, the District of Columbia Public Schools Sales and Sponsorship Fund, DCPS School Facility Colocation Fund, and the District of Columbia Public Schools' Nonprofit School Food Service Fund; provided further, that the District of Columbia Public Schools is authorized to

spend appropriated funds consistent with section 105(c)(5) of the Public Education Reform Amendment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-174(c)(5));

(7) District of Columbia State Athletics Commission. - $1,286,000 (including $1,186,000 from local funds and $100,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the State Athletic Activities, Programs, and Office Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(8) Non-Public Tuition. - $59,238,000 from local funds;

(9) Office of the Deputy Mayor for Education. - $21,198,000 (including $21,138,000 from local funds and $60,000 from private funds); provided, that $3,300,000 in local funds shall be available for the Workforce Investment Council for activities consistent with the Workforce Investment Implementation Act of 2000, effective July 18, 2000 (D.C. Law 13-150; D.C. Official Code § 32-1601 *et seq.*), and the DC Central Kitchen Facility Grant Amendment Act of 2020, passed on 2nd reading on July 28, 2020 (Enrolled version of Bill 23-760), including emergency and temporary versions of such act;

(10) Office of the State Superintendent of Education. - $557,258,000 (including $169,479,000 from local funds, $5,696,000 from dedicated taxes, $310,782,000 from federal grant funds, $1,170,000 from other funds, $130,000 from private funds, $30,000,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for School Improvement" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020, and $40,000,000 from federal payment funds requested to be appropriated by Congress under the heading "Federal Payment for Resident Tuition Support" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020 for the purposes specified in section 3004(b) of the Scholarships for Opportunity and Results Act, approved April 15, 2011 (125 Stat 200; D.C. Official Code § 38-1853.04(b)); provided, that of the amounts provided to the Office of the State Superintendent of Education, $1,000,000 from local funds shall remain available until June 30, 2021, for an audit of the student enrollment of each District of Columbia public school and of each District of Columbia public charter school; provided further, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Charter School Credit Enhancement Fund, the Student Residency Verification Fund, the Community Schools Fund, the Special Education Enhancement Fund, the Child Development Facilities Fund, the Access to Quality Child Care Fund, the Common Lottery Board Fund, the Healthy Schools Fund, the Healthy Tots Fund, the Statewide Special Education Compliance Fund, the School Safety and Positive Climate Fund, the Early Childhood Development Fund, and the Student Enrollment Fund;

(11) Special Education Transportation. - $111,123,000 from local funds; provided, that, notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the Special Education Transportation agency under the direction of the Office of the State Superintendent of Education, on July 1, 2021, an

amount equal to 10 percent of the total amount of the local funds appropriations provided for the Special Education Transportation agency in the proposed budget for the District of Columbia for Fiscal Year 2022 (as adopted by the District), and the amount of such payment shall be chargeable against the final amount provided for the Special Education Transportation agency for Fiscal Year 2022; provided further, that amounts appropriated under this paragraph may be used to offer financial incentives as necessary to reduce the number of routes serving 2 or fewer students;

(12) State Board of Education. - $2,187,000 from local funds;

(13) Teachers' Retirement System. - $70,478,000 from local funds;

(14) Unemployment Compensation Fund. - $5,480,000 from local funds; and

(15) University of the District of Columbia Subsidy Account. - $90,303,000 from local funds; provided, that this appropriation shall not be available to subsidize the education of nonresidents of the District at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2021, a tuition-rate schedule that establishes the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area; provided further, that, notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the University of the District of Columbia on July 1, 2021, an amount equal to 10 percent of the total amount of the local funds appropriations provided for the University of the District of Columbia in the proposed budget of the District of Columbia for Fiscal Year 2022 (as adopted by the District), and the amount of such payment shall be chargeable against the final amount provided for the University of the District of Columbia for Fiscal Year 2022; provided further, that not to exceed $10,600 of such amount shall be available for the President of the University of the District of Columbia for official reception and representation expenses and for purposes consistent with the Discretionary Funds Act of 1973, approved October 26, 1973 (87 Stat. 509; D.C. Official Code § 1-333.10).

HUMAN SUPPORT SERVICES

Human support services, $5,143,042,000 (including $1,997,786,000 from local funds, $98,395,000 from dedicated taxes, $434,599,000 from federal grant funds, $2,551,201,000 from Medicaid payments, $56,022,000 from other funds, $1,039,000 from private funds, and $4,000,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for Testing and Treatment of HIV/AIDS" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020); to be allocated as follows:

(1) Child and Family Services Agency. - $217,105,000 (including $151,739,000 from local funds, $64,006,000 from federal grant funds, $1,000,000 from other funds, and $360,000 from private funds);

(2) Department of Aging and Community Living. - $52,065,000 (including $40,973,000 from local funds, $7,702,000 from federal grant funds, and $3,389,000 from

Medicaid payments);

(3) Department of Behavioral Health. - $293,588,000 (including $272,004,000 from local funds, $200,000 from dedicated taxes, $15,135,000 from federal grant funds, $2,991,000 from Medicaid payments, $2,650,000 from other funds, and $607,000 from private funds); provided, that all funds deposited, without regard to fiscal year, into the Addiction Prevention and Recovery Administration-Choice in Drug Treatment (HCSN) Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2020;

(4) Department of Disability Services. - $193,549,000 (including $131,048,000 from local funds, $33,233,000 from federal grant funds, $14,513,000 from Medicaid payments, and $14,755,000 from other funds); provided that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Randolph Shepherd Unassigned Facilities Fund, the Cost of Care-Non-Medicaid Clients Fund, and the Contribution to Costs of Supports Fund;

(5) Department of Health. - $263,282,000 (including $90,029,000 from local funds, $139,161,000 from federal grant funds, $30,021,000 from other funds, $71,000 from private funds, and $4,000,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for Testing and Treatment of HIV/AIDS" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Health Professional Recruitment Fund (Medical Loan Repayment), the Board of Medicine Fund, the Pharmacy Protection Fund, the State Health Planning and Development Agency Fees Fund, the Civil Monetary Penalties Fund, the State Health Planning and Development Agency Admission Fee Fund, the ICF/MR Fees and Fines Fund, the Human Services Facility Fee Fund, the Communicable and Chronic Disease Prevention and Treatment Fund, and the Animal Education and Outreach Fund;

(6) Department of Health Care Finance. - $3,441,301,000 (including $857,623,000 from local funds, $98,195,000 from dedicated taxes, $6,068,000 from federal grant funds, $2,472,819,000 from Medicaid payments, and $6,597,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Healthy DC and Health Care Expansion Fund, the Nursing Facility Quality of Care Fund, the Stevie Sellows Quality Improvement Fund, the Medicaid Collections-3rd Party Liability Fund, the Bill of Rights (Grievance and Appeals) Fund, the Hospital Provider Fee Fund, the Hospital Fund, and the Individual Insurance Market Affordability and Stability Fund;

(7) Department of Human Services. - $606,570,000 (including $419,714,000 from local funds, $169,294,000 from federal grant funds, $16,562,000 from Medicaid payments, and $1,000,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the SSI Payback Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(8) Medicaid Reserve. - $58,467,000 (including $17,540,000 from local funds; and $40,927,000 from federal Medicaid payments);

(9) Not-for-Profit Hospital Corporation Subsidy. - $15,000,000 from local funds; and

(10) Office of the Deputy Mayor for Health and Human Services. - $2,116,000 from local funds.

OPERATIONS AND INFRASTRUCTURE

Public works, $1,117,025,000 (including $698,195,000 from local funds, $78,489,000 from dedicated taxes, $49,402,000 from federal grant funds, $288,633,000 from other funds, and $2,306,000 from private funds), to be allocated as follows:

(1) Alcoholic Beverage Regulation Administration. - $10,615,000 (including $359,000 from local funds, $1,194,000 from dedicated taxes and $9,062,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Alcoholic Beverage Regulation Administration Fund, Medical Cannabis Administration Fund, and the Dedicated Taxes Fund;

(2) Department of Consumer and Regulatory Affairs. - $73,567,000 (including $27,539,000 from local funds and $46,029,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Basic Business License Fund, the Green Building Fund, the Real Estate Guaranty and Education Fund, the Nuisance Abatement Fund, the Occupational and Professional Licensing Administration Special Account, the Corporate Recordation Fund, the Appraisal Fee Fund, the Vending Regulation Fund, and the DC Combat Sports Commission Fund;

(3) Department of Energy and Environment. - $139,931,000 (including $23,432,000 from local funds, $31,470,000 from federal grant funds, $82,737,000 from other funds, and $2,292,000 from private funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Storm Water Permit Review Fund, the Sustainable Energy Trust Fund, the Clean Land Fund/Brownfield Revitalization Fund, the Anacostia River Clean Up and Protection Fund, the District of Columbia Wetland Stream and Mitigation Trust Fund, the Energy Assistance Trust Fund, the Leaking Underground Storage Tank Trust Fund, the Soil Erosion and Sediment Control Fund, the Municipal Aggregation Fund, the Fishing License Fund, the Renewable Energy Development Fund, the Special Energy Assessment Fund, the Air Quality Construction Permits Fund, the WASA Utility Discount Program Fund, the Pesticide Product Registration Fund, the Stormwater Fees Fund, the Stormwater In-Lieu Fee Payment Fund, the Economy II Fund, the Residential Aid Discount Fund, the Residential Essential Services Fund, the Benchmarking Enforcement Fund, the Product Stewardship Fund, the Rail

Safety and Security Fund, the Indoor Mold Assessment and Remediation Fund, the Lead Poisoning Prevention Fund, the Underground Storage Tank Regulation Fund, the Hazardous Waste and Toxic Chemical Source Reduction Fund, and the Clean Rivers Impervious Area Charge Assistance Fund; provided further, that funds in the available fund balance of the Renewable Energy Development Fund may be obligated in Fiscal Year 2021, pursuant to grant awards, through September 30, 2024, and that such funds so obligated are authorized for expenditure and shall remain available for expenditure until September 30, 2024;

(4) Department of For-Hire Vehicles. - $16,791,000 (including $5,889,000 from local funds, and $10,901,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Taxicab Assessment Act Fund and the Public Vehicles-for-Hire Consumer Service Fund;

(5) Department of Insurance, Securities, and Banking. - $32,424,000 (including $139,000 from federal grant funds and $32,285,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Insurance Regulatory Trust Fund, the Foreclosure Mediation Fund, the Capital Access Fund, the Insurance Assessment Fund, and the Securities and Banking Fund;

(6) Department of Motor Vehicles. - $47,715,000 (including $37,542,000 from local funds and $10,173,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the Motor Vehicle Inspection Station Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(7) Department of Public Works. - $161,050,000 (including $147,648,000 from local funds and $13,402.000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Solid Waste Disposal Cost Recovery Special Account and the Super Can Program Fund;

(8) District Department of Transportation. - $146,997,000 (including $110,972,000 from local funds, $17,212,000 from federal grant funds, and $18,813,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Bicycle Sharing Fund, the Performance Parking Program Fund, the Tree Fund, the DDOT Enterprise Fund-Non Tax Revenues Fund, the Sustainable Transportation Fund, the Vision Zero Pedestrian and Bicycle Safety Fund, the Transportation Infrastructure Project Review Fund, the Parking Meter and Transit Services Pay-by-Phone Transaction Fee Fund, and the DC Circulator Fund; provided further, that there are appropriated any amounts received, or to be received, without regard to fiscal year, from the Potomac Electric Power Company, or any of its related companies, successors, or assigns, for the purpose of paying or reimbursing the District Department of Transportation for the costs of designing, constructing, acquiring, and installing facilities, infrastructure, and equipment for use and ownership by the Potomac Electric

Power Company, or any of its related companies, successors, or assigns, related to or associated with the undergrounding of electric distribution lines in the District of Columbia, and any interest earned on those funds, which amounts and interest shall not revert to the unrestricted fund balance of the General Fund at the end of a fiscal year or at any other time, but shall be continually available without regard to fiscal year limitation until expended for the designated purposes;

(9) Office of the Deputy Mayor for Operations and Infrastructure. - $1,298,000 from local funds;

(10) Office of the People's Counsel. - $10,569,000 (including $689,000 from local funds and $9,880,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the Office of People's Counsel Agency Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(11) Public Service Commission. - $17,546,000 (including $581,000 from federal grant funds, $16,951,000 from other funds, and $14,000 from private funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Public Service Commission Agency Fund and the PJM Settlement Fund;

(12) Washington Metropolitan Area Transit Authority. - $458,357,000 (including $342,662,000 from local funds, $77,295,000 from dedicated taxes, and $38,400,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Dedicated Taxes Fund and the Parking Meter WMATA Fund; provided further, that all funds budgeted without regard to fiscal year for the adult learner transit subsidy program established by section 2(i) of the School Transit Subsidy Act of 1978, effective March 6, 1979 (D.C. Law 2-152; D.C. Official Code § 35-233(i)), are authorized for expenditure and shall remain available for expenditure until September 30, 2021; provided further, that there are appropriated any amounts deposited, or to be deposited, without regard to fiscal year, into the Washington Metropolitan Area Transit Authority Dedicated Financing Fund for the purpose of funding WMATA capital improvements, which amounts shall not revert to the unrestricted fund balance of the General Fund at the end of a fiscal year or at any other time, but shall be continually available until expended for the designated purposes; and

(13) Washington Metropolitan Area Transit Commission. - $165,000 from local funds.

FINANCING AND OTHER

Financing and Other, $1,424,649,000 (including $899,638,000 from local funds, $307,333,000 from dedicated taxes, $18,465,000 from federal grant funds, $108,646,000 from other funds, $90,567,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for Emergency Planning and Security Costs in the District of Columbia" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020 and

federal payment funds for COVID relief), to be allocated as follows:

(1) Commercial Paper Program. - $6,000,000 from local funds;

(2) Convention Center Transfer. - $97,358,000 (including $93,145,000 from dedicated taxes and $4,213,000 from other funds);

(3) Debt Service - Issuance Costs. - $10,000,000 from local funds for the payment of debt service issuance costs;

(4) District Retiree Health Contribution. - $48,400,000 from local funds for a District Retiree Health Contribution;

(5) Emergency Planning and Security Fund. - $52,900,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for Emergency Planning and Security Costs in the District of Columbia" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020; provided, that, notwithstanding any other law, obligations and expenditures that are pending reimbursement under the heading "Federal Payment for Emergency Planning and Security Costs in the District of Columbia" may be charged to this appropriations heading;

(6) District of Columbia Highway Transportation Fund. - Transfers. - $30,200,000 (including $24,642,000 from dedicated taxes and $5,558,000 from other funds);

(7) John A. Wilson Building Centennial Fund. - $4,464,000 from local funds for expenses associated with the John A. Wilson building;

(8) Non-Departmental Account. - $41,074,000 (including $2,850,000 from local funds, $556,000 from other funds, and $37,667,000 from federal payment funds for COVID relief) to be transferred by the Mayor of the District of Columbia within the various appropriations headings in this act, to account for anticipated costs that cannot be allocated to specific agencies during the development of the proposed budget;

(9) Pay-As-You-Go Capital Fund. - $289,398,000 (including $15,000,000 from local funds, $183,855,000 from dedicated taxes, and $90,543,000 from other funds) to be transferred to the Capital Fund, in lieu of capital financing;

(10) Repayment of Loans and Interest. - $811,142,000 (including $784,900,000 from local funds, $18,465,000 from federal grant funds, and $7,777,000 from other funds), for payment of principal, interest, and certain fees directly resulting from borrowing by the District of Columbia to fund District of Columbia capital projects as authorized by sections 462, 475, and 490 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code §§ 1-204.62, 1-204.75, and 1-204.90);

(11) Repayment of Revenue Bonds. - $5,691,000 from dedicated taxes for the repayment of revenue bonds; and

(12) Settlements and Judgments. - $28,025,000 from local funds for making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government; provided, that this amount may be increased by such sums as may be necessary for making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government and such sums may be paid from

the applicable or available funds of the District of Columbia;

(13) Workforce Investments Account. - to be increased as authorized under the Revised Revenue Estimate heading of this act.

ENTERPRISE AND OTHER

The amount of $3,051,427,000 (including $2,635,694,000 from enterprise and other funds, $200,440,000 from enterprise and other funds - dedicated taxes, and $215,292,000 from federal payment funds for COVID relief), shall be provided to enterprise funds as follows; provided, that, in the event that revenue dedicated by local law to an enterprise fund exceeds the amount set forth as follows, the General Fund budget authority may be increased as needed to transfer all such revenue, pursuant to local law, to the enterprise fund:

(1) Ballpark Revenue Fund. - $32,012,000 (including $12,366,000 from enterprise and other funds and $19,646,000 from enterprise and other funds - dedicated taxes);

(2) District of Columbia Retirement Board. - $44,099,000 from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board;

(3) District of Columbia Water and Sewer Authority. - $642,663,000 from enterprise and other funds; provided, that not to exceed $25,000 of this amount shall be available for representation; provided further, that not to exceed $15,000 of this amount shall be available for official meetings. For construction projects, $4,997,790,000, to be distributed as follows: $971,716,000 for Wastewater Treatment; $1,183,989,000 for the Sanitary Sewer System; $1,073,949,000 for the Water System; $95,413,000 for Non Process Facilities; $1,139,930,000 for the Combined Sewer Overflow Program; $179,663,000 for the Washington Aqueduct; $51,821,000 for the Stormwater Program; and $301,309,000 for the capital equipment program; in addition, $8,000,000 for Federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment to the District of Columbia Water and Sewer Authority" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020;

(4) Green Finance Authority. - $22,000,000 from enterprise and other funds, to be available until expended;

(5) Health Benefit Exchange Authority. - $30,948,000 from enterprise and other funds;

(6) Housing Finance Agency. - $14,281,000 from enterprise and other funds; provided, that all funds budgeted without regard to fiscal year for the Reverse Mortgage Foreclosure Prevention Program are authorized for expenditure and shall remain available for expenditure until September 30, 2021; provided further, that all funds budgeted without regard to fiscal year for the Public Housing Credit-Building Pilot Program are authorized for expenditure and shall remain available for expenditure until September 30, 2022;

(7) Housing Production Trust Fund. - $100,000,000 (including $26,538,000 from enterprise and other funds and $73,462,000 from enterprise and other funds - dedicated taxes); provided, that all funds deposited, without regard to fiscal year, into the Housing Production

Trust Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021; provided further, that if at the close of a fiscal year, the District has fully funded the Emergency, Contingency, Fiscal Stabilization, and Cash Flow Reserves, 50% of the additional uncommitted amounts in the unrestricted fund balance of the General Fund of the District of Columbia as certified by the Comprehensive Annual Financial Report shall be deposited into the Housing Productions Trust Fund, and that such funds are authorized for expenditure and shall remain available until expended;

(8) Not-For-Profit Hospital Corporation. - $155,000,000 from enterprise and other funds;

(9) Office of Lottery and Gaming. - $507,308,000 from enterprise and other funds; provided, that, after notification to the Mayor, amounts appropriated herein may be increased by an amount necessary for the Lottery, Gambling, and Gaming Fund to make transfers to the General Fund and to cover prizes, agent commissions, and gaming-related fees directly associated with unanticipated excess lottery revenues not included in this appropriation;

(10) Other Post-Employment Benefits Trust Administration. - $9,088,000 from enterprise and other funds;

(11) Repayment of PILOT Financing. - $50,992,000 enterprise and other funds - dedicated taxes;

(12) Tax Increment Financing (TIF) Program. - $56,340,000 from enterprise and other funds - dedicated taxes;

(13) Unemployment Insurance Trust Fund. - $680,071,000 (including $464,778,000 from enterprise and other funds and $215,292,000 from federal payment funds for COVID relief);

(14) Universal Paid Leave Fund. - $292,124,000 from enterprise and other funds;

(15) University of the District of Columbia. - $177,091,000 from enterprise and other funds; provided, that these funds shall not revert to the General Fund at the end of a fiscal year or at any other time, but shall be continually available for expenditure until September 30, 2021, without regard to fiscal year limitation; provided further, that all funds deposited, without regard to fiscal year, into the Higher Education Incentive Program Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(16) Washington Aqueduct. - $73,139,000 from enterprise and other funds; and

(17) Washington Convention and Sports Authority. - $164,271,000 from enterprise and other funds.

RESERVE ACCOUNTS

(1) Cash Flow Reserve Account. - All funds deposited, without regard to fiscal year, into the Cash Flow Reserve Account, established pursuant to D.C. Official Code § 47-392.02(j-2), are authorized for expenditure and shall remain available for expenditure until September 30, 2021.

(2) Fiscal Stabilization Reserve Account. - All funds deposited, without regard to

fiscal year, into the Fiscal Stabilization Reserve Account, established pursuant to D.C. Official Code § 47-392.02(j-1), are authorized for expenditure and shall remain available for expenditure until September 30, 2021.

REVISED REVENUE ESTIMATE

(a) Notwithstanding any other provision of law, the amount appropriated as local funds in this act shall be increased by the amount of local recurring revenues included in the Chief Financial Officer's revenue estimates for Fiscal Year 2021 issued prior to January 1, 2021 that exceeds the revenue estimate of the Chief Financial Officer of the District of Columbia dated April 24, 2020 in an amount equal to the amount prescribed in subsection (b).

(b) Of the funds appropriated by this section, an amount sufficient to satisfy negotiated salary adjustments provided for covered employees shall be deposited in the Workforce Investment Account, to be available and expended to satisfy collective bargaining agreements as set forth in the Balanced Budget and Financial Plan Freeze on Salary Schedules, Benefits, and Cost-of-Living Adjustments Act of 2020, passed on 2nd reading on July 28, 2020 (Enrolled version of Bill 23-760), including emergency and temporary versions of such act.

CAPITAL OUTLAY

For capital construction projects, an increase of $2,385,127,000 of which $1,867,527,000 shall be from local funds, $38,409,000 shall be from private grant funds, $91,642,000 shall be from local transportation funds, $95,392,000 shall be from the District of Columbia Highway Trust Fund, and $292,157,000 shall be from federal grant funds, and a rescission of $661,497,000 of which $522,014,000 shall be from local funds, $3,700,000 shall be from private grant funds, $37,899,000 shall be from the District of Columbia Highway Trust Fund, and $97,885,000 shall be from federal grant funds appropriated under this heading in prior fiscal years, for a net amount of $1,723,630,000, to remain available until expended; provided, that all funds provided by this act shall be available only for the specific projects and purposes intended; provided further, that amounts appropriated under this act may be increased by the amount transferred from funds appropriated in this act as Pay-AsYou-Go Capital funds.

Sec. 3. Local portion of the budget.

The budget adopted pursuant to this act constitutes the local portion of the annual budget for the District of Columbia government under section 446(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 801; D.C. Official Code § 1-204.46(a)).

Sec. 4. Applicability.

This act shall apply as of September 30, 2020.

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal

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

Sec. 6. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
August 31, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-407

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 31, 2020

To enact and amend provisions of law necessary to support the Fiscal Year 2021 budget.

TABLE OF CONTENTS

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fiscal Year 2021 Budget Support Act of 2020".

TITLE I. GOVERNMENT DIRECTION AND SUPPORT

SUBTITLE A. ARCHIVES ADVISORY GROUP

Sec. 1001. Short title.

This subtitle may be cited as the "Archives Advisory Group Act of 2020".

Sec. 1002. Archives Advisory Group.

(a) There is established an Archives Advisory Group to advise the Council of the District of Columbia about Project AB102C in the District's Capital Improvement Plan to construct a new archives facility for the District of Columbia.

(b) The Archives Advisory Group shall consist of no fewer than 5 members and no more than 11 members, all appointed by the Chairman of the Council.

(c) The Archives Advisory Group shall consider such matters as schedule, cost, and building attributes regarding a new archives facility. The group shall make recommendations to the Council whenever useful to the Council's deliberative process.

(d) The Archives Advisory Group shall have access to all draft and final documents relevant to planning and costing a new archives facility, including any feasibility study; provided, that requests for documents shall be made through the Chairman of the Council.

(e) The Archives Advisory Group shall not be subject to the Open Meetings Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-571 *et seq.*); provided, that all meetings shall be open to the public.

(f) Members of the Archives Advisory Group shall not be reimbursed for expenses, or compensated. Any other necessary resources shall be coordinated by the Secretary to the Council.

SUBTITLE B. AUDIT ENGAGEMENT FUND

Sec. 1011. Short title.

This subtitle may be cited as the "Audit Engagement Fund Act of 2020".

Sec. 1012. Audit Engagement Fund.

(a) There is established as a special fund the Audit Engagement Fund ("Fund"), which shall be administered by the Office of the District of Columbia Auditor in accordance with subsection (c) of this section.

(b) The following shall be deposited into the Fund:

(1) All unspent local fund monies remaining in the operating budget for the Office of the District of Columbia Auditor at the end of each fiscal year; and

(2) Any other funds received on behalf of the Fund or the Office of the District of Columbia Auditor for the purpose of performing audits.

(c) Money in the Fund shall be used for operating expenses related to performing audits.

(d)(1) The money deposited into the Fund but not expended in a fiscal year shall not revert to the unassigned fund balance of the General Fund of the District of Columbia at the end of a fiscal year or at any other time.

(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

SUBTITLE C. FREEZE ON PAY INCREASES AND BENEFITS

Sec. 1021. Short title.

This subtitle may be cited as the "Balanced Budget and Financial Plan Freeze on Salary Schedules, Benefits, and Cost-of-Living Adjustments Act of 2020".

Sec. 1022. Definitions.

For the purposes of this subtitle, the term:

(1) "CMPA" means the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*).

(2) "Covered agency" means an agency, office, or instrumentality of the District government and independent agencies, as defined in section 301(13) of the CMPA (D.C. Official Code § 1-603.01(13)); except, that the term "covered agency" does not include the District of Columbia Housing Authority, the District of Columbia Housing Finance Agency, the District of Columbia Public Charter School Board, the District of Columbia Water and Sewer Authority, the Not-for-Profit Hospital Corporation, the Board of Trustees of the University of the District of Columbia, or the Washington Convention and Sports Authority.

(3) "Negotiated salary schedule" means a salary schedule specified in a collective bargaining agreement.

(4) "Negotiated salary, wage, and benefits provision" means the salary and benefits provided in a collective bargaining agreement.

(5) "Personnel authority" shall have the same meaning as set forth in section 301(14) of the CMPA (D.C. Official Code § 1-603.01(14)).

Sec. 1023. Freeze on cost-of-living adjustments.

Notwithstanding any other provision of law, rule, or collective bargaining agreement, an employee of a covered agency shall not receive a cost-of-living adjustment during the period from October 1, 2020, through September 30, 2021. Nothing in this subtitle shall be construed to prohibit collective bargaining on non-compensation issues.

Sec. 1024. Maintenance of Fiscal Year 2020 salary schedules and benefits.

Notwithstanding any other provision of law, collective bargaining agreement, memorandum of understanding, side letter, or settlement, whether specifically outlined or incorporated by reference, all Fiscal Year 2020 salary schedules of covered agencies shall be maintained during Fiscal Year 2021 and no increase in salary or benefits, including increases in negotiated salary, wage, and benefits provisions, and negotiated salary schedules, shall be provided in Fiscal Year 2021 from the Fiscal Year 2020 salary and benefits levels of covered agencies.

Sec. 1025. Rules.

To the extent authorized by the CMPA or other applicable law to issue rules to administer the salary or benefits program of a covered agency, the personnel authority for a covered agency may, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), issue rules to implement this subtitle.

Sec. 1026. Revised revenue contingency.

Notwithstanding any other provision of law, a portion of the amount of local recurring revenues included in the Chief Financial Officer's revenue estimates issued prior to January 1, 2021, that exceeds the April 24, 2020, revenue estimate incorporated in the approved budget and financial plan for Fiscal Year 2021 shall be deposited in the Workforce Investment Account to satisfy the Fiscal Year 2021 negotiated salary adjustments set aside by section 1023 for employees in the bargaining units covered by the collective bargaining agreements approved pursuant to 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, effective March 3, 2020 (Res. 23-374; 67 DCR 2735), and the Compensation Collective Bargaining Agreement between the District of Columbia Government and Compensation Units 1 and 2, FY 2018-FY2021, Approval

Resolution of 2018, deemed approved February 23, 2018 (P.R. 22-738); provided, that if amounts certified in a single revenue estimate are insufficient to satisfy the combined value of the negotiated salary adjustments under both agreements, the Mayor or appropriate personnel authority shall consult with the affected bargaining units as to how the available funds shall be allocated.

SUBTITLE D. ADVISORY NEIGHBORHOOD COMMISSIONS TECHNICAL SUPPORT AND ASSISTANCE

Sec. 1031. Short title.

This subtitle may be cited as the "Advisory Neighborhood Commissions Technical Support and Assistance Amendment Act of 2020".

Sec. 1032. The Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-58; D.C. Official Code § 1-309.01 *et seq.*) is amended as follows:

(a) Section 16(j)(3)(A)(iii) (D.C. Code § 1-309.13(j)(3)(A)(iii)), is amended by striking the phrase "shall return to the District's General Fund" and inserting the phrase "shall be deposited in the Advisory Neighborhood Commissions Technical Support and Assistance Fund established in section 16a" in its place.

(b) A new section 16a is added to read as follows:

"Sec. 16a. Advisory Neighborhood Commissions Technical Support and Assistance Fund.

"(a) There is established as a special fund the Advisory Neighborhood Commissions Technical Support and Assistance Fund ("Fund"), which shall be administered by the Office of Advisory Neighborhood Commissions in accordance with subsection (c) of this section.

"(b) Money from the following sources shall be deposited in the Fund:

"(1) Such amounts as may be appropriated to the Fund; and

"(2) Any amounts allocated to Advisory Neighborhood Commissions pursuant to section 738(e) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 824; D.C. Code Official § 1-207.38(e)), that are forfeited pursuant to section 16(d)(3) or (j)(3) or unclaimed by the last day of the fiscal year.

"(c) Money in the Fund shall be used to provide the following services and supports at the request of Advisory Neighborhood Commissions subject to such limitations or prioritization as the Office may establish due to limitation of funding:

"(1) Planning, development, or procurement of a mobile or computer application to assist Advisory Neighborhood Commissioners with outreach and engagement with their constituents;

"(2) Supplementing any funding allocated for communications access services, including sign language interpretation, computer-aided real-time transcription, and other services and supports, for Advisory Neighborhood Commissions; provided, that the funding allocated for this purpose proves insufficient;

"(3) Ensuring that Advisory Neighborhood Commissions have access to remote meeting technologies necessary for their operations;

"(4) Providing or procuring audio-visual technology and services to support Advisory Neighborhood Commissions;

"(5) Providing or procuring printing services for Advisory Neighborhood Commissions; and

"(6) Providing or procuring website assistance for Advisory Neighborhood Commissions.

"(d)(1) The money deposited into the Fund but not expended in a fiscal year shall not revert to the unassigned fund balance of the General Fund of the District of Columbia at the end of a fiscal year or at any other time.

"(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.".

SUBTITLE E. RENEWABLE ENERGY FUTURE

Sec. 1041. Short title.

This subtitle may be cited as the "Renewable Energy Future Amendment Act of 2020".

Sec. 1042. The Department of General Services Establishment Act of 2011, effective September 14, 2011 (D.C. Law 19-21; D.C. Official Code § 10-551.01, *et seq.*), is amended as follows:

(a) Section 1026 (D.C. Code § 10-551.05) is amended as follows:

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

(A) Paragraph (8) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(B) Paragraph (9) is amended by striking the period and inserting a semicolon in its place.

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

"(10) Any study of the feasibility of initiating or expanding renewable energy generation, which shall include an analysis of the potential for capturing solar or other forms of renewable energy that is conducted pursuant to subsection (c-1) of this section.".

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

"(c-1) The Department shall produce and publish on its website an analysis of the feasibility of initiating or expanding renewable energy generation, including an analysis of the potential for capturing solar or other forms of renewable energy at each District-owned property under the control of the Mayor on a rolling basis, with each property re-analyzed no less than once every 10 years.".

(b) A new section 1028d is added to read as follows:

"Sec. 1028d. Renewable energy generation at District-owned properties.

"(a) Subject to the availability of funding, the Department shall initiate or expand renewable energy generation at every District-owned property under the control of the Mayor where doing so is found feasible by the analysis required by section 1026(c-1).

"(b) Notwithstanding the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*) ("CBE Act"), or any other provision of District law or regulation, any contract entered into to implement this section, absent a waiver pursuant to section 2351 of the CBE Act (D.C. Official Code § 2-218.51), shall:

"(1) Be awarded to a qualified small business enterprise; provided, that if the Department determines that there are not at least 2 qualified small business enterprises that can provide the services or goods that are the subject of the contract, the Department may use any qualified certified business enterprise; or

"(2) Require that at least 50% of the dollar volume of the contract shall be subcontracted to qualified small business enterprises; provided, that if there are insufficient qualified small business enterprises to meet the requirement and best efforts are made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work, then the subcontracting requirement may be satisfied by subcontracting 50% of the dollar volume to any qualified certified business enterprise.".

SUBTITLE F. DC CENTER FOR THE LGBT COMMUNITY GRANT

Sec. 1051. Short title.

This subtitle may be cited as the "The DC Center for the LGBT Community Support Act of 2020".

Sec. 1052. For Fiscal Year 2021, the Department of General Services shall award the DC Center for the LGBT Community a grant in the amount of $70,000 to sustain its operations while the organization anticipates an upcoming move.

SUBTITLE G. ACCESS TO JOBS

Sec. 1061. Short title.

This subtitle may be cited as the "Access to Jobs Amendment Act of 2020".

Sec. 1062. Section 3(b)(2) of the Office on Ex-Offender Affairs and the Commission on Re-Entry and Ex-Offender Affairs Establishment Act of 2006, effective March 8, 2007 (D.C. Law 16-243; D.C. Official Code § 24-1302(b)(2)), is amended by adding new subparagraph (L) to read as follows:

"(L) Establish and implement a pilot program to support the employment of 10 returning citizens through grants to employers for 2 years beginning in Fiscal Year 2021; provided, that:

"(i) To qualify for the pilot program, an eligible employer shall:

"(I) Register with the Office on Returning Citizen Affairs to accept applications for employment from eligible individuals;

"(II) Demonstrate that potential employees in the pilot program have opportunities for advancement within the eligible employer's organization or industry;

"(III) Hire one or more eligible individuals who meet the requirements of sub-subparagraph (ii) of this subparagraph;

"(IV) Be located within the District;

"(V) Pay each employed eligible individual at least the minimum wage required pursuant to the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1001 *et seq.*);

"(VI) Employ each eligible individual for a minimum of 20 hours per week for a minimum of 8 weeks;

"(VII) Submit an application; and

"(VIII) Provide documentation as required by the Office on Returning Citizen Affairs to substantiate the satisfaction of each requirement of the pilot program for the participating eligible employer and for each eligible individual employed.

"(ii) For an eligible employer to receive a grant for the employment of an eligible individual, the eligible individual must:

"(I) Have been previously incarcerated;

"(II) Be a resident of the District;

"(III) Have completed a workforce development and life skills program within the District; and

"(IV) Have been unemployed for a period of at least one month prior to being hired by the participating eligible employer.

"(iii) Grants offered through the pilot program shall be disbursed:

"(I) Initially, after an eligible employer has provided documentation substantiating that the eligible employer employed an eligible individual for a minimum of 20 hours per week for a minimum of 8 weeks;

"(II) Subsequent to the initial disbursement, at the end of each month that the eligible individual is employed pursuant to the requirements of the pilot program;

"(iv) The maximum amount of the grant disbursements offered through the pilot program to each participating eligible employer shall be:

"(I) For the first year that an eligible individual is employed by a participating eligible employer, 40% of the minimum wage for a period not to exceed 40 hours per week and 2,080 hours per year for each eligible individual hired under the pilot program; and

"(II) For the second year that an eligible individual is employed by the same participating eligible employer, 80% of the minimum wage for a period

not to exceed 40 hours per week and 2,080 hours per year for each eligible individual hired under the pilot program.

"(v)(I) The total amount of funding expended through the pilot program shall not exceed the amount budgeted for the pilot program.

"(II) Eligible employers shall receive funding in the order that they successfully provide the documentation required pursuant to sub-subparagraph (i)(VII) of this subparagraph for the employment of an eligible individual.

"(III) For each eligible individual for whom documentation successfully has been submitted, an amount of funds shall be set aside such that the eligible employer may be reimbursed for the employment of an eligible individual for a period no shorter than the remainder of the fiscal year during which the documentation was submitted, and the remainder of the assistance shall be subject to the availability of funding.".

SUBTITLE H. PARALEGAL PROGRAM ESTABLISHMENT

Sec. 1071. Short title.

This subtitle may be cited as the "Returning Citizen Paralegal Fellowship Initiative Pilot Program Amendment Act of 2020".

Sec. 1072. Section 3(b)(2) of the Office on Ex-Offender Affairs and the Commission on Re-Entry and Ex-Offender Affairs Establishment Act of 2006, effective March 8, 2007 (D.C. Law 16-243; D.C. Official Code § 24-1302(b)(2)), is amended by adding a new subparagraph (M) to read as follows:

"(M) Conduct a Paralegal Fellowship Initiative pilot program that places a cohort of returning citizen students in an accredited, university-based paralegal certification program located in the District of Columbia, while providing the students with support services necessary for their success.".

SUBTITLE I. NON-PROFIT FAIRNESS ANALYSIS

Sec. 1081. Short title.

This subtitle may be cited as the "Non-Profit Reimbursement Fairness Analysis Amendment Act of 2020".

Sec. 1082. Section 204(b) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.04(b)), is amended as follows:

(a) Paragraph (15) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(b) Paragraph (16) is amended by striking the period and inserting the phrase "; and" in its place.

(c) A new paragraph (17) is added to read as follows:

"(17) To issue a report to the Mayor and the Council by April 1, 2021, that includes:

"(A) A review and analysis of the funding of indirect costs in the terms of grant agreements or contracts entered into between nonprofit organizations and the District government;

"(B) A table listing the federal funding associated with contracts or grants passed through to nonprofit organizations by the District government in Fiscal Year 2020, including any funding passed through to nonprofit organizations to meet their indirect costs and any funding retained by the District rather than being passed through for this purpose; and

"(C) Any recommended amendments to law, regulations, policy, or training in order to ensure the legal, fair, and consistent funding of indirect costs to nonprofit organizations by the District.".

SUBTITLE J. INDIGENOUS PEOPLES' DAY

Sec. 1091. Short title.

This subtitle may be cited as the "Indigenous Peoples' Day Amendment Act of 2020".

Sec. 1092. Section 1202(a)(7) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-612.02(a)(7)), is amended by striking the phrase "Columbus Day" and inserting the phrase "Indigenous Peoples' Day" in its place.

Sec. 1093. Section 25-723(c)(1)(B) of the District of Columbia Official Code is amended by striking the phrase "Columbus Day" and inserting the phrase "Indigenous Peoples' Day" in its place.

Sec. 1094. Section 28-2701 of the District of Columbia Official Code is amended by striking the phrase "Columbus Day" and inserting the phrase "Indigenous Peoples' Day" in its place.

SUBTITLE K. CAMPAIGN FINANCE REFORM IMPLEMENTATION

Sec. 1101. Short title.

This subtitle may be cited as the "Campaign Finance Reform Implementation Amendment Act of 2020".

Sec. 1102. Section 1108(c-1) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.08(c-1)), is amended as follows:

(a) Paragraph (9) is amended by striking the semicolon and inserting the phrase "; and" in its place.

(b) Paragraph (10) is amended by striking the phrase "; and" and inserting a period in its place.

(c) Paragraph (11) is repealed.

Sec. 1103. The Campaign Finance Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.01 *et seq.*), is amended as follows:

(a) Section 302a(h) (D.C. Official Code § 1-1163.02a(h)) is amended to read as follows:

"(h) Members of the Campaign Finance Board, including the Chairperson, shall not receive compensation for their service on the Campaign Finance Board.".

(b) Section 309(b) (D.C. Official Code § 1-1163.09(b)) is amended to read as follows:

"(b) The reports required by subsection (a) of this section shall be filed on the 10th day of March, June, August, October, and December in the 7 months preceding the date on which, and in each year during which, an election is held for the office sought, and 8 days before a special or general election, and also by the 31st day of January each year. In addition, the reports shall be filed on the 31st day of July of each year in which there is no election. The reports shall be complete as of the date prescribed by the Director of Campaign Finance, which shall not be more than 5 days before the date of filing, except that any contribution of $200 or more received after the closing date prescribed by the Director of Campaign Finance for the last report required to be filled before the election shall be reported within 24 hours after its receipt.".

Sec. 1104. Section 10 of the Campaign Finance Reform Amendment Act of 2018, effective March 13, 2019 (D.C. Law 22-250; 66 DCR 985), is amended to read as follows:

"Sec. 10. Applicability.

"(a) Sections 6(b)(4), (8), and (22), and (pp), 8, and 9:

"(1)(A) Shall apply upon the date of inclusion of their fiscal effect in an approved budget and financial plan.

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

"(C)(i) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

"(ii) The date of publication of the notice of the certification shall not affect the applicability of sections 6(b)(4), (8), and (22), and (pp), 8, and 9.

"(2) Shall not apply to contracts, as defined in section 101(10C)(A)(ii) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(10C)(A)(ii)), including those contracts' option periods or similar contract

extensions or modifications, sought, entered into, or executed before the applicability date of sections 6(b)(4), (8), and (22), and (pp), 8, and 9.

"(b)(1) Notwithstanding any other law, the functions and duties transferred to the Campaign Finance Board pursuant to this act shall continue to be implemented by the Elections Board or the Director of Campaign Finance, as applicable, until the date that the Campaign Finance Board has a quorum of members.

"(2) All rules, orders, obligations, determinations, grants, contracts, licenses, and agreements of the Board of Elections transferred to the Campaign Finance Board under this act shall continue in effect according to their terms until lawfully amended, repealed, or modified.".

TITLE II. ECONOMIC DEVELOPMENT AND REGULATION

SUBTITLE A. BUSINESS RECOVERY TASK FORCE ESTABLISHMENT

Sec. 2001. Short title.

This subtitle may be cited as the "Business Recovery Task Force Establishment Act of 2020".

Sec. 2002. There is established the Business Recovery Task Force ("Task Force") to provide recommendations to the Mayor and Council regarding the recovery of the District's businesses following the end of the COVID-19 emergency.

Sec. 2003. Membership; appointment; staff; meetings.

(a) The Task Force shall be composed of:

(1) The following government members, or their designees:

(A) The Deputy Mayor for Planning and Economic Development;

(B) The Director of the Department of Small and Local Business Development ("Department"); and

(C) The Chairperson of the Council's Committee on Business and Economic Development; and

(2) Eight representatives of business enterprises, one from each Ward, all of whom shall be District residents, who collectively represent industries and geographical areas hardest hit by the COVID-19 emergency, with at least one representative being an owner of an equity impact enterprise as defined by section 2302(8A) of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(8A)) ("CBE Act").

(b) The business representatives shall be appointed by the Chairman of the Council after receiving recommendations made by the Chairperson of the Council Committee on Business and Economic Development and shall serve without compensation.

(c) The Chairperson of the Task Force shall be designated by the Chairperson of the Council's Committee on Business and Economic Development from among the business representatives.

(d) The Department shall provide administrative support for the Task Force.

(e) If, when all the members have been appointed and the Task Force is functioning, the COVID-19 emergency is still in effect, the Task Force shall convene monthly. After the COVID-19 emergency has been lifted, the Task Force shall meet not less frequently than quarterly until dissolved.

Sec. 2004. Reporting requirement.

Within 180 days after the appointment of the appointed members, the Task Force shall submit a report to the Mayor and the Council that addresses the following:

(1) Recommendations to identify and access available technical and financial assistance opportunities, including the Small Business Administration Disaster Relief funds and other federal funds as they become available;

(2) Support for outreach and educational efforts to small businesses; and

(3) Long-term policy recommendations for economic recovery of small businesses following the COVID-19 emergency.

Sec. 2005. Definitions.

For the purposes of this subtitle, term:

(1) "COVID-19 emergency" means the public health emergencies declared in the Declaration of Public Emergency (Mayor's Order 2020-045) together with the Declaration of Public Health Emergency (Mayor's Order 2020-046), declared on March 11, 2020, including any extension of those declared emergencies.

(2) "Small business enterprise" shall have the same meaning as provided in 2302(16) of the CBE Act (D.C. Official Code § 2-218.02(16)).

Sec. 2006. Sunset.

The Task Force shall dissolve, and this subtitle shall expire as of the date the Task Force submits the report required by section 2004.

SUBTITLE B. NEW YORK AVENUE, N.E., RETAIL PRIORITY AREA EXPANSION

Sec. 2011. Short title.

This subtitle may be cited as the "New York Avenue, N.E., Retail Priority Area Expansion Amendment Act of 2020".

Sec. 2012. Section 4(k) of the Retail Incentive Act of 2004, effective September 8, 2004 (D.C. Law 15-185; D.C. Official Code § 2-1217.73(k)), is amended by adding a new paragraph (3) to read as follows:

"(3) In addition to the areas described in paragraphs (1) and (2) of this subsection, the New York Avenue, N.E., Retail Priority Area shall consist of the area beginning at the intersection of Montello Avenue, N.E., and Florida Avenue, N.E., continuing northeast along Montello Avenue, N.E., until Mt. Olivet Road, N.E.".

SUBTITLE C. OPPORTUNITY ZONE TAX BENEFITS

Sec. 2021. Short title.

This subtitle may be cited as the "Aligning Opportunity Zone Tax Benefits with DC Community Priorities Amendment Act of 2020".

Sec. 2022. Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-1801.04 is amended by adding new paragraphs (39A), (39B), (39C), and (39D) to read as follows:

"(39A) "Qualified opportunity fund" shall have the same meaning as set forth in section 1400Z-2 of the Internal Revenue Code of 1986, approved December 22, 2017 (131 Stat. 2184; 26 U.S.C. § 1400Z-2) ("section 1400Z-2").

"(39B) "Qualified opportunity zone" shall have the same meaning as set forth in section 1400Z-2.

"(39C) "Qualified opportunity zone business" shall have the same meaning as set forth in section 1400Z-2.

"(39D) "Qualified opportunity zone business property" shall have the same meaning as set forth in section 1400Z-2.".

(b) Section 47-1803.03(a) is amended by adding a new paragraph (20) to read as follows:

"(20) Capital Gains. --

"(A) Deferral of a capital gains tax payment for investing in a qualified opportunity fund ("QOF") shall be realized only if the taxpayer invests in a QOF that meets the criteria set forth in subparagraph (D) of this paragraph;

"(B) Reduction of capital gains tax liability through a 10% step-up in basis, if invested in a QOF for 5 years prior to December 31, 2026, and an additional 5% step-up in basis, if invested in a QOF for 7 years prior to December 31, 2026, shall be realized only if the taxpayer invests in a QOF that meets the criteria set forth in subparagraph (D) of this paragraph;

"(C) Abatement of capital gains tax on an investment of capital gains in a QOF for at least 10 years before December 31, 2047, shall be realized only if the taxpayer invests in a QOF that meets the criteria set forth in subparagraph (D) of this paragraph;

"(D) To receive the benefits described in subparagraphs (A), (B), and (C) of this paragraph, the taxpayer shall:

"(i) Invest in a QOF that:

"(I) Is certified by the Mayor as an eligible QOF pursuant to subparagraph (E) of this paragraph;

"(II) Has invested at least the value of the taxpayer's investment in the QOF in a qualified opportunity zone in the District; and

"(III) Has submitted its IRS Form 8996 to the Office of Tax and Revenue for the tax year in which the taxpayer is seeking the benefits described in subparagraphs (A), (B), and (C) of this paragraph; and

"(ii) Submit an IRS Form 8997 to the Office of Tax and Revenue for the tax year in which the taxpayer is seeking the benefits described in subparagraphs (A), (B), and (C) of this paragraph.

"(E) To be certified by the Mayor as an eligible QOF, a QOF shall submit to the Mayor documentation showing:

"(i) That some or all of its investments in qualified opportunity zone businesses and qualified opportunity zone business property are in businesses or property that:

"(I) Have been selected by the District government for a grant, loan, tax incentive, tax abatement, or other benefit or incentive intended to promote economic or community development in the District;

"(II) Have been selected by the Office of the Deputy Mayor for Planning and Economic Development to manage the redevelopment of a property, with respect to a business, or that are owned or disposed of by the District government, with respect to a property;

"(III) Have an unconditioned resolution of support from the Advisory Neighborhood Commission in which the business or property is located or a conditional resolution of support from the Advisory Neighborhood Commission in which the business or property is located and the Mayor determines that each of the conditions of the resolution have been met; or

"(IV) Are located in the District and have been scored by the QOF using the Urban Institute's Opportunity Zone Community Impact Assessment Tool, or other assessment tool approved by the Mayor, and received a score of 75 (or its equivalent) or greater; and

"(ii) That the dollar amount of the investments that the QOF has made in qualified opportunity zone businesses and qualified opportunity zone business property meets the standards set forth in sub-subparagraph (i) of this subparagraph.".

SUBTITLE D. STREETSCAPE BUSINESS DEVELOPMENT RELIEF

Sec. 2031. Short title.

This subtitle may be cited as the "Streetscape Business Development Relief Fund Expansion Amendment Act of 2020".

Sec. 2032. Section 603 of the Streetscape Fund Amendment Act of 2010, effective April 8, 2011 (D.C. Law 18-370; D.C. Official Code § 1-325.191), is amended as follows:

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

(1) Strike the phrase "to any individual" and insert the phrase "to a District Main Streets Program organization or individual" in its place.

(2) Strike the phrase "business inside or adjoining" and insert the phrase "business within the project boundaries of or adjoining" in its place.

(3) Strike the phrase "grant, a retail business" and insert the phrase "grant, a District Main Streets Program organization or individual or entity operating a retail business" in its place.

(4) Strike the phrase "submitted by the retail" and insert the phrase "submitted by the District Main Street Program organization or individual or entity operating a retail" in its place.

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

"(e) Within 180 days of the end of the Fiscal Year 2020, and every year thereafter, the Department of Small and Local Business Development shall submit a report to the Council detailing all loans, grants, and sub-grants issued pursuant to this section, including information on the dollar amount disbursed, recipients of financial assistance, and whether the recipient is a certified business enterprise.".

SUBTITLE E. EQUITY IMPACT ENTERPRISE ESTABLISHMENT

Sec. 2041. Short title.

This subtitle may be cited as the "Equity Impact Enterprise Establishment Amendment Act of 2020".

Sec. 2042. The Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*), is amended as follows:

(a) The table of contents is amended by adding a new part D-i to read as follows:

"Part D-i. Programs for equity impact enterprises.

"Sec. 2377. Equity impact enterprise.".

(b) Section 2302 (D.C. Official Code § 2-218.02) is amended by adding a new paragraph (8A) to read as follows:

"(8A) "Equity impact enterprise" means a business enterprise that is a resident-owned business and a small business enterprise that can demonstrate that it is at least 51% owned by an individual who is, or a majority number of individuals who are:

"(A) Economically disadvantaged individuals; or

"(B) Individuals who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.".

(c) Section 2343(a) (D.C. Official Code § 2-218.43(a)) is amended as follows:

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

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

(B) Subparagraph (H) is amended by striking the period and inserting the phase "; and" in its place.

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

"(I) Five points for an equity impact enterprise.".

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

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

(B) Subparagraph (H) is amended by striking the period and inserting the phase "; and" in its place.

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

"(I) Ten percent for an equity impact enterprise.".

(d) Section 2347 (D.C. Official Code § 2-218.47) is amended to read as follows:

"Sec. 2347. Unbundling requirement; rulemaking requirement.

"(a)(1) No later than January 1, 2021, the Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules on unbundling that include procedures to ensure that solicitations are subdivided and unbundled and that smaller contracts are created to the extent feasible and fiscally prudent.

"(2) The proposed rules required by paragraph (1) of this subsection shall be submitted to the Council for a 30-day period of review, excluding days of Council recess. If the Council does not approve or disapprove the proposed rules by resolution within the 30-day review period, the proposed rules shall be deemed approved.

"(b) Beginning on January 1, 2021, and quarterly thereafter, the Department shall publicly make available on its website solicitations that have been subdivided and unbundled.

"(c) Five years from the effective date of the Equity Impact Enterprise Establishment Amendment Act of 2020, passed on 2nd reading on July 28, 2020 (Enrolled version of Bill 23-760), the Mayor shall evaluate the effectiveness of the equity impact enterprise program and whether or not it has resulted in creating more contracting opportunities for equity impact enterprises and submit the evaluation to the Council.

"(d) The Department shall provide targeted technical assistance, networking opportunities, and vendor workshops to prepare equity impact enterprises to compete for contracting and procurement opportunities.".

(e) Section 2349(b) (D.C. Official Code § 2-218.49(b)) is amended to read as follows:

"(b) No later than October 1, 2020, the Mayor shall implement a pilot program for equity impact enterprises.".

(f) Section 2375(d)(1) (D.C. Official Code § 2-218.75(d)(1)) is amended by striking the phrase "or a resident-owned business enterprises pursuant to section 2235" and inserting the phrase "a resident-owned business enterprise pursuant to section 2235, or an equity impact enterprise as defined in section 2302(8A)" in its place.

(g) A new Part D-i is added to read as follows:

"Part D-i. Programs for Equity impact enterprises.

"Sec. 2377. Equity impact enterprise.

"An equity impact enterprise, as defined in section 2302(8A), shall be eligible for certification as an impact enterprise.".

Sec. 2043. Section 2 of the Minority and Women-Owned Business Assessment Act of 2008, effective March 26, 2008 (D.C. Law 17-136; D.C. Official Code § 2-214.01), is amended as follows:

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

(1) Paragraph (2) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(2) Paragraph (3) is amended by striking the period and inserting the phrase "; and" in its place.

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

"(4) Ensure all District agencies with procurement authority, including independent agencies, are trained to evaluate, collect, and accurately track spending data as well as demographic data such as race and gender, upon request of District contract and procurement awardees, to better assess the District utilization of equity impact enterprises, minority-owned prime contractors and subcontractors, and women-owned prime contractors and subcontractors.".

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

(1) The lead-in language of paragraph (1) is amended to read as follows:

"In Fiscal Year 2021, the Mayor shall contract with a person or entity to conduct a District-based study ("disparity study") to:".

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

"(1A) All agencies with procurement authority, including independent agencies, shall coordinate with the Executive Office of the Mayor to provide timely and accurate information to assist with the completion of the disparity study.".

(3) Paragraph (2) is amended by striking the phrase "270 days after October 30, 2018" and inserting the phrase "450 days after October 30, 2020" in its place.

SUBTITLE F. DMPED LIMITED GRANT-MAKING AUTHORITY

Sec. 2051. Short title.

This subtitle may be cited as the "Deputy Mayor for Planning and Economic Development Limited Grant Making Authority Amendment Act of 2020".

Sec. 2052. Section 2032 of the Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Act of 2012, effective September 12, 2012 (D.C. Law 19-168; D.C. Official Code § 1-328.04), is amended as follows:

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

(1) Paragraph (2) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(2) Paragraph (3) is amended by striking the period and inserting a semicolon in its place.

(3) New paragraphs (4), (5), and (6) are added to read as follows:

"(4)(A) Funds to equity impact enterprises operating in Ward 5, 7, or 8 to increase economic or community development in an underserved area of the District;

"(B) For the purposes of this paragraph, the term "equity impact enterprise" shall have the same meaning as set forth in section 2302(8A) of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(8A));

"(5) Funds to provide real property tax rebates pursuant to D.C. Official Code § 47-4665, in amount not to exceed $3 million in a fiscal year; except, that in Fiscal Year 2021, the amount shall not exceed $580,366;

"(6) Beginning in Fiscal Year 2021 and annually thereafter, the Deputy Mayor shall award a grant of not less than $200,000 to an organization that advances equitable economic development by facilitating and increasing the number of procurement contracts for products and services between District-based businesses and large-scale anchor institutions, such as universities and hospitals.".

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

"(i)(1) Notwithstanding section 1094 of the Grant Administration Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code § 1-328.13), in Fiscal Year 2021, the Deputy Mayor shall award a grant to a bank chartered under the laws of the District on or before March 11, 2020, in an amount of at least $1 million for purposes that:

"(A) Support an equitable economic recovery for the District of Columbia; and

"(B) Increase access to loans, grants, financial services, and banking products to District residents, businesses, nonprofits, and community-based organizations.

"(2) A grantee who receives a grant pursuant to paragraph (1) of this subsection shall submit to the Deputy Mayor by September 30, 2021, information on the use of the grant funds, including:

"(A) A description of services provided through the grant funds;

"(B) The aggregate number of individuals, businesses, nonprofits, and community-based organization, by recipient type, receiving support from the grantee and the aggregate amount received, by recipient type;

"(C) Except as may be prohibited by federal law, the business name and address for each business receiving support from the grantee and the amount received by each such business; and

"(D) The number of homeowners receiving support from the grantee and the total amount spent to assist District homeowners.

"(3) The Deputy Mayor shall provide to the Council a report based on the information required by paragraph (2) of this subsection, along with a summary analysis of the efficacy and benefits of the grants issued by the grantee, by November 1, 2021.".

Sec. 2053. Section 47-4665 of the District of Columbia Official Code is amended as follows:

(a) The lead-in language of subsection (b) is amended by striking the phrase "shall receive," and inserting the phrase "may receive" in its place.

(b) The lead-in language of subsection (c)(1) is amended by striking the phrase "shall be equal" and inserting the phrase "shall be equal, subject to the availability of funds," in its place.

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

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

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

"(2) Notwithstanding paragraph (1) of this subsection, the total combined rebate payments for Fiscal Year 2021 for all occupants under this section shall not exceed $580,366.".

SUBTITLE G. TAX ABATEMENTS FOR AFFORDABLE HOUSING

Sec. 2061. Short title.

This subtitle may be cited as the "Tax Abatements for Affordable Housing in High-Need Areas Amendment Act of 2020".

Sec. 2062. Chapter 8 of Title 47 of the District of Columbia Official Code is amended as follows:

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

"47-860. Tax abatement for affordable housing in high-need affordable housing areas.".

(b) A new section 47-860 is added to read as follows:

"§ 47-860. Tax abatement for affordable housing in high-need affordable housing areas.

"(a) Real property tax imposed by § 47-811 on real property certified as eligible pursuant to subsection (d) of this section shall be abated for the period set forth in subsection (c) of this section; provided, that:

"(1) The real property is located in a high-need affordable housing area;

"(2) The real property is designated by the Mayor pursuant to subsection (b) of this section;

"(3) For the duration of the period set forth in subsection (c) of this section, at least one third of the housing units developed or redeveloped on the real property are affordable to and rented by households earning on average 80% or less of the median family income; provided, that during such period no such household earn more than 100% of the median family income;

"(4) The developer files a covenant in the land records of the District, binding on the developer and all of its successors in interest with respect to the property, covenanting to comply with the requirements of paragraph (3) of this subsection;

"(5) The developer enters into an agreement with the District that requires the developer to, at a minimum, contract with certified business enterprises for at least 35% of the contract dollar volume of the construction and operations of the project, in accordance with section 2346 of the CBE Act (D.C. Official Code § 2-218.46);

"(6) The developer enters into a First Source Agreement for the operations of the project; and

"(7) The developer enters into an agreement with the Mayor setting forth the requirements of this subsection and such other terms and conditions as the Mayor considers appropriate.

"(b) The Mayor may, through a competitive process, designate real property to be eligible to receive a tax abatement under this section; provided, that the total amount of the tax abatements associated with real property designated by the Mayor pursuant to this subsection shall not exceed $200,000 in Fiscal Year 2024 and shall not exceed $4 million annually thereafter.

"(c) The tax abatement provided for by this section shall begin in the tax year immediately following the tax year during which the certificate of occupancy was issued for the final housing unit counted toward satisfying the affordability requirement of subsection (a)(3) of this section and shall continue until the end of the 30th tax year after the tax year during which such certificate of occupancy is issued; provided, that the Mayor may opt to continue the tax abatement provided for by this section until the end of the 40th tax year after the tax year during which such certificate of occupancy is issued; provided further, that the tax abatement provided for by this section shall not begin before October 1, 2023.

"(d)(1) The Mayor shall certify to the Office of Tax and Revenue a real property's eligibility for the abatement provided by this section. The Mayor's certification shall include:

"(A) A description of the real property by street address, square, suffix, and lot;

"(B) The date the certificate of occupancy was issued for the final housing unit counted toward satisfying the affordability requirements of subsection (a)(3) of this section;

"(C) The date the tax abatement begins and ends under subsection (c) of this section;

"(D) A statement that the conditions specified in subsection (a) of this section have been satisfied; and

"(E) The amount of abatement allocated to the property pursuant to subsection (b) of this section; and

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

"(2) If at any time the Mayor determines that the real property has become ineligible for the abatement provided by this section, the Mayor shall notify the Office of Tax and Revenue and shall specify the date that the property became ineligible. The entire property shall be ineligible for the abatement on the first day of the tax year following the date when the ineligibility occurred.

"(e) The tax abatement provided by this section shall be in addition to, not in lieu of, any other tax relief or assistance from any other source.

"(f) The requirements of the First Source Act shall not apply to the construction or development of a project developed on real property designated by the Mayor pursuant to subsection (b) of this section.

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

"(1) "CBE Act" means the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*).

"(2) "Certified business enterprise" means a business enterprise or joint venture certified pursuant to the CBE Act.

"(3) "Developer" means the owner of housing units on real property eligible for a tax abatement under this section.

"(4) "First Source Act" means the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.01 *et seq.*).

"(5) "First Source Agreement" means an agreement with the District governing certain obligations of the Developer pursuant to section 4 of the First Source Act (D.C. Official Code § 2-219.03), and Mayor's Order 83-265, dated November 9, 1983, regarding job creation and employment.

"(6) "High-need affordable housing area" means the 4 planning areas identified in the District's Housing Equity Report, published in October 2019, with the highest dedicated affordable housing production goals (Rock Creek West, Rock Creek East, Capitol Hill, and Upper Northeast), plus 1,000 feet in any direction beyond any of those 4 planning area boundaries.

"(7) "Median Family Income" has the meaning set forth in section 101(5) of the Inclusionary Zoning Implementation Amendment Act of 2006, effective September 23, 2017 (D.C. Law 16-275; D.C. Official Code § 6-1041.01(5)).".

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

SUBTITLE H. HEALTHCARE WORKFORCE PARTNERSHIP

Sec. 2071. Short title.

This subtitle may be cited as the "Healthcare Workforce Partnership Establishment Act of 2020".

Sec. 2072. Definitions.

(1) "HWI grant" means the grant awarded to the Intermediary pursuant to section 2073.

(2) "Intermediary" means the entity selected to be the Healthcare Workforce Intermediary pursuant to section 2073.

(3) "Partnership" means the Healthcare Workforce Partnership established pursuant to section 2075.

(4) "Training" means occupational skills training for occupations in the healthcare sector.

(5) "WIC" means the Workforce Investment Council.

(6) "WIOA" means the Workforce Innovation and Opportunity Act, approved July 22, 2014 (128 Stat. 1425; 29 U.S.C. § 3101 *et seq.*).

Sec. 2073. Establishment of a Healthcare Workforce Intermediary.

(a)(1) By December 1, 2020, the WIC shall select, through award of a grant, the Healthcare Workforce Intermediary to establish, convene, and assist the Healthcare Workforce Partnership.

(2) Consistent with Grant Administration Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code § 1-328.11 *et seq.*), the WIC shall issue multi-year grants for a period of 4 years, subject to the availability of funds.

(b) The entity selected to be the Intermediary shall:

(1) Be a nonprofit organization, industry association, or community-based organization;

(2) Have a proven track record of success convening healthcare sector employers or have a significant role in the healthcare sector;

(3) Have existing relationships with training providers; and

(4) Have a proven track record of successful fundraising.

(c) Over the course of the HWI grant, the WIC shall:

(1) Provide technical assistance to the Partnership through the Intermediary, which may include:

(A) Assisting the Partnership in obtaining data and information from District agencies;

(B) Providing the Partnership with customized labor market and economic analysis;

(C) Providing the Partnership with education and guidance on WIOA; and

(D) Providing the Partnership with information on the number of District residents that training providers have the capacity to train in healthcare occupations;

(2) Submit to the Partnership for feedback the proposed statement of work for any grant solicitation for the provision of training at least 30 days before issuing the request for proposals; and

(3) Use the Partnership's Healthcare Occupations Reports to align District government funded workforce development training with current and future healthcare sector hiring needs in the District.

Sec. 2074. Intermediary duties.

The Intermediary shall:

(1) By July 1, 2021:

(A) Appoint members to the Partnership consistent with the criteria specified in section 2075(b)(3);

(B) Convene at least 4 Partnership meetings;

(C) Compose and transmit to the WIC the Partnership's first Healthcare Occupations Report, as described in section 2075(e);

(2) For the duration of the grant:

(A) Provide administrative support to the Partnership;

(B) Convene Partnership meetings at least quarterly;

(C) Compile and transmit to the WIC feedback from the Partnership on any statement of work for a proposed grant solicitation for the provision of training no more than 15 days after receiving the statement of work pursuant to section 2073(d)(2);

(D) Work with the Partnership to coordinate and ensure provision of career coaching, screening and referral services, practice interviews, and job fairs for healthcare sector employment for qualified District training graduates;

(E) Facilitate requests for professional development and learning opportunities for training providers and training participants at healthcare facilities;

(F) Annually, compose and transmit the Partnership's Healthcare Occupations Report, as described in section 2075(e); and

(G) Perform additional duties on behalf of the Partnership consistent with the purposes of this subtitle and as funds permit; and

(3) During the fourth year of the HWI grant, raise private funds equal to the value of the HWI grant for that year, which the Intermediary shall reserve for use until after the expiration of the HWI grant in order to sustain the Partnership without dedicated District government funding.

Sec. 2075. Healthcare Workforce Partnership.

(a) The Intermediary shall establish the Healthcare Workforce Partnership, which shall work to increase the number of District residents employed in the healthcare sector and to meet

the staffing needs of District healthcare employers, particularly of hospitals that receive District government funds.

(b)(1) The Director of the WIC, or the Director's designee, shall serve as a member of the Partnership.

(2) The Intermediary shall serve as a member of the Partnership and shall appoint community members in consultation with the WIC.

(3) Community members, the majority of which shall be healthcare sector employers, shall consist of the following:

(A) At least 5 employer representatives of the District's healthcare sector, which shall represent a variety of healthcare disciplines;

(B) At least one representative of a healthcare industry trade association;

(C) At least one representative from a labor organization that represents healthcare workers;

(D) At least one representative from a nonprofit organization that offers training programs; and

(E) At least one representative from an adult education integrated education and training program, as defined in 34 C.F.R. § 463.35, in the healthcare sector.

(c) Community members shall serve for the duration of the HWI grant and may be reappointed.

(d) The Partnership shall meet at least once each quarter for the duration of the HWI grant.

(e) No later than July 1, 2021, and annually thereafter in advance of the start of a new fiscal year, the Partnership shall submit to the WIC, through the Intermediary, its Healthcare Occupations Report, which shall contain the following:

(1) Recommendations of 3 to 5 healthcare occupations requiring less than a bachelor's degree, which may include occupations for which incumbent workers may be upskilled, in which the District should invest in training;

(2) A summary of the occupational hiring needs of hospitals receiving or committed to receive District government funds, including an estimate of the number of workers needed, disaggregated by healthcare occupation;

(3) A recommendation of the number of District residents the WIC should train in the occupations identified pursuant to paragraph (1) of this subsection;

(4) A list of occupational skills required to obtain employment in the occupations identified pursuant to paragraph (1) of this subsection;

(5) Recommendations of curricula for training in the occupations identified pursuant to paragraph (1) of this subsection;

(6) An explanation of the feasibility of providing virtual training or distance learning, and recommendations to implement virtual training;

(7) Customized healthcare career pathway maps for the occupations identified pursuant to paragraph (1) of this subsection;

(8) Recommendations of strategies and tactics to increase the capacity of training providers to train District residents; and

(9) Recommendations to attract District residents to, and retain District residents in, the occupations identified pursuant to paragraph (1) of this subsection, including necessary tactics to increase candidates' hard and soft skills and to reduce barriers to employment.

Sec. 2076. Establishment of a healthcare training program.

(a) By September 1, 2021, the WIC shall establish a healthcare training program ("program") to fund or arrange for training of District residents in a minimum of 2 healthcare occupations identified in the Partnership's first Healthcare Occupations Report, issued pursuant to section 2075(e), which may include one occupation for upskilling of incumbent workers.

(b) To provide training, the WIC may:

(1) Issue healthcare training grants ("grants") to train providers, pursuant to section 4(c) of the Workforce Investment Implementation Act of 2000, effective July 18, 2000 (D.C. Law 13-150; D.C. Official Code § 32-1603(c)); or

(2) Partner with the University of the District of Columbia Community College or Office of the State Superintendent of Education.

(c)(1) If the program includes a grant, subject to availability of funds, each grant shall be for not less than $100,000 per year for 3 years to provide training for District residents.

(2) To be eligible for a grant, a grantee shall:

(A) Be licensed by the Higher Education Licensure Commission as a post-secondary institution, degree or non-degree seeking;

(B) Agree to utilize the training curricula recommended by the Partnership pursuant to section 2075(e)(5); and

(C) Demonstrate consistent successful attainment of the following benchmarks for its training participants:

(i) Completion of training;

(ii) Credential attainment;

(iii) Unsubsidized employment in the occupation of training; and

(iv) Retention of employment for 6 months or longer in the occupation of training.

(3) Preference shall be given to grant applicants utilizing an integrated education and training model, as defined 34 C.F.R. § 463.35.

(d)(1) The WIC shall utilize WIOA common performance measures to track program performance.

(2) The WIC shall report on the performance of the program as required by section 102 of the Workforce Development System Transparency Amendment Act of 2018, effective May 5, 2018 (D.C. Law 22-95; D.C. Official Code § 32-1622).

(e) The WIC shall make its best effort to use WIOA Title I funds to issue any grants authorized in this section.

Sec. 2077. Monitoring and evaluation.

By August 1, 2021, and annually thereafter, the WIC shall transmit to the Mayor and the Council the Healthcare Occupation Report developed by the Partnership pursuant to section 2075(e).

SUBTITLE I. DC INFRASTRUCTURE ACADEMY EMPLOYER ENGAGEMENT

Sec. 2081. Short title.

This subtitle may be cited as the "DC Infrastructure Academy Employer Engagement Amendment Act of 2020".

Sec. 2082. The Youth Employment Act of 1979, effective January 5, 1980 (D.C. Law 3-46; D.C. Official Code § 32-241 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 32-241) is amended as follows:

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

"(1A) "Committees" means the Industry Advisory Committees established pursuant to section 2f.".

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

"(2A) "DCIA" means the DC Infrastructure Academy established by the Mayor.".

(b) Section 2a(a-2) (D.C. Official Code § 32-242(a-2)) is repealed.

(c) New sections 2e and 2f are added to read as follows:

"Sec. 2e. DC Infrastructure Academy.

"(a) In addition to duties the Mayor prescribes, the DCIA shall:

"(1) Provide occupational skills training ("skills training") annually in industries for which there is significant demand regionally or by a major employer, including construction, infrastructure, and information technology;

"(2) Provide occupational skills training designed to meet the needs of employers by:

"(A) Aligning skills training, where appropriate, with the annual recommendations the committees submit to the DCIA pursuant to section 2f(c);

"(B)(i) Submitting a proposed curriculum, at least 30 calendar days prior to the start of any skills training taught by DCIA staff, to the relevant committee for its feedback; and

"(ii) Taking into consideration any feedback from a committee when implementing any skills trainings taught by DCIA staff;

"(C)(i) Submitting to the relevant committee, at least 30 calendar days before soliciting applications or bids on a grant or contract to provide skills training, a request that the committee review a grant or contract solicitation's proposed scope of work; and

"(ii) Considering any feedback received from a committee when preparing statements of work for grants and contracts to provide skills training; and

"(D) For any customized skills training provided specifically for a particular employer, seeking input from the employer consistent with the requirements outlined in subparagraphs (B) and (C) of this paragraph;

"(3) Provide test preparation sessions and practice exams to ready participants to obtain the occupational credentials the committees identify in their annual reports pursuant to section 2f(c)(4); and

"(4) Provide job referrals, as defined in 20 C.F.R. § 651.10, to employers in the industry sectors in which training is offered pursuant to paragraph (1) of this subsection for all qualified graduates of DCIA training programs.

"(b) DCIA skills training may include:

"(1) Training services enumerated in section 134(c)(3)(D) of the Workforce Innovation and Opportunity Act, approved July 22, 2014 (128 Stat. 1529; 29 U.S.C. § 3174(c)(3)(D));

"(2) Supportive services, as defined in 20 C.F.R. § 651.10;

"(3) Integrated education and training, as defined in 34 C.F.R. § 463.35;

"(4) Workforce preparation activities, as defined in 34 C.F.R. § 463.34; and

"(5) Job development, as defined in 20 C.F.R. § 651.10.

"(c)(1) At least 66% of the participants receiving skills training through the DCIA each fiscal year shall be trained in occupations that pay an average wage that is at least 150% of the minimum wage specified in section 4 of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003).

"(2) At least 25% of the value of each grant or contract with a skills training provider shall be contingent on the provider achieving at least one of the following results:

"(A) At least 75% of the provider's participants receive an industry-recognized credential; and

"(B) At least 80% of the provider's participants enter permanent, unsubsidized employment in the occupation of training.

"Sec. 2f. Industry advisory committees.

"(a)(1) The Director shall establish industry advisory committees to advise DCIA on occupational skills training offerings with the goal of aligning DCIA's trainings with industry hiring needs.

"(2) There shall be one committee per industry sector in which DCIA offers occupational skills training pursuant to section 2e(a)(1).

"(3) Each committee shall consist of representatives of at least 2 employers from the relevant industry sector, whom the Director shall appoint.

"(4)(A) The Director shall make initial appointments to the committees within 30 days of the effective date of this subtitle.

"(B) Committee members shall disclose all existing and potential conflicts of interest to the Director. No committee member may, in any manner, directly or indirectly, participate in a deliberation upon, or the determination of, any question affecting the financial interest of any corporation, partnership, or association in which the member or a member of the member's family is directly or indirectly interested. Committee members shall disclose the nature of any financial or personal relationships with any training providers by completing a conflict of interest form.

"(b) No later than December 15, 2020, and annually thereafter in advance of the start of a new fiscal year, each Committee shall submit written recommendations to DCIA, which shall contain the following:

"(1) Recommendations of 2 to 4 specific occupational skills trainings DCIA should offer;

"(2) The number of District residents DCIA should train in the occupations identified pursuant to paragraph (1) of this subsection;

"(3) Occupational skills required to obtain employment in the occupations identified pursuant to paragraph (1) of this subsection;

"(4) A description of tools, equipment, and services necessary to conduct trainings to acquire the skills identified in paragraph (3) of this subsection;

"(5) Industry-recognized credentials required for obtaining employment in the occupations identified pursuant to paragraph (1) of this subsection, when appropriate; and

"(6) The feasibility of providing virtual training or distance learning and recommendations to implement virtual training.

"(c) After receiving a proposed training curriculum from the DCIA pursuant to section 2e(a)(2)(B)(i), a Committee shall provide the DCIA with a written explanation of recommended modifications, if any.

"(d) Within 30 calendar days after receiving a proposed scope of work for a grant or contract from DCIA pursuant to section 2e(a)(2)(C)(i), the Committee shall provide DCIA with a written explanation of recommended modifications, if any.".

SUBTITLE J. WORKPLACE LEAVE NAVIGATORS

Sec. 2091. Short title.

This subtitle may be cited as the "Workplace Leave Navigators Program Establishment Amendment Act of 2020".

Sec. 2092. Definitions.

For the purposes of this subtitle, the term:

(1) "Director" means the director of DOES.

(2) "DOES" means the Department of Employment Services.

(3) "Family and medical leave" means leave available under the District of Columbia Family and Medical Leave Act of 1990, effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-501 *et seq.*).

(4) "Paid sick leave" means leave available under the Accrued Sick and Safe Leave Act of 2008, effective May 13, 2008 (D.C. Law 17-152; D.C. Official Code § 32-531.01 *et seq.*).

(5) "Universal paid leave" means leave benefits available under the Universal Paid Leave Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-264; D.C. Official Code § 32-541.01 *et seq.*).

(6) "Workplace leave" means universal paid leave, paid sick leave, family and medical leave, or any other job-protected leave to which an individual may be entitled under federal or District law.

Sec. 2093. Workplace Leave Navigators Program.

(a) There is established a Workplace Leave Navigators Program ("Program"), which the Director shall administer.

(b) The Program shall be funded with monies from the Universal Paid Leave Administration Fund, established pursuant to section 1153 of the Universal Paid Leave Implementation Fund Act of 2016, passed on 2nd reading on July 28, 2020 (Enrolled version of Bill 23-760).

(c) The Program shall provide funds to:

(1) Organizations with demonstrated experience representing employees in matters related to workplace leave solely for the purpose of specific assistance to individuals in obtaining their workplace leave and benefits; and

(2) Nonprofit organizations, businesses, or professional or trade associations with experience representing or assisting employers with the administration or understanding of workplace leave laws for the purpose of providing assistance to employers to share best practices or guidance regarding how to:

(A) Coordinate and accommodate different types of workplace leave, along with employer-sponsored disability plans; and

(B) Ensure compliance with workplace leave laws.

(d)(1) Program funds issued to organizations for the purposes described in subsection (c)(1) of this section:

(A) Shall be used solely to assist individuals with:

(i) Filing an initial claim for universal paid leave;

(ii) Determining the type of workplace leave or employer-offered leave, including an employer-sponsored disability plan, for which an individual may be eligible;

(iii) Filing an administrative complaint related to the provision of workplace leave, including a complaint of retaliation;

(iv) Responding to or appealing an initial administrative decision or determination related to workplace leave; or

(v) Providing an employer with appropriate documentation supporting a request for workplace leave; and

(B) May be used to provide training and guidance to medical providers or healthcare trade or professional associations on the requirements of workplace leave laws pertaining to documentation supporting the need for leave.

(2) Program funds issued to non-profits, businesses, or professional or trade associations assisting employers for the purposes described in subsection (c)(2) of this section:

(A) Shall be used to:

(i) Assist employers with coordinating the employer's workplace leave programs, including employer-sponsored disability plans, with workplace leave laws; provided, that Program funds shall not be used to decide an employee's eligibility for a workplace leave program or for the pre-adjudication of a workplace leave claim;

(ii) Provide guidance, including best practices, to an employer on what an employer must do to comply with District and federal workplace leave laws and regulations;

(iii) Aid employers in responding to DOES's request for information from the employers, including requests related to claim determinations made by DOES;

(iv) Responding to an administrative complaint related to the provision of workplace leave; provided, that Program funds shall not be used to respond to a complaint of retaliation;

(v) Responding to or appealing an initial administrative decision or determination related to workplace leave; and

(B) May be used to provide training and guidance to medical providers or healthcare trade or professional associations on the requirements of workplace leave laws.

(e) Funds for the Program may not be used to prosecute or defend claims in a lawsuit related to the provision of workplace leave.

(f)(1) The Director shall issue Program funds through competitive grants administered pursuant to the requirements set forth in the Grant Administration Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code § 1-328.11 *et seq.*), and section 2(b-1) of the Workforce Job Development Grant-Making Authority Act of 2012, effective April 23, 2013 (D.C. Law 19-269; D.C. Official Code § 1-328.05(b-1)).

(2) The Director shall issue an initial Request for Applications no later than October 31, 2020, and annually thereafter. The Director may issue multi-year grants, subject to the availability of appropriations.

(3) In a fiscal year, the amount of grants the Director issues for the purposes described in subsection (c)(1) and (2) of this section shall account for the need for each such purpose, based on the potential numbers of employees and employers to be served.

ENROLLED ORIGINAL

SUBTITLE K. SCHOOL YEAR INTERNSHIP PILOT PROGRAM

Sec. 2101. Short title.

This subtitle may be cited as the "School Year Internship Pilot Program Amendment Act of 2020".

Sec. 2102. Section 2a(a) of the Youth Employment Act of 1979, effective January 5, 1980 (D.C. Law 3-46; D.C. Official Code § 32-242(a)), is amended by adding a new paragraph (2A) to read as follows:

"(2A) School year internship pilot. —

"(A) In Fiscal Year 2021, a pilot program called the School Year Internship Pilot Program ("Program") for 250 District high school students to provide work-based learning opportunities during the school year.

"(B)(i) High school students including students from public schools, public charter schools, private schools, and students who are homeschooled, may apply to the Department of Employment Services ("DOES") to be matched with an internship host through the Program; provided, that a student may not otherwise participate in an internship, in-school youth employment, or a work-readiness program.

"(ii) DOES shall give the applications of at-risk students priority over all other applications.

"(iii) For the purposes of this subparagraph the term "at-risk" means a public school, public charter school, private school, or homeschool student who is identified as one or more of the following:

"(I) Homeless;

"(II) In the District's foster care system;

"(III) Qualifies for the Temporary Assistance for Needy Families program or the Supplemental Nutrition Assistance Program; or

"(IV) A high school student that is one year older, or more, than the expected age for the grade in which the student is enrolled.

"(C) DOES shall notify students of their placement with an internship host by January 5, 2021.

"(D) Interns shall remain matched with their internship host between January 2021 and June 2021.

"(E) DOES shall pay interns a training rate of $10 per hour, which it shall pay by way of a debit card provided to the intern or by direct deposit.

"(F)(i) Internship hosts may be nonprofit organizations, public schools or public charter schools, government agencies, or private businesses.

"(ii) Prospective internship hosts shall submit applications to participate in the Program no later than December 1, 2020. The application shall include a

detailed job description that identifies specific tasks, projects, or duties that the intern will perform and the name and job title of the individual who will directly supervise the intern.

"(iii) DOES shall review internship host applications and shall give priority to applications that will engage an intern in work experience activities, rather than work readiness activities, for the majority of an intern's time.

"(G) DOES shall implement the Program through public-private partnerships between the District government and an internship host that has the ability to employ youth under the Program, subject to all federal and District laws, rules, and regulations relating to the procurement and award of contracts, grants, or other government assistance.

"(H)(i) DOES shall develop benchmarks for interns' growth and development in work readiness, which internship hosts shall utilize to assess an intern's work readiness.

"(ii) An internship host shall provide its written assessment of an intern's work readiness to DOES within 30 days after the end of the internship.".

Sec. 2103. The Department of Employment Services Local Job Training Quarterly Outcome Report Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 32–771), is amended by adding a new section 2083 to read as follows:

"Sec. 2083. Department of Employment Services annual report on year-round youth programs.

"(a) Starting December 15, 2020, and annually thereafter, the Department of Employment Services ("Department") shall publish on its website and submit to the Council a report on the operations of its year-round youth programs, including:

"(1) The In-School Youth Program;

"(2) The Out-of-School Youth Program;

"(3) The Marion Barry Youth Leadership Institute;

"(4) Pathways for Young Adults Program;

"(5) Youth Earn and Learn Program;

"(6) The High School Internship Program;

"(7) In-School Youth Innovation Grants; and

"(8) In-school DCHR internship program.

"(b) The report shall include the following information for each program from the previous fiscal year:

"(1) The number of participants newly enrolled;

"(2) The total number of participants, disaggregated by ward, grade, school, age, and, if known, at-risk status;

"(3) Each program's total expenditures, disaggregated by fund type (federal, local, intra-District, or special purpose revenue funds); and

"(4) The names of any vendors, grantees, host employers (including public schools and public charter schools for the High School Internship Program), host sites, or other organizations providing services to youth.

"(c) The Department may withhold from the report required pursuant to subsection (b) of this section any information precluded from release by federal law, rule, or policy; provided, that, if at a later time, such information may be released, the Department shall supplement the next annual report following the date on which the information may be shared with the withheld information.

"(d) For the purposes of this section, the term "at-risk" means a public school, public charter school, private school, or homeschool student who is identified as one or more of the following:

"(1) Homeless;

"(2) In the District's foster care system;

"(3) Qualifies for the Temporary Assistance for Needy Families program or the Supplemental Nutrition Assistance Program; or

"(4) A high school student that is one year older, or more, than the expected age for the grade in which the student is enrolled.".

SUBTITLE L. UNEMPLOYMENT INSURANCE MODERNIZATION

Sec. 2111. Short title.

This subtitle may be cited as the "Unemployment Insurance Modernization Requirements Act of 2020".

Sec. 2112. Unemployment insurance modernization requirements.

(a) The Department of Employment Services ("DOES") shall launch an integrated, fully modernized, and fully functioning unemployment insurance information technology benefits and tax system ("benefits system") for public use no later than September 30, 2022.

(b) The benefits system shall include an internet accessible public interface that:

(1) Can be accessed from all major internet browsers and used on mobile devices and personal computers;

(2) Is accessible to people with disabilities in compliance with section 504 of the Rehabilitation Act of 1973, approved September 26, 1973 (87 Stat. 394; 29 U.S.C. § 794), and Title II of the Americans with Disabilities Act of 1990, approved July 26, 1990 (104 Stat. 337; 42 U.S.C. § 12131 *et seq.*); and

(3) Complies with the Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code § 2-1931 *et seq.*).

(c)(1) The Office of Contracting and Procurement ("OCP"), in consultation with DOES, should issue a Request for Proposals for the full modernization of the benefits system, consistent with the requirements of subsections (a) and (b) of this section, no later than October 30, 2020.

(2) The OCP should award a contract for the full modernization of the benefits system no later than January 15, 2021.

Sec. 2113. (a) Beginning no later than 15 days after the effective date of this subtitle, on any day when American Job Centers are closed (excluding weekends, holidays, and staff training days), the Department of Employment Services ("DOES") shall provide the following materials at its headquarters from 8:30 a.m. to 5:00 p.m.:

(1) Hard copies of unemployment insurance benefits applications, with hard copies of all instructions that are available online for completing the application;

(2) Hard copies of DOES complaint forms for violations of District labor laws, including wage and hour, accrued paid sick time, and workers' compensation laws, with hard copies of all instructions that are available online for completing each form;

(3) Envelopes individuals may use in submitting their applications and complaint forms, with space on the outside to identify the form being submitted; and

(4) A locked box with a slot into which individuals may deposit their completed applications and complaint forms.

(b) The DOES shall make the materials identified in subsection (a) of this section available in a location at its headquarters that is publicly and handicap accessible.

SUBTITLE M. TRANSGENDER AND NON-BINARY EMPLOYMENT STUDY

Sec. 2121. Short title.

This subtitle may be cited as the "District Government Transgender and Non-Binary Employment Study Act of 2020".

Sec. 2122. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq*), is amended by adding a new Title VII-B to read as follows:

"TITLE VII-B GENDER IDENTITY STUDY

"Sec. 760. Definitions.

"For the purposes of this title, the term:

"(1) "Cisgender" means individuals whose sex assigned at birth matches the individual's perceived gender.

"(2) "Gender identity" means an individual's internal sense of the individual's gender, which may be the same as or different from sex assigned at birth and can include male, female, neither, or both.

"(3) "Non-binary" includes individuals whose gender identity is neither entirely male nor entirely female, or varies between the two.

"(4) "Transgender" includes individuals whose gender identity or expression is different from that typically associated with their assigned sex at birth.

"Sec. 761. Study of transgender and non-binary employment.

"(a) The Mayor shall contract with an entity to conduct a study of employment data, hiring and recruitment practices, and workplace climate in District government agencies in relation to people who are transgender or non-binary. At a minimum, the study shall include:

"(1) A census of employees who identify as transgender or non-binary, including information on the employees' race and ethnicity, gender identity, and age;

"(2) A review of District government agencies' transgender and non-binary inclusion policies, including policies developed under the Human Rights Act of 1977, effective December 13, 1977, (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*) ("Human Rights Act"), and any regulations promulgated pursuant to the Human Rights Act, and an evaluation of the extent to which District government agencies have implemented such polices and how transgender and non-binary employees experience such polices;

"(3) An evaluation of District government agencies' actual recruitment, hiring, retention, and promotion practices related to prospective and current transgender and non-binary employees;

"(4) An analysis of any disparities in earnings, title, pay grade, length of time in position, and educational attainment between employees who identify as transgender or non-binary and employees who identify as cisgender;

"(5) An assessment of transgender and non-binary employees' workplace experiences as employees of District government agencies, including experiences of discrimination, harassment, or mistreatment on the job;

"(6) An evaluation of data, including participant demographics and program outcomes, for transgender or non-binary participants in the Department of Employment Services' job training programs; and

"(7) Recommendations for District government agencies on improving employment and hiring practices as they relate to individuals who are transgender or non-binary.

"(b) The contractor may survey employees to gather data for the purposes of the study.

"(c) The contractor completing the study shall:

"(1) Have, or partner with another entity with, experience studying and knowledge of sexual orientation and gender identity;

"(2) Include a statement in requests for information and surveys sent to employees explaining that providing information is voluntary;

"(3) Ensure the privacy, dignity, and confidentiality of employees;

"(4) Not disclose, or retain after the study is complete, personally identifiable information gathered in the course of the study; and

"(5) Consult with the Office of Human Rights in developing a detailed proposed plan of the study, surveys to be administered, and any resulting recommendations from the entity.

"(d) The Mayor may use electronic communication tools, including e-mail, to facilitate the contractor's outreach to District government employees.

"(e) The Mayor shall:

"(1) Review the contractor's proposals and recommendations to ensure they are consistent with the Human Rights Act;

"(2) Review data, with personally identifiable information removed, on harassment and discrimination complaints filed by transgender and non-binary employees against District government agencies since January 1, 2015;

"(3) Provide the contractor with the information necessary to facilitate subsection (a) of this section; and

"(4) Submit a final report with findings and recommendations to the Council no later than December 31, 2021. The final report submitted to the Council shall not contain any personally identifiable information.".

SUBTITLE N. TIPPED WAGE WORKERS FAIRNESS CLARIFICATION

Sec. 2131. Short title.

This subtitle may be cited as the "Tipped Workers Fairness Clarification Amendment Act of 2020".

Sec. 2132. The Tipped Wage Workers Fairness Amendment Act of 2018, effective December 13, 2018 (D.C. Law 22-196; D.C. Official Code § 32-161 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Official Code § 32-161) is amended as follows:

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

(A) The lead-in language is amended by striking the phrase "By April 1, 2020" and inserting the phrase "Within 120 days after the date this section becomes applicable" in its place.

(B) Subparagraph (F) is repealed.

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

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

(i) The lead-in language is amended by striking the phrase "By April 1, 2020" and inserting the phrase "Within 120 days after the date this section becomes applicable" in its place.

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

"(B) The following text formatted in a large font and for maximum readability, including the use of bullet points to call out each specified right on a separate line:

"EMPLOYEE RIGHTS IN THE DISTRICT OF COLUMBIA: Do you know your rights as an employee working in Washington, D.C.? Employees have the right:

- To be paid at least the minimum wage;
- To be paid on time;
- To receive a detailed pay stub;
- To accrue and use paid sick and safe leave;
- To request time off to attend a child's school-related activities;

- To qualify for unpaid family and medical leave;
- To be compensated for work-related illness or injury;
- To remain free from discrimination;
- To be accommodated in the workplace during pregnancy;
- To remain free from employer retaliation for discussing or exercising any of these rights; and
- To file a complaint for violation of workplace rights with the Department of Employment Services (DOES) or the Office of Human Rights (OHR),

To learn about these and other workplace rights, visit the website below. This notice does not create, expand, or limit rights under District or federal law.".

(B) Paragraph (2) is amended by striking the phrase "The poster" and inserting the phrase "Below the text required pursuant to paragraph (1)(B) of this subsection, the poster" in its place.

(3) Subsection (d)(6) is repealed.

Sec. 2133. The Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1001 *et seq.*), is amended as follows:

(a) Section 10a (D.C. Official Code § 32-1009.01) is amended as follows:

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

"(a)(1) As of January 1, 2020, the third-party payroll businesses required pursuant to section 9(a-1) to process payroll for an employer that employs a tipped worker and hotel employers that employ a tipped worker shall submit a quarterly wage report for the preceding calendar quarter to the Mayor no later than 30 days after the end of each calendar quarter.

"(2) Each quarterly wage report shall certify that each tipped worker was paid at least the required minimum wage, including gratuities, and shall include the following:

"(A) Itemized, for each tipped worker, the worker's:

"(i) Name;

"(ii) Average hourly wage received per week during the quarter;

"(iii) Total hours worked at or above the minimum hourly wage established under section 4(f) per week;

"(iv) Gross wages received per week; and

"(v) Total gratuities received per week.

"(B) For a hotel employer, a certification that all of the information in the report is accurate;

"(C) For a third-party payroll business, a certification that the information in the report was generated using the same payroll data used to generate the information required to be furnished to employees pursuant to section 9(b); and

"(D) If tips were shared, a copy of the employer's tip-sharing policy used during the quarter, unless the third-party payroll business and the employer have agreed that the

employer will submit the tip-sharing policy, in which case, a certification that such an agreement was in place during the calendar quarter.

"(3)(A) An employer that agrees to submit its tip-sharing policy directly to the Mayor shall submit the policy to the Mayor no later than 30 days after the end of each calendar quarter.

"(B) If the Mayor does not receive the tip-sharing policy of an employer that employs a tipped worker by the submission deadline for quarterly wage reports, the Mayor shall presume that the employer did not have a tip-sharing policy in place during the calendar quarter.".

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

"(2) A person required to submit documents pursuant to subsection (a) of this section shall submit the documents online through the Internet-based portal, unless the Mayor exempts the person from online reporting because it creates a hardship for the person, in which case, the person shall submit the documents in hard-copy form.".

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

"(d) For the purposes of this section the term "tipped worker" means an employee paid in accordance with section 4(f).".

(b) Section 12(d)(1) (D.C. Official Code § 32-1011(d)(1)) is amended by adding a new subparagraph (E-i) to read as follows:

"(E-i) $500 against an employer for each failure to timely submit the quarterly wage report required pursuant to section 10a, in its entirety, unless the employer proves that it used a third-party payroll business to process the relevant quarter's payroll for the employer.".

SUBTITLE O. UNIVERSAL PAID LEAVE FUND

Sec. 2141. Short title.

This subtitle may be cited as the "Universal Paid Leave Fund Amendment Act of 2020".

Sec. 2142. The Universal Paid Leave Implementation Fund Act of 2016, effective October 8, 2016 (D.C. Law 21-160; D.C. Official Code § 32-551.01), is amended as follows:

(a) A new section 1151a is added to read as follows:

"Sec. 1151a. Definitions.

"For the purposes of this subtitle, the term "Act" means the Universal Paid Leave Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-264; D.C. Official Code § 32-541.01 *et seq.*).".

"(b) Section 1152 (D.C. Code § 32-551.01) is amended as follows:

"(1) The section heading is amended by striking the phrase "Universal Paid Leave Implementation" and inserting the phrase "Universal Paid Leave" in its place.

"(2) Subsection (a) is amended by striking the phrase "Universal Paid Leave Implementation" and inserting the phrase "Universal Paid Leave" in its place.

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

"(b) Money in the Fund shall be used to:

(1) Pay benefits provided under the Act; and

(2) Fund the Universal Paid Leave Administration Fund established pursuant to section 1153(a) in the following amounts:

"(A) No more than 8.75% of money in the Fund for the purposes described in section 1153(c)(1);

"(B) No more than .75% of the money in the Fund for the purposes described in section 1153(c)(2); and

"(C) No more than 0.5% of the money in the Fund for the purposes described in section 1153(c)(3).

(c) A new section 1153 is added to read as follows:

"Sec. 1153. Universal Paid Leave Administration Fund.

"(a) There is established as a special fund the Universal Paid Leave Administration Fund ("Fund"), which shall be administered by the Department of Employment Services ("DOES") in accordance with subsections (c), (d), (e), and (f) of this section.

"(b) Pursuant to section 1152(b)(2), amounts appropriated from the Universal Paid Leave Fund annually for the purposes described in subsection (c) of this section shall be deposited in the Fund.

"(c) Money in the Fund shall be used for the following purposes:

"(1) Administration of the Act by DOES, including public education pursuant to section 106(j) of the Act (D.C. Official Code § 32-541.06(j)); provided, that no more than 6% of the money appropriated annually for administration may be used for public education and of those public education funds, at least $500,000 shall be used to fund the Workplace Leave Navigators Program established pursuant to section 2093 of the Workplace Leave Navigators Program Establishment Amendment Act of 2020, passed on 2nd reading on July 28, 2020 (Enrolled version of Bill 23-760);

"(2) Enforcement of section 108(e) and section 110(a) and (b) of the Act by the Office of Human Rights, which may include education and outreach on individuals' rights under the Act; and

"(3) Hearing of appeals of claim determinations by the Office of Administrative Hearings, pursuant to section 108(a), (b), and (c) of the Act (D.C. Official Code § 32-541.08(a), (b), and (c)).

"(d) Beginning no later than October 1, 2020, and by October 1 annually thereafter, DOES shall execute a Memorandum of Understanding with the Office of Human Rights for the intradistrict transfer of funds appropriated, pursuant to subsection (c)(2) of this section, for enforcement; provided, that DOES shall transfer funds appropriated for enforcement to the Office of Human Rights no later than October 2 of any year even if the agencies fail to execute a Memorandum of Understanding by October 1 of that year.

"(e) Beginning no later than October 1, 2020 and by October 1 annually thereafter, DOES shall execute a Memorandum of Understanding with the Office of Administrative Hearings for the intradistrict transfer of funds appropriated, pursuant to subsection (c)(3) of this section, for hearing of appeals of claim determinations; provided, that DOES shall transfer funds appropriated for hearing of appeals of claim determinations to the Office of Administrative Hearings no later than October 2 of any year even if the agencies fail to execute a Memorandum of Understanding by October 1 of that year.

"(f) Money deposited into the Fund but not expended in a fiscal year shall revert to the Universal Paid Leave Fund, established pursuant to section 1152.".

Sec. 2143. Conforming amendments.

The Universal Paid Leave Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-264; D.C. Official Code § 32-541.01 *et seq.*), is amended as follows:

(a) Subsection 101 (D.C. Official Code § 32-541.01) is amended as follows:

(1) Paragraph (10)(A) is amended by striking the phrase "Universal Paid Leave Implementation" and inserting the phrase "Universal Paid Leave" in its place.

(2) Paragraph (21) is amended by striking the phrase ""Universal Paid Leave Implementation Fund" means the Uniform Paid Leave Implementation Fund" and inserting the phrase ""Universal Paid Leave Fund" means the Universal Paid Leave Fund" in its place.

(b) Section 103 (D.C. Official Code § 32-541.03) is amended as follows:

(1) The section heading is amended by striking the phrase "Universal Paid Leave Implementation" and inserting the phrase "Universal Paid Leave" in its place.

(2) Subsection (a) is amended by striking the phrase "Universal Paid Leave Implementation" and inserting the phrase "Universal Paid Leave" in its place.

(3) Subsection (b) is amended by striking the phrase "Universal Paid Leave Implementation" and inserting the phrase "Universal Paid Leave" in its place.

(4) Subsection (c) is amended by striking the phrase "Universal Paid Leave Implementation" and inserting the phrase "Universal Paid Leave" in its place.

(5) Subsection (d) is amended by striking the phrase "Universal Paid Leave Implementation" and inserting the phrase "Universal Paid Leave" in its place.

(6) Subsection (e) is amended by striking the phrase "Universal Paid Leave Implementation" and inserting the phrase "Universal Paid Leave" in its place.

(7) Subsection (f) is amended by striking the phrase "Universal Paid Leave Implementation" and inserting the phrase "Universal Paid Leave" in its place.

(c) Section 104(g)(6)(A) (D.C. Official Code § 32-541.04(g)(6)(A)) is amended by striking the phrase "Universal Paid Leave Implementation" and inserting the phrase "Universal Paid Leave" in its place.

(d) Section 105(a)(2) (D.C. Official Code § 32-541.05(a)(2)) is amended by striking the phrase "Universal Paid Leave Implementation" and inserting the phrase "Universal Paid Leave" in its place.

(e) Section 106(j)(1) (D.C. Official Code § 32-541.06(j)(1)) is amended to read as follows:

"(j)(1) The Mayor shall conduct a public-education campaign, which shall be paid for out of the Universal Paid Leave Administration Fund, pursuant to section 1153(c)(1) of the Universal Paid Leave Implementation Fund Act of 2016, passed on 2nd reading on July 28, 2020 (Enrolled version of Bill 23-760), to inform individuals of the benefits provided for in this act. The Workplace Leave Navigators Program, established pursuant to section 2093 of the Workplace Leave Navigators Program Establishment Amendment Act of 2020, passed on 2nd reading on July 28, 2020 (Enrolled version of Bill 23-760), shall be a component of the Mayor's public-education campaign.".

(f) Section 109(c) (D.C. Official Code § 32-541.09(c)) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase "Universal Paid Leave Implementation" and inserting the phrase "Universal Paid Leave" in its place.

(2) Paragraph (2) is amended by striking the phrase "Universal Paid Leave Implementation" both times it appears and inserting the phrase "Universal Paid Leave" in its place.

SUBTITLE P. SHARED WORK COMPENSATION PROGRAM

Sec. 2151. Short title.

This subtitle may be cited as the "Shared Work Compensation Program Clarification Amendment Act of 2020".

Sec. 2152. The Keep D.C. Working Act of 2010, effective October 15, 2010 (D.C. Law 18-238; D.C. Official Code § 51-171 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 51-171) is amended as follows:

(1) Paragraph (4) is repealed.

(2) New paragraphs (4A) and (4B) are added to read as follows:

"(4A) "Health and retirement benefits" means employer-provided health benefits, and retirement benefits under a defined benefit plan, as defined in section 414(j) of the Internal Revenue Code of 1986, approved September 2, 1974 (88 Stat. 925; 26 U.S.C. § 414(j)), or contributions under a defined contribution plan, as defined in section 414(i) of the Internal Revenue Code of 1986, approved September 2, 1974 (88 Stat. 925; 26 U.S.C. § 414(i)), which are incidents of employment in addition to the cash remuneration earned.

"(4B) "Participating employee" means an employee who voluntarily agrees to participate in an employer's shared work plan.".

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

"(5) "Usual weekly hours of work" means the usual hours of work per week for full-time or part-time employees in the affected unit when that unit is operating on its regular basis, not to exceed 40 hours and not including hours of overtime work.".

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

"(7) "Shared work benefits" means the unemployment benefits payable to a participating employee in an affected unit under a shared work plan, as distinguished from the unemployment benefits otherwise payable under the employment security law.".

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

"(8) "Shared work plan" means a written plan to participate in the shared work unemployment compensation program approved by the Director, under which the employer requests the payment of shared work benefits to participating employees in an affected unit of the employer to avert temporary or permanent layoffs, or both.".

(b) Section 4 (D.C. Official Code § 51-173) is amended to read as follows:

"Sec. 4. Employer participation in the shared work unemployment compensation program.

"(a) Employer participation in the shared work unemployment compensation program shall be voluntary.

"(b) An employer that wishes to participate in the shared work unemployment compensation program shall submit a signed application and proposed shared work plan to the Director for approval.

"(c) The Director shall develop an application form consistent with the requirements of this section. The application and shared work plan shall require the employer to:

"(1) Identify the affected unit (or units) to be covered by the shared work plan, including:

"(A) The number of full-time or part-time employees in such unit;

"(B) The percentage of employees in the affected unit covered by the plan;

"(C) Identification of each individual employee in the affected unit by name and social security number;

"(D) The employer's unemployment tax account number, and

"(E) Any other information required by the Director to identify participating employees;

"(2) Provide a description of how employees in the affected unit will be notified of the employer's participation in the shared work unemployment compensation program if such application is approved, including how the employer will notify those employees in a collective bargaining unit as well as any employees in the affected unit who are not in a collective bargaining unit. If the employer will not provide advance notice of the shared work plan to employees in the affected unit, the employer shall explain in a statement in the application why it is not feasible to provide such notice;

"(3) Identify the usual weekly hours of work for employees in the affected unit and the specific percentage by which hours will be reduced during all weeks covered by the plan. A shared work plan may not reduce participating employees' usual weekly hours of work by less than 10% or more than 60%. If the plan includes any week for which the employer regularly provides no work (due to a holiday or other plant closing), then such week shall be identified in the application;

"(4) If the employer provides health and retirement benefits to any participating employee whose usual weekly hours of work are reduced under the plan, certify that such benefits will continue to be provided to participating employees under the same terms and conditions as though the usual weekly hours of work of such participating employee had not been reduced or to the same extent as employees not participating in the shared work plan. For defined benefit retirement plans, the hours that are reduced under the shared work plan shall be credited for purposes of participation, vesting, and accrual of benefits as though the participating employee's usual weekly hours of work had not been reduced. The dollar amount of employer contributions to a defined contribution plan that are based on a percentage of compensation may be reduced due to the reduction in the participating employee's compensation. A reduction in health and retirement benefits scheduled to occur during the duration of a shared work plan that is equally applicable to employees who are not participating in the plan and to participating employees does not violate a certification made pursuant to this paragraph;

"(5) Certify that the aggregate reduction in work hours under the shared work plan is in lieu of temporary or permanent layoffs, or both, and provide a good-faith estimate of the number of employees who would be laid off in the absence of the proposed shared work plan;

"(6) Agree to:

"(A) Furnish reports to the Director relating to the proper conduct of the shared work plan;

"(B) Allow the Director or the Director's authorized representatives access to all records necessary to approve or disapprove the application for a shared work plan;

"(C) Allow the Director to monitor and evaluate the shared work plan; and

"(D) Follow any other directives the Director considers necessary for the agency to implement the shared work plan consistent with the requirements for shared work plan applications;

"(7) Certify that participation in the shared work unemployment compensation program and implementation of the shared work plan will be consistent with the employer's obligations under applicable federal and District laws;

"(8) State the duration of the proposed shared work plan, which shall not exceed 365 days from the effective date established pursuant to section 6;

"(9) Provide any additional information or certifications that the Director determines to be appropriate for purposes of the shared work unemployment compensation program, consistent with requirements issued by the United States Secretary of Labor; and

"(10) Provide written approval of the proposed shared work plan by the collective bargaining representative for any employees covered by a collective bargaining agreement who will participate in the plan.".

(c) Section 5 (D.C. Official Code § 51-174) is amended to read as follows:

"Sec. 5. Approval and disapproval of a shared work plan.

"(a)(1) The Director shall approve or disapprove an application for a shared work plan in writing within 15 calendar days of its receipt and promptly issue a notice of approval or disapproval to the employer.

"(2) A decision disapproving the shared work plan shall clearly identify the reasons for the disapproval.

"(3) A decision to disapprove a shared work plan shall be final, but the employer may submit another application for a shared work plan not earlier than 10 calendar days from the date of the disapproval.

"(b) Except as provided in subsections (c) and (d) of this section, the Director shall approve a shared work plan if the employer:

"(1) Complies with the requirements of section 4; and

"(2) Has filed all reports required to be filed under the employment security law for all past and current periods, and:

"(A) Has paid all contributions and benefit cost payments; or

"(B) If the employer is a reimbursing employer, has made all payments in lieu of contributions due for all past and current periods.

"(c) Except as provided in subsection (d) of this section, the Director may not approve a shared work plan:

"(1) To provide payments to an employee if the employee is employed by the participating employer on a seasonal, temporary, or intermittent basis;

"(2) If the employer's unemployment insurance account has a negative unemployment experience rating;

"(3) If the employer's unemployment insurance account is taxed at the maximum tax rate in effect for the calendar year;

"(4) For employers who have not qualified to have a tax rate assigned based on actual experience; or

"(5) For employees who are receiving or who will receive supplemental unemployment benefits, as that term is defined in section 501(c)(17)(D) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(17)(D)), during any period a shared work plan is in effect.

"(d) During the effective period of a shared work plan entered into during a public health emergency, subsection (c) of this section shall not apply. During a public health emergency, the Director may not approve a shared work plan:

"(1) To provide payments to an employee if the employee is employed by the participating employer on a seasonal, temporary, or intermittent basis;

"(2) For employees who are receiving or who will receive supplemental unemployment benefits, as that term is defined in section 501(c)(17)(D) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(17)(D)), during any period a shared work plan is in effect; or

"(3) For employers that have reported quarterly earnings to the Director for fewer than 3 quarters at the time of the application for the shared work unemployment compensation program.

"(e) For the purposes of this section, the term "public health emergency" means the public health emergency declared in the Declaration of Public Health Emergency (Mayor's Order 2020-046), declared on March 11, 2020, and any extensions thereof.".

(d) Section 6 (D.C. Official Code § 51-175) is amended to read as follows:

"Sec. 6. Effective date and expiration, termination, or revocation of a shared work plan.

"(a) A shared work plan shall be effective on the date that is mutually agreed upon by the employer and the Director, which shall be specified in the notice of approval to the employer.

"(b) The duration of the plan shall be 365 days from the effective date, unless a shorter duration is requested by employer or the plan is terminated or revoked in accordance with this section.

"(c) An employer may terminate a shared work plan at any time upon written notice to the Director, participating employees, and a collective bargaining representative for the participating employees. After receipt of such notice from the employer, the Director shall issue to the employer, the appropriate collective bargaining representative, and participating employees an Acknowledgment of Voluntary Termination, which shall state the date the shared work plan terminated.

"(d) The Director may revoke a shared work plan at any time for good cause, including:

"(1) Failure to comply with the certifications and terms of the shared work plan;

"(2) Failure to comply with federal or District law;

"(3) Failure to report or request proposed modifications to the shared work plan in accordance with section 7;

"(4) Unreasonable revision of productivity standards for the affected unit;

"(5) Conduct or occurrences tending to defeat the purpose and effective operation of the shared work plan;

"(6) Change in conditions on which approval of the plan was based;

"(7) Violation of any criteria on which approval of the plan was based; or

"(8) Upon the request of an employee in the affected unit.

"(e) Upon a decision to revoke a shared work plan, the Director shall issue a written revocation order to the employer that specifies the reasons for the revocation and the date the revocation is effective. The Director shall provide a copy of the revocation order to all participating employees and their collective bargaining representative.

"(f) The Director may periodically review the operation of an employer's shared work plan to ensure compliance with its terms and applicable federal and District laws.

"(g) An employer may submit a new application for a shared work plan at any time after the expiration or termination of a shared work plan.".

(e) Section 7 (D.C. Official Code § 51-176) is amended to read as follows:

"Sec. 7. Modification of a shared work plan.

"(a) An employer may not implement a substantial modification to a shared work plan without first obtaining the written approval of the Director.

"(b)(1) An employer must report, in writing, every proposed modification of the shared work plan to the Director a least 5 calendar days before implementing the proposed modification. The Director shall review the proposed modification to determine whether the modification is substantial. If the Director determines that the proposed modification is substantial, the Director shall notify the employer of the need to request a substantial modification.

"(2) An employer may request a substantial modification to a shared work plan by filing a written request with the Director. The request shall identify the specific provisions of the shared work plan to be modified and provide an explanation of why the proposed modification is consistent with and supports the purposes of the shared work plan. A modification may not extend the expiration date of the shared work plan.

"(c)(1) At the Director's discretion, an employer's request for a substantial modification of a shared work plan may be approved if:

"(A) Conditions have changed since the plan was approved; and

"(B) The Director determines that the proposed modification is consistent with and supports the purposes of the approved plan.

"(2) The Director shall approve or disapprove a request for substantial modification, in writing, within 15 calendar days of receiving the request and promptly shall communicate the decision to the employer. If the request is approved, the notice of approval shall contain the effective date of the modification.".

(f) Section 8 (D.C. Official Code § 51-177) is amended to read as follows:

"Sec. 8. Employee eligibility for shared work benefits.

"(a) A participating employee is eligible to receive shared work benefits with respect to any week only if the individual is monetarily eligible for unemployment compensation, not otherwise disqualified from unemployment compensation, and:

"(1) With respect to the week for which shared work benefits are claimed, the participating employee was covered by a shared work plan that was approved prior to that week;

"(2) Notwithstanding any other provision of the employment security law relating to availability for work and actively seeking work, the participating employee was available for the individual's usual hours of work with the shared work employer, which may include availability to participate in training to enhance job skills approved by the Director, such as employer-sponsored training or training funded under the Workforce Innovation and Opportunity Act, approved July 22, 2014 (128 Stat. 1425; 29 U.S.C. § 3101 *et seq.*); and

"(3) Notwithstanding any other provision of law, a participating employee is deemed unemployed for the purposes of determining eligibility to receive unemployment compensation benefits in any week during the duration of such plan if the individual's remuneration as an employee in an affected unit is reduced under the terms of the plan.

"(b) A participating employee may be eligible for shared work benefits or unemployment compensation, as appropriate, except that no participating employee may be eligible for

combined benefits in any benefit year in an amount more than the maximum entitlement established for regular unemployment compensation; nor shall a participating employee be paid shared work benefits for more than 52 weeks under a shared work plan or in an amount more than the equivalent of the maximum of 26 weeks of regular unemployment compensation.

"(c) The shared work benefit paid to a participating employee shall be deducted from the maximum entitlement amount of regular unemployment compensation established for that individual's benefit year.

"(d) Provisions applicable to unemployment compensation claimants under the employment security law shall apply to participating employees to the extent that they are not inconsistent with this act. A participating employee who files an initial claim for shared work benefits shall receive a monetary determination of whether the individual is eligible to receive benefits.

"(e) A participating employee who has received all of the shared work benefits or combined unemployment compensation and shared work benefits available in a benefit year shall be considered an exhaustee, as defined in section 7(g)(1)(H) of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 949; D.C. Official Code § 51–107(g)(1)(H)) ("Act"), for purposes of eligibility to receive extended benefits pursuant to section 7(g) of the Act (D.C. Official Code § 51–107(g)), and, if otherwise eligible under that section, shall be eligible to receive extended benefits.

"(f) Shared work benefits shall be charged to employers' experience rating accounts in the same manner as unemployment compensation is charged under the employment security law, unless waived by federal or District law. Employers liable for payments in lieu of contributions shall have shared work benefits attributed to service in their employ in the same manner as unemployment compensation is attributed, unless waived by federal or District law.".

(g) Section 9 (D.C. Official Code § 51-178) is amended as follows:

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

"(a)(1) Except as provided in paragraph (2) of this subsection, the weekly benefit for a participating employee shall be the product of the regular weekly unemployment compensation amount for a week of total unemployment multiplied by the percentage of reduction in the participating employee's usual weekly hours of work.

"(2) The shared work benefit for a participating employee who performs work for another employer during weeks covered by a shared work plan shall be calculated as follows:

"(A) If the combined hours of work in a week for both employers results in a reduction of less than 10% of the usual weekly hours of work the participating employee works for the shared work employer, the participating employee is not eligible for shared work benefits;

"(B) If the combined hours of work for both employers results in a reduction equal to or greater than 10% of the usual weekly hours worked for the shared work employer, the shared work benefit payable to the participating employee is determined by multiplying the weekly unemployment benefit amount for a week of total unemployment by the

percentage by which the combined hours of work have been reduced. A week for which benefits are paid under this subparagraph shall be reported as a week of shared work benefits.

"(C) If an individual worked the reduced percentage of the usual weekly hours of work for the shared work employer and is available for all the participating employee's usual hours of work with the shared work employer, and the participating employee did not work any hours for the other employer, either because of the lack of work with that employer or because the participating employee is excused from work with the other employer, the participating employee shall be eligible for the full value of the shared work benefit for that week.".

(2) Subsection (b) is repealed

(3) New subsections (c) and (d) are added to read as follows:

"(c) A participating employee who is not provided any work during a week by the shared work employer or any other employer and who is otherwise eligible for unemployment compensation shall be eligible for the amount of regular unemployment compensation to which the individual would otherwise be eligible.

"(d) A participating employee who is not provided any work by the shared work employer during a week, but who works for another employer and is otherwise eligible for unemployment compensation may be paid unemployment compensation for that week subject to the disqualifying income provision and other provisions applicable to claims for regular unemployment compensation.".

SUBTITLE Q. EQUITABLE IMPACT ASSISTANCE FOR LOCAL BUSINESS

Sec. 2161. Short title.

This subtitle may be cited as the "Equitable Impact Assistance for Local Businesses Act of 2020".

Sec. 2162. Definitions.

For the purposes of this subtitle, the term:

(1) "Economically disadvantaged individual" shall have the same meaning as set forth in section 2302(7) of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(7)).

(2)(A) "Eligible business" means an equity impact enterprise that has $2 million or less in annual revenue and certifies in writing that the business is unable to obtain conventional financing or is a business enterprise that cannot reasonably be expected to qualify for financing under the standards of commercial lending.

(B) For the purposes of this paragraph, the phrase "unable to obtain conventional financing" means that the business has attempted but failed in the attempt to obtain financing from conventional sources.

(3) "Equity impact enterprise" shall have the same meaning as set forth in section 2303(8A) of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(8A)).

(4) "Fund" means the Equity Impact Fund established in section 2163.

(5) "Fund Manager" means a private financial organization selected by the Mayor pursuant to section 2164.

(6) "Private financial organization" means a partnership, corporation, trust, limited liability company, Community Development Financial Institution, or a consortium of partnerships, corporations, trusts, limited liability companies, or Community Development Financial Institutions, whether organized on a profit or not-for-profit basis, that has as its primary activity the investment of capital into businesses.

Sec. 2163. Establishment of the Equity Impact Fund.

(a)(1) There is established a fund outside the General Fund of the District of Columbia, designated as the Equity Impact Fund ("Fund"), which shall be managed by a Fund Manager selected by the Mayor.

(2) The Deputy Mayor for Planning and Economic Development shall provide, upon selection of the Fund Manager, $1.25 million in the aggregate in Fiscal Year 2021 for deposit into the Fund ("District's initial investment").

(b) The Fund shall be funded by money appropriated for the purposes of the Fund, other amounts, if any, received by the District or Fund Manager for deposit into the Fund, and any monies received as gifts, grants, donations, and awards.

(c) Money in the Fund shall be used for the following purposes:

(1) To facilitate investment in businesses that lack access to capital;

(2) To make investments into eligible businesses based on an investment strategy determined by the Fund Manager; and

(3) To administer the Fund, including the provision of technical assistance to eligible businesses; provided, that no more than 15% of the District's initial investment may be used annually for this purpose.

Sec. 2164. Fund Manager selection.

(a) The Mayor shall solicit applications, in a form determined by the Mayor, for the position of Fund Manager from private financial organizations. The application shall contain description of:

(1) The qualifications of the applicant, including demonstrable experience in investing in small businesses, businesses owned by economically disadvantaged individuals, businesses owned by individuals who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities, or businesses that otherwise meet the definition of, or are similar to, an equity impact enterprise;

(2) How the applicant will structure the Fund and investment criteria to achieve the goals and objectives of the Fund;

(3) The ability and plans of the applicant to provide or raise sufficient funds to provide matching contributions for the Fund;

(4) The ability of the applicant to maintain a sufficient fund balance to administer the Fund;

(5) The type of businesses to be targeted for priority investment from the Fund;

(6) A demonstrable ability to offer a variety of financing vehicles, including equity financing, revenue-based financing, royalty financing, and debt financing;

(7) The investment strategies the applicant will employ to achieve the goals and objectives of the Fund; and

(8) Other criteria that the Mayor considers necessary or appropriate.

(b) The Fund Manager shall be selected from among the applicants for the position based on a scoring rubric established by the Mayor; provided, that:

(1) A preference be given to applicants that are at least 51% owned, operated, or controlled by economically disadvantaged individuals or individuals who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities; and

(2) If the applicant manages an existing investment fund, the existing fund not exceed $100,000,000 in total investments.

Sec. 2165. Minimum requirements for investment.

(a) The Fund Manager shall source, underwrite, and monitor all investments placed pursuant to this subtitle. Except as otherwise provided by this subtitle, the Mayor shall not determine the recipient, amount, interest rate, or any other requirement related to an investment made pursuant to this subtitle.

(b) The following requirements shall apply to any investment in an eligible business made from the Fund using the District's initial investment or interest earned on the initial investment:

(1) The Fund Manager shall begin accepting applications from eligible businesses seeking investment, on a rolling basis, within 30 days of being selected for the position by the Mayor.

(2) For the Fund Manager to provide an investment from the Fund, the eligible business must agree, in writing, to participate in technical assistance training.

(3) The Fund Manager shall establish, for each selected eligible business, a 12-month individualized business plan. Investments shall be distributed to the eligible business in installments based upon completion of specific milestones clearly described in the business's individualized business plan. The individualized business plan shall include technical assistance, provided at no cost to the business, which shall include education on the management and scale of a business through live training or guided recorded sessions. All

eligible businesses that receive an investment from the Fund shall be required to participate in at least 3 months of technical assistance training.

Sec. 2166. Reporting requirements.

The Fund Manager shall submit to the Mayor, on a quarterly basis, a report on the activities of the Fund. The report shall include, at a minimum:

(1) The aggregate amount of dollars invested in eligible businesses during the reporting period;

(2) The number of eligible businesses receiving an investment, including the name and business address for each;

(3) A copy of the individualized business plan for each eligible business, including a description of the technical assistance training provided; and

(4) The aggregate amount of funds in the Fund and a breakdown of the amount of the funds in the Fund used for each of the following, with each amount reported as a percentage of the aggregate amount of the Fund:

(A) The percentage used for technical training assistance;

(B) The percentage used for administration costs; and

(C) The percentage used to compensate the Fund Manager.

Sec. 2167. Recovery of District investment.

The Mayor shall reserve the right to recover the amount of its initial investment into the Fund and may exercise this right if the Fund Manager does not, within a reasonable period, as determined by the Mayor, place investments into eligible businesses in an amount equal to the amount of the District's initial investment into the Fund.

SUBTITLE R. AFFORDABLE HOUSING LOAN FUND AUTHORIZATION

Sec. 2171. Short Title.

This subtitle may be cited as the "Affordable Housing Loan Fund Authorization Amendment Act of 2020".

Sec. 2172. The Department of Housing and Community Development is authorized to submit an application for the program offered by the U.S. Department of Housing and Urban Development, pursuant to section 108 of the Housing and Community Development Act of 1974, approved August 22, 1974 (88 Stat. 647; 42 U.S.C. § 5308), to provide a gap subsidy resource source for Community Development Block Grant-eligible affordable housing acquisition and rehabilitation projects in Fiscal Year 2021 that also meet the criteria for the use of money in the Housing Preservation Fund, established by section 2032 of the Housing Preservation Fund Establishment Act of 2017, effective December 13, 2017 (D.C. Law 22-33; D.C. Official Code § 1-325.351), or the Housing Production Trust Fund, established by section 3

of the Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2802).

Sec. 2173. Section 2009(d) of the Department of Housing and Community Development Unified Fund Establishment Act of 2008, effective August 16, 2008 (D.C. Law 17-219; D.C. Official Code § 42-2857.01(d)), is amended as follows:

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

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

"(2) Costs associated with the application or implementation of projects pursuant to the Affordable Housing Loan Fund Authorization Amendment Act of 2020, passed on 2nd reading on July 28, 2020 (Enrolled version of Bill 23-760), shall not be considered project-delivery costs for purposes of paragraph (1) of this subsection.".

Sec. 2174. Section 3(b)(10) of the Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2802(b)(10)), is amended as follows:

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

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

"(B) Costs associated with the application or implementation of projects pursuant to the Affordable Housing Loan Fund Authorization Amendment Act of 2020, passed on 2nd reading on July 28, 2020 (Enrolled version of Bill 23-760), shall not be considered administration of the Fund for purposes of this paragraph.".

SUBTITLE S. RENT STABILIZATION EXTENSION

Sec. 2181. Short Title.

This subtitle may be cited as the "Rent Stabilization Extension Amendment Act of 2020".

Sec. 2182. Section 907 of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3509.07), is amended by striking the phrase "shall terminate on December 31, 2020" and inserting the phrase "shall terminate on December 31, 2030" in its place.

SUBTITLE T. EXPENDITURES FROM THE PUBLIC HOUSING AND STRUCTURAL TRANSFORMATION CAPITAL ACCOUNT

Sec. 2191. Short title.

This subtitle may be cited as the "Expenditures from the Public Housing and Structural Transformation Capital Account Act of 2020".

Sec. 2192. Expenditures from the Public Housing and Structural Transformation capital account.

(a) The District of Columbia Housing Authority ("Authority") shall not obligate or expend any money from capital project DHA21C unless the expenditure, or planned expenditure in the case of an obligation, is part of a proposed spending plan submitted by the Authority to the Mayor, to the Council, and to the chairperson of the Council committee with oversight of the District of Columbia Housing Authority.

(b) Each proposed spending plan submitted by the Authority to the Mayor shall include detailed information on each project for which the Authority proposes to expend funds from capital project DHA21C. At a minimum, the information provided for a project shall include:

(1) The proposed location of the project;

(2) A detailed proposed scope of the project;

(3) A detailed proposed line-item budget for the project;

(4) A detailed proposed timeline for the project; and

(5) A statement of whether the implementation of the proposed project will require the relocation of tenants and, if such relocation is required, a detailed proposed relocation plan.

(c)(1) For each solicitation of a contract valued at $100,000 or more that is funded with money from capital project DHA21C, the Authority shall:

(A) Award preferences to certified business enterprises as provided in section 2343 of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.43); and

(B) Exercise its contracting and procurement authority for contracts funded by capital project DHA21C so as to meet, on an annual basis, the goals of procuring and contracting at least 50% of the dollar volume of such contracts ("CBE dollar volume") with certified business enterprises and at least 50% of the CBE dollar volume with small business enterprises.

(2) For the purposes of this subsection, the term:

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

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

SUBTITLE U. DC CENTRAL KITCHEN FACILITY GRANT

Sec. 2201. Short title.

This subtitle may be cited as the "DC Central Kitchen Facility Grant Act of 2020".

Sec. 2202. Notwithstanding section 4(c) of the Workforce Investment Implementation Act of 2000, effective July 18, 2000 (D.C. Law 13-150; D.C. Official Code § 32-1603(c)), and the Grant Administration Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C.

Official Code § 1-328.11 *et seq.*), in Fiscal Year 2021, the Workforce Investment Council shall award DC Central Kitchen a grant in the amount of $1,000,000 to build a new training facility that will provide culinary training services and community nutrition programming and to aid in the relocation of its headquarters.

SUBTITLE V. C&O CANAL GRANT

Sec. 2211. Short title.

This subtitle may be cited as the "C&O Canal Grant Act of 2020".

Sec. 2212. (a) In Fiscal Year 2021, the Office of Planning shall award a grant of not less than $500,000 to an organization partnering with the National Park Service to complete concept design plans for the Chesapeake and Ohio Canal in Georgetown.

(b) A grant awarded pursuant to this section shall be in addition to any other grant awarded by the Office of Planning for design work for the Chesapeake and Ohio Canal.

TITLE III. PUBLIC SAFETY AND JUSTICE

SUBTITLE A. CRIMINAL CODE REFORM COMMISSION

Sec. 3001. Short title.

This subtitle may be cited as the "Criminal Code Reform Commission Amendment Act of 2020".

Sec. 3002. The Criminal Code Reform Commission Establishment Act of 2016, effective October 8, 2016 (D.C. Law 21-160; D.C. Official Code § 3-151 *et seq.*), is amended as follows:

(a) Section 3122(c)(1) (D.C. Official Code § 3-151(c)(1)) is amended by striking the phrase ", or until the Commission is dissolved pursuant to section 3127, and" and inserting the phrase ", and" in its place.

(b) Section 3123 (D.C. Official Code § 3-152) is amended as follows:

(1) The section heading is amended to read as follows:

"Sec. 3123. Duties of the Criminal Code Reform Commission.".

(2) The lead-in language of subsection (a) is amended by striking the phrase "By September 30, 2020" and inserting the phrase "By March 31, 2021" in its place.

(3) Subsection (d) is amended by striking the phrase "provide, upon request by the Council, a legal analysis of proposed legislation concerning criminal offenses, including" and inserting the phrase "provide, upon request by the Council or on its own initiative, a legal or policy analysis of proposed legislation or best practices concerning criminal offenses, procedures, or reforms, including" in its place.

(4) Subsection (e) is amended by striking the phrase "regarding criminal code reform to advance" and inserting the phrase "to advance" in its place.

(c) The lead-in language of section 3124(a) (D.C. Official Code § 3-153(a)) is amended by striking the phrase "section 3123" and inserting the phrase "section 3123(a)" in its place.

(d) Section 3125 (D.C. Official Code § 3-154) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "The Commission" and inserting the phrase "Until March 31, 2021, the Commission" in its place.

(2) Subsection (b) is amended by striking the phrase "The Commission shall file an annual report with the Council before March 31 of each year" and inserting the phrase "Before March 31, 2021, the Commission shall file a report with the Council" in its place.

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

"(c) Before March 31, 2022, and annually thereafter, the Commission shall file an annual report with the Council of its activities during the previous calendar year.".

(e) Section 3127 (D.C. Official Code § 3-156) is repealed.

SUBTITLE B. RESTORATIVE JUSTICE COLLABORATIVE

Sec. 3011. Short title.

This subtitle may be cited as the "Restorative Justice Collaborative Amendment Act of 2020".

Sec. 3012. The Neighborhood Engagement Achieves Results Amendment Act of 2016, effective June 30, 2016 (D.C. Law 21-125; D.C. Official Code § 7-2411 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 7-2411) is amended as follows:

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

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

(B) Paragraph (3) is amended by striking the period and inserting the phrase "; and" in its place.

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

"(4) The Restorative Justice Collaborative, which shall serve as a centralized hub to coordinate and foster restorative justice programming and practices within the District government and by and in partnership with District community-based organizations.".

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

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

(B) Paragraph (6) is amended by striking the period and inserting the phrase "; and" in its place.

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

"(7) Coordinating and fostering restorative justice programming and practices within the District government and by and in partnership with District community-based organizations, with a focus on the 18-to-35-year old population.".

(b) Section 102(a)(3) (D.C. Official Code § 7-2412(a)(3)) is amended by striking the phrase "programming; and" and inserting the phrase "and restorative justice programming; and" in its place.

SUBTITLE C. EMERGENCY MEDICAL SERVICES TRANSPORT CONTRACT

Sec. 3021. Short title.

This subtitle may be cited as the "Emergency Medical Services Transport Contract Authority Amendment Act of 2020".

Sec. 3022. Section 3073 of the Emergency Medical Services Transport Contract Authority Amendment Act of 2016, effective October 8, 2016 (D.C. Law 21-160; 63 DCR 10775), is amended by striking the date "September 30, 2021" and inserting the date "September 30, 2023" in its place.

SUBTITLE D. SENIOR POLICE OFFICERS PROGRAM

Sec. 3031. Short title.

This subtitle may be cited as the "Senior Police Officers Retention Amendment Act of 2020".

Sec. 3032. Section 2(h)(1) of the Retired Police Officer Redeployment Amendment Act of 1992, effective September 29, 1992 (D.C. Law 9-163; D.C. Official Code § 5-761(h)(1)), is amended by striking the date "October 1, 2020" and inserting the date "October 1, 2023" in its place.

SUBTITLE E. OFFICE ON RETURNING CITIZEN AFFAIRS

Sec. 3041. Short title.

This subtitle may be cited as the "Moving the Office on Returning Citizen Affairs Amendment Act of 2020".

Sec. 3042. Section 3022 of the Office of the Deputy Mayor for Public Safety and Justice Establishment Act of 2011, effective September 14, 2011 (D.C. Law 19-21; D.C. Official Code § 1-301.191), is amended as follows:

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

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

"(1) Be responsible for providing guidance and support to, and coordination of, public safety, justice, and returning citizen agencies within the District of Columbia government, including the Office on Returning Citizen Affairs, established by section 3 of the Office on Ex-Offender Affairs and Commission on Re-Entry and Ex-Offender Affairs Establishment Act of 2006, effective March 8, 2007 (D.C. Law 16-243; D.C. Official Code § 24-1302);".

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

"(2) Ensure accountability through general oversight over public safety, justice, and returning citizen agencies, as well as the programs under the jurisdiction of the Office;".

(3) Paragraph (3) is amended by striking the phrase "public-safety and justice services" and inserting the phrase "public safety, justice, and returning citizen services" in its place.

(4) Paragraph (4) is amended by striking the phrase "criminal justice or public-safety issues, in the coordination, planning, and implementation of public-safety and justice matters" and inserting the phrase "public safety, justice, or returning citizen issues, in the coordination, planning, and implementation of public safety, justice, and returning citizen matters" in its place.

(5) Paragraph (5) is repealed.

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

"(e) For the purposes of this section, the term "returning citizens" shall have the same meaning as provided in section 2(5) of the Office on Ex-Offender Affairs and Commission on Re-Entry and Ex-Offender Affairs Establishment Act of 2006, effective March 8, 2007 (D.C. Law 16-243; D.C. Official Code § 24-1301(5)).".

Sec. 3043. Section 3(a) of the Office on Ex-Offender Affairs and Commission on Re-Entry and Ex-Offender Affairs Establishment Act of 2006, effective March 8, 2007 (D.C. Law 16-243; D.C. Official Code § 24-1302(a)), is amended by striking the phrase "established the Office on Returning Citizen Affairs" and inserting the phrase "established, as a subordinate Executive agency within the Public Safety and Justice cluster, the Office on Returning Citizen Affairs" in its place.

SUBTITLE F. CONCEALED PISTOL LICENSING REVIEW BOARD

Sec. 3051. Short title.

This subtitle may be cited as the "Concealed Pistol Licensing Review Board Membership Amendment Act of 2020".

Sec. 3052. Section 908 of the Firearms Control Regulations Act of 1975, effective June 16, 2015 (D.C. Law 20-279; D.C. Official Code § 7-2509.08), is amended as follows:

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

(1) The lead-in language is amended by striking the phrase "7 members" and inserting the phrase "11 members" in its place.

(2) Subparagraph (D) is amended by striking the semicolon and inserting the phrase "; and" in its place.

(3) Subparagraph (E) is amended as follows:

(A) The lead-in language is amended by striking the phrase "Three public" and inserting the phrase "Seven public" in its place.

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

(C) Sub-subparagraph (ii) is amended by striking the period and inserting a semicolon in its place.

(D) New sub-subparagraphs (iii), (iv), and (v) are added to read as follows:

"(iii) Two District residents with professional experience in the field of gun violence prevention;

"(iv) One District resident with professional experience in the field of victim services or advocacy; and

"(v) One District resident attorney in good standing with the District of Columbia Bar with professional experience in criminal law.".

(b) Subsection (c) is amended by striking the phrase "section. Each hearing panel shall contain at least one member designated by subsection (b)(1)(A), (B), or (D) of this section." and inserting the phrase "section." in its place.

SUBTITLE G. LITIGATION SUPPORT FUND AND GRANT-MAKING AUTHORITY

Sec. 3061. Short title.

This subtitle may be cited as the "Litigation Support Fund and Grant-Making Authority Amendment Act of 2020".

Sec. 3062. The Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C. Official Code § 1-301.81 *et seq.*), is amended as follows:

(a) Section 106b (D.C. Official Code § 1-301.86b) is amended as follows:

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

(A) Paragraph (1)(B) is amended by striking the phrase "Funding staff positions, up to a maximum amount of $4 million" and inserting the phrase "Funding staff positions, personnel costs, and employee retirement and separation incentives, up to a maximum amount of $6 million" in its place.

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

"(2) Beginning in Fiscal Year 2020, up to $7 million deposited into the Fund each fiscal year may be used for the purposes of crime reduction, violence interruption, and other public safety initiatives.".

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

"(3) In Fiscal Year 2021, the first $500,000 deposited into the Fund shall be transferred to the Office of Victim Services and Justice Grants for victim services grants.".

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

(A) Subparagraph (A) is amended by striking the phrase "$10 million" both times it appears and inserting the phrase "$17 million" in its place.

(B) Subparagraph (B) is amended by striking the phrase "$11.6 million in the Fund until September 30, 2020" and inserting the phrase "$19.1 million in the Fund until September 30, 2021" in its place.

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

"(f) Notwithstanding any other provision of this section, $12,039,659.91 of the amount to be received by the District in Fiscal Year 2021 in settlement of *District of Columbia v. Monsanto Co.*, Superior Court of the District of Columbia Case No. 2020 CA 002445 B, shall be deposited in the Fund and allocated as follows:

"(1) $7,339,659.91 shall be paid in attorney's fees and costs to May Firm/EKM Association on PCBs for legal services received pursuant to Contract No. DCCB-2019-C-0008; and

"(2) $4,700,000 shall be used for the authorized purposes of the Fund pursuant to subsection (c) of this section.".

(b) Section 108c (D.C. Official Code § 1-301.88f) is amended as follows:

(1) The section heading is amended by striking the phrase "reduction and violence interruption" and inserting the phrase "reduction, violence interruption, and assistance to victims of crime and other vulnerable residents" in its place.

(2) Subsection (a) is amended by striking the phrase "reduction and violence interruption" and inserting the phrase "reduction, violence interruption, and assistance to victims of crime and other categories of vulnerable residents served by the Office of the Attorney General, including seniors, children, individuals protected from discrimination under the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), and individuals previously involved in the criminal justice system" in its place.

SUBTITLE H. CHIEF OF POLICE TERM OF OFFICE

Sec. 3071. Short title.

This subtitle may be cited as the "Chief of Police Term of Office Amendment Act of 2020".

Sec. 3072. Section 1 of An Act Relating to the Metropolitan police of the District of Columbia, approved February 28, 1901 (31 Stat. 819; D.C. Official Code § 5-105.01), is amended by adding a new subsection (e) to read as follows:

"(e)(1) Effective May 2, 2017, the term of office for Chief of Police shall be 4 years; except, that the Mayor may earlier terminate a Chief of Police with or without cause during that Chief of Police's term of office.

"(2) In the event a Chief of Police leaves office prior to the expiration of a 4-year term, the successor Chief nominated by the Mayor and confirmed by the Council shall serve a

new 4-year term of office, subject to removal during that term by the Mayor in accordance with paragraph (1) of this subsection.".

SUBTITLE I. MONSANTO SETTLEMENT ALLOCATION

Sec. 3081. Short title.

This subtitle may be cited as the "Monsanto Settlement Allocation Act of 2020".

Sec. 3082. Notwithstanding any other provision of law, the $52 million to be received by the District in Fiscal Year 2021 in settlement of *District of Columbia v. Monsanto Co.*, Superior Court of the District of Columbia Case No. 2020 CA 002445 B, shall be recognized as revenue and allocated as follows:

(1) $7,339,659.91 shall be deposited in the Litigation Support Fund, established pursuant to section 106b of the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective October 22, 2015 (D.C. Law 21-36; D.C. Official Code § 1-301.86b) ("Litigation Support Fund"), to pay attorney's fees and costs to May Firm/EKM Association on PCBs for legal services received pursuant to Contract No. DCCB-2019-C-0008;

(2) $4,700,000 shall be deposited into the Litigation Support Fund and used for the authorized purposes of that fund;

(3) $30,000,000 shall be deposited into the Clean Land Fund, established pursuant to section 308 of the Brownfield Revitalization Amendment Act of 2000, effective June 13, 2001 (D.C. Law 13-312; D.C. Official Code § 8-633.08), to be used for the authorized purposes of that fund; and

(4) $9,960,340.09 shall be deposited as local funds into the General Fund and shall be made available as set forth in the approved Fiscal Year 2021 Budget and Financial Plan.

SUBTITLE J. ETHICS ENFORCEMENT

Sec. 3091. Short title.

This subtitle may be cited as the "Ethics Enforcement Amendment Act of 2020".

Sec. 3092. The Government Ethics Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.01 *et seq.*), is amended as follows:

(a) Section 215 (D.C. Official Code § 1-1162.15) is amended as follows:

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

(A) Paragraph (2) is amended by striking the phrase "the United States Attorney for the District of Columbia for enforcement or prosecution;" and inserting the phrase "the prosecutorial authority with jurisdiction for enforcement or prosecution; or" in its place.

(B) Paragraph (3) is repealed.

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

"(b) The Board may refer information concerning an alleged violation of the Code of Conduct or of this title to the prosecutorial authority with jurisdiction for enforcement or prosecution after the presentation of evidence by the Director of Government Ethics to the Board as provided in section 212(b), 213(e), or 214(a).".

(b) Section 221 (D.C. Official Code § 1-1162.21) is amended as follows:

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

(A) Paragraph (1) is amended by striking the phrase "not more than $25,000" and inserting the phrase "not more than $5,000" in its place.

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

"(1A) The fine set forth in paragraph (1) of this subsection shall not be limited by section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01).".

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

"(2) Prosecutions of violations of this subsection shall be brought by the Attorney General for the District of Columbia.".

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

"(3) For the purposes of this subsection and section 222(a), violations of the following provisions of the Code of Conduct substantially threaten the public trust:

"(A) Section 223; and

"(B) Section 416 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-354.16).".

(2) Subsection (d) is amended by striking the phrase "the Board, the Attorney General of the District of Columbia, or of the United States Attorney for the District of Columbia" and inserting the phrase "the Board or the Attorney General of the District of Columbia" in its place.

TITLE IV. PUBLIC EDUCATION SYSTEMS

SUBTITLE A. UNIFORM PER STUDENT FUNDING FORMULA INCREASE

Sec. 4001. Short title.

This subtitle may be cited as the "Funding for Public Schools and Public Charter Schools Increase Amendment Act of 2020".

Sec. 4002. The Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2901 *et seq.*), is amended as follows:

(a) Section 104(a) (D.C. Official Code § 38-2903(a)) is amended by striking the phrase "$10,980 per student for Fiscal Year 2020" and inserting the phrase "$11,310 per student for Fiscal Year 2021" in its place.

(b) Section 105 (D.C. Official Code § 38-2904) is amended by striking the tabular array and inserting the following tabular array in its place:

"Grade Level	Weighting	Per Pupil Allocation in FY 2021
"Pre-Kindergarten 3	1.34	$15,155
"Pre-Kindergarten 4	1.30	$14,703
"Kindergarten	1.30	$14,703
"Grades 1-5	1.00	$11,310
"Grades 6-8	1.08	$12,215
"Grades 9-12	1.22	$13,798
"Alternative program	1.445	$16,343
"Special education school	1.17	$13,233
"Adult	0.89	$10,066

(c) Section 106(c) (D.C. Official Code § 38-2905(c)) is amended to read as follows:

"(c) The supplemental allocations shall be calculated by applying weightings to the foundation level as follows:

"Special Education Add-ons:

"Level/ Program	Definition	Weighting	Per Pupil Supplemental Allocation FY 2021
"Level 1: Special Education	Eight hours or less per school week of specialized services	0.97	$10,971
"Level 2: Special Education	More than 8 hours and less than or equal to 16 hours per school week of specialized services	1.20	$13,572
"Level 3: Special Education	More than 16 hours and less than or equal to 24 hours per school week of specialized services	1.97	$22,281

"Level 4: Special Education	More than 24 hours per school week of specialized services, which may include instruction in a self-contained (dedicated) special education school other than residential placement	3.49	$39,472
"Special Education Compliance Funding	Weighting provided in addition to special education level add-on weightings on a per-student basis for special education compliance.	0.099	$1,120
"Attorney's Fees Supplement	Weighting provided in addition to special education level add-on weightings on a per-student basis for attorney's fees.	0.089	$1,007
"Residential	D.C. Public School or public charter school that provides students with room and board in a residential setting, in addition to their instructional program	1.67	$18,888

"General Education Add-ons:

"Level/ Program	Definition	Weighting	Per Pupil Supplemental Allocation FY 2021
"ELL	Additional funding for English Language Learners	0.49	$5,542
"At-risk	Additional funding for students in foster care, who are homeless, on TANF or SNAP, or behind grade level	0.2256	$2,552

"Residential Add-ons:

"Level/ Program	Definition	Weighting	Per Pupil Supplemental Allocation FY 2021

"Level 1: Special Education - Residential	Additional funding to support the after-hours level 1 special education needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting	0.37	$4,185
"Level 2: Special Education - Residential	Additional funding to support the after-hours level 2 special education needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting	1.34	$15,155
"Level 3: Special Education - Residential	Additional funding to support the after-hours level 3 special education needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting	2.89	$32,686
"Level 4: Special Education - Residential	Additional funding to support the after-hours level 4 special education needs of limited- and non-English-proficient students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting	2.89	$32,686
"LEP/NEP - Residential	Additional funding to support the after-hours limited- and non-English-proficiency needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting	0.668	$7,555

"Special Education Add-ons for Students with Extended School Year ("ESY") Indicated in Their Individualized Education Programs ("IEPs"):

"Level/ Program	Definition	Weighting	Per Pupil Supplemental Allocation FY 2021
"Special Education Level 1 ESY	Additional funding to support the summer school or program need for students who require ESY services in their IEPs.	0.063	$713
"Special Education Level 2 ESY	Additional funding to support the summer school or program need for students who require ESY services in their IEPs	0.227	$2,567
"Special Education Level 3 ESY	Additional funding to support the summer school or program need for students who require ESY services in their IEPs	0.491	$5,553
"Special Education Level 4 ESY	Additional funding to support the summer school or program need for students who require ESY services in their IEPs	0.491	$5,553

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(d) Section 115 (D.C. Official Code § 38-2913) is amended by striking the phrase "Fiscal Year 2022" and inserting the phrase "Fiscal Year 2024" in its place.

SUBTITLE B. EDUCATION FACILITY COLOCATION

Sec. 4011. Short title.

This subtitle may be cited as the "Education Facility Colocation Amendment Act of 2020".

Sec. 4012. Section 3422 of the Public School and Public Charter School Facilities Sharing Act of 2002, effective October 1, 2002 (D.C. Law 14-190; D.C. Official Code § 38-1831.01), is amended as follows:

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

"(a) The District of Columbia Public Schools system may allow existing public charter schools that are chartered pursuant to the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321-107; D.C. Official Code 38-1800.01 *et seq.*), to utilize

space in DCPS facilities, for a period not greater than 15 years, where such facilities are currently or are projected to be underutilized.".

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

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

"(1) As payment for the space allocation, the public charter school shall pay to DCPS an amount agreeable to the charter school and DCPS.

"(2) The amount of payment shall be agreed upon before relocation of any public charter school into a DCPS facility.".

(2) Paragraph (3) is repealed.

(c) Subsection (c) is amended by striking the phrase "Board of Education shall" and inserting the phrase "Mayor may" in its place.

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

"(d)(1) There is established as a special fund the DCPS School Facility Colocation Fund ("Fund"), which shall be administered by DCPS in accordance with paragraph (3) of this subsection.

"(2) All payments received from public charter schools under this section shall be deposited in the Fund.

"(3) Money in the Fund shall be used for the following purposes:

"(A) To fund additional school programming, supplemental staff, special initiatives, and other activities and programs at DCPS schools in which charter schools are colocated; and

"(B) For maintenance of, or improvements to, DCPS schools in which charter schools are colocated.

"(4)(A) The money deposited into the Fund but not expended in a fiscal year shall not revert to the unassigned fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

"(B) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.".

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

"(e) Any funds received by a DCPS school pursuant to this section shall be supplemental to any funds budgeted for the school from the Uniform Per Student Funding Formula or other fund source. A school's school-based budget shall not be reduced based on funds received pursuant to this section.".

SUBTITLE C. CHILD CARE GRANTS

Sec. 4021. Short title.

This subtitle may be cited as the "Grantmaking Authority to Expand Access to Quality Child Care Amendment Act of 2020".

Sec. 4022. Child care grantmaking authority.

Section 3(b) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)), is amended as follows:

(a) Paragraph (30) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(b) Paragraph (31)(C) is amended by striking the period and inserting the phrase "; and" in its place.

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

"(32) Have the authority to issue grants, from funds under its administration, to non-profit and community-based organizations to increase access to, the affordability of, and the quality of child care in the District.".

SUBTITLE D. UNIVERSITY OF THE DISTRICT OF COLUMBIA FUNDRAISING MATCH

Sec. 4031. Short title.

This subtitle may be cited as the "University of the District of Columbia Fundraising Match Act of 2020".

Sec. 4032. (a) In Fiscal Year 2021, of the funds allocated to the Non-Departmental agency, $1, up to a maximum of $1.5 million, shall be transferred to the University of the District of Columbia ("UDC") to match dollar-for-dollar the amount UDC raises from private donations by April 1, 2021.

(b) Of the amount transferred to UDC pursuant to subsection (a) of this section, no less than one-third of the funds shall be deposited into UDC's endowment fund.

SUBTITLE E. ADULT AND RESIDENTIAL PUBLIC CHARTER SCHOOL STABLIZATION

Sec. 4041. Short title.

This subtitle may be cited as the "Adult and Residential Public Charter School Funding Stabilization Amendment Act of 2020".

Sec. 4042. Section 107b of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective April 13, 2005 (D.C. Law 15-348; D.C. Official Code § 38-2906.02), is amended by adding a new subsection (c-1) to read as follows:

"(c-1)(1) Notwithstanding subsections (b), (c), (d), and (g) of this section, for School Year 2020-2021, the annual payment pursuant to the Funding Formula for each adult education program and each residential public charter school shall equal the total estimated costs for the number of District resident students projected to be enrolled in the adult education program or the residential public charter school, during School Year 2020-2021, including the costs of all add-on components provided in sections 106 and 106a, based on the program or school's

enrollment projections contained in the Mayor's Fiscal Year 2021 proposed budget, as modified pursuant to section 107(e).

"(2)(A) The first quarterly payment shall be 35% of a school's annual payment.

"(B) A school's October 25, January 15, and April 15 payments shall each equal 1/3 of the school's total remaining annual payment after the first quarterly payment is made.

"(3) For the purposes of this subsection, the term:

"(A) "Adult education program" means a public charter school or a program in a public charter school that, during School Year 2019-2020, was identified as an adult education performance management framework school by the District of Columbia Public Charter School Board.

"(B) "Residential public charter school" means a public charter school that, during School Year 2019-2020, provided a majority of its students with room and board in a residential setting, in addition to their instructional program.".

SUBTITLE F. SCHOOL FINANCIAL TRANSPARENCY

Sec. 4051. Short title.

This subtitle may be cited as the "School Financial Transparency Amendment Act of 2020".

Sec. 4052. Section 202 of the Department of Education Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-191), is amended as follows:

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

(1) Paragraph (8) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(2) Paragraph (9) is amended by striking the period and inserting the phrase "; and" in its place.

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

"(10)(A) By May 31, 2021, establish common financial reporting standards for the non-capital budgets and expenditures of District of Columbia Public Schools and public charter schools. The common financial reporting standards shall:

"(i) Include categories for reporting budgets and expenditures for instructional staff, school administrators, instructional supports, educational materials, and non-educational administrative costs;

"(ii) Permit meaningful and accurate budget and expenditure comparisons, including comparisons of budgets and expenditures for at-risk students, as defined in section 102(2A) of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2901(2A)), between all public schools and between all local education agencies;

"(iii) Ensure full and accurate disclosure of administrative costs for each local education agency; and

"(iv) Make it possible to collect comparable data by school campus.

"(B) For the purposes of this paragraph, the term:

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

"(ii) "Public schools" includes public charter schools.".

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

"(f)(1) To support the establishment of common financial reporting standards required pursuant to subsection (b)(10) of this section, the Deputy Mayor for Education may issue grants not to exceed $200,000, in Fiscal Year 2021.

"(2) Grants issued pursuant to this subsection shall be administered pursuant to the requirements set forth in the Grant Administration Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code § 1-328.11 *et seq.*).".

Sec. 4053. Section 3(b) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)), is amended by adding a new paragraph (3A) to read as follows:

"(3A) Beginning in May 2024, and annually thereafter, electronically publish for each public school and public charter school the previous school year's expenditures, based on the common financial reporting standards established by the Department of Education pursuant to section 202(b)(10) of the Department of Education Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-191(b)(10)), in a manner that permits the public to easily compare expenditures between individual schools and between local education agencies.".

Sec. 4054. The Board of Education Continuity and Transition Amendment Act of 2004, effective December 7, 2004 (D.C. Law 15-211; D.C. Official Code §§ 38-2831 and 38-2951 *et seq.*), is amended as follows:

(a) Section 6 (D.C. Official Code § 38-2831) is amended as follows:

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

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

"(1) All funds budgeted for each school, including a summary statement or table of the local-funds budget for each school, by revenue source for activities and service levels, and by revenue source for comptroller source group by activities and service levels;"

(B) Paragraph (2) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(C) Paragraph (3)(B) is amended by striking the period and inserting a semicolon in its place.

(D) New paragraphs (4) and (5) are added to read as follows:

"(4) The methodology used to determine each school's local funding; and

"(5) For each school's individual budget, a separate budget line item for funding allocated to at-risk students, as defined in section 102(2A) of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2901(2A)), as coded in the District's current official financial system of record.".

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

"(g) By December 1, 2023, and annually thereafter, the Mayor shall transmit a report of the previous school year's actual expenditures, for each school, to the Office of the State Superintendent of Education. The report shall conform to the common financial reporting standards established by the Department of Education pursuant to section 202(b)(10) of the Department of Education Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-191(b)(10)).".

(b) A new section 6a is added to read as follows:

"Sec. 6a. District of Columbia Public Schools school-level budget model.

"As part of the District of Columbia Public Schools' ("DCPS") regular multi-year strategic planning and goal setting, DCPS shall include, and make publicly available, an analysis of the model used to determine school-level budgets for DCPS schools. The analysis shall include the following:

"(1) A summary of DCPS costs, including personnel costs;

"(2) Research in education and education finance;

"(3) A discussion of budget alignment with DCPS priorities; and

"(4) Recommendations for changes, if applicable.".

Sec. 4055. Section 106a of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Amendment Act of 1998, effective February 22, 2014 (D.C. Law 20-87; D.C. Official Code § 38-2905.01), is amended by adding a new subsection (d) to read as follows:

"(d) Beginning December 31, 2023, and annually thereafter, every local education agency that is allocated funds pursuant to this section shall provide the Office of the State Superintendent of Education with data related to expenditures of such funds consistent with reporting standards established by the Department of Education pursuant to section 202(b)(10) of the Department of Education Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-191(b)(10)).".

Sec. 4056. The District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321-107; D.C. Official Code § 38-1802.01 *et seq.*), is amended as follows:

(a) Section 2204(c) (D.C. Official Code § 38-1802.04(c)), is amended by adding a new paragraph (23) to read as follows:

"(23) *School expenditures and budgets.* —

"(A) Beginning July 29, 2022, and annually thereafter, the Board of Trustees of each public charter school shall prepare and submit to the Public Charter School Board and OSSE, for each campus under its control, the following data:

"(i) Actual expenditures for the prior school year;

"(ii) The current school year's budget; and

"(iii) A draft budget for the following school year.

"(B) The data submitted pursuant to subparagraph (A) of this paragraph shall conform to the common financial reporting standards established by the Department of Education pursuant to section 202(b)(10) of the Department of Education Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-191(b)(10)).

"(C) The Public Charter School Board shall electronically publish the data it receives pursuant to subparagraph (A) of this paragraph in a uniform manner for each school by November 1 each year.".

(b) Section 2205 (D.C. Official Code § 38-1802.05) is amended by adding a new subsection (e) to read as follows:

"(e) *Open meetings.* — All meetings of a Board of Trustees shall be subject to the requirements of the Open Meetings Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-571 *et seq.*).".

Sec. 4057. The Open Meetings Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-571 *et seq.*), is amended as follows:

(a) Section 404(3) (D.C. Official Code § 2-574(3)) is amended as follows:

(1) The lead-in language is amended by striking the phrase "agency, or" and inserting the phrase "agency, the board of trustees of a public charter school, or" in its place.

(2) Subparagraph (C) is repealed.

(b) Section 405(b) (D.C. Official Code § 2-575(b)) is amended as follows:

(1) Paragraph (10) is amended by striking the semicolon and inserting the phrase ", or of public charter school personnel, where the public body is the board of trustees of a public charter school;" in its place.

(2) Paragraph (11) is amended by striking the phrase "obtained from outside the government" and inserting the phrase "obtained from outside the government or public body" in its place.

(3) Paragraph (13) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(4) Paragraph (14) is amended by striking the period and inserting a semicolon in its place.

(5) New paragraphs (15) and (16) are added to read as follows:

"(15) To discuss matters involving personally identifiable information of students; and

"(16)(A) When the public body is the board of trustees for a public charter school, to meet with the staff of an eligible chartering authority, for the purpose of being evaluated by the eligible chartering authority.

"(B) Subparagraph (A) of this paragraph shall not be construed to permit the board of trustees for a public charter school to close a meeting that would otherwise be open merely because the staff of an eligible charting authority is participating.".

(c) Section 406(3) (D.C. Official Code § 2-576(3)) is amended by striking the phrase "subsection, notice" and inserting the phrase "subsection, except for meetings of boards of trustees for public charter schools, notice" in its place.

(d) Section 408(b)(1) (D.C. Official Code § 2-578(b)(1)) is amended by striking the period and inserting the phrase ", or in the case of a board of trustees for a public charter school, no later than 30 business days after the meeting.".

SUBTITLE G. HEALTHY SCHOOLS FUND RESTORATION

Sec. 4061. Short title.

This subtitle may be cited as the "Healthy Schools Fund Restoration Amendment Act of 2020".

Sec. 4062. Section 102(f) of the Healthy Schools Act of 2010, effective July 27, 2010 (D.C. Law 18-209; D.C. Official Code § 38-821.02(f)), is amended by striking the phrase "Beginning on October 1, 2019, an amount of $5,110,000" and inserting the phrase "Beginning on October 1, 2020, an amount of $5,590,000" in its place.

SUBTITLE H. WILKINSON SCHOOL DISPOSITION PROCESS

Sec. 4071. Short title.

This subtitle may be cited as the "Wilkinson School Disposition Process Amendment Act of 2020".

Sec. 4072. Section 2209(b)(1) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321-125; D.C. Official Code § 38-1802.09(b)(1)), is amended by adding a new subparagraph (B-ii) to read as follows:

"(B-ii) Notwithstanding subparagraph (A) of this paragraph, the Mayor may give the right of first offer to purchase, lease, or otherwise use the former Wilkinson Elementary School building to:

"(I) A charter school facility incubator that leased the former Birney Elementary School Building as of October 1, 2020; or

"(II) A public charter school that occupied all, or a portion of, the former Birney Elementary School building as of October 1, 2020.".

Sec. 4073. Section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801), is amended as follows:

(a) Subsection (a)(1) is amended by striking the number "20" and inserting the number "15" in its place.

(b) A new subsection (b-6) is added to read as follows:

"(b-6)(1) Notwithstanding subsections (a-1)(4) and (b-2) of this section, for the disposition of the former Wilkinson Elementary School in Ward 8 ("Wilkinson real property"), the Mayor shall hold at least one public hearing on the finding that the Wilkinson real property is no longer required for public purposes and to obtain community input on the proposed disposition of the Wilkinson real property before submitting the proposed surplus resolution and proposed disposition resolution to the Council pursuant to this section.

"(2) The hearing required by paragraph (1) of this subsection shall be held at an accessible evening or weekend time and in an accessible location in the vicinity of the Wilkinson real property. The Mayor shall provide at least 30 days written notice of the hearing to the affected Advisory Neighborhood Commission and publish notice of the hearing in the District of Columbia Register at least 15 days before the hearing.".

SUBTITLE I. ACADEMIC MIDDLE MENTORING INITIATIVE

Sec. 4081. Short title.

This subtitle may be cited as the "Academic Middle Mentoring Initiative Act of 2020".

Sec. 4082. In Fiscal Year 2021, the Office of the State Superintendent of Education shall award, on a competitive basis, a grant of $200,000 to support a mentoring program that mentors low-income high school students and low-income, first generation college students in the academic middle, who are enrolled in or who graduated from a District public or public charter school, to provide the students with the skills and experiences needed to successfully complete college and excel in the workforce.

SUBTITLE J. TRUANCY PREVENTION AND LITERACY PILOT FUNDING EXTENSION

Sec. 4091. Short title.

This subtitle may be cited as the "Truancy Prevention and Literacy Pilot Funding Extension Amendment Act of 2020".

Sec. 4092. Section 403(g) of the Community Schools Incentive Act of 2012, effective June 19, 2012 (D.C. Law 19-142; D.C. Official Code § 38-754.03(g)), is amended by adding a new paragraph (4) to read as follows:

"(4) Any funds awarded pursuant to paragraph (1) of this subsection but not expended in Fiscal Year 2020 shall be available to the grant recipients until September 30, 2021.".

SUBTITLE K. DCPS AUTHORITY FOR SCHOOL SECURITY

Sec. 4101. This subtitle may be cited as the "DCPS Authority for School Security Amendment Act of 2020".

Sec. 4102. The School Safety and Security Contracting Procedures Act of 2004, effective April 13, 2005 (D.C. Law 15-350; D.C. Official Code § 5-132.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 5-132.01) is amended as follows:

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

"(1B) "MOA" means the Memorandum of Agreement into which DCPS and MPD enter pursuant to section 104.".

(2) Paragraph (4) is repealed.

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

"(5) "School security personnel" means individuals, including unarmed security guards, that DCPS hires or contracts to support safety in DCPS schools.".

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

"(5A) "Security-related contract" means any contract to provide physical or personal security services, including school security personnel, at DCPS schools.".

(5) Paragraph (6) is repealed.

(b) Section 102 (D.C. Official Code § 5-132.02) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "security for the District of Columbia Public Schools" and inserting the phrase "school resource officers to the DCPS schools and public charter schools" in its place.

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

"(c) The School Safety Division shall:

"(1) Hire and train school resource officers;

"(2) Deploy school resource officers to:

"(A) DCPS schools, consistent with the terms of the MOA; and

"(B) Public charter schools;

"(3) Coordinate with DCPS and public charter schools regarding the use and sharing of resources and communications between MPD and school-specific safety teams; and

"(4) Provide recommendations to the Mayor, Council, and the DCPS Chancellor regarding the impact of school closings, consolidations, grade reconfigurations, use of swing space during school reconstruction, and gang and crew violence on the safety and well-being of children.".

(c) Section 103 (D.C. Official Code § 5-132.03) is amended as follows:

(1) The section heading is amended by striking the phrase "security personnel" and inserting the phrase "resource officers" in its place.

(2) The lead-in language is amended by striking the phrase "security personnel providing security for DCPS" and inserting the phrase "resource officers" in its place.

(3) Paragraph (7) is amended by striking the phrase "laws and regulations, including Board of Education regulations" and inserting the phrase "laws and regulations" in its place.

(4) Paragraph (8) is amended by striking the phrase "security personnel" and inserting the phrase "resource officers" in its place.

(d) New sections 103a and 103b are added to read as follows:

"Sec. 103a. DCPS responsibilities for school security.

"(a) By October 1, 2020, DCPS shall be responsible for school security personnel within DCPS schools, and shall:

"(1) Oversee the hiring or contracting of school security personnel for DCPS;

"(2) Deploy school security personnel to DCPS schools;

"(3) Provide oversight over school security personnel and be responsible for administering all disciplinary actions related to school security personnel, including termination;

"(4) Execute, approve, administer, monitor, and provide oversight over any security-related contract for school security personnel; and

"(5) Create and implement school building security and emergency operations plans, in consultation with MPD and the Homeland Security and Emergency Management Agency.

"Sec. 103b. Training for school security personnel.

"(a) For the school year beginning in 2020, DCPS may use the training curriculum adopted by MPD pursuant to section 103 to train its school security personnel.

"(b) By the start of the school year beginning in 2021, DCPS shall adopt a school security personnel training curriculum based on the positive youth development philosophy. The curriculum shall focus on training supervisory and on-site personnel to provide security services responsive and appropriate to the student, staff, and family populations at each school building. At a minimum, the curriculum shall include training in the following areas, developed with advice from appropriate other District agencies:

"(1) Child and adolescent development;

"(2) Effective communication skills;

"(3) Behavior management;

"(4) Conflict resolution, including restorative justice practices;

"(5) De-escalation techniques;

"(6) Behavioral health issues for youth and families;

"(7) Child sexual abuse and gender-based violence prevention, identification, and response;

"(8) Availability of social services for youth;

"(9) District of Columbia laws and regulations;

"(10) Constitutional standards for searches and seizures conducted by school security personnel on school grounds; and

"(11) Violence prevention, including gang and crew dynamics.".

(e) Section 104 (D.C. Official Code § 5-132.04) is amended to read as follows:

"Sec. 104. Coordination of school security efforts between DCPS and MPD.

"By October 1, 2020, DCPS and MPD shall enter into a MOA for the purpose of coordinating the agencies' respective security obligations at DCPS schools. The MOA shall:

"(1) Reflect DCPS's role as the administrator of any security-related contract;

"(2) Include provisions for effectuating the transfer of any personnel, property, funds, or records necessary to transfer responsibility for any existing security-related contract from MPD to DCPS;

"(3) Delineate lines of authority, supervision, and communication between MPD and DCPS, including how school resource officers deployed at each school will provide security in coordination with the school's principal and school security personnel; provided, that during emergencies, incident command shall be consistent with the District of Columbia response plan, as defined by section 2(1A) of the District of Columbia Public Emergency Act of 1980, effective March 5, 1981 (D.C. Law 3-149; D.C. Official Code § 7-2301(1A));

"(4) Include a process for resolving disagreements between DCPS and MPD at all levels; and

"(5) Provide for MPD advice and consultation on DCPS school building security and emergency operations plans.".

(f) Section 105 (D.C. Official Code § 5-132.05) is amended to read as follows:

"Sec. 105. Authority to issue RFPs for school security-related contracts.

"(a)(1) By October 1, 2020, DCPS shall be responsible for administering and funding any security-related contract effective during the 2020-2021 school year.

"(2) MPD shall transfer to DCPS all personnel, property, funds, or records necessary for DCPS to administer and fund any security-related contract effective during the 2020-2021 school year.

"(b) Responsibility for the issuance of a Request for Proposals ("RFP") for any security-related contract for DCPS for a contract term to begin June 30, 2021, or later shall transfer from the MPD to DCPS as of August 5, 2020. DCPS shall be responsible for awarding, executing, administering, and funding a contract resulting from an RFP issued under this subsection.".

TITLE V. HUMAN SUPPORT SERVICES

SUBTITLE A. MEDICAID HOSPITAL SUPPLEMENTAL AND DIRECTED PAYMENTS

Sec. 5001. Short title.

This subtitle may be cited as the "Medicaid Hospital Supplemental and Directed Payments Amendment Act of 2020".

Sec. 5002. The Medicaid Hospital Outpatient Supplemental Payment Act of 2017, effective December 13, 2017 (D.C. Law 22-33; D.C. Official Code § 44-664.01 *et seq.*), is amended as follows:

(a) Section 5062(5) (D.C. Official Code § 44-664.01(5)) is amended by striking the phrase "September 30 of the period 3 fiscal years prior to the fiscal year the fee is assessed" and inserting the phrase "September 30, 2018" in its place.

(b) Section 5063(c)(1) (D.C. Official Code § 44-664.02(c)(1)) is amended by striking the semicolon and inserting the phrase ", either directly or through payments to managed care organizations;" in its place.

(c) Section 5064(a)(1) and (2) (D.C. Official Code § 44-664.03(a)(1) and (2)) is amended to read as follows:

"(1) An amount equal to the non-federal share of the total available spending room under the outpatient Medicaid upper payment limit for private hospitals applicable to District Fiscal Year 2020, consistent with requirements and approvals from the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services; plus

"(2) An amount equal to the non-federal share of the total available spending room under the outpatient Medicaid upper payment limit for District operated hospitals applicable to District Fiscal Year 2020, consistent with the federal approval of the authorizing Medicaid State Plan amendment or associated templates and other authorities; plus".

(d) Section 5065(a) (D.C. Official Code § 44-664.04(a)) is amended by striking the phrase "the Centers for Medicare and Medicaid Services approves the Medicaid State Plan amendment" and inserting the phrase "the District obtains approvals required by the Centers for Medicare and Medicaid Services for" in its place.

(e) Section 5066 (D.C. Official Code § 44-664.05) is amended to read as follows:

"Sec. 5066. Medicaid outpatient hospital access payments; payments to MCOs.

"(a) For visits and services beginning October 1, 2020, the District shall pay managed care organizations ("MCOs") at a rate sufficient to support payments to hospitals located in the District for outpatient services at a rate that is not less than 130% of the District Fiscal Year 2020 fee-for-service base rate and shall direct MCOs to pay such rate to their participating hospitals located in the District for such services.

"(b) No payment shall be made under this section until such time that the Centers for Medicare and Medicaid Services approves the Medicaid State Plan amendment, associated template, and other authorities authorizing the Medicaid payments described in this section.

"(c) The Medicaid payment methodologies authorized under this section shall not be altered unless such alteration is necessary to gain approval from the Centers for Medicare and Medicaid Services.".

Sec. 5003. Section 5013(a) of the Medicaid Hospital Inpatient Rate Supplement Act of 2017, effective December 13, 2017 (D.C. Law 22-33; D.C. Official Code § 44-664.13(a)), is amended to read as follows:

"(a)(1) Beginning October 1, 2020, and except as provided in subsection (b) of this section and section 5087, the District, through the Office of Tax and Revenue, may charge each hospital a fee based on its inpatient net patient revenue.

"(2) The fee shall be charged at a uniform rate necessary to generate no more than $8,454,038 to support inpatient Medicaid Fee-for-Service and managed care rates at the District Fiscal Year 2015 level of not less than 98% of cost to non-specialty hospitals.

"(3) The fee collected pursuant to this section shall be deposited in the Hospital Fund, established by section 5083.".

SUBTITLE B. MEDICAL MARIJUANA PROGRAM ADMINISTRATION

Sec. 5011. Short title.

This subtitle may be cited as the "Medical Marijuana Program Administration Amendment Act of 2020".

Sec. 5012. The Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 7-1671.01), is amended as follows:

(1) Paragraphs (1), (1A), (1B), and (1C) are redesignated as paragraphs (1B), (1C), (1D), and (1E), respectively.

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

"(1) "ABC Board" means the Alcoholic Beverage Control Board.".

"(1A) "ABRA" means the Alcoholic Beverage Regulation Administration.

(3) Paragraph (3)(B) is amended by striking the phrase "with the Department" and inserting the phrase "with ABRA" in its place.

(4) Paragraph (5) is amended by striking the phrase "with the Mayor" and inserting the phrase "with ABRA" in its place.

(5) Paragraph (6) is repealed.

(6) Paragraph (7) is amended by striking the phrase "with the Mayor" and inserting the phrase "with ABRA" in its place.

(7) Paragraph (19) is amended by striking the phrase "if the Department" and inserting the phrase "if ABRA" in its place.

(8) Paragraph (21) is amended by striking the phrase "by the Department" and inserting the phrase "by ABRA" in its place.

(b) Section 3 (D.C. Official Code § 7-1671.02) is amended as follows:

(1) Subsection (c)(1)(B) is amended by striking the phrase "with the Mayor" and inserting the phrase "with ABRA" in its place.

(2) Subsection (d) is amended by striking the phrase "with the Mayor" and inserting the phrase "with ABRA" in its place.

(c) Section 5(b)(2) (D.C. Official Code § 7-1671.04(b)(2)) is amended by striking the phrase "by the Mayor" and inserting the phrase "by ABRA" in its place.

(d) Section 6 (D.C. Official Code § 7-1671.05) is amended as follows:

(1) The lead-in language is amended by striking the phrase "The Program shall be administered by the Mayor and shall" and inserting the phrase "The Program shall" in its place.

(2) Paragraph (1)(A) is amended by striking the phrase "with the Department" and inserting the phrase "with ABRA" in its place.

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

(A) Subparagraph (iv) is amended by striking the phrase "by the Department" and inserting the phrase "by the ABC Board" in its place.

(B) Subparagraph (v) is amended by striking the phrase "by the Mayor" and inserting the phrase "by ABRA" in its place.

(4) Paragraph (5A) is amended as follows:

(A) The lead-in language is amended by striking the phrase "by the Department" and inserting the phrase "by the ABC Board" in its place.

(B) Subparagraph (C) is amended by striking the phrase "by the Department" and inserting the phrase "by the ABC Board" in its place.

(5) Paragraph (5B)(D) is amended by striking the phrase "that the Department" and inserting the phrase "that ABRA" in its place.

(6) Paragraph (7) is amended by striking the phrase "if the Mayor determines" and inserting the phrase "if the ABC Board determines" in its place.

(7) Paragraph (10)(A) is amended by striking the phrase "apply to the Mayor" and inserting the phrase "apply to the ABC Board" in its place.

(8) Paragraph (14) is amended by striking the phrase "notify the Department" and inserting the phrase "notify ABRA" in its place.

(e) Section 7 (D.C. Official Code § 7-1671.06) is amended as follows:

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

(A) Paragraph (1) is amended by striking the phrase "with the Mayor" and inserting the phrase "with ABRA" in its place.

(B) Paragraph (3)(A) is amended by striking the phrase "determined by rulemaking" and inserting the phrase "determined by the Mayor by rules issued in accordance with section 14" in its place.

(C) Paragraph (4) is amended by striking the phrase "The Mayor" and inserting the phrase "The ABC Board" in its place.

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

"(5)(A) An application for registration of a dispensary, cultivation center, or testing laboratory submitted by a medical cannabis certified business enterprise, or applicant

eligible to be a medical cannabis certified business enterprise, shall be awarded a preference point equal to 50 points or 20% of the available points, whichever is more.

"(B) A medical cannabis certified business enterprise shall:

"(i) Have one or more owners who are economically disadvantaged individuals or individuals who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities and who are District residents and individually or collectively own at least 60% of the licensed business enterprise;

"(ii) Have one or more owners whose income does not exceed $349,999, who are residents of the District, and whose net worth, excluding the value of their residence, does not exceed $1 million, and individually or collectively own at least 60% of the licensed business enterprise;

"(iii) Have a chief executive officer and its highest-level managerial employees perform their managerial functions in a principal office located in the District;

"(iv) Have at least 50% of its employees be residents of the District;

"(v) Have at least 50% of its contractors be residents of the District; and

"(vi) Have at least 80% of the assets of the certified business enterprise, including bank accounts, be in the District.

"(C) An applicant seeking to qualify as a medical cannabis certified business enterprise shall submit with the application for registration of a dispensary, cultivation center, or testing laboratory, an affidavit attesting to:

"(i) The number of owners of the applicant who are economically disadvantaged individuals or individuals who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities;

"(ii) The ownership interest of any owners of the applicant who are economically disadvantaged individuals or individuals who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities;

"(iii) The number of employees of the applicant who are economically disadvantaged individuals or individuals who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities; and

"(iv) The number of contractors of the applicant who are economically disadvantaged individuals or individuals who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

"(D) For the purpose of this paragraph, the term:

"(i) "Economically disadvantaged individual" shall have the same meaning as set forth in section 2302(7) of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(7)).

"(ii) "Medical cannabis certified business enterprise" means a certified business enterprise, as that term is defined in section 2302(1D) of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(1D)), that operates a medical cannabis business as a dispensary, cultivation center, or testing laboratory.".

(2) Subsection (e)(3) is amended by striking the phrase "that the Mayor may allow" and inserting the phrase "that the ABC Board may allow" in its place.

(3) Subsection (g-2) is amended by striking the phrase "the Mayor" and inserting the phrase "the ABC Board" in its place.

(4) Subsection (g-3) is amended by striking the phrase "the Mayor" and inserting the phrase "the ABC Board" in its place.

(5) Subsection (j) is amended by striking the phrase "the Mayor" and inserting the phrase "the ABC Board" in its place.

(f) Section 8(a) (D.C. Official Code § 7-1671.07) is amended by striking the phrase "to the Department" and inserting the phrase "to ABRA" in its place.

(g) A new section 9a is added to read as follows:

"Sec. 9a. Medical Cannabis Administration Fund.

"(a) There is established as a special fund the Medical Cannabis Administration Fund ("Fund"), which shall be administered by ABRA in accordance with subsection (c) of this section.

"(b) All funds received from medical cannabis licensing, permitting, and registration fees shall be deposited into the Fund.

"(c) Money deposited in the Fund shall be used by ABRA for the purpose of administering the medical marijuana program.

"(d)(1) The money deposited into the Fund shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

"(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

"(e) Funds received from penalties and fines imposed under section 9 shall be credited to the unassigned fund balance of the General Fund of the District of Columbia.".

(h) Section 14 (D.C. Official Code § 7-1671.13) is amended by adding a new subsection (a-1) to read as follows:

"(a-1) Pursuant to the transfer of functions of the Department of Health to ABRA by D.C. Official Code § 25-204.02, the Mayor shall issue rules in accordance with subsection (b) of this

section, which rules shall allow registered dispensaries to provide medical marijuana to qualifying patients through delivery, curbside pickup, and at-the-door options.".

Sec. 5013. Chapter 2 of Title 25 of the District of Columbia Official Code is amended as follows:

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

"25-204.02. Medical marijuana program; transfer of functions of the Department of Health.".

(b) A new section 25-204.02 is added to read as follows:

"§ 25-204.02. Medical marijuana program; transfer of functions of the Department of Health.

"(a) The Board and ABRA shall be responsible for carrying out the responsibilities assigned to them by the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*) ("Medical Marijuana Act"), and for any responsibilities of the Mayor under the Medical Marijuana Act that the Mayor delegates to the Board or ABRA.

"(b)(1) Except as provided in paragraph (2) of this subsection, all personal property, assets, records, including both electronic and physical files, licensing agreements, and contracts, equipment, computer software, obligations, and unexpended balances of appropriations, allocations, assets, and liabilities, and other funds available or to be made available relating to the powers, duties, functions, operations, and administration by the Department of Health of the medical marijuana program pursuant to the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*), as of September 30, 2020, are transferred to ABRA.

"(2) This subsection shall not apply to the personal property, assets, records, including both electronic and physical files, licensing agreements, and contracts, equipment, computer software, obligations, and unexpended balances of appropriations, allocations, assets, and liabilities, and other funds available or to be made available relating to the powers, duties, functions, operations, and administration by the Department of Health of the medical marijuana program that are within the purview of the Board of Medicine, Board of Nursing, or Board of Dentistry.

"(c) All rules, orders, obligations, determinations, contracts, agreements, and understandings of the Department of Health pertaining to the medical marijuana program shall remain in effect until such time as they may be lawfully amended, modified, or repealed.

"(d) ABRA shall coordinate with the Department of Health regarding the transition of the administration of the medical marijuana program to ABRA.

"(e)(1) The directors of ABRA and the Department of Health shall jointly determine which personnel, if any, of the Department of Health associated with the administration of the medical marijuana program shall be transferred from the Department of Health to ABRA.

"(2) Personnel who are transferred to ABRA pursuant to this subsection shall be subject to the ABRA Director's personnel authority, pursuant to section 406(b)(21) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-604.06(b)(21)), including as it relates to employment classifications and pay scales.".

SUBTITLE C. STEVIE SELLOWS DIRECT SUPPORT PROFESSIONALS QUALITY IMPROVEMENTS

Sec. 5021. Short title.

This subtitle may be cited as the "Stevie Sellows Direct Support Professionals Quality Improvements Amendment Act of 2020".

Sec. 5022. Section 47-1273(a) of the District of Columbia Official Code is amended by striking the figure "5.5%" and inserting the figure "6.0%" in its place.

SUBTITLE D. MEDICAID RESERVE RE-ESTABLISHMENT

Sec. 5031. Short title.

This subtitle may be cited as the "Medicaid Reserve Re-Establishment Amendment Act of 2020".

Sec. 5032. The Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.01 *et seq.*), is amended as follows:

(a) Section 8a (D.C. Official Code § 7-771.07a), is amended by adding a new subsection (a-3) to read as follows:

"(a-3) For Fiscal Year 2021, the Director may issue grants pursuant to section 8b(b)(4)(B)(ii) and (iii).".

(b) A new section 8b is added to read as follows:

"Sec. 8b. Medicaid reserve.

"(a) Beginning October 1, 2020, a Medicaid reserve shall be re-established as paper agency of the Department.

"(b) Notwithstanding D.C. Official Code §§ 47-361, 47-362, 47-363, and 47-365, funds may be transferred from the Medicaid reserve to the Department:

"(1) To pay expenses associated with increased Medicaid enrollment or service utilization upon a determination by the Agency Fiscal Officer that available funds within the Department are projected to be exhausted;

"(2) To pay expenses associated increased costs of Medicaid services upon a determination by the Agency Fiscal Officer that available funds within the Department are projected to be exhausted;

"(3) To satisfy the District's requirement that sufficient funds be available to support a Department contract or a grant; and

"(4) Provided that sufficient funds are still available within the Medicaid reserve to ensure a deficiency will not occur at the Department, to support the following health innovations within the Department:

"(A) To create a Medicaid Buy-In Program;

"(B) To fund telehealth programs including:

"(i) Maintaining audio-only telehealth programs after a public health emergency;

"(ii) Funding the Postpartum Coverage Expansion Act of 2020, passed on 2nd reading on July 21, 2020 (Enrolled version of Bill 23-326); and

"(iii) Issuing contracts or grants for the purposes of expanding District health care providers' digital or telehealth capacity, including, for example, such innovations as the creation or expansion of patient care coordination platforms to enable nonprofit entities and practitioners to communicate with Medicaid beneficiaries' clinical and recovery support care teams in real time to improve continuity of care and ensure proper follow-up, including the purchase of telecommunications services, information services, devices, software, remote patient monitoring tools, and digital health tools;

"(C) To fund reforms to the DC Healthcare Alliance Program, including:

"(i) Allowing eligible District residents to submit Alliance applications electronically, without a face-to-face interview with the Department of Human Services, during a public health emergency;

"(ii) Allowing Alliance clients to submit recertification applications to health care providers approved by the Department, without a face-to-face interview with the Department of Human Services, after a public health emergency;

"(iii) Extending the Alliance eligibility period from 6 months to one year; and

"(D) To award a competitive grant in an amount not to exceed $150,000 to fund operating expenses associated with the provision of medical respite care services to individuals who are homeless.

"(c) The Office of the Chief Financial Officer shall notify the Budget Director of the Council of the District of Columbia in writing within 3 business days whenever a transfer is made from the Medicaid reserve pursuant to this section. The notice shall set forth the amount and purpose of the transfer.

"(d) Funds may be reprogrammed from the Medicaid reserve for purposes other than those detailed in subsection (b) of this section, subject to subchapter IV of Chapter 3 of Title 47 of the District of Columbia Official Code; provided, that the Office of the Chief Financial Officer determines that sufficient funds are still available within the Medicaid reserve to ensure a deficiency will not occur at the Department.".

SUBTITLE E. TELEHEALTH REIMBURSEMENT

Sec. 5041. Short title.

This subtitle may be cited as the "Telehealth Reimbursement Amendment Act of 2020".

Sec. 5042. Section 2(4) of the Telehealth Reimbursement Act of 2013, effective October 17, 2013 (D.C. Law 20-26; D.C. Official Code § 31-3861(4)), is amended by striking the phrase "through audio only telephones, electronic mail messages, or facsimile" and inserting the phrase "through email messages or facsimile" in its place.

SUBTITLE F. HEALTH PROFESSIONAL RECRUITMENT AND RETENTION

Sec. 5051. Short title.

This subtitle may be cited as the "District of Columbia Health Professional Recruitment and Retention Amendment Act of 2020".

Sec. 5052. The District of Columbia Health Professional Recruitment Program Act of 2005, effective March 8, 2006 (D.C. Law 16-71; D.C. Official Code § 7-751.01 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Official Code § 7-751.02) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "recruitment tool" and inserting the phrase "recruitment and retention tool" in its place.

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

"(b) Based on the availability of funds, the Program will pay for, among other expenses, the cost of education necessary to obtain a health professional degree. The Program will pay toward the outstanding principal, interest, and related expense of federal, state, or local government loans and commercial loans obtained by the participant for:

"(1) School tuition and required fees incurred by the participant;

"(2) Reasonable educational expenses; and

"(3) Incentive payments that lead to the retention of existing Program participants to practice in Ward 7 or 8; provided, that retention incentives shall be limited to $15,000 per participant per year.".

(b) Section 9 (D.C. Official Code § 7-751.08), is amended by adding a new subsection (a-1) to read as follows:

"(a-1) Physicians who specialize and practice in obstetrics and gynecology, psychiatry, or other medical specialties specifically identified by the Director shall be eligible to have 100% of their total debt, not to exceed $200,000, repaid by the Program over 4 years of service; provided, that the participants provide full-time service in Ward 7 or 8. For each year of participation, the Program will repay loan amounts according to the following schedule:

"(1) For the first year of service, 18% of their total debt, not to exceed $36,000;

"(2) For the second year of service, 26% of their total debt, not to exceed $52,000;

"(3) For the third year of service, 28% of their total debt, not to exceed $56,000; and

"(4) For the fourth year of service, 28% of their total debt, not to exceed $56,000.".

(c) Section 16a (D.C. Official Code § 7-751.15a) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "loan repayments" and inserting the phrase "loan repayments and retention incentives" in its place.

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

"(d) The Department of Health shall segregate the $1.5 million local funds enhancement provided in the Fiscal Year 2021 budget into a separate subaccount, which shall only be expended for:

"(1) Section 3(b)(3); or

"(2) Section 9(a-1).".

SUBTITLE G. HEALTH CARE GRANT-MAKING AUTHORITY

Sec. 5061. Short title.

This subtitle may be cited as the "Fiscal Year 2021 Health Care Grant-Making Authority Amendment Act of 2020".

Sec. 5062. Section 4907a of the Department of Health Functions Clarification Act of 2001, effective March 3, 2010 (D.C. Law 18-111; D.C. Official Code § 7-736.01), is amended by adding a new subsection (l) to read as follows:

"(l)(1) For Fiscal Year 2021, the Director of the Department of Health shall have the authority to award one or more competitive grants in an amount not to exceed $250,000 to fund an initiative to connect prenatal care for residents in Wards 7 and 8 to labor and delivery options in other parts of the District.

"(2) In establishing the criteria for the award of grants pursuant to paragraph (1) of this subsection, the Department shall prioritize community-based initiatives that:

"(A) Offer peer support networks;

"(B) Provide co-management of the patient's treatment;

"(C) Arrange for access to maternal and fetal medicine specialty services;

"(D) Utilize a health information exchange; and

"(E) Furnish financial assistance with transportation needs.".

Sec. 5063. Section 8a of the Department of Health Care Finance Establishment Act of 2007, effective December 13, 2017 (D.C. Law 22-33; D.C. Official Code § 7-771.07a), is amended by adding a new subsection (a-4) to read as follows:

"(a-4) For Fiscal Year 2021, the Director may:

"(1)(A) Award a competitive grant in an amount not to exceed $150,000 to fund operating expenses associated with the provision of medical respite care services to individuals

who are homeless; provided, that if such a grant is awarded to a Federally Qualified Health Center ("FQHC"), the amount of the grant shall not be offset against the FQHC's expenses for the purpose of determining its allowable cost in accordance with section 4511.2 of Title 29 of the District of Columbia Municipal Regulations (29 DCMR § 4511.2).

"(B) At a minimum, the selected entity shall possess:

"(i) The staff capacity and expertise necessary to provide medical respite care, with a particular emphasis on care for women who are homeless; and

"(ii) The ability to provide case management services, including assistance in accessing permanent housing services.

"(2) If a grant is awarded, then by September 30, 2021, the Director shall submit a report to the Council that sets forth:

"(A) Recommendations for the establishment of medical respite care services for homeless individuals, through either:

"(i) An amendment to the District of Columbia Medicaid State Plan; or

"(ii) A waiver pursuant to section 1115 of the Social Security Act, approved July 25, 1962 (76 Stat. 192; 42 U.S.C. § 1315), for home and community-based services;

"(B) The types of services that may be offered to homeless individuals through a medical care respite program; and

"(C) An identification of any potential restrictions on the provision of services identified pursuant to sub-subparagraph (ii) of this subparagraph, including the use of prior authorization.".

TITLE VI. OPERATIONS AND INFRASTRUCTURE

SUBTITLE A. OPPORTUNITY ACCOUNTS

Sec. 6001. Short title.

This subtitle may be cited as the "Opportunity Accounts Expansion Amendment Act of 2020".

Sec. 6002. The Opportunity Accounts Act of 2000, effective April 3, 2001 (D.C. Law 13-266; D.C. Official Code § 1-307.61 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 1-307.61) is amended by adding a new paragraph (2A) to read as follows:

"(2A) "Commissioner" means the Commissioner of the Department of Insurance, Securities, and Banking.".

(b) Section 8(b) (D.C. Official Code § 1-307.67(b)) is amended as follows:

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

(2) Paragraph (2) is amended by striking the phrase "per account." and inserting the phrase "per account, except as provided in paragraph (3) of this subsection; and" in its place.

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

"(3) The Commissioner may waive the requirement in subsection (a) of this section and may provide matching funds of up to $4 for every dollar the account holder deposits into the opportunity account when adequate federal or private matching funds are not available. For each additional dollar of matching funds that the District provides to an opportunity account pursuant to such a waiver, the aggregate matching funds limit set forth in paragraph (2) of this subsection for that account shall be increased by $1.".

(c) Section 9(a) (D.C. Official Code § 1-307.68(a)) is amended as follows:

(1) Paragraph (6) is repealed.

(2) Paragraph (8) is amended by striking the period at the end and inserting the phrase "; and" in its place.

(3) A new paragraph (9) is added to read as follows:

"(9) To pay for any cost, expense, or item authorized by a rule issued pursuant to section 14.".

(d) Section 10 (D.C. Official Code § 1-307.69) is amended as follows:

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

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

(ii) Paragraph (3) is amended by striking the period and inserting the phrase "; and" in its place.

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

"(4) Making health insurance premium payments in the event of a sudden, unexpected loss of income.".

(2) Subsection (c) is repealed.

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

"(c-1) If an account holder makes an emergency withdrawal for the purposes set forth at subsection (b)(2) or (3) of this section, the account holder shall withdraw only funds deposited by the account holder and shall not withdraw matching funds.

"(c-2) If an account holder makes an emergency withdrawal for the purposes set forth at subsection (b)(1) of this section, the account holder shall withdraw only funds deposited by the account holder and shall not withdraw matching funds, unless the withdrawal is for a medical emergency.

"(c-3) If an account holder makes an emergency withdrawal for the purposes set forth at subsection (b)(4) of this section, the account holder may withdraw funds deposited by the account holder and matching funds.".

(4) The lead-in language of subsection (e) is amended to read as follows:

"An account holder shall not be required to repay funds withdrawn from the opportunity account for an emergency withdrawal but shall resume making deposits into the opportunity

account no later than 90 days after the emergency withdrawal. If the account holder fails to make a deposit no later than 90 days after the emergency withdrawal:".

Sec. 6003. Repealer.

Section 301 of the Coronavirus Support Temporary Amendment Act of 2020, enacted on July 7, 2020 (D.C. Act 23-334; 67 DCR 8622), is repealed.

SUBTITLE B. GREEN BUILDING FUND USE EXPANSION

Sec. 6011. Short title.

This subtitle may be cited as the "Green Building Fund Use Expansion Amendment Act of 2020".

Sec. 6012. Section 8(c)(2) of the Green Building Act of 2006, effective March 8, 2007 (D.C. Law 16-234; D.C. Official Code § 6-1451.07(c)(2)), is amended as follows:

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

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

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

"(F) Costs incurred to make green building materials accessible to low-income residents.".

SUBTITLE C. GAME OF SKILL MACHINES

Sec. 6021. Short title.

This subtitle may be cited as the "Game of Skill Machines Consumer Protection Amendment Act of 2020".

Sec. 6022. 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 §§ 22-1716 to 22-1718 and 36-601.01 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Official Code § 22-1716) is amended by striking the phrase "Monte Carlo night parties," and inserting the phrase "Monte Carlo night parties, game of skill machines," in its place.

(b) Section 3 (D.C. Official Code § 22-1717) is amended by striking the phrase "or sports wagering regulated, licensed, or operated by the Office of Lottery and Gaming." and inserting the phrase "sports wagering regulated, licensed, or operated by the Office of Lottery and Gaming, or game of skill machines licensed and regulated by the Office of Lottery and Gaming." in its place.

(c) Section 3(a) (D.C. Official Code § 22-1718(a)) is amended by striking the phrase "or the sale, lease, purchase, or possession of tickets, slips, certificates, or cards for sports wagering

excepted and permissible pursuant to § 22-1717." and inserting the phrase "the sale, lease, purchase, or possession of tickets, slips, certificates, or cards for sports wagering excepted and permissible pursuant to § 22-1717, or the manufacture, distribution, servicing, retailing, sale, lease, purchase, or possession of machines, tickets, slips, certificates, or cards for game of skill machines excepted and permissible pursuant to § 22-1717." in its place.

(d) Section 4 (D.C. Official Code § 36-601.12) is amended as follows:

(1) The section heading is amended to read as follows:

"Sec. 4. Lottery, Gambling, and Gaming Fund.".

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

"(a) There is established as an enterprise fund the Lottery, Gambling, and Gaming Fund ("Fund"), which shall be administered by the Chief Financial Officer. Revenue from the following sources shall be deposited into the Fund or a division of the Fund, as established by the Chief Financial Officer:

"(1) All funds generated by gambling activities operated or licensed by the Chief Financial Officer; and

"(2) All fees collected pursuant to sections 406 through 409.".

(3) Subsection (c) is amended by striking the word "gambling" and inserting the phrase "gambling and gaming" in its place.

(e) A new Title IV is added to read as follows:

"TITLE IV. GAME OF SKILL MACHINES.

"Sec. 401. Definitions

"For purposes of this title, the term:

"(1) "ABC Board" means the Alcoholic Beverage Control Board.

"(2) "ABRA" means the Alcoholic Beverage Regulation Administration.

"(3) "CFO" means the Chief Financial Officer of the District of Columbia.

"(4) "Centralized accounting system" and "CAS" mean the accounting system linked by a communications network as described in sections 410 and 414.

"(5) "Distributor" means a person licensed under this title to buy, sell, lease, maintain, or service game of skill machines, or any major components or parts of a game of skill machine, for distribution to retailers.

"(6) "Game of skill machine" means a mechanical or electronic gaming device that rewards the winning player or players with cash, a gift card, or a voucher that can be redeemed for cash. The term "game of skill machine" does not include a mechanical or electronic gaming device if:

"(A) The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game;

"(B) The outcome of the game can be controlled by a source other than a player playing the game;

"(C) The success of a player is or may be determined by a chance event that cannot be altered by the player's actions;

"(D) The ability of a player to succeed at the game is impacted by game features not visible or known to a reasonable player; or

"(E) The ability of a player to succeed at the game is impacted by the exercise of skill that no reasonable player could exercise.

"(7) "Gross game of skill machine revenue" means the total of cash or cash equivalents received from a game of skill machine minus the total of:

"(A) Cash or cash equivalents paid to players as a result of a game of skill machine;

"(B) Cash or cash equivalents paid to purchase annuities to fund prizes payable to players over a period of time as a result of a game of skill machine; and

"(C) The actual cost paid by the license holder for personal property distributed to a player as a result of a game of skill machine, excluding travel expenses, food, refreshments, lodging, and services.

"(8) "Licensed establishment" means an on-premises retail establishment licensed by the ABC Board to sell, serve, and allow for the consumption of alcoholic beverages.

"(9) "Licensed premises" means the physical location of a licensed establishment that is authorized by the Office to offer game of skill machines.

"(10) "Licensee" means a person who possesses a game of skill manufacturer, distributor, supplier, or retailer license issued by the Office.

"(11) "Manufacturer" means a person that is licensed under this title and that manufactures or assembles game of skill machines for sale or lease to distributors.

"(12) "Office" means the Office of Lottery and Gaming.

"(13) "Retailer" means a person that is licensed under this title to offer game of skill machines on its licensed premises.

"(14) "Supplier" means a person that is licensed under this title to supply major components or parts of game of skill machines to licensed manufacturers or distributors.

"Sec. 402. Authorization of game of skill machines.

"The operation of game of skill machines shall be lawful in the District if conducted in accordance with this title and the rules issued pursuant to this title.

"Sec. 403. Game of skill machine license requirements; prohibition.

"(a) Except as provided in subsection (f) of this section, no person may offer or allow a game of skill machine in the District unless all the licenses required by this title, or by a rule issued pursuant to this title, have been duly obtained.

"(b)(1) The Office shall issue the following categories of game of skill machine licenses:

"(A) Manufacturer;

"(B) Distributor;

"(C) Supplier; and

"(D) Retailer.

"(2) The Office shall not grant a license listed in paragraph (1) of this subsection until it has determined that each person that possesses 10% or greater beneficial or proprietary

interest in the applicant has been approved for licensure in accordance with this title and rules issued pursuant to this title.

"(c)(1) An applicant for an initial manufacturer, distributor, or supplier license shall be subject to District and national criminal history background checks.

"(2) The applicant shall submit an application to the Office, in a form determined by the Office, for fingerprints for a national criminal records check by the Metropolitan Police Department and the Federal Bureau of Investigation of all individuals required to be named in the application and a signed authorization of each individual submitting fingerprints for the release of information by the Metropolitan Police Department and the Federal Bureau of Investigation.

"(3) In the case of an application for license renewal, the Office may require additional background checks.

"(d) The Office shall require proof of good standing pursuant to D.C. Official Code § 29-102.08 of an applicant for a license pursuant to this title and may, in addition, require certification that the Citywide Clean Hands Database indicates that the proposed licensee is current with its District taxes.

"(e) Proprietary information, trade secrets, financial information, and personal information about a person in an application submitted to the Office pursuant to this title shall not be a public record and shall not be made available under the Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*), or any other law.

"(f)(1) A retailer shall display its license as required by section 411(d) and shall make the license immediately available for inspection upon request by an employee of the Office, the Metropolitan Police Department, or ABRA.

"(2) When present at a licensed establishment, an employee of a distributor shall carry a copy of its license and make it readily available for inspection by an employee of the Office, the Metropolitan Police Department, or ABRA.

"(g) A licensed establishment that applied for and obtained a game of skill machine endorsement from the ABC Board pursuant to D.C. Official Code § 25-113.01(e) prior to the effective date of the Game of Skill Machines Consumer Protection Act of 2020, passed on 2nd reading on July 28, 2020 (Enrolled version of Bill 23-760) ("Act"), shall have 180 calendar days after the effective date of the Act to come into compliance with this title or rules issued pursuant to this title. Failure to do so may result in the Office taking action against the licensed establishment in accordance with section 417.

"Sec. 404. License prohibitions; suspensions and revocation of licenses.

"(a) An applicant convicted of a disqualifying offense shall not be licensed. The Office shall define disqualifying offenses by a rule issued pursuant to this title.

"(b) No Office or ABRA employee, or immediate family member of an Office or ABRA employee, may be an applicant for, have an interest in, or obtain a license issued pursuant to this title.

"(c) Failure of an applicant or licensee to notify the Office of a change to the information provided in its application for license or renewal within 10 days after the change may result in the Office suspending or revoking the licensee's license, denying the applicant's license, or issuing a fine.

"(d)(1) The Office shall not grant a license pursuant to this title, and shall revoke a license previously granted, if evidence satisfactory to the Office exists that the applicant or licensee has:

"(A) Knowingly made a false statement of a material fact to the Office;

"(B) Had a license revoked by a governmental authority responsible for regulation of games of skill;

"(C) Been convicted of a felony and has not received a pardon or been released from parole or probation for at least 5 years; or

"(D) Been convicted of a gambling-related offense or a theft or fraud offense.

"(2) The Office may deny a license to an applicant or suspend or revoke a license of a licensee if the applicant or licensee:

"(A) Has not demonstrated, to the satisfaction of the Office, financial responsibility sufficient to adequately meet the requirement of the proposed activity;

"(B) Is not the true owner of the licensed business or has not disclosed the existence or identity of another individual or entity that has an ownership interest in the business; or

"(C) Is a corporation that sells more than 5% of a licensee's voting stock, more than 5% of the voting stock of a corporation that controls the licensee, or sells a licensee's assets to an individual or entity not already determined by the Office to have met the qualifications of a licensee pursuant to this title, or is a non-corporate entity where a person not already determined by the Office to have met the qualifications of a licensee pursuant to this title holds more than 10% interest in the non-corporate entity.

"Sec. 405. Conflicts of interest.

"(a) Before issuing, authorizing the transfer to a new owner of, or renewing a license, the Office shall determine that the applicant is not disqualified because of a conflicting interest in another license.

"(b) In making a determination regarding a conflicting interest, the following standards shall apply:

"(1) No licensee under a supplier's license shall hold a license in another license issued under this title.

"(2) No licensee under a distributor's license shall hold a license in another license issued under this title; except, that the holder of a distributor's license may also hold a manufacturer's license.

"(3) No licensee under a manufacturer's license shall hold another license issued under this title; except, that the holder of a manufacturer's license may also hold a distributor's license.

"Sec. 406. Manufacturer licensure.

"(a) A person may not manufacture a game of skill machine in the District unless the person has a valid manufacturer's license issued under this title. A manufacturer may only sell game of skill machines for use in the District to persons having a valid distributor's license.

"(b) A person applying for a manufacturer's license shall do so on a form prescribed by the Office. The form shall require:

"(1) The name of the applicant;

"(2) The mailing address of the applicant and, if the applicant is a corporation, the name of the state in which it is incorporated, the location of its principal place of business, and the names and addresses of its directors;

"(3) A report of the applicant's financial activities, including evidence of financial stability, such as bank statements, business and personal income and disbursement schedules, and tax returns; and

"(4) Any other information the Office considers necessary.

"(c) In considering whether to approve an application for a distributor's license, the Office may consider evidence the distributor submitted to the Office of an existing license as a distributor from another jurisdiction that the Office has determined has licensing requirements similar to those required by the District.

"(d) An applicant for a manufacturer's license shall pay a nonrefundable application fee of $10,000 with the application.

"(e) A manufacturer's license shall be renewed annually; provided, that the licensee has continued to comply with all statutory and regulatory requirements and pays upon submission of its renewal application a $5,000 renewal fee.

"Sec. 407. Distributor licensure.

"(a) A person may not buy, sell, distribute, lease, maintain, market, or service a game of skill machine or a major component or part of a game of skill machine for distribution in the District unless the person has a valid distributor's license issued by the Office.

"(b) A licensed distributor may buy, sell, distribute, lease, maintain, market, or service a game of skill machine or any major component or part of a game of skill machine for distribution in the District to a licensed establishment that possesses a retailer's license from the Office and a game of skill machine endorsement from the ABC Board pursuant to D.C. Official Code § 25-113.01(e). No distributor may give anything of value, including a loan or financing agreement, to a licensed establishment as an incentive or inducement to locate a game of skill machine in the establishment.

"(c) A person applying for a distributor's license shall do so on a form prescribed by the Office. The form shall require:

"(1) The name of the applicant;

"(2) The mailing address of the applicant and, if the applicant is a corporation, the name of the state in which it is incorporated, the location of its principal place of business, and the names and addresses of its directors;

"(3) A report of the applicant's financial activities, including evidence of financial stability, such as bank statements, business and personal income and disbursement schedules, and tax returns; and

"(4) Any other information the Office considers necessary.

"(d) In considering whether to approve an application for a distributor's license, the Office may consider evidence the distributor submitted to the Office of an existing license as a distributor from another jurisdiction that the Office has determined has licensing requirements similar to those required by the District.

"(e) An applicant for a distributor's license shall demonstrate that the equipment, system, or device that the applicant plans to offer to retailers conforms to standards established pursuant to this title, rules issued pursuant to this title, and other applicable law.

"(f) An applicant for a distributor's license shall pay a nonrefundable application fee of $10,000 with the application.

"(g) A distributor's license shall be renewed annually; provided, that the licensee has continued to comply with all statutory and regulatory requirements and pays upon submission of its renewal application a $5,000 renewal fee.

"(h) A distributor shall submit to the Office, at such times as are established by the Office by rule, a list of all game of skill machines sold, delivered, or offered to a retailer. All such equipment shall be tested and approved by an independent testing laboratory approved by the Office.

"Sec. 408. Supplier licensure.

"(a) A person shall not sell parts or components for a game of skill machine or provide services related to a game of skill machine unless the person has a valid supplier's license. A supplier may only provide parts and components for a game of skill machine or services related to a game of skill machine for use in the District to a person having a valid manufacturer's or distributor's license.

"(b) A person applying for a supplier's license shall do so on a form prescribed by the Office. The form shall require:

"(1) The name of the applicant;

"(2) The mailing address of the applicant and, if the applicant is a corporation, the name of the state in which it is incorporated, the location of its principal place of business, and the names and addresses of its directors;

"(3) A report of the applicant's financial activities, including evidence of financial stability, such as bank statements, business and personal income and disbursement schedules, and tax returns; and

"(4) Any other information the Office considers necessary.".

"(c) In considering whether to approve an application for a supplier's license, the Office may consider evidence the supplier submitted to the Office of an existing license as a supplier from another jurisdiction that the Office has determined has licensing requirements similar to those required by the District.

"(d) An applicant for a supplier's license shall demonstrate that the equipment, components, or parts that the applicant plans to offer to manufacturers or distributors conform to standards established pursuant to this title, rules issued pursuant to this title, and other applicable law.

"(e) An applicant for a supplier's license shall pay a nonrefundable application fee of $2,000 with the application.

"(f) A supplier's license shall be renewed annually; provided, that the licensee has continued to comply with all statutory and regulatory requirements and pays upon submission of its renewal application a $1,000 renewal fee.

"(g) A supplier shall submit to the Office, at such times as are established by the Office by rule, a list of all components or parts for game of skill machines sold, delivered, or offered to a manufacturer or operator. All such equipment shall be tested and approved by an independent testing laboratory approved by the Office.

"Sec. 409. Retailer licensure; registration of game of skill machines.

"(a)(1) A person may not own, lease, maintain, install, make available, or offer or allow another to play a game of skill machine in the District unless the person:

"(A) Is a licensed establishment;

"(B) Possesses a retailer's license from the Office and a game of skill machine endorsement from ABRA in accordance with D.C. Official Code § 25-113.01(e); and

"(C) Has entered into a written use agreement with a licensed distributor for the placement or installation of a game of skill machine on the licensed premises.

"(2) A person convicted of violating this subsection shall be subject to a fine not to exceed $5,000 or imprisonment not to exceed 6 months, or revocation of the retailer's license, or all of the foregoing.

"(b)(1) Each game of skill machine located on a retailer's licensed premises shall be registered with the Office by the retailer before the game of skill machine is installed on the licensed premises.

"(2) A retailer may register and operate up to 5 game of skill machines on the licensed premises at any time. The registration fee for each game of skill machine shall be $100.

"(3) The Office shall issue to the retailer a registration sticker for placement on each registered game of skill machine.

"(c) A person shall apply for a retailer's license on a form prescribed by the Office. The form shall require:

"(1) The name of the applicant;

"(2) The mailing address of the applicant and, if the applicant is a corporation, the name of the state in which it is incorporated, the location of its principal place of business, and the names and addresses of its directors;

"(3) A report of the applicant's financial activities, including evidence of financial stability, such as bank statements, business and personal income and disbursement schedules, and tax returns; and

"(4) Any other information the Office considers necessary.

"(d) An applicant for a retailer's license shall pay a nonrefundable application fee of $300 with the application.

"(e) A retailer's license shall be renewed annually; provided, that the licensee continued to comply with the statutory and regulatory requirements and pays upon submission of its renewal application a $300 renewal fee.

"(f) The Office shall require a retailer to be bonded, in such amounts and in such manner as determined by the Office, and to agree, in writing, to indemnify and hold harmless the District government against any actions, claims, and demands of whatever kind or nature that the District may incur by reason of or in consequence of issuing the retailer's license to the retailer.

"Sec. 410. Minimum requirements of game of skill machines.

"(a)(1) Every game of skill machine offered for play shall first be tested and approved pursuant to this title and rules issued pursuant to this title.

"(2) The Office shall utilize the services of an accredited independent outside testing laboratory to test and assess each game of skill machine.

"(3) The applicant shall be responsible for paying the fees associated with testing the game of skill machines.

"(b) Every game of skill machine offered in the District shall meet the minimum standards approved by the Office, including that a game of skill machine:

"(1) Conform to all requirements of federal law and regulations, including the Federal Communications Commission's Class A emissions standards;

"(2) Pay out a mathematically demonstrable percentage during the expected lifetime of the machine of all amounts played, which shall not be less than 80%;

"(3) Display an accurate representation of the game outcome;

"(4) Not automatically alter pay tables or any function of the game of skill machine based on an internal computation of a hold percentage or have a means of manipulation that affects the random selection process or probabilities of winning a game;

"(5) Not be negatively affected by static discharge or other electromagnetic interference;

"(6) Be capable of displaying the following during idle status: "power reset"; "door open"; or "door closed";

"(7) Be able to detect and display the game's complete play history and winnings for the previous 10 games;

"(8) Not have a theoretical payback percentage capable of being changed without making a hardware or software change in the machine itself;

"(9) Be designed so that the replacement of parts or modules required for normal maintenance does not necessitate replacement of the electromechanical meters;

"(10) Contain a non-resettable meter that shall be located in a locked area of the machine that is accessible only by a key;

"(11) Be capable of storing the meter information required by paragraph (10) of this subsection for a minimum of 180 days after a power loss to the machine;

"(12) Have accounting software that keeps an electronic record that includes:

"(A) Total cash inserted into the game of skill machine;

"(B) The value of winning tickets awarded to players by the game of skill machine;

"(C) The total credits played on the game of skill machine;

"(D) The total credits awarded by the game of skill machine; and

"(E) The payback percentage credited to players of the game of skill machine;

"(13) Be linked to a centralized accounting system that will allow the Office to activate or deactivate the game of skill machine from the centralized system remotely; and

"(14) Be linked to a centralized accounting system in accordance with section 414 by which all approved game of skill machines shall be connected for the purposes set forth in section 414.

"(c) The CFO may issue rules to establish additional licensing and registration requirements.

"Sec. 411. Registration; display of registration sticker, license, and warning sign; locations of game of skill machines.

"(a) A retailer shall register each of its game of skill machines in the District with the Office before the game of skill machine may be installed at the licensed establishment.

"(b) A retailer shall locate its game of skill machines for play only in specific locations approved by ABRA within the retailer's licensed establishment.

"(c) A retailer shall affix and maintain a registration sticker issued by the Office to the game of skill machine at all times the game of skill machine is located at the establishment. If the registration sticker is damaged, destroyed, lost, or removed, the retailer shall pay the Office $75 for a replacement registration sticker.

"(d) A retailer shall post both its retailer's license and a warning sign, maintained in good repair and in a place clearly visible at the point of entry to the designated areas where the game of skill machines are located. The warning sign shall include:

"(1) The minimum age required to play a game of skill machine;

"(2) The contact information for the District's gambling hotline; and

"(3) The contact information for the Office for purposes of filing a complaint against the manufacturer, supplier, distributor, or retailer.

"(e) Failure to display the registration sticker, license, or warning sign may result in the Office revoking or suspending the license or issuing a fine against the licensed establishment pursuant to section 416.

"Sec. 412. Cash award.

"(a) A game of skill machine shall not directly dispense cash awards to a player. If, at the conclusion of the game, a player is entitled to a cash award, the game of skill machine shall dispense a ticket or voucher to the player. The ticket or voucher shall indicate:

"(1) The total amount of the cash award;

"(2) The time of day that the cash award was issued in a 24-hour format showing hours and minutes, the date, the terminal serial number, and the sequential number of the ticket or voucher; and

"(3) An encrypted validation number from which the validity of the cash award may be determined.

"(b) A retailer shall allow a player to take the ticket or voucher to the owner of the licensed establishment or the owner's designee, who shall be located at the licensed establishment, for payment of the cash award.

"Sec. 413. Game of skill machine use by minors prohibited.

"(a) A licensee shall not permit a person under the age of 18 to use or play a game of skill machine.

"(b) The Office may suspend or revoke a license and issue a fine, in accordance with section 416, against a licensee that knowingly allows a person under the age of 18 to use or play a game of skill machine.

"Sec. 414. Centralized accounting system.

"(a)(1) Within 6 months after the effective date of the Game of Skill Machines Consumer Protection Act of 2020, passed on 2nd reading on July 28, 2020 (Enrolled version of Bill 23-760) ("Act"), the Office shall issue a solicitation to procure a centralized accounting system, which shall be administered by the Office and designed and operated to allow the monitoring and reading of all game of skill machines for the purpose of compliance with this title and rules issued pursuant to this title.

"(2) When the Office is satisfied with the operation of the CAS, it shall:

"(A) Certify the effective status of the system; and

"(B) Notify all retailers of the date by which the retailer's game of skill machines must be linked to the CAS.

"(b)(1)(A) A game of skill machine approved prior to the effective date of the Act shall be connected to the CAS within one year after notification pursuant to subsection (a)(2) of this section.

"(B) A game of skill machine approved on or after the effective date of the Act but prior to the deployment of the CAS shall be connected within 6 months after notification pursuant subsection (a)(2) of this section.

"(C) A game of skill machine approved after the effective date of the Act and after deployment of the CAS shall be connected to the CAS prior to operation of the game of skill machine.

"(2) After a game of skill machine has been connected to the CAS, it shall remain connected as required by the Office.

"(c) All game of skill machines registered in the District shall be linked to the CAS for purposes of accounting, reporting, monitoring, and reading machine activities as provided for in this title or rules issued pursuant to this title.

"(d) The CAS shall not provide for the monitoring or reading of personal or financial information concerning patrons of game of skill machines.

"(e) Employees and agents of a contractor or subcontractor of the Office that is engaged in building, operating, maintaining, or contracting to build, operate, or maintain the CAS, and the immediate family members of such employees and agents, shall be prohibited from obtaining a license under this title.

"(f) Unless a retailer's license is canceled, suspended, or revoked, nothing in this section shall authorize the Office to limit or eliminate a registered game of skill from the CAS.

"Sec. 415. Insurance.

"Each distributor shall maintain liability insurance on all game of skill machines that it places in a licensed establishment in an amount set by the Office by rule issued pursuant to this title.

"Sec. 416. Penalties.

"(a) In the event of a violation of this title or a rule issued pursuant to this title, the Office may:

"(1) Impose a fine of not more than $50,000;

"(2) Revoke a licensee's license; or

"(3) Suspend the licensee's license for up to one year.

"(b) A person that has been fined or whose application has been denied, revoked, or suspended pursuant to this section shall have a right to a hearing before the Office and, in the event of the Office's affirmation of the fine, denial, revocation, or suspension, the right to appeal the decision of the Office to the Superior Court of the District of Columbia.

"(c) The Office shall notify ABRA within 48 hours after the Office suspends or revokes a retailer's license.

"Sec. 417. Authority of the Office.

"(a) The Office may enforce the provisions of this title with respect to licensees and any individual or entity not holding a license and offering a game of skill machine in violation of the provisions of this title or rules issued pursuant to this title.

"(b) Subject to subsection (c) of this section, the Office and the Metropolitan Police Department may issue citations for civil violations of this title as set forth in rules issued pursuant to this title.

"(c) A citation for a violation for which the penalty includes the suspension or revocation of a license shall be issued by the Office as a result of an investigation carried out by the Office.

"(d) The Office may request and check the identification of a person who has played, is playing, or is attempting to play a game of skill machine. The Office may seize evidence that substantiates a violation under this title, which may include seizing the tickets, vouchers, or cash awards issued to a person under the age of 18 and fake identification documents used by a person under the age of 18.

"(e) The Office may seize a game of skill machine license from an establishment if:

"(1) The game of skill machine license has been suspended, revoked, or canceled by the Office;

"(2) The business is no longer in existence; or

"(3) The business has been closed by another District government agency.

"Sec. 418. Investigations and inspections.

"(a) The Office may conduct investigations, searches, seizures, and perform other duties authorized by this title and rules issued pursuant to this title.

"(b) An applicant for a license and each licensee shall allow an authorized member of the Office, an ABRA investigator, or any member of the Metropolitan Police Department full opportunity to examine at any time during business hours:

"(1) The location on the premises where game of skill machines are available to play; and

"(2) The books and records of the licensee or applicant.

"Sec. 419. Unlawful acts; action by the Attorney General.

"(a)(1) No manufacturer, distributor, supplier, licensed establishment, or employee or agent of a manufacturer, distributor, supplier, or licensed establishment shall intentionally make a false or misleading representation concerning an individual's chances, likelihood, or probability of winning at playing a game of skill machine.

"(2) An individual or entity claiming to be aggrieved by a fraudulent act or a false or misleading statement by a licensee shall have a cause of action in a court of competent jurisdiction for damages and any legal or equitable relief as may be appropriate.

"(b) The Attorney General for the District of Columbia, in the name of the District of Columbia, may bring an action in the Superior Court of the District of Columbia to enjoin an individual or entity or to seek a civil penalty of up to $50,000 for a violation of this title or rule issued pursuant to this title.

"Sec. 420. Taxation of game of skill machines.

"(a)(1) On or before the 20th day of each month, each retailer shall:

"(A) File a return, on forms and in the manner prescribed by the CFO, with the CFO indicating the amount of gross game of skill machine revenue for the retailer's game of skill machines for the preceding calendar month; and

"(B) Pay to the District of Columbia Treasurer 10% of the gross game of skill machine revenue for the preceding month.

"(b) All funds owed to the District under this section shall be held in trust within the boundaries of the District for the District by the retailer until the funds are paid to the District of Columbia Treasurer.

"(c) A retailer that falsely reports or fails to report the amount due as required by this section may be fined or imprisoned in accordance with Title 22 of the District of Columbia Official Code and shall have its retailer's license revoked.

"(d) A retailer shall keep a record of the gross game of skill machine revenue, awards, and net income of each game of skill machine in such form as the Office may require.

"(e) A payment required by this section that is not remitted when due shall be assessed a late payment penalty in amount set forth in D.C. Official Code § 47-4213.

"(f) In the case of an underpayment of the tax required by this section, there shall be added to the tax, an amount of interest determined by applying the underpayment rate set forth in D.C. Official Code § 47-4201 to the amount of the underpayment for the period of the underpayment.

"Sec. 421. Deposit of license fees.

"All fees collected under sections 406 through 409 shall be deposited in the Lottery, Gambling, and Gaming Fund, established by section 4 (D.C. Official Code § 36-601.12).".

"Sec. 422. Rules and regulations governing game of skill machines.

"(a) The CFO, pursuant to section 424(d) of the District of Columbia Home Rule Act, approved April 17, 1995 (109 Stat. 142; D.C. Official Code § 1-204.24d), shall issue rules to implement the provisions of this title.

"(b) The rules issued by the CFO pursuant to subsection (a) of this section shall include:

"(1) Standards for conducting inspections of game of skill machines for compliance with industry standards;

"(2) Standards for inspecting licensed establishments for compliance with this title;

"(3) Minimum and maximum payment amounts for playing game of skill machines;

"(4) The maximum amount of allowable winnings per game;

"(5) Requirements relating to how fees and taxes are to be remitted;

"(6) The method of accounting to be used by a licensed establishment where a game of skill machine is authorized;

"(7) Methods of age verification;

"(8) Types of records that shall be required to be maintained by a licensee;

"(9) Posting requirements;

"(10) Advertising guidelines, including specific language concerning individuals under the age of 18;

"(11) Penalties for a violation of this title or rule issued pursuant to this title; and

"(12) Internal control standards for game of skill machines.".

Sec. 6023. Title 25 of the District of Columbia Official Code is amended as follows:

(a) Chapter 1 is amended as follows:

(1) Section 25-101 is amended as follows:

(A) A new paragraph (22B) is added to read as follows:

"(22B) "Game of skill machine" has the meaning set forth in section 401(6) of the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, passed on 2nd reading on July 28, 2020 (Enrolled version of Bill 23-760).".

(B) A new paragraph (53A) is added to read as follows:

"(53A) "Voucher" means a ticket issued by a game of skill machine that is redeemable for cash winnings.".

(2) Section 25-113a is amended as follows:

(A) The section is redesignated as § 25-113.01.

(B) The section heading is amended to read as follows:

"§ 25-113.01. License endorsements.".

(C) A new subsection (e) is added to read as follows:

"(e)(1) A licensee under a manufacturer's license class A or B holding an on-site sales and consumption permit, or an on-premises retailer's license, class C/R, D/R, C/H, D/H, C/T, D/T, C/N, D/N, C/X, or DX, shall obtain a game of skill machine endorsement from the Board in order to offer a game of skill machine on the licensed premises.

"(2)(A) A game of skill machine shall not be placed on outdoor public or private space; provided, that the Board, in its discretion, may allow for the placement of a game of skill machine on outdoor public or private space if, in the Board's determination, activity associated with the game of skill machine is:

"(i) Not visible from a public street or sidewalk;

"(ii) Adequately secured against unauthorized entrance; and

"(iii) Accessible only by patrons from within the establishment.

"(B) Subparagraph (A) of this paragraph shall not apply to a licensee operating a passenger-carrying marine vessel in accordance with § 25-113(h).".

(b) Section 25-401 is amended by adding a new subsection (e) to read as follows:

"(e) An applicant for a game of skill machine endorsement shall submit to the Board with its application:

"(1) A diagram of where the game of skill machines will be placed on the licensed premises; and

"(2) The name of the manufacturer and distributor of the game of skill machines and documentation reflecting that the manufacturer and distributor are licensed to do business and pays taxes in the District of Columbia.".

(c) Section 25-508 is amended to read as follows:

"25-508. Minimum fee for permits, and manager's license, and endorsement.

"The minimum fees for permits, manager's license, and endorsement shall be as follows:

"Tasting permit for class A licensees	$100/year
"Importation permit	$5
"Manager's license	$100/year
"On-site sales and consumption permit	$1,000/year
"Game of skill machine endorsement	$200".

(d) Chapter 7 is amended as follows:

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

"25-786. Game of skill machine operating requirements.".

(2) Section 25-763 is amended by adding a new subsection (g) to read as follows:

"(g) Exterior signs advertising game of skill machines shall be prohibited on the licensed establishment.".

(3) Section 25-765 is amended by adding a new subsection (c) to read as follows:

"(c) Advertisements related to game of skill machines shall not be placed on the interior or exterior of a window or on the exterior of a door that is used to enter or exit the licensed establishment.".

(4) A new section 25-786 is added to read as follows:

"§ 25-786. Game of skill machine operating requirements.

"A licensee with a game of skill machine endorsement shall:

"(1) Not allow or permit a person under 18 years of age to play a game of skill machine and shall designate an employee to regularly monitor the designated area where game of skill machines are played to ensure that no person under 18 years of age is playing or attempting to play a game of skill machine;

"(2) Verify that each person playing a game of skill machine is lawfully permitted to do so by checking the person's government-issued identification document upon entry into either the licensed establishment or the designated area where the game of skill machines are located and where the person seeks to cash out his or her winnings, if any; except, that the failure of a licensee to verify a person's identification shall not be a violation of this paragraph if the person whose identification was not checked is 18 years of age or older;

"(3) Not allow or permit a person that appears intoxicated or under the influence of a narcotic or other substance to play a game of skill machine;

"(4) Not share revenue from the licensee's sale of alcohol with a manufacturer or distributor of a game of skill machine, unless approved by the Board as an owner of the license;

"(5) Not allow or permit the placement of a game of skill machine on an outdoor public or private space that has not been approved by the Board;

"(6) Not allow or permit the placement of a game of skill machine outside of the designated areas contained on the applicant's diagram provided as part of the license application or outside the areas approved by the Board;

"(7) Not have more than 5 game of skill machines on the licensed premises; and

"(8) Install security cameras that are operational and record for 30 days, in the areas designated for game of skill machines, near the cash register or terminal where cash winnings of game of skill machines are processed, and where the licensee's money is stored.".

(e) Section 25-801 is amended by adding a new subsection (h) to read as follows:

"(h) An ABRA investigator may request and check the identification of a person who has played, is playing, or is attempting to play a game of skill machine. An ABRA investigator may seize fake identification used by a person under 18 years of age and may seize such records related to a game of skill machine as the investigator deems appropriate to investigate the playing of a game of skill machine by a person under 18 years of age.".

Sec. 6024. Section 865 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1331; D.C. Official Code § 22-1704), is amended as follows:

(a) The existing text is designated as subsection (a).

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

"(b) It shall be unlawful to install or operate a game of skill machine in the District except as permitted by D.C. Official Code § 25-113.01(e). Whoever shall install or operate a game of skill machine at a location not licensed under Title 25 of the District of Columbia Official Code shall be punished by imprisonment for a term of 180 days or fined not more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or both.".

SUBTITLE D. PAY-BY-PHONE TRANSACTION FEES FUND

Sec. 6031. Short title.

This subtitle may be cited as the "Pay-By-Phone Transaction Fee Fund Amendment Act of 2020".

Sec. 6032. Section 9f of the Department of Transportation Establishment Act of 2002, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 50-921.14), is amended to read as follows:

"Sec. 9f. Parking Meter and Transit Services Pay-by-Phone Transaction Fee Fund.

"(a) There is established the Parking Meter and Transit Services Pay-by-Phone Transaction Fee Fund ("Fund"), which shall be administered by the director of the District Department of Transportation in accordance with subsection (c) of this section.

"(b) The following revenue shall be deposited in the Fund:

"(1) Notwithstanding section 3(h) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved February 16, 1942 (56 Stat. 91; D.C. Official Code § 50–2603(8)), all transaction fees imposed upon users who pay for parking, transit fares, Capital Bikeshare trips, and other forms of shared mobility and transportation services with the pay-by-phone system; and

"(2) All money remaining in the District Department of Transportation Parking Meter Pay-by-Phone Transaction Fee Fund at the end of Fiscal Year 2020.

"(c) Money in the Fund shall be used to pay vendors responsible for administering pay-by-phone payment systems for parking, transit fares, Capital Bikeshare trips, and other forms of shared mobility and transportation services.

"(d)(1) The money deposited into the Fund but not expended in a fiscal year shall not revert to the unassigned fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

"(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.".

Sec. 6033. Section 3(h)(1) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved February 16, 1942 (56 Stat. 91; D.C. Official Code § 50-2603(8)(A)), is amended by striking the phrase "to be transferred to the District Department of Transportation Parking Meter Pay-by-phone Transaction Fee Fund and the DC Circulator Fund, in accordance with section 9f of the Department of Transportation Establishment Act of 2002, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 50-921.14)" and inserting the phrase "to be transferred to the Parking Meter and Transit Services Pay-by-Phone Transaction Fee Fund, in accordance with section 9f of the Department of Transportation Establishment Act of 2002, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 50-921.14), and the DC Circulator Fund, in accordance with section 11c of the Department of Transportation Establishment Act of 2002, effective March 6, 2007 (D.C. Law 16-225; D.C. Official Code § 50-921.33)" in its place.

SUBTITLE E. ENVIRONMENTAL SPECIAL PURPOSE REVENUE ACCOUNTS

Sec. 6041. Short title.

This subtitle may be cited as the "Environmental Special Purpose Funds Reestablishment Amendment Act of 2020".

Sec. 6042. The Lead-Hazard Prevention and Elimination Act of 2008, effective March 31, 2009 (D.C. Law 17-381; D.C. Official Code § 8-231.01 *et seq.*), is amended by adding a new section 10a to read as follows:

"Sec. 10a. Lead Poisoning Prevention Fund.

"(a) There is established as a special fund the Lead Poisoning Prevention Fund ("Fund"), which shall be administered by the Department of Energy and Environment in accordance with subsection (c) of this section.

"(b) All fees, fines, and penalties received from compliance with and enforcement of this act, and all interest earned on those monies, shall be deposited into the Fund.

"(c) Money in the Fund shall be used to pay for the costs of implementing this act and may be used to provide low-income residents of the District with assistance to comply with the requirements of section 4, in accordance with rules issued by the Mayor.

"(d)(1) The money deposited into the Fund but not expended in a fiscal year shall not revert to the unassigned fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

"(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.".

Sec. 6043. The District of Columbia Underground Storage Tank Management Act of 1990, effective March 8, 1991 (D.C. Law 8-242; D.C. Official Code § 8-113.01 *et seq.*), is amended by adding a new section 6a to read as follows:

"Sec. 6a. Underground Storage Tank Regulation Fund.

"(a) There is established as a special fund the Underground Storage Tank Regulation Fund ("Fund"), which shall be administered by the Department of Energy and Environment in accordance with subsection (c) of this section.

"(b) All fees, fines, and penalties received from compliance with and enforcement of this act, and contributions and monies received as reimbursement, and all interest earned on those monies, shall be deposited into the Fund.

"(c) Money in the Fund shall be used to pay for the costs of implementing this act and may be used for assessment, clean up, and housing and relocation assistance.

"(d)(1) The money deposited into the Fund but not expended in a fiscal year shall not revert to the unassigned fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

"(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.".

Sec. 6044. The District of Columbia Hazardous Waste Management Act of 1977, effective March 16, 1978 (D.C. Law 2-64; D.C. Official Code § 8-1301 *et seq.*), is amended by adding a new section 21a to read as follows:

"Sec. 21a. Hazardous Waste and Toxic Chemical Source Reduction Fund.

"(a) There is established as a special fund the Hazardous Waste and Toxic Chemical Source Reduction Fund ("Fund"), which shall be administered by the Department of Energy and Environment in accordance with subsection (c) of this section.

"(b) All fees, fines, and penalties received from compliance with and enforcement of this act, and all interest earned on those monies, shall be deposited into the Fund.

"(c) Money in the Fund shall be used to pay for the costs of implementing this act.

"(d)(1) The money deposited into the Fund but not expended in a fiscal year shall not revert to the unassigned fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

"(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.".

SUBTITLE F. ALCOHOLIC BEVERAGE SALES AND DELIVERY

Sec. 6051. Short title.

This subtitle may be cited as the "Alcoholic Beverage Sales and Delivery Amendment Act of 2020".

Sec. 6052. Title 25 of the District of Columbia Official Code is amended as follows:

(a) Chapter 1 is amended as follows:

(1) Section 25-112 is amended by adding a new subsection (h) to read as follows:

"(h)(1) A retailer with commercial street frontage at the Walter E. Washington Convention Center that sells food and is approved by the Washington Convention and Sports Authority to sell alcoholic beverages for on-premises consumption ("Convention Center food and alcohol business") that registers as a Convention Center food and alcohol business with the Board and receives written authorization from ABRA may sell beer, wine, or spirits in closed containers to individuals for carry out and may deliver beer, wine, or spirits in closed containers to consumers in the District, pursuant to §§ 25-113(a)(3)(C) and 25-113.01(g); provided, that such carry out and delivery orders are accompanied by one or more prepared food items.

"(2) Board approval shall not be required for a registration under this subsection that occurs before April 1, 2021.

"(3) After March 31, 2021, a Convention Center food and alcohol business that does not hold a valid registration under this subparagraph shall be required to obtain a carry out and delivery license as set forth in § 25-113.01(g) to sell beer, wine, or spirits in closed containers to customers to carry out and to sell and deliver to the homes of District residents beer, wine, or spirits in closed containers for delivery .

"(4) A Convention Center food and alcohol business that has been authorized to offer alcoholic beverages for carry out and delivery in accordance with paragraph (1) of this subsection may only offer alcoholic beverages for carry out and delivery between the hours of 6:00 a.m. and 1:00 a.m., 7 days a week.".

(2) Section 25-113(a)(3)(C) is amended to read as follows:

"(C)(i) An on-premises retailer licensee, class C/R, D/R, C/T, D/T, C/H, D/H, C/N, D/N, C/X, or D/X, including a multipurpose facility or private club, that registers with the Board and receives written authorization from ABRA may sell beer, wine, or spirits in closed containers to individuals for carry out, or deliver beer, wine, or spirits in closed containers to consumers in the District between the hours of 6:00 a.m. and 1:00 a.m., 7 days a week; provided, that each such carry out or delivery order is accompanied by one or more prepared food items.

"(ii) Board approval shall not be required for a registration under this subparagraph that occurs prior to April 1, 2021. After March 31, 2021, an on-premises retailer that does not hold a valid registration under this subparagraph shall be required to obtain

a carry out and delivery endorsement as set forth in § 25-113.01(f) in order to sell for carry out and deliver alcoholic beverages.".

(3) Newly designated section 25-113.01 is amended by adding new subsections (f) and (g) to read as follows:

"(f)(1) Effective April 1, 2021, a licensee under an on-premises retailer's license, class C/R, D/R, C/T, D/T, C/H, D/H, C/N, D/N, C/X, or D/X, including a multipurpose facility or private club, shall obtain a carry out and delivery endorsement from the Board to be eligible to sell beer, wine, or spirits in closed containers to individuals for carry out, or deliver beer, wine, or spirits in closed containers to consumers in the District.

"(2) Carry out sales and delivery shall be authorized under paragraph (1) of this subsection only between the hours of 6:00 a.m. and 1:00 a.m., 7 days a week.

"(3) Each carry out or delivery order of an alcoholic beverage pursuant to paragraph (1) of this subsection shall be accompanied by one or more prepared food items.

"(4) The annual fee for a carry out and delivery endorsement shall be established by the Board in an amount not less than $200.

"(5) An on-premises retailer licensee that has registered with the Board under § 25-113(a)(3)(C) before April 1, 2021 ("registered licensee"), shall not be required to apply with the Board for an endorsement under this subsection, and the registered licensee shall be granted the carry out and delivery endorsement upon request to the Board, if the registered licensee makes the request and pays the annual fee required by paragraph (4) of this subsection by March 31, 2021.

"(g)(1) Effective April 1, 2021, a Convention Center food and alcohol business that has registered with the Board under § 25-112(h), shall obtain a carry out and delivery license from the Board to be eligible to sell beer, wine, or spirits in closed containers to individuals for carry out, or deliver beer, wine, or spirits in closed containers to consumers in the District.

"(2) Carry out sales and delivery shall be authorized under paragraph (1) of this subsection only between the hours of 6:00 a.m. and 1:00 a.m., 7 days a week.

"(3) Each carry out or delivery order of an alcoholic beverage pursuant to paragraph (1) of this subsection shall be accompanied by one or more prepared food items.

"(4) The annual fee for a carry out and delivery license shall be established by the Board in an amount not less than $200.

"(5) A Convention Center food and alcohol business that has registered with the Board under § 25-112(h) before April 1, 2021 ("registered Convention Center food and alcohol business"), shall not be required to apply with the Board for a license under this subsection, and the registered Convention Center food and alcohol business shall be granted a carry out and delivery license upon request to the Board, if the registered Convention Center food and alcohol business makes the request and pays the annual fee required by paragraph (4) of this subsection by March 31, 2021.

"(6) Beginning June 30, 2022, and each year thereafter, ABRA shall submit an annual report to the Council on the outcomes of this section, including the number of on-premise

licensees participating in the carry-out and delivery option, and the number of on- and off-premise retailer licensees that may have closed after the carry-out and delivery option was implemented".

(b) Chapter 7 is amended as follows:

(1) Section 25-721 is amended as follows:

(A) Subsection (a-1) is amended by striking the phrase "7:00 a.m. and 12:00 a.m." and inserting the phrase "6:00 a.m. and 1:00 a.m." in its place.

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

(i) Paragraph (1) is amended by striking the phrase "2:00 a.m. and 8:00 a.m." and inserting the phrase "2:00 a.m. and 6:00 a.m." in its place.

(ii) Paragraph (2) is amended by striking the phrase "3:00 a.m. and 8:00 a.m." and inserting the phrase "3:00 a.m. 6:00 a.m." in its place.

(C) Subsection (d) is amended by striking the phrase "7:00 a.m. and midnight" and inserting the phrase "6:00 a.m. and 1:00 a.m." in its place.

(2) Section 25-722 is amended as follows:

(A) Subsection (a) is amended by striking the phrase "7:00 a.m. and midnight" and inserting the phrase "6:00 a.m. and 1:00 a.m." in its place.

(B) Subsection (b) is amended by striking the phrase "7:00 a.m. and midnight" and inserting the phrase "6:00 a.m. and 1:00 a.m." in its place.

(3) Section 25-723 is amended as follows:

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

(i) Paragraph (1) is amended by striking the phrase "2:00 a.m. and 8:00 a.m." and inserting the phrase "2:00 a.m. and 6:00 a.m." in its place.

(ii) Paragraph (2) is amended by striking the phrase "3:00 a.m. and 8:00 a.m." and inserting the phrase "3:00 a.m. and 6:00 a.m." in its place.

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

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

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

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

"(E) The Saturday and Sunday adjacent to Veterans Day, Christmas Day, and District of Columbia Emancipation Day as set forth in § 1-612.02(a); except, that if the holiday under this subparagraph occurs on a Tuesday, the extended hours shall occur on the preceding Saturday and Sunday and if a holiday under this subparagraph occurs on a Wednesday or Thursday, the extended hours shall occur on the following Saturday and Sunday.".

(C) Subsection (e)(1) is amended by striking the phrase "2017, January 14 through January 22" and inserting the phrase "2021, January 9 through January 24" in its place.

Sec. 6053. Repealer.

(a) Section 204(a)(1) of the Coronavirus Support Temporary Amendment Act of 2020, enacted on July 7, 2020 (D.C. Act 23-334; 67 DCR 8622), is repealed.

(b) Amendatory section 25-113(a)(3)(C) of the District of Columbia Official Code in section 204(a)(2)(A) of the Coronavirus Support Temporary Amendment Act of 2020, enacted on July 7, 2020 (D.C. Act 23-334; 67 DCR 8622), is repealed.

SUBTITLE G. THIRD-PARTY INSPECTION PLATFORM

Sec. 6061. Short title.

This subtitle may be cited as the "Third-Party Inspection Platform Amendment Act of 2020".

Sec. 6062. Section 6d of the Construction Codes Approval and Amendments Act of 1986, effective June 25, 2002 (D.C. Law 14-162; D.C. Official Code § 6-1405.04), is amended by adding a new subsection (f) to read as follows:

"(f) The Department may establish an online platform that may, at the Director's discretion, serve as the exclusive mechanism by which an individual or entity may hire a third-party inspector to perform an inspection authorized by this section. The Department may charge a fee for the use of the online platform by an individual or entity and by the third-party inspectors.".

SUBTITLE H. PARKING RECIPROCITY FEE UPDATE AMENDMENT

Sec. 6071. Short title.

This subtitle may be cited as the "Reciprocity Parking Fee Update Amendment Act of 2020".

Sec. 6072. Section 8(d) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1123; D.C. Official Code § 50-1401.02(d)), is amended by striking the figure "$50" and inserting the figure "$100" in its place.

SUBTITLE I. TAG TRANSFER FEE UPDATE AMENDMENT

Sec. 6081. Short title.

This subtitle may be cited as the "Tag Transfer Fee Update Amendment Act of 2020".

Sec. 6082. Section 2(e) of the District of Columbia Revenue Act of 1937, approved August 17, 1937 (50 Stat. 680; D.C. Official Code § 50-1501.02(e)), is amended as follows:

(a) Paragraph (2) is amended by striking the figure "$7" and inserting the figure "$12" in its place.

(b) Paragraph (5) is amended by striking the figure "$7" and inserting the figure "$12" in its place.

SUBTITLE J. ATE PROGRAM REPORTING REQUIREMENT AMENDMENT

Sec. 6091. Short title.

This subtitle may be cited as the "ATE Reporting Requirement Amendment Act of 2020".

Sec. 6092. Title IX of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997 (D.C. Law 11-198; D.C. Official Code § 50-2209.01 *et seq.*), is amended by adding a new section 905 to read as follows:

"Sec. 905. ATE Reporting to Council.

"Beginning January 1, 2021, the District Department of Transportation, in consultation with the Department of Motor Vehicles, shall report to the Council on a semi-annual basis the following information:

"(1) The top 15 automated traffic enforcement ("ATE") locations by value of citations generated in the District;

"(2) The breakdown of the jurisdictions where those receiving ATE citations and with outstanding ATE citation debt have their vehicles registered;

"(3) The locations where cameras have been added in the last 6 months and the reasons why those locations were chosen; and

"(4) The amount of ATE citations issued in total and by location.".

SUBTITLE K. CAPACITY MARKET WITHDRAWAL FEASABILITY STUDY

Sec. 6101. Short title.

This subtitle may be cited as the "Capacity Market Withdrawal Feasibility Study Act of 2020".

Sec. 6102. Feasibility study.

By July 1, 2021, the Department of Energy and Environment shall make publicly available a study that evaluates and makes recommendations regarding the District withdrawing from the PJM capacity market, including outlining the potential advantages and disadvantages of withdrawal, the anticipated effects of *Calpine Corp. v. PJM Interconnection, L.L.C.*, 169 FERC ¶ 61,239 (2019) on the District, and the procedure for withdrawal from the PJM capacity market, including any necessary legislative changes.

SUBTITLE L. COMPETITIVE GRANT

Sec. 6111. Short title.

This subtitle may be cited as the "Competitive Grant Act of 2020".

Sec. 6112. The Department of Energy and Environment shall award an annual grant on a competitive basis, in an amount not to exceed $200,000, to provide wildlife rehabilitation services.

SUBTITLE M. URBAN AGRICULTURE FUNDING

Sec. 6121. Short title.

This subtitle may be cited as the "Urban Agriculture Funding Amendment Act of 2020".

Sec. 6122. The Food Production and Urban Gardens Program Act of 1986, effective February 28, 1987 (D.C. Law 6-210; D.C. Official Code § 48-401 *et seq.*), is amended as follows:

(a) Section 3a(d)(1) (D.C. Official Code § 48-402.01(d)(1)) is amended by striking the phrase "base period of 5 years" and inserting the phrase "base period of at least 5 years" in its place.

(b) Section 3b (D.C. Official Code § 48-402.02) is amended to read as follows:

"Sec. 3b. Limitations on expenditures.

"Total real property tax abatements provided for certain urban farms established pursuant to D.C. Official Code § 47-868 and the tax-exempt status conferred by D.C. Official Code § 47-1005(c) shall not exceed $150,000 each year.".

Sec. 6123. Section 47-1005(c) of the District of Columbia Official Code is amended by striking the phrase "Department of General Services" and inserting the phrase "Department of Energy and Environment" in its place.

SUBTITLE N. WASTE DISPOSAL FEES

Sec. 6131. Short title.

This subtitle may be cited as the "Waste Disposal Fees Regulation Amendment Act of 2020".

Sec. 6132. Section 720.8 of Title 21 of the District of Columbia Municipal Regulations (21 DCMR § 720.8) is amended to read as follows:

"720.8 Beginning on October 1, 2020, the applicable fee for the disposal of each ton of solid waste at the waste-handling facilities, excluding those wastes specified in §§ 720.5, 720.6, and 720.7, shall be seventy dollars and sixty-two cents ($70.62) for each ton disposed; provided, that a minimum fee of thirty five dollars and thirty-one cents ($35.31) shall be imposed on each load weighing one thousand pounds (1,000 lb.) or less.".

SUBTITLE O. FAST FERRY GRANT

Sec. 6141. Short title.

This subtitle may be cited as the "Fast Ferry Grant Act of 2020".

Sec. 6142. (a) In Fiscal Year 2021, the District Department of Transportation ("DDOT") shall award a grant of not less than $250,000 to a regional transportation system supporting

efforts to establish M-495 Commuter Fast Ferry Service on the Occoquan, Potomac, and Anacostia River system.

(b) A grant awarded pursuant to this section shall be in addition to any other grant awarded by DDOT for fast ferry service.

TITLE VII. FINANCE AND REVENUE

SUBTITLE A. PERSONAL PROPERTY TAX

Sec. 7001. Short title.

This subtitle may be cited as the "Personal Property Tax Amendment Act of 2020".

Sec. 7002. Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-1508(a) is amended by adding a new paragraph (13) to read as follows:

"(13)(A) Computer software, unless:

"(i) The software is incorporated as a permanent component of a computer, machine, piece of equipment, or device, or of real property, and the software is not commonly available separately; or

"(ii) The cost of the software is included as part of the cost of a computer, machine, piece of equipment, or device, or of the cost of real property on the books or records of the taxpayer.

"(B) This paragraph shall not be construed to affect the value of a machine, device, piece of equipment, or computer, or the value of real property, or to affect the taxable status of any other property subject to tax under this title.".

(b) Section 47-1521 is amended as follows:

(1) Paragraph (1) is redesignated as paragraph (1A).

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

"(1) "Computer software" means a set of statements or instructions that when incorporated in a machine-usable medium is capable of causing a machine or device having information processing capabilities to indicate, perform, or achieve a particular function, task, or result.".

(3) Paragraph (4) is amended by striking the phrase "goods and chattels" and inserting the phrase "goods and chattels, including computer software," in its place.

Sec. 7003. Applicability.

This subtitle shall apply as of July 1, 2021.

SUBTITLE B. UNINCORPORATED BUSINESS FRANCHISE TAX

Sec. 7011. Short title.

This subtitle may be cited as the "Unincorporated Business Franchise Tax Amendment Act of 2020".

Sec. 7012. Section 47-1808.02(1) of the District of Columbia Official Code is amended by striking the phrase "Internal Revenue Code of 1986." and inserting the phrase "Internal Revenue Code of 1986. Taxable income shall include gain from the sale or other disposition of any assets, including tangible assets and intangible assets, including real property and interests in real property, in the District, even when such a sale or other disposition results in the termination of an unincorporated business." in its place.

Sec. 7013. Applicability.

This subtitle shall apply as of January 1, 2021.

SUBTITLE C. BALLPARK REVENUE FUND

Sec. 7021. Short title.

This subtitle may be cited as the "Ballpark Revenue Fund Excess Revenue Amendment Act of 2020".

Sec. 7022. Section 102(d) of the Ballpark Omnibus Financing and Revenue Act of 2004, effective April 8, 2005 (D.C. Law 15-320; D.C. Official Code § 10-1601.02(d)), is amended by striking the phrase "due on the bonds." and inserting the phrase "due on the bonds; provided, that any excess that accrues during Fiscal Year 2020, Fiscal Year 2021, or Fiscal Year 2022 shall be deposited in the unrestricted fund balance of the General Fund during the fiscal year in which it accrues." in its place.

SUBTITLE D. EVENTS DC AUTHORITY

Sec. 7031. Short title.

This subtitle may be cited as the "Events DC Authority Amendment Act of 2020".

Sec. 7032. Title II of the Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code § 10-1202.01 *et seq.*), is amended as follows:

(a) Section 203 (D.C. Official Code § 10-1202.03) is amended as follows:

(1) Paragraph (10K) is amended by striking the period and inserting a semicolon in its place.

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

"(10L) To issue grants pursuant to section 208(h) to support go-go music in the District of Columbia.".

(b) Section 204(m) (D.C. Official Code § 10-1202.04(m)), is amended by striking the phrase "Fiscal Year 2019 or Fiscal Year 2020" and inserting the phrase "Fiscal Year 2020 or Fiscal Year 2021" in its place.

(c) Section 208 (D.C. Official Code § 10-1202.08) is amended by adding a new subsection (h) to read as follows:

"(h) For Fiscal Year 2021, the Authority shall issue not less than $1 million in grants from the Convention Center Fund to support go-go related programming, branding, tourism, and marketing; provided, that funds are available for such purpose and that the Authority first satisfy its current liabilities and legally required reserves, which shall not include the elective purchase or redemption of outstanding indebtedness, unless such purchase or redemption is for the purpose of securing a lower cost of borrowing and lower debt service payments.".

SUBTITLE E. PARKSIDE PARCEL E AND J MIXED-INCOME APARTMENTS TAX ABATEMENT

Sec. 7041. Short title.

This subtitle may be cited as the "Parkside Parcel E and J Mixed-Income Apartments Tax Abatement Amendment Act of 2020".

Sec. 7042. Section 47-4658 of the District of Columbia Official Code is amended as follows:

(a) Subsection (b) is amended by striking the number "2020" and inserting the number "2022" in its place.

(b) Subsection (c) is amended by striking the number "2020" and inserting the number "2022" in its place.

SUBTITLE F. OFF-PREMISES ALCOHOL TAX RATE

Sec. 7051. Short title.

This subtitle may be cited as the "Off-Premises Alcohol Tax Rate Amendment Act of 2020".

Sec. 7052. Section 47-2002(a) of the District of Columbia Official Code is amended as follows:

(a) Paragraph (3)(A) is amended by striking the phrase "defined in § 47-2001(g-1)" and inserting the phrase "defined in § 47-2001(g-1) or spirituous or malt liquors, beer, and wine sold by an alcoholic beverage licensee acting under authority of §§ 25-112(h)(1), 25-113(a)(3)(C), or 25-113.01(f) or (g)" in its place.

(b) Paragraph (3A) is amended by striking the phrase "where sold" and inserting the phrase "where sold, unless sold by an alcoholic beverage licensee acting under authority of §§ 25-112(h)(1), 25-113(a)(3)(C), or 25-113.01(f) or (g)" in its place.

Sec. 7053. Section 47-2202(a) of the District of Columbia Official Code is amended as follows:

(a) Paragraph (3)(A) is amended by striking the phrase "defined in § 47-2001(g-1)" and inserting the phrase "defined in § 47-2001(g-1) or spirituous or malt liquors, beer, and wine sold

by an alcoholic beverage licensee acting under authority of §§ 25-112(h)(1), 25-113(a)(3)(C), or 25-113.01(f) or (g)" in its place.

(b) Paragraph (3A) is amended by striking the phrase "where sold" and inserting the phrase "where sold, unless sold by an alcoholic beverage licensee acting under authority of §§ 25-112(h)(1), 25-113(a)(3)(C), or 25-113.01(f) or (g)" in its place.

SUBTITLE G. SUBJECT-TO-APPROPRIATIONS REPEALS AND MODIFICATIONS

Sec. 7061. Short title.

This subtitle may be cited as the "Subject-to-Appropriations Repeals and Modifications Amendment Act of 2020".

Sec. 7062. Section 3 of the DC HealthCare Alliance Recertification Simplification Amendment Act of 2017, effective December 13, 2017 (D.C. Law 22-35; 64 DCR 10929), is repealed.

Sec. 7063. Section 3 of the East End Certificate of Need Maximum Fee Establishment Amendment Act of 2018, effective October 30, 2018 (D.C. Law 22-176; 65 DCR 9552), is repealed.

Sec. 7064. Section 301(a) of the Birth-to-Three for All DC Amendment Act of 2018, effective October 30, 2018 (D.C. Law 22-179; 65 DCR 9569), is amended by striking the phrase "107(b)," and inserting the phrase "107," in its place.

Sec. 7065. Section 8 of the Tipped Wage Workers Fairness Amendment Act of 2018, effective December 13, 2018 (D.C. Law 22-196; 65 DCR 12049), is repealed.

Sec. 7066. The Ensuring Community Access to Recreational Spaces Act of 2018, effective February 22, 2019 (D.C. Law 22-210; D.C. Official Code § 38-431 *et seq.*), is amended as follows:

(a) Section 4(b) (D.C. Official Code § 38-433(b)) is amended by striking the phrase "Within 180 days after February 22, 2019, the Mayor" and inserting the phrase "The Mayor" in its place.

(b) A new section 7a is added to read as follows:

"Sec. 7a. Applicability.

"(a) Section 4 shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

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

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

"(2) The date of publication of the notice of the certification shall not affect the applicability of section 4.".

Sec. 7067. Section 3 of the Boxing and Wrestling Commission Amendment Act of 2018, effective February 22, 2019 (D.C. Law 22-228; 66 DCR 200), is repealed.

Sec. 7068. The Senior Strategic Plan Amendment Act of 2018, effective March 28, 2019 (D.C. Law 22-267; 66 DCR 1428), is amended by adding a new section 3a to read as follows:

"Sec. 3a. Applicability.

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

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

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

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

Sec. 7069. Section 5 of the Public Restroom Facilities Installation and Promotion Act of 2018, effective April 11, 2019 (D.C. Law 22-280; 66 DCR 1595), is amended to read as follows:

"Sec. 5. Applicability.

"(a) Section 4 shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

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

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

"(2) The date of publication of the notice of the certification shall not affect the applicability of section 4.".

Sec. 7070. Section 5 of the Sports Wagering Lottery Amendment Act of 2018, effective May 3, 2019 (D.C. Law 22-312; 66 DCR 1402), is repealed.

Sec. 7071. Section 4 of the Mypheduh Films DBA Sankofa Video and Books Real Property Tax Exemption Act of 2019, effective September 11, 2019 (D.C. Law 23-24; 66 DCR 9759), is repealed.

Sec. 7072. Section 3 of the Certificate of Need Fee Reduction Amendment Act of 2019, effective March 10, 2020 (D.C. Law 23-60; 67 DCR 568), is repealed.

Sec. 7073. Section 3 of the Electronic Medical Order for Scope of Treatment Registry Amendment Act of 2019, effective March 10, 2020 (D.C. Law 23-62; 67 DCR 574), is repealed.

Sec. 7074. Section 5 of the Housing Conversion and Eviction Clarification Amendment Act of 2020, effective April 16, 2020 (D.C. Law 23-72; 67 DCR 2476), is repealed.

Sec. 7075. Section 5 of the Urban Farming Land Lease Amendment Act of 2020, effective April 16, 2020 (D.C. Law 23-80; 67 DCR 2494), is repealed.

Sec. 7076. Section 4 of the Office on Caribbean Affairs Establishment Act of 2020, effective May 6, 2020 (D.C. Law 23-87; 67 DCR 3534), is repealed.

Sec. 7077. Section 3 of the Strengthening Reproductive Health Protections Amendment Act of 2020, effective May 6, 2020 (D.C. Law 23-90; 67 DCR 3537), is repealed.

Sec. 7078. Section 6 of the Certified Professional Midwife Amendment Act of 2020, effective June 17, 2020, (D.C. Law 23-97; 67 DCR 3912), is repealed.

Sec. 7079. Section 3 of the Leave to Vote Amendment Act of 2020, effective June 24, 2020 (D.C. Law 23-110; 67 DCR 5057), is repealed.

Sec. 7080. Section 3 of the Transportation Benefits Equity Amendment Act of 2020, effective June 24, 2020 (D.C. Law 23-113; 67 DCR 5069), is repealed.

Sec. 7081. Section 3 of the Professional Art Therapist Licensure Amendment Act of 2020, effective June 24, 2020, (D.C. Law 23-115; 67 DCR 5077), is repealed.

Sec. 7082. Section 6 of the Ivory and Horn Trafficking Prohibition Act of 2020, effective August 6, 2020 (D.C. Law 23-126; 67 DCR 5060), is repealed.

SUBTITLE H. COUNCIL PERIOD 23 RULE 736 AND OTHER REPEALS

Sec. 7091. Short title.

This subtitle may be cited as the "Council Period 23 Rule 736 and Other Repeals Amendment Act of 2020".

Sec. 7092. Section 1013(g) of the Innovation Fund Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code § 1-325.222(g)), is repealed.

Sec. 7093. The Health Care Provider Facility Expansion Program Establishment Act of 2018, effective May 5, 2018 (D.C. Law 22-97; D.C. Official Code § 7-1941.01 *et seq.*), is repealed.

Sec. 7094. Section 202 of the Ballpark Omnibus Financing and Revenue Act of 2004, effective April 8, 2005 (D.C. Law 15-320; D.C. Official Code § 10-1602.02), is repealed.

Sec. 7095. The School Health Innovations Grant Program Amendment Act of 2018, effective May 5, 2018 (D.C. Law 22-98; D.C. Official Code § 38-671.01 *et seq.*), is repealed.

Sec. 7096. Section 3602(d) of the Restrictions on the Use of Official Vehicles Act of 2000, effective October 19, 2000 (D.C. Law 13-172; D.C. Official Code § 50-204(d)), is repealed.

Sec. 7097. Sections 103 and 105(c) of the Employee Transportation Amendment Act of 2012, effective March 5, 2013 (D.C. Law 19-223; D.C. Official Code §§ 50-211.03 and 50-211.05(c)), are repealed.

Sec. 7099. The Exhaust Emissions Inspection Amendment Act of 2017, effective January 25, 2018 (D.C. Law 22-47; 64 DCR 12403) is repealed.

Sec. 7100. The DC Healthcare Alliance Re-Enrollment Reform Amendment Act of 2017, effective February 17, 2018 (D.C. Law 22-62; 65 DCR 9), is repealed.

Sec. 7101. The Ballpark Fee Forgiveness Act of 2017, effective February 28, 2018 (D.C. Law 22-64; 65 DCR 328), is repealed.

Sec. 7102. Section 2(nn) and (oo) of the Homeless Services Reform Amendment Act of 2017, effective February 28, 2018 (D.C. Law 22-65; 65 DCR 331), is repealed.

Sec. 7103. The East End Commercial Real Property Tax Rate Reduction Amendment Act of 2018, effective March 29, 2018 (D.C. Law 22-81; 65 DCR 1582), is repealed.

Sec. 7104. The Relieve High Unemployment Tax Incentives Act of 2018, effective April 25, 2018 (D.C. Law 22-85; 65 DCR 1805), is repealed.

Sec. 7105. The Telehealth Medicaid Expansion Amendment Act of 2018, effective July 3, 2018 (D.C. Law 22-126; 65 DCR 5110), is repealed.

Sec. 7106. The Expenditure Commission Establishment Act of 2019, effective September 11, 2019 (D.C. Law 23-16; 66 DCR 8621), is repealed.

SUBTITLE I. DISTRICT HISTORY GRANT

Sec. 7111. Short title.

This subtitle may be cited as the "District History Grant Act of 2020".

Sec. 7112. (a) The Washington Convention and Sports Authority ("Events DC") shall award a grant to a nonprofit organization occupying space in the Carnegie Library building that is engaged in collecting, interpreting, and sharing the history of the District.

(b) In Fiscal Year 2021, of the funds allocated to the Non-Departmental Account, $100,000 shall be transferred to Events DC to use for the grant authorized by subsection (a) of this section.

(c) A grant awarded pursuant to this section shall be in addition to any other grant awarded by Events DC in support of historical education and research.

SUBTITLE J. NATIONAL CHERRY BLOSSOM FESTIVAL FUNDRAISING MATCH

Sec. 7121. Short title.

This subtitle may be cited as the "National Cherry Blossom Festival Fundraising Match Act of 2020".

Sec. 7122. National Cherry Blossom Festival Fundraising.

(a) There is established a matching grant program to support the 2021 National Cherry Blossom Festival ("Program"), which shall be administered by the Washington Convention and Sports Authority ("Events DC"). Under the Program, a matching grant shall be awarded to a nonprofit organization that organizes and produces an event or events as part of the official, month-long National Cherry Blossom Festival ("Festival") of up to $1,000,000 at a rate of $2 for every dollar that the organization has raised in donations by April 30, 2021.

(b) In Fiscal Year 2021, of the funds allocated to the Non-Departmental Account, $1,000,000 shall be transferred to Events DC to use for the grant authorized by subsection (a) of this section.

(c) A grant awarded pursuant to this section shall be in addition to any other grant awarded by Events DC in support of the Festival.

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SUBTITLE K. MOTOR VEHICLE FUEL TAX

Sec. 7131. Short Title.

This subtitle may be cited as the "Motor Vehicle Fuel Tax Amendment Act of 2020".

Sec. 7132. Chapter 23 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-2301 is amended as follows:

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

"(4) This subsection shall not apply after September 30, 2020.".

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

"(a-1)(1) The District shall levy and collect a tax and a local transportation surcharge ("surcharge") on motor vehicle fuels sold or otherwise disposed of by an importer or by a user, or used for commercial purposes.

"(2) As of October 1, 2020:

"(A) The rate of tax shall be $.235 per gallon; and

"(B) The surcharge shall be $.053 per gallon;

"(3) As of October 1, 2021, the surcharge shall be $.103 per gallon, increased annually, beginning with the fiscal year commencing on October 1, 2022, by the cost-of-living adjustment.".

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

"(c) The Chief Financial Officer of the District of Columbia shall:

"(1) Transfer annually to the District of Columbia Highway Trust Fund the proceeds of the taxes imposed under subsection (a) and (a-1) of this section; and

"(2) Transfer to the Capital Improvements Program the revenue derived from the surcharge under subsection (a-1) to fund the renovation, repair, and maintenance of local transportation infrastructure.".

(b) Section 47-2302 is amended by adding a new paragraph (24) to read as follows:

"(24)(A) "Cost-of-living adjustment" means the ratio of CPI for the preceding calendar year and the CPI for the base year.

"(B) For the purposes of this paragraph, the term:

"(i) "Base year" means the calendar year ending December 31, 2020.

"(ii) "CPI" means the average of the Consumer Price Index for All Urban Consumers for the Washington-Arlington-Alexandria, DC-MD-VA-WV Metropolitan Statistical Area (or such successor metropolitan statistical area that includes the District) for the preceding calendar year.".

Sec. 7133. Section 102a of the Highway Trust Fund Establishment Act of 1996, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 9-111.01a), is amended by adding a new subsection (c) to read as follows:

"(c) Revenue derived from the local transportation surcharge on motor vehicle fuels sold or otherwise disposed of by an importer or by a user, or used for commercial purposes, pursuant to D.C. Official Code § 47-2301(a-1), shall be transferred to the Capital Improvements Program to fund the renovation, repair, and maintenance of local transportation infrastructure.".

SUBTITLE L. NEW COMMUNITIES CLARIFICATION

Sec. 7141. Short title.

This subtitle may be cited as the "New Communities Bond Clarification Amendment Act of 2020".

Sec. 7142. Section 203(b) of the Housing Production Trust Fund Act of 1988, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 42-2812.03(b)), is amended to read as follows:

"(b)(1) The bonds, which may be issued from time to time, in one or more series, shall be tax-exempt or taxable as the Mayor shall determine.

"(2) The total amount of funds allocated annually from the Housing Production Trust Fund to pay debt service on the bonds shall not exceed $16 million.".

SUBTITLE M. QHTC TAX INCENTIVES MODIFICATION

Sec. 7151. Short Title.

This subtitle may be cited as the "QHTC Tax Incentives Modification Amendment Act of 2020".

Sec. 7152. Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-1508(a)(10) is repealed.

(b) Chapter 18 is amended as follows:

(1) Section 47-1803.03(a)(18) is amended as follows:

(A) Subparagraph (A) is amended by striking the phrase "the lesser of $25,000 (or $40,000 in the case of a Qualified High Technology Company ("QHTC"))" and inserting the phrase "the lesser of $25,000" in its place.

(B) Subparagraph (B) is repealed.

(2) Section 47-1817.01(5)(A)(ii) is amended by striking the number "2" and inserting the number "10" in its place.

(3) Section 47-1817.02 is repealed.

(4) Section 47-1817.03 is amended as follows:

(A) Subsection (a) is amended by striking the phrase "imposed by § 47-1817.06" and inserting the phrase "imposed by § 47-1807.02" in its place.

(B) Subsection (a-1) is amended by striking the phrase "imposed by § 47-1817.06" and inserting the phrase "imposed by § 47-1807.02" in its place.

(5) Section 47-1817.04 is amended as follows:

(A) Subsection (d) is amended by striking the figure "$20,000" and inserting the figure "$10,000" in its place.

(B) Subsection (e) is repealed.

(6) Section 47-1817.05(c) is repealed.

(7) Section 47-1817.06 is repealed.

(8) Section 47-1817.07 is repealed.

(9) Section 47-1817.07a is amended by striking the phrase "For tax years beginning after December 31, 2018, notwithstanding" and inserting the phrase "For the tax year beginning after December 31, 2018 and ending before January 1, 2020, and for tax years beginning after December 31, 2024, notwithstanding" in its place.

(10) Section 47-1818.06(3) is repealed.

Sec. 7153. Applicability.

This subtitle shall apply as of January 1, 2020, except that section 7152(a) shall apply as of July 1, 2021.

SUBTITLE N. ADAMS MORGAN BID

Sec. 7161. Short title.

This subtitle may be cited as the "Adams Morgan Business Improvement District Amendment Act of 2020".

Sec. 7162. Section 206(c) of the Business Improvement District Act of 1996, effective March 8, 2006 (D.C. Law 16-56; D.C. Official Code § 2-1215.56(c)), is amended to read as follows:

"(c) The BID taxes for the taxable properties in the Adams Morgan BID shall not exceed $.21 for each $100 in assessed value for all taxable properties and all commercial portions of mixed use properties; provided, that any change in the BID taxes from the current tax year rates shall be made subject to the requirements of section 9.".

SUBTITLE O. SKYLAND TAX EXEMPTION

Sec. 7171. This subtitle may be cited as the "Skyland Tax Exemption Amendment Act of 2020".

Sec. 7172. Section 302 of the District of Columbia Deed Recordation Tax Act, approved March 2, 1962 (76 Stat. 11; D.C. Official Code § 42-1102), is amended as follows:

(a) Paragraph (34) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(b) Paragraph (35) is amended by striking the period at the end and inserting the phrase "; and" in its place.

(c) A new paragraph (36) is added to read as follows:

"(36)(A) Deeds conveying, vesting, granting, or assigning title to, an interest in, a security interest in, or an economic interest in the real property (and any improvements thereon) described as Square 5633, Lots 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 7000, 7009, and 7010 that are recorded between October 1, 2020, and December 31, 2020.

"(B) The amount of all taxes, fees, and deposits exempted under this paragraph and D.C. Official Code § 47-902(28), shall not exceed, in the aggregate, $420,840.".

Sec. 7173. Section 47-902 of the District of Columbia Official Code is amended by adding a new paragraph (28) to read as follows:

"(28)(A) Transfers with respect to the real property (and any improvements thereon) described as Square 5633, Lots 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 7000, 7009, and 7010, as evidenced by the recordation of a deed conveying title to the real property between October 1, 2020, and December 31, 2020.

"(B) The amount of all taxes, fees, and deposits exempted under this paragraph and § 42-1102(36), shall not exceed, in the aggregate, $420,840.".

SUBTITLE P. COMBINED REPORTING TAX DEDUCTION DELAY

Sec. 7181. Short title.

This subtitle may be cited as the "Combined Reporting Tax Deduction Delay Amendment Act of 2020".

Sec. 7182. Section 47-1810.08(b) of the District of Columbia Official Code is amended as follows:

(a) Paragraph (1) is amended by striking the phrase "beginning with the 10th year of the combined filing" and inserting the phrase "beginning with the 15th year of the combined filing" in its place.

(b) Paragraph (2) is amended by striking the number "2015" and inserting the number "2020" in its place.

SUBTITLE Q. ESTATE TAX ADJUSTMENT

Sec. 7191. Short title.

This subtitle may be cited as the "Estate Tax Adjustment Amendment Act of 2020".

Sec. 7192. Section 47-3701 of the District of Columbia Official Code is amended as follows:

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

(1) Subparagraph (E) is amended by striking the phrase "dying after December 31, 2017" and inserting the phrase "whose death occurs after December 31, 2017, but before January 1, 2021" in its place.

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

"(F) For a decedent whose death occurs after December 31, 2020:

"(i) The maximum amount of credit for state death taxes allowed by section 2011 of the Internal Revenue Code;

"(ii) The amount of the unified credit shall be $1,545,800, increased annually, beginning with the year commencing on January 1, 2022, by the cost-of-living adjustment; and

"(iii) An estate tax return shall not be required to be filed if the decedent's gross estate does not exceed the applicable zero bracket amount.".

(b) Paragraph (14) is amended as follows:

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

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

(A) Strike the phrase "after December 31, 2017" and insert the phrase "after December 31, 2017, but before January 1, 2021" in its place.

(B) Strike the period at the end and insert the phrase "; or" in its place.

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

"(D) For a decedent whose death occurs after December 31, 2020, $4 million, increased annually, beginning with the year commencing on January 1, 2022, by the cost-of-living adjustment.".

SUBTITLE R. DISTRICT OF COLUMBIA LOW-INCOME HOUSING TAX CREDIT CLARIFICATION

Sec. 7201. Short title.

This subtitle may be cited as the "District of Columbia Low-Income Housing Tax Credit Clarification Amendment Act of 2020".

Sec. 7202. Chapter 48 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by striking the phrase "47-4806. Transfer, sale, or assignment" and inserting the phrase "47-4806. Transfer, sale, assignment, or allocation" in its place.

(b) Section 47-4801 is amended as follows:

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

"(1A) "Commissioner" means the Commissioner of the Department of Insurance, Securities, and Banking.".

(2) Paragraph (3) is amended by striking the phrase "cause the construction of affordable housing" and inserting the phrase "cause the acquisition, rehabilitation, or construction of affordable housing" in its place.

(3) Paragraph (6) is amended by striking the phrase ""Low-Income Housing Tax Credit Program" means the program authorized by section 42 of the Internal Revenue Code of 1986" and inserting the phrase ""Federal low-income housing tax credit" means a tax credit claimed pursuant to section 42 of the Internal Revenue Code of 1986" in its place.

(4) Paragraph (7) is repealed.

(5) Paragraph (8) is amended by striking the phrase "a rental housing development that receives an allocation of federal Low-Income Housing Tax Credits from the Department" and inserting the phrase "a rental housing development in the District that receives an allocation of federal low-income housing tax credits under section 42(h)(1) or (4) of the 1986 Internal Revenue Code (26 U.S.C. § 42(h)(1) or (4)) after October 1, 2021, and receives an executed extended low-income housing commitment pursuant to section 42(h)(6)(B) of the 1986 Internal Revenue Code (26 U.S.C. § 42(h)(6)(B)) from the Department dated on or after October 1, 2021".

(c) Section 47-4802 is amended as follows:

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

"(a) There is established a District of Columbia low-income housing tax credit.".

(2) Subsection (b) is repealed.

(3) Subsection (c) is repealed.

(4) Subsection (d) is amended by striking the phrase "tax credit award" and inserting the phrase "tax credit" in its place.

(d) Section 47-4803 is amended as follows:

(1) Subsection (a) is amended to read as follow:

"(a) An owner of a qualified project may receive a District of Columbia low-income housing tax credit with respect to that qualified project in an amount equal to 25% of the value of the federal low-income housing tax credit received with respect to the qualified project.".

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

"(b)(1) If the owner of a qualified project transfers, sells, or assigns a District of Columbia low-income housing tax credit to another taxpayer, pursuant to § 47-4806, the District of Columbia low-income housing tax credit shall not be taken, pursuant to subsection (c) of this section, against taxes imposed under this title unless the owner has filed with the Department, in a form determined by the Department, an affidavit certifying that:

"(A) The owner of the qualified project received, as consideration for transferring, selling, or assigning the District of Columbia low-income housing tax credit, at least 80% of the per dollar sale price for a federal low-income housing tax credit associated with the qualified project that the owner has transferred, sold, or assigned; and

"(B) The value received by the owner of the qualified project was used to ensure financial feasibility of the qualified project.

"(2) The Department shall deliver to the Chief Financial Officer and the Commissioner an annual report certifying the ongoing eligibility of an eligible project to receive federal low-income housing tax credits.".

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

"(c)(1) The District of Columbia low-income housing tax credit may be claimed against taxes imposed under Chapter 18 of this title or § 47-2608(a)(1).

"(2) The District of Columbia low-income housing tax credit may be claimed equally for 10 years, subtracted from the tax otherwise due for each taxable period and shall not be refundable; provided, that the credit may not be taken against any tax that is dedicated in whole or in part to the Healthy DC and Heath Care Expansion Fund established by § 31-3514.02.".

"(3) If the District of Columbia low-income housing tax credit is claimed against taxes imposed under Chapter 18 of this title, any amount of the low-income housing tax credit that exceeds the tax due for a taxable year may be carried forward to any of the 10 remaining subsequent taxable years for taxes imposed under Chapter 18 of this title. If the District of Columbia low-income housing tax credit is claimed against taxes imposed under § 47-2608(a)(1), any amount of the credit that exceeds the tax due for a taxable year may be carried forward to any of the 10 remaining subsequent taxable years for taxes imposed under § 47-2608(a)(1).".

(4) Subsection (d)(1) is amended by striking the phrase "allocated to parties who are eligible under the provisions of subsection (a) of this section" and inserting the phrase "transferred, sold, assigned, or allocated to parties who are eligible pursuant to Chapter 48 of Title 47 of the District of Columbia Official Code" in its place.

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

(A) The lead-in language is amended by striking the phrase "submitted to the Chief Financial Officer as provided in this section" and inserting the phrase "submitted to the Chief Financial Officer and the Commissioner as provided in this section" in its place.

(B) Paragraph (2) is amended by striking the phrase "each taxpayer subject to the recapture" and inserting the phrase "each transferee, purchaser, assignee, or party to whom a credit is allocated" in its place.

(C) Paragraph (3) is amended by striking the phrase "allocated to such taxpayer" and inserting the phrase "allocated to such transferee, purchaser, assignee, or party to whom a credit is allocated" in its place.

(6) Subsection (f)(1) is amended by striking the phrase "A tax credit allowed under this section shall not be denied to the taxpayer with respect to any qualified project" and inserting the phrase "A District of Columbia low-income housing tax credit allowed under this section shall not be denied with respect to any qualified project" in its place.

(e) Section 47-4804 is amended as follows:

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

"(a) The owner of a qualified project eligible for the District of Columbia low-income housing tax credit shall submit a copy of the eligibility statement issued by the Department with respect to the qualified project at the time of filing the return required to be filed by the owner pursuant to § 47-1805.02. In the case of failure to attach the eligibility statement, a credit under this section shall not be allowed with respect to such qualified project for that year until the copy is provided to the Chief Financial Officer and the Commissioner.".

(2) Subsection (b) is amended by striking the phrase "such qualified District of Columbia project shall also be recaptured" and inserting the phrase "such qualified District of Columbia project shall also be recaptured by the Office of Chief Financial Officer or Commissioner of Insurance, Securities, and Banking" in its place.

(f) Section 47-4805 is amended by striking the phrase "The Chief Financial Officer or the Department may require" and inserting the phrase "The Chief Financial Officer, the Commissioner, or the Department may require" in its place.

(g) Section 47-4806 is amended as follows:

(1) The section heading is amended by striking the phrase "Transfer, sale, or assignment" and inserting the phrase "Transfer, sale, assignment, or allocation" in its place.

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

(A) The existing text is designated as paragraph (1) and amended to read as follows:

"(1) All or any portion of credits issued in accordance with the provisions of this section may be transferred, sold, or assigned to another taxpayer. There is no limit on the total number of transactions for the transfer, sale, or assignment of all or part of the total credit authorized under this section. Collectively, all transfers, sales, assignments, and allocations pursuant to paragraph (2) of this subsection are subject to the maximum credit allowable to a particular qualified project.".

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

"(2) A tax credit earned or purchased by, or transferred or assigned to, a partnership, limited liability company, S corporation, or other pass-through entity may be allocated to the partners, members, or shareholders of that entity in accordance with the provisions of any agreement among the partners, members, or shareholders and without regarding to the ownership interest of the partners, members, or shareholders in the qualified project. A partner, member, or shareholder to whom a tax credit is allocated may further allocate all or part of the allocated credit as provided in this subsection or may transfer, sell, or assign the allocated credit as provided in paragraph (1) of this subsection. There is no limit on the total number of allocations of all or part of the total credit authorized under this section; however, collectively, all transfers, sales, assignments, and allocations, made pursuant to this subsection, are subject to the maximum credit allowable to a particular qualified project.".

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

"(b) An owner, transferee, purchaser, assignee, or taxpayer to whom a tax credit is allocated pursuant to subsection (a)(2) of this section, desiring to make a transfer, sale,

assignment, or allocation pursuant to subsection (a)(2) of this section, shall submit to the Chief Financial Officer and the Commissioner a statement that describes the amount of District of Columbia low-income housing tax credit for which such transfer, sale, assignment, or allocation of District of Columbia low-income housing tax credit is eligible. The owner, transferor, seller, assignor, or taxpayer who is allocating, pursuant to subsection (a)(2) of this section, the tax credit, as applicable, shall provide to the Chief Financial Officer and the Commissioner appropriate information so that the low-income housing tax credit can be properly allocated.".

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

"(3) Amount of credit previously transferred, sold, assigned, or allocated to such transferee, purchaser, assignee, or taxpayer to whom a credit is allocated.".

(h) Section 47-4807 is amended as follows:

(1) Subsection (a) is amended by striking the phrase "The Department, in consultation with the Chief Financial Officer, shall monitor" and inserting the phrase "The Department, in consultation with the Chief Financial Officer and the Commissioner, shall monitor" in its place.

(2) Subsection (b) is amended by striking the phrase "The Department or the Chief Financial Officer shall report" and inserting the phrase "The Department, the Chief Financial Officer, or the Commissioner shall report" in its place.

SUBTITLE S. EXCLUDED WORKERS

Sec. 7211. Short title.

This subtitle may be cited as the "Excluded Workers Amendment Act of 2020".

Sec. 7212. Assistance for excluded workers.

The Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code § 10-1201.01 *et seq.*), is amended by adding a new section 203a to read as follows:

"Sec. 203a. Assistance for excluded workers.

"(a) During the public health emergency declared in the Mayor's order dated March 11, 2020 and any extensions thereof, the Washington Convention and Sports Authority shall issue, subject to the availability of funds, grants or contracts to nonprofit entities to use to provide cash assistance to District residents who are otherwise excluded from District and federal aid related to COVID-19. To qualify for cash assistance from grants or contracts awarded pursuant to this section, a District resident shall:

"(1)(A) Be ineligible for unemployment insurance or federal COVID-19 relief; and

"(B) Be ineligible for TANF or other government cash assistance programs not related to the COVID-19 pandemic; or

"(2) Be a returning citizen, as defined by section 2(5) of the Office on Ex-Offender Affairs and Commission on Re-Entry and Ex-Offender Affairs Establishment Act of

2006, effective March 8, 2007 (D.C. Law 16-243; D.C. Official Code § 24-1301(5)), who would not otherwise qualify under paragraph (1) of this subsection and whose incarceration ended not more than 6 months before receiving assistance.

"(b) Any entity receiving a grant or contract pursuant to this section may use no more than 10% of the grant for administrative expenses incurred from administering the cash assistance program.

"(c) Cash assistance provided to eligible individuals pursuant to this section shall not be considered in determining eligibility for any means-tested programs administered by the District.

"(d) For the purposes of this section the term:

"(1) "COVID-19" means the disease caused by the novel coronavirus SARS-CoV-2.

"(2) COVID-19 relief" means federal monetary assistance, including tax credits, provided under the Coronavirus Aid, Relief, and Economic Security Act, approved March 27, 2020 (134 Stat. 281; 15 U.S.C. § 9001 *et seq.*).".

Sec. 7213. Non-taxability.

Section 47-1803.02(a)(2) of the District of Columbia Official Code is amended to add a new subparagraph (JJ) to read as follows:

"(JJ) Cash assistance for excluded workers given pursuant to grants awarded by the Washington Convention and Sports Authority in 2020.".

TITLE VIII. SPECIAL PURPOSE AND DEDICATED REVENUE FUNDS

Sec. 8001. Short title.

This subtitle may be cited as the "Designated Fund Transfer Act of 2020".

Sec. 8002. (a) Notwithstanding any provision of law limiting the use of funds in the accounts listed in the following chart, the Chief Financial Officer shall transfer in Fiscal Year 2021 and in each fiscal year through Fiscal Year 2024 the following recurring amounts from certified fund balances and other revenue in the identified accounts to the unassigned fund balance of the General Fund of the District of Columbia:

Agency Code	Agency	Fund Detail	Fund Name	FY 2021 -2024
CR0	DCRA	6013	Basic Business License Fund	6,000
CR0	DCRA	6040	Corporate Recordation Fund	12,500
HA0	DPR	0602	Enterprise Fund Account	150,000
HC0	DOH	0605	SHPDA Fees	4,000
HC0	DOH	0632	Pharmacy Protection	5,393

HC0	DOH	0633	Radiation Protection	3,500
HC0	DOH	0643	Board of Medicine	145,493
HC0	DOH	0656	EMS Fees	5,250
KG0	DOEE	0646	Stormwater Fees	2,000
KG0	DOEE	0662	Renewable Energy Development Fund	30,000
KG0	DOEE	6700	Sustainable Energy Trust Fund	40,000
LQ0	ABRA	6017	ABC - Import and Class License Fees	245,368
PO0	OCP	4010	DC Surplus Personal Property Sales Operation	10,000
SR0	DISB	2100	HMO Assessment	17,763
SR0	DISB	2200	Insurance Assessment	120,790
SR0	DISB	2350	Securities and Banking Fund	370,403
SR0	DISB	2800	Captive Insurance	82,741
TC0	DFHV	2400	Public Vehicles for Hire	21,000
Total				**1,272,201**

(b) The amounts identified in subsection (a) of this section shall be made available as set forth in the approved Fiscal Year 2021 Budget and Financial Plan.

TITLE IX. APPLICABILITY; FISCAL IMPACT; EFFECTIVE DATE

Sec. 9001. Applicability.

Except as otherwise provided, this act shall apply as of October 1, 2020.

Sec. 9002. 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. 9003. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
August 31, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-408

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 31, 2020

To adopt the local portion of the budget of the District of Columbia government for the fiscal year ending September 30, 2021.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fiscal Year 2021 Local Budget Act of 2020".

Sec. 2. Adoption of the local portion of the Fiscal Year 2021 budget.

The following expenditure levels are approved and adopted as the local portion of the budget for the government of the District of Columbia for the fiscal year ending September 30, 2021.

DISTRICT OF COLUMBIA BUDGET FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2021

The following amounts are appropriated for the District of Columbia government for the fiscal year ending September 30, 2021 ("Fiscal Year 2021"), out of the General Fund of the District of Columbia ("General Fund"), except as otherwise specifically provided; provided, that notwithstanding any other provision of law, except as provided in section 450A of the District of Columbia Home Rule Act, approved November 22, 2000 (114 Stat. 2440; D.C. Official Code § 1-204.50a), and provisions of this act, the total amount appropriated in this act for operating expenses for the District of Columbia for Fiscal Year 2021 shall not exceed the lesser of the sum of the total revenues of the District of Columbia for such fiscal year or $16,856,690,000 (of which $8,619,754,000 shall be from local funds, $529,276,000 shall be from dedicated taxes, $1,123,981,000 shall be from federal grant funds, $2,551,351,000 shall be from Medicaid payments, $778,415,000 shall be from other funds, $4,756,000 shall be from private funds, $413,023,000 shall be from funds requested to be appropriated by the Congress as federal payments pursuant to the Fiscal Year 2021 Federal Portion Budget Request Act of 2020, passed on July 21, 2020 (Enrolled version of Bill 23-762) (the "Fiscal Year 2021 Federal Portion Budget Request Act of 2020") and federal payment funds for COVID relief, and $2,836,134,000 shall be from enterprise and other funds); provided further, that of the local funds, such amounts

as may be necessary may be derived from the General Fund balance; provided further, that of these funds the intra-District authority shall be $700,114,000; provided further, that amounts appropriated under this act may be increased by proceeds of one-time transactions, which are expended for emergency or unanticipated operating or capital needs; provided further, that such increases shall be approved by enactment of local District law and shall comply with all reserve requirements contained in the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*); provided further, that local funds are appropriated, without regard to fiscal year, in such amounts as may be necessary to pay vendor fees, including legal fees, that are obligated in this fiscal year, to be paid as a fixed percentage of District revenue recovered from third parties on behalf of the District under contracts that provide for payment of fees based upon and from such District revenue as may be recovered by the vendor; provided further, that amounts appropriated pursuant to this act as operating funds may be transferred to enterprise and capital funds and such amounts, once transferred, shall retain appropriation authority consistent with the provisions of this act; provided further, that there may be reprogrammed or transferred for operating expenses any local funds transferred or reprogrammed in this or the 4 prior fiscal years from operating funds to capital funds, and such amounts, once transferred or reprogrammed, shall retain appropriation authority consistent with the provisions of this act, except, that there may not be reprogrammed for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects; provided further, that the local funds (including dedicated tax) and other funds appropriated by this act may be reprogrammed and transferred as provided in subchapter IV of Chapter 3 of Title 47 of the District of Columbia Official Code, or as otherwise provided by law, through November 15, 2021; provided further, that local funds and other funds appropriated under this act may be expended by the Mayor for the purpose of providing food and beverages, not to exceed $30 per employee per day, to employees of the District of Columbia government while such employees are deployed in response to or during a declared snow or other emergency; provided further, that local funds and other funds appropriated under this act may be expended by the Mayor to provide food and lodging, in amounts not to exceed the General Services Administration per diem rates, for youth, young adults, and their parents or guardians who participate in a program of the District of Columbia government that involves overnight travel outside the District of Columbia; provided further, that funds appropriated under this act shall not be expended in a manner inconsistent with the Balanced Budget and Financial Plan Freeze on Salary Schedules, Benefits, and Cost-of-Living Adjustments Act of 2020, passed on 2nd reading on July 28, 2020 (Enrolled version of Bill 23-760), including emergency and temporary versions of such act, except as authorized under the Revised Revenue Estimate heading of this act; provided further, that notwithstanding any other provision of law, local funds are appropriated, without regard to fiscal year, to the extent such funds are certified as available by the Chief Financial Officer of the District of Columbia, to pay termination costs of multiyear contracts entered into by the District of Columbia during this fiscal year, to design, construct, improve, maintain, operate, manage, or finance infrastructure projects procured pursuant to the Public-Private Partnership Act of 2014,

effective March 11, 2015 (D.C. Law 20-228; D.C. Official Code § 2-271.01 *et seq.*), including by way of example and not limitation, a project for the replacement and modernization of the District of Columbia's streetlight system and a project for the rehabilitation and modernization of the Henry J. Daly Building, and such termination costs may be paid from appropriations available for the performance of such contracts or the payment of termination costs or from other appropriations then available for any other purpose, not including the emergency cash reserve fund (D.C. Official Code § 1-204.50a(a)) or the contingency cash reserve fund (D.C. Official Code § 1-204.50a(b)), which, once allocated to these costs, shall be deemed appropriated for the purposes of paying termination costs of such contracts and shall retain appropriations authority and remain available until expended; provided further, that any unspent amount remaining in a non-lapsing fund described below at the end of Fiscal Year 2020 is to be continually available, allocated, appropriated, and expended for the purposes of such fund in Fiscal Year 2021 in addition to any amounts deposited in and appropriated to such fund in Fiscal Year 2021; provided further, that the Chief Financial Officer shall take such steps as are necessary to assure that the foregoing requirements are met, including the apportioning by the Chief Financial Officer of the appropriations and funds made available during Fiscal Year 2021.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $968,055,000 (including $838,950,000 from local funds, $1,514,000 from dedicated taxes, $32,219,000 from federal grant funds, $94,809,000 from other funds, and $563,000 from private funds), to be allocated as follows; provided, that any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District:

(1) Board of Elections. - $9,551,000 from local funds;

(2) Board of Ethics and Government Accountability. - $3,134,000 (including $2,953,000 from local funds and $181,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Lobbyist Administration and Enforcement Fund, the Open Government Fund, and the Ethics Fund;

(3) Captive Insurance Agency. - $4,412,000 (including $3,744,000 from local funds and $668,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Captive Trust Fund, the Medical Captive Insurance Claims Reserve Fund, and the Subrogation Fund;

(4) Contract Appeals Board. - $1,780,000 from local funds;

(5) Council of the District of Columbia. - $28,657,000 from local funds; provided, that not to exceed $25,000 of this amount shall be available for the Chairman for official reception and representation expenses and for purposes consistent with the Discretionary Funds Act of 1973, approved October 26, 1973 (87 Stat. 509; D.C. Official Code § 1-333.10); provided further, that all funds deposited, without regard to fiscal year, into the Council Technology

Projects Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(6) Department of General Services. - $330,572,000 (including $323,892,000 from local funds, $1,514,000 of dedicated taxes, and $5,167,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Eastern Market Enterprise Fund and the West End Library and Fire Station Maintenance Fund;

(7) Department of Human Resources. - $11,112,000 (including $10,519,000 from local funds and $593,000 from other funds);

(8) Employees' Compensation Fund. - $22,147,000 from local funds;

(9) Executive Office of the Mayor. - $17,264,000 (including $11,868,000 from local funds and $5,397,000 from federal grant funds); provided, that not to exceed $25,000 of such amount, from local funds, shall be available for the Mayor for official reception and representation expenses and for purposes consistent with the Discretionary Funds Act of 1973, approved October 26, 1973 (87 Stat. 509; D.C. Official Code § 1-333.10); provided further, that all funds deposited, without regard to fiscal year, into the Emancipation Day Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(10) Mayor's Office of Legal Counsel. - $1,638,000 from local funds;

(11) Metropolitan Washington Council of Governments. - $586,000 from local funds;

(12) Office of Advisory Neighborhood Commissions. - $1,630,000 from local funds; provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Office of Advisory Neighborhood Commission Security Fund and the Advisory Neighborhood Commissions Technical Support and Assistance Fund;

(13) Office of Campaign Finance. - $8,577,000 from local funds; provided, that all funds deposited, without regard to fiscal year, into the Fair Elections Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(14) Office of Contracting and Procurement. - $26,284,000 (including $24,413,000 from local funds and $1,871,000 from other funds);

(15) Office of Disability Rights. - $1,813,000 (including $1,153,000 from local funds and $660,000 from federal grant funds);

(16) Office of Employee Appeals. - $2,234,000 from local funds;

(17) Office of Finance and Resource Management. - $30,950,000 (including $30,650,000 from local funds and $300,000 from other funds);

(18) Office of Risk Management. - $4,266,000 from local funds; provided, that all funds deposited, without regard to fiscal year, into the Subrogation Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(19) Office of the Attorney General for the District of Columbia. - $139,021,000 (including $86,377,000 from local funds, $22,651,000 from federal grant funds, $29,430,000

from other funds, and $563,000 from private funds); provided, that not to exceed $25,000 of this amount, from local funds, shall be available for the Attorney General for official reception and representation expenses and for purposes consistent with the Discretionary Funds Act of 1973, approved October 26, 1973 (87 Stat. 509; D.C. Official Code § 1-333.10); provided further, that local and other funds appropriated under this act may be used to pay expenses for District government attorneys at the Office of the Attorney General for the District of Columbia to obtain professional credentials, including bar dues and court admission fees, that enable these attorneys to practice law in other state and federal jurisdictions and appear outside the District in state and federal courts; provided further, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Child Support-Temporary Assistance for Needy Families Fund, the Child Support-Reimbursements and Fees Fund, the Child Support-Interest Income Fund, the Drug-, Firearm-, or Prostitution-Related Nuisance Abatement Fund, and the Litigation Support Fund; provided further, that this amount may be further increased by amounts deposited into the Attorney General Restitution Fund and the Vulnerable and Elderly Person Exploitation Restitution Fund, which shall be continually available, without regard to fiscal year, until expended;

(20) Office of the Chief Financial Officer. - $189,698,000 (including $143,909,000 from local funds, $450,000 from federal grant funds, and $45,339,000 from other funds); provided, that not to exceed $10,600 of such amount, from local funds, shall be available for the Chief Financial Officer for official reception and representation expenses and for purposes consistent with the Discretionary Funds Act of 1973, approved October 26, 1973 (87 Stat. 509; D.C. Official Code § 1-333.10); provided further, that amounts appropriated by this act may be increased by the amount required to pay banking fees for maintaining the funds of the District of Columbia; provided further, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021; the Recorder of Deeds Automation Fund and the Other Post-Employment Benefits Fund;

(21) Office of the Chief Technology Officer. - $79,955,000 (including $69,802,000 from local funds and $10,154,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the DC-NET Services Support Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(22) Office of the City Administrator. - $10,897,000 from local funds; provided, that not to exceed $10,600 of such amount, from local funds, shall be available for the City Administrator for official reception and representation expenses and for purposes consistent with the Discretionary Funds Act of 1973, approved October 26, 1973 (87 Stat. 509; D.C. Official Code § 1-333.10);

(23) Office of the District of Columbia Auditor. - $5,653,000 from local funds; provided, that all funds deposited, without regard to fiscal year, into the Audit Engagement Fund are authorized for expenditure and shall remain available for expenditure until September 30,

2021;

(24) Office of the Inspector General. - $18,911,000 (including $15,849,000 from local funds and $3,062,000 from federal grant funds);

(25) Office of the Secretary. - $4,806,000 (including $3,706,000 from local funds and $1,100,000 from other funds);

(26) Office of the Senior Advisor. - $3,344,000 from local funds;

(27) Office of Veterans' Affairs. - $843,000 (including $838,000 from local funds and $5,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the Office of Veterans Affairs Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(28) Office on Asian and Pacific Islander Affairs. - $1,335,000 from local funds;

(29) Office on Latino Affairs. - $5,386,000 from local funds;

(30) Public Employee Relations Board. - $1,296,000 from local funds;

(31) Statehood Initiatives. - $241,000 from local funds; provided, that all funds deposited, without regard to fiscal year, into the New Columbia Statehood Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021; and

(32) Uniform Law Commission. - $60,000 from local funds.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $414,126,000 (including $264,192,000 from local funds, $37,848,000 from dedicated taxes, $39,858,000 from federal grant funds, $72,218,000 from other funds, and $10,000 from private funds), to be allocated as follows:

(1) Business Improvement Districts Transfer. - $51,125,000 (including $1,125,000 from local funds and $50,000,000 from other funds);

(2) Commission on the Arts and Humanities. - $38,567,000 (including $37,848,000 from dedicated taxes and $719,000 from federal grant funds); provided, that all dedicated taxes shall be deposited into the Arts and Humanities Fund; provided, further that all funds deposited, without regard to fiscal year, into the Arts and Humanities Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021; provided further, that funds in the available fund balance of the Arts and Humanities Fund may be obligated in Fiscal Year 2021, pursuant to grant awards, through September 30, 2024, and that such funds so obligated are authorized for expenditure and shall remain available for expenditure until September 30, 2024;

(3) Department of Housing and Community Development. - $61,923,000 (including $19,287,000 from local funds, $38,045,000 from federal grant funds, and $4,590,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Negotiated Employee Affordable Housing Fund, the Department of Housing and Community Development Unified Fund, the Home Again Revolving Fund, the Home Purchase Assistance Program-Repayment Fund, and the Housing Preservation Fund;

provided further, that all funds deposited, without regard to fiscal year, into the Rental Housing Registration Fund are authorized for expenditure by the Department of Housing and Community Development starting at the beginning of the applicable time period set forth section in 203c(d) of the Rental Housing Act of 1985, effective October 30, 2018 (D.C. Law 22-168; D.C. Official Code § 42-3502.03e(d)), and shall remain available for expenditure by the Department of Housing and Community Development until September 30, 2021;

(4) Department of Small and Local Business Development. - $16,783,000 (including $16,224,000 from local funds and $559,000 from federal grant funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Small Business Capital Access Fund, the Streetscape Business Development Relief Fund, and the Ward 7 and Ward 8 Entrepreneur Grant Fund;

(5) Housing Authority Subsidy. - $158,453,000 from local funds; provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the DCHA Rehabilitation and Maintenance Fund and the Tenant-Based Rental Assistance Fund;

(6) Housing Production Trust Fund Subsidy. - $17,538,000 from local funds;

(7) Office of Cable Television, Film, Music, and Entertainment. - $14,230,000 (including $2,634,000 from local funds and $11,595,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: Film, Television, and Entertainment Rebate Fund and the OCTFME Special Account;

(8) Office of Planning. - $12,010,000 (including $11,315,000 from local funds, $535,000 from federal grant funds, $150,000 from other funds, and $10,000 from private funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Historic Landmark-District Protection (Local) Fund and the Historical Landmark-District Protection (O-Type) Fund;

(9) Office of the Deputy Mayor for Planning and Economic Development. - $33,101,000 (including $27,762,000 from local funds and $5,339,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Industrial Revenue Bond Account, the H Street Retail Priority Area Grant Fund, the Soccer Stadium Financing Fund, the Economic Development Special Account, the Walter Reed Redevelopment Fund, the Walter Reed Reinvestment Fund, and the St. Elizabeths East Campus Redevelopment Fund;

(10) Office of the Tenant Advocate. - $4,010,000 (including $3,467,000 from local funds and $543,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the Rental Housing Registration Fund are authorized for expenditure by the Office of the Tenant Advocate until the end of the applicable time period set forth in section

203c(d) of the Rental Housing Act of 1985, effective October 30, 2018 (D.C. Law 22-168; D.C. Official Code § 42-3502.03e(d)), and shall remain available for expenditure by the Office of the Tenant Advocate until such time;

(11) Office of Zoning. - $3,232,000 from local funds;

(12) Real Property Tax Appeals Commission. - $1,826,000 from local funds; and

(13) Rental Housing Commission - $1,328,000 from local funds.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, $1,553,819,000 (including $1,291,902,000 from local funds, $189,562,000 from federal grant funds, $150,000 from Medicaid payments, $68,979,000 from other funds, $62,000 from private funds, and $3,163,000 from federal payment funds, including $600,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for Judicial Commissions" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020, $413,000 requested to be appropriated by the Congress under the heading "Federal Payment for the District of Columbia National Guard" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020, and $2,150,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment to the Criminal Justice Coordinating Council" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020), to be allocated as follows:

(1) Commission on Judicial Disabilities and Tenure. - $407,000 (including $82,000 from local funds and $325,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for Judicial Commissions" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020);

(2) Corrections Information Council. - $878,000 from local funds;

(3) Criminal Code Reform Commission. - $813,000 from local funds;

(4) Criminal Justice Coordinating Council. - $3,891,000 (including $1,666,000 from local funds, $75,000 from federal grant funds, and $2,150,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment to the Criminal Justice Coordinating Council" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020);

(5) Department of Corrections. - $177,790,000 (including $148,000,000 from local funds and $29,790,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Correction Trustee Reimbursement Fund, the Inmate Welfare Fund, and the Correction Reimbursement-Juveniles Fund;

(6) Department of Forensic Sciences. - $28,615,000 (including $28,427,000 from local funds and $188,000 from federal grant funds); provided, that all funds deposited, without regard to fiscal year, into the Department of Forensic Sciences Laboratory Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(7) Department of Youth Rehabilitation Services. - $84,176,000 from local funds;

provided, that of the local funds appropriated for the Department of Youth Rehabilitation Services, $12,000 shall be used to fund the requirements of the Interstate Compact for Juveniles;

(8) District of Columbia National Guard. - $15,241,000 (including $5,088,000 from local funds, $9,593,000 from federal grant funds, $148,000 from other funds, and $413,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for the District of Columbia National Guard" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020); provided, that the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard; provided further, that such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available pursuant to this act, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved;

(9) District of Columbia Sentencing Commission. - $1,258,000 from local funds;

(10) Fire and Emergency Medical Services Department. - $265,287,000 (including $261,802,000 from local funds and $3,485,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the Fire and Emergency Medical Services Department EMS Reform Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(11) Homeland Security and Emergency Management Agency. - $169,636,000 (including $5,531,000 from local funds and $164,104,000 from federal grant funds);

(12) Judicial Nomination Commission. - $311,000 (including $36,000 from local funds and $275,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for Judicial Commissions" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020);

(13) Metropolitan Police Department. - $534,592,000 (including $523,217,000 from local funds, $3,975,000 from federal grant funds, and $7,400,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the Asset Forfeiture Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(14) Office of Administrative Hearings. - $10,473,000 (including $10,323,000 from local funds and $150,000 from Medicaid payments);

(15) Office of Human Rights. - $8,280,000 (including $7,942,000 from local funds and $339,000 from federal grant funds);

(16) Office of Neighborhood Safety and Engagement. - $10,355,000 from local funds; provided, that the Office of Neighborhood Safety and Engagement is authorized to spend appropriated funds for the purposes set forth in section 101 of the Neighborhood Engagement Achieves Results Amendment Act of 2016, effective June 30, 2016 (D.C. Law 21-125; D.C.

Official Code § 7-2411); provided further, that all funds deposited, without regard to fiscal year, into the Neighborhood Safety and Engagement Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(17) Office of Police Complaints. - $2,613,000 from local funds;

(18) Office on Returning Citizen Affairs. - $1,890,000 from local funds;

(19) Office of the Chief Medical Examiner. - $12,257,000 (including $12,195,000 from local funds and $62,000 from private funds);

(20) Office of the Deputy Mayor for Public Safety and Justice. - $1,687,000 from local funds;

(21) Office of Unified Communications. - $53,244,000 (including $30,373,000 from local funds, and $22,871,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the Emergency and Non-Emergency Number Telephone Calling Systems Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(22) Office of Victim Services and Justice Grants. - $60,189,000 (including $43,616,000 from local funds, $11,288,000 from federal grant funds, and $5,284,000 from other funds); provided, that $12,089,000 shall be made available to award a grant to the District of Columbia Bar Foundation for the purpose of administering the Access to Justice Initiative and the Civil Legal Counsel Projects Program, of which not less than $300,000 shall be available to fund the District of Columbia Poverty Lawyer Loan Repayment Assistance Program, and of which not less than $4,600,000 shall be available to fund the Civil Legal Counsel Projects Program; provided further, that the funds authorized for expenditure for the District of Columbia Poverty Lawyer Loan Repayment Assistance Program and the Civil Legal Counsel Projects Program shall remain available for expenditure, without regard to fiscal year, until September 30, 2021; provided further, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Crime Victims Assistance Fund, the Shelter and Transitional Housing for Victims of Domestic Violence Fund, the Community-Based Violence Reduction Fund, and the Private Security Camera Incentive Fund; and

(23) Police Officers' and Firefighters' Retirement System. - $109,933,000 from local funds.

PUBLIC EDUCATION SYSTEM

Public education system, $3,184,546,000 (including $2,629,090,000 from local funds, $5,696,000 from dedicated taxes, $359,875,000 from federal grant funds, $89,109,000 from other funds, $775,000 from private funds, and $60,000,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for School Improvement" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020, and $40,000,000 from federal payment funds requested to be appropriated by Congress under the heading "Federal Payment for Resident Tuition Support" in the Fiscal Year 2021 Federal Portion

Budget Request Act of 2020 for the purposes specified in section 3004(b) of the Scholarships for Opportunity and Results Act, approved April 15, 2011 (125 Stat 200; D.C. Official Code § 38-1853.04(b)), to be allocated as follows:

(1) Department of Employment Services. - $160,033,000 (including $56,001,000 from local funds, $42,084,000 from federal grant funds, $61,689,000 from other funds, and $260,000 from private funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Workers' Compensation Administration Fund, the Unemployment Insurance Administrative Assessment Tax Fund, the Unemployment Insurance Interest/Penalties Fund, the Workers' Compensation Special Fund, the Reed Act Fund, and the Universal Paid Leave Fund; provided further, that the Department of Employment Services shall execute an intra-District transfer of $1,853,227 in local funds to the Office of Human Rights and an intra-District transfer of $939,806 in local funds to the Office of Administrative Hearings, consistent with section 1153(c) of the Universal Paid Leave Implementation Fund Act of 2016, passed on 2nd reading on July 28, 2020 (Enrolled version of Bill 23-760), including emergency and temporary versions of such section;

(2) Department of Parks and Recreation. - $57,691,000 (including $54,896,000 from local funds and $2,795,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Recreation Enterprise Fund; provided further, that the Department of Parks and Recreation is authorized to spend appropriated funds from the Recreation Enterprise Fund for the purposes set forth in section 4 of the Recreation Act of 1994, effective March 23, 1995 (D.C. Law 10-246; D.C. Official Code § 10-303);

(3) District of Columbia Public Charter School Board. - $10,087,000 from other funds;

(4) District of Columbia Public Charter Schools. - $934,900,000 from local funds; provided, that there shall be quarterly disbursement of funds to the District of Columbia public charter schools, with the first payment to occur within 15 days of the beginning of the fiscal year; provided further, that if the entirety of this allocation has not been provided as payments to any public charter schools currently in operation through the per pupil funding formula, the funds shall remain available for expenditure until September 30, 2021 for public education in accordance with section 2403(b)(2) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1804.03(b)(2)); provided further, that of the amounts made available to District of Columbia public charter schools, $230,000 shall be made available to the Office of the Chief Financial Officer as authorized by section 2403(b)(6) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1804.03(b)(6)); provided further, that, notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia public charter schools on July 1, 2021, an amount equal to 35 percent, or for new charter school local education agencies that

opened for the first time after December 31, 2020, an amount equal to 45 percent, of the total amount of the local funds appropriations provided for payments to public charter schools in the proposed budget of the District of Columbia for Fiscal Year 2022 (as adopted by the District), and the amount of such payment shall be chargeable against the final amount provided for such payments for Fiscal Year 2022; provided further, that the annual financial audit for the performance of an individual District of Columbia public charter school shall be funded by the charter school;

(5) District of Columbia Public Library. - $73,049,000 (including $70,672,000 from local funds, $1,130,000 from federal grant funds, $1,230,000 from other funds, and $17,000 from private funds); provided, that not to exceed $8,500 of such amount, from local funds, shall be available for the Chief Librarian of the District of Columbia Public Library for official reception and representation expenses and for purposes consistent with the Discretionary Funds Act of 1973, approved October 26, 1973 (87 Stat. 509; D.C. Official Code § 1-333.10); provided further, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Copies and Printing Fund, the E-Rate Reimbursement Fund, the Library Collections Account, the Books From Birth Fund, and the DCPL Revenue-Generating Activities Fund;

(6) District of Columbia Public Schools. - $1,030,234,000 (including $982,009,000 from local funds, $5,879,000 from federal grant funds, $12,037,000 from other funds, $308,000 from private funds, and $30,000,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for School Improvement" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020); provided, that not to exceed $10,600 of such local funds shall be available for the Chancellor for official reception and representation expenses and for purposes consistent with the Discretionary Funds Act of 1973, approved October 26, 1973 (87 Stat. 509; D.C. Official Code § 1-333.10); provided further, that, notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia Public Schools on July 1, 2021, an amount equal to 10 percent of the total amount of the local funds appropriations provided for the District of Columbia Public Schools in the proposed budget of the District of Columbia for Fiscal Year 2022 (as adopted by the District), and the amount of such payment shall be chargeable against the final amount provided for the District of Columbia Public Schools for Fiscal Year 2022; provided further, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the E-Rate Education Fund, the Reserve Officer Training Corps Fund, the Afterschool Program-Copayment Fund, the At-Risk Supplemental Allocation Preservation Fund, the District of Columbia Public Schools Sales and Sponsorship Fund, DCPS School Facility Colocation Fund, and the District of Columbia Public Schools' Nonprofit School Food Service Fund; provided further, that the District of Columbia Public Schools is authorized to spend appropriated funds consistent with section 105(c)(5) of the Public Education Reform Amendment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-

174(c)(5));

(7) District of Columbia State Athletics Commission. - $1,286,000 (including $1,186,000 from local funds and $100,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the State Athletic Activities, Programs, and Office Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(8) Non-Public Tuition. - $59,238,000 from local funds;

(9) Office of the Deputy Mayor for Education. - $21,198,000 (including $21,138,000 from local funds and $60,000 from private funds); provided, that $3,300,000 in local funds shall be available for the Workforce Investment Council for activities consistent with the Workforce Investment Implementation Act of 2000, effective July 18, 2000 (D.C. Law 13-150; D.C. Official Code § 32-1601 *et seq.*), and the DC Central Kitchen Facility Grant Act of 2020, passed on 2nd reading on July 28, 2020 (Enrolled version of Bill 23-760), including emergency and temporary versions of such act;

(10) Office of the State Superintendent of Education. - $557,258,000 (including $169,479,000 from local funds, $5,696,000 from dedicated taxes, $310,782,000 from federal grant funds, $1,170,000 from other funds, $130,000 from private funds, $30,000,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for School Improvement" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020, and $40,000,000 from federal payment funds requested to be appropriated by Congress under the heading "Federal Payment for Resident Tuition Support" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020 for the purposes specified in section 3004(b) of the Scholarships for Opportunity and Results Act, approved April 15, 2011 (125 Stat 200; D.C. Official Code § 38-1853.04(b)); provided, that of the amounts provided to the Office of the State Superintendent of Education, $1,000,000 from local funds shall remain available until June 30, 2021, for an audit of the student enrollment of each District of Columbia public school and of each District of Columbia public charter school; provided further, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Charter School Credit Enhancement Fund, the Student Residency Verification Fund, the Community Schools Fund, the Special Education Enhancement Fund, the Child Development Facilities Fund, the Access to Quality Child Care Fund, the Common Lottery Board Fund, the Healthy Schools Fund, the Healthy Tots Fund, the Statewide Special Education Compliance Fund, the School Safety and Positive Climate Fund, the Early Childhood Development Fund, and the Student Enrollment Fund;

(11) Special Education Transportation. - $111,123,000 from local funds; provided, that, notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the Special Education Transportation agency under the direction of the Office of the State Superintendent of Education, on July 1, 2021, an amount equal to 10 percent of the total amount of the local funds appropriations provided for the Special Education Transportation agency in the proposed budget for the District of Columbia for

Fiscal Year 2022 (as adopted by the District), and the amount of such payment shall be chargeable against the final amount provided for the Special Education Transportation agency for Fiscal Year 2022; provided further, that amounts appropriated under this paragraph may be used to offer financial incentives as necessary to reduce the number of routes serving 2 or fewer students;

(12) State Board of Education. - $2,187,000 from local funds;

(13) Teachers' Retirement System. - $70,478,000 from local funds;

(14) Unemployment Compensation Fund. - $5,480,000 from local funds; and

(15) University of the District of Columbia Subsidy Account. - $90,303,000 from local funds; provided, that this appropriation shall not be available to subsidize the education of nonresidents of the District at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2021, a tuition-rate schedule that establishes the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area; provided further, that, notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the University of the District of Columbia on July 1, 2021, an amount equal to 10 percent of the total amount of the local funds appropriations provided for the University of the District of Columbia in the proposed budget of the District of Columbia for Fiscal Year 2022 (as adopted by the District), and the amount of such payment shall be chargeable against the final amount provided for the University of the District of Columbia for Fiscal Year 2022; provided further, that not to exceed $10,600 of such amount shall be available for the President of the University of the District of Columbia for official reception and representation expenses and for purposes consistent with the Discretionary Funds Act of 1973, approved October 26, 1973 (87 Stat. 509; D.C. Official Code § 1-333.10).

HUMAN SUPPORT SERVICES

Human support services, $5,143,042,000 (including $1,997,786,000 from local funds, $98,395,000 from dedicated taxes, $434,599,000 from federal grant funds, $2,551,201,000 from Medicaid payments, $56,022,000 from other funds, $1,039,000 from private funds, and $4,000,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for Testing and Treatment of HIV/AIDS" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020); to be allocated as follows:

(1) Child and Family Services Agency. - $217,105,000 (including $151,739,000 from local funds, $64,006,000 from federal grant funds, $1,000,000 from other funds, and $360,000 from private funds);

(2) Department of Aging and Community Living. - $52,065,000 (including $40,973,000 from local funds, $7,702,000 from federal grant funds, and $3,389,000 from Medicaid payments);

(3) Department of Behavioral Health. - $293,588,000 (including $272,004,000

from local funds, $200,000 from dedicated taxes, $15,135,000 from federal grant funds, $2,991,000 from Medicaid payments, $2,650,000 from other funds, and $607,000 from private funds); provided, that all funds deposited, without regard to fiscal year, into the Addiction Prevention and Recovery Administration-Choice in Drug Treatment (HCSN) Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2020;

(4) Department of Disability Services. - $193,549,000 (including $131,048,000 from local funds, $33,233,000 from federal grant funds, $14,513,000 from Medicaid payments, and $14,755,000 from other funds); provided that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Randolph Shepherd Unassigned Facilities Fund, the Cost of Care-Non-Medicaid Clients Fund, and the Contribution to Costs of Supports Fund;

(5) Department of Health. - $263,282,000 (including $90,029,000 from local funds, $139,161,000 from federal grant funds, $30,021,000 from other funds, $71,000 from private funds, and $4,000,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for Testing and Treatment of HIV/AIDS" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Health Professional Recruitment Fund (Medical Loan Repayment), the Board of Medicine Fund, the Pharmacy Protection Fund, the State Health Planning and Development Agency Fees Fund, the Civil Monetary Penalties Fund, the State Health Planning and Development Agency Admission Fee Fund, the ICF/MR Fees and Fines Fund, the Human Services Facility Fee Fund, the Communicable and Chronic Disease Prevention and Treatment Fund, and the Animal Education and Outreach Fund;

(6) Department of Health Care Finance. - $3,441,301,000 (including $857,623,000 from local funds, $98,195,000 from dedicated taxes, $6,068,000 from federal grant funds, $2,472,819,000 from Medicaid payments, and $6,597,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Healthy DC and Health Care Expansion Fund, the Nursing Facility Quality of Care Fund, the Stevie Sellows Quality Improvement Fund, the Medicaid Collections-3rd Party Liability Fund, the Bill of Rights (Grievance and Appeals) Fund, the Hospital Provider Fee Fund, the Hospital Fund, and the Individual Insurance Market Affordability and Stability Fund;

(7) Department of Human Services. - $606,570,000 (including $419,714,000 from local funds, $169,294,000 from federal grant funds, $16,562,000 from Medicaid payments, and $1,000,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the SSI Payback Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(8) Medicaid Reserve. - $58,467,000 (including $17,540,000 from local funds;

and $40,927,000 from federal Medicaid payments);

(9) Not-for-Profit Hospital Corporation Subsidy. - $15,000,000 from local funds; and

(10) Office of the Deputy Mayor for Health and Human Services. - $2,116,000 from local funds.

OPERATIONS AND INFRASTRUCTURE

Public works, $1,117,025,000 (including $698,195,000 from local funds, $78,489,000 from dedicated taxes, $49,402,000 from federal grant funds, $288,633,000 from other funds, and $2,306,000 from private funds), to be allocated as follows:

(1) Alcoholic Beverage Regulation Administration. - $10,615,000 (including $359,000 from local funds, $1,194,000 from dedicated taxes and $9,062,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Alcoholic Beverage Regulation Administration Fund, Medical Cannabis Administration Fund, and the Dedicated Taxes Fund;

(2) Department of Consumer and Regulatory Affairs. - $73,567,000 (including $27,539,000 from local funds and $46,029,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Basic Business License Fund, the Green Building Fund, the Real Estate Guaranty and Education Fund, the Nuisance Abatement Fund, the Occupational and Professional Licensing Administration Special Account, the Corporate Recordation Fund, the Appraisal Fee Fund, the Vending Regulation Fund, and the DC Combat Sports Commission Fund;

(3) Department of Energy and Environment. - $139,931,000 (including $23,432,000 from local funds, $31,470,000 from federal grant funds, $82,737,000 from other funds, and $2,292,000 from private funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Storm Water Permit Review Fund, the Sustainable Energy Trust Fund, the Clean Land Fund/Brownfield Revitalization Fund, the Anacostia River Clean Up and Protection Fund, the District of Columbia Wetland Stream and Mitigation Trust Fund, the Energy Assistance Trust Fund, the Leaking Underground Storage Tank Trust Fund, the Soil Erosion and Sediment Control Fund, the Municipal Aggregation Fund, the Fishing License Fund, the Renewable Energy Development Fund, the Special Energy Assessment Fund, the Air Quality Construction Permits Fund, the WASA Utility Discount Program Fund, the Pesticide Product Registration Fund, the Stormwater Fees Fund, the Stormwater In-Lieu Fee Payment Fund, the Economy II Fund, the Residential Aid Discount Fund, the Residential Essential Services Fund, the Benchmarking Enforcement Fund, the Product Stewardship Fund, the Rail Safety and Security Fund, the Indoor Mold Assessment and Remediation Fund, the Lead Poisoning Prevention Fund, the Underground Storage Tank Regulation Fund, the Hazardous

Waste and Toxic Chemical Source Reduction Fund, and the Clean Rivers Impervious Area Charge Assistance Fund; provided further, that funds in the available fund balance of the Renewable Energy Development Fund may be obligated in Fiscal Year 2021, pursuant to grant awards, through September 30, 2024, and that such funds so obligated are authorized for expenditure and shall remain available for expenditure until September 30, 2024;

(4) Department of For-Hire Vehicles. - $16,791,000 (including $5,889,000 from local funds, and $10,901,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Taxicab Assessment Act Fund and the Public Vehicles-for-Hire Consumer Service Fund;

(5) Department of Insurance, Securities, and Banking. - $32,424,000 (including $139,000 from federal grant funds and $32,285,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Insurance Regulatory Trust Fund, the Foreclosure Mediation Fund, the Capital Access Fund, the Insurance Assessment Fund, and the Securities and Banking Fund;

(6) Department of Motor Vehicles. - $47,715,000 (including $37,542,000 from local funds and $10,173,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the Motor Vehicle Inspection Station Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(7) Department of Public Works. - $161,050,000 (including $147,648,000 from local funds and $13,402.000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Solid Waste Disposal Cost Recovery Special Account and the Super Can Program Fund;

(8) District Department of Transportation. - $146,997,000 (including $110,972,000 from local funds, $17,212,000 from federal grant funds, and $18,813,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Bicycle Sharing Fund, the Performance Parking Program Fund, the Tree Fund, the DDOT Enterprise Fund-Non Tax Revenues Fund, the Sustainable Transportation Fund, the Vision Zero Pedestrian and Bicycle Safety Fund, the Transportation Infrastructure Project Review Fund, the Parking Meter and Transit Services Pay-by-Phone Transaction Fee Fund, and the DC Circulator Fund; provided further, that there are appropriated any amounts received, or to be received, without regard to fiscal year, from the Potomac Electric Power Company, or any of its related companies, successors, or assigns, for the purpose of paying or reimbursing the District Department of Transportation for the costs of designing, constructing, acquiring, and installing facilities, infrastructure, and equipment for use and ownership by the Potomac Electric Power Company, or any of its related companies, successors, or assigns, related to or associated with the undergrounding of electric distribution lines in the District of Columbia, and any

interest earned on those funds, which amounts and interest shall not revert to the unrestricted fund balance of the General Fund at the end of a fiscal year or at any other time, but shall be continually available without regard to fiscal year limitation until expended for the designated purposes;

(9) Office of the Deputy Mayor for Operations and Infrastructure. - $1,298,000 from local funds;

(10) Office of the People's Counsel. - $10,569,000 (including $689,000 from local funds and $9,880,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the Office of People's Counsel Agency Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(11) Public Service Commission. - $17,546,000 (including $581,000 from federal grant funds, $16,951,000 from other funds, and $14,000 from private funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Public Service Commission Agency Fund and the PJM Settlement Fund;

(12) Washington Metropolitan Area Transit Authority. - $458,357,000 (including $342,662,000 from local funds, $77,295,000 from dedicated taxes, and $38,400,000 from other funds); provided, that all funds deposited, without regard to fiscal year, into the following funds are authorized for expenditure and shall remain available for expenditure until September 30, 2021: the Dedicated Taxes Fund and the Parking Meter WMATA Fund; provided further, that all funds budgeted without regard to fiscal year for the adult learner transit subsidy program established by section 2(i) of the School Transit Subsidy Act of 1978, effective March 6, 1979 (D.C. Law 2-152; D.C. Official Code § 35-233(i)), are authorized for expenditure and shall remain available for expenditure until September 30, 2021; provided further, that there are appropriated any amounts deposited, or to be deposited, without regard to fiscal year, into the Washington Metropolitan Area Transit Authority Dedicated Financing Fund for the purpose of funding WMATA capital improvements, which amounts shall not revert to the unrestricted fund balance of the General Fund at the end of a fiscal year or at any other time, but shall be continually available until expended for the designated purposes; and

(13) Washington Metropolitan Area Transit Commission. - $165,000 from local funds.

FINANCING AND OTHER

Financing and Other, $1,424,649,000 (including $899,638,000 from local funds, $307,333,000 from dedicated taxes, $18,465,000 from federal grant funds, $108,646,000 from other funds, $90,567,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for Emergency Planning and Security Costs in the District of Columbia" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020 and

federal payment funds for COVID relief), to be allocated as follows:

(1) Commercial Paper Program. - $6,000,000 from local funds;

(2) Convention Center Transfer. - $97,358,000 (including $93,145,000 from dedicated taxes and $4,213,000 from other funds);

(3) Debt Service - Issuance Costs. - $10,000,000 from local funds for the payment of debt service issuance costs;

(4) District Retiree Health Contribution. - $48,400,000 from local funds for a District Retiree Health Contribution;

(5) Emergency Planning and Security Fund. - $52,900,000 from federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment for Emergency Planning and Security Costs in the District of Columbia" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020; provided, that, notwithstanding any other law, obligations and expenditures that are pending reimbursement under the heading "Federal Payment for Emergency Planning and Security Costs in the District of Columbia" may be charged to this appropriations heading;

(6) District of Columbia Highway Transportation Fund. - Transfers. - $30,200,000 (including $24,642,000 from dedicated taxes and $5,558,000 from other funds);

(7) John A. Wilson Building Centennial Fund. - $4,464,000 from local funds for expenses associated with the John A. Wilson building;

(8) Non-Departmental Account. - $41,074,000 (including $2,850,000 from local funds, $556,000 from other funds, and $37,667,000 from federal payment funds for COVID relief) to be transferred by the Mayor of the District of Columbia within the various appropriations headings in this act, to account for anticipated costs that cannot be allocated to specific agencies during the development of the proposed budget;

(9) Pay-As-You-Go Capital Fund. - $289,398,000 (including $15,000,000 from local funds, $183,855,000 from dedicated taxes, and $90,543,000 from other funds) to be transferred to the Capital Fund, in lieu of capital financing;

(10) Repayment of Loans and Interest. - $811,142,000 (including $784,900,000 from local funds, $18,465,000 from federal grant funds, and $7,777,000 from other funds), for payment of principal, interest, and certain fees directly resulting from borrowing by the District of Columbia to fund District of Columbia capital projects as authorized by sections 462, 475, and 490 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code §§ 1-204.62, 1-204.75, and 1-204.90);

(11) Repayment of Revenue Bonds. - $5,691,000 from dedicated taxes for the repayment of revenue bonds; and

(12) Settlements and Judgments. - $28,025,000 from local funds for making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government; provided, that this amount may be increased by such sums as may be necessary for making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government and such sums may be paid from

the applicable or available funds of the District of Columbia;

(13) Workforce Investments Account. - to be increased as authorized under the Revised Revenue Estimate heading of this act.

ENTERPRISE AND OTHER

The amount of $3,051,427,000 (including $2,635,694,000 from enterprise and other funds, $200,440,000 from enterprise and other funds - dedicated taxes, and $215,292,000 from federal payment funds for COVID relief), shall be provided to enterprise funds as follows; provided, that, in the event that revenue dedicated by local law to an enterprise fund exceeds the amount set forth as follows, the General Fund budget authority may be increased as needed to transfer all such revenue, pursuant to local law, to the enterprise fund:

(1) Ballpark Revenue Fund. - $32,012,000 (including $12,366,000 from enterprise and other funds and $19,646,000 from enterprise and other funds - dedicated taxes);

(2) District of Columbia Retirement Board. - $44,099,000 from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board;

(3) District of Columbia Water and Sewer Authority. - $642,663,000 from enterprise and other funds; provided, that not to exceed $25,000 of this amount shall be available for representation; provided further, that not to exceed $15,000 of this amount shall be available for official meetings. For construction projects, $4,997,790,000, to be distributed as follows: $971,716,000 for Wastewater Treatment; $1,183,989,000 for the Sanitary Sewer System; $1,073,949,000 for the Water System; $95,413,000 for Non Process Facilities; $1,139,930,000 for the Combined Sewer Overflow Program; $179,663,000 for the Washington Aqueduct; $51,821,000 for the Stormwater Program; and $301,309,000 for the capital equipment program; in addition, $8,000,000 for Federal payment funds requested to be appropriated by the Congress under the heading "Federal Payment to the District of Columbia Water and Sewer Authority" in the Fiscal Year 2021 Federal Portion Budget Request Act of 2020;

(4) Green Finance Authority. - $22,000,000 from enterprise and other funds, to be available until expended;

(5) Health Benefit Exchange Authority. - $30,948,000 from enterprise and other funds;

(6) Housing Finance Agency. - $14,281,000 from enterprise and other funds; provided, that all funds budgeted without regard to fiscal year for the Reverse Mortgage Foreclosure Prevention Program are authorized for expenditure and shall remain available for expenditure until September 30, 2021; provided further, that all funds budgeted without regard to fiscal year for the Public Housing Credit-Building Pilot Program are authorized for expenditure and shall remain available for expenditure until September 30, 2022;

(7) Housing Production Trust Fund. - $100,000,00 (including $26,538,000 from enterprise and other funds and $73,462,000 from enterprise and other funds - dedicated taxes); provided, that all funds deposited, without regard to fiscal year, into the Housing Production

Trust Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021; provided further, that if at the close of a fiscal year, the District has fully funded the Emergency, Contingency, Fiscal Stabilization, and Cash Flow Reserves, 50% of the additional uncommitted amounts in the unrestricted fund balance of the General Fund of the District of Columbia as certified by the Comprehensive Annual Financial Report shall be deposited into the Housing Productions Trust Fund, and that such funds are authorized for expenditure and shall remain available until expended;

(8) Not-For-Profit Hospital Corporation. - $155,000,000 from enterprise and other funds;

(9) Office of Lottery and Gaming. - $507,308,000 from enterprise and other funds; provided, that, after notification to the Mayor, amounts appropriated herein may be increased by an amount necessary for the Lottery, Gambling, and Gaming Fund to make transfers to the General Fund and to cover prizes, agent commissions, and gaming-related fees directly associated with unanticipated excess lottery revenues not included in this appropriation;

(10) Other Post-Employment Benefits Trust Administration. - $9,088,000 from enterprise and other funds;

(11) Repayment of PILOT Financing. - $50,992,000 enterprise and other funds - dedicated taxes;

(12) Tax Increment Financing (TIF) Program. - $56,340,000 from enterprise and other funds - dedicated taxes;

(13) Unemployment Insurance Trust Fund. - $680,071,000 (including $464,778,000 from enterprise and other funds and $215,292,000 from federal payment funds for COVID relief);

(14) Universal Paid Leave Fund. - $292,124,000 from enterprise and other funds;

(15) University of the District of Columbia. - $177,091,000 from enterprise and other funds; provided, that these funds shall not revert to the General Fund at the end of a fiscal year or at any other time, but shall be continually available for expenditure until September 30, 2021, without regard to fiscal year limitation; provided further, that all funds deposited, without regard to fiscal year, into the Higher Education Incentive Program Fund are authorized for expenditure and shall remain available for expenditure until September 30, 2021;

(16) Washington Aqueduct. - $73,139,000 from enterprise and other funds; and

(17) Washington Convention and Sports Authority. - $164,271,000 from enterprise and other funds.

RESERVE ACCOUNTS

(1) Cash Flow Reserve Account. - All funds deposited, without regard to fiscal year, into the Cash Flow Reserve Account, established pursuant to D.C. Official Code § 47-392.02(j-2), are authorized for expenditure and shall remain available for expenditure until September 30, 2021.

(2) Fiscal Stabilization Reserve Account. - All funds deposited, without regard to

fiscal year, into the Fiscal Stabilization Reserve Account, established pursuant to D.C. Official Code § 47-392.02(j-1), are authorized for expenditure and shall remain available for expenditure until September 30, 2021.

REVISED REVENUE ESTIMATE

(a) Notwithstanding any other provision of law, the amount appropriated as local funds in this act shall be increased by the amount of local recurring revenues included in the Chief Financial Officer's revenue estimates for Fiscal Year 2021 issued prior to January 1, 2021 that exceeds the revenue estimate of the Chief Financial Officer of the District of Columbia dated April 24, 2020 in an amount equal to the amount prescribed in subsection (b).

(b) Of the funds appropriated by this section, an amount sufficient to satisfy negotiated salary adjustments provided for covered employees shall be deposited in the Workforce Investment Account, to be available and expended to satisfy collective bargaining agreements as set forth in the Balanced Budget and Financial Plan Freeze on Salary Schedules, Benefits, and Cost-of-Living Adjustments Act of 2020, passed on 2nd reading on July 28, 2020 (Enrolled version of Bill 23-760), including emergency and temporary versions of such act.

CAPITAL OUTLAY

For capital construction projects, an increase of $2,385,127,000 of which $1,867,527,000 shall be from local funds, $38,409,000 shall be from private grant funds, $91,642,000 shall be from local transportation funds, $95,392,000 shall be from the District of Columbia Highway Trust Fund, and $292,157,000 shall be from federal grant funds, and a rescission of $661,497,000 of which $522,014,000 shall be from local funds, $3,700,000 shall be from private grant funds, $37,899,000 shall be from the District of Columbia Highway Trust Fund, and $97,885,000 shall be from federal grant funds appropriated under this heading in prior fiscal years, for a net amount of $1,723,630,000, to remain available until expended; provided, that all funds provided by this act shall be available only for the specific projects and purposes intended; provided further, that amounts appropriated under this act may be increased by the amount transferred from funds appropriated in this act as Pay-AsYou-Go Capital funds.

Sec. 3. Local portion of the budget.

The budget adopted pursuant to this act constitutes the local portion of the annual budget for the District of Columbia government under section 446(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 801; D.C. Official Code § 1-204.46(a)).

Sec. 4. Applicability.

This act shall apply as of September 30, 2020.

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975,

ENROLLED ORIGINAL

approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 6. Effective date.

As provided in section 446(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 801; D.C. Official Code § 1-204.46(a)), this act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
August 31, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-409

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 31, 2020

To adopt, as a request to Congress for appropriation and authorization, the federal portion of the budget of the government of the District of Columbia for the fiscal year ending September 30, 2021.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fiscal Year 2021 Federal Portion Budget Request Act of 2020".

Sec. 2. Adoption of the federal portion of the Fiscal Year 2021 budget.

There is adopted, as a request to Congress for appropriation and authorization, the following federal portion of the budget of the government of the District of Columbia for the fiscal year ending September 30, 2021.

DISTRICT OF COLUMBIA FEDERAL FUNDS APPROPRIATION REQUEST

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA COURTS

For salaries and expenses for the District of Columbia Courts, $ 267,838,000 to be allocated as follows: for the District of Columbia Court of Appeals, $14,887,000, of which not to exceed $2,500 is for official reception and representation expenses; for the Superior Court of the District of Columbia, $129,726,000, of which not to exceed $2,500 is for official reception and representation expenses; for the District of Columbia Court System, $79,155,000, of which not to exceed $2,500 is for official reception and representation expenses; and $44,070,000, to remain available until September 30, 2022, for capital improvements for District of Columbia courthouse facilities; Provided, That funds made available for capital improvements shall be expended consistent with the District of Columbia Courts master plan study and facilities condition assessment; Provided further, That, in addition to the amounts appropriated herein, fees received by the District of Columbia Courts for administering bar examinations and processing District of Columbia bar admissions may be retained and credited to this appropriation, to remain available until expended, for salaries and expenses associated with such activities, notwithstanding section 450 of the District of Columbia Home Rule Act (section 1-

204.50, D.C. Official Code); Provided further, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies; Provided further, That 30 days after providing written notice to the Committees on Appropriations of the House of Representatives and the Senate, the District of Columbia Courts may reallocate not more than $9,000,000 of the funds provided under this heading among the items and entities funded under this heading; Provided further, That the Joint Committee on Judicial Administration in the District of Columbia may, by regulation, establish a program substantially similar to the program set forth in subchapter II of chapter 35 of title 5, United States Code, for employees of the District of Columbia Courts.

FEDERAL PAYMENT FOR DEFENDER SERVICES IN DISTRICT OF COLUMBIA COURTS

For payments authorized under section 11–2604 and section 11–2605, D.C. Official Code (relating to representation provided under the District of Columbia Criminal Justice Act), payments for counsel appointed in proceedings in the Family Court of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Official Code, or pursuant to contractual agreements to provide guardian ad litem representation, training, technical assistance, and such other services as are necessary to improve the quality of guardian ad litem representation, payments for counsel appointed in adoption proceedings under chapter 3 of title 16, D.C. Official Code, and payments authorized under section 21–2060, D.C. Official Code (relating to services provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986), $46,005,000, to remain available until expended; Provided, That funds provided under this heading shall be administered by the Joint Committee on Judicial Administration in the District of Columbia; Provided further, That, notwithstanding any other provision of law, this appropriation shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for expenses of other Federal agencies.

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

For a Federal payment to the District of Columbia, to be deposited into a dedicated account, for a nationwide program to be administered by the Mayor, for District of Columbia resident tuition support, $40,000,000, to remain available until expended; Provided, That such funds, including any interest accrued thereon, may be used on behalf of eligible District of Columbia residents to pay an amount based upon the difference between in-State and out-of-State tuition at public institutions of higher education, or to pay up to $2,500 each year at eligible private institutions of higher education; Provided further, That the awarding of such funds may be prioritized on the basis of a resident's academic merit, the income and need of eligible students, and such other factors as may be authorized; Provided further, That the District of Columbia government shall maintain a dedicated account for the Resident Tuition

Support Program that shall consist of the Federal funds appropriated to the Program in this Act and any subsequent appropriations, any unobligated balances from prior fiscal years, and any interest earned in this or any fiscal year; Provided further, That the account shall be under the control of the District of Columbia Chief Financial Officer, who shall use those funds solely for the purposes of carrying out the Resident Tuition Support Program; Provided further, That the Office of the Chief Financial Officer shall provide a quarterly financial report to the Committees on Appropriations of the House of Representatives and the Senate for these funds showing, by object class, the expenditures made, and the purpose therefor.

FEDERAL PAYMENT FOR SCHOOL IMPROVEMENT

For a Federal payment for a school improvement program in the District of Columbia, $90,000,000, to remain available until expended, for payments authorized under the Scholarship for Opportunity and Results Act (division C of Public Law 112–10), as amended; Provided, That, to the extent that funds are available for opportunity scholarships and following the priorities included in section 3006 of such Act, the Secretary of Education shall make scholarships available to students eligible under section 3013(3) of such Act , including students who were not offered a scholarship during any previous school year; Provided further, That within funds provided for opportunity scholarships up to $1,200,000 shall be for the activities specified in sections 3007(b) through 3007(d) of the Act and up to $500,000 shall be for the activities specified in section 3009 of the Act; Provided further, That none of the funds made available under this heading may be used for an opportunity scholarship for a student to attend a school which does not certify to the Secretary of Education that the student will be provided with the same protections under the Federal laws which are enforced by the Office for Civil Rights of the Department of Education which are provided to a student of a public elementary or secondary school in the District of Columbia and which does not certify to the Secretary of Education that the student and the student's parents will be provided with the same services, rights, and protections under the Individuals With Disabilities Education Act (20 U.S.C. 1400 *et seq.*) which are provided to a student and a student's parents of a public elementary or secondary school in the District of Columbia, as enumerated in Table 2 of Government Accountability Office Report 18–94 (entitled ''Federal Actions Needed to Ensure Parents Are Notified About Changes in Rights for Students with Disabilities''), issued November 2017.

FEDERAL PAYMENT TO THE CRIMINAL JUSTICE COORDINATING COUNCIL

For a Federal payment to the Criminal Justice Coordinating Council, $2,150,000, to remain available until expended, to support initiatives related to the coordination of Federal and local criminal justice resources in the District of Columbia.

FEDERAL PAYMENT FOR JUDICIAL COMMISSIONS

For a Federal payment, to remain available until September 30, 2022, to the Commission

on Judicial Disabilities and Tenure, $325,000, and for the Judicial Nomination Commission, $275,000.

FEDERAL PAYMENT FOR THE DISTRICT OF COLUMBIA NATIONAL GUARD

For a Federal payment to the District of Columbia National Guard, $413,000, to remain available until expended for the Major General David F. Wherley, Jr. District of Columbia National Guard Retention and College Access Program.

FEDERAL PAYMENT FOR TESTING AND TREATMENT OF HIV/AIDS

For a Federal payment to the District of Columbia for the testing of individuals for, and the treatment of individuals with, human immunodeficiency virus and acquired immunodeficiency syndrome in the District of Columbia, $4,000,000.

FEDERAL PAYMENT FOR EMERGENCY PLANNING AND SECURITY COSTS IN THE DISTRICT OF COLUMBIA

For a Federal payment of necessary expenses, as determined by the Mayor of the District of Columbia in written consultation with the elected county or city officials of surrounding jurisdictions, $52,900,000, to remain available until expended, for the costs of providing public safety at events related to the presence of the National Capital in the District of Columbia, including support requested by the Director of the United States Secret Service in carrying out protective duties under the direction of the Secretary of Homeland Security, and for the costs of providing support to respond to immediate and specific terrorist threats or attacks in the District of Columbia or surrounding jurisdictions.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

For a Federal payment to the District of Columbia Water and Sewer Authority, $8,000,000, to remain available until expended, to continue implementation of the Combined Sewer Overflow Long-Term Control Plan; Provided, that the District of Columbia Water and Sewer Authority provides a 100 percent match for this payment.

Sec. 3. Compensation of the Chief Financial Officer.

(a) Section 424(b)(2)(E) of the District of Columbia Home Rule Act, approved April 17, 1995 (109 Stat. 142; D.C. Official Code § 1-204.24b(b)(5)), is amended to read as follows:

"(E) PAY.—The Chief Financial Officer shall be paid at the greater of:

"(i) A rate such that the total amount of compensation paid during any calendar year is equal to the limit on total pay which is applicable during the year under section 5307 of title 5, United States Code, to an employee described in section 5307(d) of such title; or

"(ii) A rate established in law by the District of Columbia;

provided, that any rate established pursuant to this clause which is applicable to any individual serving as the Chief Financial Officer shall not be reduced during any period of that individual's service as Chief Financial Officer.".

Sec. 4. Contingency cash.

(a) No funds in excess of $500,000 shall be obligated or expended from the Contingency Cash Reserve Fund established by section 450A(b) of the District of Columbia Home Rule Act, approved November 22, 2000 (114 Stat. 2440; D.C. Official Code § 1-204.50a(b)), unless such expenditures have been approved by the Council by resolution.

(b) The Contingency Cash Reserve Transparency Amendment Act of 2008, enacted on January 29, 2008 (D.C. Act 17-278; 55 DCR 1530), is enacted into law.

Sec. 5. Notwithstanding any other law, the following sales shall be subject to the sales and use taxes of the District of Columbia:

(1) Sales at gift shops, souvenir shops, kiosks, convenience stores, food shops, cafeterias, restaurants, and similar establishments in federal buildings, including memorials and museums, in the District of Columbia that make sales to:

(A) The general public, if operated by the federal government, an agent of the federal government, or a contractor; and

(B) Other than the general public, if operated by an agent of the federal government or a contractor; and

(2) Sales of goods and services by a government-sponsored enterprise or corporation, institution, or organization established by federal statute or regulation ("federal enterprise or organization"), including the Smithsonian Institution, National Gallery of Art, National Building Museum, Federal National Mortgage Association, and Federal Home Loan Mortgage Corporation, if the federal enterprise or organization is otherwise exempt from such taxation, to the extent such sales otherwise would be subject to the sales and use taxes of the District of Columbia if the federal enterprise or organization were organized as a nonprofit corporation established pursuant to Chapter 4 of Title 29 of the District of Columbia Official Code, and exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3)).

Sec. 6. Federal portion of the budget.

The federal funds for which appropriation by Congress is requested by this act constitute the federal portion of the Fiscal Year 2021 annual budget for the District of Columbia government under section 446(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 801; D.C. Official Code § 1-204.46(a)).

ENROLLED ORIGINAL

Sec. 7. 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. 8. Effective date.

This act shall take effect as provided in section 446 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 801; D.C. Official Code § 1-204.46).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
August 31, 2020

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

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

ANNOUNCES A PUBLIC HEARING ON

B23-0608, "SPRING FLATS MIXED-INCOME FAMILY APARTMENTS REAL PROPERTY TAX ABATEMENT ACT OF 2020"

B23-0753, "2323 PENNSYLVANIA AVENUE SOUTHEAST REDEVELOPMENT PROJECT REAL PROPERTY LIMITED TAX ABATEMENT ACT OF 2020"; AND

B23-0754, "800 KENILWORTH AVENUE NORTHEAST REDEVELOPMENT PROJECT REAL PROPERTY LIMITED TAX ABATEMENT ACT OF 2020

Wednesday, September 23, 2020, 9 a.m.
Remote Hearing via Virtual Platform
Broadcast live on DC Council Channel 13
Streamed live at www.dccouncil.us and entertainment.dc.gov.

On Wednesday, September 23, 2020, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on Business and Economic Development, will hold a public hearing to consider Bill 23-0608, the "Spring Flats Mixed-Income Family Apartments Real Property Tax Abatement Act of 2020," Bill 23-0753, the "2323 Pennsylvania Avenue Southeast Redevelopment Project Real Property Limited Tax Abatement Act of 2020," and Bill 23-0754, the "800 Kenilworth Avenue Northeast Redevelopment Project Real Property Limited Tax Abatement Act of 2020."

The stated purpose of Bill 23-0608, the "Spring Flats Mixed-Income Family Apartments Real Property Tax Abatement Act of 2020," is to provides an abatement of property, recordation, and transfer taxes for the real property located at 1001 Spring Road, N.W. Bill 23-0753, the "2323 Pennsylvania Avenue Southeast Redevelopment Project Real Property Limited Tax Abatement Act of 2020," provides an extension of the real property tax abatement to the 2323 Pennsylvania Avenue, S.E. redevelopment project. Bill 23-0754, the "800 Kenilworth Avenue Northeast Redevelopment Project Real Property Limited Tax Abatement Act of 2020" provides an extension of the real property tax abatement to the 800 Kenilworth Avenue, N.E. redevelopment project.

The Committee invites the public to testify remotely or to submit written testimony. Anyone wishing to testify must sign up in advance by contacting the Committee by e-mail at BusinessEconomicDevelopment@dccouncil.us or by phone and provide their name, phone number or e-mail, organizational affiliation, and title (if any) by **5:00 p.m. on September 18, 2020**. Witnesses are encouraged to submit their testimony in writing electronically in advance to BusinessEconomicDevelopment@dccouncil.us. Public witnesses will participate remotely, and the Committee will follow-up with witnesses with additional instructions on how to provide testimony through a web conferencing platform.

All public witnesses will be allowed a maximum of three minutes to testify. At the discretion of the Chair, the length of time provided for oral testimony may be reduced or extended.

The Committee encourages the public to submit written testimony to be included for the public record. Copies of written testimony should be submitted either by e-mail at BusinessEconomicDevelopment@dccouncil.us. To be included in the record, please indicate that you are submitting testimony for this hearing in the subject line of the e-mail. **The record for this hearing will close at 5:00 p.m. on October 9, 2020**.

For accommodation requests, including spoken language or sign language interpretation, please inform the Committee by email of the need as soon as possible but no later than five (5) business days before the proceeding. The Council 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.

Please contact Brian McClure, Interim Committee Director, at bmcclure@dccouncil.us for additional information.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON GOVERNMENT OPERATIONS
NOTICE –PUBLIC HEARING

John A. Wilson Building 1350 Pennsylvania Avenue, NW, Suite 117 Washington, DC 20004

COUNCILMEMBER BRANDON T. TODD
COMMITTEE ON GOVERNMENT OPERATIONS

ANNOUNCES A PUBLIC HEARING ON

B23-0872 - Public Sector Workers' Compensation Permanent Total Disability Amendment Act of 2020

B23-0874 - Public Sector Injured Workers' Equality Amendment Act of 2020

Tuesday, September 29, 2020, 10:00 AM
Virtual hearing via Zoom
Broadcast on DC Cable Channel 13 and online at www.dccouncil.us

Councilmember Brandon T. Todd, Chairperson of the Committee on Government Operations, announces a Public Hearing on ***B23-0872, the Public Sector Workers' Compensation Permanent Total Disability Amendment Act of 2020*** and ***B23-0874, the Public Sector Injured Workers' Equality Amendment Act of 2020***. The hearing will be held on Tuesday, September 29, 2020, at 10:00 a.m., via Zoom.

B23-0872, the Public Sector Workers' Compensation Permanent Total Disability Amendment Act of 2020, provides for permanent total disability for District government workers.

B23-0874, the Public Sector Injured Workers' Equality Amendment Act of 2020, updates the public sector workers' compensation system to mirror the private sector workers' compensation system, creating streamlined and improved workers' compensation laws to govern work injuries suffered by District of Columbia employees.

Persons wishing to provide oral testimony should contact Sam Stephens, Legislative Assistant of the Committee on Government Operations by e-mail at sstephens@dccouncil.us by 10:00 a.m. on Friday, September 25, 2020. When sending an e-mail or leaving a voicemail, please provide Mr. Stephens with the following information:

- Your first and last name;
- The name of the organization you are representing (if any);
- Your title with the organization;
- Your e-mail address;

- Your phone number; and
- The specific bill(s) you will be testifying about.

Mr. Stephens will e-mail a confirmation of your attendance with an agenda, witness list, and attached instructions for accessing the Zoom video conference hearing by 5:00 p.m. on September 14, 2020. Oral testimony will be strictly limited to three minutes to allow everyone an opportunity to testify. Due to technological limitations during the COVID-19 pandemic, only the first six hours of the hearing will be broadcasted, however, the Zoom hearing will continue until all witnesses who have signed up have had an opportunity to testify.

Persons wishing to provide written testimony should e-mail their written testimony to Sam Stephens, Legislative Assistant of the Committee on Government Operations at sstephens@dccouncil.us before 5:00 p.m. on Friday, September 25, 2020. Any testimony provided after this time will not be made part of the hearing record. Please indicate that you are submitting testimony for this hearing in the subject line of the email. The Committee also welcomes e-mails commenting on the proposed legislation, however, this correspondence is not included in the official Committee report if it is not labeled as testimony.

For accommodation requests, including spoken language or sign language interpretation, please inform the Committee of the need as soon as possible but no later than five (5) business days before the proceeding. The Council 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.

If you have any questions, please contact Manuel Geraldo, Committee Director, by either email or phone. mgeraldo@dccouncil.us or (202) 724-8035

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
9/4/2020

Notice is hereby given that:
License Number: ABRA-090417 **License Class/Type: B Retail - Grocery**
Applicant: MHAT & DM, LLC
Trade Name: Avenue Supermarket
ANC: 4D05

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

5010 NEW HAMPSHIRE AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/9/2020

A HEARING WILL BE HELD ON:
11/23/2020

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	7 am - 11:59 pm	7 am - 11:59 pm
Monday:	7 am - 11:59 pm	7 am - 11:59 pm
Tuesday:	7 am - 11:59 pm	7 am - 11:59 pm
Wednesday:	7 am - 11:59 pm	7 am - 11:59 pm
Thursday:	7 am - 11:59 pm	7 am - 11:59 pm
Friday:	7 am - 11:59 pm	7 am - 11:59 pm
Saturday:	7 am - 11:59 pm	7 am - 11:59 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	September 4, 2020
Protest Petition Deadline:	November 9, 2020
Roll Call Hearing Date:	November 23, 2020
Protest Hearing Date:	February 3, 2021

License No.:	ABRA-117004
Licensee:	Remarkable Breads, LLC
Trade Name:	Bread Furst
License Class:	Retailer's Class "C" Restaurant
Address:	4434 Connecticut Avenue, N.W.
Contact:	Scott Auslander: (202) 765-1200

WARD 3 ANC 3F SMD 3F06

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 November 23, 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 **February 3, 2021 at 1:30 p.m.**

NATURE OF OPERATION

A new Retailer's Class C Restaurant with a seating capacity of 20 and Total Occupancy Load of 38. Applicant is requesting a Sidewalk Café with a total of 24 seats.

HOURS OF OPERATION FOR INSIDE PREMISES AND SIDEWALK CAFE

Sunday through Saturday 7am – 12am

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

Sunday through Saturday 8am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	September 4, 2020
Protest Petition Deadline:	November 9, 2020
Roll Call Hearing Date:	November 23, 2020
Protest Hearing Date:	February 3, 2021

License No.:	ABRA-117072
Licensee:	Union Rooftop, LLC
Trade Name:	Hi-Lawn
License Class:	Retailer's Class "C" Tavern
Address:	1309 5th Street, N.W.
Contact:	Paul Carlson: (703) 624-3809

WARD 6 ANC 6E SMD 6E04

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 November 23, 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 **February 3, 2021 at 4:30 p.m.**

NATURE OF OPERATION

A new all-outdoor, rooftop, class C Tavern with a Seating Capacity of 99, Total Occupancy Load of 1040 and a Summer Garden with 99 Seats. The License will include Entertainment, Dancing and Cover Charge.

HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION INSIDE OF THE PREMISES AND FOR THE OUTDOOR SUMMER GARDEN

Sunday through Thursday 8am – 2am, Friday and Saturday 8am – 3am

HOURS OF LIVE ENTERTAINMENT OUTDOORS

Sunday through Saturday 10pm – 1am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date:	June 12, 2020
Protest Petition Deadline:	August 17, 2020
Roll Call Hearing Date:	August 31, 2020
License No.:	ABRA-116082
Licensee:	Iraklion, LLC
Trade Name:	Iraklion
License Class:	Retailer's Class "C" Nightclub
Address:	1412 I Street, N.W.
Contact:	Richard Bianco, Esq.: (202) 461-2400

WARD 2 ANC 2C SMD 2C01

Notice is hereby given that this licensee has requested to transfer the license to a new location with Substantial Changes 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 August 31, 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.

NATURE OF SUBSTANTIAL CHANGES

Applicant requests to transfer license from Safekeeping to a new location at 1412 I Street, N.W. The applicant also requests an increase in Total Occupancy Load. The maximum number of seats will be 675, with a Total Occupancy Load of 1,100, and a Summer Garden with 100 Seats. The license will include Nude Dancing and performances.

PROPOSED HOURS OF OPERATION INSIDE OF THE PREMISES AND FOR THE OUTDOOR SUMMER GARDEN

Sunday through Thursday 8am – 3am, Friday and Saturday 8am – 4am

PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION INSIDE OF THE PREMISES AND FOR THE OUTDOOR SUMMER GARDEN

Sunday through Thursday 8am – 2am, Friday and Saturday 8am – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
9/4/2020

Notice is hereby given that:
License Number: ABRA-094313 **License Class/Type: B Retail - Class B**
Applicant: Alexander Market, Inc.
Trade Name: Newton Food Mart
ANC: 5B02

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

3600 12TH ST NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/9/2020

A HEARING WILL BE HELD ON:
11/23/2020

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	7 am - 9 pm	7 am - 9 pm
Monday:	7 am - 9 pm	7 am - 9 pm
Tuesday:	7 am - 9 pm	7 am - 9 pm
Wednesday:	7 am - 9 pm	7 am - 9 pm
Thursday:	7 am - 9 pm	7 am - 9 pm
Friday:	7 am - 9 pm	7 am - 9 pm
Saturday:	7 am - 9 pm	7 am - 9 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****READVERTISEMENT**

Placard Posting Date:	**September 4, 2020
Protest Petition Deadline:	**November 9, 2020
Roll Call Hearing Date:	**November 23, 2020
Protest Hearing Date:	**February 3, 2021

License No.:	ABRA-117070
Licensee:	North Shaw, LLC
Trade Name:	TBD
License Class:	Retailer's Class "A" Liquor Store
Address:	2104 Vermont Avenue, N.W.
Contact:	Sidon Yohannes: (202) 686-7600

WARD 1 ANC 1B SMD 1B02

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on **November 23, 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 ****February 3, 2021 at 4:30 p.m.**

NATURE OF OPERATION

New Retailer's Class "A" Liquor Store with a Tasting Permit.

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 8am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date:	**August 21, 2020
Protest Petition Deadline:	**October 26, 2020
Roll Call Hearing Date:	**November 9, 2020
Protest Hearing Date:	**January 13, 2021

License No.:	ABRA-117070
Licensee:	North Shaw, LLC
Trade Name:	TBD
License Class:	Retailer's Class "A" Liquor Store
Address:	2104 Vermont Avenue, N.W.
Contact:	Sidon Yohannes: (202) 686-7600

WARD 1 ANC 1B SMD 1B02

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on **November 9, 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 ****January 13, 2021 at 4:30 p.m.**

NATURE OF OPERATION

New Retailer's Class "A" Liquor Store with a Tasting Permit.

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 8am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
9/4/2020

Notice is hereby given that:
License Number: ABRA-108149 **License Class/Type: B Internet**
Applicant: Winovisor, LLC
Trade Name: Winovisor, LLC
ANC: 3D05

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

5185 MacArthur BLVD NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/9/2020

A HEARING WILL BE HELD ON:
11/23/2020

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, SEPTEMBER 23, 2020
441 4TH STREET, N.W.
VIRTUAL PUBLIC HEARING VIA WebEx

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 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).

WARD ONE

20271 ANC 1A — **Application of 755 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 755 Columbia Road N.W. (Square 2890, Lot 116).

WARD ONE

20272
ANC 1A

Application of 757 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 757 Columbia Road N.W. (Square 2890, Lot 101).

WARD TWO

20274
ANC 2F

Application of MQMF 1313 L Street LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle I § 205.5 from the rear yard requirements of Subtitle I § 205, and pursuant to Subtitle X, Chapter 10, for an area variance from the court requirements of Subtitle I § 207.1, to redevelop an existing office building and convert it into a 10-story residential building in the D-4-R at premises 1313 L Street, N.W. (Square 247, Lot 94).

WARD TWO

20276
ANC 2C

Application of Quadrum DC, LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the penthouse use requirements of Subtitle C § 1500.3(c), to construct a hotel with a cocktail lounge and restaurant in the penthouse in the D-4-R zone at premises 333 G Street, N.W. (Square 529, Lots 29, 37, 802, 803, 846, 847, 852, 853).

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.

This public hearing will be held virtually through WebEx. Information for parties and the public to participate, view, or listen to the public hearing will be provided on the Office of Zoning website and in the case record for each application or appeal by the Friday before the hearing date.

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, including the text provided in the Notice of Emergency and Proposed Rulemaking adopted by the Zoning Commission on May 11, 2020, in Z.C. Case No. 20-11.

Individuals and organizations interested in any application may testify at the public hearing via WebEx or by phone and are strongly encouraged to sign up to testify 24 hours prior to the start of the hearing on OZ's website at https://dcoz.dc.gov/ or by calling Robert Reid at 202-727-5471. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board may impose time limits on the testimony of all individuals and organizations.

Individuals and organization may also submit written comments to the Board by uploading submissions via IZIS or by email to bzasubmissions@dc.gov. Submissions must be submitted at least 24 hours prior to the start of the hearing.

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

Do you need assistance to participate?

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

Chinese
您需要有人帮助参加活动吗？
如果您需要特殊便利设施或语言协助服务（翻译或口译），请在见面之前提前五天与 Zee Hill 联系，电话号码 (202) 727-0312，电子邮件 Zelalem.Hill@dc.gov。这些是免费提供的服务。

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

Korean
참여하시는데 도움이 필요하세요?
특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면, 회의 5일 전에 Zee Hill 씨께 (202) 727-0312로 전화 하시거나 Zelalem.Hill@dc.gov 로 이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

Spanish
¿Necesita ayuda para participar?
Si tiene necesidades especiales o si necesita servicios de ayuda en su idioma (de traducción o interpretación), por favor comuníquese con Zee Hill llamando al (202) 727-0312 o escribiendo a

Zelalem.Hill@dc.gov cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

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

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

FREDERICK L. HILL, CHAIRPERSON
LORNA L. JOHN, VICE-CHAIRPERSON
VACANT, MEMBER
CHRISHAUN SMITH, MEMBER,
NATIONAL CAPITAL PLANNING COMMISSION
A PARTICIPATING MEMBER OF THE ZONING COMMISSION
CLIFFORD W. MOY, SECRETARY TO THE BZA
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Behavioral Health (Department), pursuant to the authority set forth in §§ 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 amendment of Chapter 34 (Mental Health Rehabilitation Services Provider Certification Standards) in Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR), and amendments to Chapters 25 (Health Home Certification Standards); Chapter 39 (Psychosocial Rehabilitation Clubhouse Certification Standard); and Chapter 73 (Department of Behavioral Health Peer Specialist Certification), of Title 22-A DCMR, and Chapter 35 (Department of Mental Health (DMH) Infractions) of Title 16 DCMR (Consumers, Commercial Practices, and Civil Infractions).

The Final Rulemaking updates the Chapter 34 Mental Health Rehabilitation Services (MHRS) regulation to: (1) improve quality of care, accountability, and efficiency of MHRS; (2) implement requirements under the District's Section 1115 Behavioral Health Transformation Demonstration Program for Medicaid reimbursement of Trauma Systems Therapy and Trauma Recovery and Empowerment Model services; (3) clarify ambiguous or conflicting language, including in subsections related to qualified practitioners, prior authorization requirements, and same-day billing limitations; (4) update provisions to reflect the most current terminology and standards of care in use by the Department; (5) create consistency, where appropriate, between the MHRS certification standards and the Substance Use Disorder certification standards in Title 22-A DCMR, Chapter 63; (6) update core services agency requirements related to screening and assessment for Supported Employment services, to create consistency with changes made in the June 5, 2020 second emergency and proposed rulemaking for Chapter 37 (Mental Health and Substance Use Disorder Supported Employment Services And Provider Certification Standards); and (7) make conforming amendments to Chapters 25, 39, and 73 of Title 22-A DCMR and Chapter 35 of Title 16 DCMR.

A Notice of Second Emergency and Proposed Rulemaking was published in the *District of Columbia Register* on June 5, 2020 at 67 DCR 006839, amending a Notice of Emergency and Proposed Rulemaking published February 7, 2020 at 67 DCR 001269. The Department did not receive any comments about this rulemaking. The Department made technical changes to: (1) the prior authorization requirement terminology for Rehabilitation Day Services to clarify that an authorization for ninety (90) days of Rehabilitation Day Services means an authorization for ninety (90) units of Rehabilitation Day Services in §§ 3423.10; 3431.4; (2) the description of which credentialed staff is permitted to render Counseling under supervision, to clarify that the credentialed staff must be a licensed behavioral health clinician in § 3420.6; and (3) remove redundancies and align the definitions section with the other regulatory text §§ 3413.28(a)(1), 3414.6(c), 3499.1.

These rules were adopted as final on August 28, 2020, and will be effective upon the publication of this notice in the *District of Columbia Register*.

Chapter 34, MENTAL HEALTH REHABILITATION SERVICES PROVIDER CERTIFICATION STANDARDS, of Title 22-A DCMR, MENTAL HEALTH, is repealed and replaced by a new Chapter 34 to read as follows:

CHAPTER 34 MENTAL HEALTH REHABILITATION SERVICES AND PROVIDER CERTIFICATION STANDARDS

3400 GENERAL PROVISIONS

3400.1 The Department of Behavioral Health ("Department") is the state mental health authority with the responsibility to plan, develop, coordinate, and monitor comprehensive and integrated behavioral health systems of care for adults and for children, youth, and their families in the District, and arrange for authorized, publicly-funded behavioral health services and supports for the residents of the District. The Department entered into a Memorandum of Understanding with the Department of Health Care Finance ("DHCF") to implement a Medicaid Rehabilitation Option for the provision of mental health rehabilitative services ("MHRS").

3400.2 The purpose of these rules is to establish the MHRS program, including consumer eligibility, service standards, and provider certification requirements for providing MHRS.

3400.3 Each Department-certified MHRS provider shall meet and adhere to the terms and conditions of its Human Care Agreement ("HCA") with the Department and its Medicaid provider agreement with DHCF.

3401 MHRS PROVIDER CERTIFICATION PROCESS

3401.1 The Department shall utilize the certification process to thoroughly evaluate the applicant's capacity to provide high quality MHRS in accordance with this regulation and the needs of the District's behavioral health system.

3401.2 No person or entity shall provide MHRS unless certified by the Department. Each applicant seeking certification as an MHRS provider shall submit a certification application to the Department. An MHRS provider seeking renewal of certification shall submit a certification application at least ninety (90) calendar days prior to the termination of its current certification. The existing certification of an MHRS provider that has submitted a timely application for renewal of certification shall continue until the Department renews or denies renewal of the certification.

3401.3 Certification shall be considered terminated if the MHRS provider:

(a) Fails to submit a complete certification application ninety (90) calendar days prior to the expiration date of the current certification;

(b) Voluntarily relinquishes certification; or

(c) Terminates operations.

3401.4 Upon receipt of a certification application, the Department shall review the certification application to determine if it is complete. If a certification application is incomplete, the Department shall return the incomplete certification application to the applicant. An incomplete certification application shall not be regarded as a certification application. Absent good cause, a provider's failure to submit a complete certification application within ninety (90) calendar days prior to expiration of the current certification shall be deemed a voluntary relinquishment of certification and trigger the Department's closure protocol.

3401.5 Following the Department's acceptance of the certification application, the Department shall determine whether the applicant's services and activities meet the certification standards described in this chapter. The Department shall schedule and conduct an on-site survey of the applicant's services to determine whether the applicant satisfies the certification standards. The Department shall have access to all records necessary to verify compliance with certification standards and may conduct interviews with staff, others in the community, and consumers.

3401.6 The Department may conduct an on-site survey at the time of certification application or certification renewal, or at any other time during the period of certification.

3401.7 Applicant or MHRS provider interference with the on-site survey, submission of false or misleading information, or lack of candor by the applicant or provider shall be grounds for an immediate suspension of any prior certification or denial of a new certification application.

3401.8 A Statement of Deficiency ("SOD") is a written notice to an applicant or existing MHRS provider identifying non-compliance with certification standards. The intent of the SOD is to provide:

(a) Applicants with an opportunity to correct minor deficiencies during the certification application process; or

(b) Existing certified providers with an opportunity to correct minor deficiencies during the renewal of certification process or at any other time to avoid decertification and disruption of services to existing consumers.

3401.9 The Department will not normally issue an SOD to applicants who fail to demonstrate compliance with the standards. The Department will normally consider the applicant's failure to comply with the initial certification requirements as evidence that the applicant is ill-prepared to assume the responsibilities of providing MHRS to District residents and deny the application.

3401.10 When utilized, the SOD shall describe the areas of non-compliance, suggest actions needed to bring operations into compliance with the certification standards, and set forth a timeframe of no more than ten (10) business days for the applicant or existing MHRS provider's submission of a written Corrective Action Plan ("CAP").

3401.11 The issuance of an SOD is a separate process from the issuance of a Notice of Infraction ("NOI"). NOIs shall be issued promptly upon observation of violations of this chapter, especially when they are recurrent, endanger consumer or staff health or safety, or when there is a failure to comply with core requirements of this chapter.

3401.12 The Department is not required to utilize the SOD process. It may immediately deny certification or proceed with decertification.

3401.13 An applicant or certified MHRS provider's CAP shall describe the actions to be taken and specify a timeframe for correcting the areas of non-compliance. The CAP shall be submitted to the Department within ten (10) business days after receipt of the SOD from the Department, or sooner if specified in the SOD.

3401.14 The Department shall notify the applicant or the certified MHRS provider whether the provider's CAP is accepted within ten (10) business days after receipt.

3401.15 The Department may only issue certification after the Department verifies that the applicant or the certified MHRS provider has remediated all of the deficiencies identified in the CAP and meets all the certification standards.

3401.16 A determination to grant full certification to a provider shall be based on the Department's review and validation of the information provided in the application, as well as facility survey findings, any CAP, and the provider's compliance with this chapter.

3401.17 Full certification as an MHRS provider shall be for one (1) calendar year for new applicants and two (2) calendar years for existing providers seeking renewal. Certification shall start from the date of issuance of certification by the Department, subject to the MHRS provider's continuous compliance with these certification standards. Certification shall remain in effect until it expires, is renewed, or is revoked pursuant to § 3403. The certification shall specify:

(a) The effective date of the certification;

(b) Whether the MHRS provider is certified as a:

(1) Core Services Agency ("CSA") serving adults and/or children and youth;

(2) Sub-provider, or

(3) Specialty provider; and

(c) The services the MHRS provider is certified to provide and in which facility.

3401.18 The Department may grant provisional certification to a new provider that:

(a) Has not previously held a certification issued by the Department;

(b) Is in the process of securing a facility within the District of Columbia at the time of application; and

(c) If applicable, has met initial requirements for the evidence-based practice ("EBP") certification process (*e.g.*, Multisystemic Therapy, Functional Family Therapy, Trauma-Focused Cognitive Behavioral Therapy, Child-Parent Psychotherapy).

3401.19 The purpose of provisional certification is to allow a provider new to the District an opportunity to identify a space for a facility within the District. Additionally, provisional certification allows a new provider the option of responding to a Request for Qualification while they continue to work on meeting the requirements of certification. Provisional certification shall not exceed a period of six (6) months and may be renewed only once for an additional period not to exceed ninety (90) calendar days. Upon receipt of a provisional certification, a provider may submit a response to the Department's Request for Qualification for an MHRS HCA.

3401.20 Certification is not transferable to any other organization.

3401.21 Prior to adding an MHRS service during the term of certification, the MHRS provider shall submit a certification application describing the service. Upon determination by the Department that the service is in compliance with certification standards, the Department may certify the MHRS provider to provide that service.

3401.22 Nothing in these rules shall be interpreted to mean that certification is a right or an entitlement. Certification as an MHRS provider depends upon the Director's assessment of the need for additional providers and availability of funds. An individual or entity that applies for certification during an open application period as published in the District of Columbia Register may appeal the denial of certification under this subsection by utilizing the procedures contained in §§ 3403.2 and 3403.3. The Department shall not accept any applications for which a notice of moratorium is published in the *District of Columbia Register*.

3401.23 In the event that a certification application is under review while a moratorium is put in place, the Department will continue to process the application for a time period of no more than thirty (30) calendar days. If, after thirty (30) calendar days, the application is deemed incomplete, the provider will be granted ten (10) business days to resolve all incomplete items. Any items not resolved or provided by the due date will result in the incomplete application being returned to the applicant and the Department will take no further action to issue certification. The applicant shall then wait until the moratorium is lifted in order to submit any subsequent certification applications.

3401.24 The MHRS provider shall notify the Department in writing thirty (30) calendar days prior to implementing any of the following operational changes, including all aspects of the operations materially affected by the changes:

(a) A proposed change in the name or ownership of an MHRS provider owned by an individual, partnership, or association, or in the legal or beneficial ownership of ten percent (10%) or more of the stock of a corporation that owns or operates the MHRS provider;

(b) A change in affiliation or referral arrangements;

(c) A proposed change in the provider's service location;

(d) The proposed addition or deletion of services, which is anything that would alter or disrupt services where the consumer would be impacted by the change, or any change that would affect compliance with this regulation;

(e) A change in the required staff qualifications for employment;

(f) A change in the staff filling positions required by this chapter, as well as any changes in Qualified Practitioners working for the agency;

(g) A proposed change in organizational structure; or

(h) A proposed change in the population served.

3401.25 MHRS providers shall forward to the Department within thirty (30) calendar days all inspection reports conducted by an oversight body and all corresponding corrective actions taken regarding cited deficiencies.

3401.26 MHRS providers shall immediately report to the Department any criminal allegations involving provider staff.

3402 EXEMPTIONS FROM CERTIFICATION STANDARDS

3402.1 Upon good cause shown, the Department may exempt an applicant or MHRS provider from a certification standard if the exemption does not jeopardize the health and safety of consumers, violates consumers' rights, or otherwise conflicts with the purpose and intent of these rules.

3402.2 If the Department approves an exemption, such exemption shall end on the expiration date of the provider certification or on an earlier date if specified by the Department; unless the provider requests renewal of the exemption prior to expiration of its certification or the earlier date set by the Department.

3402.3 The Department may revoke an exemption that it determines is no longer appropriate.

3402.4 All requests for an exemption from certification standards shall be submitted in writing to the Department.

3403 DENIAL OF CERTIFICATION OR DECERTIFICATION PROCESS

3403.1 The Director may deny initial certification if the applicant fails to comply with any certification standard or the application fails to demonstrate the applicant's capacity to deliver high quality MHRS on a sustained and regular basis.

3403.2 To avoid an over-concentration of providers in areas with existing providers and to encourage increased access to underserved areas of the District, the Director may deny certification if the applicant proposes to operate a facility in an area already served by one or more providers. The Department's priority shall be to grant certification to applicants with the demonstrated capacity to deliver high quality MHRS services that will address unmet needs of the behavioral health system.

3403.3 While applicants may make minor corrections and substitutions to its application during the certification process, evidence of one or more of the following shall constitute good cause to deny the application for certification when the circumstances demonstrate deliberate misrepresentations, organizational instability, or the lack of preparedness or capacity to meet and sustain compliance with this chapter:

(a) An incomplete application;

(b) False information provided by applicant or contained in an application;

(c) One or more changes to an organizational chart during the application process;

(d) A facility that is inadequate in health, safety, size, or configuration to provide MHRS consistent with high quality care and privacy standards;

(e) The lack of demonstrated experience providing MHRS by the applicant's clinical leadership, practitioners, and/or staff;

(f) An applicant's lack of financial resources to carry out its commitments and obligations under this chapter for the foreseeable future;

(g) An applicant's failure to timely respond to the Department's requests for information; and

(h) History of poor performance.

3403.4 Within fifteen (15) business days of the date on the certification denial, an applicant may make a request for an administrative review of the decision from the Director. The Director shall conduct the administrative review to determine whether the certification denial complied with § 3403.1.

3403.5 Each request for an administrative review shall be in writing and contain a concise statement of the reason(s) why the applicant asserts that the certification denial was in error and any relevant supporting documentation.

3403.6 The Director shall complete the administrative review within fifteen (15) business days of receipt of the applicant's request.

3403.7 The Director shall issue a written decision and provide a copy to the provider. The Director's decision is final and not subject to further appeal.

3403.8 An applicant and its executive leadership shall not be allowed to reapply for certification for twelve (12) months following the date of the initial denial or, if applicable, the date of the denial pursuant to the Director's administrative review.

3403.9 The Department shall decertify existing providers who fail to comply with the certification requirements contained in this chapter. Evidence of one or more of the following shall constitute good cause to decertify:

(a) An incomplete recertification application;

(b) False information provided by provider or contained in a recertification application;

(c) High staff turnover during the certification period demonstrating organizational instability;

(d) One or more documented violations of the certification standards during the certification period that evidence a provider's lack of capacity to meet and sustain compliance with this chapter;

(e) Claims audit error rate in excess of twenty-five percent (25%);

(f) Poor quality of care;

(g) A provider's lack of financial resources to carry out its commitments and obligations under this chapter for the foreseeable future; and

(h) Failure to cooperate with Department investigations or lack of timely response to information requests.

3403.10 Nothing in this chapter requires the Director to issue a SOD prior to decertifying an MHRS provider. If grounds for decertification have been met, the Director will issue a written notice of decertification setting forth the factual basis for the decertification, the effective date, and right to request an administrative review.

3403.11 Within fifteen (15) business days of the date on the notice of decertification, the provider may request an administrative review from the Director. The Director shall conduct the administrative review to determine whether the decertification complied with § 3403.7.

3403.12 Each request for an administrative review shall contain a concise statement of the reason(s) why the provider asserts that decertification should not have occurred and any relevant supporting documentation.

3403.13 Each administrative review shall be conducted by the Director and shall be completed within fifteen (15) business days of the receipt of the provider's request.

3403.14 The Director shall issue a written decision and provide a copy to the provider. If the Director approves decertification, the provider may within fifteen (15) business days of receipt of the Director's written decision request a hearing under the D.C. Administrative Procedure Act, D.C. Official Code §§ 2-501, *et seq.* The administrative hearing shall be limited to the issues raised in the administrative review request. The decertification shall be stayed pending resolution of the hearing.

3403.15 Upon decertification, the MHRS provider and its executive leadership shall not be allowed to reapply for certification for any new services, including the service subject to decertification, for a period of two (2) years following the later of the date of the decertification letter or the date of the decertification order (if applicable). If a provider reapplies for certification, the provider shall reapply in accordance with the established certification standards for the type of services provided and show evidence that the grounds for the revocation have been corrected.

3404 NOTICES OF INFRACTION

3404.1 The Department may issue a NOI for any violation of this chapter. The fine amount for any NOI issued under this chapter shall be as follows:

(a) For the first offense, five hundred dollars ($500.00);

(b) For the second offense, one thousand dollars ($1,000.00);

(c) For the third offense, two thousand dollars ($2,000.00); and

(d) For the fourth and subsequent offenses, four thousand dollars ($4,000.00).

3404.2 The administrative procedure for the appeal of an NOI issued under this chapter shall be governed by 16 DCMR §§ 3100 *et seq.*

3405 PROVIDER DISCONTINUATION OF SERVICES, PROVIDER CLOSURES, AND CONTINUITY OF CONSUMER CARE

3405.1 An MHRS provider shall provide written notification to the Department at least ninety (90) calendar days prior to its impending closure or discontinuation of a subset of services, or immediately upon knowledge of an impending closure or discontinuation of a subset of services less than ninety (90) calendar days in the future. This notification shall include plans for continuity of care and preservation of consumer records.

3405.2 The Department shall review the continuity of care plan and make recommendations to the MHRS provider as needed. The plan should include provision for the referral and transfer of consumers, as well as for the provision of relevant treatment information, medications, and information to the new provider. The provider shall incorporate all Department recommendations necessary to ensure a safe and orderly transfer of care.

3405.3 Closure of a provider or discontinuation of a subset of services does not absolve a provider from its legal responsibilities regarding the preservation and the storage of consumer records as described in §§ 3413.16 and 3413.31 of these regulations and all applicable Federal and District laws and regulations. A provider shall take all necessary and appropriate measures to ensure consumer records are preserved, maintained, and made available to consumers upon request after closure of a provider or discontinuation of the applicable service.

3405.4 An MHRS provider shall be responsible for the execution of its continuity of care plan in coordination with the Department.

3406 SERVICE COVERAGE

3406.1 MHRS are those rehabilitative services rendered through Department-certified MHRS providers to eligible consumers who meet medical necessity for such services.

3406.2 MHRS offer a continuum of care for people with complex needs through intensive, community-based services to reduce the functional impact of mental illness or

serious emotional disturbance and support transitions to less intensive levels of care.

3406.3 MHRS are recommended by qualified practitioners licensed to diagnose mental illness or serious emotional disturbance. MHRS are rendered by qualified practitioners and credentialed staff, pursuant to the requirements in § 3416 and the applicable service specific standards set forth in this chapter.

3406.4 Rehabilitative services covered as MHRS are:

(a) Diagnostic Assessment;

(b) Medication/Somatic Treatment;

(c) Counseling;

(d) Community Support;

(e) Crisis/Emergency Services;

(f) Rehabilitation Day Services;

(g) Intensive Day Treatment ("IDT");

(h) Community Based Intervention ("CBI");

(i) Assertive Community Treatment ("ACT");

(j) Psychosocial Rehabilitation Clubhouse ("Clubhouse");

(k) Child-Parent Psychotherapy for Family Violence ("CPP-FV");

(l) Trauma-Focused Cognitive Behavioral Therapy ("TF-CBT");

(m) Trauma Recovery and Empowerment Model ("TREM"); and

(n) Trauma Systems Therapy ("TST").

3406.5 MHRS providers are CSAs, sub-providers, and specialty providers that are certified in compliance with the standards set forth in this chapter.

3406.6 MHRS coverage limitations are set forth in §§ 3431 and 3432. Coverage for any MHRS is contingent on whether all of the following criteria are met:

(a) The service shall be medically necessary;

(b) The service shall be delivered through a certified MHRS provider;

(c) The service shall be rendered by qualified practitioners or credentialed staff pursuant to the applicable service specific standards set forth in this chapter;

(d) The service shall be delivered in accordance with an approved plan of care; and

(e) The service shall be delivered in accordance with the applicable service specific standards set forth in this chapter.

3407 ELIGIBLE CONSUMERS

3407.1 Consumers eligible for Medicaid-funded MHRS shall meet the following requirements:

(a) Be enrolled in Medicaid, or be eligible for enrollment and have an application pending;

(b) Be a *bona fide* resident of the District, as defined in D.C. Official Code § 7-1131.02(29);

(c) Be a child or youth with mental health problems, as defined in D.C. Official Code § 7-1131.02(1F), or an adult with mental illness as defined in D.C. Official Code § 7-1131.02(24); and

(d) Be recommended as requiring MHRS by a qualified practitioner licensed to diagnose mental illness or serious emotional disturbance.

3407.2 Subject to § 3407.4, consumers eligible for locally-funded MHRS are those individuals who are not eligible for Medicaid or Medicare or are not enrolled in any other third-party insurance program except the D.C. HealthCare Alliance, and who meet the following requirements:

(a) Be a *bona fide* resident of the District, as defined in D.C. Official Code § 7-1131.02(29);

(b) Be a child or youth with mental health problems, as defined in D.C. Official Code § 7-1131.02(1F), or an adult with mental illness as defined in D.C. Official Code § 7-1131.02(24);

(c) Be recommended as requiring MHRS by a qualified practitioner licensed to diagnose mental illness or serious emotional disturbance; and

(d) For individuals eighteen (18) years of age and older, live in households with a countable income of less than two hundred percent (200%) of the federal poverty level, and for individuals under eighteen (18) years of age, live in households with a countable income of less than three hundred percent (300%) of the federal poverty level.

3407.3 Eligible consumers of MHRS shall have a primary mental health diagnosis as described in the International Classification of Diseases ("ICD-10") and Diagnostic and Statistical Manual of Mental Health Disorders ("DSM-5"), or subsequent versions adopted by the Department pursuant to public notice in the *District of Columbia Register.*

3407.4 Consumers eligible for Medicare shall remain eligible for the following locally-funded MHRS only to the extent these services are not otherwise covered by Medicare:

(a) Community support; and

(b) Specialty services identified in § 3417.3.

3407.5 Providers shall not bill Medicaid and/or the Department for MHRS provided to any consumer that does not meet the eligibility requirements set forth above.

3407.6 For new enrollees and those enrollees whose Medicaid coverage has lapsed:

(a) There is an eligibility grace period of ninety (90) calendar days from the date of first service for new enrollees, or from the date of eligibility expiration for enrollees who have a lapse in coverage, until the date the Department of Human Services' Economic Security Administration ("ESA") makes an eligibility or renewal determination.

(b) In the event the consumer appeals a denial of eligibility or renewal by the ESA, the Director may extend the ninety (90) calendar day eligibility grace period until the appeal has been exhausted. The ninety (90) calendar day eligibility grace period may also be extended at the discretion of the Director for other good cause shown.

(c) Upon expiration of the eligibility grace period, MHRS services provided to the consumer are no longer reimbursable by the Department. Nothing in this section alters the District's timely-filing requirements for claim submissions.

3408 ENROLLMENT INTO AND AUTHORIZATION OF MHRS

3408.1 Enrollment is the process by which the Department ascertains a consumer's eligibility for MHRS, and, if eligible for services, adds a consumer to the MHRS system of care and assigns them to an MHRS provider.

3408.2 No later than seven (7) calendar days after enrollment, the MHRS provider shall conduct an intake appointment with the consumer. This is a face-to-face encounter that initiates the process for securing consent to treatment.

3408.3 If the MHRS provider is unable to contact the consumer, the provider shall document all steps taken in the consumer's clinical record.

3408.4 As part of the service authorization process, the Department may review the consumer's Plan of Care or other clinical material if additional clinical information is required in order to evaluate a consumer's needs and whether MHRS are medically necessary.

3409 CONSUMER PROTECTIONS

3409.1 Medicaid beneficiaries are entitled to Notice and Appeal rights pursuant to 29 DCMR § 9508 in cases of intended adverse action, such as an action to deny, discontinue, terminate, or change the manner or form of Medicaid-funded MHRS. The Department shall provide local-only beneficiaries the same Notice and Appeal rights.

3409.2 Each MHRS provider shall establish and adhere to a consumer rights policy authorized by its governing authority ("Consumer Rights Policy") that complies with the requirements of 22-A DCMR § 301.1.

3409.3 Each MHRS provider shall establish and adhere to a system for distributing the Consumer Rights Policy that complies with the requirements of 22-A DCMR § 301.3.

3409.4 Each MHRS provider shall establish and adhere to a well-publicized complaint and grievance system, which includes written policies and procedures for handling consumer, family, and practitioner complaints and grievances ("Complaint and Grievance Policy") that complies with 22-A DCMR § 306.

3409.5 Each MHRS provider shall establish and adhere to policies and procedures for obtaining written informed consent to treatment from consumers ("Consent to Treatment Policy"), which comply with applicable Federal and District laws and regulations, including 22-A DCMR Chapter 1.

3409.6 Each MHRS provider shall establish and adhere to policies and procedures governing the release of mental health information about consumers ("Release of Consumer Information Policy"), which comply with applicable Federal and District laws and regulations. For consumers with co-occurring mental health and substance use disorders (SUDs), the MHRS provider shall comply with the requirements of 42 CFR part 2 governing the confidentiality and release of SUD treatment records as applicable.

3409.7 Each MHRS provider shall establish and adhere to policies and procedures governing the use of advance instructions for mental health treatment, durable power of attorney for health care, and advance directives ("Advance Instructions

Policy") that comply with applicable Federal and District laws and regulations, including 22-A DCMR Chapter 1 and any applicable the Department policy.

3409.8 Each MHRS provider's Advance Instructions Policy shall incorporate the development of advance instructions for mental health treatment, durable power of attorney for health care, and advance directives into the assessment planning process.

3409.9 The Department shall review and approve each MHRS provider's Consumer Rights Statement, Complaint and Grievance Policy, Consent to Treatment Policy, Release of Consumer Information Policy, and Advance Instructions Policy, during the certification process and during recertification.

3410 CONSUMER CHOICE

3410.1 All consumers receiving MHRS shall have free choice of MHRS providers.

3410.2 Each MHRS provider shall establish and adhere to policies and procedures governing the means by which consumers shall be informed of the full choices of MHRS providers and other mental health service providers available, including information about peer support and family support services and groups and how to access these services ("MH Consumer Choice Policy").

3410.3 The Department shall review and approve each MHRS provider's MH Consumer Choice Policy during the certification process and during recertification.

3410.4 The MH Consumer Choice Policy shall comply with applicable Federal and District laws and regulations.

3410.5 Each MHRS provider shall:

(a) Make its MH Consumer Choice Policy available to consumers and their families; and

(b) Establish and adhere to a system for documenting that consumers and families receive the MH Consumer Choice Policy.

3410.6 Each CSA's MH Consumer Choice Policy shall ensure that each consumer:

(a) Requesting MHRS directly from the CSA is informed that the consumer may choose to have MHRS provided by any of the other the certified CSAs;

(b) Enrolled in the CSA is informed that the consumer may choose to have MHRS provided by any of the certified sub-providers; and

(c) Enrolled in the CSA is informed that the consumer may choose to have MHRS provided by any of the certified specialty provider.

3411 PLAN OF CARE DEVELOPMENT

3411.1 Each CSA shall coordinate the Plan of Care development for its enrolled consumers from the start of intake through discharge from the system of care, except that the Plan of Care development for consumers receiving:

(a) CBI, shall be coordinated by the consumer's CBI provider;

(b) ACT, shall be coordinated by the consumer's ACT provider; and

(c) Clubhouse services, shall be coordinated by the member's Clubhouse provider, if the member is not linked with a CSA, or a CBI or ACT provider. The Plan of Care development and implementation for such members shall be conducted in accordance with the requirements set forth in 22-A DCMR Chapter 39.

3411.2 The Plan of Care development process for consumers shall, at a minimum, include:

(a) The completion of a Diagnostic Assessment as described in § 3418;

(b) Development of a Plan of Care as described in § 3411;

(c) Consideration of the consumer's beliefs, values, and cultural norms in how, what, and by whom MHRS are to be provided;

(d) Consideration, screening, and assessment of the consumer for treatment using an appropriate evidence-based practice ("EBP") offered through a certified MHRS provider; and

(e) When coordinated by the CSA, assessment of the consumer for interest in and potential eligibility for Mental Health Supported Employment services, in accordance with the requirements set forth in 22-A DCMR Chapter 37.

3411.3 Court-appointed guardians for adults, children, and youth, and the parents/guardians or family members of children and youth shall be involved in the Plan of Care development process. The families and significant others of adult consumers may participate in the Plan of Care development process to the extent that the adult consumer consents to the involvement of family and significant others.

3411.4 The provider shall approve a Plan of Care within thirty (30) calendar days from when the provider obtains consent to treatment from the enrolled consumer.

Approval of a Plan of Care shall be demonstrated by the dated and authenticated signature of an independently licensed qualified practitioner.

3411.5 Each CSA, or when applicable pursuant to § 3411.1, each CBI or ACT provider, shall develop and maintain a complete and current Plan of Care for each enrolled consumer after completing intake and assessment. The Plan of Care shall at a minimum describe all of the MHRS the provider will deliver to the consumer, as well as any services to be provided by another CSA, sub-provider, or specialty provider. The CSA or, if applicable, the CBI or ACT provider, is responsible for coordinating the development of the Plan of Care with any CSA, sub-provider, or specialty provider involved in the provision of services.

3411.6 The Plan of Care shall be person-centered and include the following elements:

(a) Overall broad, long-term goal statement(s) that captures the consumer's and/or family's short- and long-term goals for the future, ideally written in first-person language. This shall include the consumer's self-identified recovery goals;

(b) List or statement of individual or family strengths that support goal(s) accomplishment. These include abilities, talents, accomplishments, and resources;

(c) List or statement of barriers that pose obstacles to the consumer's and/or family's ability to accomplish the stated goal(s). These include symptoms, functional impairments, lack of resources, consequences of behavioral health issues, and other challenges;

(d) Statement of objectives that identify the short-term consumer and/or family changes in behavior, function, or status that can help overcome the identified barriers and are building blocks toward the eventual accomplishment of the long-term goal(s). Objective statements describe outcomes that are measurable and include individualized target dates to be accomplished within the scope of the plan;

(e) Intervention statements that describe the treatment and recovery services to be utilized to reduce or eliminate the barriers identified in the plan and support objective and eventual goal(s) accomplishment. Interventions are specific to each objective and the consumer's and/or family's stage of change. Intervention statements identify who will deliver the service, what will be delivered, when it will be delivered, and the purpose of the intervention. Natural support interventions should also be included in the plan and include those non-billable supports delivered by resources outside of the formal behavioral health service-delivery system. When appropriate and applicable, EBP shall be incorporated into the intervention statement; and

(f) Provide for the delivery of services in the least restrictive environment that is appropriate for the consumer.

3412 PLAN OF CARE IMPLEMENTATION

3412.1 The consumer and assigned staff of the CSA, or when applicable pursuant to § 3411.1, staff of the CBI or ACT provider shall discuss the Plan of Care on an ongoing basis. The assigned staff shall record an encounter note describing the consumer's response to, participation in, and agreement to the Plan of Care in the consumer's clinical record.

3412.2 In situations where the consumer does not demonstrate the capacity to sign or does not sign the Plan of Care, the reasons the consumer does not sign shall be recorded in the consumer's clinical record, including each date when obtaining a signature was attempted.

3412.3 Staff shall document in the consumer's clinical record that a consumer's court-appointed guardian, family, and/or significant others participated in the development of the Plan of Care, as appropriate.

3412.4 Each MHRS provider shall develop policies and procedures for Plan of Care review ("Plan of Care Review Policy"). The Plan of Care Review Policy shall be part of the MHRS provider's Treatment Planning or Recovery Planning Policy as required by § 3413.12.

3412.5 The Plan of Care Review Policy shall require that the Plan of Care be reviewed and updated every one hundred eighty (180) calendar days and at any time there is a significant change in the consumer's condition or situation to reflect progress toward or the lack of progress toward the treatment or recovery goals. Each new Plan of Care should incorporate a review of what is working in treatment as well as challenges that have affected treatment. The Plan of Care may be reviewed more frequently, as necessary, based on the consumer's progress or circumstances.

3413 MHRS PROVIDER QUALIFICATIONS—GENERAL

3413.1 Each MHRS provider shall be established as a legally recognized entity in the District of Columbia and qualified to conduct business in the District. A certificate of good standing issued by the District of Columbia Department of Consumer and Regulatory Affairs shall be evidence of qualification to conduct business.

3413.2 Each MHRS provider shall maintain the clinical operations policies and procedures described in this section, and which shall be reviewed and approved by the Department, during the certification survey process.

3413.3 Each MHRS provider shall:

(a) Have a governing authority, which shall have overall responsibility for the functioning of the MHRS provider;

(b) Comply with all applicable Federal and District laws and regulations;

(c) Hire personnel with the qualifications necessary to provide MHRS and to meet the needs of its enrolled consumers;

(d) Ensure that independently licensed qualified practitioners are available to provide appropriate and adequate supervision of all clinical activities; and

(e) Employ qualified practitioners that meet all professional requirements as defined by the applicable licensing, certification, and registration laws and regulations of the District or the jurisdiction where services are delivered.

3413.4 Each MHRS provider shall establish and adhere to policies and procedures for selecting and hiring staff ("Staff Selection Policy"), which shall include:

(a) Evidence of each staff member's licensure, certification, or registration, as applicable and as required by the job being performed;

(b) For non-licensed staff, evidence of completion of an appropriate degree, appropriate training program, or appropriate credentials (*e.g*., an academic transcript or a copy of degree);

(c) Evidence of all required criminal background checks, and for all non-licensed staff members, application of the criminal background check requirements contained in District Official Code §§ 44-551 *et seq*., Unlicensed Personnel Criminal Background Check, as well as quarterly child abuse registry checks for both state of residence and state of employment;

(d) Evidence of quarterly checks that no individual is excluded from participation in a federally funded health care program as listed on the Department of Health and Human Services' "List of Excluded Individuals/Entities," the General Services Administration's "Excluded Parties List System," or any similar succeeding governmental list;

(e) Evidence of completion of all communicable disease testing required by the Department and District laws and regulations;

(f) A process by which all staff, as a condition of hiring, shall declare any present or past events that might raise liability or risk management concerns, such as malpractice actions, insurance cancellations, criminal convictions, Medicare/Medicaid sanctions, and ethical violations; and

(g) Evidence that the provider conducts each required screening at the frequency required by District law and regulations, including quarterly exclusion checks and unlicensed employee criminal background checks every four (4) years.

3413.5 Each MHRS provider shall establish and adhere to written job descriptions for all positions, including, at a minimum, the role, responsibilities, reporting relationships, and minimum qualifications for each position. The minimum qualifications for each position shall be appropriate for the scope of responsibility and clinical practice described for each position.

3413.6 Each MHRS provider shall establish and adhere to policies and procedures requiring a periodic evaluation of clinical and administrative staff performance ("Performance Review Policy") that require an assessment of clinical competence and competence in behavioral health issues, as applicable, as well as general organizational work requirements, and an assessment of key functions as described in the job description. The periodic evaluation shall also include an annual individual development plan for each staff member.

3413.7 Each MHRS provider shall establish and adhere to policies and procedures to ensure that clinical staff are licensed, certified (if applicable), or registered (if applicable) and, to the extent required by applicable laws, regulations, work under the supervision of another qualified practitioner ("Supervision and Peer Review Policy"). The Supervision and Peer Review Policy shall:

(a) Include procedures for clinical supervision, which require sufficient clinical supervision conducted by qualified practitioners permitted to supervise per applicable District laws and regulations;

(b) Require personnel files of non-licensed clinical staff and consumers' clinical records to contain evidence that the MHRS provider is observing the requirements of the Supervision and Peer Review Policy; and

(c) Include an active peer review process to monitor quality of care delivered by qualified practitioners and credentialed staff.

3413.8 Each MHRS provider shall establish and adhere to policies and procedures governing the credentialing or privileging of staff ("Credentialing Policy") consistent with the Department rules on privileging and competency-based credentialing systems. The Credentialing Policy shall:

(a) Allow staff who do not possess college degrees to be credentialed for direct service work, based on educational equivalent qualifications. These qualifications include experience that provides an individual with an understanding of mental illness, and which was acquired as an adult: (1) through personal experience with the mental health treatment system, or (2)

through the provision of significant supports to adults with mental illness, or children and youth with mental health problems or with serious emotional disturbance;

(b) Facilitate the employment of persons in recovery as peer counselors and members of community support teams; and

(c) Include an assessment of qualified practitioners' cultural and linguistic competence.

3413.9 Each MHRS provider shall have annual training that meets the federal Occupational Safety & Health Administration ("OSHA") regulations that govern behavioral health facilities and any other applicable infection control guidelines, including information on the use of universal precautions and on reducing exposure to hepatitis, tuberculosis, and HIV/AIDS.

3413.10 A provider shall have a current written plan for staff development and organizational onboarding, approved by the Department, which reflects the training and performance improvement needs of all employees working in that program. The plan shall address the steps the provider will take to ensure the recruitment and retention of highly qualified employees and the reinforcement of staff development through training, supervision, the performance management process, and activities such as shadowing, mentoring, skill testing, and coaching. The plan shall at a minimum include culturally competent training and onboarding activities in the following core areas:

(a) The provider's approach to addressing treatment or recovery services (as appropriate to certification), including philosophy, goals, and methods;

(b) The staff member's specific job description and role in relationship to other staff;

(c) Emergency preparedness plan and all safety-related policies and procedures;

(d) The proper documentation of services in individual consumer records, as applicable;

(e) Policies and procedures governing infection control, protection against exposure to communicable diseases, and the use of universal precautions;

(f) Laws, regulations and policies governing confidentiality of consumer information and release of information;

(g) Laws, regulations, and policies governing reporting abuse and neglect;

(h) Consumer rights; and

(i) Other trainings, as deemed necessary by the Department.

3413.11 Each MHRS provider shall establish and adhere to policies and procedures defining pre-admission, intake, screening, assessment, referral, transfer, and discharge procedures ("Admission, Transfer, and Discharge Policy") that comply with applicable Federal and District laws and regulations. The policies and procedures shall define the required documentation for screening or assessing consumers for admission to an EBP operated by the provider when the consumer's condition requires a modification in the Plan of Care.

3413.12 Each MHRS provider shall establish and adhere to policies and procedures governing the coordination of the treatment or recovery planning process ("Treatment Planning Policy or Recovery Planning Policy"), including procedures for designing, implementing, reviewing, and revising each consumer's Plan of Care that comply with the requirements of § 3411.

3413.13 Each MHRS provider shall establish and adhere to policies and procedures requiring that treatment be provided in accordance with the applicable service specific standards in this chapter ("Service Specific Policy"). The Service Specific Policy shall:

(a) Address supervision requirements and required caseload ratios that are appropriate to the population served and treatment modalities employed; and

(b) Include a written description of the services offered by the MHRS provider ("Service Description") describing the purpose of the service, the hours of operation, the intended population to be served, recovery modalities provided by the service, treatment or recovery objectives, and expected outcomes.

3413.14 Each MHRS provider shall establish and adhere to policies and procedures governing communication with the consumer's primary care providers ("Primary Care Provider Communication Policy"). The Primary Care Provider Communication Policy shall:

(a) Outline the MHRS provider's interface with primary health care providers, managed health care plans, and other providers of mental health services; and

(b) Describe the MHRS provider's activities which will enhance consumer access to primary health care and the coordination of mental health and primary health care services.

3413.15 Each MHRS provider shall establish and adhere to policies and procedures for handling routine, urgent, and emergency situations ("Unscheduled Service Access Policy"). The Unscheduled Service Access Policy shall:

(a) Include referral procedures to local emergency departments;

(b) Include staff assignment to cover walk-in hours for urgent care;

(c) Include arrangements for access to medication-somatic treatment practitioners and other clinical staff;

(d) Describe the availability of telephone access to an independently licensed qualified practitioner, for the consumer, or other person acting on behalf of the consumer making contact with the MHRS provider;

(e) Describe the availability of timely access to face-to-face crisis support services;

(f) Describe how the MHRS provider will interact and coordinate services with the Department-designated crisis and emergency service; and

(g) Include procedures for triaging consumers who require Crisis/Emergency services or psychiatric hospitalization.

3413.16 Each MHRS provider shall establish and adhere to policies and procedures for clinical record documentation, security, and confidentiality of consumer and family information; clinical records retention, maintenance, purging and destruction; disclosure of consumer and family information; and informed consent that comply with applicable Federal and District laws and regulations ("Clinical Records Policy"). The Clinical Records Policy shall:

(a) Require the MHRS provider to maintain all clinical records in a secured and locked storage area;

(b) Require that the MHRS provider utilize an electronic health records system to document all phases of the consumer's treatment and care. The MHRS provider shall comply with applicable Department policies on use and maintenance of an electronic health records system;

(c) Require the MHRS provider to maintain all clinical records for a period of ten (10) years;

(d) Require the MHRS provider to maintain and secure a current, clear, organized, and comprehensive clinical record for every individual assessed, treated, or served that includes information deemed necessary to provide

treatment, protect the MHRS provider, and comply with applicable Federal and District laws and regulations; and

(e) Require that the clinical record contain information to identify the consumer, support the diagnosis, justify the treatment, document the course and results of treatment, and facilitate continuity of care. The clinical record shall include, at a minimum:

(1) Consumer identification information, including enrollment information;

(2) Identification of a person to be contacted in the event of emergency;

(3) Basic screening and intake information;

(4) Documentation of internal or external referrals;

(5) Comprehensive diagnostic and psychosocial assessments;

(6) Pertinent medical information including the name, address, and telephone number of the consumer's primary care physician;

(7) Advance instructions and advance directives;

(8) The Plan of Care;

(9) For children and youth, documentation of family or legal guardian involvement in treatment planning and services or statement of reasons why it is not clinically indicated;

(10) Methods for addressing consumers' and families' special needs, especially those which relate to communication, cultural, linguistic, and social factors;

(11) Detailed description of services provided;

(12) Progress notes;

(13) Discharge planning information;

(14) Appropriate consents for service;

(15) Appropriate release of information forms; and

(16) Signed Consumer Rights Statement.

(f) Electronic records shall include a log function that dates, times, and authenticates each entry, access, and change to a record.

3413.17 Each MHRS provider shall participate in the District Health Information Exchange (HIE).

3413.18 Each MHRS provider shall comply with the Department's policy on supervision, including requirements for the documentation of supervision.

3413.19 Each MHRS provider shall enter encounter notes into the clinical record with sufficient written clinical documentation to support each therapy, service, activity, or session for which billing is made which, at a minimum, consists of:

(a) A dated, timed, and authenticated entry, entered by the person providing the service, which shall include the typed or legibly printed name of the author. The provider shall ensure all entries are authenticated by a process that verifies the author's identity (*e.g.*, a unique log-in used only by the author);

(b) The date and duration [actual time, a.m. or p.m. (beginning and ending)] during which the services were rendered;

(c) The legal name, title, credentials, and signature of the person providing the services;

(d) The setting in which the services were rendered;

(e) The consumer's diagnosis and clinical impression recorded in the terminology of the ICD-10 CM (or any subsequent version adopted by the Department pursuant to written notice published in the *District of Columbia Register*);

(f) Confirmation that the services delivered are contained in the consumer's Plan of Care;

(g) A description of each service by a qualified practitioner or credentialed staff with the consumer that is sufficient to document that the service was provided in accordance with this chapter;

(h) A description of the consumer's response to the service that is sufficient to show, particularly in the case of group interventions, the consumer's unique participation in the service; and

(i) An easily accessible log identifying a complete history for each entry, including when the record was created, signed, and the time and dates of any subsequent access and amendments.

3413.20 Each MHRS provider shall ensure that all clinical records of consumers are completed promptly, filed, and retained in accordance with the MHRS provider's Clinical Records Policy.

3413.21 All CSA, ACT, and CBI providers shall operate an on-call system for enrolled consumers that is available twenty-four (24) hours a day, seven (7) days a week. Providers shall make the following services available five (5) days per week from 9:00 am to 6:00 pm, in the evening by appointment, and at least once a month on a Saturday for four (4) hours: Diagnostic Assessment, Medication/Somatic treatment, Counseling, and Community Support.

3413.22 Providers who deliver the following specialty services shall make their services available as follows:

MHRS SPECIALTY SERVICE	HOURS OF OPERATION	OTHER AVAILABILITY REQUIREMENTS
Crisis/Emergency Services	Twenty-four (24) hours per day, seven (7) days per week	Psychiatric consultation shall be available twenty-four (24) hours per day, seven (7) days per week.
Rehabilitation Day Services	Thirty (30) hours per week, no less than six (6) hours per day	Consumers authorized and referred for service shall be admitted within seven (7) business days of the referral from the CSA.
Intensive Day Treatment	Seven (7) days per week, no less than five (5) hours per day	Programs shall offer a minimum of thirty-five (35) hours of active programming per week. Consumers authorized and referred for Intensive Day Treatment shall be admitted within forty-eight (48) hours of referral by a CSA.

MHRS SPECIALTY SERVICE	HOURS OF OPERATION	OTHER AVAILABILITY REQUIREMENTS
Community Based Intervention	Levels I, II, III and IV - Twenty-four (24) hours per day, seven (7) days per week	Consumers authorized and referred for all levels of CBI shall be admitted within forty-eight (48) hours of referral by a CSA. A CBI Team member shall respond to a call from a family member or a significant other, either by telephone or face-to-face contact, within sixty (60) minutes of receiving the call. All CBI providers shall develop a crisis intervention plan for each consumer receiving CBI. Level IV providers shall develop a crisis intervention plan for after-hours response, which shall include a Mobile Crisis Response Team.
Assertive Community Treatment	Twenty-four (24) hours per day, seven (7) days per week, with emergency response coverage to include psychiatric availability	Consumers authorized and referred for ACT shall be admitted within forty-eight (48) hours of referral by a CSA. At least sixty percent (60%) of ACT Services shall be provided in locations other than the office, according to consumer need, preference, and clinical appropriateness. An ACT team member shall respond to a call from family or a significant other, either by telephone or face-to-face contact within sixty (60) minutes of receiving the call.

3413.23 Each MHRS provider shall establish and adhere to policies and procedures requiring the MHRS provider to make language access services available at no cost as needed for Limited or Non-English proficient consumers, ("Language Access Policy"). The Language Access Policy shall:

(a) Document primary language information in a consumer's clinical record at the point of entry, if known, with notations on how to engage the person in communication if unknown;

(b) Arrange for the provision of language access services at no cost to Limited or Non-English proficient consumers;

(c) Ensure public notices regarding language access services are posted in regularly encountered waiting rooms, reception areas, and other areas of initial contact.

(d) Ensure that the public is aware of language interpretation services;

(e) Provide a quarterly report on the number of enrolled consumers who receive language access services to the DBH Language Access Coordinator. The information shall include the following information:

(1) The number of individuals who have Limited or Non-English proficiency, and the languages spoken;

(2) The frequency with which Limited or Non-English proficient consumers come into contact with the provider;

(3) The number and types of languages spoken by agency staff.

(f) Provide annual training to all public access staff on how to provide ongoing language services; and

(g) Ensure immediate notification of the DBH Language Access Coordinator when unable to meet language access needs.

3413.24 The Language Access Policy shall allow staff and contractors who do not possess valid certification from the Registry of Interpreters for the Deaf to be credentialed based on skills in mental health interpreting gained through supervised experience. For purposes of this rule, supervised experience shall include supervision by an interpreter certified by the National Registry of Interpreters for the Deaf and ongoing training in sign language interpreting, preferably related to mental health, and may include on-the-job learning prior to employment by the MHRS provider.

3413.25 Each MHRS provider shall utilize a TTY communications line (or an equivalent) to enhance the MHRS provider's ability to respond to service requests and needs of consumers and potential consumers. MHRS provider staff shall be trained in the use of such communication devices as part of the annual language access training.

3413.26 Each MHRS provider shall establish and adhere to policies and procedures which govern the provision of services in natural settings ("Natural Settings Policy"). The Natural Settings Policy shall require the MHRS provider to document how it respects consumers' and families' rights to privacy and confidentiality when services are provided in natural settings.

3413.27 Each MHRS provider shall establish and adhere to anti-discrimination policies and procedures relative to hiring, promotion, and provision of services to consumers that comply with applicable Federal and District laws and regulations ("Anti-Discrimination Policy").

3413.28 Each MHRS provider shall establish a quality improvement program ("QI program") and adhere to policies and procedures governing quality improvement ("Quality Improvement Policy"). The Quality Improvement Policy shall require the MHRS provider to adopt a written Quality Improvement ("QI") plan describing the objectives and scope of its QI program and requiring MHRS provider staff, consumer, and family involvement in the QI program. The Department shall review and approve each MHRS provider's QI program at a minimum as part of the certification process. The QI program shall submit data to the Department, upon request. The QI program shall be:

(a) Directed by a coordinator ("QI Coordinator") who has direct access to the Chief Executive Officer or Program Director, if applicable. In addition to directing the QI program's activities, the QI Coordinator shall also review unusual incidents, deaths, and other sentinel events; monitor and review utilization patterns; and track consumer complaints and grievances. The QI Coordinator shall be:

(1) An individual licensed as one of the following practitioner types: Psychiatrist, Psychologist, Licensed Independent Clinical Social Worker ("LICSW"), Advanced Practice Registered Nurse ("APRN"), Licensed Professional Counselor ("LPC"), Licensed Marriage and Family Therapist ("LMFT"), Registered Nurse ("RN"), Licensed Independent Social Worker ("LISW"), Licensed Graduate Professional Counselors ("LGPC"), Licensed Graduate Social Worker ("LGSW"), or Physician Assistant under the supervision of a psychiatrist; or registered as a Psychology Associate; or

(2) An individual with a Bachelors' Degree and a minimum of two (2) years of relevant, qualifying experience, such as experience in behavioral health care delivery or health care quality improvement initiatives.

(b) The QI program shall measure and ensure at least the following:

(1) Timely access to and availability of services;

(2) Adequacy, appropriateness, and quality of care, including treatment and prevention of acute and chronic conditions;

(3) Close monitoring of high-volume services, consumers with high risk conditions, and services for children and youth;

(4) Coordination of care among behavioral health treatment providers, and between behavioral health providers and primary and other specialty care providers;

(5) Compliance with all MHRS certification standards;

(6) Consumer and family satisfaction with services; and

(7) Any other indicators that are part of the Department QI program for the larger system.

3413.29 Each MHRS provider shall comply with the following requirements for facilities management:

(a) Each service site of an MHRS provider shall be an adequate and appropriate facility with:

(1) A reception area;

(2) Consumer interview rooms for private, confidential individual and group counseling sessions and private areas for other individual treatment services;

(3) Appropriate space for group activities and educational programs; and

(4) Restrooms available to consumers and their families and significant others.

(b) All areas of the MHRS provider's service site(s) shall be kept clean and safe, and shall be appropriately equipped and furnished for the services delivered.

(c) In-office waiting time shall be less than one (1) hour from the scheduled appointment time. Each MHRS provider shall demonstrate that it can document the time period for in-office waiting.

(d) Each MHRS provider shall comply with applicable provisions of the Americans with Disabilities Act in all business locations.

(e) Each MHRS provider's main service site shall be located within reasonable walking distance of public transportation.

(f) Each MHRS provider shall establish and adhere to a written evacuation plan to be used in fire, natural disaster, medical emergencies, bomb threats, terrorist attacks, violence in the workplace, or other disaster events for all service sites ("Disaster Evacuation Plan").

(g) The Disaster Evacuation Plan shall require the MHRS provider:

(1) To conduct periodic disaster evacuation drills;

(2) Ensure that all evacuation routes are clearly marked by lighted exit signs; and

(3) Ensure that all staff participate in annual training about the Disaster Evacuation Plan and disaster response procedures.

(h) Each MHRS provider shall obtain a written certificate of compliance from the District of Columbia Department of Fire and Emergency Medical Services indicating that all applicable fire and safety code requirements have been satisfied.

(i) Each MHRS provider shall provide physical facilities for all service site(s) that are structurally sound and meet all applicable Federal and District laws and regulations for construction, safety, sanitation, and health.

(j) Each MHRS provider shall establish and adhere to policies and procedures governing infection control ("Infection Control Policy"). The Infection Control Policy shall comply with applicable Federal and District laws and regulations, including, but not limited to the blood borne pathogens standard set forth in 29 CFR § 1910.1030.

(k) Each MHRS provider shall establish and adhere to policies and procedures governing the purchase, receipt, storage, distribution, return, and destruction of medication that include accountability for and security of medications located at any of its service sites ("Medication Policy"). The Medication Policy shall comply with applicable Federal and District laws and regulations regarding the purchase, receipt, storage, distribution, dispensing, return, and destruction of medications and require the MHRS provider to maintain all medications and prescription blanks in a secured and locked area.

3413.30 Each MHRS provider shall have established by-laws or other legal documentation regulating the conduct of its internal financial affairs. This documentation shall clearly identify the individual(s) that are legally responsible for making financial decisions for the MHRS provider and the scope of such decision-making authority. Each MHRS provider shall:

(a) Maintain an accounting system that conforms to generally accepted accounting principles, provides for adequate internal controls, permits the development of an annual budget, an audit of all income received, and an audit of all expenditures disbursed by the MHRS provider in the provision of services;

(b) Have an internal process for the development of interim and annual financial statements that compares actual income and expenditures with budgeted amounts, accounts receivable, and accounts payable information; and

(c) Operate in accordance with an annual budget established by its governing authority.

3413.31 Each MHRS provider shall establish and adhere to policies and procedures governing the retention, maintenance, purging and destruction of its business records ("Records Retention Policy"). The Records Retention Policy shall:

(a) Comply with applicable Federal and District laws and regulations;

(b) Require the MHRS provider to maintain all business records pertaining to costs, payments received and made, and services provided to consumers for a period of ten (10) years or until all audits are completed, whichever is longer; and

(c) Require the MHRS provider to allow the Department, DHCF, the District's Inspector General, the United States Department of Health and Human Services, the Comptroller General of the United States, or any of their authorized representatives to review the MHRS provider's business records, including clinical and financial records.

3413.32 Each MHRS provider shall comply with the following requirements for maintaining certification, provider status, and contracts:

(a) Maintain proof of the Department certification;

(b) Maintain an active Medicaid provider status at all times;

(c) Maintain copies of contracts with the Department, vendors, suppliers, and independent contractors; and

(d) Require that its subcontractors continuously comply with the provisions of the MHRS provider's HCA with the Department.

3413.33 Each MHRS provider, at its expense, shall:

(a) Obtain at least the minimum insurance coverage required by its HCA; and

(b) Make evidence of its insurance coverage available to the Department upon request.

3413.34 Each MHRS provider shall establish and adhere to policies and procedures governing billing and payment for MHRS ("Billing and Payment Policy"). The Billing and Payment Policy shall require the MHRS provider to have the necessary operational capacity to submit claims, document information on services provided, and track payments received. This operational capacity shall include the ability to:

(a) Verify eligibility for Medicaid and other third-party payers;

(b) Document MHRS provided by MHRS provider staff and subcontractors;

(c) Submit claims and documentation of MHRS on a timely basis with applicable DBH and DHCF requirements; and

(d) Track payments for all provided MHRS.

3413.35 Each MHRS provider shall submit claims for MHRS provided to consumers described in § 3407.2 to the Department within ninety (90) calendar days of the date of service, or thirty (30) calendar days after a secondary or third-party payer has adjudicated a claim for this service. The Department shall not pay for a claim that is submitted more than one (1) year from the date of service, except when Federal law or regulations would require such payment to be made.

3413.36 Each MHRS provider shall have an established sliding fee schedule covering each of the MHRS it provides. For services provided to Medicaid-eligible consumers, no additional charge shall be imposed for services beyond that paid by Medicaid.

3413.37 Each MHRS provider shall utilize, and require its subcontractors to utilize, payments from other public or private sources, including Medicare. Payment of the Department and Federal funds to the MHRS provider shall be conditional upon the utilization of all benefits from other payment sources.

3413.38 Each MHRS provider shall operate according to all applicable Federal and District laws and regulations relating to fraud, waste, and abuse in health care, the provision of mental health services, and the Medicaid program. An MHRS provider's failure to report potential or suspected fraud, waste or abuse may result in sanctions, cancellation of contract, or exclusion from participation as an MHRS provider. Each MHRS provider shall:

(a) Cooperate and assist any District or Federal agency charged with the duty of identifying, investigating, or prosecuting suspected fraud, waste or abuse;

(b) Provide the Department with regular access to the provider's medical and billing records, including electronic medical records, within twenty-four (24) hours of a Departmental request, or, immediately in the case of emergency;

(c) Be responsible for promptly reporting suspected fraud, waste, or abuse to the Department, taking prompt corrective actions consistent with the terms of any contract or subcontract with the Department, and cooperating with DHCF or other governmental investigations; and

(d) Ensure that none of its practitioners have been excluded from participation as a Medicaid or Medicare provider. If a practitioner is determined to be excluded by the Center for Medicare and Medicaid Services ("CMS"), the provider shall notify the Department immediately.

3413.39 Each MHRS provider shall establish and adhere to a plan for ensuring compliance with applicable Federal and District laws and regulations ("Corporate Compliance Plan"), approved by the Department. Each MHRS provider shall submit any updates or modifications to its Corporate Compliance Plan to the Department for prior review and approval. Each MHRS provider's Corporate Compliance Plan shall:

(a) Designate an officer or director with responsibility and authority to implement and oversee the operation of the Corporate Compliance Plan;

(b) Require that all officers, directors, managers, and employees sign a statement that they understand the Corporate Compliance Plan;

(c) Include procedures designed to prevent and detect potential or suspected fraud, waste, or abuse in the administration and delivery of MHRS;

(d) Include procedures for the confidential reporting of violations of the Corporate Compliance Plan to the Department, including procedures for the investigation and follow-up of any reported violations;

(e) Ensure that the identities of individuals reporting suspected violations of the Corporate Compliance Plan are protected and that individuals reporting suspected violations, fraud, waste, or abuse are not retaliated against;

(f) Require that confirmed violations of the Corporate Compliance Plan be reported to the Department within twenty-four (24) hours of confirmation; and

(g) Require any confirmed or suspected fraud, waste, or abuse under state or Federal laws or regulations be reported to the Department.

3413.40 Each MHRS provider shall ensure that sufficient resources (*e.g.*, personnel, hardware, or software) are available to support the operations of computerized systems for collection, analysis, and reporting of information, along with claims submission.

3413.41 Each MHRS provider shall have the capability to submit accurate claims, encounter data, and other submissions as necessary directly to the Department.

3413.42 Claims for MHRS provided to consumers described in § 3407.2 shall be submitted using the format required by the Department.

3413.43 Each MHRS provider shall manage protected health information in compliance with the confidentiality requirements contained in applicable Federal and District laws and regulations, including Health Insurance Portability and Accountability Act (HIPAA) and the D.C. Mental Health Information Act. The provider shall develop and implement policies and procedures to disclose protected behavioral health information to other certified providers, primary health care providers, and other health care organizations when necessary to coordinate the care and treatment of its consumers. These procedures shall include entering into an agreement with the District HIE, unless exempted pursuant to § 3402.1. The program shall advise each consumer of the program's notice of privacy practices that authorizes the disclosure to other providers and shall afford the consumer the opportunity to opt-out of that disclosure in accord with the District of Columbia Mental Health Information Act, D.C. Official Code § 7-1203.01. The program shall document the individual's decision.

3413.44 Each MHRS provider shall establish and adhere to a plan that contains policies and procedures for maintaining the security of data and information ("Disaster Recovery Plan"). Each MHRS provider's Disaster Recovery Plan shall also stipulate back-up and redundant systems and measures that are designed to prevent the loss of data and information and to enable the recovery of data and information lost due to disastrous events.

3414 CORE SERVICES AGENCY REQUIREMENTS

3414.1 Each CSA shall comply with the certification standards described in § 3413, the service specific standards applicable to core services, and the certification standards set forth in this section, as well as the other certification standards in this chapter.

3414.2 Each CSA shall:

(a) Serve as the clinical home for the consumers it enrolls;

(b) Be responsible for ensuring that Plans of Care are developed and approved for its enrolled consumers; and

(c) Provide clinical management for its enrolled consumers.

3414.3 Each CSA shall satisfy the following minimum staffing requirements:

(a) A Chief Executive Officer with professional qualifications and experience who meets the requirements established by the MHRS provider's governing authority. The Chief Executive Officer shall be charged with responsibility for day-to-day management of the CSA, and shall be a full-time employee devoting at least twenty (20) hours a week to administrative and management functions of the CSA;

(b) A Medical Director who is a board-eligible psychiatrist, responsible for the quality of medical and psychiatric care provided by the MHRS provider. A child and youth-serving CSA may have a staff or consulting board-eligible child psychiatrist or a staff board-eligible psychiatrist with substantial child and adolescent experience as its Medical Director;

(c) A full-time Clinical Director who is an independently licensed qualified practitioner with an appropriate, relevant behavioral health advanced degree, with overall responsibility for oversight of the clinical program of the MHRS provider. The Clinical Director may also serve as the Medical Director if the Clinical Director is a board-eligible psychiatrist;

(d) A Controller, Chief Financial Officer, or designated individual responsible for executing or overseeing the financial operations of the MHRS provider. The designated financial officer shall have a Bachelors' Degree plus two (2) years of fiscal experience and may also oversee administrative operations and information services;

(e) A medical records administrator responsible for the following:

(1) Ongoing quality control of clinical documentation;

(2) Assuring that clinical records are maintained, completed, and preserved in accordance with the MHRS provider's Clinical Records Policy;

(3) Assuring that information on enrolled consumers is immediately retrievable; and

(4) Establishing a central records index for the MHRS provider.

3414.4 The CSA shall have an annual audit by an independent certified public accountant or a certified public accounting firm in accordance with generally accepted auditing standards. The resulting financial audit report shall be consistent with formats recommended by the American Institute of Public Accountants. The CSA shall

submit a copy of the financial audit report to the Department within one hundred and twenty (120) calendar days after the end of the provider's fiscal year.

3414.5 Each CSA shall comply with the following requirements regarding clinical operations:

(a) The CSA shall accommodate consumer preferences and needs with respect to primary staff and team representation.

(b) The consumer and the assigned CSA staff shall be responsible for the development and periodic review of the consumer's Plan of Care and for the coordination the delivery of all MHRS received by the consumer.

(c) The signing independently licensed qualified practitioner shall be primarily responsible for assuring that the Plan of Care assists the consumer in developing self-care skills and achieving recovery.

(d) Each CSA shall establish and adhere to policies and procedures governing its relationship with subcontractors ("Subcontractor Policy") in compliance with Federal and District laws and regulations. The Subcontractor Policy shall address, at a minimum, access to records, clinical responsibility and supervision, legal liability, and insurance and dispute resolution.

(e) Each CSA shall establish and adhere to policies and procedures governing the means by which family education and support will be offered and provided ("Consumer and Family Education Policy"). The Consumer and Family Education Policy shall require, at a minimum, the following:

(1) The CSA shall make family education and support available for all consumer families;

(2) Family education and support shall include general information about mental health and psychiatric illness;

(3) For adult consumers, a provider shall only disclose information about a consumer with the consent of the consumer. In the case of child, the provider shall only disclose information about a consumer with the consent of the parent or guardian in accordance with the CSA's Release of Consumer Information Policy;

(4) The availability of appointments for family members to meet with staff and availability of family support and education groups to be scheduled at times convenient for the family; and

(5) In written materials and face-to-face contacts provide information about available and needed services, as well as how the consumer

may access Crisis/Emergency Services. The materials shall be written at the 4th grade reading level and shall be printed in English and either Spanish or the secondary language conducive to facilitating communication with the majority of the CSA's target population.

3414.6 Each CSA shall comply with the following requirements regarding service accessibility:

(a) Each CSA shall operate an on-call system for its enrolled consumers twenty-four (24) hours per day, seven (7) days per week, to respond to urgent, emergency, and routine situations ("CSA On-Call System").

(b) Each CSA shall establish and adhere to policies and procedures governing the operation of its On-Call System ("On-Call System Policy"). The On-Call System Policy shall require the CSA to provide:

(1) Telephone access to an independently licensed qualified practitioner for consumers and their significant others to resolve problems telephonically, when possible;

(2) Timely access to an independently licensed qualified practitioner in order to provide any needed crisis support services, to include face-to-face interventions; and

(3) Linkage to Crisis/Emergency Services, including crisis stabilization services and "next day" appointments to assist the consumer to address urgent problems during the next business day.

(c) Each CSA shall, at a minimum, offer the core services as specified in § 3417.2. A CSA shall provide at least one (1) core service directly and may provide up to three (3) core services via contract with a sub-provider or subcontractor. A CSA may provide specialty services directly if certified by the Department as a specialty provider.

(d) Each CSA shall ensure that its business hours comply with the requirements of § 3413.21 and facilitate each enrolled consumer's ability to choose an MHRS provider.

(e) Each CSA shall provide a consumer presenting with an urgent need with an independently licensed qualified practitioner for an intervention which may include face-to-face contact on the same day that the consumer presents for service.

(f) Each potential consumer presenting with a routine need shall be provided an intake appointment by a CSA within seven (7) business days of presentation for service.

(g) Each CSA shall have policies and procedures for the provision of outreach services, including means by which these services and individuals will be targeted ("Outreach Policy"). The Outreach Policy shall include procedures for protecting the safety of staff who engage in outreach activities.

(h) Each CSA shall educate consumers on EBPs and document consumers' receipt of this information.

3414.7 Each CSA shall comply with the requirements for assessment and referral for Mental Health Supported Employment services and integration of Employment Specialists into the CSA's treatment team, in accordance with the requirements set forth in 22-A DCMR Chapter 37.

3414.8 Each CSA shall make a play area available for children in the waiting room area.

3414.9 Each CSA shall be responsible for submitting enrolled consumers' clinical information to the Department upon request to receive and maintain authorization for medically necessary services.

3414.10 The Department shall review and approve each CSA's Subcontractor Policy, Consumer and Family Education Policy, On-Call System Policy, Outreach Policy, Quality Improvement Policy, and Evidence-Based Practices Information Policy as part of the certification process.

3414.11 All MHRS providers certified for ACT, CPP-FV, Functional Family Therapy, Multisystemic Therapy, Community Based Intervention Level II and III, TF-CBT, and TST shall obtain the Department's approval to add teams supported through an HCA. Providers shall submit a written request which must include the staffing patterns, including supervisors, training plan and/or dates, staff-to-consumer ratio, and new capacity for the entire team including the new addition.

3415 SUB-PROVIDER AND SPECIALTY PROVIDER REQUIREMENTS

3415.1 Each sub-provider and specialty provider shall comply with the certification standards described in § 3413, the service specific standards applicable to the MHRS offered by the sub-provider or specialty provider, and the other certification standards in this chapter.

3415.2 Each sub-provider and specialty provider shall establish and adhere to policies and procedures ("CSA Referral Policy") governing its relationship with a CSA that address access to records, clinical responsibilities, legal liability, dispute resolution, and all other MHRS certification standards.

3415.3 Sub-providers shall provide one (1) or more of the core services only through a written agreement with a CSA. Sub-providers shall ensure consumers are enrolled with a CSA.

3415.4 Except for the provision of ACT, CBI, or Clubhouse services, specialty providers shall ensure consumers are enrolled with a CSA.

3415.5 Each specialty provider shall screen and assess consumers for EBP as appropriate and applicable, and shall refer them to services as necessary. Each specialty provider shall have an Evidence-Based Practices Information Policy, which includes how providers shall:

(a) Screen and document screening consumers for EBP;

(b) Describe the process of referring and linking consumers to another provider using a warm handoff, if the specialty provider does not render the appropriate EBP; and

(c) Collaborate with the CSA to ensure there are periodic assessments for the need for EBP.

3415.6 Each sub-provider and specialty provider shall satisfy the following minimum staffing requirements:

(a) A Chief Executive Officer or Program Director with professional qualifications and experience who shall meet requirements as established by the MHRS provider's governing authority and is responsible for day-to-day management of the MHRS provider;

(b) A sub-provider or specialty provider who provides Rehabilitation Day services shall also have a Consulting Psychiatrist who is a board-eligible psychiatrist and advises the sub-provider or specialty provider on the quality of medical and psychiatric care provided;

(c) A Clinical Director who is an independently licensed qualified practitioner with overall responsibility for oversight of the clinical program of the sub-provider or specialty provider. If not full-time, the Clinical Director must dedicate sufficient time to execute the duties of the position;

(d) Each sub-provider who provides either Diagnostic Assessment or Medication/Somatic Treatment shall demonstrate adequate oversight of quality of medical and psychiatric care by employing or contracting with a Medical Director or arranging for the Medical Director of the consumer's CSA to provide such oversight; and

(e) The required staff listed in this subsection shall be either employees of the sub-provider or specialty provider or under contract to the sub-provider or specialty provider for an amount of time sufficient to carry out the duties assigned.

3415.7 Each sub-provider and specialty provider shall establish and adhere to policies and procedures governing its collaboration with a referring CSA in the development, implementation, evaluation, and revision of each consumer's Plan of Care, that comply with the Department rules (Collaboration Policy). The Collaboration Policy shall:

(a) Be a part of each sub-provider and specialty provider's Treatment Planning Policy;

(b) Require sub-providers and specialty providers to incorporate CSA-developed Diagnostic Assessment material into the sub-provider and specialty provider's treatment planning process, including the use of EBP as an intervention; and

(c) Require sub-providers and specialty providers to coordinate the consumer's treatment with the consumer's CSA assigned staff.

3415.8 Each sub-provider shall offer core services in accordance with requirements in § 3413.21. At a minimum, the sub-provider shall offer services during these hours at its primary service site.

3415.9 At a minimum, each specialty provider shall offer access to specialty services in accordance with requirements in § 3413.22.

3415.10 Each sub-provider and specialty provider with total annual revenues at or exceeding three hundred thousand dollars ($300,000.00) shall have an annual audit by an independent certified public accountant or certified public accounting firm in accordance with generally accepted auditing standards. The resulting financial audit report shall be consistent with formats recommended by the American Institute of Public Accountants. Each sub-provider and specialty provider shall submit a copy of the financial audit report to the Department within one hundred and twenty (120) calendar days after the end of its fiscal year.

3415.11 Each sub-provider and specialty provider with total annual revenues less than three hundred thousand dollars ($300,000.00) shall submit financial statements reviewed by an independent certified public accountant or certified public accounting firm within one hundred twenty (120) calendar days after the end of its fiscal year.

3415.12 Each sub-provider and specialty provider shall only provide MHRS to consumers as specified in the consumers' Plans of Care as designated by the consumers' CSA.

3415.13 The Department shall review and approve the CSA Referral Policy, Collaboration Policy, and the Evidence-Based Programs Information Policy during the certification process.

3416 QUALIFIED PRACTITIONERS AND CREDENTIALED STAFF

3416.1 Qualified practitioners and credentialed staff are individuals permitted to provide MHRS, as identified in this section; the applicable service specific standards; and any other applicable standards in this chapter.

3416.2 Qualified practitioners are behavioral health clinicians appropriately licensed or registered in the District or jurisdiction where services are delivered, and who practice within the scope of their license or certification. Applicable laws and regulations dictate whether, and to what extent, a qualified practitioner:

(a) Is subject to supervision requirements when providing MHRS; and

(b) May supervise other qualified practitioners or credentialed staff in the provision of MHRS.

3416.3 Credentialed staff are non-licensed staff or staff who are not qualified practitioners who are permitted to provide MHRS or components of MHRS if under the supervision of an appropriate qualified practitioner in accordance with applicable laws and regulations.

3416.4 For the purposes of this chapter:

(a) A psychiatrist shall be a:

(1) Licensed physician who is at a minimum a board-eligible psychiatrist;

(2) Psychiatric resident providing care in an approved clinical rotation; or

(3) Moonlighting psychiatric resident.

(b) An APRN shall:

(1) Have psychiatry as a specialty area of practice;

(2) Work in a collaborative protocol with a psychiatrist; or

(3) Demonstrate proficiency in mental health, by having at least five (5) years of experience in psychiatric care delivery.

3416.5 A psychiatric resident is a medical school graduate from a program that meets the standards for medical education found in 17 DCMR § 4602, and who:

(a) Has completed at least one year of a psychiatric residency program that satisfies the requirements of 17 DCMR § 4611.4;

(b) Is supervised by a licensed psychiatrist who satisfies the requirements of 17 DCMR § 4611.4; and

(c) Complies with the standards of conduct for licensed physicians found in 17 DCMR § 4612.

3416.6 A moonlighting psychiatric resident is a medical school graduate who:

(a) Satisfies all of the requirements of § 3416.5; and

(b) Is working under the supervision of the Medical Director or Consulting Psychiatrist of a certified MHRS provider in accordance with protocols approved by the Department's Chief Clinical Officer.

3417 COVERED MHRS

3417.1 The service specific standards described in this section apply to the individual MHRS offered by each MHRS provider and reimbursed by the District in accordance with this chapter.

3417.2 Covered core services shall be Diagnostic Assessment, Medication/Somatic Treatment, Counseling, and Community Support.

3417.3 Covered specialty services shall be Crisis/Emergency Services, Rehabilitation Day Services, Intensive Day Treatment, CBI, ACT, Psychosocial Rehabilitation Clubhouse, CPP-FV, TF-CBT, TREM, and TST.

3418 DIAGNOSTIC ASSESSMENT

3418.1 A Diagnostic Assessment is an intensive clinical and functional evaluation of a consumer’s mental health condition that results in the issuance of a Diagnostic Assessment report, including a clinical formulation, with recommendations for service delivery that provides the basis for and includes the development of a Plan of Care. A psychiatrist shall supervise and coordinate all psychiatric and medical functions required by a consumer’s Diagnostic Assessment.

3418.2 A Diagnostic Assessment shall:

(a) Determine whether the consumer is appropriate for and can benefit from MHRS based upon the consumer's diagnosis, presenting problems, and recovery goals;

(b) Evaluate the consumer's level of readiness and motivation to engage in treatment;

(c) Include the development of a Plan of Care; and

(d) Screen and assess consumers for EBP and Mental Health Supported Employment services as appropriate and applicable.

3418.3 An initial Diagnostic Assessment shall be performed by an independently licensed qualified practitioner for each consumer being considered for enrollment with a CSA.

3418.4 The Diagnostic Assessment shall include the following elements:

(a) A chronological behavioral health history of the consumer's symptoms, treatment, treatment response, and attitudes about treatment and recovery, emphasizing factors that have contributed to or inhibited previous recovery efforts;

(b) For youth and adults, the chronological behavioral health history shall include both psychiatric history and substance use disorder history, treatment history for either or both diagnoses, and the consumer's perception of the outcome;

(c) Biological, psychological, familial, social, and environmental dimensions, and identified strengths and weaknesses in each area;

(d) A description of the presenting problem(s), including source of distress, precipitating events, associated problems or symptoms, and recent progression;

(e) Both a strengths summary and a problem summary, which address the following:

(1) Risk of harm;

(2) Functional status, including relevant emotional and behavioral conditions or complications, and self-control, self-care and interpersonal abilities, coping, and independent living skills;

(3) Co-morbidity, including biomedical conditions and complications;

(4) Recovery environment, including supports and stressors; and

(5) Treatment and recovery history, including relapse potential.

(f) Diagnoses in the DSM-5 or any subsequent version adopted by the Department pursuant to written notice published in the District of Columbia Register;

(g) A review of the consumer's substance use history and presenting problem(s), including an assessment of substances used and intensity of use, the likelihood and severity of withdrawal, and the medical and behavioral risks secondary to intoxication. This review shall identify or exclude substance use disorder as a co-occurring treatment need;

(h) Assessment of the need for psychiatric hospitalization for consumers referred to psychiatric inpatient services to assure that less restrictive alternatives are considered and used when appropriate; and

(i) Evidence of consumer participation and including families' or guardians' participation if appropriate.

3418.5 The Diagnostic Assessment may include psychological testing.

3418.6 Following the completion of the Diagnostic Assessment, an interpretative clinical summary of findings and recommendations for treatment shall be listed in a Diagnostic Assessment report. A Diagnostic Assessment report shall identify barriers to be addressed during treatment and recovery to reduce or eliminate identified deficits.

3418.7 The independently licensed qualified practitioner that performed the Diagnostic Assessment shall complete the Diagnostic Assessment report no later than ten (10) business days after completing the Diagnostic Assessment. The results of the Diagnostic Assessment shall be incorporated into the Plan of Care.

3418.8 A qualified practitioner shall convene the consumer, and the consumer's family and significant others, if appropriate, to review the Diagnostic Assessment report and develop the Plan of Care.

3418.9 One (1) Diagnostic Assessment shall be allowable every one hundred and eighty (180) calendar days. Additional units of Diagnostic Assessment shall be allowable with prior authorization by the Department when there is a significant change in the consumer's mental health status.

3418.10 Diagnostic Assessment shall not be billed on the same day as ACT.

3418.11 Diagnostic Assessment services shall be provided:

(a) At the MHRS provider's service site;

(b) In natural settings, including the consumer's home or community setting; or

(c) In a residential facility of sixteen (16) beds or less unless otherwise stated by the Department.

3418.12 Qualified practitioners of Diagnostic Assessment permitted to both diagnose and assess are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs; and

(d) APRNs working in a collaborative protocol with a psychiatrist.

3418.13 Individuals who may provide assessment and treatment planning services as part of a Diagnostic Assessment, but who may not diagnose, are:

(a) The following qualified practitioners:

(1) RNs;

(2) LISWs;

(3) LPCs; and

(b) Credentialed staff under the supervision of a qualified practitioner permitted to diagnose mental illness.

3419 MEDICATION/SOMATIC TREATMENT

3419.1 Medication/Somatic Treatment services are medical services and interventions, including physical examinations; prescription, supervision, or administration of mental-health related medications; monitoring and interpreting results of laboratory diagnostic procedures related to mental health-related medications; and medical interventions needed for effective mental health treatment provided as either an individual or group intervention.

3419.2 Medication/Somatic Treatment services include monitoring the side effects and interactions of a consumer's medications and the adverse reactions which a

consumer may experience, and providing education and direction for symptom and medication self-management.

3419.3 Group Medication/Somatic Treatment services shall be therapeutic, educational, and interactive with a strong emphasis on group member selection. These services shall facilitate therapeutic peer interaction and support as specified in the Plan of Care.

3419.4 Each Medication/Somatic Treatment provider shall offer:

(a) A comprehensive psycho-educational program for consumers and families, as appropriate, regarding the consumer's mental illness, emotional disturbance, or behavior disorder; treatment and recovery goals; potential benefits and risk of treatment; and self-monitoring aids; and

(b) Consumer/family groups for education, support, and enhancement of the therapeutic alliance between the consumer and the MHRS provider.

3419.5 Consumers receiving Medication/Somatic Treatment shall participate in a psychoeducational session to discuss medication side effects, adverse reactions to medications, and medication self-monitoring and management.

3419.6 Medication/Somatic Treatment shall be provided with no annual limits on services.

3419.7 Medication/Somatic Treatment shall not be billed on the same day as:

(a) ACT; or

(b) IDT.

3419.8 Medication/Somatic Treatment shall be provided:

(a) At the MHRS provider's service site;

(b) By telemedicine pursuant to 29 DCMR § 910;

(c) In natural settings, including the consumer's home or community setting; or

(d) A residential facility of sixteen (16) beds or less unless otherwise stated by the Department.

3419.9 Qualified practitioners of Medication/Somatic Treatment are:

(a) Psychiatrists;

(b) APRNs working in a collaborative protocol with a psychiatrist; and

(c) RNs.

3420 COUNSELING

3420.1 Counseling services are individual, group, or family face-to-face services for symptom and behavior management; development, restoration, or enhancement of adaptive behaviors and skills; and enhancement or maintenance of daily living skills. Adaptive behaviors and skills, and daily living skills include those skills necessary to access community resources and support systems, interpersonal skills, and restoration or enhancement of the family unit and/or support of the family. Mental health support and consultation services provided to consumer's families are reimbursable only when such services and supports are directed exclusively to the well-being and benefit of the consumer.

3420.2 Counseling services provided in excess of one hundred sixty (160) units within a twelve-month (12-month) period require prior authorization from the Department.

3420.3 Counseling shall not be billed:

(a) On the same day as:

(1) IDT;

(2) CBI;

(3) ACT;

(4) TF-CBT;

(5) TST; or

(b) During a Rehabilitation Day Services encounter.

3420.4 Counseling shall be provided:

(a) At the MHRS provider's service site;

(b) By telemedicine pursuant to 29 DCMR § 910;

(c) In natural settings, including the consumer's home or community setting; or

(d) A residential facility of sixteen (16) beds or less unless otherwise stated by the Department.

3420.5 Qualified practitioners of Counseling are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice;

(e) RNs;

(f) LPCs; and

(g) LISWs.

3420.6 LGSWs and credentialed staff who are behavioral health clinicians licensed by the jurisdiction where services are delivered and who practice within the scope of their license shall be permitted to provide Counseling under supervision of an independently licensed qualified practitioner.

3421 COMMUNITY SUPPORT

3421.1 Community Support services are rehabilitation and environmental supports considered essential to assist the consumer in achieving rehabilitation and recovery goals that focus on building and maintaining a therapeutic relationship with the consumer.

3421.2 Community Support services include but are not limited to:

(a) Participation in the development and implementation of a consumer's Plan of Care;

(b) Assistance and support for the consumer in stressor situations;

(c) Mental health education, support, and consultation to consumers' families and support systems directed exclusively to the well-being and benefit of the consumer;

(d) Individual mental health intervention for the development of interpersonal and community coping skills, including adapting to home, school, and work environments;

(e) Assistance to the consumer in symptom self-monitoring and self-management to identify and minimize the negative effects of psychiatric

symptoms, which interfere with the consumer's daily living, financial management, personal development, or school or work performance;

(f) Assistance to the consumer in increasing social support skills and networks that ameliorate life stresses resulting from the consumer's mental illness or emotional disturbance and which are necessary to enable and maintain the consumer's independent living;

(g) Development of strategies and supportive mental health intervention to avoid out-of-home placement for adults, children, and youth and to build stronger family support skills and knowledge of the adult's, child's, or youth's strengths and limitations;

(h) Development of mental health relapse prevention strategies and plans; and

(i) Assistance with coordination of any substance use disorders, co-occurring disorders, and primary care needs.

3421.3 Community Support services may be provided by a team of staff that is responsible for an assigned group of consumers, or by staff who are individually responsible for assigned consumers.

3421.4 The Community Support provider shall maintain a staff-to-consumer ratio of no less than one (1) staff person for every twenty (20) consumers for children and youth, and one (1) staff person for every forty (40) consumers for adults.

3421.5 Community Support services provided to children and youth shall include coordination with family and significant others and with other systems of care, such as education, managed health plans (including Medicaid managed care plans), juvenile justice, and children's protective services, when appropriate to treatment and recovery needs.

3421.6 Community Support services provided in excess of two hundred (200) units within one hundred and eighty (180) calendar days require prior authorization from the Department. Each subsequent authorization shall not exceed two hundred (200) units within a one hundred and eighty (180) calendar daytime period.

3421.7 Community Support shall not be billed on the same day as ACT.

3421.8 Individual Community Support shall not be billed during a Rehabilitation Day Services encounter.

3421.9 Group Community Support shall not be billed on the same day as Rehabilitation Day Services.

3421.10 Community Support services shall be provided:

(a) At the MHRS provider's service site;

(b) In natural settings, including the consumer's home or community settings; or

(c) In a residential facility of sixteen (16) beds or less unless otherwise stated by the Department.

3421.11 Subsections 3421.3 through 3421.9 shall not apply to Therapeutic Supported Employment services, as defined in 22-A DCMR Chapter 37, which are provided as Community Support services. Therapeutic Supported Employment services are reimbursed pursuant to any applicable authorization requirements and billing limitations set forth in 22-A DCMR Chapter 37.

3421.12 Qualified practitioners of Community Support are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice, working in a collaborative protocol with a psychiatrist, or demonstrated proficiency in mental health by having at least five (5) years of experience in psychiatric care delivery;

(e) RNs;

(f) LPCs; and

(g) LISWs.

3421.13 Credentialed staff shall be permitted to provide Community Support under the supervision of an independently licensed qualified practitioner.

3422 CRISIS/EMERGENCY SERVICES

3422.1 A Crisis/Emergency Service is an immediate response face-to-face or via telephone to an emergency situation involving a consumer with mental illness or emotional disturbance that is available twenty-four (24) hours per day, seven (7) days per week.

3422.2 Crisis/Emergency Services are provided to consumers involved in an active mental health crisis and consist of immediate response to evaluate and screen the

presenting situation, assist in immediate crisis stabilization and resolution, and ensure the consumer's access to care at the appropriate level.

3422.3 The Crisis/Emergency Services provider shall adjust its staffing to meet the requirements for immediate response.

3422.4 Each Crisis/Emergency Services provider shall:

(a) Consult with other service providers, locate other MHRS and resources, and provide written and oral information to assist the consumer in obtaining follow-up MHRS;

(b) Be a certified MHRS provider of Diagnostic Assessment or have an agreement with a CSA as a sub-provider or specialty provider to provide hospital pre-admission screenings; and

(c) Demonstrate the capacity to assure continuity of care for consumers by facilitating follow-up mental health appointments and providing telephonic support until outpatient services occur.

3422.5 Each Crisis/Emergency Services provider shall have waiting, assessment, and treatment areas for children, youth, and families that are separate from the areas for adults.

3422.6 Each Crisis/Emergency Services provider shall establish and adhere to policies, procedures, and staffing sufficient to ensure that all individuals seeking and in need of Crisis/Emergency Services receive face-to-face services within one (1) hour of request or referral ("Crisis/Emergency Staffing Policy"). The Crisis/Emergency Staffing Policy shall:

(a) Require independently licensed qualified practitioners to be available twenty-four (24) hours per day, seven (7) days per week for telephone, face-to-face and mobile interventions for individuals needing crisis services;

(b) Delineate the criteria upon which appropriate venue for service delivery is determined;

(c) Require that backup support for staff who need assistance during an intervention is always available;

(d) Require that all staff receive current training in persuasion, engagement, and de-escalation techniques for disruptive or aggressive acts, consumers, and situations; and

(e) Require all staff to hold current certification in cardiopulmonary resuscitation and first aid.

3422.7 Crisis/Emergency Services shall be provided with no annual limits on services.

3422.8 ACT providers shall not bill Crisis/Emergency Services when provided to one of their current consumers.

3422.9 Crisis/Emergency Services shall be provided:

(a) At the MHRS provider's service site;

(b) By telemedicine pursuant to 29 DCMR § 910; or

(c) In natural settings, including the consumer's home or community settings.

3422.10 Qualified practitioners of Crisis/Emergency Services are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice, working in a collaborative protocol with a psychiatrist, or demonstrated proficiency in mental health by having at least five (5) years of experience in psychiatric care delivery;

(e) LISWs;

(f) LPCs; and

(g) RNs.

3422.11 Credentialed staff shall be permitted to provide Crisis/Emergency Services under the supervision of an independently licensed qualified practitioner.

3423 REHABILITATION DAY SERVICES

3423.1 Rehabilitation Day Services is a structured, clinical program intended to develop skills and foster social role integration through a range of social, psycho-educational, behavioral, and cognitive mental health interventions. Rehabilitation Day Services:

(a) Are curriculum-driven and psycho-educational and assist the consumer in the retention or restoration of independent and community living, socialization, and adaptive skills;

(b) Include cognitive-behavioral interventions and diagnostic, psychiatric, rehabilitative, psychosocial, counseling, and adjunctive treatment; and

(c) Are offered most often in group settings, but may be provided individually.

3423.2 Rehabilitation Day Services shall:

(a) Be founded on the principles of consumer choice and the active involvement of each consumer in their mental health recovery;

(b) Provide both formal and informal structures through which consumers can influence and shape service development;

(c) Facilitate the development of a consumer's independent living and social skills, including the ability to make decisions regarding self-care, management of illness, life, work, and community participation;

(d) Promote the use of resources to integrate the consumer into the community; and

(e) Include education on self-management of symptoms, medications and side effects, the identification of rehabilitation preferences, the setting of rehabilitation goals, and skills teaching and development.

3423.3 Each consumer shall have a person-centered plan that addresses the consumer's needs and progress toward achievement of Rehabilitation Day Services treatment goals.

3423.4 Each Rehabilitation Day Services provider shall provide adequate space, equipment, and supplies to ensure that services can be provided effectively. Rehabilitation Day Services program space and furnishings shall be separate and distinct from other services offered within the same service site(s).

3423.5 Each Rehabilitation Day Services provider shall have policies and procedures included in its Service Specific Policies addressing the provision of Rehabilitation Day Services ("Rehabilitation Day Services Organizational Plan") which includes:

(a) A description of the particular rehabilitation models utilized, types of intervention practiced, and typical daily curriculum and schedule; and

(b) A description of the staffing pattern, including a staffing plan to ensure that the required staff-to-consumer ratios are maintained, and a plan for coverage during unplanned staff absences.

3423.6 Each Rehabilitation Day Services provider shall have a minimum of one (1) full-time equivalent staff for every ten (10) consumers based on average daily attendance.

3423.7 At least one (1) independently licensed qualified practitioner shall be present on site at all times.

3423.8 Each Rehabilitation Day Services provider shall have a clinical supervisor or director who is an independently licensed qualified practitioner on site at least thirty (30) hours per week.

3423.9 Each consumer shall participate in at least three (3) hours of Rehabilitation Day Services per day, excluding adequate time for breaks and administrative functions, for the services to be reimbursable.

3423.10 Rehabilitation Day Services in excess of ninety (90) units within a twelve-month (12-month) period shall require prior authorization from the Department. Each subsequent authorization shall not exceed ninety (90) units within a twelve-month (12-month) period.

3423.11 Rehabilitation Day Services shall not be billed:

(a) On the same day as:

(1) Group Community Support;

(2) ACT;

(3) IDT;

(4) TF-CBT;

(5) TREM;

(6) TST;

(7) Psychosocial Rehabilitation Clubhouse; or

(b) During:

(1) A Counseling encounter; or

(2) An Individual Community Support encounter.

3423.12 Rehabilitation Day Services shall only be provided at an MHRS provider's service site.

3423.13 Qualified practitioners of Rehabilitation Day Services are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice, working in a collaborative protocol with a psychiatrist, or demonstrated proficiency in mental health by having at least five (5) years of experience in psychiatric care delivery;

(e) RNs;

(f) LPCs; and

(g) LISWs.

3423.14 Credentialed staff shall be permitted to provide Rehabilitation Day Services under the supervision of an independently licensed qualified practitioner.

3424 INTENSIVE DAY TREATMENT

3424.1 IDT is a facility-based, structured, intensive, and coordinated acute treatment program which serves as an alternative to acute inpatient treatment or as a step-down service from inpatient care, and is rendered by an interdisciplinary team to provide stabilization of psychiatric impairments.

3424.2 Daily physician and nursing services are essential components of IDT services.

3424.3 IDT shall:

(a) Be time-limited and provided in an ambulatory setting to consumers who are not in danger of self-harm or harming others, but who have behavioral health issues that are incapacitating and interfering with their ability to carry out daily activities;

(b) Be provided within a structured program of care which offers individualized, strengths-based, active and timely treatment directed toward alleviating the impairment which caused the admission to IDT;

(c) Be an active treatment program that consists of documented mental health interventions that address the individualized needs of the consumer as identified in the Plan of Care;

(d) Consist of structured individual and group activities and therapies that are planned and goal-oriented, and provided under active psychiatric supervision;

(e) Offer short-term day-programming consisting of therapeutically intensive, acute, and active treatment;

(f) Be comprised of services that closely resemble the intensity and comprehensiveness of inpatient services; and

(g) Include psychiatric, other medical, nursing, social work, occupational therapy, medication/somatic treatment, care coordination, and psychology services focusing on timely crisis intervention and psychiatric stabilization so that consumers can return to their normal daily lives.

3424.4 Each consumer shall participate in at least five (5) hours of IDT services per day, excluding time for adequate breaks and administrative functions, for the services to be reimbursable.

3424.5 Each consumer shall be directly evaluated by an independently licensed qualified practitioner as part of the admissions process.

3424.6 Each consumer's care shall be supervised by an independently licensed qualified practitioner who assumes primary responsibility for the consumer's assessment, treatment planning, and treatment services.

3424.7 Each consumer shall be assigned to a full-time staff member who assists the consumer and the consumer's family to assess the consumer's needs and progress toward achieving the treatment goals.

3424.8 An interdisciplinary treatment team shall meet within one (1) business day of the consumer's admission to develop an initial IDT Plan of Care.

3424.9 Each IDT Plan of Care shall be updated every three (3) business days and shall be reviewed by the interdisciplinary treatment team on a weekly basis and upon termination of treatment.

3424.10 At least one (1) independently licensed qualified practitioner shall be present on site at all times.

3424.11 Each IDT provider shall have policies and procedures included in its Service Specific Policies addressing the provision of IDT (Intensive Day Treatment Organizational Plan) which includes the following:

(a) A description of the particular treatment models utilized, types of intervention practiced, and typical daily curriculum and schedule;

(b) A description of the staffing pattern including a staffing plan to ensure that the required staff-to-consumer ratios are maintained, and a plan for coverage for unplanned staff absences; and

(c) A description of how the IDT Plan of Care is modified or adjusted to meet the needs specified in each consumer's Plan of Care.

3424.12 The IDT provider shall maintain a minimum staff-to-consumer ratio of one (1) staff for every eight (8) consumers. The IDT provider shall maintain a minimum staffing pattern sufficient to address consumer needs, including adequate physician, nursing, social work, therapy, and psychology services to assure the availability of intensive services.

3424.13 Prior authorization by the Department shall be required for IDT services. Initial and any subsequent authorizations shall not exceed seven (7) units at a time.

3424.14 IDT shall not be billed on the same day as:

(a) Medication/Somatic Treatment;

(b) Counseling;

(c) Rehabilitation Day Services;

(d) ACT;

(e) TF-CBT;

(f) TREM;

(g) TST;

(h) Psychosocial Rehabilitation Clubhouse; or

(i) Supported Employment services subject to the Supported Employment program standards set forth in 22-A DCMR Chapter 37.

3424.15 IDT shall only be provided at an MHRS provider's service site.

3424.16 Qualified practitioners of IDT are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice, working in a collaborative protocol with a psychiatrist, or demonstrated proficiency in mental health by having at least five (5) years of experience in psychiatric care delivery;

(e) RNs;

(f) LPCs; and

(g) LISWs.

3424.17 Credentialed staff shall be permitted to provide IDT under the supervision of an independently licensed qualified practitioner.

3425 COMMUNITY BASED INTERVENTION

3425.1 CBI services are time-limited, intensive, mental health services delivered to children and youth. CBI services are intended to prevent the utilization of an out-of-home therapeutic resource or a detention of the consumer. CBI services may be provided at the time a child or youth is identified for a service, particularly to meet an urgent or emergent need during their course of treatment.

3425.2 In order to be eligible for CBI services, a consumer shall have:

(a) Insufficient or severely limited individual or family resources or skills to cope with an immediate crisis; and

(b) Either individual or family issues, or a combination of individual and family issues, that are unmanageable and require intensive coordinated clinical and positive behavioral interventions.

3425.3 There shall be four (4) levels of CBI services available to children and youth. A provider may be certified to offer one (1) or more level(s) of CBI services. The four (4) levels of CBI services are:

(a) CBI Level I, delivered using the Multisystemic Therapy ("MST") treatment model adopted by the Department;

(b) CBI Level II, delivered using the Intensive Home and Community-Based Services ("IHCBS") model adopted by the Department;

(c) CBI Level III, delivered using the IHCBS model adopted by the Department; and

(d) CBI Level IV, delivered using the Functional Family Therapy ("FFT") model adopted by the Department.

3425.4 The CBI provider shall be responsible for coordinating the treatment planning process for all consumers authorized to receive CBI for the duration of CBI services. CBI services shall be delivered primarily in natural settings and shall include in-home services.

3425.5 The basic goals of all levels of CBI services are to:

(a) Defuse the consumer's current situation to reduce the likelihood of a recurrence, which if not addressed, could result in the use of more intensive therapeutic interventions;

(b) Coordinate access to covered mental health services and other covered Medicaid services;

(c) Provide mental health services and support interventions for consumers that develop and improve consumer and family interaction and improve the ability of parents, legal guardians, or caregivers to care for the consumer; and

(d) Assess the needs of the consumer, and transition the consumer to an appropriate level of care following the end of CBI treatment services.

3425.6 All levels of CBI services shall include the following services, as medically necessary and clinically appropriate for the consumer:

(a) Immediate crisis response for enrolled consumers;

(b) Stabilization and behavioral support services to:

(1) Reduce family conflict;

(2) Stabilize the family unit;

(3) Maintain the consumer in the home environment;

(4) Increase family support; and

(5) Monitor the consumer's medication compliance with prescribed psychiatric medications;

(c) Environmental assessment to:

(1) Identify risk factors that may endanger either the consumer or the consumer's family; and

(2) Assess the strengths of the consumer and the consumer's family;

(d) Individual and family support interventions that develop and improve the ability of parents, legal guardians, or significant others to care for the consumer's behavioral and emotional disturbance(s);

(e) Skills training related to:

(1) Consumer self-help;

(2) Parenting techniques to help the consumer's family develop skills for managing the consumer's emotional disturbance;

(3) Problem solving;

(4) Behavior management;

(5) Communication techniques, including the facilitation of communication and consistency of communication for both the consumer and the consumer's family; and

(6) Medication management, monitoring, and follow-up for family members and other caregivers; and

(f) Coordination and linkage with other covered MHRS and supports and other covered Medicaid services to prevent the utilization of more restrictive residential treatment, including one (1) or more of the following activities:

(1) Referral of consumers to other MHRS providers;

(2) Assisting consumers in transition to less intensive or more intensive MHRS;

(3) Referral of consumers to providers of other Medicaid covered services; or

(4) Supporting and consulting with the consumer's family or support system directed exclusively to the well-being and benefit of the consumer.

3425.7 CBI Level I services are intended for children and youth ages twelve (12) through seventeen (17) who are experiencing serious emotional disturbance with either of the following:

(a) A documented behavioral concern with externalizing (aggressive or violent) behaviors; or

(b) A history of chronic juvenile offenses that has resulted or may result in involvement with the juvenile justice system.

3425.8 CBI Level I services shall not be authorized for:

(a) Children or youth who require the safety of a hospital or other secure setting;

(b) Children or youth in independent living programs; or

(c) Children or youth without a long-term placement option.

3425.9 Eligible consumers of CBI Level I services shall have a permanent caregiver who is willing to participate with service providers for the duration of CBI Level I treatment services and be:

(a) At imminent risk for out-of-home placement within thirty (30) calendar days; or

(b) Currently in out-of-home placement due to the consumer's disruptive behavior, with permanent placement expected to occur within thirty (30) calendar days.

3425.10 CBI Level I services shall require prior authorization from the Department. Authorizations shall not exceed one hundred eight (180) calendar days.

3425.11 Re-admission to CBI Level I services, after the one hundred eighty (180) calendar day time period may be considered for prior authorization by the Department in accordance with medical necessity requirements specified by the Department.

3425.12 CBI Level II is intended for consumers ages birth through twenty-one (21) who shall meet at least one (1) of the following criteria:

(a) A history of involvement with the Child and Family Services Agency ("CFSA") or the Department of Youth Rehabilitation Services ("DYRS");

(b) A history of negative involvement with schools for behavioral-related issues; or

(c) A history of either chronic or recurrent episodes of negative behavior that has resulted or may result in out-of-home placement.

3425.13 CBI Level II services shall not be authorized for children or youth who require the safety of a hospital or other secure setting.

3425.14 CBI Level II services shall require prior authorization from the Department. Authorizations shall not exceed one hundred eight (180) calendar days.

3425.15 Re-admission to CBI Level II services, after the one hundred eighty (180) calendar day time period may be considered for prior authorization by the Department in accordance with medical necessity requirements specified by the Department.

3425.16 CBI Level III is intended for consumers ages birth through twenty-one (21) who shall meet at least one (1) of the following criteria:

(a) Has situational behavioral problems that require short-term, intensive treatment;

(b) Is currently dealing with stressor situations such as trauma or violence and requires development of coping and management skills;

(c) Recently experienced out-of-home placement and requires development of communication and coping skills to manage the placement change;

(d) Is undergoing transition from adolescence to adulthood and requires skills and supports to successfully manage the transition; or

(e) Was recently discharged or is being discharged within the next thirty (30) calendar days from an inpatient setting such as a hospital or psychiatric residential treatment facility.

3425.17 CBI Level III services shall not be authorized for children or youth who require the safety of a hospital or other secure setting.

3425.18 CBI Level III services shall require prior authorization from the Department. Authorizations shall not exceed ninety (90) calendar days.

3425.19 Re-admission to CBI Level III services, after the ninety (90) calendar day period may be considered for prior authorization by the Department in accordance with medical necessity requirements specified by the Department.

3425.20 CBI Level IV is intended for consumers ages eleven (11) through eighteen (18), who shall meet the following two (2) criteria:

(a) First (1st) criteria:

(1) Have a documented history of moderate to serious behavioral problems which impair functioning in at least one (1) area (for example school or home);

(2) Exhibit significant externalizing behavior which impairs functioning in at least one (1) area (for example school or home); or

(3) Be at risk of a disruption in placement; and

(b) Second (2nd) criteria:

(1) Be willing to participate with service providers for the duration of CBI Level IV treatment services; and

(2) Be involved with a caregiver who is willing to participate with service providers for the duration of CBI Level IV treatment services.

3425.21 CBI Level IV services shall not be authorized for:

(a) Children or youth who require the safety of a hospital or other secure setting;

(b) Children or youth in congregate living programs; or

(c) Children or youth in an emergency or respite placement.

3425.22 CBI Level IV Service providers shall obtain prior authorization of CBI Level IV services from the Department for a period not to exceed one hundred and eighty (180) calendar days.

3425.23 Re-admission to CBI Level IV services after the one hundred and eighty (180) calendar day time period may be considered for prior authorization by the Department in accordance with medical necessity requirements specified by the Department.

3425.24 A maximum of twenty-four (24) additional units of CBI Level IV services may be delivered at the discretion of the provider, in consultation with the consumer and the consumer's caregiver without an additional authorization, within twelve (12) months of the close of the initial one hundred and eighty (180) calendar day authorization period.

3425.25 Discharge from all levels of CBI services shall occur when the consumer has achieved the goals for CBI outlined in the Plan of Care, or the consumer no longer

benefits from CBI services. Discharge decisions shall be based on one (1) or a combination of the following:

(a) The consumer is performing reasonably well in relation to goals contained in the Plan of Care and discharge to a lower level of care is indicated (for example, the consumer is not exhibiting risky behaviors or family functioning has improved);

(b) The consumer or the consumer's family or caregiver has developed the skills and resources needed to step down to a less intensive service;

(c) The consumer is not making progress or is regressing and all realistic CBI treatment options have been exhausted;

(d) A family member or caregiver requests discharge and the consumer is not imminently dangerous to self or others;

(e) The consumer requires a higher level of care (for example, inpatient hospitalization or psychiatric residential treatment facility); or

(f) The consumer does not reside in the District and:

(1) Is not eligible to participate in the District's Medicaid program;

(2) Is not within the physical or legal custody of the CFSA; or

(3) Is not within the physical or legal custody of the DYRS.

3425.26 Eligible providers of CBI Level I services shall:

(a) Be licensed MST providers in good standing;

(b) Be either a Network Partner that is providing the MST services and receiving MST consultation services from another MST Network Partner, or a non-Network Partner that is receiving MST consultant services from a MST Network Partner or MST Services;

(c) Have the capacity to provide or arrange for the non-Medicaid reimbursed wraparound services required by eligible consumers;

(d) Meet CBI Level I training requirements specified by the Department;

(e) Have the capacity to deliver CBI Level I services to four (4) to six (6) consumers for each full-time team member; and

(f) Be available to consumers twenty-four (24) hours per day, seven (7) days per week.

3425.27 Eligible providers of CBI Level II services shall:

(a) Meet CBI Level II training requirements specified by the Department;

(b) Have the capacity to provide or arrange for the non-Medicaid reimbursed wraparound services required by eligible consumers;

(c) Have the capacity to deliver CBI Level II services to at least four (4) to six (6) consumers for each full-time team member; and

(d) Be available to consumers twenty-four (24) hours per day, seven (7) days per week.

3425.28 Eligible providers of CBI Level III services shall:

(a) Meet CBI Level III training requirements specified by the Department;

(b) Have the capacity to provide or arrange for the non-Medicaid reimbursed wraparound services required by eligible consumers;

(c) Have the capacity to deliver CBI Level III services to at least four (4) to six (6) consumers for each full-time team member; and

(d) Be available to consumers twenty-four (24) hours per day, seven (7) days per week.

3425.29 Eligible providers of CBI Level IV services shall:

(a) Be certified by FFT LLC as an FFT provider;

(b) Comply with the CBI Level IV training and site certification requirements specified by the Department;

(c) Have the capacity to deliver CBI Level IV services to at least ten (10) to twelve (12) consumers for each therapist; and

(d) Be available to work a flexible schedule based on the needs of the consumer and the family or caregiver.

3425.30 Providers of all levels of CBI services shall:

(a) Individually design CBI services for each consumer and family to minimize intrusion and maximize independence;

(b) Provide more intensive services at the beginning of treatment and decrease the intensity of treatment over time as the strengths and coping skills of the consumer and family develop;

(c) Provide services utilizing a team approach;

(d) Maintain appropriate back-up coverage for team member absences and facilitate substitution of team members, as necessary;

(e) Conduct face-to-face transition planning with consumers and families no later than thirty (30) calendar days prior to the anticipated discharge date, including meetings with providers of more intensive or less intensive services;

(f) Conduct continuity of care planning with consumers and families prior to discharge from any level of CBI services, including facilitating follow-up mental health appointments and providing telephonic support until follow-up mental health services occur;

(g) Provide all of the components of treatment specified in § 3425.6, as appropriate, based on each consumer's needs;

(h) Provide CBI services with a family-focus;

(i) Assist the consumer and his or her family with the development of mental health relapse prevention strategies and plans, if none exist;

(j) Assist the consumer and his or her family with the development of a safety plan to address risk factors identified during the environmental assessment;

(k) Have policies and procedures included in its Service Specific Policies that address the provision of CBI ("CBI Organizational Plan") which include the following:

(1) A description of the particular treatment models utilized, types of intervention practiced, and typical daily curriculum and schedule;

(2) A description of the staffing pattern and how staff is deployed to ensure that the required staff-to-consumer ratios are maintained, including a plan for unplanned staff absences;

(3) A requirement to directly conduct or arrange for Diagnostic Assessment services within thirty (30) calendar days before or after the initiation of CBI services. The Department may approve alternative sources to serve as the diagnostic assessment instrument

if similar assessments have been conducted within the past twelve (12) months of an individual's referral to CBI services; and

(4) A requirement to collect and submit clinical outcome data and any other requested information using the process, timeline, and tools specified or approved by the Department.

3425.31 Each CBI Level I team shall include:

(a) A full-time CBI Level I clinical supervisor; and

(b) Two (2) to four (4) full-time CBI Level I clinicians.

3425.32 The CBI Level I team clinical supervisor shall be an independently licensed qualified practitioner experienced in providing individual, group, marital or family counseling or psychotherapy, with a minimum of two (2) years of post-graduate experience working with behaviorally challenged youth and their families in community-based settings.

3425.33 The CBI Level I team clinicians shall be qualified practitioners.

3425.34 Each CBI Level II team shall include:

(a) A full-time clinical supervisor dedicated at a minimum fifty percent (50%) to IHCBS; and

(b) At a minimum, two (2) full-time clinicians dedicated to IHCBS.

3425.35 The CBI Level II team clinical supervisor shall be a Master's level independently licensed qualified practitioner experienced in providing individual, group, marital or family counseling or psychotherapy, with a minimum of two (2) years of post-graduate experience working with behaviorally challenged youth and their families in community-based settings.

3425.36 The CBI Level II team clinicians shall be qualified practitioners and have a minimum of one (1) year of experience working with behaviorally challenged youth and their families in community-based settings.

3425.37 Each CBI Level III team shall include:

(a) A full-time clinical supervisor dedicated at a minimum fifty percent (50%) to IHCBS; and

(b) At a minimum, two (2) full-time clinicians dedicated to IHCBS.

3425.38 The CBI Level III team clinical supervisor shall be a Master's level independently licensed qualified practitioner experienced in providing individual, group, marital or family counseling or psychotherapy, with a minimum of two (2) years post-graduate experience working with behaviorally challenged youth and their families in community-based settings.

3425.39 The CBI Level III team clinicians shall be qualified practitioners and have a minimum of one (1) year of experience working with behaviorally challenged youth and their families in community-based settings.

3425.40 Each CBI Level IV team shall include:

(a) An FFT-trained supervisor who provides the clinical and administrative supervision of the FFT Team and has the capacity to carry up to five (5) cases; and

(b) Three (3) to eight (8) FFT clinicians who have satisfied the FFT requirements for a therapist.

3425.41 The CBI Level IV supervisor shall be a Master's level independently licensed qualified practitioner experienced in providing individual, group, marital or family counseling or psychotherapy, with a minimum of two (2) years of post-graduate experience working with behaviorally challenged youth and their families in community-based settings who has satisfied the FFT requirements for a clinical supervisor.

3425.42 The CBI Level IV clinicians shall be qualified practitioners and have a minimum of one (1) year of experience working with behaviorally challenged youth and their families in community-based settings, and shall have satisfied the FFT requirements for FFT therapists.

3425.43 Providers of all levels of CBI services shall ensure referral to and coordination with any medically necessary substance use disorder treatment and recovery support services and any services to facilitate consumers' transition from adolescence to adulthood.

3425.44 CBI shall not be billed on the same day as:

(a) Counseling;

(b) ACT; or

(c) TF-CBT.

3425.45 CBI Level II and CBI Level III shall not be billed on the same day as TREM.

3425.46 CBI Level IV shall not be billed on the same day as TST.

3425.47 CBI shall be provided:

(a) At the MHRS provider's service site; or

(b) In natural settings, including the consumer's home or community settings.

3425.48 Qualified practitioners of CBI:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice;

(e) LPCs;

(f) RNs; and

(g) LISWs.

3425.49 Credentialed staff who may provide this service working under appropriate supervision are the following:

(a) LGSWs; and

(b) LGPCs.

3425.50 CBI services shall not exceed thirty-two (32) units in a twenty-four (24) hour period, without prior authorization from the Department. The Department may conduct clinical record reviews to verify the medical necessity of services provided.

3425.51 CBI providers shall comply with training requirements:

(a) For CBI Level I through nationally recognized body;

(b) For CBI Level II and CBI Level III in accordance with the Department CBI Policy;

(c) For CBI IV through FFT LLC; and

(d) All other trainings provided through the Department's Training Institute during the calendar year as requested by the Department.

3426 ASSERTIVE COMMUNITY TREATMENT

3426.1 ACT is an intensive, integrated, rehabilitative, crisis, treatment, and mental health community support service provided by an interdisciplinary team to individuals eighteen (18) and over with serious and persistent mental illness with dedicated staff time and specific staff-to-consumer ratios.

3426.2 Service coverage by the ACT team is required twenty-four (24) hours per day, seven (7) days per week.

3426.3 The consumer's ACT team shall complete a comprehensive or supplemental assessment and develop a self-care-oriented Plan of Care (if a current and effective one does not already exist).

3426.4 Services offered by the ACT team shall include:

(a) Medication prescription, administration, and monitoring;

(b) Crisis assessment and intervention;

(c) Symptom assessment, management, and individual supportive therapy;

(d) Substance use disorder treatment for consumers with a co-occurring substance use disorder;

(e) Psychosocial rehabilitation and skill development;

(f) Interpersonal, social, and interpersonal skill training;

(g) Education, support, and consultation to consumers' families and their support system which is directed exclusively to the well-being and benefit of the consumer;

(h) Finding safe and affordable supportive housing;

(i) Money management and benefits counseling and acquisition; and

(j) Coordination of medical and psychosocial services.

3426.5 ACT services shall include a comprehensive and integrated set of medical and psychosocial services for the treatment of the consumer's mental health condition that is provided in non-office settings by the consumer's ACT team.

3426.6 The ACT team provides community support services that are interwoven with treatment and rehabilitative services and regularly scheduled team meetings. ACT team meetings shall be held a minimum of four (4) times a week.

3426.7 ACT services and interventions shall be highly individualized and tailored to the needs and preferences of the consumer, with the goal of maximizing independence and supporting recovery.

3426.8 Each ACT provider shall have policies and procedures included in its Service Specific Policies that address the provisions of ACT ("ACT Organizational Plan") which include the following:

(a) A description of the particular treatment models utilized, types of intervention practiced, and typical daily curriculum and schedule; and

(b) A description of the staffing pattern and how staff are deployed to ensure that the required staff-to-consumer ratios are maintained, including how unplanned staff absences and illnesses are accommodated.

3426.9 At a minimum, the ACT team shall include the following members:

(a) A full-time team leader or supervisor who is the clinical and administrative supervisor of the ACT team and who is at minimum an independently licensed Master's level qualified practitioner or a Master's level RN;

(b) A psychiatrist or a psychiatric prescriber working on a full-time or part-time basis for a minimum of four (4) hours per week per twenty (20) consumers, who provides clinical and crisis services to all consumers served by the ACT team, works with the ACT team leader to monitor each consumer's clinical status and response to treatment, and directs psychopharmacologic and medical treatment;

(c) An RN working on a full-time basis, who provides nursing services for all ACT team consumers. The RN works with the ACT team to monitor each consumer's clinical status and response to treatment, and who functions as a primary practitioner on the ACT team for a caseload of consumers;

(d) A certified addiction counselor who is working on a full-time basis and providing or accessing substance use disorder services for ACT team consumers, and who functions as a primary practitioner on the ACT team for a caseload of consumers;

(e) A clinically trained and licensed generalist practitioner working on a full-time basis and providing individual and group supportive therapy to ACT team consumers, and who functions as a primary practitioner on the ACT team for a caseload of consumers and is a qualified practitioner;

(f) A certified recovery coach or certified peer specialist carrying out rehabilitation and support functions who may be a consumer in recovery that has been specially credentialed based on their psychiatric and life experiences. Certified recovery coaches and certified peer specialists are fully integrated ACT team members who provide consultation to the ACT team and highly individualized services in the community, and who promote consumer self-determination and decision making; and

(g) A vocational specialist with at least one year of training or experience who has knowledge of supported employment, vocational assessment, job exploration and marketing to recipient's interest and strengths and securing and maintain employment.

3426.10 The ACT team shall maintain a minimum consumer-to-staff ratio of no more than ten (10) consumers per staff person, and such ratio shall take into consideration evening and weekend hours, needs of special populations, and geographical areas to be covered.

3426.11 Eligible providers of ACT services shall:

(a) Utilize the ACT model adopted by the Department;

(b) Meet ACT training requirements specified by the Department; and

(c) Have culturally and linguistically competent staff.

3426.12 ACT shall require prior authorization from the Department. Initial and subsequent authorizations shall not exceed one hundred eighty (180) calendar days and five hundred (500) units.

3426.13 ACT consumers shall receive vocational and supported employment services through their ACT team. ACT consumers shall not be eligible for Supported Employment services that are subject to the Supported Employment program standards set forth in 22-A DCMR Chapter 37.

3426.14 ACT shall not be billed on the same day as:

(a) Diagnostic Assessment;

(b) Medication/Somatic Treatment;

(c) Counseling;

(d) Community Support;

(e) Rehabilitation Day Services;

(f) IDT;

(g) CBI;

(h) TF-CBT;

(i) TREM; or

(j) TST.

3426.15 ACT providers shall not bill Crisis/Emergency Services when provided to one of their current consumers.

3426.16 ACT shall be provided:

(a) At the MHRS provider's service site; or

(b) In natural settings, including the consumer's home or community settings.

3426.17 Qualified practitioners of ACT are:

(a) Psychiatrists; and

(b) RNs.

3426.18 Credentialed staff shall be permitted to provide ACT services under the supervision of an independently licensed qualified practitioner or a Master's level RN.

3427 CHILD-PARENT PSYCHOTHERAPY FOR FAMILY VIOLENCE

3427.1 Child-Parent Psychotherapy for Family Violence ("CPP-FV") is a relationship-based treatment intervention for young children with a history of trauma exposure or maltreatment, and their parents or caregivers. CPP-FV helps restore developmental functioning and reduce trauma symptoms in the wake of trauma by focusing on restoring the attachment relationship that was negatively affected. Young children, birth through six (6) years of age, who have experienced traumatic stress often have difficulty regulating their behaviors and emotions during distress. They may exhibit fearfulness of new situations, be easily frightened, difficult to console, aggressive, or impulsive. These children may also have difficulty sleeping, lose recently acquired developmental skills, and show regression in functioning and behavior. Under CPP-FV, clinicians assess and provide information on how parents' or caregivers' past experiences, including past insecure or abusive relationships, affect their relationships with their children. Sessions focus on parent/caregiver-child interactions and clinicians provide support

on healthy coping, affect regulation, and increased appropriate reciprocity between parent/caregiver and child, resulting in a stronger relationship between a child and his or her parent or caregiver, and improvement in the child's symptoms. On average CPP-FV sessions are sixty (60) to ninety (90) minutes, one (1) time per week, for a period up to fifty-two (52) weeks. CPP-FV sessions are longer in the first six months of treatment (*i.e.*, ninety (90) minutes) and decrease over time (to sixty (60) minutes) as the child improves his or her coping skills.

(a) The goals of CPP-FV are to:

(1) Reduce post-traumatic stress reactions and symptoms in children;

(2) Improve both parent/caregiver and child functioning, as well as improve the parent/caregiver-child attachment relationship;

(3) Establish a sense of safety and trust within the parent/caregiver-child relationship;

(4) Return a child to a normal developmental trajectory; and

(5) Restore parental/caregiver sensitivity and responsiveness, in order to strengthen the child-parent/caregiver relationship.

(b) CPP-FV is available to children ages birth through six (6) years with a mental health diagnosis, who have experienced at least one traumatic event including maltreatment, the sudden or traumatic death of a caregiver, a serious accident, medical traumas, sexual abuse, physical abuse, neglect, or exposure to domestic violence, and, as a result, are experiencing behavioral, attachment, and/or mental health problems, including post-traumatic stress symptoms.

(c) CPP-FV shall only be provided with the participation of the parent or caregiver.

(d) Providers of CPP-FV services shall meet and maintain certification as a CPP-FV provider from the Department-approved training entity.

(e) All CPP-FV clinicians shall complete the Department-approved CPP-FV clinical training.

(f) Each CPP-FV Team shall include one (1) clinical supervisor and no more than six (6) clinicians who have successfully completed the CPP-FV training requirements. The clinical supervisor shall be an independently licensed qualified practitioner.

(g) CPP-FV clinicians shall be qualified practitioners who hold a Master's degree in psychology, social work, therapy, or other related field;

(h) Credentialed staff shall receive supervision from a qualified practitioner trained in CCP-FV in accordance with the CPP-FV fidelity standards; and

(i) Providers of CCP-FV shall maintain an acceptable rating on an annual CPP-FV fidelity audit.

3427.2 CPP-FV may be provided without prior authorization from the Department.

3427.3 CPP-FV shall not be billed on the same day as:

(a) TF-CBT; or

(b) TST.

3427.4 CPP-FV shall be provided:

(a) At the MHRS provider's service site;

(b) In natural settings, including the consumer's home or community settings; or

(c) In a residential facility of sixteen (16) beds or less unless otherwise stated by the Department.

3427.5 Qualified practitioners of CPP-FV are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice;

(e) LPCs;

(f) RNs.

3427.6 Credentialed staff who may provide this service working under appropriate supervision are the following:

(a) LGSWs;

(b) LGPCs;

(c) LISWs; and

(d) Psychology Associates.

3428 TRAUMA-FOCUSED COGNITIVE BEHAVIORAL THERAPY

3428.1 Trauma-Focused Cognitive Behavioral Therapy ("TF-CBT") is a psychotherapeutic intervention designed to help children, working with their parent or caregivers, overcome the negative effects of traumatic life events. The treatment focuses on parent-child interactions, parenting skills, therapeutic treatment, skills development (such as stress management, cognitive processing, communication, problem solving, and safety), and parental support. A parent/caregiver treatment component is an integral part of this treatment model. It parallels the interventions used with the child so that parent or caregivers are aware of the content covered with the child and are prepared to reinforce or discuss this material with the child between treatment sessions and after treatment has ended. A typical course of TF-CBT treatment requires children to participate in sixty (60) to ninety (90) minute individual and conjoint child parent or caregiver sessions, at a minimum one (1) time per week, over an average period of twelve (12) to sixteen (16) weeks in accordance with the evidence-based practice requirements.

(a) The goals of TF-CBT are to:

(1) Target symptoms of post-traumatic stress disorder that are often co-occurring with depression and behavior problems;

(2) Address issues commonly experienced by traumatized children, such as poor self-esteem, difficulty trusting others, mood instability, and self- injurious behavior, including substance use disorder;

(3) Increase stress management skills of youth and parent/caregiver;

(4) Improve youth's self-esteem, problem-solving and safety skills and decrease self-injurious and aggressive behaviors; and

(5) Decrease caregiver trauma-related distress.

(b) TF-CBT is available to children ages four (4) through eighteen (18) years of age with a diagnosed serious emotional disorder, who have experienced or witnessed one or more traumatic events and who are experiencing behavioral, or mental health problems, including post-traumatic stress symptoms as a result of the event.

(c) TF-CBT is recommended to be provided with an active parent/caregiver willing to participate for the anticipated treatment period.

(d) Providers of TF-CBT services shall maintain fidelity to the TF-CBT model adopted by the Department.

(e) All TF-CBT Clinical team members shall complete the Department-approved TF-CBT clinical training.

(f) Each TF-CBT Team shall include at least one (1) clinical supervisor, and no more than ten (10) clinicians who have successfully completed the TF-CBT training requirements. The clinical supervisor shall be an independently licensed qualified practitioner experienced in providing individual, group, marital, or family counseling or psychotherapy.

(g) TF-CBT clinicians shall be qualified practitioners who hold a Master's degree in psychology, social work, therapy, or other related field.

(h) Services provided by credentialed staff shall be supervised by a qualified practitioner trained in TF-CBT as required by the TF-CBT requirements and documented in the TF-CBT Practice Session Checklist.

3428.2 TF-CBT may be provided without prior authorization from the Department.

3428.3 TF-CBT shall not be billed the same day as:

(a) Counseling;

(b) Rehabilitation Day Services;

(c) IDT;

(d) CBI;

(e) ACT;

(f) CPP-FV; or

(g) TST.

3428.4 TF-CBT shall be provided:

(a) At the MHRS provider's service site;

(b) In natural settings, including the consumer's home or community settings; or

(c) In a residential facility of sixteen (16) beds or less unless otherwise stated by the Department.

3428.5 Qualified practitioners of TF-CBT are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice;

(e) RNs; and

(f) LPCs.

3428.6 Credentialed staff who may provide this service working under appropriate supervision are the following:

(a) LGSWs;

(b) LGPCs;

(c) LISWs; and

(d) Psychology Associates.

3429 TRAUMA RECOVERY AND EMPOWERMENT MODEL

3429.1 TREM is a structured group therapy intervention designed for individuals who have survived trauma and have substance use disorders and/or mental health conditions. TREM draws on cognitive restructuring, skills training, and psychoeducational and peer support to address recovery and healing from sexual, physical, and emotional abuse. A curriculum for each model outlines the topic of discussion, a rationale, a set of goals, and a series of questions to be posed to the group in addition to an experiential exercise for each session.

The components are:

(a) Therapy sessions focused on empowerment, self-comfort, and accurate self-monitoring, as well as ways to establish safe physical and emotional boundaries;

(b) Therapy sessions focused on the trauma experience and its consequences; and

(c) Therapy sessions focused on skills building, including emphases on communication style, decision-making, regulating overwhelming feelings, and establishing safer, more reciprocal relationships.

3429.2 Each TREM group is population specific and on average consists of eighteen (18) to twenty-four (24) sessions, with each session at least seventy-five (75) minutes in duration. Population-specific groups include:

(a) TREM for women;

(b) TREM for men;

(c) TREM for girls twelve (12) to seventeen (17) years of age;

(d) TREM for boys twelve (12) to seventeen (17) years of age; and

(e) TREM for individuals who are lesbian, gay, bisexual, transgender, questioning, intersex, or asexual (groups for either individuals under eighteen (18) or individuals eighteen (18) and over.

3429.3 Due to the sensitive nature of the discussions, TREM requires at least two (2) facilitators to be assigned to every group to ensure the safety and continuity of the group. At least one (1) facilitator shall be an independently licensed qualified practitioner. A team approach is required to: address situations that may arise within the group; decrease burnout; provide continuity if one facilitator is absent; and to lend additional therapeutic support to the group. Qualified practitioners staff working as facilitators shall have completed Department-approved, population-specific TREM training.

3429.4 TREM may be provided without prior authorization from the Department.

3429.5 TREM shall not be billed on the same day as:

(a) Rehabilitation Day Services;

(b) Intensive Day Treatment;

(c) CBI Level II and III; or

(d) ACT.

3429.6 TREM shall be provided:

(a) At the MHRS provider's service site; or

(b) In a residential facility of sixteen (16) beds or less unless otherwise stated by the Department.

3429.7 Qualified Practitioners of TREM are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice;

(e) LMFTs;

(f) LPCs;

(g) LISWs;

(h) LGSWs;

(i) LGPCs; and

(j) Psychology Associates.

3429.8 Certified Recovery Coaches, Certified Peer Specialists, and Certified Addiction Counselors I and II who have successfully completed a TREM group and Department-approved TREM training shall be authorized to support TREM services under the supervision of the two (2) group facilitators.

3430 TRAUMA SYSTEMS THERAPY

3430.1 TST is a comprehensive, phase-based model for treating traumatic stress in children and adolescents that adds to individually-based approaches by specifically addressing the child's social environment and/or system of care. TST is designed to provide an integrated highly coordinated system of services guided by the specific understanding of the nature of child traumatic stress. TST focuses on the interaction between the child's difficulties regulating their emotions and the deficits within the child's social environment. The three phases of the model are Safety-Focused, Regulation-Focused, and Beyond Trauma.

3430.2 On average, individual TST sessions are one (1) to three (3) sessions per week, depending on the phase of treatment. Sessions are on average forty-five (45) to sixty (60) minutes in duration.

3430.3 TST is intended for children and youth six (6) through eighteen (18) years of age, who have:

(a) Been exposed to trauma;

(b) Plausible trauma histories;

(c) Difficulty regulating emotional and behavioral states;

(d) Dysregulation that is plausibly related to the trauma history; and

(e) Stable housing or a plan to achieve stable housing in the community.

3430.4 At a minimum, the TST team shall include:

(a) A TST-trained supervisor who provides the clinical and administrative supervision of the TST team. The supervisor shall be an independently licensed qualified practitioner experienced in providing individual, group, marital, or family counseling or psychotherapy;

(b) Access to a psychiatrist to monitor each youth's clinical status and response to treatment, and to direct psychopharmacologic treatment or consult with the consumer's psychopharmacologic treatment team. The psychiatrist shall be knowledgeable in TST ("be TST-informed");

(c) TST-trained therapists who provide individual therapy. Therapists shall hold a Master's degree in psychology, social work, counseling, or other related field and shall be appropriately licensed by the jurisdiction where services are delivered and practice within the scope of their license.

(d) TST-trained individuals who are qualified practitioners of Community-Based Intervention or who are credentialed to provide Community Support to provide crisis support, care coordination, skills building, and TST treatment plan support; and

(e) Individuals who provide Legal Advocacy Support and who are knowledgeable in TST ("are TST-informed").

3430.5 All TST supervisors and therapists shall have completed DBH-approved TST training.

3430.6 Providers of TST services shall maintain certification as a TST provider from a DBH-approved training entity.

3430.7 TST may be provided without prior authorization from the Department.

3430.8 TST shall not be billed on the same day as:

(a) Counseling;

(b) Rehabilitation Day Services;

(c) IDT;

(d) CBI Level IV;

(e) ACT;

(f) CPP-FV; or

(g) TF-CBT.

3430.9 TST shall be provided:

(a) At the MHRS provider's service site; or

(b) In natural settings, including the consumer's home or community settings;

3430.10 Qualified Practitioners of TST are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice;

(e) LMFTs;

(f) LPCs;

(g) LGSWs;

(h) LGPCs;

(i) LISWs; and

(j) Psychology Associates.

3430.11 Services provided by qualified practitioners who are subject to supervision requirements, per applicable licensing and registration laws and regulations, shall be supervised by a qualified practitioner who is:

(a) Licensed to practice independently, and

(b) Trained in TST, as required by this chapter's TST requirements.

3431 REIMBURSABLE SERVICES

3431.1 Reimbursement for the provision of MHRS shall be on a per unit basis as indicated in § 3431.4.

3431.2 Each covered service shall have a unique billing code as established by the Department.

3431.3 The actual start and stop time of the service shall be used to calculate the duration of the service rounded to the nearest fifteen-minute unit.

3431.4 Reimbursement shall be limited as follows:

MHRS	LIMITATIONS AND SERVICE SETTING	BILLABLE UNIT OF SERVICE
Diagnostic Assessment	• One (1) every one hundred and eighty (180) calendar days • Additional units allowable when there is a significant change in the consumer's mental health status • Shall not be billed the same day as ACT • Provided only in an MHRS provider's service site, home or community setting, or residential facility of sixteen (16) beds or less unless otherwise stated by the Department	An assessment, which is at least three (3) hours in duration
Medication/ Somatic Treatment	• No annual limits • Shall not be billed the same day as ACT or IDT • Provided only in an MHRS provider's service site, home or community setting, via telemedicine, or in residential facility of sixteen (16) beds or less unless otherwise stated by the Department	Fifteen (15) Minutes

MHRS	LIMITATIONS AND SERVICE SETTING	BILLABLE UNIT OF SERVICE
Counseling	• One hundred sixty (160) units per twelve (12) month period • Additional units allowable with prior authorization • Shall not be billed the same day as IDT, CBI, ACT, TF-CBT, or TST. Shall not be billed during a Rehabilitation Day Services encounter • Shall be rendered face-to-face, when consumer is present, unless there is adequate documentation to justify why the consumer was not present during the session • May be provided in individual on-site, individual off-site or group • Provided only in an MHRS provider's service site, home or community setting, via telemedicine, or in a residential facility of sixteen (16) beds or less unless otherwise stated by the Department	Fifteen (15) minutes
Community Support	• Two hundred (200) units per one hundred and eighty (180) calendar days • Additional units allowable with prior authorization; each authorization cannot exceed (200) units per one hundred and eighty (180) calendar days • Shall not be billed on the same day as ACT. Individual Community Support shall not be billed during a Rehabilitation Day Services encounter and Group Community Support shall not be billed on the same day as Rehabilitation Day Services • Provided only in an MHRS provider's service site, home, community setting, or residential facility of sixteen (16) beds or less unless otherwise stated by the Department • Limitations applicable to Therapeutic Supported Employment services provided as Community Support services are described in 22-A DCMR Chapter 37	Fifteen (15) minutes

MHRS	LIMITATIONS AND SERVICE SETTING	BILLABLE UNIT OF SERVICE
Crisis/ Emergency Services	• No annual limits • ACT providers shall not bill Crisis/Emergency Services when provided to one of their current consumers. • Provided only in an MHRS provider's service site, home or community setting, or via telemedicine	Fifteen (15) minutes
Rehabilitation Day Services	• Ninety (90) units within a twelve (12) month period • Additional units allowable with prior authorization; each authorization cannot exceed ninety (90) units per twelve (12) month period • Shall not be billed on the same day as Group Community Support, ACT, IDT, TF-CBT, TREM, TST, or Clubhouse. Shall not be billed during a Counseling or Individual Community Support encounter • Provided only in an MHRS provider's service site	One (1) day (which shall consist of at least three (3) hours) of service, excluding appropriate time for breaks and administrative functions)
Intensive Day Treatment ("IDT")	• Prior authorization required. Initial and subsequent authorizations shall not exceed seven (7) days at a time • Shall not be billed on the same day as Medication/Somatic Treatment, Counseling, Rehabilitation Day Services, ACT, TF-CBT, TREM, TST, Clubhouse, or Supported Employment • Provided only in an MHRS provider's service site	One (1) day [which shall consist of at least five (5) hours of IDT services, excluding appropriate time for breaks and administrative functions]
Community Based Intervention ("CBI")	• Prior authorization required for enrollment and continued stay (see §3425 for details) • Shall not be billed on the same day as Counseling, ACT, or TF-CBT. CBI Level II and III shall not be billed on the same day as TREM and CBI Level IV shall not be billed on the same day as TST • Provided only in an MHRS provider's service site, or home or community setting	Fifteen (15) minutes

MHRS	LIMITATIONS AND SERVICE SETTING	BILLABLE UNIT OF SERVICE
Assertive Community Treatment ("ACT")	• Prior authorization required. Initial and subsequent authorizations shall not exceed one hundred eighty (180) calendar days and five (500) hundred units • Shall not be billed on the same day as Diagnostic Assessment, Medication/Somatic Treatment, Counseling, Community Support, Rehabilitation Day Services, IDT, CBI, TF-CBT, TREM, or TST. ACT providers shall not bill Crisis/Emergency Services if provided to one of their current consumers • Provided only in an MHRS provider's service site, or home or community setting	Fifteen (15) minutes
Child-Parent Psychotherapy for Family Violence ("CPP-FV")	• May be provided without prior authorization • Shall not be billed on the same day as TF-CBT or TST • Provided only in an MHRS provider's service site, home or community setting, or residential facility of sixteen (16) beds or less. unless otherwise stated by the Department	Fifteen (15) minutes up to ninety (90) minutes once (1) per week
Trauma-Focused Cognitive Behavioral Therapy ("TF-CBT')	• May be provided without prior authorization • Shall not be billed the same day as Counseling, Rehabilitation Day Services, IDT, CBI, ACT, CPP-FV, or TST • Provided only in an MHRS provider's service site, home or community setting, or residential facility of sixteen (16) beds or less unless otherwise stated by the Department	Fifteen (15) minutes up to ninety (90) minutes once (1) per week
Trauma Recovery and Empowerment Model ("TREM")	• May be provided without prior authorization • TREM shall not be billed on the same day as Rehabilitation Day Services, IDT, CBI Level II and III, or ACT • Provided only in an MHRS provider's service site, or residential facility of sixteen (16) beds or less unless otherwise stated by the Department	Fifteen (15) minutes

MHRS	LIMITATIONS AND SERVICE SETTING	BILLABLE UNIT OF SERVICE
Trauma Systems Therapy ("TST")	• May be provided without prior authorization • TST shall not be billed on the same day as Counseling, Rehabilitation Day Services, IDT, CBI Level IV, ACT, CPP-FV, or TF-CBT	Fifteen (15) minutes

3432 NON-REIMBURSABLE SERVICES

3432.1 Services not covered as MHRS include, but are not limited to:

(a) Room and board residential costs;

(b) Inpatient hospital services, including hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities, and institutions for mental diseases;

(c) Transportation services;

(d) Educational, vocational, and job training services;

(e) Services rendered by parents or other family members;

(f) Social or recreational services;

(g) Screening and prevention services (other than those provided under Early and Periodic Screening, Diagnosis, and Treatment requirements);

(h) Services that are not medically necessary;

(i) Services that are not provided and documented in accordance with these certification standards;

(j) Services that are not behavioral health services as described in these rules; and

(k) Services furnished to persons other than the consumer, when those services are not directed primarily to the well-being and benefit of the consumer.

3499 DEFINITIONS

3499.1 The following terms in this chapter have the meaning ascribed in this section:

Advanced Practice Registered Nurse ("APRN") – A person licensed as an advanced practice registered nurse in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Assertive Community Treatment team ("ACT team") – A mobile inter-disciplinary team of qualified practitioners and other staff involved in providing ACT to a consumer.

Authorized - MHRS services that are prior authorized or reauthorized by the Department, in accordance with these standards.

Behavioral Concern – A behavioral and emotional reaction of childhood and adolescence that can range from normal to severe responses and can be categorized as troubling, disruptive, or threatening. Behavioral concerns can have varying ranges of manifestations by children that include but are not limited to poor concentration, changes in social interactions, sadness, poor academic performance, high levels of irritability, acting out aggressively, expressing anger inappropriately, and engaging in a variety of antisocial and destructive acts, including violence towards people and animals, destruction of property, lying, stealing, truancy, and running away from home.

Certified Addiction Counselor ("CAC") – A person certified as a Certified Addiction Counselor I or II in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Certification – The written authorization from the Department rendering an entity eligible to provide MHRS. The Department grants certification to community-based organizations that submit an approved certification application and satisfy the certification standards.

Certification Application – The application and supporting materials prepared and submitted to the Department by a community-based organization requesting a new certification or renewal of an existing certification to provide MHRS.

Certification Standards – The minimum requirements established by the Department in this chapter that a provider shall satisfy to obtain and maintain certification to provide MHRS and receive reimbursement from the District for MHRS.

Certified Peer Specialist – An individual who has completed the Peer Specialists Certification Program requirements and is approved to deliver Peer Support Services within the District's public behavioral health network.

Certified Recovery Coach – An individual with any DBH-approved recovery coach certification.

Child and Family Services Agency ("CFSA") – The District agency responsible for the coordination of foster care, adoption, and child welfare services and services to protect children against abuse or neglect.

Child-Parent Psychotherapy for Family Violence or CPP-FV Fidelity Audit – A process by which the implementation of CPP-FV, in accordance with the established standards and guiding principles, are annually evaluated.

Community Based Intervention Team ("CBI team") – The interdisciplinary team of qualified practitioners and other staff involved in providing CBI to a consumer.

Consumer – A person eligible to receive MHRS as set forth in this chapter.

Core Services – The following five categories of MHRS: Diagnostic Assessment, Medication/Somatic Treatment, Counseling, and Community Support.

Core Services Agency ("CSA") – A Department-certified community-based MHRS provider that has entered into a Human Care Agreement with the Department to provide specified MHRS.

Corrective Action Plan ("CAP") – A written plan prepared by either an applicant for certification or the certified MHRS provider describing the actions that the provider intends to take to correct or abate the violations described in an SOD issued by the Department.

CPP-FV Fidelity Standards – The six established interconnected standards of fidelity, as set forth by the developers of CCP-FV.

Credentialed Staff – Non-licensed staff or staff who are not qualified practitioners that are credentialed by the MHRS provider to perform certain MHRS or components of MHRS under the clinical supervision of an appropriate qualified practitioner.

Crisis Support Services – Mental health services that support the consumer through a crisis, such as meeting with the consumer in the community or an emergency department to help calm the consumer; implementing the crisis plan developed for the consumer; assisting the consumer to reach an emergency department; and providing pertinent mental health information about a consumer to an emergency department to assist in addressing a crisis.

Cultural and Linguistic Competence – The ability of an MHRS provider to deliver mental health services and mental health supports in a manner that

effectively responds to the languages, values, and practices present in the various cultures of the MHRS provider's consumers.

Department ("DBH") – The Department of Behavioral Health, the successor in interest to the Department of Mental Health and the Addiction and Prevention Recovery Administration.

Department of Health Care Finance ("DHCF") – The District's Medicaid authority.

Department of Youth Rehabilitation Services ("DYRS") – The District agency responsible for providing security, supervision, and residential and community support services for committed and detained juvenile offenders and juvenile persons in need of supervision.

Diagnostic Assessment Report – The report prepared by an independently licensed qualified practitioner that summarizes the results of the Diagnostic Assessment service and includes recommendations for service delivery. The Diagnostic Assessment report is used to initiate the Plan of Care.

Director – The Director of the Department of Behavioral Health.

District of Columbia ("District") – The government of the District of Columbia.

Economic Security Administration ("ESA") – The unit within the District of Columbia Department of Human Services that determines eligibility for medical assistance programs for District residents.

Enrollment – Process by which the Department adds a consumer to the MHRS system of care and assigns them to a provider after ascertaining their eligibility.

Evidence-Based Practice – A process that brings together the best available research, professional expertise, and input from consumers to identify and deliver services that have been demonstrated to achieve positive outcomes for individuals. Evidence-based programs and practices (EBPPs) are specific techniques and intervention models that have shown to have positive effects on outcomes through rigorous evaluations.

Governing Authority – The designated individuals or governing body legally responsible for conducting the affairs of the MHRS provider.

Grievance – A description by any individual of his or her dissatisfaction with an MHRS provider, including the denial or abuse of any consumer right or protection provided by applicable Federal and District laws and regulations.

Human Care Agreement ("HCA") – A written agreement entered into by the certified MHRS provider and the Department which establishes a contractual relationship between the parties.

ICD-10 – The 10th Revision of the International Classification of Diseases and Related Health Problems.

Independent Living Program – A residential program licensed by the District in accordance with Title 29 DCMR Chapter 63, Licensing of Independent Living Programs for Adolescents and Young Adults.

Intensive Home and Community-Based Services or IHCBS – An intensive model of treatment adopted by the Department to prevent the utilization of out-of-home treatment resources by emotionally disturbed children and youth. IHCBS is the modality adopted for CBI Levels II and III.

Licensed Independent Clinical Social Worker ("LICSW") – A person licensed as an independent clinical social worker in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Licensed Independent Social Worker ("LISW") – A person licensed as a licensed independent social worker in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Licensed Marriage and Family Therapist ("LMFT") – A person licensed as a licensed marriage and family therapist under laws and regulations of the District or jurisdiction where services are delivered.

Licensed Graduate Professional Counselor ("LGPC") – A person licensed as a licensed graduate professional counselor in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Licensed Graduate Social Worker ("LGSW") – A person licensed as a licensed graduate social worker in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Licensed Professional Counselor ("LPC") – A person licensed as a licensed professional counselor in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Long-Term Placement Option – A permanent caregiver or permanent home. A group home or other residential placement is not a long-term placement option.

Medicaid – The medical assistance program approved by federal Centers for Medicare and Medicaid Services and administered by the Department of

Health Care Finance, which enables the District to receive Federal financial assistance for its medical assistance program and other purposes as permitted by law.

Medical Necessity (or medically necessary) – Health care services or products that a prudent provider would provide to a client for the purpose of preventing, diagnosing, or treating an illness, injury, disease, or its symptoms in a manner that is: (a) in accordance with generally accepted standards of health care practice; (b) clinically appropriate in terms of type, frequency, extent, site, and duration; and (c) not primarily for the economic benefit of the health plans and purchasers or for the convenience of the client or treating provider.

Member – A consumer who has joined a Psychosocial Rehabilitation Clubhouse.

Mental Health Rehabilitation Services ("MHRS") – Mental health rehabilitative services provided by a certified MHRS provider to consumers in accordance with the District of Columbia State Medicaid Plan, the Department Memorandum of Understanding with the Department of Health Care Finance and this chapter.

Mental Illness – A substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

MHRS Provider – An organization certified by the Department to provide MHRS. MHRS provider are CSAs, sub-providers, and specialty providers.

Mobile Crisis Response Team – A team of mental health clinicians who provide face-to-face and telephone support to children and families in crisis.

Multisystemic Therapy ("MST") – An intensive model of treatment based on empirical data and evidence-based interventions that target specific behaviors with individualized behavioral interventions.

Natural Settings – The consumer's home; the consumer's residence, school, or workplace; or other locations in the community the consumer frequents, such as community centers, homeless shelters, street locations, or other public facilities. Natural settings do not include inpatient hospitals.

Organizational Onboarding – The mechanism through which new employees acquire the necessary knowledge, skills, and behaviors to become effective performers. It begins with recruitment and includes a series of events, one of which is employee orientation, which helps new employees understand performance expectations and contribute to the success of the organization.

Out-of-home therapeutic resource – A psychiatric hospital or psychiatric residential treatment facility.

Permanent Caregiver – A natural or adoptive family or foster home that has cared for the consumer for at least six (6) consecutive months within the twelve (12) month period immediately preceding the referral for CBI. A group home or other residential placement is not a permanent caregiver.

Physician Assistant – A person licensed as a physician assistant in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Plan of Care (formerly called the Individual Plan of Care / Individual Recovery Plan) – The Plan of Care refers to what the DBH formerly called the IPC/IRP, and encompasses the provision of services to all consumers regardless of age.

Prior Authorization – Approval by the Department in advance for the initiation of an MHRS to a consumer.

Psychiatric residential treatment facility – Shall have the meaning ascribed in 42 CFR Subpart G, Section 483.352.

Psychiatrist – A person who is: 1) licensed as a physician in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered; 2) a psychiatric resident providing care in an approved clinical rotation; or 3) a moonlighting psychiatric resident.

Psychologist – A person licensed as a psychology in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Psychology Associate – A person registered as a psychology associate in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Psychosocial Rehabilitation Clubhouse ("Clubhouse") – MHRS specialty service that assists individuals with behavioral health diagnoses to develop social networking, independent living, budgeting, self-care, and other skills that will assist them to live in the community and to prepare for securing and retaining employment. A Clubhouse shall operate in accordance with established standards coordinated by Clubhouse International and the standards set forth in 22-A DCMR Chapter 39.

Qualified Practitioner – A Qualified Practitioner is a behavioral health clinician appropriately licensed or registered in the District or by the jurisdiction where services are delivered. Pursuant to service specific MHRS standards

a qualified practitioner may practice MHRS within the scope of their license or registration, and any applicable supervision requirements.

Referral – A recommendation to seek or request services or evaluation between a CSA and a sub-provider or specialty provider in order to assess or meet the needs of consumers.

Registered Nurse ("RN") – A person licensed as a registered nurse in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Residential Placement – A psychiatric residential treatment center, group home, independent living program, or other residence where children or youth are temporarily receiving services. A permanent home is not a residential placement.

Service specific standards – The certification standards described in §§ 3418 through 3430, which set forth the specific requirements applicable to each MHRS.

Specialty Provider – An MHRS provider certified by the Department to provide specialty services either directly or through contract.

Specialty Services – Assertive Community Treatment, Child-Parent Psychotherapy for Family Violence, Community Based Interventions, Psychosocial Rehabilitation Clubhouse, Crisis Emergency Services, Intensive Day Treatment, Rehabilitation Day Services, Trauma-Focused Cognitive-Behavioral Therapy, Trauma Recovery and Empowerment Model, and Trauma Systems Therapy.

Statement of Deficiencies ("SOD") – A written statement of non-compliance issued by the Department, which describes the areas in which an applicant for certification or the certified provider fails to comply with the certification standards.

Subcontractor – A licensed independent practitioner qualified to provide mental health services in the District or in the jurisdiction in services are provided. A subcontractor may provide one (1) or more core service(s) under contract with a CSA. A subcontractor may also provide specialty service(s) under contract with a specialty provider.

Sub-provider – A community-based organization certified by the Department to provide one (1) or more core services.

Supported Employment Services – Evidence-based Mental Health Supported Employment program designed for MHRS consumers for whom

competitive employment has been interrupted or is intermittent as a result of a severe mental illness. Services assist consumers in obtaining and maintaining permanent part-time or full-time employment in a competitive setting. Mental Health Supported Employment service providers shall be certified and deliver services to eligible consumers according to standards set forth in 22-A DCMR Chapter 37.

TF-CBT Practice Session Checklist – An instrument used to track whether supervisors and therapists are implementing TF-CBT in accordance with the established model.

Triaging – Prioritizing the level of crisis services required by a consumer, based upon the assessed needs of the consumer.

Urgent need – A situation where, due to a mental illness, there is no immediate risk to life, health, or property, but if the situation is not addressed promptly may turn into an emergency situation. An emergency situation is where a consumer is an immediate risk to life, health, or property due to a mental illness.

Chapter 35, DEPARTMENT OF MENTAL HEALTH (DMH) INFRACTIONS, of Title 16 DCMR, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, is amended as follows:

Section 3502, MENTAL HEALTH PROVIDER CERTIFICATION INFRACTIONS, is repealed in its entirety.

Chapter 25, HEALTH HOME CERTIFICATION STANDARDS, of Title 22-A DCMR, MENTAL HEALTH, is amended as follows:

Section 2512, COMPREHENSIVE CARE PLAN, is amended by amending § 2512.4 to read as follows:

2512.4 The CCP shall be developed in coordination with the consumer's healthcare providers. If the Health Home team develops the CCP, the MHRS Plan of Care, developed in accordance with Section 3411 of Chapter 34 of this title, shall be incorporated into the CCP. If the MHRS team develops the care plan the Health Home team will collaborate and participate in the care planning process to ensure the care plan is comprehensive.

Chapter 39, PSYCHOSOCIAL REHABILITATION CLUBHOUSE CERTIFICATION STANDARDS, of Title 22-A DCMR, MENTAL HEALTH, is amended as follows:

Section 3900, PSYCHOSOCIAL REHABILITATION CLUBHOUSE CERTIFICATION STANDARDS, is amended by amending:

§ 3900.5(c) to read as follows:

3900.5

…

(c) In compliance with the qualification standards described in § 3413 of this subtitle and the certification standards as required by this chapter, except an affiliation agreement with a CSA is not necessary for the provision of Clubhouse services; and

§ 3900.7(b) to read as follows:

3900.7

…

(b) Require Clubhouse specialty providers to incorporate CSA-developed Diagnostic Assessment material into the Clubhouse specialty provider's Plan of Care process; and

§ 3900.8 to read as follows:

3900.8 Each Clubhouse specialty provider shall offer access or referrals to core and other specialty services, as clinically indicated.

§ 3900.9 to read as follows:

3900.9 Each Clubhouse specialty provider with total annual revenues at or exceeding three hundred thousand dollars ($300,000.00) shall have an annual audit by an independent certified public accountant or certified public accounting firm in accordance with generally accepted auditing standards. The resulting financial audit report shall be consistent with formats recommended by the American Institute of Public Accountants. Each Clubhouse specialty provider shall submit a copy of the financial audit report to the Department within one hundred and twenty (120) calendar days after the end of its fiscal year.

§ 3900.10 to read as follows:

3900.10 Each Clubhouse specialty provider with total annual revenues less than three hundred thousand dollars ($300,000.00) shall submit financial statements reviewed by an independent certified public accountant or certified public accounting firm within one hundred twenty (120) calendar days after the end of its fiscal year.

§ 3900.11 to read as follows:

3900.11 Each Clubhouse specialty provider shall have the capability to submit accurate claims, encounter data, and other submissions as necessary directly to the Department.

Section 3902, CERTIFICATION REQUIREMENTS, is amended as follows:

3902.1 A Clubhouse providing services to members shall comply with all of the requirements set forth in Chapter 34 of this subtitle except for the requirements set forth in §§ 3411, 3412, 3413.7, 3413.12-3413.16, 3413.19, 3413.26, 3413.29(c), 3414, 3415, and 3418-3430.

Section 3906, DISTRICT REIMBURSEMENT LIMITATIONS, is amended by amending § 3906.6 to read as follows:

3906.6 In accordance with § 3432 of this subtitle, certain services may not be reimbursed through Medicaid.

Section 3907, DOCUMENTATION REQUIREMENTS, is amended by amending § 3907.2(c) to read as follows:

3907.2

…

(c) Current Plan of Care prepared by the Clubhouse and if applicable, the Plan of Care prepared by the CSA in accordance with §§ 3411-3412 of this subtitle that includes a recommendation for Clubhouse services;

Section 3908, CLUBHOUSE REFERRALS, is amended by amending:

§ 3908.4 to read as follows:

3908.4 A person enrolled with a CSA must have a Diagnostic Assessment and a Plan of Care that includes Clubhouse services in order to participate in the Clubhouse.

§ 3908.5 is deleted.

Section 3909, PLAN OF CARE DEVELOPMENT PROCESS, is amended by amending:

The title of § 3909 to read as follows:

3909 CLUBHOUSE PLAN OF CARE DEVELOPMENT PROCESS

§ 3909.1 to read as follows:

3901.1 The Clubhouse Plan of Care development process for members shall, at a

minimum, include:

(a) The completion of a Diagnostic Assessment service and required components as described in § 3418 of this subtitle, unless the referral comes from a CSA, in which case the CSA may provide the Diagnostic/Assessment report;

(b) Development of a Clubhouse Plan of Care as described in § 3910 of this chapter;

(c) Consideration of the member's beliefs, values, and cultural norms in how, what, and by whom Clubhouse services are to be provided; and

(d) Consideration, screening, and assessment of the member for treatment via other appropriate evidence-based practices (EBP) offered through DBH MHRS providers.

§ 3909.3 to read as follows:

3909.3 The Clubhouse Plan of Care shall be developed by the Clubhouse in accordance with the member's existing MHRS Plan of Care for those members enrolled in a CSA and in cooperation with other specialty providers if applicable

Section 3910, PLAN OF CARE DEVELOPMENT, is amended by amending:

The title of § 3910 to read as follows:

3910 CLUBHOUSE PLAN OF CARE DEVELOPMENT

§ 3910.1 to read as follows:

3910.1 Each Clubhouse Plan of Care shall:

(a) Be person-centered:

(b) Include the member's self-identified recovery goals; and

(c) Provide for the delivery of services in the most normative, least restrictive environment that is appropriate for the member.

Section 3911, PLAN OF CARE IMPLEMENTATION, is amended by amending the title of § 3911 to read as follows:

3911 CLUBHOUSE PLAN OF CARE IMPLEMENTATION

Section 3999, DEFINITIONS, Subsection 3999.1, is amended by amending:

The definition of "Rehabilitation Plan" to read as follows, and moved to be in alphabetical order:

Clubhouse Plan of Care – the plan developed to provide services to Clubhouse members in accordance with ICCD standards.

The definition of "Specialty services" to read as follows:

Specialty services – ACT, CBI, Crisis/Emergency Services, Intensive Day Treatment, Psychosocial Rehabilitative Clubhouse, Rehabilitation Day Services, TF-CBT, TREM, and TST.

Chapter 73, DEPARTMENT OF BEHAVIORAL HEALTH PEER SPECIALIST CERTIFICATION, of Title 22-A DCMR, MENTAL HEALTH, is amended to read as follows:

Section 7300, PURPOSE AND APPLICATION, is amended by amending § 7300.5 to read as follows:

7300.5 Certified Peer Specialists, certified in accordance with this chapter, must also meet all MHRS non-licensed staff requirements as specified in Sections 3413 and 3416 in Chapter 34 of this subtitle in order to be employed as a Certified Peer Specialist by a Department-certified mental health provider.

Section 7303, CORE COMPETENCIES, is amended by amending § 7303.1(d) to read as follows:

7303.1

…

(d) Ability to document services provided including preparation of encounter notes required by Subsection 3413.19 of Chapter 34 of this subtitle;

Section 7308, FIELD PRACTICUM SUPERVISION AND ACTIVITIES, is amended by amending § 7308.5(b) to read as follows:

7308.5

…

(b) Ensure that peer support services delivered by the candidate during the field practicum are consistent with the Plan of Care for the consumer receiving the services; and

Section 7314, CERTIFIED PEER SPECIALIST SUPERVISION, is amended by amending § 7314.7 to read as follows:

7314.7 The Peer Specialist Supervisor shall:

(a) Ensure that when Peer Support Services are identified as part of a consumer's Plan of Care, the Plan of Care:

(1) Specifies individualized goals and objectives pertinent to the consumer's recovery and community integration in language that is outcome oriented and measurable;

(2) Identifies interventions directed to achieving the individualized goals and objectives;

(3) Specifies the Certified Peer Specialist's role in relating to the consumer and involved others; and

(4) Identifies both the specific components of MHRS that will be provided by the Certified Peer Specialist, and the frequency of delivery;

(b) Ensure that the Certified Peer Specialist participates in treatment planning activities for consumers whose Plans of Care include or are expected to include Peer Support Services;

(c) Ensure that delivery of services is consistent with the requirements of the Plan of Care; and

(d) Ensure that Peer Support Services delivered by the Certified Peer Specialist are coordinated with the other mental health services provided to the consumer.

Section 7399, DEFINITIONS, is amended by amending 7399.1 as follows:

Replace definitions of "Individualized Plan of Care" and "Individualized Recovery Plan" with the following:

Plan of Care – developed in accordance with the requirements of Chapter 34 of this subtitle. The Plan of Care includes the consumer's treatment goals, strengths, challenges, objectives, and interventions.

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Behavioral Health (Department), pursuant to the authority set forth in §§ 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 37 (Mental Health Supported Employment Services and Provider Certification Standards) in Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR). The Director also hereby gives notice of the repeal of Chapter 51 (Supported Employment Program – Reimbursement) of Title 22-A DCMR.

This final rulemaking implements requirements under the District's Section 1115 Behavioral Health Transformation Demonstration Program (demonstration program) for Medicaid reimbursement of vocational Mental Health (MH) Supported Employment services that the District previously funded with local dollars and a new benefit for vocational and therapeutic Supported Employment services for individuals with Substance Use Disorder (SUD). To this end, this rulemaking establishes: (1) certification standards for MH Supported Employment providers who want to also deliver SUD Supported Employment services; (2) consumer/client eligibility criteria; (3) service authorization and referral requirements and processes, including requirements for outpatient Level OTP, 1, 2.1, and 2.5 SUD providers to submit certain information in specified timeframes and formats to the Department; and (4) reimbursement of Supported Employment services, replacing the provisions of Title 22-A DCMR Chapter 51 (Supported Employment Program – Reimbursement).

On February 7, 2020, a Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* at 67 DCR 001286. A Notice of Second Emergency and Proposed Rulemaking was published in the *D.C. Register* on June 5, 2020 at 67 DCR 006946. DBH did not receive any comments on either of the emergency and proposed rulemakings. The Department made technical changes in the following subsections to the terminology for the SUD Supported Employment clients' Plans of Care to clarify that the related requirements apply to both individuals receiving Medicaid-funded SUD services and individuals receiving locally-funded SUD services: §§ 3704.1(a)(3)(B)(i), 3706.2(d), 3710.1(f), 3711.1(a), 3711.2(b), 3711.4, 3711.6(c), 3711.9, 3711.10, 3712, 3712.2, 3712.3, and 3799.1.

This rule was adopted as final on August 28, 2020 and will be effective on the publication of this notice in the *D.C. Register*.

Chapter 51, SUPPORTED EMPLOYMENT PROGRAM—REIMBURSEMENT, of Title 22-A DCMR, MENTAL HEALTH, is repealed in its entirety.

Chapter 37, MENTAL HEALTH SUPPORTED EMPLOYMENT CERTIFICATION STANDARDS, of Title 22-A DCMR, MENTAL HEALTH, is repealed and replaced in its entirety with the following:

CHAPTER 37 MENTAL HEALTH AND SUBSTANCE USE DISORDER SUPPORTED EMPLOYMENT SERVICES AND PROVIDER CERTIFICATION STANDARDS

3700 MENTAL HEALTH AND SUBSTANCE USE DISORDER SUPPORTED EMPLOYMENT SERVICES AND PROVIDER CERTIFICATION STANDARDS

3700.1 These rules establish the requirements and process for certifying a provider as a Mental Health Supported Employment provider or a Substance Use Disorder (SUD) Supported Employment provider in the District of Columbia, in order to provide services to consumers and clients eligible under this chapter.

3700.2 Supported Employment is an evidence-based practice adopted by the Department of Behavioral Health (Department) for mental health and adapted for SUD that:

(a) Provides ongoing work-based vocational assessment, job development, job coaching, treatment team coordination, and vocational and therapeutic follow-along supports;

(b) Involves community-based employment consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the consumer/client;

(c) Provides services at various work sites; and

(d) Provides part-time and full-time job options that are diverse, competitive, integrated with co-workers without disabilities; are based in business or employment settings that have permanent status rather than temporary or time-limited status; and that pay at least the minimum wage of the jurisdiction in which the job is located.

3701 INITIAL CERTIFICATION REQUIREMENTS

3701.1 No person or entity shall provide Mental Health or SUD Supported Employment services to consumers/clients eligible for services under this chapter unless certified in accordance with this chapter.

3701.2 No person or entity shall apply for certification from the Department as a Mental Health Supported Employment provider unless already certified as a Mental Health Rehabilitation Services (MHRS) provider in accordance with 22-A DCMR Chapter 34.

3701.3 A person or entity seeking certification as a Mental Health Supported Employment provider shall submit an application to the Department in the format established by the Department. The completed application shall include, at a minimum:

(a) Proof of current certification as an MHRS provider;

(b) Proof of adequate staffing for the delivery of Mental Health Supported Employment services in accordance with § 3704 of this chapter;

(c) Proof of a Staff Selection Policy that complies with all applicable requirements of the Staff Selection Policy set forth in 22-A DCMR Chapter 34; and

(d) Proof of a Supported Employment Policy that states the policies and procedures related to the provider's set-up for delivering Mental Health Supported Employment services.

3701.4 No person or entity shall apply for certification from the Department as an SUD Supported Employment provider unless already certified as:

(a) An MHRS provider in accordance with 22-A DCMR Chapter 34; and

(b) A Mental Health Supported Employment provider under this chapter.

3701.5 A person or entity seeking certification as an SUD Supported Employment provider shall submit an application to the Department in the format established by the Department. The completed application shall include, at a minimum:

(a) Proof of current certification as:

(1) An MHRS provider; and

(2) A Mental Health Supported Employment provider.

(b) Proof of adequate staffing for the delivery of SUD Supported Employment services in accordance with § 3704 of this chapter;

(c) Proof of a Staff Selection Policy that complies with all applicable requirements of the Staff Selection Policy set forth in 22-A DCMR Chapter 34; and

(d) Proof of a Supported Employment Policy that states the policies and procedures related to the provider's set-up for delivering SUD Supported Employment services.

3701.6 The Department shall follow the applicable processes established for certification set forth in 22-A DCMR Chapter 34 to certify, deny certification, or decertify providers as Mental Health or SUD Supported Employment providers.

3701.7 Initial certification as a Mental Health or SUD Supported Employment provider shall be effective for a one (1)-year period. Certification shall remain in effect until it expires or is revoked, or the provider is recertified in accordance with § 3702 of this chapter.

3701.8 During the initial certification period, the Mental Health or SUD Supported Employment provider shall:

(a) Participate in a baseline program evaluation conducted by the Department within thirty (30) business days after the provider has begun delivering Mental Health or SUD Supported Employment services. The evaluation shall include a fidelity assessment using the Supported Employment Fidelity Scale established by Department policy;

(b) Enter into a contractual relationship with the Department on Disability Services' Rehabilitation Services Administration (RSA) within six (6) months of initial certification and maintain such contract for the remainder of the certification period; and

(c) Participate in a second program evaluation conducted by the Department six (6) months after the provider has begun delivering Mental Health or SUD Supported Employment services. The evaluation includes a fidelity assessment using the Supported Employment Fidelity Scale established by Department policy.

3701.9 A certified Mental Health or SUD Supported Employment provider receiving a fidelity score below an acceptable score as specified in Department policy during the fidelity assessments shall develop a corrective action plan to promptly address the deficiencies and shall receive technical assistance from the Department. If the Supported Employment provider's annual score does not improve to an acceptable score within six (6) months of the previous fidelity score, the provider shall not be eligible for recertification and may be subject to decertification.

3701.10 Certification is not transferable to any other organization.

3702 RECERTIFICATION REQUIREMENTS

3702.1 The Department shall follow the applicable processes set forth in 22-A DCMR Chapter 34 to recertify, deny recertification, or decertify providers as Mental Health or SUD Supported Employment providers.

3702.2 A Mental Health or SUD Supported Employment provider seeking recertification from the Department shall submit an application to the Department in the format established by the Department and meet the requirements in § 3701.3 for Mental Health or § 3701.5 for SUD, respectively. The completed application shall also include proof of a current contract with the RSA.

3702.3 Recertification shall be effective for a two (2)-year period from the date of issuance of recertification by the Department, subject to the provider's continuous compliance with the certification standards.

3702.4 During any recertification period, the Mental Health or SUD Supported Employment Program shall:

(a) Participate in an annual program evaluation conducted by the Department. The evaluation shall include a fidelity assessment using the Supported Employment Fidelity Scale established by Department policy; and

(b) Maintain a contractual relationship with RSA.

3702.5 A recertified Mental Health or SUD Supported Employment provider receiving a fidelity score below an acceptable score as specified in Department policy during the fidelity assessments shall develop a corrective action plan to correct the deficiencies and receive technical assistance from the Department. If the Supported Employment provider's score does not improve to an acceptable score within six (6) months of the previous fidelity score, the provider shall not be eligible for further recertification and may be subject to decertification.

3702.6 Recertification is not transferable to any other organization.

3703 EXEMPTIONS FROM CERTIFICATION STANDARDS

3703.1 Upon good cause shown, the Department may exempt an applicant or current Mental Health or SUD Supported Employment provider from a certification standard if the exemption does not jeopardize the health and safety of Supported Employment consumers/clients, violate Supported Employment consumers'/ client's rights, or otherwise conflict with the purpose and intent of these rules.

3703.2 If the Department approves an exemption, such exemption shall end on the expiration date of the provider certification or on an earlier date if specified by the Department; unless the provider requests renewal of the exemption prior to expiration of its certification or the earlier date set by the Department.

3703.3 The Department may revoke an exemption that it determines is no longer appropriate.

3703.4 All requests for an exemption from certification standards shall be submitted in writing to the Department.

3704 MENTAL HEALTH AND SUD SUPPORTED EMPLOYMENT SERVICES

3704.1 Both Mental Health and SUD Supported Employment providers shall deliver the following services to Supported Employment consumers/clients:

(a) Vocational Supported Employment services:

(1) Intake, which involves obtaining background, clinical, and employment information in order to enroll the consumer into Mental Health Supported Employment services or the client into SUD Supported Employment services and initiate a referral to RSA;

(2) Vocational Assessment, which consists of conducting vocational assessments and assessment of person-centered employment information, in order to identify the consumer's/client's employment interests, preferences, and abilities;

(3) Individualized Work Plan (IWP) Development, which includes the process of developing an IWP plan with the consumer/client, and which meets the following standards:

(A) The consumer's/client's preferences, not provider expectations or decisions, drive the consumer's/client's employment and career planning process;

(B) The IWP includes an employment goal and the support services required to reach the goal, such as:

(i) Integrating employment goals into the consumer's MHRS person-centered Plan of Care or client's SUD person-centered Plan of Care;

(ii) Strategies to address stressor situations;

(iii) Assistance with symptom self-monitoring and self-management; and

(iv) Assistance in increasing social support skills and networks that ameliorate life stresses resulting from the consumer's mental illness or client's SUD and which are necessary to enable and maintain the consumer's/client's independent living;

(C) The IWP shall be updated annually or any time there is a significant change in the consumer's/client's condition or situation that affects progress toward the IWP's goals; and

(D) The IWP shall be completed and signed by the consumer/client within thirty (30) calendar days of the delivery of the first Supported Employment service.

(4) Disclosure Counseling, which helps the consumer/client examine and understand the advantages and disadvantages of disclosing one's mental illness or SUD to their employer;

(5) Treatment Team Coordination, which involves coordination and contact with the treatment team members of the consumer's CSA or the client's outpatient Level Opioid Treatment Program (OTP), Level 1, Level 2.1, or Level 2.5 provider regarding the provision of Supported Employment services;

(6) Job Development, which involves contacting employers through various activities in order to obtain community-based employment for consumers/clients;

(7) Job Coaching, which helps consumers/clients learn job duties once employed through on-the-job training, effective use of community resources, and consultation with the worker's employer, co-workers, family, or supervisors as necessary; and

(8) Vocational Follow-Along Supports, which are provided to the consumer/client or employer to help the consumer/client maintain employment including through review of job performance and problem-solving; and

(b) Therapeutic Supported Employment services:

(1) Therapeutic Follow-Along Supports, which are interventions related to addressing behavioral health symptoms, and which include: crisis intervention, symptom management, behavior management, and coping skills needed to improve the consumer's/client's ability to maintain employment; and

(2) Benefits Counseling, which helps consumers/clients to examine and understand how employment may impact benefits such as Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), medical assistance, and other disability-related benefits, and which may also involve advocacy on behalf of the person to resolve issues.

3705 MENTAL HEALTH AND SUBSTANCE USE DISORDER SUPPORTED EMPLOYMENT PROVIDER STAFFING REQUIREMENTS

3705.1 A Mental Health or SUD Supported Employment provider shall have at a minimum:

(a) One (1) Supported Employment Supervisor; and

(b) One (1) Supported Employment Team comprised of:

(1) One (1) Supported Employment Manager; and

(2) Two (2) full-time Employment Specialists.

3705.2 In cases where a provider is certified as both a Mental Health Supported Employment provider and an SUD Supported Employment provider:

(a) The Supervisor and Manager may be responsible for both Mental Health and SUD Supported Employment services, if appropriately trained in both mental health and SUD (*e.g.*, the Manager is permitted to supervise both SUD Employment Specialists and Mental Health Employment Specialists);

(b) Each Employment Specialist shall only provide services to one population (*e.g.*, the Employment Specialist shall only provide Mental Health Supported Employment services, but not SUD Supported Employment Services); and

(c) The provider shall maintain compliance with the staffing requirements and staffing ratios set forth in this subsection.

3705.3 Certified Mental Health and SUD Supported Employment providers must obtain Department approval to add Supported Employment Teams or Specialists supported through a Human Care Agreement.

3705.4 The Supported Employment Supervisor shall be responsible for overall monitoring of the Supported Employment program and provide clinical interventions and expertise in response to a Supported Employment consumer's/client's clinical and care coordination needs. The Supervisor shall be one of the following behavioral health clinicians appropriately licensed in the District or by the jurisdiction where services are delivered, who practices within the scope of their license:

(a) Physician;

(b) Psychologist;

(c) Licensed independent clinical social worker (LICSW);

(d) Licensed professional counselor (LPC);

(e) Licensed marriage and family therapist (LMFT); or

(f) Advanced practice registered nurse (APRN):

(1) With psychiatry as a specialty area of practice;

(2) Working in a collaborative protocol with a psychiatrist;

(3) Demonstrated proficiency in mental health by having at least five (5) years of experience in psychiatric care delivery;

(4) Demonstrated proficiency in SUD treatment, as evidenced by specialized training; or

(5) A minimum of five (5) years of experience in SUD care delivery.

3705.5 One (1) full-time equivalent Supported Employment Manager shall be responsible for no more than ten (10) Supported Employment Specialists, and shall not have other supervisory responsibilities. However, in cases where the Manager supervises fewer than ten (10) Supported Employment Specialists, the Manager may spend their time on other supervisory activities on a prorated basis.

3705.6 A Mental Health or SUD Supported Employment provider shall have one (1) full-time Supported Employment Specialist for every twenty (20) Supported Employment consumers/clients. Supported Employment Specialists shall satisfy all requirements for non-licensed credentialed staff pursuant to 22-A DCMR Chapter 34.

3705.7 A Mental Health or SUD Supported Employment provider shall comply with all applicable staff requirements set forth in 22-A DCMR Chapter 34.

3705.8 Supported Employment Specialists shall carry out all phases of Supported Employment services, including:

(a) Intake;

(b) Vocational Assessment;

(c) IWP Development;

(d) Benefits Counseling;

(e) Disclosure Counseling;

(f) Treatment Team Coordination;

(g) Job Development;

(h) Job Coaching;

(i) Vocational Follow-Along Supports; and

(j) Therapeutic Follow-along Supports.

3705.9 Supported Employment Supervisors, Managers, and Specialists shall be trained in evidence-based Supported Employment principles and practices. Supported Employment Managers and Specialists shall attend the Department's Supported Employment provider meetings that are held periodically.

3706 MENTAL HEALTH AND SUD SUPPORTED EMPLOYMENT RECORDS AND DOCUMENTATION REQUIREMENTS

3706.1 Each Supported Employment provider shall establish and adhere to an Employment Record Policy for employment record documentation, security, and confidentiality of consumer/client information. The Employment Record Policy shall:

(a) Require the Supported Employment provider to maintain all written employment records in a secured and locked storage area and any electronic records in compliance with all applicable Federal and District laws and regulations, and Department policies;

(b) Require the Supported Employment provider to maintain secure, clear, organized, and comprehensive employment records for every consumer/client enrolled in the Supported Employment Program;

(c) Set forth requirements for documentation maintained in the employment record;

(d) For SUD Supported Employment providers require documentation in the Department-specified electronic health records system;

(e) Require that the Supported Employment provider comply with a Documentation and Retention and Disaster Recovery Plan:

(1) For providers of Mental Health Supported Employment services the Plan shall comply with all applicable provisions of the Disaster Recovery Plan and document retention requirements set forth in 22-A DCMR Chapter 34; and

(2) For providers of SUD Supported Employment services, the Plan shall comply with all applicable provisions of the client records management and confidentiality requirements set forth in 22-A DCMR Chapter 63; and

(f) Keep Supported Employment documents for a minimum of ten (10) years.

3706.2 The following information shall be included in the Supported Employment consumer's/client's employment record:

(a) Referral and intake information;

(b) Identifying information about the consumer/client;

(c) Appropriate release of information forms;

(d) Current MHRS or SUD person-centered Plan of Care which includes the consumer's employment goals and objectives and identification of Supported Employment as a necessary service;

(e) Individualized Work Plan (IWP);

(f) Employment and employer contact information;

(g) Benefits information such as receipt of Social Security and Temporary Assistance to Needy Families benefits;

(h) Information about referrals to RSA; and

(i) Encounter notes for each service.

3706.3 Employment Specialists shall document services on an encounter note, which shall include:

(a) A description of the Supported Employment service(s) that is sufficient to document that the provision was in accordance with this chapter;

(b) The time, date, and duration, including beginning and end time, of the provided services;

(c) The name, title, and credentials of the person providing the services;

(d) The setting in which the services were provided;

(e) Confirmation that the provided services are in the consumer's/client's IWP;

(f) A description of what supports were provided to enhance the consumer's/client's potential for securing employment;

(g) Description of the consumer's/client's response to the Supported Employment services and supports, including the choices and perceptions of the consumer/client regarding the services provided;

(h) Be dated and authenticated in written or electronic form by the person rendering the services; and

(i) Include the appropriate billing codes for those particular services.

3706.4 A Mental Health or SUD Supported Employment provider shall collect and provide the following information and data to the Department monthly and upon request:

(a) Number of consumers/clients referred to the Supported Employment provider and the source of the referral;

(b) Number of consumers/clients enrolled in Supported Employment services;

(c) Number of Supported Employment consumers/clients served;

(d) Number of Supported Employment consumers/clients employed;

(e) Number of inactive Supported Employment consumers/clients;

(f) Number of consumers/clients on wait list;

(g) Number of total full-time Employment Specialists;

(h) Number of Supported Employment consumers/clients referred to RSA;

(i) Number of Supported Employment consumers/clients participating in education programs;

(j) Average number of hours that Supported Employment consumers/clients worked;

(k) Average hourly wage paid to Supported Employment consumers/clients;

(l) Number of Supported Employment consumers/clients receiving benefits (health, dental, or retirement) from employers;

(m) Names and contact information (including locations) of employers who have hired Supported Employment consumers/clients;

(n) Job titles and types of jobs for which Supported Employment consumers/clients have been hired; and

(o) Any other information that the Department requires.

3707 MENTAL HEALTH SUPPORTED EMPLOYMENT SERVICES ELIGIBILITY

3707.1 To be eligible for Mental Health Supported Employment services, a consumer shall:

(a) Be at least eighteen (18) years of age;

(b) Indicate an interest in employment;

(c) Have Mental Health Supported Employment identified as a needed service on a current, MHRS person-centered Plan of Care that has been reviewed by the Department;

(d) Not be receiving MHRS Assertive Community Treatment (ACT) services; and

(e) Be determined by the Department as meeting the following needs-based criteria:

(1) Be assessed to have mental health needs that require an improvement, stabilization, or prevention of deterioration in functioning (including ability to live independently without support), which result from the presence of a mental illness; and

(2) Have at least one (1) of the following risk factors:

(A) Be unable to sustain gainful employment for at least ninety (90) consecutive days as related to a history of mental illness;

(B) An inability to obtain or maintain employment resulting from age or disability (physical or behavioral);

(C) More than one instance of mental illness treatment in the past two (2) years; or

(D) Be at risk for deterioration of mental illness as evidenced by one (1) or more of the following:

(i) Persistent or chronic risk factors such as social isolation due to a lack of family or social supports, poverty, criminal justice involvement, or homelessness;

(ii) Care for mental illness requiring multiple provider types, including behavioral health, primary care, and long-term services and supports; or

(iii) A past psychiatric history with no significant functional improvement that can't be maintained without treatment and supports.

3708 AUTHORIZATION OF AND REFERRALS TO MENTAL HEALTH SUPPORTED EMPLOYMENT SERVICES

3708.1 MHRS CSAs shall assess all consumers eighteen (18) years of age and older for interest in and potential eligibility for Mental Health Supported Employment services as a part of:

(a) Developing or updating the consumer's MHRS person-centered Plan of Care; or

(b) Upon request by family members, advocates, or other service providers.

3708.2 If a consumer is interested in Mental Health Supported Employment services, the CSA shall, in a manner specified by the Department, collect and submit the following information to the Department for its review and a service authorization determination:

(a) Completed needs-based assessment that assesses for the criteria listed in § 3707.1(e);

(b) MHRS person-centered Plan of Care; and

(c) Documentation that the consumer made the choice about which certified Mental Health Supported Employment provider to receive services from, pending service authorization by the Department.

3708.3 The needs-based assessment must be completed face-to-face using the Department-specified needs-based assessment tool. It must be completed by one of the following:

(a) Psychiatrist;

(b) Psychologist;

(c) LICSW;

(d) LPC;

(e) LMFT;

(f) APRN:

(1) With psychiatry as a specialty area of practice;

(2) Working in a collaborative protocol with a psychiatrist; or

(3) Demonstrated proficiency in mental health by having at least five (5) years of experience in psychiatric care delivery;

(g) Registered Nurse (RN);

(h) Licensed Independent Social Worker (LISW);

(i) Psychology Associate;

(j) Licensed Graduate Professional Counselors (LGPC);

(k) Licensed Graduate Social Worker (LGSW);

(l) Physician Assistant; or

(m) Credentialed staff, as described in 22-A DCMR Chapter 34, under the supervision of a behavioral health clinician permitted to diagnose mental illness.

3708.4 In order to prevent conflicts of interest, the Department shall make authorization determinations for the provision of Mental Health Supported Employment services. The determinations shall be based on review of the needs-based assessment and MHRS person-centered Plan of Care submitted by the CSA.

3708.5 The Department shall notify the CSA of the authorization decision, and the CSA shall communicate such determination to the consumer. Medicaid beneficiaries are entitled to Notice and Appeal rights pursuant to 29 DCMR § 9508 in cases of intended adverse action, such as an action to deny, discontinue, terminate, or change the manner or form of Medicaid-funded Supported Employment services. The Department shall provide local-only beneficiaries the same Notice and Appeal

rights as those provided to Medicaid beneficiaries in 29 DCMR § 9508.

3708.6 If the Department has authorized the provision of Mental Health Supported Employment services, the CSA shall within five (5) business days of receiving the determination make a referral to the Mental Health Supported Employment provider of the consumer's choosing. The referral shall be in writing in a format specified by the Department and include the following information:

(a) CSA treatment team contact information;

(b) Contact information for the consumer, including emergency contact information; and

(c) Current MHRS person-centered Plan of Care.

3708.7 The Mental Health Supported Employment provider, upon receipt of a CSA referral, shall engage the consumer within three (3) business days.

3708.8 The provider must have a Wait List Policy to track and manage timely access to services. If the Mental Health Supported Employment provider is unable to accept new consumers, the provider shall notify the consumer, the referring CSA, and the Department.

3708.9 The Department authorization for provision of Mental Health Supported Employment services shall not exceed one-hundred and eighty (180) calendar days. To request continuation of Mental Health Supported Employment services, the Mental Health Supported Employment provider shall notify the consumer's CSA. The CSA shall reassess the consumer for the needs-based criteria and review the MHRS person-centered Plan of Care and update it as needed. Both the assessment and Plan of Care shall be submitted to the Department for review and a reauthorization determination.

3708.10 CSAs shall also reassess consumers receiving Supported Employment services and review, and update as needed, the MHRS person-centered Plans of Care any time there is a significant change in the consumer's condition or situation that affects progress toward the Supported Employment-related goals of the Plan of Care. The Department in those cases shall also review and make an authorization determination for Mental Health Supported Employment services.

3709 INTEGRATION WITH THE CSA TREATMENT TEAM

3709.1 Mental Health Employment Specialists shall be integrated as part of the Supported Employment consumer's CSA treatment team. The Mental Health Employment Specialist shall attend regular treatment team meetings and maintain frequent contact with treatment team members.

3709.2 As a treatment team member, the Mental Health Employment Specialist may participate in updating the MHRS person-centered Plan of Care and is responsible for helping the consumer achieve the goals written in the Plan of Care with regard to employment.

3709.3 Services provided by the Mental Health Employment Specialist shall be consistent with the goals relating to employment included in the consumer's MHRS person-centered Plan of Care.

3710 SUD SUPPORTED EMPLOYMENT SERVICES ELIGIBILITY

3710.1 To be eligible for SUD Supported Employment services, a client shall:

(a) Be at least eighteen (18) years of age;

(b) Indicate an interest in employment;

(c) Not be receiving MHRS ACT services;

(d) Be receiving Medicaid-funded SUD services as described in 22-A DCMR § 6301.4 or locally-funded SUD services as described in 22-A DCMR § 6301.5 in one of the following Levels of Care:

(1) Level: OTP on an outpatient basis;

(2) Level 1: Outpatient;

(3) Level 2.1: Intensive Outpatient;

(4) Level 2.5: Day Treatment;

(e) Be assessed as being able to benefit from and meaningfully engage in SUD Supported Employment services;

(f) Have SUD Supported Employment identified as a needed service on a current, SUD person-centered Plan of Care that has been reviewed by the Department; and

(g) Be determined by the Department to meet the following needs-based criteria:

(1) Be assessed to have substance use needs, where an assessment using the American Society of Addiction Medicine (ASAM) Criteria indicates that the client meets at least ASAM Level 1.0, indicating the need for outpatient SUD treatment; and

(2) Have at least one (1) of the following risk factors:

(A) Unable to sustain gainful employment for at least ninety (90) consecutive days as related to a history of SUD;

(B) Unable to obtain or maintain employment resulting from age or disability (physical or behavioral); or

(C) More than one instance of SUD treatment in the past two (2) years;

(D) Be at risk for deterioration of SUD as evidenced by one (1) or more of the following:

(i) Persistent or chronic risk factors such as social isolation due to a lack of family or social supports, poverty, criminal justice involvement, or homelessness;

(ii) Care for SUD requiring multiple provider types, including behavioral health, primary care, and long-term services and supports; or

(iii) A past psychiatric history with no significant functional improvement that can't be maintained without treatment and supports.

3711 AUTHORIZATION OF AND REFERRALS TO SUD SUPPORTED EMPLOYMENT SERVICES

3711.1 Providers of outpatient Level OTP, Level 1, Level 2.1, and Level 2.5 shall assess all clients eighteen (18) years of age and older for interest in and potential eligibility for SUD Supported Employment services as a part of:

(a) Developing or updating the client's SUD person-centered Plan of Care; or

(b) Upon request by family members, advocates, or other service providers.

3711.2 If a client is interested in SUD Supported Employment services and assessed as being able to benefit from and meaningfully engage in SUD Supported Employment services, the provider shall, in a manner specified by the Department, collect and submit the following information to the Department for its review and a service authorization determination:

(a) Completed needs-based assessment that assesses for the criteria listed in § 3710.1(g);

(b) SUD person-centered Plan of Care; and

(c) Documentation that the client made the choice about which certified SUD Supported Employment provider to receive services from, pending service authorization by the Department.

3711.3 The needs-based assessment must be completed face-to-face using the Department-specified needs-based assessment tool. It must be completed by one of the following behavioral health clinicians appropriately licensed (or certified, if applicable) in the District or by the jurisdiction where services are delivered, and who practices within the scope of their license (or registration, if applicable) and any applicable supervision requirements:

(a) Physician;

(b) Psychologist;

(c) LICSW;

(d) LPC;

(e) LMFT; or

(f) APRN who has:

(1) Demonstrated proficiency in SUD treatment, as evidenced by specialized training; or

(2) A minimum of five (5) years of experience in SUD care delivery;

(g) LISW;

(h) LGPC;

(i) LGSW;

(j) RN;

(k) Physician Assistant; or

(l) Certified Addiction Counselor I or II.

3711.4 In order to prevent conflicts of interest, the Department shall make authorization determinations for the provision of SUD Supported Employment services. The determinations are based on review of the needs-based assessment and SUD person-centered Plan of Care submitted by the client's outpatient Level OTP, Level 1, Level 2.1, or Level 2.5 provider.

3711.5 The Department shall notify the provider of the authorization decision, and the provider shall communicate such determination to the client. Medicaid beneficiaries are entitled to Notice and Appeal rights pursuant to 29 DCMR § 9508 in cases of intended adverse action, such as an action to deny, discontinue, terminate, or change the manner or form of Medicaid-funded Supported Employment services. The Department shall provide local-only beneficiaries the same Notice and Appeal rights as provided to Medicaid beneficiaries per 29 DCMR § 9508.

3711.6 If the Department has authorized the provision of SUD Supported Employment services, the provider shall within five (5) business days of receiving the determination make a referral to the SUD Supported Employment provider of the client's choosing. The referral shall be in writing in a format specified by the Department and include the following information:

(a) Referring provider's treatment team contact information;

(b) Contact information for the client, including emergency contact information;

(c) Current SUD person-centered Plan of Care; and

(d) Advance directives or instructions, if available.

3711.7 The SUD Supported Employment provider, upon receipt of a referral from an outpatient Level OTP, Level 1, Level 2.1, or Level 2.5 provider, shall engage the client within three (3) business days.

3711.8 The provider must have a Wait List Policy to track and manage timely access to services. If the SUD Supported Employment provider is unable to accept new clients, the provider shall notify the client, the referring provider, and the Department.

3711.9 The Department authorization for provision of SUD Supported Employment services shall not exceed one-hundred and eighty (180) calendar days. To request continuation of SUD Supported Employment services, the SUD Supported Employment provider shall notify the client's referring outpatient Level OTP, Level 1, Level 2.1, or Level 2.5 provider. The referring provider shall reassess the client for the needs-based criteria and review the SUD person-centered Plan of Care

and update it as needed. Both the assessment and Plan of Care shall be submitted to the Department for review and a reauthorization determination.

3711.10 Outpatient Level OTP, Level 1, Level 2.1, and Level 2.5 providers shall also reassess clients receiving Supported Employment services and review, and update as needed, the SUD person-centered Plans of Care any time there is a significant change in the client's condition or situation that affects progress toward the SUD Supported Employment-related goals of the Plan of Care. The Department in those cases shall also review and make an authorization determination for SUD Supported Employment services.

3712 INTEGRATION WITH THE SUD TREATMENT TEAM

3712.1 SUD Employment Specialists shall be integrated as part of the Supported Employment client's referring SUD provider's treatment team. The SUD Employment Specialist shall attend regular treatment team meetings and maintain frequent contact with treatment team members.

3712.2 As a treatment team member, the SUD Employment Specialist may participate in updating the SUD person-centered Plan of Care and is responsible for helping the client achieve the goals written in the Plan of Care with regard to employment.

3712.3 Services provided by the SUD Employment Specialist should be consistent with the goals relating to employment included in the client's SUD person-centered Plan of Care.

3713 REIMBURSEMENT

3713.1 Mental Health and SUD Supported Employment providers, pursuant to their contract with RSA, shall seek reimbursement from RSA for the following services when provided to their Supported Employment consumers/clients while they are enrolled with RSA:

(a) Job Development; and

(b) Job Coaching.

3713.2 All Mental Health and SUD Supported Employment services not subject to reimbursement by RSA shall be billed by the Supported Employment provider in accordance with the remainder of this section. Reimbursement for Medicaid-funded and locally-funded Mental Health and SUD Supported Employment services described in §§ 3713.3 and 3713.4 shall be at the rate contained in the District of Columbia Medicaid fee schedule available online at www.dc-medicaid.com. All future updates to the service codes and rates will be included in the District of Columbia Medicaid fee schedule pursuant to the procedures established in 29 DCMR § 988.

3713.3 The following services shall be billed as Vocational Supported Employment:

(a) Intake;

(b) Vocational Assessment;

(c) IWP Development;

(d) Disclosure Counseling;

(e) Treatment Team Coordination;

(f) Job Development (if provided outside of time-period of RSA involvement);

(g) Job Coaching (if provided outside of time-period of RSA involvement); and

(h) Vocational Follow-Along Supports.

3713.4 The following services shall be billed as Therapeutic Supported Employment and shall be delivered by qualified practitioners or credentialed staff eligible to provide Community Support services as specified in 22-A DCMR Chapter 34:

(a) Benefits Counseling; and

(b) Therapeutic Follow-Along Supports.

3713.5 Prior authorization by the Department shall be required for Vocational and Therapeutic Supported Employment services. Initial and any subsequent authorizations for Vocational Supported Employment services shall not exceed ninety-six (96) units per one hundred and eighty (180) calendar day time period. Authorizations for Therapeutic Supported Employment services shall not exceed one hundred and eighty (180) calendar days.

3713.6 Vocational and Therapeutic Supported Employment Services shall not be billed on the same day as Intensive Day Treatment services, as defined in 22-A DCMR Chapter 34.

3713.7 Billing units are fifteen (15) minutes.

3713.8 Mental Health and SUD Supported Employment services shall only be provided:

(a) At the Supported Employment provider's service site; or

(b) In natural settings, including the consumer's/client's work site or other community setting.

3799 DEFINITIONS

3799.1 When used in this chapter, the following words shall have the meanings ascribed:

Client – a person admitted to an SUD treatment or recovery program and is assessed to need SUD treatment services or recovery support services.

Consumer – a person who seeks or receives mental health services funded or regulated by the Department.

Core Services Agency or CSA – a Department-certified MHRS provider that has entered into a Human Care Agreement with the Department to provide specific MHRS in accordance with the requirements of 22-A DCMR Chapter 34.

Department of Behavioral Health or the Department – the District of Columbia agency that regulates the District's behavioral health system for adults, children, and youth.

Department on Disability Services' Rehabilitation Services Administration or RSA – the District of Columbia government entity that provides employment services to those individuals with developmental and other disabilities.

Individualized Work Plan or IWP – a plan developed by the Mental Health or SUD Supported Employment provider with the consumer that includes an employment goal and the support services required to reach the goal.

Level 1 Provider – a Department-certified SUD provider that has entered into a Human Care Agreement with the Department to provide Outpatient Services in accordance with the requirements of 22-A DCMR Chapter 63.

Level 2.1 Provider – a Department-certified SUD provider that has entered into a Human Care Agreement with the Department to provide Intensive Outpatient Services in accordance with the requirements of 22-A DCMR Chapter 63.

Level 2.5 Provider – a Department-certified SUD provider that has entered into a Human Care Agreement with the Department to provide Day Treatment Services in accordance with the requirements of 22-A DCMR Chapter 63.

Mental Health Rehabilitation Services or MHRS – mental health rehabilitative services provided by a Department-certified mental health provider.

MHRS Person-Centered Plan of Care – the MHRS person-centered Plan of Care developed by a Core Services Agency pursuant to the requirements set forth in 22-A DCMR Chapter 34.

MHRS Provider – providers certified by the Department as a Core Services Agency, sub-provider, or specialty provider to deliver MHRS.

Needs-Based Assessment – an assessment conducted by a consumer's CSA or client's outpatient Level OTP, Level 1, Level 2.1, or Level 2.5 provider, using the Department-specified needs-based assessment tool, to help determine if a consumer or client meets the needs-based criteria for receipt of Mental Health or SUD Supported Employment services.

Outpatient Level Opioid Treatment Program or Outpatient Level OTP – a Department-certified SUD provider that has entered into a Human Care Agreement with the Department to provide Opioid Treatment Program services on an outpatient basis in accordance with the requirements of 22-A DCMR Chapter 63.

SUD Person-Centered Plan of Care – the SUD person-centered Plan of Care developed for an individual meeting the eligibility requirements described in 22-A DCMR Chapter 63 §§ 6301.4 or 6301.5 by an outpatient Level OTP, Level 1, Level 2.1, or Level 2.5 provider, pursuant to the requirements set forth in 22-A DCMR Chapter 63.

Supported Employment Fidelity Scale – the Supported Employment provider evaluation tool developed in accordance with the evidence-based practice adopted by the Department and as stated in Department policy.

OFFICE OF OUT OF SCHOOL TIME GRANTS AND YOUTH OUTCOMES

NOTICE OF PROPOSED RULEMAKING

The Office of Out of School Time Grants and Youth Outcomes ("OST Office"), pursuant to the authority set forth in Section 5 of the District of Columbia Office of Out of School Time Grants and Youth Outcomes Establishment Act of 2016, effective April 7, 2017 (D.C. Law 21-261; D.C. Official Code § 2-1555.04 (2016 Repl.)), hereby gives notice of its intent to adopt a new Chapter 40 (Out of School Time Grant Program) to Title 1 (Mayor and Executive Agencies) of the District of Columbia Municipal Regulations ("DCMR"), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of this proposed rulemaking is to formally establish the Out of School Time Grant Program of the OST Office and to establish eligibility criteria for nonprofit organizations, programming hours, scoring and review parameters, and reporting requirements.

To develop the proposed standards, the OST Office reviewed the eligibility requirements of OST Office grant competitions from the last two (2) years, sought input from out-of-school time providers, reviewed relevant District policies and procedures, researched practices from other jurisdictions, and considered educational and developmental goals of the District.

Title 1 DCMR, MAYOR AND EXECUTIVE AGENCIES, is amended by adding a new Chapter 40, OUT OF SCHOOL TIME GRANT PROGRAM, to read as follows:

CHAPTER 40 OUT OF SCHOOL TIME GRANT PROGRAM

4000 GENERAL PROVISIONS

4000.1 The purpose of this chapter is to:

(a) Establish the Out of School Time Grant Program ("OST Grant Program") within the Office of Out of School Time Grants and Youth Outcomes ("OST Office");

(b) Establish the process for awarding competitive grants through the OST Grant Program;

(c) Establish the process for awarding non-competitive grants through the OST Grant Program; and

(d) Set forth the authority of the OST Office to monitor compliance with and enforce this chapter.

4000.2 The OST Office may publish policies, procedures, or guidance related to the OST Grant Program to supplement this chapter.

4000.3 The OST Office does not accept unsolicited grant applications.

4001 COMPETITIVE GRANTS: REQUEST FOR APPLICATIONS

4001.1 Before the award of competitive grant funding and in accordance with Section 1094 of the Grant Administration Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code § 1-328.13), the OST Office shall issue a Request for Applications ("RFA").

4001.2 Each RFA shall include the following:

(a) A description of the minimum requirements that an applicant must meet to be eligible for an award (for example, Internal Revenue Service 501(c)(3) designation; good standing with the District of Columbia);

(b) A description of any minimum requirements that a program must meet in order to be eligible to receive an award (for example, the minimum number of youth that must be served by the program)

(c) A description of any financial information of an applicant that must be submitted with an application (for example, financial audits, financial reviews, and/or statements of financial position);

(d) A requirement that the applicant provide a narrative description of its youth development out-of-school time program ("OST Program") proposed for grant funding;

(e) A requirement that the applicant provide a detailed budget for its OST Program proposed for grant funding;

(f) A description of the eligible uses of grant funds;

(g) The maximum indirect cost recovery rate that will be allowed under a grant award;

(h) The grant period (that is, the period of time of OST Program operations for which the grant funding will be provided);

(i) The maximum total dollar amount of grants that will be awarded pursuant to the RFA;

(j) The maximum dollar amount of any individual grant that will be awarded pursuant to the RFA;

(k) The criteria by which each application will be evaluated and scored;

(l) The deadline for submission of an application;

(m) A description of the process for submitting an application; and

(n) The date by which grant award decisions will be made by the OST Office;

4001.3 Applications must be received by the deadline set forth in the RFA to be considered for award.

4001.4 The OST Office may suspend, terminate, or rescind an RFA at any time for any reason.

4001.5 The OST Office may issue amendments and addenda to an RFA after the issuance of an RFA.

4001.6 Each applicant shall be responsible for all costs associated with the preparation and submission of its application in response to an RFA.

4001.7 Applicants are responsible for providing all information requested in the RFA. The OST Office is not responsible for notifying applicants of non-responsive or incomplete proposals.

4002 COMPETITIVE GRANTS: REVIEW PANELS

4002.1 The OST Office shall appoint a review panel or multiple review panels to evaluate the applications received in response to an RFA in an impartial manner based on the scoring criteria set forth in the RFA.

4002.2 Members of a review panel may be District government employees or members of the public; provided that no more than half of a review panel's members may be employees or contractors of the OST Office or members of the Commission on Out of School Time Grants and Youth Outcomes ("OST Commission").

4002.3 A member of the public must apply to, and be accepted by, the OST Office in order to serve as a member of a review panel. A member of the public who applies to serve as a member of a review panel must have at least two (2) years of experience with, and knowledge of, youth development and OST programming and must meet any other qualification standards of the OST Office in order to be accepted as a member of a review panel by the OST Office.

4002.4 All reviewers shall be screened for conflicts of interest and each reviewer must affirm his or her ability to be impartial before serving as a member of a review panel.

4002.5 Each reviewer shall receive training on how to review applications. The training shall be provided by the OST Office or an individual or entity designated by the OST Office.

4003 COMPETITIVE GRANTS: PRIORITY POINTS

4003.1 The OST Office may establish a priority or set of priorities for each grant competition to improve the equitable distribution of OST programs and funding.

4003.2 In establishing a priority or set of priorities for a grant competition, the OST Office shall follow the priorities established by the OST Commission's for at-risk students, geographic distribution of OST programs and funding, and program quality established pursuant to Office of Out of School Time Grants and Youth Outcomes Establishment Act of 2016, effective April 7, 2017 (D.C. Law 21-261; D.C. Official Code § 2-1555.04(c)). In the absence of any such established priorities, the OST Office may establish a priority or set of priorities for a grant competition after consultation with the OST Commission.

4003.3 The OST Office may provide additional points to an application if the OST Program requested to be funded by the application meets the priority or priorities established for the grant competition.

4004 COMPETITIVE GRANTS: AWARDS AND APPEALS

4004.1 The Executive Director of the OST Office ("OST Executive Director") shall make determinations of competitive grant awards and grant denials. The OST Executive Director's determinations shall be based on review panel scores and priority points.

4004.2 Promptly after determinations have been made by the OST Executive Director under § 4004.1, the OST Office shall provide a notice of grant award or grant denial to each applicant.

4004.3 All grant award decisions of the OST Executive Director are final. The decisions are not subject to review, appeal, or protest.

4005 COMPETITIVE GRANTS: GRANT AGREEMENTS

4005.1 After notice of a grant award is provided to an applicant, the OST Office and applicant shall enter into grant agreement negotiations. The negotiations may make changes to the funding amount proposed in the applicant's application, the program budget included in the applicant's application, and other elements of the applicant's application provided.

4005.2 If the OST Office and the applicant do not agree upon the terms of the grant agreement within fifteen (15) business days after the OST Office provides notice of the grant award, the OST Office may terminate the grant award.

4005.3 In addition to such other terms that may be included in the grant agreement, the grant agreement shall specify that the awardee shall comply with:

(a) The Youth Bullying Prevention Act of 2012, effective September 14, 2012 (D.C. Law 19-167; D.C. Official Code §§ 2-1535.01 *et seq*.);

(b) The District of Columbia Human Rights Act of 1977, effective December 13, 2011 (D.C. Law 2-38; D.C. Official Code §§ 2-1401 *et seq*.);

(c) Background check policy: All employees, volunteers, and contractors of the applicant who work with youth have undergone the necessary background checks and clearances, including those required by the Criminal Background Checks for the Protection of Children Act of 2004, effective April 13, 2005 (D.C. Law 15-353; D.C. Official Code §§ 4-1501.01 *et seq.*); and

(d) All other applicable District and federal laws and regulations.

4005.4 Grant awards shall not be final until the execution of the grant agreement by both the awardee and the OST Office and, if necessary, approval by the Council.

4005.5 A grantee may not use grant funds to pay for costs incurred before the grant award is final.

4006 COMPETITIVE GRANTS: PERFORMANCE MEASURES AND REPORTING

4006.1 Each grantee shall, as a condition of the grant award, administer youth surveys and program evaluation tools as determined by the OST Office; provided, that the OST Office may waive this requirement for a program model that does not match the requirements of the surveys or evaluations.

4006.2 Each grantee shall, as a condition of the grant award, submit to the OST Office, on a quarterly or semiannual basis (as set forth in the grant agreement), a report describing the grantee's progress in implementing the OST program, including a description of the specific services provided to youth, the location of services provided to youth, demographic information on service recipients, and information on the expenditure of the grant funds, including the amount of grant funds expended on program costs and the amount of grant funds expended on other costs.

4006.3 Each grantee shall, as a condition of the grant award, track service recipient information, including demographics, and OST program attendance in a database administered by the OST Office, and shall maintain supporting documents for information provided in the database for at least five (5) years after the end of the grant period.

4006.4 Within forty-five (45) days after the end of a grant period, the grantee shall submit a final report that includes a narrative description of the achievements of the OST Program (including the information listed in Subsection 4006.2) and detailed information on the expenditure of grant funds.

4007 COMPETITIVE GRANTS: MONITORING, COMPLIANCE, AND RECORDS

4007.1 The OST Office shall conduct regular compliance and programming reviews of grantees.

4007.2

(a) Grantees shall be subject to a minimum of one (1) administrative compliance monitoring visit and one (1) programmatic monitoring visit per grant period.

(b) Administrative compliance monitoring includes review of: compliance with applicable District laws, rules, regulations, procedures, and policies; grantee's use of grant funds; verification of appropriate clearances and background checks for personnel; financial and organizational

documentation; and participant files to verify enrollment, attendance, consent forms, data entry, and other information.

(c) Programmatic monitoring includes: review of facilities where programming occurs to verify programming activities; access to program procedures and policies; and access to participants and staff to interview, verify, and confirm program details, procedures, and policies.

4007.3 Grantees shall be subject to scheduled and unscheduled programmatic site visits by the OST Office to monitor and assess program quality.

4007.4 Each grantee shall maintain its financial records in accordance with generally accepted accounting principles and shall account for all funds, tangible assets, revenues, and expenditures in such records. Each grantee shall ensure that all of its financial records are accurate, complete, and current at all times. Each grantee shall make its financial records available for audit and inspection by the OST Office, or its agents, upon the request of the OST Office.

4007.5

(a) At the completion of a grant period, the OST Office shall provide the grantee an accountability risk profile ("ARP"), which shall designate the grantee as "low-risk", "medium-risk", or "high-risk".

(b) As part of the process of making an ARP risk, the OST Office shall review whether the grantee met all grant agreement requirements, including program reporting and financial reporting.

(c) The ARP risk classification will determine the amount of monitoring required for future grants and the eligibility of the grantee to apply to future RFAs or receive future grants from the OST Office.

(d) An organization designated as "high-risk" shall not be eligible to apply for a grant from the OST Office until both: (1) one year has elapsed since the date of the designation; and (2) appropriate documentation has been provided to the OST Office that documents that the organization's performance has improved. Performance improvement can be documented either in the form of an audit or an independent program assessment.

4007.6 Each grantee shall maintain programmatic and financial documentation, in either physical or electronic format, related to the grant for five (5) years after submission of the final report.

4008 CONTINUATION GRANTS

4008.1 Pursuant to D.C. Official Code § 2-1555.04(e), grants supporting OST Programs, except for OST summer programs, shall be eligible for continuation awards for at least two (2) years, subject to the availability of funding.

4008.2 RFAs are not released for continuation grants. Continuation grants are awarded based on the grantee's performance under the grant agreement.

4008.3 The OST Office will notify a grantee of a continuation grant at least thirty (30) days before the end of the grant period.

4009 NON-COMPETITVE GRANTS: ELIGIBILITY

4009.1 As provided in Section 4(b)(2) and (3) of the Office of Out of School Time Grants and Youth Outcomes Establishment Act of 2016, effective April 7, 2017 (D.C. Law 21-261; D.C. Official Code §§ 2-1555.04(b)(2)and (3)), the OST Office may award non-competitive grants to:

(a) A nonprofit organization that does not provide out-of-school-time programs, provided that:

(1) The nonprofit organization has a proven track record of success in grant-making;

(2) The nonprofit organization agrees to use a minimum of ninety percent (90%) of the OST Office's grant to award subgrants to other nonprofit organizations that provide out-of-school time programs; and

(3) The nonprofit organization agrees to undergo an annual audit and submit quarterly reports to the OST Office on its financial health and its use of the OST Office's grant; and

(b) Nonprofit organizations for the purpose of providing training or technical assistance to the OST Commission or to nonprofit organizations that provide out-of-school time programs.

4009.2 In order to be eligible to receive a non-competitive grant under Subsection 4009.1, an organization must be in good standing with the District government by:

(a) Having filed all required reports with the District government

(b) Holding all required licenses, registrations, and certifications;

(c) Being compliant with all District and federal tax requirements;

(d) Having a current Certificate of Clean Hands issued by the District government; and

(e) Having a current Certificate of Good Standing issued by the District government.

4009.3

(a) The OST Office may authorize a grantee under § 4009.1(a) to serve as a grantmaking partner of the OST Office.

(b) As a grantmaking partner of the OST Office, the grantee shall be responsible, in whole or in part, as designated by the OST Office, for administering and managing the OST Grant Program; monitoring grant progress; and supporting grantees in meeting the grant requirements.

(c) In carrying out its responsibilities, a grantmaking partner must adhere to the rules, policies, and procedures of OST Office for managing the OST Grant Program.

(d) The rules governing the eligibility for and process for issuance of competitive grants set forth in this chapter shall apply to all subgrants of the grantmaking partner.

4009.4 With the exception of non-competitive grants provided to a grantmaking partner to administer the OST Grant Program under Subsection 4009.1(a), a non-competitive grant awarded by the OST Office shall not exceed one hundred thousand dollars ($100,000) per organization in any fiscal year.

4010 NON-COMPETITIVE GRANTS: GRANT AGREEMENT

4010.1 After providing notice of the award of a non-competitive grant to a nonprofit organization, the OST Office and the nonprofit organization shall enter into negotiations on a grant agreement. The negotiations shall include negotiation of the grant amount, the scope of services to be provided by the nonprofit organization, the budget for the services to be provided by the nonprofit organization, and such other terms and conditions as the OST Office considers appropriate.

4010.2 If the OST Office and the applicant do not agree upon the terms of the grant agreement within fifteen (15) business days after the OST Office provides notice of the grant award, the OST Office may terminate the grant award.

4010.3 In addition to such other terms that may be included in the grant agreement, the grant agreement shall specify that the awardee shall comply with:

(a) The Youth Bullying Prevention Act of 2012, effective September 14, 2012 (D.C. Law 19-167; D.C. Official Code §§ 2-1535.01 *et seq*.);

(b) The District of Columbia Human Rights Act of 1977, effective December 13, 2011 (D.C. Law 2-38; D.C. Official Code §§ 2-1401 *et seq*.);

(c) Background check policy: All employees, volunteers, and contractors of the applicant who work with youth have undergone the necessary background checks and clearances, including those required by the Criminal Background Checks for the Protection of Children Act of 2004, effective April 13, 2005 (D.C. Law 15-353; D.C. Official Code §§ 4-1501.01 *et seq.*); and

(d) All other applicable District and federal laws and regulations.

4010.4 Grant awards shall not be final until the execution of the grant agreement by both the awardee and the OST Office and, if necessary, approval by the Council.

4010.5 A grantee may not use grant funds to pay for costs incurred before the grant award is final.

4011 NON-COMPETITIVE GRANTS: MONITORING, COMPLIANCE, AND RECORDS

4011.1 Each non-competitive grantee shall be required to provide periodic reports to the OST Office on its performance and expenses related to the grant. Details of the required reports, including a final report, shall be specified in the grant agreement.

4011.2 The OST Office may conduct evaluations, and perform on-site monitoring, of each non-competitive grantee's performance and compliance with the grant agreement at such times and with such frequency as is deemed appropriate by the OST Office.

4011.3 Each grantee shall maintain programmatic and financial documentation, in either physical or electronic format, related to the grant for five (5) years after submission of the final report.

4012 DISBURSEMENT OF GRANT FUNDS FOR COMPETITIVE AND NON-COMPETITIVE GRANTS

4012.1 The OST Grant Program may disburse grants in advance of expenses, except if the grantee has been designated high-risk by the OST Office as described in Subsection 4007.5. Disbursement details and timelines shall be set forth in the grant agreement.

4013 USE OF GRANT FUNDS BY COMPETITIVE AND NON-COMPETITIVE GRANTEES

4013.1 Grant funds may not be used for to pay for:

(a) Costs paid for with other District government funds;

(b) Serving youth who reside outside the District;

(c) Alcohol;

(d) Bad debts;

(e) Contingencies;

(f) Indemnity insurance;

(g) Pension plans;

(h) Post-retirement benefits;

(i) General legal or other legal professional services (except that grant funds may be used to pay program-related legal fees if approved in advanced by the OST Office);

(j) Land, buildings, or capital improvements;

(k) The purchase of vehicles;

(l) Entertainment or social activities;

(m) Food or beverages associated with entertainment or social activities;

(n) Food or beverages for staff, contractors, or volunteers;

(o) Interest on loans;

(p) Fines or penalties;

(q) Fundraising;

(r) Investment management costs;

(s) Lobbying activities;

(t) Membership to lobbying organizations;

(u) Direct gifts to lobbying campaigns;

(v) Public relations of the organization (for example, displays, advertisements, exhibits, conventions, travel);

(w) Faith-based activities;

(x) Staff or board bonuses or staff or board incentives; or

(y) Fees or other payments to government agencies except as may be needed to comply with the OST Program's background checks policy.

4013.2 Additional restrictions on the use of grant funds may be imposed by the OST Office in a grant agreement.

4013.3 In addition to the restrictions set forth in § 4013.1, a grantee may not make an expenditure of OST grant funds that is inconsistent with the budget in the grantee's grant agreement. A grantee may request a modification to the budget in the grant agreement by submitting a budget modification request to the OST Office. The budget modification request must include an updated budget and a detailed rationale for each significant change to the budget. The budget modification request is subject to approval by the OST Office and approval shall be in the OST Office's sole discretion. Notwithstanding the foregoing, the grantee may modify the budget in the grantee's grant agreement without the approval of the OST Office if the modification to the budget, in combination with any other prior budget modifications under this provision, does not result in a change of ten percent (10%) or more in any budget line item throughout the grant period, unless otherwise provided in the grant agreement.

4014 SUSPENSION OR TERMINATION OF GRANT FUNDS

4014.1 The OST Office may suspend or terminate a grant agreement or grant funding if a grantee has not demonstrated satisfactory performance or financial accountability under a grant agreement; has not spent grant funds in a timely manner; is in default under the grant agreement; or is not in compliance with all applicable District and federal laws and regulations.

4014.2 Upon notice of termination, the OST Office shall be entitled to the repayment or return of unexpended and unobligated grant funds, and any expended or obligated grant funds that were not expended or obligated in accordance with the grant agreement or applicable laws or regulations.

4014.3 Before terminating a grant agreement, the OST Office shall provide a notice of planned termination to the grantee at least thirty (30) days before the planned termination is to take effect. The notice shall describe the reason for the planned termination and shall provide at least fourteen (14) days for the grantee to respond to and/or cure the deficiency(ies) described in the notice of planned termination. After receipt of the grantee's response to the notice of planned termination, the OST Office may rescind the notice of planned termination if the grantee has satisfactorily

cured the deficiency(ies) described in the notice of planned termination and/or has provided sufficient evidence establishing that the deficiency(ies) did not exist.

4014.4 Notwithstanding, § 4013.3, the OST Office may terminate a grant with no prior notice or opportunity to respond or cure if the OST Office determines that such a termination is in the interests of the District government.

4099 DEFINITIONS

4099.1 For the purposes of this chapter, the following words and phrases shall have the meanings ascribed:

Applicant – an entity that submits an application to be considered for grant funding from the OST Office.

At-risk – has the same meaning as set forth in Section 4(a) of the Fair Student Funding and School-Based Budgeting Amendment Act of 2013, effective February 22, 2014 (D.C. Law 20-87; D.C. Official Code § 38-2901(2A)).

Grantmaking partner – a non-profit organization that administers and monitors the OST Grant Program, or any portion of the OST Grant Program, on behalf of the OST Office.

Out-of-school time program (OST Program) – a structured, supervised learning or youth development program offered before school, after school, on weekends, or during seasonal school breaks.

Request for Application (RFA) – a document that solicits entities to submit an application to be considered for grant funding from the OST Office.

Reviewer – an individual that evaluates and scores grant applications.

Youth – an individual of twenty-one (21) years of age or less who is eligible to enroll in a District primary or secondary school, or an individual of twenty-two (22) years of age or less who is eligible to receive special education services from a District local educational agency.

Youth development – a programmatic or service delivery approach that engages youth within their communities, schools, organizations, peer groups, and families in a manner that is productive and constructive; recognizes, utilizes, and enhances youths' strengths; and promotes positive outcomes for youth by providing opportunities, fostering positive relationships, and furnishing the support needed to build on their strengths.

Youth development program – a program or service that engages youth in a variety of social, emotional, educational, and recreational activities to

promote improvements to their intellectual, behavioral, and physical well-being, consistent with a youth development approach.

All persons interested in commenting on this proposed rulemaking should file comments in writing within thirty (30) days after the date of publication of this notice in the *D.C. Register* with Debra Eichenbaum, Grants Management Specialist, Office of Out of School Time Grants and Youth Outcomes, Office of the Deputy Mayor for Education, 1350 Pennsylvania Avenue, Suite 307, Washington, D.C. 20004; or email debra.eichenbaum@dc.gov. Copies of this proposed rulemaking are available by writing to the above address, and are also available electronically on the Office of Out of School Time Grants and Youth Outcomes website at Learn24.dc.gov.

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

The Director of the District Department of Transportation (DDOT), pursuant to the authority set forth in Sections 3(b), 5(a)(3)(Q), (R), and (S) (allocating and regulating on street parking and curb regulations), 6(b) and (c) (transferring certain transportation related functions to DDOT), 7 (delegating and redelegating all transportation related authority to DDOT), and 9j (rulemaking authority for the DDOT Director) of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02(b), 50-921.04(a)(3)(Q), (R), and (S), 50-921.05(b) and (c), 50-921.06, and 50-921.18 (2014 Repl. & 2019 Supp.)), Section 105(a)(1) of the District of Columbia Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law 2-104; D.C. Official Code § 50-2301.05(a)(1) (2014 Repl. & 2019 Supp.)),and Mayor's Order 2019-060, dated June 20, 2019, hereby gives notice of the intent to adopt amendments to Chapter 24 (Stopping, Standing, Parking, and Other Non-Moving Violations) and Chapter 26 (Civil Fines for Moving and Non-Moving Infractions) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR).

The proposed rules update the rules regarding the issuance of annual visitor parking passes, temporary visitor parking permits, and temporary home health care provider parking permits. Among other amendments to the existing rules, the proposed rules will eliminate the requirement that the Director provide annual visitor parking passes in a physical format, allowing the Director to either continue the distribution of physical annual visitor parking passes, distribute annual visitor parking passes through an online system that requires the recipient to print the pass, distribute electronic passes through an online system, or a combination of these options.

The proposed rules will also effectuate the transfer of responsibility for the issuance of temporary visitor parking passes from the Metropolitan Police Department to DDOT and allow the Director to either continue the distribution of physical temporary visitor parking passes, distribute temporary visitor parking passes through an online system that requires the recipient to print the pass, distribute electronic passes through an online system, or a combination of these options.

The proposed rules also repeal the different treatment of certain Ward 2 ANC areas for purposes of annual visitor parking passes given that a move to digital application for visitor parking renders the distinction between annual passes and temporary permits, which residents of these ANCs are already eligible for, largely irrelevant. Residents of all eight wards will be treated equally for purposes of visitor parking under these proposed rules.

Finally, the proposed rules update the infraction associated with visitor permits and passes found in 18 DCMR § 2601 to comply with the new section structure. The fine amount associated with that infraction is unchanged.

This rulemaking shall be submitted to the Council of the District of Columbia for a forty-five (45) day review period, excluding Saturdays, Sundays, legal holidays, and days of Council

recess. Pursuant to D.C. Official Code § 50-2301.05(a)(1) (2014 Repl.), the rulemaking shall be deemed approved if within the 45-day period, the Council takes no action.

Final rulemaking action to adopt these amendments shall be taken in not less than forty-five (45) days after the date of publication of this notice in the *D.C. Register*.

Title 18 DCMR, VEHICLES AND TRAFFIC, is amended as follows:

Chapter 24, STOPPING, STANDING, PARKING, AND OTHER NON-MOVING VIOLATIONS, is amended as follows:

Section 2414, VISITOR OR TEMPORARY PERMITS, is amended to read as follows:

2414 ANNUAL VISITOR PARKING PASSES AND TEMPORARY PARKING PERMITS

2414.1 The Director may issue temporary visitor parking permits to a housing unit on a residential permit parking block, for use by visitors to the housing unit; provided, that the Director may not issue temporary visitor parking permits to a housing unit that, in the aggregate, are valid for a period of time in excess of ninety (90) days per calendar year.

2414.2 The Director may issue a temporary home health care provider parking permit to a housing unit on a residential permit parking block, valid for a period of up to sixty (60) days, for use by a home health care provider providing service to a resident of the housing unit as warranted by the resident's medical necessity.

2414.3 The issuance of a temporary home health care provider parking permit under § 2414.2 shall not count against a housing unit's ninety (90)-day per calendar year limit for temporary visitor parking permits under § 2414.1.

2414.4 The Director may issue one (1) annual visitor parking pass per calendar year to a housing unit located on a residential permit parking block or an ERPP block as defined by § 2438. The annual visitor parking pass shall be valid for each day of the calendar year, for use by visitors to the housing unit.

2414.5 To obtain a pass or permit under this section, a resident of an eligible housing unit shall:

(a) Submit an application, either online or over the telephone, in a format provided by DDOT; and

(b) Provide proof of residency at the housing unit.

2414.6 Each pass or permit issued under this section shall authorize the person using the pass or permit to park a vehicle only in the area designated on or by the pass.

2414.7 The area designated on or by the pass or permit shall be the geographic area of the ANC in which the housing unit for which the pass or permit is issued is located.

2414.8 Each pass or permit issued under this section may be used within the area designated on the pass even if the motor vehicle using the permit or pass displays a residential permit parking sticker for another zone.

2414.9 The fee to obtain a permit or pass under this section shall be established by the Director and posted on the application; provided, that the Director shall not establish a fee greater than five dollars ($5.00) per day and may be prorated in any increment of time; provided further, that the Director shall not charge a fee for a permit or pass under this section before January 1, 2022.

2414.10 The Director may issue a permit or pass described in this section in a physical or electronic form.

2414.11 A person's use of a permit or pass under this section shall be valid only if:

(a) The person using the permit or pass is visiting the housing unit for which the pass was issued;

(b) The vehicle using the pass or permit is parked within the geographic area designated on or by the pass or permit;

(c) The vehicle using the pass or permit is parked in a location where it would be valid for a vehicle with a residential permit parking sticker to be parked at that date and time; and

(d) In the case of a physical permit or pass only, the permit or pass is clearly displayed on the driver side of the vehicle dashboard so that the following information is visible from outside the vehicle:

(1) The designated geographic area within which a vehicle displaying the permit or pass is authorized to park;

(2) The dates or time period during which the permit or pass is valid; and

(3) For a temporary visitor parking permit or temporary home health care provider parking permit, the license plate information of the vehicle for which the permit or pass was issued.

2414.12 The forgery, counterfeiting, sale, exchange for value, or unauthorized use or replication of a permit or pass described in this section shall be punishable by a fine of three hundred dollars ($300).

Chapter 26, CIVIL FINES FOR MOVING AND NON-MOVING INFRACTIONS, is amended as follows:

Section 2601, PARKING AND OTHER NON-MOVING INFRACTIONS, is amended as follows:

Subsection 2601.1 is amended as follows:

Under the heading of "Residential Permit Parking", the infraction titled "Improper use of annual visitor parking pass [§ 2414.18]" is amended to read as follows:

Improper use of visitor parking pass or permit [§ 2414.12] $ 300.00

All persons interested in commenting on the subject matter in this proposed rulemaking may file comments in writing, not later than forty-five (45) days after the publication of this notice in the *D.C. Register*, with Cameron Stokes, Policy and Legislative Affairs Division, DDOT, 55 M Street, S.E., 7th Floor, Washington, D.C. 20003. An interested person may also send comments electronically to publicspace.policy@dc.gov. Copies of this proposed rulemaking are available, at cost, by writing to the above address, and are also available electronically, at no cost, on the District Department of Transportation's website at www.ddot.dc.gov.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF SECOND EMERGENCY AND PROPOSED RULEMAKING

The Director of Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia (District) to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2016 Repl. & 2019 Supp.)) and the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2018 Repl.)), hereby gives notice of the adoption, on an emergency basis, of amendments to Section 989 (Long Term Care Services and Supports Assessment Process) of Chapter 9 (Medicaid Program); and Section 4201 (Eligibility) of Chapter 42 (Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The purpose of this second emergency and proposed rulemaking is to update the requirements of the Long Term Care Services and Supports (LTCSS) assessment process to align with the new standardized needs-based assessment tool utilized by the District, and to add Licensed Independent Clinical Social Workers (LICSW) as a provider type allowed to conduct the LTCSS assessment, as was authorized by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) in its approval of DHCF's Elderly and Persons with Physical Disabilities HCBS Waiver (EPD Waiver) amendment on June 5, 2018.

The initial emergency and proposed rulemaking, published on February 15, 2019, added the requirement that, in order to ensure that all beneficiaries receiving State Plan Personal Care Aide (PCA) services or EPD Waiver services have their LTCSS eligibility determined using the new assessment tool, all evaluations conducted prior to August 1, 2019 must include a face-to-face reassessment. The corresponding State Plan Amendment (SPA) was approved by CMS on May 21, 2019 with an April 1, 2019 effective date. Because each beneficiary receiving State Plan PCA services or EPD Waiver services must be evaluated to determine level of care needs at least once every twelve (12) months, the addition of this requirement was intended to result in all beneficiaries receiving such services having been reassessed with the new assessment tool by August 1, 2019. In the initial emergency and proposed rulemaking, evaluations conducted on or after August 1, 2019, for beneficiaries receiving State Plan PCA services or EPD Waiver services, would require face-to-face reassessments only when determined that there had been a significant change in the beneficiary's health status.

This second emergency and proposed rulemaking removes the August 1, 2019 expiration date from the provision described above, thereby requiring an annual face-to-face reassessment for all State Plan PCA and EPD Waiver beneficiaries regardless of whether there has been a significant change in health status. DHCF is proposing the annual face-to-face reassessment requirement to improve its ability to identify and address fraud and/or abuse and to ensure that beneficiaries continue to receive high quality care that appropriately addresses their needs.

Subsection 989.16 of the current rule allows beneficiaries whose health status has not significantly changed to submit provider attestations that a face-to-face reassessment is not needed and that services should continue to be provided at the level set forth in their most recent assessment determination. Although less administratively burdensome, allowing provider attestations in lieu of a face-to-face reassessment increases the risk of fraudulent continuance of care to beneficiaries because the process is not conflict free. Because improvements in health status often result in decreased service eligibility and declines in health status often result in increased service eligibility, providers have an incentive to request reassessments only in those cases where a beneficiary's health status has declined. As a result, potential changes in the beneficiaries' needs are being ignored and DHCF is reimbursing providers for unnecessary care. DHCF seeks to address these concerns in this rulemaking, by requiring an annual reassessment of all beneficiaries, regardless of whether there has been any significant change in health status since their last assessment.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of District Medicaid beneficiaries eligible for and in need of covered long-term care services. These rules are being enacted on an emergency basis to ensure that, by authorizing LICSWs to begin conducting LTCSS assessments immediately, beneficiaries continue to receive assessments in the timely manner required in order to retain eligibility for necessary services; and to ensure that, by requiring that all annual evaluations conducted include a face-to-face reassessment with the District's standardized needs-based assessment tool, all beneficiaries receiving State Plan PCA or EPD Waiver services continue to be accurately determined eligible for the appropriate services.

These second emergency and proposed rules correspond to a related SPA, which requires approval by CMS. Accordingly, the requirement that face-to-face reassessments be conducted annually for all beneficiaries receiving State Plan PCA services shall become effective upon publication of this rulemaking in the *D.C. Register*, or on an alternative effective date established by CMS in its approval of the corresponding SPA, whichever is later.

An initial Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on February 15, 2019 at 66 DCR 002175. Comments were received from University Legal Services (ULS) and Legal Counsel for the Elderly (LCE). A summary of these comments and the additional revisions to the rule proposed by DHCF in response, are as follows:

Timeliness of Assessment and Recertification Process

ULS commented that, by imposing the requirement that all LTCSS beneficiaries receive annual face-to-face reassessments, DHCF has caused home health agencies and beneficiaries to experience delays in the assessment and recertification process. ULS suggested that DHCF should rescind this reassessment requirement amendment to Subsection 989.16.

DHCF disagrees with the assertion that the implementation of the new standardized needs-based assessment tool and annual face-to-face reassessment requirement are responsible for the assessment and recertification process backlogs experienced by LTCSS beneficiaries in 2018. Instead, these assessment process delays occurred due to the timing and nature of the transition of DHCF's assessment contract from the previous vendor to a new one. Moreover, DHCF has long

since successfully cleared the backlog. Beneficiaries are not currently experiencing delays in the scheduling of assessments following the submission of the request.

DHCF also disagrees that the proposed requirements concerning the frequency of reassessments should be rescinded. The frequency with which periodic evaluations and assessments of LTCSS beneficiaries must be conducted is set forth in federal regulations at 42 CFR § 441.365(e), which requires that periodic evaluations and assessments be conducted at least annually for each waiver beneficiary. Furthermore, under 42 CFR § 441.302(c)(2), DHCF must provide assurances to CMS that it will ensure that each waiver beneficiary is reevaluated at least annually to determine if the beneficiary continues to need the level of care provided. Additionally, the authorization of LICSWs proposed in this rule is intended to increase the total number of practitioners allowed to conduct LTCSS assessments, thereby reducing the likelihood that beneficiaries will encounter delays with the assessment and recertification processes in the future. For these reasons, DHCF is not proposing any changes to the provisions of this rulemaking authorizing LICSWs to conduct LTCSS assessments.

Effect of Assessment Determination on Services

ULS asserted that the majority of beneficiaries and applicants face unwarranted, erroneous service denials, reductions, and terminations, and that as a result, DHCF is putting beneficiaries and applicants at serious risk of health declines and institutionalization. ULS also contended that the utilization of the new standardized needs-based tool has radically shifted the structure and scoring mechanism of the face-to-face assessment.

During the public health emergency, DHCF is implementing changes to its assessment process to ensure safety and continuity of services for Medicaid beneficiaries. DHCF will permit assessments and service planning meetings to occur telephonically and will only require in-person, face-to-face assessments when safe and appropriate given public health conditions. Similarly, to the extent possible, DHCF will offer any additional flexibilities approved by our federal partners to facilitate eligibility processing and service authorizations that promote continuity of services during this public health emergency. Providers, beneficiaries, and other stakeholders can find guidance on these changes on DHCF's website at https://dhcf.dc.gov/page/long-term-care-administration.

DHCF is aware of and is committed to addressing ongoing issues affecting the LTCSS assessment and recertification process generally. However, DHCF does not believe that requiring face-to-face reassessments for all LTCSS beneficiaries puts them at risk of health problems and institutionalization. DHCF disagrees with ULS's suggestion that eliminating the face-to-face reassessment requirement for all LTCSS beneficiaries is an appropriate or effective long-term solution leading to improved health outcomes for these individuals. For this reason, DHCF is not proposing additional amendments at this time.

Requests for Assessments

ULS commented that although Subsection 989.3 provides that the "person seeking services, the person's representative, family member, or health care professional" may request an assessment to qualify for LTCSS, the rule contains no guidance as to how people may access or submit an application for services, including the face-to-face assessment. ULS recommended that instructions on applying and requesting recertification for LTCSS be added to the rules.

DHCF disagrees with the recommendation that this rulemaking incorporate more detailed instructions on applying for LTCSS. Information on how to request LTCSS is already provided in Subsection 989.4, which states: "Individuals identified in Subsection 989.5 may request an assessment for LTCSS by submitting a Prescription Order Form (POF). The POF is available on the DHCF website at http://dhcf.dc.gov." For this reason, DHCF is declining to make any further changes to Subsection 989.3.

Presence of Advocates at Assessments

ULS suggests that Subsection 989.6 should acknowledge the right of beneficiaries and applicants to have their chosen advocates, family members, or friends present during their face-to-face assessments.

DHCF agrees that it is within the rights of an individual to have others of his or her choosing present during the face-to-face assessment and proposes the addition of language in the rule stating this. However, DHCF does not agree that Subsection 989.6, which addresses the timeframe within which an assessment will be conducted following receipt of the request, is the appropriate section of rulemaking for this change. Instead, DHCF is proposing to add a paragraph (e) to Subsection 989.7, which identifies the required characteristics of an assessment. The new proposed paragraph, adopted in this rulemaking, states that the assessment shall, at the option of the individual, be conducted in the presence of one or more members of his/her support team.

Expedited Assessments

ULS commented that Subsection 989.6(a) states that the required five (5) day turnaround time for face-to-face assessments may be expedited if the individual's condition requires that an assessment be conducted sooner to expedite the provision of LTCSS, but then fails to describe the conditions that would trigger the expedited assessment and fails to identify who may submit a request for such an assessment.

Requests for an expedited assessment may be made by any of the individuals identified in Subsection 989.5. Such expedited assessment requests are granted based on an individual's need, as determined by DHCF or its designated agent. DHCF disagrees that the rule should provide a list of conditions that could potentially trigger an expedited assessment, as this is a clinical determination that falls outside the scope of rulemaking. However, DHCF is proposing changes, adopted by this rulemaking, to revise Subsection 989.6(a) to clarify that any of the individuals identified in Subsection 989.5 may request an expedited assessment and that DHCF or its designated agent will make the determination as to whether the individual's condition warrants an expedited assessment.

Deadline for Completion of Assessment Report

ULS asserted that the rule fails to require completion of the assessment report by DHCF or its designated agent within any set time frame and recommends that a deadline of ten (10) business days should be incorporated.

DHCF disagrees that the rule fails to include a time frame requirement for completion of the assessment report. Subsection 989.14 of the rule, as written, states that the assessment

determination shall be issued to the individual no later than forty-eight (48) hours after the completion of the assessment, unless the person's condition necessitates that services be authorized sooner. Accordingly, DHCF is declining to make any further changes to Subsection 989.6.

Accessibility of Assessment Tool

Both LCE and ULS expressed various concerns regarding the accessibility of the assessment tool and corresponding user manual. LCE commented that the assessment tool had previously been available for review online, but under the proposed rules can now only be accessed in-person at the DHCF offices. While acknowledging the necessity of making a summary of the tool and steps to locate a complete copy of the tool must be made available online, LCE contended that accessing the complete tool in-person at DHCF offices would be impossible for many EPD Waiver beneficiaries who are homebound, and extremely difficult for beneficiaries with no or limited access and/or capacity to use the internet. ULS asserted that Subsection 989.8 restricts access to the standardized assessment tool and user manual by making available only through in-person visits to DHCF's office or via website access to a summary, and thereby fails to constitute legally sufficient notice prior to the denial, reduction, or termination of LTCSS. LCE also expressed concern that the summary and steps to locate the complete tool are not currently available online through DHCF's website; and that the assessment tool and user manual are available only in English. LCE recommended that the tool and user manual be made publicly available on DHCF's website in all appropriate languages.

The InterRAI Home Care (HC) Assessment System is a proprietary tool with copyright protections that restrict its reproduction or transmittal. In accordance with DHCF's licensing agreement for using the InterRAI HC, the assessment tool and user manual cannot be posted online. As a result, DHCF is unable to make the assessment materials publicly available on its website. To ensure accessibility, the assessment tool and user manual will remain available to review in-person at the DHCF office and translation services will be provided upon request as necessary. The summary and instructions for reviewing a copy of the assessment tool and manual are posted in the long-term care section on DHCF's website.

Disclosure of Assessment Scoring Reports

ULS recommended that, in order to comply with federal and District notice and due process requirements, the rules include a requirement that DHCF or its designated agent provide completed assessment reports, including scoring results, to all beneficiaries and applicants facing service denial, reduction, or termination. ULS commented that the rules must incorporate the mandated notice provisions in District law and regulations. D.C. Code §4-205.55; 29 DCMR 4202.2 (requiring 30-day advance notice prior to reduction or termination of EPD Waiver services). ULS further contended that the general score ranges set forth in Subsection 989.10 are meaningless without disclosure of the individual sub-scores assigned to beneficiaries and applicants. For this reason, ULS recommended that the rules describe and require DHCF to disclose to beneficiaries and applicants their scores on each sub-component of the assessment and an explanation of how the sub-score on each ADL and IADL need was determined.

DHCF disagrees with the assertion that compliance with federal and District notice and due process requirements mandate that DHCF provide completed assessment reports and scores to all applicants and beneficiaries facing LTCSS denial, service reduction, or termination actions. 29

DCMR § 4202.2 sets forth the notice requirements for EPD waiver provider intended actions to discontinue, discharge, suspend, transfer, or terminate services to an applicant or beneficiary, and is therefore not applicable to this rulemaking. D.C. Official Code Section 4-205.55 requires that a written notice of intended action to discontinue, withhold, terminate, suspend, or reduce assistance, include a statement of the intended action, the reasons for the intended action, the specific law and regulations supporting the action, an explanation of the individual's right to request a hearing, and the circumstances under which assistance will be continued if a hearing is requested. Likewise, the federal notice and due process requirements at 42 CFR 431.210 mandate that DHCF provide a statement of the intended action, a clear statement of the specific reasons supporting the intended action, and the specific regulations that support or require the action. DHCF does not agree that the inclusion of completed assessment reports and scores is necessary for compliance with the notice and due process requirements described above. For this reason, DHCF is not proposing further amendments at this time.

Assessment Look-Back Period

ULS commented that Subsection 989.11 shortens the assessment look-back period from seven (7) to three (3) days prior to the assessment, and that the three (3) day timeframe is far too short to accurately assess the service needs of beneficiaries. LCE also recommended that DHCF restore the seven (7) day assessment look-back period, contending that it provides a more complete and accurate picture of a beneficiary's activities than the shorter three (3) day window.

DHCF does not agree that the updated assessment look-back period is too short to accurately assess the care needs of beneficiaries. The three (3) day look-back period for the functional assessment is the length required by the standardized assessment tool now utilized by DHCF (interRAI HC) to provide a more precise understanding of an individual's current care and support needs while reducing the likelihood of recall errors common with longer look-back periods. If circumstances in the three (3) days immediately preceding an assessment do not reflect a typical three (3) day period for a beneficiary, the beneficiary may request to reschedule the assessment for a later date. Alternatively, if the beneficiary believes that the three (3) days used for an assessment did not provide an accurate representation of his/her typical activities or condition, the beneficiary may request a reassessment. For these reasons, DHCF is not proposing further amendments at this time.

Scored Components of Assessments

ULS and LCE both commented that, although Subsection 989.11(a) mentions that Instrumental Activities of Daily Living (IADL) needs are part of the functional assessment, there is no indication as to how IADLs factor into the total numeric score and the delineated tasks do not include IADLs such as meal preparation, laundry, light house cleaning, and grocery shopping. Likewise, Subsection 4201.4(a) does not include IADLs in the description of the functional assessment. ULS contended that DHCF should revise the rule to incorporate all IADL needs into the LTCSS functional assessment.

DHCF acknowledges the incongruity between the introductory sentence at Subsection 989.11(a) and the list of exclusively ADL tasks that follow but disagrees that it must revise the rule to incorporate all IADL tasks into the functional assessment. While the functional component of the interRAI HC assessment does include an evaluation of the need for assistance with IADLs such as meal prep, house cleaning, laundry, or shopping, DHCF does not factor the IADL needs into its

calculation of the functional assessment score or total numeric score. To more clearly indicate that the functional assessment score does not factor in the need for assistance with IADL tasks, DHCF is proposing changes, adopted by this rulemaking, to revise Subsection 989.11(a) by removing "and instrumental activities of daily living (IADLs)" from the introductory sentence.

Medication Management Score

ULS commented that Subsection 989.11(a)(9) of the rules requires the functional assessment score to include medication management for EPD Waiver services only, thereby failing to factor in medication management as an ADL need for purposes of calculating the functional score for State Plan PCA services. ULS contended that medication management is a critical need and should be factored into the functional score for all LTCSS beneficiaries, not just EPD Waiver participants.

DHCF would like to clarify that Subsection 989.11(a)(9) does not limit the consideration of medication management to determinations of EPD Waiver eligibility; it does however preclude any consideration of medication management in determinations of eligibility for State Plan PCA services. Medication management is not factored into the functional score when determining eligibility for State Plan PCA services because most assistance with medication falls outside the allowed scope of practice for PCAs. Pursuant to 22-B DCMR §3915.10(d), the scope of practice for PCAs is limited to assisting an individual with the self-administration of medication. If an individual has medication management needs that go beyond assistance with self-administration, PCA services could not appropriately provide the care that is necessary. Thus, DHCF is declining to make any changes to the limitations on the consideration of medication management in Subsection 989.11.

Cognitive/Behavioral Assessment

LCE commented that the rules state that cognitive/behavioral evaluations factor into the total numeric assessment score, but there is no indication as to how or if cognitive/behavioral evaluations are integrated into the total numeric assessment score that dictates the hours determination. LCE recommended that the rules be revised to make clear the way in which these measurements factor into the total numeric score and hours determinations for beneficiaries.

The determination as to the number of service hours appropriate for an individual already deemed eligible for LTCSS is separate and distinct from the determination of the level of care an individual needs. The total numerical assessment score, which is calculated by adding together the functional, cognitive/behavioral, and skilled care assessment scores as described in Subsection 989.10, determines an individual's level of care needs and the corresponding range of LTCSS for which he/she is eligible based on his/her level of care determination. In contrast, the hours determination does not include any consideration of the individual's cognitive/behavioral assessment score. The criteria used for service hours determinations is not within the scope of this rulemaking on the assessment process used to establish eligibility for LTCSS under the District Medicaid program. DHCF acknowledges the lack of formal guidance concerning the process by which service hours are determined for beneficiaries and will provide additional clarity as it applies to specific services in future DHCF rulemakings or policy transmittals.

Functional Assessment Score

ULS commented that Subsection 989.11(b) fails to incorporate dementia into the cognitive/behavioral score; and that there are beneficiaries and applicants with dementia who may require LTCSS but may not demonstrate it via their functional assessment scores. Thus, ULS asserted that DHCF must factor dementia into the functional assessment score.

Although dementia is not one of the conditions and behaviors listed at Subsection 989.11(b), DHCF disagrees that it is not factored into the cognitive/behavioral assessment score. Instead of looking at whether an individual has been formally diagnosed with dementia, the cognitive/behavioral assessment evaluates the presence and frequency of a variety of behaviors and abilities, many of which correspond to the symptoms of dementia. DHCF acknowledges that, in cases where an individual with dementia nonetheless requires minimal or no assistance with the performance of ADLs, the functional assessment score may not capture the full extent to which he/she needs LTCSS. However, because the scope of the functional assessment is limited solely to an individual's ability to carry out ADLs, DHCF does not agree that it is appropriate to include dementia as a factor in the functional assessment score. For this reason, DHCF is declining to make the suggested changes.

Assessment's Consideration of Safety Monitoring and Cueing

ULS commented that Subsection 4201.4(b) defines skilled care as well as skilled nursing services but fails to indicate whether or how safety monitoring and cueing needs are factored into the functional assessment score. ULS also commented that Subsection 989.11(c)(3) amends the activity needs that are scored as part of the LTCSS assessment process, but fails to include safety monitoring and cueing, which are offered under 29 DCMR § 5000.2: *Medicaid reimbursable PCA services support and promote the goals of (a) To provide cueing, hands-on assistance, and safety monitoring related to activities of daily living to beneficiaries who are unable to perform one or more ADLs.* ULS stated that Subsection 989.11(c) mentions skilled care needs, but safety monitoring and cueing needs are not adequately factored into the functional assessment score, which is capped at two (2) regardless of the level of skilled care needs. ULS further asserted that the inclusion of such skilled needs is essential to creating an accurate picture of beneficiaries' and applicants' LTCSS needs.

DHCF would first like to clarify that neither safety monitoring nor cueing are considered skilled care services. Safety monitoring and cueing are levels of assistance that an individual may need to perform an ADL; but neither is itself an ADL that is factored into the LTCSS assessment score. Thus, an individual's need for safety monitoring and cueing are factored into the functional assessment score only insofar as it pertains to an individual's ability to perform one or more ADLs. The functional assessment does look at whether a beneficiary needs assistance with the ADLs, but does not factor in the particular type of assistance required, such as safety monitoring or cueing. For this reason, DHCF disagrees that safety monitoring and cueing needs should be evaluated separate from the performance of ADLs and is declining to make any changes to Subsection 4201.4(b).

Assessment Question Concerning the Use of Physical Restraints

LCE expressed concerns with Subsection 989.11(c)(5), which asks the assessor to review whether physical restraints "were required" during a three (3) day look-back period. LCE commented that requiring an assessor to consider the need for physical restraints is inappropriate because physical

restraints should not be used under any circumstances. For this reason, LCE requested that the language referencing physical restraints be removed.

DHCF acknowledges that those conducting the assessments should not be tasked with considering whether physical restraints were needed during the three (3) days prior to the assessment. The intent of this component of the assessment is to determine whether physical restraints had been used at any point during the preceding three (3) days. Accordingly, DHCF is proposing changes, adopted by this rulemaking, that revise Subsection 989.11(c)(5) to read as follows: "For individuals in a hospital or nursing facility, whether physical restraints were used during the last three (3) days prior to the assessment."

Face-to-Face Reassessment Requirement

ULS commented that Subsection 989.16 of the proposed regulations requires all participants in the State Plan PCA and EPD Waiver programs prior to August 1, 2019 to have face-to-face reassessments regardless of whether there is a significant change in their conditions. ULS further commented that this contravenes the existing PCA State Plan regulations at 29 DCMR § 5003.9, which waive the need for annual reassessments unless the beneficiaries' and applicants' conditions have changed in a way that impacts their service needs.

DHCF is proposing corresponding changes to the State Plan PCA Services rule at 29 DCMR § 5003.9 to be published on the same date as this rulemaking. Please see the PCA services rulemaking for further discussion of this issue.

Nursing Facility Utilization Review Determinations

LCE commented that the proposed rule requires DHCF to conduct "utilization reviews" at 6- and 12-month intervals post-admission to a nursing facility. LCE stated that, problematically, utilization reviews "shall determine whether the person continues to be appropriate for nursing facility care." LCE contended that the former requirement inquired whether the individual met the nursing home level of care threshold; that this change is vague and creates a high level of discretion; and that there is no guidance in the provisions explaining how this determination is to be made and what factors should be considered. LCE expressed concern that subjective bias against an individual may result in an adverse determination, and recommended that the previous provision, which adequately provided for an objective level of care determination, be restored.

LCE also commented that Subsection 989.17(b) requires a reevaluation "if the review results in a determination that there has been an improvement in the person's health status". LCE stated that there is no explanation as to what constitutes an "improvement," which may lead to unnecessary reassessment; and there is no definition of "reevaluation" in Subsection 989.99.

In response to LCE's comments, DHCF is declining to restore Subsection 989.17 to its previous iteration but is proposing further revisions, adopted in this rulemaking, to paragraph (a) to more clearly reflect the intent of the provision. The revised paragraph reads as follows: "The utilization review shall determine whether there has been an improvement in the beneficiary's health status."

In addition, DHCF disagrees that the rule should include an explanation of what constitutes an improvement in the health status of an individual. The determination of an individual's health

status, and whether it has improved, is clinical in nature and falls within the scope of the licensed practitioner conducting the utilization review. For that reason, DHCF is declining to further revise the rulemaking to include a definition of what constitutes an improvement in health status. The face-to-face "reassessment" that appears in Subsection 989.17 and throughout this rulemaking has the same meaning as the face-to-face assessment defined in Subsection 989.99, with the only difference being that the beneficiary receiving the assessment has already been assessed at least once before. Accordingly, DHCF does not agree with the recommendation and is not proposing a separate definition for "reassessment.".

Administrative Denials

ULS commented that Subsection 989.24 improperly authorizes DHCF to "administratively deny", i.e., deny or terminate long-term care services for beneficiaries and applicants following three unsuccessful attempts by DHCF's designated agent to conduct their face-to-face assessments within five calendar days. ULS alleged this violates Federal Medicaid law, which requires DHCF to "[c]ontinue to furnish Medicaid regularly to all eligible individuals until they are found to be ineligible…" 42 CFR § 435.930(b).

ULS commented that the regulations fail to articulate the nature of the "attempts" to schedule the assessment of beneficiaries and applicants, whether they are written notices or telephone calls; and that the contractors must be held accountable for documenting their attempts to schedule the assessments prior to denying applicants' request for services or terminating beneficiaries' services. In addition, ULS commented that the regulations must incorporate exemptions for beneficiaries and applicants who are unavailable due to hospitalization or other medical appointments, or availability of beneficiaries' and applicants' chosen advocates seeking to be present at the assessments.

DHCF disagrees with the assertion that Subsection 989.24 authorizes DHCF to deny or terminate LTCSS for beneficiaries in contravention of federal Medicaid law at 42 CFR § 435.930(b). Subsection 989.24 describes the circumstances under which an initial administrative denial letter shall be issued, as well as the required contents of such a letter. The next section, Subsection 989.25, provides that if no response to the initial letter is received within twenty-one (21) days, a subsequent administrative denial letter shall be sent to the beneficiary. This subsequent letter will contain an explanation of the circumstances under which the individual's current level of LTCSS will be continued if a timely hearing request is filed with the Office of Administrative Hearings.

However, DHCF agrees that defining the term "attempts" for the purposes of scheduling assessments would provide valuable clarity and is therefore proposing the addition of a definition of "contact attempt" to Subsection 989.99; DHCF is adopting the new definition in this rulemaking. With respect to the comment regarding the need to hold the contractors accountable, DHCF agrees that this is crucial, but maintains the position that it is best done via its contract and not in these regulations. The methods for holding its contractor accountable are enumerated in the current contract and therefore, DHCF is declining to include these provisions in the rulemaking.

Accommodations under Title II of the Americans with Disabilities Act

ULS commented that the proposed regulations fail to include a provision that requires DHCF or its designated agent to reasonably accommodate beneficiaries and applicants during the assessment

process in accordance with Title II of the Americans with Disabilities Act (ADA). They also alleged that the regulations must describe a mechanism for eliciting and granting beneficiaries' and applicants' requests for accommodations, such as access to sign language interpreters during the face-to-face assessment and large print or alternative format printed materials during and following the assessments. Finally, ULS commented that the regulations must include instructions for requesting such accommodations prior to the assessments*, i.e.,* names and contact information of people handling the requests (via telephone, TTY, and/or email).

DHCF is committed to providing reasonable accommodations, as required under Title II of the Americans with Disabilities Act (ADA) and all other applicable federal civil rights laws, to all Medicaid beneficiaries and applicants for whom they are necessary. All requests for such accommodations should be directed to the Office of the Health Care Ombudsman, contact information for which can be found on DHCF's website at: https://dhcf.dc.gov/page/dhcf-notice-non-discrimination-and-accessibility-requirements-statement-001.

Reconsideration Requests

ULS commented that, in order to request reconsideration of the assessment results and service recommendation(s), the rules require beneficiaries and applicants to "submit[] in writing, by mail, fax, or in person, to DHCF[]" their request with the reasons justifying reconsideration, along with a physician's statement and additional documentation, and that this fails to incorporate the right of the beneficiaries and applicants to make reconsideration requests verbally, as required by D.C. law. D.C. Official Code § 4-210.05. ULS suggested that DHCF must revise the rule accordingly.

DHCF disagrees that there is a need for this change. Under D.C. Official Code Section 4-210.05, beneficiaries and applicants have the right to make oral requests for hearings; but this requirement does not apply to reconsiderations. A request for reconsideration, pursuant to Subsections 989.26(d) and 989.27, is different than a request for a fair hearing, pursuant to Subsection 989.26(e), and is therefore bound by different procedural requirements. For this reason, DHCF is declining to incorporate any changes to Subsection 989.27 into this rulemaking.

Definitions

ULS commented that many of the terms in this rule are either insufficiently defined or have definitions that conflict with those found in the corresponding rules governing the EPD Waiver and State Plan PCA services. The ULS comments and DHCF responses regarding the definitions in question are as follows:

"Representative"

ULS stated that the definition of "representative" fails to specifically include people designated by the applicant or beneficiary (or the Probate Court) to make health care decisions in the event the beneficiary is incapable of making his/her own health care decisions. DHCF generally disagrees with the necessity of adding to the definition of "representative" a specific reference to individuals designated to make health care decisions on behalf of the beneficiary. Paragraph (b) of the definition sufficiently addresses individuals who are legally authorized to administer a beneficiary's financial or personal affairs, a category which reasonably includes health care-related decisions. However, to better align with the definition used in the State Plan PCA rule at Chapter

50, Title 29 DCMR, DHCF is revising this rule by replacing the term "representative" with "authorized representative" and making technical changes to the language used to define it.

"Acuity Level"
ULS stated that the definition of "acuity level" is vague without reference to intensity of the beneficiary's service needs, gauged by the number of hours needed or whether the services would be provided hands-on versus less direct oversight or cueing. For the purposes of this rule, a higher level of acuity does not inherently correlate with the need for a higher number of hours or indicate that services need be provided in a more direct, hands-on manner. DHCF disagrees that the current definition does not sufficiently describe the intended meaning of the term. However, to avoid confusion with the more technical "acuity level" terminology used in other Medicaid-financed programs, DHCF is revising the defined term used in this rule by replacing "acuity level" with simply "acuity".

"Beneficiary"
ULS recommended that the definition of "beneficiary" be tied to eligibility for Medicaid long-term care services under the EPD Waiver or State Plan PCA programs. DHCF disagrees that the definition of "beneficiary" should be revised so as to reference only those individuals eligible under the EPD Waiver or State Plan PCA benefits. In this rule, "beneficiary" is also used in reference to individuals receiving nursing facility care and ADHP services, as well as others who have been determined ineligible for LTCSS but remain eligible for other Medicaid services. DHCF is not proposing any substantive changes to this definition, but is making a technical revision by replacing "person" with "individual" to align with terminology used elsewhere in the rule.

"Informal Supports"
ULS recommended that "informal supports" be defined more specifically to incorporate the nature, consistency, and level of assistance provided by unpaid individuals chosen by the beneficiary (*e.g.*, daily, weekly, number of hours provided, for which ADLs or IADLs). ULS further commented that indicators of the consistency of informal supports should include whether the individuals providing informal support services live with the beneficiary and whether they are employed outside of the home. DHCF disagrees that it is necessary to include a detailed explanation of the different factors considered in determining the utility of the informal supports provided to a beneficiary. The purpose of the definition is to set forth the meaning of the term for the purposes of this particular rule. To that end, DHCF is revising the definition of "informal supports" by removing the language that references the frequency of supports provided.

"Level of Need"
ULS recommended that "level of need" be defined so as to distinguish it from "acuity level". ULS commented that the definition fails to capture the description of the range of long-term care services needs provided under Medicaid. DHCF agrees that the definition of "level of need" does not fully capture the determination of the level of long-term care services needed by a beneficiary. To address this, DHCF is revising the rule by replacing "level of need" with "level of care" throughout the rule to ensure consistency and more accurately align with the terminology most commonly used to reference the care needs of LTCSS beneficiaries. DHCF is also proposing to add a definition for "level of care" to mean a determination of the long-term care services or

supports required by an individual. DHF has adopted the new definition as a part of this emergency rulemaking.

"Person-Centered Planning Process"
ULS stated that the definition of "person-centered plan" does not sufficiently incorporate a description of the range of ADL and IADL services needed. Presuming that this comment is in reference to the definition for "person-centered planning process"—as this section of rule does not include a definition for "person-centered plan"— DHCF disagrees that the definition of the term "person-centered planning process" should include a description of the range of services needed by beneficiaries. The purpose of a definition is to set forth the meaning of the term; the ADLs with which assistance may be needed are listed in Subsection 989.11 of the rule. As a result, DHCF is not proposing any changes to this definition.

"Person"
ULS recommended that the definition of "person" not be limited to applicants who submit service assessment requests, because assessment requests are oftentimes instead submitted by agencies. ULS also recommended that the definition include beneficiaries who are already participating in the EPD Waiver or State Plan PCA programs. DHCF agrees that the definition of "person" does not accurately capture the range of individuals potentially involved in the LTCSS assessment process. In response, DHCF is revising the rule by removing the definition of "person" and replacing the term throughout the rule with more specific terms to reference the various parties involved, namely "applicant", "beneficiary", "representative", and "individual", as appropriate.

"ADLs", "IADLs", "Behavioral/Cognitive" and "Skilled Care"
ULS recommended that the rules define the terms "ADLs", "IADLs", "behavioral/cognitive" and "skilled care". In response to an earlier comment regarding the consideration of IADL needs in determining the functional assessment score, DHCF proposed removing the reference to IADLs from Subsection 989.11(a). As a result, because the term "IADLs" is no longer used in Section 989, it is unnecessary to include a definition. DHCF agrees that the other terms—"ADLs", "cognitive/behavioral", and "skilled care"—should be defined and is therefore proposing the addition of the following definitions, adopted by this rulemaking, to Subsection 989.99:

Activities of Daily Living (ADLs) – Daily tasks required to maintain an individual's health including eating, bathing, dressing, toileting, grooming, transferring, walking, and continence.

Cognitive/Behavioral Functionality – An individual's ability to appropriately acquire and use information, reason, problem solve, complete tasks, and communicate needs; as well as the presence of serious mental illness or intellectual disability, hallucinations or delusions, and verbal or physical behaviors directed at oneself or others.

Skilled Care – Medically necessary care ordered by a doctor and provided by or under the supervision of skilled or licensed health care professionals such as nurses and physical therapists. Examples of skilled care include, but are not limited to, physical therapy, occupational therapy, wound care, intravenous injections, and catheter care.

These emergency rules were adopted on August 24, 2020 and shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until December 22, 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 these rules not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

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

Subsections 989.1, 989.3, 989.5, 989.6, 989.7, 989.8, 989.9, 989.11, 989.13, 989.16, 989.17, 989.18, 989.20, 989.21, 989.24, 989.26, 989.27, and 989.99 of Section 989, LONG TERM CARE SERVICES AND SUPPORTS ASSESSMENT PROCESS, is amended as follows:

989.1 The purpose of this section is to establish the Department of Health Care Finance (DHCF) standards governing the District Medicaid assessment process for Long Term Care Services and Supports (LTCSS) and to establish numerical scores pertaining to the level of care required to establish eligibility for a range of LTCSS.

989.3 A Registered Nurse (RN) or Licensed Independent Clinical Social Worker (LICSW) employed by DHCF or its designated agent shall conduct an initial face-to-face assessment following the receipt of a request for an assessment for LTCSS made by any individual identified in Subsection 989.5.

989.5 The request for an assessment shall include any supporting documentation established by the respective long-term care program's regulations. An initial request for an assessment, or a subsequent request for reassessment for recertification or based upon a change in the individual's health status or acuity, may be made by the individual seeking services, his/her authorized representative, Elderly and Persons with Physical Disabilities HCBS Waiver (EPD Waiver) a case manager, family member, or health care or social services professional.

989.6 With the exception of hospital discharge timelines, which are referenced under Subsection 989.15, the RN or LICSW employed by DHCF or its designated agent shall be responsible for conducting the face-to-face assessment of each applicant or beneficiary using a standardized needs-based assessment tool within five (5) calendar days of the receipt of a request for an assessment, unless:

(a) A request for an expedited assessment has been made by an individual identified in Subsection 989.5 and DHCF or its designated agent has determined that the individual's health status requires that an assessment be conducted sooner to expedite the provision of LTCSS;

(b) The individual has requested an assessment at a later date;

(c) DHCF or its designated agent is unable to contact the individual to schedule the assessment after making three (3) attempts to do so within five (5) calendar days of receipt of the assessment request; or

(d) DHCF or its designated agent determines that an extension is necessary due to extenuating circumstances.

989.7 The assessment shall:

(a) Confirm and document the individual's functional limitations, cognitive/behavioral, and skilled care support needs;

(b) Be conducted in consultation with the individual and his/her authorized representative and/or support team;

(c) Determine and document the individual's unmet need for services, taking into account his/her current utilization of informal supports and other non-Medicaid resources required to meet the individual's need for assistance;

(d) Determine the level of care required by the individual for LTCSS; and

(e) At the option of the individual, be conducted in the presence of one or more members of his/her support team.

989.8 The standardized needs-based assessment tool and corresponding user's manual are available for review in-person at the DHCF offices. To access a paper copy of the assessment tool for review, beneficiaries should contact their case managers and potential applicants should contact DHCF's Long-Term Care Administration (LTCA) via the LTCA Hotline at 202-442-9533. A summary of the assessment tool and instructions on how to access a paper copy of the complete assessment tool and corresponding user's manual are available on DHCF's website at www.dhcf.dc.gov.

989.9 The face-to-face assessment using the standardized needs-based assessment tool for LTCSS shall result in a total numerical score, which is comprised of three (3) separate scores pertaining to the assessed functional, cognitive/behavioral, and skilled care needs of an individual. The functional assessment includes an assessment and corresponding score correlated to the individual's ability to manage medications. The three (3) separate assessment scores are used to determine eligibility for specific LTCSS as follows:

(a) For State Plan Personal Care Aid (PCA) services, eligibility is determined based on only the functional score, without consideration of the medication management assessment score; and

(b) For all other LTCSS, eligibility is determined based on the sum of the scores for assessed functional, cognitive/behavioral, and skilled care needs, and includes medication management.

989.11 Each face-to-face assessment of an individual using the standardized needs-based assessment tool contains the following components:

(a) The functional assessment evaluates the type of assistance required for each of the following activities of daily living (ADLs), based on typical experience under ordinary circumstances within the last three (3) days prior to assessment:

(1) Bathing, which means taking a full-body bath or shower that includes washing of the arms, upper and lower legs, chest, abdomen, and perineal area;

(2) Dressing, which means dressing and undressing, both above and below the waist, including belts, fasteners (e.g., buttons, zippers), shoes, prostheses, and orthotics;

(3) Eating, which means eating and drinking (regardless of skill), including intake of nourishment by a feeding tube or intravenously;

(4) Transferring, which includes moving in and out of the bathtub or shower, and moving on and off the toilet or commode;

(5) Mobility, which means moving, whether by walking or using a wheelchair, between locations on the same floor; and moving to and from a lying position, turning from side to side, and positioning one's body while in bed;

(6) Toileting, which includes using the toilet, commode, bedpan, or urinal and cleaning oneself afterwards, adjusting clothes, changing bed pads, and managing ostomy or catheter care; and

(7) Medication Management – how medications are managed, including remembering to take medicines, opening bottles, taking correct dosages, giving injections, and applying ointments. The need for assistance with medication management is not considered in determinations of eligibility for State Plan PCA services, in accordance with § 989.9(a);

(b) The cognitive/behavioral assessment evaluates the presence of and frequency with which certain conditions and behaviors occur, for example:

(1) Serious mental illness or intellectual disability;

(2) Difficulty with receptive or expressive communication;

(3) Hallucinations;

(4) Delusions;

(5) Physical behavioral symptoms directed toward others (*e.g.*, hitting, kicking, pushing, grabbing, sexual abuse of others);

(6) Verbal behavioral symptoms directed toward others (*e.g.*, threatening, screaming, cursing at others);

(7) Other physical behaviors not directed toward others (*e.g.*, self-injury, pacing, public sexual acts, disrobing in public, throwing food or waste);

(8) Rejection of assessment or health care; and

(9) Eloping or wandering.

(c) The skilled care needs assessment evaluates whether and how frequently the certain treatments and procedures were provided during the applicable look-back period, for example:

(1) Whether and how frequently each of the following treatments were provided during the last three (3) days prior to assessment:

(A) Chemotherapy;

(B) Dialysis;

(C) Infection Control;

(D) IV Medication;

(E) Oxygen Therapy;

(F) Radiation;

(G) Suctioning;

(H) Tracheostomy Care;

(I) Transfusion;

(J) Ventilator or Respirator; and

(K) Wound Care.

(2) Whether and how frequently certain programs were used during the last three (3) days prior to assessment, for example:

(A) Scheduled toileting program;

(B) Palliative care program; and

(C) Turning/repositioning program.

(3) Whether and how frequently (days and total minutes) certain types of formal care were provided during the last seven (7) days prior to assessment, for example:

(A) Home health aides;

(B) Home nurse;

(C) Homemaking services;

(D) Meals;

(E) Physical therapy;

(F) Occupational therapy;

(G) Speech-language pathology and audiology; and

(H) Psychological therapy by any licensed mental health professional.

(4) Whether and how frequently certain types of medical visits occurred during the last ninety (90) days prior to assessment, for example:

(A) Inpatient acute hospital visit with overnight stay;

(B) Emergency room visit with no overnight stay; and

(C) Physician visit (includes authorized assistant or practitioner).

(5) For individuals in a hospital or nursing facility, whether physical restraints were used during the last three (3) days prior to the assessment.

989.13 Based on the results of the face-to-face assessment, DHCF or its designated agent shall issue to the individual an assessment determination that specifies his/her required level of care and a corresponding range of LTCSS for which the individual is eligible.

989.16 An RN or LICSW employed by DHCF or its designated agent shall conduct a face-to-face reassessment of each beneficiary's need for the receipt of LTCSS as follows:

(a) For Adult Day Health Program services, a reassessment shall be conducted at least every twelve (12) months or upon a significant change in the beneficiary's health status or acuity. Requests for reassessments shall be made by the supervisory nurse.

(b) For State Plan PCA services, a reassessment shall be conducted at least once every twelve (12) months or upon a significant change in the beneficiary's health status. Requests for reassessments shall be made by the supervisory nurse.

(c) For all EPD Waiver services, a reassessment shall be conducted at least once every twelve (12) months or upon a significant change in the beneficiary's health status. Requests for reassessments shall be made by the beneficiary's case manager.

989.17 For nursing facility services, DHCF or its designated agent shall conduct utilization reviews at six (6) months and twelve (12) months post admission, and annually thereafter, as follows:

(a) The utilization review shall determine whether there has been an improvement in the beneficiary's health status; and

(b) If the utilization review results in a determination that there has been an improvement in the beneficiary's health status, DHCF or its designated agent shall request that a face-to-face reassessment be conducted in accordance with policy guidance issued by DHCF.

989.18 For EPD Waiver services, DHCF may, at its discretion, extend the level of care reauthorization period pursuant to the face-to-face reassessment for a timeframe not to exceed eighteen (18) months to align the assessment date with the beneficiary's Medicaid renewal date.

989.20 If an individual meets the required level of care as determined by a numerical score affiliated with each long-term care service in accordance with § 989.12, and chooses to participate in a long-term care program, DHCF or its designated agent shall refer the individual to the long-term care service provider of his/her choice.

989.21 The individual shall choose a provider based upon the level of care determination and the availability and ability of the provider to safely care for him/her in the setting of the individual's choice.

989.24 If the RN or LICSW employed by DHCF or its designated agent is unable to conduct the face-to-face assessment or reassessment described in this section after making three (3) attempts to do so within five (5) calendar days, an initial Administrative Denial Letter shall be issued to the individual's. The initial Administrative Denial Letter shall contain the following information:

(a) A clear statement of the administrative denial of the assessment request;

(b) An explanation of the reason for the administrative denial, including documentation of the three (3) attempts that were made to conduct the assessment;

(c) Citation to regulations supporting the administrative denial;

(d) A clear statement that the individual has twenty-one (21) days from the date the letter was issued to contact DHCF or its designated agent to request the assessment, including all necessary contact information; and

(e) For reassessment requests, a clear statement that if the beneficiary fails to contact DHCF or its designated agent within twenty-one (21) days of the date the letter was issued, the beneficiary's current LTCSS shall be terminated.

989.26 DHCF or its designated agent shall issue a Beneficiary Denial or Change of Services Letter if, based upon the assessment or reassessment conducted pursuant to this section, an applicant or beneficiary is determined ineligible, or to not meet the level of care, for LTCSS. The Beneficiary Denial or Change of Services Letter shall contain the following information:

(a) A clear statement of the intended denial, reduction, or termination of LTCSS;

(b) An explanation of the reason(s) for the intended denial, reduction, or termination of LTCSS;

(c) Citation to regulations supporting the intended denial, reduction, or termination of LTCSS;

(d) Information regarding the right to request that DHCF reconsider its decision and the timeframe for making a reconsideration request;

(e) Information regarding the right to appeal the decision by filing a hearing request with OAH and the timeframe for filing a hearing request, as well as an explanation that a reconsideration request is not required prior to filing a hearing request;

(f) An explanation of the circumstances under which the individual's current level of LTCSS will be continued if the individual files a timely hearing request with OAH; and

(g) Information regarding legal resources available to assist the individual with the appeal process.

989.27 A request for reconsideration of an individual's required level of care as determined by the assessment tool, pursuant to § 989.26(d), must be submitted in writing, by mail, fax, or in person, to DHCF's Office of the Senior Deputy Director/Medicaid Director, within twenty-one (21) calendar days of the date of the notice of denial, termination, or reduction of LTCSS. The request for reconsideration shall include the following information and documentation:

(a) A written statement by the individual, or the individual's authorized representative, describing the reason(s) why the decision to deny, terminate, or reduce LTCSS services should not be upheld;

(b) A written statement by a physician familiar with the individual's health care needs; and

(c) Any additional, relevant documentation in support of the request.

Subsection 989.99 of Section 989, LONG TERM SERVICES AND SUPPORTS ASSESSMENT PROCESS, is amended as follows:

989.99 **DEFINITIONS**

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

Activities of Daily Living – Daily tasks required to maintain an individual's health including eating, bathing, dressing, toileting, grooming, transferring, walking, and continence.

Acuity – The intensity of services required for a Medicaid beneficiary wherein those with a high acuity require more care and those with lower acuity require less care.

Authorized Representative – An individual other than a provider:

(a) Who is knowledgeable about the applicant's or beneficiary's circumstances and has been designated by that applicant or beneficiary to represent him or her; or

(b) Who is legally authorized either to administer an applicant's or beneficiary's financial or personal affairs or to protect and advocate for his/her rights.

Beneficiary – An individual deemed eligible to receive Medicaid services.

Cognitive/Behavioral Functionality – An individual's ability to appropriately acquire and use information, reason, problem solve, complete tasks, and communicate needs; as well as the presence of serious mental illness or intellectual disability, hallucinations or delusions, and verbal or physical behaviors directed at oneself or others.

Contact Attempt – A completed or incomplete telephonic or other person-to-person outreach by DHCF or its designated agent intended to permit communication or information-sharing. Contact attempts may include outbound telephone calls to individuals or their representatives in order to complete contact.

Face-to-Face Assessment – An assessment that is conducted in-person by a Registered Nurse (RN) or Licensed Independent Clinical Social Worker (LICSW) to determine an individual's need for long-term care services.

Informal Supports – Assistance provided by the beneficiary's family member or another individual who is unrelated to the beneficiary.

Level of Care – A threshold determination as to the long-term care services or supports required by an individual.

Non-Medicaid Resources – The individual's utilization of resources including but not limited to, housing assistance, vocational rehabilitation or job help, and transportation.

Person-Centered Planning Process – A process used to assess an individual's needs and options for choices of services that focuses on the individual's strengths, weaknesses, needs, and goals.

Provider – The individual, organization, or corporation, public or private, that provides long-term care services and seeks reimbursement for providing those services under the Medicaid program.

Skilled Care – Medically necessary care ordered by a doctor and provided by or under the supervision of skilled or licensed health care professionals such as nurses and physical therapists. Examples of skilled care include, but are not limited to, physical therapy, occupational therapy, wound care, intravenous injections, and catheter care.

Support Team – A team chosen by the applicant or beneficiary that includes, but is not limited to, the applicant's or beneficiary's family members, friends, community social worker, and/or medical providers.

Chapter 42, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR PERSONS WHO ARE ELDERLY AND INDIVIDUALS WITH PHYSICAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Subsection 4201.4 of Section 4201, ELIGIBILITY, is amended to read as follows:

4201.4 A Registered Nurse (RN) or Licensed Independent Clinical Social Worker (LICSW) hired by, or under contract with, DHCF or its designee shall conduct a face-to-face assessment to determine if a beneficiary or applicant meets a nursing facility level of care. The assessment shall utilize a standardized assessment tool which will also evaluate the individual's care and support needs across three (3) domains including:

(a) Functional – impairments including assistance with activities of daily living such as bathing, dressing, eating or feeding;

(b) Skilled Care – sensory impairments, other health diagnoses and the need for skilled nursing or other skilled care (e.g., wound care, infusions); and

(c) Cognitive/Behavioral – communications impairments including the ability to understand others, presence of behavioral symptoms such as hallucinations, or delusions.

Comments on these rules should be submitted in writing to Melisa Byrd, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, Government of the District of Columbia, 441 4th Street N.W., Suite 900, Washington D.C. 20001, via telephone at (202) 442-8742, or via email at DHCFPubliccomments@dc.gov, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these rules are available from the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2020-088
September 2, 2020

SUBJECT: Appointment — Interim Deputy Mayor for Public Safety and Justice

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 3022 of the Office of Deputy Mayor for Public Safety and Justice Establishment Act of 2011, effective September 14, 2011, D.C. Law 19-21, D.C. Official Code § 1-301.191 (2016 Repl.), it is hereby **ORDERED** that:

1. **DR. ROGER MITCHELL,** is appointed Interim Deputy Mayor for Public Safety and Justice, to serve at the pleasure of the Mayor. Dr. Mitchell shall carry out these duties simultaneously with his duties as the Chief Medical Examiner; however, he will not receive a second salary for these additional duties.

2. This Order supersedes Mayor's Order 2015-119, dated April 29, 2015.

3. **EFFECTIVE DATE:** This Order shall become effective *nunc pro tunc* to August 21, 2020.

MURIEL BOWSER
MAYOR

ATTEST: Kimberly A. Bassett
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

OFFICE OF ADMINISTRATIVE HEARINGS

DISTRICT OF COLUMBIA ADVISORY COMMITTEE

PUBLIC NOTICE OF MEETING

In accordance with D.C. Code § 2-576(1), the Advisory Committee to the Office of Administrative Hearings hereby gives notice that it will meet on Thursday, September 17, 2020 at 1:00 pm. The meeting will be held via WebEx at the link and numbers below. Below is the Draft Agenda for this meeting.

AGENDA

1. Welcome and Call to Order
2. Introductions
3. Vote to Approve Transmission of the Minutes
4. Open Microphone from Agency GC's
5. Remarks from the Chief ALJ
6. Old Business
7. New Business
8. Adjournment

Meeting Link:

https://dcnet.webex.com/dcnet/j.php?MTID=mea2215cc02545bb3243cc743732f92de

Meeting number (access code): 160 011 0656

Password: DYgDrssC223

More ways to join:

Join by video system - Dial 1600110656@dcnet.webex.com

You can also dial 173.243.2.68 and enter your meeting number.ss

Join by mobile device (attendee only) – +1-202-860-2110,,1600110656 **US Toll (D.C.)**

Join by phone - +1-202-860-2110 **United States Toll (D.C.)**

For more information, please contact **Lisa Wray, Executive Assistant,** at Lisa.Wray@dc.gov or 202.724.7681 (Office); 202.552.9756 (Cell)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER
Community Development Plans for Wells Fargo Bank and Citibank

In accordance with the Code of the District of Columbia Government, Title 26, Community Development Plan Requirement, the Office of the Chief Financial Officer (OCFO) is publishing on its website https://cfo.dc.gov/public-comments-on-community-development-plans the community development plans of two Banks (Wells Fargo Bank and Citibank) as it determines whether to extend each financial institution's delivery of banking services to the District government. The OCFO seeks substantive comments from the public on each Bank's community development plan. The respective plans will remain published on OCFO's website for a period of thirty (30) days, ending October 5, 2020.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

RE:

Address:	**Square:**	**Lot:**
713 16th Street, NE	4510	0809

Dear Sir/Madam:

The Department of Consumer and Regulatory Affairs (DCRA), has reviewed and **granted** your request for Hardship for the above property for real property tax year for **FY2020** , for the following reasons:

> *You provided sufficient evidence to support your extraordinary circumstances and hardship. Pursuant to D.C. Code §42-3131§.06 (b), Paragraph 5, "A vacant building shall be exempted by the Mayor in extraordinary circumstances and upon a showing of substantial undue economic hardship.*
> *(B) The exemption may be granted for a period of up to 24 months, subject to renewal on the basis of continuing extraordinary circumstances and substantial undue economic hardship."*

Annually you are required by law to register vacant property or seek an exemption for the current tax year. DCRA will immediately notify the Office of Tax and Revenue (OTR) to reclassify the subject property as (Class1/Class2). You may email OTR at adjustments@dc.gov to request a corrected bill within 5 to 7 buisness days. DCRA reserves the right to revoke this exemption if the building is not maintained in accordance with the Vacant Building Maintenance standards, or if disqualifying information is obtained.

If you have questions regarding this decision please call, Theresa Hollins, Program Support Specialist (202) 805-8344.

Sincerely,

Donald Sullivan
Program Manager
Vacant Building Enforcement

D.C. PREPARATORY ACADEMY PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

OWNER'S REPRESENTATIVE SERVICES

D.C. Preparatory Academy Public Charter School in the District of Columbia is seeking competitive proposals from qualified vendors for Owner's Representative Services for the renovation of a public charter school facility. A copy of the RFP and related materials can be obtained by contacting denglender@dcprep.org. **All proposals must be submitted by 5:00 PM on September 18, 2020.**

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

ANNOUNCES SEPTEMBER 10, 2020 PUBLIC MEETING FOR THE UNIFORM PER STUDENT FUNDING FORMULA (UPSFF) WORKING GROUP

The Office of the State Superintendent of Education is convening a Uniform Per Student Funding Formula (UPSFF) Working Group pursuant to section 112(c) of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2911(c)).

A public meeting for the UPSFF Working Group will be held as follows:

3:00 p.m. – 5:00 p.m.
Thursday September 10, 2020

The meeting will be held electronically. To register, please email Ryan.Aurori@dc.gov, or visit:

https://osse.dc.gov/page/2020-21-uniform-student-funding-formula-upsff-working-group

For additional information, please contact:

Ryan Aurori, Senior Advisor for Budget and Finance
Office of the Chief of Staff
Office of the State Superintendent of Education
Ryan.Aurori@dc.gov

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FILING OF AN APPLICATION
TO PERFORM VOLUNTARY CLEANUP

1325-1329 5th Street NE
Case No. VCP2017-051

Pursuant to § 601 of the Brownfield Revitalization Amendment Act of 2000, effective June 13, 2001 (D.C. Law 13-312, as amended April 8, 2011, D.C. Law 18-369; D.C. Official Code § 8-636.01), the Voluntary Cleanup Program in the Department of Energy and Environment (DOEE), Land Remediation and Development Branch, is informing the public that the VCP enrollment notice is being republished as a result of change of ownership and scaled down redevelopment plan. The revised application to participate in the Voluntary Cleanup Program (VCP) is 1325-1329 5th Street NE Washington, DC 20002 and the new owner is Clarion Gables Multifamily Trust, LP, and 8300 Greensboro Drive, Suite 650, McLean, VA, 22102.

The application identifies the presence of solvents and other organics on the property. The applicant intends to raze and redevelop the northern building on the subject property into an eleven story mixed use building with four level of underground parking. Eight stories of office space will be constructed over the existing southern building on the subject property.

Pursuant to D.C. Official Code § 636.01(b), this notice will also be mailed to the Advisory Neighborhood Commission (ANC-5D) 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, 5th Floor
Washington, DC 20002

Interested parties may also request a copy of the application and supporting documents by contacting the Voluntary Cleanup Program at the above address or by calling (202) 535-1771. An electronic copy of the application may be obtained by contacting Kokeb Tarekegn, Environmental Engineer at Kokeb.Tarekegn@dc.gov.

Written comments on the proposed approval of the application must be received by the VCP program at the address listed above within fourteen (14) business 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. VCP2017-051 in any correspondence related to this application.

DEPARTMENT OF ENERGY AND ENVIRONMENT
REQUEST FOR PARTNERS

Demonstrating the Performance of Heat Pump Water Heating in Multifamily Properties

The Department of Energy and Environment (the Department) seeks eligible entities through a Request for Partners to present the Department with a plan to pilot the deployment of advanced, heat pump water heaters (HPWHs) in multifamily properties in the District of Columbia. The US Department of Energy (US DOE) has approved DOEE's concept paper. DOEE requires a partner for its final federal submission. In order for the District to achieve its ambitious goal to be carbon neutral by 2050, buildings must phase out the use of fossil fuels for hot water. HPWHs offer a solution, but market penetration is only 2% nationally. If funded, the selected partner will assist with testing and validating the potential of HPWHs as an energy-saving, low-risk technology for multifamily homes.

The successful partner will apply with DOEE for US DOE funds. The amount available for the project is approximately $140,000.

Beginning 9/4/2020, the full text of the Request for Partners (RFP) will be available on the Department's website. A person may obtain a copy of this RFP by any of the following means:

> **Download** from the Department's website, www.doee.dc.gov. Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.
>
> **Email** a request to greenbuildingrfa.grants@dc.gov with "Request copy of RFP 2020-2027-USA" in the subject line.

The deadline for application submissions is 9/18/2020, at 4:30 p.m. A complete electronic copy must be e-mailed to greenbuildingrfa.grants@dc.gov and received by that time.

Eligibility: All the checked institutions below may apply for these grants:

☒-Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;
☐-Faith-based organizations;
☐-Government agencies;
☐-Universities/educational institutions; and
☐-Private Enterprises.

For additional information regarding this RFP, write to: greenbuildingrfa.grants@dc.gov.

DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Massage Therapy ("Board") hereby gives notice of its upcoming meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b) (2016 Repl.)).

The Board holds its meetings on a bi-monthly basis and the next meeting was previously scheduled for Thursday, September 17, 2020. However, due to the need to hold a public disciplinary hearing, the next meeting will instead be held on Wednesday, September 16, 2020 from 10:00 AM – 3:00 PM. The meeting will be open to the public from 10:00 AM until 11:00 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with § 575(b) of the Open Meetings Act of 2010 (D.C. Official Code § 2-575(b) (2016 Repl.)), the meeting will be closed from 11:00 AM to 3:00 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

Due to the COVID-19 public health emergency, the meeting will be conducted via videoconference. The public may attend the open session in the following ways:

By videoconference:
Webex meeting number: 160 000 9172
Password: e8bM4kYdMu7
https://dcnet.webex.com/dcnet/j.php?MTID=m462082cfd9fdc6af046f5497a08fbd39

By phone
202-860-2110 (Washington, DC) or 1-650-479-3208 Call-in toll number (US/Canada)
Access code: 1600009172

The agenda is available at https://dchealth.dc.gov/event/board-massage-therapy-calendar-and-meetings. For additional information, contact the Health Licensing Specialist at thelma.ofosu-mensah@dc.gov.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
RENTAL ACCOMMODATIONS DIVISION
NOTICE OF FORM
TENANT PAYMENT PLAN COMPLAINT

Pursuant to the authority set forth in the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3502.04 (2012 Repl.) ("Act"), the Rent Administrator hereby gives notice of the intent to adopt the Tenant Payment Plan Complaint Form ("Form") related to § 402 of the Coronavirus Support Emergency/Temporary/Congressional Review Emergency Amendment Act of 2020, codified at § 42-3281, for the purpose of a tenant disputing a housing provider's rejection of a tenant payment plan or violation of the terms of a tenant payment plan. In accordance with § 204 of the Act, the Rental Housing Commission reviewed and approved the Form.

Section 402 of the Coronavirus Support Emergency/Temporary/Congressional Review Emergency Amendment Act of 2020, codified at § 42-3281, provides that during the period of a declared health emergency and for one year thereafter, a housing provider shall offer a rent payment plan for eligible tenants. The plan shall be available to an eligible tenant for the payment of gross rent and any other amounts that come due under the lease during the plan period and prior to the end of the tenancy with a minimum length of one year unless a shorter payment plan term is requested by the tenant. Among other requirements, a tenant payment plan shall waive fees, interest, or penalties arising from a tenant entering into a plan. A housing provider shall approve a tenant payment plan if a tenant demonstrates financial hardship resulting directly or indirectly from the public health emergency regardless of an existing delinquency or future inability to make rental payments in existence prior to the start of the public health emergency. Tenants whose applications are denied may file a written complaint with the Rent Administrator who shall transfer the complaint to the Office of Administrative Hearings for adjudication and disposition.

Persons with questions concerning this Form should contact Rental Property Program Specialist Tonya Butler-Truesdale, Department of Housing and Community Development, Housing Regulation Administration, Rental Accommodations Division, 1800 Martin Luther King, Jr. Avenue, S.E., Washington, D.C. 20020 or via email at tonya.butler-truesdale@dc.gov or call (202) 442-9505.

District of Columbia
Department of Housing and Community Development
Rental Accommodations Division (RAD)
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, DC 20020
(202) 442-9505

RAD Date Stamp

RAD Form 24 (08/2020)

TENANT PAYMENT PLAN COMPLAINT

This tenant payment plan complaint is filed under the provisions of § 402 of the Coronavirus Support Emergency/Temporary/Congressional Review Emergency Amendment Act of 2020, codified at § 42-3281
Please type or print clearly, complete all areas, and make sure to sign the form.
ATTACH ADDITIONAL PAGES FOR RESPONSES, IF NEEDED.

RAD Use Only

Case number	Intake Representative	Date Filed
☐ Walk-in ☐ Mail ☐ Email	Approved for Filing By	Date Approved for Filing
RAD Registration/Exemption Number	Basic Business License Number & Expiration Date	Certificate of Occupancy Number

TO FILE THIS COMPLAINT, TENANT(S) MUST PROVIDE:

☐ Proof of tenancy, including rent receipts, cancelled checks, or a copy of a lease.

☐ Copy of Tenant Payment Plan Application and any related documentation.

☐ If filing Complaint by hardcopy: Original & 4 copies of this Complaint and all supporting documentation.

☐ If filing Complaint electronically: This Complaint must be signed and in a pdf format with any supporting documentation and emailed to dhcd.rad@dc.gov.

Part 1 – Tenant Information

Who is filing this Complaint? ☐ Tenant ☐ Tenant Representative

Name of tenant(s) or representative		Email Address
Cell phone	Home phone	Work phone
Date when you became a tenant of the property for which this Complaint is being filed:	Current monthly rent you are charged	

Street address of property that is subject of this Tenant Payment Plan Complaint

Street Address (No P.O. Box)			
Unit(s)	City	State	Zip Code

Current Address of Tenant(s) (if different than above)			
Street Address (No P.O. Box)			
Unit	City	State	Zip Code

Complainant(s)' Representative (Attorney or Other) information (if applicable)		
Name of Representative		Email Address
Cell phone	Home phone	Work phone
Street Address (No P.O. Box)		
Unit	City	State / Zip Code

Part 2 – Housing Provider Information

Name of Owner of Housing Accommodation		Email Address
Cell phone	Home phone	Work phone
Housing Provider's Street Address (No P.O. Box)		
Unit	City	State / Zip Code

Title/Name of Agent of Housing Provider (check the appropriate box for Title): □ Property Manager □ Real Estate Agent □ Other: _____		Email Address
Cell phone	Home phone	Work phone
Agent's Street Address (No P.O. Box)		
Unit	City	State / Zip Code

Part 3 – Tenant Complaint

I/We believe that the housing provider improperly denied my request for a tenant repayment plan, which violates § 402 of the Coronavirus Support Emergency/Temporary/Congressional Review Emergency Amendment Act of 2020, codified at § 42-3281 for the following reason(s) (check all that apply below):

☐ A. The housing provider did not create a process for payment plan.

☐ B. The housing did not timely notify me of the availability of a tenant payment plan.

☐ C. The housing provider did not accept my evidence of financial hardship resulting directly or indirectly from the public health emergency.

☐ D. The housing provider did not provide an online or telephone application approval process.

☐ E. The tenant payment plan includes invalid terms and/or conditions (e.g., a shorter term than one year, no equal monthly installment payments, lump sum payments, etc.).

☐ F. The housing provider denied my tenant payment plan based on an existing delinquency or a future inability to make rental payments established before the public health emergency.

☐ G. The housing provider and I entered into a written payment plan, however the housing provider refuses to implement the payment plan.

☐ H. Other (describe with specificity): _____

_____

_____

_____

Part 4 - Complaint Details

Use this space to describe in detail the events, dates, experiences, and observations that cause(d) you to file this Tenant Payment Plan Complaint.

THIS SECTION MUST BE COMPLETED IN ORDER TO FILE THIS TENANT COMPLAINT.

ATTACH ADDITIONAL PAGES, IF NEEDED.

Part 5 – Certification

I/We understand that:

- It is my/our responsibility to report any substantive changes in the information provided here, while this Tenant Payment Plan Complaint is pending.
- Any Tenant Payment Plan Complaint filed with RAD must result from a reasonable belief based upon available evidence that a violation of § 402 of the Coronavirus Support Emergency/Temporary/Congressional Review Emergency Amendment Act of 2020, codified at § 42-3281 occurred.
- A Tenant Payment Plan Complaint must contain a description or explanation of alleged denial of the Complainant's tenant payment plan and violation of § 402 of the Coronavirus Support Emergency/Temporary/Congressional Review Emergency Amendment Act of 2020, codified at § 42-3281.
- I declare under penalty of law for making a false statement, as set out in D.C. Official Code § 22-2405, that the foregoing representations and statements are true and correct to the best of my knowledge, information, and belief.

I/We hereby certify that the information that I/we will give on this form, according to the best of my knowledge and belief, is correct.

Signature of Tenant/Tenant Representative	Date

RAD Form 24 (08/2020)

DISTRICT OF COLUMBIA COMMISSION ON HUMAN RIGHTS

PUBLIC NOTICE OF MEETING

WEDNESDAY, September 9, 2020

In accordance with D.C. Code § 2-576(1), the Commission on Human Rights hereby gives notice that it will meet on **Wednesday, September 9, 2020 at 6:30 p.m**. Due to the public health emergency and pursuant to the Coronavirus Support Emergency Amendment Act of 2020, B23-0757, the meeting will be held virtually using WEBEX. The public may participate in the meeting online or by telephone using the following login information:

Wednesday, Sep 9, 2020 6:30 pm | 2 hours

https://dcnet.webex.com/

Meeting number: 172 555 2512

Password: N7Hmg3vJrJ2

Join by phone

1-650-479-3208 Call-in toll number (US/Canada)

+1-202-860-2110 United States Toll (Washington D.C.)

Access code: 172 555 2512

Join by video system

Dial 1725552512@dcnet.webex.com

You can also dial 173.243.2.68 and enter your meeting number.

For further information or if you require an interpreter, please contact Erika Pierson at Commission.COHR@dc.gov or (202) 727-0656.

DRAFT AGENDA

I. CALL TO ORDER

II. ROLL CALL

III. ADOPTION OF THE AGENDA

IV. ADOPTION OF THE MINUTES

V. REPORT OF THE DIRECTOR, OFFICE OF HUMAN RIGHTS

VI. REPORT OF THE CHIEF ADMINISTRATIVE LAW JUDGE

VII. OLD BUSINESS

VIII. NEW BUSINESS

IX. ANNOUNCEMENTS

X. ADJOURNMENT OF MEETING

INSPIRED TEACHING DEMONSTRATION PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS:
Search Firm, Head of School

The Inspired Teaching Demonstration School requests proposals for the services of a search firm for our next Head of School. Additional information regarding the Inspired Teaching School and the scope of work are outlined in the Request for Proposals (RFP) and may be obtained by contacting kate.keplinger@inspiredteachingschool.org.

Proposals will be accepted until 5:00 pm, September 15, 2020. Proposals should be submitted as PDF or Microsoft Word documents to Kate Keplinger (kate.keplinger@inspiredteachingschool.org) with HOS SEARCH RFP in the subject line.

MUNDO VERDE PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Staff Professional Development

Staff Professional Development. MVPCS is seeking proposals for professional development support on staff development on a variety of topics. Please contact Elle Carne at ecarne@mundoverdepcs.org for full RFP details. **All bids are due via email on September 7 at 3pm.** Note that the contract may not be effective until reviewed and approved by the District of Columbia Public Charter School Board.

WASHINGTON LATIN PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Issued: 9/04/2020

The Washington Latin Public Charter School solicits expressions of interest in the form of proposals with references from a qualified vendor for:

- Psychological Services – including scheduling, materials, testing, reporting, recommendations, goals and objectives, and administrative duties.

For the complete RFP, please contact Ms. Yinnie Tse at businessoffice@latinpcs.org and Sandra Whitfield swhitfield@latinpcs.org with the type of service in the subject line. Deadline for submissions is **COB September 18, 2020**. No phone calls please.

E-mail is the preferred method for responding proposals.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Environmental Quality and Operations Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Environmental Quality and Operations Committee will be holding a meeting on Thursday, September 17, 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.dcwater.com. Due to COVID-19, the General Manager has suspended public access to DC Water facilities. Please see the website for remote access information for the meetings.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dcwater.com.

DRAFT AGENDA

1.	Call to Order	Committee Chairperson
2.	AWTP Status Updates 1. BPAWTP Performance	Vice-President, Wastewater Ops
3.	Status Updates	Senior VP
4.	Project Status Updates	Director, Engineering & Technical Services
5.	Action Items - Joint Use - Non-Joint Use	Senior VP
6.	Water Quality Monitoring	Senior Director, Water Ops
7.	Action Items	Senior VP Senior Director, Water Ops Director, Customer Care
8.	Emerging Items/Other Business	
9.	Executive Session	
10.	Adjournment	Committee Chairperson

BOARD OF ZONING ADJUSTMENT
PUBLIC MEETING NOTICE
WEDNESDAY, SEPTEMBER 23, 2020
Virtual Meeting via WebEx

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

TIME: 9:30 A.M.

I. DECISION

Application No. 20214 of Jason Harris and Jenna Stark, **,** pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201 from the rear yard requirements of Subtitle D § 306.2, to permit a rear deck addition to an existing, attached principal dwelling unit in the R-3 Zone at premises 2211 38th Street, N.W. (Square 1301, Lot 659).

Application No. 20266 of 3400 Connecticut Partners LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle C § 703.2 from the minimum parking requirements of Subtitle C § 701.5, to construct a mixed use retail/apartments development in the NC-3 Zone at premises 3400 Connecticut Avenue, N.W. (Square 2069, Lots 817-821).

PLEASE NOTE:

This public meeting will be held virtually through WebEx for the Board to deliberate on or decide the items listed on the agenda. Information for the public to view or listen to the public meeting will be provided on the Office of Zoning website and in the case record for each application or appeal as soon as possible in advance of the meeting date.

Do you need assistance to participate?

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

Chinese
您需要有人帮助参加活动吗？
如果您需要特殊便利设施或语言协助服务（翻译或口译），请在见面之前提前五天与 Zee Hill 联系，电话号码 (202) 727-0312，电子邮件 Zelalem.Hill@dc.gov。这些是免费提供的服务。

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

Korean
참여하시는데 도움이 필요하세요?
특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면, 회의 5일 전에 Zee Hill 씨께 (202) 727-0312로 전화 하시거나 Zelalem.Hill@dc.gov 로 이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

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

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

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

FREDERICK L. HILL, CHAIRPERSON
LORNA L. JOHN, VICE-CHAIRPERSON
VACANT, MEMBER
CHRISHAUN SMITH, MEMBER,
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. 05-28Y
Z.C. Case No. 05-28Y
Parkside Residential, LLC
(Modification of Consequence of Second-Stage PUDs
@ Square 5056, Lots 864, 865, 869, and 870)
June 29, 2020

Pursuant to notice, at its June 29, 2020 public meeting, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") of Parkside Residential, LLC (the "Applicant") for A Modification of Consequence to the conditions and approved plans of the second-stage PUDs approved by Z.C. Order Nos. 05-28R/05-28S (collectively, the "Second-Stage Order") for Lots 864, 865 in Square 5056 ("Parcel 8") and Lots 869 and 870 in Square 5056[1] ("Parcel 10"). 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 District of Columbia Municipal Regulations, ["Zoning Regulations of 2016"], to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

PRIOR APPROVALS

1. Pursuant to Z.C. Order No. 05-28 (the "Original Order"), effective April 13, 2007, the Commission approved a first-stage PUD, together with a related Zoning Map amendment from the R-5-A and C-2-B to the C-3-A and CR Zone Districts, to construct approximately 3.1 million square feet of mixed-use development (the "First-Stage PUD") on 15 vacant acres east of the Anacostia River in Ward 7.

2. Condition No. 13 of the Original Order required the Applicant to file a second-stage PUD application under the First-Stage PUD within one year of the Original Order's effective date, with all remaining second-stage PUD applications required to be filed within three years of the effective date of the order approving the first second-stage PUD application.

3. The Applicant timely filed its first second-stage application in Z.C. Case No. 05-28A on November 16, 2007, within the one-year deadline imposed by Condition No. 13 of the Original Order.

[1] The Second-Stage Order covered Lot 807 in Square 5041 (Parcel 8); and Lot 810 in Square 5056 (Parcel 10), both lots created for assessment and taxation purposes ("A&T Lots"). These two A&T Lots were consolidated into Record Lot 43 in Square 5056 by the plat recorded on September 24, 2018 in Subdivision Book 214, Page 129; in turn subdivided into A&T Lots 835-863 by the plat recorded on January 23, 2019, in A&T Book 3880-W; with A&T Lot 850 subdivided into A&T Lots 864-870 on August 6, 2019, in A&T Book 3882-U; all references to the records of the D.C. Office of the Surveyor.

4. Pursuant to Z.C. Order No. 05-28A, effective October 3, 2008, the Commission approved the first second-stage PUD application, thereby establishing the deadline for the Applicant to file all remaining second-stage PUD applications under the First-Stage PUD, including Parcels 8 and 10, as October 3, 2011.

5. Pursuant to Z.C. Order No. 05-28H[2], effective February 3, 2012, the Commission approved a two-year extension of this deadline to file all remaining second-stage PUD applications, including Parcels 8 and 10, to October 3, 2013.

6. Pursuant to Z.C. Order No. 05-28L[3], effective February 7, 2014, the Commission approved a two-year extension of this deadline to file all remaining second-stage PUD applications, including Parcels 8 and 10, to October 3, 2015.

7. Pursuant to Z.C. Order No. 05-28O[4], effective February 12, 2016, the Commission approved a two-year extension of this deadline to file all remaining second-stage PUD applications, including Parcels 8 and 10, to October 3, 2017.

8. Pursuant to the Second-Stage Order,[5] effective March 23, 2018, the Commission approved a second-stage PUD for Parcels 8 and 10. (Exhibit ["Ex."] 2C2, the "Project")

PARTIES AND NOTICE

9. In addition to the Applicant, the only parties to Z.C. Case No. 05-28 were Advisory Neighborhood Commissions ("ANC") 7D and 7F, the "affected" ANCs pursuant to Subtitle Z § 101.8,[6] and Parkside Townhomes Condominium, Inc. ("PTC").

10. As attested by the Certificate of Service submitted with the Application, the Applicant served the Application on May 18, 2020, on: (Ex. 2, p. 10.)
    - ANCs 7D and 7F;
    - The Office of Planning ("OP"); and
    - PTC.

[2] Pursuant to Z.C. Order Nos. 05-28B through 05-28G, the Commission approved second-stage PUDs (B, C, and F), denied a time extension request as premature (D) and approved modifications to the First-Stage PUD (E) and of a second-stage PUD (G). None of these orders applied to Parcels 8 or 10.

[3] Pursuant to Z.C. Order Nos. 05-28I through 05-28K, the Commission approved second-stage PUDs. This order did not apply to Parcels 8 or 10.

[4] Pursuant to Z.C. Case 05-28M and 05-28N, the Commission approved modifications to second-stage PUDs. Neither order applied to Parcels 8 or 10.

[5] Pursuant to Z.C. Order Nos. 05-28P, 05-28Q, and 05-28T through 05-28W, the Commission approved second-stage PUDs (P and T), a modification to a second-stage PUD (Q), additional extensions of the deadline to file all remaining second-stage PUD applications under the First-Stage PUD (U and V), and an extension of a second-stage PUD (W). None of these orders applied to Parcels 8 or 10.

[6] ANC 7F is an "affected ANC" per Subtitle Z § 101.8 as it is located directly across the street from Parcels 8 and 10.

II. THE APPLICATION

11. On May 18, 2020, the Applicant filed the Application requesting the following modifications of the Second-Stage Order (Ex. 2C2, 2E1-E5):
- Revisions to the access of the garages on Parcels 8 and 10, along with corresponding revisions to the interior layout of each garage, a reduction of parking spaces from 141 to 111 spaces (with 10% +/- flexibility as granted by the Second-Stage Order), and changes to the loading access and footprint of each building;
- Changes to the fenestration pattern and glazing on each of the two multifamily buildings to add windows and account for the expanded retail uses on the ground floor of each level, and changes to the height and layout of the penthouses;
- Additional public benefits as prepared in coordination with ANC 7D; and
- Relief from the minimum five-car grouping of compact car parking requirements of § 2115.4 of the Zoning Regulations of 1958 under which the Commission approved the First-Stage PUD, which compact car parking requirements were not included in the Zoning Regulations.

12. The Application stated that due to funding changes, Parcels 8 and 10 are now proposed to be developed prior to Parcel 9 (authorized by Z.C. Order No. 05-28Q), and this changed phasing requires the proposed amendments to the garage access and configuration, along with the associated reduction in spaces and changes to the building footprint, in order to allow independent access for the garages of Parcels 8 and 10, which had originally been approved with access through a below-grade connection from the Parcel 9 garage. (Ex. 2)

13. The Application stated that the proposed façade design modifications:
- More effectively incorporated the ground floor retail use into the overall design of the Project;
- Included changes to the penthouse of each building; and
- Were within the parameters of the Zoning Regulations and did not propose any changes to the materials approved by the Second-Stage Order.

14. The Application proposed the following additional public benefits based on an agreement with ANC 7D:
- Perform maintenance on the "green screen" separating Parkside from the Pepco facility to the south of Parkside with additional plantings along Foote Street, N.E.;
- Provide, for the ANC's use, a community room of not less than 1,000 square feet in the retail level of one of the buildings to be constructed on Parcels 8, 9, 10, or 12;
- Reserve for a small business owner/minority-owned business at least 750 square feet of retail space in one of the buildings to be constructed on Parcels 8, 9, 10, or 12;
- Provide $100,000.00 towards a scholarship fund for residents of the Parkside, Paradise, Eastland Gardens, and Mayfair/Grove neighborhoods; and
- Work with members of the Parkside community and surrounding property owners to identify a potential location for an enclosed dog park and if such a location can be secured, construct such dog park up to a cost of $10,000.00.

III. RESPONSES TO THE APPLICATION

OP

15. OP submitted a May 28, 2020, report (Ex. 4, the "OP Report") stating no objection to the Application being considered as a Modification of Consequence and recommending approval of the Application because that the proposed modifications were modest, with the garage access and building footprint changes required by the revised phasing of the Project and the changes to the façade and penthouse improving the appearance of the buildings while also reducing the appearance of their bulk.

ANCs

16. ANC 7D did not submit a written report to the record, but the Applicant stated in its June 26, 2020, filing that ANC 7D had voted in support of the Application at its June 9, 2020, meeting but the report was not uploaded to the correct case file due to a clerical error and this issue not resolved by the time of the June 29, 2020, public meeting. (Ex. 20, Note 1)

17. ANC 7F did not file a written report.

CONCLUSIONS OF LAW

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make Modifications of Consequence to final orders and plans without a public hearing.

2. Subtitle Z § 703.3 defines a Modification of Consequence as "a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance."

3. Subtitle Z § 703.4 includes "a proposed change to a condition in the final order" and "a redesign or relocation of architectural elements" as examples of Modifications of Consequence.

4. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 703.13 to serve the Application on all parties to the original proceeding, in this case ANCs 7D and 7F and PTC.

5. The Commission concludes that the Application qualifies as a Modification of Consequence within the meaning of Subtitle Z §§ 703.3 and 703.4, as a request to modify the conditions and architectural elements approved by the Original Order, as modified by the Second-Stage Order, and therefore can be granted without a public hearing pursuant to Subtitle Z § 703.17(c)(2).

6. The Commission concludes that the Application's requested relief from compact parking regulations of § 2115.4 of the 1958 Zoning Regulations is not necessary and inapplicable because:
   - The 1958 Zoning Regulations have been repealed and replaced, so the Commission cannot provide relief from those repealed regulations;

- Subtitle A §§ 102.4, 102.6, and 102.7 establish that a project approved under the 1958 Zoning Regulations "shall conform with the 2016 Regulations as [they] apply to the requested modification;" and
- The Zoning Regulations no longer require minimum groupings of compact car requirements.

The Commission concludes that the proposed changes to the compact car grouping from that approved by the Original Order, as modified by the Second-Stage Order, are *de minimis* and will not affect the balancing test on which the Commission based its approval of the First-Stage PUD, as modified by the Second-Stage Order.

7. The Commission concludes that because the ANCs were provided with time to provide a response to the Application, the requirement of Subtitle Z § 703.17(c)(2) to provide a timeframe for responses by all parties to the original proceeding had been met, and therefore the Commission could consider the merits of the Application at its June 29, 2020, public meeting.

8. The Commission concludes that the Application's proposed design changes are consistent with the PUD approved by the Second-Stage Order, because the proposed changes are minor and within the parameters of the Zoning Regulations. The Commission notes that the changes to the garage and loading access, reduction in the number of parking spaces, and the changes to the building footprints are necessitated by changes to the overall phasing of the Project in connection with the development on Parcel 9. The Commission also finds that the proposed design changes to the façade and the penthouse will improve the appearance of the Project and better incorporate the proposed ground floor retail into the overall design of the Project.

9. The Commission concludes that the additional benefits proposed by the Application based on the Applicant's agreement with ANC 7D are not required to comply with the requirements of Subtitle X § 305.3 because these benefits are not required to rebalance the PUD balancing test already approved by the Commission in the Original Order, as modified by the Second-Stage Order, since the Application does not request additional relief or create new adverse effects that require mitigation or balancing out by new public benefits.

"GREAT WEIGHT" TO THE RECOMMENDATIONS OF OP

10. 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).)

11. The Commission finds persuasive OP's analysis of the Application and its recommendation that the Commission approve the Application and therefore concurs in that judgment.

"GREAT WEIGHT" TO THE WRITTEN REPORT OF THE ANC

12. 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.) and 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).")

13. As neither ANC submitted a written report in response to the Application, the Commission has nothing to which it can give "great weight." However, the Commission notes that ANC 7D's coordination with the Applicant on the additional public benefits proposed in the Application, as well as the Applicant's statement that ANC 7D did vote to support the Application but clerical errors prevented the submission of ANC 7D's written report to the record, indicates that ANC 7D believed that its issues and concerns were addressed.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application's request for A Modification of Consequence of Z.C. Order Nos. 05-28R/05-28S by revising Condition Nos. A.1 through A.3, and adding new Condition Nos. B.7 through B.11, to read as follows (deletions shown in **bold** and ~~**strikethrough**~~ text; additions in **bold** and **underlined** text):

A. PROJECT DEVELOPMENT

1. The Project shall be developed in accordance with**:**
   - **The** plans and drawings filed in the record in ~~**this case**~~ **Z.C. Case Nos. 05-28R/05-28S** as Exhibit 38A1-38A9[7]**;**
   - **As modified by the plans and drawings filed in the record of Z.C. Case No. 05-28Y as Exhibit 2E, as corrected by Exhibit 5B** (**collectively,** the "Final Plans")**;** as modified by the guidelines, conditions, and standards herein.

2. The Project shall ~~**consist of**~~ **include:**
   - Approximately 295,244 sf of GFA;
   - Approximately ~~**141**~~ **111** below-grade vehicular parking spaces in ~~**an**~~ enclosed ~~**garage**~~ **garages**; ~~**and the provision of**~~
   - Certain exterior and streetscape improvements, all as shown on the Final Plans and as further described herein;~~**. The Project shall comply with the height,**~~

[7] Note: Sheet A 0.06 in Exhibit 38A1 (Vicinity and Tabulations) contains two typographical errors: first, the total Block F FAR is 3.75 (not 3.85) and second, the Parcel 8 FAR is 3.75 (not 3.70).

~~yard, setback, and other dimensional requirements set forth in the Final Plans. The Project shall include~~,

- An overall density of approximately 3.70 FAR;
- A maximum height of 85 feet; and
- A maximum lot occupancy of approximately 60%.

3. The Project shall be subject to modifications from the requirements set forth in Z.C. Order No. 05-28 with respect to ~~have~~ flexibility from the use, FAR, lot occupancy, and parking requirements set forth in Z.C. Order No. 05-28, as more particularly noted in the Findings of Fact paragraphs 62-64 **of Z.C. Order No. 05-28R/05-28S** and as more particularly shown on the Final Plans. The Project shall further have flexibility from the Zoning Regulations from the loading, inclusionary zoning, and theoretical lot (as pertains to courts and rear yards) requirements as specifically ~~noted~~ described in the Findings of Fact paragraphs 85 **of Z.C. Order No. 05-28R/05-28S** and as more particularly shown on the Final Plans.

B. PUBLIC BENEFITS

…

7. For two years following the effective date of Z.C. Order No. 05-28Y, the Applicant shall maintain or cause to be maintained the existing vegetation and landscaping comprising the "green screen" along the southwest side of Foote Street, N.E. between Kenilworth Avenue, N.E. and Anacostia Avenue, N.E. between the existing Pepco facility and the Parkside neighborhood as shown in the photos at Exhibit 6A in Z.C. Case No. 05-28Y, subject to the reasonable requirements of DDOT and/or the then-current fee owner of the property where such green screen is located.

8, Prior to issuance of the final certificate of occupancy for the Parkside Projects and for a period of 10 years from the issuance of that certificate of occupancy, the Applicant shall reserve a minimum of 1,000 square feet of gross floor area for a community room to be located at the Applicant's election within the ground level retail level of one of the buildings on one of Parcels 8, 9, 10, or 12; and during such 10-year period, the Applicant shall pay for all utilities, operating expenses and maintenance of such space. Such community room shall be made available to the ANC on a non-exclusive basis, subject to reasonable rules and regulations regarding use and access. The Applicant shall retain the right from time to time during such 10-year period to relocate the community room to another building within the Parkside Projects at the Applicant's sole election and cost.

9. Prior to issuance of the final certificate of occupancy for the Multifamily Buildings, the Applicant shall reserve a space with a minimum of 750 square feet of gross floor area, in a location of the Applicant's selection, within the ground floor retail level of one of the buildings on one of Parcels 8, 9, 10, or 12 for a small business or minority-owned business as certified by DSLBD. The Applicant shall use reasonable efforts to enter into a lease for such space for

such use on terms reasonably acceptable to the Applicant; provided, however, that in the event such space is not leased to a tenant satisfying the foregoing requirements by the issuance of the final certificate of occupancy for the Multifamily Buildings, the Applicant shall be released from the foregoing obligation, which shall have no further force or effect.

10. Prior to issuance of the first building permit for the Modified Project, the Applicant shall provide the Zoning Administrator with evidence that it has established and funded a $100,000.00 scholarship fund to be administered by the ANC 7D Grants Committee for students in the Parkside, Paradise, Eastland Gardens, and Mayfair/Grove neighborhoods for the purposes of post-secondary education. The Applicant shall be deemed to have satisfied this condition upon (a) delivery to ANC 7D of funds in the amount required herein and (b) delivery to the Zoning Administrator of such evidence.

11. Prior to issuance of the final certificate of occupancy for the Multifamily Buildings, the Applicant shall fund the construction of a dog park/pet run, up to a maximum amount of $10,000; provided that the Applicant, in conjunction with ANC 7D, is able to identify a reasonable and feasible location for the dog park/pet run. However, if by the issuance of such final certificate of occupancy a location for such park/pet run has not been identified, the Applicant shall be released of the foregoing obligation, which shall have no further force or effect.

All other conditions of Z.C. Order Nos. 05-28R/05-28S remain unchanged and in effect.

VOTE (June 29, 2020): **5-0-0** (Robert E. Miller, Michael G. Turnbull, Anthony J. Hood, Peter G. May, and Peter A. Shapiro to **APPROVE**).

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 05-28Y shall become final and effective upon publication in the *DC Register*; that is, on September 4, 2020.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 05-40D
Z.C. Case No. 05-40D
Wesley Theological Seminary of the United Methodist Church
(Modification of Consequence of Campus Plan
@ Lots 6, 7, 8, 9 in Square 1600 [4500 Massachusetts Avenue, N.W.])
October 21, 2019

Pursuant to notice, at its October 21, 2019, public meeting, the Zoning Commission for the District of Columbia (the "Commission") considered the application of Wesley Theological Seminary of the United Methodist Church ("Wesley") for a Modification of Consequence to Conditions Nos. 1 and 5 of Z.C. Order No. 05-40A (the "Original Order"), as modified by Z.C. Orders Nos. 05-40B and 05-40C, that approved a campus plan for Wesley for Lots 6, 7, 8, and 9 in Square 1600, with a street address of 4500 Massachusetts Avenue, N.W. (the "Property"). 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 District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the application.

FINDINGS OF FACT

I. BACKGROUND

PRIOR APPROVALS

1. Pursuant to the Z.C. Order No. 05-40, effective January 16, 2007, the Commission approved a campus plan authorizing a total campus buildout of 245,000 square feet with student enrollment, employee and student housing population caps.

2. Pursuant to the Original Order, effective June 14, 2012, the Commission approved a new campus plan (the "Wesley Campus Plan") instead of the application's initial request to modify the campus plan approved by Z.C. Order No. 05-40, with several conditions including:
   - Condition No. 1 established the validity of the Original Order to December 31, 2025; and
   - Condition No. 5 required that Wesley provide at least 172 student beds.

3. Pursuant to Z.C. Order No. 05-40B, effective August 17, 2016, the Commission approved a modification to the Original Order to revise:
   - Condition No. 1 to extend the validity of the Original Order to December 31, 2019;
   - Condition No. 5 to permit Wesley to house up to 55 non-Wesley graduate students in Straughn Hall provided no Wesley students were denied housing; and
   - Condition No. 10 to clarify transportation management and community meeting requirements.

4. Pursuant to Z.C. Order No. 05-40C, effective August 18, 2017, the Commission approved a Minor Modification to the Original Order, as modified by Z.C. Order No. 05-40B, to revise Condition No. 5 to:
   - Expand Wesley's ability to house non-Wesley graduate students to two other campus buildings – up to 6 non-Wesley graduate students at Carroll Hall and up to 26 non-Wesley graduate students at the New Residential Building;
   - Extend the time period for housing all non-Wesley graduate students to December 31, 2019; and
   - Prohibit Wesley from selling or leasing any part of its campus to American University.

PARTIES AND NOTICE

5. The only parties in Z.C. Order No. 05-40A other than Wesley were:
   - Advisory Neighborhood Commissions ("ANC") 3D and 3E, the "affected" ANCs pursuant to Subtitle Z § 101.8;
   - Spring-Valley-Wesley Heights Citizen's Association ("SV-WHCA"); and
   - Mary Lehnard.

6. Wesley served its initial application on August 8, 2019, on ANCs 3D and 3E, the Office of Planning ("OP"), SV-WHCA, Ms. Lehnard, and other interested persons as attested by the Certificate of Service submitted with the initial application (Exhibit ["Ex."] 2).

7. Wesley served the Revised Application, as defined below, on August 28, 2019, on ANCs 3D and 3E, OP, SV-WHCA, Ms. Lehnard, and other interested persons as attested by the Certificate of Service submitted with the Revised Application (Ex. 5).

8. Wesley sent an October 15, 2019, letter (Ex. 9) to all parties and persons on the Certificate of Service providing notice that the Commission had determined that the Revised Application was not a Minor Modification but instead a Modification of Consequence and that comments could be submitted to the Commission by no later than October 7, 2019.

II. THE APPLICATION

9. On August 8, 2019, Wesley filed its initial application requesting a Minor Modification to modify Condition No. 1 of Z.C. Order No. 05-40A, as modified by Z.C. Order Nos. 05-40B and 05-40C, to extend the validity of the Wesley Campus Plan for one year until December 31, 2020.

10. On August 28, 2019, Wesley revised the initial application to include a Modification of Condition No. 5 to also be extended by one year until December 31, 2020 (the "Revised Application").

III. RESPONSES TO THE APPLICATION

OP REPORT

11. OP submitted a September 13, 2019 report (Ex. 7, the "OP Report") stating no objection to the Revised Application being considered as a Minor Modification and recommending approval of the Revised Application.

ANC REPORTS

12. ANC 3D submitted a September 4, 2019 written report (Ex. 6, the "ANC 3D Report") stating that at its duly noticed public meeting of September 4, 2019, at which a quorum was present, ANC 3D voted to support the Revised Application based on Wesley's continued compliance with the conditions of the Original Order, as modified by Z.C. Order Nos. 05-40B and 05-40C.

13. ANC 3E did not submit any response to the Revised Application.

OTHER PARTIES

14. SV-WHCA submitted an October 3, 2019 letter (Ex. 8) in support of the Revised Application.

15. Ms. Lehnard did not file any response to the Revised Application.

CONCLUSIONS OF LAW

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make Minor Modifications and Modifications of Consequence to final orders and plans without a public hearing.

2. Subtitle Z § 703.2 defines Minor Modifications as "modifications that do not change the material facts upon which the Commission based its original approval of the application or petition."

3. Subtitle Z § 703.3 defines a Modification of Consequence as "a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance."

4. Subtitle Z § 703.4 includes "a proposed change to a condition in the final order" as an example of a Modification of Consequence.

5. At its September 23, 2019 public meeting, the Commission determined that the Revised Application should be evaluated as a Modification of Consequence, and not the Minor Modification as requested by the Revised Application, and postponed its consideration of the Revised Application until its October 21, 2019 public meeting to allow the parties to provide comments.

6. The Commission concludes that Wesley satisfied the requirement of Subtitle Z § 703.13 to serve the Revised Application on all parties in the Original Order, in this case ANC 3D, ANC 3E and SV-WHCA.

7. The Commission concludes that the Revised Application qualifies as a Modification of Consequence within the meaning of Subtitle Z §§ 703.3 and 703.4, as a request to modify the conditions approved by the Original Order, as modified by Z.C. Order Nos. 05-40B and 05-40C, and therefore can be granted without a public hearing pursuant to Subtitle Z § 703.17(c)(2).

8. The Commission concludes that because ANC 3D and SV-WHCA filed responses to the Revised Application, and all other parties failed to do so by the deadline set by the Commission, the requirement of Subtitle Z § 703.17(c)(2) to provide a timeframe for responses by all parties had been met, and therefore the Commission could consider the merits of the Revised Application at its October 21, 2019 public meeting.

9. The Commission finds that the Revised Application is consistent with the Original Order because the requested one-year time extension to December 31, 2020, will allow Wesley to complete the planning required for updating the Wesley Campus Plan and the current conditions will remain in effect during this extension.

"GREAT WEIGHT" TO THE RECOMMENDATIONS OF OP

10. The Commission must give "great weight" to the recommendations of OP 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.) (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

11. The Commission finds OP's recommendation that the Commission approve the Revised Application persuasive and concurs in that judgment.

"GREAT WEIGHT" TO THE WRITTEN REPORT OF THE ANCS

12. 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.) and 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).")

13. Although the ANC 3D Report did not raise any issues or concerns with the Revised Application to which the Commission can give "great weight," the Commission notes the

ANC 3D Report's support for the Revised Application and the Commission concurs in that judgement.

14. Since ANC 3E did not submit a written response to the Revised Application, there is nothing to which the Commission could give "great weight."

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that Wesley has satisfied its burden of proof and therefore **APPROVES** Modification of Consequence to modify Conditions No. 1 and 5 of Z.C. Order No. 05-40A, as modified by Z.C. Order Nos. 05-40B and 05-40C, to read as follows (deletions in ~~**bold/strikethrough**~~; additions in **bold/underlined** text):

1. Approval of the Campus Plan shall be valid until December 31, ~~**2019**~~ **2020.**

…

5. The Applicant shall provide a maximum of 172 beds during the term of the Campus Plan. In the event any of the student housing in Straughn Hall ("Straughn Housing"), Carroll Hall ("Carroll Housing"), or the New Residential Building ("New Housing") is not needed to house Wesley students:

   a. Applicant may allow the Straughn Housing to be leased and occupied by not more than fifty-five (55) non-Wesley graduate students through December 31, ~~**2019**~~ **2020**;

   b. Applicant may allow the Carroll Housing to be leased and occupied by not more than six (6) non-Wesley graduate students through December 31, ~~**2019**~~ **2020**;

   c. Applicant may allow the New Housing to be leased and occupied by not more than twenty-six (26) non-Wesley graduate students through December 31, ~~**2019**~~ **2020**;

   d. No Wesley students shall be denied housing to allow for housing of non-Wesley graduate students; and

   e. Applicant will not sell or lease any part of the Wesley Campus to the American University for university use during the term of the current Wesley Campus Plan ending on December 31, ~~**2019**~~ **2020**.

All other conditions of Z.C. Order No. 05-40A, as modified by Z.C. Order Nos. 05-40B and 05-40C, remain unchanged and in effect.

VOTE (October 21, 2019): 5-0-0 (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May (by absentee ballot), and Michael G. Turnbull (by absentee ballot) to **APPROVE**)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 05-40D shall become final and effective upon publication in the *DC Register*; that is, on September 4, 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. 06-10E
Z.C. Case No. 06-10E
The Morris and Gwendolyn Cafritz Foundation
(Modification of Consequence of Second-Stage PUD @
Square 3765, Lots 1-4 and 7-9 and Square 3767, Lots 2-4)
June 8, 2020

At its properly noticed public meeting on June 8, 2020, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") of The Morris and Gwendolyn Cafritz Foundation (the "Applicant") for a modification of consequence to the conditions of, and plans approved by, Z.C. Order No. 06-10D (the "Second-Stage Order") that approved a second-stage planned unit development ("PUD") and modification to the first-stage PUD approved by Z.C. Order No. 06-10 (the "First-Stage Order") for Lots 1-4 and 7-9 in Square 3765 and Lots 2-4 in Square 3767 (collectively, the "Property").

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 District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

PRIOR APPROVALS

1. Pursuant to the First-Stage Order, effective January 15, 2010, the Commission granted a consolidated and first-stage PUD with a related Zoning Map amendment for the Property to the C-2-B and FT/C-2-B Zone Districts (now the MU-5-A zone) to construct the Art Place at Fort Totten Project, a mixed-use complex with residential, retail, cultural, arts, and community uses to be constructed in multiple phases on Blocks A-D (the "Overall PUD").

2. Pursuant to Z.C. Order No. 06-10A, the Commission approved a modification of the First-Stage Order to shift the grocery store use from Building A to Building B.

3. Pursuant to Z.C. No. Order 06-10C[1], the Commission approved a modification of the First-Stage Order to reduce the amount of parking provided in Building A.

4. Pursuant to the Second-Stage Order, the Commission approved a mixed-use building on Block B with two primary components:
   - A residential component (the "Residential Component"), fronting on the former 4th Street, N.E. (closed pursuant to D.C. Act 23-214), with approximately 269 units (30 reserved as artist affordable units) and ground-floor retail and artist maker spaces; and

[1] Z.C. Case No. 06-10B was withdrawn.

- The Family Entertainment Zone ("FEZ," and collectively with the Residential Component, the "Block B Project"), fronting on South Dakota Avenue, N.E., which includes:
  - A retail space/food hall;
  - A theater/interactive space;
  - A gala/events space;
  - Meow Wolf (an innovative arts collection);
  - Explore! Children's Museum; and
  - An Aldi grocery store.

PARTIES AND NOTICE

5. In addition to the Applicant, the only parties to Z.C Case No. 06-10 were Advisory Neighborhood Commissions ("ANC") 5A and 4B, the "affected" ANCs pursuant to Subtitle Z § 101.8, and the Lamond-Riggs Citizens Association ("LRCA").

6. The Applicant provided evidence that on April 21, 2020, it served the Application on ANCs 5A and 4B, LRCA, the District Department of Transportation ("DDOT"), and the Office of Planning ("OP"), as attested by the Certificate of Service submitted with the Application. (Exhibit ["Ex."] 2.)

II. THE APPLICATION

7. The Application requested approval to modify the conditions and plans of the Second-Stage Order to authorize the following modifications to the exterior architectural elements and landscaping of the Block B Project:
   - To the exterior of the Residential Component:
     - Change the fenestration and articulation of the mass and use of materials, to better integrate with the design of Block A;
     - Introduce a balcony story above the retail story;
     - Differentiate the top story of the structure through the use of different colors and materials;
     - Raise the pedestrian bridge across the closed 4th Street by one level:
     - Group the 30 affordable artist units in the northern tower;
     - Create a central lobby for the Residential Component; and
     - Create separate loading areas for each portion of the Residential Component;
   - To the exterior of the FEZ:
     - Increase in the height of the drum and fins by 18 inches;
     - Reduce the massing of the structure above the Aldi grocery store along South Dakota Avenue;
     - Internal modifications that result in minor adjustments to the square footage for the various uses; and
     - Flexibility for the final square footages that are proposed for the uses within the FEZ, including adding 10,593 square feet of gross floor area due mostly to introducing a mezzanine level in the food hall area without making any discernable visual impacts to the exterior; and

- To the landscaping:
  - Remove the previously approved circular drive and vehicular drop-off area of the Kennedy Street Plaza;
  - Relocate the proposed dog park to property adjacent to Block B on the west side of the former 4th Street; and
  - Provide terraced landscape elements and a private outdoor area with a pedestrian focus, as well as a sloped planting area in the former vehicular drop-off area and dog park area.

8. The Applicant asserted that the Application is properly classified as a modification of consequence because the proposed modification to the Block B Project change conditions of the Second-Stage Order and redesign or relocate architectural elements and open spaces depicted in the plans approved by the Second-Stage Order, and so correspond to examples of Modifications of Consequence as described by Subtitle Z § 703.4. The proposed modifications to the FEZ are also consistent with the design flexibility from the approved plans granted in Condition No. B.2.a of the Second-Stage Order.

III. RESPONSES TO THE APPLICATION

OP REPORT

9. On May 29, 2020, OP submitted a report (the "OP Report") stating no objection to the Application being considered as a modification of consequence and recommending approval of the Application based on its conclusion that the proposed modifications would not change the massing, size, and mix of uses were originally approved by the Commission in the Second-Stage Order. (Ex. 5.)

10. The OP Report reported that DDOT did not have concerns about the Application and that DDOT is evaluating transportation improvements to accommodate both the Overall PUD and a future development at the parking lots for the Fort Totten Metrorail station.

ANC 5A

11. On May 28, 2020, ANC 5A submitted a written report (the "ANC 5A Report") stating that at its duly noticed public meeting of May 27, 2020, at which a quorum was present, ANC 5A voted to support the Application and noted that the proposed modifications improve the Block B Project and do not warrant a public hearing. (Ex. 4.)

ANC 4B

12. ANC 4B Vice-Chair Alison Brooks submitted an email into the record dated June 8, 2020, indicating that ANC 4B did not intend to participate in the case. (Ex. 7.)

LRCA

13. Rodney Foxworth, president of LCRA, submitted an email into the record on June 8, 2020, indicating that LCRA had reviewed the Application and had no objection to the proposed modifications. (Ex. 6.)

CONCLUSIONS OF LAW

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make modifications of consequence to final orders and plans without a public hearing.

2. Subtitle Z § 703.3 defines a modification of consequence as "a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance."

3. Subtitle Z § 703.4 includes "a proposed change to a condition in the final order" and "a redesign or relocation of architectural elements" as examples of modifications of consequence.

4. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 703.13 to serve the Application on all parties to the original proceeding, in this case ANCs 5A and 4B and LRCA.

5. The Commission concludes that the Application qualifies as a modification of consequence within the meaning of Subtitle Z §§ 703.3 and 703.4, as a request to modify the conditions and architectural elements approved by the Second-Stage Order, and therefore can be granted without a public hearing pursuant to Subtitle Z § 703.17(c)(2).

6. The Commission concludes that because ANCs 5A and 4B and LRCA filed responses to the Application, the requirement of Subtitle Z § 703.17(c)(2) to provide a timeframe for responses by all parties to the original proceeding had been met, and therefore the Commission could consider the merits of the Application at its June 8, 2020, public meeting.

7. The Commission concludes that the Application is consistent with, and improves, the Block B Project, as authorized by the First-Stage and Second-Stage Orders, because the Application:
   - Is consistent with the massing, size, and mix of uses approved by the Second-Stage Order;
   - Proposes modifications to the FEZ component consistent with the internal design flexibility granted in the Second-Stage Order;
   - Furthers the original intention of the Block B Project to be an urban location to experience art, both through its programming and through the building's superior design and materials;
   - Continues to foster a synergistic artistic environment within the Property, including allowing for flexibility within the FEZ to enable a range of cultural and artistic uses to be explored; and
   - Creates additional open spaces for pedestrians to enjoy while experiencing the FEZ.

"GREAT WEIGHT" TO THE RECOMMENDATIONS OF OP

8. 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).)

9. The Commission notes OP's lack of objection to the Application being considered as a modification of consequence and finds OP's recommendation that the Commission approve the Application persuasive and concurs in that judgment.

"GREAT WEIGHT" TO THE WRITTEN REPORT OF THE ANC

10. 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)) and Subtitle Z §406.2, the Commission must give "great weight" to the issues and concerns raised in the written report of the affected ANC. To satisfy this great weight requirement, District agencies 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).)

11. Although the ANC 5A Report did not raise any issues or concerns with the Application to which the Commission can give great weight, the Commission notes the ANC 5A Report's support for the Application and the Commission concurs in that judgment.

12. Since ANC 4B did not respond to the Application, there is nothing to which the Commission can give great weight.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application's request for a modification of consequence to modify Condition Nos. A.1 and B.1 of Z.C. Order No. 06-10D, and the plans it approved, to read as follows (deletions shown in **~~bold and strikethrough~~** text; additions in **bold and underlined** text). All other conditions in Z.C. Order No. 06-10, as modified by Z.C. Order Nos. 06-10A, 06-10C, and 06-10D, remain unchanged and in effect.

A. First-Stage PUD Modifications

1. Condition No. 7 of Z.C. Order No. 06-10, as modified by Z.C. Order No. 06-10A, is modified by revising (b)-(d) and adding (e) as follows …:

…

7.b. Building B shall be constructed as buildings not to exceed 80 feet in height and shall include approximately **~~52,470~~** **57,218** square feet of anchor retail and

supporting retail uses, ~~9,267~~ **8,784** square feet of grocery, ~~an approximately 26,070 square foot children's museum, 61,872~~ **approximately 168,850** square feet of cultural uses, ~~80,308 square feet for~~ **including a children's museum and** Meow Wolf, ~~as well as 275,117~~ 279,224 square feet of residential uses including ~~239~~ **241** market rate residential units, and no fewer than 30 affordable artist housing units, with a total gross floor area not to exceed ~~549,996~~ **560,589** square feet, and a floor area ratio of ~~2.47~~ **2.52**. Building B shall have a maximum lot occupancy of approximately 62.9% and contain approximately ~~750~~ **717** parking spaces **comprising approximately 46,513 square feet**;[2]

…

B. Block B Development

1. Building B will be developed in accordance with:
   - The architectural drawings ~~submitted into the record as~~ **dated May 2, 2019,** at Exhibits 44A1-44A10 **in Z.C. Case No. 06-10D; and**
   - **As amended and supplemented by the plans dated April 14, 2020, at Exhibits 2C-2C11 in Z.C. Case 06-10E**, as modified by the guidelines, conditions, and standards herein (collectively, the "Approved Plans").

VOTE (June 8, 2020): 5-0-0 (Michael G. Turnbull, Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, and Peter G. May, to **APPROVE**).

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 06-10E shall become final and effective upon publication in the *D.C. Register*; that is, on September 4, 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.

[2] The text incorporates the deletions and additions made by Z.C. Order No. 06-10D.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 08-34H
Z.C. Case No. 08-34H
Jewish Historical Society of Greater Washington and Capitol Crossing V, LLC
(Second-Stage PUD at Square 568, Lots 863 and 864)
December 17, 2018

Pursuant to notice, at its public hearing on December 10, 2018, the Zoning Commission for the District of Columbia (the "Commission") considered an application (the "Application") from the Jewish Historical Society of Greater Washington ("JHS") and Capitol Crossing V, LLC (together, the "Applicant") for:

- A second-stage planned unit development ("PUD") in accordance with the first-stage PUD granted by Z.C. Order No. 08-34 (the "Original Order"); and (Exhibit ["Ex."] 2C.)
- A special exception under Subtitle C § 1504.1 and Subtitle X § 901 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, ["Zoning Regulations of 2016"][1], to which all subsequent citations refer unless otherwise specified) from the penthouse setback requirements of Subtitle C § 1502.1.

The Application was made in order to develop the JHS facilities on Lots 863 and 864 in Square 568 and a perpetual easement on Lot 7000 of Square 568 (collectively, the "Property") with an address of 575 3rd Street, N.W. The Commission considered the Application pursuant to the Subtitle Z. For the reasons stated below, the Commission hereby **APPROVES** the application.

FINDINGS OF FACT

BACKGROUND

FIRST STAGE PUD APPROVAL

1. Pursuant to the Original Order, the Commission approved a first-stage PUD and a consolidated PUD with a related Zoning Map amendment to the C-4 Zone District (now D-4) for the property located between Massachusetts Avenue and E, 2nd, and 3rd Streets, N.W., to authorize Center Place Holdings, LLC to develop the Center Leg Freeway/Capitol Crossing Project (collectively, the "Capital Crossing PUD"), a mixed-use project with office, residential, retail, and institutional uses on a platform to be constructed over the Center Leg Freeway. The Capitol Crossing PUD will reconnect F and G Streets, N.W., to the existing street grid to create three new blocks - the North, Center, and South Blocks.

2. The consolidated PUD approved by the Original Order authorized:
   - The construction of the entire platform and base infrastructure;
   - The mix of uses, the height and density of each building, and the site plan for the Capital Crossing PUD;
   - The construction of all below-grade parking, concourse and service levels;

[1] Although the Commission approved the first-stage PUD pursuant to the 1958 Zoning Regulations, Subtitle A § 102.4 establishes that "*An application to the Board of Zoning Adjustment or the Zoning Commission for a modification (other than a minor modification) to a vested project shall conform with the 2016 Regulations as the 2016 Regulations apply to the requested modification*".

- The proposed landscaping and streetscape design for the Capital Crossing PUD; and
- The North Block.

3. The first-stage PUD approved the South Block with: (Ex. 2.)
   - A maximum height of 130 feet, with buildings depicted up to seven stories in height;
   - A floor area ratio ("FAR") of 3.73 for the JHS buildings with an overall FAR for the South Block of 9.00;
   - Institutional uses (museum and synagogue);
   - Approximately 4,449 square feet of gross floor area for the existing historic synagogue building (the "Synagogue"); and
   - Approximately 45,765 square feet of gross floor area for the new JHS facilities.

4. Condition No. 24 of the Original Order provided that:

> "Following approval by the Zoning Commission in a second-stage PUD application and within the timeframes set forth therein, the Applicant shall provide land area within the South Block to accommodate museum space and additional office and supporting space for the Jewish Historical Society, generally as shown on the Final First-Stage PUD Plans."

SUBSEQUENT APPROVALS

5. The Commission granted subsequent approvals for the Capital Crossing PUD in the following cases:
   - Z.C. Case No. 08-34A approved a second-stage PUD for development of the South Block other than the relocated Synagogue and JHS facilities;
   - Z.C. Case No. 08-34B approved an extension of the timeframe for a portion of the consolidated PUD in the Original Order;
   - Z.C. Case No. 08-34C approved a second-stage PUD for a portion of the Center Block;
   - Z.C. Case No. 08-34E[2] approved modifications to the consolidated PUD for the North Block, including modifications of Condition Nos. A.2, A.5, A.7, A.10, B.19, and B.23;
   - Z.C. Case No. 08-34F approved minor modification to the plans for the South Block approved by Z.C. Order 08-34A to revise the building façade and penthouse design and use; and
   - Z.C. Case No. 08-34G approved minor modifications to the plans for the North Block approved by the Original Order, as modified by Z.C. Order No. 08-34E, to add penthouse habitable space and revise the roof layout.

NOTICE

6. The Office of Zoning ("OZ") published notice of the public hearing in the *D.C. Register* ("DCR") on October 15, 2018 (DCR, Volume 65, Issue 44). (Ex. 12.)

7. OZ sent notice of the public hearing on October 16, 2018, to: (Ex. 14.)

[2] Z.C. Case No. 08-34D was withdrawn.

- Advisory Neighborhood Commission ("ANC") 2C, the affected ANC pursuant to Subtitle Z § 101.8;
- ANC Single Member District ("SMD") 2C03;
- Office of Planning ("OP");
- District Department of Transportation ("DDOT");
- Department of Consumer and Regulatory Affairs ("DCRA");
- District of Columbia Housing Authority ("DCHA");
- Office of the Attorney General ("OAG");
- Department of Energy and Environment ("DOEE");
- Council of the District of Columbia ("DC Council"); and
- Property owners within 200 feet of the Property.

PARTIES

8. In addition to the Applicant, ANC 2C was automatically a party in this proceeding pursuant to Subtitle Z § 403.5.

9. The Commission received no requests for party status.

THE PROPERTY

10. The Property consists of approximately 12,267 square feet on the northwest corner of the South Block at the intersection of 3rd and F Streets, N.W. (Ex. 2.)

11. Immediately to the east of the Property on the South Block is an office building that is part of the Capitol Crossing PUD.

12. The Comprehensive Plan (Title 10A of the DCMR, the "CP") designates the Property on the Generalized Policy Map ("GPM") as Central Washington Area Element and the Central Employment Area

13. The CP's Future Land Use Map ("FLUM") designates the Property for high-density commercial uses.

THE APPLICATION

PROJECT DESCRIPTION – SECOND-STAGE PUD

14. The Application requested approval for a second-stage PUD to comply with Condition No. 24 of the Original Order to: (Ex. 2 at 4.)
    - Relocate the Synagogue to a raised platform on the southeast corner of 3rd and F Streets, N.W.; and
    - Construct a new building wrapped around and attached to the Synagogue to house the JHS facilities including a museum and office space (the "Museum") (collectively with the relocated Synagogue, the "Project").

15. The Application proposed to develop the Project as follows: (Ex. 2I2-2I5, 26A1-26A3.)

Development Standard	1st Stage Approval	2nd Stage Application	Change
GFA – Synagogue **Museum** **Total**	4,449 sf 45,765 sf 50,214 sf	4,165 sf 27,787 sf 31,952 sf	- 284 sf - 17,978 sf - 18,262 sf
Height	130 feet / 7 stories	68.33 ft / 4 stories	Compliant
Penthouse	18 ft	12 feet (7 ft. 11 in. setback)	- 6 ft
FAR	3.731	2.605	- 1.126
Lot Occupancy	N/A (89% Capital Crossing PUD)	87.9%	

16. The siting strategy for the historic Synagogue elevates it on a plinth, indicating that this is not the historic location. The Museum wraps around the Synagogue providing a backdrop for the historic Synagogue and helps to mitigate between the different scales – the 68-foot-tall brick Synagogue building in front of a backdrop of the Capitol Crossing PUD's 90- to 130-foot tall glass buildings. Along the west façade on 3rd Street, N.W., the Museum angles back to allow views to the elevated Synagogue and the adjacent Holy Rosary church across F Street, N.W. An elevated courtyard along the north façade facing F Street, N.W., provides a relief and setback between the Museum and the original Bimah of the historic Synagogue, which will be facing east per Jewish tradition.

17. The design of the colors and materials are intended to complement the existing brick façade of the historic Synagogue, while fitting into the more modern aesthetic of the overall South Block. The Historic Preservation Review Board approved the Project in concept. (Ex. 2D.)

18. The Application proposed an entrance with street-level plantings with a ramp and secondary steps that lead to the historic entrance of the Synagogue, while a court/atrium space will connect the Museum to the Synagogue and provide entry to the Museum. The building program has been simply organized by floors that will provide adequate clear height in the gallery spaces of 13- to 15-foot clear height.

19. The Commission approved the parking and loading for the Project in its first-stage approval, with 12 parking spaces designated in the Capital Crossing PUD's underground parking garage for the Project and access provided to the Capital Crossing PUD's loading facilities. (Ex. 2, 11.)

20. The Project's vehicular access will be through the underground parking garage entrance on 3rd Street, N.W. The public garage entry, developed as part of the larger Capitol Crossing PUD, at the edge of the Property will be designed so as not to take away from the architectural significance of the Museum. Materials have been selected to de-emphasize this garage entry ramp. These parking spaces will be accessible through the adjacent freight/passenger elevator located within the Museum.

Design Flexibility from the Final Plans

21. The Applicant initially requested several areas of design flexibility from the final plans, including to vary interior and exterior materials and dimensions and to construct the rooftop terrace at a later date than the rest of the Project. (Ex. 2, 11, 19, 28.)

RELIEF REQUESTED

Special Exception from Penthouse Setback Requirements - Subtitle C § 1502.1

22. Together, with a second-stage PUD, the Application requested special exception relief under Subtitle C § 1504.1 in order to allow a portion of the penthouse overrun to project into the 1:1 setback required by Subtitle C § 1502.1 by 4 feet, 11 inches – the approximate 12-foot height is located approximately 7 feet, 1 inch from the northern edge of the roof. The Application did not seek any PUD-related flexibility from the special exception requirements. (Ex. 2, 9, 11A1-11A13, 26A1-26A3.)

JUSTIFICATION FOR RELIEF

Second Stage PUD

23. The Application asserted that the Project was consistent with the first-stage PUD approved by the Original Order because the Project will not: (Ex. 2.)
    - Exceed the design parameters set in the first-stage approval;
    - Result in any additional potential impacts beyond those reviewed and approved by the Commission in its approval of the first-stage PUD; and
    - Change the proffered public benefits or amenities approved by the Original Order.

Special Exception Relief

24. The Application asserted that the Project met the specific conditions for relief for penthouse relief specified by Subtitle C § 1504 as follows: (Ex. 2, 9, 11A1-11A13, 26A1-26A3.)
    - A number of unique circumstances affecting the Project make it unreasonable for the Application to comply with the penthouse setback requirements, including:
        - The shared garage with the Capitol Crossing PUD determined the stair and elevator locations of the Building, which at this stage in the development can only be moved with significant cost and inconvenience;
        - The impacts of the construction of the larger structures on the South Block;
        - The small size of the Project site and the fixed location of the Synagogue; and
        - The need to set back from the Synagogue for aesthetic and building code reasons; and
    - The proposed penthouse configuration will not be more visually intrusive than a configuration that strictly complies with penthouse setback requirement because:
        - The encroachment is minor and is not a visible element from the public realm and will not create any adverse shadow conditions that would impair the light and air of adjacent properties; and
        - The requested relief allows for a roof structure that results in a better overall design of the Project by accommodating the larger surrounding buildings.

25. The Application asserted that the requested relief met the general special exception requirements of Subtitle X § 901.2 – that the relief would be in harmony with the intent

and purpose of the Zoning Regulations and Zoning Maps and will not tend to adversely affect the use of neighboring properties – because: (Ex. 2, 11A1-11A13, 26A1-26A3.)

- The majority of the Project's penthouse complies with the setback requirements;
- The relief allows only a small area to extend into the setback zone; and
- The proposed penthouse setback encroachment does not adversely affect the use of neighboring property nor is it a visible element from the public realm nor will it create any adverse shadow conditions.

APPLICANT SUBMISSIONS

26. In addition to the initial application submission dated December 27, 2017 (Ex. 1-2J) and its testimony at the public hearing, the Applicant made a total of five submissions to the record as follows:
    - Prehearing Submission dated August 22, 2018 (the "Prehearing Submission"); (Ex. 11-11E)
    - A comprehensive transportation review ("CTR") prepared by Wells + Associates dated November 2, 2018; (Ex. 17-17B2.)
    - A supplemental prehearing statement dated November 20, 2018, requesting to modify the requested design flexibility for the building signage; (Ex. 19.)
    - A motion to waive the proffers and conditions process dated December 4, 2018; (Ex. 22.) and
    - A post-hearing submission dated December 12, 2018 (the "Post Hearing Submission"). (Ex. 28-28A.)

Responses to DDOT

27. The Prehearing Submission responded to the comments raised by DDOT in discussions with the Applicant prior to the submission of the CTR:
    - Clarifying the route to the underground loading dock and trash area on Level P0; and
    - Relocating and redesigning the exterior stairs and ramps of the Project along F and 3rd Streets, N.W., including
        - Eliminating tiered seating along 3rd Street, N.W.;
        - Altering the primary entrance stairs to the southwest entry plaza to split into two runs with an intermediate landing, and additional risers will be added at both the northwest stair and main stair at 3rd Street, N.W.;
        - Adjusting the location of railings on F Street, N.W.; and
        - Modifications that allow for the removal of a requirement for a guardrail.

CTR

28. The Applicant's CTR concluded that the Project would not result in any adverse impacts to the surrounding roadway network because:
    - As an institutional use, the Project was considered an "insignificant weekday vehicle trip generator"; and
    - The 43% reduction in the Project's square footage from the approved first-stage PUD would not generate any new weekday peak hour vehicle trips beyond that previously analyzed in the original transportation analysis relied on by the Original Order or in the

supplemental analysis performed in 2010, and for the two prior second-stage PUDs approved by Z.C. Order Nos. 08-34C and 08-34E.

Public Hearing Testimony

29. At the December 10, 2018, public hearing, the Applicant provided a materials board, per OP's request, and presented testimony from: (Transcript of December 10, 2018 Public Hearing ["Tr."] at 7-13.)
    - Hal Davis, whom the Commission accepted as an expert in the field of architecture;
    - Jami Milanovich, whom the Commission accepted as an expert in the field of traffic engineering; and
    - Stuart Zuckerman, the past president of JHS and chair of its Building Committee.

Post Hearing Submissions

30. The Post Hearing Submission responded to the concerns and questions raised at the public hearing by OP and the Commission by:
    - Providing the Project's LEED Scorecard, as requested by the Commission; (Ex. 28-28A; Tr. at 24-35.)
    - Adding a condition requiring the Applicant to submit with its building permit application a checklist demonstrating that the Project has been designed to meet the USGBC LEED-Silver standard for the Core and Shell of the building in accordance with the LEED scorecard for the Project; (Ex. 29.)
    - Modifying the requested design flexibility from the approved plans in coordination with OP in response to the concerns raised by both the OP Hearing Report (defined below) and the Commission at the public hearing about the breadth of requested design flexibility from approved plans, including design refinements, exterior materials, and door openings required by the Building Code. (Ex. 28; Tr. at 24-35.)

RESPONSES TO THE APPLICATION

OP REPORTS AND TESTIMONY

31. In addition to its testimony at the public hearing, OP submitted three reports reviewing the Application:
    - A February 16, 2018, report ("OP Setdown Report") recommending that the Application be set down for public hearing; (Ex. 9.)
    - A November 30, 2018, report ("OP Hearing Report") recommending approval but also requesting certain modifications to the Applicant's requested flexibility, as well as updated signage plans and materials boards; and (Ex. 21.)
    - A December 5, 2018, supplemental report ("OP Supplemental Report") correcting a chart contained in the OP Report. (Ex. 25.)

OP Setdown Report

32. The OP Setdown Report concluded that the Application was not inconsistent with the first-stage PUD approved by the Original Order approval, and so not inconsistent with the CP, and recommended that the Commission set down the Application for a public hearing.

33. The OP Setdown Report noted that, although the Application did not propose any changes to the previously approved public benefits and amenities, the Project would advance previously proffered benefits in the areas of:
    - Historic preservation of private or public structures, places, or parks;
    - Employment and training opportunities;
    - Urban design, architecture, landscaping, and creation of open spaces; and
    - Building space for special uses including, but not limited to, community educational or social development, promotion of the arts or similar programs and not otherwise required by the zone district.

34. The OP Setdown Report noted that:
    - The requested relief from the penthouse setback requirements was due to the location of the parking garage below the Project that had been approved as part of the Capitol Crossing PUD, which prevented the elevator penthouse from being moved; and
    - The Application's requested design flexibility from the final plans for the exterior materials differed slightly from what had been approved by the Original Order and would result in a greater degree of flexibility than the Commission generally supported.

OP Hearing Report

35. The OP Hearing Report reiterated the OP Setdown Report's support for the Application but expressed concerns that the Application's requested design flexibility differed from the design flexibility approved by the Original Order. OP recommended:
    - Retaining the language from the Original Order for Condition No. 2 (interior layout);
    - Revising Nos. 3 and 5 (exterior colors and details) to reflect either the language from the Original Order or the standard flexibility language used by the Commission; and
    - Clarifying No. 6 by providing more information about the size, location, and material of the "future banner signage."

36. In its Post Hearing Submission, the Applicant indicated that it had coordinated with OP in modifying its requested design flexibility in response to the concerns expressed by the Commission and that OP supported the final design flexibility. (Ex. 28.)

DDOT Report

37. DDOT filed a November 27, 2018, report (the "DDOT Report") that noted no objection to the Project but recommended that the Applicant work with DDOT on its public space permit approvals, including addressing the streetscape infrastructure between the curb and property lines and any stair projections into the adjacent public space along 3rd and F Streets, N.W. (Ex. 20.)

ANC Report

38. ANC 2C submitted an October 23, 2018, resolution ("ANC Report") stating that at a duly noticed and regularly scheduled meeting on October 15, 2018, with a quorum present, ANC 2C voted in support of the Project. The ANC Report did not raise any issues or concerns. (Ex. 15.)

Other Agency Responses

39. The First Police District, Metropolitan Police Department submitted a letter indicating no concerns with the proposed Project. (Ex. 23.)

Public Comments in Support

40. No person or organization provided testimony or submitted comments in support of the Application.

Public Comments in Opposition

41. No person or organization provided testimony or submitted comments in opposition to the Application.

CONCLUSIONS OF LAW

1. Pursuant to the authority granted pursuant to the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Rep1.)), the Commission may approve a second-stage PUD that is consistent with the procedures and requirements of Subtitle X, Chapter 3.

2. Subtitle X § 300.1 establishes that:

> *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.*

3. Subtitle X §§ 304.3 and 304.4 specify that:

> *In deciding a PUD application, the Zoning Commission shall judge, balance, and reconcile the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case*[,]" and the Commission shall find that the application:
> *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.

SECOND-STAGE PUD APPROVAL

4. Subtitle X § 302.2 distinguishes between the two stages of a PUD as follows:

(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*…" ; whereas,

(b) *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.*"

5. Subtitle X § 309.2 establishes that in evaluating an application for a second-stage PUD:

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.

Consistency with the First-Stage Approval

6. The Commission concludes that the Application complies with the purpose and intent of the first-stage PUD approved by the Original Order because the Project:
   - Fulfills Condition No. 24 of the Original Order in accommodating the relocated Synagogue and JHS museum and facilities; and
   - Is substantially in accordance with the plans approved by the Original Order, with the changes well within the building envelope approved by the first-stage PUD.

Potential Adverse Impacts and Mitigation

7. The Commission concludes that the Project, as changed from what the Commission approved by the first-stage PUD in the Original Order, does not create any additional potential adverse impacts because:
   - The Application substantially reduces the Project's height and GFA, which reduces potential impacts; and
   - The Applicant's CTR, approved by DDOT, concluded that the Project's institutional use and proximity to public transit will result in no adverse impact on surrounding transportation networks.

Proposed Public Benefits and PUD Balancing Test

8. The Commission concludes that the Application does not require any new public benefits beyond those approved in the first-stage PUD granted by the Original Order because the Application:
   - Does not propose to change the original public benefits;
   - Does not request any additional development flexibility (as detailed below, the penthouse setback relief was not considered PUD development flexibility because it was evaluated on the special exception standards);
   - Is not reducing the previously proffered benefits; and
   - Will not result in any additional potential adverse impacts.

9. The Commission notes that the Project will help to effectuate several of the public benefits approved by the Original Order, including superior urban design and architecture, historic preservation, building space for special uses, and uses of special value to the neighborhood.

SPECIAL EXCEPTION APPROVAL

14. Subtitle X § 303.13 authorizes the Commission to consider an applicant's request for special exception relief as part of the PUD process, with the applicant able to choose to have the special exception evaluated either as PUD development flexibility or under the special exception standards. The Application requested the Commission to consider the requested special exception from the penthouse setback requirements based on the standards of Subtitle C § 1504 and Subtitle X § 901.2.

15. As detailed below, the Commission concludes that the Application has satisfied the specific standards of Subtitle C § 1504.1. The Commission also concludes that the Application has satisfied the general special exception standards of Subtitle X § 901.2, as it will be in harmony with the general purpose and intent of the Zoning Regulations and will not tend to adversely affect the use of the neighboring properties.

Subtitle C § 1504.1(a) - *The strict application of the requirements of Chapter 15 of Subtitle C would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes.*

16. The Commission concludes that strict application of the requirements of Subtitle C, Chapter 15, to the Project's penthouse overrun would result in construction that is prohibitively costly or unreasonable because the stair and elevator locations were predetermined by the garage design approved by the Commission in the Original Order so that changing these locations at this stage of construction of the Capitol Crossing PUD to comply with the penthouse setback requirements would require the reconfiguration of several mechanical elements of the building, including the elevator location, while not meaningfully altering the building profile or visibility of the penthouse from adjacent properties.

Subtitle C § 1504.1(b) - *The relief requested would result in a better design of the roof structure without appearing to be an extension of the building wall.*

17. The Commission concludes that the requested relief will result in a better designed roof structure because it will accommodate the larger surrounding buildings and will not appear to extend the building wall because the penthouse is still set back, albeit less than required.

Subtitle C § 1504.1(c) - *The relief requested would result in a roof structure that is visually less intrusive.*

18. The Commission concludes that the proposed penthouse configuration will be less visually intrusive than a configuration that strictly complies with penthouse setback requirement because the proposed encroachment is minor and is not visible from the public realm and will not create any adverse shadow conditions.

Subtitle C § 1504.1(d) - *Operating difficulties, such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable.*

19. The Commission concludes that operating difficulties of full compliance with the penthouse setback requirements would be unduly restrictive, prohibitively costly, and unreasonable because
    - The location of compliant elevator stacks would limit reasonable efficiencies in lower floors; and
    - The small size of the Property and the fixed location of the Synagogue, and the need to provide setback from the Synagogue for aesthetic and building code reasons, limit the layout flexibility to comply with the penthouse setback requirements.

Subtitle C § 1504.1(e) - *Every effort has been made for the housing of mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks.*

20. The Commission concludes that the Applicant has endeavored to design the rooftop to comply with the required setbacks, including lowering the height to a minimum of 12 feet and limiting the penthouse's encroachment into the required setback, while accommodating the existing site and building constraints placed upon it, including the predetermined elevator and stair locations, parking garage entrance, and platform slab elevation that is determined by the parking garage entrance.

Subtitle C § 1504.1(f) - *The intent and purpose of this chapter and this title shall not be materially impaired by the structure and the light and air of adjacent buildings shall not be affected adversely.*

21. The Commission concludes that the requested relief does not impair the intent and purpose of Subtitle C, Chapter 15, because the setback encroachment is minimal and will not create any adverse shadow or visibility conditions.

"GREAT WEIGHT" TO THE RECOMMENDATIONS OF OP

22. 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).)

23. The Commission finds persuasive OP's recommendation that the Commission approve the Application based on OP's analysis of the Application as consistent with the first-stage PUD approved by the Original Order and therefore concurs in that judgment.

"GREAT WEIGHT" TO THE ANC REPORT

24. The Commission must give "great weight" to the issues and concerns raised in the written report of the affected ANC 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 § 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).)

25. The ANC Report did not raise any specific issues or concerns to which the Commission can give great weight, but the Commission notes that the ANC Report supported the Application, and the Commission concurs in that judgment.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission **ORDERS APPROVAL** of the second-stage PUD approval for the Project as defined herein; and a special exception under and Subtitle X § 901 and Subtitle C § 1504.1 from the penthouse setback requirements of Subtitle C § 1502.1, subject to the applicable conditions of Z.C. Order No. 08-34, as modified, and the following guidelines, conditions, and standards.

A. PROJECT DEVELOPMENT

1. The second-stage PUD for the Jewish Historical Society Project (the "Project") shall be developed substantially in accordance with the plans in the record at Exhibits 11A1-11A13, 26A1-26A3, all as modified by the guidelines, conditions, and standards herein (collectively, the "Approved Plans").

2. As shown on the Approved Plans, the Project shall be constructed to the following standards:
   - An approximate gross floor area of 31,952 square feet;
   - A maximum height of 68.33 feet; and
   - A lot occupancy of 87.9%.

3. The Applicant shall have design flexibility from the Approved Plans in the following areas:

   a. To make minor refinements to the design of the Project, if required, in response to input from the Historic Preservation Review Board;

b. 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;

c. 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 proposed in the Approved Plans and to substitute terra cotta for metal panels as consistent with the Approved Plans and subject to final approval by the Historic Preservation Review Board.

d. To vary the final selection of landscaping materials utilized, based on availability and suitability at the time of construction;

e. 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. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;

f. To make minor refinements to door openings as may be required to accommodate the needs of code requirements;

g. To construct the rooftop terrace shown on the Approved Plans at a later date than the construction of the rest of the Project. Such date will be determined once the Applicant progresses in its development and commences construction of the Project; and

h. To change the name of the Museum on the signage, provided that the signage remains consistent with the location and size shown on the plans.

B. PUBLIC BENEFITS

1. The Applicant shall submit with its building permit application a checklist demonstrating that the portion of the Project for which the permit is submitted has been designed to meet the USGBC LEED-Silver standard for the core and shell of the building in accordance with the LEED scorecard for the Project submitted by the Applicant into the record at Exhibit 28A.

C. MISCELLANEOUS

1. No building permit shall be issued for the Project until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owner of the Site and the District of Columbia, that is satisfactory to the Office of the Attorney General and DCRA. Such covenant shall bind the Applicant and all successors in title to construct on and use the Site in accordance with this Order or amendment thereof by the Commission.

2. The second-stage PUD approved by the Commission shall be valid for a period of two years from the date of completion of the platform and base infrastructure approved in Order No. 08-34. Within such time, the Applicant shall apply for a building permit for the construction of the Project. Construction must begin within three years of the effective date of this Order.

VOTE (Dec. 17, 2018): 4-0-1 (Robert E. Miller, Peter G. May, Anthony J. Hood, and Michael G. Turnbull to **APPROVE;** Peter A. Shapiro not present, not voting).

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 08-34H shall become final and effective upon publication in the *D.C. Register*; that is on September 4, 2020.

BY ORDER OF THE D.C. ZONING COMMISSION
A majority of the Commission members approved the issuance of this order.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 11-15J
Z.C. Case No. 11-15J
Howard University
(Modification of Consequence to Approved Campus Plan @
Lots 930 and 933 in Square 2877 [2225 Georgia Avenue N.W.])
November 18, 2019

Pursuant to notice, at its November 18, 2019, public meeting, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") of Howard University ("Howard") for a Modification of Consequence to Z.C. Order No. 11-15F (the "Extraction Order"), as modified by Z.C. Order No. 11-15H, that amended the boundaries of the Campus Plan approved by Z.C. Order No. 11-15, as modified by Z.C. Order Nos. 11-15A through 11-15I (the "Approved Campus Plan"), to remove Lots 930 and 933 in Square 2877, with street addresses of 2112 and 2114 Georgia Avenue N.W (the "Properties"). 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 District of Columbia Municipal Regulations ["Zoning Regulations of 2016"], to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

PRIOR APPROVALS

1. Pursuant to Z.C. Order No. 11-15, effective March 2, 2012, the Commission approved the Approved Campus Plan.

2. Pursuant to Z.C. Order Nos. 11-15A through 11-15E, and 11-15G through 11-15I, the Commission approved various amendments and further processing of the Approved Campus Plan that are not relevant to the Application.

3. Pursuant to the Extraction Order, as modified by Z.C. Order No. 11-15H, the Commission approved the extraction of certain properties from the boundary of the Approved Campus Plan.

PARTIES AND NOTICE

4. The only parties to Z.C Case No. 11-15F other than Howard were Advisory Neighborhood Commissions ("ANC") 1B and 5E, the "affected" ANCs pursuant to Subtitle Z § 101.8.

5. Howard provided evidence that on September 12, 2019 it served the Application on ANCs 1B and 5E and the Office of Planning ("OP"), as attested by the Certificate of Service submitted with the Application (Ex. 2).

THE PROPERTY

6. The Properties are both vacant historic properties:

- The Washington Railway and Electric Company Garage at 2112 Georgia Avenue, N.W. and
- The Bond Bread Factory at 2114 Georgia Avenue, N.W.

II. THE APPLICATION

7. The Application requested a Modification of Consequence of the Extraction Order to add the Properties to those removed from the Approved Campus Plan by the Extraction Order, because the Properties:
   - Are adjacent to a series of lots removed from the Approved Campus Plan by the Extraction Order (Parking Lot Three, Lots 62, 811, 934, 945, 968, 970, 972, 977, 979, and 1023 in Square 2877);
   - Are not "core assets" of Howard;
   - Have never been intended for academic purposes; and
   - Planned to be redeveloped as a mixed-use project.

8. The Application stated that Howard remained committed to abide with all conditions of the Extraction Order, including the commitment to present any plans for the development of the extracted properties at a public meeting of the affected ANC prior to the submission of appliable building permits.

III. RESPONSES TO THE APPLICATION

OP REPORT

9. OP submitted an October 11, 2019, report (Ex. 6, the "**OP Report**") that recommended approval of the Application as a Modification of Consequence.

ANC REPORTS

10. ANC 1B submitted a report (Ex. 5, the "**ANC 1B Report**") stating that at its regularly scheduled and duly noticed public meeting of March 10, 2019, at which a quorum was present, the ANC voted to support the Application but expressed the concern that Howard
    - Continue to abide by the conditions included in the Extraction Order; and
    - Hold a community meeting with the development team in order to allow for community input on the proposed development of the Properties.

11. ANC 5E did not submit a response to the Application.

CONCLUSIONS OF LAW

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to approve Modifications of Consequence to final orders and plans without a public hearing.

2. Subtitle Z § 703.3 defines a Modification of Consequence as "a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance".

3. Subtitle Z § 703.4 includes "a proposed change to a condition in the final order" and "a redesign or relocation of architectural elements" as examples of Modifications of Consequence.

4. The Commission concludes that Howard satisfied the requirement of Subtitle Z § 703.13 to serve the Application on all parties to the original proceeding, in this case ANCs 1B and 5E.

5. The Commission concludes that the Application qualifies as a Modification of Consequence within the meaning of Subtitle Z §§ 703.3 and 703.4, as a request to amend Condition No. 1 of the Extraction Order to amend the boundaries of the Approved Campus Plan, and therefore can be granted without a public hearing pursuant to Subtitle Z § 703.17(c)(2).

6. The Commission concludes that because ANCs 1B and 5E, the only parties other than the Applicant to Z.C. Case No. 11-15, were given the opportunity to file responses to the Application, the requirement of Subtitle Z § 703.17(c)(2) to provide a timeframe for responses by all parties to the original proceeding had been met, and therefore the Commission could consider the merits of the Application at its November 18, 2019 public meeting.

7. The Commission finds that the Application is consistent with the Approved Campus Plan because the proposed extraction does not change any of the material facts upon which the Commission based its original approval and it furthers the goals of the Approved Campus Plan by extracting properties no longer part of Howard's academic campus.

"GREAT WEIGHT" TO THE RECOMMENDATIONS OF OP

8. The Commission must give "great weight" to the recommendations of OP 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.) (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

9. The Commission finds persuasive OP's recommendation to approve the Application and concurs in that judgment.

"GREAT WEIGHT" TO THE WRITTEN REPORT OF THE ANCS

10. 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).")

11. The Commission concludes that Howard has addressed ANC 1B Report's concern that Howard maintain its commitment to abide by the conditions of the Extraction Order, including presentation of development plans to the affected ANCs prior to applying for building permits, and concurs with ANC 1B Report's support for the Application.

12. Since ANC 5E did not submit a written response to the Application, there is nothing to which the Commission can give "great weight".

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that Howard has satisfied its burden of proof and therefore **APPROVES** a Modification of Consequence to Z.C. Order No. 11-15F, as amended by Z.C. Order No. 11-15H, to modify Condition No. 1, to read as follows (deletions shown in ~~**bold and strikethrough**~~ text; additions in **bold and underlined** text):

1. The following properties are removed from the Campus Plan boundaries:

   a. Effingham Apartments …[1]

   …

   g. Parking Lot Three, northwestern corner of Georgia Avenue and W Street, N.W., (Lots 62, 811, 934, 945, 968, 970, 972, 977, 979, and 1023 in Square 2877); ~~**and**~~

   h. Florida Avenue Townhomes, 907 and 909 Florida Avenue, N.W. (Lots 872 and 873 in Square 2873)**;**

   i. the Washington Railway and Electric Company Garage at 2112 Georgia Avenue, N.W. (Lot 933 in Square 2877); and

   j. the Bond Bread Factory at 2114 Georgia Avenue, NW. (Lot 930 in Square 2877).

All other conditions of Z.C. Order No. 11-15F, as modified by Z.C. Order No. 11-15H, remain unchanged and in effect.

VOTE (November 18, 2019): 5-0-0 (Robert E. Miller, Michael G. Turnbull, Anthony J. Hood, Peter A. Shapiro, and Peter G. May to **APPROVE**)

[1] The use of this and other ellipses indicate that other provisions exist in the subsection being amended and that the amendment of the provisions does not signify an intent to repeal.

In accordance with the provisions of Subtitle Z § 604.9 of the Zoning Regulations, this Order No. 11-15J shall become final and effective upon publication in the *DC Register*; that is, on September 4, 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. 14-14A
Z.C. Case No. 14-14A
Jamal's CDC, LLC
(Modification of Consequence of Consolidated PUD and Related Map Amendment @ Lot 47 in Square 833 [501 H Street, N.E.])
July 29, 2019

Pursuant to notice, at its May 13, and July 29, 2019, public meetings, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") of Jamal's CDC LLC (the "Applicant") for a Modification of Consequence to Condition Nos. A.1. and A.2. and the approved plans of Z.C. Order No. 14-14 (the "Original Order"), which approved a Consolidated Planned Unit Development (a "PUD") for Lot 47 in Square 833 with a street address of 501 H Street, N.E. (the "Property"). 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

I. BACKGROUND

PRIOR APPROVALS

1. Pursuant to the Original Order, the Commission approved a Consolidated PUD approval for Lot 47 in Square 833 (the "PUD Site"), together with a Zoning Map amendment from to the HS-H/C-2-B (now the NC-9) zone (the "Approved PUD"), to construct a six-story, mixed-use building (the "Building") with approximately 47,971 square feet, including 15,411 square feet of retail uses on the cellar, first and second levels, and 32,560 square feet of residential uses on the cellar, and third through sixth levels. The Building was completed in 2017 and 100% of the residential units and 50% of the approved retail space are currently leased.

PARTIES AND NOTICE

2. The only party to Z.C Case No. 14-14 other than the Applicant was Advisory Neighborhood Commission ("ANC") 6C, the "affected" ANC pursuant to Subtitle Z § 101.8.

3. The Applicant served the Application on April 25, 2019, on ANC 6C and the Office of Planning ("OP"), as attested by the Certificate of Service submitted with the Application (Ex. 1).

II. THE APPLICATION

4. On April 25, 2019, the Applicant filed the Application (Exhibit ["Ex."] 1D) requesting a Modification of Consequence to modify:

- Condition No. A.1. to revise the plans approved by the Original Order (the "Approved Plans") to add four punched glass windows on the second level of Building's South and East facades in place of the false windows imprinted within the stone façade materials in order to provide natural light into the Building's interior; and
- Condition A.2. to permit office uses on the second level and to clarify that residential uses are permitted on the third level as shown on the Approved Plans.

5. The Application stated that it had agreed to provide permanent frosting on all of the proposed new windows, up to a minimum height of six feet as measured from the bottom of the window glass to address concerns raised by the owner of the residential property located across the public alley to the South of the Property (Ex. 1D).

6. On July 25, 2019, the Applicant responded to the ANC Report, as defined below, by submitting:
   - The updated Memorandum of Understanding (the "MOU") executed by the Applicant and ANC 6C (Ex. 8A); and
   - The updated Residential Parking Permit ("RPP") Covenant executed by the Applicant and in the form reviewed and accepted by the ANC (Ex. 8B).

III. RESPONSES TO THE APPLICATION

OP REPORT

7. OP submitted a May 3, 2019, report (Ex. 3, the "OP Report") recommending approval of the Application because it would not increase the permitted floor area ratio ("FAR") or the intensity of use of the building, but it proposed language to modify Condition A.2 of the Original Order to authorize the change in use requested by the Application.

ANC REPORTS

8. ANC 6C submitted a written report (Ex. 7, the "ANC Report") stating that at its duly noticed and regularly scheduled meeting on July 10, 2019, at which a quorum was present, the ANC voted:
   - To express two concerns:
     - Residential tenant misuse of curbside visitor parking passes in the nearby RPP blocks; and
     - Non-compliance with the truck-size and use restrictions on the loading dock; and
   - To support the Application on the condition that the Applicant address these issues by:
     - Executing a revised MOU; and
     - Revising portions of the RPP covenant recorded as part of the Approved PUD.

CONCLUSIONS OF LAW

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, is authorized to make Modifications of Consequence to final orders and plans without a public hearing.

2. Subtitle Z § 703.3 defines a Modification of Consequence as "a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance".

3. Subtitle Z § 703.4 includes "a proposed change to a condition in the final order" and "a redesign or relocation of architectural elements" as examples of Modifications of Consequence.

4. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 703.13 to serve the Application on all parties to the original proceeding, in this case ANC 6C, through timely service on April 25, 2019.

5. The Commission concludes that the Application qualifies as a Modification of Consequence within the meaning of Subtitle Z §§ 703.3 and 703.4, as a request to modify final conditions and redesign of the architectural elements approved by the Original Order, and therefore can be granted without a public hearing pursuant to Subtitle Z § 703.17(c)(2).

6. The Commission concludes that because ANC 6C, the only party other than the Applicant to the Approved PUD, had filed a response to the Application, the requirement of Subtitle Z § 703.17(c)(2) to provide a timeframe for responses by all parties to the original proceeding had been met, and therefore the Commission could consider the merits of the Application at its July 29, 2019 public meeting.

7. The Commission concludes that the Application's proposed modifications are consistent with the Approved PUD because:
   - Office uses are permitted as a matter of right in the zone and will not increase the FAR or intensity of use of the PUD;
   - Office use will provide additional pedestrian traffic for the building and generate increased use of the retail uses; and
   - Adding the proposed punched glass windows will provide natural light to the new office space on the second level.

"GREAT WEIGHT" TO THE RECOMMENDATIONS OF OP

8. 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).)

9. The Commission finds OP's recommendation to approve the Application persuasive and concurs in that judgment.

"GREAT WEIGHT" TO THE WRITTEN REPORT OF THE ANCS

10. 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).")

11. The Commission finds the ANC Report's concerns about parking and loading issues persuasive and concludes that the Applicant's supplemental submissions of the revised MOU and RPP Covenant addressed these concerns. The Commission notes the ANC Report's support for the Application and concurs in that judgement.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application's request for a Modification of Consequence to revise Condition Nos. A.1 and A.2 of Z.C. Order No. 14-14 and the plans approved thereby, to read as follows: (deletions in ~~**bold and strikethrough**~~; additions in **bold and underlined**):

A. PROJECT DEVELOPMENT

1. The PUD shall be developed in accordance with the architectural plans and elevations (the "Plans"), dated May 14, 2015 (Exhibit 33) and June 4, 2015 (Exhibit 40A), **as modified by the plan dated April 25, 2019 in the record of Z.C. Case No. 14-14A at Exhibit 1D**, and as modified by the guidelines, conditions, and standards of this Order. ~~**The Plans show an option, shown as option**~~ **Option** 2 on page 22 of Exhibit 33 **in the record of Z.C. Case No. 14-14**, to construct portions of the south and east elevations with a cementitious material~~**. The Applicant withdrew this request**~~ **was withdrawn by the Applicant** at the hearing, and ~~**it**~~ is not approved by this Order.

2. In accordance with the Plans, the PUD shall be a six-story, mixed-use, multiple dwelling building with approximately 47,971 square feet of gross floor area and 4.89 FAR. Approximately 15,411 square feet of gross floor area (1.57 FAR) and approximately 8,538 square feet of cellar floor area shall be devoted to retail use on the cellar, first, and second levels, **of which approximately 9,427 square feet of gross floor area may be devoted to office use on the second level.** Approximately 32,560 square feet of gross floor area (3.32 FAR) and approximately 1,199 square feet of cellar floor area shall be devoted to residential use in the cellar, **third,** fourth, fifth, and sixth levels, comprised of 28 residential units (plus or minus three units). The building shall be constructed to a maximum height of 77'-5" to the top of the roof slab, and 83'- 5" to the top of the six-foot parapet.

All other conditions of Z.C. Order No. 14-14 remain unchanged and in effect.

VOTE (July 29, 2019): **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to **APPROVE**)

In accordance with the provisions of Subtitle Z § 604.9 of the Zoning Regulations, this Order No. 14-14A shall become final and effective upon publication in the *DC Register*; that is, on September 4, 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. 15-27F
Z.C. Case No. 15-27F
1 Neal Place, LLC[1]
(Modification of Consequence to Second-Stage Planned Unit Development @ Square 3587, Lot 840)
February 24, 2020

Pursuant to notice, at its February 24, 2020, public meeting, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") of 1 Neal Place, LLC (the "Applicant") for a Modification of Consequence to Z.C. Order No. 15-27A (the "Second-Stage Order"), which approved a Second-Stage Planned Unit Development ("PUD"), based on the First-Stage PUD approved by Z.C. Order No. 15-27 (the "Original Order") for Lot 840 in Square 3587 (the "Property"). 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 District of Columbia Municipal Regulations, ["Zoning Regulations of 2016"], to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

PRIOR APPROVALS

1. Pursuant to the Original Order, effective July 21, 2017, the Commission approved a Consolidated and First-Stage PUD with a related Zoning Map amendment to the C-3-C Zone District (now MU-9) for Lots 805, 814, and 817[2] (part of Record Lot 6) in Square 3587 (the "Overall PUD Site"). The Overall PUD Site has a land area of approximately 215,250 square feet[3] and is bounded by New York Avenue, N.E. to the north, 4th Street, N.E. to the northeast, Morse Street, N.E. to the southeast, Florida Avenue to the southwest, and the Amtrak and Metrorail rail lines to the west.

2. The Original Order approved development of the PUD Site with four buildings known as Buildings A-D with a mix of residential, retail, office, and optional hotel uses (the "Overall Project"), to be constructed in two phases:
   - Phase I, the Consolidated PUD, included the southern portion of Building A (Building A1), Building B, and the southern portion of Building C (Building C1); and
   - Phase II, the First-Stage PUD, included development of the northern portion of Building A (Building A2), the northern portion of Building C (Building C2), and Building D.

[1] The Applicant at the time of filing the application in Z.C. Case No. 15-27A for Building A2 was Grosvenor USA Limited and the owner was 300 MORSE CPK OWNER, LLC. 1 Neal Place, LLC has since taken title to the Property and is now the owner and is the Applicant in this case.

[2] Following approval of the Original Order, new Assessment & Taxation ("A&T") lots were created for the PUD Site, such that the Overall PUD Site is now known as Lots 819, 833-835, and 838-840.

[3] A new survey prepared for the revised A&T lots confirmed that the PUD Site area is 215,250 square feet.

3. Pursuant to the Second-Stage Order, effective March 20, 2020, the Commission approved a Second-Stage PUD to develop Building A2 as a mixed-use project with approximately 260 residential units and approximately 6,587 square feet of ground floor retail, with two 30-foot loading berths, one 20-foot service delivery space, and a 100 square foot loading platform adjacent to each berth.

4. In Z.C. Case No. 15-27B, the Commission considered an application for a Modification of Significance of the Original Order to modify the Consolidated and First-Stage PUDs for Buildings C1 and C2 and Second-Stage PUD for Building C2.

5. Pursuant to Z.C. Order No. 15-27D[4], effective February 21, 2020, the Commission approved a Modification of Consequence to the Original Order for revisions to the design and massing of Building C1's penthouse.

6. In Z.C. Case No. 15-27E, the Commission considered an application for a Second-Stage PUD for Building D.

PARTIES AND NOTICE

7. The parties in the Original and Second-Stage Orders were:
   - The Applicant;
   - Advisory Neighborhood Commission ("ANC") 5D, the affected ANC pursuant to Subtitle Z § 101.8; and
   - 1250 4TH ST EDENS, LLC and UNION MARKET APARTMENTS, LLC (collectively, the "Party in Support").

8. The Applicant provided evidence that it served the Application on January 28, 2020, on ANC 5D, the Party in Support, and the Office of Planning ("OP") as attested by the Certificate of Service submitted with the Application. (Exhibit ["Ex."] 2)

II. THE APPLICATION

9. The Application requested a Modification of Consequence to Z.C. Order No. 15-27A to remove one of the two loading berths and the associated 100 square foot loading platform approved for Building A2.

10. The Applicant's transportation consultant submitted a technical memorandum (Ex. 2G, the "Technical Memorandum"), which asserted that the amount of proposed loading will continue to meet Building A2's projected loading demand and will not create any adverse impacts because Building A2's combined residential and retail uses are expected to generate approximately eight deliveries per day, five of which are expected to be trucks 24-30 feet in length and three of which are expected to be 20-feet service vehicles.

[4] Z.C. Case No. 15-27C was withdrawn.

11. The Applicant submitted a February 10, 2020, letter (Ex. 4) requesting that the Commission expedite its review of the Application to deliberate on the Application at the Commission's February 24, 2020, public meeting because:
    - ANC 5D's unanimous support of the Application through its resolution dated January 14, 2020 (Ex. 2H); and
    - The Party in Support had no objection to the modification requested, as demonstrated by correspondence submitted by the Applicant. (Ex. 4, p. 4.)

12. On February 24, 2020, the Applicant submitted an excerpt from a recorded Parking, Access and Patio Easement and Building Restrictions Agreement (the "Easement Agreement") between the owners of Buildings A1 and A2 indicating that Building A1's owner granted perpetual driveway and loading easements to Building A2's owner to access and use the loading facilities located within Building A1 but allocated to Building A2. (Ex. 6B.)

III. RESPONSES TO THE APPLICATION

OP REPORT

13. OP submitted a February 14, 2020, report (Ex. 5, the "**OP Report**") stating no objection to the Application being considered as a Modification of Consequence and recommending approval of the Application based on the OP Report's conclusion that the loading facilities the Application proposed to retain "should meet the demand for [B]uilding A2 for both residential and retail uses, as it would be able to accommodate the projected eight deliveries per day," because:
    - The Technical Memorandum demonstrated that the proposed reduction of one loading berth would not have an adverse effect on loading operations and would meet Building A2's loading needs; and
    - Building A2 "was originally approved to include one 30-foot loading berth, which was found to be sufficient during the first-stage PUD review."

ANC REPORT

14. The Applicant submitted a January 14, 2020, written resolution of ANC 5D (Ex. 2H, the "ANC Report"), which stated that at its duly noticed public meeting of January 14, 2020, at which a quorum was present, ANC 5D voted to support the Application because the loading berth proposed to be removed is not necessary, the remaining loading complies with zoning requirements, and the elimination of one loading berth would not create any adverse impacts given Building A2's size and use.

DDOT

15. The Applicant submitted a February 21, 2020, email from DDOT (Ex. 6A) stating that DDOT had no objection to the Application.

CONCLUSIONS OF LAW

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make Modifications of Consequence to final orders and plans without a public hearing.

2. Subtitle Z § 703.3 defines a Modification of Consequence as "a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance."

3. Subtitle Z § 703.4 includes "a proposed change to a condition in the final order" and "a redesign or relocation of architectural elements" as examples of Modifications of Consequence.

4. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 703.13 to serve the Application on all parties to the original proceeding, in this case ANC 5D and the Party in Support.

5. The Commission concludes that the Application qualifies as a Modification of Consequence within the meaning of Subtitle Z §§ 703.3 and 703.4, as a request to modify the architectural elements approved by the Original Order, as modified by the Second-Stage Order, and therefore can be granted without a public hearing pursuant to Subtitle Z § 703.17(c)(2).

6. The Commission concludes that because ANC 5D and the Party in Support, the only parties other than the Applicant, had responded to the Application, the requirement of Subtitle Z § 703.17(c)(2) to provide a timeframe for responses by all parties to the original proceeding had been met, and therefore the Commission could consider the merits of the Application at its February 24, 2020 public meeting.

7. The Commission finds that the Application is consistent with the Original and Second-Stage Orders because the Commission concludes that the Application does not change any of the material facts upon which the Commission based its original approval and it furthers the goals of the Original and Second-Stage Orders:
   - The proposed reduction to one 30-foot loading berth and one 20-foot service/delivery space will accommodate the anticipated loading demand for Building A2 without creating any adverse impacts, as supported by the Technical Memorandum and the conclusions of DDOT, OP, and the ANC Report; and
   - The Easement Agreement between the owners of Buildings A1 ad A2 will ensure that the Applicant has permanent access to its designated loading facilities, even though the loading facilities will be provided within Building A1.

"GREAT WEIGHT" TO THE RECOMMENDATIONS OF OP

8. The Commission must give "great weight" to the recommendations of OP 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.) (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

9. The Commission notes OP's lack of objection to the Application being considered as a Modification of Consequence and finds OP's recommendation to approve the Application persuasive, with which judgment the Commission concurs.

"GREAT WEIGHT" TO THE WRITTEN REPORT OF THE ANC

10. 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.); and 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).")

11. The Commission finds persuasive the ANC Report's concerns that the loading for Building A2 is appropriate persuasive and concurs with ANC Report's support for the Application.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application's request for a Modification of Consequence to modify Condition No. B.1 of Z.C. Order No. 15-27A, and the plans it approved, to read as follows (deletions shown in **bold** and ~~**strikethrough**~~ text; additions in **bold** and **underlined** text).

B. PROJECT DEVELOPMENT

1. Except as modified by the other conditions herein, Building A2 shall be developed in accordance with the approved plans contained in Decision No. A.1. of Z.C. Order No. 15-27 to the extent that they apply to Building A2, and as modified by:
   - Architectural Plans and Elevations included in the Applicant's Supplemental Prehearing Submission **in Z.C. Case No. 15-27A** (Ex. 21A) ("Architectural Drawings");~~ **and**~~
   - As supplemented and updated by the sheets included in the Applicant's public hearing presentation in **in Z.C. Case No. 15-27A** (Ex. 26-26A) ("Hearing Presentation,"~~ **and collectively with the Architectural Drawings, the "Approved Building A2 Plans"**~~); **and**
   - **As further modified by the architectural plans in Z.C. Case No. 15-27F (Ex. 2F) (collectively with the Architectural Drawings and the Hearing Presentation, the "Approved Building A2 Plans");**

All other conditions of Z.C. Order No. 15-27A remain unchanged and in effect.

VOTE (Feb. 24, 2020): 5-0-0 (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to **APPROVE**)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 15-27F shall become final and effective upon publication in the *DC Register*; that is, on September 4, 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. 16-18C
Z.C. Case No. 16-18C
Georgetown University
(Modification of Consequence of the 2017-2036 Campus Plan
@ Lot 843 in Square 1223 [1237 37th Street N.W.])
October 21, 2019

Pursuant to notice, at its September 23 and October 21, 2019 public meetings, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") of Georgetown University (the "University") for a Modification of Consequence to revise Condition No. 7 of Z.C. Order No. 16-18 (the "Original Order"), as modified by Z.C. Orders Nos. 16-18A and 16-18B, that approved the 2017-2036 Georgetown University Campus Plan (the "GU Campus Plan") for Lot 843 in Square 1223, with a street address of 1237 37th Street NW (the "Property"). 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 District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

PRIOR APPROVALS

1. Pursuant to the Original Order, the Commission granted a special exception approving the GU Campus Plan, including authorizing the University to continue to use certain townhouse properties located on portions of four blocks immediately east of the main campus property and 37th Street, N.W. for either residential/campus life or academic/administrative uses (Exhibit ("Ex.") 9M of Z.C. Case No. 16-18). Condition No. 7 of the Original Order granted the University flexibility to switch the permitted use of these properties between these two use categories, provided that:
   - The Georgetown Community Partnership ("GCP") approved the switch; and
   - The Commission reviewed and approved the switch as a Modification of Consequence.

2. Pursuant to Z.C. Order No. 16-18A, the Commission approved a special exception for further processing of the GU Campus Plan to permit the construction of a new medical/surgical pavilion at MedStar Georgetown University Hospital.

3. Pursuant to Z.C. Order No. 16-18B, the Commission approved a Modification of Consequence to revise Condition No. 7 of the Original Order to permit the University to use the "Green House" located at 1233 37th Street, N.W. for academic/administrative uses instead of the residential uses previously approved.

PARTIES AND NOTICE

4. The only parties in the Original Order other than the University, all of whom are members of GCP, were:
   - Advisory Neighborhood Commissions ("ANC") 2E and 3D, the "affected" ANC pursuant to Subtitle Z § 101.8;
   - the Citizens Association of Georgetown ("CAG");
   - the Burleith Citizens Association ("BCA");
   - the Foxhall Community Citizens Association ("FCCA"); and
   - the Georgetown University Student Association ("GUSA").

5. The University served the Application on September 5, 2019, on ANCs 2E and 3D, CAG, BCA, FCCA, GUSA, the Office of Planning ("OP"), and the Department of Transportation ("DDOT") as attested by the Certificate of Service submitted with the Application. (Ex. 2.)

II. THE APPLICATION

6. On September 5, 2019, the University filed the Application requesting a Modification of Consequence to authorize modifications to the plans/conditions approved by the Original Order to convert the permitted use of the Property, known as "The Red House," from residential/campus life use to academic/administrative use supporting academic initiatives that further interdisciplinary research and education programs at the University (Ex. 1-2E).

7. The GCP co-chairs indicated that GCP approved the Application's proposed change to the Property's permitted use by signing a Memorandum of Agreement dated May 22, 2019. (Ex. 2E, the "GCP MOA.")

III. RESPONSES TO THE APPLICATION

OP REPORT

8. OP submitted a September 12, 2019, report (Ex. 4, the "OP Report") recommending approval of the Application because the proposed change in permitted use:
   - Was appropriate given the Property's location facing the University's main campus, across the street from Lauinger Library, and surrounded by other University properties; and
   - Was not expected to generate new traffic or parking impacts.

ANC REPORTS

9. Neither ANC 2E nor ANC 3D filed a written response to the Application.

OTHER PARTIES

10. No other party filed a response to the Application.

CONCLUSIONS OF LAW

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make Modifications of Consequence to final orders and plans without a public hearing.

2. Subtitle Z § 703.3 defines a Modification of Consequence as "a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance."

3. Subtitle Z § 703.4 includes "a proposed change to a condition in the final order" as an example of a Modification of Consequence.

4. The Commission concludes that the University satisfied the requirement of Subtitle Z § 703.13 to serve the Application on all parties to the original proceeding, in this case ANC 2E and 3D, CAG, BCA, FCCA, and GUSA.

5. The Commission concludes that the Application qualifies as a Modification of Consequence within the meaning of Subtitle Z §§ 703.3 and 703.4, as a request to modify the conditions approved by the Original Order, and therefore can be granted without a public hearing pursuant to Subtitle Z § 703.17(c)(2).

6. The Commission concludes that because ANCs 2E and 3D, as well as the other parties, did not file a response to the Application, other than the GCP MOA, the requirement of Subtitle Z § 703.17(c)(2) to provide a timeframe for responses by all parties had been met, and therefore the Commission could consider the merits of the Application at its October 21, 2019 public meeting.

7. The Commission finds that the Application is consistent with the GU Campus Plan, as authorized by the Original Order, as modified by Z.C. Order Nos. 16-18A and 16-18B, because the proposed change in use is permitted under Condition 7 of the Original Order provided it is requested as a Modification of Consequence and approved by the GCP.

"GREAT WEIGHT" TO THE RECOMMENDATIONS OF OP

8. The Board is required to 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).)

9. The Commission finds OP's recommendation to approve the Application persuasive and concurs in that judgment.

"GREAT WEIGHT" TO THE WRITTEN REPORT OF THE ANCS

10. 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.) and 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).")

11. Since neither ANC 2E nor ANC 3D filed written reports in response to the Application, there are no issues or concerns to which the Commission can give "great weight."

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the University has satisfied its burden of proof and therefore **APPROVES** the Application's request for a Modification of Consequence to modify Condition No. 7 of Z.C. Order No. 16-18, as modified by Z.C. Order No. 16-18B, to read as follows (deletions in ~~**bold/strikethrough**~~; additions in **bold/underlined** text):

7. During the term of the Campus Plan, the University shall be permitted to change the use of properties located east of 37th Street and within the boundaries of the Campus Plan **in accordance with the Proposed Twenty-Year Development Plan Land Uses map (Exhibit 9M in Z.C. Case No. 16-18; Exhibit 1D in Z.C. Case No. 16-18B; and Exhibit 2D in Z.C. Case No. 16-18C)** for either academic/administrative or residential/campus life without further processing approval, provided that the change in use is approved by the Commission as a modification of consequence pursuant to 11-Z DCMR § 703. Any change in use to an academic/administrative use shall also be subject to review and approval by the GCP. To the extent that the University may, in the future, change current uses of townhouses located on 36th Street between N and O Streets, the University shall, in connection with townhouses repurposed for student housing, make best efforts to use such townhouses for special interest housing (e.g., La Casa Latina, Black House, etc.) in an effort to provide a balanced mix of community, social, and student life activities.

All other conditions of Z.C. Order No. 16-18, as modified by Z.C. Order Nos. 16-18A and 16-18B, remain unchanged and in effect.

VOTE (October 21, 2019): 5-0-0 (Robert E. Miller, Peter A. Shapiro, Anthony J. Hood, Peter G. May (by absentee ballot), and Michael G. Turnbull (by absentee ballot) to **APPROVE**)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 16-18C shall become final and effective upon publication in the *DC Register*; that is, on September 4, 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.