# **Wheeler Renaissance Development**

#### COMMUNITY BENEFITS AGREEMENT

#### ARTICLE I

#### <u>Purpose</u>

1.1 Purpose - The purpose of this Community Benefits Agreement ("CBA" or "Agreement"), agreed
upon this day of September 2014, by and between Advisory Neighborhood Commission 8E
("ANC") and WBG Wheeler Road, LLC ("Developer") ensure a coordinated effort between ANC and
Developer to maximize the benefits to the community as a result of the project, at Square 5925, Lots 820
and 821, which is the subject of the consolidated PUD and Map Amendment case, Z.C. 13-18 (the
"Project").

**1.2 Community Benefits** - The Developer and the ANC intend for the Project to create affordable housing, environmentally sensitive design and construction, economic development, employment opportunities and job training.

The project is currently designed for and will be providing the following "Community Benefits" refer to document Exhibit A.

### ARTICLE II

### **Definitions**

As used in this Agreement, the following capitalized terms shall have the following meanings. All definitions include both the singular and plural form.

- "Agreement" shall mean this Community Benefits Agreement, including all attachments.
- "Developer" shall mean WBG Wheeler Road, LLC and any subsequent partners
- **"Development"** shall mean the project, known as Wheeler Renaissance, at Square 5925, Lots 820 and 821, which is the subject of the consolidated PUD and Map Amendment case, Z.C. 13-18
- "District" shall mean Washington, DC.
- "Member Organization" shall mean Advisory Neighborhood Commission 8E
- "Neighboring Community" shall mean the area bounded by Advisory Neighborhood Commission 8E.
- "Project Approvals" shall mean (1) approval by the Office of Planning, Department of Consumer and Regulatory Affairs, and other agencies (if applicable), of Development Permits for the Development and all plans, drawings and other items submitted in connection therewith, at the Planning Board level; and (2) any other government approvals or permits requested by Developer for construction, development, and operation of the Development, including without limitation, issuance by the District of building permits to implement the Development

## **ARTICLE III**

#### **Environmental Commitments**

- <u>3.1 Green Certifications</u> Developer shall comply with the Washington DC Green Building Act of 2006 and the requirements for Green Communities to obtain at least certified status for the Development.
- <u>3.2 Hazardous Substance Remediation</u> Developer shall comply with all applicable local and federal laws with regard to the remediation of hazardous substances, if uncovered during site construction.

### **ARTICLE IV**

#### **Construction Practices**

- **4.1 Construction Noise and Traffic** Developer shall coordinate and adhere to regulations as set forth by DC Department of Transportation and assure that all reasonable industry standard steps are taken to minimize noise and traffic congestion during construction.
- **4.2 Site Construction Security** Developer shall adhere to regulations as set forth by DC Department of Transportation and exercise reasonable industry standard efforts to secure and control access to the project Site, or the portions thereof, during the period of construction.
- **4.3 Public Complaint Process** During construction, Developer shall establish a public complaint process, and shall maintain written records of complaints, investigations, and responsive actions taken, all of which shall be made available to the ANC upon direct written request.

## **ARTICLE V**

## Periodic Project Status

<u>5.1 Project Status</u> - The Developer shall periodically attend ANC meetings at the request of an ANC commissioner to provide an overall project update prior to and during construction.

#### **ARTICLE VI**

#### **Employment Opportunities**

- <u>6.1 Access to Employment Opportunities</u> The Developer shall meet all applicable District of Columbia laws, regulations and policies related to the employment of local District residents, where public monies are being used to finance a project. The Developer shall make a conscious effort to promote employment of local Ward 8 District residents by general contractor within the Project both through DOES and a First Source Agreement.
- <u>6.2 Exempt Contracts</u> Contracts subject to federal or state law or regulations that preclude the applicability of this Section's requirements shall be exempt from such requirements.
- <u>6.3 Access to Employment Opportunities</u> The Developer shall be obligated to meet all applicable laws, regulations and policies related to the employment of local, low income persons and providing opportunities to businesses. Developer shall exercise diligent, best efforts to cause Employers to comply with the First Source Hiring Program.

- <u>**6.4 Employment Retrieval System**</u> The Developer shall provide an easily accessible First Source Job Referral System.
- **6.5 Responsible Contracting** The Developer will ensure all contractors shall be compliant with all applicable labor laws. If the Developer is presented with reasonable evidence that demonstrates, in the sole discretion of the Developer, that a contractor has committed violations of labor law that are both intentional and/or serious, the Developer will take appropriate action.
- **6.6.** Construction Jobs The Developer shall encourage the general contractor to solicit for a goal of forty percent (40%) of available employment to qualified residents of Wards 7 and 8 participation in construction jobs on the Project, subject to the terms and conditions of any applicable project labor agreement and Federal regulations.
- <u>6.7 Employment Goals: Construction</u> The Developer will ensure that the project meets current DOES policies regarding projects financed using public monies. Developer shall require the general contractor to meet District of Columbia regulations regarding hiring percentages of District residents, with special consideration given to qualified candidates residing in Ward 8.
- <u>6.8 Internships</u> The Developer will consider the employment of 'qualified' paid interns when the need arises throughout the course of the project. Current 'qualified' Ward 8 residents will have first preference in the granting of these Internships. Residents of the Neighboring Community will have second preference.
- **6.9 Job Training Programs** The Developer will provide all contractors the contact information for any/all Ward 8 Job placement and training organizations to aid in their search for qualified trained employees. The Developer, if the project need arises for additional qualified personnel, will provide to workforce training partners a description list of employment opportunities.
- <u>6.10 Job Training</u> During the course of the Project, if Developer has hired either interns or qualified graduates from a training program, they will strive to provide additional in-house training to these individuals in order to continue the development of their career skills.

#### ARTICLE VII.

## **Contracting Opportunities**

- **7.1 Certified Business Entity (CBE)** The Developer shall require general contractor to meet District of Columbia regulations regarding hiring percentages of CBE's with special consideration given to qualified firms located in Ward 8 or ones that have employees who live within Ward 8.
- <u>7.2 Verification</u> The Developer will verify that the general contractor participation percentages meet the terms and conditions of the contract.

#### **ARTICLE VIII**

## Community Role and Responsibility

The Community will make best efforts to provide support for the Project throughout the project process. This support should encompass zoning, permitting and construction. The Community will also make

best efforts to interact with the appropriate city agencies to accelerate the Project and the Developer to receive the following:

- <u>8.1 Letters of Support</u> Developer will receive a 'Letter of Support' from the ANC 8E pledging their complete support for the Development. This letter will serve as a record that the ANC 8E Commission agrees to provide total support for the Development and Project Approval.
- **8.2 Media Availability.** The Developer will work with the ANC to prepare a collaborative media strategy regarding shared support for the Development.
- **8.3 Covenant Not To Sue or Testify** The ANC, upon providing support, will not rescind their support at a later date. The ANC will not sue, challenge, contest, or testify against; whether administratively, judicially or publicly; any of the Project Approvals. Furthermore, the ANC agrees not to pursue judicial challenges, or testify in opposition at any public hearings (or any continuations of hearings) concerning any of the Project Approvals.

#### **ARTICLE IX**

#### Miscellaneous

- **9.1 Compliance With Law** This Agreement shall be enforced only to the extent that it is consistent with the laws of the state of District of Columbia and the United States. If any provision of this Agreement is held by a court of law to be in conflict with law, the applicable law shall prevail over the terms of this Agreement, and the conflicting provisions of this Agreement shall not be enforceable.
- **9.2 Severability** If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall continue in full force and effect.
- **9.3 Remedies** *Default* Failure by any party to perform or comply with any term or provision of this Agreement, if not cured, shall constitute a default under this Agreement.

Sixty-Day Right to Cure - If either party believes that the other party is in default of this Agreement, it shall provide written notice to the allegedly defaulting party of the alleged default; offer to meet and confer in a good-faith effort to resolve the issue; and, except where a delay may cause irreparable injury, provide sixty (60) days to cure the alleged default, commencing at the time of the notice. Any notice given pursuant to this provision shall specify the nature of the alleged default, and, where appropriate, the manner in which the alleged default may be cured.

**9.4 Binding Arbitration** - A party may pursue binding arbitration to enforce any term of this Agreement that has allegedly been breached. A party may seek arbitration relief ordering, and the arbitrator shall have the power to order, affirmative equitable and/or affirmative injunctive relief, temporary or permanent, requiring a defaulting party to comply with this Agreement. The parties hereto agree that monetary damages would be an inadequate remedy for any breach of this Agreement. With the exception of an order by the arbitrator to a party to pay sums it has agreed to pay under this Agreement, monetary damages shall in no circumstances be available as a remedy for default of this Agreement. Arbitration shall be conducted in Washington, D.C. under the rules of the American Arbitration

Association (the "Rules"). Each party shall bear its own fees and other costs, except where a party is found by final judgment of the arbitrator to have been in default of this Agreement, in which case the prevailing party shall be entitled to attorneys' fees and arbitration costs from the defaulting party.

- **9.5 Equitable Relief in Case of Irreparable Injury** In addition to any right under the rules to petition a court for provisional relief, if a party believes that another party is or will be in default of this Agreement in such a manner that may cause irreparable injury, that party shall be entitled to file binding arbitration proceedings to enforce the specific performance of this Agreement by that other party and to enjoin that other party from violation of this Agreement, and to exercise such remedies cumulatively or in conjunction with all other rights and remedies provided by law or by this Agreement.
- **9.6 Relevant Contracts** Where this Agreement requires the Developer to impose responsibilities on entities that are not parties to this Agreement, the Developer shall ensure that relevant contracts: (1) impose such responsibilities on such parties; (2) require such parties to impose such responsibilities on subcontractors or other parties involved in the Development through the contract in question; Any party that imposes an obligation required by this Agreement on another party should, in event of failure by that other party to comply with such obligation, enforce that obligation against that other party or terminate the contract in question
- **9.7 Compliance Information** Upon request in writing from the ANC, the Developer will provide records that have been filed publicly as required by governing agencies monitoring compliance under the terms of lending public funding support to the project. The ANC shall not request the same or similar records or information more often than once per quarter, except as reasonably agreed upon by the ANC and the Developer.
- <u>9.8 Waiver</u> The waiver by any party of any provision or term of this Agreement shall not be deemed a waiver of any other provision or term of this Agreement. The mere passage of time, or failure to act upon a breach, shall not be deemed a waiver of any provision or term of this Agreement.

#### ARTICLE X

- <u>10.1 Construction</u> Each of the parties has had the opportunity to be advised by counsel with regard to this Agreement. Accordingly, this Agreement shall not be strictly construed against any party, and any rule of construction that any ambiguities be resolved against the drafting party shall not apply to this Agreement.
- <u>10.2 Entire Agreement</u> The Agreement contains the entire agreement between the parties and supersedes any prior agreements, whether written or oral, except those executed concurrently with this Agreement. Concurrent execution is defined as execution within five business days. This Agreement may not be altered, amended or modified except by an instrument in writing signed by the parties hereto.
- <u>10.3 Authority of Signatories</u> The individuals executing this Agreement represent and warrant that they have the authority to sign on behalf of their respective parties.
- <u>10.4 Counterparts</u> This Agreement may be executed in two or more counterparts, each of which may be deemed an original, but all of which shall constitute one and the same document.
- <u>10.5 Further Assurances</u> The parties hereto agree to take such actions and execute such additional documents as are reasonably necessary to carry out the provisions of this Agreement.

## SIGNATURES ON FOLLOWING PAGE

Wyex 4 Cerry	-	09/04/14
DINESH SHARMA – PRESIDENT - Washington Business Group	DATE	
COMMISSIONER KARLENE ARMSTEAD – 8E-06	DATE	
COMMISSIONER BARBARA BROWN – 8E-01	DATE	
COMMISSIONER ANTHONY MUHAMMAD – 8E-02	DATE	
COMMISSIONER ANTHONY DAILEY – 8E-03	DATE	
COMMISSIONER SHARECE CRAWFORD – 8E-04	DATE	
COMMISSIONER CHRISTOPHER L. HAWTHORNE – 8E-05	DATE	
COMMISSIONER SANDRA (SV) WILLIAMS – 8E-07	DATE	

## **EXHIBIT A – DISTRIBUTION OF COMMUNITY BENEFITS**

Washington Business Group is dedicated to providing a 'Precedent-Setting' Community Benefits Package, as part of the PUD Submission for the Wheeler Renaissance (Wheeler / Barnaby, SE).

The Community Benefits Package has a combined total worth of \$ 761,530.00 in construction and financial contribution commitments to the ANC 8E Community. Along with Washington Business Group personally donating professional services and facilities to further the goals of the ANC 8e Community.

COMMUNITY BENEFIT - DIRECT FINANCIAL OBLIGATION TO ANC 8E COMMUNITY		
CATEGORY # 1 – EDUCATION	\$	2,500.00
CATEGORY # 2 – COMMUNITY EVENTS / INITIATIVE	\$	1,250.00
CATEGORY # 3 - SUMMER PROJECTS	\$	11,760.00
TOTAL BENEFIT AMOUNT PER YEAR: CATEGORY BREAKOUT SHOWN BELOW	\$	15,510.00
TOTAL COMBINED BENEFIT AMOUNT OVER THREE YEARS		46,530.00

Below represents the Category breakdown in financial assistance to support the entire community.

CATEGORY #1 EDUCATION	FINANCIAL CONTRIBUTION TO COMMUNITY ORGANIZATIONS (TO BE PAID YEARLY FOR A PERIOD OF THREE YEARS)		
Early Childhood Development – Bo	ooks / Learning Material	\$	500.00
2. Primary Education – School Suppli	es	\$	500.00
3. WBG Scholarship Fund - Awarded	d to a Ward 8e Scholar – Post High School	\$	1,500.00
TOTAL YEARLY BENEFIT AMOUNT: Monetary Value		\$	2,500.00
TOTAL BENEFIT AMOUNT OVER THREE YE	ARS	\$	7,500.00

- 1. With the selection guidance and / or discretion of the ANC 8e Commission 1 (one) early childhood development foundation, school or business will be selected per year for 3 (three) years to receive a donation from Washington Business Group (WBG) to help offset costs of learning materials.
- 2. With the selection guidance and / or discretion of the ANC 8e Commission 1 (one) primary education school will be selected to receive a donation from Washington Business Group (WBG) per year for 3 (three) years to help offset cost of school supplies.
- 3. WBG will be setting up a scholarship fund to be awarded to 1 (one) deserving Ward 8e scholar per year for 3 (three) years. The ANC 8e will have the control of the nomination process. Nomination / selection process will include: application, letters of support, grades and final interview.

After ANC8e award decision, the award will be presented to recognize the deserving Ward 8e scholar at an ANC monthly community meeting, by Washington Business Group (WBG) and scholarship to be paid directly to the higher learning institution to aid tuition expenses (Qualifying Higher Learning: College, Technical School, Career Apprenticeships).

CATEGORY # 2 COMMUNITY EVENTS FINANCIAL CONTRIBUTION TO COMMUNITY ORGANIZATIONS (TO BE PAID YEARLY FOR A PERIOD OF THREE YEARS)		
	<u> </u>	
<ol> <li>COMMUNITY EVENTS / INITIATIVE</li> </ol>	\$	250.00
2. COMMUNITY EVENTS / INITIATIVE	\$	250.00
3. COMMUNITY EVENTS / INITIATIVE	\$	250.00
4. COMMUNITY EVENTS / INITIATIVE	\$	250.00
5. COMMUNITY EVENTS / INITIATIVE	\$	250.00
TOTAL YEARLY BENEFIT AMOUNT: Monetary	y Value \$	1,250.00
TOTAL BENEFIT AMOUNT OVER THREE YEARS	\$	3,750.00

1-3. With the selection guidance and / or discretion of the ANC 8e Commission – (five) qualifying community events / initiatives per year for 3 years, will receive a donation / supportive contribution from the Washington Business Group (WBG) to help defray event costs for the purchase of event / initiative materials or supplies.

In the event that all monies are not fully dispersed, left over funding will roll over to a following year – not to exceed the 3 (three) year Community Benefit Agreement term limit.

CATEGORY #3 SUMMER PROJECTS	FINANCIAL CONTRIBUTION TO COMMUNITY ORGANIZATIONS (TO BE PAID YEARLY FOR A PERIOD OF THREE YEARS)	
1. DPR – SUMMER CAMP - WBG DONATES (84 SESSIONS) CHILDREN TO CAMP – \$ 11,760.00		\$ 11,760.00
TOTAL YEARLY BENEFIT AMOUNT: Monetary Value \$ 11,760.00		\$ 11,760.00
TOTAL BENEFIT AMOUNT OVER THRE	E YEARS	\$ 35,280.00

Each of the 7 (seven) ANC 8e Commissioners will have the opportunity / discretion to select 12 (twelve) children to send to Department of Parks and Recreation (DPR) summer camp for a 1 (one) week session. Washington Business Group will pay the summer camp tuition directly to Department of Parks and Recreation for 84 sessions a year for 3 (three) years.

CATEGORY #4 SENIOR RESIDENTS	WBG DONATION OF PROFESSIONAL SERVICES / FACILITIES	
WBG quarterly sponsored enrichment events		
TOTAL YEARLY BENEFIT AMOUNT:		
TOTAL BENEFIT AMOUNT OVER THREE YEARS		

- 1. Washington Business Group to work in cooperation with the Commissioners of ANC 8e in sponsoring quarterly events targeting / responding to the needs of resident seniors.
- 2. Our sponsorship will involve providing professional support functions: creating and printing event flyers, providing controlled access to the maximum amount of senior resident participants, as allowed by facility capacity and 4 hours of manpower if necessary to help run event.

CATEGORY #5 HEALTH / WELFARE	
Controlled Access to Roof Top Gym Facilities	
2. Controlled Access to Roof Top Business Center / Conference Room	
TOTAL YEARLY BENEFIT AMOUNT:	
TOTAL BENEFIT AMOUNT OVER THREE YEARS	

1. Washington Business Group in cooperation with the future Residential Management Company in providing controlled access to roof top facilities by ANC 8e community per legislative boundaries, and in accordance with all District regulations in regards to maximum occupancy.

CATEGORY #6 - CAREER	WBG DONATION OF PROFESSIONAL SERVICES / FACILITIES
Provide Conference Room – t     engagement with Career Deve	wice a month to enable Community Plopment
2. WBG donates 20 hours of pro-	fessional man hours (60 hours max)
3. WBG donates 40 hours working potential job opportunities, s	ng directly with DOES to create the list of kill sets and
	ng directly with Ward 8e resident job seekers – er letters / resumes in person and online
TOTAL BENEFIT AMOUNT: Project Est	imated Monetary Value absorbed by WBG

The below outlines Washington Business Group's commitment to helping the residents of Ward 8 – ANC 8e find career opportunities / jobs through outreach during construction of the Wheeler Renaissance Project, within our circle of business associations, partners and general contractor's.

Washington Business Group will provide good faith effort to facilitate the hiring of Ward 8e residents for both career and job opportunities through the Wheeler Renaissance Project, but in all fairness there cannot be a guarantee for the number of positions that will be filled by Ward 8e residents.

WBG assures the community that fair / honest hiring updates will be provided periodically to the ANC Commission and work with the Commission to achieve greater results.

- 1. Washington Business Group to coordinate with recognized Career Development Organizations and / or Foundations the opportunity to provide Community Outreach meetings to plan training / hiring strategies, updates on training program statuses, through the use of our conference room.
- 2. Washington Business Group to donate personnel man hours of professional staff in order to coordinate and meet with Career Development Organizations in order to educate on the potential career opportunities to be available through the Wheeler Renaissance Project.
- 3. Washington Business Group to donate 40 man hours of professional staff to engage with Department of Employment Services (DOES) to provide a comprehensive list of potential job opportunities.
- 4. Washington Business Group to donate personnel man hours of professional staff for holding a minimum of (5) five Career Fairs. The Career Fair purpose are to engage and encourage members of the community who are seeking career opportunities to submit either an employment application, cover letter with resume to WBG.

A list of potential career opportunities will then be matched up with career / job seekers to enable a maximum amount of hiring within Ward 8 – ANC 8e.

Additionally, due to the site area being in disrepair for such an extended period of time, various public space repairs / upgrades will be necessary. These items were proactively identified by WBG and were incorporated for the community's best interest.

The below represents a 'budgeted cost' for the improvements, which have added significant cost to the total project construction budget:

CATEGORY #7	PROVIDE PUBLIC SPACE IMPROVEMENT:	
<ol> <li>Provide Streetsca</li> </ol>	ape Improvements along Wheeler Road / Barnaby Street	\$ 35,000.00
Construct and Provide New Storm Water Management System \$ 300,000.00		
3. Provide site repairs to paved alleys / sidewalks \$ 150,000.00		
4. Improve and Install New lighting and Public Safety for Site \$ 50,000.00		
TOTAL BENEFIT AMOUN	T: Project Estimated Construction Value	\$ 535,000.00

1-4. These are site improvements that will be paid for through the site infrastructure construction budget. The estimated budget value is based on typical construction and construction standards set by DDOT. There is a strong possibly that these cost figures will rise, but WBG assures there will be no compromise to the quality of work or the design intent of the project.

CATEGORY #8	TEGORY #8 MITIGATE TRAFFIC / PARKING IMPACTS ON NEIGHBORHOOD	
Work with DDOT	to install a Capitol Bike Station	\$ 85,000.00
	to install a Covered Bus Shelter	\$ 45,000.00
	in providing a Metro Transit Screen	\$ 20,000.00
	sportation Demand Management Plan	\$ 20,000.00
TOTAL BENEFIT AMOUN	T: Project Estimated Construction Value	\$ 170,000.00

1-4. The above represents our design commitment in providing a transit oriented project. The above items are ones that Washington Business Group feels are important to the entire community of ANC 8e, not just the new residents of the Wheeler Renaissance. WBG is using the Wheeler Renaissance project as the vehicle to provide additional convenience and amenities to the entire community.

CATEGORY # 9 COMMUNITY ART – WALL DONATION / CONTRIBUTION		
Provide 'highly vi	sible' wall space to the community for community wall art	\$ 10,000.00
TOTAL BENEFIT AMOUN	T: Based on intrinsic value – not monetary	\$ 10,000.00

1. WBG has always been a sponsor of the arts and community beautification. Great pride, care and design thought were used in the selection of construction materials for the Wheeler Renaissance Project.

The wall is a gift to the community in order to allow for ANC 8e to create a sense of visible identity, local pride and the chance to engage this project into your long standing community. The donation of the wall space is intended to integrate / interact with the existing community fabric and allow for 100% community involvement for a portion of the project.