THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

In the Matter of:	)	
	)	
American City Diner, Inc.	)	
t/a American City Diner	)	
	)	
Applicant for a New	)	Case No. 14-PRO-00043
Retailer's Class DR	)	License No. ABRA-094922
	)	Order No. 2014-283
at premises	)	
5532 Connecticut Avenue, N.W.	)	
Washington, D.C. 20015	)	
	)	

American City Diner, Inc., t/a American City Diner (Applicant)

Jim McCarthy, Chairperson, Advisory Neighborhood Commission (ANC) 3/4G

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Mike Silverstein, Member
Hector Rodriguez, Member
James Short, Member

ORDER ON SETTLEMENT AGREEMENT AND WITHDRAWAL OF PROTEST OF ANC 3/4G

The Application filed by American City Diner, Inc., t/a American City Diner, for a new Retailer's Class DR License, was protested; however, a Roll Call Hearing scheduled for June 30, 2014, was not held, because the Parties submitted a Settlement Agreement before the hearing.

The official records of the Board reflect that the Applicant and ANC 3/4G have entered into a Settlement Agreement (Agreement), dated June 26, 2014, that governs the operation of the Applicant's establishment.

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Applicant and Chairperson Jim McCarthy, on behalf of ANC 3/4G, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protest filed by ANC 3/4G.

Accordingly, it is this 11th day of July, 2014, **ORDERED** that:

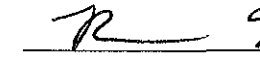
1. The Application filed by American City Diner, Inc., t/a American City Diner, for a new Retailer's Class DR License, located at 5532 Connecticut Avenue, N.W., Washington, D.C., is **GRANTED**;

2. The Protest of ANC 3/4G in this matter is hereby **WITHDRAWN**;

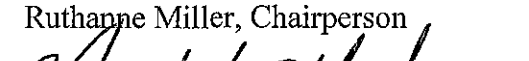
3. The above-referenced Settlement Agreement submitted by the Parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order; and

4. Copies of this Order shall be sent to the Applicant and ANC 3/4G.

District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



Nick Alberti, Member

Donald Brooks, Member

Herman Jones, Member

Mike Silverstein, Member

Hector Rodriguez, Member

James Short, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), any Party adversely affected by this Order may file a Motion for Reconsideration within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code 2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration pursuant to D.C. Official Code § 25-433, stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. See D.C. App. Rule 15(b).

SETTLEMENT AGREEMENT CONCERNING ISSUANCE OF LICENSE
AMERICAN CITY DINER
5532 CONNECTICUT AVENUE, NW

ALCOHOLIC BEVERAGE
REGULATORY ADMIN
2014 JUN 27 A 8:57
ABRA

THIS SETTLEMENT AGREEMENT made and entered into this 26th day of June, 2014, by and between American City Diner ("Applicant") and Advisory Neighborhood Commission 3/4G ("ANC 3/4G").

WITNESSETH:

WHEREAS, Applicant has filed application ABRA-094922 with the District of Columbia Alcoholic Beverage Control Board (the "Board") for a new class D license for premises at 5532 Connecticut Avenue, NW Washington, DC 20015 ("Premises");

WHEREAS, ANC 3/4G has filed a protest before the ABC Board opposing the granting of this application;

WHEREAS, the parties hereto desire to enter into a settlement agreement whereby Applicant will agree to adopt certain measures to address ANC 3/4G's concerns and to request that the Board include the provisions of this Agreement as conditions of approving its license;

NOW, THERFORE, in consideration of the mutual covenants and undertakings memorialized herein, the Applicant and ANC 3/4G hereby agree as follows:

1. **Recitals Incorporated**. The recitals set forth above are incorporated herein by reference.

2. **Hours of Operation and Sales**. The Applicant's permissible hours of operation shall be as follows:

   Sunday through Saturday: 8:00 a.m. – 12:00 a.m.

3. **Nature of Operation.** The nature of the operation shall include interior and enclosed public space. If the applicant obtains a permit for an outdoor sidewalk cafe in public space, this agreement may be amended by mutual agreement to include such public space;

4. **Waste Management.**

   a. Applicant will not dispose of bottle trash and recyclables before 8:00 a.m. or after 10:00 p.m.

b. Applicant will ensure that all garbage is securely contained in dumpsters that are rodent-resistant and shall see that dumpster covers fit properly and remain fully closed and locked except for such times when trash and garbage is being added or removed. Applicant shall not place trash in its dumpsters in any manner that would prevent the full closure of the dumpster. Applicant shall ensure that all dumpsters used are properly maintained and replaced when damaged.

c. Applicant shall use its reasonable best efforts to ensure that the area around the dumpsters is kept clean at all times, that the dumpsters are placed such that they do not encroach on public space and that no garbage is placed on public space or abutting residential property.

5. **Enforcement.** The Board shall have exclusive jurisdiction to construe and enforce this Agreement. Nothing in this Agreement shall give rise to a private right of action.

WHEREFORE, by the signing of the representatives of Applicant and ANC 3/4G, Applicant hereby agrees to aforementioned covenants and ANC 3/4G agrees to the issuance of the Class D license to Applicant, provided that this Agreement is incorporated into the ABC Board's order issuing a Class D license.

Applicant:

American City Diner

By: _____
Jeffrey Gildenhorn, Owner

Date Signed: 6/26/14

ANC:

Advisory Neighborhood Commission 3/4G:

By: _____
Jim McCarthy, Chair

Date Signed: 6/25/14