



# THE CITY RECORD

Official Journal of The City of New York

THE CITY RECORD  
U.S.P.S. 0114-660

Printed on paper containing  
40% post-consumer material

VOLUME CXL NUMBER 240

MONDAY, DECEMBER 16, 2013

PRICE \$4.00

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## THE CITY RECORD

MICHAEL R. BLOOMBERG, Mayor

EDNA WELLS HANDY, Commissioner, Department of Citywide Administrative Services.  
ELI BLACHMAN, Editor of The City Record.

Published Monday through Friday, except legal holidays by the Department of Citywide Administrative Services of the City of New York under Authority of Section 1066 of the New York City Charter.

Subscription—\$500 a year; daily, \$4.00 a copy (\$5.00 by mail) Periodicals Postage Paid at New York, N.Y.  
POSTMASTER: Send address changes to THE CITY RECORD, 1 Centre Street, 17th Floor, New York, N.Y. 10007 - 1602

Editorial Office  
1 Centre Street, 17th Floor  
New York N.Y. 10007-1602  
Telephone (212) 386-0055

Subscription Changes/Information  
1 Centre Street, 17th Floor  
New York N.Y. 10007-1602  
Telephone (212) 386-0055

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d5-18

## BRONX BOROUGH PRESIDENT

### MEETING

A PUBLIC HEARING IS BEING CALLED by the President of the Borough of The Bronx, the Honorable Ruben Diaz Jr. to be held on Friday, December 20, 2013 at 10:00 a.m. in the office of the Borough President, 851 Grand Concourse, Room 206, the Bronx, New York 10451 on the following item:

**CD #6 ULURP APPLICATION NO: C 140089 PPX-IN THE MATTER OF AN** application submitted by the Department of Citywide Administrative Services, (DCAS), pursuant to Section 197-c of the New York City Charter, for the disposition of two (2) city-owned properties located on Block 3055, Lot 8, and Block 3113, Lot 8, pursuant to zoning.

MEMBERS OF THE PUBLIC WISHING TO SPEAK MAY REGISTER AT THE HEARING. PLEASE DIRECT ANY QUESTIONS CONCERNING THIS MATTER TO THE OFFICE OF THE BOROUGH PRESIDENT, 718-590-6124.

d13-19

## CITY COUNCIL

### PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN THAT the Council has scheduled the following public hearing on the matters indicated below:

The Subcommittee on Zoning and Franchises will hold a public hearing on the following matter in the Council Committee Room, 250 Broadway, 16th Floor, New York City, New York 10007, commencing at 9:30 A.M. on Tuesday, December 17, 2013:

### THE RANDOLPH AT BROOME

**MANHATTAN CB - 2** 20145155 TCM  
Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Cherry Lane, Inc., d/b/a The Randolph at Broome, for a revocable consent to continue to maintain and operate an unenclosed sidewalk cafe located at 349 Broome Street.

d11-17

NOTICE IS HEREBY GIVEN THAT the Council has scheduled the following public hearing on the matters indicated below:

The Subcommittee on Zoning and Franchises will hold a public hearing on the following matters in the Council Committee Room, 250 Broadway, 16th Floor, New York City, New York 10007, commencing at 9:30 A.M. on Monday, December 16, 2013:

### SEASIDE PARK AND COMMUNITY ARTS CENTER BROOKLYN CB - 13 C 140063 ZSK

Application submitted by Coney Island Holdings LLC and the New York City Economic Development Corporation pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 131-60 of the Zoning Resolution to allow an open-air auditorium with a maximum of 5,099 seats for a term no greater than ten (10) years, on property located at 3052-3078 West 21st Street (Block 7071, Lots 27, 28, 30, 32, 34, 76, 79, 81, 130, 226, 231, and p/o Lot 142; the bed of former Highland View Avenue; and a portion of the bed of former West 22nd Street), in R5 and R7D/C2-4 Districts, within the Special Coney Island District (Coney West Subdistrict, Parcels B and G).

## PUBLIC HEARINGS AND MEETINGS

See Also: Procurement; Agency Rules

## BOARD MEETINGS

### NOTICE OF MEETINGS

#### City Planning Commission

Meets in Spector Hall, 22 Reade Street, New York, New York 10007, twice monthly on Wednesday, at 10:00 A.M., unless otherwise ordered by the Commission.

#### City Council

Meets by Charter twice a month in Councilman's Chamber, City Hall, Manhattan, New York 10007, at 1:30 P.M.

#### Contract Awards Public Hearing

Meets in Spector Hall, 22 Reade Street, Main Floor, Manhattan, weekly, on Thursday, commencing 10:00 A.M., and other days, times and location as warranted.

#### Civilian Complaint Review Board

Generally meets at 10:00 A.M. on the second Wednesday of each month at 40 Rector Street, 2nd Floor, New York, NY 10006. Visit <http://www.nyc.gov/html/crb/html/meeting.html> for additional information and scheduling changes.

#### Design Commission

Meets at City Hall, Third Floor, New York, New York 10007. For meeting schedule, please visit [nyc.gov/designcommission](http://nyc.gov/designcommission) or call (212) 788-3071.

#### Department of Education

Meets in the Hall of the Board for a monthly business meeting on the Third Wednesday, of each month at 6:00 P.M. The Annual Meeting is held on the first Tuesday of July at 10:00 A.M.

#### Board of Elections

32 Broadway, 7th Floor, New York, NY 10004, on Tuesday, at 1:30 P.M. and at the call of the Commissioner.

#### Environmental Control Board

Meets at 40 Rector Street, OATH Lecture Room, 18th Floor, New York, NY 10006 at 9:15 A.M., once a month at the call of the Chairman.

#### Board of Health

Meets in Room 330, 125 Worth Street, Manhattan, New York 10013, at 10:00 A.M., at the call of the Chairman.

#### Health Insurance Board

Meets in Room 530, Municipal Building, Manhattan, New York 10007, at call of the Chairman.

#### Board of Higher Education

Meets at 535 East 80th Street, Manhattan, New York 10021, at 5:30 P.M., on fourth Monday in January, February, March, April, June, September, October, November and December. Annual meeting held on fourth Monday in May.

#### Citywide Administrative Services

Division Of Citywide Personnel Services will hold hearings as needed in Room 2203, 2 Washington Street, New York, N.Y. 10004.

#### Commission on Human Rights

Meets on 10th floor in the Commission's Central Office, 40 Rector Street, New York, New York 10006, on the fourth Wednesday of each month, at 8:00 A.M.

#### In Rem Foreclosure Release Board

Meets in Spector Hall, 22 Reade Street, Main Floor, Manhattan, Monthly on Tuesdays, commencing 10:00 A.M., and other days, times and location as warranted.

#### Franchise And Concession Review Committee

Meets in Spector Hall, 22 Reade Street, Main Floor, Manhattan, Monthly on Wednesdays, commencing 2:30 P.M., and other days, times and location as warranted.

#### Real Property Acquisition And Disposition

Meets in Spector Hall, 22 Reade Street, Main Floor, Manhattan, bi-weekly, on Wednesdays, commencing 10:00 A.M., and other days, times and location as warranted.

#### Landmarks Preservation Commission

Meets in the Hearing Room, Municipal Building, 9th Floor North, 1 Centre Street in Manhattan on approximately three Tuesday's each month, commencing at 9:30 A.M. unless otherwise notified by the Commission. For current meeting dates, times and agendas, please visit our website at [www.nyc.gov/landmarks](http://www.nyc.gov/landmarks).

#### Employees' Retirement System

Meets in the Boardroom, 22nd Floor, 335 Adams Street, Brooklyn, New York 11201, at 9:30 A.M., on the third Thursday of each month, at the call of the Chairman.

#### Parole Commission

Meets at its office, 100 Centre Street, Manhattan, New York 10013, on Thursday, at 10:30 A.M.

#### Board of Revision of Awards

Meets in Room 603, Municipal Building, Manhattan, New York 10007, at the call of the Chairman.

#### Board of Standards and Appeals

Meets at 40 Rector Street, 6th Floor, Hearing Room "E" on Tuesdays at 10:00 A.M. Review Sessions begin at 9:30 A.M. and are customarily held on Mondays preceding a Tuesday public hearing in the BSA conference room on the 9th Floor of 40 Rector Street. For changes in the schedule, or additional information, please call the Application Desk at (212) 513-4670 or consult the bulletin board at the Board's Offices, at 40 Rector Street, 9th Floor.

#### Tax Commission

Meets in Room 936, Municipal Building, Manhattan, New York 10007, each month at the call of the President. Manhattan, Monthly on Wednesday, Commencing at 2:30 P.M.

## BROOKLYN BOROUGH PRESIDENT

### MEETING

NOTICE IS HEREBY GIVEN that Brooklyn Borough President Marty Markowitz will hold a meeting of the Brooklyn Borough Board in the Court Room, Second Floor, Brooklyn Borough Hall, 209 Joralemon Street, Brooklyn, New York 11201, commencing at 12:00 P.M. on Wednesday, December 18, 2013.

The Borough Board meeting agenda is as follows:

1. Approval of Minutes of Borough Board Meetings held on July 9, 2013 and November 12, 2013.
2. Presentation and vote on the third phase of the Long Meadow Ballfield Restoration, presented by the Prospect Park Alliance.
3. Presentation by the New York City Economic Development Corporation and vote on the business terms of the disposition by lease of property located at Brooklyn Block 7071, Lots 231, 226, 142, 130, 76, 34, 32, 30, 28, and 27, as well as adjacent streetbeds on Highland View Avenue and a portion of West 22nd Street, to the New York City Land Development Corporation for assignment to Seaside Park LLC or an affiliated entity, for the development of the Seaside Park and Community Arts Center.

SEASIDE PARK AND COMMUNITY ARTS CENTER  
BROOKLYN CB - 13 N 140064 ZRK

Application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Section 113-00 (Special Coney Island District), 131-60 (Special Permit for Auditoriums), Appendix A (Coney Island District Plan) relating to the development of auditorium use.

Matter in underline is new, to be added;  
Matter in ~~strikeout~~ is old, to be deleted;  
Matter within # # is defined in Section 12-10;  
\* \* \* indicates where unchanged text appears in the Zoning Resolution

Article XIII: Special Purpose Districts

\* \* \*

Chapter 1  
Special Coney Island District

\* \* \*

131-60  
Special Permit for Auditoriums

The special permit set forth in this Section is established to allow outdoor entertainment #uses# on a limited-term basis in a unique beachfront location within the #Special Coney Island District#. The #development# of such a #use# on a temporary basis pursuant to this special permit provides for the opportunity for a valuable public amenity to exist within an area that, while approved for future #residential development# pursuant to the #Special Coney Island District# plan, is currently underutilized and does not exhibit the characteristics of a well-developed #residential# neighborhood. Any special permit granted under this Section shall be subject to a term of years, in order to ensure that such #use# is consistent with and does not impede the goal of long-term revitalization of the surrounding area, pursuant to the #Special Coney Island District# plan.

In the Coney West Subdistrict, for Parcels B and G, the City Planning Commission may approve, by special permit, open-air auditoriums with greater than 2,000 seats, for a term no greater than ten years from the date a certificate of occupancy, including a temporary certificate of occupancy, has been issued, provided that the proposed auditorium meets the conditions of paragraph (a) and the findings of paragraph (b) of this Section, in addition to the #sign# and parking provisions of paragraphs (c) and (d) of this Section, respectively.

For any application for such special permit, the applicant shall provide plans to the Commission including but not limited to a site plan, signage plan, parking and loading plan, lighting plan and operations plan (the "Proposed Plans").

(a) The Commission may permit open-air auditoriums with a maximum of 5,100 seats, provided the Proposed Plans demonstrate that:

- (1) at all times when the Riegelmann Boardwalk is open to the public, all publically accessible space, as shown on the proposed plans, will remain accessible to the public, except that access may be restricted as necessary during scheduled events, for the setup and takedown for such events, and in connection with maintenance activities; any barriers erected for the purpose of restricting access or visibility during such events shall be completely removed at all other times;
- (2) the height of all structures, temporary or fixed, does not exceed 70 feet in height, as measured from the level of the Riegelmann Boardwalk;
- (3) any roof or structural canopy above the open-air auditorium seating area will be removed prior to the month of November and shall remain removed during the entire off-season period between November through April, as well as in advance of severe weather events;
- (4) the signage plan and parking and loading plan comply with the provisions of paragraphs (c) and (d) of this Section, respectively; and
- (5) the City and applicant will enter into an agreement under which Parcel G will be returned to the City as of the expiration of the term of the special permit in a condition set forth in such agreement appropriate for #use# as a #public park#.

(b) In granting such permit, the Commission shall find that:

- (1) such open-air auditorium will not unduly impair the essential character or the future #use# or #development# of the surrounding area, pursuant to the goals and objectives of the #Special Coney Island District# plan;
- (2) the outdoor lighting for such open-air auditorium is located and arranged so as to minimize any negative effects on nearby #residences# and #community facilities#, and that Proposed Plans include noise attenuation features and

measures which serve to reduce the effect of noise from the open-air auditorium on the surrounding area, including nearby #residences# and #community facilities#;

(3) the construction of a stage as part of any #building# on Parcel B, for the purpose of accommodating an open-air auditorium #use#, will:

- (i) enable the stage area to be closed to the outdoor portion of the open-air auditorium during the off-season when the open-air auditorium is not in use, so as to be operated for indoor entertainment #uses# with an eating and drinking establishment or other #use# permitted on Parcel B; and
- (ii) allow for such #building# to be operated subsequent to the expiration of the special permit for #uses# permitted on Parcel B, such as eating or drinking establishments with entertainment;

(4) appropriate visual and pedestrian connections are maintained in the general area of the former street bed from the termination of West 22st Street to the Riegelmann Boardwalk;

(5) the portions of the site not dedicated to stage area or event seating are so designed to serve as a full time park-like resource for the public, and the portions of the site designed for open-air auditorium #use# serve as a high-quality open space resource when not in auditorium use;

(6) any roof or structural canopy above the open-air auditorium seating area will be visually unobtrusive, and maximize openness and visibility between the site and the Riegelmann Boardwalk,

(7) the operations plan, which shall include a protocol for queuing for concert-goers, demonstrates that there would be no interference with the public use and enjoyment of adjacent public facilities; and

(8) the site plan, signage plan and lighting plan incorporate good design, effectively integrate the site with surrounding streets and the Riegelmann Boardwalk, and are consistent with the purposes of the #Special Coney Island District#.

(c) The Commission may, through approval of the Proposed Plans, permit #signs# notwithstanding the applicable #sign# regulations, except that #flashing signs# shall not be permitted and only #advertising signs# that are oriented toward the interior of the open-air amphitheater and not visible from the Riegelmann Boardwalk or other public area shall be permitted.

In order to permit such #signs#, the Commission shall find that proposed signage is appropriate in connection with the permitted open-air auditorium #use#, is not unduly concentrated within one portion of the site, and will not negatively affect the surrounding area.

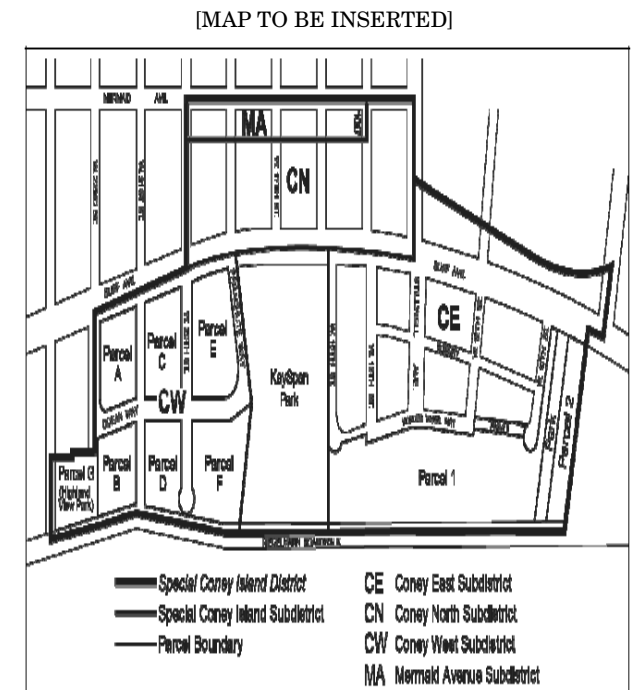
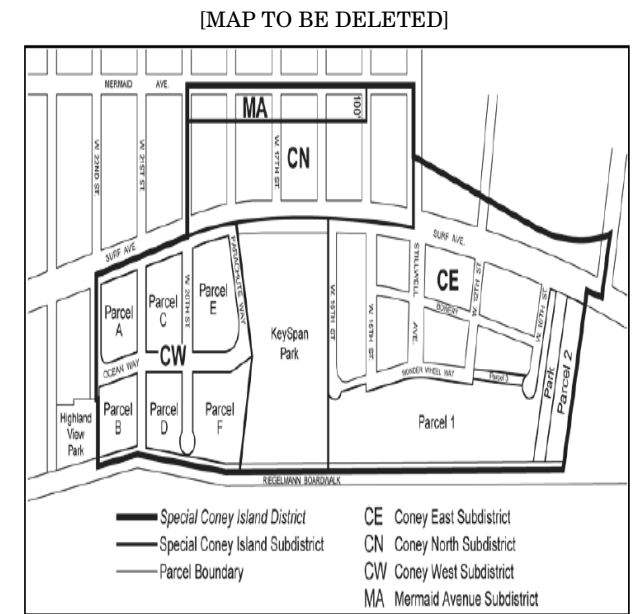
(d) The Commission may, through approval of the Proposed Plans, reduce or waive required parking or loading requirements, provided the Commission finds that the open-air auditorium will be adequately served by a combination of surrounding public parking facilities and mass transit. In addition, the Commission shall find that the proposed loading facilities on the site are located so as not to adversely affect the movement of pedestrians or vehicles on the #streets# surrounding the auditorium.

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area. Such conditions and safeguards may include, but are not limited to restrictions on signage or requirements for soundproofing of auditoriums, shielding of floodlights or screening of open #uses#.

Upon the first issuance of this permit for an open-air auditorium, the effective period of the permit shall be ten years from the date a certificate of occupancy, including a temporary certificate of occupancy, has been issued. To establish the term of years for subsequent applications for this special permit, the Commission shall, in determining whether the finding of paragraph (b)(1) of this Section is met, take into account the existing character of the surrounding area, as well as #residential# and #community facility development# proposed or under construction on surrounding #blocks#, and shall also consider whether continuation of such auditorium #use# within a proposed term of years would be compatible with or may hinder achievement of the goals and objectives of the #Special Coney Island District# plan. Subsequent applications for this special permit shall be filed no later than one year prior to expiration of the term of the permit then in effect.

Appendix A  
Coney Island District Plan

Map 1 - Special Coney Island District and Subdistricts



Map 2 - Mandatory Ground Floor Use Requirements

[EXISTING MAP TO BE UPDATED WITH REVISED DISTRICT BOUNDARY]

\* \* \*

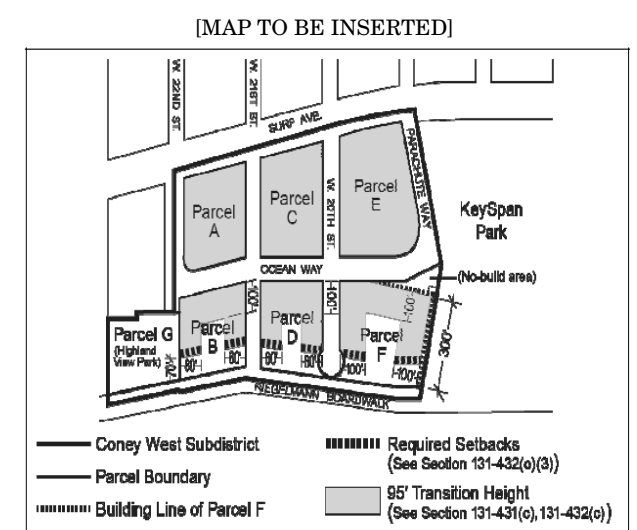
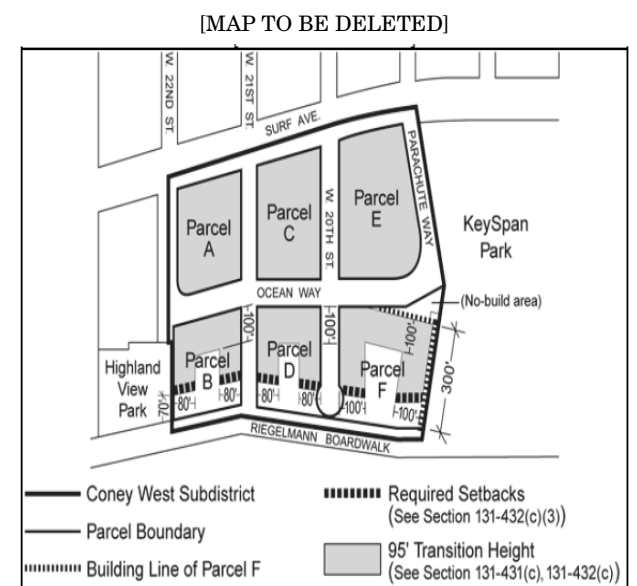
Map 4 - Street Wall Location

[EXISTING MAP TO BE UPDATED WITH REVISED DISTRICT BOUNDARY]

Map 5 - Minimum and Maximum Base Heights

[EXISTING MAP TO BE UPDATED WITH REVISED DISTRICT BOUNDARY]

Map 6 - Coney West Subdistrict Transition Heights



**EXISTING  
(TO BE DELETED)  
Map 4 (12/21/09)**

Portion of Community District 1, Brooklyn



**PROPOSED  
(TO REPLACE EXISTING)**

Map 4 (xx/xx/xx)



Portion of Community District 1, Brooklyn

\*\*\*

**SEASIDE PARK AND COMMUNITY ARTS CENTER  
BROOKLYN CB - 13 C 140065 ZMK**

Application submitted by Coney Island Holdings, LLC and the New York City Economic Development Corporation pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 28d, establishing a Special Coney Island District (CI) bounded by a line perpendicular to the easterly street line of West 23rd Street distant 245 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of West 23rd Street and northerly boundary line of Riegelmann Boardwalk, a line 110 feet easterly of West 23rd Street, a line 150 feet northerly of former Highland View Avenue and its easterly prolongation, the easterly street line of former West 22nd Street, the northerly boundary line of Riegelmann Boardwalk, and West 23rd Street, as shown on a diagram (for illustrative purposes only), dated September 9, 2013.

**SEASIDE PARK AND COMMUNITY ARTS CENTER  
BROOKLYN CB - 13 C 140066 PPK**

Application submitted by the Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of the New York City Charter, for disposition, by lease agreement, to the New York City Land Development Corporation (NYCLDC) of city-owned property located on Block 7071, Lots 27, 28, 30, 32, 34, 76, 130, 142 and 226, restricted to the conditions pursuant to NYC Zoning Resolution (ZR) Section 131-60 (Special Permit for Auditoriums).

**SEASIDE PARK AND COMMUNITY ARTS CENTER  
BROOKLYN CB - 13 C 140067 PQQ**

Application submitted by the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the acquisition of property generally bounded by West 21st Street, West 22nd Street and the Riegelmann Boardwalk (Block 7071, Lots 27, 28, 30, 32, 34, 76, 130, 226, and 231).

**SEASIDE PARK AND COMMUNITY ARTS CENTER  
BROOKLYN CB - 13 M 090107(B) MMK**

Application submitted by the New York City Economic Development for a modification of the resolution adopted by the City Planning Commission on June 17, 2009 (Calendar No. 14) approving an application (C 090107 MMK) for an amendment to the City Map involving, *inter alia*, the elimination of streets within an area bounded by West 22nd Street, West 23rd Street, and Public Beach in accordance

with Map Nos. X-2711 dated January 14, 2009, revised June 17, 2009 and August 16, 2013 and X-2739 dated August 16, 2013 and signed by the Borough President.

**The Subcommittee on Landmarks, Public Siting and Maritime Uses will hold a public hearing in the Council Committee Room, 250 Broadway, 16th Floor, New York City, New York 10007, commencing at 11:00 A.M. on Monday, December 16, 2013.**

**The Subcommittee on Planning, Dispositions and Concessions will hold a public hearing on the following matters in the Council Committee Room, 250 Broadway, 16th Floor, New York City, New York 10007, commencing at 1:00 P.M. on Monday, December 16, 2013:**

**LANDS END II/A.K.A. CHERRY STREET  
MANHATTAN CB - 3 20145224 HAM**

Application submitted by the New York City Department of Housing Preservation and Development (HPD) for approval of a new exemption from real property taxation, the termination of the existing tax exemption and voluntary dissolution of the current owner for the property located on Block 247, Lot 1, in the Borough of the Manhattan, Community Board 3, Council District 1. This matter is subject to Council review and action at the request of HPD and pursuant to Sections 123(4), 125 and 577 of the Private Housing Finance Law.

**127TH STREET CLUSTER  
MANHATTAN CB - 11 20145225 HAM**

Application submitted by the New York City Department of Housing Preservation and Development (HPD) for approval of a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law (PHFL) for the property located on Block 1749, Lots 60 and 66; Block 1750, Lots 65 and 104; Block 1751, Lots 14, 57, 63 and 156; Block 1752, Lots 10 and 70; Block 1755, Lot 22; and Block 1756, Lot 8, in the Borough of the Manhattan, Community Board 11, Council District 9. This matter is subject to Council review and action at the request of HPD and pursuant to Section 577 of the PHFL.

d10-16

**CITY PLANNING**

**■ PUBLIC HEARINGS**

**NOTICE IS HEREBY GIVEN THAT RESOLUTIONS Have been adopted by the City Planning Commission Scheduling public hearings on the following matters to be held in Spector Hall, 22 Reade Street, New York, NY, on Wednesday, December 18, 2013 at 10:00 A.M.**

**BOROUGH OF QUEENS  
No. 1  
OCEAN VILLAGE**

**CD 14 C 140077 HAQ**  
**IN THE MATTER OF** an application submitted by the Department of Housing Preservation and Development (HPD):

pursuant to Article 16 of the General Municipal Law of New York State for:

The designation of property located at 57-21 Rockaway Beach Boulevard (Block 15926, p/o Lot 200) as an Urban Development Action Area; and

a. an Urban Development Action Area Project for such area; and pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD;

to repair and rehabilitate the existing entrance way, planters, and landscaping.

**No. 2  
31-00 47TH AVENUE OFFICE SPACE  
CD 2 N 140215 PXQ**

**IN THE MATTER OF** a Notice of Intent to acquire office space submitted by the Department of Citywide Administrative Services, pursuant to Section 195 of the New York City Charter for use of property located at 31-00 47th Avenue (Block 281, Lot 1) (TLC and OATH offices).

**BOROUGH OF THE BRONX  
No. 3  
1775 GRAND CONCOURSE OFFICE SPACE  
CD 5 N 140214 PXX**

**IN THE MATTER OF** a Notice of Intent to acquire office space submitted by the Department of Citywide Administrative Services, pursuant to Section 195 of the New York City Charter for use of property located at 1775 Grand Concourse (Block 2822, Lot 7501) (Law Department offices).

d5-18

**COMMUNITY BOARDS**

**■ PUBLIC HEARINGS**

**PUBLIC NOTICE IS HEREBY GIVEN THAT** the following matters have been scheduled for public hearing by Community Boards:

**BOROUGH OF QUEENS**

**COMMUNITY BOARD NO. 13 - Monday, December 16, 2013 at 7:30 P.M., Bellerose Assembly of God Church, 240-15 Hillside Avenue, Bellerose, NY**

**#C 140037ZMQ**  
Braddock Hillside Rezoning; located at 220-05 Hillside Avenue, the northeast corner of the intersection formed by Hillside Avenue and Braddock Avenue.

d10-16

**PUBLIC NOTICE IS HEREBY GIVEN THAT** the following matters have been scheduled for public hearing by Community Boards:

**BOROUGH OF BROOKLYN**

**COMMUNITY BOARD NO. 12 - Monday, December 16, 2013 at 6:30 P.M., 5910 13th Avenue, Brooklyn, NY**

**BSA# 283-13-BZ**  
4930 20th Avenue, Brooklyn, NY  
Application filed in pursuant to Section 73-36 of the Zoning Resolution of the City of New York seeking a special permit to allow the operation of a Physical Culture establishment on the 1st floor of a one-story building within an M1-1 zoning district.

d10-16

**PUBLIC NOTICE IS HEREBY GIVEN THAT** the following matters have been scheduled for public hearing by Community Boards:

**BOROUGH OF BROOKLYN**

**COMMUNITY BOARD NO. 18 - Monday, December 18, 2013 at 7:00 P.M., 2335 Bergen Avenue, Brooklyn, NY**

An application by The Jewish Board of Family and Children's Services (JBFCS), under the auspices of the New York State Office for People With Development Disabilities (OPWDD) pursuant to Section 41.34 of the Mental Hygiene Law, to establish an Individualized Residential Alternative (IRA) at 621 Mayfair Drive South, corner of Strickland Avenue, a two-family house, for six (6) Intellectually Disabled individuals, four (4) men and two (2) women.

d12-18

**PUBLIC NOTICE IS HEREBY GIVEN THAT** the following matters have been scheduled for public hearing by Community Boards:

**BOROUGH OF BROOKLYN**

**COMMUNITY BOARD NO. 09 - Tuesday, December 17, 2013 at 7:00 P.M., Middle School 61, 400 Empire Boulevard, Brooklyn, NY**

**#C 010345MMK**  
Montgomery Street Grade Changes  
**IN THE MATTER OF** an application submitted by the Department of Transportation, pursuant to Sections 197-c and 199 of the New York City Charter, for an amendment to the City Map involving; the modification of grades in Montgomery Street between Washington Ave. and Franklin Ave.

**#C 010371MMK**  
President Street Grades  
**IN THE MATTER OF** an application submitted by the Department of Transportation, pursuant to Sections 197-c and 199 of the New York City Charter, for an amendment to the City Map involving; the modification of grades in President Street between Classon Ave. and Franklin Ave.

**#C 010415MMK**  
Union Street Grade Changes  
**IN THE MATTER OF** an application submitted by the Department of Transportation, pursuant to Sections 197-c and 199 of the New York City Charter, for an amendment to the City Map involving; the modification of grades in Union Street between Classon Ave. and Franklin Ave.

d11-17

**PUBLIC NOTICE IS HEREBY GIVEN THAT** the following matters have been scheduled for public hearing by Community Boards:

**BOROUGH OF BROOKLYN**

**COMMUNITY BOARD NO. 12 - Monday, December 16, 2013 at 6:30 P.M., 5910 13th Avenue, Brooklyn, NY**

**BSA# 283-13-BZ**  
4930 20th Avenue, Brooklyn, NY  
Application filed pursuant to Section 73-36 of the Zoning Resolution of the City of New York, seeking a special permit to permit the operation of a Physical Culture establishment on the first floor of a one-story building within an M1-1 zoning district.

d11-16

**EMPLOYEES RETIREMENT SYSTEM**

**■ INVESTMENT MEETING**

Please be advised that the next Investment Meeting of the Board of Trustees of the New York City Employee's Retirement System has been scheduled for Tuesday, December 17, 2013 at 9:30 A.M. to be held at the New York City Employee's Retirement System, 335 Adams Street, 22nd Floor Boardroom, Brooklyn, NY 11201-3751.

d10-16

**EQUAL EMPLOYMENT PRACTICES COMMISSION**

**■ MEETING**

The next meeting of the Equal Employment Practices Commission will be held in the Commission's Conference Room/Library at 253 Broadway (Suite 602) on Thursday, December 19th, 2013 at 9:15 A.M.

d13-16

**HOUSING AUTHORITY**

**■ MEETING**

The next Board Meeting of the New York City Housing Authority is scheduled for Wednesday, December 18, 2013 at 10:00 A.M. in the Board Room on the 12th Floor of 250 Broadway, New York, New York (unless otherwise noted). Copies of the Calendar are available on NYCHA's Website or can be picked up at the Office of the Corporate Secretary at 250 Broadway, 12th Floor, New York, New York, no earlier than 24 hours before the upcoming Board Meeting. Copies of

the Minutes are also available on NYCHA's Website or can be picked up at the Office of the Corporate Secretary no earlier than 3:00 P.M. on the Thursday after the Board Meeting.

Any changes to the schedule will be posted here and on NYCHA's Website to the extent practicable at a reasonable time before the meeting.

The meeting is open to the public. Pre-registration at least 45 minutes before the scheduled Board Meeting is required by all speakers. Comments are limited to the items on the Calendar. Speaking time will be limited to three minutes. The public comment period will conclude upon all speakers being heard or at the expiration of 30 minutes allotted by law for public comment, whichever occurs first.

Any person requiring a reasonable accommodation in order to participate in the Board Meeting, should contact the Office of the Corporate Secretary at (212) 306-6088 no later than five business days before the Board Meeting.

For additional information, please visit NYCHA's Website or contact (212) 306-6088.

d9-18

## LANDMARKS PRESERVATION COMMISSION

### ■ PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN THAT PURSUANT to the provisions of 3020 of the New York City Charter and Chapter 3 of Title 24 of the Administrative Code of the City of New York (Sections 25-303 and 25-313) that on Tuesday, December 17, 2013 at 9:15 A.M., at the Landmarks Preservation Commission will conduct a *public hearing* in the Public Meeting Room of the Landmarks Preservation Commission, located at The Municipal Building, 1 Centre Street, 9th Floor North, City of New York with respect to the following proposed Landmark and Landmark Site. Any person requiring reasonable accommodation in order to participate in the hearing should call or write the Landmarks Preservation Commission, [Municipal Building, 1 Centre Street, 9th Floor North, New York, NY 10007, (212) 669-7700] no later than five (5) business days before the hearing. There will also be a public meeting on that day.

#### ITEM TO BE HEARD

Item No. 1

4th POLICE PRECINCT STATION HOUSE now 88TH POLICE PRECINCT, 298 Classon Avenue (aka 414-420 DeKalb Avenue), Brooklyn.

*Landmark Site:* Borough of Brooklyn Tax Map Block 1933, Lot 121

[Community District 02]

d3-16

NOTICE IS HEREBY GIVEN that pursuant to the provisions of Title 25, chapter 3 of the Administrative Code of the City of New York (Sections 25-307, 25-308, 25,309, 25-313, 25-318, 25-320) (formerly Chapter 8-A, Sections 207-6.0, 207-7.0, 207-12.0, 207-17.0, and 207-19.0), on Tuesday, **December 17, 2013 at 9:15 A.M.** in the morning of that day, a public hearing will be held in the Conference Room at 1 Centre Street, 9th Floor, Borough of Manhattan with respect to the following properties and then followed by a public meeting. Any person requiring reasonable accommodation in order to participate in the hearing or attend the meeting should call or write the Landmarks Commission no later than five (5) business days before the hearing or meeting.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF QUEENS 13-7230 - Block 149, lot 64-39-56 47th Street- Sunnyside Gardens Historic District A brick rowhouse with Colonial Revival style details designed by Clarence Stein, Henry Wright and Frederick Ackerman and built in 1925. Application is to replace a fence at the front yard. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF BROOKLYN 14-6970 - Block 2414, lot 1-292-314 Kent Avenue-Havemeyers & Elder Filter, Pan & Finishing House, later known as the American Sugar Refining Company and the Domino Sugar Refinery-Individual Landmark  
Three American round-arch style industrial buildings, designed by Theodore A. Havemeyer and others and built in 1881-1884. Application is to amend a previous approval for the construction of rooftop and rear additions, modifications and creation of masonry openings; and installations of bulkheads, mechanical equipment, windows, ground floor infill, signage, a canopy and awnings. Zoned M3-1. Community District.

**ADVISORY REPORT**  
BOROUGH OF BROOKLYN 15-0703 - Block 26, lot 1-55 Water Street-Fulton Ferry Historic District  
Four brick warehouses built in 1869-70, and three brick warehouses designed by Thomas Stone and built in 1885. Application is to construct a rooftop addition, create an interior courtyard and ground-floor passage, and to install windows, storefront infill, loading bays, canopies and establish a signage program. Zoned Park NYS. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 15-0545 - Block 194, lot 24-42 Lispenard Street-Tribeca East Historic District  
An Italianate/Second Empire style store and loft building designed by William Naugle and built in 1867-68. Application is to alter the vault light platform, replace storefront infill and windows, and to construct a rooftop addition. Zoned C6-2A. Community District 1.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 13-7939 - Block 172, lot 5-372 Broadway-Tribeca East Historic District  
An Italianate style store and loft building built in 1852-54. Application is to construct a rooftop addition, alter the lot-line facades and fire-escape, and install storefront infill. Zoned C6-4A. Community District 1.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 14-9023 - Block 215, lot 15-57 Laight Street-Tribeca North Historic District  
A Renaissance Revival style store and loft building designed by Horgan & Slattery and built in 1892-93. Application is to replace windows. Community District 1.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 15-1046 - Block 545, lot 21-734 Broadway-NoHo Historic District  
A neo-Grec style store building designed by D & J Jardine and built in 1872-73. Application is to construct a rooftop addition and install storefront infill. Zoned M1-5B. Community District 2.

**MODIFICATION OF USE AND BULK**  
BOROUGH OF MANHATTAN 15-1047 - Block 545, lot 21-734 Broadway-NoHo Historic District  
A neo-Grec style store building designed by D & J Jardine and built in 1872-73. Application is to request that the Landmarks Preservation Commission issue a report to the City Planning Commission relating to an application for a Modification of Use Pursuant to Section 74-711 of the Zoning Resolution. Zoned M1-5B. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 15-1090 - Block 605, lot 8-657 Greenwich Street-Greenwich Village Historic District A school building designed by Thomas M. Bell and built in the early 1950's, with an addition designed by Barry Rice and built in 2012. Application is construct rooftop and rear additions, and modify openings. Zoned R-6. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 15-1091 - Block 605, lot 1-100 Barrow Street-Greenwich Village Historic District  
A vacant lot within the church complex consisting of a Federal style church attributed to Clement Clark Moore and built c. 1821-22, rowhouses built in 1825-26 and a school building designed by Thomas M. Bell and built c. 1950. Application is to construct a new building. Zoned R-6. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 15-1017 - Block 829, lot 28-1162 Broadway-Madison Square North Historic District  
A commercial building designed by Joseph D. Weiss and built in 1939-40. Application is to demolish the building and construct a new building. Zoned M1-6 Community District 5.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 14-9500 - Block 856, lot 58-60 Madison Avenue-Madison Square North Historic District  
A Beaux-Arts style office building designed by Maynicke and Franke and built in 1909-1910. Application is to replace ground floor infill and install a canopy. Community District 5.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 15-0234 - Block 886, lot 21-160 Lexington Avenue –New York School of Applied Design of Women-Individual Landmark  
A neo-Classical style institutional building designed by Harvey Wiley Corbett and built in 1908-09. Application is to alter the roof. Community District 5.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 15-1066 - Block 1265, lot 7501-30 Rockefeller Plaza, aka 32 Rockefeller Plaza, 1240-1256 Avenue of the Americas, 31-81 West 49th Street, 30-64 West 50th Street-RCA Building- Interior Landmark  
An Art Deco style skyscraper lobby, designed by the Associated Architects and built in 1931-33 as part of an Art Deco style office, commercial and entertainment complex, which comprises the Rockefeller Center Individual Landmark. Application is to modify portions of the designated lobby and mezzanine. Community District 5.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 15-0425 - Block 1270, lot 34 1-3 West 54th Street, aka 690-694 Fifth Avenue-University Club-Individual Landmark  
An Italian Renaissance style clubhouse designed by McKim, Mead and White and built in 1897-1899. Application is to construct a rooftop addition and railing. Zoned C5-3. Community District 5.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 14-9694 - Block 1197, lot 12-51 West 83rd Street- Upper West Side/Central Park West Historic District  
An Italianate style rowhouse built in 1870-74. Application is to construct rear yard and rooftop additions, and excavate the rear yard. Zoned R8D. Community District 7.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 14-9415 - Block 1200, lot 61-64 West 87th Street-Upper West Side/Central Park West Historic District  
A Jacobean Revival style rowhouse, designed by Clarence True and built in 1894-95. Application is to demolish the existing rear addition, construct the rear façade, and construct rear yard and rooftop additions. Zoned R2. Community District 7.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 14-9982 - Block 1218, lot 129-110 West 88th Street-Upper West Side/Central Park West Historic District

A vacant lot. Application is to construct a new building. Zoned R7. Community District 7.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 14-4536 - Block 1149, lot 17-137 West 77th Street-Upper West Side/Central Park West Historic District  
A Renaissance Revival style rowhouse designed by Henry L. Harris and built in 1891-92. Application is to construct a rear yard extension, rooftop bulkhead, and install lot line windows. Zoned R8B. Community District 7.

**ADVISORY REPORT**  
BOROUGH OF BRONX 15-0779 - Block 2341, lot 1-425 Grand Concourse-Public School 31-Individual Landmark  
A Collegiate Gothic style school building designed by C.B.J. Snyder and built in 1897-99. Application is to demolish the building. Community District 1.

d5-17

## TRANSPORTATION

### ■ PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN, pursuant to law, that the following proposed revocable consents, have been scheduled for a public hearing by the New York City Department of Transportation. The hearing will be held at 55 Water Street, 9th Floor, Room 945 commencing at 2:00 P.M. on Wednesday, December 18, 2013. Interested parties can obtain copies of proposed agreements or request sign-language interpreters (with at least seven days prior notice) at 55 Water Street, 9th Floor SW, New York, NY 10041, or by calling (212) 839-6550.

**#1** In the matter of a proposed revocable consent authorizing 5th Midtown LLC to continue to maintain and use two flagpoles on the north sidewalk of East 46th Street, east of Fifth Avenue, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2013 to June 30, 2023.

There shall be no compensation required for this revocable consent

the maintenance of a security deposit in the sum of \$5,000 and the insurance shall be in the amount of One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) aggregate.

**#2** In the matter of a proposed revocable consent authorizing Consolidated Edison Company of New York, Inc. to continue to maintain and use bollards and lampposts on the east sidewalk of Irving Place, between East 14th and East 15th Streets, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2013 to June 30, 2023 and provides among other terms and conditions for compensation payable to the City according to the following schedule:

For the period of July 1, 2013 to June 30, 2023 - \$1,300/annum.

the maintenance of a security deposit in the sum of \$3,000 and the insurance shall be in the amount of One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) aggregate.

**#3** In the matter of a proposed revocable consent authorizing DIFT, LLC to construct, maintain and use overhead building lights over the north sidewalk of Union Square East, west of East 15th Street, and over the west sidewalk of East 15th Street, north of Union Square East, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from the date of Approval by the Mayor to June 30, 2024 and provides among other terms and conditions for compensation payable to the City according to the following schedule:

From the Approval Date to June 30, 2024 - \$1,825/annum.

the maintenance of a security deposit in the sum of \$5,000 and the insurance shall be the amount of One Million Dollars (1,000,000) per occurrence, and two Million Dollars (\$2,000,000) aggregate.

**#4** In the matter of a proposed revocable consent authorizing Frank & Walter Eberhart L.P. #1 to continue to maintain and use a fenced-in area, on the north sidewalk of east 81st Street, between First and Second Avenues, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2013 to June 30, 2023 and provides among other terms and conditions for compensation payable to the City according to the following schedule:

For the period from July 1, 2013 to June 30, 2023 - \$237/annum.

The maintenance of a security deposit in the sum of \$1,500 and the insurance shall be the amount of One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) aggregate.

**#5** In the matter of a proposed revocable consent authorizing Michael Chaney and Larissa A. Kirschner to construct, maintain and use a fenced-in area on the south sidewalk of West 23rd Street, between Eighth Avenue and Ninth Avenue, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from the date of Approval by the Mayor to June 30, 2024 and provides among other terms and conditions for compensation payable to the City according to the following schedule:

From the Approval Date to June 30, 2024 - \$307/annum.

the maintenance of a security deposit in the sum of \$5,000 and the insurance shall be in the amount of One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) aggregate.

n27-d18

**PROPERTY DISPOSITION**

**LAW**

■ NOTICE

**NOTICE IS HEREBY GIVEN THAT A REAL PROPERTY ACQUISITION AND DISPOSITION PUBLIC HEARING**, in accordance with Section 1266-c of the New York Public Authorities Law, will be held on Monday, December 23, 2013 commencing at 10:00 A.M. at 22 Reade Street, 2nd Floor Conference Room, in the Borough of Manhattan, in the matter of the addition of a special transit land use transit easement to the Agreement of Lease dated June 1, 1953 (as extended, supplemented, amended and renewed) between the City of New York, as landlord, and the New York City Transit Authority, as tenant. Said easement will be located on Block 1330, Lot 15 (f/k/a part of Lot 13) in the Borough of Manhattan, City and State of New York.

Individuals requesting Sign Language interpreters should contact the Mayor's Office of Contract Services, Public Hearings Unit, 253 Broadway, Room 915, New York, NY 10007, (212) 788-7490, no later than SEVEN (7) BUSINESS DAYS PRIOR TO THE PUBLIC HEARING. TDD users should call Verizon relay services.

n22-d23

**POLICE**

**OWNERS ARE WANTED BY THE PROPERTY CLERK DIVISION OF THE NEW YORK CITY POLICE DEPARTMENT.**

The following listed property is in the custody, of the Property Clerk Division without claimants.

Recovered, lost, abandoned property, property obtained from prisoners, emotionally disturbed, intoxicated and deceased persons; and property obtained from persons incapable of caring for themselves.

Motor vehicles, boats, bicycles, business machines, cameras, calculating machines, electrical and optical property, furniture, furs, handbags, hardware, jewelry, photographic equipment, radios, robes, sound systems, surgical and musical instruments, tools, wearing apparel, communications equipment, computers, and other miscellaneous articles.

**INQUIRIES**

Inquiries relating to such property should be made in the Borough concerned, at the following office of the Property Clerk.

**FOR MOTOR VEHICLES**

(All Boroughs):

- \* Springfield Gardens Auto Pound, 174-20 North Boundary Road, Queens, NY 11430, (718) 553-9555
- \* Erie Basin Auto Pound, 700 Columbia Street, Brooklyn, NY 11231, (718) 246-2030

**FOR ALL OTHER PROPERTY**

- \* Manhattan - 1 Police Plaza, New York, NY 10038, (646) 610-5906.
- \* Brooklyn - 84th Precinct, 301 Gold Street, Brooklyn, NY 11201, (718) 875-6675.
- \* Bronx Property Clerk - 215 East 161 Street, Bronx, NY 10451, (718) 590-2806.
- \* Queens Property Clerk - 47-07 Pearson Place, Long Island City, NY 11101, (718) 433-2678.
- \* Staten Island Property Clerk - 1 Edgewater Plaza, Staten Island, NY 10301, (718) 876-8484.

j1-d31

**PROCUREMENT**

**“Compete To Win” More Contracts!**  
Thanks to a new City initiative - “Compete to Win” - the NYC Department of Small Business Services offers a new set of FREE services to help create more opportunities for minority and women-owned businesses to compete, connect and grow their business with the City. With NYC Construction Loan, Technical Assistance, NYC Construction Mentorship, Bond Readiness, and NYC Teaming services, the City will be able to help even more small businesses than before.

- Win More Contracts at [nyc.gov/competetowin](http://nyc.gov/competetowin)

*“The City of New York is committed to achieving excellence in the design and construction of its capital program, and building on the tradition of innovation in architecture and engineering that has contributed to the City's prestige as a global destination. The contracting opportunities for construction/construction services and construction-related services that appear in the individual agency listings below reflect that commitment to excellence.”*

**HHS ACCELERATOR**

To respond to human services Requests for Proposals (RFPs) released Fall 2013 and later, vendors must first complete and submit an electronic prequalification application using the City's Health and Human Services (HHS) Accelerator System. The HHS Accelerator System is a web-based system maintained by the City of New York for use by its human services Agencies to manage procurement. To establish this, the City of New York is using the innovative procurement method, as permitted and in accordance with Section 3-12 of the Procurement Policy Board Rules of the City of New York ("PPB Rules"). The new process will remove redundancy by capturing information about boards, filings, policies, and general service experience centrally. As a result, specific proposals for funding will be more focused on program design, scope, and budget.

Important information about the new method

- Prequalification applications are required every three years
- Documents related to annual corporate filings must be submitted on an annual basis to remain eligible to compete
- Prequalification applications will be reviewed to validate compliance with corporate filings, organizational capacity, and relevant service experience
- Approved organizations will be eligible to compete and would submit electronic proposals through the system.

RFPs to be managed by HHS Accelerator are listed on the NYC Procurement Roadmap located at <http://www.nyc.gov/html/hhsaccelerator/html/roadmap/roadmap.shtml>. All current and prospective vendors should frequently review information listed on roadmap to take full advantage of upcoming opportunities for funding.

**Participating NYC Agencies**

HHS Accelerator, led by the Deputy Mayor for Health and Human Services, is governed by an Executive Steering Committee of Agency Heads who represent the following NYC Client and Community-based Services Agencies: Administration for Children's Services (ACS) Department for the Aging (DFTA) Department of Corrections (DOC) Department of Health and Mental Hygiene (DOHMH) Department of Homeless Services (DHS) Department of Probation (DOP) Department of Small Business Services (SBS) Department of Youth and Community Development (DYCD) Housing and Preservation Department (HPD) Human Resources Administration (HRA) Office of the Criminal Justice Coordinator (CJC)

To sign up for training on the new system, and for additional information about HHS Accelerator, including background materials, user guides and video tutorials, please visit [www.nyc.gov/hhsaccelerator](http://www.nyc.gov/hhsaccelerator).

**ADMINISTRATION FOR CHILDREN'S SERVICES**

■ SOLICITATIONS

*Human/Client Services*

**NON-SECURE DETENTION GROUP HOMES** – Negotiated Acquisition – Judgment required in evaluating proposals - PIN# 06813N0006 – DUE 06-30-15 AT 2:00 P.M. – The Administration for Children's Services, Division of Youth and Family Justice is soliciting applications from organizations interested in operating non-secure detention group homes in New York City. This is an open-ended solicitation.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*Administration for Children's Services, 150 William Street, 9th Floor, New York, NY 10038. Michael Walker (212) 341-3617; Fax: (917) 551-7239; michael.walker@dfa.state.ny.us*

o31-a20

**AGING**

■ INTENT TO AWARD

*Human/Client Services*

**AGING IN NEW YORK FUND** – Sole Source – Available only from a single source - PIN# 12514S0002 – DUE 12-19-13 AT 10:00 A.M. – The NYC Department for the Aging (DFTA) intends to enter into a sole source contract with the Aging in New York Fund, Inc. (ANYF) to manage TimeBanksNYC (TBNYC). TBNYC is a citywide program formed in partnership between DFTA and ANYF that provides a no-cost forum whereby the community and program participants can voluntarily exchange services with one another. The contract is anticipated to be from 1/1/14-12/31/14 with options to renew for a total of two additional years.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*Department for the Aging, 2 Lafayette Street, Room 400, New York, NY 10007. Betty Lee (212) 442-1112; Fax: (212) 442-0994; blee@aging.nyc.gov*

d12-18

**CITY UNIVERSITY**

■ SOLICITATIONS

*Goods & Services*

**VIDEO FORENSIC SOFTWARE** – Competitive Sealed Bids – PIN# ITB4630040 – DUE 01-03-14 AT 3:00 P.M. – VideoFOCUS Pro 4.0, educational version.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*City University, 2155 University Avenue, Colston Hall, 8th Floor, Room No. 821, Bronx, NY 10453. Nelda Alvarez (718) 289-5801; Fax: (718) 289-6466; Nelda.alvarez@bcc.cuny.edu*

d16

**CITYWIDE ADMINISTRATIVE SERVICES**

**OFFICE OF CITYWIDE PURCHASING**

■ SOLICITATIONS

*Goods*

**AUTOMATIC SURFACE GRINDING MACHINE - DSNY** – other – PIN# 857PS1400092 – DUE 01-09-14 AT 9:30 A.M. – A Pre-Solicitation Conference for the above mentioned commodity is scheduled for January 9, 2014 at 9:30 A.M. at 1 Centre Street, New York, NY 10007, 18th Floor. The purpose of this conference is to review proposed specifications for the commodity listed above to ensure a good product and maximum competition. Please make every effort to attend this conference, your participation will assist us in revising the attached specifications so they can be issued as a part of final bid package.

A copy of the pre-solicitation package can be downloaded from the City Record Online site at <http://a856-internet.nyc.gov/nycvendoronline/home.asp>. Enrollment is free. Please review the documents before you attend the conference. If you have questions regarding this conference, please contact Joe Vacirca at (212) 669-8616 or by email at [jvacirca@dcas.nyc.gov](mailto:jvacirca@dcas.nyc.gov)

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*Department of Citywide Administrative Services, 1 Centre Street, 18th Floor, New York, NY 10007. Joseph Vacirca (212) 669-8616; Fax: (212) 669-7581; jvacirca@dcas.nyc.gov*

*City Certified Minority and Women - Owned Business Enterprises (M/WBEs) are encouraged to respond to all DCAS solicitations for competitive Bids/Proposals.*

d16

*Services (Other Than Human Services)*

**PUBLIC SURPLUS ONLINE AUCTION** – Other – PIN# 0000000000 – DUE 12-31-14.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*Department of Citywide Administrative Services, 66-26 Metropolitan Avenue, Queens Village, NY 11379. Donald Lepore (718) 417-2152; Fax: (212) 313-3135; dlepore@dcas.nyc.gov*

s6-f25

■ AWARDS

*Services (Other Than Human Services)*

**HEARING CONSERVATION SERVICES (NAE)** – Negotiated Acquisition – PIN# 857800435 – AMT: \$154,999.50 – TO: Enviromed Corp., 555 Blackwood Clementon Road, Lindenwold, NJ 08021.Negotiated Acquisition Extension - per PPB Rules Section 3-04(b)(2)(iii).

d16

■ VENDOR LISTS

*Goods*

**EQUIPMENT FOR DEPARTMENT OF SANITATION** – In accordance with PPB Rules, Section 2.05(c)(3), an acceptable brands list will be established for the following equipment for the Department of Sanitation:

- A. Collection Truck Bodies
- B. Collection Truck Cab Chassis
- C. Major Component Parts (Engine, Transmission, etc.)

Applications for consideration of equipment products for inclusion on the acceptable brands list are available from: Mr. Edward Andersen, Procurement Analyst, Department of Citywide Administrative Services, Office of Citywide Procurement, 1 Centre Street, 18th Floor, New York, NY 10007. (212) 669-8509.

j2-d31

■ INTENT TO AWARD

*Services (Other Than Human Services)*

**ARCHITECTURAL DESIGN SERVICES IN THE BOROUGHS OF BROOKLYN, QUEENS, AND STATEN ISLAND** – Negotiated Acquisition – PIN# 85608P0002CNVN001 – DUE 12-17-13 – This advertisement is for informational purposes only.

In accordance with Section 3-04 of the Procurement Policy Board Rules, DCAS is seeking to use the Negotiated Acquisition Method to extend its current contract with Stephen B. Jacobs to provide Architectural Design Services in the boroughs of Brooklyn, Queens, and Staten Island. The contract term is from 10/19/2013 through 10/18/2014.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*Department of Citywide Administrative Services, One Centre Street, 18th Floor North, New York, NY 10007-1602. Irene Rubet (212) 386-0451; Fax: (212) 313-3491; irubet@dcas.nyc.gov*

d16

**ENVIRONMENTAL PROTECTION**

■ SOLICITATIONS

*Services (Other Than Human Services)*

**INSTALLATION, REPAIR AND MAINTAIN AND INSPECT HVAC SYSTEMS AT VARIOUS DEP FACILITIES, CITYWIDE** – Competitive Sealed Bids – PIN# 82614FMC2013 – DUE 01-15-14 AT 11:30 A.M. – Document Fee: \$40.00. There will be a pre-bid conference on

1/6/2014, 9:00 A.M., at 59-17 Junction Blvd., 11th Floor Conference Room, Flushing, NY 11373. Bidders are hereby advised that this contract is subject to the Local Law 1 M/WBE requirements.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
Department of Environmental Protection,  
59-17 Junction Blvd., 17th Floor, Flushing, NY 11373.  
Fabian Heras (718) 595-4472; fheras@dep.nyc.gov

d16

## HEALTH AND HOSPITALS CORPORATION

The New York City Health and Hospitals Corporation is regularly soliciting bids for supplies and equipment at its Central Purchasing Offices, 346 Broadway, New York City, Room 516, for its Hospitals and Diagnostic and Treatment Centers. All interested parties are welcome to review the bids that are posted in Room 516 weekdays between 9:00 a.m. and 4:30 p.m. For information regarding bids and the bidding process, please call (212) 442-4018.

j1-d31

## HEALTH AND MENTAL HYGIENE

### AGENCY CHIEF CONTRACTING OFFICER

#### SOLICITATIONS

Services (Other Than Human Services)

**ELEVATOR TEST WITNESS** – Competitive Sealed Bids – PIN# 14BS027700R0X00 – DUE 01-23-14 AT 11:00 A.M. – The Department is seeking a private Elevator Inspection Agency licensed by the Department of Buildings of the City of New York ("DOB"), to furnish DOB licensed agency elevator and chair lift inspection witness services, report filing services and related services. Bids are available for pick-up starting December 16, 2013, at 9:00 A.M. on business days only at the address listed above or online at: <http://www.nyc.gov/health/contracting>. Bids must be received no later than January 23, 2014, at 11:00 A.M. The Public Bid opening will be held at the above address on the same day and time as indicated above. Faxed or E-mail bids will not be accepted. Any questions regarding this Bid should be send in writing to the above Contracting Manager.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.

Health and Mental Hygiene, 42-09 28th Street, 17th Floor, Queens, NY 11101. Shermaine Manifold (347) 396-6678; Fax: (347) 396-6759; Bids@health.nyc.gov

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## HOMELESS SERVICES

#### SOLICITATIONS

Construction / Construction Services

**INSTALLATION OF NEW 12TH FLOOR COMPUTER ROOM** – Competitive Sealed Bids – PIN# 071-13S-02-1457 – DUE 01-28-14 AT 11:00 A.M. – Bidders are hereby advised that this contract is subject to the Project Labor Agreement ("PLA") entered into between the City and Building and Construction Trades Council of Greater New York ("BCTC") affiliated local unions. Please refer to the bid documents for further information.

Bids will be released and available for pick-up on Monday, December 16, 2013 at the above address.

A mandatory pre-bid conference is scheduled for Tuesday, January 14, 2014 at 10:30 A.M. Location: Department of Homeless Services, 33 Beaver Street, 13th Floor Conference Room, New York, NY 10004.

Period of Performance: Two Hundred and Seventy (270) consecutive days.

This contract has 28 percent M/WBE participation goals.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.

Department of Homeless Services, 33 Beaver Street, New York, NY 10004. Shirley Fleming-Morris (212) 361-8422; Fax: (917) 637-7055; sfleming@dhs.nyc.gov

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## HOUSING AUTHORITY

#### SOLICITATIONS

Goods & Services

**EXTERMINATING SERVICES FOR BED BUG IN APARTMENT** – Competitive Sealed Bids – RFQ# 60311 – DUE 01-16-14 – Interested firms may obtain a copy and submit it on NYCHA's website: Doing Business with NYCHA. <http://www.nyc.gov/html/nycha/html/business.shtml>. <http://www.nyc.gov/html/nycha/html/business/sellingtonycha.shtml>.

Vendors are instructed to access the "Register Here" line for "New Vendor;" if you have supplied goods or services to NYCHA in the past and you have your log-in credentials, click the "Log into iSupplier" link under "Existing Upon access, reference applicable RFQ number per solicitation. Vendor electing to submit a non-electronic bid (paper document) will be subject to a \$25.00 non-refundable fee;

payable to NYCHA by USPS-Money Order/Certified Check only for each set of RFQ documents requested. Remit payment to NYCHA Finance Department at 90 Church Street, 6th Floor, New York, NY 10007; obtain receipt and present it to 6th Floor, Supply Management Dept., Procurement Group. A bid package will be generated at time of request.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
Housing Authority, 90 Church Street, 6th Floor, New York, NY 10007. Erneste Pierre-Louis (212) 306-3609; Fax: (212) 306-5109; Erneste.Pierre-Louis@nycha.nyc.gov

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### PURCHASING

#### SOLICITATIONS

Goods & Services

**SMD FURNISHING APPLIANCE PARTS** – Competitive Sealed Bids – RFQ# 60309 AS – DUE 01-09-14 AT 10:40 A.M. – Interested firms may obtain a copy and submit it on NYCHA's website: Doing Business with NYCHA. <http://www.nyc.gov/html/nycha/html/business.shtml>. <http://www.nyc.gov/html/nycha/html/business/sellingtonycha.shtml>.

Vendors are instructed to access the "Register Here" line for "New Vendor;" if you have supplied goods or services to NYCHA in the past and you have your log-in credentials, click the "Log into iSupplier" link under "Existing Upon access, reference applicable RFQ number per solicitation.

Vendor electing to submit a non-electronic bid (paper document) will be subject to a \$25.00 non-refundable fee; payable to NYCHA by USPS-Money Order/Certified Check only for each set of RFQ documents requested. Remit payment to NYCHA Finance Department at 90 Church Street, 6th Floor, New York, NY 10007; obtain receipt and present it to 6th Floor, Supply Management Dept., Procurement Group. A bid package will be generated at time of request.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
Housing Authority, Supply Management Dept., 90 Church Street, 6th Floor, New York, NY 10007.  
Bid documents available via internet ONLY:  
[http://www.nyc.gov/html/nycha/html/business/goods\\_materials.shtml](http://www.nyc.gov/html/nycha/html/business/goods_materials.shtml) Atul Shah (212) 306-4553; shaha@nycha.nyc.gov

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## INVESTIGATION

### AGENCY CHIEF CONTRACTING OFFICER

#### INTENT TO AWARD

Services (Other Than Human Services)

**SUPPORT FOR CITY LAW AND OTHER CITY RESOURCES** – Sole Source – Available only from a single source - PIN# 03214S0004 – DUE 12-18-13 AT 9:00 A.M. – DOI seeks to retain a contractor to maintain a public online database of New York City administrative law decisions, opinions, and other records vital to DOI's law enforcement activities, as well as to hold three training conferences for New York City employees and those that do business with the City on the legal and ethical obligations of City employees and vendors.

Vendors may express their interests in providing similar services in the future by contacting the Department of Investigation, 80 Maiden Lane, 25th Floor, New York, NY 10038, Attn: Vicki C. Davie, ACCO, or via email at [vdavie@doi.nyc.gov](mailto:vdavie@doi.nyc.gov) or call (212) 825-2875.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
Department of Investigation, 80 Maiden Lane, 25th Floor, NY, NY 10038. Vicki Davie (212) 825-2875; Fax: (212) 825-2829; [vdavie@doi.nyc.gov](mailto:vdavie@doi.nyc.gov)

d11-17

## PARKS AND RECREATION

#### SOLICITATIONS

Goods & Services

**BIDS FOR OPERATION OF MOBILE FOOD CONCESSIONS AT BATTERY PARK** – Public Bid – PIN# CWB2014C – DUE 01-21-14 AT 11:00 A.M. – In accordance with Section 1-12 of the Concession Rules of the City of New York, the New York City Department of Parks and Recreation ("Parks") is issuing, as of the date of this notice, a Request for Bids for the operation of up to five (5) mobile concessions at Battery Park, Manhattan.

Hard copies of the RFB can be obtained, at no cost, commencing on Thursday, December 12, 2013 through Tuesday, January 21, 2014 at 11:00 A.M. between the hours of 9:00 A.M. and 5:00 P.M., excluding weekends and holidays, at the Revenue Division of the New York City Department of Parks and Recreation, which is located at 830 Fifth Avenue, Room 407, New York, NY 10065. All bids submitted in response to this RFB must be submitted no later Tuesday, January 21, 2014 at 11:00 A.M.

The RFB is also available for download, commencing on December 12, 2013 through January 21, 2014 at 11:00 A.M. on Parks' website. To download the RFB, visit [www.nyc.gov/parks/businessopportunities](http://www.nyc.gov/parks/businessopportunities), click on the link for "Concessions Opportunities at Parks" and, after logging

in, click on the "download" link that appears adjacent to the RFB's description.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
Parks and Recreation, The Arsenal, 830 Fifth Avenue, Room 407, NY, NY 10065. Glenn Kaalund, Mark Feinstein (212) 360-1397; Fax: (212) 360-3434; [glenn.kaalund@parks.nyc.gov](mailto:glenn.kaalund@parks.nyc.gov)

d12-26

**REQUEST FOR BIDS FOR MOBILE FOOD CONCESSION PERMITS AT VARIOUS PARKS, CITYWIDE** – Public Bid – PIN# CWB2014B – DUE 01-21-14 AT 11:00 A.M. – In accordance with Section 1-12 of the Concession Rules of the City of New York, the New York City Department of Parks and Recreation ("Parks") is issuing, as of the date of this notice, a Request for Bids for the sale of food from mobile food units at various locations, Citywide.

Hard copies of the RFB can be obtained, at no cost, commencing on Thursday, December 12, 2013 through Tuesday, January 21, 2014 at 11:00 A.M. between the hours of 9:00 A.M. and 5:00 P.M., excluding weekends and holidays, at the Revenue Division of the New York City Department of Parks and Recreation, which is located at 830 Fifth Avenue, Room 407, New York, NY 10065. All bids submitted in response to this RFB must be submitted no later Tuesday, January 21, 2014 at 11:00 A.M.

The RFB is also available for download, commencing on December 12, 2013 through January 21, 2014 at 11:00 A.M. on Parks' website. To download the RFB, visit [www.nyc.gov/parks/businessopportunities](http://www.nyc.gov/parks/businessopportunities), click on the link for "Concessions Opportunities at Parks" and, after logging in, click on the "download" link that appears adjacent to the RFB's description.

For more information or to request a copy of the RFB, contact Glenn Kaalund, Project Manager, at (212) 360-1397 or via email at [glenn.kaalund@parks.nyc.gov](mailto:glenn.kaalund@parks.nyc.gov)

**TELECOMMUNICATION DEVICE FOR THE DEAF (TDD)**  
212-504-4115

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
Parks and Recreation, The Arsenal, 830 Fifth Avenue, Room 407, NY, NY 10065. Glenn Kaalund, Mark Feinstein (212) 360-1397; Fax: (212) 360-3434; [glenn.kaalund@parks.nyc.gov](mailto:glenn.kaalund@parks.nyc.gov); [deborah.richardson@parks.nyc.gov](mailto:deborah.richardson@parks.nyc.gov)

d12-26

### REVENUE AND CONCESSIONS

#### SOLICITATIONS

Services (Other Than Human Services)

**RENOVATION, OPERATION AND MAINTENANCE OF RIDING STABLES** – Competitive Sealed Proposals – Judgment required in evaluating proposals - PIN# X92-D-ST-2013 – DUE 02-03-14 AT 3:00 P.M. – At Van Cortlandt Park, in the Bronx. There will be a recommended site visit on Wednesday, January 8, 2014 at 11:00 A.M. We will be meeting in the parking lot. If you are considering responding to this RFP, please make every effort to attend this recommended site visit.

**TELECOMMUNICATION DEVICE FOR THE DEAF (TDD)**  
212-504-4115

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
Parks and Recreation, The Arsenal-Central Park, 830 Fifth Avenue, Room 407, New York, NY 10021. Charlotte Hall (212) 360-3407; Fax: (212) 360-3434; [charlotte.hall@parks.nyc.gov](mailto:charlotte.hall@parks.nyc.gov)

d9-20

## TRANSPORTATION

### BRIDGES

#### AWARDS

Construction / Construction Services

**INDEPENDENT MONITORING OF LEAD PAINT REMOVAL AND ENVIRONMENTAL REMEDIATION OPERATIONS AT VARIOUS BRIDGES, CITYWIDE** – Request for Proposals – PIN# 84112MBBR646 – AMT: \$2,107,728.86 – TO: Enviromed Services, Inc., 68 Jay Street, Suite 402, Brooklyn, NY 11201.

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## AGENCY RULES

## OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

#### NOTICE

### Notice of Promulgation of Rule

Notice is hereby given in accordance with 1043(b) of the Charter of the City of New York ("Charter") that the Office of Administrative Trials and Hearings ("OATH") promulgates the following rule implementing Executive Order No. 148 (June 8, 2011) transferring adjudications from the Taxi and Limousine Commission to the Taxi and Limousine

**Tribunal at OATH.**

This rule is promulgated pursuant to sections 1043 and 1049 of the Charter and section 1(c) of Mayoral Executive Order No. 148.

This rule was published in the *City Record* on November 1, 2013, and a public hearing was held by OATH on December 2, 2013 at OATH offices at 40 Rector St., 6th Floor, Court Room E, New York, New York. Six (6) members of the public attended the public hearing and five (5) members of the public testified at the public hearing on the proposed rule. One written comment was submitted at the public hearing. OATH has considered the testimony from the 5 members of the public and the one written comment concerning the Proposed Rule. After considering the testimony and the one written comment from the December 2, 2013 Public Hearing, OATH has modified the proposed rule. This rule will take effect 30 days after publication.

**Statement of Basis and Purpose of Final Rule****Background of Rule Amendments**

On November 2, 2010, New York City voters approved a number of Charter revisions, including:

- an amendment authorizing the Mayor, by executive order, to consolidate City administrative tribunals into the Office of Administrative Trials and Hearings (“OATH”), and,
- the establishment of a committee to recommend which tribunals or types of cases should be transferred to OATH.

The Mayor’s Committee on Consolidation of Administrative Tribunals issued its “Report and Recommendations,” dated June 7, 2011, containing an Appendix with recommended modifications to the various tribunals’ rules (“Report” and “Appendix”). The rules contained in the Appendix that were designated as OATH rules, referred to below as “interim rules,” were proposed to be continued until OATH conducted rulemaking governing the procedures of the tribunals to be under its jurisdiction.

As further authorized by the Charter amendments, on June 8, 2011, the Mayor issued E.O. 148, which accepted the Committee’s recommendations and, among other things, transferred to OATH the administrative tribunals then located within the Taxi and Limousine Commission (TLC), and the Department of Health and Mental Hygiene, effective July 3, 2011.

With respect to the Taxi and Limousine Tribunal, E.O. 148, by approving the Report and adopting its Appendix, provided that the rules and procedures governing adjudication at, and otherwise affecting, the TLC Administrative Tribunal, contained in chapters 68 and 69 of Title 35 of the Rules of the City of New York, would generally be continued with some modifications as interim rules of OATH applicable to the Taxi and Limousine Tribunal within OATH. This set of interim rules would be continued until such time as OATH completed rulemaking in accordance with the Charter. See Executive Order 148, §1(b) and (c).

Moreover, TLC is promulgating other conforming changes to chapter 68 of Title 35 of the Rules of the City of New York. The rulemaking actions of TLC and OATH are being coordinated so that the amendments proposed by each entity will take effect at the same time.

Unless otherwise specified, references to 35 RCNY chapters 68 and 69 that are included here refer to provisions modified in accordance with E.O. 148.

**Summary of Rule Amendments**

OATH will repeal the interim rules transferred by Executive Order 148, and add a new chapter 5 in Title 48 of RCNY, which will in general codify the interim rules, but with some further changes reflecting OATH practice. The changes in the new chapter 5 in Title 48 of RCNY:

- Replace all references to the existence and jurisdiction of the TLC Adjudications Tribunal with references to OATH generally or the OATH Taxi and Limousine Tribunal in particular;
- Modify various hearing procedures relating to reschedules, adjournments, notifications, defaults, appeals, and other matters in order to reduce the burden on OATH and respondents, as well as to improve record-keeping;
- Provide language assistance services to respondents when needed;
- Modify rules governing the conduct of people who appear at the OATH Taxi and Limousine Tribunal, including registration and obligations of non-attorney representatives; and
- Where appropriate, make these procedural rules consistent with OATH’s practice generally and with respect to other tribunals.

**Specific Amendments to be Enacted**

Section 5-01 (“Definitions Specific to this Chapter”) sets forth the meanings of terms specifically applicable to the Taxi and Limousine Tribunal.

Section 5-02 (“Scope of this Chapter”) subdivision (a) sets forth the jurisdiction of the tribunal. Subdivision (b) sets forth the tribunal’s powers, which include imposing fines and penalties in accordance with the rules of the TLC. Subdivision (c) sets forth the powers of the tribunal’s hearing officers. Subdivision (d) provides that the tribunal’s rules apply to all cases heard at the tribunal.

Section 5-03 (“Service and Filing of Summons”) cross-references TLC’s rules for the requirements for the proper service of the summons and adds the requirement of filing of the summons with the tribunal prior to the first scheduled hearing date.

Section 5-04 (“Contents of Summons”) subdivision (a) cross-references TLC’s rules for the required contents of summons. Subdivision (b) of this section continues, with changes, interim rule 35 RCNY §68-06, which retained the existing

TLC rule on the failure of a summons to contain all required information. Where information required by subdivision (a) is missing, the hearing officer may proceed with the hearing, correct the rule or code section cited, grant an adjournment, or dismiss the violation. Subdivision (c) of this section provides that if a summons is sworn to under oath or affirmed under penalty of perjury, the summons will constitute prima facie evidence of the facts stated therein.

Section 5-05 (“Appearance Requirements”) continues, with non-substantive reorganization, interim rule 35 RCNY §68-07. Subdivision (a) of the new rule sets forth a respondent’s options for responding to a summons where the respondent’s personal appearance is not required. It also clarifies that payment of a fine under this section constitutes a guilty plea. Subdivision (b) sets forth a respondent’s options for responding to a summons where the respondent’s personal appearance is required. Subdivision (c) sets forth the consequence of a respondent’s failure to respond pursuant to subdivisions (a) or (b).

Section 5-06 (“Requests to Reschedule”) continues, with changes, the portion of interim rule 35 RCNY §68-09 related to requests to reschedule a hearing. Subdivision (a) of the new rule sets forth who may make requests to reschedule. Subdivision (b) of the new rule provides procedures for such requests to reschedule. Under the interim rule, pre-hearing reschedule requests were required to be made before the first scheduled hearing date. Reflecting the fact that under the new rule, both TLC and the respondent each have the right to request a prehearing reschedule, the new rule eliminates the requirement that such requests be made prior to the first scheduled hearing date in order to afford both parties the opportunity to request one pre-hearing reschedule, so long as such requests are made at least five business days before the hearing date sought to be adjourned.

Section 5-07 (“Requests for Adjournment”) provides procedures for requests for adjournment. As with the interim rule, the new rule requires that all adjournment requests be made at a hearing either to obtain the testimony of a complaining witness or for good cause. Subparagraph (a)(4)(iii) of interim rule 35 RCNY §68-09, which addressed the non-attendance of complaining witnesses who have submitted a sworn or affirmed summons, has been deleted and moved to new rule Section 5-09 (“Hearings Procedures”).

Section 5-08 (“Hearings – Who Must or Can Appear for the Respondent”) continues, with changes, interim rule 35 RCNY § 68-10. It removes the requirement that a respondent who is not a licensee must appear personally and provides that any respondent may be represented at a hearing by an attorney or by an authorized non-attorney representative.

Section 5-09 (“Hearings – Procedures”) continues, with changes, interim rule 35 RCNY § 68-11. The new rule makes several substantive changes to the interim rule, described below.

- Subdivision (b) provides that OATH will provide appropriate language assistance services to respondents when needed. This subdivision describes how the hearing officer may make such a determination.
- Subdivision (d) continues, with modifications, the interim rule regarding a respondent’s right to confront TLC witnesses. Subparagraph (d)(1)(i), which addresses the non-attendance of complaining witnesses who have submitted a sworn or affirmed summons, has been moved to this section from interim rule 35 RCNY § 68-09(a)(4)(iii) (“Hearings – Adjournment Requests”).
- Subdivision (h) provides that payment of fines must be made in accordance with TLC’s rules.

Section 5-10 (“Defaults”) continues, with changes, interim rule 35 RCNY § 68-12. The new rule removes requirements from former § 68-12 for certain findings by the hearing officer before a default judgment is issued, to make them consistent with procedures currently in place at the Environmental Control Board (ECB). The new rule additionally standardizes penalties imposed after default determinations as the maximum penalties permitted under TLC rules or other applicable laws.

Section 5-11 (“Respondent’s Right to Challenge a Default Decision”) continues, with changes, interim rule 35 RCNY § 68-13. The new rule makes several substantive changes to the interim rule, described below.

- Subdivision (c) requires that a first motion to vacate filed within 60 days of the default decision state a reasonable excuse for the respondent’s failure to appear at the hearing, without the requirement in the interim rule to show a defense to the charge.
- Subdivision (d) requires that motions filed after 60 days but before two years, provide a reasonable excuse for the respondent’s failure to appear at the hearing and a reasonable excuse for delay in presenting the motion, without the requirement in the interim rule of a reasonable excuse for delay in presenting the motion and a defense to the charge.
- Subdivision (e) of the interim rule, which provided for subsequent motions to vacate, is removed.
- Subdivision (h) is added, which allows subsequent motions to vacate only in exceptional circumstances and in order to avoid injustice.
- Subdivision (g)(3) of the interim rule, which provided that any default fines paid be refunded when a default was vacated, has been removed. Instead, in accordance with subdivision 5-09(h) of the new rules, policies relating to the collection of fines are to be governed by TLC’s rules.

Consistent with its experience with motions to vacate default decisions at the ECB Tribunal, OATH anticipates that these changes will simplify the process for respondents and increase efficiency without an impact on due process.

Section 5-12 (“Appeals”) combines, with changes, interim rules 35 RCNY §§ 68-14 and 68-15, which provided separate procedures for appeals by respondents and appeals by the TLC. Under the new rule, the procedures for appealing a decision are the same for both respondents and the TLC. In

addition to that change, the new rule does the following: Re-orders some provisions and adjusts some of the technical requirements for notice and filing of appeals and answers in subdivisions (c), (d), and (e); Deletes the Appeal Unit’s authority to modify lawfully imposed penalties; Provides that appeals of cases where a hearing officer’s decision results in the suspension or revocation of a license will be expedited by the Appeals Unit.

Consistent with its experience with appeals at the ECB Tribunal, OATH anticipates that these changes will increase efficiency and reduce scheduling difficulties and backlogs without an impact on due process.

Section 5-13 (“Chairperson Review”) is added to be consistent with the new TLC 35 RCNY § 68-12.

- The rule acknowledges the new TLC process that permits the TLC Chairperson, or if he or she designates, the General Counsel for the TLC, to review any determination of the Appeals Unit that interprets an enumerated rule or statute which the TLC administers, and to issue a decision adopting, rejecting or modifying the Appeals Unit decision.
- The Chairperson’s interpretation of the Commission’s rules and the statutes it administers shall be considered agency policy and must be applied in future adjudications involving the same rules or statutes.

Section 5-14 (“Special Procedures”) sets forth special procedures, including timeframes for calendaring and for issuing decisions, applicable to certain kinds of cases heard at the tribunal, as provided by either the Administrative Code of the City of New York or chapter 68 of the TLC’s rules. The procedures in this section apply to cases involving a failure to take a drug test in which respondent submits written documentation for review by a hearing officer, and also to unlicensed activity cases.

Sections 5-15 and 5-16 replace Chapter 69 of the interim rules. Consistent with its experience at the ECB Tribunal, OATH anticipates that these changes to the requirements and regulation of the conduct of representatives at the tribunal will increase access to justice and provide for more orderly hearings, without an impact on due process.

Section 5-15 (“Registered Representatives”) requires representatives of five or more respondents (other than family members) within a calendar year to register with OATH. The new rule prohibits representatives who are not attorneys from misrepresenting their qualifications (see also Prohibited Conduct below). Attorneys admitted to practice in New York State are not required to register.

Section 5-16 (“Prohibited Conduct”) defines prohibited conduct and includes conduct that occurs both inside and outside of the hearing room. It also covers conduct outside OATH that would lead OATH personnel to conclude that a representative lacks honesty and integrity that will adversely affect a representative’s practice before the tribunal—for example, attempted bribery of an issuing officer. The new rule allows the Chief Administrative Law Judge of OATH to suspend registered representatives or attorneys who do not comply with OATH’s rules, but only after the attorney or representative is given notice and a reasonable opportunity to rebut the claims against him or her. The suspension may be for a specified period of time or indefinitely.

Section 5-17 (“Computation of Time”) was added to clarify how to calculate any period of time prescribed in these rules.

OATH’s authority for these rules is found in Sections 1043 and 1049 of the City Charter and Section 1(c) of Mayoral Executive Order No. 148 (June 8, 2011).

New material is underlined.  
Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Title 48 of the Rules of the City of New York is amended by adding a new chapter 5, to read as follows:

**CHAPTER 5****TAXI AND LIMOUSINE TRIBUNAL AT OATH****§5-01 Definitions Specific to this Chapter**

As used herein the following terms mean:

Appearance means a communication with the Tribunal that is made by a party or the representative of a party in connection with a summons that is returnable to the Tribunal or is or was pending before the Tribunal. An appearance may be made in person or as otherwise provided in this chapter.

Chief Administrative Law Judge means the agency head of OATH appointed by the Mayor pursuant to New York City Charter §1048.

Ex Parte means a communication made to the Tribunal without notice to the adverse party.

Hearing Officer means a person designated by the Chief Administrative Law Judge of OATH, or his or her designee, to carry out the adjudicatory powers, duties and responsibilities of the Taxi and Limousine Tribunal.

OATH means the New York City Office of Administrative Trials and Hearings.

Party means the person named as petitioner or respondent, or intervening as of right, in an adjudicatory action before the Tribunal.  
Person means any individual, partnership, unincorporated

association, corporation, limited liability company or governmental agency.

Respondent means the person against whom the charges alleged in a summons have been filed.

Summons means the document referred to in Charter §2303 as a notice of violation, which specifies the charges forming the basis of an adjudicatory proceeding before the Tribunal.

TLC means the New York City Taxi and Limousine Commission.

Tribunal or Taxi and Limousine Tribunal means the Taxi and Limousine Tribunal at OATH.

#### §5-02 Scope of this Chapter

(a) Jurisdiction. In accordance with Mayoral Executive Order No. 148, dated June 8, 2011, and pursuant to Charter §1048 (2), the Taxi and Limousine Tribunal at OATH has jurisdiction to adjudicate charges of violations of any laws or regulations that the Taxi and Limousine Commission has the duty or authority to enforce, and to impose penalties in accordance with applicable laws, rules and regulations.

(b) Hearing Officers. Hearing officers may:

(1) Carry out the adjudicatory powers of an administrative law judge set forth in Title 19 of the New York City Administrative Code.

(2) Administer oaths and affirmations, examine witnesses, rule upon offers of proof or other motions and requests, admit or exclude evidence, grant adjournments, and oversee and regulate other matters relating to the conduct of a hearing;

(3) Bar from participation in a hearing any person, including a party, representative or attorney, witness or observer who engages in disorderly, delaying or obstructionist conduct that disrupts or interrupts the proceedings of the Tribunal; and

(4) Take any other action authorized by applicable laws, rules and regulations, or that is delegated by the Chief Administrative Law Judge under authority of applicable law, rule or regulation.

#### §5-03 Service and Filing of Summons

(a) Service of Summons. A summons served pursuant to the requirements set forth in Chapter 68 of Title 35 of the Rules of the City of New York will be considered sufficient service.

(b) Filing of Summons. The original or a copy of the summons together with proof of service shall be filed with the Tribunal prior to the first scheduled hearing date.

#### §5-04 Contents of Summons

(a) Required Information. A summons must contain, at a minimum, all information required by Chapter 68 of Title 35 of the Rules of the City of New York.

(b) Failure of Summons to Provide Information.

(1) If, at a hearing, a respondent claims that the summons did not provide the required information, the hearing officer will determine whether there is a lack of required information and, if so, the TLC will be given the opportunity to provide the respondent with the required information. The hearing officer will then determine whether the lack of information has unfairly prejudiced the respondent.

(2) The hearing officer may determine whether to:

(i) Proceed with the hearing.

(ii) Correct the citation to the Rule or Code Section; if there is a conflict between the rule or Code section cited and the description in the violation, the description controls the final resolution of the issue.

(iii) Grant an adjournment, or

(iv) Dismiss the violation.

(3) If a summons is dismissed solely because the information specified in subdivision (a) has not been provided, such dismissal will be without prejudice, and the TLC may issue an amended summons.

(c) If the summons is sworn to under oath or affirmed under penalty of perjury, the summons or a copy of the summons will be admitted into evidence and will constitute prima facie evidence of the facts stated therein.

#### §5-05 Appearance Requirements

(a) When Appearance Is Not Required. If the summons does not require the respondent to appear at a hearing, the respondent may:

(1) Pay the scheduled fine in person or by mail (or in any other manner approved by the Tribunal) prior to the scheduled hearing or other applicable date provided in the summons. Payment of the fine constitutes a guilty plea. By pleading guilty, the respondent admits the charges contained in the summons and waives any right to appeal the determination or assessment of penalties; or

(2) Appear for a hearing at the location, date, and time indicated on the summons. If no hearing date is scheduled, the respondent may request a hearing by pleading not guilty to the summons or as otherwise instructed on the summons.

(b) When Appearance is Required. If the summons requires that the respondent appear for a hearing, the respondent or the respondent's representative must appear for a hearing at the location, date, and time indicated on the summons or reschedule notice, as applicable.

(c) Failure to Appear. A respondent's failure to appear or enter a plea in a timely manner constitutes a default to the charges and subjects the respondent to penalties in accordance with applicable laws, rules and regulations.

#### §5-06 Requests to Reschedule

(a) A request to reschedule the scheduled hearing date may be made by the TLC or the respondent.

(b) A party requesting that a hearing be rescheduled to a later date must make such request at least five business days before the hearing date. The request may be made ex parte. Good cause is not necessary for a request to reschedule. No more than one request to reschedule will be granted for each party for each summons.

#### §5-07 Requests for Adjournment

(a) A request to adjourn the hearing to another date must be made to a hearing officer at a hearing. A hearing officer may grant a request for an adjournment to obtain the testimony of complaining witnesses, or upon a showing of good cause.

(1) Adjournment Request to Obtain the Testimony of Complaining Witness. The respondent may request an adjournment for the purpose of obtaining the testimony of a complaining witness who has sworn to or affirmed a summons admitted into evidence pursuant to subdivision 5-04(c) of this chapter. The respondent must explain the subject of the testimony that the respondent intends to obtain from the complaining witness and must explain the relevance of that testimony to either the violations charged or a defense to those charges. The adjournment may be granted only if the hearing officer concludes that the complaining witness's testimony is reasonably likely to be necessary to a fair hearing of the violations charged or of the defenses to those charges. The hearing officer will issue a written decision explaining the hearing officer's reasons for granting or denying the request.

(2) Adjournment Request Upon a Showing of Good Cause. Either party may request an adjournment upon a showing of good cause. The hearing officer will issue a written decision explaining the reasons for granting or denying the request. In deciding whether there is good cause for an adjournment, the hearing officer may consider:

(i) Whether granting the adjournment is necessary for the party requesting the adjournment to effectively present the party's case;

(ii) Whether granting the adjournment would be unfair to the other party;

(iii) Whether granting the adjournment would cause inconvenience to any witness;

(iv) The age of the case and the number of adjournments previously granted;

(v) Whether the party requesting the adjournment prepared for the scheduled hearing with reasonable diligence;

(vi) Whether the need for the adjournment is due to facts that are beyond the requesting party's control;

(vii) The balance of the need for efficient and expeditious adjudication of the case and the need for full and fair consideration of the issues relevant to the case; and

(viii) Any other fact that the hearing officer considers to be relevant to the request for an adjournment.

#### §5-08 Hearings – Who Must or Can Appear for the Respondent

(a) A respondent may be represented at a hearing by an attorney or by an authorized non-attorney representative.

(1) Corporations. If the respondent is a corporation, it may also be represented by an officer, director, or employee of the respondent corporation designated as a representative by the respondent.

(2) Limited Liability Companies. If the respondent is a limited liability company, it may also be represented by a member or employee of the respondent limited liability company designated as an agent for the respondent.

(3) Partnerships. If the respondent is a partnership, it may also be represented by any partner.

(b) Proof of Authorization. Any individual representing a respondent at a hearing must provide proof that the respondent has authorized him or her to represent the respondent.

#### §5-09 Hearing Procedures

(a) Identification Required. A respondent must provide the hearing officer with a valid government-issued photo ID prior to the hearing.

(b) Language Assistance Services.

(1) Appropriate language assistance services will be provided to respondents whose primary language is not English to assist them in communicating meaningfully with the hearing officer. Such language assistance services will include interpretation of hearings conducted by hearing officers, where interpretation is necessary to assist the respondent in communicating meaningfully with the hearing officer. At the beginning of any hearing, the hearing officer will advise the respondent of the availability of interpretation. In determining whether interpretation is necessary to assist the respondent in communicating meaningfully with the hearing officer, the hearing officer will consider all relevant factors, including but not limited to: (i) information from Tribunal administrative personnel identifying a respondent as requiring language assistance services to communicate meaningfully with a hearing officer; (ii) a request by the respondent for interpretation; (iii) even if interpretation was not requested by the respondent, the hearing officer's own assessment of whether interpretation is necessary to enable meaningful communication with the respondent. If the respondent requests an interpreter and the hearing officer determines that an interpreter is not needed, that determination and the basis for the determination will be made on the record.

(2) When required by paragraph (1) of this subdivision, interpretation services will be provided at hearings by a professional interpretation service that is made available by the Tribunal, unless the respondent requests the use of another interpreter, in which case the hearing officer in his or her discretion may use the respondent's requested interpreter. In exercising that discretion, the hearing officer will take into account all relevant factors, including but not limited to: (i) the respondent's preference, if any, for his or her own interpreter; (ii) the apparent skills of the respondent's requested interpreter; (iii) if the respondent's requested interpreter is a child under the age of eighteen, the age of the interpreter; (iv) minimization of delay in the hearing process; (v) maintenance of a clear and usable hearing record; (vi) whether the respondent's requested interpreter is a potential witness who may testify at the hearing. The hearing officer's determination and the basis for this determination will be made on the record.

(c) Right to Present Witnesses. A respondent is entitled to be present throughout the entire hearing and can present witnesses. However, witnesses will be excluded from the hearing room except while they are actually testifying.

(d) Right to Confront Witnesses. The TLC is required to produce a complaining witness, if there is one, where the witness's credibility is relevant, except as otherwise provided herein. If the witness does not personally appear, the TLC must make reasonable efforts to have the witness available by videoconferencing or teleconferencing at the hearing. The respondent will have the opportunity to confront a complaining witness if the witness is produced.

(1) If the TLC is unable to produce the witness in person or by videoconference or teleconference, it will provide the hearing officer with a statement setting forth its efforts to produce the witness. If the hearing officer determines that the TLC's efforts were not adequate, the hearing officer will dismiss the summons.

(2) The non-attendance of a complaining witness who submitted a sworn or affirmed summons will not be considered a failure by the TLC to produce a complaining witness, unless the respondent has already requested an adjournment of an earlier hearing date for the purpose of obtaining the testimony of such a complaining witness pursuant to §5-07 of this chapter.

(e) Conduct of Hearing.

(1) All hearings will be conducted before a hearing officer.

(2) The hearing officer will consider all relevant testimony and review documentary evidence submitted at the hearing.

(3) Evidence at a hearing may include, but is not limited to: affidavits or affirmations submitted under penalties of perjury, records maintained by the TLC or by another governmental body in its regular course of business, photographs and other documents.

(4) Although the formal rules of evidence do not apply, all witnesses must testify under oath or affirmation.

(5) At the conclusion of the hearing, the hearing officer will issue a written decision that includes findings of fact and conclusions of law.

(f) Recordings. All hearings will be recorded by the Tribunal. No other recording or photograph of the hearing may be made without prior written permission of the Tribunal. The Tribunal's recording of the hearing is the official recording.

(g) Findings of Guilt and Imposition of Penalty. If the hearing officer finds that a violation has been committed, the hearing officer will impose the appropriate penalties, which may include a fine, penalty points, a suspension or revocation of the respondent's license and any other penalty authorized by applicable laws, rules and regulations.

(h) Payment of Fines. Payment of fines must be made in accordance with the requirements set forth in Chapter 68 of Title 35 of the Rules of the City of New York.

#### §5-10 Defaults

(a) A respondent who fails to appear, enter a plea, or make a request to reschedule as required by §5-06 of this chapter will be deemed to have defaulted.

(b) Upon such default, without further notice to the respondent, and without a hearing being held, all facts alleged in the summons will be deemed admitted, the respondent found in violation, and the maximum penalties authorized by applicable laws, rules and regulations, which may include a fine, penalty points, and suspension or revocation of the respondent's license, will be applied.

(c) Decisions rendered because of a default will take effect immediately.

(d) The Tribunal will notify the respondent of the issuance of a default decision by mailing a copy of the decision to the respondent at the address on file with the TLC or by providing a copy to the respondent or respondent's representative who appears personally at the Tribunal and requests a copy.

(e) The respondent may make a motion in writing requesting that a default be vacated pursuant to §5-11 of this chapter.

#### §5-11 Respondent's Right to Challenge a Default Decision

(a) Motion to Vacate. A respondent may move to vacate a default decision by filing a written motion to vacate within two years from the date of the default decision.

(b) Form of Motion. A motion to vacate must be on a form approved by the Tribunal. The motion must be signed and dated.

(c) Motions Filed Within Sixty Days. A motion to vacate filed within sixty days of the date of the default decision must show a reasonable excuse for the respondent's failure to



appear at the hearing.

(d) Motions Filed More Than Sixty Days But Within Two Years. A motion to vacate filed more than sixty days but within two years of the date of the default decision must show a reasonable excuse for the respondent's failure to appear at the hearing, and a reasonable excuse for delay in presenting the motion.

(e) Reasons for Failing to Appear. In determining whether a respondent has shown a reasonable excuse for failing to appear at a hearing, the hearing officer will consider:

(1) Whether circumstances that could not be reasonably foreseen prevented the respondent from attending the hearing;

(2) Whether the respondent had an emergency or condition requiring immediate medical attention;

(3) Whether the matter had been previously adjourned by the respondent;

(4) Whether the respondent attempted to attend the hearing with reasonable diligence;

(5) Whether the respondent's inability to attend the hearing was due to facts that were beyond the respondent's control;

(6) Whether the respondent's failure to appear at the hearing can be attributed to the respondent's failure to maintain current contact information on file with the TLC;

(7) Whether the respondent has previously failed to appear in relation to the same summons; and

(8) Any other fact that the Tribunal considers to be relevant to the motion to vacate.

(f) Granting of Motion to Vacate. If the Tribunal determines that the respondent has met the requirements for a motion to vacate:

(1) The default decision will be vacated and the Tribunal will schedule a new hearing.

(2) Any penalties imposed by the default decision will be vacated.

(g) Denial of Motion to Vacate. If the Tribunal denies the motion to vacate, the default decision and penalties will remain in effect.

(h) If a default decision on the same summons or notice of violation has been previously vacated, and a new default decision has been issued, a motion to vacate the second default decision will not be granted except that in exceptional circumstances and in order to avoid injustice, the Chief Administrative Law Judge or his or her designee will have the discretion to grant a request for a new hearing.

#### **§5-12 Appeals**

(a) There shall be an Appeals Unit within the Taxi and Limousine Tribunal at OATH. The Appeals Unit shall determine whether the facts contained in the findings of the hearing officers are supported by substantial evidence in the record, and whether the determinations of the hearing officers as well as the penalties imposed are supported by law. The Appeals Unit shall have the power to affirm, reverse, remand or modify the decision appealed from.

(b) A party may appeal, in whole or in part, any decision of a hearing officer, except that a party may not appeal a decision rendered on default, a denial of a motion to vacate a default decision, or a plea admitting the violations charged.

(c) Appeals decisions are made upon the record of the hearing. The record of the hearing consists of the summons, the recording of the hearing, all briefs filed and exhibits received in evidence as well as the hearing officer's final decision. The Appeals Unit shall not consider any evidence that was not presented to the hearing officer. Except as otherwise provided for in subdivision (g) of this section, the absence of a recording of the hearing does not prevent determination of the appeal.

(d) Except as otherwise provided for in subdivision (e) of this section, a party wishing to appeal must file an appeal, including a written statement describing the basis for the appeal, within thirty days of the date of the hearing officer's decision. At the time the appeal is filed, the appealing party must also serve a copy of the appeal on the non-appealing party and file proof of such service with the Tribunal.

(e) Any party supporting the hearing officer's decision or opposing the matters raised in the appeal may file a response to the appeal with the Tribunal within twenty-one days after the service on that party, except as otherwise provided for in subdivisions (e) or (f) of this section. At the time the response to the appeal is filed, the party filing a response to the appeal must also serve a copy of the response to the appeal on the appealing party and file proof of such service with the Tribunal.

(f) Expedited appeals. The Appeals Unit shall render an expedited decision for any appeal involving a suspension or revocation of a TLC issued license. If a party supporting the hearing officer's decision or opposing the matters raised in the appeal wishes to file a response to the appeal, the response must be filed with the Tribunal within seven days after the service on that party of the appeal of the hearing officer's decision. At the time the response to the appeal is filed, the party responding to the appeal must also serve a copy of the response to the appeal on the appealing party and file proof of such service with the Tribunal.

(g) Requests for hearing recording.

(1) Where a party requests, in writing on a form provided by the Tribunal, a copy of the recording of the hearing within seven days of the date of the hearing officer's decision, that party's time to file an appeal is the later of either the original thirty days from the date of the decision being appealed or

twenty-one days from the date the Tribunal provides the requested copy of the recording. If within seven days after the service on a non-appealing party of a copy of an appeal of a hearing officer's decision, the non-appealing party requests, in writing on a form provided by the Tribunal, a copy of the recording of the hearing, the non-appealing party's time to respond to the appeal is extended until twenty-one days from the date the Tribunal provides the requested copy of the recording.

(2) If, for the purposes of appealing a decision, a respondent requests a copy of the hearing recording, such recording shall be produced to such respondent within thirty days after receipt of a written request from such respondent. If the recording cannot be produced within the thirty day period, the determination being appealed shall be dismissed without prejudice.

(h) A decision of the Appeals Unit becomes the final determination of the Tribunal unless either party petitions the TLC Chairperson in accordance with §68-12(c) of Chapter 68 of Title 35 of the Rules of the City of New York.

#### **§ 5-13 Chairperson Review**

The TLC Chairperson, or if he or she designates, the General Counsel for the TLC, may review any determination of the Appeals Unit that interprets any of the following:

(1) A rule set forth in Title 35 of the Rules of the City of New York;

(2) A provision of law set forth in Chapter 5 of Title 19 of the Administrative Code;

(3) A provision of law set forth in Chapter 65 of the City Charter.

Upon review of a determination of the Appeals Unit, the TLC Chairperson, or General Counsel, may issue a decision adopting, rejecting or modifying the Appeals Unit decision. The TLC Chairperson, or General Counsel, will be bound by the findings of fact in the record and will set forth his or her decision in a written order. The Chairperson's or General Counsel's interpretation of the TLC's rules and the statutes it administers shall be considered TLC's agency policy and must be applied in future adjudications involving the same rules or statutes.

#### **§ 5-14 Special Procedures**

(a) Summary suspension based on a failure to be timely tested for drug use. When the TLC submits written documentation pursuant to 35 RCNY § 68-16(d) from a Licensee refuting summary suspension based on a failure to be timely tested for drug use, the Taxi and Limousine Tribunal at OATH will issue a decision based on the written documentation without a hearing. The decision will include findings of fact and conclusions of law. The decision can be appealed in accordance with the process established in subsection 68-12 of this chapter.

(b) Unlicensed activity. A decision on unlicensed activity with a commuter van pursuant to §19-529.2 of the Administrative Code of the City of New York will be issued within one business day of the conclusion of the hearing or the default.

#### **§5-15 Registered Representatives**

A representative, other than a family member or an attorney admitted to practice in New York State, who represents five or more respondents before the Tribunal within a calendar year must:

(a) be at least eighteen (18) years of age;

(b) register with the Tribunal by completing and submitting a form provided by the Tribunal. The form must include proof acceptable to the Tribunal that identifies the representative, and must also include any other information that the Tribunal may require. Registration must be renewed annually;

(c) notify the Tribunal within ten (10) business days of any change in the information required on the registration form;

(d) not misrepresent his or her qualifications or service so as to give rise to a mistaken belief that the representative is an attorney at law if the representative is not. A representative who is not an attorney admitted to practice must refer to him or herself as "representative" when appearing before the Tribunal;

(e) exercise due diligence in learning and observing Tribunal rules and preparing paperwork;

(f) be subject to discipline, including but not limited to suspension or revocation of the representative's right to appear before the Tribunal, for failing to follow the provisions of this section and of section 5-16 of this chapter.

#### **§5-16 Prohibited Conduct**

(a) Prohibited conduct: A party, witness, representative or attorney must not:

(1) engage in abusive, disorderly or delaying behavior, a breach of the peace or any other disturbance which directly or indirectly tends to disrupt, obstruct or interrupt the proceedings at the Tribunal;

(2) engage in any disruptive verbal conduct or action or gesture which a reasonable person would believe shows contempt or disrespect for the proceedings or which a reasonable person would believe to be intimidating;

(3) willfully disregard the authority of a hearing officer or other Tribunal employee. This may include refusing to comply with the hearing officer's directions or behaving in an abusive, disorderly, or delaying manner as stated in paragraph (1) of this subdivision and subdivision (b) of §5-02 of this chapter;

(4) leave a hearing in progress without the permission of the hearing officer;

(5) attempt to influence or offer or agree to attempt to

influence any hearing officer or employee of the Tribunal by the use of threats, accusations, duress or coercion, a promise of advantage, or the bestowing or offer of any gift, favor or thing of value;

(6) enter any area other than a public waiting area unless accompanied or authorized by a Tribunal employee. Upon conclusion of a hearing, a party, witness, representative or attorney must promptly exit non-public areas;

(7) request any Tribunal clerical staff to perform tasks that are illegal, unreasonable or outside the scope of the employee's job duties;

(8) operate any Tribunal computer terminal or other equipment at any time unless the equipment has been designated for use by the public;

(9) submit a document, or present testimony or other evidence in a proceeding before a hearing officer which he or she knows, or reasonably should know, to be false, fraudulent or misleading;

(10) induce or encourage anyone in a proceeding before a hearing officer to make a false statement;

(11) solicit clients, or cause the solicitation of clients by another person on Tribunal premises;

(12) make or cause to be made a stenographic, electronic, audio, audio-visual or other verbatim or photographic reproduction of any hearing or other proceeding, whether such hearing or other proceeding is conducted in person, by telephone, or other remote methods, except upon application to the Tribunal. This does not include copies of documents submitted to the Tribunal during a hearing including written or electronic statements and exhibits. Except as otherwise provided by law, the Tribunal may deny the application or grant it in full, in part, or upon such conditions as it deems necessary to preserve the decorum of the proceedings and to protect the interests of the parties, witnesses and any other concerned persons.

(b) Prohibited Communication: All parties must be present when communications with Tribunal personnel, including a hearing officer, occur, except as necessary for case processing and unless otherwise permitted by these rules, on consent of the Tribunal or in an emergency. All persons are prohibited from initiating communication with a hearing officer or other employee before or after a hearing or before or after a decision on motion, in order to attempt to influence the outcome of a hearing or a decision on motion.

(c) Penalties for Misconduct: Failure to abide by these rules constitutes misconduct. The Chief Administrative Law Judge or his or her designee may, for good cause, suspend or bar from appearing before the Tribunal an attorney or representative who fails to abide by these rules. The suspension may be either for a specified period of time or indefinitely until the attorney or representative demonstrates to the satisfaction of the Chief Administrative Law Judge that the basis for the suspension no longer exists. However, the Chief Administrative Law Judge may not act until after the attorney or representative is given notice and a reasonable opportunity to appear before the Chief Administrative Law Judge or his or her designee to rebut the claims against him or her. The Chief Administrative Law Judge or his or her designee, depending upon the nature of the conduct, will determine whether said appearance will be in person or by a remote method. This section in no way limits the power of a hearing officer to discipline any person as set out in §5-02 of this chapter.

(d) Discipline on Other Grounds: The Chief Administrative Law Judge may, in addition to the provisions of subdivision (c) of this section, suspend or bar a representative upon a determination that the representative lacks honesty and integrity and that the lack of honesty and integrity will adversely affect his or her practice before the Tribunal. Any action pursuant to this subdivision will be on notice to the representative and the representative will be given an opportunity to be heard in a proceeding prescribed by the Chief Administrative Law Judge. Factors to be considered in determining whether a representative lacks honesty and integrity may include, but need not be limited to, whether the representative has made intentionally false, misleading or inappropriate statements to parties or Tribunal staff.

(e) The decision of the Chief Administrative Law Judge or his or her designee under subdivision (c) or (d) of this section constitutes a final agency action. Judicial review of the decision may be sought pursuant to Article 78 of the New York Civil Practice Law and Rules.

#### **§5-17 Computation of Time**

(a) Except as otherwise provided herein, computation of any period of time prescribed in these rules shall be as follows:

(1) The start date for the time period shall not be considered in the computation. The next business day is the first day of the time period.

(2) The computation is based on the number of calendar days.

(3) If the last day in the period is a Saturday, Sunday or New York City legal holiday, the period is extended to the next business day.

(b) Any emergency action taken by the Tribunal which requires action within a 24 hour period shall be taken regardless of whether the 24 hour period includes a Saturday, Sunday or legal holiday.

◀ d16

## **CONFLICTS OF INTEREST BOARD**

### **■ NOTICE**

#### **Notice of Public Hearing and Opportunity to Comment on Proposed Rules**

**What are we proposing?** The Conflicts of Interest Board intends to amend its rule on Adjustment of Dollar Amount in Definition of "Ownership Interest," Section 1-11 of Title 53 of the Rules of the City of New York, to adjust the dollar

amount in the definition of "Ownership Interest" (Charter Section 2601(16)) from \$44,000 to \$48,000, to reflect changes in the Consumer Price Index for the metropolitan New York-New Jersey region published by the United States Department of Labor, Bureau of Labor Statistics.

**When and where is the Hearing?** The Conflicts of Interest Board will hold a public hearing on the proposed rule. The public hearing will take place on Thursday, January 16, 2014 from 9:00 A.M. to 5:00 P.M. The hearing will be in the Conflicts of Interest Board hearing room at 2 Lafayette Street, Suite #1010, 10th Floor, New York, New York 10007.

**How do I comment on the proposed rules?** Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Conflicts of Interest Board through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to Amber Gonzalez at [gonzalez@coib.nyc.gov](mailto:gonzalez@coib.nyc.gov).
- **Mail.** You can mail written comments to Amber Gonzalez, Assistant Counsel, Conflicts of Interest Board, 2 Lafayette Street, Suite #1010, New York, New York 10007.
- **Fax.** You can fax written comments to Conflicts of Interest Board at (212) 442-1407.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling (212) 442-1405. You can also sign up in the hearing room before the hearing begins at 9:00 A.M. on Thursday, January 16, 2014. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** Yes, you must submit written comments by Thursday, January 16, 2014.

**Do you need assistance to participate in the Hearing?** You must tell the Conflicts of Interest Board if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at (212) 442-1405. You must tell us by Thursday, January 9, 2014.

**Can I review the comments made on the proposed rules?** You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at the Conflicts of Interest Board.

**What authorizes the Conflicts of Interest Board to make this rule?** Section 2603(a) of the City Charter authorizes the Conflicts of Interest Board to make this proposed rule. Pursuant to Charter Section 1042, this proposed amendment to Board Rule Section 1-11 was published in the Board's Fiscal Year 2014 regulatory agenda.

**Where can I find the Conflicts of Interest Board's rules?** The Conflicts of Interest Board's rules are in title 53 of the Rules of the City of New York.

**What rules govern the rulemaking process?** The Conflicts of Interest Board must meet the requirements of Sections 1043, 2601(16) and 2603(a) of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

#### Statement of Basis and Purpose of Proposed Rule

Subject to certain exceptions, the conflicts of interest provisions of Chapter 68 of the New York City Charter prohibit New York City public servants from having "interests" in firms engaged in business dealings with the City or from taking actions as a public servant particularly affecting the public servant's interest in a firm. See Charter Sections 2604(a) and 2604(b)(1). Interest is defined in Charter Section 2601(12) as either an ownership interest in a firm or a position with a firm. "Ownership interest" is, in turn, defined in Charter Section 2601(16) as

an interest in a firm held by a public servant, or the public servant's spouse, domestic partner, or unemancipated child, which exceeds five percent of the firm or an investment of twenty-five thousand dollars in cash or other form of commitment, whichever is less, or five percent or twenty-five thousand dollars of the firm's indebtedness, whichever is less, and any lesser interest in a firm when the public servant, or the public servant's spouse, domestic partner, or unemancipated child exercises managerial control or responsibility regarding any such firm, but shall not include interests held in any pension plan, deferred compensation plan or mutual fund, the investments of which are not controlled by the public servant, the public servant's spouse, domestic partner, or unemancipated child, or in any blind trust which holds or acquires an ownership interest. The amount of twenty-five thousand dollars specified herein shall be modified by the board pursuant to subdivision a of section twenty-six hundred three. (Emphasis added.)

Charter Section 2603(a) requires the Conflicts of Interest Board, by rule amendment, once every four years to adjust the \$25,000 amount established in Section 2601(16) to reflect changes in the Consumer Price Index for the metropolitan New York-New Jersey region as published by the United States Bureau of Labor Statistics. The foregoing provision became effective on January 1, 1990.

Effective Year	Consumer Price Index (CPI)	Ownership Interest Amount (rounded to the nearest \$1,000)	Percent change from 1990 CPI
1990	135.1	\$25,000	-
1994	156.0	\$29,000	15.5%
1998	172.1	\$32,000	27.4%
2002	188.5	\$35,000	39.5%
2006	216.6	\$40,000	60.3%
2010	238.8	\$44,000	76.8%
2014	258.5	\$48,000	91.3%

According to the United States Department of Labor, Bureau of Labor Statistics, for the twenty-three year period from January 1990, to September 2013, the Consumer Price Index for the metropolitan area increased from 135.1 to 258.5,

reflecting a total increase of 91.3%. Thus, the \$25,000 Charter amount should be adjusted to \$48,000, rounded to the nearest \$1,000, reflecting the requisite increase from the \$25,000 Charter amount.

The Conflicts of Interest Board's authority for these rules is found in Section 2603(a) of the New York City Charter.

#### Text of the Proposed Rule

New material is underlined.  
Deleted material is in brackets.]

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

#### Section 1-11. ADJUSTMENT OF DOLLAR AMOUNT IN DEFINITION OF "OWNERSHIP INTEREST"

Effective as of January 1, [2010] 2014, the dollar amount in the definition of "Ownership Interest" in subdivision (16) of § 2601 of the New York City Charter shall be adjusted from [\\$40,000] \$44,000 to [\\$44,000] \$48,000.

#### NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS 253 BROADWAY, 10th FLOOR NEW YORK, NY 10007 212-788-1400

#### CERTIFICATION / ANALYSIS PURSUANT TO CHARTER SECTION 1043(d)

**RULE TITLE:** Adjustment of Dollar Amount in Definition of "Ownership Interest"

**REFERENCE NUMBER:** COIB-1

**RULEMAKING AGENCY:** COIB

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Hunter Gradie  
Mayor's Office of Operations

December 9, 2013  
Date

#### NEW YORK CITY LAW DEPARTMENT DIVISION OF LEGAL COUNSEL 100 CHURCH STREET NEW YORK, NY 10007 212-356-4028

#### CERTIFICATION PURSUANT TO CHARTER §1043(d)

**RULE TITLE:** 2013 RG 101

**REFERENCE NUMBER:** Adjustment of Dollar Amount in Definition of "Ownership Interest"

**RULEMAKING AGENCY:** Conflicts of Interest Board

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: December 9, 2013

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#### MAYOR'S OFFICE OF ENVIRONMENTAL REMEDIATION

#### ■ NOTICE

#### NOTICE OF ADOPTION OF RULES RELATING TO THE NEW YORK CITY BROWNFIELD CLEANUP PROGRAM

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Director of the Office of Environmental Remediation by subdivision e of section 15 of the New York City Charter and section 24-903 of the Administrative Code of the City of New York, that the Office of Environmental Remediation promulgates and adopts amendments to rules for the local voluntary cleanup program.

The amendments were proposed and published on October 14, 2013, and a public hearing was held on November 4, 2013. One individual attended and provided comments; other comments were received internally from staff and from the State Department of Environmental Conservation and have been incorporated into the rule. These changes are discussed below in the Statement of Basis and Purpose.

§ 1. Subparagraph B of paragraph 1 of subdivision e of section 43-1407 of Subchapter 1 of Chapter 14 of Title 43 of the Rules of the City of New York is amended to read as follows:

e. *Scope of the investigation.*

\* \* \*

B. characterization of the surface and subsurface characteristics of the site, including topography, surface drainage, stratigraphy, depth to groundwater, [and] any aquifers that have been impacted or have the potential to be impacted, and proximity to tidal surface waterbodies;

§ 2. Subparagraph C of paragraph 2 of subdivision h of section 43-1407 of Subchapter 1 of Chapter 14 of Title 43 of the Rules of the City of New York is amended to read as follows:

h. *Cleanup tracks.*

\* \* \*

C. The requirement to achieve contaminant-specific soil cleanup objectives pursuant to the table in 6 NYCRR section 375-6.8(b) for all soils above bedrock shall not apply to soils at a depth greater than fifteen feet below ground surface, provided that:

i. the soils below fifteen feet do not represent a source of contamination;

ii. the declaration of covenants and restrictions for the site requires that any contaminated soils remaining at depth will be managed along with other site soils, pursuant to a site management plan;

iii. off-site groundwater affected by on-site contamination does not exceed standards; and

iv. on-site groundwater use is restricted.

If the office determines that a waterfront site that is proposed for industrial use is susceptible to significant coastal erosion from severe storm events, the soil component of the remedial program must achieve the contaminant-specific soil cleanup objectives set forth in 6 NYCRR section 375-6.4(b)(3).

§ 3. Clause i of subparagraph A of paragraph 4 of subdivision h of section 43-1407 of Subchapter 1 of Chapter 14 of Title 43 of the Rules of the City of New York is amended to read as follows:

A. In developing the site-specific soil cleanup objectives, the enrollee may, solely or in combination:

i. use the soil cleanup objectives, as set forth in 6 NYCRR subpart 375-6, except if the office determines that a waterfront site that is proposed for industrial use is susceptible to significant coastal erosion from severe storm events, the enrollee may, solely or in combination, use the soil cleanup objectives as set forth in 6 NYCRR section 375-6.4(b)(1)-(3);

§ 4. Subparagraph A of paragraph 3 of subdivision l of section 43-1407 of Subchapter 1 of Chapter 14 of Title 43 of the Rules of the City of New York is amended to read as follows:

1. *Institutional controls, engineering controls, and restrictive declarations.*

\* \* \*

A. The enrollee or owner at a site at which institutional or engineering controls are employed as part of a remedy, shall annually submit, unless an alternate certification period is provided in writing by the office, a written certification:

i. by a professional engineer for all active remedial systems;

ii. by a professional engineer or a qualified environmental professional for all mitigation or passive remedial systems; or

iii. where the only control is an institutional control on the use of the property or a physical barrier or cover, the written certification may be made by the property owner.

§ 5. Subdivision d of section 43-1408 of Subchapter 1 of Chapter 14 of Title 43 of the Rules of the City of New York is amended to read as follows:

d. *Recording of the notice of completion.* [1.] Within sixty days of issuance, the [enrollee must record the notice of completion in the recording office for the borough(s) where any portion of the site is located] notice of completion shall be recorded in a public repository established by the office.

[2. The notice of completion shall be deemed recorded when it is delivered to the recording officer.

3. The enrollee shall submit to the office proof of such recording within thirty days after recording, or within thirty days after the enrollee's receipt of such proof of filing from the recording office, whichever is later.]

§ 6. Chapter 14 of the Rules of the City of New York is amended by adding a new Subchapter 5 to read as follows:

Subchapter 5: New York City Environmental Review and Assessment Program

Section 43-1450: *Environmental review and assessment letter.*

The office may issue environmental review and assessment letters if requested to do so by a person or entity. An environmental review and assessment letter is typically issued in connection with a proposed financing or re-financing of real property and states that the existing condition of a site does not require further action. The fee for obtaining an environmental review and assessment letter from OER is \$3,500.

#### STATEMENT OF BASIS AND PURPOSE

The Mayor's Office of Environmental Remediation ("OER" or "the Office") has amended the rules of the New York City Brownfield Cleanup Program to obtain information and tighten cleanup requirements for new industrial uses in connection with remediation of coastal properties in New York City. The Office administers the Brownfield Cleanup Program, also known as the New York City Voluntary Cleanup Program, which provides landowners and developers with City government approval and oversight of cleanup plans for light to moderately contaminated sites across the City. New York City Charter § 15(e)(4) authorizes the Director of OER to develop and administer a local brownfield cleanup program. The Director is further authorized by Charter § 15(e)(18) and Administrative Code § 24-903 to adopt rules to implement the program.

In the aftermath of Hurricane Sandy, it has become clear that flooding and coastal erosion have the potential to disperse contaminants located on coastal properties to neighboring properties. The amendments to the Brownfield Cleanup Program rules require parties to compile information on natural factors that could mobilize

contaminants, and will tighten cleanup standards for when certain coastal properties are redeveloped.

Under the amendments, the remedial investigation required by the Office will include a determination of the property's proximity to tidal surface water bodies. In the wake of Superstorm Sandy, the Office reduced the scope of its original proposal to require additional characterization of sites subject to coastal erosion. The new requirements will apply to waterfront sites only. Because waterfront sites in New York City are only slightly above sea level, the Office decided not to require site owners to report their property's height above sea level or state their property was subject to coastal erosion. The amendments will tighten cleanup standards for properties on the waterfront that are susceptible to significant coastal erosion from severe storms and are proposed for industrial use. If the owner of such a parcel opts to implement a Track Two cleanup for industrial use, the amendments will require the property to be remediated in accordance with commercial cleanup standards.

In addition to these changes, the amendments will allow a property owner to certify to the Office that a physical barrier or cover, used as part of a site remedy, will continue to function as an effective barrier to residual contamination at a property remediated under the Brownfield Cleanup Program. The amendments also authorize the Office-issued notice of completion to be recorded in a public repository on the Office's website, in lieu of requiring the site owner to record the notice in the property recording office of the borough in which the site is located. Posting the notice of completion on the Office's website is a simpler and faster way of notifying the public that a site has been remediated under the Brownfield Cleanup Program.

Finally, the amendments authorize OER to issue environmental review and assessment letters, as contemplated by City Charter § 15(e)(14), to facilitate the financing of real estate transactions where a party has raised concern that the property might contain contamination. Upon request, OER will review contaminant data for the site and the owner's plans for the property, and will conduct a site inspection. If OER determines that a property has no more than minimal contamination and does not pose a soil exposure threat, the Office will issue an environmental review and assessment letter, which can serve to reassure parties to a real estate transaction. The Office will charge a \$3,500 fee for the issuance of such letters. OER changed the name of this new program from "acceptance letter" to "environmental review and assessment letter" because the new title better describes the service the Office will provide. As a result of comments received, OER has transferred this new provision from § 43-1410 and incorporated the initiative as a new subchapter 5 of Chapter 14.

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**TAXI AND LIMOUSINE COMMISSION**

■ NOTICE

**Notice of Promulgation of Rules**

Notice is hereby given in accordance with section 1043(b) of the Charter of the City of New York ("Charter") that the Taxi and Limousine Commission ("TLC") promulgates rules implementing Executive Order 148 and transferring TLC adjudications to the Office of Administrative Trials and Hearings.

These rules are promulgated pursuant to sections 1043 and 2303(b) of the Charter and section 19-503 of the Administrative Code of the City of New York.

On September 12, 2013, a public hearing was held by the TLC at the TLC's offices at 33 Beaver St., 19th Floor, New York, New York. These rules were approved at the hearing on September 12, 2013. These rules will take effect 30 days after publication.

**Statement of Basis and Purpose**

These rules amend the Taxi and Limousine Commission (TLC) Rules (Title 35 of the Rules of New York City) relating to adjudications of summonses and other enforcement actions to reflect the transfer of the administrative tribunal of the TLC (the TLC Tribunal) to the New York City Office of Administrative Trials and Hearings (OATH). This transfer took place on July 3, 2011, as a result of Mayoral Executive Order No. 148 of 2011 (EO 148).

**Background**

On November 2, 2010, the voters approved Revisions to the New York City Charter which granted the Mayor the authority to review the tribunals of various agencies, including TLC's, to determine whether to consolidate them into OATH. The Mayor convened a Committee on Consolidation of Administrative Tribunals (the Committee) to make recommendations on the consolidation of several adjudicatory tribunals.

The Committee issued its report on June 5, 2011, and recommended that the TLC Tribunal and other tribunals be transferred to OATH, where the TLC Tribunal would become the "Taxi and Limousine Tribunal at OATH." The report provided that after the transfer the new tribunal maintain certain TLC rules relating to adjudications as rules of OATH, with some resulting modifications, pending further rulemaking by TLC and OATH.

In EO 148 the Mayor adopted the Committee's recommendation and ordered that the TLC Tribunal be transferred to OATH. EO 148 specified that the respective agencies may amend their rules to implement the transfer.

On July 3, 2011, the TLC Tribunal was transferred to OATH and is now the Taxi and Limousine Tribunal at OATH. Certain TLC Rules relating to adjudications (from Chapters 68 and 69 of the TLC Rules) became effective as Rules of OATH, pending further rulemaking by OATH and the TLC.

**The Rules**

The rules revise the TLC Rules to reflect the transfer to OATH of the TLC Tribunal and of most of the procedural rules governing the tribunal and its proceedings. OATH will publish a similar set of revisions to its rules (Title 48 of the Rules of the City of New York) to reflect the transfer. Most of the TLC's rule changes are deletions from the TLC Rules relating to adjudications; some are amendments to existing rules to reflect the transfer of the tribunal. Chapter 68 will retain rules for procedures that will remain with the TLC, including procedures for the service of summonses, determinations made by the TLC Chairperson, and the seizure and forfeiture of vehicles.

In addition, these rules include a process for the TLC Chairperson to review Appeals Unit decisions of the Taxi and Limousine Tribunal at OATH. The Committee on Consolidation recommended this Chairperson review process because the consolidation of the TLC Tribunal with OATH was not meant to supplant the TLC's authority to interpret TLC rules and regulations. The review process in the rules permits the Chairperson, after notice and opportunity to be heard, to accept, reject, or modify an Appeals Unit decision based on an interpretation of a TLC rule or regulation. The review will be based on issues of law, and either party may petition the Chairperson for review pursuant to this process. The Chairperson's decision will be made within 30 days of the non-petitioning party's deadline for response. The determination of an appeal by the Appeals Unit that is not acted upon by the Chairperson shall become a final decision of TLC.

The revisions:

- Update the definition sections to include the Taxi and Limousine Tribunal at OATH.
- Remove the adjudicatory tribunal as a power and duty of the TLC.
- Update the penalty sections to add the Taxi and Limousine Tribunal at OATH.
- Remove hearing procedures sections.
- Create a process by which the Chairperson may review interpretations of TLC rules and regulations made by the Taxi and Limousine Tribunal at OATH.
- Update the sections relating to summary suspensions and vehicle seizures to add the Taxi and Limousine Tribunal at OATH.
- Update the sections for vehicle forfeitures to reflect current case law that requires opportunity for a preliminary hearing on the continued retention of a vehicle during the forfeiture process.

New Material is underlined.  
Deleted Material is bracketed []

Section 1. Section 51-03 of Title 35 of the Rules of the City of New York is amended by adding, deleting, or amending the following definitions, in alphabetical order:

**[Administrative Law Judge (or ALJ)]** is an attorney admitted to practice law in the State of New York who has been appointed by the Commission to conduct administrative hearings for the Commission

**Appeal** is the request for review of a decision of a Hearing Officer. [an ALJ an OATH ALJ].

**Appeals Unit** is a unit [of ALJs] within the [Commission Adjudications Tribunal] Taxi and Limousine Tribunal at OATH responsible for deciding cases on Appeal, who do not hear cases in the first instance.

[Commission Adjudications Tribunal (or Commission Tribunal)] Taxi and Limousine Tribunal at OATH (or Taxi and Limousine Tribunal) is the [judicial body] Office of Administrative Trials and Hearings tribunal established under Chapter 5 of Title 48 of the Rules of the City of New York that has, except as otherwise provided in these Rules, jurisdiction over:

- (1) Violations of Title 19, Chapter 5 of the Administrative Code
- (2) Violations of Commission Rules

**[De Novo]** is a legal term meaning "over again from the beginning."

**Default** is a decision against a Respondent after a Respondent fails to appear for a hearing, enter a plea, or make a request to reschedule as required by Chapter 5 of Title 48 of the Rules of the City of New York.

**[Hearing Officer]** is the Administrative Law Judge who presides over a hearing.]

**Hearing Officer** is a person designated by the Chief Administrative Law Judge of OATH, or his or her designee, to carry out the adjudicatory powers, duties and responsibilities of the Taxi and Limousine Tribunal.

**[Inquest]** is the presentation and consideration of evidence at a Hearing before an ALJ, when the Respondent has failed to appear.]

**[OATH ALJ]** is an administrative law judge appointed by OATH.]

**OATH Administrative Law Judge (OATH ALJ)** is a person appointed by the Chief Administrative Law Judge of OATH, or his or her designee, pursuant to the Charter of the City of New York paragraph 1049(1)(a), to carry out the adjudicatory powers, duties and responsibilities of the OATH Tribunal

**OATH Tribunal** is the New York City Office of Administrative Trials and Hearings tribunal established by Charter subdivision 1048(1) and Chapter 1 of Title 48 of the Rules of the City of New York.

**Recommended Decision.** A Recommended Decision is a decision made by an OATH ALJ following a hearing that must be reviewed by the Chairperson, either in its entirety or for the appropriateness of the penalty being imposed, before it becomes final.

**[Representative]** is a non-attorney authorized by the Commission to represent Respondents before the Commission's Adjudications Tribunal.]

Section 2. Chapter 52 of Title 35 of the Rules of the City of New York is amended by repealing subdivision (b) of section 52-04, relating to the establishment of an administrative tribunal within the Taxi and Limousine Commission, and by relettering subdivision (c) as subdivision (b).

Section 3. Subdivision (c) of section 53-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (c) Payment of Fines.
  - (1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:
    - A. the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time

required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.

- (2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3) If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 4. Subdivision (c) of section 54-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (c) Payment of Fines.
  - (1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:

(i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.

- (2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3) If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 5. Subdivision (e) of section 54-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (e) **Mandatory Penalties.** If a Licensee has violated a Rule listed below, or any combination of these Rules, the [Commission] Taxi and Limousine Tribunal at OATH or, if applicable, the Chairperson will impose the following mandatory penalties and fines.

VIOLATION Description	Rule	Mandatory Penalty/ Fine - ALL
1. Overcharging Passengers	§54-17(a)(1) & (2), 54-17(i)	First violation: \$350 if plead guilty before a hearing; \$500 if found guilty following a hearing.
2. Refusal of service - Unjustified refusal to transport Passengers within NYC or defined counties	§54-20(a)(1)	Second violation (any combination of violations) w/in 24 months: \$700 if plead guilty before a hearing;
3. Refusal of service - Requiring assistant for disabled Passengers, or seeking to charge additional fares for such an assistant	§54-20(a)(2)	\$1,000 and possible suspension of License for up to 30 days if found guilty following a hearing.
4. Refusal of service - Refusing to transport wheelchairs, crutches or other mobility aids for disabled Passengers	§54-20(a)(3)	Third violation (any combination of violations) w/in 36 months: \$750 and Revocation of License if plead guilty before a hearing;
5. Refusal of service - Seeking destination before Passenger is seated inside vehicle	§54-20(a)(4)	\$1,000 and Revocation of License if found guilty following a hearing.

- (1) **\$10-or-More Overcharge.** Notwithstanding the penalty cited above for overcharging passengers in violation of Rule 54-17(a)(1) and (2), if a Driver charges or attempts to charge \$10 or more above the approved rate of fare, the [Commission] Taxi and Limousine Tribunal at OATH or the Chairperson will revoke the Driver's License and may require a Driver to return any overpayment to the Passenger.
- (2) **Calculating Time Periods.** The [Commission] Taxi and Limousine Tribunal at OATH or the Chairperson will count the 24- and 36-month penalty periods going backwards, from the date of the last violation.
- (3) **No License Issued for Period of One Year Following Certain Violations.** A driver who has had his or her Taxicab Driver's License revoked for any of the above

violations will not be able to receive any Commission License for a period of [one] 1 year from the date of revocation.

Section 6. Subdivision (c) of section 55-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

(1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:

(i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.

(2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3) If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 7. Subdivision (c) of section 56-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

(1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:

(i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.

(2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3) If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 8. Subdivision (d) of section 56-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(d) **Mandatory Penalties.** If a Licensee has violated a Rule listed below, or any combination of these Rules, the [Commission] Taxi and Limousine Tribunal at OATH or, if applicable, the Chairperson will enforce the following mandatory penalties and fines:

VIOLATION Description	Rule	
1. Proper licensing	§56-11(a)	First Violation: \$100 - \$350
2. only Licensees can operate Paratransit Vehicles	§56-11(d)	Second Violation within 24 months: \$350 - \$500
3. refusal to serve	§56-20(a)	
4. refusal to transport equipment for disabled passengers	§56-15(k)(1)	Third Violation within 24 months: Revocation of
5. attempt to overcharge additional fare to passengers	§56-15(g)(1)	relevant License for Driver, base owner, or owner found in violation
6. can conduct prearranged service only	§56-19(a)	

- (1) The Commission can also suspend or revoke a Paratransit Driver's License.
- (2) The 24-month period referred to above will be counted backward from the date of the most recent conviction.
- (3) Any individual or Business Entity whose License has been revoked will not be eligible for any Commission License for at least [one] 1 year after revocation.
- (4) The [Commission] Chairperson will automatically revoke the License of any Licensee who has [five] 5 or more

summons that remain open and outstanding for 12 months. The 12-month period will be counted from the date the earliest summons was issued.

Section 9. Subdivision (c) of section 57-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

(1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:

(i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.

(2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3) If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 10. Subdivision (c) of section 58-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

(1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:

(i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.

(2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3) If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 11. Subdivision (c) of section 59A-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

(1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:

(i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.

(2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later

to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3) If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 12. Subdivision (c) of section 59B-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

(1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:

(i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.

(2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3) If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 13. Subdivision (c) of section 60A-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

(1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:

(i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.

(2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3) If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 14. Subdivision (c) of section 60B-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

(1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:

(i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.

(2) [If the Respondent files an appeal of the decision imposing the fines within 30 days



- §68-10 Procedure for Finalizing Recommended Decisions
- §68-11 Appeal of Chairperson's Final Decision
- §68-12 Chairperson Review
- §68-13 Special Procedures - Mandatory Revocation and Discretionary Revocation (and Other Penalties)
- §68-14 Special Procedures - Fitness Hearings
- §68-15 Special Procedures - Summary Suspension Pending Revocation
- §68-16 Special Procedures - Summary Suspension Pending Compliance
- §68-17 Special Procedures - Seizures
- §68-18 Special Procedures - Forfeitures
- §68-19 Special Procedures - Removal and Storage Fees for Seized Vehicles
- §68-20 Special Procedures - Settlements and Withdrawals

#### §68-01 Scope of this Chapter

- (a) To establish procedures for the enforcement of violations of TLC Rules and other laws enforced by the TLC, including the Administrative Code of the City of New York.
- (b) To establish:
  1. the requirements for imposing the immediate summary suspension of a License.
  2. procedures and protections for Licensees whose Licenses have been revoked.
  3. procedures and protections related to the seizure and forfeiture of unlicensed vehicles, and
  4. the requirements for the settling and withdrawal of violations.
- (c) These rules are to be read in conjunction with the rules and procedures established by the Office of Administrative Trials and Hearings, as described in Chapter 5 of Title 48 of the Rules of the City of New York.

#### §68-02 Penalties

- (a) Prescribed Penalties. Whenever a Respondent is charged with a violation of any Commission Rule or Administrative Code Section, Respondent may be subject to the civil penalties as set forth in the Commission Rules or the Administrative Code.
- (b) Discretionary Penalties. Where provided by local law, instead of any of the specific penalties in the Commission Rules, the Commission can, in its discretion, in accordance with subdivision (b) of section 68-13, revoke a License, suspend a License up to 6 months, and/or impose:
  1. A fine, not to exceed \$10,000 for each violation, against:
    - (A) the Owner of a Licensed Taxicab or For-Hire vehicle,
    - (B) a Base,
    - (C) a Commuter Van Service or vehicle,
    - (D) a Paratransit service or vehicle,
    - (E) a Taximeter Business,
    - (F) a Taxicab Broker, or
    - (G) a Taxicab agent.
  2. A fine, not to exceed \$1,000 for each violation, against a Licensed Driver.
- (c) Imposition of Penalties. Any revocation, suspension, Persistent Violator Penalty or Penalty Points will become effective on the date the Respondent is found guilty of the violation.
  1. Suspensions. Suspensions go into effect when the decision imposing the violation is issued. However, the length of the suspension will be calculated from the day the Licensee turns the License in to the Commission.
  2. Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[,], unless:
    - (A) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.
  3. If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

#### §68-03 Definitions Specific to this Chapter

- (a) Appeal is the request for review of a decision of a Hearing Officer.
- (b) Appeals Unit is a unit within the Taxi and Limousine Tribunal at OATH responsible for deciding cases on Appeal, who do not hear cases in the first instance.
- (c) Default is a decision against a Respondent after a Respondent fails to appear for a hearing, enter a plea, or make a request to reschedule as required by Chapter 5 of Title 48 of the Rules of the City of New York.
- (d) Discretionary Revocation is the imposition of the penalty of revocation when a Rule does not specify that revocation must be imposed; Discretionary Revocation can be sought by the Chairperson for

any Rule violation, if the Chairperson determines that the continued licensure of the Respondent presents a threat to public health, safety, or welfare.

- (e) Hearing Officer is a person designated by the Chief Administrative Law Judge of OATH, or his or her designee, to carry out the adjudicatory powers, duties, and responsibilities of the Taxi and Limousine Tribunal.
- (f) Mandatory Revocation is the imposition of the penalty of revocation when a Rule specifies that revocation must be imposed.
- (g) Notice of Seizure is a document served upon and mailed to an owner of a vehicle that has been seized and removed to a secure facility.
- (h) OATH is the New York City Office of Administrative Trials and Hearings.
- (i) OATH Administrative Law Judge is a person designated by the Chief Administrative Law Judge of OATH, or his or her designee, pursuant to the Charter of the City of New York paragraph 1049(1)(a), to carry out the adjudicatory powers, duties and responsibilities of the OATH Tribunal.
- (j) OATH Tribunal is the New York City Office of Administrative Trials and Hearings tribunal established by Charter subdivision 1048(1) and Chapter 1 of Title 48 of the Rules of the City of New York.
- (k) Recommended Decision. A Recommended Decision is a decision made by an OATH ALJ following a hearing that must be reviewed by the Chairperson, either in its entirety or for the appropriateness of the penalty being imposed, before it becomes final.
- (l) Respondent is an individual or Business Entity who has been noticed and charged with a violation of one or more of these Rules or the Administrative Code, or with being not Fit to Hold a License.
- (m) Secondary Owner is an individual or Business Entity that has a lien or mortgage or any other type of legal interest in a vehicle.
- (n) Taxi and Limousine Tribunal at OATH (or Taxi and Limousine Tribunal) is the Office of Administrative Trials and Hearings tribunal established under Chapter 5 of Title 48 of the Rules of the City of New York.
- (o) Unlicensed Activity is the provision or advertising of any Commission-regulated for-hire transportation service by any (i) Licensee whose License is suspended, revoked, or expired and not yet renewed, or by any (ii) person who does not hold a Valid License or Authorization for the vehicle, for the driver of the vehicle and, if applicable, for the service. Unlicensed Activity specifically includes the activities specified in sections 19-506 and 19-528 of the Administrative Code and can subject the violator to the seizure and possible forfeiture of his or her vehicle.

#### §68-04 Forum

- (a) The Commission may refer any adjudication to the OATH Tribunal instead of the Taxi and Limousine Tribunal at OATH. In this event, the OATH Tribunal's rules under Chapter 1 of Title 48 of the Rules of the City of New York will govern the case. The determination of the OATH Tribunal will be a recommendation to the Chairperson ("Recommended Decision").

#### §68-05 Service of Summonses

- (a) Service. A Respondent must be served with a summons specifying the nature of the violation charged or the basis for any charge that the Respondent is not Fit to Hold a License.
- (b) Licensees. Service of a summons upon a Licensee can be accomplished through:
  1. personal service;
  2. USPS first class mail addressed to the last Mailing Address filed with the Commission;
  3. If the Licensee is a Vehicle Owner (of a Taxicab, For-Hire Vehicle, Paratransit Vehicle, or Commuter Van), by personal service upon the Driver, who must promptly forward the summons or notice to the Owner or Agent; a Driver who fails to do so will be in violation of these Rules.
  4. If the Licensee is any Licensee other than a Vehicle Owner or Driver (for example, owner of a Commuter Van Service, For-Hire Vehicle Base, Paratransit Base, Taxicab Agent, or Taximeter Business), by personal service upon a person of suitable age and discretion employed by or acting as an agent of the Licensee at the Licensee's place of business.
- (c) Non-Licensees. Service of a summons upon a Respondent who is not a Licensee can be accomplished through any of the following methods consistent with the requirements set in the Civil Practice Law and Rules:
  1. By personal service;
  2. By USPS first class mail addressed to the address on the Respondent's state-issued driver's License or vehicle registration.
  3. If the Respondent is the registered owner of a vehicle, by personal service upon the driver of the vehicle.
  4. If the Respondent is charged with operating an unlicensed Commuter Van Service, For-Hire Vehicle Base,

Paratransit Base, Taxicab Agent, or Taximeter Business, by personal service upon a person of suitable age and discretion employed by or acting as an agent of the Respondent at the Respondent's place of business.

#### §68-06 Contents of Summons

- (a) Required Information. A summons must contain, at a minimum, the following information:
  1. The date, time, and location of the alleged violation.
  2. A description of the nature of the violation sufficient to inform the Respondent of the prohibited conduct, including the basis for any charge that the Respondent is not Fit to Hold a License.
  3. The Rule or Administrative Code Section alleged to have been violated. If there is a conflict between the Rule or Code Section cited and the description of the violation, the description controls the final resolution of the issue.
  4. The date, time, and location of the scheduled hearing on the violation, or instructions to the Respondent on how to schedule a hearing date.
  5. Whether the Respondent must appear in person at the hearing.
  6. If the rule violated includes the penalty of discretionary revocation, a specific statement that a finding of guilt could result in the revocation of the Respondent's License.
  7. If the rule violated includes the penalty of mandatory revocation, a specific statement that a finding of guilt will result in the revocation of the Respondent's License.

#### §68-07 Temporary Licenses Pending Appeal

- (a) Temporary License.
  1.
    - (A) If the Taxi and Limousine Tribunal's decision results in the suspension of the Respondent's License and the Respondent files a timely appeal, the Chairperson can, in his or her discretion, issue a temporary license pending the determination of the Appeals Unit.
    - (B) If the Appeals Unit's decision results in the suspension of the Respondent's License (or the continuance of the suspension) and the Chairperson notifies the Respondent of a review of the Appeals Unit decision pursuant to section 68-12, the Chairperson can, in her or her discretion, issue a temporary license pending the determination of his or her review.
  2. In deciding whether or not to issue a temporary license, the Chairperson can consider:
    - (A) the Respondent's record,
    - (B) the seriousness of the charges,
    - (C) the likelihood of the success of the appeal, and
    - (D) the significance of the issues raised on appeal.

#### §68-08 Failure to Prosecute by the Commission

- (a) If the Commission fails to request a hearing within one year from the date of the summons, the charges will be withdrawn.
- (b) If the Chairperson fails to make a determination after receiving a Recommended Decision within 120 calendar days of the date of receipt of the Recommended Decision, the charges will be dismissed.

#### §68-09 Final and Recommended Decisions

- (a) The decision of the Hearing Officer at the Taxi and Limousine Tribunal at OATH is final subject to the appeals process provided for in Chapter 5 of Title 48 of the Rules of the City of New York and the Chairperson review process provided for in section 68-12.
- (b) The determination of an ALJ at the OATH Tribunal will be a Recommended Decision, subject to review by the Chairperson for the following matters. These matters are not subject to the appeals process provided for in Chapter 5 of Title 48 of the Rules of the City of New York and the Chairperson Review process provided for in TLC Rule 68-12:
  1. findings and penalty determinations as to the fitness of Licensees under section 68-14 or as a result of Discretionary Revocation proceedings under section 68-13 of the TLC Rules;
  2. penalty determinations in padlocking or proceedings under subdivision (b) of section 19-528 of the Administrative Code; and
  3. findings and penalty determinations in Summary Suspension proceedings pending Revocation and in Summary Suspension proceedings pending

Compliance.

**§68-10 Procedure for Finalizing Recommended Decisions**

- (a) Respondent's Opportunity to Respond.
  1. When a Recommended Decision is issued, the Respondent must be given an opportunity to provide a written response to the Chairperson.
  2. The response from the Respondent must be limited to only the record of the hearing and the determination of the OATH ALJ.
- (b) Submission to Chairperson. The Recommended Decision and record of the hearing will be submitted to the Chairperson along with any written comments submitted by the Respondent as provided in subdivision (a) of this section.
- (c) Final Decision by Chairperson.
  1. The Chairperson will determine whether to accept, modify, or reject the Recommendation of the OATH ALJ and will issue a Final Decision.
  2. As an alternative to 1. above, and instead of issuing a Final Decision, the Chairperson can remand the matter to the OATH ALJ for further consideration.

**§68-11 Appeal of Chairperson's Final Decision**

- (a) The only Chairperson's Final Decision that can be appealed to the Commissioners is a Final Decision that imposes Discretionary Revocation (see section 68-13).
- (b) The Chairperson's Final Decision to impose Discretionary Revocation can be appealed to the Commissioners as follows:
  1. The Respondent must file a written appeal with the Deputy Commissioner for Legal Affairs/General Counsel within 30 calendar days from the date of the Chairperson's final decision.
  2. The filing must describe the basis for the appeal and must include all supporting statements and arguments.
  3. The Chairperson can prescribe the form for the conduct and filing of these appeals.
  4. A review of the Chairperson's decision by the Commissioners must be limited to the issues of law raised in the appeal submitted and whether the decision of the Chairperson and the Recommended Decision of the OATH ALJ are supported by substantial evidence. The Commissioners cannot review findings of fact or determinations of credibility by an OATH ALJ.
  5. The Commission may submit a written response to any appeal filed by the Respondent.
  6. The Respondent must be given the opportunity to respond in writing to the Commission's written submission.
  7. The Commissioners must each receive a copy of the OATH ALJ's Recommended Decision, the Chairperson's Final Decision, the Respondent's appeal, and any responses filed by the Commission or the Respondent.
  8. The Commission must affirm, reject, modify, or remand the Chairperson's Final Decision.
    - (A) A minimum of 5 votes is required to reject, modify, or remand the Final Decision.
    - (B) If there are fewer than 5 votes to reject, modify, or remand the Final Decision, the decision is affirmed.
    - (C) The Chairperson cannot vote on these appeals.
  9. The Commission must communicate at a public meeting the results of the vote and the action taken.

**§ 68-12 Chairperson Review**

- a. The Chairperson, or if he or she designates, the General Counsel for the TLC, may review any determination of the Appeals Unit that interprets any of the following:
  - (1) A rule set forth in Title 35 of the Rules of the City of New York;
  - (2) A provision of law set forth in Chapter 5 of Title 19 of the Administrative Code;
  - (3) A provision of law set forth in Chapter 65 of the City Charter.
- b. Upon review of a determination of the Appeals Unit, the Chairperson or the General Counsel may issue a decision adopting, rejecting or modifying the Appeals Unit decision. The Chairperson will be bound by the findings of fact in the record and will set forth his or her decision in a written order. The Chairperson's interpretation of the Commission's rules and the statutes it administers shall be considered agency policy and must be applied in future adjudications involving the same rules or statutes.
- c. Process for Chairperson Review.
  1. Within 30 days of service by OATH of the determination of an appeal by the Appeals Unit of the Taxi and Limousine Tribunal, either party may petition the

Chairperson to reject the determination by delivering a petition to the General Counsel of the TLC and mailing a copy to the adverse party.

- A. Petitions to the Chairperson must state the errors of law that the Petitioner wishes to have reviewed, and must be accompanied by a copy of the decision of the Appeals Unit.
- 2. If the respondent delivers and mails such a petition, TLC may submit an answer to the petition within 30 days by delivering such an answer to the General Counsel of TLC and serving it on the respondent. Unless the Chairperson takes action on the respondent's petition within 30 days of its delivery, the determination of the appeal by the Appeals Unit shall become the final decision of the Taxi and Limousine Tribunal.
- 3. If TLC delivers and mails such a petition, within 30 days the Chairperson may notify the respondent that he or she is considering the petition, and within 30 days thereof, the respondent may mail an answer to the General Counsel of TLC. If the Chairperson does not notify the respondent that he or she is considering the petition within 30 days of its receipt, or takes no action on the petition within 30 days of the receipt of respondent's answer or within 60 days of its notification to the respondent if no answer is received, the determination of the appeal by the Appeals Unit shall become the final decision of the Taxi and Limousine Tribunal.
- 4. In reviewing the determination of the Appeals Unit of the Taxi and Limousine Tribunal at OATH, the Chairperson shall be bound by the findings of fact in the decision.
- 5. The determination of an appeal by the Appeals Unit that is not acted upon by the Chairperson shall become a final decision of the Taxi and Limousine Tribunal.

**§68-13 Special Procedures - Mandatory Revocation and Discretionary Revocation (and Other Penalties)**

- (a) Mandatory Revocation. Mandatory License revocation will be imposed when a Respondent is found liable for a violation in which mandatory revocation is specified.
- (b) Discretionary Penalties. If the Commission seeks Discretionary Revocation or other discretionary penalties as specified in subdivision (b) of section 68-02, the following procedure must be followed.
  1. The Chairperson must determine that the continued licensure of the Respondent presents a threat to public health, safety, or welfare.
  2. The proceeding must be commenced before the OATH Tribunal.
  3. The Commission must notify the Respondent of the proceeding by serving a written summons detailing the charged misconduct and warning the Respondent that a finding of guilt could result in License revocation.
  4. The Respondent must be served with charges according to the procedures in Chapter 1 of Title 48 of the Rules of the City of New York, which include the location, date, and time of any scheduled hearing.
  5. The hearing will be conducted by an OATH ALJ and governed by the procedures in Chapter 1 of Title 48 of the Rules of the City of New York. The affirmative defenses set forth in subdivision (b) of section 19-512.1 of the Administrative Code will be available in the hearing.
  6. The OATH Tribunal decision will be a Recommended Decision. The recommended penalties can include:
    - (A) License revocation,
    - (B) License suspension for a period up to 6 months,
    - (C) a fine not to exceed \$1,000 for each offense for which a Licensed Driver is found guilty, and
    - (D) a fine not to exceed \$10,000 for each offense for which any other Respondent is found guilty.

**§68-14 Special Procedures - Fitness Revocation Hearings**

- (a) The Chairperson will notify the Licensee to appear as a Respondent for a fitness hearing if the Chairperson believes that a Licensee is not Fit to Hold a License, for the following reasons, based upon:
  1. Any act that implicates the Licensee's ability to safely interact with the public or operate a TLC licensed vehicle, including but not limited to:
    - (A) Any act, as prohibited by these Rules, of driving a TLC licensed vehicle while Impaired by intoxicating liquor (regardless of its alcoholic content), or Drugs;
    - (B) Any act, as prohibited by these Rules, of bribery, fraud, material misrepresentation,

theft, threat against a person, harassment, abuse, or use of physical force;

- (C) Any act, as prohibited by these Rules, involving the possession of a Weapon in a vehicle licensed under these Rules;
- 2. Any felony conviction;
- 3. Any conviction of the following criminal offenses:
  - (A) Assault in the third degree, as set forth in PL § 120.00;
  - (B) Reckless endangerment in the second degree, as set forth in § 120.20;
  - (C) Criminal obstruction of breathing, as set forth in § 121.11;
  - (D) Sexual misconduct, as set forth in PL § 130.20;
  - (E) Forcible touching, as set forth in PL § 130.52;
  - (F) Sexual abuse in the third or second degree, as set forth in PL § 130.55 and § 130.60, respectively;
  - (G) Promoting prostitution in the third, second, or first degree, as set forth in PL § 230.25, § 230.30, and § 230.32, respectively;
  - (H) Compelling prostitution, as set forth in PL § 230.33;
  - (I) Sex trafficking, as set forth in PL § 230.34;
  - (J) Public lewdness, as set forth in PL § 245.00;
  - (K) Endangering the welfare of a child, as set forth in PL § 260.10;
  - (L) Criminal possession of a weapon in the fourth degree, as set forth in PL § 265.01;
  - (M) Overdriving, torturing, and injuring animals or failing to provide proper sustenance, as set forth in AGM § 353;
  - (N) Leaving the scene of an accident, as set forth in VAT § 600.2;
  - (O) Driving while ability impaired, as set forth in VAT § 1192.1;
  - (P) Operation of a motor vehicle while intoxicated, as set forth in VAT § 1192.2;
  - (Q) Operation of a motor vehicle with an illegal blood-alcohol content, as set forth in VAT § 1192.3;
  - (R) Driving while ability impaired by drugs, as set forth in VAT § 1192.4.
- 4. A failed drug test as a result of illegal drug use or failure to comply with drug testing procedures.
- (b) Prior to the hearing, the Commission must notify the Respondent of the proceeding by serving a written summons specifying the reason the Respondent is not Fit to Hold a License and warning the Respondent that a finding of guilt could result in License revocation.
- (c) The OATH Tribunal's decision after the hearing will be a Recommended Decision.
- (d) The Chairperson can accept, reject, or modify the Recommended Decision. The decision of the Chairperson will constitute the final determination of the Commission.
- (e) In determining whether the Licensee is to be deemed unfit, to the extent possible, the Chair shall consider, as guided by the New York State Correction Law §753, the following factors in his Decision:
  1. The specific duties and responsibilities necessarily related to licensure as a driver licensed by the TLC.
  2. The bearing, if any, the criminal offense or offenses for which the Licensee was previously convicted will have on his fitness or ability to perform such duties or responsibilities as are necessary to safely transport the riding public as a driver licensed by the TLC.
  3. The time which has elapsed since the occurrence of the criminal offense or offenses.
  4. The age of the Licensee at the time of occurrence of the criminal offense or offenses.
  5. The seriousness of the offense or offenses.
  6. Any information produced by the Licensee, or produced on his behalf, in regard to his rehabilitation and good conduct.
  7. The legitimate interest of the Commission in protecting property, and the safety and welfare of specific individuals or the general public.
  8. In making this determination, the

Chairperson shall also give consideration to a certificate of relief from disabilities or a certificate of good conduct issued to the Licensee, which certificate shall create a presumption of rehabilitation in regard to the offense or offenses specified therein.

(f) The License of a Licensee who is found to be not Fit to Hold a License will be revoked.

#### §68-15 Special Procedures - Summary Suspension Pending Revocation

(a) Summary Suspension.

- The Chairperson can summarily suspend a License if the Chairperson believes that continued licensure would constitute a direct and substantial threat to public health or safety, pending revocation proceedings.
- Any Licensee whose License is summarily suspended is entitled to a Summary Suspension hearing at the OATH Tribunal as set forth below.
- The Commission will notify the Licensee either by personal service or by USPS first class mail of the Summary Suspension, within 5 days of the suspension.

(b) Summary Suspension or Revocation Hearing. If a Revocation hearing is not scheduled to be held within 15 calendar days from the suspension:

- The Respondent can request a hearing on the Summary Suspension by notifying the Commission within 10 calendar days from receiving the notice of suspension.
- Upon receipt of a request for a hearing, the Commission must request a Summary Suspension hearing to be held within 10 calendar days of the receipt of the request (if the tenth day falls on a Saturday, Sunday or holiday, the hearing may be held on the next business day), unless the Chairperson determines that the hearing will impair an ongoing civil or criminal investigation.
- No Summary Suspension hearing will be required where the Revocation hearing is scheduled within 15 calendar days of the suspension.
- If a Respondent does not request a hearing on the Summary Suspension within the time specified in paragraph (1) of this subdivision, then all of the following apply:

(A) the Respondent is deemed to have waived the opportunity to be heard on an expedited basis.

(B) The Respondent will be scheduled for a hearing on the underlying violation in accordance with the normal procedures set forth in Chapter 1 of Title 48 of the Rules of the City of New York.

(C) The Summary Suspension will be continued until lifted by the OATH ALJ in the Revocation hearing.

(c) Conduct of Summary Suspension Hearing.

- The Summary Suspension hearing will be conducted according to the hearing procedures established in Chapter 1 of Title 48 of the Rules of the City of New York.
- Where applicable, the affirmative defenses will include those provided in subdivision (b) of section 19-512.1 of the Administrative Code.
- The decision in the Summary Suspension hearing will be a Recommended Decision that includes findings of fact, conclusions of law, and a recommendation as to continuation of the suspension.
- The decision of the Chairperson is the final determination of the Commission with respect to the Summary Suspension.
- If the Chairperson does not render a decision within 60 calendar days from the end of the Summary Suspension hearing, the suspension must be lifted until the decision is rendered.

(d) Summary Suspension for Criminal Charges.

- The Chairperson can summarily suspend a License based upon an arrest on criminal charges if the Chairperson believes that the charges, if true, would demonstrate that continued licensure would constitute a direct and substantial threat to public health or safety. Such charges include but are not limited to the following:
  - Any act, as prohibited by these Rules, of driving a TLC licensed vehicle while Impaired by intoxicating liquor (regardless of its alcoholic content), or Drugs;
  - Any act, as prohibited by these Rules, of bribery, fraud, material misrepresentation, theft, threat against a person, harassment, abuse, or use of physical force;
  - Any act, as prohibited by these Rules, involving the possession of a Weapon in a vehicle licensed under these Rules;

(D) Any felony conviction;

(E) Or any conviction of the following criminal offenses:

- Assault in the third degree, as set forth in PL § 120.00;
- Reckless endangerment in the second degree, as set forth in § 120.20;
- Criminal obstruction of breathing, as set forth in § 121.11;
- Sexual misconduct, as set forth in PL § 130.20;
- Forcible touching, as set forth in PL § 130.52;
- Sexual abuse in the third or second degree, as set forth in PL § 130.55 and § 130.60, respectively;
- Promoting prostitution in the third, second, or first degree, as set forth in PL § 230.25, § 230.30, and § 230.32, respectively;
- Compelling prostitution, as set forth in PL § 230.33;
- Sex trafficking, as set forth in PL § 230.34;
- Public lewdness, as set forth in PL § 245.00;
- Endangering the welfare of a child, as set forth in PL § 260.10;
- Criminal possession of a weapon in the fourth degree, as set forth in PL § 265.01;
- Overdriving, torturing, and injuring animals or failing to provide proper sustenance, as set forth in AGM § 353;
- Leaving the scene of an accident, as set forth in VAT § 600.2;
- Driving while ability impaired, as set forth in VAT § 1192.1;
- Operation of a motor vehicle while intoxicated, as set forth in VAT § 1192.2;
- Operation of a motor vehicle with an illegal blood-alcohol content, as set forth in VAT § 1192.3;
- Driving while ability impaired by drugs, as set forth in VAT § 1192.4.

2. The Chairperson need not commence revocation proceedings while the criminal charges are pending. However, the Respondent is entitled to request a Summary Suspension hearing.

3. At the Summary Suspension hearing, the issue will be whether the charges underlying the Licensee's arrest, if true, demonstrate that the continuation of the License while awaiting a decision on the criminal charges would pose a direct and substantial threat to public health or safety.

4. Within 5 business days from the date the Commission receives from the Licensee a certificate of disposition of the criminal charges, the Chairperson must either lift the suspension if the charges are not sustained or commence revocation proceedings.

#### §68-16 Special Procedures - Summary Suspension Pending Compliance

(a) Summary Suspension. If the Chairperson finds that the Licensee is not in compliance with a rule in this title that provides for "summary suspension until compliance," the Licensee's TLC-issued License can be summarily suspended until compliance pending an opportunity to be heard.

(b) Notice to Licensee. The Commission will send a notice to the Licensee (Respondent) by personal service or by USPS first class mail to the Respondent's current Mailing Address with the following information:

- That the Respondent's TLC-issued License is being suspended for a violation of the Commission's rules or applicable provision of the Administrative Code.
- A description of the nature of the violation.
- That the Respondent's License will be suspended:
  - Immediately upon service of the notice if made by personal service; or
  - Five days from the date of the mailing if the notice was sent by USPS first class mail to the Respondent's current Mailing Address.
- That the Respondent has the right to an expedited hearing at the OATH Tribunal by following the instructions contained in the notice and responding:
  - Within 10 calendar days from receiving the notice, if notice was given by personal service; or

(B) Within 15 calendar days from the mailing of the notice of suspension, if the notice was mailed.

(c) Respondent's Right to Expedited Hearing.

1. Except as set forth in subdivision (d) of this section, any Licensee whose License has been summarily suspended is entitled to an expedited hearing at the OATH Tribunal, provided the Licensee or Respondent requests an expedited hearing by notifying the Commission

(A) within 10 calendar days from receiving the notice referred to in subdivision (b) of this section, if notice was given by personal service, or

(B) within 15 calendar days from the mailing of the notice of suspension, if the notice was mailed.

2. Scheduling a Summary Suspension Hearing.

(A) Upon receipt of a timely request for an expedited hearing, the Commission must request a suspension hearing (or a hearing on the underlying violation) to be held within 10 calendar days of the Commission's receipt of the request (if the tenth day falls on a Saturday, Sunday or holiday, the hearing may be held on the next business day).

(B) The Summary Suspension hearing will be conducted according to the hearing procedures established in Chapter 1 of Title 48 of the Rules of the City of New York.

3. The decision in the Summary Suspension hearing will be a Recommended Decision that includes findings of fact, conclusions of law, and a recommendation as to continuation of the suspension.

4. The decision of the Chairperson is the final determination of the Commission with respect to the Summary Suspension.

5. If the Chairperson does not render a decision within 60 calendar days from the end of the Summary Suspension hearing, the suspension must be lifted until the decision is rendered.

6. Failure to Request an Expedited Hearing on the Suspension. If a Respondent does not request an expedited Hearing within the time specified in paragraph (1) of this subdivision, then all of the following apply:

(A) The Respondent is deemed to have waived the opportunity to be heard on an expedited basis.

(B) The Respondent will be scheduled for a hearing on the underlying violation in accordance with the normal procedures set forth in Chapter 1 of Title 48 of the Rules of the City of New York.

(C) The Summary Suspension will be continued until lifted by the OATH ALJ in the hearing on the underlying violation or until the Licensee furnishes proof of compliance satisfactory to the Chairperson.

(d) Respondent's Right to be Heard Through Written Documentation.

1. Violation of Drug-Testing Rules. A Taxicab or For-Hire Vehicle Driver who fails to be timely tested for drug use, in accordance with subdivision (c) of section 54-14 or subdivision (d) of section 55-14 of these Rules, and whose License is then summarily suspended, is not entitled to a hearing, but can provide the Commission, within 10 calendar days of the notice described in subdivision (b), with a single submission of written documentation refuting the suspension of his or her License.

2. Hearing Officer Review of Documentation. The Commission will submit the documentation submitted by a Licensee refuting the Summary Suspension to the Taxi and Limousine Tribunal at OATH which will then issue a decision including findings of fact and conclusions of law. This decision can be appealed in accordance with the process established in Chapter 5 of Title 48 of the Rules of the City of New York.

3. Failure to Submit Documentation. If the Driver does not timely submit written documentation refuting the Summary Suspension, the opportunity to be heard is waived and the Driver will be deemed to be guilty of the violation.

(e) Continuation of a Suspension. The TLC will reinstate the License of any Licenses suspended under this section after the Licensee pays all fines assessed and complies with the underlying Commission rule or Administrative Code provision to the satisfaction of the Chairperson or his or her designee.

#### §68-17 Special Procedures - Seizures

(a) Right to Seize Vehicle.

- The Commission and/or any police officer may seize any vehicle where probable



cause exists to believe that the vehicle is operated or engaged in Unlicensed Activity as set forth in sections 19-506 and 19-529.2 of the Administrative Code.

2. The driver and all passengers in a seized Commuter Van will be left in or transported to a location that is readily accessible to other means of public transportation.
3. Any vehicle that has been seized will be taken to a designated secured facility.

(b) Procedure After Seizure.

1. The officer or representative of the Commission seizing the vehicle will serve a summons for Unlicensed Activity and a notice of seizure of the vehicle by service upon the Owner and any person who using the vehicle with the permission of the Owner, express or implied, at the time of seizure. The notice of seizure will include, but not be limited to, the following information:

- (A) Identification of the seized vehicle;
- (B) Information concerning these regulations;
- (C) If the vehicle is subject to forfeiture at the time of seizure, notification of the Owner's right, upon conviction of Unlicensed Activity, to present evidence of hardship for consideration in determining whether the TLC will retain possession of the vehicle pending forfeiture.
- (D) The designated secured facility to which the vehicle was or will be taken.

2. The summons against the Owner will set a date and time for a hearing at the Taxi and Limousine Tribunal at OATH to take place no later than:

- (A) 7 calendar days (or the next business day if the seventh day is not a business day) following seizure of a Paratransit Vehicle.
- (B) 14 calendar days (or the next business day if the fourteenth day is not a business day) following seizure of a For-Hire Vehicle or Taxicab.
- (C) 5 business days following seizure of a Commuter Van.

3. An officer or representative of the Commission will also mail the notice of seizure and a copy of the summons to the Owner of the seized vehicle, as listed in the records of the Department of Motor Vehicles (or equivalent agency) in the state in which the vehicle is registered.

- (A) The notice of seizure and copy of the summons will be mailed to the Owner of a seized Commuter Van within 1 business day.
- (B) Any defect in delivery or mailing of the notice of seizure and copy of the summons will not affect the validity of service of a summons served upon the Owner in accordance with paragraph (1) of this subdivision.

4. For purposes of this section, the term Owner means:

- (A) An Owner as defined in section 128 and section 388 of the Vehicle and Traffic Law, unless the vehicle is a Commuter Van;
- (B) If the vehicle is a Commuter Van, the term Owner when used in this section means an Owner as defined in subdivision (i) of section 19-502 of the Administrative Code.

(c) Release of Vehicle Prior to Hearing if Vehicle is Not Subject to Forfeiture

1. The procedure described herein to obtain release of the vehicle prior to hearing applies if the Owner meets the following requirements. Otherwise, release of the vehicle is governed by subsection (d) of Rule 68-17.:

- (A) The vehicle is not a Commuter Van, and the Owner has not been found to have committed violation of subdivisions (b) or (c) of section 19-506 of the Administrative Code two or more times within the 36 months prior to the commitment of the violation resulting in the seizure.
- (B) The vehicle is a Commuter Van, and the Owner has not been found to have committed violation of section 19-529.2 of the Administrative Code one or more times within the 5 years prior to the commitment of the violation resulting in the seizure.

2. To obtain the release of a seized vehicle, an Owner who meets the eligibility requirements set forth in paragraph 1 of this subdivision must personally bring the summons for Unlicensed Activity to the Commission on or before the scheduled hearing date, and either:

- (A) Show proof of having pled guilty before the Taxi and Limousine Tribunal at OATH, whereupon:

- A. The Commission must verify that the Owner meets the eligibility requirements in paragraph (1) of this subdivision;
- B. The Commission must verify that a Taxi and Limousine Tribunal Hearing Officer has determined the amount of the civil penalty;
- C. The Commission will determine the removal and storage fees;
- D. The Owner must pay in full the civil penalty and removal and storage fees;
- E. Upon receiving payment, the Commission will issue an order to release the vehicle;
- F. The Owner or his or her agent can present the order at the designated secured facility to obtain the vehicle; or

- (B) Post a bond, whereupon:

- A. The Commission must verify that the Owner meets the eligibility requirements in paragraph (1) of this subdivision;
- B. The Owner must post a bond in the amount of the maximum civil penalty, plus removal and storage fees determined by the Commission;
- C. Upon the bond being posted, the Commission will issue an order to release the vehicle;
- D. The Owner or his or her agent can present the order at the designated secured facility to obtain the vehicle.

- (C) If the Owner does not obtain the vehicle by the date specified in the order of release, the Owner will be responsible for any further storage fees, which the Owner must pay before the vehicle will be released.

(d) Release of Vehicle Prior to Hearing if Vehicle is Subject to Forfeiture:

- (1) A vehicle seized under the provision of subsection (a) of this section is subject to forfeiture and the Owner has a right to a hearing to determine custody of the vehicle pending the forfeiture proceeding pursuant to section 68-18(e) of these rules if either of the following are true:

- (A) The vehicle is NOT a Commuter Van and the Owner has been found to have committed violation of subdivisions (b) or (c) of section 19-506 of the Administrative Code three or more times within the 36 months prior to the commitment of the violation resulting in the seizure, or
- (B) The vehicle is a Commuter Van and the Owner has been found to have committed violation of section 19-529.2 of the Administrative Code two or more times within the 5 years prior to the commitment of the violation resulting in the seizure.

(e) Hearing on Unlicensed Activity.

1. The hearing against the Owner will be conducted at the Taxi and Limousine Tribunal at OATH according to the procedures in Chapter 5 of Title 48 of the Rules of the City of New York within the number of days specified in paragraph (2) of subdivision (b) of this section.

2. Default Review. If the Owner of the seized vehicle fails to appear for the hearing, a Default will be found in accordance with Chapter 5 of Title 48 of the Rules of the City of New York.

- (A) The Default determination will include, and is subject to, the provisions of subdivision (g) of this section concerning Abandoned Vehicles.
- (B) The Owner can appear at the Commission offices within 7 calendar days of the notice to comply with the Default determination or to show he or she has moved for an order vacating the Default determination.
- (C) A hearing will be scheduled within 7 calendar days of the order vacating the Default determination.

3. A determination in a case of Unlicensed Activity with a Commuter Van will be issued within 1 business day of the conclusion of the hearing or Default.

(f) Hearing Decision.

1. Not Guilty Finding. If the Taxi and Limousine Tribunal at OATH finds that the charge of Unlicensed Activity has not been sustained, the vehicle will be

released to the Owner without removal or storage fees.

2. Guilty Finding. If the Taxi and Limousine Tribunal at OATH finds that the vehicle has been engaged in Unlicensed Activity:

- (A) If the vehicle is not subject to forfeiture, the Commission will release the vehicle to the Owner upon payment of the applicable civil penalties and all reasonable removal and storage costs.

- (B) The vehicle is subject to forfeiture if either of the following are true:

(i) The vehicle is not a Commuter Van and the Owner has been found to have committed violation of subdivisions (b) or (c) of section 19-506 of the Administrative Code two or more times within the 36 months prior to the commitment of the violation resulting in the seizure, or,

(ii) The vehicle is a Commuter Van and the Owner has been found to have committed violation of section 19-529.2 of the Administrative Code one or more times within the 5 years prior to the commitment of the violation resulting in the seizure.

- (C) If the vehicle is subject to forfeiture, the Commission will either:

(i) Release the vehicle to the Owner upon payment of the applicable civil penalties and all removal and storage fees as determined by the Commission, or

(ii) Commence a forfeiture action, provided that, in the case of a seized Commuter Van, the Commission must commence such forfeiture action within 10 days after the Owner's written demand for such vehicle.

(g) Appeal.

- (1) If the Owner has been found guilty of Unlicensed Activity, he or she must pay the civil penalty and removal and storage fees in order to appeal.
- (2) If the vehicle remains in custody in accordance with subparagraph (C)(ii) of paragraph (2) of subdivision (f) of this section, the Owner must pay only the civil penalty in order to appeal.
- (3) If upon appeal the decision is reversed, the relevant civil penalty and fees will be refunded to the Owner.

(h) Declaration of abandonment.

- (1) Vehicles that are not Commuter Vans Notwithstanding any other provision of this section, a seized vehicle, other than a seized Commuter Van, will be declared abandoned by the Commission or its agent, if the Owner of such vehicle does not:

(A) Remove the vehicle from storage within 5 days of obtaining an order of release; or

(B) Pay the civil penalty and removal and storage fees within 5 days after a determination by the Taxi and Limousine Tribunal that the vehicle is eligible for release under paragraph (2) of subdivision (e) of this section; or

(C) Within 7 calendar days after notice of a Default determination of violation is mailed to the Owner:

- A. Pay the civil penalty and removal and storage fees if the vehicle is eligible for release after a determination of violation was made under paragraph (2) of subdivision (e) of this section, or
- B. File a motion to vacate the Default determination of violation and set a new hearing on the violation.

- (2) Commuter Vans. If an Owner has not tried to reclaim a seized Commuter Van within 30 days after the Taxi and Limousine Tribunal mails notice of its final determination regarding the underlying seizure, the vehicle will be declared abandoned, regardless of whether the owner was found guilty or not guilty of the violation.

- (3) All Vehicles. An abandoned vehicle will be disposed of by the City or its agent according to section 1224 of the NYS Vehicle and Traffic Law. If an Owner seeks to reclaim the abandoned vehicle under section 1224, the Owner will be deemed to have made a written demand for the vehicle and the Commission will take whichever action is authorized by this section

(A) In the event that a vehicle has been deemed abandoned, the Commission or its agent will:

(i) Mail notice to the Owner and any Secondary Owners that the vehicle has been declared abandoned and that, unless claimed within 10 days of the mailing date of the letter, the vehicle will become the property of the Commission and will be sold.

(ii) The Owner or any Secondary Owner can claim the vehicle by paying the removal and storage fees due and, in the case of the Owner, the civil penalty claimed that is now a lien on the vehicle.

(iii) If the vehicle is not claimed within the allotted time, the Commission or its agent can sell the vehicle by public auction or by bid.

(B) Disposition of the Proceeds from the Sale of the Vehicle.

(i) Proceeds from any sale, minus expenses incurred for removal, storage and sale of the vehicle and minus the civil penalty lien, will be held without interest for the benefit of the former Owner of the vehicle for 1 year.

(ii) If these proceeds are not claimed within the 1-year period, they will be paid into the City's general fund.

#### §68-18 Special Procedures - Forfeitures

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

(1) An Owner as defined in section 128 and section 388 of the Vehicle and Traffic Law, unless the vehicle is a Commuter Van;

(2) If the vehicle is a Commuter Van, the term Owner when used in this section means an Owner as defined in subdivision (i) of section 19-502 of the Administrative Code.

(b) A vehicle seized under the provision of subsection (a) of Rule 68-17 is subject to forfeiture if either of the following are true:

(1) The vehicle is NOT a Commuter Van and the Owner has been found to have committed violation of subdivisions (b) or (c) of section 19-506 of the Administrative Code three or more times within the 36 months prior to the commitment of the violation resulting in the seizure; or

(2) The vehicle is a Commuter Van and the Owner has been found to have committed violation of section 19-529.2 of the Administrative Code two or more times within the 5 years prior to the commitment of the violation resulting in the seizure.

(c) A forfeiture action is commenced by the filing of a summons with notice of right to a preliminary hearing or a summons and complaint according to the New York Civil Practice Law and Rules.

(d) Service of a summons with notice of right to a preliminary hearing or a summons and complaint will be made by the TLC or its agent:

(1) By personal service (according to the New York Civil Practice Law and Rules) upon all Owners listed in the records of the Department of Motor Vehicles (or equivalent agency) in the state in which the vehicle is registered;

(2) By first class mail upon all individuals who have notified the Commission or the Taxi and Limousine Tribunal at OATH that they are an Owner of the vehicle; and

(3) By first class mail upon all persons holding a valid security interest filed with the Department of Motor Vehicles (or equivalent agency) in the state in which the vehicle is registered, at the address shown in the filing.

(e) Preliminary Hearing for Custody of the Vehicle while Forfeiture Is Pending. The Owner of a vehicle subject to forfeiture is entitled to a preliminary hearing to determine custody of the vehicle pending the forfeiture proceeding in accordance with the following:

(1) Upon receipt of notice of right to a preliminary hearing, the Owner may request the Commission to schedule a preliminary hearing at the OATH Tribunal to determine the probable validity of continued deprivation of the vehicle.

(2) Within 5 business days of the seizure, the Commission will serve notice, by personal service or by mail, on the Owner(s) specified in subdivision (c), and on the driver of the vehicle at the time it was seized, of the right to a preliminary hearing.

(3) Upon receipt of a request by the Owner for preliminary hearing, the Commission will request the OATH Tribunal to schedule a preliminary hearing to be held within 10 business days of the date of the Commission's receipt of the request. The Commission will notify, by personal service or by mail, the Owner(s) specified in subdivision (c) of the hearing date. Only one person may appear as an Owner at the hearing with priority going to the registered owner of the vehicle.

(4) In order to retain possession of the vehicle pending the forfeiture proceeding, the Commission must prove the following at the preliminary hearing:

(A) Probable cause for stopping the vehicle;

(B) Likelihood the vehicle was used in connection with Unlicensed Activity, or likelihood the Commission will prevail at the forfeiture proceeding;

(C) Likelihood the vehicle will not be returned if the Commission prevails at the forfeiture proceeding; and

(D) If the claimant is an innocent Owner who was not driving the vehicle at the time of seizure, that the Owner knew or should have known of the Unlicensed Activity or that the driver at the time of seizure is the beneficial owner.

(5) The decision by the OATH Tribunal will be made no later than 3 business days following the close of evidence and the completion of argument, unless both parties consent on the record or in writing to extend the time for the decision.

(6) If the OATH Tribunal determines, based on the standard set forth in paragraph (1) of this subdivision, that the vehicle should be released to the Owner during pendency of the forfeiture proceeding, then the vehicle will be released to such person or entity after they pay to the City any civil penalty due as a result of the Unlicensed Activity and reasonable expenses for the safekeeping of the vehicle from the time of seizure and its release.

(7) If the OATH Tribunal determines that the vehicle should not be released during the forfeiture proceedings, the vehicle will remain in the custody of the City pending the final determination of the forfeiture action.

(f) Asserting a Claim. Any Owner or Secondary Owner who receives notice of the forfeiture action and who claims an interest in the vehicle must assert a claim for the recovery of the vehicle or his or her interest in the vehicle by intervening in the forfeiture proceedings (in accordance with the New York Civil Practice Law and Rules).

(g) Affirmative Defenses Required to Sustain a Claim. In order to sustain a claim in the vehicle, a claimant must plead and prove that he or she was not in any way a party to allowing the actions that constituted the violation, by showing that:

(1) The claimant had no knowledge of the actions;

(2) If the claimant had knowledge of the actions, the claimant took all reasonable steps to prevent the use of the vehicle for the unlawful conduct and did not knowingly obtain his or her interest in the vehicle in order to avoid forfeiture of the vehicle; or

(3) The person who committed the actions that constituted the violation did not have lawful possession of the vehicle.

(h) Public Sale Pursuant to Forfeiture.

(1) Following judicial determination of forfeiture, a public sale of the forfeited vehicle will be held, and the net proceeds of the sale will go into the City's general fund. The City may retain a Commuter Van for official use.

(2) The public sale will be held no sooner than 30 days after the Owner is served notice of the judicial determination of forfeiture.

(3) At least 5 days before the sale, or, in the case of the sale of a Commuter Van, at least 20 days before the sale, notice of the sale:

(A) Must be published in the City Record or in a newspaper of general circulation, and

(B) Must be mailed to any Owner or Secondary Owner shown in the records of the Commission or listed in the records of the Department of Motor Vehicles (or equivalent agency) in the state in which the vehicle is registered.

(i) Rights of Secondary Owners (Other than Commuter Vans).

(1) A person wishing to assert an ownership claim to the vehicle must either:

(A) File a claim and participate in the forfeiture proceeding, or

(B) Submit a claim in writing to the Commission within 30 days after the judicial determination of forfeiture.

(2) If a Secondary Owner submits the claim after the forfeiture hearing (but within 30 days of the judicial determination of forfeiture), the Commission will schedule a hearing at the OATH Tribunal and will mail notice to the claimant at least 10 business days before the hearing.

(3) A person or entity that establishes a right

of ownership or other legal interest in the vehicle (other than an owner whose interest has been forfeited) can recover the vehicle, provided such person or entity:

(A) Redeems the ownership interest which was subject to forfeiture, by paying the city the value of that interest;

(B) Pays the reasonable expenses for the safekeeping of the vehicle from the time of seizure and redemption; and

(C) Proves one of the affirmative defenses set forth in subdivision (g) of this section.

(j) Rights of Secondary Owners Unaware of Forfeiture Proceedings of Commuter Vans.

(1) Any Secondary Owner of a Commuter Van who did not receive notice of the forfeiture action and who did not otherwise receive actual notice of the action may assert a claim within 6 months after the forfeiture.

(2) The claim must be one that could have been asserted in the original forfeiture action, and, as set forth in section 19-529.3 of the Administrative Code, must be adjudicated before the Justice of the Supreme Court who presided at the original forfeiture action.

(3) The court can grant the relief sought upon such terms and conditions as it deems reasonable and just if the claimant:

(A) Establishes that he or she was not sent notice of the commencement of the forfeiture action and did not know about the forfeiture action, and

(B) Proves one of the affirmative defenses set forth in subdivision (g) of this section.

(k) Total Claims May Not Exceed Value of Vehicle at Sale.

(1) In any forfeiture action of a commuter van, including a subsequent action started under subdivision (i) of this section, where the court awards a sum of money to one or more persons to satisfy the claims in the forfeited vehicle, the total amount awarded to satisfy all interests must not exceed the amount of the net proceeds from the sale of the forfeited vehicle.

(2) The net proceeds is the amount remaining after deduction of the lawful expenses incurred by the City, including the reasonable costs of removal and storage of the vehicle from the time of seizure and the date of sale.

#### §68-19 Special Procedures - Removal and Storage Fees for Seized Vehicles

(a) Removal Fee. The removal fee for all vehicles is one hundred eighty-five dollars (\$185).

(b) Storage Fee.

(1) The storage fee for vehicles seized for unlicensed Taxicab, Paratransit, or For-Hire activity will be the fee set by the New York City Police Department or such other agency as may store the vehicles.

(2) The storage fee for vehicles seized for unlicensed Commuter Van activity is fifteen dollars (\$15) per day.

#### §68-20 Special Procedures - Settlements and Withdrawals

(a) Settlements. The Chairperson and a Respondent may dispose of a summons by entering into a settlement agreement.

(1) The settlement agreement must be in writing.

(2) The settlement agreement may provide for penalties different than the penalties provided for in these Rules.

(3) The settlement agreement may provide for canceling an adjudication that is open or that has been completed. If the adjudication is open or completed before the Taxi and Limousine Tribunal at OATH or the OATH Tribunal, the Chairperson will promptly notify the tribunal.

(4) The settlement agreement may provide for penalties to be imposed, with or without a further hearing, if the Respondent does not comply with the terms of the settlement agreement.

(5) Unless the settlement agreement explicitly provides otherwise, the License of a Respondent who does not comply with the terms of the settlement agreement may be suspended by the Chairperson without a hearing until the Respondent complies with the settlement agreement.

(6) By entering into a settlement agreement, the Chairperson and the Respondent both waive their rights to any further hearings or appeals on the summons or notice of violation that is disposed of by the settlement agreement.

(b) Withdrawals.

(1) The Chairperson may withdraw a summons, even if it has been adjudicated,

if the Chairperson determines that it was:

- (i) Written in error.
  - (ii) Ineffectively served on the Respondent, or
  - (iii) Written in contravention of the Chairperson's enforcement policy.
- (2) If the Chairperson withdraws a summons:
- (i) Any fine, suspension, revocation, or Persistent Violator Points or Penalty Points imposed after the hearing will be vacated.
  - (ii) Any fines paid will be refunded.
  - (iii) The Chairperson will notify the Respondent that the summons has been withdrawn.
  - (iv) If a withdrawn summons is open or has been completed before the Taxi and Limousine Tribunal at OATH or the OATH Tribunal, the Chairperson shall promptly notify the tribunal.

Section 24. Chapter 69 of Title 35 of the Rules of the City of New York, relating to the regulation of non-attorney Representatives authorized to appear before the administrative tribunal of the Taxi and Limousine Commission, is repealed.

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## SPECIAL MATERIALS

## HOUSING PRESERVATION & DEVELOPMENT

### NOTICE

#### NREQUEST FOR COMMENT REGARDING AN APPLICATION FOR A CERTIFICATION OF NO HARASSMENT

Notice Date: December 12, 2013

To: Occupants, Former Occupants, and Other Interested Parties

Property: Address	Application#	Inquiry Period
109 West 45th Street, Manhattan a/k/a 109-113 W. 45th St.	116/13	November 1, 2010 to Present
49 East 126th Street, Manhattan	117/13	November 1, 2010 to Present
219 West 71st Street, Manhattan	118/13	November 1, 2010 to Present
535 West 147th Street, Manhattan	120/13	November 4, 2010 to Present
240 West 132nd Street, Manhattan	123/13	November 6, 2010 to Present
59 West 46th Street, Manhattan	125/13	November 8, 2010 to Present
2064 5th Avenue, Manhattan	126/13	November 8, 2010 to Present
1701 Broadway, Manhattan	127/13	November 13, 2010 to Present
209 West 138th Street, Manhattan	130/13	November 22, 2010 to Present
420 Jefferson Avenue, Brooklyn	119/13	November 1, 2010 to Present
106 Lefferts Place, Brooklyn	124/13	November 7, 2010 to Present
704 Park Place, Brooklyn	128/13	November 18, 2010 to Present
377 Jefferson Avenue, Brooklyn	129/13	November 18, 2010 to Present
885 Sterling Place, Brooklyn	132/13	November 26, 2010 to Present
190 Beach 118th Street, Queens	131/13	November 22, 2010 to Present

Authority: SRO, Administrative Code §27-2093

Before the Department of Buildings can issue a permit for the alteration or demolition of a single room occupancy multiple dwelling, the owner must obtain a "Certification of No Harassment" from the Department of Housing Preservation and Development ("HPD") stating that there has not been harassment of the building's lawful occupants during a specified time period. Harassment is conduct by an owner that is intended to cause, or does cause, residents to leave or otherwise surrender any of their legal occupancy rights. It can include, but is not limited to, failure to provide essential services (such as heat, water, gas, or electricity), illegally locking out building residents, starting frivolous lawsuits, and using threats or physical force.

The owner of the building identified above has applied for a Certification of No Harassment. If you have any comments or evidence of harassment at this building, please notify HPD at CONH Unit, 100 Gold Street, 6th Floor, New York, NY 10038 by letter postmarked not later than 30 days from the date of this notice or by an in-person statement made within the same period. To schedule an appointment for an in-person statement, please call (212) 863-5277 or (212) 863-8211.

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## MAYOR'S OFFICE OF CONTRACT SERVICES

### NOTICE

Notice of Intent to Issue New Solicitation Not Included in FY 2014 Annual Contracting Plan and Schedule

NOTICE IS HEREBY GIVEN that the Mayor will be issuing the following solicitation not included in the FY 2014 Annual Contracting Plan and Schedule that is published pursuant to New York City Charter § 312(a):

Agency: Department of Health and Mental Hygiene  
 Description of services sought: HVAC Engineering Services  
 Start date of the proposed contract: 3/1/2014  
 End date of the proposed contract: 2/28/2017  
 Method of solicitation the agency intends to utilize: Request for proposal  
 Personnel in substantially similar titles within agency: None  
 Headcount of personnel in substantially similar titles within agency: None

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## PARKS AND RECREATION

### OFFICE OF MANAGEMENT AND BUDGET

#### NOTICE

New York City Economic Development Corporation (NYCEDC)  
 New York City Department of Parks and Recreation (DPR)

#### COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY PROGRAM

#### Final Notice and Public Explanation of a Proposed Activity in a 100-Year Floodplain

To: All interested Agencies, Groups, and Individuals

This publication gives notice that New York City has conducted an evaluation of the proposed Rockaway Beach Boardwalk reconstruction and related improvements, as required by Executive Orders (EO) 11988 and 11990, in accordance with HUD regulations 24 CFR 55.20 Subpart C Procedures for Making Determinations on Floodplain Management and Protection of Wetlands, respectively. These evaluations are made to determine the potential effects that proposed activities in the floodplain and wetland associated with the proposed project will have on the human environment. New York City will receive federal Community Development Block Grant-Disaster Recovery (CDBG-DR) funding from HUD to execute the reconstruction of the Rockaway Beach Boardwalk and related improvements.

The City has considered the following alternatives to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values of its floodplains:

**Action Outside the Floodplain:** As the Rockaway Beach Boardwalk is a major public open space in the Rockaways Peninsula and an integral component of Rockaway Beach, there is no practicable alternative to locate it outside the floodplain.

**Proposed Action in the Floodplain:** The project site is located within the 100-year floodplain, and New York City proposes to use CDBG-DR funds to reconstruct the boardwalk between Beach 20th and Beach 126th Streets and to improve its future storm resiliency by raising the overall elevation to account for both revised 100-year flood elevations and predicted future sea level rise. Further, the proposed reconstruction would incorporate a sand-retaining wall underneath the boardwalk that would prevent sand migration and help to protect the adjacent community. The sand-retaining wall would span the length of the boardwalk and would retain the volume of sand extending from new dunes currently being constructed by the United States Army Corps of Engineers (USACE) to the sand-retaining wall under the boardwalk. The wall would also restrict blowing sand from passing under the boardwalk from the beach to the inland area. The CDBG-DR funds would also be used to provide structured access to the beach between Beach 126th and Beach 149th Streets over the new USACE dunes and to restore and enhance existing dunes between Beach 9th and Beach 20th Streets, including constructing at-grade access through the dunes. Overall, the proposed project would restore a damaged recreational resource while increasing the resiliency of the boardwalk against future storms, enhance beach access, and help protect newly created dunes.

**No Action:** The No Action Alternative would not support PlaNYC's goals to increase the sustainability and resiliency of open space resources, and would provide less park user accessibility and enjoyment of the unique open space resource of the beaches on the Rockaway Peninsula. The No Action Alternative is also inconsistent with New York City's Special Initiative for Rebuilding and Resiliency (SIRR), which identifies reconstruction of the Rockaway Beach Boardwalk as a key rebuilding project. Under the No Action Alternative, the boardwalk would not be reconstructed between Beach 20th and 126th Streets, structures across the USACE dune between Beach 126th Street and Beach 149th Street would not be constructed, and the existing dunes between Beach 20th and Beach 9th Streets would not be restored.

**Original Height Alternative:** Under this alternative, the boardwalk would be rebuilt at its original height with no raising of the elevation or the inclusion of resiliency features. While the Original Height Alternative would be designed and constructed to be more resilient to future storms than the former boardwalk, the alternative would be less consistent with the goals and objectives of PlaNYC and the SIRR than the proposed project, because it would not be raised in height to accommodate future sea level rise.

**No Sand-Retaining Wall Alternative:** Under this alternative, the boardwalk would be rebuilt as under the proposed project except that there would be no sand-retaining wall constructed under the boardwalk. While the No-Sand Retaining Wall Alternative would provide the same resiliency to future storms as the proposed project, it would not retain the infill sand under the boardwalk and, therefore, would not protect the adjacent communities by helping to protect newly created dunes or preventing sand migration over adjacent roadways, homes, and open space areas.

This FINAL NOTICE FOR PUBLIC REVIEW OF A PROPOSAL TO SUPPORT ACTIVITY IN A 100-YEAR FLOODPLAIN is required by Section 2(a)(4) of EOs 11988 and 11990, respectively for Floodplain Management and Protection of Wetlands and is implemented by HUD regulations found at 24 CFR 55.20 Subpart C Procedures for Making Determinations on Floodplain Management. The 8-step Decision Making Process includes public notices and the examination of practicable alternatives to building in the floodplain or wetland. The City proposes to use CDBG-DR funds to reconstruct the Rockaway Boardwalk, provide structured access to the beach over new USACE dunes, and restore and enhance existing dunes located within the 100-year floodplain.

Additional project information including floodplain maps of the project site are contained in the Environmental Review Record and Environmental Assessment currently on file with Calvin Johnson, Assistant Director CDBG-DR, 255 Greenwich Street, 8th Floor, New York, New York 10007 and may be examined from 10:00 A.M. to 5:00 P.M. This posting can be found by using this link: <http://www.nyc.gov/builditback> and then clicking on "Reports and Public Notices." The City is interested in alternatives and public perceptions of possible adverse effects that could result from the project as well as potential mitigation measures.

All interested persons, groups, and agencies are invited to submit written comments regarding the proposed use of federal funds to support the reconstruction of the Rockaway Boardwalk in a floodplain. Written comments should be sent to OMB at 255 Greenwich Street, 8th Floor, New York, New York 10007, Attention: Calvin Johnson, Assistant Director CDBG-DR or via email at [CDBGDR-enviro@omb.nyc.gov](mailto:CDBGDR-enviro@omb.nyc.gov). The minimum 7 calendar day comment period will begin the day after publication and end on the 8th day after publication. All comments should be received by OMB on or before December 21, 2013.

City of New York, Office of Management and Budget,  
 Mark Page, Director  
 Date: December 13, 2013

d13-20

## REVENUE AND CONCESSIONS

### NOTICE

In accordance with Section 1-14 of the Concession Rules of the City of New York ("Concession Rules"), the New York City Department of Parks and Recreation (Parks) intends to enter into negotiations with only Super Value Inc. for a license agreement for the operation and maintenance of two gasoline service stations on the Hutchinson River Parkway (Northbound and Southbound), near the Westchester Avenue Exit, Bronx.

The concession will have a short term and will commence on August 27, 2013 (retroactive to the expiration of the previous license agreement) and expire on April 30, 2015. The concession will be operated pursuant to a license issued by Parks; no leasehold or other proprietary right will be offered. As compensation to the City, Parks requires a monthly fee of at least \$17,900.00.

At this time, it is neither practicable nor advantageous to award this concession by competitive sealed proposals or competitive sealed bids due to the existence of a time-sensitive situation where a concession must be awarded quickly or significant revenues will be lost. The existing concession agreement expired in August 2013. Without a negotiated short-term concession, this facility will remain vacant since Parks does not have the capability or the resources to operate, maintain or secure the gasoline service stations. Service to the public will be interrupted and significant revenue to the City will be lost in concession fees. An RFP for this concession was originally issued on October 5, 2012 with the intent of making an award prior to the expiration of the then existing concession agreement; however, Parks is unable to make an award pursuant to that RFP because material information regarding ownership of the underground storage tanks, gasoline pumps and dispensers that are currently on the premises came to Parks' attention subsequent to the close of the RFP process.

Parks has determined that it is in the City's best interest to negotiate only with the previous concessionaire, Super Value Inc., because they own the underground storage tanks, gasoline pumps and dispensers and they are currently occupying and operating the premises and have been since their license expired. As part of the negotiated concession, Super Value Inc. will be required to remove the existing underground gasoline storage tanks, gasoline pumps and dispensers, restore the premises and undertake any necessary environmental remediation of the premises before the end of the term. This negotiated concession is meant to act as a short-term solution to bridge the gap until a new competitive RFP solicitation, evaluation, and award process have concluded and to allow time for the existing underground storage tanks, pumps and dispensers to be removed from the premises before the start of any longer term concession.

Therefore, pursuant to the Concession Rules and with the approval of the Director of the Mayor's Office of Contract Services, Parks will negotiate only with Super Value Inc. However, if you want to express interest in the proposed concession or obtain additional information concerning the proposer concession, please contact Lauren Standke, Project Manager for the Revenue Division, at (212) 360-3495 or via e-mail at [Lauren.Standke@parks.nyc.gov](mailto:Lauren.Standke@parks.nyc.gov) by December 30, 2013 for instructions and information. Where applicable, Parks may condition the award of this concession upon the successful completion of VENDEX Questionnaires (Vendor and Principal Questionnaires) and review of that information by the Department of Investigation. In addition, any person or entity with at least a 10% ownership interest in the submitting vendor (including a parent company), may be required to complete VENDEX Questionnaires (Principal Questionnaire for any person and Vendor Questionnaire for any entity with at least a 10% ownership interest in the submitting vendor).

This concession has been determined not to be a major concession as defined by Chapter 7 of the Rules of the City Planning Commission.

Please note that the concession award is subject to applicable provisions of federal, State, and local laws and executive orders requiring affirmative action and equal employment opportunity.

The New York City Comptroller is charged with the audit of concession agreements in New York City. Any person or entity that believes that there has been unfairness, favoritism or impropriety in the proposal process should inform the Comptroller's Office of Contract Administration, 1 Centre Street, Room 835, New York, New York 10007. This office may be reached at (212) 669-2323.

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## READER'S GUIDE

The City Record (CR) is published each business day and includes notices of proposed New York City procurement actions, contract awards, and other procurement-related information. Solicitation notices for most procurements valued at or above \$100,000 for information technology and for construction and construction related services, above \$50,000 for other services, and above \$25,000 for other goods are published for at least one day. Other types of procurements, such as sole source, require notice in The City Record for five consecutive days. Unless otherwise specified, the agencies and offices listed are open for business Monday through Friday from 9:00 A.M. to 5:00 P.M., except on legal holidays.

### NOTICE TO ALL NEW YORK CITY CONTRACTORS

The New York State Constitution ensures that all laborers, workers or mechanics employed by a contractor or subcontractor doing public work are to be paid the same wage rate that prevails in the trade where the public work is being done. Additionally, New York State Labor Law §§ 220 and 230 provide that a contractor or subcontractor doing public work in construction or building service must pay its employees no less than the prevailing wage. Section 6-109 (the Living Wage Law) of the New York City Administrative Code also provides for a "living wage", as well as prevailing wage, to be paid to workers employed by City contractors in certain occupations. The Comptroller of the City of New York is mandated to enforce prevailing wage. Contact the NYC Comptroller's Office at [www.comptroller.nyc.gov](http://www.comptroller.nyc.gov), and click on Prevailing Wage Schedules to view rates.

### CONSTRUCTION/CONSTRUCTION SERVICES OR CONSTRUCTION-RELATED SERVICES

The City of New York is committed to achieving excellence in the design and construction of its capital program, and building on the tradition of innovation in architecture and engineering that has contributed to the City's prestige as a global destination.

### VENDOR ENROLLMENT APPLICATION

New York City procures approximately \$17 billion worth of goods, services, construction and construction-related services every year. The NYC Procurement Policy Board Rules require that agencies primarily solicit from established mailing lists called bidder/proposer lists. Registration for these lists is free of charge. To register for these lists, prospective suppliers should fill out and submit the NYC-FMS Vendor Enrollment application, which can be found online at [www.nyc.gov/selltonyc](http://www.nyc.gov/selltonyc). To request a paper copy of the application, or if you are uncertain whether you have already submitted an application, call the Vendor Enrollment Center at (212) 857-1680.

### SELLING TO GOVERNMENT TRAINING WORKSHOP

New and experienced vendors are encouraged to register for a free training course on how to do business with New York City. "Selling to Government" workshops are conducted by the Department of Small Business Services at 110 William Street, New York, NY 10038. Sessions are convened on the second Tuesday of each month from 10:00 A.M. to 12:00 P.M. For more information, and to register, call (212) 618-8845 or visit [www.nyc.gov/html/sbs/nycbiz](http://www.nyc.gov/html/sbs/nycbiz) and click on Summary of Services, followed by Selling to Government.

### PRE-QUALIFIED LISTS

New York City procurement policy permits agencies to develop and solicit from pre-qualified lists of vendors, under prescribed circumstances. When an agency decides to develop a pre-qualified list, criteria for pre-qualification must be clearly explained in the solicitation and notice of the opportunity to pre-qualify for that solicitation must be published in at least five issues of the CR. Information and qualification questionnaires for inclusion on such lists may be obtained directly from the Agency Chief Contracting Officer at each agency (see Vendor Information Manual). A completed qualification questionnaire may be submitted to an Agency Chief Contracting Officer at any time, unless otherwise indicated, and action (approval or denial) shall be taken by the agency within 90 days from the date of submission. Any denial or revocation of pre-qualified status can be appealed to the Office of Administrative Trials and Hearings (OATH). Section 3-10 of the Procurement Policy Board Rules describes the criteria for the general use of pre-qualified lists. For information regarding specific pre-qualified lists, please visit [www.nyc.gov/selltonyc](http://www.nyc.gov/selltonyc).

### NON-MAYORAL ENTITIES

The following agencies are not subject to Procurement Policy Board Rules and do not follow all of the above procedures: City University, Department of Education, Metropolitan Transportation Authority, Health & Hospitals Corporation, and the Housing Authority. Suppliers interested in applying for inclusion on bidders lists for Non-Mayoral entities should contact these entities directly at the addresses given in the Vendor Information Manual.

### PUBLIC ACCESS CENTER

The Public Access Center is available to suppliers and the public as a central source for supplier-related information through on-line computer access. The Center is located at 253 Broadway, 9th floor, in lower Manhattan, and is open Monday through Friday from 9:30 A.M. to 5:00 P.M., except on legal holidays. For more information, contact the Mayor's Office of Contract Services at (212) 341-0933 or visit [www.nyc.gov/mocs](http://www.nyc.gov/mocs).

### ATTENTION: NEW YORK CITY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES

Join the growing number of Minority and Women-Owned Business Enterprises (M/WBEs) that are competing for New York City's business. In order to become certified for the program, your company must substantiate that it: (1) is at least fifty-one percent (51%) owned, operated and controlled by a minority or woman and (2) is either located in New York City or has a significant tie to New York City's business community. To obtain a copy of the certification application and to learn more about this program, contact the Department of Small Business Services at (212) 513-6311 or visit [www.nyc.gov/sbs](http://www.nyc.gov/sbs) and click on M/WBE Certification and Access.

### PROMPT PAYMENT

It is the policy of the City of New York to pay its bills promptly. The Procurement Policy Board Rules generally require that the City pay its bills within 30 days after the receipt of a proper invoice. The City pays interest on all late invoices. However, there are certain types of payments that are not eligible for interest; these are listed in Section 4-06 of the Procurement Policy Board Rules. The Comptroller and OMB determine the interest rate on late payments twice a year: in January and in July.

### PROCUREMENT POLICY BOARD RULES

The Rules may also be accessed on the City's website at [www.nyc.gov/selltonyc](http://www.nyc.gov/selltonyc)

### COMMON ABBREVIATIONS USED IN THE CR

The CR contains many abbreviations. Listed below are simple explanations of some of the most common ones appearing in the CR:

ACCO	Agency Chief Contracting Officer
AMT	Amount of Contract
CSB	Competitive Sealed Bid including multi-step
CSP	Competitive Sealed Proposal including multi-step
CR	The City Record newspaper
DP	Demonstration Project
DUE	Bid/Proposal due date; bid opening date
EM	Emergency Procurement
FCRC	Franchise and Concession Review Committee
IFB	Invitation to Bid
IG	Intergovernmental Purchasing
LBE	Locally Based Business Enterprise
M/WBE	Minority/Women's Business Enterprise
NA	Negotiated Acquisition
OLB	Award to Other Than Lowest Responsive Bidder/Proposer
PIN	Procurement Identification Number
PPB	Procurement Policy Board
PQL	Pre-qualified Vendors List
RFEI	Request for Expressions of Interest
RFI	Request for Information
RFP	Request for Proposals
RFQ	Request for Qualifications
SS	Sole Source Procurement
ST/FED	Subject to State and/or Federal requirements

### KEY TO METHODS OF SOURCE SELECTION

The Procurement Policy Board (PPB) of the City of New York has by rule defined the appropriate methods of source selection for City procurement and reasons justifying their use. The CR procurement notices of many agencies include an abbreviated reference to the source selection method utilized. The following is a list of those methods and the abbreviations used:

CSB	Competitive Sealed Bidding including multi-step <i>Special Case Solicitations/Summary of Circumstances:</i>
CSP	Competitive Sealed Proposal including multi-step
CP/1	Specifications not sufficiently definite
CP/2	Judgement required in best interest of City
CP/3	Testing required to evaluate
CB/PQ/4	
CP/PQ/4	CSB or CSP from Pre-qualified Vendor List/ Advance qualification screening needed
DP	Demonstration Project
SS	Sole Source Procurement/only one source
RS	Procurement from a Required Source/ST/FED
NA	Negotiated Acquisition <i>For ongoing construction project only:</i>
NA/8	Compelling programmatic needs
NA/9	New contractor needed for changed/additional work
NA/10	Change in scope, essential to solicit one or limited number of contractors

NA/11	Immediate successor contractor required due to termination/default <i>For Legal services only:</i>
NA/12	Specialized legal devices needed; CSP not advantageous
WA	Solicitation Based on Waiver/Summary of Circumstances ( <i>Client Services/CSB or CSP only</i> )
WA1	Prevent loss of sudden outside funding
WA2	Existing contractor unavailable/immediate need
WA3	Unsuccessful efforts to contract/need continues
IG	Intergovernmental Purchasing (award only)
IG/F	Federal
IG/S	State
IG/O	Other
EM	Emergency Procurement (award only): An unforeseen danger to:
EM/A	Life
EM/B	Safety
EM/C	Property
EM/D	A necessary service
AC	Accelerated Procurement/markets with significant short-term price fluctuations
SCE	Service Contract Extension/insufficient time; necessary service; fair price <i>Award to Other Than Lowest Responsible &amp; Responsive Bidder or Proposer/Reason (award only)</i>
OLB/a	anti-apartheid preference
OLB/b	local vendor preference
OLB/c	recycled preference
OLB/d	other: (specify)

### HOW TO READ CR PROCUREMENT NOTICES

Procurement notices in the CR are arranged by alphabetically listed Agencies, and within Agency, by Division if any. The notices for each Agency (or Division) are further divided into three subsections: Solicitations, Awards; and Lists & Miscellaneous notices. Each of these subsections separately lists notices pertaining to Goods, Services, or Construction.

Notices of Public Hearings on Contract Awards appear at the end of the Procurement Section.

At the end of each Agency (or Division) listing is a paragraph giving the specific address to contact to secure, examine and/or to submit bid or proposal documents, forms, plans, specifications, and other information, as well as where bids will be publicly opened and read. This address should be used for the purpose specified unless a different one is given in the individual notice. In that event, the directions in the individual notice should be followed.

The following is a SAMPLE notice and an explanation of the notice format used by the CR.

## SAMPLE NOTICE:

### POLICE

#### DEPARTMENT OF YOUTH SERVICES

##### ■ SOLICITATIONS

*Services (Other Than Human Services)*

**BUS SERVICES FOR CITY YOUTH PROGRAM** – Competitive Sealed Bids – PIN# 056020000293 – DUE 04-21-03 AT 11:00 A.M.

*Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.*

*NYPD, Contract Administration Unit, 51 Chambers Street, Room 310, New York, NY 10007. Manuel Cruz (646) 610-5225.*

☛ m27-30

ITEM	EXPLANATION
POLICE DEPARTMENT	Name of contracting agency
DEPARTMENT OF YOUTH SERVICES	Name of contracting division
■ SOLICITATIONS	Type of Procurement action
<i>Services (Other Than Human Services)</i>	Category of procurement
BUS SERVICES FOR CITY YOUTH PROGRAM	Short Title
CSB	Method of source selection
PIN # 056020000293	Procurement identification number
DUE 04-21-03 AT 11:00 am	Bid submission due 4-21-03 by 11:00 am; bid opening date/time is the same.
<i>Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents; etc.</i>	Paragraph at the end of Agency Division listing providing Agency contact information
	NYPD, Contract Administration Unit 51 Chambers Street, Room 310 New York, NY 10007. Manuel Cruz (646) 610-5225.
☛	Indicates New Ad
m27-30	Date that notice appears in The City Record