THE CITY RECORD

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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.

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PUBLIC HEARINGS AND MEETINGS

See Also: Procurement; Agency Rules

BRONX BOROUGH PRESIDENT

■ PUBLIC HEARINGS

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 REGISER AT THE HEARING. PLEASE DIRECT ANY QUESTIONS CONCERNING THIS MATTER TO THE OFFICE OF THE BOROUGH PRESIDENT, (718) 590-6124.

d13-19

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.

d13-19

PROPERTY DISPOSITION

CITYWIDE ADMINISTRATIVE SERVICES

OFFICE OF CITYWIDE PURCHASING

■ NOTICE

The Department of Citywide Administrative Services, Office of Citywide Purchasing is currently selling surplus assets on the internet. Visit http://www.publicsurplus.com/sms/nycdcas.ny/browse/home. To begin bidding, simply click on 'Register' on the home page. There are no fees to register. Offerings may include but are not limited to: office supplies/equipment, furniture, building supplies, machine tools, HVAC/plumbing/electrical equipment, lab equipment, marine equipment, and more. Public access to computer workstations and assistance with placing bids is available at the following locations:

- DCAS Central Storehouse, 66-26 Metropolitan Avenue, Middle Village, NY 11379
- DCAS, Office of Citywide Purchasing, 1 Centre Street, 18th Floor, New York, NY 10007.

jy24-d31

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***

"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.

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

CITY UNIVERSITY

■ SOLICITATIONS

Services (Other Than Human Services)

DESIGN OF ALLIED HEALTH AND NATURAL SCIENCE BUILDING – Request for Qualifications – PIN# HS-CUCF-04-13 – DUE 01-30-14 AT 12:00 P.M. – Seeking an appropriately qualified architectural/engineering firm (the "Consultant") to provide complete Architectural/ Engineering services to program, design, prepare contract documents, and perform construction administration for a new building on the Hostos campus in the Bronx, New York. The project will construct a 170,000 GSF facility with laboratories, classrooms, offices, and student work areas to support the College's Allied Health programs, including Dental Hygiene, Radiologic Technology and Nursing, and its natural science programs, with dental hygiene and wellness clinics.

A copy of the solicitation that more fully describes the project, process, submission requirements, evaluation criteria, timeline and contact information is available for downloading at www.cuny.edu/cunybuilds on December 19, 2013 at 12:00 Noon, and is also available for pick-up as an electronic document on a compact disc during regular business hours at the CUNY Office of Facilities Planning, Construction, and Management, Procurement Services, 555 West 57th Street, 16th Floor, New York, New York 10019.

The selection of firms for further consideration and submission of additional information, if any, will be made consistent wtih applicable laws and procedures. Minority-owned Business Enterprise subcontracting goal: 12 percent; Women-owned Business Entity subcontracting goal: 8 percent.

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, Procurement Services, 555 West 57th Street, 16th Floor, New York, New York 10019.
Michael Feeney (646) 664-2759; cuny.builds@cuny.edu

☛ **d19**

CITYWIDE ADMINISTRATIVE SERVICES

OFFICE OF CITYWIDE PURCHASING

■ SOLICITATIONS

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

Goods

TRUCK, 4,400 GALLON FUEL TANK - DSNY – Competitive Sealed Bids – PIN# 8571300390 – AMT: $3,380,208.20 – TO: Gabrielli Truck Sales, Ltd, 153-20 South Conduit Avenue, Jamaica, NY 11434.

● **TRUCK, 4400 GALLON EMERGENCY DIESEL/ GASOLINE - DSNY** – Competitive Sealed Bids – PIN# 8571400010 – AMT: $2,218,785.86 – TO: Gabrielli Truck Sales, Ltd., 153-20 South Conduit Avenue, Jamaica, NY 11434.

● **LABWARE, GLASS AND PLASTIC, DISPOSABLE AND REUSABLE** – Competitive Sealed Bids – PIN# 8571200655 – AMT: $730,800.00 – TO: Krackeler Scientific, Inc., 57 Broadway, Albany, NY 12202.

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Goods & Services

INFANT SWADDLER AND OBS KITS – Competitive Sealed Bids – PIN# 8571300335 – AMT: $150,280.70 – TO: G E Pickering Inc., 263 Glen Cove Avenue, P.O. Box 356, Sea Cliff, NY 11579.

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■ 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)

X-RAY (AS AND E) MACHINE MAINTENANCE, SERVICE, REPAIR, AND PARTS – Sole Source – Available only from a single source - PIN# 85614S0001 – DUE 12-26-13 AT 10:00 A.M. – This request is to provide parts, maintenance, and repairs for all American Science and Engineering, Inc. ("AS and E") X-Ray Machines throughout the City of New York for the Department of Citywide Administrative Services ("DCAS").

DCAS intends to enter into a Sole Source negotiation with AS and E for the above noted services.

Any firm which believes that it can also provide the service and is an authorized technician to provide service to these AS and E machines, is invited to express an interest by letter, which must be received no later than 10:00 A.M. on Thursday, December 26, 2013 to the attention of John K. Bernabe, Contract Manager, Office of Citywide Purchasing.

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 North, New York, New York 10007.
John Bernabe (212) 386-0426; Fax: (646) 500-6374; jbernabe@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.

d18-24

DESIGN & CONSTRUCTION

CONTRACTS

■ SOLICITATIONS

Construction / Construction Services

INTERIOR RENOVATION AND SYSTEMS UPGRADE - LARGE – Request for Qualifications – PIN# LGINTERIOR13 – DUE 01-16-14 AT 4:00 P.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.
Department of Design and Construction, 30-30 Thomson Avenue, 1st Floor, L.I.C., NY 11101.
Melanie Sanchez (718) 391-3430; Fax: (718) 391-2615; SanchezMe@ddc.nyc.gov

☛ **d19-26**

NEW BUILDING CONSTRUCTION – Request for Qualifications – PIN# NEWCONSTRUCT2013 – DUE 01-14-14 AT 4:00 P.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.
Department of Design and Construction, 30-30 Thomson Avenue, 1st Floor, L.I.C., NY 11101.
Melanie Sanchez (718) 391-3430; Fax: (718) 391-2615; SanchezMe@ddc.nyc.gov

d17-23

EDUCATION

CONTRACTS AND PURCHASING

■ SOLICITATIONS

Goods

GAS AND DIESEL ENGINE TRAINING EQUIPMENT – Competitive Sealed Bids – PIN# Z2432040 – DUE 01-07-14 AT 4:00 P.M. – This is a full value contract for furnishing and delivering Gas and Diesel Engine Training Equipment to the Alfred E. Smith CTE High School. If you cannot download this BID, please send an e-mail to VendorHotline@schools.nyc.gov with the BID Number and title in the subject line of your e-mail. For all questions related to this BID, please send an e-mail to LJaen@schools.nyc.gov with the BID Number and title in the subject line of your e-mail.

Bid Due Date and Time: January 7, 2014 by 4:00 P.M.

Bid Opening Date and Time: January 8, 2014 at 11:00 A.M.

The New York City Department of Education (DOE) strives to give all businesses, including Minority and Women-Owned Business Enterprises (M/WBEs), an equal opportunity to compete for DOE procurements. The DOE's mission is to provide equal access to procurement opportunities for all qualified vendors, including M/WBEs, from all segments of the community. The DOE works to enhance the ability of M/WBEs to compete for contracts. DOE is committed to ensuring that M/WBEs fully participate in the procurement process.

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 Education, 65 Court Street, Room 1201, Brooklyn, NY 11201. Vendor Hotline (718) 935-2300; vendorhotline@schools.nyc.gov

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FIRE

■ SOLICITATIONS

Services (Other Than Human Services)

MAINTENANCE AND TECHNICAL SUPPORT SERVICES FOR THE GEOGRAPHIC INFORMATION SYSTEM-BASED SITING AND DEPLOYMENT SOFTWARE PROGRAM – Sole Source – Available only from a single source - PIN# 057140001134 – DUE 01-02-14 AT 4:00 P.M. – The Fire Department intends to enter into sole source negotiations with Deccan International to provide ongoing Maintenance and Technical Support Services for proprietary software to support the Geographic Information System-Based Siting and Deployment Software Program. Any firm that believes it can provide these services is invited to do so in writing. Written requests shall be sent to 9 MetroTech Center, Brooklyn, NY 11201, Room 5S-01-K. Attn: K. Legrand, tel: (718) 999-1231.

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.
Fire Department, 9 MetroTech Center, 5th Floor, Brooklyn, NY 11201. Kristina LeGrand (718) 999-1231; legrankm@fdny.nyc.gov.

d17-23

FISCAL DIVISION

■ SOLICITATIONS

Services (Other Than Human Services)

SYSTEM MAINTENANCE, TECHNICAL SUPPORT AND ENHANCEMENTS FOR IMAGEWORK TECHNOLOGIES SYSTEMS – Sole Source – Available only from a single source - PIN# 057140001231 – DUE 01-02-14 AT 4:00 P.M. – The Fire Department intends to enter into sole source negotiations with ImageWork Technologies Corp., to provide ongoing system maintenance, technical support and enhancements for ImageWork Technologies Systems. Any firm that believes it can provide these services is invited to do so in writing. Written requests shall be sent to the address below. Attn: M. Smith, tel: (718) 999-2845.

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.
Fire Department, 9 MetroTech Center, 5W-18K, Brooklyn, NY 11201. Tetyana Sydoruk (718) 999-2333; Fax: (718) 999-0177; contracts@fdny.nyc.gov

d17-23

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)

CHEST X-RAY READINGS AND INTERPRETATION SERVICES – Request for Proposals – PIN# 11TB004100R0X00 – DUE 02-03-14 AT 2:00 P.M. – The Department's Bureau of Disease Control is seeking an appropriately qualified Contractor to provide teleradiology (x- ray reading) and interpretation services at four (4) DOHMH Bureau of Tuberculosis Chest Centers ("Chest Centers" or "DOHMH Chest Centers") located in the Boroughs of Bronx, Brooklyn, Manhattan, and Queens. RFPs are available for pickup starting December 19, 2013 at 10:00 A.M. on business days only at the address listed above or online at http://www.nyc.gov/health/contracting. Proposals must be received no later than February 3, 2014, at 2:00 P.M. Faxed or E-mailed proposals will not be accepted. Any questions regarding the proposals should be emailed in writing to the above Contract Manager at RFP@health.nyc.gov.

A non-mandatory Pre-Proposal Conference will be held at the New York City Department of Health and Mental Hygiene, Office of the Agency Chief Contracting Officer, 42-09 28th Street, Long Island City, NY 11101, between the hours of 10:30 A.M. and 12:00 noon on January 8, 2014.

Attendance by proposers is optional but strongly recommended by DOHMH. To register for the conference, email the name, title and affiliation of each attendee to RFP@health.nyc.gov. Please state "X-RAY RFP CONFERENCE ATTENDEE" in the subject line of the e-mail. On the day of the conference, please bring picture identification with you and arrive thirty minutes early to allow for the time that it will take to proceed through security.

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; rfp@health.nyc.gov

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HOUSING AUTHORITY

■ **SOLICITATIONS**

Services (Other Than Human Services)

CLOUD TECHNOLOGY ANALYSIS – Competitive Sealed Bids – PIN# RFP60068 – DUE 01-10-14 AT 3:00 P.M. – The New York City Housing Authority seeks proposals from a qualified proposer ("consultant") as set forth more fully within Section 2-Scope of Service of this Solicitation: CLOUD TECHNOLOGY ANALYSIS. In the event that a Proposer has a question concerning this Solicitation: they should be submitted to the Solicitation Coordinator, Jieqi WU, via e-mail Jieqi.Wu@nycha.nyc.gov (c: Sunny.Philip@nycha.nyc.gov) no later than 2:00 P.M., on December 30, 2013. The subject line of the e-mail must clearly denote the title of the Solicitation for which questions are being asked. All questions and answers will be shared with all the Proposers receiving this Solicitation by January 4, 2014. In order to be considered, each proposer must demonstrate experience in performing the same or similar Scope of Services as those outlined in the referenced Scope of Work, Section 2 and the selected proposer must satisfy the minimum required qualifications as outlined in Sections 3, 5 and 6. The proposal should contain sufficient details to enable NYCHA to evaluate it in accordance with the criteria set forth in Section 5-Evaluation Criteria of this Solicitation:. Proposers electing to request hard copies of the bid documents (paper document), rather than downloading from NYCHA's isupplier portal, will be subject to a $25.00 non-refundable fee; payable to NYCHA by USPS-Money Order/Certified Check only for each set of Solicitation documents requested. Remit payment to NYCHA Finance Department at 90 Church Street, 6th Floor; obtain receipt and present it to 6th Floor, Supply Management Procurement Group. A Solicitation package will be generated at time of request. Proposers should refer to Sections 3 and 4, Proposal Submission Procedures and Proposal Content Requirements, of this Solicitation for details on the submission procedures and requirements. ELECTRONIC SUBMISSION OF PROPOSAL IS NOT ALLOWED FOR THIS JOB. Each proposer is required to submit one (1) signed original; five (5) additional copies and also another copy in PDF format in a CD, which all includes all items required by Section 3 and 4 to NYCHA, Supply Management Procurement Dept., 90 Church Street, 6th Floor, by January 10, 2014 at 3:00 P.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.
Housing Authority, 90 Church Street, 6th Floor, New York, New York 10007. Jiequ Wu (212) 306-8278; Fax: (212) 306-5109; Jieqi.Wu@nycha.nyc.gov

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HUMAN RESOURCES ADMINISTRATION

AGENCY CHIEF CONTRACTING OFFICER

■ **AWARDS**

Human / Client Services

SHARED SERVICES/SAVE - AUDITS OF HHS CONTRACTS – Competitive Sealed Proposals – Judgment required in evaluating proposals - PIN# 06914H085504 – AMT: $343,750.00 – TO: Galleros Koh, LLP, 71 W. Main Street, Freehold, NJ 07728. TERM: 12/1/2013 - 11/30/2016. E-PIN: 09613P0003011.

● **SHARED SERVICES/SAVE - AUDITS OF HHS CONTRACT TIER I** – Competitive Sealed Proposals – Judgment required in evaluating proposals - PIN# 06914H085518 – AMT: $1,767,857.00 – TO: Toski and Co., CPAs, P.C., 300 Essjay Road, Suite 115, Williamsville, NY 14221. TERM: 12/1/2013 - 11/30/16. E-PIN: 09613P0003006.

● **SHARED SERVICES/SAVE - AUDITS OF HHS CONTRACT TIER I** – Competitive Sealed Proposals – Judgment required in evaluating proposals - PIN# 06914H085514 – AMT: $1,767,857.00 – TO: A.F. Paredes and Co., CPAs, 99 John Street, Suite 408, NY, NY 10038. TERM: 12/1/2013 - 11/30/2016. E-PIN: 09613P0003002.

☛ **d19**

INTRANET QUORUM ENTERPRISE SOFTWARE LICENSES WITH 2 YEARS SUPPORT SERVICES – Intergovernmental Purchase – Judgment required in evaluating proposals - PIN# 14GPEMI01301 – AMT: $179,462.36 – TO: Lockheed Martin Desktop Solutions, Inc., 2700 Prosperity Avenue, Fairfax, VA 22031. TERM: 11/1/2013 - 10/31/2015. E-PIN: 09614G0001001.

☛ **d19**

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, 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

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, 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

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; deborah.richardson@parks.nyc.gov

d12-26

CONTRACT ADMINISTRATION

■ **SOLICITATIONS**

Construction / Construction Services

RECONSTRUCTION OF THE WATERFRONT IN PELHAM BAY PARK – Competitive Sealed Bids – PIN# 84614B0026 – DUE 01-28-14 AT 10:30 A.M. – Waterfront between Pelham Bay Landfill and Watt Avenue in Pelham Bay Park, The Bronx, known as Contract #X039-507MA. This contract is subject to Apprenticeship program requirements.
A Pre-bid meeting is scheduled on Thursday, January 9, 2014, at 12:30 P.M. at the Olmsted/Design Conference Room.

● **RECONSTRUCTION OF THE PLAYGROUND IN BETSY HEAD MEMORIAL PARK** – Competitive Sealed Bids – PIN# 84614B0039 – DUE 01-30-14 AT 10:30 A.M. - Located on Dumont Avenue between Hopkinson Avenue and Bristol Street, Brooklyn, known as Contract #B008-111M. This procurement is subject to participation goals for MBEs and/or WBEs as required by Local Law 1 of 2013. This contract is subject to Apprenticeship program requirements.

Bid documents are available for a fee of $25.00 in the Blueprint Room, Room #64, Olmsted Center, from 8:00 A.M. to 3:00 P.M. The fee is payable by company check or money order to the City of NY, Parks and Recreation. A separate check/money order is required for each project. The Company name, address and telephone number as well as the project contract number must appear on the check/money order. Bidders should ensure that the correct company name, address, telephone and fax numbers are submitted by your company/messenger service when picking up bid documents.

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, Olmsted Center, Room 64, Flushing Meadows Corona Park, Flushing, NY 11368. Juan Alban (718) 760-6771, Juan.Alban@parks.nyc.gov Olmsted Center, Room 60, Flushing Meadows-Corona Park, Flushing, NY 11368.

☛ **d19**

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 vist.

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

d9-20

AGENCY PUBLIC HEARINGS ON CONTRACT AWARDS

NOTE: Individuals requesting Sign Language Interpreters should contact the Mayor's Office of Contract Services, Public Hearings Unit, 253 Broadway, 9th Floor, New York, N.Y. 10007, (212) 788-7490, no later than SEVEN (7) BUSINESS DAYS PRIOR TO THE PUBLIC HEARING. TDD users should call Verizon relay services.

PROBATION

■ **PUBLIC HEARINGS**

NOTICE IS HEREBY GIVEN that a Public Hearing will be held at the Department of Probation, 33 Beaver Street, 21st floor, Borough of Manhattan, Monday, December 30, 2013 commencing at 10:00 A.M. on the following items:

IN THE MATTER OF the proposed contract between the Department of Probation and the contractor listed below to provide an ECHOES (Every Child Has an Opportunity to Excel and Succeed) Program. The Contractor's PIN number and contract amount is indicated below. The term shall be from April 1, 2014 through March 31, 2016 with an option to renew for up to three (3) additional years.

CONTRACTOR

The Children's Aid Society
105 East 22nd Street, New York, NY 10010
PIN# 78113P0001001 **Amount** $365,760

The proposed contractor has been selected by means of the Competitive Sealed Proposal Method, pursuant to Section 3-03 of the Procurement Policy Board Rules.

Summary drafts of the contracts' scope, specifications and terms and conditions will be available for public inspection at the Department of Probation, 33 Beaver Street, 21st Floor, New York, NY 10004, between the hours of 9:00 A.M. and 5:00 P.M. except holidays.

Anyone who wishes to speak at this public hearing should request to do so in writing. The written request must be received by the Agency within 5 business days after publication of this notice. Written requests to speak should be sent to Ms. Eileen Parfrey-Smith, Agency Chief Contracting Officer, 33 Beaver Street, 21st Floor, New York, NY 10004, **acco@probation.nyc.gov** If the Department of Probation receives no written requests to speak within the prescribed time, the Department reserves the right not to conduct the public hearing.

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AGENCY RULES

FINANCE

■ **NOTICE**

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing? These are amendments to the NYC Department of Finance rules relating to parking violations concerning the Fleet Program, a voluntary program established to assist certain companies in managing their parking summonses.

When and where is the Hearing? The Department of Finance will hold a public hearing on the proposed rule. The public hearing will take place at 1:00 P.M. on January 21, 2014. The hearing will be in the Department of Finance hearing room at 345 Adams Street, 3rd Floor, Brooklyn, N.Y. 11201.

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

- **Website.** You can submit comments to the Department of Finance through the NYC Rules website: http://rules.cityofnewyork.us.
- **Email.** You can email written comments to daumanr@finance.nyc.gov.
- **Mail.** You can mail written comments to NYC Department of Finance, Legal Affairs Division, 345 Adams Street, 3rd Floor, Brooklyn, N.Y. 11201, Attn: Robert Dauman.
- **Fax.** You can fax written comments to NYC

Department of Finance, Attn: Robert Dauman, at (718) 403-3650.

- **Hearing.** You can speak at the public 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 Joan Best at (718) 403-3669, or you can sign up in the hearing room before the hearing begins on January 21, 2014. You can speak for up to three minutes.

Is there a deadline to submit written comments? The deadline to submit written comments is January 21, 2014.

What if I need assistance to participate in the Hearing? You must tell the Office of Legal Affairs 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, sent to the attention of Joan Best. You may also tell us by telephone by calling Joan Best at (718) 403-3669. You can also tell us by e-mail at bestj@finance.nyc.gov. You must tell us by January 7, 2014.

Can I review the comments made on the proposed rule? You can review the comments that have been submitted online by visiting the NYC rules website: http://rules.cityofnewyork.us/. In addition, copies of all submitted comments concerning the proposed rule and a summary of oral comments from the Hearing will be available to the public a few days after the Hearing at NYC Department of Finance, Legal Affairs Division, 345 Adams Street, 3rd Floor, Brooklyn, N.Y. 11201.

What authorizes Department of Finance to adopt this rule? Vehicle and Traffic Law §237, New York City Administrative Code § 19-203, and New York City Charter §§ 389(b) and 1043 authorize the Department of Finance to adopt this proposed rule.

Where can I find the Department of Finance's rules? The Department of Finance's rules can be found in Title 19 of the Rules of the City of New York.

What laws govern the rulemaking process? The Department of Finance must meet the requirements of § 1043 of the City Charter when creating or amending rules. This notice is made according to the requirements of § 1043 of the City Charter.

STATEMENT OF BASIS AND PURPOSE

The Fleet Program of the New York City Department of Finance is a voluntary program that was established to assist companies with two or more commercial vehicles, used exclusively for the delivery of goods or services, in managing their parking summonses by providing them with weekly listings of new summonses issued to any of the company's vehicles with plates registered in the program. An enrolled company is allowed a period of forty-five days to resolve a summons by either paying the summons at a base fine, or by obtaining a hearing, without incurring penalties.

A company enrolled in the Fleet Program that makes expeditious pick-ups, deliveries and/or service calls may also enter into the Stipulated Fine Program. Companies enrolled in the Fleet Program that are not eligible for the Stipulated Fine Program may enter into the Commercial Abatement Program if they meet the criteria set out in this rule. In both the Stipulated Fine Program and the Commercial Abatement Program, the enrolled company agrees to waive the right to contest parking summonses and agrees to pay reduced parking fines provided in a contractual fine schedule.

These proposed amendments update the rules relating to parking violations with respect to the Fleet Program, the Stipulated Fine Program, and the Commercial Abatement Program by:

- Removing the word "free" from the definition of the Fleet Program
- Amending the definition of "commercial organization" to clarify that it refers to business entities
- Adding definitions of "business entity," "long-term lease," "stipulated fine program" and "commercial abatement program"
- Changing from two to one the minimum number of vehicles that a company can enroll in the Fleet Program
- Clarifying that a company that is enrolled in the Fleet Program remains liable for any summons issued to an enrolled vehicle even if the vehicle is not registered to the company, until enrollment for the vehicle is terminated
- Clarifying that vehicles with either commercial or non-commercial license plates may be enrolled in the Fleet Program, but that only vehicles with commercial license plates can be enrolled in the Stipulated Fine Program or the Commercial Abatement Program
- Providing that leased vehicles can be enrolled in the Fleet Program only if the lease is a long-term lease and only if the lessor and lessee are business entities, not individuals
- Changing the date from which the 45-day period to resolve a parking summons begins, from the date of issuance of the computer-generated log of a company's summonses, to the Department of Finance system entry date for the summons
- Establishing that the failure of a company to satisfy summonses that have entered judgment status and total in the aggregate more than $350 will result in termination of the company's enrollment in the Fleet Program
- Providing that a company may enroll in the Fleet Program only by executing an enrollment agreement using a form or format established by the Commissioner of Finance
- Establishing that if a company that is enrolled in the Stipulated Fine Program fails to satisfy summonses that enter judgment status, and total in the aggregate, including interest, more than $350, the outstanding summonses will be subject to enforcement actions, the company will be responsible for the full unreduced fine amounts, the company will not be permitted to adjudicate any such outstanding summons, and the company's enrollment in the Stipulated Fine Program will be terminated
- Providing the schedule of penalties applicable to companies enrolled in the Stipulated Fine Program for the failure to pay a stipulated fine in a timely manner
- Adding a section that describes the Commercial Abatement Program, including eligibility criteria, terms of the program, and the consequences of a failure to pay fines in a timely manner.

The Department of Finance's authority for these rules is found in Vehicle and Traffic Law §237, New York City Administrative Code §19-203, and New York City Charter §§ 389(b) and 1043.

"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.

Matter underlined is new. Matter in brackets [] is to be deleted.

Proposed Amendments to Rules Relating to Parking Violations

Section 1. The definitions of "Commercial Organization" and "Fleet Program," as set forth in section 39-01 of Chapter 39 of Title 19 of the Rules of the City of New York, are amended, and new definitions of "Business entity," "Commercial Abatement Program," "Long-term lease" and "Stipulated Fine Program" are added, in alphabetical order, to read as follows:

Business entity. "Business entity" means a corporation, partnership, organization or other entity engaged in business, but does not include an individual person or persons.

Commercial Abatement Program. "Commercial Abatement Program" means a voluntary enrollment program whereby commercial organizations that are enrolled in the Fleet Program and meet the eligibility criteria established in § 39-03.2 of these rules, but are not eligible for the Stipulated Fine Program pursuant to §39-03.1 of these rules, waive their right to challenge parking summonses and agree to pay a reduced fine amount for each summons, pursuant to §39-03.2 of these rules.

Commercial Organization. "Commercial Organization" means any business entity that is an owner or lessee of at least [two vehicles which are] one vehicle that is used exclusively for the delivery of goods or services.

Fleet Program. "Fleet Program" means a [free] voluntary enrollment program whereby commercial organizations receive computer-generated hearing logs and can schedule hearings in the Parking Violation Bureau's (PVB's) Commercial Adjudication Unit (CAU) pursuant to §39-03 of these rules.

Long-term lease. "Long-term lease" means a lease for a term of one year or more.

Stipulated Fine Program. "Stipulated Fine Program" means a voluntary enrollment program whereby commercial organizations that make expeditious pick-ups, deliveries and/or service calls and that are enrolled in the Fleet Program and meet the eligibility criteria established in § 39-03.1 of these rules, waive their right to challenge parking summonses and agree to pay a reduced fine amount for each summons, pursuant to §39-03.1 of these rules.

§2. Subdivisions (b), (c), (e), (f), (i) and (m) of Section 39-03 of Chapter 39 of Title 19 of the Rules of the City of New York are amended, and a new subdivision (o) is added, to read as follows:

(b) The company's fleet must consist of [two or more vehicles] at least one vehicle.

(c) Plates may be commercial or non-commercial and must be registered with the Department of Motor Vehicles under the company's name and address upon enrollment and all times during enrollment. A vehicle leased by a long-term lease by the company from a lessor that is a business entity may be enrolled; provided, however, that if not registered by the company then the lease agreement must be in the name of the company or a subsidiary/parent and the registrant must consent in writing to designate the company as its agent to receive notices of violation, notices of impending default in [judgement] judgment, and other PVB notices as if the registrant itself had been served. At PVB's request, the company must supply copies of the registrations, lease agreements and other information. Failure to meet these requirements may result in the deletion of plates and/or termination of the company's enrollment in the Fleet Program without prior notice.

(e) The company is liable for any summonses issued to plates it has enrolled in the Fleet Program, including summonses issued during enrollment to leased vehicles not registered by the company.

(f) Within 45 days from the [issuance of the computer-generated log (the "155")] Department of Finance system entry date for the summons, the company must pay the fine for each summons it does not contest. [Upon entry of a Not Guilty plea, the Fleet Program manager shall schedule a hearing date for such summonses. If the scheduled hearing is inconvenient, the company may contact the Fleet Program manager within two work days after receipt of the notice of the scheduled hearing, and] If the company wishes to contest a summons at an in-person hearing, the company must request a hearing, in accordance with § 39-08 of this chapter, and be prepared to arrange to appear at such hearing, within 45 days from the [date of issuance of the PVB computer-generated hearing log (the "155") for a hearing] Department of Finance system entry date for the summons.

(i) As an alternative to requesting an in-person hearing, a company may enter an appearance within 14 days after [issuance of the PVB computer-generated log (the "155")] the Department of Finance system entry date for the summons and thereafter either pay the fine for each summons it does not contest or submit its evidence to obtain a mail adjudication within 45 days after [issuance of the PVB computer-generated log (the "155")] the Department of Finance system entry date for the summons.

(m) Failure to satisfy summonses [which] that enter judgment status [within three months of the date of entry], where such judgment(s) total in the aggregate, including interest, more than $350, or comply with the procedural requirements of this §39-03[may], will result in termination of the company's enrollment in the Fleet Program.

(o) A company may enroll in the Fleet Program only by executing an enrollment agreement using a form or in a format established by the Commissioner of Finance.

§3. Section 39-03.1 of Chapter 39 of Title 19 of the Rules of the City of New York is amended to read as follows:

§39-03.1 **Program of Stipulated Fines for Vehicles Enrolled in the Fleet Program.**

(a) Agreement; waiver of right to contest notices of violation. Notwithstanding any inconsistent provision of §39-05 of these rules, the Commissioner of Finance may enter into agreements with the owners of vehicles with commercial plates enrolled in the Fleet Program for the payment of stipulated fines in accordance with a reduced fine schedule for parking violations set forth in the agreement ("stipulated fine amounts"). Such stipulated [fines] fine amounts shall not apply to enrolled vehicles unless the owner of such vehicles enters into a written agreement with the Commissioner, in advance, in which the owner agrees to waive the right to contest all notices of violation issued against such owner's enrolled vehicles during a stated period of time and to pay the stipulated [fines] fine amounts for all such violations. [Such] This waiver includes any right to challenge or otherwise contest any such summonses that have become due and payable at the unreduced full amount pursuant to the enforcement provisions set forth in the agreement and in subdivision (e) of this section.

(b) Eligibility for Stipulated Fine Program. To be eligible for the Stipulated Fine Program, the owner must own or lease one or more commercial vehicles enrolled in the Fleet Program that make expeditious pick-ups, deliveries and/or service calls.

(c) Failure to pay fines. The agreement described in subdivision (a) of this section shall further provide that if the owner fails to [pay the stipulated fines for all violations when due in accordance with such agreement, the agreement shall be null and void and of no further force and effect and the notices of violation issued against such enrolled vehicles that are outstanding shall be subject to the provisions of this chapter and the penalties set forth in this chapter to the same extent and in the same manner as if such agreement had not been in effect] satisfy summonses that enter judgment status, where such judgment(s) total in the aggregate, including interest, more than $350: (1) such summonses shall be subject to enforcement action pursuant to the provisions of this title and applicable law, including but not limited to the imposition of all fines and penalties provided for in subdivision (e) of this section; (2) the owner will be removed from the Stipulated Fine Program and Fleet Program; and (3) the agreement will be null and void with respect to all future summonses, and future summonses will be subject to the penalties provided in § 39-07 of these rules to the same extent and in the same manner as if such agreement had not been in effect.

(d) Discretion of Commissioner. Enrollment in this program shall be voluntary and shall be subject to termination at the discretion of the Commissioner. This program shall be established and shall remain in effect at the pleasure of the Commissioner.

(e) Penalties for failure to pay stipulated fine amounts in a timely manner. Notwithstanding any other provision of this chapter: (1) The failure to pay the stipulated fine amount within 45 days after the Department of Finance system entry date for the summons will result in a penalty of $10.00.

(2) The continued failure to pay the stipulated fine amount for an additional 45 days beyond the period stated in paragraph (1) of this subdivision will result in a further penalty of $20.00 in addition to the penalty provided in paragraph (1) of this subdivision.

(3) The continued failure to pay the stipulated fine amount for an additional 45 days beyond the period stated in paragraph (2) of this subdivision will result in a further penalty of $30 in addition to the penalties provided in paragraphs (1) and (2) of this subdivision.

(4) The continued failure to pay the stipulated fine amount for an additional 7 days beyond the period stated in paragraph (3) of this subdivision will result in the entry of a judgment against the owner in the original unreduced fine amount as provided in § 39-05 of these rules, plus the penalties provided in paragraphs (1), (2) and (3) of this subdivision.

§4. Chapter 39 of Title 19 of the Rules of the City of New York is amended by adding a new section 39-03.2 to read as follows:

§39-03.2 **Program of Commercial Abatements for Vehicles Enrolled in the Fleet Program.**

(a) Agreement; waiver of right to contest notices of violation. Notwithstanding any inconsistent provision of § 39-05 of these rules, the Commissioner of Finance may enter into agreements with the owners of vehicles with commercial plates enrolled in the Fleet Program that are not eligible for the Stipulated Fine Program under § 39-03.1 of these rules, for the payment of fines in accordance with a reduced fine schedule for parking violations set forth in the agreement ("commercial abatement fine amounts"). Such commercial abatement fine amounts will not apply to enrolled vehicles unless the owner of such vehicles enters into a written agreement with the Commissioner, in advance, in which the owner agrees to waive the right to contest all notices of violation issued against such owner's enrolled vehicles during a stated period of time and to pay the commercial abatement fine amounts for all such violations. This waiver includes any right to challenge or otherwise contest any such violations that have become due and payable at the unreduced full amount pursuant to the enforcement provisions set forth in the agreement and in subdivision (d) of this section.

(b) Failure to pay fines. The agreement described in subdivision (a) of this section shall further provide that if the owner fails to satisfy summonses that enter judgment status, where such judgment(s) total in the aggregate, including interest, more than $350: (1) such summonses will be subject to enforcement action pursuant to the provisions of this title and applicable law, including but not limited to the imposition of all fines and penalties provided for in subdivision (d) of this section; (2) the owner will be removed from the Commercial Abatement Program and Fleet Program; and (3) the agreement will be null and void with respect to all future summonses, and future summonses will be subject to the penalties provided in § 39-07 of these rules to the same extent and in the same manner as if such agreement had not been in effect.

(c) Discretion of Commissioner. Enrollment in this program is voluntary and will be subject to termination at the discretion of the Commissioner. This program is established and will remain in effect at the pleasure of the Commissioner.

(d) Penalties for failure to pay commercial abatement fine amounts in a timely manner. Notwithstanding any other provision of this chapter: (1) The failure to pay the commercial abatement fine amount within 45 days after the Department of Finance system entry date for the summons will result in a penalty of $10.00.

(2) The continued failure to pay the commercial abatement fine amount for an additional 45 days beyond the period stated in paragraph (1) of this subdivision will result in a further penalty of $20.00 in addition to the penalty provided in paragraph (1) of this subdivision.

(3) The continued failure to pay the commercial abatement fine amount for an additional 45 days beyond the period

stated in paragraph (2) of this subdivision will result in a further penalty of $30 in addition to the penalties provided in paragraphs (1) and (2) of this subdivision.

(4) The continued failure to pay the commercial abatement fine amount for an additional 7 days beyond the period stated in paragraph (3) of this subdivision will result in the entry of a judgment against the owner in the original unreduced fine amount as provided in § 39-05 of these rules plus the penalties provided in paragraphs (1), (2) and (3) of this subdivision.

S/S
Beth E. Goldman
Commissioner of Finance

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: Parking Violations (Fleet Program Rules)

REFERENCE NUMBER: 2013 RG 102

RULEMAKING AGENCY: Department of Finance

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 Date: December 9, 2013
Acting Corporation Counsel

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: Parking Violations (Fleet Program Rules)

REFERENCE NUMBER: DOF-7

RULEMAKING AGENCY: Department of Finance

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) Provides a cure period.

/s/ Amy Bishop *December 10, 2013*
Mayor's Office of Operations Date

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HEALTH AND MENTAL HYGIENE

■ **NOTICE**

NOTICE OF ADOPTION
OF AMENDMENTS TO ARTICLE 175
OF THE NEW YORK CITY HEALTH CODE

In compliance with §1043(b) of the New York City Charter (the "Charter") and pursuant to the authority granted to the Board of Health by §558 of said Charter, a notice of intention to amend Article 175 of the New York City Health Code (the "Health Code") was published in the City Record on September 19, 2013 and a public hearing was held on October 22, 2013. 3 individuals testified at the public hearing and 6 written comments were received. As a result of these comments, certain changes have been made to the resolution. §175.54(c)(5), (6) has been changed so "operator" now refers to individuals licensed to perform fluoroscopic procedures. Also, the quality assurance requirements required by §175.58(c) of this proposal have been changed to apply only to the CBCT equipment itself, and not to other registered radiography equipment that may be present in a dental office. Finally, additional clarification has been added to the requirements for diagnostic medical event reporting in §175.09(l)(9)(ix). At its meeting on December 11, the Board of Health adopted the following resolution.

STATUTORY AUTHORITY

These amendments to the Health Code are proposed pursuant to Sections 556, 558 and 1043 of the Charter and applicable state and federal law. Section 556 of the Charter grants the New York City Department of Health and Mental Hygiene ("Department") jurisdiction to regulate matters affecting health in New York City. Specifically, Section 556 (c)(11) of the Charter authorizes the Department to supervise and regulate the public health aspects of ionizing radiation within the five boroughs of New York City. Sections 558 (b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the Department's authority extends. Section 1043 of the Charter grants rule-making powers to the Department.

The New York State Sanitary Code, in 10 NYCRR §16.1(b)(3), states that localities that have a population of more than 2,000,000 may establish their own radiation licensure requirements in place of State regulations, provided that the local requirements are consistent with Sanitary Code requirements.

Section 274 of the federal Atomic Energy Act of 1954 (codified at 42 USC §2021, "Atomic Energy Act") authorizes "Agreement States" to regulate byproduct material, source material and special nuclear material in quantities not sufficient to form a critical mass. New York State is an "Agreement State" within the meaning of the Atomic Energy Act, and the New York City Department of Health and Mental Hygiene is a component of the New York State Agreement. Under this "Agreement State" structure, the New York City Department of Health and Mental Hygiene, through the Office of Radiological Health ("ORH"), regulates radioactive material for medical, research and academic purposes within the five boroughs of New York City.

STATEMENT OF BASIS AND PURPOSE

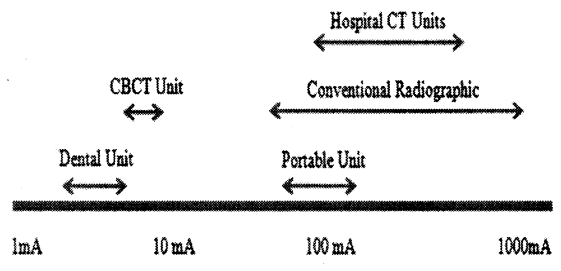
ORH regulations for radiation machines and radioactive materials are contained in Article 175 of the Health Code. ORH registers and inspects radiation machines, and licenses and inspects radioactive materials facilities for compliance with Article 175 for the protection of the health and safety of patients, radiation program employees and the general public.

There are about 6500 registered facilities possessing radiation machines and 375 licensed sites in New York City possessing radioactive material for medical, academic and research purposes. Of the registered facilities, approximately 6440 are registered diagnostic X-ray facilities and 60 are therapeutic X-ray facilities possessing certified registrations.

I. Cone Beam Computed Tomography (CBCT)

Cone Beam Computed Tomography (CBCT) units are specialty CT x-ray units that produce radiation levels higher than conventional dental intra-oral x-ray units and are utilized for the imaging of the jaw, specific teeth, and the sinus cavity with high resolution. CBCT is useful for imaging and reconstruction of the human anatomy where speed and accurate reconstruction of structures is essential, but low contrast resolution is not essential. CBCT units were introduced into the dental environment in the early 2000s as an advanced imaging technology for dentists. The dental community has embraced CBCT technology and dental imaging professional organizations have put out position papers on CBCT use in the dental office.

CBCT has the potential to generate radiation exposures outside the range of traditional dental x-ray devices and has increased operational complexity that can result in unintended exposures to the public and workers. The graphic below identifies where the CBCT radiographic units fit in the universe of radiographic units that ORH regulates. The scale below presents the range of exposure in terms of milliamperes (mA) values[1] and shows that CBCT units are outside the range found from common dental x-ray devices:



Another measure of comparison for radiographic units is to compare the typical Entrance Skin Exposure (ESE) or entrance patient dose, which are typically interchangeable for diagnostic x-ray kVps. CBCT manufacturer manuals reviewed indicate that the typical range for CBCT entrance dose is in the range of 2 – 4.4 mGy (about 0.2 – 0.44 rads). Data tabulated by the regulatory community in the United Kingdom shows that the effective dose for CBCT units are higher than conventional dental x-ray procedures:

Table: Typical doses from x-ray examinations of the head

Dental Panoramic Exam	Effective Dose (uSv) = 24 micro Sieverts
CBCT Unit (large Field of View)	Effective Dose (uSv) = 68-1073 micro Sieverts
CT Scan Dental Program	Effective Dose (uSv) = 534-2100 micro Sieverts

Currently, there are no standards in Article 175 to regulate CBCTs installed in dental offices. ORH estimates that 90 dental facilities employ CBCT in New York City. Dental facilities possessing such CBCT units will be required to register with and allow inspection by the Department and will need to develop a quality assurance program, which will be composed of periodic quality control testing and a radiation safety manual to ensure patient and operator safety. The proposed regulations are needed to protect both the members of the public undergoing such CBCT exams and operators of the CBCT units.

[1] The quantity of electron flow (current) in the x-ray tube is described in units of milliamperes (mA). The rate of x-ray production is directly proportional to the x-ray tube current. Higher mA values indicate more electrons are striking the target and therefore producing more x-rays. (Source: http://www.e-radiography.net/radsafety/rad_ physics. htm.)

II. Operator protective lead garments

Protective lead garments are an important radiation safety tool for radiation facility operators and their workers conducting fluoroscopic[2] procedures in order to reduce their occupational radiation exposures. To assure that these lead protective garments retain their integrity over time, these garments should undergo routine testing by a variety of methods, as indicated in these proposed rules. If defective protective garments are used unknowingly, then their users will be subjected to unnecessary radiation exposures.

Currently, there are no standards in Article 175 for the integrity testing of protective lead garments. These proposed rules will provide a uniform standard for testing lead protective garments for registrants of radiation facilities to help ensure that their workers' occupational radiation exposures can be minimized.

[2] Fluoroscopy is a type of medical imaging that shows a continuous x-ray image on a monitor. It is used to diagnose or treat patients by displaying the movement of a body part or of an instrument or dye (contrast agent) through the body. During a fluoroscopy procedure, an x-ray beam is passed through the body. The image is transmitted to a monitor so that the body part and its motion can be seen in detail. (Source: http://www.fda.gov/radiation-emittingproducts/radiationemittingproductsandproceduresmedicalimaging/medicalx-rays/ucm115354.htm)

III. Medical event reporting

The Department seeks to clarify that reporting of a medical event is required not only of radiation materials licensees, but also by radiation equipment registrants. The internal cross-reference provided in the definition of "medical event" is also being revised.

Matter in brackets [ ] is to be deleted.
Matter underlined is new.

"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.

RESOLVED, that Section 175.02 of Article 175 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, as last amended by resolution on September 19, 2013, is amended to update the definitions of medical event and protective garment, to be listed in alphabetic order and printed together with explanatory notes, to read as follows:

§ 175.02 Definitions

(a) As used in this Code, the following definitions shall apply:

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"Medical event" means an event that meets the criteria in [§175.03(1)(8)] §175.03(1)(9) of this Code.

***

"Protective [apron] garment" means an apron, glove, thyroid shield or other protective barrier worn by a professional practitioner or licensed radiographic technologist or patient made of radiation attenuating material(s), used to reduce radiation exposure.

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Notes: On December 11, 2013, the Board of Health amended §175.02(a) of the Health Code to update the definitions of medical event and protective garment.

RESOLVED, that clause (B) of subparagraph (iii) of paragraph 1 of subdivision (c), clauses (B) and (C) of subparagraph (ii) of paragraph 2 of subdivision (f), and paragraphs 9 and 10 of subdivision (l), of Section 175.03 of Article 175 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, clause (B) of subparagraph (iii) of paragraph 1 of subdivision (c) as last amended by resolution on September 29, 2006, clause (C) of subparagraph (ii) of paragraph 2 of subdivision (f) as last amended by resolution on September 19, 2013, and paragraphs 9 of subdivision (l) as last amended, and paragraph 10 of subdivision (l) as last added, by resolution on March 23, 2011 and such paragraphs renumbered by resolution on March 13, 2012, are amended to clarify requirements about the reporting of a medical event and doses to an embryo/fetus or a nursing child, to be printed together with explanatory notes, to read as follows:

§175.03 Standards for protection against radiation.

(c) *Occupational dose limits.* (1) Occupational dose limits for adults.

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(iii) When the external exposure is determined by measurement with an external personal monitoring device, the deep-dose equivalent must be used in place of the effective dose equivalent, unless the effective dose equivalent is determined by a dosimetry method approved by the Department. The assigned deep dose equivalent must be for the part of the body receiving the highest exposure. The assigned deep dose equivalent must be for the part of the body receiving the highest exposure. The assigned shallow dose equivalent must be the dose averaged over the contiguous 10 square centimeters of skin receiving the highest exposure:

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(B) when a protective [apron] garment is worn during x-ray fluoroscopic procedures to be in compliance with §175.62(i) of this Code and monitoring is conducted as specified in §175.03(f)(2)(ii), the effective dose equivalent for external radiation may be determined for these individuals as follows: (*a*) when only one individual monitoring device is used and it is located at the neck outside the protective [apron] garment, the reported deep dose equivalent value multiplied by 0.3 shall be the effective dose equivalent for external radiation; or (*b*) when individual monitoring devices are worn, both under the protective [apron] garment at the waist and outside the

protective [apron] garment at the neck, the effective dose equivalent for external radiation shall be assigned the value of the sum of the deep dose equivalent reported for the individual monitoring device located at the waist under the protective [apron] garment multiplied by 1.5 and the deep dose equivalent reported for the individual monitoring device located at the neck outside the protective [apron] garment multiplied by 0.04.

***

(f) *Surveys and monitoring*.

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(2) *Personnel monitoring*.

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(ii) A person supplying personnel monitoring devices to individuals pursuant to §175.03(f)(2)(i) shall ensure that the individuals wear such devices as follows:

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(B) An individual monitoring device used for monitoring the dose to an embryo/fetus of a declared pregnant woman pursuant to §175.03(c)(8) shall be located at the waist under any protective [apron] garment worn by the woman.

(C) An individual monitoring device used for monitoring the lens dose equivalent shall be located at the neck outside any protective [apron] garment worn by the individual, or at an unshielded location closer to the eye.

***

(l) *Reports.*

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(9) *Report and notification of a medical event.*

(i) A licensee or registrant shall report any event, except for an event that results from patient intervention, in which the administration of radiation, byproduct material or radiation from byproduct material results in-

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(ix) Records and reports of medical events.

(A) Diagnostic medical events involving radioactive material.

(a) Records of medical events which involve diagnostic procedures and the corrective actions taken pursuant to §175.07(b)(1)(ix) of this Code shall be retained for [3] six (6) years; and

(b) if such a medical event results in a dose to the patient exceeding 50 millisieverts (5 rem) to the whole body or 500 millisieverts (50 rem) to any individual organ, or involves the administration of iodine-125 or iodine-131 in the form of iodide in a quantity greater than 1 megabecquerel (30 microcuries), the licensee or registrant shall notify the Department in writing within fifteen (15) days and make and retain a record of such event for six (6) years.

(B) Diagnostic medical events involving diagnostic radiation equipment.

(a) Records of medical events which involve diagnostic radiation equipment and the corrective actions taken pursuant to §175.07(b)(1)(ix) of this Code shall be retained for six (6) years; and

(*b*) if such a medical event results in an unintended dose to the skin of the patient greater than 2 Sv (200 rem) to the same anatomical area, or results in an unintended dose to any organ greater than 0.5 Sv (50 rem), or results in an unintended dose to the whole body greater than 0.05 Sv (5 rem) total effective dose, the licensee or registrant shall notify the Department in writing within fifteen (15) days and make and retain a record of such event for six (6) years.

(*c)* If a diagnostic medical event involving diagnostic radiation equipment results in the wrong patient, the wrong exam or the wrong anatomical site being imaged, the licensee or registrant shall notify the Department in writing within fifteen (15) days and make and retain a record of such event for six (6) years.

(C) Therapy medical events.

(a) When a recordable therapy medical event as defined in [§175.02(a)(209)] §175.02(a) of this Code is discovered, in which the percentage of error is equal to or less than 20 percent, the licensee or registrant shall immediately investigate the cause and take corrective action; and

(b) the licensee or registrant shall make and retain a record of all recordable therapy medical events as defined in [§175.02(a)(209)] §175.02(a) of this Code. The record shall contain all the information required by §175.103 of this Code and shall be retained for six (6) years.

[(C)] (D) Records and reports of diagnostic and therapy medical events.

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(10) *Report and notification of a dose to an embryo/fetus or a nursing child*.

(i) A licensee or registrant shall report any dose to an embryo/fetus that is greater than 50 mSv (5 rem) dose equivalent that is a result of an administration of radiation, byproduct material or radiation from byproduct material to a pregnant individual unless the dose to the embryo/fetus was specifically approved, in advance, by the authorized user.

(ii) A licensee or registrant shall report any dose to a nursing child that is a result of an administration of radiation or, byproduct material to a breast-feeding individual that-

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(iii) The licensee or registrant shall notify by telephone the Department no later than the next calendar day after discovery of a dose to the embryo/fetus or nursing child that requires a report in [paragraphs (a) or (b) in this section] subparagraphs (i) or (ii) of this paragraph.

(iv) The licensee or registrant shall submit a written report to the Department within 15 days after discovery of a dose to the embryo/fetus or nursing child that requires a report in subparagraphs (i) and (ii) of this paragraph.

(A) The written report shall include—

(*a*) The licensee's or registrant's name;

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(*g*) Certification that the licensee or registrant notified the pregnant individual or mother (or the mother's or child's responsible relative or guardian), and if not, why not.

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(v) The licensee or registrant shall provide notification of the event to the referring physician and also notify the pregnant individual or mother, both hereafter referred to as the mother, no later than 24 hours after discovery of an event that would require reporting under subparagraphs (i) and (ii) of this paragraph, unless the referring physician personally informs the licensee or registrant either that he or she will inform the mother or that, based on medical judgment, telling the mother would be harmful. The licensee or registrant is not required to notify the mother without first consulting with the referring physician. If the referring physician or mother cannot be reached within 24 hours, the licensee or registrant shall make the appropriate notifications as soon as possible thereafter. The licensee or registrant may not delay any appropriate medical care for the embryo/fetus or for the nursing child, including any necessary remedial care as a result of the event, because of any delay in notification. To meet the requirements of this paragraph, the notification may be made to the mother's or child's responsible relative or guardian instead of the mother. If a verbal notification is made, the licensee or registrant shall inform the mother, or the mother's or child's responsible relative or guardian, that a written description of the event can be obtained from the licensee or registrant upon request. The licensee or registrant shall provide such a written description if requested.

(vi) A licensee or registrant shall:

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(B) Provide a copy of the annotated report to the referring physician, if other than the licensee or registrant, no later than 15 days after the discovery of the event.

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Notes: On December 11, 2013, the Board of Health amended §§175.03(c)(1)(iii)(B), 175.03(f)(2)(ii)(B) and (C), and 175.03(l)(9) and (10) of the Health Code to update the term "protective garment," and to clarify medical event reporting requirements.

RESOLVED, that subparagraph (iii) of paragraph 2 of subdivision (c) of Section 175.54 of Article 175 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, is amended and new paragraphs 4 , 5 and 6 are added to such subdivision to provide requirements for the methodology and testing frequency for operator lead protective garments as part of a radiation facility's quality assurance program to reduce radiation exposures, to be printed together with explanatory notes, to read as follows:

§175.54 Surveys, shielding requirements and operator protection for diagnostic radiation machines.

(c) *Operator protection*.

***

(2) *Mobile, portable, podiatric and dental radiographic installations, excluding mammographic systems*.

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(iii) Each operator of a mobile or portable radiographic x-ray unit, excluding dental and podiatric units, shall be provided with personnel monitoring as provided in §175.03 and shall wear a protective [apron] garment of at least 0.25 mm lead equivalent.

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(4) The facility must include a written policy and procedure in the quality assurance manual, as required by Section 175.07 (b)(1)(i), that conforms to the manufacturer's recommended care and use policy for lead protective garments and is adhered to on a continuing basis. This policy, at a minimum, must describe the training of Licensed Radiographic Technologists (LRTs) on the proper care and usage of protective garments; how storage sites for lead protective garments will be evaluated and maintained and procedures for how LRTs report lead protective garment problems to the Radiation Safety Officer.

(5) Protective garments that are not used by operators licensed to perform fluoroscopic procedures or not used for protection in veterinary offices for x-ray radiographic procedures on animals must be checked annually for defects such as holes, cracks and tears by using one of the following methods: visual investigation, tactile investigation, or x-ray imaging. If a defect is found, the lead protective garment must be removed from service and either replaced or repaired to conform to the manufacturers' specifications.

(6) Protective garments that are used by operators licensed to perform fluoroscopic procedures or used for protection in veterinary offices for x-ray radiographic procedures on animals must be checked annually for defects such as holes, cracks and tears by using all of the following methods: visual investigation, tactile investigation, and x-ray imaging. If a defect is found, the lead protective garment must be removed from service and either replaced or repaired to conform to the manufacturers' specifications.

***

Notes: On December 11, 2013, the Board of Health amended §175.54(c) of the Health Code to update the term "protective garment" and to add requirements for the methodology and testing frequency for operator lead protective garments as part of a radiation facility's quality assurance program to reduce radiation exposures.

RESOLVED, that Section 175.58 of Article 175 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, is amended to add new subdivisions (c) and (d) providing requirements for the use of Cone Beam Computed Tomography (CBCT) x-ray equipment in dental offices to reduce radiation exposures, to be printed together with explanatory notes, to read as follows:

§175.58 Dental radiography.

(c) *Facilities possessing a Cone Beam Computed Tomography (CBCT) unit.*

(1) Notwithstanding any provision of this Code to the contrary, any CBCT unit located in a dental facility will be subject to the requirements of Section 175.07(b) of this Code. A written quality assurance program is required for all CBCT equipment located in the dental facility, including a written quality control manual and a written radiation safety policy and procedures manual for the facility.

(i) A dental facility shall register a CBCT unit with the Department prior to conducting clinical exams with such CBCT unit. Such facility's intraoral, panoramic, and cephalometric dental x-ray equipment shall be registered with the Department and inspected either by the Department or Certified Radiation Equipment Safety Officer (CRESO), as determined by the Department.

(ii) For all CBCT units, the quality control tests must follow the manufacturer's recommended tests and frequency and utilize the manufacturer's quality control phantom. The quality control test results will be retained for review by the Department until after the next scheduled inspection is completed by the Department. If manufacturer guidance is absent or recommendations do not include quarterly or more frequent quality control testing, the facility must establish quality control testing that includes, at a minimum, the following:

(A) Quarterly quality control tests to determine image noise, image uniformity, reconstructed image measurement accuracy, high contrast spatial resolution of the CBCT unit; and,

(B) Annual quality control tests to measure accuracy of imaging parameters (exposure time and dimensions of the scan beam), reproducibility of exposure per the most common scan, and beam filtration (HVL); and

(C) Annually, the facility will determine the patient radiation dose for the most common CBCT scan used at the facility as conducted by a medical physicist.

(d) *Conditions of operation for the CBCT unit.*

(1) Facilities possessing a CBCT unit must adhere to the requirements of Section 175.54 regarding the shielding requirements and operator protection for all CBCT units possessed by the dental facility.

(2) All operators of the CBCT must undergo training on the proper operation of the CBCT units and documentation of this training will be retained by the dental facility for review by the Department until after the next scheduled inspection is completed by the Department.

(3) All operators must be able to communicate with and visually observe the patient during the CBCT examination from the operator's protected position.

(4) CBCT patient exams will not be conducted solely for cosmetic purposes with no diagnostic value to the patient.

(5) The logbook for CBCT exams must contain all relevant diagnostic examination information, including but not limited to, x-ray technique, scan time, anatomical exam site and reason for examination.

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Notes: On December 11, 2013, the Board of Health amended §175.58 of the Health Code to add new subdivisions (c) and (d) providing requirements for the use of Cone Beam Computed Tomography (CBCT) x-ray equipment in dental offices to reduce radiation exposures.

RESOLVED, that paragraphs 1 and 2 of subdivision (b) of Section 175.60 of Article 175 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, is amended to revise the reference for protective garment, to be printed together with explanatory notes, to read as follows:

§175.60 Fixed radiography (excluding dental, veterinary and podiatric radiography).

(b) *Conditions for operation of equipment*. (1) No person shall be regularly employed to hold patients or films during exposures nor shall such duty be performed by an individual occupationally exposed to radiation in the course of that individual's other duties. When it is necessary to restrain the patient, mechanical supporting or restraining devices should be used. If patients or films must be held by an individual, that individual shall be protected with appropriate shielding devices such as protective gloves and a protective [apron] garment of at least 0.25 mm lead equivalent. No part of the holding individual's body shall be in the useful beam. The exposure of any individual used for holding patients shall be monitored. Pregnant women and individuals under 18 years of age shall not hold patients under any conditions.

(2) Only persons required for the radiographic procedure shall be in the radiographic room during the exposure and, except for the patient, all such persons shall be equipped with appropriate shielding devices such as protective gloves and a protective [apron] garment of at least 0.25 mm lead equivalent.

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Notes: On December 11, 2013, the Board of Health amended §175.60(b) of the Health Code to revise the reference for protective garment.

RESOLVED, that paragraph 1 of subdivision (b) of Section 175.61 of Article 175 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, is amended to revise the reference for protective garment, to be printed together with explanatory notes, to read as follows:

§175.61 Portable, bedside or mobile equipment (excluding dental, veterinary and podiatric radiography).

(b) *Conditions for operation of equipment*. (1) No person shall be regularly employed to hold patients or films during exposures, nor shall such duty be performed by an individual occupationally exposed to radiation in the course of that individual's other duties. When it is necessary to restrain the patient, mechanical supporting or restraining devices should be used. If patient or films must be held by an individual, that individual shall be protected with appropriate shielding devices such as protective gloves and a protective [apron] garment of at least 0.25 mm lead equivalent. No part of the holding individual's body shall be in the useful beam. The exposure of any individual used for holding patients shall be monitored. Pregnant women and individuals under 18 years of age shall not hold patients under any conditions.

***

Notes: On December 11, 2013, the Board of Health amended §175.61(b) of the Health Code to revise the reference for protective garment.

RESOLVED, that paragraph 3 of subdivision (i) of Section 175.62 of Article 175 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, is amended to revise the reference for protective garment, to be printed together with explanatory notes, to read as follows:

§175.62 Fluoroscopy.

(i) *Conditions for operation of equipment*.

***

(3) Unless measurements indicate that they are not needed, protective [gloves and aprons] garments of at least 0.25 mm lead equivalent each shall be worn by any person within the fluoroscopy room.

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Notes: On December 11, 2013, the Board of Health amended §175.62(i)(3) of the Health Code to revise the reference for protective garment.

RESOLVED, that subparagraph (iv) of paragraph 18 of subdivision (f) of Section 175.64 of Article 175 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, is amended to revise the reference for protective garment, to be printed together with explanatory notes, to read as follows:

§175.64 Therapeutic radiation machines.

(f) *Therapeutic radiation machines incapable of operating at 500 kV or above. (1) Leakage radiation*.

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(18) *Operating procedures*.

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(iv) The tube housing assembly shall not be held by an individual during operation unless the assembly is designed to require such holding and the peak tube potential of the system does not exceed 50 kV. In such cases, the holder shall wear protective [gloves and apron] garments of not less than 0.5 mm lead equivalency at 100 kV.

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Notes: On December 11, 2013, the Board of Health amended §175.64(f)(18)(iv) of the Health Code to revise the reference for protective garment.

RESOLVED, that subparagraph (iii) of paragraph 2 of subdivision (a) and subparagraph (iii) of paragraph 2 of subdivision (b), of Section 175.65 of Article 175 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, is amended to revise the reference for protective garment, to be printed together with explanatory notes, to read as follows:

§175.65 Veterinary radiography and fluoroscopy.

(a) *Fixed radiographic installations*.

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(2) *Conditions for operation of equipment.*

(iii) Animal patients or films shall be held by an individual only under extreme conditions when clinically necessary. Such individuals shall wear protective gloves having at least 0.5 mm lead equivalent, a protective [apron] garment of at least 0.25 mm lead equivalent, and shall keep all parts of his/her body out of the useful beam.

***

(b) *Portable or mobile radiographic installations*.

***

(2) *Conditions for operation of equipment.*

(iii) Animal patients or films shall be held by an individual only under extreme conditions when clinically necessary. Such individuals shall wear protective gloves having at least 0.5 mm lead equivalent, a protective [apron] garment of at least 0.25 mm lead equivalent, and shall keep all parts of his/her body out of the useful beam.

Notes: On December 11, 2013, the Board of Health amended §175.65(a) and (b) of the Health Code to revise the reference for protective garment.

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NOTICE OF ADOPTION
ESTABLISHING ARTICLE 177
OF THE NEW YORK CITY HEALTH CODE

In compliance with §1043(b) of the New York City Charter (the "Charter") and pursuant to the authority granted to the Board of Health by §558 of said Charter, a notice of public hearing to establish Article 177 of the New York City Health Code (the "Health Code") was published in the City Record on October 17, 2013 and a public hearing was held on November 18, 2013. Twelve individuals testified at the public hearing and 38 written comments were received. On its own initiative, the Department has amended §177.13(b) to remove the signed consent form requirement after a person attains the age of 18 and has provided that these rules shall take effect six (6) months after their publication in the City Record. At its meeting on December 11, the Board of Health adopted the following resolution.

Statutory Authority

These amendments to the New York City Health Code ("Health Code") are made pursuant to Sections 556, 558 and 1043 of the New York City Charter ("Charter"). Section 556 of the Charter grants the New York City Department of Health and Mental Hygiene ("Department") jurisdiction to regulate all matters affecting health in the City of New York. Sections 558 (b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the Department's authority extends. Section 1043 of the Charter grants rule-making powers to the Department. These amendments are also made pursuant to §3554(3) of the Public Health Law and 10 NYCRR §§72-1.1(d) and 72-1.2(b) and (c)[i], which allow the New York State Department of Health to authorize local jurisdictions, such as the Department, to enact and enforce local regulations concerning tanning facilities.

Statement of Basis and Purpose

Background

As the U.S. Food and Drug Administration (FDA) has warned, "There is no such thing as a safe tan."[ii] Tans are caused by the skin's reaction to ultraviolet (UV) radiation and any exposure to UV rays can lead to skin cancer and other diseases. Ultraviolet radiation devices, or "indoor tanning devices," are devices available at many facilities for members of the public to use to tan. In the State of New York, they generally are regulated by the New York State Department of Health under Article 35-A of the Public Health Law. Pursuant to State Department of Health regulations, local health departments, however, may request and be given authority by the State to regulate their operation locally.[iii] The Department has made such a request to regulate indoor tanning devices in the City of New York.

Tanning and Cancer

Users of indoor tanning devices are at risk for multiple adverse health consequences. The World Health Organization's International Agency for Research on Cancer (IARC) classifies indoor tanning devices, which emit UV radiation, as "Group 1"[iv] carcinogens because there is "sufficient evidence" that their use causes "carcinogenicity in humans." [v] The IARC based its classification on evidence showing associations between indoor tanning and skin cancer (both melanoma and carcinoma) and eye cancer (ocular cancer).[vi] It observed that the risk of melanoma is "increased by 75% when the use of tanning devices starts before 30 years of age."[vii] The U.S. Department of Health and Human Services' National Toxicology Program similarly classifies tanning devices as, "known to be human carcinogens."[viii] Skin cancer is the most common form of cancer in the United States, and annually costs the country an estimated $1.7 billion in medical costs and results in $3.8 billion in lost productivity.[ix] In New York State, approximately 2,000 men and 1,500 women are diagnosed with melanoma each year (averaged over 2005 through 2009)[x].

Other Risks of Tanning

In addition to increasing the risk of certain cancers, the use of indoor tanning devices can also cause ocular damage, premature aging of the skin, immune system repression and exacerbation of pre-existing medical conditions.[xi] Indoor tanners may also experience serious burns requiring emergency medical treatment. In the U.S., according to the FDA, an average of 1,800 emergency department visits are caused by UV tanning devices every year, and the number of burn cases treated by doctors or urgent care clinics is probably significantly higher.[xii] A study of adolescent indoor tanning practices between 1998 and 2004 found that over 60% of indoor tanners between the ages of 16 and 18 years old reported experiencing erythema, or burns, after indoor tanning sessions.[xiii]

Frequency and Risk

The earlier a person begins indoor tanning and the more frequently they tan, the greater the risk is that they will develop skin cancer. Research has demonstrated a strong "dose response" relationship between melanoma risk and the total hours of indoor tanning over a lifetime. This means the risk of cancer from indoor tanning is cumulative and increases with every use.[xiv] Early and frequent use of indoor tanning devices, however, is not uncommon. While minors under the age 17 are legally prohibited from tanning in the state of New York, (Chapter 105, Laws of 2012), the use of tanning among older adolescents and young adults is prevalent and frequent. The most recent national Youth Risk Behavior Survey (YRBS, 2011) found that approximately 40% of non-Hispanic white females ages 17-18 have used a tanning device in the last year *and* that approximately 24-30% of that group reporting tanning at least 10 times in the last 12 months.[xv] A similar study of adults (the National Health Interview Survey, 2010) found that approximately 30% of non-Hispanic white females between the ages of 18-25 reported indoor tanning at least once annually.[xvi] Among adults who tan, approximately 50 percent reported using tanning devices more than 10 times in a year, with women reporting that they use them an average of 20 times per year.[xvii] Among youths ages 16 to 18 who tan indoors, the average number of visits is approximately nine times per year.[xviii] Multiple studies have shown that the repeated use of indoor tanning may result in behavioral consequences, including physical and psychological addiction to tanning. In other words, the more people tan, the more they feel compelled to tan, increasing their health risks.[xix]

Efforts to Reduce Tanning

Despite the large body of evidence documenting the health risks associated with indoor tanning, indoor tanning rates have continued to increase.[xx]

A study of university-age students found that the students' general understanding of the health risks associated with indoor tanning did not influence their decision to indoor tan.[xxi] A study by the FDA of its own warning material found that a modified warning message "may more effectively convey [the] risks [of indoor tanning] than the current labeling requirements," which mandate that labels state factual information about the dangers of indoor tanning devices.

Rule Elements and Goals

The Department would, if approved, assume regulatory authority of tanning facilities within New York City from the New York State Department of Health. Consistent with State law, these rules are being made as part of that oversight.

These rules are intended to reduce the risk of tanning-related health effects among tanning facility patrons by increasing the awareness of the risks of indoor tanning and establishing the safer and more sanitary operation of tanning facilities. These rules: 1) provide definitions and requirements for permit issuance, inspection and operation of tanning facilities, and 2) would enable the Department to apply effective strategies used successfully to change risky behavior.

These rules shall take effect six (6) months after their publication in the City Record.

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[i] New York Codes, Rules and Regulations, (NYCRR), Title 10, Part 72, Subpart 72-1. Electronic version: http://www.health.ny.gov/regulations/nycrr/title_10/part_72/subpart_72-1.htm

[ii] FDA, The Risks of Tanning: http://www.fda.gov/Radiation-EmittingProducts/RadiationEmittingProductsandProcedures/Tanning/ucm116432.htm.

[iii] New York Codes, Rules and Regulations, (NYCRR), Title 10, Part 72, Subpart 72-1.

[iv] Group 1 is the IARC's highest cancer risk category and includes other well-established carcinogens like asbestos, arsenic and tobacco smoke. IARC, Agents Classified by the IARC Monographs, Volume 1-104: http://monographs.iarc.fr/ENG/Classification/ClassificationsGroupOrder.pdf..

[v] IARC, Preamble: http://monographs.iarc.fr/ENG/Preamble/CurrentPreamble.pdf.

[vi] IARC Monographs on the Evaluations of Carcinogenic Risks to Humans, Volume 100, Part D: Radiation. WHO Press, 2009. See also, Special Report: Policy, A Review of Human Carcinogens – Part D: Radiation. *The Lancet* ,August, 2009; and Zhang et al., Use of Tanning Beds and Incidence of Skin Cancer, *Journal of Clinical Oncology*, May 10, 2012.

[vii] IARC, 2009; See also, Dennis K. Woo and Melody J. Eide. Tanning Beds, Skin Cancer, and Vitamin D: An Examination of the Scientific Evidence and Public Health Implications, *Dermatologic Therapy,* 2010.

[viii] U.S. Department of Health and Human Services, Public Health Services, National Toxicology Program, *Report on Carcinogens*, 12th ed.: Exposure to Sunlamps or Sunbeds (2011).

[ix] CDC Morbidity and Mortality Weekly Report, Use of Indoor Tanning Devices by Adults – United States, 2010. Volume 61, Number 18. May 11, 2012; see also Bickers et al., The Burden of Skin Disease. *Journal of American Academy of Dermatology*. 2006.

[x] New York State Department of Health, New York State Cancer Registry. Skin Cancer in New York State, Fifth Annual Report to the Governor of New York, the Temporary President of the Senate, and Speaker of the Assembly, 2012. Report available at: http://www.health.ny.gov/statistics/diseases/cancer/skin/report/docs/2012_report.pdf.

[xi] James M. Spencer and Rex A. Amonette. Indoor Tanning: Risks, Benefits, and Future Trends, *Journal of the American Academy of Dermatology* (1995).

[xii] National Electronic Injury Surveillance System, CDC. Reported on FDA website: http://www.fda.gov/RadiationEmittingProducts/RadiationEmittingProductsandProcedures/HomeBusinessandEntertainment/ucm116447.htm

[xiii] Cokkinides et al. Indoor Tanning among Adolescents in the US, 1998 to 2004. *Cancer*, January 2009.

[xiv] Lazovich et al.. Indoor tanning and risk of melanoma: a case-control study in a highly exposed population. *Cancer Epidemiol Biomakers Prev*. June, 2010.

[xv] Guy et al. Indoor Tanning Among Young Non-Hispanic White Females. *Journal of the American Medical Association, Internal Medicine, Letters*. Published online August 19, 2013; See also, Mayer et al.. Adolescents' Use of Indoor Tanning: A Large-Scale Evaluation of Psychosocial, Environment, and Policy-Level Correlates. *American Journal of Public Health*. May, 2011. See also Cokkinides et al.. Use of indoor Tanning Sunlamps by US Youths, Ages 11-18 Years, and by their Parent of Guardian Caregivers: Prevalence and Correlates. *Pediatrics*. 2002. *American Journal of Public Health*. May, 2011.

[xvi] Guy et al., 2013; See also reference ix, CDC MMWR, 2012.

[xvii] See reference ix, CDC MMWR, 2012.

[xviii] See reference xiii, Cokkinides et al., 2009.

[xix] David E. Fisher and William D. James. Indoor Tanning – Science, Behavior, and Policy. *New England Journal of Medicine*. September 2010; see also, Catherine E. Mosher and Sharon Danoff-Burg. Addiction to Indoor Tanning: Relation to Anxiety, Depression, and Substance Use. *Arch Dermatol*, April, 2010.

[xx] See reference vii Woo et al.; See also Purdue et al.. Recent Trends

in incidence of cutaneous melanoma among U.S. Caucasian young adults. *Journal of Investigative Dermatology*. December. 2008: 128(12), 2905-2908

[xxi] Knight et al.. Awareness of the Risks of Tanning lamps Does Not Influence Behavior Among College Students. *Arch Dermatol.* October, 2002.

Text that is underlined is new; 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.

The rules are as follows:

RESOLVED, that the Table of Contents of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, be amended by adding a new Article 177, titled "Tanning Facilities," providing for rules and requirements for the operation of tanning facilities, to be listed as follows:

HEALTH CODE OF THE CITY OF NEW YORK

TITLE I SHORT TITLE, DEFINITIONS AND GENERAL PROVISIONS
TITLE II CONTROL OF DISEASE
TITLE III MATERNAL, INFANT, CHILD AND SCHOOL HEALTH SERVICES
TITLE IV ENVIRONMENTAL SANITATION
PART A FOOD AND DRUGS
PART B CONTROL OF ENVIRONMENT
***
ARTICLE 177 TANNING FACILITIES

TITLE V VITAL STATISTICS
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Notes: On December 11, 2013, the Board of Health established a new Article 177 of the Health Code, titled "Tanning Facilities," in order for the Department to assume regulatory authority over tanning facilities in New York City from the New York State Department of Health and to provide for appropriate rules and requirements for their operation.

RESOLVED, that Title IV of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, be amended to include a new Article 177, titled "Tanning Facilities," providing for rules and requirements for the operation of tanning facilities, to be printed together with explanatory notes, to read as follows:

ARTICLE 177
TANNING FACILITIES

General Provisions
§177.01 Applicability.
§177.03 Definitions.
§177.05 General requirements.
§177.07 Enforcement.
§177.09 Modifications.

Facility Operations
§177.11 Operator responsibilities.
§177.13 Patron identification, acknowledgements and consent.
§177.15 Facilities and equipment.
§177.17 Record keeping.
§177.19 Injury or illness incident reporting.
§177.21 Severability.

General Provisions

§177.01 Applicability.

(a) The requirements of this Article apply to all tanning facilities, as defined in §177.03, including, but not limited to, those located in tanning parlors and salons, hair and nail salons, gymnasia and health establishments, apartment houses, condominiums, country clubs, or hotels.

(b) This Article does not apply to facilities where ultraviolet radiation devices are used by a qualified health care professional to treat medical conditions.

§177.03 Definitions.

"Adequate" means sufficient to accomplish the purpose for which something is intended, and to such a degree that no reasonable risk to health or safety is presented. An item installed, maintained, designed and assembled, an activity conducted, or an act performed, in accordance with generally accepted standards, principles or practices applicable to a particular trade, business, occupation or profession, is adequate within the meaning of this Article.
"Approved" means acceptable to the New York City Department of Health and Mental Hygiene based on a determination of conformance with applicable documented standards the Department has determined, or which are set forth by any applicable regulatory agency or recognized standards-issuing body.
"CFR" means the Code of Federal Regulations.
"FDA" means the United States Food and Drug Administration.
"Formal training" means a course of instruction approved by the Department, and conducted by a person possessing adequate knowledge, training, and curriculum and certification testing experience pertaining to the correct and safe operation of an ultraviolet radiation device. A formal training course must be at least 4 hours and conclude with an exam of the information presented in the course. Successful completion of such training is dependent on passage of such exam. A course may include classroom instruction, correspondence learning or online certification.
"Operator" means a competent individual who is at least 18 years of age and who either owns a tanning facility or is designated by the owner of a facility to be responsible for operating the facility in compliance with this Article.
"Patron" means a person 17 years of age or older who uses an ultraviolet radiation device at a tanning facility.
"Permit" means a license issued to a tanning facility pursuant to this Article.
"Protective eyewear" means equipment designed to be worn by users of an ultraviolet radiation device to reduce exposure of the eyes to radiation emitted by the product. The spectral transmittance of the eyewear must meet the performance requirements of 21 CFR §1040.20(c)(4)(ii) or any successor regulation.
"Qualified health care professional" means a physician licensed by the State of New York to practice medicine, or a physician assistant or nurse practitioner licensed to practice in New York under the supervision of and/or in collaboration with a licensed physician.
"Sanitize" means adequate antimicrobial treatment by a disinfectant determined to be capable of destroying pathogenic organisms on treated surfaces. Exposure to the ultraviolet radiation produced by the ultraviolet radiation device itself is not considered an adequate sanitizing agent.
"State" means the New York State Department of Health.
"Tanning facility" means any establishment where one or more ultraviolet radiation devices are used, offered, or made available for use by any human being, for which a fee is charged, directly or indirectly.
"Timer" means any device incorporated into an ultraviolet radiation device that terminates radiation emission after a preset time interval.
"Ultraviolet radiation device" or "tanning device" means any product which is designed to emit electromagnetic radiation in the wavelength interval of two hundred (200) nanometers to four hundred (400) nanometers in air, and which is intended to induce tanning of the human skin through irradiation, including, but not limited to, a sunlamp, tanning booth, or tanning bed.
"Ultraviolet radiation measurement device" means any device the Department deems adequate to measure the physical characteristics of the emissions of an ultraviolet device. The device must conform to FDA-recommended standards and be calibrated according to National Institutes of Standards and Technology (NIST) recommendations.

§177.05 General requirements.

(a) Except as provided for in subdivision (b) of this section, a tanning facility in the city cannot be in operation unless the facility has been issued a permit by the Department.

(b) A facility in possession of a State-issued permit on the effective date of this Article will be deemed in compliance with this section and must continue to operate in compliance with the terms of its State-issued permit. Upon the expiration of the facility's State-issued permit, the facility must apply to the Department for a permit as specified in this section. Upon the expiration of its State-issued permit, any such facility may not continue to operate unless it has been issued a permit by the Department.

(c) A facility's permit to operate must be conspicuously posted within the tanning facility. Upon the effective date of this Article and until its State-issued license expires, a facility operating pursuant to a State-issued permit must conspicuously post such permit within the tanning facility.

(d) In addition to the application fee prescribed in Article 5 of this Code, an application for a permit must also be accompanied by payment of an inspection fee in the amount of $50 for each ultraviolet radiation device at the tanning facility.

(e) A permit issued pursuant to this Article will be issued to a specific person and will be valid only for a specified location.

§177.07 Enforcement.

(a) Inspections. Each operator will allow the Department to inspect the tanning facility, its equipment and records when the facility is doing business.

(b) Inspection reports. The tanning facility will maintain the inspection report provided by the Department in its records until its next inspection.

(c) Public health hazards. Where one or more of the following public health hazard conditions exists, the Department will order immediate correction, or may order the facility, or any portion of it, to immediately close. Any facility that is ordered to close may not reopen until the hazardous condition(s) that were the basis of the order are corrected to the satisfaction of the Department. Public health hazards that may result in an order to immediately close are:

(1) Wiring or electrical system components that have not been maintained, such that an imminent fire or shock hazard exists;
(2) Any ultraviolet radiation device that is not adequately labeled;
(3) Any ultraviolet radiation device that is not being operated in accordance with its label, FDA-certified manufacturer's recommendations and operating manual, or any provision of this Article;
(4) Failure to assure and maintain the accuracy of ultraviolet radiation device timers;
(5) Failure to ensure that patrons possess adequate protective eyewear;
(6) Failure to provide adequate sanitizing of tanning beds, tanning booths, pillows, headrests or reusable protective eyewear;
(7) Failure to provide timer lockout or remote timer controls; or
(8) Any other condition determined by the Department to be an imminent risk to the public's health and safety.

(d) Violations and penalty. In lieu of revoking, suspending or annulling a permit, the Department may assess a civil penalty of two hundred fifty dollars for any violation of this Article.

§177.09 Modifications.

(a) An operator may submit a written request to the Department for a modification of any provision of this Article where there are unusual or substantial practical difficulties with the strict compliance with such provision, provided that the health and safety of the public will not be adversely affected.

(b) The Department may approve, on written application and after review, a request for modification when strict application of any provision of this Article presents unusual hardships. The Commissioner, in a specific instance, may modify the application of such provision(s) consistent with the general purpose of this Article and upon such conditions as, in his or her opinion, which are necessary to protect the health or safety of the public. An operator must meet all terms of an approved modification, including the effective date, the time period for which the modification is granted, the requirements being varied and any other conditions specified by the Department.

Facility Operations

§177.11 Operator responsibilities.

(a) An operator must be present at a tanning facility whenever any ultraviolet radiation device is available for use by a patron. The operator and all employees who are authorized to operate ultraviolet radiation devices must have successfully completed formal training before operating any ultraviolet radiation device.

(b) The operator must limit patrons' exposure time as recommended by the tanning device manufacturer on the label for such device and in the operating instruction manual such that a patron may not exceed the maximum exposure time within any 24-hour period.

(c) The operator must perform annual tests on all tanning device timers to ensure that the requirements of section 177.15(c)(2)(i) through (v) are met. Timer tests must be documented and recorded as required by section 177.17 of this Article.

(d) The operator must inform each patron of the location of the tanning device termination switch.

(e) The operator must ensure that each patron using an ultraviolet radiation device possesses adequate protective eyewear.

(f) Each tanning facility must maintain and make available to the Department upon request a list of its operators and, for each operator, a certificate of formal training showing that the operator was trained in accordance with this section.

(1) The Department will approve formal training courses that can issue certificates of formal training for operators. The Department will maintain a list of approved operator training courses on its website.

§177.13 Patron identification, acknowledgements and consent.

(a) Patron identification and age verification.

(1) An operator must require that every patron provide a driver's license, or other form of photo identification issued by a government entity or educational institution, indicating that the patron is at least 18 years of age.
(2) No one under seventeen (17) years of age will be permitted to use an ultraviolet radiation device in a tanning facility. Any patron who is seventeen (17) years of age must provide the operator with a parental consent form as described in subdivision (b) of this section before being allowed to use an ultraviolet radiation device.
(3) The operator must conspicuously post a sign in or near the facility reception area that reads in prominent print:

IF YOU ARE UNDER THE AGE OF 17, YOU ARE PROHIBITED FROM TANNING. IF YOU ARE 17 YEARS OLD, YOU MUST HAVE YOUR PARENT OR LEGAL GUARDIAN SIGN A WRITTEN CONSENT FORM, IN FRONT OF A TANNING FACILITY OPERATOR, BEFORE YOU CAN TAN.

(b) Consent form required for patrons aged 17. The operator may not permit anyone who is seventeen (17) years of age to use an ultraviolet radiation device at the operator's tanning facility unless that person provides the operator with a written consent form prescribed by the State. The written consent form must:

(1) Be signed and dated by the person's parent or legal guardian in the presence of the operator or designated employee; Be signed and dated by the operator or designated employee;
(2) Be signed and dated by the operator or designated employee;
(3) Indicate that by signing, the person's parent or legal guardian acknowledges that he or she has received and read the Health Risk Advisory, as described in subdivision (c) of this section, and the Statement of Acknowledgment, as described in subdivision (d) of this section; and
(4) Indicate that by signing, the parent or legal guardian acknowledges that the person has agreed to wear protective eyewear.

The consent form expires twelve (12) months from the date it was signed. The original signed consent form must be retained by the facility for a period of twelve (12) months and may be retained off-premises, provided that an electronic image or copy of the original signed consent form is readily available to the owner, operator or employee responsible for the operation of the ultraviolet radiation device of such facility.

(c) Health Risk Advisory. During the patron's initial visit to the tanning facility, the operator must provide the Department's Health Risk Advisory to the patron. The Health Risk Advisory advises the patron of the health risks associated with the use of an ultraviolet radiation device.

(1) The Department will make available a copy of the current Health Risk Advisory with which the operator may make sufficient copies for all patrons. The copies must be the same size of the original Health Risk Advisory provided by the Department.

(d) Statement of Acknowledgement. No patron may undergo ultraviolet radiation exposure at a tanning facility without reading and signing a Statement of Acknowledgement, in a form prescribed by the State, that meets the following requirements:

(1) The statement of acknowledgement must declare that the patron has read and understands the Health Risk Advisory.
(2) The patron agrees to wear adequate protective eyewear during the entire ultraviolet radiation exposure.
(3) The operator or a designated employee must also sign and date the statement.
(4) The statement of acknowledgement expires twelve (12) months from the date it was signed. The original signed consent form must be retained by the facility for a period of twelve (12) months and may be retained off-premises provided that an electronic image or copy of the original signed consent form is readily available to the owner, operator or employee responsible for the operation of the ultraviolet radiation device of such facility.

§177.15 Facilities and equipment.

Each tanning facility must meet the following minimum requirements:

(a) Required Signs and Labels.

(1) Warning Signs. For each ultraviolet radiation device in the facility, there must be a warning sign posted in the immediate vicinity of the device. The Department will provide the warning signs to the operator. Warning signs must be: within three feet of the device, at eye level, readily legible, clearly visible, and not obstructed by any barrier, equipment, or other item present so that the patron can easily view the warning sign before energizing the ultraviolet radiation device.
(2) Ultraviolet Radiation Device Label. Each ultraviolet radiation device must have a permanent label affixed or inscribed on the exterior of the device, as required by the FDA. The device label must be clearly legible and may not be obscured, altered or tampered with.

(b) Instruction Manual. For each ultraviolet device in use in the tanning facility, a current manufacturer's operating instruction manual must be maintained onsite by the operator. The operating instruction manual must meet the applicable FDA requirements of 21 CFR §1040.20(e) or any successor regulation.

(c) All ultraviolet radiation devices must be adequately maintained and operated to meet the manufacturer's recommendations, and to meet the following minimum requirements:

(1) Label. Each ultraviolet radiation device must be adequately labeled as specified under paragraph (2) of subdivision (a) of this section.
(2) Timer. Each ultraviolet radiation device must have a timer that meets the following minimum requirements:
(i) Each ultraviolet radiation device must incorporate a timer system with multiple timer settings as specified on the manufacturer's label. The maximum timer interval(s) may not exceed the manufacturer's maximum recommended exposure time.
(ii) No timer interval may have an error greater than ± 10% of the maximum timer interval for the product.
(iii) The timer may not automatically reset and cause radiation emission to resume for a period greater than the unused portion of the timer cycle when emission from the ultraviolet lamp has been interrupted.
(iv) Only the operator or a designated employee is allowed to set the device timer.
(v) Facilities must have remote timer controls or a lock out device prior to the operation of ultraviolet radiation devices.
(3) Each ultraviolet radiation device must allow the patron using such device to manually terminate ultraviolet radiation emission at any time by using a termination switch and without disconnecting the electrical plug, removing the ultraviolet lamp or leaving the immediate environs of the ultraviolet radiation device.
(4) All ultraviolet radiation devices must be free of electrical hazards.
(5) All ultraviolet lamps must be shielded according to the manufacturer's specifications to protect patrons from injury caused by touching or breaking lamps.
(6) For stand-up booths:
(i) There must be physical barriers or other means, such as handrails or floor markings, to indicate the recommended exposure distance between ultraviolet lamps and the patron's skin.
(ii) Doors must open outwardly. Handrails and non-slip floors must be provided.
(7) The temperature within the ultraviolet device must remain below 100 degrees Fahrenheit during the operation of the device.
(8) Defective or burned out ultraviolet lamps or filters must be replaced with a type compatible for use in that device, as specified on the product label on the ultraviolet radiation device or as recommended by the manufacturer's original specifications. Replacement lamps or filters must be "compatible" as provided in 21 CFR §1040.20(e) or any successor regulation. Replacement of lamps and compatibility documentation must be recorded as a part of the maintenance log specified in section 177.17 of this Article.
(9) Equipment must be regularly maintained according to the manufacturer's recommendations.
(10) All ultraviolet radiation devices must meet the irradiance limitations set forth by the FDA performance requirements provided in 21 CFR §1040.20(c)(1) or any successor regulation. All ultraviolet radiation devices may not transmit measurable radiation in wavelengths less than 200 nanometers.
(11) All ultraviolet radiation devices must be maintained and operated so that the manufacturer's recommended maximum exposure time does not result in an exposure which exceeds the limits of Minimal Erythema Dose (MED) or Minimal Melanogenic Does (MMD) as set forth by the FDA and as measured by the Department with an approved measuring device and calculated according to the current FDA procedure (Food and Drug Administration Policy on Maximum Timer Interval and Exposure Schedule for Sunlamp Products, 8/21/86) or its successor.

(d) Protective eyewear.

(1) The operator must have available for patron use an adequate number of sets of protective eyewear at no additional charge to patrons. Alternatively, patrons may use their own protective eyewear.
(2) The protective eyewear that the operator provides, unless it is single-use disposable eyewear, must be disinfected after each use as specified in subdivision (e) of this section.

(e) Sanitation. The operator must maintain all facilities in a sanitary condition. The facilities must meet the following minimum requirements:

(1) Ultraviolet radiation devices and protective eyewear must be cleaned with an adequate disinfectant or sanitizer after each use, according to the following minimum provisions:
(i) The ultraviolet radiation device
A. A clean paper or cloth towel must be used each time the tanning device is cleaned and sanitized; and
B. The disinfectant must be one specifically manufactured for sanitizing ultraviolet light-emitting equipment and must be prepared and used according to manufacturer's specifications.
(ii) The protective eyewear must be cleaned with disinfectant specifically manufactured for sanitizing ultraviolet radiation protective eyewear and must be prepared and used according to the manufacturer's specifications.
(iii) Linens and other cloth.
A. Pillows and headrests must be covered in an easily cleanable material and must be sanitized with an adequate disinfectant after each use; and
B. If towels or other linens are provided for patron use, they must be washed with a detergent in hot water, rinsed, and thoroughly dried after each use.
(2) When the operator dilutes a concentrated disinfectant instead of using a commercially prepared, full-strength disinfectant, it must be done in accordance with the manufacturer's recommendations. A test kit or other device that accurately measures the concentration of the disinfectant in parts per million (ppm) must be used to measure the strength of the solution. The diluted disinfectant must be tested when initially prepared and at least weekly after that to ensure it continually meets the minimum concentration requirements of the manufacturer's recommendations.
(3) Written procedures maintained at the facility must include proper mixing and handling instructions for each disinfectant used to ensure proper concentration and safe use of the disinfectant.

§177.17 Record keeping.

(a) Patron record. The facility must maintain a record of each patron's tanning visits, recording the date, duration of tanning exposure, and ultraviolet radiation device used and the name of person who assisted the patron in use of the ultraviolet radiation device. The facility must maintain each record on a form provided by the Department for a period of at least two (2) years after the date of the patron's last visit.

(b) The operator must keep and maintain a log of the equipment maintenance required by section 177.15(c)(9) of this Article. The operator must maintain the equipment log for a minimum of two (2) years and must produce such log upon Department inspection of the facility or upon Department request.

(c) The operator must maintain records showing the results of annual timer tests as detailed in section 177.11(c) of this Article. The operator must maintain each record for a minimum of two (2) years.

(d) The operator must maintain all records and reports required by this Article on the premises of the facility, unless an alternative is provided for in this Article, and must make them available for review by the Department on request.

§177.19 Injury or illness incident reporting.

(a) Twenty-Four Hour Notification. The operator must report any injury or illness incidents occurring as a result of using an ultraviolet radiation device to the Department within twenty-four (24) hours of its occurrence. Reportable injuries and illnesses include, but are not limited to:

(1) all eye injuries requiring medical attention;
(2) all burns requiring medical attention;
(3) any other injury or illness incident resulting from the use of an ultraviolet radiation device for which medical care has been obtained.

(b) Report. The incident report required by subdivision (a) of this section must be in the form and manner prescribed by the Department and must include:

(1) The name of the operator;
(2) The date, time and description of the incident;
(3) The name and contact information of the affected individual;
(4) Information on the device involved in the injury, including the serial number, model number, and type of ultraviolet lamps installed in the device;
(5) The nature, cause, and extent of the alleged injury and the duration of the ultraviolet radiation exposure;
(6) The name and address of the health care

provider and treatment administered, if known;

(7) Actions taken by operator or other employees at the facility; and,

(8) Any other information that may be requested by the Department.

(c) All injury and illness incident reports must be maintained at the tanning facility for a minimum of two (2) years from the date of the injury or illness and must be made available for review by the Department on request.

§177.21 Severability.

If any clause, sentence, paragraph, subdivision, section or part of this Article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to that clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

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Notes: On December 11, 2013, the Board of Health established a new Article 177 of the Health Code, titled "Tanning Facilities," in order for the Department to assume regulatory authority over tanning facilities in New York City from the New York State Department of Health and to provide for appropriate rules and requirements for their operation.

RESOLVED, that Section 5.07 of Article 5 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, as last amended by resolution on September 13, 2012, is amended to add new and renewal permit fees for tanning facilities, to be printed together with explanatory notes, to read as follows:

§ 5.07 Expiration dates; fees.

(a) ***

Description of Activity Under Permit	Health Code or other Law Section Reference	Fee	Date Expiration
***	***	***	***
TANNING FACILITY Permit to operate a tanning facility	§177.05(a)	$ 30.00 ($ 1.25 per month or each portion of a month thereof)	Up to 2 years from date of issuance

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Notes: On December 11, 2013, the Board of Health amended §5.07(a) to add new and renewal tanning facility permit fees.

RESOLVED, that these rules shall take effect six (6) months after their publication in the City Record.

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NOTICE OF ADOPTION OF AMENDMENTS TO ARTICLE 11 OF THE NEW YORK CITY HEALTH CODE

In compliance with § 1043(b) of the New York City Charter (the "Charter") and pursuant to the authority granted to the Board of Health by §558 of said Charter, a notice of intention to amend Article 11 of the New York City Health Code (the "Health Code") was published in the City Record on September 19, 2013. A public hearing was held on October 22, 2013. Four people testified and nine written comments were received. At its meeting on December 11, 2013 the Board adopted the following resolution.

Statutory Authority

These amendments to the Health Code are promulgated pursuant to § §556, 558 and 1043 of the Charter. Pursuant to section 556(b) of the Charter, the Department must determine the needs of the mentally ill in the city and plan for and coordinate the delivery of services to them. Sections 558(b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the authority of the Department of Health and Mental Hygiene (the "Department" or "DOHMH") extends. Section 1043 grants the Department rule-making authority.

Statement of Basis and Purpose

Background

The Department is responsible under the Charter for supervising matters affecting the health of New Yorkers. This includes supervision of the reporting and control of chronic diseases and conditions hazardous to life and health.[1] The Department also has specific responsibilities with regard to mental health. Pursuant to section 552 of the Charter, the Department's Division of Mental Hygiene (MHy) is the local government unit (LGU) for the City of New York under New York State Mental Hygiene Law, and the executive deputy commissioner who directs the Division is the City's director of community services. As the LGU, MHy is responsible for administering, planning, contracting, monitoring, and evaluating community mental health and substance abuse services within the City of New York. It also is charged with identifying needs and planning for the provision of services for high-need individuals, such as persons with schizophrenia and other psychotic illnesses.

[1]Charter §556(c)(2).

Overview of Psychotic Illness

Schizophrenia and other psychotic illnesses include symptoms such as hallucinations, delusions, confused and disturbed thoughts, and a lack of self-awareness.[2,3] These illnesses usually begin in young adulthood[4,5] and often place a significant quality of life and financial burden on both the individual with the illness as well as their families and loved ones.[6] While previously thought to be chronically impairing, evidence now shows that early, high-quality treatment can reduce the risk of relapse, decrease the likelihood of debilitation, and increase chances for long-term remission for affected individuals.

DOHMH estimates that approximately 60,000 New Yorkers currently have psychotic illnesses.[7] Despite evidence that treatment improves outcomes, we estimate only 40-50% of these New Yorkers receive ongoing psychiatric care following discharge from a psychiatric hospitalization.[8,9] Approximately 2,000 new cases of psychotic illness are expected to develop annually in New York City.[10,11] Without follow-up treatment, more than one quarter of these individuals will be expected to relapse and to be re-hospitalized within one year.[12,13,14,15] With treatment, the risk of relapse can be reduced by approximately 50%.[16,17]

[2] Barbato, A. (1998) WHO/MSA/NAM/97.6

[3] New York State Office of Mental Health (NYS OMH)(2012). Schizophrenia. Retrieved August 22, 2013 from: http://www.omh.ny.gov/omhweb/booklets/schizophrenia.html.

[4] Lewine RR. Amer J Orthopsychiat 1980;50:316-322.

[5] Kleinhaus K et al. J Psych Res 2011;45:136-141.

[6] Wu EQ, et al. J Clin Psych 2005;66:1122-1129.

[7] NYC DOHMH analysis of NYS OMH Patient Characteristics Survey, 2011.

[8] NYC DOHMH analysis of NYS Medicaid claims data, 2012.

[9] Buchanan RW, et al. Schiz Bull. 2010;36(1):71-93.

[10]Kirkbride JB et al. Int J Epi. 2009; 38-1255-64.

[11]Bladwin P et al. Schiz Bull 2005 31;3, 624-38.

[12]NYC DOHMH Medicaid analysis.

[13]Zhomitsky S, et.al. Schiz Res Treatment. doi:10.1155/2012/407171

[14] Ram R, et al. Schiz Bull 1992;18:185-207.

[15]NYC DOHMH analysis of NYS Statewide Planning and Research Cooperative System, 2009.

[16]Alvarez-Jimenez M, et al. Schiz Bull. 2011:37:619-630.

[17] Marshall M et al. Arch Gen Psych 2005; 62:975-983.

Impact of Duration of Untreated Psychosis and Early Intervention on Psychotic Illness

The 'duration of untreated psychosis' (DUP), the period from the first onset of psychotic symptoms to the start of treatment, is associated with both treatment effectiveness and long-term outcomes.[18,19,20] Wespite the fact that shorter DUP is associated with better response to antipsychotic treatment, indicated by reduction in symptoms and better overall functioning, the average DUP is long (between one and three years in national studies).[21,22,23,24] In the medium and longer term (6 month, 12 month and multi-year follow-ups), longer DUP is associated with poorer outcomes for overall functioning, symptoms, and quality of life.[25,26]

DUP can be reduced by enhancing early detection, treatment and referral. Early detection programs can bring people to treatment sooner, at lower symptom levels, and reduce DUP.[27,28]

Implementing an early intervention model is also associated with better clinical and functional outcomes for individuals experiencing psychotic illness. This model involves a team-based approach (psychiatrists, social workers, peers) that includes community treatment, cognitive behavioral therapy, low-dose medication, family counseling, social skills training and vocational strategies.[29,30,31] The effectiveness of early intervention programs has been demonstrated in a growing body of research.[32,33,34,35,36]

[18]Marshall M et al. Arch Gen Psych 2005; 62:975-983.

[19] Perkins D, et. al. Am J Psych 2005;162:1785–1804

[20]AddingtonJ. Early Interv Psych 2007;1:294-307.

[21]Marshall M et al. Arch Gen Psych 2005; 62:975-983.

[22] Perkins D, et. al. Am J Psych 2005;162:1785–1804

[23] Hass G, et al. Schiz Bull. 1992; 18:373-386.

[24]Ho B, et al. Am J Psych 2000;157:808-815.

[25]Perkins D, et. al. Am J Psych 2005;162:1785–1804

[26]Petersen L, et al. BMJ 2005;331:602.

[27]Melle I, et al. Arch Gen Psych 2004;61:143–150.

[28]Hegelstad W, et al. Am J Psych 2012;169:374-380.

[29]Grawe RW, et al. Acta Psych Scand 2006;114:328-336.

[30]Mental Health Network NHS Confederation.2011 Issue 219.

[31] Singh SP. Br J Psych 2010; 196:343-345.

[32]Alvarez-Jimenez M, et al. Schiz Bull. 2011:37:619-630.

[33]Hastrup LH, et al. Br J Psych 2013;2002:35-41.

[34]Mihalopoulos C, et al. Schiz Bull 2009; 35:909-918.

[35] Norman RMG, et al.SchizResearch 2011;129: 111-115.

[36] Lieberman J, et al. JAMA 2013;310:689-690.

Adequacy of Current Links to Care

New Yorkers with psychotic illnesses often do not seek care or become disengaged from care. This is due, in part, to:

- fragmentation in the current mental health treatment system (patients being lost to care in transitions from hospitalization;
- exchange of patient information unsupported by technology infrastructure or current administrative practices);
- mental health treatment providers lacking resources to ensure links are established between patients and community supports; and
- challenges such as stigma, denial, fear, lack of support, and confusion related to benefits and insurance.

As a result, there are many people who do not become engaged in care until years after the early stages of their illness.[37]

It is well-established that linking patients to care improves both health and economic outcomes for the individual and their loved ones and reduces the burden on the healthcare system. Numerous studies, conducted with a variety of patient populations, highlight the importance and efficacy of linkage-to-care programs in improving post-hospitalization outpatient engagement, reducing the rate of re-hospitalization and decreasing associated costs.[38,39,40]

[37]Thornicroft G, (Commentary) Epi and Psych Sci. 2012;21:59-61

[38] Jack BW, et al. Ann Intern Med. 2009; 150(3): 178-87.

[39] Coleman EA, et al. Arch Intern Med. 2006; 166(17):1822-8.

[40] Naylor MD, et al. JAMA. 1999; 281(7):613-20.

Amendment of Article 11

To improve linkages to care and outcomes for New Yorkers experiencing first episodes of psychosis, the Board of Health is amending Article 11by requiring hospitals to report when persons over 18 and under 30 years of age are admitted with a first episode of psychotic illness.

Reporting will be required within 24 hours of admission and will include hospital name, patient name, age, gender, address, telephone, date of admission, insurance type and diagnosis. All patient information will be confidential and used only for the purposes of linking patients to care. Patient name, address, date of admission and telephone number will not be retained by the Department for longer than 30 days. Information about patients agreeing to participate in the linkage-to-care program will subsequently be maintained in a program chart that is separate and apart from the information received from the reporting hospital.

Epidemiologic analysis

The de-identified data (hospital name, age, gender, month of admission, insurance type and diagnosis)in the reporting database will be used to describe characteristics of the aggregate population admitted with first-episode psychosis, in order to guide mental health system planning efforts.

The resolution is as follows:

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the text below, unless otherwise specified or unless the context clearly indicates otherwise.

New text is underlined; deleted text is in [ ] brackets.

RESOLVED, that Article 11 of the New York City Health Code, found in Title 24 of the Rules of the City of New York is being amended by adding a new §11.04 and will be printed together with explanatory notes, to read as follows:

§11.04 **Report of First-Episode Psychosis**

(a) *Required reports.* A hospital must report to the Director of the Division of Mental Hygiene of the Department by telephone or in an electronic transmission format acceptable to the Department, the admission of any person over 18 and younger than 30 years of age with a psychosis diagnosis as defined in paragraph (1) of this subdivision within 24 hours of such admission. A report shall not be required if such person was previously hospitalized with a psychosis diagnosis as defined in paragraph (1) of this subdivision when he or she was over the age of 18.

(1) *Psychosis diagnosis* shall mean:

(A) Schizophrenia (any type);

(B) Psychosis NOS (not otherwise specified);

(C) Schizophreniform Disorder;

(D) Delusional Disorder;

(E) Schizoaffective Disorder;

(F) Brief Psychotic Disorder;

(G) Shared Psychotic Disorder;

(H) Other Specified Schizophrenia Spectrum and Other Psychotic Disorder;

(I) Unspecified Schizophrenia Spectrum and Other Psychotic Disorder

(2) *Reports* must include patient's:

(A) Full Name

(B) Gender

(C) Date of birth

(D) Address

(E) Telephone

(F) Hospital admission date

(G) Diagnosis

(H) Insurance type

(b) *Reports to be confidential.* The Division of Mental Hygiene will only use the information reported to it to offer care and services to the patient who is the subject of the report. Identifying information shall be confidential and shall not be subject to inspection by persons other than authorized personnel of the Division of Mental Hygiene. Such information may not be disclosed without the consent of the person who is the subject of such report or someone authorized to act on such person's behalf, except pursuant to a federal or state law that compels such disclosure. The director may not keep patient-identifying information reported to him or her for more than thirty days. Within 31 days of receiving information reported to it pursuant to this section, the Division shall cause such information to be destroyed.

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NOTICE OF ADOPTION
OF AMENDMENTS TO ARTICLES 43 AND 47
OF THE NEW YORK CITY HEALTH CODE

In compliance with New York City Charter (the "Charter") §1043(b) and pursuant to the authority granted to the Board of Health by §558 of the Charter, a notice of intention to amend Articles 43 and 47 of the New York City Health Code (the "Health Code") was published in the City Record on September 19, 2013 and a public hearing was held on October 23, 2013. Nineteen persons testified at the hearing and 276 written comments were received. No changes have been made to the proposal. At its meeting on December 11, 2013, the Board of Health adopted the following resolution.

Statutory Authority

These amendments to the Health Code are promulgated pursuant to §§558 and 1043 of the Charter. Sections 558(b) and (c) of the Charter empower the Board of Health (the Board) to amend the Health Code and to include in the Health Code all matters to which the authority of the New York City Department of Health and Mental Hygiene (the Department) extends. Section 1043 grants the Department rule-making authority.

Statement of Basis and Purpose

The Charter provides the Department with jurisdiction over all matters concerning health in the City of New York. The Bureau of Child Care, in the Department's Division of Environmental Health, enforces Article 47 (Day Care Services) and Article 43 (School-Based Programs for Children Ages Three Through Five) of the Health Code. Article 47 regulates all public and private group day care services for children less than six years of age. Article 43 contains health and safety standards for school-based programs for children ages three through five.

The Board is amending Articles 47 and 43 to require that children attending child care services and school-based programs under the Department's jurisdiction receive annual vaccinations against influenza, and to add immunization against pneumococcal disease to the list of required pre-admission immunizations in these Articles. Full citations for reports and studies cited in the section on influenza vaccination are listed at the end of this Statement of Basis and Purpose.

Influenza vaccination

Influenza causes an estimated 200,000 hospitalizations and an average of 36,000 (range 3,000-49,000) deaths annually in the United States (CDC, 2010). Approximately 20,000 hospitalizations and 30-150 deaths occur in children under 5 years of age each year. Children typically have the highest attack rates of influenza, which can be as high as 40%, and children serve as a major source of transmission within communities. Each year, an estimated 15%-42% of preschool children contract influenza, and 38 million school days are missed due to influenza illness (CDC/ National Center for Health Statistics, 1999).

Influenza strains vary from year to year. The US Food and Drug Administration annually licenses influenza vaccines for administration based on a scientific consensus identifying "virus strains likely to cause the most illness during the upcoming flu season" (generally October through April in the middle Atlantic states). (USFDA, 2012) Vaccination only protects against the strains specifically included in the approved vaccine. Therefore, immunization is only effective for the year in which it is given, and a different influenza vaccine generally needs to be administered each year. The effectiveness of influenza vaccine varies with the severity of flu season, circulating influenza viruses, vaccine composition, and the age group studied. In children less than 6 years of age, influenza vaccine efficacy, ability to prevent influenza infection, ranged from 59%-82%; effectiveness, a measure of how vaccine performed in real world settings in preventing influenza, ranged from 24%-36%.(T Jefferson, 2005; M Fujieda, 2006; Jefferson, 2008; Hoberman, 2003; Longini I, 2012) Belshe et. al. showed that live attenuated influenza vaccine (LAIV) was 55% more effective than trivalent inactivated vaccine (TIV) in preventing laboratory-confirmed influenza in children 6-59 months old (Belshe, 2007).

Influenza vaccination has been found to be safe for use in children (Hambridge SJ, 2006; Glanz JM, 2011; France EK, 2004; Bernstein DI, 1982, Skowronski DM 2006). Based on the scientific evidence, the federal Advisory Committee on Immunization Practices – which sets the standard of care for the United States – recommends that everyone 6 months of age and older receive an annual influenza vaccination. Trivalent inactivated vaccine (TIV) is licensed for use in all children >6 months of age, and live attenuated influenza vaccine (LAIV; delivered as a nasal spray) is licensed for use in children >24 months.

Vaccinating children produces "herd immunity" in the general population. This means that. vaccinating children against influenza reduces the number of influenza infections in everyone else, regardless of whether they were vaccinated or not (Piedra PA, 2005). Vaccinating younger children may also protect against secondary cases (Reichert, 2001). One study looked at respiratory illness in household contacts of vaccinated and unvaccinated children attending daycare. Among study participants, vaccine efficacy in preventing proven influenza infection by measuring protective levels of antibodies was 45% for influenza B and 31% for influenza A (H3N2) during the 1996-97 influenza season. The greatest effect of vaccination was seen in household contacts 5 to 17 years of age; household contacts of vaccinated children had a 50% reduction in respiratory illnesses and an 80% reduction in febrile respiratory illness compared to unvaccinated children. Statistically significant declines in illness were not seen for household contacts of younger children or adults, though the study was limited by small sample size (ES Hurwitz, 2000). A second paper found a correlation between states with higher influenza immunization coverage among 19-35 month-olds and reduced influenza and pneumonia hospitalizations rates among adults over the age of 65 (based on claims records for Medicare eligible P&I hospitalizations) (SA Cohen, 2011). This analysis was conducted before routine pediatric influenza vaccination; summary coverage estimates rose from 8.3% in 2002-2003 to 33.5% in 2005-2006.

Despite active promotion of influenza vaccination for children, coverage rates have risen slowly in New York City. As of March 26, 2013, 61.0% of children ages 6 months through 59 months received at least one dose of influenza vaccine compared to 56.7% at the same time in 2012. This still leaves nearly 4 out of every 10 young children unprotected. Furthermore, young children are at high risk of influenza-related complications and hospitalization, making this vulnerable group especially important to protect.[1]

Finally, while child day care permittees and persons in charge of schools are required by Health Code §§47.27(e) and 43.19(e) to report to the Department within 24 hours any instance of a vaccine preventable disease, the Department does not expect individual cases of seasonal influenza to be reported. Reports by schools and day care facilities will, however, continue to be required as provided in Health Code §11.03 (a) and (b) of cases of a novel strain of influenza with pandemic potential, the influenza related death of a child under 18 years of age, or an outbreak of influenza.

[1] Seasonal influenza vaccinations are currently required for children aged 6 months through 59 months attending any child care or preschool facility in New Jersey and Connecticut. Since 2008, the New Jersey Department of Health and Senior Services has required administration of at least one dose of influenza vaccine to these children between September 1 and December 31 each year (New Jersey Administrative Code §8:57-4.19). Since 2010, the Connecticut Department of Public Health pursuant to its commissioner's authority to establish vaccination schedules (see, Connecticut General Statutes §19a-7f) has required children aged 6 months through 59 months attending day care to receive at least one dose of influenza vaccine between September 1 and December 31 each year. Connecticut preschoolers (aged 24-59 months) are required to have one dose between August 1 and December 31 each year. Connecticut day care and preschool enrollees receiving influenza vaccine for the first time are required to have two doses of vaccine, administered at least 28 days apart. Connecticut children attending kindergarten classes are not required to have influenza vaccinations.

Pneumococcal disease immunization

The Board is also amending Health Code §§43.17(a)(2) and 47.25(a)(2) to add "pneumococcal disease" to the list of required immunizations. This immunization, which is required by Public Health Law §2164(2), was inadvertently omitted from these sections.

References:

Belshe, R, Edwards K, Vesikari T, et. al. Live attenuated versus inactivated influenza vaccine in infants and young children. NEJM. 2007;356(7):685-696.

Bernstein DI, Zahradnik JM, DeAngelis CJ, et. al. Clinical reactions and serologic responses after vaccination with whole-virus or split-virus influenza vaccines in children aged 6 to 36 months. Pediatrics. 1982;69:404-408.

CDC. Estimates of Deaths Associated with Seasonal Influenza - United States, 1976-2007. MMWR. 2010;59(33):1057-1062.

CDC/ National Center for Health Statistics. Current estimates from the National Health Interview Survey, 1999. Series 10, No 200.

Cohen G, Nettleman M. Economic impact of vaccination in preschool children. Pediatrics. 2000;106(5):972-976.

France EK, Glanz JM, Xu S, et. al. Safety of the trivalent inactivated influenza vaccine among children: a population-based study. Arch Pediatr Adolesc Med. 2004;158(11): 1031-1036.

Fujieda M, Maeda A, Kondo K, et. al. Inactivated influenza vaccine effectveness in children under 6 years of age during the 2002-2003 season. Vaccine. 2006;27(7):957-963.

Glanz JM, Newcomer SR, Hambidge SJ, et. al. Safety of trivalent inactivated vaccine in children aged 24 to 59 months in vaccine safety datalink. Arch Pediatr Adolesc Med. 2011;165(8):749-755.

Hambidge SJ, Glanz JM, France EK, et. al. Safety of trivalent inactivated influenza vaccine in children 6 to 23 months old. JAMA. 2006;296(16):1990-1997.

Hoberman A, Greenberg D, Paradise J, et. al. Effectiveness of inactivated influenza vaccine in preventing acute otitis media in young children. 2003;290(12):1608-1616.

Hurwitz E, Haber M, Chang A, et. al. Effectiveness of influenza vaccination of day care children in reducing influenza-related morbidity among household contacts. JAMA. 2000;284(13):1677-1682.

Jefferson T, Rivetti A, Harnden A, et. al. Vaccines for preventing influenza in healthy children. Cochrane Database Syst Rev. 2008;(2):CD004879.

Jefferson T, Smith S, Harnden A, et. al. Assessment of the fficacy and effectiveness of influenza vaccines in healthy children: systematic review. Lancet. 2005;365:773-780.

Longini I. A theoretic framework to consider the effect of immunizing schoolchildren against influenza: implications for research. Pediatrics. 2012;129(S2):S62-S67.

Piedra PA, Manjusha GJ, Kozinetz CA, et. al. Herd immunity in adults against influenza-related illnesses with use of the trivalent-live attenuated influenza vaccine (CAIV-T) in children. Vaccine. 2005;23(13):1540-1548.

Reichert TA, Sugaya N, Fedson DS, et. al. The Japanese experience with vaccinating schoolchildren against influenza. NEJM. 2001;344(12):889-896.

Skowronski DM, Jacobsen K, Daigneault J, et. al. Solicited adverse events after influenza immunization among infants, toddlers, toddlers, and their contacts. Pediatrics. 2006;117(6):1963-1971.

US Food and Drug Administration. News Release, FDA approves vaccines for the 2012-2013 influenza season. www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm315365.htm

The proposal is as follows:

"Shall and "must" denote mandatory requirements and may be used interchangeably.

New text is underlined; deleted material is in [brackets].

RESOLVED, that the heading and subdivision (a) of section 43.17 of Article 43 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

§43.17 **Health; [child admission criteria] children's examinations and immunizations.**

(a) [*Admission requirements*] *Required examinations, screening and immunizations.*

(1) *Physical examinations and screening.* Prior to initial admission to a school, all children shall receive a complete age appropriate medical examination, including but not limited to a history, physical examination, developmental assessment, nutritional evaluation, lead poisoning screening, and, if indicated, screening tests for dental health, tuberculosis, vision, and anemia.

(2) *Immunizations.*

(A) All children shall be immunized against diphtheria, tetanus, pertussis, poliomyelitis, measles, mumps, rubella, varicella, hepatitis B, pneumococcal disease and haemophilus influenzae type b (Hib), in accordance with New York Public Health Law §2164, or successor law[, and shall have such additional immunizations as the Department may require]. Exemption from specific immunizations may be permitted [for medical contraindications] if the immunization may be detrimental to the child's health or on religious grounds, in accordance with Public Health Law §2164.

(B) (i) Children aged from 6 months to 59 months shall be immunized each year before December 31 against influenza with a vaccine approved by the U.S Food and Drug Administration as likely to prevent infection for the influenza season that begins following July 1 of that calendar year, unless the vaccine may be detrimental to the child's health, as certified by a physician licensed to practice medicine in this state, or the parent, parents, or guardian of a child hold genuine and sincere religious beliefs which are contrary to the practices herein required. The principal or person in charge of a school may require additional information supporting either exemption.

(ii) Except where prohibited by law, the principal or person in charge of a school may after December 31 refuse to allow any child to attend such school without acceptable evidence of the child meeting the requirements of clause (i) of this subparagraph. A parent, guardian, or other person in parental relationship to a child denied attendance by a principal or person in charge of a school may appeal by petition to the commissioner. A child who first enrolls in a school after June 30 of any year is not required to meet the requirements of clause (i) of this paragraph for the flu season that ends before July 1 of that calendar year.

(C) A school that fails to maintain documentation showing that each child in attendance has either received each vaccination required by this subdivision or is exempt from such a requirement pursuant to paragraph A or B of this subdivision will be subject to fines for each child not meeting such requirements, as provided for under this Code.

(D) All children shall have such additional immunizations as the Department may require.

Notes: The heading and subdivision (a) of §43.17 were amended by resolution adopted December 11, 2013 to add pneumococcal disease to the list of required pre-admission immunizations and to require annual immunizations against influenza for children 6 to 59 months of age.

RESOLVED, that the table of section headings in Article 43 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

ARTICLE 43

SCHOOL-BASED PROGRAMS FOR CHILDREN AGES THREE THROUGH FIVE

* * *

§43.15 Corrective action plan.

§43.17 Health; [child admission criteria] children's examinations and immunizations.

§43.19 Health; daily requirements; communicable diseases.

* * *

Notes: §43.17 (Health; child admission criteria) and its heading were amended by resolution adopted December 11, 2013.

RESOLVED, that the heading and subdivision (a) of section 47.25 of Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

§47.25 **Health; [child admission criteria] children's examinations and immunizations.**

(a) [*Admission requirements*] *Required examinations, screening and immunizations.*

(1) *Physical examinations and screening.* [All] Prior to admission, all children shall receive a complete age appropriate medical examination, including but not limited to a history, physical examination, developmental assessment, nutritional evaluation, lead poisoning screening, and, if indicated, screening tests for dental health, tuberculosis, vision, and anemia.

(2) *Immunizations.*

(A) All children shall be immunized against diphtheria, tetanus, pertussis, poliomyelitis, measles, mumps, rubella, varicella, hepatitis B, pneumococcal disease and haemophilus influenzae type b (Hib), in accordance with New York Public Health Law §2164, or successor law[, and shall have such additional immunizations as the Department may require]. Exemption from specific immunizations may be permitted if the immunization may be detrimental to the child's health or on religious grounds, in accordance with Public Health Law §2164.

(B) (i) Children aged from 6 months to 59 months shall be immunized each year before December 31 against influenza with a vaccine approved by the U.S Food and Drug Administration as likely to prevent infection for the influenza season that begins following July 1 that calendar year, unless the vaccine may be detrimental to the child's health, as certified by a physician licensed to practice medicine in this state, or the parent, parents, or guardian of a child hold genuine and sincere religious beliefs which are contrary to the practices herein required. The permittee may require additional information supporting either exemption.

(ii) The permittee may refuse to allow any child to attend a child care service without acceptable evidence of the child meeting the requirements of clause (i) of this subparagraph. A parent, guardian, or other person in parental relationship to a child denied attendance by a permittee may appeal by petition to the commissioner. A child who first enrolls in a child care service after June 30 of any year is not required to meet the requirements of clause (i) of this paragraph for the flu season that ends before July 1 of that calendar year.

(C) A school that fails to maintain documentation showing that each child in attendance has received each vaccination required by this subdivision or is exempt from such a requirement pursuant to paragraph A or B of this subdivision will be subject to fines for each child not meeting such requirements, as provided for under this Code.

(D) All children shall have such additional immunizations as the Department may require.

Notes: The heading and subdivision (a) of §47.25 were amended by resolution adopted December 11, 2013 to add pneumococcal disease to the list of required pre-admission immunizations and to require annual immunizations against influenza for children 6 to 59 months of age.

RESOLVED, that the table of section headings in Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

ARTICLE 47

DAY CARE SERVICES

* * *

§47.23 Supervision; staff to child ratios and group size.

§47.25 Health; [child admission criteria] children's examinations and immunizations.

§47.27 Health; daily requirements; communicable diseases

* * *

Notes: §47.25 (Health; child admission criteria) and its heading were amended by resolution adopted on December 11, 2013.

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Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The New York City Department of Health and Mental Hygiene (DOHMH) is proposing that the New York City Board of Health amend Article 175 of the New York City Health Code to provide updated quality assurance requirements for external beam and brachytherapy radiation treatment to promote a safe and effective treatment dose. The Department is taking this action to remain consistent with similar requirements recently enacted by the New York State Department of Health in the State Sanitary Code.

When and where is the Hearing? The New York City Department of Health and Mental Hygiene will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 A.M. until 12:00 P.M. on January 23, 2014. The hearing will be at the offices of the New York City Department of Health and Mental Hygiene at 42-09 28th Street, 14th Floor, Room 14-45, Long Island City, NY 11101-4132.

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

- **Website.** You can submit comments to the New York City Department of Health and Mental Hygiene through the NYC rules Web site at http://rules.cityofnewyork.us.
- **Email.** You can email written comments to resolutioncomments@health.nyc.gov.
- **Mail.** You can mail written comments to:
  New York City Department of Health and Mental Hygiene
  Board of Health
  42-09 28th Street, 14th Floor, CN31
  Long Island City, NY 11101-4132
- **Fax.** You can fax written comments to New York City Department of Health and Mental Hygiene at (347) 396-6088.
- **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 Svetlana Burdeynik at (347) 396-6078. You can also sign up in the hearing room before the hearing begins on January 23, 2014. You can speak for up to five minutes.

Is there a deadline to submit written comments? Comments submitted or postmarked by 5:00 P.M. on January 23, 2014 will be considered.

Do you need assistance to participate in the Hearing? You must tell the DOHMH Office of the General Counsel 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 (347) 396-6078. You must tell us by January 9, 2014.

Can I review the comments made on the proposed rules? You can review the comments made online at http://rules.cityofnewyork.us/ on the proposed rules by going to the website at http://rules.cityofnewyork.us/. All written comments and a summary of the oral comments received by DOHMH will be made available to the public within a reasonable period of time by the DOHMH Office of the General Counsel.

What authorizes the New York City Board of Health to make this rule? Sections 556, 558 and 1043 of the City Charter authorize the New York City Board of Health to make this proposed rule. This rule was not included in the Department's Fiscal Year 2014 Regulatory Agenda as it is in response to and required by recent State adoption of rules requiring quality assurance for external beam and brachytherapy radiation treatment (see, 10 NYCRR §16.24(a)).

Where can I find the New York City Health Code? The New York City Health Code is located in title 24 of the Rules of the City of New York.

What rules govern the rulemaking process? The New York City Board of Health must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

Statutory Authority

This amendment to the New York City Health Code ("Health Code") is proposed pursuant to Sections 556, 558 and 1043 of the New York City Charter ("Charter"). Section 556 of the Charter grants the New York City Department of Health and Mental Hygiene ("Department") jurisdiction to regulate all matters affecting health in the City of New York. Specifically, Section 556 (c)(11) of the Charter authorizes the Department to regulate all aspects of ionizing radiation within the five boroughs of New York City. Sections 558 (b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the Department's authority extends. Section 1043 of the Charter grants rule-making powers to the Department.

Section 228 of the New York State Public Health Law provides that local enactments like section 175.07 of the Health Code must be consistent with the requirements of the New York State Sanitary Code, as codified at Chapter I of Title 10 of the Codes, Regulations and Rules of New York State. In order to be consistent with recent State Sanitary Code amendments involving updated quality assurance requirements for external beam and brachytherapy radiation treatment, the Department is proposing commensurate changes to the corresponding requirements in the Health Code.

Background

The Department, through its Office of Radiological Health ("ORH"), regulates radioactive material for medical, research and academic purposes within the five boroughs of New York City.
ORH regulations for radiation machines and radioactive materials are contained in Article 175 of the Health Code. ORH registers and inspects radiation machines, and licenses and inspects radioactive materials facilities for compliance with Article 175 for the protection of the health and safety of patients, radiation program employees and the general public.

There are about 6500 registered facilities possessing radiation machines and 375 licensed sites in New York City possessing radioactive material for medical, academic and research purposes. Of the registered facilities, approximately 6440 are registered diagnostic X-ray facilities and 60 are therapeutic X-ray facilities possessing certified registrations.

The State Sanitary Code was recently amended to reflect updated quality assurance requirements for external beam and brachytherapy radiation treatment (*see*, 10 NYCRR §16.24(a)). In order to maintain consistency, the Department is proposing to make commensurate changes to its corresponding requirements in §175.07(c) of Article 175 of the Health Code.

Proposed Rule Elements and Goals

The Department proposes that the Board of Health repeal current subdivision (c) of §175.07 and replace it with a new subdivision (c) that includes updated quality assurance standards for radiation materials licensees or radiation equipment registrants who are authorized to administer external beam therapy or brachytherapy to humans. The new subdivision includes quality standards appropriate for newer, more complex radiation therapy treatment systems and also requires additional verification of radiation set-up equipment and treatment plans prior to administering radiation treatments to patients. New subdivision (c) also requires quality assurance programs to cover data communication/ transfer between component systems of planning and treatment delivery systems to ensure complete, uncorrupted data transfer. Additionally, the new subdivision requires licensees and registrants to credential individuals involved in quality assurance testing, treatment planning, and radiation treatment of patients. Finally, new subdivision (c) requires licensees and registrants to be accredited in radiation oncology by the American College of Radiology or the American College of Radiation Oncology, or another equivalent accrediting organization, within 18 months of the effective date of the rule.

The New York City Board of Health's authority for these rules is found in sections 556, 558 and 1043 of the City Charter. This proposed rule implements particular standards set forth in newly enacted state regulations with only minor exercise of the Board's discretion. Pursuant to section 1043(d)(4)(iii), the analysis required by Section 1043(d) of the Charter was not performed.

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.

The proposed rule is as follows:

RESOLVED, that subdivision (c) of Section 175.07 of Article 175 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, be REPEALED and new subdivision (c) is added to include updated quality assurance requirements for external beam and/or brachytherapy radiation treatment, to be printed together with explanatory notes, to read as follows:

§175.07 Quality assurance programs.

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(c) *External beam and brachytherapy*. A quality assurance program for external beam therapy and/or brachytherapy is a system of plans, actions, reviews, reports and records, the purpose of which is to ensure a consistent and safe fulfillment of the dose prescription to the target volume, with minimal dose to normal tissue.

(1) Each licensee or registrant authorized to administer external beam therapy and/or brachytherapy to humans must implement a quality assurance program to systematically monitor, evaluate and document radiation therapy services to ensure consistent and safe fulfillment of the dose prescription to the target volume, with minimal dose to normal tissue, minimal exposure to personnel and adequate patient monitoring aimed at determining the end result of the treatment. Each such licensee or registrant must meet or exceed all quality assurance criteria described in this subdivision.

(2) Each licensee or registrant must adopt and maintain a quality assurance program that includes policies and procedures that require the following:
(i) Each patient's medical record must be complete, accurate, legible and must include the patient's initial clinical evaluation, treatment planning data, treatment execution data, clinical assessments during treatment, a treatment summary and plan for subsequent care. Treatment related data must be recorded in the patient's medical record at the time of each treatment.
(ii) A written and dated order or prescription for the medical use of radiation or radioactive material must be made for each patient in accordance with §175.103(b)(7) of this Code. The order or prescription must be signed or approved electronically by a board certified radiation oncologist or qualified physician who restricts his or her practice to radiation oncology.
(iii) The accuracy of treatment plan data and any modifications to treatment plan data transferred to a radiation treatment delivery system must be verified by qualified clinical staff prior to patient treatment.
(iv) A radiation therapy technologist, physician or other qualified health practitioner must verify that the patient set up on the treatment machine is in accordance with the treatment plan prior to the first fraction of a course of treatment and prior to treatment for any changes to the initial treatment plan.
(v) Clinical staff must obtain clarification before beginning a patient's treatment if any element of the order or other record is confusing, ambiguous, erroneous or suspected of being erroneous.
(vi) Each patient's identification must be verified by at least two different means by qualified clinical staff prior to each treatment.
(vii) Each patient's response to treatment must be assessed by a board certified radiation oncologist or other qualified physician in the active practice of external beam therapy and/or brachytherapy. Unusual responses must be evaluated as possible indications of treatment errors and recorded in the patient's medical record.
(viii) The medical records of patients undergoing fractionated treatment must be checked for completeness and accuracy by qualified clinical staff at intervals not to exceed six fractions.
(ix) Radiation treatment plans and related calculations must

be checked by qualified clinical staff for accuracy before 25 percent of the prescribed dose for external beam therapy or 50 percent of the prescribed dose for brachytherapy is administered, except the check must be performed prior to treatment for: any single fraction treatment; any fractional dose that exceeds 300cGy or 700 monitor units; or when the output of a medical therapy accelerator exceeds 600 monitor units per minute during treatment. If a treatment plan and related calculations were originally prepared by a board certified radiation oncologist or an authorized medical physicist possessing the qualifications specified in §175.64(c)(2) or §175.103(j)(2) of this Code, it may be rechecked by the same individual using a different calculation method. Treatment plans and related calculations prepared by other qualified clinical personnel must be checked by a second qualified person using procedures specified in the registrant's or licensee's treatment planning procedures manual required pursuant to §175.07(c)(2) of this Code, and who has received training in use of this manual.
(x) All equipment and other technology used in planning and administering radiation therapy must function properly and safely, and must be calibrated properly and re-paired and maintained in accordance with the manufacturer's instructions. The equipment and technology that is subject to such quality control includes but is not limited to: computer software and hardware including upgrades and new releases; equipment used to perform simulation; dosimetry equipment; equipment used to guide treatment delivery, including but not limited to ultrasound units, kV and mV imaging equipment and monitors that are used to view patient imaging studies; and personnel radiation safety equipment. Data communication between various systems, including but not limited to treatment planning systems, treatment delivery systems and data networks/storage media, must be evaluated and tested to ensure accurate and complete data transfer.
(xi) Quality control tests performed on equipment and technology used in planning and implementing radiation treatment must be documented, including:
(A) detailed procedures for performing each test;
(B) the frequency of each test;
(C) acceptable results for each test;
(D) corrective actions taken;
(E) record keeping and reporting procedures for test results including the tester's name, signature and date of the test; and
(F) the qualifications are specified for the individual(s) conducting the test and for the person who reviews test data.
(xii) Test results that exceed tolerances/limits must be immediately reported to the au-thorized medical physicist.
(xiii) Records for all maintenance, repairs and upgrades of equipment and technology must be maintained for at least five years.
(xiv) Errors or defects in technology or equipment, including computer hardware and software, must be reported to the technology or equipment manufacturer and to the United States Food and Drug Administration (MedWatch) as soon as possible and in no event more than 30 days of discovery, and records of equipment errors and reports required by this clause must be maintained for review by the Department for at least three years.
(xv) External beam therapy equipment calibration/output required by §175.64(g) of this Code. must be verified by an independent means and records of such measurements must be retained for review by the Department for at least three years.
(xvi) Patients with permanent brachytherapy implants must be provided with instructions to take radiation safety precautions, as required by 10 CFR 35.75 and the licensee's radioactive materials license, after being released from the licensee's facility.
(xvii) All personnel involved in planning or implementing radiation therapy must be credentialed. Credentialing must include verifying that all professional staff is appropriately licensed, including medical physicists and radiation therapy technologists. Records of credentialing must be maintained during the period in which the credentialed person provides services to the licensee or registrant and for three years thereafter.
(xvii) Any unintended deviation from the treatment plan that is identified must be evaluated and corrective action to prevent recurrence must be implemented. Records of unintended deviations and corrective action must be maintained for audits required by paragraph (4) of this subdivision and for review by the Department.
(xviii) There must be a process to ensure quick and effective response to any radiation therapy related recalls, notices, safety alerts and hazards.

(3) Each licensee or registrant must adopt and maintain a radiation treatment manual prepared by an authorized medical physicist possessing the qualifications specified in §175.64(c)(2) or §175.103(j)(2) of this Code. The manual must include the calculation methods and formulas to be used at the facility (including the methods for per-forming the checks of treatment plans and related calculations as required in paragraph (1) of this subdivision). The treatment planning manual may be part of the quality assurance manual required by §175.07(c)(1) of this Code. The radiation treatment manual must be included in training given pursuant to §175.04(c) of this Code to facility staff who will participate in treatment planning. Each licensee or registrant must ensure that an authorized medical physicist possessing the qualifications specified in paragraph §175.64(c)(2) or §175.103(j)(2) of this Code prepares or reviews and approves a procedures manual describing how radiation therapy treatment planning is to be performed at the licensee's or registrant's facility and reviews the treatment planning manual at least annually.

(4) Each licensee or registrant must ensure that all equipment used in planning and administering radiation therapy is functioning properly, designed for the intended purpose, properly calibrated, and maintained in accordance with the manufacturer's instructions and the quality assurance program described in the licensee or registrant's quality assurance manual. Such equipment must be calibrated prior to use on patients, at least annually thereafter and following any change, repair or replacement of any component which may alter the radiation output.

(5) Each licensee or registrant must implement written procedures for auditing the effectiveness of the radiation therapy quality assurance program that include the following:
(i) Audits must be conducted at intervals not to exceed twelve (12) months by an authorized medical physicist possessing the qualifications specified in §175.64(c)(2) or §175.103(j)(2) of this Code, and also by a physician, both of whom are in the active practice of the type of radiation therapy conducted by the licensee or registrant. These must be individuals who are not involved in the therapy program being audited; and
(ii) The licensee or registrant must ensure that the individuals who conduct the audit prepare and deliver to the licensee or registrant a report which contains an assessment of the effectiveness of the quality assurance program and makes recommendations for any needed modifications or improvements.
(iii) The licensee or registrant must promptly review the audit findings, address the need for modifications or improvements, and document actions taken. If recommendations are not acted on, the licensee or registrant must document the reasons therefor and also any alternative actions taken to address the audit findings.
(iv) Each licensee or registrant must maintain complete written records relating to quality assurance and audit activities for review and inspection by the Department. Audit records must be maintained for at least six (6) years.

(6) Accreditation in Radiation Oncology.
(i) Ninety (90) days from the effective date of this rule, each registrant or licensee must have an active application with, or be accredited in radiation oncology by, the American College of Radiology, the American College of Radiation Oncology or another accrediting organization that is equivalent as determined by the Department.
(ii) Eighteen (18) months from the effective date of this rule, each registrant and licensee must maintain accreditation in radiation oncology by the American College of Radiology, the American College of Radiation Oncology or another accrediting organization that is equivalent as determined by the Department.
(iii) The registrant or licensee must maintain a record of accreditation, including a copy of the application, all supplemental application information and all correspondence transmitted between the accrediting body and the registrant or licensee. Records must be maintained for at least 6 years.

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Notes: The Department proposes that the Board of Health amend §175.07 by repealing and reenacting subdivision (c) to add new quality assurance requirements for external beam and/or brachytherapy radiation treatment to maintain consistency with recently adopted State requirements.

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

CERTIFICATION PURSUANT TO CHARTER §1043(d)

RULE TITLE: **Amendment of Rules Governing Radiation Treatment (Health Code Article 175)**

REFERENCE NUMBER: 2013 RG 099

RULEMAKING AGENCY: Department of Health and Mental Hygiene

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 Date: December 4, 2013
Acting Corporation Counsel

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INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS

■ **NOTICE**

NOTICE OF ADOPTION OF RULES

Pursuant to the authority vested in the Commissioner of the Department of Information Technology and Telecommunications by section 1043 of the Charter, the Department of Information Technology and Telecommunications has adopted this amendment of Title 67 of the Rules of the City of New York regarding the use of microtrenching by the City's telecommunications franchisees.

This rule was first published in the City Record on June 24, 2013. Notice amending time, date and place of hearing was published in the City Record on July 8, 2013. A public hearing was held on August 5, 2013. These rules will take effect 30 days after publication.

STATEMENT OF BASIS AND PURPOSE OF RULES

These rules revise the rules of the Department of Information Technology and Telecommunications (DoITT) by adding a chapter authorizing and regulating the use of microtrenching by the City's telecommunications franchisees.

Microtrenching is a technique for installing fiber-optic cable to provide telecommunications services. By contrast to conventional trenching, microtrenching involves a shallower and narrower cut that can be made either in the expansion joint between the sidewalk and the curb or within the roadway. Because microtrenching is a faster and less expensive method to install cable conduit, as demonstrated by the pilot program described below, microtrenching will support the City's goal of expanding broadband access to all of the City's neighborhoods.

Starting in November 2012, DoITT and the Department of Transportation conducted a pilot program with Verizon New York Inc. to test the viability of microtrenching as an alternative to conventional trenching. DoITT was interested in determining whether microtrenching would be faster and cost less than conventional trenching, and whether microtrenched fiber-optic cable would perform as well as fiber-optic cable installed by conventional trenching. The Department of Transportation was interested in determining whether microtrenching would be less disruptive to pedestrian and vehicular traffic and less destructive to the structural integrity of the streets.

During the pilot program, Verizon performed microtrenching in varied neighborhoods of all five boroughs. The pilot program demonstrated that microtrenching can be considerably faster and significantly less expensive than conventional trenching. The pilot program produced no indication of reduced fiber-optic cable performance. Based on the results of the pilot program, DoITT has decided to authorize microtrenching as an alternative to conventional trenching. The Department of Transportation has determined that microtrenching is less disruptive to traffic and requires less extensive restoration work, and therefore has also decided to authorize microtrenching as an alternative to conventional trenching. The Department of Transportation will issue separate rules for microtrenching permits.

These rules authorize telecommunications franchisees to perform microtrenching in compliance with Department of Transportation permits. The rules:

- specify the procedural requirements for microtrenching,
- provide for DoITT's monitoring of microtrenching after it is installed, and
- provide for penalties for violations of these rules.

In addition, the rules require the installation of "excess capacity" – extra ducts capable of housing fiber-optic cable owned by the City or by other telecommunications franchisees. The Verizon pilot program similarly required Verizon to install excess capacity and make the extra ducts available to the City and to other telecommunications franchisees. DoITT has determined that retention of the pilot program's requirement to install excess capacity will serve DoITT's interest in expanding residential and commercial access to broadband without undue cost to the telecommunications franchisee that performed the original microtrenching.

The rules permit the owner of microtrenched conduit to charge another telecommunications franchisees up to 75 cents per year per foot of duct occupied by the the telecommunications franchisee. DoITT expects to revisit this rate approximately four years after these rules become effective.

The rules also provide for DoITT to maintain an inventory of excess capacity, and it is DoITT's intention that the inventory will ultimately be posted on the City's web site.

These rules are promulgated pursuant to DoITT's rulemaking authority under section 1043 of the Charter of the City of New York.

"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. Title 67 of the rules of the City of New York is amended by adding a new chapter 1, to read as follows:
Chapter 1 – Microtrenching

Section 1-01 Definitions

The following terms are defined for purposes of this chapter:

(a) "Conduit" means equipment installed by means of microtrenching to house fiber-optic cabling in multiple enclosed pathways or pipes.

(b) "Department" means the Department of Information Technology and Telecommunications.

(c) "Duct" means one enclosed pathway or pipe within a conduit.

(d) "Excess capacity" means ducts within a conduit that may not be used by the owner or for the owner's business. Each excess capacity duct must be no smaller than the largest duct within the conduit that is reserved for use by the owner, but in any event each excess capacity duct must have the capacity to house at least 96 strands of fiber-optic cable.

(e) "Low density residential block" means the side of a street on a City block that consists entirely of residential buildings with no more than three residential units each.

(f) "Microtrenching" means a technique for installing conduit to house fiber-optic cable to provide telecommunications services, utilizing a shallower and narrower cut that can be made in the expansion joint between the sidewalk and the curb as well as within the roadway.

(g) "Owner" means the holder of a current telecommunications franchise pursuant to section 1072(c) of the New York City Charter, that proposes to install or has installed conduit. A franchise is not "current" if the term of the franchise agreement has expired and the franchise is in holdover status.

(h) "Telecommunications franchisee" means the holder of a current franchise pursuant to section 1072(c) of the New York City Charter, or of a revocable consent from the City of New York for installation of telecommunications equipment above, below or on any of the streets within the City. A franchise is not "current" if the term of the franchise agreement has expired and the franchise is in holdover status.

Section 1-02 Microtrenching permitted; notifications to the Department

(a) An owner may perform microtrenching to the extent allowed by a permit issued by the Department of Transportation. New microtrenching will not be permitted where sufficient excess capacity is available in existing microtrenching. Before applying to the Department of Transportation for such a permit, the owner must obtain a certification from the Department that no excess capacity is available in the location the owner proposes for microtrenching. The owner must submit that certification to the Department of Transportation as part of the owner's application for a permit.

(b) An owner must install conduit in a way that will readily permit another owner to add length to the microtrenching by connecting its own conduit to the first owner's conduit. Where an owner connects its own conduit to another owner's previously installed conduit, the owner must install conduit that has the same number of pathways or pipes as the previous owner's conduit.

(c) Microtrenching will be permitted only for fiber-optic service to properties within the following zoning districts as defined pursuant to the New York City Zoning Resolution: R1, R2, R2A, R2X, R3, R3-1, R3-2, R3-A, R3-X, R4, R4-1, R4A, R4B, R5, R5-A, R5-B, R5-D, C1-1, C1-2, C1-4, C1-5, C2-1, C2-2, C2-3, C2-4, C2-5, C-3, C4 (but only to premises with a commercial floor area ratio of 2.0 or less), M-1 (but only to premises with a manufacturing floor area ratio of 2.0 or less), M-2, M-3, and special purpose districts (but only to premises with a floor area ratio of 2.0 or less).

(d) After obtaining a permit for microtrenching from the Department of Transportation, but before beginning microtrenching construction, an owner must notify the Department of the intended dates of the start and completion of microtrenching construction. Notification must be made on a form and in a format prescribed by the Department. The owner must submit the following documents with the notification:

a. *Proof of security.* "Proof of security" means proof that the issuer of any bond, insurance, letter of credit or other security issued in connection with the owner's telecommunications franchise agreements has agreed to extend the coverage of such security to the owner's microtrenching, without change to any other terms and conditions of such security that are for the benefit of the Department or the City. The Department will have the right to draw on the security to cover any unpaid fines assessed pursuant to section 1-07(c) of this chapter, or to cover any unmet obligation to remove conduit pursuant to section 1-06 of this chapter.

b. *Indemnification.* The owner shall execute an indemnification agreement prepared by the Department.

(e) Promptly after completion of microtrenching construction, and at most within 40 calendar days after the Department of Transportation issued the permit for microtrenching, the owner must file a document with the Department, in a format to be prescribed by the Department, containing the following information:

a. An "as-built" drawing of the conduit installed. The "as-built" drawing will be treated as proprietary and confidential, to the extent permitted by law.

b. A map showing the street location of the conduit including the side of the street the conduit is on, the beginning and ending points of the conduit, the number of ducts in the conduit, and the number of ducts of excess capacity in the conduit. The map must accurately reflect the addresses of buildings that are passed by the conduit. The map may be made public, by itself or in aggregation with other maps, at the discretion of the Department.

Section 1-03 Requirement to install excess capacity

(a) The owner must use microtrenching materials and equipment that will facilitate the use of excess capacity by telecommunications franchisees.

(b) On a low density residential block, all conduit must have excess capacity of at least four ducts.

(c) In any other location, all conduit must have excess capacity of at least six ducts.

Section 1-04 Ownership and maintenance of conduit

Except as provided in section 1-08(b) of this chapter, the owner must retain title to the conduit and must maintain the conduit in working order and good repair, and in compliance with the rules of this chapter. The owner must comply with all requirements, directives and orders of the Department of Transportation regarding microtrenching.

Section 1-05 Use and management of excess capacity

(a) The owner must make one duct of the excess capacity available without charge or fee to the City for installation of fiber-optic cable for use by the City for the City's direct benefit. The "City" includes any agency or office of New York City government, and any City-related public institution including the New York City Housing Authority, the Health and Hospitals Corporation, the New York City Department of Education, and the Metropolitan Transportation Authority.

(b) The owner must make all other ducts of the excess capacity available to any telecommunications franchisee for installation of fiber-optic cable to serve the telecommunications franchisee's business or customers. The owner may charge the telecommunications franchisee up to but not more than 75 cents per year per foot of duct occupied.

(c) Inquiries about the availability and ownership of excess capacity may be submitted to the Department.

(d) A City request to use excess capacity may be submitted to the owner only by the Department.

(e) A telecommunications franchisee's request to use excess capacity must be submitted by the telecommunications franchisee to the owner. The telecommunications franchisee must submit a copy of the request to the Department simultaneously with submission of the request to the owner.

(f) The owner must respond to a request to use excess capacity within fifteen business days of the owner's receipt of the request. The owner's response must either approve or deny the request, and if the owner denies the request the owner must state the reasons for the denial. If the request is a City request, the owner must submit its response to the Department. If the request is by a telecommunications franchisee, the owner must submit its response to the telecommunications franchisee and simultaneously submit a copy of its response to the Department.

(g) The owner must make excess capacity available to telecommunications franchisees on a first-come, first-served basis. However, the owner is not obligated to provide excess capacity to a telecommunications franchisee other than for the actual use for the telecommunications franchisee's business or customers. That is, a telecommunications franchisee may not reserve or use excess capacity for the possibility of future use or for hoarding. Also, the telecommunications franchisee may not sublease excess capacity.

(h) The owner must make excess capacity available to a telecommunications franchisee no later than 45 calendar days of the owner's receipt of the telecommunications franchisee's request, unless the owner denies the request as provided by subdivision (f) or (g) of this section.

(i) If a telecommunications franchisee does not complete the installation of fiber-optic cable within 45 calendar days after the owner makes excess capacity available to the telecommunications franchisee, the owner may deem any portion of the excess capacity that the telecommunications franchisee did not occupy by that time to be available to other telecommunications franchisees as provided by subdivision (g) of this section.

(j) Making excess capacity available to the City and to telecommunications franchisees includes making available the opportunity to enter and connect to the conduit at the nearest manhole or similar utility access space.

(k) No later than ten business days after the end of each calendar quarter, the owner must submit a report to the Department, in a format to be prescribed by the Department, stating:

a. The name of each telecommunications franchisee that took occupancy of excess capacity during the previous quarter, and, for each such telecommunications franchisee, the location of the beginning and ending points of each length of duct the telecommunications franchisee occupied; and

b. The name of each telecommunications franchisee that vacated excess capacity during the previous quarter, and, for each such telecommunications franchisee, the location of the beginning and ending points of each length of duct the telecommunications franchisee vacated.

(l) No later than January 20 of each year, the owner must submit a report to the Department, in a format to be prescribed by the Department, stating the location of each conduit repair and service outage that occurred in the owner's microtrenching during the previous year.

Section 1-06 The owner's obligation to remove or otherwise dispose of conduit

(a) If an owner no longer intends to maintain conduit in working order and good repair, the owner must either remove the conduit at its own expense, or, at the Department's option, transfer the conduit to another owner, or otherwise dispose of the conduit as directed by the Department.

(b) If an owner's telecommunications franchise or microtrenching permit is terminated or revoked, or if an owner's right to own microtrenching is revoked, the owner must either remove the conduit at its own expense, transfer the conduit to another owner, or otherwise dispose of the conduit as directed by the Department.

(c) If the Department determines that microtrenching is unsuitable or unsafe, either entirely or under specified conditions, the owner must remove the conduit and fiber-optic cable at the owner's expense, or, at the Department's option, transfer title to the conduit and fiber-optic cable to the City without fee or cost.

Section 1-07 Enforcement

(a) Telecommunications franchisees may submit complaints about owners' compliance with the rules of this chapter to the Department.

(b) The Department may audit or otherwise investigate or review an owner's use of microtrenching and compliance with the rules of this chapter. The owner and any telecommunications franchisee that uses or has applied to use the owner's excess capacity must cooperate with the Department in the conduct of such an audit, investigation or review, and must cooperate with any other governmental entity lawfully authorized to conduct such an audit, investigation or review. The owner must provide access to individuals, documents, records and information as may be reasonable and appropriate to such audit, investigation or review.

(c) In the event of a violation of the rules of this chapter, the Department may initiate proceedings before the Office of Administrative Trials and Hearings (OATH) to seek the imposition of penalties on an owner, including fines or revocation or other limitation of the owner's right to engage in microtrenching. The rules of OATH will apply to such proceedings. Those rules are set forth in title 48, chapter 1 of the Rules of the City of New York.

a. Following a hearing, an administrative law judge will issue a report and recommendation to the Commissioner of the Department or his or her designee. The report and recommendation will state proposed findings of fact and conclusions of law, and a recommended disposition. The responding party will have ten business days from the date of the report and recommendation to submit comments on the report and recommendation to the Commissioner. The Commissioner will issue a final decision, subject only to judicial review.

b. Penalties include fines no less than $100 and no more than $25,000 per violation, termination of the owner's right to engage in additional microtrenching, and revocation of the owner's right to own microtrenching. Factors relevant to the determination of the penalty include the severity of the offense; whether the offense was willful or inadvertent; whether the offense furthered the owner's evasion of oversight and monitoring; the degree of the cost, disadvantage or inconvenience imposed on others by the offense; and the owner's history of offenses, if any.

c. Violations include the following. (Descriptions are for informational purposes only; the text of the rule itself determines the scope and meaning of the rule.)

i. Section 1-02(a): Performing microtrenching without or beyond the scope of a Department of Transportation-issued microtrenching permit.

ii. Section 1-02(c): Providing fiber-optic service by microtrenching where prohibited.

iii. Section 1-02(d): Failure to notify the Department, or to timely notify the Department, of the intended dates of microtrenching construction.

iv. Section 1-02(e): Failure to file, or to timely file, drawings as required after conclusion of microtrenching construction.

v. Section 1-03: Failure to install required excess capacity.

vi. Section 1-04: Failure to maintain conduit in good repair, in compliance with these rules, or in compliance with requirements of the Department of Transportation.

vii. Section 1-05: Failure to make excess capacity available; failure to make excess capacity available timely; attempt to overcharge for excess capacity; failure to respond or respond timely to a request for excess capacity; failure to offer excess capacity on a first-come, first-served basis.

viii. Section 1-05(j): Failure to report to the Department as required.

ix. Section 1-06: Failure to remove or dispose of conduit as directed.

x. Section 1-07(b): Failure to cooperate with an audit, investigation or review.

xi. Any other violation of the rules of this chapter.

Section 1-08 Miscellaneous provisions

(a) Conduit that was installed before the effective date of this chapter, in compliance with the terms of a microtrenching pilot program, will be allowed to remain in place despite any non-compliance with sections 1-02 or 1-03 of this chapter. All of the other rules of this chapter apply to such conduit.

(b) An owner may transfer ownership of conduit to another entity that would be an "owner" as defined by section 1-01(g) of this chapter. A transfer may not be made effective before the submission to the Department of the contract or other document effectuating the transfer.

(c) To the extent that any applicable federal or state law or regulation requires an owner to make excess capacity available to a person or entity more expeditiously or on any other term more favorable to that person or entity than a term provided for by the rules of this chapter, then the applicable federal or state law or regulation applies with respect to such persons or entities instead of the term provided for by the rules of this chapter.

(d) By voluntarily choosing to install conduit pursuant to this chapter, an owner agrees that the owner will not charge telecommunications franchisees any fees or costs for the use or occupancy of duct installed pursuant to this chapter greater than the fees provided in section 1-05(b) of this chapter; represents that the owner has received any

regulatory permission, approval or authority that may be required to install such conduit and to charge such fees; and acknowledges that the City of New York relies on that agreement and that representation in furtherance of the City's interests in expanding fiber-optic cable deployment, especially in underserved areas.

(e) The provisions of this chapter that require an owner to install excess capacity, to make it available to telecommunications franchisees, and to forego any fees and costs except as provided in section 1-05(b) of this chapter that might otherwise be permitted by any applicable rate regulation are integral to this chapter and essential to the City's purposes in promulgating this chapter. The City's determination to permit microtrenching is expressly based on the assumptions that an owner's conduit will include excess capacity and that the excess capacity will be available to telecommunications franchisees without payment of any fees or costs except as provided in section 1-05(b) of this chapter. Therefore, if any court or other tribunal of competent jurisdiction invalidates any of those provisions, this chapter will be invalidated in its entirety and microtrenching will not be permitted, and owners must remove or otherwise dispose of all conduit as directed by the Department.

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TRANSPORTATION

■ **NOTICE**

Notice of Adoption of Rules relating to Microtrenching

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Commissioner of Transportation by subdivision (b) of Section 2903 of the New York City Charter and in accordance with the requirements of Section 1043 of the New York City Charter, the Department of Transportation hereby adopts section 2-24 to Chapter 2 of Title 34 of the Official Compilation of the Rules of the City of New York, the Highway Rules, relating to Microtrenching. This rule was first published on July 5, 2013, and a public hearing was held on August 6, 2013. This rule shall take effect 30 days from the date hereof

STATEMENT OF BASIS AND PURPOSE

Pursuant to §1043 and §2903 (b) of the New York City Charter, the Commissioner of Transportation is authorized to promulgate rules regarding maintenance of public roads, streets, highways, parkways, bridges and tunnels.

Chapter 2 of Title 34 of the Rules of the City of New York is being amended to allow for the utilization of a microtrenching for the installation of fiber-optic telecommunications conduit. Through a pilot program conducted by the New York City Department of Transportation (DOT) and the New York City Department of Information Technology and Telecommunications (DOITT), DOT has determined that microtrenching is less disruptive to traffic and requires less extensive restoration work than installation of conduit utilizing conventional trenching. These rules authorize telecommunications franchisees to obtain permits to install conduit via microtrenching in compliance with certifications issued by DOITT. DOITT is separately proposing companion rules to authorize telecommunications franchisees to perform microtrenching in compliance with DOT permits.

"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 2-01 of Chapter 2 of Title 34 of the Rules of the City of New York is amended by adding, in alphabetical order, the definition of "microtrenching" to read as follows:

Microtrenching. A technique for installing conduit to house fiber-optic cable in public rights-of-way to provide telecommunications services that involves shallower and narrower cuts than conventional trenching.

Chapter 2 of Title 34 of the Rules of the City of New York is amended by adding a new Section 2-23 to read as follows:
Section 2-23 Microtrenching.

(a) **Incorporation by Reference of the Microtrenching Rules Promulgated by the New York City Department of Information Technology and Telecommunications as Chapter 1 of Title 67 of the Rules of the City of New York.** Except where inconsistent with this Title, the microtrenching rules promulgated by the Department of Information Technology and Telecommunications (DOITT) in Chapter 1 of Title 67 of the Rules of the City of New York are hereby incorporated by reference into this Chapter as rules of the Department of Transportation.

(b) Microtrenching:

(1) A telecommunications franchisee applicant for a microtrenching permit from the Department must obtain a certification that no excess capacity is available in the location covered by such permit from DOITT pursuant to Chapter 1 of Title 67 of the Rules of the City of New York. The applicant must submit that certification to the Department of Transportation as part of the application for a permit.

(2) A street opening permit for installation of telecommunications conduit utilizing microtrenching must be obtained from the Department, pursuant to §2-02, after obtaining a certification from DOITT. Fees must be paid pursuant to §2-03 of these rules.

(3) A street opening permit must be obtained for the removal of conduits installed pursuant to this section and the restoration of the sidewalk or roadway. Such sidewalk or roadway restoration must be performed in accordance with the Department's specifications.

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Notice of Adoption of rules relating to Queens Truck Routes.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Commissioner of Transportation by Section 1043 of the New York City Charter and subdivision (a) of Section 2903 of the New York City Charter, and in accordance with the requirements of Section 1043 of the New York City Charter, the Department of Transportation hereby adopts amendments to subdivision (b) of Section 4-13 of Chapter 4 of Title 34 of the Official Compilation of the Rules of the City of New York, the Traffic Rules related to truck routes for the Borough of Queens. This rule was first published on October 18, 2013, and a public hearing was held on November 19, 2013. This rule shall take effect 30 days from the date hereof.

STATEMENT OF BASIS AND PURPOSE

Pursuant to §§ 1043 and 2903 (a) of the New York City Charter, the Commissioner of Transportation is authorized to promulgate rules regarding the conduct of vehicular and pedestrian traffic in the streets, squares, avenues, highways and parkways of the City as may be necessary.

Background

Based upon recommendations from a truck study conducted in 2007 and the Maspeth Bypass Study, which included truck origin and destination data, community meetings and local business and trucking industry requests for truck route changes, the Department of Transportation is amending provisions of Title 34, Section 4-13 of the Rules of the City of New York in order to establish a more consistent designation of truck routes in the Borough of Queens. Specifically, the amendments:

- Change the designation of portions of: Maspeth Avenue, Page Place, 55th Drive, and 56th Terrace to Local Truck Routes.
- Dedesignates portions of Flushing Avenue, Fresh Pond Road and Grand Avenue as Local Truck Routes.

New matter in the following rule is underlined, and 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.

§1. Paragraph (2) of subdivision (b) of section 4-13 of Chapter 4 of Title 34 of the Rules of the City of New York is amended by adding, in alphabetical order, new entries for Maspeth Avenue, Page Place, 55th Drive, and 56th Terrace; and by deleting the entries for Flushing Avenue, Fresh Pond Road and Grand Avenue. The amendments read as follows:

LOCAL TRUCK ROUTE NETWORK

Astoria Blvd. (North and South)	8th Street to Northern Boulevard
Atlantic Avenue	Kings County Line to Van Wyck Expressway
Baisley Boulevard	Rockaway Boulevard to Merrick Boulevard
Beach Channel Drive	Marine Pkway Bridge to Nassau County Line
Borden Avenue	2nd Street to Greenpoint Avenue
Braddock Avenue	Hillside Avenue to Jamaica Avenue
Bradley Avenue	Greenpoint Avenue to Van Dam Street
Bridge Plaza	Queensboro Bridge to Jackson Avenue
Broadway	Vernon Boulevard to Queens Boulevard
Brooklyn-Queens Expressway	Kings County Line to Astoria Boulevard (North and South)
Central Avenue	Myrtle Avenue to Cooper Avenue
Clearview Expressway	Throgs Neck Bridge to Hillside Avenue
Clintonville Street	Cross Island Parkway South Service Road to 7th Avenue
College Point Avenue	Long Island Expressway to 14th Avenue
Cooper Avenue	Kings County Line to Woodhaven Boulevard
Crescent Street	41st Avenue to Bridge Plaza
Cross Bay Boulevard	Liberty Avenue to Beach Channel Drive
Cross Island Pkwy. Service Rds.	Whitestone Expressway to Francis Lewis Boulevard
Cypress Avenue	Flushing Avenue to Cooper Avenue
Ditmars Boulevard	49th Street to Hazen Street
Ditmars Boulevard	81st Street to 23rd Avenue
Dunkirk Street	Liberty Avenue to Linden Boulevard
Farmers Boulevard	Liberty Avenue to North and South Conduit Avenue
Flushing Avenue	Kings County Line to [Grand Avenue] 55th Street
Francis Lewis Boulevard	Cross Island Parkway Service Roads to Springfield Boulevard
Fresh Pond Road	[Flushing Avenue] Metropolitan Avenue to Myrtle Avenue
Grand Avenue	Kings County Line to [Long Island Expressway] Rust Street
Grand Avenue	[Kings County Line to Queens Boulevard] Borden Avenue to Queens Boulevard
Greenpoint Avenue	Van Dam Street to Queens Boulevard
Guy R. Brewer Boulevard	Liberty Avenue to North and South Conduit Avenue
Hazen Street	20th Avenue to Astoria Boulevard
Hempstead Avenue	Jamaica Avenue to Nassau County Line
Hillside Avenue	Myrtle Avenue to Nassau County Line
Hoyt Ave. (North and South)	Astoria Boulevard to 21st Street
Jackson Avenue	Borden Avenue to Northern Boulevard
Jamaica Avenue	Merrick Boulevard to Nassau County Line
Junction Boulevard	32nd Avenue to Queens Boulevard
Kissena Boulevard	Main Street to Parsons Boulevard
Laurel Hill Boulevard	Review Avenue to 54th Avenue
Liberty Avenue	Van Wyck Expressway to Farmers Boulevard
Linden Boulevard	Kings County Line to North and South Conduit Avenue, and Newburg Street to Farmers Boulevard
Linden Place	Whitestone Expressway to Northern Boulevard
Long Island Expressway	Queens Midtown Tunnel to Nassau County Line
Main Avenue	Vernon Boulevard to Astoria Boulevard
Main Street	Northern Boulevard to Queens Boulevard
Maurice Avenue	L.I.E. to 56th Terrace
Maspeth Avenue	49th Street to 48th Street
Maspeth Avenue	Page Place to Maurice Avenue
Merrick Boulevard	Hillside Avenue to Nassau County Line
Metropolitan Avenue	Kings County Line to Hillside Avenue
Myrtle Avenue	Kings County Line to Hillside Avenue
North and South Conduit Avenue (Sunrise Highway)	Linden Boulevard to Nassau County Line
Northern Boulevard	Jackson Avenue to Nassau County Line
Page Place	Grand Avenue to Maspeth Avenue
Parsons Boulevard	Kissena Boulevard to Union Turnpike
Queens Boulevard	Jackson Avenue to Hillside Avenue
Review Avenue	Borden Avenue to Laurel Hill Boulevard
Rockaway Boulevard	Atlantic Avenue to Nassau County Line
Roosevelt Avenue	Queens Boulevard to Main Street
Rust Street	58th Street to Flushing Avenue
Rust Street	56th Terrace to 58th Street
Springfield Boulevard	Jamaica Avenue to North and South Conduit Avenue
Steinway Street	Northern Blvd. to Astoria Blvd. North
Steinway Street	Astoria Blvd. North to 19th Avenue
Sutphin Boulevard	94th Avenue to Liberty Avenue
Thomson Avenue	Jackson Avenue to Queens Boulevard
Union Turnpike	Myrtle Avenue to Nassau County Line
Van Dam Street	Queens Boulevard to Greenpoint Avenue
Van Wyck Expressway	Whitestone Expressway to John F. Kennedy International Airport
Vernon Boulevard	Borden Avenue to 8th Street
Whitestone Expressway	Whitestone Bridge to Astoria Boulevard
Willets Point Boulevard	Roosevelt Avenue to Northern Boulevard
Woodhaven Boulevard	Liberty Avenue to Queens Boulevard
8th Street	Astoria Boulevard to Vernon Boulevard
14th Road	College Point Boulevard to 110th Street
14th Avenue	Cross Island Parkway Service Road to Whitestone Expressway and College Point Boulevard to 110th Street
15th Avenue	College Point Boulevard to 110th Street
19th Avenue	Steinway Street to 81st Street
20th Avenue	21st Street to Hazen Street
20th Avenue	Whitestone Expressway to College Point Boulevard
21st Street	Borden Avenue to 20th Avenue
23rd Avenue	Astoria Boulevard South to Ditmars Boulevard
24th Avenue	21st Street to 29th Street
29th Street	24th Avenue to Astoria Boulevard
39th Street	Queens Boulevard to Northern Boulevard
41st Avenue	21st Street to Crescent Street
43rd Street	53rd Avenue to 54th Avenue
47th Street	Grand Avenue to 58th Road
48th Street	Long Island Expressway to 55th Avenue
48th Street	Maspeth Avenue to 58th Road and 55th Avenue to 56th Road
49th Street	Ditmars Boulevard to Astoria Boulevard
49th Street	Maspeth Avenue to 56th Road
53rd Avenue	43rd Street to 48th Street
54th Avenue	Laurel Hill Boulevard to 43rd Street
54th Street	Flushing Avenue to Grand Avenue
55th Avenue	48th Street to 58th Street
55th Drive	Maurice Avenue to 58th Street
55th Street	Flushing Avenue to Grand Avenue
56th Drive	56th Road to 58th Street
56th Road	Laurel Hill Boulevard to 56th Drive
56th Road	56th Drive to 56th Terrace
56th Terrace	58th Street to Rust Street
57th Place	Maspeth Avenue to Rust Street
58th Road	47th Street to 48th Street
58th Street	Queens Boulevard to Maspeth Avenue
62nd Drive	Junction Boulevard to Queens Boulevard
69th Street	Long Island Expressway to Metropolitan Ave.
94th Avenue	Van Wyck Expressway to Sutphin Boulevard
94th Street	La Guardia Airport to 32nd Avenue
108th Street	Astoria Boulevard to Queens Boulevard
110th Street	14th Avenue to 15th Avenue
126th Street	Northern Boulevard to Roosevelt Avenue
154th Street	Cross Island Parkway North Service Road to 10th Avenue
168th Street	Merrick Boulevard to Hillside Avenue
213th Street	Hempstead Avenue to Jamaica Avenue

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SPECIAL MATERIALS

COMPTROLLER

■ **NOTICE**

NOTICE OF ADVANCE PAYMENT OF AWARDS PURSUANT TO THE STATUTES IN SUCH cases made and provided, notice is hereby given that the Comptroller of the City of New York, will be ready to pay, at 1 Centre Street, Room 629, New York, NY 10007, on March 15, 2014 to the person or persons legally entitled an amount as certified to the Comptroller by the Corporation Counsel on damage parcels, as follows:

Damage Parcel No.	Block	Lot
1	15652	11
2	15652	13
3	15652	14
5	15652	16
6	15652	17
10	15652	24
16	15654	26
17	15654	29
18	15654	31
19	15654	33

Acquired in the proceeding, entitled: CHANDLER STREET subject to any liens and encumbrances of record on such property. The amount advanced shall cease to bear interest on the specified date above.

JOHN C. LIU
Comptroller

d17-31

HOUSING PRESERVATION & DEVELOPMENT

■ **NOTICE**

REQUEST 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.**

d12-20

HUMAN RESOURCES ADMINISTRATION

■ **NOTICE**

The 2014-2015 Biennial Temporary Assistance and Supplemental Nutrition Assistance Employment Plan for the City of New York for the Period January 1, 2014, through December 31,2015, mandated by Social Services Law Sec. 333 and 18 N.Y.C.R.R. Sec. 385.10 is available for review and comment until the close of business on January 17, 2014. The plan can be obtained by writing to the New York City Human Resources Administration, 180 Water Street, Room 2017, New York, New York, 10038, Attn.: Andrew Mandell, Assistant Deputy Commissioner, Office of Policy, Procedures, and Training, Family Independence Administration, by email to mandella@hra.nyc.gov or from HRA's Internt homepage http://www.nyc.gov/html/hra/html/home/home.shtml.

Persons wishing to comment on the 2014-2015 Biennial Temporary Assistance and Supplemental Nutrition Assistance Program Employment Plan should do so in writing to Mr. Mandell at the above address, either by mail or email.

d18-19

MAYOR'S OFFICE OF CONTRACT SERVICES

■ **NOTICE**

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

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

Agency: Administration for Children's Services
Description of services sought: Drug Screening Services
Start date of the proposed contract: 2/01/14
End date of the proposed contract: 1/31/15
Method of solicitation the agency intends to utilize:
Negotiated Acquisition Extension
Personnel in substantially similar titles within agency: None
Headcount of personnel in substantially similar titles within agency: 0

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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 11998 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. 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 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.

d13-19

LATE NOTICE

ECONOMIC DEVELOPMENT CORPORATION

CONTRACTS

■ **SOLICITATIONS**

Goods & Services

HUNTS POINT LANDING SMALL GRANTS COMPETITION RFP – Request for Proposals – PIN# 5678-0 – DUE 02-12-14 AT 4:00 P.M. – New York City Economic Development Corporation (NYCEDC) is seeking proposals from a broad range of local and citywide nonprofit organizations who are interested in hosting a one-time event and/or recurring program that is open to the public at Hunts Point Landing for the 2014 spring-summer seasons, NYCEDC will award Selected Respondents between $250 and $1,500 for a one-time event and between $1,500 and $3,000 for a recurring series of event(s) to be used towards launching an educational, cultural, and/or recreational program(s) at Hunts Point Landing.

NYCEDC seeks proposals for programming events that seek to activate the open space and foster a relationship between it and Hunts Point residents, workers, and visitors. Eligible programs can fall into the following three types of programs: (i) Cultural/Performance; (ii) Environmental Education; and (iii) Recreation. Funds can only be used toward events held at Hunts Point Landing and such events must be opened to the public.

NYCEDC plans to select nonprofit entities for their proposals to host a one-time event and/or recurring program on the basis of factors stated in the RFP which include, but are not limited to: the proposed programming of the event(s), experience and capacity of the respondent to host the event, the respondent's relationship to the surrounding community, the proposed schedule of the event(s) with a preference for recurring events that would activate the open space over the course of both the spring and summer seasons, and the economic viability of the event and the proposed financial request from NYCEDC.

Respondents may submit questions and/or request clarifications from NYCEDC no later than 4:00 P.M. on January 8, 2014. For all questions that do not pertain to the subject matter of this RFP please contact NYCEDC's Contracts Hotline at (212) 312-3969. Answers to all questions will be posted by January 16, 2014, to www.nycedc.com/RFP.

Please submit four (4) hard copies and one (1) electronic version on disk in PDF format of your proposal.

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.
Economic Development Corporation, 110 William Street, 4th Floor, New York, NY 10038.
Maryann Catalano (212) 312-3969; Fax: (212) 312-3918; HuntsPointLandingRFP@nycedc.com

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