



# THE CITY RECORD

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## THE CITY RECORD

**BILL DE BLASIO**

Mayor

**LISETTE CAMILO**

Commissioner, Department of Citywide Administrative Services

**ELI BLACHMAN**

Editor, The City Record

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## PUBLIC HEARINGS AND MEETINGS

See Also: *Procurement; Agency Rules*

### BOROUGH PRESIDENT - BROOKLYN

#### ■ PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that, pursuant to Sections 197-c of the New York City Charter, Brooklyn Borough President Eric L. Adams, will hold a public hearing on the following matters in the Borough President's Conference Room of Brooklyn Borough Hall, 209 Joralemon Street, Brooklyn, NY 11201, commencing at 6:00 P.M. on Monday, September 26, 2016.

### Calendar Item 1 — 160243 PSK and 120120 MMK

An application submitted by the New York City Department of Environmental Protection (DEP), the New York City Department of Small Business Services (SBS), and the New York City Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of the New York City Charter, for the site selection of a portion of the marginal street, located between the Whale Creek Canal and Kingsland Avenue for use as a nature walk.

An additional application is submitted by DEP and SBS pursuant to Section 197-c and 199 of the New York City Charter, and Section 5-430 *et seq.* of the New York City Administrative Code for an amendment to the City Map involving: the elimination, discontinuance, and closing of a portion of marginal street, east of Whale Creek Canal; the establishment of a cul-de-sac in Kingsland Avenue north of Greenpoint Avenue; the narrowing of Whale Creek Canal, and the adjustment of block dimensions and grades necessitated thereby. The application includes authorization for any acquisition of real property related, thereto, in Brooklyn Community District 1 (CD 1).

Such actions will allow the expansion of the Newtown Creek Nature Walk by enabling the completion of Phase III of the project.

Accessibility questions: Olga Chernomorets, (718) 802-3751, [ochernomorets@brooklynbp.nyc.gov](mailto:ochernomorets@brooklynbp.nyc.gov), by: Monday, September 26, 2016, 5:00 P.M.



• s20-26

### CITY COUNCIL

#### ■ PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Council has scheduled the following public hearings on the matters indicated below:

**The Subcommittee on Zoning and Franchises will hold a public hearing on the following matters in the Council Committee**

Room, 16th Floor, 250 Broadway, New York City, NY 10007, commencing at 9:30 A.M., Tuesday, September 20, 2016:

ALTUS CAFÉ

MANHATTAN - CB 12 20165640 TCM

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Carnival Latin Bistro Corp., d/b/a Altus Café, for a new revocable consent to establish, maintain and operate an unenclosed sidewalk café, located at 4325 Broadway.

BARNETT AVENUE REZONING

QUEENS - CB 2 C 160103 ZMQ

Application submitted by Sunnyside-Barnett Associates LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section Nos. 9b and 9d as follows:

- 1. changing from an M1-1 District to an M1-1/R6 district property bounded by the southerly boundary line of the Long Island Rail Road Right-of-Way (Main Line), the northerly centerline prolongation of 52nd Street, Barnett Avenue, and the northerly prolongation of the westerly streetline of 50th Street; and
2. establishing a Special Mixed Use District (MX-17) bounded by the southerly boundary line of the Long Island Rail Road Right-of-Way (Main Line), the northerly centerline prolongation of 52nd Street, Barnett Avenue, and the northerly prolongation of the westerly streetline of 50th Street.

BARNETT AVENUE REZONING

QUEENS - CB 2 N 160101 ZRQ

Application submitted by Sunnyside-Barnett Associates LLC pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area.

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

\*\*\*

APPENDIX F
Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas

\*\*\*

Queens

\*\*\*

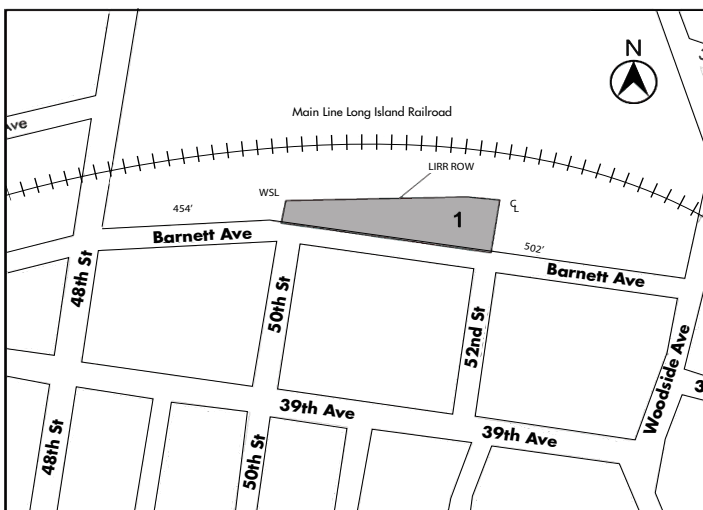
Queens Community District 2

In the R6, R7A and R7X Districts within the areas shown on the following Maps 1, and 2 and 4:

\*\*\*

Map 4 - (date of adoption)

[Proposed Map]



Mandatory Inclusionary Housing area see Section 23-154(d)(3)
Area 1 (date of adoption) - MIH Program Option 2
Portion of Community District 2, Queens

\*\*\*

BARNETT AVENUE REZONING

QUEENS - CB 2 N 160102 ZRQ

Application submitted by Sunnyside-Barnett Associates LLC pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, to establish that R6 districts in Mandatory Inclusionary Housing areas area allowed a maximum FAR of 3.6, to establish Mixed-Use District MX-17 (M1-1/R6) and to modify height and setback regulations in MX-17 (M1-1/R6), Borough of Queens, Community District 2.

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

\*\*\*

Article II
RESIDENCE DISTRICT REGULATIONS

Chapter 3
Bulk Regulations for Residential Buildings in Residence Districts

\*\*\*

23-10
OPEN SPACE AND FLOOR AREA REGULATIONS

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

\*\*\*

23-15
Open Space and Floor Area Regulations in R6 through R10 Districts

R6 R7 R8 R9 R10

\*\*\*

23-154
Inclusionary Housing

For #developments# or #enlargements# providing #affordable housing# pursuant to the Inclusionary Housing Program, as set forth in Section 23-90, inclusive, the maximum #floor area ratio# permitted in R10 Districts outside of #Inclusionary Housing designated areas# shall be as set forth in Paragraph (a) of this Section, and the maximum #floor area ratio# in the #Inclusionary Housing designated areas# existing on [date of adoption] shall be as set forth in Paragraph (b) of this Section. Special provisions for specified #Inclusionary Housing designated areas# are set forth in Paragraph (c) of this Section. The maximum #lot coverage# shall be as set forth in Section 23-153 (For Quality Housing buildings) for the applicable zoning district. For the purpose of this Section, defined terms include those set forth in Sections 12-10 and 23-911.

\*\*\*

(b) #Inclusionary Housing designated areas#

The #residential floor area# of a #zoning lot# may not exceed the base #floor area ratio# set forth in the Table in this Paragraph (b), except that such #floor area# may be increased on a #compensated zoning lot# by 1.25 square feet for each square foot of #low income floor area# provided, up to the maximum #floor area ratio# specified in the Table, as applicable. However, the amount of #low income floor area# required to receive such #floor area compensation# need not exceed 20 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, or any #floor area# increase for the provision of a #FRESH food store#, on the #compensated zoning lot#.

Maximum #Residential Floor Area Ratio#

Table with 3 columns: District, Base #floor area ratio#, Maximum #floor area ratio#. Rows include R6B, R6^1, R6^2, R6A R7-2^1, R7A R7-2^2, R7-3, R7D, R7X, R8.

R9	6.00	8.00
R9A	6.50	8.50
R9D	7.5	10.0
R9X	7.3	9.70
R10	9.00	12.00

- 1 for #zoning lots#, or portions thereof, beyond 100 feet of a #wide street#
- 2 for #zoning lots#, or portions thereof, within 100 feet of a #wide street#
- 3 for #zoning lots# in #Mandatory Inclusionary Housing areas#

\*\*\*

**Article XII  
SPECIAL PURPOSE DISTRICTS**

**Chapter 3  
Special Mixed Use District**

\*\*\*

**123-60  
SPECIAL BULK REGULATIONS**

\*\*\*

**123-63**

**Maximum Floor Area Ratio and Lot Coverage Requirements for Zoning Lots Containing Only Residential Buildings in R6, R7, R8 and R9 Districts**

Where the designated #Residence District# is an R6, R7, R8 or R9 District, the minimum required #open space ratio# and maximum #floor area ratio# provisions of Section 23-151 (Basic regulations for R6 through R9 Districts), shall not apply. In lieu thereof, all #residential buildings#, regardless of whether they are required to be #developed# or #enlarged# pursuant to the Quality Housing Program, shall comply with the maximum #floor area ratio# and #lot coverage# requirements set forth for the designated district in Section 23-153 (For Quality Housing buildings), or Section 23-155 (Affordable independent residences for seniors), as applicable.

\*\*\*

However, in #Inclusionary Housing designated areas#, as listed in the table in this Section, the maximum permitted #floor area ratio# shall be as set forth in Section 23-154 (Inclusionary Housing). The locations of such districts are specified in APPENDIX F of this Resolution.

#Special Mixed Use District#	Designated #Residence District#
MX 2 - Community District 2, Brooklyn	R7A R8A
MX 8 - Community District 1, Brooklyn	R6 R6A R6B R7A
MX 11 - Community District 6, Brooklyn	R7-2
MX 13 - Community District 1, The Bronx	R6A R7A R7X R8A
MX 14 - Community District 6, The Bronx	R7A R7X
<u>MX 17 - Community District 2, Queens</u>	<u>R6</u>

\*\*\*

**123-66  
Height and Setback Regulations**

\*\*\*

**123-662  
All buildings in Special Mixed Use Districts with R6, R7, R8, R9 and R10 District designations**

In #Special Mixed Use Districts# where the designated #Residence District# is an R6, R7, R8, R9 or R10 District, the height and setback regulations of Sections 23-60 and 43-40 shall not apply. In lieu thereof, all #buildings or other structures# shall comply with the height and setback regulations of this Section.

- (a) Medium and high density non-contextual districts

- (1) In #Special Mixed Use Districts# where the designated #Residence District# is an R6, R7, R8, R9 or R10 District without a letter suffix, the height of a #building or other structure#, or portion thereof, located within 10 feet of a #wide street# or 15 feet of a #narrow street#, may not exceed the maximum base height specified in Table A of this Section, except for dormers permitted in accordance with Paragraph (c) of this Section. Beyond 10 feet of a #wide street# and 15 feet of a #narrow street#, the height of a #building or other structure# shall not exceed the maximum #building# height specified in Table A. However, a #building or other structure# may exceed such maximum #building# height by four #stories# or 40 feet, whichever is less, provided that the gross area of each #story# located above the maximum #building# height does not exceed 80 percent of the gross area of that #story# directly below it.

Table A  
HEIGHT AND SETBACK FOR ALL BUILDINGS  
IN MEDIUM AND HIGH DENSITY  
NON-CONTEXTUAL DISTRICTS  
(in feet)

District	Maximum Base Height	Maximum #Building# Height
R6	60	110
R7-1 R7-2	60	135
R7-3	85	185
R8	85	210
R9	85	225
R9-1	85	280
R10	110	350

- (2) In #Special Mixed Use District# 15 in the Borough of Manhattan, where the designated #Residence District# is an R7-2 District, the height and setback regulations of Paragraph (a)(1) of this Section shall not apply. In lieu thereof, the height and setback regulations of this paragraph, (a)(2), shall apply.
  - (i) A #building or other structure#, or portion thereof, located within ten feet of a #wide street# or 15 feet of a #narrow street#, shall rise to a minimum height of 60 feet, and may rise to a maximum height of 85 feet, except for dormers permitted in accordance with Paragraph (c) of this Section.
  - (ii) At least 70 percent of the #aggregate width of street walls# shall be located on the #street line# and shall extend to the minimum base height of 60 feet or the height of the #building#, whichever is less. The remaining 30 percent of the #aggregate width of street walls# shall be located within eight feet of the #street line#.
  - (iii) Existing #buildings# may be vertically #enlarged# by up to one #story# or 15 feet without regard to the #street wall# location provisions of this paragraph, (a)(2). Beyond ten feet of a #wide street# and 15 feet of a #narrow street#, the height of a #building or other structure# shall not exceed a maximum #building# height of 135 feet. However, a #building or other structure# may exceed a height of 135 feet by four #stories# or 40 feet, whichever is less, provided that the gross area of each #story# located above 135 feet does not exceed 80 percent of the gross area of that #story# directly below it.
- (3) In #Special Mixed Use District# 17 in the Borough of Queens, where the designated #Residence District# is an R6 District, the height and setback regulations of Paragraph (a)(1) of this Section shall be modified such that a #building or other structure#, or portion thereof, located within ten feet of a #wide street# or 15 feet of a #narrow street#, may rise to a maximum base height of 85 feet provided that such #building or other structure# contains #affordable housing# pursuant to Section 23-90 (INCLUSIONARY HOUSING).

\*\*\*

**123-90  
SPECIAL MIXED USE DISTRICTS SPECIFIED**

The #Special Mixed Use District# is mapped in the following areas:

\* \* \*

#Special Mixed Use District# - 17: ([date of adoption])

Sunnyside, Queens

The #Special Mixed Use District# - 17 is established in Sunnyside in Queens as indicated on the #zoning maps#.

\* \* \*

The Subcommittee on Landmarks, Public Siting and Maritime Uses will hold a public hearing on the following matters in the Council Committee Room, 16th Floor, 250 Broadway, New York City, NY 10007, commencing at 11:00 A.M. on Tuesday, September 20, 2016:

MITCHELL-LINDEN LIBRARY SITE

QUEENS - CB 7 C 160247 PQQ

Application submitted by the Queens Public Library and the New York City Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the acquisition of property, located at 31-32 Union Street (Block 4414, Lots 1333-1339) for continued use as a library.

ROSEDALE LIBRARY SITE

QUEENS - CB 13 C 160248 PQQ

Application submitted by the Queens Public Library and the New York City Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the acquisition of property, located at 144-20 243rd Street (Block 13549, Lot 7) for continued use as a library.

The Subcommittee on Planning, Dispositions and Concessions will hold a public hearing on the following matters in the Council Committee Room, 16th Floor, 250 Broadway, New York City, NY 10007, commencing at 1:00 P.M. on Tuesday, September 20, 2016:

HOPE EAST OF FIFTH RESYNDICATION

MANHATTAN - CB 11 20175023 HAM

Application submitted by the New York City Department of Housing Preservation and Development pursuant to Article 16 of the General Municipal Law for approval of an urban development action area project and waiver of the area designation requirement and Sections 197-c and 197-d of the New York City Charter for property, located at 212 East 117th Street (Block 1666, Lot 41), in Community Board 11, Council District 8, Borough of Manhattan.

BLAKE HENDRIX

BROOKLYN - CB 5 20175024 HAK

Application submitted by the New York City Department of Housing Preservation and Development pursuant to Article XI of the Private Housing Finance Law and Article 16 of the General Municipal Law for approval of a real property tax exemption, an urban development action area project, waiver of the area designation requirement and Sections 197-c and 197-d of the New York City Charter for properties, located at Block 4050, Lot 25, Block 4067, Lot 8, Block 4058, Lot 18, Block 4081, Lot 23, Block 4065, Lot 22, Block 3767, Lots 10-13, Block 4060, Lot 16, and Block 4062, Lot 30, Community Board 5, Council District 42, Borough of Brooklyn.

SOUTHEASTERN QUEENS VACANT HOMES PROJECT CLUSTER 4, CD 27

QUEENS - CBs 12 and 13 20175039 HAQ

Application submitted by the New York City Department of Housing Preservation and Development pursuant to Section 696 of Article 16 of the General Municipal Law for approval of a real property tax exemption, an urban development action area project, waiver of the area designation requirement and Sections 197-c and 197-d of the New York City Charter for properties, located at 223-19 111th Avenue (Block 11206, Lot 67), 114-26 208th Street (Block 11026, Lot 379), 197-18 116th Avenue (Block 11069, Lot 198), 190-17 115th Drive (Block 11033, Lot 69), 117-27 204th Street (Block 12634, Lot 24), 198-14 119th Avenue (Block 12654, Lot 7), 190-01 118th Road (Block 12605, Lot 39), 186-20 Foch Boulevard (Block 12438, Lot 142), 177-48 Baisley Boulevard (Block 12462, Lot 12), 177-19 120th Avenue (Block 12469, Lot 137), 171-48 119th Road (Block 12375, Lot 85), 168-32 119th Avenue (Block 12370, Lot 16), and 168-31 118th Road (Block 12368, Lot 53), in Community Boards 12 and 13, Council District 27, Borough of Queens.

SOUTHEASTERN QUEENS VACANT HOMES PROJECT CLUSTER 1, CD 21

QUEENS - CB 3 20175036 HAQ

Application submitted by the New York City Department of

Housing Preservation and Development pursuant to Section 696 of Article 16 of the General Municipal Law for approval of a real property tax exemption, an urban development action area project, and waiver of the area designation requirement and Sections 197-c and 197-d of the New York City Charter for property, located at 32-10 102nd Street (Block 01696, Lot 9), in Community Board 3, Council District 21, Borough of Queens.

SOUTHEASTERN QUEENS VACANT HOMES PROJECT CLUSTER 2, CD 23

QUEENS - CB 13 20175037 HAQ

Application submitted by the New York City Department of Housing Preservation and Development pursuant to Section 696 of Article 16 of the General Municipal Law for approval of a real property tax exemption, an urban development action area project, and waiver of the area designation requirement and Sections 197-c and 197-d of the New York City Charter for property, located at 89-55 208th Street (Block 10573, Lot 43), in Community Board 13, Council District 23, Borough of Queens.

SOUTHEASTERN QUEENS VACANT HOMES PROJECT CLUSTER 3, CD 24

QUEENS - CB 8 20175038 HAQ

Application submitted by the New York City Department of Housing Preservation and Development pursuant to Section 696 of Article 16 of the General Municipal Law for approval of a real property tax exemption, an urban development action area project, and waiver of the area designation requirement and Sections 197-c and 197-d of the New York City Charter for property, located at 80-44 162nd Street (Block 06856, Lot 59), in Community Board 8, Council District 24, Borough of Queens.

SOUTHEASTERN QUEENS VACANT HOMES PROJECT CLUSTER 5, CD 31

QUEENS - CBs 12 and 13 20175040 HAQ

Application submitted by the New York City Department of Housing Preservation and Development pursuant to Section 696 of Article 16 of the General Municipal Law for approval of a real property tax exemption, an urban development action area project, and waiver of the area designation requirement and Sections 197-c and 197-d of the New York City Charter for properties, located at 144-41 158th Street (Block 15013, Lot 4), 171-15 144th Avenue (Block 12594, Lot 16), and 222-33 143rd Road (Block 13086, Lot 57), in Community Boards 12 and 13, Council District 31, Borough of Queens



s14-20

CITY PLANNING COMMISSION

PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that resolutions have been adopted by the City Planning Commission, scheduling public hearings on the following matters to be held at Spector Hall, 22 Reade Street, New York, NY, on Wednesday, September 21, 2016 at 10:00 A.M.

BOROUGH OF THE BRONX

No. 1

LABOR BATHGATE COMMUNITY CHILD CARE CENTER C 160038 PQQ

IN THE MATTER OF an application submitted by the Administration for Children's Services and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the acquisition of property located at 1638 Anthony Avenue (Block 2888, Lot 21) for continued use as a child care center.

BOROUGH OF BROOKLYN

No. 2

NUESTROS NINOS CHILD CARE CENTER C 160133 PQQ

IN THE MATTER OF an application submitted by the Administration for Children's Services and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the acquisition of property located at 384 South 4th Street (Block 2451, Lot 8) for continued use as a child care center.

BOROUGH OF MANHATTAN

Nos. 3-7

LEXINGTON GARDENS II C 160336 ZMM

IN THE MATTER OF an application submitted by Lexington Gardens Owners LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 3b:

- 1. eliminating from within an existing R7-2 District a C1-5

District bounded by a line 100 feet westerly of Lexington Avenue, East 108th Street, Lexington Avenue, and East 107th Street;

- 2. changing from an R7-2 District to an R9 District property bounded by a line 100 feet easterly of Park Avenue, East 108th Street, Lexington Avenue, and East 107th Street;
- 3. changing from a C8-4 District to an R9 District property bounded by the easterly boundary line of the New York Central Railroad Right-of-Way, East 108th Street, a line 100 feet easterly of Park Avenue, and East 107th Street; and
- 4. establishing within the proposed R9 District a C2-4 District bounded by the easterly boundary line of the New York Central Railroad Right-of-Way, East 108th Street, Lexington Avenue, and East 107th Street;

as shown on a diagram (for illustrative purposes only) dated June 6, 2016

No. 4

CD 11 N 160337 ZRM

IN THE MATTER OF an application submitted by New York City Department of Housing Preservation and Development and Lexington Gardens Owners, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area.

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

\* \* \*

APPENDIX F Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas

\* \* \*

Manhattan

\* \* \*

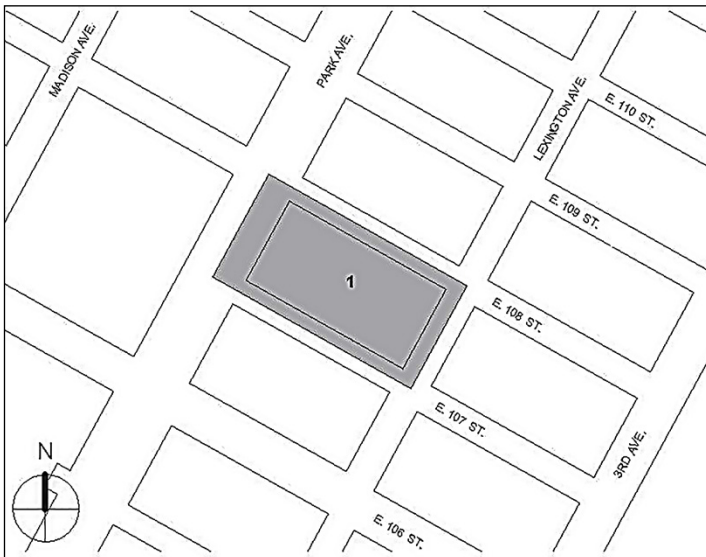
Manhattan Community Districts 9, 10 and 11

\* \* \*

In the R9 District within the areas shown on the following Map 3:

Map 3. (date of adoption)

[PROPOSED MAP]



■ Mandatory Inclusionary Housing area see Section 23-154(d)(3) Area 1 (date of adoption) — MIH Program Option 2 Portion of Community District 11, Manhattan

No. 5

CD 11 C 160338 ZSM

IN THE MATTER OF an application submitted by Lexington Gardens Owners LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-743(a)(2) of the Zoning Resolution to modify the height and setback requirements of Section 23-66 (Height and Setback Requirements for Quality Housing Buildings) and Section 35-65 (Height and Setback

Requirements for Quality Housing Buildings), and the Street wall location requirements of Section 35-651 (Street Wall Location), in connection with a proposed mixed-use development on property bounded by Park Avenue, East 108th Street, Lexington Avenue, and East 107th Street (Block 1635, Lots 1, 7, 16 & 17), in an R9/C2-4\* District, within a Large-Scale General Development.

\* Note: The site is proposed to be rezoned by changing existing R7-2, R7-2/C1-5 & C8-4 Districts to an R9/C2-4 District under a concurrent related application (C 160336 ZMM).

Plans for this proposal are on file with the City Planning Commission and 120 Broadway, 31st Floor, New York, NY 10271-0001.

No. 6

CD 11 C 160339 ZSM

IN THE MATTER OF an application submitted by Lexington Gardens Owners LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-532 of the Zoning Resolution to waive 103 required off-street parking spaces including 25 required off-street parking spaces for an existing development on the zoning lot, in connection with a proposed mixed-use development on property bounded by Park Avenue, East 108th Street, Lexington Avenue, and East 107th Street (Block 1635, Lots 1, 7, 16 & 17), in an R9/C2-4\* District, within the Transit Zone, in a Large-Scale General Development.

\* Note: The site is proposed to be rezoned by changing existing R7-2, R7-2/C1-5 & C8-4 Districts to an R9/C2-4 District under a concurrent related application (C 160336 ZMM).

Plans for this proposal are on file with the City Planning Commission and 120 Broadway, 31st Floor, New York, NY 10271-0001.

No. 7

CD 11 C 160340 HAM

IN THE MATTER OF an application submitted by The Department of Housing Preservation and Development (HPD).

- 1) pursuant to Article 160 of the General Municipal Law of New York State for:
  - a) the designation of property located at 1461 Park Avenue (Block 1635, Lot 1) as an Urban Development Action Area; and
  - b) Urban Development Action Area Project for such area; and
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD:

to facilitate an affordable housing development containing approximately 390 dwelling units, approximately 3,201 square feet of commercial space and approximately 38,053 square feet of community facility space.

YVETTE V. GRUEL, Calendar Officer  
City Planning Commission  
120 Broadway, 31st Floor, New York, NY 10271  
Telephone (212) 720-3370.



s7-21

COMMUNITY BOARDS

■ PUBLIC HEARINGS

PUBLIC NOTICE IS HEREBY GIVEN that the following matters have been scheduled for public hearing by Community Board:

BOROUGH OF BROOKLYN

COMMUNITY BOARD NO. 02 Monday, September 26, 2016, 6:00 P.M., Long Island University-Metcalf Hall, Jonas Board Room, Flatbush and DeKalb Avenues, Brooklyn, NY.

STATEMENTS OF EXPENSE AND CAPITAL BUDGET PRIORITIES AND OF COMMUNITY DISTRICT NEED TO BE SUBMITTED BY COMMUNITY BOARD 2 FOR FISCAL YEAR 2018.

IN THE MATTER OF two statements to be submitted annually by Community Board 2 to the Mayor pursuant to Sections 230 and 2800(d) (10&11) of the New York City Charter, of expense budget and capital budget priorities and of community district need.

• s20-26

**COMPTROLLER**

■ MEETING

The City of New York Audit Committee Meeting is scheduled for Thursday, September 22, 2016, from 10:00 A.M. to 11:00 A.M., at 1 Centre Street, Room 1005 North, New York, NY 10007. Meeting is open to the general public.

s19-22

**BOARD OF EDUCATION RETIREMENT SYSTEM**

■ MEETING

The Investment Committee of the Board of Trustees of the New York City Board of Education Retirement System will participate in a Common Investment Meeting of the New York City Pension Systems. The meeting will be held at 9:00 A.M. on Wednesday, September 21, 2016, at 1 Centre Street, 10th Floor (North Side), New York, NY 10007.

Accessibility questions: John Cahalin, (718) 935-3413, by: Tuesday, September 20, 2016, 5:00 P.M.



s15-21

The Board of Trustees of the Board of Education Retirement System of the City of New York will be meeting at 5:00 P.M. on September 21, 2016, at 5:00 P.M. at Murry Bergtraum High School (411 Pearl Street, New York, NY 10038).

Accessibility questions: John Cahalin, (718) 935-3413, by: Tuesday, September 20, 2016, 5:00 P.M.



s13-21

**HOUSING AUTHORITY**

■ MEETING

The next Board Meeting of the New York City Housing Authority is scheduled for Wednesday, September 28, 2016, at 10:00 A.M. in the Board Room on the 12th Floor of 250 Broadway, New York, NY (unless otherwise noted). Copies of the Calendar are available on NYCHA's website, or can be picked up at the Office of the Corporate Secretary, at 250 Broadway, 12th Floor, New York, NY, no earlier than 24 hours before the upcoming Board Meeting. Copies of the Minutes are also available on NYCHA's website or can be picked up at the Office of the Corporate Secretary, no earlier than 3:00 P.M. on the Thursday after the Board Meeting.

Any changes to the schedule will be posted here and on NYCHA's website at <http://www1.nyc.gov/site/nycha/about/board-calendar.page> to the extent practicable at a reasonable time before the meeting.

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

Any person requiring a reasonable accommodation in order to participate in the Board Meeting, should contact the Office of the Corporate Secretary by phone, at (212) 306-6088 or by email at [corporate.secretary@nycha.nyc.gov](mailto:corporate.secretary@nycha.nyc.gov) no later than five business days before the Board Meeting.

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

Accessibility questions: Office of the Corporate Secretary, (212) 306-6088, [corporate.secretary@nycha.nyc.gov](mailto:corporate.secretary@nycha.nyc.gov), by: Thursday, September 22, 2016, 5:00 P.M.



s14-28

**LANDMARKS PRESERVATION COMMISSION**

■ PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that pursuant to the provisions of Title

25, Chapter 3 of the Administrative Code of the City of New York (Sections 25-303, 25-307, 25-308, 25-309, 25-313, 25-318, 25-320) on Tuesday, September 20, 2016, a public hearing will be held, at 1 Centre Street, 9th Floor, Borough of Manhattan with respect to the following properties and then followed by a public meeting. The final order and estimated times for each application will be posted on the Landmarks Preservation Commission website the Friday before the hearing. Any person requiring reasonable accommodation in order to participate in the hearing or attend the meeting should contact the Landmarks Commission no later than five (5) business days before the hearing or meeting.

**76 Kent Street - Eberhard Faber Pencil Company Historic District**

**190642** - Block 2557 - Lot 16 - **Zoning:** M1-2/R6B, M1-1  
**CERTIFICATE OF APPROPRIATENESS**

A German Renaissance Revival stable/storage building built c.1886-1904. Application is to install storefront infill and construct a rear yard addition.

**1093 Lorimer Street - Greenpoint Historic District**

**184971** - Block 2569 - Lot 48 - **Zoning:** R6B  
**CERTIFICATE OF APPROPRIATENESS**

A Neo-Grec style rowhouse designed by George Gerard and built in 1884. Application is to construct rooftop and rear yard additions.

**122 Franklin Street - Greenpoint Historic District**

**184978** - Block 2566 - Lot 6 - **Zoning:** R6B  
**CERTIFICATE OF APPROPRIATENESS**

A house built c. 1853. Application is to install a storefront and alter the façade.

**250 Dean Street - Boerum Hill Historic District**

**191440** - Block 196 - Lot 136 - **Zoning:** R6B  
**CERTIFICATE OF APPROPRIATENESS**

A vernacular style store and residence built in 1854. Application is to construct a deck, railings, and trellis, and to modify a window opening.

**23 Middagh Street - Brooklyn Heights Historic District**

**175694** - Block 210 - Lot 24 - **Zoning:** R6  
**CERTIFICATE OF APPROPRIATENESS**

A Greek Revival style house built in 1834. Application is to modify the roof, construct a rooftop addition, and paint façade elements.

**476 Washington Avenue - Clinton Hill Historic District**

**190161** - Block 1962 - Lot 76 - **Zoning:** R6B  
**CERTIFICATE OF APPROPRIATENESS**

An altered wood framed house built prior to 1882. Application is to demolish the existing building and construct a new building.

**112 Vanderbilt Avenue - Wallabout Historic District**

**181535** - Block 2046 - Lot 73 - **Zoning:** R5B  
**CERTIFICATE OF APPROPRIATENESS**

An altered Greek Revival style semi-attached house built c. 1851-52. Application is to construct a rear yard addition.

**158 Halsey Street - Bedford Historic District**

**190630** - Block 1844 - Lot 40 - **Zoning:** R6B  
**CERTIFICATE OF APPROPRIATENESS**

A Neo-Grec style rowhouse built c. 1882. Application is to construct a rear yard addition.

**1324 Bergen Street - Crown Heights North III Historic District**

**185333** - Block 1123 - Lot 17 - **Zoning:** R6  
**CERTIFICATE OF APPROPRIATENESS**

A Neo-Grec style rowhouse designed by Amzi Hill and built c. 1876. Application is to construct a rear addition.

**673 Park Place - Park Place Historic District**

**177196** - Block 1231 - Lot 72 - **Zoning:** R5B  
**CERTIFICATE OF APPROPRIATENESS**

A Queen Anne/Romanesque Revival style rowhouse designed by J. Mason Kirby and built in 1889-90. Application is to construct a rear yard addition.

**175 Fenimore Street, aka 1917 Bedford Avenue - Prospect**

**Lefferts Gardens Historic District**  
**177230** - Block 5038 - Lot 1 - **Zoning:** R2  
**CERTIFICATE OF APPROPRIATENESS**

A rowhouse with Romanesque Revival and Renaissance style details, designed by Charles Infanger and built in 1907. Application is to legalize areaway signage installed without Landmarks Preservation Commission permit(s).

**143 Franklin Street - Tribeca West Historic District**

**181448** - Block 179 - Lot 63 - **Zoning:** C6-2A  
**CERTIFICATE OF APPROPRIATENESS**

A Renaissance Revival style warehouse designed by Henry Anderson and built in 1897-98. Application is to construct a rooftop addition, and alter the rear façade and loading dock.

**14 St. Luke's Place - Greenwich Village Historic District**

**184022** - Block 583 - Lot 47 - **Zoning:** R6  
**CERTIFICATE OF APPROPRIATENESS**

A rowhouse built in 1852-53. Application is to construct a rooftop addition.

**139 Charles Street - Greenwich Village Historic District Extension****186982** - Block 632 - Lot 34 - **Zoning:** C1-6A  
**CERTIFICATE OF APPROPRIATENESS**

A garage designed by Sidney Daub and built in 1955. Application is to install infill, signage, and HVAC equipment, and create a masonry opening.

**165 Mercer Street - SoHo-Cast Iron Historic District****190170** - Block 513 - Lot 23 - **Zoning:** M1-5A  
**CERTIFICATE OF APPROPRIATENESS**

A cast iron store building designed by Henry Fernbach and built in 1870-71. Application is to remove the fire escape, construct a rooftop addition, and install storefront infill and signage.

**187-193 Lafayette Street - SoHo-Cast Iron Historic District Extension****191329** - Block 472 - Lot 10 - **Zoning:** M1-5B  
**CERTIFICATE OF APPROPRIATENESS**

A Renaissance Revival style warehouse designed by Buchman &amp; Fox and built in 1903-05. Application is to legalize the installation of HVAC equipment without Landmarks Preservation Commission permit(s).

**490 LaGuardia Place - South Village Historic District****185208** - Block 525 - Lot 56 - **Zoning:** R7-2/C1-5  
**CERTIFICATE OF APPROPRIATENESS**

An Italianate style tenement building with commercial ground floor, designed by James L. Miller and built in 1870. Application is to establish a master plan governing the future installation of painted wall signs.

**339 West 29th Street - Lamartine Place Historic District****164417** - Block 753 - Lot 16 - **Zoning:** RB8  
**CERTIFICATE OF APPROPRIATENESS**

A Greek Revival style rowhouse with Renaissance Revival style elements originally built in 1846-47, altered in 1951 by Harry Gerson. Application is to modify rooftop and rear additions constructed prior to designation and to alter the façade.

**23 East 17th Street - Ladies' Mile Historic District****192149** - Block 846 - Lot 17 - **Zoning:** M1-5M, C6-4  
**CERTIFICATE OF APPROPRIATENESS**

A Neo-Renaissance style store and loft building designed by William H. Birkmire and built in 1902-03. Application is to modify the bulkhead.

**307 West 103rd Street - Riverside - West End Historic District Extension II****186225** - Block 1891 - Lot 51 - **Zoning:** R8B  
**CERTIFICATE OF APPROPRIATENESS**

A Renaissance Revival style rowhouse designed by George F. Pelham and built in 1895-96. Application is to replace windows, construct a rear yard addition and alter the rear façade.

**164 West 74th Street - Upper West Side/Central Park West Historic District****186299** - Block 1145 - Lot 59 - **Zoning:** R8B  
**CERTIFICATE OF APPROPRIATENESS**

A Beaux Arts style hotel building designed by Buchman &amp; Fox and built in 1901-1902. Application is to install an ADA-compliant entrance, construct rooftop additions, and alter the rear façade.

**127 West 88th Street - Upper West Side/Central Park West Historic District****181047** - Block 1219 - Lot 19 - **Zoning:** R7-2  
**CERTIFICATE OF APPROPRIATENESS**

A Renaissance Revival style rowhouse designed by Alonzo Kight and built in 1898. Application is to legalize the installation of an areaway fence without Landmarks Preservation Commission permit(s).

**40 West 96th Street - Upper West Side/Central Park West Historic District****175065** - Block 1209 - Lot 48 - **Zoning:** R9  
**CERTIFICATE OF APPROPRIATENESS**

A Renaissance Revival style rowhouse designed by George F. Pelham and built in 1897. Application is to construct a rear yard addition.

**22 West 96th Street - Upper West Side/Central Park West Historic District****191665** - Block 1209 - Lot 41 - **Zoning:** R9  
**CERTIFICATE OF APPROPRIATENESS**

A Renaissance Revival style rowhouse designed by Edward Kilpatrick and built in 1891-92. Application is to replace windows.

**210 East 62nd Street - Treadwell Farm Historic District****181027** - Block 1416 - Lot 43 - **Zoning:** R8B  
**CERTIFICATE OF APPROPRIATENESS**

A rowhouse designed by F. S. Barns and built in 1870, and altered in the 20th century. Application is to construct rooftop and rear yard additions, replace windows, and alter the façade and areaway.

**827 Madison Avenue - Upper East Side Historic District****191309** - Block 1383 - Lot 50 - **Zoning:** C5-1  
**CERTIFICATE OF APPROPRIATENESS**

A residence built in 1880 and modified in 1923 by James Casale. Application is to re-clad the commercial ground floor and modify masonry openings.

**605 Park Avenue - Upper East Side Historic District****192422** - Block 1399 - Lot 74 - **Zoning:** R10, R8B  
**CERTIFICATE OF APPROPRIATENESS**

An apartment building designed by Sylvan Bien and built in 1953-1954. Application is to replace railings and install a canopy.

**605 Park Avenue - Upper East Side Historic District****192420** - Block 1399 - Lot 74 - **Zoning:** R10, R8B  
**CERTIFICATE OF APPROPRIATENESS**

An apartment building designed by Sylvan Bien and built in 1953-1954. Application is to establish a master plan governing the future installation of replacement windows, balcony enclosures, and through-wall HVAC units.

**117 East 64th Street - Upper East Side Historic District****160976** - Block 1399 - Lot 7 - **Zoning:** R8B  
**CERTIFICATE OF APPROPRIATENESS**

A Neo-Grec style residence with Neo-Georgian elements designed by John McCool and built in 1876-1877, with later alterations designed by T. C. Visscher in 1906. Application is to construct bulkhead and install mechanical equipment and railings.

**211 West 138th Street - St. Nicholas Historic District****176626** - Block 2024 - Lot 125 - **Zoning:** R7-2  
**CERTIFICATE OF APPROPRIATENESS**

A Neo-Georgian style rowhouse designed by Bruce Price and Clarence S. Luce and built in 1891. Application is to legalize and alter a rear yard garage building, constructed without Landmarks Preservation Commission permit(s).

**252 West 139th Street - St. Nicholas Historic District****180281** - Block 2024 - Lot 56 - **Zoning:** R7-2  
**CERTIFICATE OF APPROPRIATENESS**

A rowhouse designed by Bruce Price and Clarence Luce and built in 1891. Application is to legalize the installation of conduits, light fixtures, and a deck at the rear without Landmarks Preservation Commission permit(s).

**801 Riverside Drive - Audubon Park Historic District****181765** - Block 2134 - Lot 7501 - **Zoning:** R8  
**CERTIFICATE OF APPROPRIATENESS**

An Arts and Crafts style apartment house designed by George F. Pelham and built in 1919. Application is to install a barrier-free access ramp, steps, planters, and lighting within the entry court.

**35-16 87th Street - Jackson Heights Historic District****174843** - Block 1460 - Lot 12 - **Zoning:** R5  
**CERTIFICATE OF APPROPRIATENESS**

An Anglo-American Garden Home style house designed by C.F. &amp; D.E. McAvoy and built in 1926. Application is to legalize the installation of windows and replace asphalt shingles, without Landmarks Preservation Commission permit(s).

**237-02 Hollywood Avenue - Douglaston Historic District****185159** - Block 8047 - Lot 1 - **Zoning:** R1-2  
**CERTIFICATE OF APPROPRIATENESS**

A Mediterranean Revival style house built in 1927. Application is to replace windows.

s7-20

**TRANSPORTATION****■ PUBLIC HEARINGS**

**NOTICE IS HEREBY GIVEN**, pursuant to law, that the following proposed revocable consents, have been scheduled for a public hearing by the New York City Department of Transportation. The hearing will be held at 55 Water Street, 9<sup>th</sup> Floor, Room 945 commencing at 2:00 P.M. on Wednesday, September 28, 2016. Interested parties can obtain copies of proposed agreements or request sign-language interpreters (with at least seven days prior notice) at 55 Water Street, 9<sup>th</sup> Floor South West, New York, NY 10041, or by calling (212) 839-6550.

**#1 IN THE MATTER OF** a proposed revocable consent authorizing 281 PAS Owner LP to construct, maintain and use a ramp on the south sidewalk of East 22<sup>nd</sup> Street, east of Park Avenue South, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from Date of Approval by the Mayor and provides among other terms and conditions for compensation payable to the City according to the following schedule:

From the Approval Date to June 30, 2027 - \$25/per annum.

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

**#2 IN THE MATTER OF** a proposed revocable consent authorizing Brookdale Hospital Medical Center to continue to maintain and use conduits together with a street vault and a manhole under, and across Rockaway Parkway north of Linden Boulevard, in the Borough of

Brooklyn. The proposed revocable consent is for a term of ten years from July 1, 2016 to June 30, 2026 and provides among other terms and conditions for compensation payable to the City according to the following schedule:

- For the period July 1, 2016 to June 30, 2017 - \$14,763
- For the period July 1, 2017 to June 30, 2018 - \$15,094
- For the period July 1, 2018 to June 30, 2019 - \$15,425
- For the period July 1, 2019 to June 30, 2020 - \$15,756
- For the period July 1, 2020 to June 30, 2021 - \$16,087
- For the period July 1, 2021 to June 30, 2022 - \$16,418
- For the period July 1, 2022 to June 30, 2023 - \$16,749
- For the period July 1, 2023 to June 30, 2024 - \$17,080
- For the period July 1, 2024 to June 30, 2025 - \$17,411
- For the period July 1, 2025 to June 30, 2026 - \$17,742

the maintenance of a security deposit in the sum of \$17,800 and the insurance shall be in the amount of Two Million Dollars (\$2,000,000) per occurrence, and Two Million Dollars (\$2,000,000) aggregate.

**#3 IN THE MATTER OF** a proposed revocable consent authorizing Consolidated Edison Company of New York, Inc. to continue to maintain and use a tunnel under and across Franklin D. Roosevelt Drive, north of East 13<sup>th</sup> Street, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2016 to June 30, 2026 and provides among other terms and conditions for compensation payable to the City according to the following schedule:

- For the period July 1, 2016 to June 30, 2017 - \$32,084
- For the period July 1, 2017 to June 30, 2018 - \$32,808
- For the period July 1, 2018 to June 30, 2019 - \$33,522
- For the period July 1, 2019 to June 30, 2020 - \$34,241
- For the period July 1, 2020 to June 30, 2021 - \$34,960
- For the period July 1, 2021 to June 30, 2022 - \$35,679
- For the period July 1, 2022 to June 30, 2023 - \$36,398
- For the period July 1, 2023 to June 30, 2024 - \$37,117
- For the period July 1, 2024 to June 30, 2025 - \$37,836
- For the period July 1, 2025 to June 30, 2026 - \$38,555

the maintenance of a security deposit in the sum of \$25,100 and the insurance shall be the amount of Two Million Dollars (\$2,000,000) per occurrence, and Five Million Dollars (\$5,000,000) aggregate.

**#4 IN THE MATTER OF** a proposed revocable consent authorizing Consolidated Edison Company of New York, Inc. to continue to maintain and use a bridge over and across East 14<sup>th</sup> Street, west of Avenue D, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2016 to June 30, 2026 and provides among other terms and conditions for compensation payable to the City according to the following schedule:

- For the period July 1, 2016 to June 30, 2017 - \$37,845
- For the period July 1, 2017 to June 30, 2018 - \$38,693
- For the period July 1, 2018 to June 30, 2019 - \$39,541
- For the period July 1, 2019 to June 30, 2020 - \$40,389
- For the period July 1, 2020 to June 30, 2021 - \$41,237
- For the period July 1, 2021 to June 30, 2022 - \$42,085
- For the period July 1, 2022 to June 30, 2023 - \$42,933
- For the period July 1, 2023 to June 30, 2024 - \$43,781
- For the period July 1, 2024 to June 30, 2025 - \$44,629
- For the period July 1, 2025 to June 30, 2026 - \$45,477

the maintenance of a security deposit in the sum of \$29,600 and the insurance shall be the amount of Two Million Dollars (\$2,000,000) per occurrence, and Five Million Dollars (\$5,000,000) aggregate.

**#5 IN THE MATTER OF** a proposed revocable consent authorizing Consolidated Edison Company of New York, Inc. to continue to maintain and use a bridge over and across Avenue D, south of East 14<sup>th</sup> Street, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2016 to June 30, 2026 and provides among other terms and conditions for compensation payable to the City according to the following schedule:

- For the period July 1, 2016 to June 30, 2017 - \$27,263
- For the period July 1, 2017 to June 30, 2018 - \$27,874
- For the period July 1, 2018 to June 30, 2019 - \$28,485
- For the period July 1, 2019 to June 30, 2020 - \$29,096
- For the period July 1, 2020 to June 30, 2021 - \$29,707
- For the period July 1, 2021 to June 30, 2022 - \$30,318
- For the period July 1, 2022 to June 30, 2023 - \$30,929
- For the period July 1, 2023 to June 30, 2024 - \$31,540
- For the period July 1, 2024 to June 30, 2025 - \$32,151
- For the period July 1, 2025 to June 30, 2026 - \$32,762

the maintenance of a security deposit in the sum of \$23,300 and the insurance shall be the amount of Two Million Dollars (\$2,000,000) per occurrence, and Five Million Dollars (\$5,000,000) aggregate.

**#6 IN THE MATTER OF** a proposed revocable consent authorizing Consolidated Edison Company of New York, Inc. to continue to maintain and use certain structures used in connection with the company's 59<sup>th</sup> Street Power Plant, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2016 to June 30, 2026 and provides among other terms and conditions for

compensation payable to the City according to the following schedule:

- For the period July 1, 2016 to June 30, 2017 - \$271,923
- For the period July 1, 2017 to June 30, 2018 - \$278,824
- For the period July 1, 2018 to June 30, 2019 - \$285,725
- For the period July 1, 2019 to June 30, 2020 - \$292,626
- For the period July 1, 2020 to June 30, 2021 - \$299,527
- For the period July 1, 2021 to June 30, 2022 - \$306,428
- For the period July 1, 2022 to June 30, 2023 - \$313,329
- For the period July 1, 2023 to June 30, 2024 - \$320,230
- For the period July 1, 2024 to June 30, 2025 - \$327,131
- For the period July 1, 2025 to June 30, 2026 - \$334,032

the maintenance of a security deposit in the sum of \$742,000 and the insurance shall be the amount of Two Million Dollars (\$2,000,000) per occurrence, and Five Million Dollars (\$5,000,000) aggregate.

**#7 IN THE MATTER OF** a proposed revocable consent authorizing Consolidated Edison Company of New York, Inc. to continue to maintain and use certain existing structures in connection with the 74<sup>th</sup> Street Power Plant, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2016 to June 30, 2026 and provides among other terms and conditions for compensation payable to the City according to the following schedule:

- For the period July 1, 2016 to June 30, 2017 - \$184,506
- For the period July 1, 2017 to June 30, 2018 - \$188,639
- For the period July 1, 2018 to June 30, 2019 - \$192,772
- For the period July 1, 2019 to June 30, 2020 - \$196,905
- For the period July 1, 2020 to June 30, 2021 - \$201,038
- For the period July 1, 2021 to June 30, 2022 - \$205,171
- For the period July 1, 2022 to June 30, 2023 - \$209,304
- For the period July 1, 2023 to June 30, 2024 - \$213,437
- For the period July 1, 2024 to June 30, 2025 - \$217,570
- For the period July 1, 2025 to June 30, 2026 - \$221,703

the maintenance of a security deposit in the sum of \$143,900 and the insurance shall be the amount of Two Million Dollars (\$2,000,000) per occurrence, and Five Million Dollars (\$5,000,000) aggregate.

**#8 IN THE MATTER OF** a proposed revocable consent authorizing Consolidated Edison Company of New York, Inc. to continue to maintain and use a bridge over and across East 14<sup>th</sup> Street between Avenue D and Franklin D. Roosevelt Drive, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2016 to June 30, 2026 and provides among other terms and conditions for compensation payable to the City according to the following schedule:

- For the period July 1, 2016 to June 30, 2017 - \$41,464
- For the period July 1, 2017 to June 30, 2018 - \$42,393
- For the period July 1, 2018 to June 30, 2019 - \$43,321
- For the period July 1, 2019 to June 30, 2020 - \$44,251
- For the period July 1, 2020 to June 30, 2021 - \$45,180
- For the period July 1, 2021 to June 30, 2022 - \$46,109
- For the period July 1, 2022 to June 30, 2023 - \$47,038
- For the period July 1, 2023 to June 30, 2024 - \$47,967
- For the period July 1, 2024 to June 30, 2025 - \$48,896
- For the period July 1, 2025 to June 30, 2026 - \$49,825

the maintenance of a security deposit in the sum of \$32,400 and the insurance shall be the amount of Two Million Dollars (\$2,000,000) per occurrence, and Five Million Dollars (\$5,000,000) aggregate.

**#9 IN THE MATTER OF** a proposed revocable consent authorizing Watchtower Bible and Tract Society of New York, Inc. to continue to maintain and use a tunnel under and across Willow Street, north of Clark Street, in the Borough of Brooklyn. The proposed revocable consent is for a term of ten years from July 1, 2016 to June 30, 2026 and provides among other terms and conditions for compensation payable to the City according to the following schedule:

- For the period July 1, 2016 to June 30, 2017 - \$7,991
- For the period July 1, 2017 to June 30, 2018 - \$8,170
- For the period July 1, 2018 to June 30, 2019 - \$8,349
- For the period July 1, 2019 to June 30, 2020 - \$8,528
- For the period July 1, 2020 to June 30, 2021 - \$8,707
- For the period July 1, 2021 to June 30, 2022 - \$8,886
- For the period July 1, 2022 to June 30, 2023 - \$9,065
- For the period July 1, 2023 to June 30, 2024 - \$9,244
- For the period July 1, 2024 to June 30, 2025 - \$9,423
- For the period July 1, 2025 to June 30, 2026 - \$9,602

the maintenance of a security deposit in the sum of \$9,600 and the insurance shall be the amount of Two Million Dollars (\$2,000,000) per occurrence, and Five Million Dollars (\$5,000,000) aggregate.



**COURT NOTICES**

**SUPREME COURT**

**KINGS COUNTY**

■ NOTICE

**KINGS COUNTY  
IA PART 89  
NOTICE OF PETITION  
INDEX NUMBER 5531/16  
CONDEMNATION PROCEEDING**

**IN THE MATTER OF** the Application of the  
**NEW YORK CITY SCHOOL CONSTRUCTION AUTHORITY,**

Petitioner,

To Acquire By Exercise of its Powers of Eminent Domain Title in Fee Simple Absolute to Certain Real Property Known as Tax Block 861, Lots 23, 29, 37, 43, located in the Borough of the Brooklyn, City of New York, in Connection With P.S./I.S. 746K.

**PLEASE TAKE NOTICE** that, upon the annexed petition of Petitioner New York City School Construction Authority (“the Authority”), duly verified on the 31<sup>st</sup> day of August, 2016, by Ross J. Holden, Executive Vice President and General Counsel for the Authority, Petitioner shall move this Court on the 29<sup>th</sup> day of September, 2016 at 2:30 P.M., or as soon thereafter as counsel may be heard, at I.A.S. Part 89 of this Court, to be held at the Courthouse thereof, located at 360 Adams Street, Brooklyn, NY for an order:

granting the Petition in all respects;

- a. authorizing the Authority to file the Acquisition Map, in the form annexed to the Petition, in the Office of the Clerk of Kings County,
- b. directing that, upon the filing of the Order of this Court and the Acquisition Map, title and possession to the property shown on said Map, shall vest in the Authority, said property consisting of all that certain plot, piece or parcel of land, comprising Tax Block 861, Lots 23, 29, 37, 43, with any buildings and improvements thereon, erected, situated, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

**BLOCK 861, LOT 23**

ALL THAT CERTAIN plot, piece or parcel of land, situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at a point on the southwesterly side of 59th Street (60 feet wide), distant 250.00 feet northwesterly from the intersection formed by the southwesterly side of 59<sup>th</sup> Street and the northwesterly side of 3rd Avenue (180 feet wide);

RUNNING THENCE southwesterly and parallel with the northwesterly side 3rd Avenue a distance of 100 feet 2 inches to a point;

THENCE northwesterly and parallel with the southwesterly side of 59th Street a distance of 120 feet to a point;

THENCE northeasterly and parallel with the northwesterly side 3rd Avenue a distance of 100 feet 2 inches to a point on the southwesterly side of 59th Street;

THENCE southeasterly along the southwesterly side of 59th Street a distance of 120 feet to the point or place of BEGINNING.

**BLOCK 861, LOT 29**

ALL THAT CERTAIN plot, piece or parcel of land, situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at a point on the southwesterly side of 59th Street distant 100 feet northwesterly from the corner formed by the intersection of the southwesterly side of 59th Street with the northwesterly side of 3rd Avenue;

RUNNING THENCE southwesterly parallel with Third Avenue 100 feet 2 inches;

THENCE northwesterly parallel with 59th Street 150 feet;

THENCE northeasterly parallel with 3rd Avenue and part of the distance through a party wall 100 feet 2 inches to the southwesterly side of 59th Street;

THENCE southeasterly along the southwesterly side of 59th Street 150 feet to the point or place of BEGINNING.

**BLOCK 861, LOT 37**

ALL THAT CERTAIN plot, piece or parcel of land, situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the westerly side of 3rd Avenue with the southerly side of 59th Street;

RUNNING THENCE southerly along the westerly side of 3rd Avenue, 100 feet 2 inches;

THENCE westerly parallel with 59th Street, 100 feet;

THENCE northerly parallel with 3rd Avenue, 100 feet 2 inches to the southerly side of 59th Street;

THENCE easterly along the southerly side of 59th Street, 100 feet to the point or place of BEGINNING.

**BLOCK 861, LOT 43**

ALL THAT CERTAIN plot, piece or parcel of land, situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of 60th Street with the westerly side of 3rd Avenue;

RUNNING THENCE northerly along the westerly side of 3rd Avenue, 100 feet; THENCE westerly parallel with 60th Street, 100 feet;

THENCE southerly parallel with 3rd Avenue, 100 feet to the northerly side of 60th Street;

THENCE easterly along the northerly side of 60th Street, 100 feet to the corner the point or place of BEGINNING.

The above-described properties are hereafter referred to as the “Property”.

The Property shall be acquired subject to encroachments, if any, so long as said encroachments shall stand, as delineated on the Damage and Acquisition Map.

- (d) providing that this Court shall determine all claims for just compensation arising from the acquisition of said Property and that such claims shall be heard without a jury and without referral to a referee or commissioner;
- (e) directing that, within thirty (30) days after the entry of the Order of this Court, the Authority shall cause a Notice of Acquisition to be served upon each condemnee or such condemnee’s attorney of record;
- (f) directing that all claimants have a period of one hundred eighty (180) days from the date of service of the Notice of Acquisition within which to file a written claim or notice of appearance; and
- (g) granting such other and further relief as this Court deems just and proper.

Dated: New York, NY  
August 31, 2016

ZACHARY W. CARTER  
Corporation Counsel of the  
City of New York  
Attorney for the Condemnor,  
New York City School Construction  
Authority  
100 Church Street, Room 5-230  
New York, NY 10007  
(212) 356-2670

**SEE MAP IN BACK OF PAPER**

s13-26

**KINGS COUNTY  
IA PART 89  
NOTICE OF PETITION  
INDEX NUMBER 5530/16  
CONDEMNATION PROCEEDING**

**IN THE MATTER OF** the Application of the City of New York, relative to acquiring title in fee simple absolute to certain real property where not heretofore acquired for the same purpose, required as a site for the

**EMS STATION 58,**

To Acquire By Exercise of its Powers of Eminent Domain Title in Fee Simple Absolute to Certain Real Property Known as Tax Block 7918, Lots 114 and 126, located in the Borough of the Kings, City of New York.

**PLEASE TAKE NOTICE** that the Corporation Counsel of the City of New York intends to make application to the Supreme Court of the State of New York, Kings County, IA Part 89, for certain relief.

The application will be made at the following time and place: At the Kings County Courthouse, located at 360 Adams Street, in the Borough of Brooklyn, City and State of New York, on Thursday, September 29, 2016, at 2:30 P.M., or as soon thereafter as counsel can be heard.

authorizing the City to file the acquisition map, in the Office of the City Register;

1. directing that, upon the filing of said map, title to the property sought to be acquired shall vest in the City;
2. providing that just compensation therefor be ascertained and determined by the Supreme Court without a jury; and
3. providing that notices of claim must be served and filed within one calendar year from the vesting date for this proceeding.

The City of New York, in this proceeding, intends to acquire title in fee simple absolute to certain real property where not heretofore acquired for the same purpose, for the continued used as a Fire Department Emergency Medical Service (EMS) Station 58 in the Borough of Brooklyn, City and State of New York.

The description of the real property to be acquired is as follows:

All that certain plot, piece or parcel of land, situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

**BEGINNING** at the corner formed by the intersection of the northwesterly line of Preston Court and the southwesterly line of East 83<sup>rd</sup> Street;

**RUNNING THENCE** southwesterly, along the northwesterly line of Preston Court, a distance of 220.00 feet;

**THENCE** northerly, parallel with the southwesterly line of East 83<sup>rd</sup> Street, a distance of 100.00 feet;

**THENCE** northeasterly, parallel with the northwesterly line of Preston Court, a distance of 220.00 feet to a point on the southwesterly line of East 83<sup>rd</sup> Street;

**THENCE** southerly, along the southwesterly line of East 83<sup>rd</sup> Street, a distance of 100.00 feet to the corner formed by the intersection of the northwesterly line of Preston Court and the southwesterly line of East 83<sup>rd</sup> Street, the point or place of **BEGINNING**.

The above-referenced property shall be acquired subject to encroachments, if any, so long as said encroachments shall stand, as delineated on the Damage and Acquisition Map.

Surveys, maps or plans of the property to be acquired are on file in the office of the Corporation Counsel of the City of New York, 100 Church Street, New York, NY 10007.

**PLEASE TAKE FURTHER NOTICE THAT**, pursuant to EDPL § 402(B)(4), any party seeking to oppose the acquisition must interpose a verified answer, which must contain specific denial of each material allegation of the petition controverted by the opponent, or any statement of new matter deemed by the opponent to be a defense to the proceeding. Pursuant to CPLR 403, said answer must be served upon the office of the Corporation Counsel at least seven (7) days before the date that the petition is noticed to be heard.

Dated: New York, NY  
August 26, 2016

ZACHARY W. CARTER  
Corporation Counsel of the  
City of New York  
Attorney for the Condemnor,  
100 Church Street, Room 5-230  
New York, NY 10007  
(212) 356-2670

**SEE MAP IN BACK OF PAPER**

s13-26

**RICHMOND COUNTY**

■ **NOTICE**

**RICHMOND COUNTY  
IA PART 89  
NOTICE OF PETITION  
INDEX NUMBER CY4041/16  
CONDEMNATION PROCEEDING**

**IN THE MATTER OF** the Application of the CITY OF NEW YORK Relative to Acquiring Title in Fee Simple to Property, located in Staten Island, including All or Parts of

AMBOY ROAD from approximately 60 feet west of Huguenot Avenue to Kingdom Avenue; and HUGUENOT AVENUE from approximately 190 feet South of Amboy Road

in the Borough of Staten Island, City and State of New York

**PLEASE TAKE NOTICE** that the City of New York (the "City") intends to make an application to the Supreme Court of the State of New York, Richmond County, IA Part 89, for certain relief

The application will be made at the following time and place: At the Kings County Courthouse, located at 360 Adams Street, in the Borough of Brooklyn, City and State of New York, on Thursday, September 29, 2016, at 2:30 P.M., or as soon thereafter as counsel can be heard.

The application is for an order:

1. authorizing the City to file an acquisition map in the Richmond County Clerk's Office;
2. directing that upon the filing of said map, title to the property sought to be acquired shall vest in the City;
3. providing that just compensation therefore be ascertained and determined by the Supreme Court without a jury and
4. Providing that notices of claim must be served and filed within one calendar year from the vesting date for this proceeding.
5. The City of New York, in this proceeding, intends to acquire title in fee simple absolute to certain real property where not heretofore acquired for the same purpose, for the reconstruction of roadways, sidewalks and curbs, the installation of new storm and sanitary sewers, and the upgrading of the existing water mains, in the Borough of Staten Island, City and State of New York.
6. The real property which is to be acquired in fee simple absolute in the proceeding is describe as follows:

**ALL** that certain plot, piece or parcel of land, situate, lying and being in the Borough of Staten Island, County of Richmond, City and State of New York as bounded and described as follows:

**BEGINNING** at the southeast corner of tax Lot 59, in Block 6815, as shown on the tax map for the County of Richmond, as said tax map existed on 4/18/2016:

**RUNNING THENCE**, northwesterly, North 22 degrees – 46 minutes –31 seconds West, a distance of 239.05 feet to a point;

**THENCE**, northeasterly, North 67 degrees – 13 minutes – 29 seconds East, a distance of 49.50 feet to a point;

**THENCE**, southeasterly, South 22 degrees – 46 minutes – 31 seconds East, a distance of 180.89 feet to a point;

**THENCE**, southeasterly, on the arc of a circle, curving to the right, the radius of which 22.00 feet, a central angle of 101 degrees – 57 minutes – 50 seconds, and an arch length of 39.15 feet to a point;

**THENCE**, northeasterly, North 55 degrees – 15 minutes – 39 seconds East, a distance of 482.35 feet to a point, thence;

**THENCE**, southeasterly, South 29 degrees – 49 minutes – 17 seconds East, a distance of 36.46 feet to a point;

**THENCE**, northeasterly, North 54 degrees – 23 minutes – 55 seconds East, a distance of 4.65 feet to a point;

**THENCE**, southeasterly, South 35 degrees – 36 minutes – 05 seconds East, a distance of 20.46 feet to a point;

**THENCE**, southeasterly, South 28 degrees – 34 minutes – 28 seconds East, a distance of 12.65 feet to a point;

**THENCE**, southwesterly, South 55 degrees – 15 minutes – 39 seconds West, a distance of 60.35 feet to a point;

**THENCE**, northwesterly, North 28 degrees – 34 minutes – 28 seconds West, a distance of 12.35 feet to a point;

**THENCE**, southwesterly, South 54 degrees – 58 minutes – 52 seconds West, a distance of 149.24 feet to a point;

**THENCE**, southwesterly, South 53 degrees – 09 minutes – 26 seconds West, a distance of 80.00 feet to a point;

**THENCE**, southwesterly, South 53 degrees – 09 minutes – 21 seconds West, a distance of 260.14 feet to a point;

**THENCE**, northwesterly, North 28 degrees – 34 minutes – 28 seconds West, a distance of 1.12 feet to a point;

**THENCE**, southwesterly, South 55 degrees – 15 minutes – 39 seconds West, a distance of 83.07 feet to a point;

**THENCE**, northwesterly, North 34 degrees – 51 minutes – 54 seconds West, a distance of 48.89 feet to a point;

THENCE, northeasterly, North 55 degrees – 08 minutes – 06 seconds East, a distance of 66.41 feet to a point and place of beginning.

Containing 49,447 square feet or 1.135 acres.

- 7. The above described property shall be acquired subject to encroachments, if any, so long as said encroachments shall stand, as delineated on the Damage and Acquisition Map.
- 8. Surveys, maps or plans of the property to be acquired are on file in the office of the Corporation Counsel of the City of New York, 100 Church Street, New York 10007

**PLEASE TAKE FURTHER NOTICE THAT,** pursuant to EDPL § 402(B)(4), any party seeking to oppose the acquisition must interpose a verified answer, which must contain specific denial of each material allegation of the petition controverted by the opponent, or any statement of new matter deemed by the opponent to be a defense to the proceeding. Pursuant to CPLR 403, said answer must be served upon the office of the Corporation Counsel at least seven (7) days before the date that the petition is noticed to be heard.

Dated: New York, NY  
August 30, 2016

ZACHARY W. CARTER  
Corporation Counsel of the  
City of New York  
Attorney for the Condemnor,  
100 Church Street, Room 5-230  
New York, NY 10007  
(212) 356-2670

**SEE MAPS IN BACK OF PAPER**

s13-26



**CITYWIDE ADMINISTRATIVE SERVICES**

■ SALE

The City of New York, in partnership with PropertyRoom.com, posts vehicle and heavy machinery auctions online every week at: <http://www.propertyroom.com/s/7300>

All auctions are open to the general public, and registration is free.

Vehicles can be viewed in person by appointment at: KenBen Industries, 364 Maspeth Avenue, Brooklyn, NY 11211. Phone: (718) 802-0022

a28-o6

**OFFICE OF CITYWIDE PROCUREMENT**

■ NOTICE

The Department of Citywide Administrative Services, Office of Citywide Procurement 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 Procurement, 1 Centre Street, 18th Floor, New York, NY 10007

j4-d30

**POLICE**

■ NOTICE

**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: 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.

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

**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

j4-d30



*"Compete To Win" More Contracts!*

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

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

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

HHS ACCELERATOR

To respond to human services Requests for Proposals (RFPs), in accordance with Section 3-16 of the Procurement Policy Board Rules of the City of New York ("PPB Rules"), 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. The process removes redundancy

by capturing information about boards, filings, policies, and general service experience centrally. As a result, specific proposals for funding are 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.

The Client and Community Service Catalog, which lists all Prequalification service categories and the NYC Procurement Roadmap, which lists all RFPs to be managed by HHS Accelerator may be viewed 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 Office of the Mayor, is governed by an Executive Steering Committee of Agency Heads who represent the following NYC Agencies:

- Administration for Children's Services (ACS)
- Department for the Aging (DFTA)
- Department of Consumer Affairs (DCA)
- Department of Corrections (DOC)
- Department of Health and Mental Hygiene (DOHMH)
- Department of Homeless Services (DHS)
- Department of Probation (DOP)
- Department of Small Business Services (SBS)
- Department of Youth and Community Development (DYCD)
- Housing and Preservation Department (HPD)
- Human Resources Administration (HRA)
- Office of the Criminal Justice Coordinator (CJC)

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

**ADMINISTRATION FOR CHILDREN'S SERVICES**

■ AWARD

*Human Services/Client Services*

- EARLYLEARN SERVICES** - Renewal - PIN#06811P0012021R001 - AMT: \$592,329.60 - TO: Bronx Community College Association, 2155 University Avenue, Bronx, NY 10453.
- **EARLYLEARN SERVICES** - Renewal - PIN#06811P0012022R001 - AMT: \$1,477,868.60 - TO: Bronx Works Inc., 60 East Tremont Avenue, Bronx, NY 10453.
- **EARLYLEARN SERVICES** - Renewal - PIN#06811P0012025R001 - AMT: \$9,914,362.06 - TO: Brooklyn Chinese American Association, 5000 8th Avenue, Brooklyn, NY 11220.
- **EARLYLEARN SERVICES** - Renewal - PIN#06811P0012028R001 - AMT: \$6,161,625.66 - TO: Bumblebees-R-Us Inc., 5902 14th Avenue, Brooklyn, NY 11219.

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*Services (other than human services)*

**TRANSPORTATION SERVICES** - Renewal - PIN#06812B0005009R001 - AMT: \$300,000.00 - TO: Corporate Transportation Group, Ltd., 335 Bond Street, Brooklyn, NY 11231.

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**CHIEF MEDICAL EXAMINER**

**PROCUREMENT**

■ INTENT TO AWARD

*Services (other than human services)*

**MAINTENANCE AND REPAIR OF ABI INSTRUMENTS THERMAL CYCLERS** - Sole Source - Available only from a single source - PIN# 81617ME016 - Due 9-21-16 at 3:00 P.M.

The Office of Chief Medical Examiner (OCME) intends to enter into a sole source contract with Life Technologies Corporation, 5781 Van Allen

Way, Carlsbad, CA 92008, for the maintenance and repair of Applied Biosystems 9700-96 well Sample Module.

Any other vendor who is capable of providing these services to the NYC Office of Chief Medical Examiner may express their interest in doing so by writing to Mai Mikhaeil, Office of Chief Medical Examiner, 421 East 26th Street, 10th Floor, New York, NY 10016.

*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.*

*Chief Medical Examiner, 421 East 26th Street, 10th Floor, New York, NY 10016. Mai Mikhaeil (212) 323-1704; Fax: (212) 323-1790; mmikhaeil@ocme.nyc.gov*

s14-20

**CITY UNIVERSITY**

**HUNTER COLLEGE**

■ SOLICITATION

*Services (other than human services)*

**ADVERTISING PROGRAM FOR SELECTED ASSETS OF HUNTER COLLEGE/CUNY** - Request for Proposals - PIN#ADVERTISING REVENUE - Due 11-18-16 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.*

*City University, 695 Park Avenue, Room E1509, New York, NY 10021. Darius Solomon (212) 396-6894;*

s16-22

**CITYWIDE ADMINISTRATIVE SERVICES**

■ SOLICITATION

*Goods*

**THERMOPLASTIC MATERIAL** - Competitive Sealed Bids - PIN# 8571700007 - Due 10-14-16 at 10:30 A.M.

A copy of the bid can be downloaded from The City Record online site at [www.nyc.gov/cityrecord](http://www.nyc.gov/cityrecord). Enrollment is free. Vendors may also request the bid by contacting vendor relations via email at [dcasdmssbids@dcas.nyc.gov](mailto:dcasdmssbids@dcas.nyc.gov), by telephone at (212) 386-0044 or by fax at (212) 669-7585.

*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.*

*Citywide Administrative Services, 1 Centre Street, 18th Floor, New York, NY 10007. Vincent Edwards (212) 386-0431; vedwards@dcas.nyc.gov*

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**OFFICE OF CITYWIDE PROCUREMENT**

■ AWARD

*Goods*

**AMMUNITION, SIMUNITION FX MARKING CARTRIDGES** - Competitive Sealed Bids - PIN#8571600307 - AMT: \$440,104.00 - TO: Amchar Wholesale Inc., 100 Airpark Drive, Rochester, NY 14624.

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**DESIGN AND CONSTRUCTION**

**CONTRACTS**

■ AWARD

*Construction/Construction Services*

**RENOVATION OF FDNY ENGINE COMPANY 23-BOROUGH OF MANHATTAN** - Competitive Sealed Bids - PIN#85016B0055 - AMT: \$2,537,014.20 - TO: Jlj V Enterprises Inc., 213-99th Avenue, Queens Village, NY 11429. PROJECT F175MCE23

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**FINANCE****■ INTENT TO AWARD***Services (other than human services)***3-YEAR NAE MISCELLANEOUS BANKING SERVICES -**  
Negotiated Acquisition - Other - PIN# 83612N0001001N001 -  
Due 10-3-16 at 10:00 A.M.

This is a 3-year extension of an existing contract for banking services for the City's bank accounts.

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.

Finance, 1 Centre Street, 10th Floor, New York, NY 10007. Adenike Bamgboye (212) 602-7002; Fax: (212) 669-4294; bamgboye@finance.nyc.gov

s19-23

**HEALTH AND MENTAL HYGIENE****AGENCY CHIEF CONTRACTING OFFICER****■ INTENT TO AWARD***Services (other than human services)***ASSISTED OUTPATIENT TREATMENT- LEGAL PETITIONS**  
- Negotiated Acquisition - Specifications cannot be made sufficiently  
definite - PIN# 16AZ049501R0X00 - Due 9-21-16 at 10:00 A.M.

DOHMH intends to enter into a Negotiated Acquisition Extension with Gallagher and Co. Adjusters, Inc., to provide legal services in accordance with "Kendra's Law" (Chapter 408 of the Laws of 1999). Gallagher will continue to process petitions for court ordered outpatient treatment, for patients who have been noncompliant in the past with treatment for mental illness. The term of this extension will be from May 1, 2016 to June 30, 2017. This notice is for informational purpose only. Vendors are welcome to submit an expression of interest for future procurements for these services.

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, Long Island City, NY 11101. Shamecka Williams (347) 396-6678; Fax: (347) 396-6759; swillia9@health.nyc.gov

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**HOUSING AUTHORITY****PROCUREMENT****■ SOLICITATION***Goods and Services***SMD (CDBG-DR) GENERATOR MONITORING AND CONTROL INTEGRATION SERVICES -** Request for Proposals - PIN#64158 -  
Due 10-31-16 at 2:00 P.M.

The New York City Housing Authority (NYCHA), seeks proposals from Controls Integration Consulting Firms to design a NYCHA-Wide Supervisory Control and Data Acquisition system to monitor and control natural gas standby generators, automatic transfer switches, electric meters, and other related equipment at approximately 217 NYCHA buildings, within 33 NYCHA developments.

A Non-Mandatory Proposers Conference will be held on October 3, 2016, at 10:00 A.M., in Room 11-516, located on the 11th Floor, at 90 Church Street, New York, NY 10007. Although attendance is not mandatory at the Proposers' Conference, it is strongly recommended that all interested Proposers attend.

Those attending must notify Theresa Hunter at Theresa.Hunter@nyc.nyc.gov and cc: Meddy Ghabae at Meddy.ghabae@nyc.nyc.gov by 12:00 P.M., on September 30, 2016, of their intent to attend.

NYCHA additionally recommends that Proposers submit, via email, written questions in advance of the Proposers Conference to NYCHA's Coordinator, Meddy.ghabae@nyc.nyc.gov and cc: Jacques Barbot at Jacques.barbot@nyc.nyc.gov by no later than 12:00 P.M., on October

11, 2016. Questions submitted in writing must include the firm name and the name, title, address, telephone number, fax number and email address of the individual to whom responses to the Proposer's questions should be given. Proposers will be permitted to ask additional questions at the Proposers Conference. All questions and answers will be posted on NYCHA's online system iSupplier.

Interested firms are invited to obtain a copy on NYCHA's website. To conduct a search for the RFP number; vendors are instructed to open the link: <http://www1.nyc.gov/site/nycba/business/isupplier-vendor-registration.page>. Once on that page, please make a selection from the first three links highlighted in red: New suppliers for those who have never registered with iSupplier; current NYCHA suppliers and vendors for those who have supplied goods or services to NYCHA in the past but never requested a login ID for iSupplier; and Login for registered suppliers if you already have an iSupplier ID and password. Once you are logged into iSupplier, select "Sourcing Supplier," then "Sourcing" followed by "Sourcing Homepage" and then reference the applicable RFP PIN/solicitation number.

Suppliers electing to obtain a non-electronic paper document will be subject to a \$25 non-refundable fee; payable to NYCHA by USPS-Money Order/Certified Check only for each set of RFP documents requested. Remit payment to NYCHA Finance Department, at 90 Church Street, 6th Floor; obtain receipt and present it to the Supply Management Procurement Group; RFP package will be generated at the time of request.

Each Proposer is required to submit One (1) signed original and Six (6) copies of its Proposal package. In addition to the paper copies of the Proposal, Proposers shall submit One (1) complete and exact copy of the Proposal on CD-ROM or Flash drive in Microsoft Office (2010 version or later) or Adobe pdf format. The original signed hard-copy must be clearly labeled as such. If there are any differences between the original and any of the copies (or the electronic copy of the Proposal), the material in the hard copy original will prevail.

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, New York, NY 10007. Meddy Ghabae (212) 306-4539; meddy.ghabae@nycba.nyc.gov

Accessibility questions: JJ Suarez, Jr., (212) 306-8318, JJ.SuarezJr@nycba.nyc.gov, by: Friday, September 30, 2016, 2:00 P.M.



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**SMD INTELLECTUAL PROPERTY LEGAL SERVICES -** Request for Proposals - PIN#64223 - Due 10-13-16 at 2:00 P.M.

The New York City Housing Authority (NYCHA), by issuing this Solicitation, seeks proposals from qualified outside counsel to provide NYCHA with intellectual property legal services, as detailed more fully within Section II of this Solicitation. NYCHA intends to enter into one retainer agreement with the selected Proposer to provide the Services. The Term of the awarded Agreement shall be two-years, with additional renewal period(s) cumulatively not to exceed three years, exercisable at NYCHA's sole discretion by written notice to the Counsel. NYCHA will compensate the Counsel for Services performed during any Renewal Period in accordance with the hourly fees set forth in the Agreement as per the Counsel's Fee Proposal.

Prospective Proposers may submit, via email, written questions concerning this Solicitation to NYCHA's Coordinator, Meddy Ghabae at Meddy.ghabae@nycba.nyc.gov and cc: Jacques Barbot at Jacques.barbot@nycba.nyc.gov by 12:00 P.M., on September 27, 2016. Questions submitted must include the Proposer's name and the name, title, address, telephone number, and email address of the individual to whom responses to the Proposer's question should be provided. All responses to questions will be posted on the NYCHA's online iSupplier.

Interested firms are invited to obtain a copy on NYCHA's website. To conduct a search for the RFP number; vendors are instructed to open the link: <http://www1.nyc.gov/site/nycba/business/isupplier-vendor-registration.page>. Once on that page, please make a selection from the first three links highlighted in red: New suppliers for those who have never registered with iSupplier; current NYCHA suppliers and vendors for those who have supplied goods or services to NYCHA in the past but never requested a login ID for iSupplier; and Login for registered suppliers if you already have an iSupplier ID and password. Once you are logged into iSupplier, select "Sourcing Supplier," then "Sourcing" followed by "Sourcing Homepage" and then reference the applicable RFP PIN/solicitation number.

Suppliers electing to obtain a non-electronic paper document will be subject to a \$25 non-refundable fee; payable to NYCHA by USPS-Money Order/Certified Check only for each set of RFP documents requested. Remit payment to NYCHA Finance Department, at 90 Church Street, 6th Floor; obtain receipt and present it to the Supply

Management Procurement Group; RFP package will be generated at time of request.

Each Proposer is required to submit One (1) signed original and Six (6) copies of its Proposal package. In addition to the paper copies of the Proposal, Proposers shall submit One (1) complete and exact copy of the Proposal on CD-ROM or a Flash drive in Microsoft Office (2010 version or later) or Adobe pdf format. The original signed hard-copy must be clearly labeled as such. If there are any differences between the original and any of the copies (or the electronic copy of the Proposal), the material in the hard copy original will prevail.

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, New York, NY 10007. Meddy Ghabaee (212) 306-4539; meddy.ghabaee@nycha.nyc.gov

• s20

**HUMAN RESOURCES ADMINISTRATION**

■ INTENT TO AWARD

Human Services/Client Services

**DOMESTIC VIOLENCE SHELTER CAPACITY EXPANSION (- 60 BEDS)** - Negotiated Acquisition - Other - PIN#09616N0011 - Due 10-11-16 at 2:00 P.M.

HRA intends to enter into a Negotiated Acquisition (NA) with the following vendor:  
URBAN RESOURCE INSTITUTE - \$9,686,808.00  
PIN:16OHMEI05401  
Term: 6/16/2016 - 6/15/2021

HRA provides emergency shelter, services and care to survivors of domestic violence. Emergency domestic violence shelters provide temporary housing and supportive services for up to 180 days in a safe environment for such survivors. Programs are developed to help clients manage the crisis and trauma of domestic violence, strengthen their coping skills and enhance their self-sufficiency. In doing so the City will be able to better review, monitor and evaluate the services being provided. This NA will provide continuity of services and avoid disruption from the original Emergency Procurement award method. The term, which has expired, for the emergency contract was for six months to provide 60 beds and services in its facility to domestic violence survivors. Vendors interested in responding to this or other future solicitations for these types of services should contact the New York City Vendor Enrollment Center at (212) 857-1680 or at www.nyc.gov/selltonyc.

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.

Human Resources Administration, 150 Greenwich Street, 37th Floor, New York, NY 10007. Adrienne D. Williams (646) 221-6346; williamsadri@hra.nyc.gov

• s20-26

**INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS**

**AGENCY CHIEF CONTRACTING OFFICER**

■ INTENT TO AWARD

Goods and Services

**MAINTENANCE/UPGRADES HARDWARE/SOFTWARE LICENSES FOR IBM MAINFRAME** - Sole Source - Available only from a single source - PIN#85817S0002 - Due 9-29-16 at 12:00 P.M.

DoITT is procuring licenses, software and hardware maintenance for the IBM equipment, operating system and programs that make up the mainframe data center. All work is proprietary in nature and only IBM approved designated employees are granted/allowed to upgrade/maintain existing IBM mainframe computer equipment.

Any vendor who is qualified to provide the services under this procurement in the future should contact Vito A. Pulito via email: vpulito@doitt.nyc.gov or by phone: (212) 788-6285 (Email Preferred) no later than September 29, 2016, 12:00 PM-NYC local Time.

Proposed vendor is: International Business Machines Corporation.

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.

Information Technology and Telecommunications, 255 Greenwich Street, 9th Floor New York, NY 10007. Vito Pulito (212) 788-6285; Fax: (347) 788-4091; vpulito@doitt.nyc.gov

s16-22

**PARKS AND RECREATION**

■ VENDOR LIST

Construction/Construction Services

**PREQUALIFIED VENDOR LIST: GENERAL CONSTRUCTION - NON-COMPLEX GENERAL CONSTRUCTION SITE WORK ASSOCIATED WITH NEW YORK CITY DEPARTMENT OF PARKS AND RECREATION ("DPR" AND/OR "PARKS") PARKS AND PLAYGROUNDS CONSTRUCTION AND RECONSTRUCTION PROJECTS**

DPR is seeking to evaluate and pre-qualify a list of general contractors (a"PQL") exclusively to conduct non-complex general construction site work involving the construction and reconstruction of DPR parks and playgrounds projects not exceeding \$3 million per contract ("General Construction").

By establishing contractor's qualification and experience in advance, DPR will have a pool of competent contractors from which it can draw to promptly and effectively reconstruct and construction its parks, playgrounds, beaches, gardens and green-streets. DPR will select contractors from the General Construction PQL for non-complex general construction site work of up to \$3,000,000.00 per contract, through the use of a Competitive Sealed Bid solicited from the PQL generated from this RFQ.

The vendors selected for inclusion in the General Construction PQL will be invited to participate in the NYC Construction Mentorship. NYC Construction Mentorship focuses on increasing the use of small NYC contracts, and winning larger contracts with larger values. Firms participating in NYC Construction Mentorship will have the opportunity to take management classes and receive on-the-job training provided by a construction management firm.

DPR will only consider applications for this General Construction PQL from contractors who meet any one of the following criteria:

- 1) The submitting entity must be a Certified Minority/Woman Business enterprise (M/WBE)\*;
- 2) The submitting entity must be a registered joint venture or have a valid legal agreement as a joint venture, with at least one of the entities in the joint venture being a certified M/WBE\*;
- 3) The submitting entity must indicate a commitment to sub-contract no less than 50 percent of any awarded job to a certified M/WBE for every work order awarded.

\*Firms that are in the process of becoming a New York City-certified M/WBE may submit a PQL application and submit a M/WBE Acknowledgement Letter, which states the Department of Small Business Services has begun the Certification process.

Application documents may also be obtained on-line at: <http://a856-internet.nyc.gov/nycvendronline/home.asap>; or <http://www.nycgovparks.org/opportunities/business>

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, Annex, Flushing Meadows-Corona Park, Flushing, NY 11368. Alicia H. Williams (718) 760-6925; Fax: (718) 760-6781; dmwbe.capital@parks.nyc.gov.

j4-d30

**CONTRACTS**

■ SOLICITATION

Construction/Construction Services

**PLANTING OF NEW AND REPLACEMENT STREET TREES** - Competitive Sealed Bids - PIN#84617B0019 - Due 10-14-16 at 10:30 A.M.

For the Planting of New and Replacement Street Trees in Community Boards 8, 9 and 17 in the Borough of Brooklyn. Contract BG-416M PlaNYC.

This procurement is subject to participation goals for MBEs and/or WBEs as required by Local Law 1 of 2013.

The Cost Estimate Range is \$1,000,000.00 to \$3,000,000.00.

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 New York, 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. Aurora Colon (718) 393-7236; aurora.colon@parks.nyc.gov

s20

REVENUE AND CONCESSIONS

SOLICITATION

Services (other than human services)

DEVELOPMENT, OPERATION, AND MAINTENANCE OF A CAFE - Competitive Sealed Proposals - Judgment required in evaluating proposals - PIN# B113A-SB-2016 - Due 11-3-16 at 3:00 P.M.

In accordance with Section 1-13 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 significant Request for Proposals ("RFP") for the development, operation, and maintenance of a cafe at Cadman Plaza Park, located at Tillary Street and Cadman Plaza West, Brooklyn.

There will be a recommended site visit on Thursday, October 6, 2016 at 1:00 P.M. We will be meeting at the proposed concession site, which is located at Tillary Street and Cadman Plaza West, Brooklyn. We will be meeting in front of the entrance to the park building at Cadman Plaza West. If you are considering responding to this RFP, please make every effort to attend this recommended site visit.

Hard copies of the RFP can be obtained, at no cost, through November 3, 2016, 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.

The RFP is also available for download, through November 3, 2016, on Parks' website. To download the RFP, 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 RFP's description.

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, 830 Fifth Avenue, Room 407, New York, NY 10065. Philip Abramson (212) 360-3426; Fax: (917) 849-6619; philip.abramson@parks.nyc.gov

Accessibility questions: Phil Abramson, (212) 360-3426, phil.abramson@parks.nyc.gov, by: Tuesday, November 1, 2016, 3:00 P.M.



s19-30

SANITATION

AGENCY CHIEF CONTRACTING OFFICER

SOLICITATION

Services (other than human services)

CORRECTION: UNITED STATES DEPARTMENT OF AGRICULTURE ANIMAL AND PLANT HEALTH INSPECTION SERVICES, WILDLIFE SERVICES (FY17-FY21) - Government to Government - PIN# 82717SW00007 - Due 9-29-16 at 11:00 A.M.

The Department of Sanitation provides this notice of its intent to enter into a Government to Government purchase exceeding the small purchase limit (required pursuant to PPB Rule Section 3-13(d) (1)) with Cooperative Service Agreement between City of New York and the United States Department of Agriculture Animal and Plant Health Inspection Services. The purpose of this Cooperative Service Agreement is to continue to manage and monitor wildlife species to ensure that the New York City Department of Sanitation North Shore Marine Transfer Station ("MTS") waste containerization facility is not a bird attractant due to its proximity to LaGuardia Airport. The Department of Sanitation Agency Chief Contracting Officer has determined that Government to Government procurement is the most competitive, practicable and appropriate selection method under the circumstances and the method is the most advantageous to the City because the vendor has special expertise and acquired knowledge that is required to quickly complete ongoing tasks and undertake new work that will assist the Department of Sanitation in implementing this project that is required to undertake pursuant to the City's Solid Waste Management Plan.

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.

Sanitation, 44 Beaver Street, Room 203, New York, NY 10013. Reina Beza (212) 437-4695; rbeza@dsny.nyc.gov

s14-20

CONTRACT AWARD HEARINGS

NOTE: INDIVIDUALS REQUESTING SIGN LANGUAGE INTERPRETERS SHOULD CONTACT THE MAYOR'S OFFICE OF CONTRACT SERVICES, PUBLIC HEARINGS UNIT, 253 BROADWAY, 9TH FLOOR, 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.

AGING

PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that a Contract Public Hearing will be held on Tuesday, October 4, 2016, at the Department for the Aging, 2 Lafayette Street, 4th Floor Conference Room, Borough of Manhattan, commencing at 10:00 A.M. on the following:

IN THE MATTER OF One (1) proposed contract between the Department for the Aging of the City of New York and the Contractor listed below, for the provision of services for seniors, such as Case Assistance and Information. The contract term shall be from July 1, 2015 to June 30, 2016. The contract amount and the Community District in which the program is located are identified below.

Table with 5 columns: No., Contractor/Address, EPIN / PIN, Amount, Boro/CD. Row 1: SBH Community Service Network, Inc. EPIN:12517L0008001/12516DISC2N7, \$115,000, Brooklyn, CD 11, 12, 14, 15, 18.

The proposed contract is being funded through discretionary funds, pursuant to Section 1-02 (e) of the Procurement Policy Board Rules.

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 Betty Lee, Agency Chief Contracting Officer, at the Department for the Aging (DFTA), 2 Lafayette Street, 4th Floor, New York, NY 10007. If DFTA receives no written request to speak within the prescribed time, DFTA reserves the right not to conduct the Public Hearing.

A draft copy of the proposed contract is available for public inspection at the office of the Department for the Aging, Contract Procurement and Support Services, 2 Lafayette Street, 4th Floor, New York, NY 10007, on business days, from September 20, 2016 to October 4, 2016, excluding holidays, from 10:00 A.M. to 4:00 P.M.



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**YOUTH AND COMMUNITY DEVELOPMENT**

■ PUBLIC HEARINGS

**CORRECTED NOTICE OF PUBLIC HEARING**

**SHORT NOTICE IS HEREBY GIVEN** in order to correct the procurement method for the public hearing notice that was published September 16, 2016. A Contract Public Hearing will be held on Friday, September 30, 2016, at 2 Lafayette Street, 14th Floor Hearing Room, Borough of Manhattan, commencing at 10:00 A.M., on the following:

**IN THE MATTER OF** (2) two proposed contracts between the Department of Youth and Community Development and the Contractors listed below for the SONYC Non-Public School Sites Program. These programs will serve in centers where there is a lack of comprehensive afterschool services. The term of the contracts shall be from February 1, 2016 to June 30, 2018, with an option to renew for up to two additional years. The Contractor, address, PIN number and contract amount are indicated below.

Contractor	Address	PIN	Contract Amount
Coney Island Generation Gap Reunion Committee, Corporation	2904 Neptune Avenue Brooklyn, NY 11224	260160143173	\$375,000.00
Central Brooklyn Economic Development Corporation	444 Thomas S. Boylan Street Brooklyn, NY 11212	260160143172	\$675,000.00

The proposed contractors have been selected by means of the HHS Accelerator system, pursuant to Section 3-16 of the Procurement Policy Board Rules.

A draft copy of the proposed contract is available for public inspection, at the Department of Youth and Community Development, Office of the Agency Chief Contracting Officer, 2 Lafayette Street, 14<sup>th</sup> Floor, New York, NY 10007, on business days, from September 20, 2016 to September 30, 2016, excluding holidays, from 9:00 A.M. to 5:00 P.M.

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**AGENCY RULES**

**FINANCE**

■ NOTICE

**Notice of Public Hearing and Opportunity to Comment on Proposed Rule**

**What are we proposing?** The Department of Finance is considering adding rules governing the Industrial and Commercial Abatement Program (“ICAP”) which provides an abatement of real property taxes for the construction, alteration or improvement of certain industrial or commercial properties in specified areas of New York City for varying time periods. ICAP provides a tax incentive to owners of commercial and industrial properties to improve these properties or to construct new buildings. This notice supersedes the notice published on August 29, 2016, and the public hearing has been rescheduled as set forth below.

**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 11:00 A.M., on October 26, 2016. The hearing will be in the Department of Finance Hearing Room, at 345 Adams Street, 3<sup>rd</sup> Floor, Brooklyn, NY 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 [laroset@finance.nyc.gov](mailto:laroset@finance.nyc.gov).
- **Mail.** You can mail written comments to NYC Department of

Finance, Legal Affairs Division, 345 Adams Street, 3<sup>rd</sup> Floor, Brooklyn, NY 11201, Attn: Timothy LaRose.

- **Fax.** You can fax written comments to NYC Department of Finance, Attn: Timothy LaRose, at (718) 488-2491.
- **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) 488-2007, or you can sign up in the hearing room before the hearing begins on October 26, 2016. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** The deadline to submit written comments is October 26, 2016.

**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. Please note that the hearing room is wheelchair accessible. You must tell us if you need a sign language interpreter. You may tell us by mail at the address given above, sent to the attention of Joan Best; by telephone, by calling Joan Best at (718) 488-2007; or by email at [bestj@finance.nyc.gov](mailto:bestj@finance.nyc.gov). You must tell us by October 12, 2016.

**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/>. A few days after the hearing, copies of all comments concerning the proposed rule will be available to the public at NYC Department of Finance, Legal Affairs Division, 345 Adams Street, 3<sup>rd</sup> Floor, Brooklyn, NY 11201.

**What authorizes Department of Finance to adopt this rule?** New York State Real Property Tax Law Sections 489-aaaaaa to 489-kkkkkk, Sections 11-268 to 11-278 of the Administrative Code of the City of New York and New York City Charter (“Charter”) §§ 1043 and 1504 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 Charter when creating or amending rules. This notice is made according to the requirements of § 1043 of the Charter.

**STATEMENT OF BASIS AND PURPOSE**

The Industrial and Commercial Abatement Program (“ICAP”) provides an abatement of real property taxes for the construction, alteration or improvement of certain industrial or commercial properties in specified areas of New York City for varying time periods. ICAP provides a tax incentive to owners of commercial and industrial properties to improve these properties or to construct new buildings.

The proposed rule:

- Sets forth the criteria for commercial and qualifying properties that are eligible for ICAP,
- Provides an application process, including deadline, and,
- Provides criteria for when an ICAP project may lose its benefits.

The enabling legislation for ICAP is set forth in Real Property Tax Law Sections 489-aaaaaa to 489-kkkkkk and the local law is set forth in Sections 11-268 to 11-278 of the Administrative Code of the City of New York. A new Chapter 36 is being added to Title 19 of the Rules of the City of New York to set forth the rules for ICAP.

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

“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 19 of the Rules of the City of New York is amended by adding a new Chapter 36, to read as follows:

**Chapter 36**

**RULES RELATING TO THE INDUSTRIAL AND COMMERCIAL ABATEMENT PROGRAM**

**§36-01 Definitions.**

a. “Applicant” means a person or entity who has applied or applies for benefits under this chapter who is obligated to pay real property tax on the property, either because of ownership or a contract, unless the property is exempt from real property taxation and the record owner or lessee of such property has entered into an agreement to sell or lease such property to another person or entity, in which case both parties to the agreement shall be considered co-applicants and must submit an application jointly.

b. “Commercial activities” means activities that include the following, unless such activities are described as retail purposes in Subdivision y of this section:

- (1) Buying, selling, leasing or otherwise providing goods or services.



(2) Operating a transient hotel, except that:

- (i) a structure or part of any hotel owned or leased by a not-for-profit corporation to provide governmentally funded emergency housing is not considered a hotel for purposes of the ICAP; and
- (ii) a condominium hotel unit or timeshare hotel unit is part of a transient hotel where the property as a whole is operated as a transient hotel. An individual condominium or timeshare unit located in a transient hotel building may qualify for abatement benefits under this chapter if the unit is:
  - (A) made available to the general public at large for a minimum of 183 days during the calendar year on terms and dates which are consistent with standards in the hotel industry; and
  - (B) not occupied for more than 183 days in any calendar year by
    - (I) the owner or any relative of the owner; or
    - (II) any employee of the owner, or any employee of any corporation, partnership, limited liability corporation or other entity owner or controlled by such owner.

(3) Operating a theater or other entertainment business.

(4) Manufacturing conducted in a building or individual condominium unit where less than 75 percent of the floor area upon completion of construction is used for manufacturing.

(5) Providing information or services to businesses or investors on a nonprofit, limited profit, or cooperative basis, including operating a stock or commodity exchange, insurance rating bureau, testing service, clearinghouse, wire service, buying service, or private label company or the like.

(6) Providing computer software development and services, including:

- (i) internet and web related activities;
- (ii) computer graphics and designs; or
- (iii) desk-top publishing.

(7) Operating any other lawful businesses, including governmental or not-for-profit activities.

(8) Operating repair of equipment and service businesses such as heating, ventilation and air conditioning ("HVAC"), plumbing and refrigeration.

(9) Operating nursing homes.

c. "Commercial construction work" means the construction of a new building or structure or the modernization, rehabilitation, expansion or improvement of an existing building or structure for use as commercial property.

d. "Commercial property" means non-residential property on which will exist after completion of commercial construction work a building or structure, or portion thereof, used for the buying, selling or otherwise providing of goods or services, including hotel services, or for other lawful business commercial or manufacturing activities, with at least 50 percent of the total net square footage of the property used or immediately available and held out for commercial or manufacturing activity; provided that property or portions of property dedicated to use as utility property shall not be considered commercial property for purposes of this chapter.

e. "Commissioner" means the commissioner of finance of the City of New York.

f. "Completion of construction," or "completion" means:

(1) when relating to the construction of a new building or structure, the earlier of the date on which:

- (i) the department of buildings issues a final certificate of occupancy;
- (ii) an architect or engineer certifies to the department of finance that construction is complete; or
- (iii) the department of finance has conducted an inspection and determined that construction is complete.

(2) when relating to modernization, rehabilitation, expansion or improvement of an existing building or structure work, the earlier of the date on which:

- (i) an architect or engineer certifies to the department of finance that construction is complete; or
- (ii) when the department of finance has conducted an inspection and determined that construction is complete.

Construction of buildings or structures for which benefits have been approved must be completed no later than five years after the date the first building permit is issued, or if no permit was required, after the completion of construction.

g. "Department" means the department of finance of the City of New York.

h. "Division" means the division of labor services contract compliance unit within the New York City department of small business services, or such successor division.

i. "ICAP" means the Industrial and Commercial Abatement Program.

j. "ICIP" means the Industrial and Commercial Incentive Program.

k. "Industrial construction work" means the construction of a new

building or structure or the modernization, rehabilitation, expansion or improvement of an existing building or structure for use as industrial property.

l. "Industrial property" means nonresidential property on which will exist after completion of industrial construction work a building or structure, or portion thereof, with at least 75 percent of the total net square footage of the property used or immediately available and held out for manufacturing activity; however, property or portions of property dedicated to use as utility property will not be considered industrial property, except for peaking units, which will be considered to be industrial property and not utility property.

m. "Initial tax rate" means, for the purposes of the ICAP, the final tax rate on the assessment roll with a taxable status date immediately before the first building permit is issued. If no building permit was required, the initial tax and initial tax rate shall be determined based on the assessment roll with the taxable status date immediately before the start of construction.

n. "Manufacturing activity" means an activity involving the assembly of goods or the fabrication or processing of raw materials, but will not include: (i) such activity when conducted for the purpose of retail sale on the premises; (ii) utility services, except that peaking units are considered manufacturing activity; or (iii) any activity that meets the definition of "retail purposes."

(1) Areas used for manufacturing activities.

Areas of a building used for manufacturing activities include, but are not limited to:

- (a) space used to house or repair equipment used for assembly, fabrication or processing work;
- (b) space used to store raw materials, semi-finished or finished goods for short periods before or after assembly, fabrication or processing in normal quantities for the manufacturing activity involved;
- (c) space used to ship or receive such raw materials or goods;
- (d) space used to store normal quantities of supplies and spare parts for use in the manufacturing activity;
- (e) testing and research laboratories operated in connection with manufacturing activities;
- (f) cafeterias, locker rooms and other facilities for the workers engaged in manufacturing activities;
- (g) office space, not in excess of 10 percent of the total floor area, used directly in the administration of the manufacturing activity; and
- (h) other space used for activities necessarily done at the same site as the manufacturing activity and integrally related to such activity.

(2) Workers engaged in manufacturing activities.

Workers engaged in manufacturing activities are workers performing assembly, fabrication or processing or related immediate supervision, equipment repair or maintenance, goods handling, testing or research.

(3) Specific uses.

Manufacturing activities include, but are not limited to:

- (a) printing, but not including publishing or the service of taking retail orders for material to be printed; printing is characterized by the production of multiple copies of identical, or nearly identical, written material or designs on paper or other tangible material;
- (b) reproduction or processing of photographic film, audio or video media, or magnetic or other data storage media, but not including creation of the original image, sound or data;
- (c) scientific or technical testing or research to develop or improve products of other manufacturing activities;
- (d) shipbuilding or repair;
- (e) rebuilding or repairing stationary machinery or equipment used in other manufacturing activities;
- (f) rebuilding other machinery or equipment;
- (g) processing or packaging of food products for wholesale distribution;
- (h) packaging of dry goods for a manufacturer or wholesaler, but not including packaging done at an establishment used for retailing, wholesaling or warehousing activities;
- (i) pattern-making and cutting cloth for garments, sewing and finishing garments, including custom made garments, except activities done in a retail establishment; and
- (j) building theatrical scenery, other than activities done in a theater or on the set of a film or television studio.

(4) Non-manufacturing uses.

Uses which are not permitted in a manufacturing district, as defined by the Zoning Resolution, are not manufacturing activities, including:

- (i) construction, repair, operation or maintenance of real property, including activities performed in a building contractor's shop, or the preassembly of structural elements or service equipment for installation in a building;
- (ii) generation, collection, storage, transmission distribution or sale of gas, electricity, steam, water, refrigeration, cable television, telephone, telegraph or other one-way or two-way communication service, delivered through mains, pipes, cables, lines or wires;
- (iii) collection, removal, carting, processing or disposal of sewerage, drainage,

wastes, garbage or trash;  
 (iv) broadcasting, transmission or reception of television, radio or other electromagnetic signals;  
 (v) transportation of passengers or goods;  
 (vi) operation of a public or private warehouse;  
 (vii) operation of a showroom;  
 (viii) operation of a workshop, studio, sound stage, set or other place for creation of original works of art, films or recordings; or  
 (ix) buying, selling, leasing or providing goods or services.  
 (c) The following activities, except as specifically provided in Paragraphs (2) and (3) of this subdivision, are not manufacturing activities:

(i) general management;  
 (ii) storage, shipping or receiving of materials and finished goods;  
 (iii) maintenance, repair or construction of real property;  
 (iv) professional, clerical or information processing activities;  
 (v) buying, selling, leasing or providing goods or services;  
 (vi) activity conducted for the purpose of retail sale on the premises; or  
 (vii) utility services.

o. "Minimum required expenditure" means the amount that an applicant must expend on construction work for a project in order to qualify for benefits under this chapter. The minimum required expenditure must be met no later than four years from the date after the first building permit is issued, or if no permit was required, from the start of construction.

p. "Mixed-use property" means property on which exists, or will exist upon completion of construction work, a building or structure used for both residential and nonresidential purposes.

q. "M/WBE" means a Minority-Owned or Women-Owned Business enterprise certified in accordance with Section 1304 of the New York City Charter.

r. "Peaking Unit" means a generating unit that: (i) is determined by the New York independent system operator or a Federal or New York State energy regulatory commission to constitute a peaking unit as set forth in Section 5.14.1.2 of the New York independent system operator's market administration and control area services tariff, as such term existed as of April 1, 2011; or (ii) has an annual average operation, during the calendar year preceding the taxable status date, of less than 18 hours following each start of the unit; provided that, for purposes of calculating the annual average, operations during any period covered by any major emergency declaration issued by the New York independent system operator, northeast power coordinating council, or other similar entity, shall be excluded.

(1) A "peaking unit" will include all real property used in connection with the generation of electricity and any facilities used to interconnect the peaking unit with the electrical transmission or distribution system, but will not include any facilities that are part of the electric transmission or distribution system; it may be comprised of a single turbine and generator or multiple turbines and generators located at the same site.

(2) Notwithstanding any provision of this title to the contrary, a peaking unit will be considered industrial property. Peaking units will not be considered utility property.

(3) The abatement benefit schedule for peaking units is set forth in Section 36-12(c).

s. "Project" means the work described in the preliminary application as amended by the final application.

t. "Property" means, except where otherwise provided, a separately assessed parcel of real property, or a group of condominium units in a single building that are the subjects of a single application for ICAP benefits. When a parcel of real property includes more than one building, "property" means an individual building on such parcel and an allocable portion of the land.

u. "Renovation construction work" means the modernization, rehabilitation, expansion or improvement of an existing building or structure where such modernization, rehabilitation, expansion or improvement is physically and functionally integrated with the existing building or structure, or portion thereof, does not increase the bulk of the existing building or structure by more than 30 percent, and does not increase the height of the existing building or structure by more than 30 percent. The 30 percent limitation will apply to each building individually which has a separate certificate of occupancy.

v. "Residential construction work" means any construction, modernization, rehabilitation, expansion or improvement of dwelling units other than dwelling units in a hotel.

w. "Residential property" means property primarily used for dwelling purposes except for dwelling units in a hotel.

x. "Restricted activity" means any commercial use of property that is unlawful or a public nuisance as defined in Section 7-703 of the Administrative Code.

y. "Retail purposes" means any activity that consists predominately of

(i) the final sale of tangible personal property or services by a vendor as defined in Section 1101 of the Tax Law, (ii) the sale of services that generally involve the physical, mental, or spiritual care of individuals or the physical care of the personal property of individuals, including medical offices, (iii) retail banking services, or (iv) the final sale of food or beverage by a vendor as defined in Section 1101 of the Tax Law, including the assembly, processing or packaging of goods, provided that sales of such tangible personal property or services are predominantly to purchasers who personally visit the facilities at which such sales are made or such property or services are provided. "Retail purposes" does not include hotels used to provide lodging and support services for transient guests, except that restaurants, bars and gift shops associated with such hotels are considered "retail purposes."

z. "Square footage" means the following in the following contexts:

(1) "Net square footage" means square footage within a room or area of a building, measured by the inside wall-to-wall dimensions.

(2) "Gross square footage" means the total amount of square footage in a building. It includes elevator shafts, vertical penetrations, equipment areas, ductwork shafts, and stairwells, as well as the usable square footage occupied by or available to tenants.

(3) "Rentable square footage" means the net square footage of the building plus a pro-rata share of building common areas.

aa. "Temporary commercial incentive area boundary commission" means the commission described in Section 11-274 of the Administrative Code.

bb. "Utility property" means property and equipment as described in Paragraphs (c), (d), (e), (f), and (i) of Subdivision 12 of Section 102 of the Real Property Tax Law that is used in the ordinary course of business by its owner or any other entity, or property as described in Paragraphs (a) and (b) of such Subdivision 12 that is owned by any entity that uses, in the ordinary course of business, property and equipment as described in Paragraphs (c), (d), (e) and (f) and (i) of such Subdivision 12 without regard to the classification of such property and equipment for real property tax purposes pursuant to Section 1802 of such Law, except that any such property and equipment used solely to serve the building to which they are attached will not be deemed to be utility property.

### **§36-02 Areas Eligible for Abatement Benefits.**

a. Commercial construction work outside of a special commercial abatement area. Commercial construction projects anywhere in New York City outside of a special commercial abatement area are eligible for abatement benefits except for such projects in the commercial exclusion area described in Subdivision b.

b. Commercial exclusion area. The commercial exclusion area is the area in Manhattan lying south of the centerline of 96th Street, except for (i) the areas in Manhattan designated for commercial renovation projects as commercial renovation areas that are described in Subdivision c, and (ii) the area designated for new construction as described in Subdivision d.

c. Commercial renovation areas. Commercial renovation projects in any area of New York City, except such projects south of the centerline of 96th Street in Manhattan, will be eligible for abatement benefits, except that abatement benefits will also be available for commercial renovation projects in the following designated areas, with the amount of such benefit dependent of the area in which the project is located, pursuant to Sections 36-12(e) and (f) of this chapter:

(1) The area in Manhattan bounded by Murray Street on the north starting at the intersection of West Street and Murray Street, running easterly along the center line of Murray Street; connecting through City Hall Park with the center line of Frankfort Street and running easterly along the center line of Frankfort and Dover Streets to the intersection of Dover Street and South Street; running southerly along the center line of South Street to Peter Minuit Plaza; connection through Peter Minuit Plaza to the center line of State Street and running northwesterly along the center line of State Street to the intersection of State Street and Battery Place; running westerly along the center line of Battery Place to the intersection of Battery Place and West Street; and running northerly along the center line of West Street to the intersection of West Street and Murray Street.

(2) The area in Manhattan defined as the special garment center district by Chapter one of Article XII of the Zoning Resolution of the city, which is the area in Manhattan bounded by the centerline of West 40th Street on the north between 7th and 8th Avenue; running southerly along the centerline of 7th Avenue to the center line of West 38th Street; running easterly along the centerline of West 38th Street to the centerline of Broadway; running southerly along the centerline of Broadway to the centerline of West 35th Street to 7th Avenue and running southerly along the centerline of 7th Avenue to the centerline of West 34th Street; running westerly to the centerline of 8th Avenue, running northerly to the centerline of West 35th Street to 100 feet east of 9th Avenue, running northerly to the centerline of West 39th Street, running easterly to 8th Avenue and running northerly to the centerline

of West 40th Street.

(3) The area in Manhattan south of the center line of 59th Street, other than the areas designated renovation areas by Paragraphs (1) and (2) of this subdivision.

d. New Construction in New York City. New construction projects in any area of New York City, except such projects south of the centerline of 96th Street in Manhattan, will be eligible for abatement benefits, except that abatement benefits will also be available for new construction projects as described in Subdivision e of this section.

e. New construction in certain areas of lower Manhattan. The area in Manhattan bounded by Murray Street on the north starting at the intersection of West Street and Murray Street; running easterly along the center line of Murray Street; connecting through City Hall Park with the center line of Frankfort Street and running easterly along the center line of Frankfort and Dover Streets to the intersection of Dover Street and South Street; running southerly along the center line of South Street to Peter Minuit Plaza; connecting through Peter Minuit Plaza to the center line of State Street and running northwesterly along the center line of State Street to the intersection of State Street and Battery Place; running westerly along the center line of Battery Place to the intersection of Battery Place and West Street; and running northerly along the center line of West Street to the intersection of West Street and Murray Street, except that abatement benefits will not be available for projects in the area in the borough of Manhattan bounded by Church Street on the east starting at the intersection of Liberty Street and Church Street; running northerly along the center line of Church Street to the intersection of Church Street and Vesey Street; running westerly along the center line of Vesey Street to the intersection of Vesey Street and West Broadway; running northerly along the center line of West Broadway to the intersection of West Broadway and Barclay Street; running westerly along the center line of Barclay Street to the intersection of Barclay Street and Washington Street; running southerly along the center line of Washington Street to the intersection of Washington Street and Vesey Street; running westerly along the center line of Vesey Street to the intersection of Vesey Street and West Street; running southerly along the center line of West Street to the intersection of West Street and Liberty Street; and running easterly along the center line of Liberty Street to the intersection of Liberty Street and Church Street.

f. Special commercial abatement area. (1) The boundaries of special commercial abatement areas as designated by the temporary commercial incentive area boundary commission will be described on the department's website.

(2) In accordance with Section 489-gggggg of the Real Property Tax Law and Section 11-274 of the Administrative Code, the temporary commercial incentive area boundary commission may designate an area in the City of New York, other than in the area lying south of the centerline of 96th Street in Manhattan, to be a special commercial abatement area if it determines that market conditions in the area are such that the availability of a special abatement is required in order to encourage commercial construction in such area.

g. Industrial construction. Eligible projects may receive industrial construction benefits in any area of New York City.

h. Projects partially in an excluded area. Properties partially located in an excluded area will not be eligible for abatement benefits.

### **§36-03 Application Procedures.**

An applicant must receive approval for a series of milestones in order to receive ICAP tax abatement benefits.

#### **a. Applicants.**

(1) An entity is eligible to apply for ICAP benefits:

(i) if it is obligated to pay real property tax on the property, either by virtue of ownership or contract; or

(ii) if the property is exempt from real property taxation and the record owner or lessee of such property has entered into an agreement to sell or lease such property to another entity, provided that both parties to the agreement are co-applicants.

(2) Co-application with public entity. A co-applicant with a public entity may be eligible for abatement benefits except benefits will not be available for any period for which the property is exempt from real property tax because it is owned or controlled by a public entity. Abatement benefits will only be available if the recipient meets the requirements of Subdivision g of Section 11-270 of the Administrative Code.

(3) Multiple buildings. Where a completed project will result in creating two or more buildings, and separate building permits were obtained, a separate application must be filed for each permitted building.

#### **b. Preliminary application.**

(1) An applicant must submit a completed preliminary application before issuance of the first building permit, or if no permit is required, the start of construction. The preliminary application must be made on

the form prescribed by the Commissioner. The completed preliminary application must be accompanied by a narrative describing the proposed project, including:

(i) the project site;

(ii) the proposed improvement(s);

(iii) the proposed uses of the building or structure upon completion of improvements; and

(iv) whether the improvements are building-wide or limited to specific building systems or renovations to particular areas (such as specific floors or lobby) of the building.

(2) Failure to file a preliminary application Certificate of Eligibility for ICAP benefits before receipt of the first building permit, or if no permit is required, the start of construction, will disqualify the project from receiving benefits under this program.

(3) The preliminary application deadline for ICAP benefits is March 1, 2019. Work performed pursuant to a building permit first issued after April 1, 2019, shall not be included in the project, except as otherwise provided by statute.

(4) Work excluded from the project shall not be considered for purposes of meeting the minimum required expenditure or determining the completion date.

#### **c. M/WBE requirements.**

(1) For projects with a total estimated cost of between \$750,000 and \$1,500,000 an ICAP applicant must certify that it accessed the directory of City certified M/WBE Business Enterprises ("directory"). The ICAP applicant must file the certification with the department in conjunction with the final application for benefits along with a report of whether or not efforts were made by the applicant to include Minority and Women-Owned Business Enterprises in the construction work on property for which benefits are sought and describe those efforts.

(2) For projects with a total estimated cost of \$1,500,000 or more ICAP applicants must comply with the following M/WBE requirements to obtain abatement benefits:

(i) After filing a preliminary application for benefits, the applicant must inform the division of contracting and subcontracting opportunities at construction sites where the applicant will be performing construction work subject to benefits pursuant to this part. The division shall make information on such contracting and subcontracting opportunities available to the general public by posting them on its website.

(ii) The ICAP applicant must review the directory to identify Minority- or Women-Owned Business Enterprises that may be qualified to perform contracting or subcontracting work on construction projects subject to benefits pursuant to this part.

(iii) For each subcontract on the project, the ICAP applicant must solicit or arrange for the solicitation of bids from at least three Minority or Women-Owned Enterprises to perform contracting work.

(iv) The ICAP applicant must maintain records demonstrating its compliance with these M/WBE requirements.

(v) When filing a final application for benefits with the department, the ICAP applicant must certify that it has complied with and will continue to comply with the M/WBE provisions. The certification must also include: (A) the name and contact information of every Minority- or Women-Owned Business Enterprise that the applicant solicited bids from and (B) whether any such Minority- or Women-Owned firm was awarded a subcontract.

(vi) Work performed by an applicant's contractors or subcontractors is eligible construction work except when such work is not included in the project description, contained in the final application or an amendment thereto.

(vii) The division shall have authority to audit the records maintained by each applicant to ensure compliance with the requirements of such subdivision.

(viii) The applicant must maintain records demonstrating its compliance with the provisions of this subdivision.

#### **d. Final application.**

(1) An applicant must submit to the department a completed final application no later than one year from the date of issuance of the first building permit for construction work on the project, or when construction work does not require a building permit, no later than one year from the date of commencement of construction on the project, for all projects including new projects as described in Section 36-05(a). Construction does not have to be completed prior to submitting the final application. Stop work orders issued by the department of buildings will not extend the deadline for filing the final application.

(2) Failure to file a final application no later than one year from the date of issuance of the first building permit for construction work on the project, or when construction work does not require a building permit, no later than one year from the date of commencement of construction on the project, will disqualify the project from receiving benefits under this chapter.

(3) The final application must be made on the form prescribed by the department. As part of the final application the applicant must provide a narrative description of the project which must include:

- (i) A written description of the proposed project stating the specific work to be undertaken including the floor area (below grade and above grade floors and roof) and location within the property of space created or affected by the work;
- (ii) List each permit number and the work associated with such permit, including elevator permits;
- (iii) List any work that did not require a permit;
- (iv) Date of start of construction;
- (v) Estimated date of completion of project or actual date of first temporary certificate of occupancy or final certificate of occupancy, and include copies of any certificate of occupancy issued;
- (vi) Contractors and sub-contractors by trade, including addresses;
- (vii) Cost of construction broken down by major categories of expenses;
- (viii) Number and location of buildings on project property and where multiple buildings exist on a lot or project site, include a survey showing each building; and
- (ix) (A) Statement of current or prior use by square foot; and  
(B) Statement of proposed use by square feet, distinguishing between commercial and residential use.

(4) The applicant must also provide copies of all executed construction contracts or a statement from the engineer or architect detailing cost estimates.

(5) The department reserves the right to require that any documents submitted in support or as part of any application be certified.

(6) No ICAP benefits will be granted for any construction work unless the applicant files with the final application an affidavit setting forth the following information:

(i) statement that within the seven years immediately preceding the date of the final application for benefits, neither the applicant, nor any person owning a substantial interest in the property, nor any officer, director or general partner of the applicant or such person was finally adjudicated by a court of competent jurisdiction to have violated Section 235 of the real property law or any section of Article 150 of the penal law or any similar arson law of another state with respect to any building, or was an officer, director or general partner of a person at the time such person was finally adjudicated to have violated such law; and

(ii) a statement setting forth any pending charges alleging violation of Section 235 of the real property law or any section of Article 150 of the penal law or any similar arson law of another jurisdiction with respect to any building by the applicant or any person owning a substantial interest in the property or any officer, director or general partner of the applicant or such person.

(iii) "Substantial interest" as used in Subparagraphs (i) and (ii) of this paragraph will mean ownership and control of an interest of 10 percent or more in a property or any person owning a property.

(iv) If any person described in the statement required by Subparagraph (i) or (ii) of this paragraph is finally adjudicated by a court of competent jurisdiction to be guilty of any charge listed in such statement, the recipient will cease to be eligible for benefits pursuant to this part and must pay with interest any taxes for which an abatement was claimed pursuant to this part.

e. Notice of completion.

(1) The applicant must file the notice of completion with the department within 120 days of the taxable status date after completion of construction. Abatement benefits will not be granted until the applicant files the notice of completion. Except as allowed by Paragraph (2) of this subdivision, the notice of completion must be submitted electronically in the format required by the department on the department's website, and in accordance with the instructions for submission of such notices of completion described on the website.

(2) Request for waiver of electronic filing requirement. The Commissioner may, for good cause, waive the requirement that the notice of completion be filed electronically. A request for waiver of the electronic filing requirement must be made in writing no later than 30 days prior to the deadline for filing a notice of completion. Any filing in paper format must be filed with the department at such address as may be designated by the department.

(3) The notice of completion must contain certification by a New York State licensed engineer or architect, or general contractor that the narrative description provided in the final application for Certificate of Eligibility, as last amended, is an accurate and complete description of the completed project; and a final certificate of occupancy.

(4) The notice of completion must include a detailed itemized statement of the cost of construction. This statement must be certified by a certified public accountant, unless the project cost is less than \$2,500,000 in which case the statement may be certified by the applicant.

(5) All applications must be submitted to the address set forth on the applicable forms.

f. Fees.

The filings required by this section must be accompanied by the following fees:

- (1) Preliminary application filing: \$150
- (2) Final application filing: \$500
- (3) Notice of Completion filing: \$1,000

None of the filings listed above will be processed until the applicable fee is paid. All fees must be paid in a form acceptable to the Department.

#### **§36-04 First Building Permit.**

a. First building permit. For purposes of these rules, the first building permit is the permit that would, in the ordinary course, allow construction to proceed, even though:

- (i) such permit was granted before submission of completed plans and specifications for the entire building; or
- (ii) such permit, or the application, plans or specifications upon which it was granted, are later amended; or
- (iii) such permit shall have expired by limitation of time or otherwise become invalid; or
- (iv) another permit is issued for the same project on the basis of same or similar plans, subject to the provisions of Section 36-05(a) of this chapter.

b. A subsequent building permit will be deemed to be the first building permit for a building where the project for which a preliminary application is made is a new project pursuant to Section 36-05(a) of this chapter or the previous project has been deemed abandoned pursuant to Section 36-05(b) of this chapter.

#### **§36-05 New Projects and Abandoned Projects.**

a. A project will be deemed a new project if one of the following conditions applies:

(1) a building permit was previously issued for the project and an applicant has shown by clear and convincing evidence that there is a change in the project for which a new building permit is issued which meets at least one of the following criteria:

- (i) change in the total estimated cost of the project of at least 10 percent; or
- (ii) change in the total floor area of the project of at least 10 percent; or
- (iii) change in use.

For purposes of the requirements of filing a preliminary application pursuant to Section 36-03(b) of this chapter, the previously issued building permit will be deemed to be the first building permit for a project that meets the requirements specified in this paragraph but does not meet the requirements specified in Paragraph (2) of this subdivision.

(2) a building permit was previously issued for the project and an applicant has shown by clear and convincing evidence that there is a change in the project for which a new building permit is issued which meets at least one of the following criteria:

- (i) the current project will require an estimated expenditure at least twice as great as the project for which a building permit was previously issued, where the estimated expenditures of the project for which a building permit was previously issued and of the current project are each measured as if construction commenced on the date of each such project's preliminary application; or
- (ii) the current project will enclose floor area at least twice as great as the project for which the prior permit was issued.

For purposes of the requirements of filing a preliminary application pursuant to Section 36-03(b) of this chapter, the new building permit will be deemed to be the first building permit for a project that meets the requirements specified in this paragraph.

(3) a permanent certificate of occupancy has been granted for the building which was the subject of the prior building permit, and the application for the project is made either:

- (i) more than four years after issuance of the building permit for the prior project; or
- (ii) for a new project in a discrete, separate part of the building than the project that was the subject of the prior building permit.

b. A project will be deemed abandoned where construction work was commenced by an applicant but has ceased for at least two continuous years at the time a preliminary application is filed for the new project.

#### **§36-06 Eligible construction work.**

a. For purposes of determining the minimum required expenditure, the abatement base and all other purposes, construction work will be eligible for tax abatement benefits under this program if the work is:

- (1) A permanent capital improvement to real property with a useful life of at least three years;

(2) Described or integrally related to work described in the approved plans or narrative description submitted as part of the application;

(3) Performed during the construction period which is five years after issuance of the first building permit, or if no permit was required, after the commencement of construction; and

(4) Not rendered ineligible by any provision of law or these rules, or by any agreement made as part of the application.

b. Renovations. Renovations that are eligible construction work for abatement benefits include, but are not limited to, the following, provided that such renovations are deemed to enhance the value of the property:

(1) Renovations that increase the square footage or cubic content of an existing building; or

(2) Modernization of core facilities including:

- (i) Upgrading of electrical and plumbing systems;
- (ii) Installation of new elevators and elevator banks;
- (iii) Renovation or new installation of the exterior of a structure;
- (iv) Major upgrading of lobby space;
- (v) Reconfiguration of multi-tenant floor space to single tenant space;
- (vi) Installation of central HVAC systems;
- (vii) Major abatement of asbestos contamination;
- (viii) Conversion of obsolete office space into functional space; or
- (ix) Major conversion of a building's use involving structural changes.

c. Work not deemed to be eligible construction work. Construction work that is not eligible for tax abatement benefits pursuant to this section includes:

(1) Ordinary repairs, replacements or redecoration;

(2) Placement of personal property that remains personal property;

(3) Extension of streets, sewers, water or utility systems to a site not provided with such services; or

(4) Installation of satellite dishes, billboards, or cellular and microwave antennae.

d. Earthwork or partial demolition. Earthwork or partial demolition will be included in the construction work on a project if the following three conditions are met:

(1) the earthwork or partial demolition is integrally related to the other construction work on the project and is commenced not more than one year after the date that a preliminary application was filed;

(2) the applicant requests inclusion of the earthwork or partial demolition in the preliminary application or a subsequent notice filed at least 15 business days before the commencement of the earthwork or partial demolition and before a permit for the earthwork or partial demolition is issued; and

e. In the case of an abandoned project, only construction work that is the subject of a newly issued or renewal permit will be eligible for abatement benefits. Eligible construction for an abandoned project will qualify for benefits only if it is the subject of a preliminary application filed prior to the date on which the new or renewal permit was issued.

f. Construction work that is part of a project which is the subject of an approved application may not be considered eligible construction work for a future application for tax abatement benefits for the same property, building or structure under this chapter.

g. (1) No ICAP benefits will be granted for residential construction work, or for work on a structure or building where 20 percent or more of the rentable square footage of such property is or will be dedicated to residential purposes, provided however that where less than 5 percent of a property's rentable square footage is or will be dedicated to residential purposes, that use will be considered negligible and will not be considered in determining ICAP benefits.

(2) Notwithstanding Paragraph (1) of this subdivision, where a building or structure is owned in condominium form, and an application for benefits under this chapter includes more than one property in the same condominium, then for purposes of this paragraph, the 5 percent and 20 percent of the rentable square footage shall be determined based upon the aggregate usage of all such properties.

h. Notwithstanding the foregoing, for purposes of determining whether a project is completed within the time required to secure the inflation protection benefits described in Section 36-10(l), eligible construction work may include construction work done more than four years, but not more than five years, from the date of the issuance of the first building permit or from the start of construction if no permit was required.

### **§36-07 Minimum Required Expenditure.**

a. The minimum required expenditure is based on a percentage of the property's final taxable assessed value, without regard to any exemptions, for the tax year with a taxable status date immediately preceding the issuance of the first building permit, or if no permit was required, the commencement of construction. For commercial

construction work the minimum required expenditure is 30 percent. Expenditures for residential construction work or construction work on portions of property to be used for restricted activities will not be included in the minimum required expenditure. For the additional industrial construction abatement set forth in Section 36-11 of this chapter, the minimum required expenditure is 40 percent.

b. Eligible expenditures. Expenditures include but are not limited to those made for:

(1) construction contracts;

(2) materials, labor, equipment rental, insurance, permit fees and other direct expenses of construction;

(3) installation of partitions and other tenant work by or for the first tenant or occupant of new or substantially renovated space;

(4) architectural, engineering, construction management, legal, accounting and other professional services rendered in connection with the construction work to the extent that the total of all such fees do not exceed 10 percent of the expenses incurred for direct construction costs;

(5) site preparation, such as the erection of partitions, fences, barricades, scaffolding, temporary walkways, removal of debris or any similar work allocable to the project; and

(6) fees for connection to existing sewer, water or utility lines.

c. Ineligible expenditures. The following are ineligible expenditures:

(1) the costs of selecting or acquiring the site;

(2) the costs of determining the feasibility of the project;

(3) the costs of moving or installing machinery or equipment, except the cost of installing equipment that is real property and installed as part of the project;

(4) charges to any reserve, contingency or sinking fund;

(5) the costs of earthwork or demolition except as provided in Section 36-06(d) of this chapter;

(6) the costs or payments for the extension of streets, sewers, water lines or other public utilities to a site not provided with these services; and

(7) the cost or payments associated with vacating the site or existing buildings such as terminating existing leases or tenancies.

d. Expenditures for construction work for mixed use properties related to the common areas and systems of such property will be allocated, if applicable, between the residential, nonresidential and retail portions of the property based on a pro rata square footage basis.

e. No later than 60 days after the minimum required expenditure must be made—four years from the date of the first building permit, or from the start of construction if no permit was required—the applicant must submit to the department a certified statement that the applicant has made the minimum required expenditure as required by this chapter.

### **§36-08 Eligibility and Compatibility With Other Abatements/Exemptions.**

a. No benefits will be granted under ICAP for property that is concurrently receiving any other exemptions or abatements except for exemptions pursuant to Real Property Tax Law Sections 420(a) or (b) or 459(b), or for any other exemptions granted to the primary residence of the applicant.

b. If the property is currently receiving ICIP benefits, it will not be eligible for ICAP benefits unless the applicant can show by clear and convincing evidence, such as permits, plans and other documentation, that the new ICAP project is a new separate project in a discrete, separate part of the building which is different from the ICIP project. If the new ICAP project is not deemed by the department to be a separate project in a discrete separate part of the building, the applicant may submit a new ICAP application for approval while they are receiving ICIP benefits but will not be eligible to receive ICAP benefits until the current ICIP benefits have expired. An approved ICAP applicant will not receive ICAP benefits for such period of ineligibility though the schedule for such benefits will begin upon ICAP approval. ICAP benefits will be based on the tax year that such benefits commence. For example, if the ICIP benefits expire in tax year 2018 and if ICAP benefits would have otherwise commenced in tax year 2016, the ICAP benefits for tax year 2016 and tax year 2017 will not be granted and the ICAP benefits will begin in tax year 2018 in accordance with the ICAP schedule for tax year 3.

c. No ICAP benefits will be granted for any property unless required income and expense statements are filed for the tax year for the assessment roll with a taxable status date immediately preceding the first building permit or if no permit was required, the commencement of construction. ICAP benefits will also not be granted for any property, unless income and expense statements are filed for all subsequent tax years, up to and including the tax year with a taxable status date immediately following the earlier of the completion of construction or

four years from the date of issuance of the first building permit, or if no permit was required, the commencement of construction.

d. As a condition of eligibility for benefits under this program, there must be no arrears in real property taxes or other charges imposed by the City of New York on the property for all years prior to the post-completion year unless such arrears are subject to an installment agreement with the department and all installments that have come due under the agreement have been paid. The post completion year is the tax year with the first taxable status date where the applicant is otherwise eligible to receive ICAP abatement benefits.

**§36-09 Benefit Period Commencement.**

Upon approval by the department of a final application for benefits, the first year of the abatement shall be the tax year with the first taxable status date that follows the earlier of (a) completion of construction, or (b) four years from the date the first building permit was issued, or if no permit was required, the commencement of construction.

**§36-10 Calculation of Abatement.**

a. Abatement amount. The abatement amount is equal to the product of the abatement base times the percentage for the applicable year indicated in the applicable schedule set forth in Section 36-12.

b. Abatement base. The abatement base is the amount that the post completion tax liability exceeds 115% of the initial tax liability for each type of abatement except for the additional industrial abatement as defined in Section 36-11.

c. The calculation of initial and post completion tax liability is based on the lower of the actual or transitional assessed value of the building.

d. The initial tax liability is the liability for the building or structure on the tax roll with a taxable status date preceding the first building permit or commencement of construction if no permit is required.

e. Calculation of initial tax liability. The product of the taxable assessed value ("AV") for the building or structure (without regard to any tax exemption that may be applicable to the property) for the assessment roll with a taxable status date preceding the first building permit or commencement of construction if no permit is required is multiplied by the initial tax rate. The initial tax rate is the final tax rate applicable to the assessment roll with a taxable status date immediately preceding the issuance of the first building permit. If no building permit was required, the initial tax rate shall be determined based on the assessment roll with a status date immediately preceding the commencement of construction.

f. If the initial tax or the post-completion tax attributable to a mixed-use property must be apportioned to determine the tax attributable to a particular use for any purpose under these rules, the tax will be apportioned using the same method used by the department to value property for tax and assessment. This includes, but is not limited to, determining the abatement base or the minimum required expenditure, or if the tax must be apportioned among newly apportioned tax lots. Methods that may be considered, individually or in combination include:

- (1) the land area of each portion;
- (2) the square footage of the building or structure used or dedicated to each purpose;
- (3) the market value of the building situated on each portion;
- (4) the location of each portion on the lot;
- (5) the topography of the lot;
- (6) zoning and other land use restrictions applicable to the lot or portion thereof;
- (7) analyses of income factors relating to each portion;
- (8) analyses of cost factors; and
- (9) other relevant factors.

If any tax lot included in a project that is the subject of a pending or approved final application for ICAP benefits is subdivided, the applicant must file an amendment to the final application designating the tax lots that constitute the property that is the subject of the application. The Department shall allocate the initial and, if applicable, the post construction assessed values based on the allocation of the historical assessments made pursuant to Subdivision 5 of Section 1805 of the real property tax law.

g. At no time during the abatement benefit period may the abatement reduce the amount of taxes imposed on the land portion of the assessment, nor may it reduce the initial tax liability imposed on the building or structure, except for the additional industrial abatement as described in Section 36-11.

Example: Commercial construction work outside of a special commercial abatement area. Preliminary application filed 7/1/2008; first building permit issued 8/1/2008. Project consists of commercial construction work to renovate and modernize the building.

In this case, the initial tax liability is based on the FY2008/09 tax

liability (assessment roll with a taxable status date preceding the first building permit)

Section 1805 of the real property tax law requires that certain changes to assessed valuation ("AV") be phased in over a number of years rather than one year. This is transitional AV.

	Actual AV	Transitional AV
Total AV	\$1,100,000	\$900,000
Land AV	\$400,000	\$300,000
Building AV	\$700,000*	\$600,000*
Initial Tax Liability	\$60,000**	\$600,000 x 0.10

\*The initial tax liability will be based on the lower of the building actual AV or building transitional AV.

\*\*FY 2008/09 Tax Rate Assume an initial tax rate of 10% for 2008/09 for illustrative purposes

h. The post-completion tax liability is the tax liability for the building or structure on the tax roll with a taxable status date immediately following the earlier of completion of construction, or four years from the date of issuance of the first building permit or commencement of construction, if no building permit was required, multiplied by the initial tax rate.

Example: In this case, the construction was completed by November 2011; therefore, the post completion tax is based on the 2012/13 AV roll (taxable status date January 5, 2012). The AV for the building on that assessment roll was:

	Actual AV	Transitional AV
Building AV	\$1,100,000	\$1,000,000
FY 2008/09 Tax Rate of 10%	.10	.10
Post Completion Tax	\$110,000*	\$100,000*

\*Post completion tax is based on the lower of the actual AV or transitional AV.

The abatement base is equal to the post-completion tax liability less 115% of the initial tax liability.

Post Completion Tax Liability	\$100,000
Initial Tax Liability	\$60,000
115% of Initial Tax Liability	\$69,000
Abatement Base	\$31,000

i. Abatement benefits will not in any year exceed the property taxes imposed on such property.

j. If a tax lot has multiple structures with both eligible and non-eligible uses, the initial tax will be apportioned and only the eligible portion will receive the abatement.

k. (1) The availability of ICAP benefits for retail use is limited in the following cases:

(i) No more than 10 percent of gross square footage in industrial and commercial buildings in special commercial abatement areas used for retail purposes is eligible to receive a 25 year abatement benefit. If more than 10 percent of the property is used for retail purposes, the portion exceeding the 10 percent retail use will be eligible for a 15 year abatement benefit.

(ii) For renovation areas in Manhattan, any retail use in excess of 5 percent of the building(s) gross square footage will be ineligible for ICAP benefits, except in the Lower Manhattan renovation area, as set forth in Section 36-02(c)(1), where there will be no limit on portion of gross square footage dedicated to retail use.

(2) The determination of the percent of gross square footage used for retail purposes shall be based on the gross square footage of the entire building in all cases, including those where the ICAP application relates to one or more condominium units in the building.

(3) In a building in which at least 10% of the gross square footage is dedicated exclusively to industrial or commercial purposes other than retail purposes, the gross square footage of retail space shall not include space used for common building mechanical equipment, maintenance or circulation.

**l. Inflation Protection.**

(1) Inflation protection for industrial construction projects. Inflation protection is available during years 2 through 13 of the abatement period if in such year there is an increase in the tax over the immediately preceding year resulting from an increase in the property's total taxable assessed value. The new increase in tax liability, based upon the increase in taxable assessed value, will be added to the abatement base using the initial tax rate.

For industrial construction projects the inflation protection is the full amount of the increase in taxes based upon the initial tax rate, unless there is a physical change from the immediately preceding year and the increase in taxable assessed value due to such physical change is more than 5 percent of the taxable assessed value for the immediately preceding year. Under such circumstances, none of the increase in tax liability, whether the increase in taxable assessed value is solely the result of a physical change or a combination of physical change and non-physical change, may be added to the abatement base. For industrial projects the percentage of retail use does not have any impact on eligibility for inflation protection.

(2) Inflation protection for commercial projects in special commercial abatement areas. Inflation protection is available during years 2 through 13 of the abatement period if in any such year there is an increase in taxable assessed value of more than 5 percent of the initial tax rate. The increase in tax liability based upon the increase in taxable assessed value that is more than 5 percent calculated using the initial tax rate will be added to the abatement base.

However, no inflation protection will be provided for commercial projects in special commercial abatement areas where there is a physical change from the immediately preceding year and the increase

in taxable assessed value due to such physical change is more than 5 percent of the taxable assessed value for the immediately preceding year. Under such circumstances, none of the increase in tax liability, whether the increase in taxable assessed value is solely the result of a physical improvement or a combination of physical improvement and equalization, may be added to the abatement base. For commercial projects in special commercial areas the percentage of retail use does not have any impact on eligibility for inflation protection. If the building is currently receiving inflation protection for one ICAP project and any additional ICAP projects are approved that qualify for inflation protection, the inflation protection for the current ICAP project will be terminated and inflation protection benefits for the most recently approved ICAP project will commence upon such termination.

Hotels located in special commercial abatement areas are eligible for the inflation protection set forth in this paragraph.

Examples: In the examples below, inflation protection is provided on the calculation of total abatement base for commercial construction projects in a special commercial abatement area when the retail portion of the square footage of the project is not more than 10% (Example 1), as well as when the retail portion is more than 10% of the square footage of the project (Example 2).

Example 1: Commercial construction in special commercial abatement area – retail not more than 10% of square footage (equalization increases in taxable assessed value)

Percent Increase in Taxable Assessed Value	Benefit Period	Post Completion Tax Liability	Initial Tax Rate	Addition to Abatement Base Due to Inflation Protection	Total Abatement Base	Yearly Abatement Percentage
	YR 1	100,000	10%		31,000	100%
3%	YR 2	103,000	10%		31,000	100%
6%	YR 3	109,180	10%	1,030	32,030	100%
6%	YR 4	115,731	10%	1,092	33,122	100%
4%	YR 5	120,360	10%		33,122	100%
3%	YR 6	123,971	10%		33,122	100%
2%	YR 7	126,450	10%		33,122	100%
6%	YR 8	134,037	10%	1,265	34,387	100%
3%	YR 9	138,058	10%		34,387	100%
1%	YR 10	139,439	10%		34,387	100%
1%	YR 11	140,833	10%		34,387	100%
2%	YR 12	143,650	10%		34,387	100%
3%	YR 13	147,960	10%		34,387	100%
4%	YR 14	153,878	10%		34,387	100%
2%	YR 15	156,956	10%		34,387	100%
4%	YR 16	163,234	10%		34,387	100%
3%	YR 17	168,131	10%		34,387	90%
2%	YR 18	171,494	10%		34,387	80%
4%	YR 19	178,354	10%		34,387	70%
5%	YR 20	187,272	10%		34,387	60%
6%	YR 21	198,508	10%		34,387	50%
3%	YR 22	204,463	10%		34,387	40%
2%	YR 23	208,552	10%		34,387	30%
1%	YR 24	210,638	10%		34,387	20%
2%	YR 25	214,851	10%		34,387	10%

Example 2: Commercial construction in special commercial abatement area – retail more than 10% of square footage (equalization increases in taxable assessed value). The retail space is 25% of square footage.

Percent Increase in Taxable Assessed Value	Benefit Period	Post Completion Tax Liability	Initial Tax rate	Addition to Abatement Base Due to Inflation Protection	Total Abatement Base	Abatement Base for Commercial Plus 10% Retail	Yearly Abatement Percentage	Abatement Base for Retail over 10%	Yearly Abatement Percentage
	YR 1	100,000	10%		31,000	26,350	100%	4,650	100%
3%	YR 2	103,000	10%		31,000	26,350	100%	4,650	100%
6%	YR 3	109,180	10%	1,030	32,030	27,226	100%	4,804	100%
6%	YR 4	115,731	10%	1,092	33,122	28,154	100%	4,968	100%
4%	YR 5	120,360	10%		33,122	28,154	100%	4,968	100%
3%	YR 6	123,971	10%		33,122	28,154	100%	4,968	100%
2%	YR 7	126,450	10%		33,122	28,154	100%	4,968	100%

6%	YR 8	134,037	10%	1,265	34,387	29,229	100%	5,158	100%
3%	YR 9	138,058	10%		34,387	29,229	100%	5,158	100%
1%	YR 10	139,439	10%		34,387	29,229	100%	5,158	100%
1%	YR 11	140,833	10%		34,387	29,229	100%	5,158	100%
2%	YR 12	143,650	10%		34,387	29,229	80%	5,158	80%
3%	YR 13	147,960	10%		34,387	29,229	60%	5,158	60%
4%	YR 14	153,878	10%		34,387	29,229	40%	5,158	40%
2%	YR 15	156,956	10%		34,387	29,229	20%	5,158	20%

(3) Industrial construction work on a peaking unit will have the same inflation protection as other industrial construction projects.

(4) A property receiving abatement benefits for both industrial and commercial construction is eligible for the inflation protection provided under this section based upon the predominant use of the property as determined by the department.

(5) Time limit for completion of construction. Construction of buildings or structures for which benefits have been approved must be completed no later than five years from the date of issuance of the first building permit, or if no permit was required, the commencement of construction. Failure to meet this requirement will result in the termination of any inflation protection provided under this subdivision for any tax year that begins following the date by which completion of construction is required.

**§36-11 Additional Industrial Abatement.**

a. Eligibility. An applicant is eligible for an additional industrial abatement in addition to the abatement for industrial construction work set forth in Section 36-02(b) and (c), if the applicant meets the eligibility requirements for the abatement of industrial construction work in this chapter and makes the minimum required expenditure of 40 percent of the property's taxable assessed value in the tax year with the taxable status date immediately preceding the issuance of the first building permit, or if no permit was required, the commencement of construction. Expenditures for residential construction work or construction work on portions of property to be used for restricted activities will not be included in the minimum required expenditure for the purposes of eligibility under this section.

b. Benefits granted. The additional industrial abatement benefits will only be granted for industrial construction work and only those portions of a building or structure used or held for use for industrial purposes will be eligible for such benefits.

c. The first year of additional industrial abatement benefits will be the tax year with a taxable status date following the earlier of (i) completion of construction, or (ii) four years from the date the first building permit was issued or, if no permit was required, from the start of construction.

d. Projects that do not meet the minimum required expenditure of 40 percent or do not perform eligible industrial construction work will not be eligible for additional industrial abatements.

e. The amount of the additional industrial abatement is set forth below:

Years 1 to 4	50% of the initial tax liability
Year 5	40% of the initial tax liability
Year 6	40% of the initial tax liability
Year 7	30% of the initial tax liability
Year 8	30% of the initial tax liability
Year 9	20% of the initial tax liability
Year 10	20% of the initial tax liability
Year 11	10% of the initial tax liability
Year 12	10% of the initial tax liability

**§36-12 ICAP Abatement Schedules.**

The abatement schedules below set forth the abatement amounts available pursuant to the ICAP program. While an applicant may meet the eligibility requirements for abatement benefits such abatement benefits will not be granted until the applicant complies with the notice of completion requirements set forth in Section 36-03(e).

a. Abatement for commercial construction work outside of a special commercial abatement or a renovation area. Upon approval by the department of a final application for benefits, an applicant who has performed commercial construction work outside of a special commercial abatement area as described in Section 36-02(a), or a

commercial renovation area, as described in Section 36-02(c), shall be eligible for an abatement of real property taxes as set forth below.

Tax year during benefit period	Amount of abatement
Years 1 to 11	100% of abatement base
12	80% of abatement base
13	60% of abatement base
14	40% of abatement base
15	20% of abatement base

b. Abatement for industrial construction work or commercial construction work in special commercial abatement areas where not more than 10% of the building or structure is used for retail purposes. Upon approval by the department of a final application for benefits, an applicant who has performed industrial construction work as described in Section 36-02(f), or commercial construction work in a special commercial abatement area as described in Section 36-02(e), on buildings where not more than 10% of the building or structure is used for retail purposes, shall be eligible for an abatement of real property taxes as set forth below.

Tax year during benefit period	Amount of abatement
Years 1 to 16	100% of abatement base
17	90%
18	80%
19	70%
20	60%
21	50%
22	40%
23	30%
24	20%
25	10%

c. Abatement for industrial construction work on a peaking unit. Upon approval by the department of a final application for benefits, an applicant who has performed industrial construction work on a peaking unit as described in Section 36-02(f) shall be eligible for an abatement of real property taxes as set forth below.

Tax year during benefit period	Amount of abatement
Years 1 to 15	100% of abatement base

d. Abatement for industrial construction work or commercial construction work in special commercial abatement areas, on buildings where more than 10% of the building or structure is used for retail purposes. Upon approval by the department of a final application for benefits, an applicant who has performed industrial construction work as described in Section 36-02(f) or commercial construction work in special commercial abatement areas as described in Section 36-02(e), shall be eligible for an abatement of real property taxes. Abatement benefits are available for the non-retail portion of such buildings or structures and 10% of the building or structure used for retail purposes in accordance with the 25 year schedule set forth in Subdivision b above. Any retail portion in excess of 10% of such building or structure is eligible for abatement benefits in accordance with the 15 year schedule set forth below.

Tax year during benefit period	Amount of abatement
Years 1 to 11	100% of abatement base



12	80% of abatement base
13	60% of abatement base
14	40% of abatement base
15	20% of abatement base

**e. Abatement for renovation construction work in renovation areas.**

(1) Upon approval by the department of a final application for benefits, an applicant who has performed renovation construction work in a renovation area, as described in Section 36-02(c)(1), shall be eligible for an abatement of real property taxes as set forth in the table below.

(2) Upon approval by the department of a final application for benefits, an applicant who has performed renovation construction work in a renovation area as described in Section 36-02(c)(2) shall be eligible for an abatement of real property taxes for the non-retail portion of such building or structure and up to 5% of such building or structure used for retail purposes as set forth in the table below. Any retail portion in excess of 5% of such building or structure is not eligible for abatement benefits.

Tax year during benefit period	Amount of abatement
Years 1 to 8	100% of abatement base
9	80% of abatement base
10	60% of abatement base
11	40% of abatement base
12	20 of abatement base

**f. Abatement for renovation construction work in renovation areas.**

Upon approval by the department of a final application for benefits, an applicant who has performed renovation construction work in a renovation area, as described in Section 36-02(c)(3) shall be eligible for an abatement of real property taxes for the non-retail portion of such building or structure and up to 5% of the building or structure used for retail purposes. Any retail portion in excess of 5% of such building or structure is not eligible for abatement benefits.

Tax year during benefit period	Amount of abatement
Years 1 to 5	100% of abatement base
6	80% of abatement base
7	60% of abatement base
8	40% of abatement base
9	20% of abatement base
10	20% of abatement base

**g. Abatement for commercial construction work on new construction in certain areas of lower Manhattan.**

Upon approval by the department of a final application for benefits, an applicant who has performed new construction work in certain areas of lower Manhattan as described in Section 36-02(d) shall be eligible for an abatement of real property taxes

Tax year during benefit period	Amount of abatement
Years 1 to 4	100% of the abatement base
5	80% of the abatement base
6	60% of the abatement base
7	40% of the abatement base
8	20% of the abatement base

**§36-13 Continuing Use.**

**a. Certificate of continuing use.**

(1) For the duration of the benefit period, ICAP benefit recipients must file with the department a certificate of continuing use on or before the taxable status date of January fifth every other year that states any changes in the structure or use of the property that have occurred since the previous submission for that property, except that ICAP benefit recipients receiving benefits for construction work on a peaking unit must file such statement on or before January fifth and July fifth of each year. For example, for recipients of benefits not for peaking units, the first certificate of continuing use must be filed after the first year

benefits are received and the next certificate of continuing use must be filed after the third year benefits are received.

(2) The certificate of continuing use form must be filed electronically in the manner prescribed by the Commissioner. The Commissioner may, for good cause, waive the requirement that the statement of continuing use be filed electronically and permit the statement of continuing use to be filed by means of a paper form. A request for waiver of the electronic filing requirement must be made in writing no later than thirty days prior to the deadline for filing a statement of continuing use. Any filing permitted to be filed in a paper format must be filed with the department at the address designated by the department.

(3) ICAP benefit recipients who fail to file an ICAP certificate of continuing use by January fifth of a required filing year, or in the case of an ICAP benefit recipient receiving benefits for construction work on a peaking unit by January fifth or July fifth of each year, may have their ICAP benefits reduced or suspended. ICAP benefit recipients who fail to file an ICAP certificate of continuing use for two consecutive required filing years, may have their ICAP benefits terminated. The Commissioner may, after providing notice to the ICAP benefit recipient and an opportunity to be heard, reduce, suspend, terminate or revoke ICAP benefits. Such notice will inform the recipient of the reasons for the proposed action by the department and that the ICAP recipient has the right to present information as to why the ICAP recipient should not be penalized to the Commissioner or his or her designee, within 10 business days of delivery of the notice by hand or 15 business days of the posting of notice by mail.

(4) An ICAP certificate of continuing use delivered by an ICAP benefits recipient which contains a false or misleading statement as to a material fact or omits any material fact required to be reported under this subdivision may result in a determination that the recipient is ineligible for current and future tax abatements for the subject property or any other property. The Commissioner may, after providing notice to the ICAP benefit recipient and an opportunity to be heard, reduce, suspend, terminate or revoke ICAP benefits. Such notice will inform the recipient of the reasons for the proposed action by the department and that the ICAP recipient has the right to present information as to why the ICAP recipient should not be penalized to the Commissioner or his or her designee, within 10 business days of delivery of the notice by hand or 15 business days of the posting of notice by mail.

**b. Continued use.**

(1) Continuing eligibility for ICAP benefits is contingent upon continued use of buildings and property for the purpose specified in the application as last amended in the most recent certificate of continuing use.

(2) ICAP benefits will be suspended for code violations pursuant to Section 11-277 of the Administrative Code.

(3) When the eligibility of a property to receive ICAP benefits is affected by a conversion as described in Subdivision c of this section, the recipient must establish by clear and convincing evidence the last date that the property was eligible for the benefits previously granted, which will be deemed the date of the conversion. If no certificate of continuing use has been submitted, a building permit indicating a change in use will be treated as a presumption of conversion.

(4) A recipient must file an amendment to the latest filed statement of continuing use prior to conversion of use as set forth in Subdivisions e and f of this section. For all other conversions an applicant must file an amendment to the latest filed statement of continuing use within 60 days of the conversion.

**c. Conversion.**

(1) A conversion of property, a building or a building site is any intentional change in the nature of the improvements for which benefits were granted, or in the use of such improvements by any person, including by the benefit recipient, a tenant or an occupant.

(2) A demolition, in full or part, or any other structural change which necessarily causes a change in use is a conversion.

(3) A discontinuance of use may be deemed a conversion if the dilapidated condition of the property and prolonged period of nonuse evidences intent to abandon the property and permanently discontinue use. Temporary nonuse due to inability to secure tenants or funding for completion of construction shall not constitute a change in use.

**d. Permitted changes.**

The following types of changes are not conversions:

(1) A change in ownership or control of property, provided that the department is notified of such change in ownership or control, or

(2) A change in the identity of a tenant or occupant.

**e. Conversion from industrial to commercial use.**

(1) If a property receives industrial abatement benefits, but then at any time prior to the end of the abatement period, less than 65 percent

of the total net square footage is used as an industrial property, no further abatement benefits for industrial work will be granted except as set forth in this subdivision. Except as otherwise provided in this section, any taxes owed from a converted use will be due, and interest assessed, as of the date of such conversion.

(2) Notwithstanding Paragraph (1) of this subdivision, any applicant whose property was receiving industrial abatement benefits in a special commercial abatement area that would have been eligible to receive benefits for commercial construction work at the time such applicant applied for abatement benefits will continue to receive the abatement for industrial construction work until the expiration of such benefit period.

(3) Notwithstanding Paragraph (1) of this subdivision any applicant whose property was receiving industrial abatement benefits other than in a special commercial abatement area who would have been eligible to receive benefits for commercial construction work at the time such applicant applied for abatement benefits will receive any abatement which such applicant would have received in the corresponding tax year pursuant to the benefits granted for commercial construction work. Such benefits will commence with the date of conversion to commercial property and continue until the expiration of the benefit period for commercial construction work.

(4) If a property that converts from industrial to commercial use was receiving benefits for industrial construction work in any area of the City and at least 65 percent of the net square footage continues to be used for manufacturing activity after such conversion to commercial use, the recipient will not be required to pay the pro-rata share of tax for the abatement claimed during the tax year for which an abatement was claimed during the tax year in which such conversion occurred.

(5) Any industrial property that was receiving the additional industrial abatement pursuant to Section 36-11 will cease to be eligible for such additional benefits from the date of conversion to commercial property.

**f. Conversion to residential use.**

(1) Any applicant whose property has been granted benefits for commercial, industrial or renovation construction work and who, before the benefit period expires, uses or allows the use of the property or a portion of the property as residential property, will cease to be eligible for further abatement for commercial, industrial or renovation construction work as of the date such property was first used as residential property, as follows:

(i) If 20 percent or more of the rentable square footage of the property is used as residential property, then the entire property will cease to be eligible for further abatement.

(ii) If less than 20 percent of the rentable square footage of the property is used as residential property, then that portion of such property used as residential property will cease to be eligible for further abatement.

(iii) Notwithstanding Subparagraph (ii) of this paragraph, where less than 5 percent of a property's rentable square footage is used as residential property, that use will be considered negligible and will not be a basis for benefits to cease under this subdivision.

(iv) Where benefits cease or are reduced pursuant to this subdivision, the recipient of such ceased or reduced benefits must pay, with interest, any taxes for which an abatement was received after the conversion of the property as described in this subdivision, including the pro rata share of tax for which such abatement was claimed during the tax year in which such use occurred. The abatement will continue for the commercial, industrial or renovation construction work for the portion of the property that continues to be used for commercial purposes as long as the property is still eligible for such abatement benefits.

(2) For purposes of this subdivision, "property" means the real property contained within an individual tax lot.

(3) Notwithstanding Subparagraph (iv) above, where a building or structure is owned in condominium form, and an application for benefits includes more than one unit in the same condominium, then for purposes of this subdivision, the 5 percent and 20 percent of the rentable square footage determination will be based on the total square footage of all condominium units applying for ICAP benefits.

**g. Conversion to retail use.**

(1) Where a property has been granted benefits for industrial or commercial construction work in special commercial abatement areas on buildings where not more than 10 percent of the rentable square footage of the building or structure is used for retail purposes, and where, before the benefit period expires, the property or a portion thereof is converted so that 10 percent or more of the rentable square footage of the building or structure is used for retail purposes, the department will recalculate the abatement upon conversion in accordance with Subdivision e of this section.

(2) Where a property has been granted benefits for renovation construction work in renovation areas and where, before the benefit period expires, the property or a portion of the property is converted so that more than 5 percent of the rentable square footage of the building

or structure is used for retail purposes, the department will recalculate the abatement upon conversion to reflect the benefit for which the current use is eligible.

h. Conversion of use by peaking units. Any applicant whose property has been granted benefits under this chapter for industrial construction work as a peaking unit and who converts such property in any tax year to a use that no longer qualifies as a peaking unit, or who uses such property in a manner inconsistent with the definition of a peaking unit, will be ineligible for abatement benefits during any such tax year. Any such recipient of benefits must pay with interest taxes for which an abatement was claimed during any portion of such tax year.

i. Recalculation of abatement upon conversion. If, during the benefit period, a recipient converts square footage within any building or structure, the department may recalculate the benefit granted pursuant to this chapter to reflect the benefit for which the current use is eligible.

j. The burden shall at all times be on the recipient to demonstrate by clear and convincing evidence that property subject to benefits under this part is used as stated in the applications for benefits filed by the recipient with the department.

**§36-14 Subsequent Abatements.**

An applicant may not file a preliminary application for new ICAP benefits for an additional construction project on any portion of a property that is already receiving any ICAP benefit for four years after the start of the first tax year for which such property is receiving such ICAP benefits. For any ICAP benefit granted for a property that has previously been granted any other ICAP benefit, the initial tax to determine the new abatement will not include the ICAP abatement previously received.

**§36-15 Administration of ICAP Program.**

a. The department may submit written requests to any ICAP benefit applicant or ICAP benefit recipient for additional information which may include, but is not limited to, the production of books, records and documents relating to any application made for ICAP benefits or submission of a certificate of continuing use. Such written requests will contain a 90 day deadline. The Commissioner may, after providing notice and an opportunity to be heard to the ICAP benefit applicant or ICAP benefit recipient deny, reduce, suspend, terminate or revoke ICAP benefits if an applicant or ICAP benefit recipient fails to timely comply with such a request. Such notice will inform the recipient of the reasons for the proposed action by the department and that the ICAP applicant or ICAP recipient has the right to present information as to why they should not be penalized. This information must be submitted to the Commissioner or his or her designee, within 10 business days of delivery of the notice by hand or 15 business days of the posting of notice by mail.

b. The department may, consistent with the law, upon reasonable notice enter and inspect property during normal business hours to determine a property's use and whether a property is eligible for the abatement benefits that the property has applied for or is receiving.

c. The Commissioner may, after providing notice to the ICAP benefit applicant or ICAP benefit recipient an opportunity to be heard deny, reduce, suspend, terminate or revoke any abatement benefits granted under this chapter where:

(1) A recipient fails to comply with any requirement provided for by Title 2-f of Article 4 of the real property tax law, Part 5 of Title 11 of the administrative code, or this chapter; or

(2) An application, certificate, report or other document delivered by an applicant or benefit recipient contains a false or misleading statement as to a material fact or omits any material fact, and may declare any applicant or recipient who makes such false or misleading statement or omits such material fact, ineligible for future tax abatements for the subject property or any other property.

Such notice will inform the recipient of the reasons for the proposed action by the department and that the ICAP applicant or ICAP recipient has the right to present information as to why the ICAP recipient should not be penalized to the Commissioner or his or her designee, within 10 business days of delivery of the notice by hand or 15 business days of the posting of notice by mail.

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:** Implementation of Industrial and Commercial Abatement Program

**REFERENCE NUMBER:** 2015 RG 110

**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  
Acting Corporation Counsel

Date: August 22, 2016

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
(212) 788-1400**

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

**RULE TITLE:** Implementation of Industrial and Commercial Abatement Program  
**REFERENCE NUMBER:** DOF-19  
**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) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ *Francisco X. Navarro*  
Mayor's Office of Operations

*August 22, 2016*  
Date

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**HEALTH AND MENTAL HYGIENE**

■ NOTICE

**New York City Department of Health and Mental Hygiene  
Board of Health**

**Notice of Adoption of Amendments to Article 161  
of the New York City Health Code**

In compliance with §1043(b) of the New York City Charter ("Charter") and pursuant to the authority granted to the New York City Board of Health ("Board") by §558 of said Charter, a notice of intention to amend Article 161 of the New York City Health Code ("Health Code") was published in The City Record on June 15, 2016 and a public hearing was held on July 26, 2016. Two comments were received supporting the amendment. On its own initiative, the New York City Department of Health and Mental Hygiene ("Department") has made certain changes to the proposed amendment to clarify the physical spaces subject to the rule. At its meeting on September 13, 2016 the Board of Health adopted the following resolution.

**Statement of Basis and Purpose**

**Amendment of Article 161 relating to animal nuisances**

The Department's Bureau of Veterinary and Pest Control Services enforces Health Code Article 161 concerning the control of animals in the City. Section 161.03(a) of Article 161 previously required that pet owners control their pets so that they do not "commit a nuisance on a sidewalk of any public place, on a floor, wall, stairway or roof of any public or private premises used in common by the public, or on a fence, wall or stairway of a building abutting on a public place."

The Board now clarifies that this provision applies to any area used in common by the public, regardless of whether it is publicly or privately owned.

**Statutory Authority**

These amendments to Article 161 of the New York City Health Code are authorized by Sections 556, 558 and 1043 of the New York City Charter. Section 556(c)(2) authorizes the Department to exercise

control over and supervise the abatement of nuisances affecting or likely to affect the public health. 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 grants the Department rulemaking authority.

The resolution 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 Subdivision (a) of Section 161.03 of Article 161 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes, to read as follows:

**§161.03 Control of dogs and other animals to prevent nuisance.**

(a) A person who owns, possesses or controls a dog, cat or other animal shall not permit the animal to commit a nuisance on a sidewalk of any public place, on a floor, wall, stairway, sidewalk, lawn, garden or roof of any public or private premises used in common by the public, or on a fence, wall [or], stairway or entranceway of a building abutting on a public place.

*Notes: By resolution adopted September 13, 2016, the New York City Board of Health amended Subdivision (a) of Section 161.03 of the Health Code to clarify its applicability to sidewalks, lawns, gardens or other areas of private premises that are open to the public.*

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**DEPARTMENT OF HEALTH AND MENTAL HYGIENE  
BOARD OF HEALTH**

**Notice of Adoption of Amendments  
to Articles 139, 153 and 181 of the New York City Health Code**

In compliance with §1043(b) of the New York City Charter ("Charter") and pursuant to the authority granted to the Board of Health by §558 of said Charter, a notice of intention to amend Articles 139, 153 and 181 of the New York City Health Code ("Health Code") was published in The City Record on June 15, 2016 and a public hearing was held on July 20, 2016. No one testified and no comments were received. At its meeting on September 13, 2016 the Board of Health adopted the following resolution.

**Statement of Basis and Purpose**

**Background**

The Board of Health is repealing as redundant, no longer needed, or no longer enforced, the following provisions of the New York City Health Code ("Health Code"): Sections 139.05 (*Littering prohibited*) and 139.07 (*Smoking prohibited*) of Article 139; Sections 153.01 (*Littering prohibited*) of Article 153; and Section 181.03 (*Spitting prohibited*) of Article 181, all of Title 24 of the Rules of the City of New York.

**Repeal Sections 139.05 (Littering prohibited) and 153.01 (Littering prohibited)**

Section 139.05 of the Health Code prohibits littering or the creation of an unsanitary condition in or on a public transportation facility. The New York City Administrative Code ("Administrative Code") prohibits littering in the City generally. Specifically, Administrative Code § 16-118(1) prohibits littering in public spaces. Originally, when promulgated in 1991, Health Code § 139.05 was intended to encompass littering in "any public transportation facility which may not be a 'public place' within the meaning of the local law" to distinguish it from the more general Administrative Code § 16-118(1). However, Health Code § 139.05 is redundant as it is duplicative of Administrative Code § 16-118(1) inasmuch as a public transportation facility can be considered a "public space" within the meaning of Administrative Code § 16-118(1).

Similarly, Health Code § 153.01 prohibiting littering by a person or an employee is duplicative of Administrative Code § 16-118(1) which also prohibits littering by persons or their employees "upon any street or public place, vacant lot, air shaft, areaway, backyard court or alley."

**Repeal Section 139.07 (Smoking prohibited)**

Health Code § 139.07(a) prohibiting smoking or the carrying of "an open flame or a lighted match, cigar, cigarette or pipe in or on a public transportation facility" is duplicative of Administrative Code § 17-503 of the City's Smoke-Free Air Act which prohibits smoking in public transportation facilities. In addition, New York City Fire Code ("Fire Code") § 308(3) makes it unlawful to "place or discard, or cause to be placed or discarded, an open flame, lighted match... where it can cause the ignition of combustible material or combustible waste..." The plain meaning of Fire Code § 308(3) would cover public transportation facilities.

Similarly, Health Code § 139.07(b) allowing owners or persons in charge of public transportation facilities to designate areas where

smoking is permitted is not necessary as Administrative Code § 17-503 and the New York State Public Health Law § 1399-o prohibit smoking in all areas of public transportation facilities.

**Repeal Section 181.03 (Spitting prohibited)**

Health Code § 181.03(a) and (b) prohibiting spitting in common public areas or in any public transportation facility and requiring the posting of signs prohibiting spitting at public transportation facilities is no longer enforced and no longer needed as there are rules prohibiting spitting in public transportation facilities and conveyances servicing the City such as Metropolitan Transportation Authority conveyances and facilities (21 NYCRR § 1050.7(a)), Staten Island Rapid Transportation Authority facilities (21 NYCRR § 1040.7(a)), Metro-North facilities and trains (21 NYCRR § 1085.7(a)), and Long Island Railroad terminals, stations, and trains (21 NYCRR § 1097.7(a)). In addition, it is expected that the City Council will amend Administrative Code § 16-118 to prohibit spitting in common areas of private and public buildings and in public transportation facilities.

**Statutory Authority**

These amendments to the Health Code are promulgated pursuant to Sections 558 and 1043 of the New York City Charter (“the Charter”). Section 558 of the Charter empowers 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 rulemaking authority.

The amendments are as follows:

“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.

New material is underlined.

[Deleted material is in brackets.]

RESOLVED, that Section 139.05 of Article 139 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, is hereby REPEALED.

RESOLVED, that Section 139.07 of Article 139 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, is hereby REPEALED.

RESOLVED, that Section 153.01 of Article 153 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, is hereby REPEALED.

RESOLVED, that Section 181.03 of Article 181 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, is hereby REPEALED.

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**Department of Health and Mental Hygiene  
Board of Health**

**Notice of Adoption of Amendments  
to Article 47 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 47 of the New York City Health Code (the “Health Code”) was published in the City Record on June 15, 2016 and a public hearing was held on July 27, 2016. Four people testified and 13 written comments were received, including comments from three people who also testified. Two changes were made, one of which was in response to the comments received, as discussed below. At its meeting on September 13, 2016 the Board of Health adopted the following resolution.

**Statement of Basis and Purpose**

The Department of Health and Mental Hygiene (the “Department”) enforces Article 47 of the Health Code, which regulates non-residential-based child care centers for children under six years of age.

The Board of Health is amending Article 47 of the Health Code as follows to enhance the health, safety and supervision of children in Department regulated child care services.

**Educational directors**

Department experience has shown that the consistent presence of an educational director is an important factor in providing quality safe child care. The educational director is charged with developing a child care service’s curriculum, implementing teacher training and ensuring that all staff are aware of and compliant with the child care service’s written safety plan and the requirements of the Health Code. When there is no educational director present, or there is constant turnover in the educational director position, child care quality is diminished.

The Department attempts to routinely inspect all the 2,000+ child care services annually. When it finds on inspection that there is no educational director present, it is often told that the person holding the position is “temporarily absent,” a statement which the Department cannot always corroborate. The Health Code requires that a fully qualified State-certified group teacher be designated as an acting educational director when the educational director is temporarily absent. The Department has no way of knowing, however, how long the educational director’s absence has been or will last. To address these concerns, Health Code §§ 47.13, 47.15 and 47.17 have been amended to require that child care service permittees notify the Department when educational directors are terminated or resign. Notification means that Department staff can timely follow up with the child care service to determine if the educational director has been replaced, and whether there is an appropriate certified teacher supervising other teachers and assuming the duties required of the educational director. When there is a temporary absence of an educational director, the Health Code will require the permittee to notify teaching staff in writing that there will be a temporary substitute educational director, and make such communication available for Department inspection.

**Teacher and trainer qualification verification**

All teaching staff in Article 47 programs are required to hold certain educational credentials and certifications, and many teaching staff in current child care programs present foreign and domestic education institution credentials and teacher certifications that require Department staff to spend a great deal of time checking and verifying such credentials and certifications. Equally important are the qualifications of trainers. Health Code §§47.13, 47.15, 47.17 and 47.37 have been amended to require child care permittees to submit teachers’ and trainers’ documentation and certifications for review to an agency designated by the Department. The agent would review teaching staff certifications, diplomas, educational transcripts and trainers’ credentials to determine that education and training are in compliance with the Health Code.

**Teacher immunizations**

A new Recommended Adult Immunization Schedule was approved by the Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices and published in February 2016. The Department’s requirements for child care staff and volunteer immunizations in Health Code §47.33(c) have been amended to be consistent with these recommendations. The major change is that having a history of measles and mumps will not be allowed to substitute for the vaccines for measles and mumps – the vaccines must still be administered even if a health care provider indicates that an individual has a history of these diseases. Vaccinations are not needed if there is laboratory proof of immunity. Vaccinations are also not needed for people born on or before December 31, 1956, regardless of their vaccination history, as such old vaccination histories are unreliable and most people were already exposed to these diseases.

**Permit suspensions and revocations**

These amendments also clarify circumstances that may result in suspension and revocation of child care service permits, provide child care services with more concrete information about the Department’s expectations and describe how the Department evaluates performance.

The Department evaluates a child care service’s performance by comparing it to that of other child care services. Child care services found performing below standards may voluntarily enroll in a Department program to improve performance. As part of this program, Department staff help permittees identify and address administrative and other factors that compromise child safety. Department staff also work with the permittee to create a corrective action plan to remedy these factors. This voluntary improvement process is being made mandatory, amending §§47.21 and 47.77 and failure to make changes required by the corrective action plan would result in a child care service being required to defend its permit at a hearing at the Office of Administrative Trials and Hearings (OATH).

Health Code §47.77 has been amended to provide that, in addition to actions authorized by other provisions of the Health Code, the Commissioner may revoke a child care service permit in certain circumstances, including but not limited to:

- having a history of prior or current child care permit, license or registration suspensions,
- revocations or suspensions (whether by the Commissioner or other government agencies) or
- failing to implement required corrective action plans.

Section 47.77 has been amended to add that when a child care service permit is revoked by the Commissioner, any application for a new permit by any of the service’s individual or corporate managers or directors will not be accepted for at least five years following the date of revocation. In response to a comment, new Subdivision (j) has been amended to authorize the Commissioner to exercise discretion in determining the circumstances in which to invoke this sanction.

These measures will enable the Department to take expedited action against unsafe facilities and clarify the bases for taking regulatory actions.

#### **Fraud prevention**

Individuals who work or volunteer in or are in control of any child care service must be fingerprinted in accordance with Health Code §47.19. Fingerprints are forwarded by the City Department of Investigation (DOI) to the New York State Division of Criminal Justice Services (DCJS). DCJS then reports on the individual's criminal history to DOI, and DOI informs the permittee of the individual's relevant criminal background. In recent years, there have been a number of incidents where permittees claimed as staff members people who did not work in a child care service. Several permittees fraudulently submitted credentials of qualified persons or created false documents and certifications to show the Department that they have a full complement of cleared and/or qualified staff. One permittee allowed an otherwise unidentified individual to assume the identity and credentials of another person and passed her off as a qualified group teacher for many years. In these cases, the fraud eventually results in revocation of the permits, in accordance with Health Code §5.13. Requiring permittees to include identification numbers assigned to fingerprints (the New York State Identification or "NYSID" number) by DCJS when applications for permits and staff qualifications are submitted for approval will enable the Department to more readily verify individuals' identities. Accordingly, Health Code § 47.09 (a) has been amended to require permittees to provide NYSID numbers for persons with ownership and other interests in child care services, and any other persons whose credentials the Department is being asked to approve.

#### **Early Intervention and CPSE services for disabled children**

Health Code §47.19 requires that all staff, volunteers, contractors and others in child care services obtain clearances every two years from the State Central Register of Child Abuse and Maltreatment (SCR), be fingerprinted and have employment references checked unless "such person is working under the direct supervision and within the line of sight of a screened employee of the child care service." The Department has been asked to exempt from these requirements persons conducting assessments of or providing services to individual children who are disabled or at risk for disability under the Department's Early Intervention (EI) program (children under three years of age) or the City Department of Education's committee on preschool special education (CPSE) (ages three through five). Since these individuals are already cleared, it is unnecessary that child care service permittees also clear them, and this provision is being amended accordingly.

#### **Lead in water**

Health Code §47.43(a), requiring child care service permittees to test water for lead, has been amended to specify that such testing must be done every five years and to require that test results be sent to the Department. Any elevated test results that are submitted must be accompanied by a plan for remediation and until remediation is completed alternate sources of potable water provided. The original proposal was changed to extend the amount of time child care service permittees have to conduct drinking water lead testing from 30 days to 60 days after filing the required notice, to accommodate the amount of time needed for such testing.

#### **Fire alarms and sprinklers**

Health Code §47.59 (c), which requires that all child care services attended by 30 or more children have fire alarms, has been amended to require all newly permitted child care facilities and those undergoing extensive renovation (i.e., material alterations requiring a revised certificate of occupancy) to have fire alarms approved by the Fire Department. Also added is a requirement of the current Building Code that all new infant-toddler child care services and those undergoing material alterations be fitted with sprinkler systems. These requirements will significantly enhance safety.

#### **Permit posting**

Health Code §47.73, which requires that a child care service permit must be posted "in a conspicuous place near its public entrance where staff, parents and others may review" it, has been amended to specify that the permit must be posted in a location where it will be more readily visible to parents and caregivers dropping off and picking up children. It is critical that parents know that a service has a Department permit and is not operating illegally and without oversight.

#### **Statutory Authority**

The authority for these amendments is found in §§ 556 and 558 of the New York City Charter (the "Charter"). Sections 558(b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include all matters to which the Department's authority extends. Section 1043 grants the Department rule-making authority.

Section 556 of the Charter provides the Department with jurisdiction to protect and promote the health of all persons in the City of New York.

#### **Statement pursuant to Charter §1043**

This proposal was not included in the Department's Regulatory Agenda for FY '16 since the need for the proposal was not known at the time the Regulatory Agenda was promulgated.

The proposal is as follows:

Note-matter in brackets [ ] to be deleted

Matter underlined is new

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

RESOLVED, that Subdivisions (a) and (f) of §47.09 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 amended to be printed together with explanatory notes, to read as follows:

#### **§47.09 Applications for permits.**

A person or entity that has never held a permit issued by the Commissioner to operate a child care service and that proposes to operate a child care service subject to such permit, shall attend a pre-permit orientation session held by the Department and shall thereafter submit an application for a permit to the Department.

(a) *New application.* An application for a new permit shall be submitted on forms approved or provided by the Department and shall include, but not be limited to the following:

\* \* \*

(5) [Certifications and other documentation required by this Code for teaching staff health training; qualifications, health examinations.] Proof that teachers' credentials required by this Code have been submitted for review to and have been verified by an agent designated by the Department; and that the permit applicant has documentation of all teachers' and volunteers' health examinations and immunizations.

\* \* \*

(9) Names, including aliases, and other identifying and contact information for all individual owners, managers, or other persons with a controlling interest in the child care service, officers, directors and board members of a permittee corporation, members of an LLC, partners, educational directors, executive and administrative director, if any. Identifying information must include the New York State Identification or NYSID number assigned to these individuals when they were fingerprinted by the New York State Division of Criminal Justice Services, in accordance with §47.19 of this Article.

\* \* \*

(f) *Applications to be complete.* No permit shall be issued until the Department has received and has approved all documentation, records, reports, or other information required by this Code. The Commissioner may reject any incomplete application for a new or renewal permit and order an existing child care service closed and its permit suspended if the permit application contains misleading information, or information is omitted.

*Notes:* Paragraphs (5) and (9) of Subdivision (a) and Subdivision (f) were amended by resolution adopted September 13, 2016. Subdivision (a) requires additional current and background information from applicants for child care service permits so that an informed decision may be made by the Commissioner on whether to issue such permits. Subdivision (f) authorizes the Commissioner to reject an application for a new permit and close and suspend an existing child care service if its application for a renewal permit if information is misleading or missing.

RESOLVED, that Subdivision (a), Paragraph (1) of Subdivision (c), and Paragraph (4) of Subdivision (d) of §47.13 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, are amended, to be printed together with explanatory notes to read as follows:

#### **§47.13 Teaching staff qualifications in child care services for children ages two to six.**

(a) *Accreditation.* In determining teacher and educational director qualifications, the Department may accept documentation from schools, colleges and universities approved by the State Education Department or other teacher accreditation organizations acceptable to the Department certifying that such persons have met the specific Code requirements. All teacher documentation must be submitted for review to an agency designated by the Department.

(b) *Pending certifications.* A permittee may temporarily employ an educational director or individual group teachers pending certification by the State Education Department or other accreditation organization or while a teacher's study plan for obtaining certification is pending approval by the Department, provided that the permittee has complied with criminal justice and State Registry of Child Abuse and Maltreatment screening requirements for staff set forth in this Article.

(c) *Educational director.* Every child care service shall designate a qualified teacher as the educational director who shall be in charge of

staff training, educational and child development programs and shall supervise all teaching staff at each permitted child care service.

(1) Coverage for educational director. When an educational director is not present to supervise a child care service, the permittee shall designate a certified group teacher to act as educational director. In addition, the permittee must notify the Department in writing within five business days of the termination or resignation of the educational director. When the educational director will be on anticipated leave for more than five business days, the permittee must notify teaching staff in writing that a certified teacher has been designated as educational director and make this written communication available to the Department for inspection upon request.

\* \* \*

Notes: Subdivision (a) and Paragraph (1) of Subdivision (c) of §47.13 were amended by resolution adopted September 13, 2016 to require submission of teachers' credentials to an agency designated by the Department and for permittees to notify the Department of educational directors' termination or resignation and to maintain documentation of educational directors' absences exceeding five days duration.

RESOLVED, that Subdivision (a) of §47.15 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

**§47.15 Teaching staff qualifications for infant-toddler child care services.**

A child care service authorized to provide care for children under 24 months of age may employ staff with either the qualifications listed in §47.13 of this Code for each title or the following alternative qualifications[:]; all documents and credentials must be submitted for review to an agency designated by the Department:

(a) Educational director. Every infant-toddler child care service shall have an educational director who shall be in charge of staff training, educational and child development programs and shall supervise all teaching staff at each permitted infant-toddler child care service. The permittee must notify the Department in writing within five business days of the termination or resignation of an educational director.

\* \* \*

Notes: Section 47.15 was amended by resolution adopted September 13, 2016 to require submission of teachers' credentials to an agency designated by the Department and for permittees to notify the Department of educational directors' termination or resignation.

RESOLVED, that Subdivisions (a) and (b) of §47.15 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

**§47.17 Teaching staff qualifications for night child care services.**

(a) Permittees offering night care services shall comply with all requirements of this Article except when such requirements are inconsistent with the provisions of this section, in which case the provisions of this section shall control. All documents and certifications required by this section must be submitted for review to an agency designated by the Department.

(b) Educational director. The educational director shall be qualified in accordance with §47.13 of this Code; or hold a baccalaureate degree, including 12 college credits in early childhood education, and have two years experience in a licensed program with children younger than six years of age. When the educational director is not present to supervise the teachers in a night care service, the permittee shall designate a certified group teacher qualified pursuant to §47.13 (d) of this Article to act as educational director. The permittee must notify the Department in writing within five business days of the termination or resignation of an educational director.

\* \* \*

Notes: Subdivisions (a) and (b) were amended by resolution adopted September 13, 2016 to require submission of teachers' credentials to an agency designated by the Department and for permittees to notify the Department of educational directors' termination or resignation.

RESOLVED, that §47.19 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended by adding a new Subdivision (j) to be printed together with explanatory notes, to read as follows:

**§47.19 Criminal justice and child abuse screening of current and prospective personnel; reports to the Department.**

\* \* \*

(j) Services for certain children. Permittees must allow access to children receiving assessments and services of professional consultants retained by Early Intervention program providers or New York City Department of Education committees on preschool special education, or successor programs, without requiring proof of consultants' fingerprinting, SCR clearances or references.

Notes: Subdivision (j) was added by resolution adopted September

13, 2016 to enable access to work with individual children attending child care services without further fingerprinting or SCR clearance for certain persons assessing or providing services to such children.

RESOLVED, that Paragraph (3) of Subdivision (a) of §47.21 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended; that Subdivision (b) of §47.21 be amended; that a new Subdivision (c) be added to §47.21, and that Subdivisions (c), (d) and (e) be relettered as Subdivisions (d), (e) and (f), respectively, to be printed together with explanatory notes to read as follows:

**§ 47.21 Corrective action plan.**

(a) Approved corrective action plan required. A corrective action plan shall be submitted by the permittee to the Department within five business days for review and approval by the Department[.].

(1) Prior to the permittee hiring, retaining or utilizing the services of persons listed in Subdivision (a) of §47.19 of this Code when such persons are reported as having:

- (A) A criminal conviction as specified in §47.19[ ](h); or
- (B) Pending criminal charges as specified in §47.19(h); or
- (C) SCR reported incidents of child abuse or maltreatment which have been indicated or which are under investigation.

(2) When a death or serious injury of a child or an incident involving a lost child has occurred while in the care of an applicant for a permit or permittee, or in the care of any owner, director, employee, or volunteer of the applicant or permittee or while in the care of any agent of the permittee, or if a related criminal or civil action has already been adjudicated or adjudication is pending in any jurisdiction with respect to such death or serious injury or incident involving a lost child.

(3) When required by the Department, after the permittee has been cited for violations or conditions deemed imminent health hazards, or when the Department determines that the permittee has been operating with serious uncorrected violations over a period of time, to demonstrate the permittee's willingness and ability to continue in operation in accordance with applicable law.

(b) Contents of corrective action plan. A corrective action plan shall assess the risk to children in the child care service, and shall clearly and convincingly demonstrate that such person presents no danger to any child, or other persons. The plan shall include, but not be limited to, consideration of the following factors:

- (1) Seriousness of the incident(s) or crimes cited in the report(s);
- (2) Seriousness and extent of injuries, if any, sustained by the child(ren) named or referred to in the indicated report(s) or disclosed upon investigation of the criminal charge;
- (3) Any detrimental or harmful effect on child(ren) as a result of the person's actions or inactions and relevant events and circumstances surrounding these actions and inactions as these relate to any report(s);
- (4) The age of the person and child at the time of the incident(s);
- (5) Time elapsed since the most recent incident(s);
- (6) Number of indicated incident(s) or crimes; where more than one incident or crime, an evaluation of each separately, and an assessment of the total effect of all indicated incidents on risks to children currently under care;

(7) Duties of the person under consideration; degree of supervision, interaction, opportunity to be with children on regular, substantial basis and if position may involve being alone with children or will always involve presence of other adults;

(8) Information provided by person, re: rehabilitation, i.e., showing positive, successful efforts to correct the problems resulting in the indicated child abuse or criminal report so that children in care will not be in danger, demonstrated by no repeated incidents or showing that the person has undergone successful professional treatment;

(9) Employment or practice in a child care field without incident involving injuries to children

(10) Extra weight and scrutiny shall be accorded child abuse and maltreatment reports involving fatality, sexual abuse, subdural hematoma, internal injuries, extensive lacerations, bruises, welts, burns, scalding, malnutrition or failure to thrive; and crimes involving homicides, sexual offenses (misconduct, rape, sodomy, abuse); kidnapping; felony possession or sale of a controlled substance; felony promotion of prostitution; obscenity offenses; disseminating indecent material involving, or to, minors; incest; abandonment of a child; endangering welfare of a child; promoting sexual performance by a child; felony weapon possession; assault; reckless endangerment; coercion; burglary; arson and robbery; driving while intoxicated or under the influence of alcohol if the person will have responsibilities for unsupervised contact or driving motor vehicles at the child care service.

(c) Contents of corrective action plan for imminent health hazards or serious repeat violations. When the Department requires a corrective action plan to show that imminent health hazards or patterns of serious repeat violations are being corrected, the permittee must:

- (1) Address each hazard, condition or violation;
- (2) Identify their causes; and
- (3) Provide a plan satisfactory to the Department showing that the causes have been addressed, and that the conditions or violations have been corrected and will not recur.

[(c)] (d) Implementing the plan. If the Department determines that

such plan adequately safeguards the health and safety of children, the permittee shall be responsible for implementation of the plan, subject to periodic monitoring by the Department.

[(d)] (e) *Rejection of plan.* If the Department determines that such plan fails to provide adequate safeguards, a permittee that intends to hire or retain the employee shall resubmit the plan until it is acceptable to Department and shall not allow such employee to have unsupervised contact with any children until the plan is approved by the Department.

[(e)] (f) *Remedies.* Any person aggrieved by the action of the Department in enforcing this section may request that the Department provide him or her with an opportunity to be heard in accordance with §7-02 (a) (1) of the Rules of the Department (24 RCNY Chapter 7). The decision of the Department after such opportunity to be heard shall be a final agency determination.

*Notes:* Paragraph (3) of Subdivision (a) was amended by resolution adopted September 13, 2016 to add requirements for preparation of a corrective action plan not only when imminent health hazards are present but also when a child care service is operating with serious repeat violations. The heading of Subdivision (b) was amended to clarify that this subdivision applied to plans required when there were positive findings on fingerprint and SCR clearance. A new Subdivision (c) was added to set forth general requirements for plans prepared to address serious repeat violations, and existing Subdivisions (c), (d) and (e) were relettered as Subdivisions (d), (e) and (f), respectively.

RESOLVED, that Subdivision (c) of §47.33 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

#### §47.33 Health; staff.

\* \* \*

(c) *Staff immunizations.* [Health care providers shall certify that each staff or volunteer] Each staff person and volunteer shall obtain a report from a health care provider who is a licensed physician, nurse practitioner, physician's assistant, or doctor of osteopathy certifying that such person has been immunized against measles; mumps; rubella; varicella (chicken pox); and [tetanus and diphtheria (Td) or] tetanus, diphtheria and acellular pertussis (Tdap) in accordance with recommendations of the CDC Advisory Committee on Immunization Practices (ACIP). Persons born on or before December 31, 1956 [who have a history of measles or mumps disease shall not require such] are not required to have measles, mumps or rubella vaccines. A history of having health care provider documented varicella [measles or mumps] or herpes zoster disease shall be accepted in lieu of varicella, measles or mumps vaccines] vaccine. A history of having measles, mumps or rubella disease shall not be substituted for the measles, mumps, or rubella vaccine. A laboratory test demonstrating detectable varicella, measles, mumps, or rubella antibodies shall also be accepted in lieu of varicella, measles, mumps and rubella vaccine. An employee may be exempted from this immunization requirement for ACIP-recognized medical contraindications upon submission of appropriate documentation from a licensed physician. Each staff person and volunteer shall submit such report of immunization to the permittee. Reports of immunizations shall be confidential and shall be kept by the permittee in a paper or electronic file with other staff and volunteer health information, except that such reports shall be made available to the department upon request.

\* \* \*

*Notes:* Subdivision (c) was amended by resolution adopted September 13, 2016 to incorporate recommendations of the CDC Advisory Committee on Immunization Practices issued in February, 2016.

RESOLVED, that Subdivision (e) of §47.37 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

\* \* \*

(e) The Department may provide such training or any part thereof or accept training provided by others found satisfactory to the Department. All trainers' qualifications must be submitted for review to an agency designated by the Department. Persons who enroll in workshops conducted by the Department may be charged a reasonable fee to defray all or part of the costs incurred by the Department for workshop registration materials, training, testing, and certificate issuance.

*Notes:* Subdivision (e) was amended by resolution adopted September 13, 2016 to require submission of trainers' qualifications for review to an agency designated by the Department.

RESOLVED, that Subdivision (a) of §47.43 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

#### §47.43 Plumbing; toilets, hand wash, and diaper changing facilities.

(a) *Plumbing installation.* Plumbing shall be installed only by a licensed plumber and shall be free of cross-connections and other hazards to health. Drinking water from faucets and fountains shall be tested for lead content by an existing permittee upon the effective date of this provision or by a new permittee within 60 days of receiving a permit and by all permittees every five years thereafter using a method approved by the Department. Copies of test results must be sent to the Department upon receipt by mail, email or fax and the permittee shall investigate and take remedial action if lead levels at or above 15 parts per billion (ppb) are detected. Remedial action must be described in a corrective action plan to be submitted to the Department with reports of elevated test results. Until remedial action is completed, the permittee must provide and use bottled potable water from a source approved by the Department or the State Department of Health.

*Notes:* Subdivision (a) was amended by resolution adopted September 13, 2016 to clarify requirements for testing drinking water for lead.

RESOLVED, that Subdivision (c) of §47.59 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

#### §47.59 Fire safety.

\* \* \*

(c) In a child care service holding a permit for more than 30 children, an approved interior fire alarm system shall be provided. All child care services applying for a new permit or that are located in premises undergoing material alterations must be equipped with Fire Department approved interior fire alarm systems. Infant-toddler services obtaining a new permit or that are located in premises undergoing material alterations must be equipped with a sprinkler system that complies with the New York City Building Code.

\* \* \*

*Notes:* Subdivision (c) was amended by resolution adopted September 13, 2016 to require applicants for a new permit after the effective date of the amendment, and those undergoing material alterations requiring a new certificate of occupancy to install fire alarms and requiring that applicants for a new permit to operate an infant-toddler child care service after the effective date of the amendment, or current permittees whose premises are undergoing material alterations install sprinkler systems. Including such requirements from the current Building and Fire Codes in the Health Code enables the Department to deny or revoke permits where a child care service fails to comply with those codes' requirements.

RESOLVED, that Subdivision (b) of §47.73 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

#### §47.73 Required postings.

\* \* \*

(b) The permittee shall [display] post the following [in a conspicuous place near] at the front door of its public entrance where staff, parents and others may review them:

(1) The current permit securely encased in a weather-resistant glass or plastic protective frame, and

(2) A sign provided or approved by the Department stating that the Department's most recent summary inspection report for the child care service may be obtained from the Department's website, or by calling 311, and that complaints about the child care service may be made to, and more information about requirements for operation of child care services may be obtained by calling 311.

*Notes:* Subdivision (b) was amended by resolution adopted September 13, 2016 to enable parents, caretakers and other potential users of child care services to more readily see a currently valid permit and obtain assurance that a child care is lawfully in operation.

RESOLVED, that Subdivision (a) of §47.77 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, numbering the current subdivision as Paragraph (1), and adding a new Paragraph (2); adding a new Subdivision (h), relettering current Subdivision (h) as Subdivision (i), amending the newly relettered Subdivision (i), and adding a new Subdivision (j), to be printed together with explanatory notes to read as follows:

#### §47.77 Closing and enforcement.

(a) *Imminent health hazards.* (1) When the Department determines that any child care service is being operated in a manner, or maintaining one or more conditions that constitute an imminent health hazard, or that its operation otherwise presents a risk of endangering the health or safety of children or other persons, the Commissioner may order such child care service to close and to discontinue operations, suspending its permit, without further proceedings, by service of an order upon the permittee, or other person(s) managing or in control of such child care service. An order issued pursuant to this section shall provide the permittee, or other person(s) in control, an opportunity to be heard and to show cause why such child care service

should not remain closed until there are changed circumstances, or the correction, removal or abatement of the dangerous or detrimental condition(s).

(2) The Commissioner may require any child care service permittee that consistently fails to correct imminent or repeat, serious violations to enroll in a program in which factors contributing to violations are analyzed and the permittee establishes a corrective action plan to address and correct violations. When, in the opinion of the Commissioner, a permittee enrolled in such a program is unable or unwilling to write or implement a corrective action plan that adequately protects the health and safety of children, the Commissioner shall provide the permittee with an opportunity to show cause at a hearing why the child care service's permit should not be suspended or revoked.

\* \* \*

(h) Other actions. In addition to any action authorized by this article or Article 5 of this Code, the Commissioner may refuse to renew, or may revoke or deny issuance of a permit if:

(1) the child care service's permit was ordered suspended more than once during the past 36 months, or

(2) the child care service's permit was previously ordered suspended for having lost a child, another instance of inadequate supervision or for inappropriate behavioral management of children occurs; or

(3) the permittee failed to implement a corrective action plan; or

(4) a permit applicant or permittee continued operating a child care service when a permit was either ordered suspended or the child care service was ordered closed for operating without a permit; or

(5) the Commissioner determines that a permittee is unable or unwilling to correct a pattern of serious, repeated violations including, but not limited to, those defined as imminent health hazards; or

(6) the Commissioner finds out after issuing a permit that a previous or current permit, license, registration or other authorization to operate a child care program, held by the permittee, or any officer, manager or director of the permitted entity, was or is being suspended or revoked in any jurisdiction.

(h) (i) Department authority not limited by this section. Nothing herein shall be construed to limit the authority of the Department to issue notices of violation [pursuant to Article 7 of this Code] seeking monetary penalties for violations cited by the Department, or commence any other proceeding or action provided for by this Code or other applicable law, including actions to deny, suspend or revoke permits.

(j) Effect of permit revocation. When a permit has been ordered revoked by the Commissioner, and the Commissioner finds that the circumstances resulting in revocation show that the permittee or other persons exercising management and control are unable or unwilling to operate a child care service in compliance with this Code, an application for a new permit will not be accepted for at least five years from the date revoked from either the permittee or from any individual person exercising management and control in the child care service whose permit was revoked.

Notes: Subdivision (a) was amended, numbering the current subdivision as Paragraph (1) and adding a new Paragraph (2) and a new Subdivision (h), relettering Subdivision (h) as Subdivision (i) and adding a new Subdivision (j), by resolution adopted September 13, 2016, to clarify the Commissioner's authority to suspend and revoke existing permits and deny issuance of new permits to persons whose permits are revoked.

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**Department of Health and Mental Hygiene  
Board of Health**

**Notice of Adoption of Amendments  
to Article 43 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, notice of intention to amend Article 43 of the New York City Health Code (the "Health Code") was published in the City Record on June 15, 2016, and a public hearing was held on the proposal on July 25, 2016. No written comments or testimony were received. One change was made to the original proposal as discussed below. At its meeting on September 13, 2016, the Board of Health adopted the following resolution.

**Statement of Basis and Purpose**

The Department of Health and Mental Hygiene (the Department) Bureau of Child Care enforces Article 47 of the Health Code which regulates non-residential-based child care centers for children under six years of age) and Article 43 (School-Based Programs for Children Ages Three through Five) which regulates health and safety aspects of school-based programs for children ages three through five.

The Board of Health has amended Article 43 of the Health Code as follows to enhance the health, safety and supervision of children under six years of age attending school-based programs.

**Physical facilities: testing drinking water supplies for lead; installing window guards**

Health Code §47.43, applicable to non-school based freestanding child care centers, currently requires that "Drinking water from faucets and fountains shall be tested for lead content and the permittee shall investigate and take remedial action if lead levels at or above 15 parts per billion (ppb) are detected."<sup>1</sup> There is no similar requirement in Article 43 or in Article 45 (General Provisions Governing Schools and Children's Institutions). Although schools may be testing lead levels in water voluntarily, there is no general requirement that schools test potable water supplies for lead. While no water supplies should have lead levels above 15 ppb, the youngest children are most at risk for lead poisoning resulting from any environmental lead source. Article 43 is amended to require testing by school-based programs for children ages three through five of potable water supplies for lead. One change was made to the proposal, to extend the amount of time schools have to conduct drinking water lead testing from 30 days to 60 days after filing the required notice, to accommodate the amount of time needed for such testing.

In addition, the Board is amending this article to require that window guards or other Department approved limiting devices be installed in windows in all areas of a school accessible to children under six years of age. Since 1976, Chapter 12 of the Department's rules has required window guards to be installed in all multiple dwelling units in which children 10 years of age and younger reside. Section 47.41 (e) of Article 47 similarly requires window guards to be installed in child care services that are not located in school buildings. The Board finds that the same protections should be afforded the children of the same ages attending schools.

**Teacher immunizations**

A new Recommended Adult Immunization Schedule was approved by the Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices and published in February, 2016. The Board is amending the immunization requirements for child care teachers and volunteers in Article 47 and for staff teaching early childhood education programs who are covered by Article 43 to be consistent with these recommendations. The major change is that having a history of measles and mumps will not be acceptable substitutes for measles and mumps vaccinations – vaccines must still be administered even if a health care provider indicates that an individual has a history of these diseases. Vaccinations are not needed if there is laboratory proof of immunity.

**Statutory Authority**

The authority for these amendments is found in §§ 556 and 558 of the New York City Charter (the "Charter"). Sections 558(b) and (c) of the Charter empower the Board of Health (the "Board") to amend the New York City Health Code (the "Health Code") and to include all matters to which the Department's authority extends. Section 1043 grants the Department rule-making authority.

Section 556 of the Charter provides the New York City Department of Health and Mental Hygiene (the "Department") with jurisdiction to protect and promote the health of all persons in the City of New York.

The rule is as follows:

Note-matter in brackets [ ] to be deleted  
Matter underlined is new

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

RESOLVED, that Subdivision (c ) of §43.11 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

**§43.11 Health; staff.**

\* \* \*

(c) Staff immunizations. [Health care providers shall certify that each staff or volunteer] Each staff person and volunteer shall obtain a report from a health care provider who is a licensed physician, nurse practitioner, physician's assistant, or doctor of osteopathy certifying that such person has been immunized against measles; mumps; rubella; varicella (chicken pox); and [tetanus and diphtheria (Td) or] tetanus, diphtheria and acellular pertussis (Tdap) in accordance with recommendations of the CDC Advisory Committee on Immunization Practices (ACIP). Persons born on or before December 31, 1956 [who have a history of measles or mumps disease shall not require such] are not required to have measles, mumps or rubella vaccines. A history of having health care provider documented varicella [, measles or mumps] or herpes zoster disease shall be accepted in lieu of varicella[,

1 This is the federal action level for lead in public drinking water supplies. See, US Environmental Protection Agency, "Lead and Copper Rule," 40 CFR Part 141 Subpart I.



measles or mumps vaccines] vaccine. A history of having measles, mumps or rubella disease shall not be substituted for the measles, mumps, or rubella vaccine. A laboratory test demonstrating detectable varicella, measles, mumps, or rubella antibodies shall also be accepted in lieu of varicella, measles, mumps and rubella vaccine. An employee may be exempted from this immunization requirement for ACIP-recognized medical contraindications upon submission of appropriate documentation from a licensed physician. Each staff person and volunteer shall submit such report of immunization to the person in charge of a school where he or she is employed or volunteers. Reports of immunizations shall be confidential and shall be kept by the person in charge of a school in a paper or electronic file with other staff and volunteer health information, except that such reports shall be made available to the Department upon request.

\* \* \*

*Notes:* Subdivision (c) was amended by resolution adopted September 13, 2016, to incorporate recommendations of the CDC Advisory Committee on Immunization Practices issued in February, 2016.

RESOLVED, that Article 43 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, adding a new §43.24, to be printed together with explanatory notes to read as follows:

#### **§43.24 Physical facilities.**

(a) Drinking water. Drinking water from faucets and fountains must be tested for lead content by persons in charge of a school upon the effective date of this provision or by persons in charge of a new school program within 60 days of filing the notice required by §43.05 of this article and every five years thereafter using a method approved by the Department. Copies of test results must be sent to the Department by mail, email or fax on receipt and the persons in charge of a school must investigate and take remedial action if lead levels at or above 15 parts per billion (ppb) are detected. Remedial action must be described in a corrective action plan to be submitted to the Department with reports of elevated test results. Until remedial action is completed, the persons in charge of a school must provide and use bottled potable water from a source approved by the Department or the State Department of Health.  
(b) Window guards. Department approved window guards or other window opening limiting devices must be installed on all windows in all rooms, hallways, and stairwells, except windows giving access to fire escapes used as a secondary means of egress, if children under six years of age have access to such areas.

*Notes:* Section 43.24 was added by resolution adopted September 13, 2016 to require drinking water to be tested for lead, and that approved window guards or other limiting devices be installed in windows in all areas accessible to children under six years of age, mirroring similar requirements for children attending child care services regulated by Article 47 of the Health Code.

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#### **Notice of Opportunity to Comment on the Repeal of Article 153 of the New York City Health Code**

**What are we proposing?** The New York City Department of Health and Mental Hygiene (“Department”) is proposing that the Board of Health (“Board”) repeal Article 153 (Littering and Disposal of Refuse) of the New York City Health Code (“Health Code”) as redundant and no longer needed.

**When and where is the hearing?** The Department has determined that there is no public purpose to holding a hearing.

**How do I comment on the proposed amendments to the Health Code?** Anyone may comment on the proposed amendments by:

- **Website:** You may submit comments to the Department through the NYC Rules website at <http://rules.cityofnewyork.us>.
- **Email:** You may email comments to [resolutioncomments@health.nyc.gov](mailto:resolutioncomments@health.nyc.gov)
- **Mail:** You may mail comments to:  
New York City Department of Health and Mental Hygiene  
Gotham Center, 42-09 28<sup>th</sup> Street, CN 31  
Long Island City, NY 11101-4132
- **Fax:** You may fax comments to the Department at (347) 396-6087.

**Is there a deadline to submit written comments?** Written comments must be received on or before 5:00 P.M. on October 25, 2016.

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

**What authorizes the Department to make this amendment?** Section 558(b), (c), and (g) of the New York City Charter empowers

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(a) of the Charter grants rulemaking powers to the Department.

#### **Where can I find the Department rules and the Health Code?**

The Department’s rules and the Health Code are located in Title 24 of the Rules of the City of New York.

**What rules govern the rulemaking process?** The Department must satisfy the requirements of Section 1043 of the Charter when adding or amending rules. This notice is made according to the requirements of Section 1043(b) of the Charter.

The proposed repeal of this Article was not included in the Department’s regulatory agenda for this fiscal year because it was not contemplated when the Department published the agenda.

#### **Statement of Basis and Purpose**

The Department published in The City Record on June 16, 2016 a notice of intention to repeal, among other sections of the New York City Health Code (“Health Code”), §153.01 (*Littering prohibited*) of Article 153 (*Littering and Disposal of Refuse*) of the Health Code. The Statement of Basis and Purpose for that proposal noted that §153.01 duplicates provisions in Title 16 of the New York City Administrative Code (“Administrative Code”), which are currently enforced by the NYC Department of Sanitation (“DSNY”). The Department now is proposing that the Board of Health repeal all of the remaining sections of Article 153 since they also are redundant and no longer needed nor enforced. Since the proposal to repeal §153.01 is pending separately before the Board, that section is not included in this proposal.

Throughout the City’s history, regardless of the City’s form of government, safe, efficient and effective garbage and waste disposal has presented legal and practical difficulties and is considered an important aspect of public health. Most of Article 153 was adapted from earlier provisions of the City’s Sanitary Code, the precursor of the Health Code, and reflect even earlier colonial ordinances predating the formation of the City, the Health Department and the Board of Health. For example, a 1657 New Amsterdam ordinance is generally credited as the first attempt to prohibit the 1,000 or so inhabitants of that colony from throwing garbage and refuse into the streets.<sup>1</sup> The City’s various councils and temporary boards of health regulated and enforced waste disposal regulations as a public health matter, even after formation of the City Department of Street Cleaning, the predecessor of DSNY, in the 1890’s.

However, current day-to-day management and regulation of these matters are the responsibility of State and other City agencies. As noted above, DSNY is responsible for enforcement of street cleanliness, littering and dumping laws in accordance with Title 16 of the NYC Administrative Code and Title 16 of the Rules of the City of New York. The NYS Department of Environmental Conservation and City Department of Environmental Protection monitor and maintain the cleanliness of the navigable waters surrounding the City and, in compliance with the federal Clean Waters Act and the NYS Environmental Conservation Law, limit and treat sewage contaminants that may find their way into the City’s waters. The NYC Department of Buildings enforces the Building Code and its rules concerning management of dust and debris at building construction sites.<sup>2</sup>

While the Department is proposing that the Board of Health repeal the remaining portions of Article 153, which has not been enforced for many years, the Department continues to take very seriously its responsibilities under the NYC Charter which authorizes the Department to “supervise and regulate the public health aspects of sewage disposal and water pollution.”<sup>3</sup> The Board of Health and the Commissioner supervise and regulate these areas by using their authority under Title 17 of the NYC Administrative Code to order abatement and remediation of any nuisances that might contaminate the City’s navigable waters and streets and that endanger the health of any person or the public health.

Following are brief descriptions of the current provisions of Article 153 and the reasons for their repeal:

- 1 There are many descriptions of the City’s history of struggles with waste disposal. See, e.g., Edwin G. Burrows and Mike Wallace, *Gotham: A History of New York City to 1898*, Oxford University Press, 1999; John Duffy, *A History of Public Health in New York City 1625-1866*, Russell Sage Foundation, 1968; and Robin Nagle, *Picking Up, On the Streets and Behind the Trucks with the Sanitation Workers of New York City*, Farrar, Straus and Giroux, 2013. Professor Nagle is anthropologist in residence at the City Department of Sanitation.
- 2 It should be noted that the NYC Department of Health & Mental Hygiene continues to enforce Health Code §173.14 mandating safe work practices in renovations that may disturb lead-based paint.
- 3 NYC Charter §556 (c)(7).

- o §153.03-*Exposure or agitation of certain materials prohibited.*  
This section is essentially the same as NYC Administrative Code §16-118 (3), enforced by DSNY.
- o §153.05-*Precautions during construction or demolition work.*  
Chapter 33 of the NYC Building Code (*Safeguards during construction or demolition*) comprehensively regulates all matters related to debris and dust created as part of construction or demolition, rendering this provision no longer necessary.
- o §153.07-*Exposure of rags, barrels, boxes and other materials prohibited.*  
This is a very archaic provision that essentially duplicates prohibitions on littering.
- o §153.09-*Throwing or dropping offensive matter into streets, public places, rivers and other places prohibited.*  
This provision duplicates provisions of Administrative Code §§16-118 (4) and 16-119 (a).
- o §153.11- *Spilling or scattering from vehicles prohibited.*  
This provision duplicates NYC Administrative Code §16-118(4) and NYS Vehicle and Traffic Law §380-a (1).
- o §153.13- *Interference with Department of Sanitation employees prohibited.*  
This provision is identical to NYC Administrative Code §16-118 (7) and Subdivision (8) of this section provides for criminal penalties for violations.
- o §153.15- *Interference with refuse placed for collection prohibited.*  
This provision is similarly incorporated in NYC Administrative Code §16-118 (7).
- o §153.19- *Duties of owners or persons in charge of premises.*  
Duties of owners are specified in NYC Administrative Code §16-118 (2).
- o §153.21- *Removal of dead or diseased animals and offensive materials regulated; use and condition of vehicles.*  
DSNY is charged with removal of dead animals and other offensive material, e.g., "night soil." See, e.g., NYC Administrative Code §16-113.
- o §153.23- *Filling of land; use of materials.*  
DSNY regulations (16 RCNY Chapter 3 – *Lands, land under water and landfills*) provide for management of landfills in detail.
- o §153.25- *Interference with the use of docks, piers and bulkheads for the disposal of offensive materials prohibited.*  
Matters relating to use of docks, piers and bulkheads surrounding the City are the responsibility of the City's Department of Small Business Services. See NYC Charter §1301(2).

#### Statutory Authority

These amendments to the Health Code are promulgated pursuant to Sections 558 and 1043 of the New York City Charter ("Charter"). Section 558 of the Charter empowers the Board of Health ("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 ("Department") extends. Section 1043 grants the Department rulemaking authority.

The proposal is as follows:

Matter in [brackets] is repealed.  
Matter underlined is new.

**RESOLVED**, that Article 153 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, relating to littering and the disposal of refuse, is hereby REPEALED, with an explanatory note to read as follows:

#### Notes:

Section 153.01 of Article 153 was repealed by resolution adopted by the Board of Health at its XXX meeting. The remainder of Article 153 was repealed by resolution adopted by the Board of Health at its XXX meeting as part of a revision process to modernize and update the Health Code. The provisions of this Article have not been enforced by the Department for many decades, and nearly all of its provisions related to the disposal and management of refuse and waste are substantively incorporated in Title 16 of the NYC Administrative Code and enforced by the NYC Department of Sanitation. Other provisions in Article 153 duplicated law and rules enforced by the NYC Departments of Buildings, Environmental Protection, and Economic Development Corporation, the NYS Department of Environmental Conservation and the US Environmental Protection Administration. Although individual provisions of this Article are no longer enforced by the Department, Title 17 of the NYC Administrative Code authorizes the Board of Health and the Commissioner to order the abatement of any nuisances that may adversely affect the health of any persons or the public health and the Department retains its jurisdiction pursuant to New York City Charter §556 (c)(7) to "supervise and regulate the public health aspects of ... sewage disposal and water pollution."

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
(212) 788-1400**

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

**RULE TITLE:** Repeal of Health Code Article 153 (Littering and Disposal of Refuse)  
**REFERENCE NUMBER:** DOHM-72  
**RULEMAKING AGENCY:** Department of Health and Mental Hygiene

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

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

/s/ Francisco X. Navarro  
Mayor's Office of Operations

August 30, 2016  
Date

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

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

**RULE TITLE:** Repeal of Health Code Article 153 (Littering and Disposal of Refuse)  
**REFERENCE NUMBER:** 2016 RG 076  
**RULEMAKING AGENCY:** Board of Health

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

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

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: August 30, 2016

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**Department of Health and Mental Hygiene  
Board of Health**

**Notice of Public Hearing and Opportunity to Comment  
on Proposed Amendments to Article 11 and 13 of the  
New York City Health Code**

**What are we proposing?** The Department of Health and Mental Hygiene (the Department) is proposing that the Board of Health (the Board) amend Articles 11 (Reportable Diseases and Conditions) and 13 (Laboratories) of the New York City Health Code (Health Code) to enhance certain reporting and disease control requirements.

**When and where is the hearing?** The Department will hold a public hearing on the proposed Health Code amendments from 10:00 A.M. to 12:00 P.M. on October 25, 2016. The hearing will be at:

New York City Department of Health and Mental Hygiene  
Gotham Center  
42-09 28th Street, 14th Floor, Room 14-43  
Long Island City, NY 11101-4132

**How do I comment on the proposed amendments to the Health Code?** Anyone can comment on the proposed amendments by:

- **Website.** You can submit comments to the Department through the NYC rules website 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  
Gotham Center, 42-09 28th Street, CN 31  
Long Island City, NY 11101-4132
- **Fax.** You can fax written comments to New York City Department of Health and Mental Hygiene at (347) 396-6087.
- **Speaking at the hearing.** Anyone who wants to comment on the proposed amendments 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 or during the hearing on October 25, 2016. You can speak for up to five minutes.

**Is there a deadline to submit written comments?** Written comments must be received on or before 5:00 P.M. on October 25, 2016.

**Do you need assistance to participate in the hearing?** You must tell us 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 October 11, 2016.

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

**What authorizes the Board to make these amendments?** Section 558 of the City Charter authorizes the Board to adopt and amend the Health Code and to include in the Health Code all matters to which the authority of the Department extends. Section 556 of the Charter provides the Department jurisdiction to supervise clinical laboratories and the reporting and control of communicable diseases.

**Where can I find the Health Code and the Department's rules?** The Health Code and the rules of the Department of Health and Mental Hygiene are in Title 24 of the Rules of the City of New York.

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

#### Statement of Basis and Purpose

The Department's Division of Disease Control conducts disease surveillance and control activities for most of the diseases listed in Article 11 (Reportable Diseases and Conditions) of the Health Code. The Division of Disease Control also enforces Article 13 (Clinical Laboratories) of the Health Code, which regulates the manner in which laboratory tests must be performed and the reporting of test results. In addition, the Department is required to comply with various provisions of Part 2 of the New York State Sanitary Code, found in Title 10 of the New York Codes, Rules and Regulations, with respect to control of communicable diseases.

To conduct more effective, timely, and complete disease surveillance and control, the Department is proposing that the Board amend Health Code Articles 11 and 13 as follows:

#### **Hepatitis D and E and Other Suspected Infectious Viral Hepatitides Reporting**

The Department is requesting that the Board remove hepatitis D and E and "other suspected infectious viral hepatitides" from Health Code §11.03(a)'s list of reportable diseases and amend §13.03(b)(3), regarding reportable laboratory findings, to remove references to these infections. The New York State Sanitary Code does not require reporting of either hepatitis D or E, nor do a majority of United States jurisdictions.

Hepatitis D and E and "other suspected infectious viral hepatitides" were added to the list of reportable diseases in 2005, largely due to outbreaks of hepatitis D and E observed abroad. After 10 years of surveillance, the Department has determined that these viruses no longer need to be monitored. Hepatitis D is uncommon in the United States. It is an "incomplete virus" in that it can replicate in the presence of hepatitis B virus; thus, hepatitis D is usually detected in connection with hepatitis B infection or outbreak and need not be separately reported. Since hepatitis D cannot be transmitted in the absence of the hepatitis B virus, hepatitis B immunization and treatment are the best approaches to reduce hepatitis D incidence. There were only 21 reports of hepatitis D in New York City from 2013 to 2015.

Hepatitis E outbreaks have not occurred in New York City. Most hepatitis E cases are linked to foreign travel and most persons infected with the virus recover completely. There is no specific vaccine or

antiviral therapy for acute hepatitis E. In addition, hepatitis E cases are often misreported, for reasons including the high false-positive rate of hepatitis E tests. Of 86 hepatitis E cases reported 2006-2009, 67 percent were determined not to be actual cases and 89 percent of confirmed cases had a history of foreign travel. For these reasons, and to redirect Department resources to address more urgent public health threats, the Department stopped routine investigation of hepatitis E cases in 2010.

Any novel strains of viral hepatitis are reportable as part of providers' obligation to report unusual manifestations of disease and any newly apparent or emerging disease under Health Code §11.03(c) (1). Thus, it is unnecessary and redundant to have a separate reporting requirement for these hepatitis strains.

#### **Zika Reporting**

Pursuant to Health Code §11.03(a), all confirmed cases and carriers of an acute arboviral infection must be reported to the Department within 24 hours. Although Zika virus is currently reportable as an acute arboviral infection, the Department is requesting that the Board amend Health Code §11.03(a) to expressly include Zika virus in the list of named acute arboviruses for clarity. For reportable conditions, the Department can monitor New Yorkers to ascertain where the infection was acquired, helping the Department implement prevention strategies. The Department can also investigate to promptly recognize novel forms of transmission, including by local mosquitos.

#### **Tuberculosis Reporting for Children Less Than Five Years of Age**

Children less than five years of age infected with tuberculosis (TB) are at increased risk for progressing to active disease and developing life-threatening forms of the disease, such as disseminated TB and TB meningitis. For this reason, the Health Code requires providers to report a positive reaction to the purified protein derivative Mantoux test or other recognized TB diagnostic test for this age group.

The Department is requesting that the Board amend Health Code §11.03(a) and §11.21, regarding tuberculosis reporting, to further augment the reporting requirements for children less than five years of age to require providers to submit qualitative and quantitative test results and radiology reports where there is a positive test for TB infection, and report initiation of treatment for TB infection. This information will enable the Department to help ensure that providers have ruled out active TB disease and that they initiate appropriate treatment in patients. Further, requiring routine submission of radiology reports will save the Department time and resources currently spent to obtain such reports.

In addition, the Department is requesting that §13.03(b)(1) of the Health Code, regarding laboratory reporting of tuberculosis, be amended to require laboratories to report positive results for TB infection obtained from a blood-based test (e.g., interferon-gamma release assays) or other laboratory test when performed on children less than five years of age. Currently, only providers submit positive TB test results for this age group. Requiring reporting by both laboratory and providers will help ensure the Department is made aware of all children less than five years of age with a positive test for TB infection.

#### **Immunization Reporting**

The Department is requesting that Health Code §11.07(a) (3) be amended to allow for adult patients' non-written consent for immunization reporting (currently, consent must be in writing). State Public Health Law § 2168 was amended in 2013, with the support of the Department, to similarly allow non-written consent for reporting to the State-run registry, and Subparagraph 2168(3)(b)(i) allows non-written consent for reporting to the City registry. Written consent is a barrier to immunization reporting and eliminating this requirement will help increase provider reporting.

#### **Isolation of Suspected and Confirmed Varicella Cases**

The Department is requesting that the Board amend Health Code §11.17(a), regarding control and isolation of certain diseases, to require isolation of patients with suspected or confirmed varicella in hospitals and other clinical facilities, as is required for other communicable diseases that pose a significant threat to public health. Since varicella can be spread by air, isolation is important to reduce the risk of transmission in healthcare facilities. As a recent example, in June 2016, a one-year-old baby developed varicella infection after being exposed to patients with varicella at a medical facility.

#### **Syphilis Testing and Reporting**

The Department is requesting that the Board amend Health Code §13.03(b)(2) to require laboratories to report indeterminate syphilis test results and, where a result is indeterminate, perform a second test on the same specimen and report the result of that test. If the result of the second test is also indeterminate, the laboratory would not be required to perform additional testing. While many laboratories already report indeterminate test results, it is not explicitly required in the Health Code. The amendment will provide for more complete reporting.

In 2015, there were 1,968 indeterminate syphilis test results reported to the Department. The standard approach to resolving an indeterminate test is for a laboratory to retest the same specimen with the same or an alternate diagnostic test or for a healthcare provider to collect another specimen from the patient and test that specimen. To help ensure prompt initiation of treatment of individuals with syphilis, the Department classifies indeterminate test results as positive. This results in the initiation of case investigation and field activities, which include Department staff contacting providers, laboratories, patients, and sex partners of patients.

Requiring laboratories to routinely perform a second syphilis test at the time an indeterminate result is obtained will enable prompt treatment initiation and reduce the risk of disease progression and transmission if the test is positive. The Department will also be able to focus its resources on those New Yorkers with confirmed infections or exposure to infected persons.

Other minor language changes that have no bearing on provider reporting obligations were made to simplify and clarify §13.03(b)(2).

#### **Enteric Disease Testing and Isolate Submission**

The Department is requesting that the Board amend Health Code §13.03(b) to require laboratories to perform culture testing on all specimens that are found to be positive by a culture-independent diagnostic test (CIDT) for certain enteric bacterial pathogens (*Campylobacter*, *Listeria monocytogenes*, *Salmonella*, *Shigella*, *Vibrio*, and *Yersinia*). Culture testing involves a laboratory using a specimen to grow the pathogen; a sample of the pathogen grown by culture is termed an "isolate." The Department is also requesting that laboratories submit all resulting isolates to the Department. For Shiga toxin-producing *Escherichia coli* (STEC), laboratories would be required to submit Shiga toxin-positive broth and stool or an isolate.

Laboratories are increasingly using CIDTs and not performing culture testing. At least two New York City laboratories can no longer perform bacterial culture on stool specimens, and several New York City laboratories have limited capabilities. The Department and other public health agencies in the United States rely on testing isolates of enteric pathogens to detect and manage outbreaks. Isolates of enteric pathogens undergo testing at the Department laboratory by methods such as pulsed-field gel electrophoresis, colloquially known as 'DNA fingerprinting.' The Department combines the results of 'DNA fingerprinting' with patient interviews and environmental investigation to confirm and remediate sources of food contamination. CIDTs do not yield isolates for such testing.

The Centers for Disease Control and Prevention encourages laboratories to culture enteric specimens with a positive CIDT result (*Morbidity and Mortality Weekly Report*, Centers for Disease Control and Prevention. Bacterial Enteric Infections Detected by Culture-Independent Diagnostic Tests — FoodNet, United States, 2012–2014. *MMWR*. 2015;64(09):252-257). The Association of Public Health Laboratories (APHL) recommends that "all public health departments establish legal requirements for the submission of enteric bacterial disease isolates and/or clinical specimens by hospital and clinical laboratories. . . ." APHL's position is based in part on its finding that "[t]he rapidly increasing availability of CIDTs for foodborne pathogens poses serious challenges for public health and is threatening to derail current laboratory-based surveillance systems" (APHL Position Statement: Establishing Legal Requirements for the Submission of Enteric Disease Isolates and/or Clinical Material to Public Health Laboratories, Approved by Membership February 2015). Requiring laboratories to perform culture testing and submit resulting isolates is consistent with the APHL recommendation.

#### **Statutory Authority**

The authority for these proposed amendments is found in Sections 556 and 558 of the New York City Charter (the "Charter"). Sections 558(b) and (c) of the Charter empower the Board (the "Board") to amend the Health Code and to include all matters to which the Department's authority extends. Section 1043 grants the Department rule-making authority.

Section 556 of the Charter provides the Department with jurisdiction to protect and promote the health of all persons in the City of New York.

#### **Statement pursuant to Charter §1043**

This proposal was not included in the Department's Regulatory Agenda for FY 2017 in part because of an administrative oversight and in part because the need for the proposal was not known at the time the Regulatory Agenda was promulgated.

The proposal is as follows:

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

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

RESOLVED, that Subdivision (a) of Section 11.03 of Article 11 of

the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended to read as follows:

#### **§11.03 Diseases and conditions of public health interest that are reportable.**

(a) Cases and carriers affected with any of the following diseases and conditions of public health interest, and persons who at the time of their death were apparently so affected, shall be reported to the Department as specified in this article:

Amebiasis  
 Anaplasmosis (Human granulocytic anaplasmosis)  
 Animal bite, or exposure to rabies  
 Anthrax  
 Arboviral infections, acute (including but not limited to the following viruses: [Chikungunyavirus,] chikungunya virus, Zika virus, dengue virus, Eastern equine encephalitis virus, Jamestown Canyon virus, Japanese encephalitis virus, La Crosse virus, Powassan virus, Rift Valley fever virus, St. Louis encephalitis virus, Western or Venezuelan equine encephalitis virus, West Nile virus and yellow fever)  
 Babesiosis  
 Botulism (including infant, foodborne and wound botulism)  
 Brucellosis (undulant fever)  
 Campylobacteriosis  
 Chancroid  
 Chlamydia trachomatis infections  
 Cholera  
 Creutzfeldt-Jakob Disease  
 Cryptosporidiosis  
 Cyclosporiasis  
 Diphtheria  
 Drownings, defined as the process of experiencing respiratory impairment from submersion/immersion in liquid whether resulting in death or not  
 Ehrlichiosis (Human monocytic ehrlichiosis)  
 Encephalitis  
*Escherichia coli* 0157:H7 infections  
 Falls from windows in multiple dwellings by children sixteen (16) years of age and under  
 Food poisoning occurring in a group of two or more individuals, including clusters of diarrhea or other gastrointestinal symptoms; or sore throat which appear to be due to exposure to the same consumption of spoiled, contaminated or poisonous food, or to having eaten at a common restaurant or other setting where such food was served. Also includes one or more suspected cases of neurologic symptoms consistent with foodborne toxin-mediated, including but not limited to botulism, combroid or ciguatera fish poisoning, or neurotoxic or paralytic shellfish poisoning.  
 Giardiasis  
 Glanders  
 Gonococcal infection (gonorrhoea)  
 Granuloma inguinale  
 Hantavirus disease  
 Hemolytic uremic syndrome  
*Hemophilus influenzae* (invasive disease)  
 Hepatitis A; B; and C [D ("Delta Hepatitis"); E; and other suspected infectious viral hepatitis]  
 Herpes simplex virus, neonatal infections (in infants 60 days or younger)  
 Hospital associated infections as defined in Title 10 New York Codes, Rules and Regulations (NYCRR) Section 2.2 (New York State Sanitary Code) or its successor law, rule or regulation  
 Influenza, novel strain with pandemic potential  
 Influenza, laboratory-confirmed (only required through the Department's electronic reporting mechanism set forth in §13.03(c) of this Code)  
 Influenza-related deaths of a child less than 18 years of age  
 Legionellosis  
 Leprosy  
 Leptospirosis  
 Listeriosis  
 Lyme disease  
 Lymphocytic choriomeningitis virus  
 Lymphogranuloma venereum  
 Malaria  
 Measles (rubeola)  
 Melioidosis  
 Meningitis, bacterial causes (specify type)  
 Meningococcal, invasive disease  
 Monkeypox  
 Mumps  
 Norovirus, laboratory-confirmed (only required through the Department's electronic reporting mechanism set forth in §13.03(c) of this Code)  
 Pertussis (Whooping cough)  
 Plague  
 Poisoning by drugs or other toxic agents, including but not limited to lead poisoning consisting of a blood lead level of 10 micrograms per deciliter or higher (see also §11.09(a) of this Code); carbon monoxide

poisoning and/or a carboxyhemoglobin level above 10%; and including confirmed or suspected pesticide poisoning as demonstrated by:

- (1) Clinical symptoms and signs consistent with a diagnosis of pesticide poisoning; or
- (2) Clinical laboratory findings of blood cholinesterase levels below the normal range; or
- (3) Clinical laboratory findings or pesticide levels in human tissue above the normal range.

Poliomyelitis

Psittacosis

Q fever

Rabies

Respiratory syncytial virus, laboratory-confirmed (only required through the Department's electronic reporting mechanism set forth in §13.03(c) of this Code)

Ricin poisoning

Rickettsialpox

Rocky Mountain spotted fever

Rotavirus, laboratory-confirmed (only required through the Department's electronic reporting mechanism set forth in §13.03(c) of this Code)

Rubella (German measles)

Rubella syndrome, congenital

Salmonellosis

Severe or novel coronavirus

Shiga toxin-producing *Escherichia coli* (STEC) (which includes but is not limited to *E. coli* O157:H7)

Shigellosis

Smallpox (variola)

Staphylococcal enterotoxin B poisoning

*Staphylococcus aureus*, methicillin-resistant, laboratory-confirmed (only required through the Department's electronic reporting mechanism set forth in §13.03(c) of this Code)

*Staphylococcus aureus*, vancomycin intermediate and resistant (VISA and VRSA)

Streptococcus, Group A (invasive infections)

Streptococcus, Group B (invasive infections)

*Streptococcus pneumoniae* invasive disease

Syphilis, all stages, including congenital

Tetanus

Toxic shock syndrome

Trachoma

Transmissible spongiform encephalopathy

Trichinosis

Tuberculosis, as demonstrated by:

- (1) Positive culture for *Mycobacterium tuberculosis* complex; or
- (2) Positive DNA probe, polymerase chain reaction (PCR), or other technique for identifying [*Mycobacterium tuberculosis*] *Mycobacterium tuberculosis* from a clinical or pathology specimen; or
- (3) Positive smear for acid-fast bacillus, with final culture results pending or not available, on either a microbiology or a pathology specimen; or
- (4) Clinically suspected pulmonary or extrapulmonary (meningeal, bone, kidney, etc.) tuberculosis, such that the physician or other health care professional attending the [case] patient has initiated or intends to [initiate isolation] isolate the patient or initiate treatment for tuberculosis, or to continue or resume treatment for previously incompletely treated disease, or, if the patient is not available, that the physician or other health care professional would initiate isolation or treatment if the patient were available; or
- (5) Biopsy, pathology, or autopsy findings in lung, lymph nodes or other tissue specimens, consistent with active tuberculosis disease including, but not limited to presence of acid-fast bacilli, caseating and non-caseating granulomas, caseous matter, tubercles and [fibro-caseous] fibro-caseous lesions; or
- (6) Positive reaction to the purified protein derivative (PPD) Mantoux test, blood-based tests positive for tuberculosis infection, or other recognized diagnostic test positive for tuberculosis infection in a child less than five years of age, regardless of whether such child has had a BCG vaccination.

Tularemia

Typhoid fever

Vaccinia disease, defined as

- (1) Persons with vaccinia infection due to contact transmission; and
- (2) Persons with the following complications from smallpox vaccination: eczema vaccinatum, erythema multiforme major or Stevens-Johnson syndrome, fetal vaccinia, generalized vaccinia, inadvertent inoculation, myocarditis or pericarditis, ocular vaccinia, post-vaccinal encephalitis or encephalomyelitis, progressive vaccinia, pyogenic infection of the vaccination site, and any other serious adverse events (i.e., those resulting in hospitalization, permanent disability, life-threatening illness or death)

Varicella, laboratory-confirmed (only required through the Department's electronic reporting mechanism set forth in §13.03(c) of this Code)

*Vibrio* species, non-cholera (including *parahaemolyticus* and *vulnificus*)

Viral hemorrhagic fever

Yersiniosis

RESOLVED, that Paragraph (3) of Subdivision (a) of Section 11.07 of Article 11 of the New York City Health Code, set forth in Title 24 of

the Rules of the City of New York, be amended to read as follows:

(3) Reports of an immunization administered to any individual age nineteen and above may be submitted to the Department provided that the person administering the immunization or the person in charge of the hospital, clinic or other institution where the immunization is administered, has obtained [written] consent to report such immunization from the person to whom such immunization information relates.

RESOLVED, that Subdivision (a) of Section 11.17 of Article 11 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended to read as follows:

**§11.17 Control measures; duty to isolate; and isolation, quarantine and examination orders.**

(a) It shall be the duty of an attending physician, or a person in charge of a hospital, clinic, nursing home or other medical facility to isolate a case, carrier, suspect case or suspect carrier of diphtheria, rubella (German measles), influenza with pandemic potential, invasive meningococcal disease, measles, monkeypox, mumps, pertussis, poliomyelitis, pneumonic form of plague, severe or novel coronavirus, vancomycin intermediate or resistant *Staphylococcus aureus* (VISA/VRSA), smallpox, tuberculosis (active), vaccinia disease, viral hemorrhagic fever, varicella, or any other contagious disease that in the opinion of the Commissioner may pose an imminent and significant threat to the public health, in a manner consistent with recognized infection control principles and isolation procedures in accordance with State Department of Health regulations or guidelines pending further action by the Commissioner or designee.

RESOLVED, that Subdivision (a) of Section 11.21 of Article 11 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended by adding a new Paragraph (5) to read as follows:

(5) Reports for children less than five years of age. When a child less than five years of age has a positive test for tuberculosis infection, the physician who attends the child, or the person in charge of a hospital, dispensary or clinic giving treatment to the child, must submit to the Department reports of all qualitative and quantitative diagnostic tests for tuberculosis infection for such child, including reports of all blood-based tests and purified protein derivative (PPD) Mantoux tests (including induration where a PPD is performed); all radiological examinations (including chest x-rays, computerized tomography scans, and magnetic resonance imaging scans); and initiation of treatment for latent tuberculosis infection, in a manner prescribed by the Department.

RESOLVED, that the section heading and Subdivision (b) of Section 13.03 of Article 13 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended to read as follows:

**§13.03 Report of findings and submission of isolates.**

\* \* \*

(b)(1) With regard to tuberculosis, reports shall also include all laboratory findings which indicate presumptive or confirmed presence of tuberculosis, the results of smears found positive for acid fast bacilli (AFB), all results including negatives and species identification on samples which had positive smears, all blood-based or other laboratory test results positive for tuberculosis infection for children less than five years of age, all drug susceptibility testing results and all subsequent test results on samples collected within one year from any patient who had a previous positive AFB smear or a positive [M. tuberculosis] *Mycobacterium tuberculosis* complex test result (e.g., culture or NAA). Reports shall specify the laboratory methodology used and shall state if applicable whether the specimen was susceptible or resistant to each anti-tuberculosis drug at each concentration tested.

(2) With regard to syphilis, in addition to reporting any positive or reactive test results, any treponemal or non-treponemal results, whether qualitative or quantitative, [which are positive or reactive,] shall be reported to the Department [within 24 hours of obtaining any such positive or reactive results. In addition, any], and additional testing must be performed and the results reported, as follows:

(A) Any negative or non-reactive test results, or any quantitative results, on syphilis tests associated with [the aforementioned] positive or reactive results [, and performed by the same laboratory,] shall be separately reported to the Department [by the laboratory performing the associated syphilis tests within 24 hours of obtaining such results].

(B) Where the result of a syphilis test is indeterminate (including but not limited to a weakly reactive, minimally reactive, equivocal, and inconclusive test result), the laboratory must report the indeterminate test result to the Department. When a treponemal test result is indeterminate, the laboratory must perform, or refer the specimen to another laboratory for the performance of, a second treponemal test on the same specimen using an alternate treponemal test within 24 hours of obtaining the indeterminate result and report the results of that second test to the Department. Where the result of the second treponemal test is also indeterminate, whether performed by the same laboratory or a different laboratory, no additional treponemal

test is required. In the case of an indeterminate non-treponemal test result, the laboratory must perform, or refer the specimen to another laboratory for the performance of, a second non-treponemal test on the same specimen using the same or an alternate non-treponemal test within 24 hours of obtaining the indeterminate result, and report the results of that second test to the Department. Where the result of the second non-treponemal test is also indeterminate, whether performed by the same laboratory or a different laboratory, no additional non-treponemal test is required.

(C) If a laboratory has been referred a specimen to perform only tests associated with a positive [syphilis] result or an indeterminate result (including but not limited to a weakly reactive, minimally reactive, equivocal, and inconclusive test result) obtained at the referring laboratory, and such associated syphilis tests have yielded only negative or non-reactive results, then [, notwithstanding anything to the contrary in Subdivision (a) of this section,] only the referring laboratory shall report said negative or non-reactive results to the Department within 24 hours of obtaining the results from the testing laboratory.

(D) If a laboratory obtains negative or non-reactive results or an indeterminate result (including but not limited to a weakly reactive, minimally reactive, equivocal, and inconclusive test result) on a specimen submitted for syphilis testing and refers a specimen for further syphilis testing to another laboratory, and such further syphilis tests yield positive or reactive results, then, [notwithstanding anything to the contrary in Subdivision (a) of this section,] in addition to the testing laboratory reporting such positive or reactive results, the referring laboratory shall report both the negative or non-reactive results or indeterminate result obtained by it and also the positive or reactive results of any such further syphilis testing within 24 hours of obtaining the results from the testing laboratory.

(E) If a laboratory has been referred a specimen to perform only tests associated with an indeterminate result (including but not limited to a weakly reactive, minimally reactive, equivocal, and inconclusive test result) obtained at the referring laboratory, and such associated syphilis tests have yielded only indeterminate results, then, in addition to the testing laboratory reporting such indeterminate results, the referring laboratory shall report both the indeterminate result obtained by it and also the indeterminate results of such further syphilis testing within 24 hours of obtaining the results from the testing laboratory.

(3) With regard to hepatitis A, B, or C, (D, E or any other suspected infectious viral hepatitis), reports shall also include the results of alanine aminotransferase testing (ALT) if performed on the same specimen that tests positive for any of the reportable viral hepatitis.

\* \* \*

(4) If a culture-independent diagnostic test or other laboratory test demonstrates the possible presence of *Campylobacter*, *Listeria monocytogenes*, *Salmonella*, *Shigella*, *Vibrio*, or *Yersinia* in a patient specimen, the laboratory must perform, or refer the specimen to another laboratory for performance of, reflexive culture on the original specimen to isolate the organism. The laboratory that performed the reflexive culture must submit the resulting isolates to the Department in a manner and form prescribed by the Department. In the case of Shiga toxin-producing *Escherichia coli*, the laboratory must submit an isolate or a Shiga toxin-positive broth and stool to the Department in a manner and form prescribed by the Department.

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
(212) 788-1400

CERTIFICATION/ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Amendment of Reporting and Disease Control Requirements.

REFERENCE NUMBER: DOHMH-73

RULEMAKING AGENCY: Board of Health

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

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because the violations pose significant risks to public health and safety.

/s/ Maurice A. Goldstein  
Mayor's Office of Operations

September 8, 2016  
Date

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

CERTIFICATION PURSUANT TO  
CHARTER §1043(d)

RULE TITLE: Amendment of Disease Reporting and Testing Requirements

REFERENCE NUMBER: 2016 RG 078

RULEMAKING AGENCY: Board of Health

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

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

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: September 7, 2016

Accessibility questions: Svetlana Burdeynik, (347) 396-6078, by Tuesday, October 11, 2016, 5:00 P.M.



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HOUSING PRESERVATION AND DEVELOPMENT

■ NOTICE

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

**What are we proposing?** The Department of Housing Preservation and Development proposes to amend its rules in order to clarify the documents required for an application for successor tenancy in City-Owned buildings.

**When and where is the hearing?** The Department of Housing Preservation and Development will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 A.M. -11:00 A.M. on October 27, 2016. The hearing will be in Room 5R1, at 100 Gold Street, New York, NY 10038.

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

- **Website.** You can submit comments to the Department of Housing Preservation and Development through the NYC rules website: <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to [rules@hpd.nyc.gov](mailto:rules@hpd.nyc.gov).
- **Mail.** You can mail written comments to Assistant Commissioner Vivian Louie at: Department of Housing Preservation and Development, 100 Gold Street, Room 7T2, New York, NY 10038.
- **Fax.** You can fax written comments to the Department of Housing Preservation and Development, Attn: Vivian Louie at: (212) 863-7061.
- **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 (212) 863-7087, or you can sign up in the hearing room before the hearing begins on October 27, 2016. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** Comments must be submitted before the close of business on October 27, 2016.

**What if I need assistance to participate in the hearing?** You must tell the Department if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at (212) 863-7087. You must tell us by October 13, 2016.

**Can I review the comments made on the proposed rules?** You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public at 100 Gold Street, Office of Legal Affairs, Department of Housing Preservation and Development, New

York, NY 10038.

**What authorizes the Department of Housing Preservation and Development to make this rule?** New York City Charter §§1043 and 1802 authorize the Department of Housing Preservation and Development to make this proposed rule. This proposed rule was inadvertently not included in the Department of Housing Preservation and Development's regulatory agenda for this fiscal year.

**Where can I find the Department of Housing Preservation and Development's rules?** The rules of the Department of Housing Preservation and Development are located in Title 28 of the Rules of the City of New York.

**What rules govern the rulemaking process?** The Department of Housing Preservation and Development must meet the requirements of New York City Charter §1043 when creating or changing rules. This notice is made according to the requirements of New York City Charter §1043.

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

The Department of Housing Preservation and Development (HPD) proposes to amend its rules to clarify the requirements for an application for successor tenancy in City-Owned buildings. The proposed amendments describe the documents that must be submitted with the application form.

"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.

New material in the following rule is underlined; deleted material is in [brackets].

Section one. Section 24-07 of Chapter 24 of Title 28 of the Rules of the City of New York is amended to read as follows:

§24-07 Application for Successor Tenancy.

(a) An occupant seeking to become a tenant must show that he or she is eligible to apply for tenancy pursuant to §24-04 of these rules. Such application must be made on a form prescribed by HPD within 30 days after the permanent vacating of the apartment by the permanent tenant, [ or within 90 days after the effective date of these rules, whichever is later]

(b) An application for successor tenancy must be accompanied by the following documents, as applicable:

1. Proof of family relationship to tenant of record, such as (i) marriage certificate, (ii) domestic partnership certificate; or (iii) other proof of emotional and financial commitment, and interdependence as described in Paragraph (2) of the definition of "family member" in §24-01 of these rules, and an affidavit swearing to family relationship;

2. If occupant/applicant is claiming co-occupancy, proof of continual, permanent residence during such time period, including one or more of the following: (i) tax returns, (ii) employment records, (iii) government agency documents verifying home address; (iv) Board of Elections records; (v) driver's license issued by the Department of Motor Vehicles, identification card or automobile registration; (vi) insurance policies that indicate a home address; (vii) utility bills; (viii) credit card or banking statements; (ix) medical bills and statements; (x) school records; (xi) military service records; (xii) marriage and/or birth certificates; or (xiii) other government-issued photo identification card such as a New York City identification card;

3. If occupant/applicant is claiming co-occupancy for one year and senior citizen status, a birth certificate or other proof of age, in addition to the documents required in Paragraph 2 of this section;

4. If occupant/applicant is claiming co-occupancy for one year and a disability, proof of disability from a government agency or medical documentation completed by a medical professional, in addition to the documents required in Paragraph 2 of this section;

5. If occupant/applicant has been temporarily relocated, a copy of the relocation agreement;

6. If occupant/applicant has been temporarily relocated, proof of prior address;

7. If the apartment is a relocation apartment, documents proving acceptable temporary relocation during the required residency period pursuant to §24-06 of these rules;

8. Documents proving the non-residency of the tenant of record, which may include: (i) death certificate; (ii) divorce or separation agreement and proof of residency at new address for tenant of record (e.g., utility bills); (iii) proof of residency at new address for tenant of record who has voluntarily vacated; (iv) letter certifying permanent occupancy of tenant of record in institutional facility; or (v) other relevant documentation of circumstances leading to non-residency of tenant of record; and

9. Any other documentation required or requested by HPD for the purpose of determining eligibility of the applicant for successor tenancy.

**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:** Amendment of Rules Governing Successor Tenants in City-Owned Housing

**REFERENCE NUMBER:** 2016 RG 037

**RULEMAKING AGENCY:** Department of Housing Preservation and Development

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

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

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: August 10, 2016

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
(212) 788-1400**

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

**RULE TITLE:** Amendment of Rules Governing Successor Tenants in City-Owned Housing

**REFERENCE NUMBER:** HPD-27

**RULEMAKING AGENCY:** HPD

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

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

/s/ Guenevere Knowles  
Mayor's Office of Operations

August 10, 2016  
Date

Accessibility questions: (212) 863-7087, by: Thursday, October 13, 2016, 5:00 P.M.



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## TAXI AND LIMOUSINE COMMISSION

### ■ NOTICE

#### Notice of Promulgation of Rules

**NOTICE IS HEREBY GIVEN** in accordance with Section 1043(b) of the New York City Charter ("Charter") that the Taxi and Limousine Commission ("TLC") promulgates rules to reduce the risks of fatigued driving by its licensed drivers.

These rules are promulgated pursuant to Sections 1043 and 2303 of the Charter and Section 19-503 of the Administrative Code of the City of New York.

These rules were published on May 24, 2016, for public comment in the City Record. On June 23, 2016, a public hearing was held by the TLC at its offices, at 33 Beaver Street, 19th Floor, New York, NY 10004.

#### STATEMENT OF BASIS AND PURPOSE OF RULES

Commercial drivers' long work hours make them more susceptible than others to fatigued driving. An existing Taxi and Limousine Commission (TLC) rule addresses driver fatigue by limiting the number of

consecutive hours that a taxi driver can drive for hire to 12 hours. But the restriction does not apply to for-hire vehicle drivers and is difficult to enforce because a break of any length could reset the clock and allow a driver to comply with TLC rules while working excessive hours. Consistent with Mayor de Blasio's Vision Zero Initiative's emphasis on traffic safety, TLC reviewed the research on fatigued driving with the goal of developing new rules that would apply across its service sectors.

Research conducted by the Centers for Disease Control, the National Highway Traffic Safety Administration (NHTSA), the National Sleep Foundation, and the US Federal Highway Administration concludes that long work hours lead to acute fatigue and reduced sleep, and compounded over a period of days and weeks, may lead to chronic fatigue. For drivers, this means slowed reaction times and a reduced ability to assess situations quickly, potentially leading to driver errors and a higher risk of crashing. In addition to longer working hours being associated with fewer hours of sleep, research has shown that being awake for 18 hours results in impairment equal to blood alcohol concentrations (BAC) of 0.05 (considered driving while under the influence of alcohol in New York State), and being awake for 24 hours results in impairment equal to a BAC of 0.10 (1.25 times the 0.08 threshold for driving while intoxicated). Although the vast majority of TLC-licensed drivers are not driving an excessive number of hours, there is a small segment of drivers who do. Indeed, TLC has heard concerns from passengers that their drivers may have fallen asleep behind the wheel.

The new rule seeks to reduce the serious safety risks of fatigued driving by:

- Prohibiting a driver of a taxi or for-hire vehicle from picking up passengers for hire in more than 12 hours (whether or not they are consecutive) in any 24-hour period;
- Prohibiting a driver of a taxi or for-hire vehicle from picking up passengers for hire in more than 72 hours in any seven-day period;
- Resetting the 12-hour clock for a driver after any period in which he or she has gone at least eight consecutive hours without pickups (e.g., a driver who works 10:00 A.M. – 10:00 P.M. on Monday can begin a 12-hour shift on Tuesday as early as 6:00 A.M.); and
- Prohibiting a base from dispatching a driver to do pickups in more than 12 hours in any 24-hour period (unless that base has stopped dispatching the driver to do pickups for eight or more consecutive hours) and prohibiting a base from dispatching a driver to do pickups in more than 72 hours in any seven-day period.

Unlike the current rule, the new rule:

- **Addresses acute fatigue.** By prohibiting drivers from operating for hire for more than 12 hours in any 24-hour period, while also accounting for adequate downtime of at least 8 hours, this rule reduces the likelihood that drivers will work more hours than may be safe within one day.
- **Addresses chronic fatigue.** By prohibiting drivers from operating for hire for more than 72 hours in any seven-day period, the rule reduces the likelihood that drivers and the public will face additional safety risks associated with working long hours over many days without time for the body to recuperate. Drivers who like long shifts could work up to six 12-hour shifts in a week but would need to rest one day a week. Most drivers do not work full 12-hour shifts and work shorter shifts. These drivers could still work every day so long as the total number of hours worked per week does not exceed 72.
- **Provides flexibility for different shift types.** The rule maintains the ability for drivers to work twelve-hour shifts, a standard shift length in the taxi industry for decades, while also creating a standard that is flexible enough for drivers of any vehicle type who work less regular or "split shift" schedules.
- **Fights fatigue in both taxi and for-hire vehicle sectors.** By applying to both taxi and for-hire vehicle drivers, this rule ensures the public and drivers have the same protections regardless of the service sector.
- **Reflects cross-sector driver mobility.** This rule applies uniformly across sectors to address drivers who move back and forth between taxis and for-hire vehicles, a practice that may become more common as TLC implements a new "universal" driver's license for use in both taxis and for-hire vehicles.

The daily and weekly limits fall within a range of limits in place for professional drivers in other jurisdictions:

- In any 24-hour period, Chicago and Nevada taxi drivers may drive no more than 12 hours; Philadelphia taxi and limousine drivers may drive no more than 14 hours; and Los Angeles for-hire drivers may drive no more than 10 hours. Nationally, interstate truck and bus drivers may generally drive no more than 11 and 10 hours, respectively.
- In any seven-day period, interstate truck and bus drivers may generally drive no more than 60 hours; Los Angeles for-hire

drivers may drive no more than 70 hours; Minneapolis taxi drivers may drive no more than 72 hours; and Philadelphia and Chicago for-hire drivers may drive no more than 84 hours.

The limits on driver hours are supported by data on TLC-licensed drivers, as well as by best practices and scientific research. Over 2014 and 2015, the crash rate of taxi drivers working more than 12 hours in a day was 23.8 percent higher than for those who worked 12 or fewer hours in a day. Over the same two-year period, the crash rate of taxi drivers working more than 72 hours in a week was 8.6 percent higher than for those who worked 72 or fewer hours in a week. Moreover, the Institute of Medicine classifies transportation as a safety-sensitive industry, and work hours for professional drivers (e.g., truck drivers, aviation workers) have been regulated by the US Department of Transportation since the 1930s. NHTSA reports that fatigue impairs performance of repetitive tasks, such as driving, by reducing vigilance, slowing reaction time and creating deficits in information processing. Engineers at the University of North Florida studied bus drivers and found that more collisions occurred with an increase in weekly driving hours. The American Automobile Association Foundation reports that fatigued drivers are involved in 20 percent of fatal crashes nationally.

The population of active TLC-licensed drivers affected by the limits in the new rule is small: only three percent of drivers for hire in New York City typically drive more than 12 hours per day and less than seven percent typically drive more than 72 hours in a week. Therefore most drivers would not need to modify their working hours to comply with these rules. There is a small population of drivers whose current hours put them most at risk for fatigued driving and for whom it is particularly important to reduce working hours: the roughly one percent of drivers who drive more than 14 hours in a day and the three percent who exceed 80 hours in a week.

To enforce the rule, TLC will review trip records submitted by Medallion and Boro Taxis, as well as for-hire vehicle bases, to calculate the hours in which a driver is picking up passengers in any 24-hour or seven-day period. Trips by a driver who accepts dispatches from multiple bases, or who operates both taxis and for-hire vehicles, will be combined to determine the total number of hours worked. Bases will only be responsible for trips that they dispatch, not dispatches that their affiliated drivers accept through other bases or street hails accepted by Boro Taxis (e.g., if Base A dispatches a driver to do pickups for nine hours in a 24-hour period and Base B dispatches a driver to do pickups for an additional six hours in the same 24-hour period, then only the driver is in violation of the daily limit, not the two bases).

Given the wide range of driving schedules among the more than 140,000 TLC-licensed drivers in New York City, it is important to create clear, consistent, and enforceable rules. This rule will serve as one of many tools for the TLC to combat the complex challenge of driver fatigue. In addition to broad-based outreach to licensees to explain these rules, TLC will expand its current driver education and training materials to include strategies to combat driver fatigue, including the benefits of breaks and the importance of getting adequate rest. Moreover, in order to foster compliance with these safety measures, TLC will begin implementation of these rules by issuing warnings to drivers who exceed the daily or weekly limits. By drawing on all of these tools, TLC seeks to ensure that drivers have enough time to rest prior to transporting passengers for hire and thus help move the City a step closer to achieving Vision Zero.

This rule is authorized by Section 2303 of the New York Charter and Section 19-503 of the Administrative Code.

New material is underlined.

[Material inside brackets indicates deleted material.]

Section 1. Section 51-03 of Title 35 of the Rules of the City of New York is amended by adding the definition of "Associated Base", in alphabetical order, to read as follows:

Associated Base is a For-Hire Base using the same name or trade, business, or operating name as another For-hire Base.

Section 2. Subdivision (d) of Section 54-14 of Title 35 of the Rules of the City of New York is amended to read as follows:

(d) *Limits on [Consecutive] Hours of Driving. [A Driver must not operate a Vehicle for more than 12 consecutive hours.]*

(i) Generally, A Driver must not pick up any passenger(s) for hire in excess of the daily and weekly limits detailed in this subdivision.

A Any hour of the day or week that contains at least one pick-up of any passenger(s) for hire will be counted as one full hour toward the daily or weekly limit, regardless of the duration of the trip. If a Driver does not pick up any passenger(s) for hire during an hour (for example, because the Driver is taking a break), then such hour will not count toward the daily or weekly limit.

B The hours in which any pickups occur do not need to be consecutive in order to count toward the daily or weekly limit.



- C To determine whether a Driver is in violation of this subdivision, any pickups that a Driver makes while operating a Vehicle pursuant to this Chapter will be combined with any pickups such Driver makes while operating a Vehicle pursuant to Chapter 55.
- D Any violation of the daily limit cannot also serve as a basis for a violation of the weekly limit.
- (ii) Daily Limit. A Driver must not pick up any passenger(s) for hire in more than 12 hours in total in any 24-hour period. EXCEPTION: If a Driver picks up no passengers for hire for at least eight consecutive hours, the 12-hour count resets and such Driver may resume picking up passengers for hire.

<u>§54-14(d)(ii)</u>	<p><u>[\$25] Hours above the daily limit:</u></p> <p><u>1 hour:</u>  <u>If the limit is exceeded by one hour three times in any 7-day period: \$50 if plead guilty before a hearing; and \$75 if found guilty following a hearing.</u>  <u>If the limit is exceeded by one hour for the fourth or subsequent time in any 7-day period: \$50 if plead guilty before a hearing; and \$75 if found guilty following a hearing.</u></p> <p><u>2 hours: \$50 if plead guilty before a hearing; and \$75 if found guilty following a hearing.</u></p> <p><u>3-4 hours: \$100 if plead guilty before a hearing; and \$150 if found guilty following a hearing.</u></p> <p><u>5 hours or more: \$200 if plead guilty before a hearing; and \$300 if found guilty following a hearing.</u></p> <p><u>If guilty of three or more violations in a calendar month for exceeding the daily limit by three or more hours, penalty shall also include a suspension of at least 5 days but no more than 15 days.</u></p>	<p>Appearance NOT REQUIRED</p>
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- (iii) Weekly Limit. A Driver must not pick up any passenger(s) for hire in more than 72 hours in total in any seven-day period.

<u>§54-14(d)(iii)</u>	<p><u>Hours above the weekly limit:</u></p> <p><u>1 hour, if the limit is exceeded three or more times in a calendar month: \$50 if plead guilty before a hearing; and \$75 if found guilty following a hearing.</u></p> <p><u>2 hours: \$50 if plead guilty before a hearing; and \$75 if found guilty following a hearing.</u></p> <p><u>3-4 hours: \$100 if plead guilty before a hearing; and \$150 if found guilty following a hearing.</u></p> <p><u>5 hours or more: \$200 if plead guilty before a hearing; and \$300 if found guilty following a hearing.</u></p> <p><u>If guilty of three or more violations in a calendar month for exceeding the weekly limit by three or more hours, penalty shall also include a suspension of at least 5 days but not more than 15 days.</u></p>	<p>Appearance NOT REQUIRED</p>
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Section 3. Section 55-14 of Title 35 of the Rules of the City of New York is amended by adding a new Subdivision (i), to read as follows:

- (i) Limits on Hours of Driving.
  - (i) Generally. A Driver must not pick up any passenger(s) for hire in excess of the daily and weekly limits detailed in this subdivision.
    - A Any hour of the day or week that contains at least one pick-up of any passenger(s) for hire will be counted as one full hour toward the daily or weekly limit, regardless of the duration of the trip. If a Driver does not pick up any passenger(s) for hire during an hour (for example, because the Driver is taking a break), then such hour will not count toward the daily or weekly limit.
    - B The hours in which any pickups occur do not need to be consecutive in order to count toward the daily or weekly limit.

- C To determine whether a Driver is in violation of this subdivision, any pickups that a Driver makes while operating a Vehicle pursuant to this Chapter will be combined with any pickups such Driver makes while operating a Vehicle pursuant to Chapter 54.
- D Any violation of the daily limit cannot also serve as a basis for a violation of the weekly limit.
- (ii) Daily Limit. A Driver must not pick up any passenger(s) for hire in more than 12 hours in total in any 24-hour period. EXCEPTION: If a Driver picks up no passengers for hire for at least eight consecutive hours, the 12-hour count resets and such Driver may resume picking up passengers for hire.

<u>§55-14(i)(ii)</u>	<p><u>Hours above the daily limit:</u></p> <p><u>1 hour:</u>  <u>If the limit is exceeded by one hour three times in any 7-day period: \$50 if plead guilty before a hearing; and \$75 if found guilty following a hearing.</u>  <u>If the limit is exceeded by one hour for the fourth or subsequent time in any 7-day period: \$50 if plead guilty before a hearing; and \$75 if found guilty following a hearing.</u></p> <p><u>2 hours: \$50 if plead guilty before a hearing; and \$75 if found guilty following a hearing.</u></p> <p><u>3-4 hours: \$100 if plead guilty before a hearing; and \$150 if found guilty following a hearing.</u></p> <p><u>5 hours or more: \$200 if plead guilty before a hearing; and \$300 if found guilty following a hearing.</u></p> <p><u>If guilty of three or more violations in a calendar month for exceeding the daily limit by three or more hours, penalty shall also include a suspension of at least 5 days but no more than 15 days.</u></p>	<p>Appearance NOT REQUIRED</p>
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- (iii) Weekly Limit. A Driver must not pick up any passenger(s) for hire in more than 72 hours in total in any seven-day period.

<u>§55-14(i)(iii)</u>	<p><u>Hours above the weekly limit:</u></p> <p><u>1 hours, if the limit is exceeded three or more times in a calendar month: \$50 if plead guilty before a hearing; and \$75 if found guilty following a hearing.</u></p> <p><u>2 hours: \$50 if plead guilty before a hearing; and \$75 if found guilty following a hearing.</u></p> <p><u>3-4 hours: \$100 if plead guilty before a hearing; and \$150 if found guilty following a hearing.</u></p> <p><u>5 or more: \$200 if plead guilty before a hearing; and \$300 if found guilty following a hearing.</u></p> <p><u>If guilty of three or more violations in a calendar month for exceeding the weekly limit by three or more hours, penalty shall also include a suspension of at least 5 days but no more than 15 days.</u></p>	<p>Appearance NOT REQUIRED</p>
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Section 4. Section 59B-18 of Title 35 of the Rules of the City of New York is amended by adding a new Subdivision (e), to read as follows:

- (e) Limits on Hours of Driving.
  - (i) Generally. A Base must not dispatch a Driver to pick up any passenger(s) for hire in excess of the daily and weekly limits detailed in this subdivision.
    - A Any hour of the day or week that contains at least one pick-up of any passenger(s) for hire will be counted as one full hour toward the daily or weekly limit, regardless of the duration of the trip. If a Driver does not pick up any passenger(s) for hire during an hour (for example, because the Driver is taking a break), then such hour will not count toward the daily or weekly limit.

- B The hours in which any pickups occur do not need to be consecutive in order to count toward the daily or weekly limit.
- C Any violation of the daily limit cannot also serve as a basis for a violation of the weekly limit.
- (ii) Daily Limit. A Base or Associated Base must not dispatch a Driver to pick up any passenger(s) for hire in more than 12 hours in total in any 24-hour period. EXCEPTION: If a Base or Associated Base does not dispatch a Driver to pick up passengers in at least eight consecutive hours, the 12-hour count resets and such Base or Associated Base can resume dispatching such Driver to pick up passengers for hire.

§59B-18(e)(ii)	\$200	Appearance NOT REQUIRED
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- (iii) Weekly Limit. A Base or Associated Base must not dispatch a Driver to pick up any passenger(s) for hire in more than 72 hours in total in any seven-day period.

§59B-18(e)(iii)	\$200	Appearance NOT REQUIRED
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**HOUSING PRESERVATION AND DEVELOPMENT**

■ NOTICE

**REQUEST FOR COMMENT REGARDING AN APPLICATION FOR A CERTIFICATION OF NO HARASSMENT**

Notice Date: September 12, 2016

To: **Occupants, Former Occupants, and Other Interested Parties**

Property:	Address	Application #	Inquiry Period
	152 North 10 <sup>th</sup> Street, Brooklyn	121/16	October 4, 2004 to Present

Authority: **Greenpoint-Williamsburg Anti-Harassment Area, Zoning Resolution §§23-013, 93-90**

Before the Department of Buildings can issue a permit for the alteration or demolition of a multiple dwelling in certain areas designated in the Zoning Resolution, 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, 6<sup>th</sup> Floor, New York, NY 10038**, by letter postmarked not later than 30 days from the date of this notice or by an in-person statement made within the same period. To schedule an appointment for an in-person statement, please call (212) 863-5277 or (212) 863-8211.

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**REQUEST FOR COMMENT REGARDING AN APPLICATION FOR A CERTIFICATION OF NO HARASSMENT**

Notice Date: September 12, 2016

To: **Occupants, Former Occupants, and Other Interested Parties**

Property:	Address	Application #	Inquiry Period
	2148 5 <sup>th</sup> Avenue, Manhattan	117/16	August 1, 2013 to Present
	282 West 127 <sup>th</sup> Street, Manhattan	118/16	August 3, 2013 to Present
	20 St. Marks Place, Manhattan	119/16	August 5, 2013 to Present
	244 West 99 <sup>th</sup> Street, Manhattan	120/16	August 5, 2013 to Present
	4 East 28 <sup>th</sup> Street, Manhattan	124/16	August 15, 2013 to Present
	75 West 126 <sup>th</sup> Street, Manhattan	125/16	August 15, 2013 to Present
	185 Mac Donough Street, Brooklyn	123/16	August 15, 2013 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, 6<sup>th</sup> Floor, New York, NY 10038** by letter postmarked not later than 30 days from the date of this notice or by an in-person statement made within the same period. To schedule an appointment for an in-person statement, please call (212) 863-5277 or (212) 863-8211.

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**MAYOR'S OFFICE OF CONTRACT SERVICES**

■ NOTICE

Notice of Intent to Extend Contract(s) Not Included in FY 2017 Annual Contracting Plan and Schedule

**NOTICE IS HEREBY GIVEN** that the Mayor will be entering into the following extension(s) of (a) contract(s) not included in the FY 2017 Annual Contracting Plan and Schedule that is published pursuant to New York City Charter § 312(a):

Agency: Department of Transportation  
 FMS Contract #: 20141408131  
 Vendor: MM&P MATES  
 Description of services: Professional Maritime Training and Consulting  
 Award method of original contract: CSB  
 FMS Contract type: Professional Services  
 End date of original contract: 10/31/2016  
 Method of renewal/extension the agency intends to utilize: ONE 2 YEAR RENEWAL  
 New start date of the proposed renewed/extended contract: 11/1/2016  
 New end date of the proposed renewed/extended contract: 10/31/2018  
 Modifications sought to the nature of services performed under the contract: NONE  
 Reason(s) the agency intends to renew/extend the contract: Renewal is needed for ongoing professional Maritime training for personnel to maintain their licenses & certifications.  
 Personnel in substantially similar titles within agency: NONE  
 Headcount of personnel in substantially similar titles within agency: 0

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**SCHOOL CONSTRUCTION AUTHORITY**

■ NOTICE

**NOTICE OF FILING**

Pursuant to §1731 of the New York City School Construction Authority Act, notice has been filed for the proposed site selection of Block 125,

Lot 10, and any other property in the immediate vicinity which may be necessary for the proposed project, located in the Borough of Queens, for the construction of a new, approximately 600-seat intermediate school facility in Community School District No. 30.

The proposed site is privately owned and contains approximately 25,000 square feet (0.57 acres) of lot area. It is located at the southwest corner of 48th Street, and Barnett Avenue in the Sunnyside section of Queens. The site plan and supplemental materials summarizing the proposed action are available at:

New York City School Construction Authority
30-30 Thomson Avenue
Long Island City, NY 11101
Attention: Ross J. Holden

Comments on the proposed actions are to be submitted to the New York City School Construction Authority at the above address or by email to sites@nycsca.org and will be accepted until November 4, 2016.

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CHANGES IN PERSONNEL

CAMPAIGN FINANCE BOARD
FOR PERIOD ENDING 08/26/16

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists personnel changes for the Campaign Finance Board.

NYC EMPLOYEES RETIREMENT SYS
FOR PERIOD ENDING 08/26/16

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists personnel changes for NYC Employees Retirement System.

PRESIDENT BOROUGH OF MANHATTAN
FOR PERIOD ENDING 08/26/16

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists personnel changes for President Borough of Manhattan.

BOROUGH PRESIDENT-BROOKLYN
FOR PERIOD ENDING 08/26/16

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists personnel changes for Borough President-Brooklyn.

BOROUGH PRESIDENT-QUEENS
FOR PERIOD ENDING 08/26/16

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists personnel changes for Borough President-Queens.

OFFICE OF THE COMPTROLLER
FOR PERIOD ENDING 08/26/16

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists personnel changes for Office of the Comptroller.

OFFICE OF EMERGENCY MANAGEMENT
FOR PERIOD ENDING 08/26/16

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists personnel changes for Office of Emergency Management.

OFFICE OF MANAGEMENT & BUDGET
FOR PERIOD ENDING 08/26/16

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists personnel changes for Office of Management & Budget.

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists personnel changes for various departments.

TAX COMMISSION
FOR PERIOD ENDING 08/26/16

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists personnel changes for Tax Commission.

LAW DEPARTMENT
FOR PERIOD ENDING 08/26/16

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists personnel changes for Law Department.

LAW DEPARTMENT
FOR PERIOD ENDING 08/26/16

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists personnel changes for Law Department.

DEPARTMENT OF CITY PLANNING
FOR PERIOD ENDING 08/26/16

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists personnel changes for Department of City Planning.

DEPARTMENT OF INVESTIGATION  
FOR PERIOD ENDING 08/26/16

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists employees of the Department of Investigation.

TEACHERS RETIREMENT SYSTEM  
FOR PERIOD ENDING 08/26/16

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists teachers in the Retirement System.

CIVILIAN COMPLAINT REVIEW BD  
FOR PERIOD ENDING 08/26/16

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists members of the Civilian Complaint Review Board.

POLICE DEPARTMENT  
FOR PERIOD ENDING 08/26/16

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists police officers.

POLICE DEPARTMENT  
FOR PERIOD ENDING 08/26/16

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists police officers.

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FOR PERIOD ENDING 08/26/16

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FOR PERIOD ENDING 08/26/16

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists police officers.

Table with columns: NAME, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists various employees and their status changes.

Table with columns: NAME, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists various employees and their status changes.

POLICE DEPARTMENT FOR PERIOD ENDING 08/26/16

Table with columns: NAME, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists various employees and their status changes.

FIRE DEPARTMENT FOR PERIOD ENDING 08/26/16

Table with columns: NAME, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists various employees and their status changes.

ADMIN FOR CHILDREN'S SVCS FOR PERIOD ENDING 08/26/16

Table with columns: NAME, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists various employees and their status changes.

POLICE DEPARTMENT FOR PERIOD ENDING 08/26/16

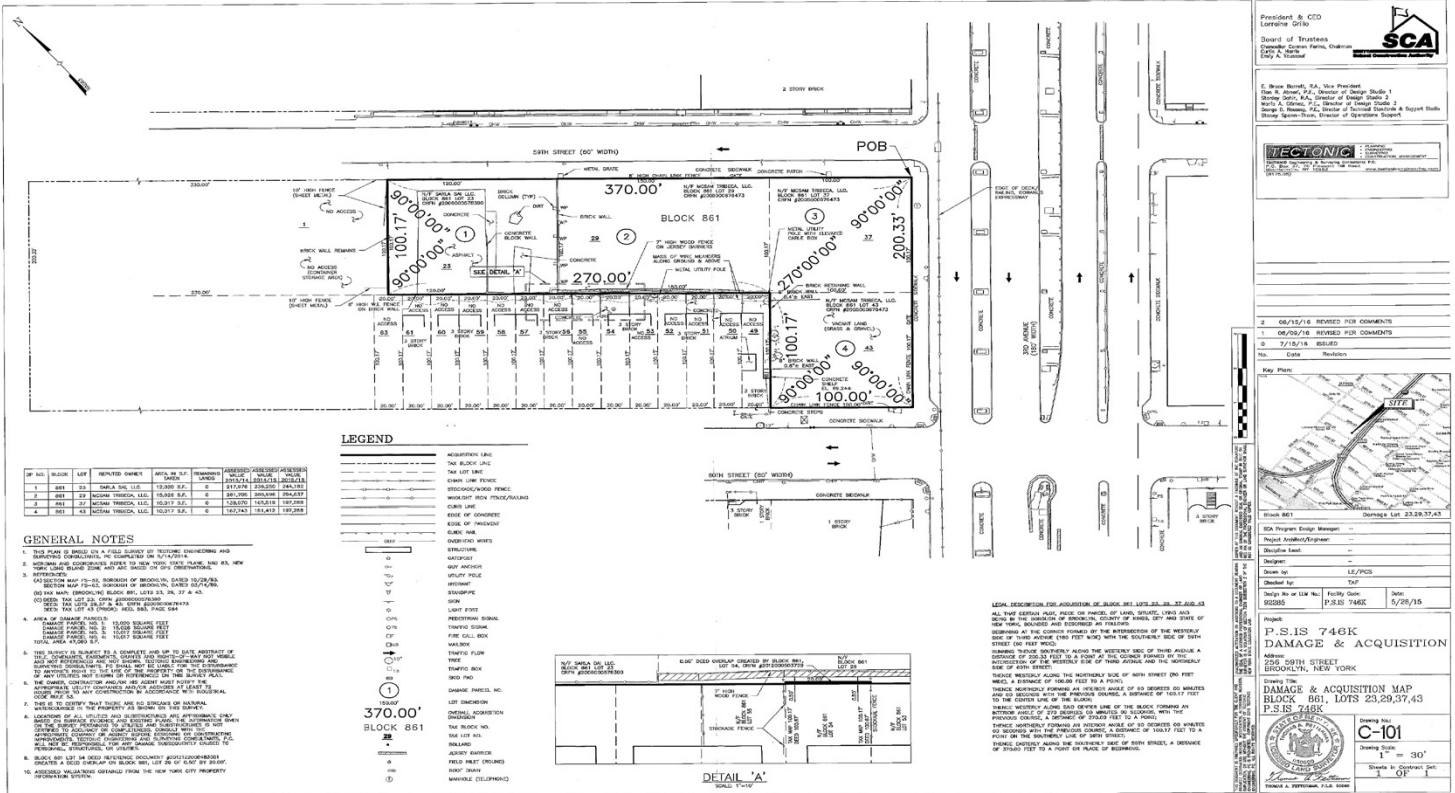
Table with columns: NAME, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists various employees and their status changes.

ADMIN FOR CHILDREN'S SVCS FOR PERIOD ENDING 08/26/16

Table with columns: NAME, SALARY, ACTION, PROV, EFF DATE, AGENCY. Lists various employees and their status changes.

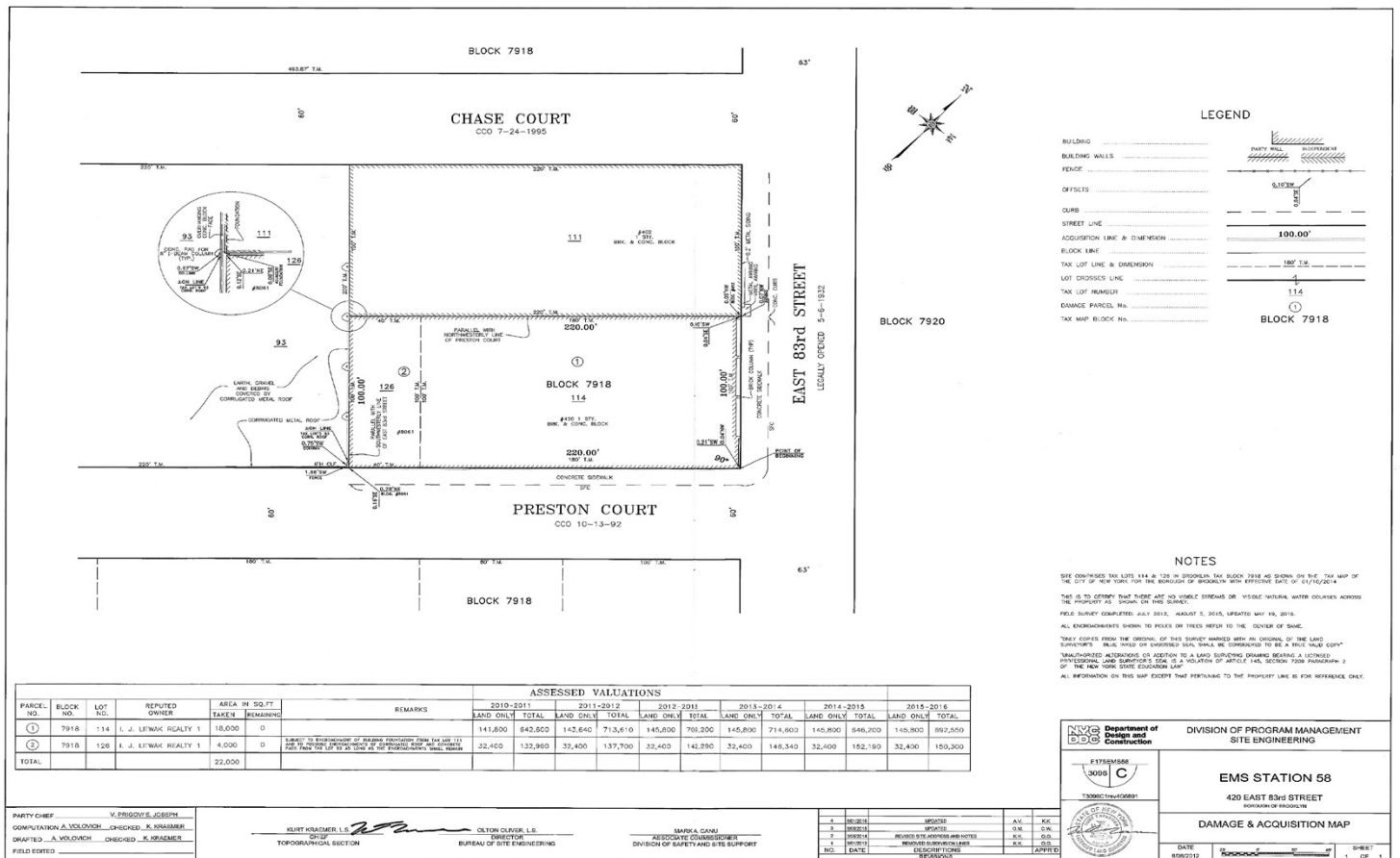


COURT NOTICE MAP FOR KINGS COUNTY, NEW YORK CITY SCHOOL CONSTRUCTION AUTHORITY INDEX # 5531/16 CONDEMNATION PROCEEDING



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COURT NOTICE MAP FOR KINGS COUNTY, EMS STATION 58 INDEX NUMBER 5530/16 CONDEMNATION PROCEEDING



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