



# THE CITY RECORD

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## THE CITY RECORD

MICHAEL R. BLOOMBERG, Mayor

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

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## PUBLIC HEARINGS AND MEETINGS

See Also: Procurement; Agency Rules

## QUEENS BOROUGH PRESIDENT

### PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Borough President of Queens, Helen Marshall, on **Thursday, March 14, 2013** at 10:30 A.M., in the Borough President's Conference Room located at 120-55 Queens Boulevard, Kew Gardens, New York 11424, on the following items:

NOTE: Individuals requesting Sign Language Interpreters should contact the Borough President's Office, (718) 286-2860, TDD users should call (718) 286-2656, no later than **FIVE BUSINESS DAYS PRIOR TO THE PUBLIC HEARING.**

**CB07 - BSA #316-12 BZ** - IN THE MATTER of an application submitted by Eric Palatnik, P.C. on behalf of Prince Plaza LLC, pursuant to Sections 73-03 and 73-36 of the NYC Zoning Resolution for a special permit to allow for the proposed physical culture establishment health spa on a portion of the third floor of a 15-story mixed use building, in a C4-2 district, located at **37-20 Prince Street**, Block 4972 Lot 43, Zoning Map 10a and 10b, Flushing, Queens.

**CB07 - BSA #338-12 BZ** - IN THE MATTER of an application submitted by Eric Palatnik, P.C. on behalf of 164-20 Northern Boulevard, LLC, pursuant to Sections 73-03 and 73-36 of the NYC Zoning Resolution to legalize an existing physical culture establishment (gym) located at a one-story and cellar commercial building in R5B/C2-2 district, located at **164-20 Northern Boulevard**, Block 5337 Lot 17, Zoning Map 10d, Flushing, Queens.

**CD02 - ULURP #110263 MMQ** - IN THE MATTER of an application submitted by the Queens West Corporation pursuant to Sections 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 of the City Map involving:

- the elimination, discontinuance and closing of 46th Road and 47th Avenue between East River Road and Center Boulevard; a portion of 46th Avenue and 47th Road between East River Road and Center Boulevard; and East River Road north of 47th Road;
- the establishment of a park addition northwest of 47th Road and Center Boulevard;
- the extinguishment of a pedestrian access easement;
- the delineation of sewer easements; and
- the adjustment of grades necessitated thereby;

including authorization for any acquisition or disposition of real property related thereto, in the Borough of Queens, Community Board 2, in accordance with Map No. 5016 dated July 23, 2012 and signed by the Borough President.

**CD01 - ULURP #110398 ZMQ** - IN THE MATTER of an application submitted by Vlacich, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 9c, by establishing within an existing R5 District a C1-2 District bounded by a line 150 feet northeasterly of **28th Avenue, 43rd Street, 28th Avenue and 42nd Street**, Borough of Queens, Community District 1, as shown in a diagram (for illustrative purposes only) dated January 22, 2013.

**CD02 - ULURP# 130159 PPQ** - IN THE MATTER of an application submitted by the Department of Citywide Administrative Services (DCAS) pursuant to Section 197-c of the New York City Charter, for the disposition of four (4) city-owned properties located on Block 276, Lot 46, Block 2545, Lot 54, Block 2573, Lot 124, and Block 2575 Lot 244, Borough of Queens.

m8-14

## CITY COUNCIL

### PUBLIC HEARINGS

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

The Subcommittee on Zoning and Franchises will hold a public hearing on the following matters in the Council Committee Room, 250 Broadway, 16th Floor, New York City, New York 10007, commencing at 9:30 A.M. on Thursday, March 14, 2013:

#### VELLA WINE BAR

**MANHATTAN CB - 8 20135309 TCM**  
Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Ambiance Wine LLC, d/b/a Vella Wine Bar, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 1480 2nd Avenue.

#### SLICE THE PERFECT FOOD

**MANHATTAN CB - 2 20135312 TCM**  
Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Slice West Village, Ltd., d/b/a Slice The Perfect Food, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located at 535 Hudson Street.

#### BONE LICK PARK

**MANHATTAN CB - 2 20135267 TCM**  
Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Summit of the World Inc., d/b/a Bone Lick Park, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located at 75 Greenwich Avenue.

#### YO-BURGER

**BRONX CB - 8 20135275 TCX**  
Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Yo-Burger Inc., d/b/a Yo-Burger, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 3720-3726 Riverdale Avenue.

The Subcommittee on Landmarks, Public Siting and Maritime Uses will hold a public hearing in the Council Committee Room, 250 Broadway, 16th Floor, New York

City, New York 10007, commencing at 11:00 A.M. on Thursday, March 14, 2013.

The Subcommittee on Planning, Dispositions and Concessions will hold a public hearing in the Council Committee Room, 250 Broadway, 16th Floor, New York City, New York 10007, commencing at 1:00 P.M. on Thursday, March 14, 2013.

m8-14

## 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, March 20, 2013 at 10:00 A.M.

#### BOROUGH OF BROOKLYN

Nos. 1, 2 & 3  
BAM SOUTH  
No. 1

**CD 2 C 130116 ZMK**  
IN THE MATTER OF an application submitted by 22 Lafayette LLC and NYC Economic Development Corporation pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 16c, by changing from a C6-1 District to a C6-2 District property bounded by Lafayette Avenue, Ashland Place, Hanson Place, and Flatbush Avenue, as shown on a diagram (for illustrative purposes only) dated November 26, 2012.

#### No. 2

**CD 2 N 130117 ZRK**  
IN THE MATTER OF an application submitted by 20 Lafayette, LLC pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, relating to Article X, Chapter I (Special Downtown Brooklyn District) to allow special permits for use and bulk modifications for cultural uses in certain C6-2 districts, in the Borough of Brooklyn, Community District 2.

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

ARTICLE X  
Chapter 1

Special Downtown Brooklyn District

\* \* \*

101-80  
Special Permits

101-81  
Special Permit for Use and Bulk Modifications for Cultural Use in Certain C6-2 Districts

In order to support a concentration of cultural uses and public open spaces in the C6-2 District bounded by Flatbush Avenue, Hanson Place, St. Felix Street and Lafayette Avenue, for #buildings# intended to be occupied in whole or in part by cultural uses, the City Planning Commission may permit the maximum #community facility floor area ratio# to be increased from 6.5 to 7.0, may permit modifications of the special #street wall# location regulations of Section 101-41, and the height and setback regulations of Section 23-632 as applied to the #residential# portion of a #building#, and modifications of applicable #sign# regulations in accordance with this Section. For the purposes of this Section 101-81, "cultural use" shall be defined as public or non-profit libraries, theaters, museums, visual or performing arts spaces, or art, music, dance, theatrical studios or other comparable uses and space occupied by such cultural use shall qualify as #community facility floor area#.

In order to grant such special permit, the conditions of

paragraph (a) and the findings of paragraph (b) shall be met. In addition, special regulations pertaining to the certificate of occupancy of such #building# shall apply as set forth in paragraph (c).

(a) Conditions

(1) A letter from the Office of the Mayor shall be submitted certifying that:

- (i) a preliminary agreement has been executed providing for a cultural facility consisting of at least 40,000 square feet of interior gross square feet in the #building# to be transferred for cultural uses and for the construction of the core and shell of such cultural facility by the applicant; and
- (ii) floor plans have been provided to the Office of the Mayor which demonstrate that the cultural facility is well-suited for cultural uses, and

(2) A legal commitment in the form of declaration of restrictions shall be executed and delivered to the City for recording upon the approval of the permit, restricting use of the #floor area# to be occupied by cultural uses to cultural use for the life of the related #development#, provided, that in the event the majority of the #zoning lot# containing such #floor area# is in the ownership of a not for profit corporation under contract with the City to provide economic development services at the time of the grant of such permit, execution and recordation of such declaration of restrictions shall be made at the time of the transfer of ownership of the majority of such #zoning lot# for purposes of facilitating the related #development#.

(b) In order to grant such permit, the Commission shall find that:

- (1) the #building# including such cultural uses is designed and arranged on the #zoning lot# in a manner that results in ample visibility of and access to the cultural uses from surrounding #streets#;
- (2) any #street wall# modifications will facilitate access to #open space# on the lot and result in a #development# that activates the pedestrian environment;
- (3) any #bulk# modifications will result in a better distribution of #bulk# on the #zoning lot# by providing for increased light and air to #open space# on the #zoning lot#;
- (4) the appearance of #bulk# is minimized through an enhanced articulation of the base and tower elements of the #building#, an enhanced relationship between the #building# and the #open space# on the #zoning lot#, and an enhanced amount and arrangement of the fenestration of the #building#; and
- (5) any modifications to #sign# regulations will result in greater visibility for the cultural uses provided on the #zoning lot#.

The City Planning Commission may prescribe appropriate additional conditions and safeguards in order to enhance the character of the #development# and to minimize adverse effects on the character of the surrounding area.

(c) Certificate of Occupancy

The Commissioner of Buildings shall not issue a temporary or permanent certificate of occupancy for more than an amount of #floor area# in the #building# equal to the #floor area# to be occupied by non-cultural uses minus 40,000 square feet of #floor area# unless the Department of Buildings has received a letter from the Office of the Mayor certifying that:

- (1) A deed transferring ownership of a majority of the #zoning lot# has been recorded and that such deed or other recorded document provides for:
- (i) the construction by transferee of the core and shell of the cultural facility described in paragraph (a)(1)(i) of this Section;
- (ii) the creation of a condominium unit for such cultural facility and the transfer of ownership thereof to the City; and
- (iii) a right of the transferor to re-enter and re-acquire the #zoning lot# should the applicant fail to complete the construction of the core and shell of the cultural facility.

Should the certification by the Office of the Mayor not be issued within 30 days of the recording of the deed or other document with the stated provisions, a copy of such deed or document may be provided to the Department of Buildings in satisfaction of such certification.

\* \* \*

No. 3

**CD 2 C 130118 ZSK**  
IN THE MATTER OF an application submitted by 22 Lafayette LLC and NYC Economic Development Corporation pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 101-81\* of the Zoning Resolution:

- to permit the maximum community floor area ratio requirements of Section 33-123 (Community facility buildings or buildings used for both community facility and commercial uses in all other Commercial Districts) to be increased from 6.5 to 7.0;
- to modify the street wall location regulations of Section 101-41 (Special Street Wall Location Regulations);
- to modify the height and setback regulations of Section 23-632 (Front setbacks in districts where front yards are not required); and
- to modify the sign regulations of Section 32-64 (Surface Area and Illumination Provisions), Section 32-65 (Permitted Projection or Height of Signs) and Section 32-68 (Permitted Signs on Residential or Mixed Buildings);

in connection with a proposed 32-story mixed use development, on property located at 113 Flatbush Avenue (Block 2110, Lots 3 and 103), in a C6-2 District\*\*, within the Special Downtown Brooklyn District.

\*Note: a zoning text amendment to create a new Section 101-81 ( Special Permit for Use and Bulk Modifications for Cultural Use in Certain C6-2 Districts) is proposed under a concurrent related application N 1130117 ZRK.

\*\*Note: The site is proposed to be rezoned from a C6-1 District to a C6-2 District under a concurrent related application (C 130116 ZMK) for a change in the Zoning Map.

Plans for this proposal are on file with the City Planning Commission and may be seen in Room 3N, 22 Reade Street, New York, N.Y. 10007.

**YVETTE V. GRUEL, Calendar Officer**  
City Planning Commission  
22 Reade Street, Room 2E  
New York, New York 10007  
Telephone (212) 720-3370

m7-20

## COMMUNITY BOARDS

### ■ PUBLIC HEARINGS

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

#### BOROUGH OF QUEENS

COMMUNITY BOARD NO. 13 - Tuesday, March 12, 2013 at 7:00 P.M., Bellerose Assembly of God Church, 240-15 Hillside Avenue, Bellerose, NY

**#C 130188ZMQ**  
Bellerose/Floral Park/Glen Oaks Rezoning:  
Public Hearing regarding a zoning map amendment.

m6-12

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

#### BOROUGH OF BROOKLYN

COMMUNITY BOARD NO. 01 - Tuesday, March 12, 2013 at 6:30 P.M., Swinging 60's Senior Citizen Center (c/o Manhattan Avenue), Brooklyn, NY

**#C 110254MMK**  
Union Avenue/McCarren Park  
IN THE MATTER OF an application submitted by the Department of Parks and Recreation and the Open Space Alliance for North Brooklyn pursuant to Sections 197-c and 199 of the New York City Charter for an amendment to the City Map, including authorization for any acquisition or disposition of real property related thereto.

m8-12

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

#### BOROUGH OF QUEENS

COMMUNITY BOARD NO. 03 - Thursday, March 14, 2013 at 7:00 P.M., ELMCOR, 107-20 Northern Boulevard, Corona, NY

**#130155PPQ**  
USTA Expansion Proposal  
Flushing Meadows/Corona Park  
IN THE MATTER OF an application submitted by the NYC Department of Parks and Recreation and the USTA National Tennis Center, Inc., pursuant to Section 197-c of the New York City Charter, for the disposition of a city-owned property to the USTA National Tennis Center, Inc. to facilitate the improvement and expansion of the USTA Billie Jean King National Tennis Center (NTC).

m8-14

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

#### BOROUGH OF BROOKLYN

COMMUNITY BOARD NO. 08 - Thursday, March 14, 2013 at 7:00 P.M., Concern for Independent Living, 151 Rochester Avenue (c/o St. Marks Avenue), Brooklyn, NY

Public Hearing on the Mayor's Preliminary Budget FY 2014.

m8-14

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

#### BOROUGH OF QUEENS

COMMUNITY BOARD NO. 04 - Tuesday, March 12, 2013 at 7:00 P.M., VFW Post #150, 51-11 108th Street, Corona, NY

#### #C 130155PPQ

USTA Expansion  
IN THE MATTER OF an application submitted by the New York City Department of Parks and Recreation (DPR) and the USTA National Tennis Center Inc., pursuant to Section 197-c of the New York City Charter, for the disposition of city-owned property to the USTA National Tennis Center, within Flushing Meadows-Corona Park.

m6-12

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

#### BOROUGH OF THE BRONX

COMMUNITY BOARD NO. 06 - Wednesday, March 13, 2013 at 6:30 P.M., Community School 211, 1919 Prospect Avenue, (betw. East Tremont Ave. and East 176th St.), Bronx, NY

Public Hearing regarding the Mayor's Preliminary Budget for Fiscal Year 2014.

m7-13

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

#### BOROUGH OF THE BRONX

COMMUNITY BOARD NO. 03 - Tuesday, March 12, 2013 at 6:00 P.M., Children's Circle Day Care Center, 1332 Fulton Avenue (betw. East 169th and West 170th St.), Bronx, NY

Public Hearing: Fiscal Year 2014 Preliminary Budget, the Board will entertain testimony related to specific programs, services or capital projects to be recommended for funding consideration as part of the FY 2014 adopted budget.

m6-12

## EMPLOYEES RETIREMENT SYSTEM

### ■ REGULAR MEETING

Please be advised that the next Regular Meeting of the Board of Trustees of the New York City Employee's Retirement System has been scheduled for Thursday, March 14, 2013 at 9:30 A.M. to be held at the New York City Employee's Retirement System, 335 Adams Street, 22nd Floor Boardroom, Brooklyn, NY 11201-3751.

m7-13

## 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 25-307, 25-308, 25,309, 25-313, 25-318, 25-320) (formerly Chapter 8-A, Sections 207-6.0, 207-7.0, 207-12.0, 207-17.0, and 207-19.0), on Tuesday, **March 19, 2013 at 9:30 A.M.** in the morning of that day, a public hearing will be held in the Conference Room at 1 Centre Street, 9th Floor, Borough of Manhattan with respect to the following properties and then followed by a public meeting. Any person requiring reasonable accommodation in order to participate in the hearing or attend the meeting should call or write the Landmarks Commission no later than five (5) business days before the hearing or meeting.

CERTIFICATE OF APPROPRIATENESS  
BOROUGH OF BROOKLYN 13-9780 – Block 2104, lot 50-320 Clermont Avenue – Fort Greene Historic District  
An Anglo-Italianate style rowhouse built c.1865. Application is to construct a rear yard addition and a rooftop bulkhead. Zoned R6B. Community District 2.

CERTIFICATE OF APPROPRIATENESS  
BOROUGH OF BROOKLYN 14-0139 – Block 208, lot 337–162 Columbia Heights – Brooklyn Heights Historic District  
A Greek Revival style rowhouse built in 1844 with a mansard altered c. 1870. Application is to enlarge masonry openings and replace windows. Community District 2.

CERTIFICATE OF APPROPRIATENESS  
BOROUGH OF BROOKLYN 12-6721 - Block 307, lot 34–226 Court Street – Cobble Hill Historic District  
A rowhouse with neo-Grec style features built in the early 1850s. Application is to construct a rear yard addition. Zoned R6. Community District 6.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF BROOKLYN 14-0704 - Block 1083, lot 16–540 4th Street – Park Slope Historic District  
A rowhouse designed by Arthur R. Koch and built in 1907. Application is to install a lamp post and excavate the basement and a portion of the rear yard. Community District 6.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 14-0883 - Block 41, lot 1–70 Pine Street, aka 2-18 Cedar Street, 171-185 Pearl Street - he Cities Service Building-Individual Landmark and Interior Landmark  
An Art Deco style skyscraper designed by Clinton and Russell, and Holton and George and built in 1932; with an Art Deco style lobby. Application is to alter exterior ground floor openings, install glass railings at the setback terraces, and alter the lobby. Community District 1.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 13-8440 - Block 13, lot 27–25 Broadway, aka 13-39 Greenwich Street, 1-9 Morris Street - Cunard Building-Individual Landmark and Interior Landmark  
A neo-Renaissance style office building designed by Benjamin Wistar Morris with consulting architects Carrere and Hastings, and built in 1917-21. Application is to install signage. Community District 1.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 14-0976 - Block 640, lot 34–755-761 Washington Street, 46-50 Bethune Street - Greenwich Village Historic District  
A two-story garage building built in 1937-1938. Application is to install storefront infill, signage, lighting, and security cameras, replace windows, and install railings. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 14-0263 -Block 589, lot 5–245 Bleecker Street - Greenwich Village Historic District Extension II  
A Federal style rowhouse built in 1829 with major alterations completed in 1926. Application is to install illuminated signage and a bracket sign, and to paint the base of the building. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 14-0893 -Block 474, lot 60–74 Grand Street - SoHo-Cast Iron Historic District  
A vacant lot, formerly occupied by a neo-Grec style loft building designed by George DaCunha and built in 1886. Application is to reconstruct the cast iron facade in conjunction with a new building. Zoned M1-5B. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 13-8441 -Block 593, lot 23–395 6th Avenue - Greenwich Village Historic District  
A commercial building built in 1876 and remodeled in 1958. Application is to alter the facade, install storefront infill, signage, and replace window. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 14-0675 -Block 434, lot 50–415 East 6th Street - East Village/Lower East Side Historic District  
A building originally built as a house in 1841 and redesigned as a neo-Classical style synagogue by Herman Horenburger in 1910. Application is to construct a rooftop addition. Zoned R7-2. Community District 3.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 14-0933 - Block 795, lot 37–635 6th Avenue - Ladies' Mile Historic District  
A Beaux Arts style department store building designed by William H. Hume & Son and built in 1900-02. Application is to demolish the penthouse, construct a rooftop addition, and install storefronts. Zoned C6-2A, C6-3A. Community District 4.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 12-4939 - Block 823, lot 68–46 West 22nd Street - Ladies' Mile Historic District  
An Italianate style dwelling built in 1850 with a mansard roof added in 1872 and a two-story storefront extension added in 1907. Application is to construct a rear addition. Zoned 8D. Community District 4.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 13-4602 Block 696, lot 65–210-218 11th Avenue, aka 564-568 West 25th Street -West Chelsea Historic District  
A Gothic Revival style factory building designed by Shire & Kaufman and built in 1910-11. Application is to establish master plan governing the future installation of windows and window louvers. Community District 4.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 13-7282 - Block 875, lot 45–31 Gramercy Park South-Gramercy Park Historic District  
An altered Italianate style house built in 1852. Application is to construct a rooftop bulkhead. Zoned R8-B. Community District 5.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 14-0116 – Block 871, lot 1–101 East 15th Street-Union Square Savings Bank - Individual Landmark  
An Academic Classic style bank building designed by Henry Bacon and built in 1905-07. Application is to install light fixtures. Community District 5.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 13-9086 - Block 849, lot 6–5 East 20th Street-Ladies' Mile Historic District  
A stable built in 1849-51 and redesigned as a Renaissance Revival style commercial building by John L. Jordon in 1901. Application is to install a stretch banner and flagpoles. Community District 5.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 14-1197 – Block 827, lot 39-202 Fifth Avenue, aka 1122 Broadway, 103 West 25th Street - Madison Square North Historic District  
A neo-Classical style office building designed by Buchman & Kahn, with Zimmerman, Saxe & Zimmerman, and built in 1918-1919. Application to construct a one-story addition and bulkhead; raise a parapet; modify and create masonry openings; replace cladding; and install shopfront infill, windows, signage, lighting, a marquee, and interior partitions at windows. Zoned C5-3. Community District 5.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 13-3794 -Block 1300, lot 1–230 Park Avenue - New York Central Building/Helmsley Building-Individual Landmark and Interior Landmark  
A Beaux-Arts style office building designed by Warren & Wetmore and built in 1927-29. Application is for alterations within the walkways and to install new paving within the walkways and sidewalk. Community District 5.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 13-9951 -Block 1015, lot 12–217-247 West 43rd Street, aka 216-232 West 44th Street - New York Times Building-Individual Landmark  
A neo-Gothic style skyscraper designed by Buchman & Fox and built 1912-1913, with a French Renaissance style addition designed by Ludlow & Peabody and built in 1922-1924, and a neo-Gothic style addition designed by Albert Kahn, Inc. and built in 1930-1932. Application is to install signage and lighting. Community District 5.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 14-1012 -Block 1029, lot 14–1780 Broadway - B.F. Goodrich Company Building - Individual Landmark  
An office building with abstract, stylized ornament that suggests the influence of Elizabethan and Jacobean sources, the English Arts and Craft movement, and the Vienna Secession, designed by Howard Van Doren Shaw in association with Ward & Willauer, and built in 1909. Application is to demolish and partially reconstruct the secondary facades and excavate the cellar. Community District 5.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 13-6559 - Block 1149, lot 36–100 West 78th Street, aka 376 Columbus Avenue - Upper West Side/Central Park West Historic District  
A Queen Anne style apartment building designed by Charles H. Bliss and built in 1886. Application is to install a pergola, and aluminum and glass railings at the roof. Community District 7.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 13-6826 - Block 1141, lot 39–118-126 West 70th Street - Central Park West/Upper West Side Historic District  
A neo-Georgian style apartment building designed by Rouse and Golstone and built in 1917. Application to modify a penthouse. Zoned R8B. Community District 7.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 12-7550 – Block 1211, lot 1-421 Amsterdam Avenue - Central Park West /Upper West Side Historic District  
A Romanesque Revival style flats building with neo-Grec elements designed by Frederick T. Camp and built in 1887-88. Application is to install storefront infill. Community District 7.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 14-0570 - Block 1244, lot 63-90-94 Riverside Drive, aka 307-319 West 81st Street – Riverside-West End Historic District Extension I  
A Renaissance Revival style apartment building designed by Schwartz & Gross and built in 1925-1926. Application to enlarge masonry openings at the penthouse. Community District 7.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 13-5497 – Block 1248, lot 19-325 West 86th Street – Riverside-West End Historic District Extension I  
A Renaissance Revival style apartment building designed by Rosario Candela and built in 1925-26. Application is to replace windows. Community District 7.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 13-0682 - Block 1407, lot 51–150 East 73rd Street, aka 1009-1017 Lexington Avenue-Upper East Side Historic District Extension  
A Colonial Revival style apartment building designed by Cross & Cross and built in 1922-23. Application is to establish a master plan governing the future replacement of windows. Community District 8.

m6-19

## TRANSPORTATION

### ■ PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN, pursuant to law, that the following proposed revocable consents, have been scheduled for a public hearing by the New York City Department of Transportation. The hearing will be held at 55 Water Street, 9th Floor, Room 945 commencing at 2:00 P.M. on Wednesday, March 20, 2013. Interested parties can obtain copies of proposed agreements or request sign-language interpreters (with at least seven days prior notice) at 55 Water Street, 9th Floor SW, New York, NY 10041, or by calling (212) 839-6550.

**#1** In the matter of a proposed revocable consent authorizing The Trustees of Columbia University in the City of New York to continue to maintain and use benches, bollards, and a

litter receptacle on the south sidewalk of West 162nd Street, between Broadway and Amsterdam Avenue, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2012 to June 30, 2022 and provides among other terms and conditions for compensation payable to the City according to the following schedule:

For the period from July 1, 2012 to June 30, 2022 - \$1,025/annum.

the maintenance of a security deposit in the sum of \$4,000 and the insurance shall be in the amount of One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) aggregate.

**#2** In the matter of a proposed revocable consent authorizing The Trustees of Columbia University in the City of New York to continue to maintain and use four bollards on the north sidewalk of West 167th Street, between Saint Nicholas Avenue and Audubon Avenue, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2012 to June 30, 2022 and provides among other terms and conditions for compensation payable to the City according to the following schedule:

For the period from July 1, 2012 to June 30, 2022 - \$500/annum.

the maintenance of a security deposit in the sum of \$5,600 and the insurance shall be in the amount of One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) aggregate.

**#3** In the matter of a proposed revocable consent authorizing Linden Central Associates, L.P. to continue to maintain and use a fenced-in planted area on the north sidewalk of Central Avenue, east of Linden Street, and continuing along the east sidewalk of Linden Street in the northerly direction, in the Borough of Brooklyn. The proposed revocable consent is for a term of ten years from July 1, 2012 to June 30, 2022 and provides among other terms and conditions for compensation payable to the City according to the following schedule:

For the period from July 1, 2012 to June 30, 2022 - \$1,429/annum.

the maintenance of a security deposit in the sum of \$12,000 and the insurance shall be the amount of One Million Dollars (1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) aggregate.

**#4** In the matter of a proposed revocable consent authorizing PLN Enterprise Inc. to construct, maintain and use a sidewalk hatch in the southeast sidewalk of seventh Avenue, northeast of 46th Street, in the Borough of Brooklyn. The proposed revocable consent is for a term of ten years from the date of approval by the Mayor to June 30, 2023 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, 2013- \$453/annum

For the period July 1, 2013 to June 30, 2014 - \$466  
For the period July 1, 2014 to June 30, 2015 - \$479  
For the period July 1, 2015 to June 30, 2016 - \$492  
For the period July 1, 2016 to June 30, 2017 - \$505  
For the period July 1, 2017 to June 30, 2018 - \$518  
For the period July 1, 2018 to June 30, 2019 - \$531  
For the period July 1, 2019 to June 30, 2020 - \$544  
For the period July 1, 2020 to June 30, 2021 - \$557  
For the period July 1, 2021 to June 30, 2022 - \$570  
For the period July 1, 2022 to June 30, 2023 - \$583

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

**#5** In the matter of a proposed revocable consent authorizing Teach Charles Trust to continue to maintain and use a stoop and a fenced-in area on the north sidewalk of Charles Street, between West 4th Street and Bleecker Street, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2012 to June 30, 2022 and provides among others terms and conditions for compensation payable to the city according to the following schedule:

For the period from July 1, 2012 to June 30, 2022 - \$25/ annum.

the maintenance of a security deposit in the sum of \$3,500 and the insurance shall be in the amount of One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (2,000,000) aggregate.

f28-m20

## COURT NOTICE

### SUPREME COURT

#### ■ NOTICE

#### QUEENS COUNTY IA PART 8 NOTICE OF ACQUISITION INDEX NUMBER 24414/12

In the Matter of 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 ATLANTIC AVENUE EXTENSION

located in the area generally bounded by 94th Avenue, 138th Place, 95th Avenue, and the Van Wyck Expressway, in the Borough of Queens, City and State of New York.

**PLEASE TAKE NOTICE**, that by order of the Supreme Court of the State of New York, County of Queens, IA Part 8 (Hon. Jaime A. Rios, J.S.C.), duly entered in the office of the Clerk of the County of Queens on February 5, 2013, the application of the City of New York to acquire certain real property, for the ATLANTIC AVENUE EXTENSION, was granted and the City was thereby authorized to file an acquisition map with the Office of the City Register. Said map, showing the property acquired by the City, was filed with the City Register on February 20, 2013. Title to the real property vested in the City of New York on February 20, 2013.

**PLEASE TAKE FURTHER NOTICE**, that the City has acquired the following parcels of real property:

| Damage Parcel | Block | Lot |
|---------------|-------|-----|
| 1             | 9990  | 5   |
| 2 and 2A      | 9990  | 34  |
| 3             | 9990  | 46  |

**PLEASE TAKE FURTHER NOTICE**, that pursuant to said Order and to §§ 503 and 504 of the Eminent Domain Procedure Law of the State of New York, each condemnee shall have a period of one calendar year from the date of service of the Notice of Acquisition for this proceeding, to file a written claim, demand or notice of appearance with the Clerk of the Court of Queens County, and to serve within the same time a copy thereof on the Corporation Counsel of the City of New York, Tax and Bankruptcy Litigation Division, 100 Church Street, New York, New York 10007. Pursuant to EDPL § 504, the claim shall include:

- A) the name and post office address of the condemnee;
- B) reasonable identification by reference to the acquisition map, or otherwise, of the property affected by the acquisition, and the condemnee's interest therein;
- C) a general statement of the nature and type of damages claimed, including a schedule of fixture items which comprise part or all of the damages claimed; and,
- D) if represented by an attorney, the name, address and telephone number of the condemnee's attorney.

Pursuant to EDPL § 503(C), in the event a claim is made for fixtures or for any interest other than the fee in the real property acquired, a copy of the claim, together with the schedule of fixture items, if applicable, shall also be served upon the fee owner of said real property.

**PLEASE TAKE FURTHER NOTICE**, that, pursuant to § 5-310 of the New York City Administrative Code, proof of title shall be submitted to the Corporation Counsel of the City of New York, Tax and Bankruptcy Litigation Division, 100 Church Street, New York, New York, 10007 on or before February 20, 2015 (which is two (2) calendar years from the title vesting date).

Dated: February 27, 2013. New York, New York  
MICHAEL A. CARDOZO,  
Corporation Counsel of the City of New York  
100 Church Street  
New York, New York 10007  
Tel. (212) 356-2140

m1-14

## PROPERTY DISPOSITION

## CITYWIDE ADMINISTRATIVE SERVICES

### CITYWIDE PURCHASING

#### NOTICE

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

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

jy24-d1

## POLICE

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

The following listed property is in the custody, of the Property Clerk Division without claimants. Recovered, lost, abandoned property, property obtained from prisoners, emotionally disturbed,

intoxicated and deceased persons; and property obtained from persons incapable of caring for themselves.

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

### INQUIRIES

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

### FOR MOTOR VEHICLES

(All Boroughs):

\* **Springfield Gardens Auto Pound, 174-20 North Boundary Road, Queens, NY 11430, (718) 553-9555.**

\* **Erie Basin Auto Pound, 700 Columbia Street, Brooklyn, NY 11231, (718) 246-2030.**

### FOR ALL OTHER PROPERTY

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

j1-d31

## PROCUREMENT

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

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

*"The City of New York is committed to achieving excellence in the design and construction of its capital program, and building on the tradition of innovation in architecture and engineering that has contributed to the City's prestige as a global destination. The contracting opportunities for construction/construction services and construction-related services that appear in the individual agency listings below reflect that commitment to excellence."*m1-14

## CHIEF MEDICAL EXAMINER

### AWARDS

*Services (Other Than Human Services)*

**LABORATORY MANAGEMENT CONSULTANT SERVICES** – Negotiated Acquisition – PIN# 81613ME0027 – AMT: \$52,000.00 – TO: Sorenson Forensics LLC, 2511 South West Temple, Salt Lake City, UT 84115. m12

## CITYWIDE ADMINISTRATIVE SERVICES

### CITYWIDE PURCHASING

#### SOLICITATIONS

*Services (Other Than Human Services)*

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

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

*Department of Citywide Administrative Services, 66-26 Metropolitan Avenue, Queens Village, NY 11379. Donald Lepore (718) 417-2152; Fax: (212) 313-3135; [dlepor@dcas.nyc.gov](mailto:dlepor@dcas.nyc.gov)*

s6-f25

### MUNICIPAL SUPPLY SERVICES

#### AWARDS

*Goods*

**SUPPLEMENT, CITY COUNCIL MEETINGS** – Competitive Sealed Bids – PIN# 8571300075 – AMT: \$2,935,290.00 – TO: Vanguard Direct Inc., 519 Eight Avenue, 23rd Floor, NY, NY 10018. m12

**CHECKPOINT SOFTWARE TECHNOLOGY - DOITT** – Intergovernmental Purchase – PIN# 8571300239 – AMT: \$493,508.00 – TO: Accessit Group, Inc., 11 Penn Plaza, 5th Floor, NY, NY 10001. OGS Contr. PT61429. Suppliers wishing to be considered for a contract with the Office of General Services of New York State are advised to contact the Procurement Services Group, Corning Tower, Room 3711, Empire State Plaza, Albany, NY 12242 or by phone: 518-474-6717. m12

### VENDOR LISTS

*Goods*

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

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

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

j2-d31

## DESIGN & CONSTRUCTION

### SOLICITATIONS

*Construction / Construction Services*

**LNMA12WAS, NYPL WASHINGTON HEIGHTS BRANCH LIBRARY - BUILDING RENOVATION AND SYSTEMS UPGRADES** – Sole Source – Available only from a single source - PIN# 8502013LN0001P – DUE 03-22-13 AT 4:00 P.M. – The Department of Design and Construction intends to enter into a sole source contract with The New York Public Library for the above project. The contractor must have unique knowledge of the site, and must guarantee the assumption of all costs above the estimated cost of construction. Any firm which believes that it is also qualified to provide these services or would like to provide such services in the future is invited to indicate by letter, which must be received no later than March 22, 2013 to Steven Wong, Program Director, 5th Floor, 30-30 Thomson Avenue, Long Island City, New York 11101, (718) 391-2550, [wongs@ddc.nyc.gov](mailto:wongs@ddc.nyc.gov)

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

*Department of Design and Construction, 30-30 Thomson Avenue, Long Island City, NY 11101. Jia Mei (718) 391-2264; Fax: (718) 391-1885; [meij@ddc.nyc.gov](mailto:meij@ddc.nyc.gov)*

m11-15

## HEALTH AND HOSPITALS CORPORATION

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

j1-d31

## HEALTH AND MENTAL HYGIENE

### AGENCY CHIEF CONTRACTING OFFICER

#### SOLICITATIONS

*Human / Client Services*

**EARLY INTERVENTION IN-HOUSE RESPITE SERVICES** – Request for Proposals – PIN# 11EIO23100R0X00 – DUE 04-18-13 AT 2:00 P.M. – The Department is seeking appropriately qualified vendors to provide citywide in-house respite services to caregivers of eligible children enrolled in Early Intervention Program (EIP).

The Proposal will be available for pick up starting March 18, 2013 between the hours of 10:00 A.M. to 4:00 P.M. on weekdays only, and from the DOHMH website <http://www.nyc.gov/health/contracting>. Any questions regarding this Request for Proposal must be sent in writing to the above officer at [EIRespiteRFP@health.nyc.gov](mailto:EIRespiteRFP@health.nyc.gov)

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

*Health and Mental Hygiene, 42-09 28th Street, 17th Floor, CN30A, New York, NY 11101. Jeannette Soto-Pacheco (347) 396-6639; Fax: (347) 396-6758; [EIRespiteRFP@health.nyc.gov](mailto:EIRespiteRFP@health.nyc.gov)*

m12

**PROVISION OF PREGNANCY RISK ASSESSMENT MONITORING SYSTEMS OPERATIONS** – Request for Proposals – PIN# 12FN025900R0X00 – DUE 04-30-13 AT 2:00 P.M. – The Department's Bureau of Maternal Infant and Reproductive Health is seeking an appropriately qualified vendor to conduct Pregnancy Risk Assessment Monitoring System (PRMS) data collection. The vendor will collect information from approximately 2,200 NYC resident women per year.

The Proposal will be available for pick up starting March 18, 2013, between the hours of 10:00 A.M. to 4:00 P.M. on weekdays only and from DOHMH website <http://www.nyc.gov/health/contracting>. Any questions regarding this Request for Proposal must be sent in writing to the above officer at [PRAMRFP@health.nyc.gov](mailto:PRAMRFP@health.nyc.gov)

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

*Health and Mental Hygiene, 42-09 28th Street, 17th Floor, CN30A, New York, NY 11101. Jeannette Soto-Pacheco (347) 396-6639; Fax: (347) 396-6758; [PRAMSRFP@health.nyc.gov](mailto:PRAMSRFP@health.nyc.gov)*

m12

**HUMAN RESOURCES ADMINISTRATION**

**CONTRACTS**

■ INTENT TO AWARD

*Human / Client Services*

**CITYWIDE HOME ATTENDANT SERVICES TO MEDICAID ELIGIBLE INDIVIDUALS** – Negotiated Acquisition – PIN# 06908X0076CNVN0033 – DUE 03-13-13 AT 5:00 P.M. – \*For Informational Purposes Only\* HRA intends to extend the contract with the following vendor:  
\*Medicaid Management Information System (MMIS)\* Human Development Association located at 12 Heyward Street, Brooklyn, NY 11249.  
PIN: 06912H079216 - Contract Amount: \$0 City Share/51,982,765 (MMIS) Service Area in Brooklyn.

The Human Resources Administration/Home Care Services Program (HRA/HCS) plans to enter into negotiations with the vendors that currently provide home Attendant Services to Medicaid Eligible Individuals in the borough of Brooklyn. The extension of this contract will allow this vendor to continue to provide mandated Long Term Care Program.

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, 180 Water Street New York, NY 10038. Barbara Beirne (212) 331-3436; beirneb@hra.nyc.gov*

m6-12

**PARKS AND RECREATION**

**CONTRACT ADMINISTRATION**

■ AWARDS

*Construction / Construction Services*

**PREPARATION OF PLANTING SITES INCLUDING INVASIVE SPECIES REMOVAL AND PLANTING MAJOR TREES** – Competitive Sealed Bids – PIN# 8462012C000C16 – AMT: \$1,331,000.00 – TO: The Dawson Corporation, 631 Wright Debow Road, Jackson, NJ 08527. And replacement major trees and container trees at sites located in the Boroughs of Queens and Staten Island, known as Contract #CNYG-1512M PLaNYC.

m12

**REVENUE AND CONCESSIONS**

■ SOLICITATIONS

*Services (Other Than Human Services)*

**SALE OF FOOD FROM MOBILE FOOD UNITS AT VARIOUS LOCATIONS** – Competitive Sealed Proposals – Judgment required in evaluating proposals - PIN# Q-B-JB-O-2013 – DUE 04-08-13 AT 3:00 P.M. – The New York City Department of Parks and Recreation ("Parks") is issuing a Request for Proposals (RFP) for the sale of food from mobile food units at various locations on New York City parklands throughout Jamaica Bay, and corresponding sale of food from mobile food units at various locations in the Jamaica Bay Unit of Gateway National Recreation Area, a unit of the National Park System.

There will be a recommended on-site proposer meeting and site tour on Wednesday, March 20, 2013 at 10:00 A.M. We will begin the meeting in the multipurpose room (to the right of the lobby and down the hall) of Gateway National Recreation Area's Ryan Visitor Center at Floyd Bennett Field, which is located at Aviation Road and Flatbush Avenue, Brooklyn. If you are considering responding to this RFP, please make every effort to attend this recommended meeting and site tour.

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 5th Avenue, Rm. 407, New York, NY 10065. Alexander Han (212) 360-1397; Fax: (212) 360-3434; Alexander.Han@parks.nyc.gov*

m6-19

**INSTALLATION, OPERATION AND MAINTENANCE OF MULTIPLE SITE BICYCLE RENTAL STATIONS**

Competitive Sealed Proposals – Judgment required in evaluating proposals - PIN# Q-B-JB-BR-2013 – DUE 04-08-13 AT 3:00 P.M. – The New York City Department of Parks and Recreation ("Parks") is issuing a Request for Proposals (RFP) for the installation, operation and maintenance of multiple site bicycle rental stations on New York City parklands throughout Jamaica Bay, and corresponding installation, operation and maintenance of multiple site bicycle rental stations in the Jamaica Bay Unit of Gateway National Recreation Area, a unit of the National Park System.

There will be a recommended on-site proposer meeting and site tour on Wednesday, March 20, 2013 at 10:00 A.M. We will begin the meeting in the multipurpose room (to the right of the lobby and down the hall) of Gateway National Recreation Area's Ryan Visitor Center at Floyd Bennett Field, which is located at Aviation Road and Flatbush Avenue, Brooklyn. If you are considering responding to this RFP, please make every effort to attend this recommended meeting and site tour.

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 5th Avenue, Rm. 407, New York, NY 10065. Alexander Han (212) 360-1397; Fax: (212) 360-3434; Alexander.Han@parks.nyc.gov*

m6-19

**INSTALLATION, OPERATION AND MAINTENANCE OF MULTIPLE SITE KAYAK AND CANOE LAUNCH AND RENTAL STATIONS** – Competitive Sealed Proposals – Judgment required in evaluating proposals - PIN# Q-B-JB-RB-2013 – DUE 04-08-13 AT 3:00 P.M. – The New York City Department of Parks and Recreation ("Parks") is issuing a Request for Proposals (RFP) for the installation, operation and maintenance of a multiple site kayak and canoe launch and rental stations on New York City parklands throughout Jamaica Bay, and corresponding installation, operation and maintenance of multiple site kayak and canoe launch and rental stations in the Jamaica Bay Unit of Gateway National Recreation Area, a unit of the National Park System.

There will be a recommended on-site proposer meeting and site tour on Wednesday, March 20, 2013 at 10:00 A.M. We will begin the meeting in the multipurpose room (to the right of the lobby and down the hall) of Gateway National Recreation Area's Ryan Visitor Center at Floyd Bennett Field, which is located at Aviation Road and Flatbush Avenue, Brooklyn. If you are considering responding to this RFP, please make every effort to attend this recommended meeting and site tour.

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 5th Avenue, Rm. 407, New York, NY 10065. Alexander Han (212) 360-1397; Fax: (212) 360-3434; Alexander.Han@parks.nyc.gov*

m6-19

**POLICE**

**CONTRACT ADMINISTRATION UNIT**

■ SOLICITATIONS

*Services (Other Than Human Services)*

**HVAC/DUCT CLEANING AT CONEY ISLAND FIRING RANGE** – Competitive Sealed Bids – PIN# 05613B0003 – DUE 04-02-13 AT 11:00 A.M. – The New York City Police Department seeks a vendor for furnishing all labor and material necessary and required for HVAC maintenance and duct cleaning services for the ventilation system at the Coney Island firing range - EPIN: 05613B0003 - Agency PIN: 056130000861. A mandatory pre-bid conference is scheduled to be held at 11:00 A.M., Thursday, March 21, 2013, at Coney Island Firing Range, Brooklyn, New York. If you are interested, you may obtain a free copy of the bid package in 2 ways: (1) In person, Monday - Friday, 9:00 A.M. - 5:00 P.M. at Contract Administration Unit, 51 Chambers Street, Room 310, New York, NY 10007. (2) Contact Stephanie Gallop.

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.  
*Police Department, 51 Chambers Street, Room 310, New York, NY 10007. Stephanie Gallop (646) 610-5225; Fax: (646) 610-5224; stephanie.gallop@nypd.org*

m12

**TRANSPORTATION**

■ INTENT TO AWARD

*Services (Other Than Human Services)*

**ADDITIONAL ASPHALT DELIVERY INTO CITY TRUCKS - ZONE 2, THE BRONX** – Negotiated Acquisition – Available only from a single source - PIN# 84110MBRW536 – DUE 04-01-13 AT 2:00 P.M. – The Department of Transportation intends to enter into a negotiated acquisition extension with Peckham Materials Corp. to provide additional asphalt delivered into City trucks. In accordance with Section 3-04(b)(2)(iii) of the Procurement Policy Board Rules, DOT intends to use the negotiated acquisition process to extend the subject contract terms to ensure continuity of services. The term of the contract is projected to be from May 1st, 2013 to September 30th, 2013. This contract is time sensitive because the current contract with Peckham Materials Corp. expires on April 30th, 2013. In order to ensure continuity of asphalt production and resurfacing operations while DCAS is currently procuring the next asphalt contract, DOT needs to retain the current contractor as a supplier of asphalt until the next contract is registered. DOT anticipates utilization of about 70,000 additional tons of asphalt in this time frame. Suppliers may express interest in future procurements by contacting Jason Gittens, Department of Transportation, Office of the ACCO, 55 Water Street, 8th Floor, New York, NY 10041, no later than April 1st, 2013.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*Department of Transportation, Office of the Agency Chief Contracting Officer, Contract Management Unit, 55 Water Street, 8th Floor, New York, NY 10041. Jason Gittens (212) 839-9249.*

m12-18

**TRIBOROUGH BRIDGE & TUNNEL AUTHORITY**

**MTA BRIDGES AND TUNNELS**

■ SOLICITATIONS

*Goods*

**2013 MEDIUM DUTY WRECKER** – Competitive Sealed Bids – PIN# OP1487000000 – DUE 03-27-13 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.  
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**AGENCY RULES**

**CIVILIAN COMPLAINT REVIEW BOARD**

■ NOTICE

**Notice of Adoption of Revised Rules**

Notice is hereby given in accordance with section 1043 of the Charter of the City of New York ("Charter") that on December 12, 2012 the Civilian Complaint Review Board ("CCRB") approved the adoption of revised rules governing the prosecution of certain of the CCRB's substantiated cases, jurisdiction, the filing of complaints, the recording of investigative interviews, letters to complainants, mediation and the re-opening of closed cases.

These rule changes were made pursuant to sections 1043 and 440(c)(2) of the Charter.

A public hearing to consider the adoption of these rule changes was held by the CCRB on November 28, 2012.

Note: [Material inside brackets has been deleted] Material underlined has been added.

Section 1. The definitions in section 1-01 of Title 38A of the Rules of the City of New York are amended to read as follows:

§ 1-01 **Definitions.**

As used in this chapter:

\* \* \*

**Police Commissioner.** "Police Commissioner" means the Police Commissioner of the New York City Police Department.

\* \* \*

Section 2. Section 1-02 of Title 38A of the Rules of the City of New York is amended to read as follows:

§ 1-02 **Jurisdiction.**

(a) The Board shall have the power to receive, investigate, hear, make findings and recommend action upon complaints by members of the public against uniformed members of the New York City Police Department that allege misconduct involving excessive use of force, abuse of authority, discourtesy, or use of offensive language, including, but not limited to, slurs relating to race, ethnicity, religion, gender, sexual orientation and disability.

(b) The jurisdiction of the Board shall include the prosecution of certain substantiated civilian complaints pursuant to a Memorandum of Understanding (MOU) executed by the Board and the Police Department on April 2, 2012, (as from time to time amended) during the period that such MOU is applicable.

(c) The findings and recommendations of the Board, and the basis therefor, regarding case investigations and administrative prosecutions shall be submitted to the Police Commissioner.

Section 3. Section 1-11 of Title 38A of the Rules of the City of New York is amended to read as follows:

§ 1-11 **[Written]Filing Complaints.**

Written complaints may be [mailed] sent to the Board's offices by mail or email or may be submitted in person at that office during operating hours. Written complaints may be filed on forms furnished by the Board. The Board will accept written complaints filed at local precincts and forwarded by the Police Department. The Board will also accept complaints submitted through the CCRB's website and by such other methods as the Board may determine.

Section 4. Section 1-24 of Title 38A of the Rules of the City of New York is amended to read as follows:

\* \* \*

§1-24 **Conduct of Interviews.**

\* \* \*

(i) Interviews shall be recorded [either mechanically or by a stenographer] by the CCRB. No other recordings are permitted.

\* \* \*

Section 5. Subchapter E of Title 38A of the Rules of the City of New York, relating to administrative prosecution, is hereby REPEALED, and a new Subchapter E is added, to read as follows:

Subchapter E - Administrative Prosecution

§1-41 **Introduction.**

(a) This Subchapter E is adopted pursuant to a Memorandum of Understanding (the "MOU") dated April 2, 2012 and made between the Police Commissioner and the Chair, concerning the administrative prosecution by the Board of cases in which it finds that an allegation falling within its jurisdiction has been substantiated against an officer and recommends that formal charges and specifications be brought against such officer. The MOU takes effect on the date on which this Subchapter E takes effect and applies to allegations substantiated by the Board and in which the Board has recommended that charges and specifications be preferred on or after such date. This Subchapter E shall not create any rights or benefits in any third parties.

(b) In this subchapter:

“Case” means in relation to any Prosecution, the subject matter of such Prosecution.

“Charges” means charges and specifications brought by the Board against an officer in respect of an allegation falling within the jurisdiction of the Board and substantiated by the Board with the recommendation that charges and specifications be preferred.

“Police Department Advocate” means the department advocate, and includes any assistant department advocate, of the Police Department.

“Prosecution” means the administrative prosecution of Charges by the Board before a Trial Commissioner and includes all matters ancillary to or undertaken in anticipation of or in preparation for such prosecution.

“Trial Commissioner” means in relation to any Prosecution, the deputy commissioner of trials or assistant deputy commissioner of trials of the Police Department, having jurisdiction over such Prosecution.

#### §1-42 Prosecution of Charges.

(a) Where the Board finds an allegation falling within its jurisdiction to have been substantiated against an officer and recommends that Charges be brought against such officer the Board shall promptly notify the Police Commissioner of its finding and recommendation.

(b) In those limited circumstances where the Police Commissioner determines that the Board’s prosecution of the Charges would be detrimental to the Police Department’s disciplinary process, the Police Commissioner shall so notify the CCRB. Such instances shall be limited to cases in which there are parallel or related criminal investigations, or when, in the case of an officer with no disciplinary history or prior substantiated CCRB complaints, based on such officer’s record and disciplinary history the interests of justice would not be served.

(c) Any request by the Police Commissioner for the Board to refrain from prosecution of Charges shall be made in writing to the CCRB and shall include a detailed explanation for such request and a statement detailing what discipline if any the Police Commissioner would pursue on such officer.

(d) The CCRB may reject such request to refrain from prosecution within five business days of receipt of such request. Such rejection shall be made in writing and shall include a statement rebutting the Police Commissioner’s explanation for his or her request.

(e) The Police Commissioner may deny such rejection within five business days of receipt of such rejection. Such denial shall be made in writing to the CCRB and shall include a detailed response to the CCRB’s rebuttal. Upon receipt of such denial the Board shall refrain from further prosecution of the case.

(f) In all cases other than those which the Board is to refrain from prosecuting, the CCRB shall promptly draft, and request that the Police Department Advocate serve on behalf of the Board, Charges against the subject officer.

(g) If the CCRB believes that suspension or modified assignment of a subject officer would be prudent while a Prosecution is pending, the CCRB shall make such recommendation to the Police Commissioner, who shall determine whether to suspend or modify the assignment of such officer.

#### §1-43 Expedited Cases

If the CCRB receives notice from the Police Department, or it becomes clear to the CCRB, that a Case requires expedited prosecution, the CCRB shall make every reasonable effort to conclude such prosecution within the required time frame. If the CCRB determines that it will not be able to conclude such prosecution within such time frame the CCRB shall decline to prosecute such case and shall request that the Police Department Advocate undertake such prosecution.

#### §1-44 Other Misconduct

If during the course of a Prosecution the CCRB becomes aware of possible misconduct falling outside its jurisdiction, such as the making of a false statement by an officer, the Board shall not itself prosecute such possible misconduct but shall instead immediately refer such possible misconduct to the Police Department for investigation and possible prosecution by the Police Department. The CCRB shall provide to the Police Department such assistance as may be requested, in the investigation or prosecution by the Police Department of such possible misconduct and shall, if necessary, coordinate its Prosecution with that of the Police Department.

#### §1-45 Police Department Procedures and Disciplinary Practices

(a) The Police Commissioner shall retain in all respects the authority and discretion to make final disciplinary determinations.

(b) The Board shall establish and maintain a unit of appropriately qualified and experienced attorneys and support staff of sufficient number to undertake in a timely and effective manner the responsibility for the administrative prosecution of substantiated civilian complaints.

(c) The Board’s attorneys and support staff shall be trained in all aspects of the Police Department’s procedures and policies as they affect the administrative prosecution of its cases.

(d) The Board’s attorneys and support staff shall, to the extent practicable and relevant, familiarize themselves with and apply in relation to Prosecutions, Police Department disciplinary policies and standards.

(e) The Police Department shall provide all reasonable assistance requested by the CCRB in the creation and maintenance of this unit, including training and guidance in

both legal and administrative matters.

(f) The CCRB may during the course of a Prosecution contact the Police Department Advocate to request the assistance of employees of the Police Department in the evaluation, preparation and prosecution of the Case. In such instances, the Police Department Advocate shall arrange for the Police Department to provide reasonable assistance to the CCRB.

#### §1-46 Other Matters Relating to Administrative Prosecutions

(a) The Police Department shall upon receipt send to the CCRB a copy of each report and recommendation issued by the Trial Commissioner in respect of a Prosecution. The CCRB may provide to the Trial Commissioner a letter commenting on such report and recommendation, commonly referred to as a “Fogel” letter.

(b) In all cases in which a Prosecution ends without the issuance by the Trial Commissioner of a report and recommendation, the CCRB shall forward to the Police Commissioner a final recommendation of the CCRB reflecting the results of its Prosecution of the Case. The CCRB shall include all relevant forms, memoranda and background information to assist the Police Commissioner in making a final disciplinary determination.

(c) The Police Commissioner may accept, reject, or modify the recommendation presented by the CCRB, or may ask the CCRB for additional investigative or background information in its possession. The Police Commissioner may also request further investigation or development of the record to enable him or her to make a final disciplinary determination. If the CCRB’s recommendation is rejected or modified, the CCRB will be responsible for taking any appropriate follow-up action, such as proceeding with the Prosecution, engaging in additional investigation, or further developing the record.

(d) The CCRB may conduct plea negotiations with subject officers and their attorneys, to be heard by a Trial Commissioner and presented to the Police Commissioner for final determination. In all cases in which the Police Commissioner rejects a negotiated plea, the CCRB shall be responsible for implementing the Police Commissioner’s decision, including negotiating the Case in a manner consistent with the Police Commissioner’s determination or proceeding with the Prosecution.

(e) The CCRB shall provide to the Police Department status reports on its Prosecutions quarterly and as otherwise requested by the Police Department.

(f) In any case substantiated by the Board in which the Police Commissioner intends to impose discipline that is of a lower level than that recommended by the Board or by the Trial Commissioner, the Police Commissioner shall notify the CCRB, with notice to the subject officer, at least ten business days prior to the imposition of such discipline. Such notification shall be in writing and shall include a detailed explanation of the reasons for deviating from the Board’s or, as the case may be, the Trial Commissioner’s, recommendation, including but not limited to each factor the Police Commissioner considered in making his or her decision. The CCRB and the subject officer may respond to such notification within five business days of its receipt, after which the Police Commissioner shall make a final determination.

(g) The Police Department Advocate shall ensure that the CCRB is notified of the final disciplinary result and specific penalty in each case prosecuted by the Board within thirty calendar days of the Police Commissioner’s final determination.

*Section 6. Sections 1-46, 1-47, and 1-51 of Title 38A of the Rules of the City of New York are renumbered sections 1-51, 1-52, and 1-56.*

*Section 7. Section 1-48 of Title 38A of the Rules of the City of New York is renumbered and amended as follows:*

#### §1-48]53 Communications with and Notifications to Complainants Regarding Status of Complaints.

\* \* \*

(b) The Board shall advise a complainant by letter, within forty-five days of the filing of a complaint, of the status of his/her case. If the investigation is not completed within ninety days of the filing of a complaint, the Board shall again advise the complainant of the status of his/her case.

(c) The Board shall advise the complainant within five business days of the completion of the case investigation.

(d) The Board shall, [notify the Complainant by letter of its] within seven business days of sending to the Police Commissioner its findings and recommendations in a case, write to the Complainant with such findings and recommendations. [regarding the case investigation within seven business days of the Board’s submission of the findings and recommendations to the Police Commissioner]

(c) If [the case] an allegation is substantiated and charges are recommended by the Board, the Board shall [include notice to], as soon as it is determined under § 1-42, advise the complainant in writing [that] whether such allegation will be prosecuted and, if it will, whether the Board or the Police Department Advocate will be responsible for [undertaking] prosecuting it.

(e) [Following] Where there is an administrative prosecution by the Board, the Board shall within seven business days of the Board’s receipt of the Police Commissioner’s final determination notify the complainant by letter of the final action taken by the Police Commissioner [within seven business days of the Board’s receipt of the Police Commissioner’s final decision].

[(f) Where the parties have agreed to mediate a case, the provisions of paragraphs (b), (c) and (d) of this section shall not apply.]

*Section 8. Section 1-49 of Title 38A of the Rules of the City of New York is renumbered and amended as follows:*

#### §1-49]54 Mediation.

(a) A complainant may choose to resolve a complaint by means of mediation, provided the subject officer agrees to mediation as provided herein, and unless the Board or a panel thereof determines that the [complainant]complaint is not appropriate for mediation.

\* \* \*

(d) Written notice of the time, date and location of the first mediation session shall be provided to each party. Such notice shall be accompanied by a description of procedures and guidelines for mediation. Subsequent session(s) shall be scheduled by [the mediator] a member of the Board’s mediation staff if the mediation is not completed at the first session.

\* \* \*

(i) If [the mediated]a case is not successfully resolved through mediation, the [mediator]complainant or police officer [shall notify Board staff of his or her]may ask for the [intent to pursue a]complaint to be investigated, and the complaint shall then be referred to Board’s [investigatory] investigative staff for investigation.

*Section 9. Section 1-50 of Title 38A of the Rules of the City of New York is renumbered and amended as follows:*

#### §1-50]55 Reconsideration or Reopening of Cases.

(a) The Board may on receipt of a written request from a complainant or victim or police officer re-open any case closed [by a panel or the full board where] following a full investigation, if new evidence or a previously unavailable or uncooperative witness becomes available and in the determination of [such] a panel constituted to consider such request [or full Board] such new evidence or the prospective availability or cooperation of such witness may reasonably lead to a different finding or recommendation.

(b) The Executive Director may on receipt of a written request from a complainant or victim or police officer, re-open any case closed without a full investigation [under §1-34.

(c) Where following receipt of a request to reopen a case closed without a full investigation under §1-34, If the Executive Director decides not to reopen such case, such request shall (except as from time to time otherwise directed by the Board) be submitted to a panel [or the full Board] for its consideration.

(d) Any person considering a request to reopen a case shall have full discretion in making his or her determination, and may properly consider all relevant circumstances, including, but not limited to, any delays on the part of the person requesting that the case be reopened[,] new, material information as to the complainant, the subject officer or any civilian or police witness[,] and the practicability of conducting a full investigation of the allegations contained in the case within any applicable limitation period.

#### Statement of Basis and Purpose of Rules Changes

##### Overview

The existing Subchapter E of Title 38-A, the Rules of the CCRB, took effect on June 25, 2001. It was adopted pursuant to a memorandum of understanding (“MOU”) made between the then-Chair and Police Commissioner on April 27, 2001 and provided for the administrative prosecution by the Board of civilian complaints substantiated by the Board, before the New York City Office of Administrative Trials and Hearings (“OATH”).

The 2001 MOU was not implemented, because a panel of the First Department of the Appellate Division of the New York State Supreme Court held that state law requires that such administrative prosecutions take place before a person employed by the Police Commissioner and OATH judges are not employed by the Police Commissioner.

Because the 2001 MOU could not be implemented, since June 25, 2001, administrative prosecutions of civilian complaints substantiated by the Board have continued to be handled by attorneys employed by the Police Department. They are heard by the Trial Commissioner of the Police Department as required by state law.

A new Subchapter E of the Rules of the CCRB is now adopted as contemplated by an MOU made between the current Chair and Police Commissioner on April 2, 2012. The new Subchapter E replaces the existing Subchapter E and implements the terms of the new MOU which provides for the Board to conduct the administrative prosecution of certain of the Board’s substantiated cases, before the Trial Commissioner of the Police Department.

In the course of undertaking the necessary rule changes, the Board conducted a review of its other rules. The Board determined that those sections dealing with jurisdiction, filing complaints, recording investigative interviews, letters to complainants, mediation and re-opening closed cases, should be revised to provide greater clarity and consistency.

##### The New Subchapter E

Rule § 1-41 explains the purpose of Subchapter E and contains a definition of terms.

Rule § 1-42 sets out the procedure to be followed when the Board substantiates an allegation against an officer and recommends that charges and specifications be brought against such officer. In limited cases where, in the view of the Police Commissioner, the interests of justice would not be served by the bringing of charges against an officer, the Police Commissioner may request in writing that the Board refrain from prosecuting such charges.

Rule § 1-43 sets out the procedure to be followed when a prosecution ought to be expedited.

Rule § 1-44 sets out the procedure to be followed when during the course of a prosecution the Board identifies possible misconduct falling outside its jurisdiction.

Rule § 1-45 restates the principle that the Police Commissioner retains in all respects the authority and discretion to make final disciplinary determinations; and requires that there be co-operation between the Board and the Police Department Advocate.

Rule § 1-46 sets out certain other matters relating to administrative prosecution, including several procedures to be followed.

##### Other Changes

Rule § 1-02 conforms the jurisdictional language in the Rules with the jurisdictional language in the New York City

Charter, which provides that the Board has the power to receive, investigate, hear, make findings and recommend action upon complaints by members of the public against members of the Police Department that allege misconduct involving excessive use of force, abuse of authority, discourtesy, or use of offensive language including, but not limited to, slurs relating to race, ethnicity, religion, gender, sexual orientation and disability. Such change, involving the addition of the words “have the power to” to the language currently contained in Rule §1-02, brings consistency to the language contained in the Rules and in the City Charter. It also reflects that under the City Charter the Board is not required to receive, investigate, hear, make findings and recommend action upon all such complaints.

Rule § 1-11 codifies the Board’s current practice of accepting complaints received by email or through the Board’s website, and makes clear that the Board may decide to accept complaints submitted by other means.

Rule § 1-24(i) codifies the Board’s current practice of prohibiting interviewees and others from recording the Board’s investigative interviews. To permit the recording of interviews would increase the risk that future evidence might be tailored to conform to statements made in an interview, and so threaten the integrity of the Board’s investigations. The reference to recordings’ being made either mechanically or by means of stenographer is deleted as it is archaic and redundant.

Rules § 1-46 through 50 are renumbered §1-51 through 56 to accommodate Subchapter E and maintain consistency with the current numbering system. The succeeding paragraphs of this Statement of Basis and Purpose use the new numberings for easier reference.

Rules § 1-53 (b) and (c) are deleted because to write to a complainant after forty-five and ninety days of the receipt of a complaint serves no useful purpose, as few investigations are completed within those periods and those time frames do not correspond to any meaningful stages or benchmarks in the investigative process.

Rule § 1-53 (b) (as renumbered) is split to make it easier to read. The second part of what was in Rule § 1-53 (b) (as renumbered) thus becomes § 1-53 (c).

Rule § 1-53 (c) (as renumbered) is amended to take account of the fact that not all allegations substantiated by the Board will be administratively prosecuted by the Board.

Rule § 1-53 (d) (as renumbered) is amended so that the term “Police Commissioner” is used consistently throughout the Rules and to reflect the new procedures introduced by the new Subchapter E of the Rules.

Rule § 1-53 (f) is deleted as §§ 1-53 (b) and (c) are deleted and § 1-53 (d) (renumbered as § 1-53 (b)) could not apply to a case resolved through mediation.

Rule § 1-54 is amended to correct typographical errors and to reflect the original intent of the respective rules.

Rule § 1-55 is amended to make it easier to read and to permit police officers to request the re-opening of cases closed without a full investigation.

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## HEALTH AND MENTAL HYGIENE

### ■ NOTICE

#### COMMISSIONER OF HEALTH AND MENTAL HYGIENE

##### NOTICE OF ADOPTION OF THE REPEAL AND REISSUANCE OF CHAPTER 6 OF TITLE 24 OF THE RULES OF THE CITY OF NEW YORK

In compliance with §1043 (a) of the New York City Charter (the “Charter”), a notice of intention to repeal and reissue Chapter 6 of Title 24 of the Rules of the City of New York (“RCNY”) was published in the City Record on June 13, 2012, and a public hearing was held on July 19, 2012. Twenty-six written comments were received and 23 persons testified at the public hearing, including several persons who also submitted written comments. A number of changes, described below, have been made in response to the comments received, and the following rule is being adopted by the Department of Health and Mental Hygiene (the “Department”).

#### Statement of Basis and Purpose

##### *Statutory Authority*

This repeal and reissuance of Chapter 6 of Title 24 of the Rules of the City of New York is in accordance with §§556 and 1043 of the New York City Charter (the “Charter”), §17-324 of the Administrative Code of the City of New York, and Article 89 of the New York City Health Code:

- Section 556 of the Charter authorizes the Department to regulate all matters affecting health in the city of New York.
- Section 1043 of the Charter gives the Department rulemaking powers.
- Section 17-324 of the Administrative Code authorizes the Commissioner to “make such rules as deemed necessary” for enforcement of Subchapter 2 (Food Vendors) of Chapter 3 (Licenses and Permits) of Title 17 of the Administrative Code.
- Article 89 (Mobile Food Vending) of the New York City Health Code refers to rules to be promulgated by the Commissioner in Chapter 6.

##### *Background*

At a meeting on December 16, 2008, the New York City Board of Health repealed and recodified Article 89 (Mobile Food Vending) of the New York City Health Code, as part of a comprehensive review of all Health Code provisions. Article 89 was reorganized, obsolete provisions were repealed, and new provisions were adopted to reflect Department practice and the regulatory environment. The recodified Article 89 became effective on January 1, 2010. Several provisions in the recodified Article 89 reference the rules that are applicable to mobile food vending in Chapter 6 (Food Units) of Title 24 of the Rules of the City of New York. These rules

are therefore being amended to conform to Article 89 and enable better implementation of this article. Because of the significant number of changes, and in an effort to provide more clarity, Chapter 6 was repealed and has been replaced with a new set of renumbered and amended rules. These provisions and how they differ from the replaced provisions are described below. Changes made in response to comments received are discussed in the descriptions of the various sections.

##### *Basis for the amendments*

**§6-01 Scope and applicability.** This section is substantively the same as the provision replaced [§6-01 (b)].

##### **§6-02 Definitions.**

This section is new and defines terms used throughout the Chapter. Most notably:

- “Mobile food commissary or other facility approved by the Department” describes a facility other than a commissary where Class D and Class E mobile food vending units (see newly added section 6-03) may be cleaned and stored when not used for vending. The Department recognizes that all mobile food vending units do not need to be stored and cleaned in commissary facilities in order to satisfy public health concerns. Therefore, for Class D and Class E units, these alternate facilities are reasonable, since these units do not require the same level of servicing as do Class A, B and C units on which potentially hazardous foods are prepared and held. The facilities must provide basic sanitation, plumbing, a source of potable water and drainage; and must not create a nuisance. However, no food would be permitted to be stored in such facilities.
- The section includes the term “processing” as defined in the State Agriculture and Markets Law §251-z-2 (4).
- The term “pre-permit inspection” is defined to include several instances that require the permittee or permit applicant to bring in the mobile food vending unit for an inspection by the Department.

In response to a comment that it appeared that the Department was allowing trailers to be used as a mobile food vending unit, the Department has substituted the term “truck” for “trailer” and “motor vehicle” in the definition of mobile food vending unit in subdivision (h) and in all sections where the term motor vehicle was originally used.

##### **§6-03 Mobile food vending unit classifications.**

This section is new and classifies units as Class A, B, C, D or E according to:

- The kind of operations (processing or non-processing);
- The kinds of foods served (potentially hazardous requiring temperature control for safety or not potentially hazardous), and
- Whether or not foods are prepackaged.

Classification determines the kind of equipment required for each unit, as specified in Table 1 of §6-05:

- Class A: Prepare and process raw potentially hazardous foods, e.g., grilled or fried meats, eggs and poultry.
- Class B: Prepare and process potentially hazardous foods that are manufactured or pre-cooked, e.g., sandwiches, vegetables and salads, smoothies and soft-serve frozen desserts.
- Class C: Serve only intact, prepackaged potentially hazardous foods requiring temperature control for safety, e.g., prepackaged frozen desserts, prepackaged sandwiches and prepackaged presliced fruits and vegetables.
- Class D: Serve only non-potentially hazardous packaged or unpackaged foods that do not require temperature control for safety, e.g., brewed coffee and tea, donuts, soft pretzels, boiled frankfurters and other sausages. It should be noted that while a coffee cart will be considered a Class D unit, ice containers, coolers or other equipment for safely holding dairy-based coffee lighteners such as milk, cream or half-and-half at or below 45 degrees F will be required
- Class E: Green carts that sell only non-potentially hazardous unprocessed whole fruits and vegetables.

Permittees seeking Class A and B permits will be required to pay the \$100 annual permit fee for a processing unit as prescribed in §17-308 of the Administrative Code or, as applicable, the fee for a temporary seasonal processing permit in accordance with §17-307 of the Administrative Code and Article 5 of the Health Code.

A unit that processes foods for service and also sells non-processed foods is required to have a processing permit.

Several persons submitting comments on the proposed rules requested additional examples of the kinds of foods that may be prepared and served by each class of unit. The Department has added examples to Table 1 in §6-05 to clarify that although Class D units are those that sell primarily foods that are not potentially hazardous, when potentially hazardous foods are sold, appropriate equipment is required to keep these foods in their manufacturer’s and Health Code required temperature ranges.

##### **§6-04 Mobile food vending units: pre-permit construction and equipment requirements for all classes of mobile food vending units.**

This section expands and provides detail for the more generally stated requirements in current §6-01, with respect to what materials and equipment will be approved for mobile food vending units. It is largely based on requirements applicable to other kinds of food service establishments, set forth in Article 81 of the Health Code and the US FDA Food Code, adapted to apply to mobile food vending. Its intent is to reduce the risk of food being contaminated by exposure to environmental contaminants, and to better protect food workers and the public.

A provision has been added, consistent with Health Code §81.17(a) (which already prohibits the use of residential premises as a food establishment), that prohibits use of a mobile food vending unit pushcart or truck for sleeping or other residential purposes.

In response to comments several changes have been made: In subdivision (b), the Department will allow covering of permit decals affixed to units where the vendors believe the decals require protection from the weather and physical hazards. Vendors may use a clear Plexiglas cover that may be easily removed by an inspector during an inspection. Subdivision (f) has been amended to reduce the water tank capacity for non-truck units that are required to carry potable water to a minimum of 10 gallons, instead of the 25 gallons proposed. Because the Department considers lack of potable water on units that are required to have such supplies an imminent health hazard and a basis for ordering the unit closed (see State Sanitary Code § 14-4.20), a requirement has been added for all units to install external gauges on water tanks on or after January 1, 2018 so that the vendor can readily see when water supplies are no longer adequate. Subdivision (g) has been amended to require that water pressure be constant and adequate, deleting the initially proposed requirement that pressure be at the specified level of 7 psi.

Subdivision (i) has been further clarified to require that some method of washing foods be provided in Class A and B units, whether by using a food grade colander in the ware washing sink or a compartment of a multi-compartment sink and taking measures to avoid cross contamination of food. Subdivision (l) has been clarified to indicate that either mechanical or other means of holding potentially hazardous foods will be acceptable. Subdivision (o) adds examples of appropriate overhead protection, drawn from the requirements for outdoor cooking in Article 81.

##### **§6-05 Mobile food vending units: equipment required for different classes of mobile vending units.**

This section is new. The equipment required is related to the unit classifications, which are based on the kinds of processes and kinds of foods being processed on the unit. A chart included as Table 1 specifies the equipment required for each class of mobile food vending unit. These requirements are consistent with standards for those for temporary food service establishments set forth in Article 88 of the Health Code. Plumbing and water standards are based on those in Chapter 5 of the 2009 US FDA Food Code.

In response to comments, Table 1 has been further amended to indicate kinds of equipment and provides examples of the foods held, prepared and sold in each class of unit.

##### **§6-06 Size of mobile food vending units.**

This section is renumbered and amends former §6-01 (d). Administrative Code §17-307 (b)(1) authorizes the Commissioner to establish size and design standards for mobile food vending units.

A new maximum size limit of five feet in width and 10 feet in length is established for all mobile food vending units other than food trucks. The longer side of the unit must be placed adjacent and parallel to the curb of the sidewalk. Former §6-01(d) limited only the size of non-processing carts to four feet six inches in width (for units where the operator is within the unit) and six feet six inches in length. It did not limit the size of either processing carts or food trucks.

There is historical precedent for the Department’s regulation of the size of mobile food vending units. In 1978, §D22-19.0 of the Administrative Code went into effect. That provision of the Administrative Code limited the size of units to 10 linear feet, measured parallel to the curb on any sidewalk. While this limitation was repealed in the mid 1990’s, it remained in §89.09 (c) of the Health Code and was in effect until January 1, 2010, when Article 89 was repealed and recodified. The size limitations were repealed and not included in the revised Article 89 because the Department intended to include all specific size, design and equipment requirements in this Chapter of the Department’s rules. Also note that Administrative Code §20-465 (b) — applicable to general merchandise sidewalk vending units — limits these vendors to occupying no more than three feet in width (measured perpendicular to the curb) and eight feet in length (parallel to the curb).

The Department believes that limiting the size of units other than food trucks to no more than five feet in width by 10 feet in length is reasonable, and would readily enable such units to accommodate the equipment required for all mobile food vending units using public sidewalks, without unduly obstructing the public’s use of the sidewalks.

Several comments were received complaining about the growing size of carts. The Department believes that the size established in the regulations is an appropriate compromise between positions advocated by proponents of both smaller and larger units. In response to comments that it would be a hardship for current permittees to comply with the new size requirements, the Department is allowing additional time for compliance for renewing permittees.

##### **§6-07 Green carts.**

This section is renumbered, but is substantively the same as former §6-01 (m)-(o). Reference to a “two-year phase-in period” after which vendors must pay \$50.00 for a new or replacement umbrella for their green carts has been deleted as the “two-year” period was no longer applicable after June 2010.

##### **§6-08 Facilities for servicing Class D and Class E mobile food vending units.**

This section is new. The Department is authorized under Article 89 of the Health Code to adopt rules to approve facilities to service mobile food units that only vend pre-packaged non-potentially hazardous foods or whole fresh fruits and vegetables. (See, Health Code §89.03.) This new section, §6-08, establishes the rules for such facilities. Previously, all units were required to be serviced by permit-holding commissaries.

Anyone intending to use such a facility must certify that the facility holds any necessary permits and is in compliance with all applicable fire safety, zoning and building laws. At the Department’s request, the user would be required to provide documentation to support the certification. The rule is intended to prevent nuisances at such facilities, and maintain sanitary conditions on the units and at these facilities. However, consistent with Administrative Code

§17-307(c), only a commissary holding a permit issued pursuant to Article 81 of the Health Code may provide necessary services to five or more mobile food vending units of any class or to more than one food truck. In addition, all mobile food vending units in classes A, B or C would still be required to be serviced at a commissary.

Many comments were received indicating confusion about the requirements for “permitted” alternative facilities to commissaries, and stating that the requirements were onerous and defeated the purpose of allowing such alternative facilities. An attempt has been made to clarify these requirements and to indicate that the Department’s intent is that if an alternative facility to a commissary is to be used, the premises used to house such a facility must still comply with applicable building, fire, zoning, sanitation and other public safety rules and regulations, as would any structure. The Department is not requiring that an alternative facility hold a permit to operate as such, and will not be issuing such permits.

#### §6-09 Manufacturer or exclusive distributor lease agreements.

This section is renumbered, but is substantively the same as former §6-04, except that the model lease agreement and rider are no longer included in the rule. These agreements were authorized for a very brief period of time, in accordance with §17-314.1(d)(2) of the Administrative Code. They are only applicable to those holders of multiple permits who were eligible to hold such permits in 1995. The section authorizes the Department to maintain an approved model lease agreement format on its website and to provide copies of the forms on request. Agreements that were in effect will continue to be approved, but no new agreements are allowed.

#### §6-10 Violations.

This section has been renumbered, and its provisions are substantively the same as provisions in former §6-05 with respect to identifying “A” violations.

#### §6-11 Inspections; permit issuance and renewal.

This section is new. It includes the requirements in former §6-01(c) for reinspection of damaged and repaired materially altered mobile food vending units that became effective in 2007, and additional requirements for pre-permit inspections and reinspections, as described below. The basis for those additions is also described in detail.

- It clarifies when the Department would accept late applications for renewals of permits and/or schedule late pre-permit renewal inspections.  
*Late applications:* The Department will not accept late applications unless the applicant can show, and the Department can verify, that:
  - The applicant received tax or penalty clearances from an issuing agency late, and that was the result of the issuing agency’s delay, and
  - Applications for tax and penalty clearances were submitted at least 60 days before the date of renewal of the permit.*Late inspections:* The Department will not issue a permit unless the inspection is completed in a timely manner, unless the delay in inspection completion was the result of the Department’s delay in scheduling the inspection.
- It requires that applicants for new or renewal mobile food vending unit permits personally bring their mobile food vending units for pre-permit health inspections. Pre-permit inspections must take place when:
  - A permit applicant is applying for a new permit,
  - A permittee is applying for a renewal permit,
  - A permittee wants to substitute a processing unit for a non-processing unit, or a non-processing unit for a processing unit,
  - A permittee wants to obtain a replacement permit or decal for a decal or permit that is lost, stolen, or damaged, or for a unit that is damaged or materially altered, or
  - A permit has been suspended and the permit decal removed, and a new decal is to be issued.
- At each pre-permit inspection, permittees are required to:
  - Have photos of themselves and photos of their units taken to enable accurate photo identification, and
  - Bring a form approved or provided by the Department that lists all of the individuals who will be allowed to vend from the unit and the permittee’s legal relationship to those individuals (e.g. employee, etc.).
- A new subdivision (e) emphasizes and repeats in these rules the provisions of Health Code §§5.13 and 89.13(k) that holds permittees jointly and severally liable with the operators of the units for the safe and legal operation of the units.

#### *Basis for timely applications and inspections:*

There are no provisions in the Administrative Code for late submissions of applications or scheduling inspections, but the Department receives substantial numbers of delayed applications and many different excuses for delays in inspection completion. As a result, the Department has clarified in these rules in which circumstances it will accept late applications for renewals of permits and/or schedule late pre-permit renewal inspections, based on Administrative Code requirements, including Administrative Code §17-310 (a) which requires the permit applicant to submit a completed permit renewal application with sales tax payment clearances from the Department of Finance no later than 30 days before the existing permit expires; Administrative Code §17-317 (b) and §6-10 of these rules which require payment of outstanding fines and penalties; and Administrative Code §17-307 (b)(2)(d) which requires the permittee to have a pre-permit inspection by the Department no later than three months after an application is certified or accepted by the Department and requires the mobile food vending unit to

pass the inspection no later than six months after the permit renewal applicant has submitted a completed application.

#### *Basis for pre-permit inspections:*

City Charter §556 authorizes the Department to “supervise and regulate the food and drug supply of the city... and ensure that such businesses and activities are conducted in a manner consistent with the public interest and by persons with good character, honesty and integrity.” Recent investigations by the City’s Department of Investigation have disclosed fraud in a number of practices in the mobile food vending industry, including transfers of permits by deceased permittees, and the presentation of a single cart at multiple pre-permit inspections, followed by subsequent decal transfer. Requiring the appearance of the permit holder, as well as photographing the permittee and the unit at each pre-permit inspection will help the Department determine whether the permit holder is aware of the condition of a mobile food vending unit, and is responsibly operating the unit or supervising its operation by employees.

#### *Basis for list of approved individuals*

The Department’s practice in recent years has been to notify the permittee when Department inspectors issue violations to a mobile food vending unit operator who is not the permittee. Health Code §89.13(k) authorizes the Department to issue notices of violation directly to the permittee or to the operator of the unit. The Health Code designates the “operator of a unit” as the agent of the permittee, and the “unit” as the place of business of the permittee. Since more responsibility is expected of permittees than of their agents with respect to safe operation of their mobile food units, it is reasonable to expect permittees to be available for pre-permit inspections and to be able to identify people selling or distributing food from their units. This provision implements §17-309(b)(1) of the Administrative Code.

#### *Basis for joint and several liability*

Health Code §5.13 makes any Department permittee responsible when agents or employees of the permittee commit any violations of the Health Code. Permittees who evade responsibility for operation of their mobile food vending units do not benefit the public health, and have no incentive to make sure their mobile food vending units are operated in compliance with the Health Code, the Administrative Code and these rules.

The Department believes that all of these provisions will further promote food safety because they will enforce Administrative Code requirements that permittees know who is vending food from their units, and will urge them to take steps to more closely supervise those individuals. Including joint and several liability in the rules gives extra notice to permittees of their responsibilities for notices of violation issued for unsafe or illegal operation of their mobile food vending units.

#### §6-12 Records of commissaries and other approved facilities.

This section is new. It requires commissaries to maintain records of mobile food vending units serviced at the commissary and will enable the Department to determine if commissary services are being regularly provided. It, too, implements a recommendation of the Department of Investigation intended to address fraudulent practices.

In some cases, the Department of Investigation has reported, permittees purchase letters from commissaries and present them at Department pre-permit inspections to show that a specific mobile food vending unit cart or food truck receives what are in fact non-existent services at a specific commissary. It is in the public’s interest that mobile food vending units, particularly those that prepare and sell potentially hazardous foods, are properly serviced at least daily at a commissary. Article 89 of the Health Code and Subpart 14-5 of the State Sanitary Code require that certain services be provided at commissaries, including, most importantly, daily cleaning of the unit and its utensils; provision and preparation of food obtained from approved sources; and safe disposal of liquid and solid wastes.

#### §6-13 Disabled veterans mobile food unit vending permits.

This section is new. It establishes procedures for issuing permits to disabled veterans for mobile food vending on sidewalks surrounding Department of Parks and Recreation property, in accordance with applicable provisions of General Business Law §35-a.

#### §6-14 Government agency and charitable organization exemptions.

This section is renumbered and retitled, but is substantively the same as former §6-03 (Exemption of governmental agencies from limitation on number of mobile food vending unit permits).

#### §6-15 Modification.

This section is renumbered, but it is substantively the same as former §6-01(n). It authorizes the Commissioner or a designee to exercise discretion in modifying requirements of this Chapter in cases where compliance would result in practical difficulty or unusual or unreasonable hardship. It also allows the Commissioner to impose conditions upon granting such modifications so that public health is not compromised.

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

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

\* \* \*

§1. Chapter 6 of Title 24 of the Rules of the City of New York, relating to the licensing and permitting of mobile food vending, is repealed and reissued, to read as follows:

### **Chapter 6 Mobile Food Vending**

#### §6-01 Scope and applicability.

#### §6-02 Definitions.

#### §6-03 Mobile food vending unit classifications.

#### §6-04 Mobile food vending units: pre-permit construction and equipment requirements for all

#### classes of mobile food vending units.

#### §6-05 Mobile food vending units: equipment required for different classes of mobile vending units.

#### §6-06 Size of mobile food vending units.

#### §6-07 Green carts.

#### §6-08 Facilities for servicing Class D and Class E mobile food vending units.

#### §6-09 Manufacturer or exclusive distributor lease agreements.

#### §6-10 Violations.

#### §6-11 Inspections; permit issuance and renewal.

#### §6-12 Records of commissaries and other approved facilities.

#### §6-13 Disabled veterans mobile food unit vending permits.

#### §6-14 Government agency and charitable organization exemptions.

#### §6-15 Modification.

§6-01 Scope and applicability. All mobile food vendors and the mobile food vending units operated in the City of New York are subject to and must comply with all applicable provisions of Articles 5, 71, 81, 89 and all other applicable provisions of the New York City Health Code (the “Health Code”); Title 17 of the Administrative Code of the City of New York (the “Administrative Code”); Part 14 of the New York State Sanitary Code (the “Sanitary Code”); and the rules of the Department set forth in this Chapter and Chapters 20, 26 and other applicable provisions of Title 24 of the Rules of the City of New York.

§6-02 Definitions. Words and terms used in this Chapter have the following meanings:

*Acceptable to the Department* means acceptable under conditions of use and being used in conformance with applicable regulatory, industrial or other safety standards.

*Contaminated* has the meaning set forth in Article 81 of the Health Code.

*Detergent sanitizer* means a solution used to wash and/or sanitize utensils and equipment.

*Food* has the meaning set forth in Article 71 of the Health Code.

*Food grade material* means material certified as meeting the standards of the National Sanitation Foundation (NSF) or other organization utilizing a process approved by the American National Standards Institute (ANSI), or that is otherwise acceptable to the Department in compliance with §81.17 of the Health Code or successor provision. During use with food products such material shall not react with such food products or food contact surfaces; and shall not contaminate or impart any odor, color or taste to such food products. No food additive, food equipment, lubricant or other similar substance used in food processing, preparation, storage or service shall expose food to physical debris, toxic chemicals, harmful substances or other contaminants.

*Green cart* has the meaning set forth in §17-306(s) of the Administrative Code or successor provision.

*Mobile food commissary or other facility approved by the Department* means either

(i) A commissary that complies with the requirements of Articles 81 and §89.27 of the Health Code, or

(ii) Another facility providing storage and/or cleaning of no more than four Class D or Class E mobile food vending units, nor more than one food truck, in accordance with §6-08 of this Chapter.

*Mobile food vending unit* means a food service establishment as defined in Article 81 of the Health Code located in a pushcart or truck, self or otherwise propelled, used to store, prepare, display, serve or sell food, or distribute food free of charge to the public, for consumption in a place other than in or on the unit. Any such pushcart or food truck is deemed a mobile food vending unit whether operated indoors or outdoors, on public, private or restricted space. A mobile food vending unit does not mean a stand or a booth.

*Potable water* means drinking water that meets the drinking water requirements of subpart 5-1 of the State Sanitary Code and is thereby suitable for human consumption or use directly or indirectly in connection with the preparation of food for human consumption, including ice making and cleaning of utensils and equipment.

*Potentially hazardous food* has the meaning set forth in Article 81 of the Health Code.

*Pre-permit inspection by the Department* means the inspection of a mobile food vending unit in which the Department determines that the unit has been constructed and equipped in accordance with this Chapter. A pre-permit inspection by the Department is required:

(i) Before the issuance of a new or renewed mobile food vending permit and decal;

(ii) When a permittee seeks to replace a mobile food vending unit with another unit;

(iii) When a permittee seeks to amend a permit classification from non-processing to processing or processing to non-processing;

(iv) When a mobile food vending unit has sustained a material alteration, as defined in §89.03 (e) of the Health Code; or

(v) When any permit decal has been removed.

*Processing* means transforming food into the form in which it is to be served to the mobile food vending unit patron, including, but not limited to, by means of slicing, dicing, grating, portioning, blending, mixing, combining, cooking and reheating, or otherwise treating food in such a way as to create a risk that it may become adulterated if improperly handled. Portioning by butchering is not allowed; food may be processed on a mobile food vending unit only in accordance with Article 89 of the Health Code. A person who processes food on a mobile food vending unit is not a manufacturer, as that term is defined in Administrative Code §17-306 (p), or successor provision of law.

*Sanitization* means effective treatment by heat or chemical means that destroys pathogens on surfaces treated and is acceptable to the Department, as defined in § 81.03(ii) of the Health Code, or successor provision.

*Ware washing or multi-compartment sink* means a sink, other than a hand wash, dedicated to washing cookware, kitchenware and utensils.

§6-03 Mobile food vending unit classifications. Mobile food vending units shall be classified based on the foods, processing and packaging of foods served. Class A and Class



B units are processing units and Class C, Class D and Class E units are non-processing units for the purpose of payment of the permit fees set forth in §17-308 (c) of the Administrative Code, or successor provision, and Article 5 of the Health Code.

(a) *Class A mobile food vending unit* means a processing unit on which raw, pre-cooked and/or manufactured potentially hazardous foods requiring temperature control as specified in Health Code §81.09 are stored, prepared and provided for individual service. Such foods include, but are not limited to, grilled or fried meats, sausages, poultry, shish kebab, hamburgers, eggs and gyros.

(b) *Class B mobile food vending unit* means a processing unit in or on which pre-cooked and/or manufactured potentially hazardous foods requiring temperature control as specified in §81.09 of the Health Code are stored, prepared and provided for individual service. Such foods include, but are not limited to, sandwiches prepared on the unit, raw fruits, vegetables and salads, breads, bagels and rolls buttered or topped with cream cheese on the unit, smoothies and soft serve ice cream.

(c) *Class C mobile food vending unit* means a non-processing unit in or on which only intact, prepackaged potentially hazardous foods requiring temperature control as specified in Health Code §81.09 are provided for individual service. Such foods include, but are not limited to, prepackaged frozen desserts, prepackaged sandwiches, and prepackaged and presliced fruits and vegetables.

(d) *Class D mobile food vending unit* means a non-processing unit in or on which non-potentially hazardous packaged or unpackaged foods not requiring temperature control for safety are provided or served. Such foods include, but are not limited to, brewed coffee and tea, donuts, pastries, rolls and bagels buttered or topped with cream cheese at a commissary, popcorn, cotton candy, nuts, candied nuts, soft pretzels, and chestnuts, regardless of whether such foods are heated for aesthetic purposes. However, mobile food vending units that prepare and serve any potentially hazardous foods, including but not limited to, dairy products, pre-cooked or manufactured knishes, boiled frankfurters and sausages are Class D mobile food units that require equipment or other means of holding potentially hazardous foods at the temperatures required by Articles 81 and 89 of the Health Code.

(e) *Class E mobile food vending unit* means a green cart or other non-processing mobile food vending unit in or on which only non-potentially hazardous uncut fruits and vegetables are sold or held for sale or service.

(f) *Only food to be served or sold.* A permit to distribute or sell food from a mobile food vending unit does not authorize the sale of any other product or merchandise from such unit.

(g) If a vendor serves or prepares foods included in more than one Class of operation, the unit must be equipped in accordance with the classification that reflects the greater degree of food protection.

**§6-04 Mobile food vending units: pre-permit construction and equipment requirements for all classes of mobile food vending units.** Mobile food vending units must be constructed and equipped so that they may be maintained and operated in a clean and sanitary manner, in accordance with all applicable law, so as to protect foods from contamination by dust, dirt and toxic and other substances, and the public from risk of injury, and must be equipped in accordance with the requirements set forth in Table 1 in §6-05 of this Chapter. Units and equipment must be manufactured from easily cleanable, durable, hard, smooth, non-porous, non-absorbent, non-reactive and non-toxic materials. All equipment must be fastened securely to the mobile food vending unit. No mobile food vending unit or truck may be used as a dwelling, or for sleeping or other residential purposes for any period of time.

(a) *Food contact surfaces.* Food contact surfaces, as defined in Health Code §81.03(p) or successor provision, shall be constructed of easily cleanable, non-toxic commercial food grade materials; kept free of cracks, chips, holes, pits and sharp edges; and maintained in a clean and sanitary condition. Upon request of the Department, a permittee shall provide proof acceptable to the Department that a material used in construction or equipping of a mobile food unit is certified as food grade.

(1) *Lubricants.* Equipment for processing foods that contain bearings and gears maintained and operated with non-food grade lubricants must be designed and constructed so that lubricants can not leak, drip, or contaminate food or food contact surfaces.

(2) *Cooking surfaces.* Cooking surfaces within a mobile food vending unit shall be placed and configured so as to minimize the risks of food contamination and injury to patrons, vendors, and the public.

(b) *Non-food contact surfaces.* All non-food contact surfaces must be smooth, easily cleanable, maintained in good repair and kept clean. If solder is used in construction or repairs, it shall be made of non-toxic materials, corrosion resistant, and contain less than 0.2% lead.

(1) *Interior non-food contact surfaces.* Interiors of mobile food vending units, including floors, walls and ceilings of food trucks, and non-food contact surfaces of equipment that are exposed to food splash or debris, or that otherwise require frequent cleaning shall be designed and constructed of smooth, non-toxic and washable materials, free of unnecessary ledges, projections, or crevices, readily accessible for cleaning and sanitizing and maintained in a clean and sanitary condition.

(2) *Exterior non-food contact surfaces.* Exterior non-food contact surfaces shall be constructed of smooth, durable, non-porous, non-toxic materials, without any open seams and joints.

(3) *Permit decal to be visible and unobstructed.* No ornamentation, advertisement, menu, price list, other display, sign or printed matter may cover or obscure the permit decal. A six (6) inch space shall be left clear on all sides of the decal. The decal may be covered by a hinged, hard, transparent plastic or glass cover no thicker than one-sixteenth of an inch. The cover shall not be secured by a lock, but installed so that the decal may be directly accessible for examination and inspection at all times.

(4) *Doors and windows.* In a food truck a partition or a

partition with a self-closing door shall be installed between the driver's seat and the food processing and service area. To protect foods from potential contamination in all units, no service window may be installed over or behind cooking or food preparation equipment.

(c) *Lighting.* A mobile food vending unit shall be equipped with artificial lighting fixtures providing a minimum of 540 lux (50 foot candles) of light at all food contact surfaces and ware washing sinks whenever natural lighting conditions do not meet that standard. When artificial lighting is used, shatter-proof or shatter-guarded lighting shall be installed. Lighting fixtures located over or near food storage, preparation and service equipment shall be shielded to prevent broken glass from falling into food or onto food contact surfaces.

(d) *Ventilation.* Cooking equipment shall be mechanically ventilated to prevent a nuisance from heat, smoke, odors or fumes. Mechanical ventilation hoods and equipment shall be installed and used to prevent grease, steam, smoke, and odors from collecting on interior surfaces, contaminating food and creating a nuisance. If filters and other grease extracting equipment are not designed to be cleaned in place, they must be readily removable for cleaning and replacement, and must be removed and cleaned to prevent accumulations of grease. Power generators shall be used and vented in accordance with manufacturers' specifications.

(e) *Insect and rodent control.* Mobile food vending units shall be maintained so as to be free of insects, rodents, and conditions promoting harborage, as defined in Article 151 of the Health Code, and breeding of insects and rodents.

(f) *Potable water supply.* Mobile food vending units that are required to maintain a potable water supply in accordance with Table 1 of §6-05 shall be equipped with plumbing and plumbing fixtures that provide adequate supplies of potable hot and cold water during all times of operation. Individuals operating mobile food vending units shall maintain sufficient supplies of potable water to allow for hand, ware and food washing and food preparation. Plumbing and fixtures shall be properly connected, vented and drained to prevent contamination of the City water supply or any other potable water supply. Water supply outlets and connections to water supply fixtures or equipment shall be designed and constructed to prevent back-flow into the water supply. Bottled and packaged potable water certified by the New York State Department of Health for sale in New York State may be used to supplement the potable water supply, if handled and stored in a way that protects it from contamination. If used, bottled and packaged potable water shall only be poured into tanks from the original containers. Failure to provide and maintain potable water supplies required by this Chapter is an imminent health hazard requiring immediate cessation of operation of any mobile food vending unit.

(1) *Tank capacity.* When a potable water supply is required by Table 1 of §6-05 of this Chapter, a food truck shall be equipped with a tank or tanks with a total capacity of no less than 40 gallons; other mobile food vending units shall be equipped with a tank or tanks with a total capacity of no less than 10 gallons. All tanks shall be filled to capacity prior to beginning operation or operating, as defined in Health Code §89.03 (j). On and after January 1, 2018, all water tanks shall be equipped with a water level indicator visible from outside the tanks.

(2) *Water tanks and inlet pipes.* Water tanks shall be constructed of food grade materials that are corrosion resistant, durable and non-absorbent. Water inlet pipes shall be made of flexible, food-grade material. The fitting for hose connections shall be capped except when tanks are being filled.

(g) *Plumbing.* Plumbing fixtures shall be constructed of food grade material; piping and distribution piping shall be installed and maintained to protect the water from contamination. All piping shall be easily accessible for inspection and repair.

(1) *Tank drainage.* Potable water tanks shall be fitted with a faucet or valve and tilted to allow complete drainage. The entire system shall be constructed to be drained by gravity or other means acceptable to the Department.

(A) Potable and waste water connections on a mobile food vending unit shall be designed and constructed so as to prevent backflow and/or cross-connection with the water supply.

(B) Equipment and fixtures used for storage, preparation, or processing of food that are drained into the waste water tanks shall be equipped with a readily accessible vented check valve on the waste line.

(C) No equipment may be directly attached to the potable water supply unless an approved backflow device is installed.

(2) *Pressure.* Potable water, when required by Table of §6-05 of this Chapter, shall be dispensed at sufficient pressure to provide a constant adequate flow.

(h) *Waste water system.* Waste water shall be stored and disposed of in accordance with §89.25 of the Health Code.

(1) Waste water storage tanks and pipes shall be designed and maintained so as not to leak or spill on sidewalks or public streets.

(2) When required by Table 1 of §6-05 of this Chapter, waste water tanks shall have a minimum capacity that is at least 15% greater than the potable water supply capacity and be clearly and permanently labeled "waste water."

(3) Mobile food vending units creating liquid waste, including but not limited to units serving beverages such as coffee or tea or boiling frankfurters or holding melting ice, shall be equipped with a waste water tank with a minimum capacity that is at least 15% greater than the amount of water used for brewing coffee, processing food or for other liquid waste.

(4) Mechanically refrigerated equipment and containers where ice is used must be equipped with an indirect waste connection, in accordance with Health Code §81.20, that drains into the waste tank.

(i) *Hand washing, ware washing and food washing.*

(1) *Hand wash sink.* When required by Table 1 of §6-05 of this Chapter, mobile food vending units must be equipped with a separate hand wash sink or with one compartment of a multi-compartment sink that is used only for hand washing and no other purpose. The hand wash sink must:

(A) Be located in the food preparation area, accessible for immediate use at all times, at a convenient height, and not

obstructed by or used to store supplies or other equipment;

(B) Dispense potable running water;

(C) Have a dispenser valve or faucet which provides a constant flow of water when opened;

(D) Be supplied by a potable water storage tank constructed of food grade material that holds at least five (5) gallons of water;

(E) Be equipped with supplies of soap and paper towels or other single-use hand drying device; and

(F) Be equipped with "Wash Hands" signs in accordance with Health Code §81.21 (c).

(2) *Ware washing and sanitizing sink.*

(A) All equipment and utensils must be cleaned and sanitized at least once daily at the mobile vending unit commissary in accordance with Health Code §89.19(l). When required by Table 1 of §6-05 of this Chapter, a sink with a swivel faucet must be provided to wash and sanitize utensils and equipment that have become contaminated while the unit is in operation before being re-used.

(B) Utensils being used to serve or dispense ready to eat foods may be stored in a container of water heated to and maintained at 135 degrees Fahrenheit (57 degrees Celsius) or higher. The container must be cleaned and sanitized at least once every 24 hours at the permittee's commissary, and be large enough to allow immersion of the largest sized utensils.

(C) A sink used for ware washing and sanitizing may be used for washing foods, but may not be used for washing hands or as a slop or utility sink.

(3) *Washing foods in a separate food washing sink or food grade container.* When required by Table 1 of §6-05, a separate dedicated sink, or a food grade container placed in a compartment of a ware washing sink may be used for washing food that requires washing while the unit is in operation.

(A) The sink and the colander in which food is washed must not contain any other equipment or supplies when food is being washed, and must be cleaned and sanitized before and after washing any food.

(B) Any sink in which food is washed must be indirectly drained as defined in §81.03(z) of the Health Code or successor provision.

(4) No sink used for washing hands, wares or food may be used as a slop or utility sink.

(1) *Hot and cold storage.* When required by Table 1 of §6-05 of this Chapter, mechanical or other holding equipment shall be provided and used to hold potentially hazardous hot foods at or above 140 degrees Fahrenheit (60 degrees Celsius) and cold foods at or below 41 degrees Fahrenheit (five degrees Celsius).

(1) *Thermometers.* Each hot and cold storage unit shall be equipped with a numerically scaled or other indicating thermometer, accurate to plus or minus two degrees Fahrenheit (one degree Celsius).

(2) *Placement of thermometers.* Thermometers in cold holding equipment shall be placed in such equipment or cold holding containers to measure air temperature in the warmest part of the unit. Thermometers used to measure the temperature of food in hot holding equipment shall be placed so that they measure the temperature in the coolest part of such equipment.

(m) *Compliance with fire safety requirements.* In addition to the other requirements of this section, all mobile food vending units and commissaries shall comply with the New York City Fire Code (Title 29 of the Administrative Code) and rules of the Fire Department found in Chapter 38 of Title 3 of the Rules of the City of New York, or successor provisions, regulating the use of any flammable gas, and governing the storage, handling and use of propane and other liquefied petroleum gases ("LPG"). As set forth in Chapter 38 of the Fire Code and Chapter 38 of the Fire Department rules, such provisions prohibit the use of any flammable gas other than LPG for cooking and heating on a mobile food vending unit. The provisions also prohibit the placement of any unit with propane or other LPGs on a subway grate, and among other things regulate:

(1) Design of the cooking grills and other heating equipment;

(2) Size, number, location and securing of the LPG containers;

(3) Securing of container valves; and

(4) Size, type, location and mounting of required portable fire extinguishers.

(n) *Ice cream trucks.* No decal may be issued for any food truck to be used to vend ice cream and other frozen desserts unless such truck is equipped with fully operational warning beepers and signage arm as required by the State Vehicle and Traffic law and the rules promulgated under such law.

(o) *Overhead structure.* Every mobile food vending unit shall be equipped or constructed with an overhead structure such as an overhang, roof, canopy, umbrella or similar device adequate to protect food and equipment from contamination.

(p) *Food security.* All mobile food vending units shall be equipped with appropriate food grade coverings, tamper-proof locks or other mechanisms. Vendors shall secure such units when it is necessary to leave mobile food vending units unattended on a street for no more than one-half hour. Units left unattended for periods longer than one-half hour shall be deemed abandoned and an imminent health hazard, in accordance with Health Code §89.31(c).

**§6-05 Mobile food vending units: supplies and equipment required for different classes of mobile food vending units.**

(a) In addition to the general requirements for construction and design of mobile food vending units and their equipment in §6-04 of this Chapter, each class of vending units shall be supplied and equipped in accordance with Table 1 of this section. The minimum equipment required is determined by the class of the unit and the foods that are processed and/or sold on the unit.

(b) *Permit subject to revocation; mobile food vending units subject to seizure.* Persons who prepare, process or serve foods from a mobile food vending unit that is not equipped in accordance with the requirements specified for the unit's permit classification as set forth in this section will be deemed to be vending without a permit. Such units and their contents are subject to seizure, removal of the permit decal or insignia, and any other sanctions prescribed by applicable law, including but not limited to, provisions of Article 89 of the Health Code.

§6-05. TABLE 1. SUPPLY AND EQUIPMENT REQUIREMENTS FOR MOBILE FOOD VENDING UNITS

|  | Potable water    | Food and ware washing sinks | Hand wash sink | Waste water tank | Overhead structure | Ventilation | Cold holding     | Hot holding      | Thermometers     |
|--|------------------|-----------------------------|----------------|------------------|--------------------|-------------|------------------|------------------|------------------|
| Class A:<br>Potentially hazardous raw foods cooked on unit; e.g., fried and grilled sausages, poultry, shrimp, kebabs, hamburgers, eggs and extras   | Yes              | Yes                         | Yes            | Yes              | Yes                | Yes         | Yes              | Yes              | Yes              |
| Class B:<br>Potentially hazardous prepared foods combined on the unit; e.g., sandwiches, raw fruits, vegetables and salads, breads, buns and rolls buttered or topped with cream cheese on the unit, smoothies and soft serve ice cream  | Yes              | Yes                         | Yes            | Yes              | Yes                | Yes         | Yes              | Yes              | Yes              |
| Class C:<br>Potentially hazardous prepackaged foods; e.g., prepackaged frozen desserts, prepackaged sandwiches, and prepackaged and presliced fruits and vegetables  | No               | No                          | No             | Yes <sup>3</sup> | Yes                | No          | Yes              | Yes              | Yes              |
| Class D:<br>Non-potentially hazardous unpackaged or packaged foods; e.g., boiled frankfurters and sausages, brewed coffee and tea, donuts, pastries, rolls and buns, buttered or topped with cream cheese at a commissary, popcorn, cotton candy, nuts, candied nuts, soft pretzels, chestnuts | Yes <sup>2</sup> | No                          | No             | Yes <sup>3</sup> | Yes                | Yes         | Yes <sup>3</sup> | Yes <sup>3</sup> | Yes <sup>3</sup> |
| Class E:<br>Non-potentially hazardous uncut fruit and vegetables (including Green Cans)  | No               | No                          | No             | No               | Yes                | No          | No               | No               | No               |

Notes:  
 1. Food and ware washing sinks may be separate or multi-compartment. A single sink is acceptable for food and ware washing if food is washed in a food-grade colander.  
 2. Waste water tanks are required when generating liquid waste from brewing coffee or tea, boiling frankfurters, or serving or using ice. See §6-04(h)(2) of this Chapter.  
 3. Hot and cold holding equipment or methods required for potentially hazardous foods such as hot dogs, sausages and lunches.

**§6-06. Size and placement of mobile food vending units.**

(a) *Non-truck units.* No new permit shall be issued after October 31, 2013 for any mobile food vending unit pushcart that exceeds ten (10) feet in length and five (5) feet in width, including wheels, axles and other appurtenances to such wheels. When vending on a sidewalk, the operator must place the unit so that the longer side is adjacent and parallel to the curb abutting the sidewalk.

(1) Current permits for units that exceed the size restrictions, and that expire on or before October 31, 2013, shall be renewed only once. Subsequent renewal permits shall be approved only for units that comply with these size restrictions.

(2) Current permits that expire on or after November 1, 2013 shall be approved for renewal only for units that comply with these size restrictions.

(b) *Food trucks.* These size restrictions do not apply to food trucks.

**§6-07 Green carts.**

(a) The Department will permanently affix on two sides of each green cart, as that term is defined in §17-306 (s) of the Administrative Code, either identical permit plates or identical permit decals that are easily identifiable and distinguishable from all other plates or decals on the green cart. Such plates or decals shall contain the fresh fruits and vegetables permit number issued to the owner of each such green cart and the borough and police precincts in which the green cart is authorized to operate. Permit decals may not be removed or transferred to any other mobile food vending unit.  
 (b) At the time an initial green cart permit is issued, the Department will provide a distinctive and readily recognizable “green cart” umbrella to each green cart permittee. The umbrella must be safely secured to the green cart and maintained in good condition and repair at all times by the permit holder, and must be displayed in an open position above the green cart whenever the green cart is being used to vend. For any replacement umbrella, the green cart permittee must pay a fee of fifty dollars (\$50.00) reimbursing the Department for the cost of the umbrella. In addition to the above requirements specific to green carts, green carts must comply with all other applicable requirements pertaining to Class E mobile food vending units.

(c) *Exemption of police precincts where green carts may vend.* Notwithstanding any provision in §17-307(b)(4)(b) of the Administrative Code, no fresh fruits and vegetables permit may be designated for use within either the 45th or 72nd police precincts of the City of New York.

**§6-08 Facilities for servicing Class D and Class E mobile food vending units.**

(a) Use of a facility that services four or fewer Class D and/or Class E mobile food vending units that are not food trucks, or one Class D or Class E food truck, may be approved by the Department at or prior to the pre-permit inspection of such Class D and/or Class E units.

(b) A person holding a permit for a Class D or Class E mobile food vending unit who requests approval from the Department for use of a facility other than a commissary shall identify the location of such facility, and provide the Department with the individual or business name, address, telephone number(s), and e-mail contact information, if available, for the owner of the facility. The owner of the facility, or the permittee, if the permittee is the owner of the property where the facility is located, shall certify to the Department that the facility complies with all of the following conditions:

- (1) The facility is not used to store or discard food.
- (2) The facility is constructed of materials whose surfaces are easily cleanable, non-toxic, non-absorbent and smooth and designed to protect the mobile food vending unit at all times from environmental contamination.
- (3) The facility is adequately lighted; equipped with potable hot and cold running water and drainage for liquid wastes; provides adequate space and facilities for cleaning and storing the unit; and is located entirely on private property.
- (4) The facility has all required permits other than a commissary permit and its use complies with all applicable fire safety, zoning and building laws. At the request of the Department, the user shall provide copies of any required permits.
- (5) No more than four Class D and/or Class E mobile food vending units are serviced at the facility.
- (6) Any mobile food vending units stored in the facility and the facility must be kept in a sanitary condition.
- (7) No units may be cleaned on public streets or sidewalks.
- (8) No live animals shall be kept or allowed within any storage or cleaning facility.

(9) Garbage, refuse and other solid and liquid wastes shall be collected and stored at the mobile food vending unit while the unit is in use, and removed from the unit and disposed of at a commissary or other approved facility so as not to create a nuisance in accordance with Health Code §89.25.

**§6-09 Manufacturer or exclusive distributor lease agreements.**

(a) “Lease” or “Lease agreement” submitted for Department approval pursuant to Administrative Code §17-314.1(d)(2), as used in this section, means a written agreement between an exclusive distributor or a manufacturer (lessor) holding more than one temporary mobile food unit permit and a mobile food vendor licensee (lessee). The agreement is for the transfer, for a stated period of time and for a fixed amount as set forth in such written agreement, the possession of a mobile food unit owned by such exclusive distributor or manufacturer with such exclusive distributor’s or manufacturer’s temporary mobile food unit permit attached to the mobile food unit.

(b) All lease agreements involving the leasing of multiple temporary mobile food unit pushcarts and food trucks by manufacturers and exclusive distributors and licensed mobile food vendors that are submitted to the Department for review and approval pursuant to §17-314.1(d)(2) of the Administrative Code must contain a rider to such lease agreements, in a form provided or approved by the Department, that is dated and signed by both parties. The department will maintain copies of an approved lease agreement form on its website and make copies available to any person on request.

(c) The provisions of §17-314.1(d)(2) of the Administrative Code and this section apply to only the manufacturers and exclusive distributors of food products who held multiple temporary or seasonal permits prior to 1995, were authorized to renew up to 60 of those multiple temporary permits, and were exempted from application of Administrative Code §17-307(b)(2)(f), that provides that a person (an individual or any other entity) may renew or obtain only one permit.

**§6-10 Violations.**

(a) “A” violations defined. For the purposes of mobile vending permit or license renewal, or issuance of a new license or permit, “A” violations are all violations of the Health Code, the State Sanitary Code, these rules and the violations of the Administrative Code listed in subdivision (d) of this section where the licensee, permittee or applicant is found in violation as a result of a hearing on the merits or by default.

(b) “A” violation penalties to be paid. Every person renewing a mobile food vending license or a mobile food unit permit, or applying for a new mobile food vending license or mobile food unit permit shall pay all fines and penalties for all “A” violations as defined by subdivision (b) of this section that have been adjudicated, or for which the licensee, permittee or applicant for a license or permit has been found in default. Proof of payment of all such fines and penalties must be submitted prior to issuance of a new or renewal license or permit, notwithstanding the provisions of New York City Charter §1049-a (d)(1)(i).

(c) *Basis for revocation, suspension, or denial of new or renewal permit or license.* The Commissioner may refuse to issue a mobile food vending license or a mobile food unit permit and may, after due notice and an opportunity to be heard, in addition to any other penalties, refuse to renew, suspend or revoke such a license or permit. Such action may be taken when the applicant, licensee, permittee, its officers, directors, shareholders, members, managers or employees (i) have been found to be in violation of four or more of the provisions of subchapter 2 of chapter 3 of title 17 of the Administrative Code that are classified as “A” violations in subdivision (d) of this section within a two-year period, (ii) have been found to be in violation of any of the provisions of part fourteen of the State Sanitary Code or of the Health Code, or (iii) the applicant, licensee, permittee, its officers, directors, shareholders, members, managers or employees have pending any unanswered summonses for a violation of a provision of subchapter 2 of chapter 3 of title 17 of the Administrative Code that is classified as an “A” violation in subdivision (d) of this section.

(d) *Administrative Code “A” violations.* For the purposes of revocation or suspension of mobile food vending permits or licenses, or of determining whether such permits or licenses may be renewed or new licenses and permits issued, “A” violations mean violations of the following provisions of subchapter 2 (“Food Vendors”) of chapter 3 (“Licenses and Permits”) of title 17 of the Administrative Code or successor provisions, as listed below in §6-10 Table 1, where the licensee, permittee or applicant is found in violation as a result of a hearing on the merits or by default:

**§6-10 Table 1. Administrative Code “A” Violations**

| Section    | Description  |
|------------|--|
| §17-307(a) | Unlicensed mobile food vendor.   |
| §17-307(b) | Unpermitted mobile food unit.  |
| §17-307(d) | Vending unapproved items.  |
| §17-311    | Failure to display mobile food vending license, mobile food vending unit permit, or mobile food vending unit decal, plate or insignia. |
| §17-314(a) | Failure to permit regular inspections.   |
| §17-314(b) | Failure to give supplier/depot/commissary information.   |
| §17-314(c) | Sale of unauthorized foods without written approval.   |
| §17-314.1  | Sale, loan, lease or transfer of license, permit or decal, plate or insignia.  |
| §17-315(a) | Vendor on sidewalk that allows less than 12 feet as pedestrian path; or unit not at, or abutting curb.                                 |
| §17-315(e) | Vendor within bus stop, within 10 feet of any driveway, any subway entrance or exit, or any crosswalk at any intersection.             |

(e) *Permittees liable for mobile food vending unit operation: service of notices of violation.* In accordance with Health Code §§5.13 and 89.13, permittees are jointly and severally liable for violations of the Health Code, the State Sanitary Code, the Administrative Code and any other applicable law that occur in the course of operation of mobile food vending units bearing their permits. A person operating a mobile food vending unit who is not the permittee shall be deemed an agent of the permittee, and the mobile food vending unit being operated by such person shall be deemed the place of business of the permittee, for the purpose of service of any notice of violation issued to the permittee by the Department. The notice of violation may also be issued by any other agency of the City authorized to issue notices of violation in the course of enforcement of any law applicable to mobile food vending. If, in the course of operation of a mobile food vending unit, a person other than the permittee is served with such notice of violation or order issued to the permittee, the person other than the permittee shall deliver the notice of violation or order to the permittee within two business days of receiving such notice of violation, and the Department or other agency issuing the notice of violation shall mail such notice of violation to the permittee by first class mail, maintaining and submitting a record of the mailing to the Environmental Control Board as proof of service.

**§6-11 Inspections; permit issuance and renewal.** No unit shall be approved for use unless such unit has passed a pre-permit inspection by the Department and found to be constructed and equipped in compliance with this Chapter and Article 81 and Article 89 of the Health Code.

(a) *Renewal applications to be submitted timely.* An application for renewal of any permit shall not be accepted unless the applicant submits a complete renewal application, the tax clearance certificates required by §17-310 of the Administrative Code, and proof of payment of all fines and penalties owing for notices of violation as required by §17-317(b) and §6-10 of this Chapter, no later than thirty (30) days before the date of expiration of the permit. The Department may accept a late renewal application only if the applicant submits proof that may be verified by the Department that the delay in submission of the completed application and clearances resulted because of delays in issuing the clearances. In such cases, the permittee must show that applications for tax and penalty clearances were submitted at least sixty (60) days before the date of renewal of the permit.

(b) *Inspections to be scheduled timely.* In accordance with §17-307(e) of the Administrative Code, a new or renewal permit shall not be issued if the applicant’s mobile food vending unit fails to pass a pre-permit inspection by the Department within six (6) months after the permit application has been certified or accepted by the Department. The Department may conduct such an inspection more than six (6) months after the application has been submitted only if Department records indicate that the Department caused the delay in scheduling the inspection.

(c) *Permit holder photographs.* All individual applicants for a new or renewed permit, and persons who require a replacement or substitute permit or decal for a mobile food vending unit, shall personally appear at a location designated by the Department so that a current identifying photograph may be taken.

(d) *Pre permit inspections and reinspections.* Permit applicants or permittees must bring the mobile food vending unit in for inspection, at a place designated by the Department, and present (i) a currently valid mobile food vendor’s license, and (ii) another government issued photo identification acceptable to the Department in the following circumstances:

- (1) Before the issuance of a new or renewed mobile food vending permit and decal;
- (2) When a permittee seeks to replace a mobile food vending unit with another unit;
- (3) When a permittee seeks to amend a permit classification from non-processing to processing or processing to non-processing;
- (4) When a mobile food vending unit has sustained a material alteration, as defined in §89.03 (e) of the Health Code; or
- (5) When any permit decal has been removed.

(e) *Applicants other than natural persons.* If an entity other than a natural person is an applicant or permittee, such as a corporation or limited liability company, the person who brings a mobile food vending unit in for inspection on behalf of such entity must be a person authorized by law to accept service of process on behalf of such entity pursuant to Article 3 of the New York CPLR. Such persons may include an officer, director or managing agent of a corporation; a partner of a partnership or limited partnership; or a member of a limited liability company. No other person may bring any mobile food vending unit to the Department for the non-operational inspections required by this section.

(f) *Identifying operators of mobile food vending units.* The applicant for a new or renewal permit must (1) complete a form provided by the Department listing the name(s), address(es), telephone number(s) and the currently valid mobile food vending unit license number(s) of each person who will be operating the mobile food vending unit, and (2) provide a statement describing the legal relationship of such person to the permit holder, in accordance with §17-309(b)(1) of the Administrative Code. The completed form shall be signed and notarized by the permit applicant.

(g) *Service contract or agreement from a commissary or other approved facility.* At the pre-permit inspection, the permittee or permit applicant must provide an original agreement or contract signed by a commissary operator, or a person in charge of a facility other than a commissary that provides services to no more than four Class D or Class E units that are not food trucks, or one Class D or Class E food truck, indicating the specific goods and services provided for the permittee’s mobile food vending unit. The permittee must maintain a copy of such agreement on the mobile food vending unit at all times of operation and make it available for inspection by the Department. Such goods and services must include, but are not limited to:

- (1) Storage of the unit and foods.
- (2) Cleaning and sanitizing of the unit, equipment and utensils.
- (3) Disposing of liquid and solid waste and refuse generated by operation of a unit.

- (4) Amount of potable water supplied.
- (5) Foods provided, including those prepared at the commissary and prepackaged; and name of person preparing foods.
- (6) Non-food supplies provided by the commissary.
- (h) Reinspection of damaged, repaired or materially altered mobile food vending units. Any mobile food vending unit that has been damaged and repaired, or materially altered so as to change or result in a change in the size of the unit, or has undergone replacement of any part of the body structure or equipment of the unit shall be brought to the Department for reinspection prior to reuse or continued use of the unit. Repair or replacement of a tire or an axle, and straightening a dent in a panel are not considered material alterations.
- (i) Decals. No decal may be placed on any mobile food vending unit unless a Department inspector has determined at a pre-permit inspection that the unit is constructed and equipped in accordance with this Chapter, and that the person renewing or applying for a permit has completed and submitted all forms required by this section.
- (j) Units to be photographed. The Department may take photographs of mobile food units at any time, so that the Department may verify that the unit has passed a pre-permit inspection.
- (k) Notification of changes in operations. Permittees must notify the Department, in writing, on forms approved or provided by the Department, no later than ten business days after any there has been a change in:
  - (1) Persons operating each unit as indicated on the form described in Section 6-12(c) of these Rules, or
  - (2) Commissary used. Permittees must provide a copy of an agreement from the new commissary with such notice.
- (l) Enforcement. A new or renewal decal and permit may be denied for:
  - (1) Failing to allow photographs of the permittee or the unit.
  - (2) Failing to appear in person for pre-permit inspections of a mobile food vending unit.
  - (3) Failing to provide information about the operators of the units or foods sold on the unit, or
  - (4) Failing to maintain and submit an agreement with a commissary.

**§6-12 Records of commissaries and other approved facilities.** Commissaries and other approved facilities providing services to four or fewer Class D or Class E units that are not food trucks, or one Class D or Class E food truck, shall keep records in a daily log, in a form provided or approved by the Department, documenting the daily use of commissary services and facilities by mobile food vendors in accordance with §89.27 (b) of the Health Code. The log must indicate the date and time of day each unit is brought in and leaves the commissary.

**§6-13 Disabled veterans mobile food unit vending permits.** Disabled veterans who hold currently valid (i) specialized vendor licenses issued pursuant to General Business Law §35-a, (ii) general vendor licenses issued by the Department of Consumer Affairs and (iii) mobile food vending licenses issued by the Commissioner, may apply for and be issued permits to operate mobile food vending units on sidewalks surrounding parks within the jurisdiction of the New York City Department of Parks and Recreation, or successor City agency, in accordance with the following conditions:

- (a) An applicant for such a restricted area permit may not hold any other currently valid mobile food vending unit permit, and only one such permit may be issued to any applicant.
- (b) In accordance with General Business Law §35-a, such permit authorizes vending only on sidewalks surrounding park lands.
- (c) Operation of the mobile vending unit is subject to all provisions of General Business Law §35-a.
- (d) During all times that a mobile food vending unit issued a permit under this section is in operation, as the term "operation" is defined in Health Code §89.03 (j) or successor provision, a disabled veteran shall be present, but may be assisted by an employee who is a licensed mobile food vendor. Department inspection reports which note the absence of a disabled veteran licensee are deemed proof that a disabled veteran is not operating the unit, in violation of General Business Law §35-a.

**§6-14 Government agency and charitable organization exemptions.** In accordance with §17-320 (a) of the Administrative Code, the Commissioner may exempt any area within the control of a government agency or charitable organization from provisions of Title 17 of the Administrative Code that limit the total number of full-term or temporary mobile food vending permits that may be issued, or the number of permits that may be issued to any one person. The Commissioner may make this exemption provided that (i) the request for issuance is made in writing by the agency or organization and (ii) permittees comply with all other applicable provisions, limitations and conditions imposed by the New York City Administrative Code, the Health Code, the State Sanitary Code and these rules.

**§6-15 Modification.** When the strict applicability of any provision of this Chapter presents practical difficulties or unusual or unreasonable hardships, the Department, in a specific instance, may modify the application of such provision consistent with the general purpose of this Chapter and upon such conditions as are deemed necessary.

§2. The list of Chapter headings in Title 24 of the Rules of the City of New York are amended, to read as follows:

**TITLE 24**  
**DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

|                |          |   |
|----------------|----------|---|
| <b>Chapter</b> | <b>1</b> | <b>Posting Regulations for Vendors of Alcoholic Beverages</b> |
|                | *        | * * *   |
|                | <b>5</b> | <b>Inhalation Therapy Service</b>                             |
|                | <b>6</b> | <b>Mobile Food Vending [Units]</b>                            |
|                | *        | * * *   |

**POLICE**

■ NOTICE

**NOTICE OF ADOPTION OF REVISED RULES**

Notice is hereby given that pursuant to the authority granted to the Police Commissioner by Section 435 of the Charter of the City of New York ("Charter"), and in accordance with section 1043 of the Charter, the Police Department hereby amends Chapter 15 of Title 38 of the Official Compilation of the Rules of the City of New York regarding disciplinary proceedings against members of the Police Department and substantiated civilian complaints against uniform members of the Police Department.

These rule changes were made pursuant to sections 435 and 1043 of the Charter.

A public hearing to consider the adoption of these rule changes was held by the Police Department on November 28, 2012.

NOTE: New matter is underlined; deleted matter is [in brackets].

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

Section one. Section 15-01 of Subchapter A of Chapter 15 of Title 38 of the Rules of the City of New York is amended to read as follows:

**§15-01 Definitions.**

**Advocate.** "Advocate" [shall mean] means the Department Advocate or Assistant Advocates of the New York City Police Department and also means an attorney designated by the Commissioner to prosecute a disciplinary proceeding before the Deputy Commissioner of Trials, including an attorney conducting such prosecution on behalf of the Civilian Complaint Review Board in accordance with a Memorandum of Understanding executed on April 2, 2012 by the CCRB and the Department during the period that such MOU is applicable.

**Charges and Specifications.** "Charges and Specifications" [shall mean] means a written accusation or accusations of misconduct against a civilian or uniform member of the Department, specifying the activity or conduct at issue, along with the date, time and place of occurrence.

**Civilian Complaint Review Board.** "Civilian Complaint Review Board" or "CCRB" means the New York City Civilian Complaint Review Board.

**Department.** "Department" [shall mean] means the New York City Police Department.

**Deputy Commissioner of Trials.** "Deputy Commissioner of Trials" [shall mean] means the Deputy Commissioner or Assistant Deputy Commissioners in charge of New York City Police Department disciplinary hearings.

**Respondent.** "Respondent" [shall mean] means a uniform or civilian member of the Department against whom Charges and Specifications have been preferred.

§ 2. Section 15-02 of Subchapter A of Chapter 15 of Title 38 of the Rules of the City of New York is amended to read as follows:

**§15-02 Jurisdiction.**

The Deputy Commissioner of Trials shall have jurisdiction over disciplinary matters adjudicated by the Department [except as provided in subchapter B of this chapter]. This jurisdiction shall include the authority to render any ruling or order necessary and appropriate for the efficient adjudication of disciplinary proceedings instituted against civilian and uniform members of the Department.

(a) *Applicability.* These Rules shall apply to the conduct of all proceedings heard before the Deputy Commissioner of Trials including pre-hearing, hearing and post-hearing proceedings.

(b) *Construction, Modification and Waiver.* These Rules shall be liberally construed in order to promote just and efficient adjudication of disciplinary proceedings. Upon notice to all parties, the Deputy Commissioner of Trials shall have the authority to modify or waive these Rules where no undue hardship or prejudice to any party shall result from such modification.

§ 3. Section 15-06 of Subchapter A of Chapter 15 of Title 38 of the Rules of the City of New York is amended to read as follows:

**§15-06 Report to Police Commissioner.**

(a) (1) After the Hearing is concluded the Deputy Commissioner of Trials will review the testimony and evidence adduced and prepare a Draft Report and Recommendation [for submission to the Police Commissioner].

(2) The Draft Report and Recommendation shall consist of a summary and analysis of the testimony, recommended findings of fact and conclusions of law, and recommendations for the disposition of the Charges and Specifications. [The Report and Recommendation along with the transcript of the proceeding, unless waived, and all exhibits received in evidence shall be forwarded to the Police Commissioner for review and final action.]

(b) All parties, and their counsel or other representative shall be sent a copy of the Draft Report and Recommendation [at the time it is forwarded to the Police Commissioner,] in order to afford them an opportunity to comment thereon. It is the [respondent's] party's or the [respondent's] party's representative's responsibility to submit written comments timely or a final determination may be made [by the Police Commissioner] without such comments having been considered.

(c) The [respondent] parties will be allowed a specified [number of days] period of time from the receipt of the Draft Report and Recommendation to submit comments. Such comments must be in writing and confined to the evidence in the record. The [respondent] parties shall provide [a copy] copies of such comments to [the Department Advocate] the Deputy Commissioner of Trials who will, upon receipt of all such comments, forward them to the adverse parties [at the time that they are submitted to the Deputy Commissioner of Trials]. Upon receipt of such comments, the Deputy Commissioner of Trials will [forward them] finalize the

Report and Recommendation. The Report and Recommendation will then be forwarded to the Police Commissioner along with the [Report and Recommendation] transcript of the proceeding, unless waived, all exhibits received in evidence, and any comments submitted by the parties pursuant to this section.

(d) If the Deputy Commissioner of Trials finds the respondent guilty of any charges, the respondent's employment record will be reviewed prior to determining a recommended penalty. The respondent may review his or her employment record prior to its submission to the Deputy Commissioner of Trials.

§ 4. Section 15-08 of Subchapter A of Chapter 15 of Title 38 of the Rules of the City of New York is amended to read as follows:

**§15-08 Final Review.**

(a) After reviewing the record of the proceeding and the Report and Recommendation of the Trial Commissioner, the Police Commissioner will make a final determination. The Police Commissioner may approve the recommendation or modify the findings or the penalty consistent with the record.

(b) In the event a respondent enters a plea of guilty in return for a specific recommended sanction by the Trial Commissioner, and the Commissioner upon review imposes a greater sanction, the respondent will be allowed to accept the Commissioner's penalty or withdraw his or her guilty plea and proceed to a Hearing.

(c) The written final determination shall be served on the respondent, his or her attorney or representative if one appeared at the Hearing, and the [Department] Advocate.

§ 5. Subchapter B of Chapter 15 of Title 38 of the Rules of the City of New York is amended to read as follows:

**SUBCHAPTER B: SUBSTANTIATED CIVILIAN COMPLAINTS AGAINST UNIFORM MEMBERS**

**§15-11 Definitions.**

**Administrative Prosecution.** "Administrative Prosecution" shall mean all actions taken after substantiation of a civilian complaint by CCRB in accordance with a Memorandum of Understanding executed by the CCRB and the Department during the period that such MOU is applicable.]

**Chair.** "Chair" [shall mean] means the Chair of the New York City Civilian Complaint Review Board.

**Charges and Specifications.** "Charges and Specifications" [shall mean] means a written accusation or accusations of misconduct against a uniform member of the Department, specifying the activity or conduct at issue, along with the date, time and place of occurrence.

**Civilian Complaint Review Board.** "Civilian Complaint Review Board" or "CCRB" [shall mean] means the New York City Civilian Complaint Review Board.

**Department.** "Department" [shall mean] means the New York City Police Department.

**Department Advocate.** "Department Advocate" or "DAO" means the Department Advocate or Assistant Advocates of the New York City Police Department.

**Deputy Commissioner of Trials.** "Deputy Commissioner of Trials" means the Deputy Commissioner or Assistant Deputy Commissioners in charge of New York City Police Department disciplinary hearings.

**Executive Director.** "Executive Director" [shall mean] means the Executive Director of the New York City Civilian Complaint Review Board.

**FADO.** "FADO" means allegations of excessive force, abuse of authority, discourtesy or offensive language contained in civilian complaints falling within the jurisdiction of the Civilian Complaint Review Board.

**Office of Administrative Trials and Hearings.** "Office of Administrative Trials and Hearings" or "OATH" shall mean the New York City Office of Administrative Trials and Hearings.]

**Police Commissioner.** "Police Commissioner" or "Commissioner" [shall mean] means the Police Commissioner of the City of New York.

**§15-12 [Jurisdiction] Prosecution of Charges and Specifications.**

(a) Upon substantiation by the Civilian Complaint Review Board (CCRB) of one or more FADO allegations contained in a civilian complaint against a uniformed member of the NYPD, CCRB shall notify the Police Commissioner of the substantiation and CCRB's disciplinary recommendation. Subject to the provisions of subdivision (b) of this section, civilian [Civilian] complaints found to be substantiated by the [Civilian Complaint Review Board (CCRB)] CCRB in which CCRB has recommended that Charges and Specifications be preferred shall be prosecuted by the CCRB pursuant to a Memorandum of Understanding (MOU) executed on April 2, 2012 by the CCRB and the Department during the period that such MOU is applicable.

(b) In those limited circumstances where the Commissioner determines that CCRB's prosecution of Charges and Specifications in a substantiated case would be detrimental to the Department's disciplinary process, the Commissioner shall notify CCRB of this determination. These instances shall be limited to cases in which 1) there are parallel or related criminal investigations, or 2) when, in the case of an officer with no disciplinary history or prior substantiated CCRB complaints, and based on such officer's record and disciplinary history, the interests of justice would not be served.

Any request by the Commissioner for the CCRB to refrain from prosecution of Charges and Specifications in accordance with this section shall be made in writing to the CCRB, include a detailed explanation for such request and a statement detailing what discipline if any the Police Commissioner would pursue on such uniformed officer

The CCRB may reject such request to refrain from prosecution within five business days of receipt of such request. Such rejection shall be made in writing and include a statement rebutting the Commissioner's explanation for his or her request.

The Commissioner may deny such rejection within five business days of receipt of such rejection. Such denial shall be made in writing to CCRB and include a detailed response to CCRB's rebuttal. Upon receipt of such denial the CCRB shall refrain from further prosecution of the case. [Where such prosecutions include the filing of Charges and Specifications against the subject officer, an Administrative

Law Judge of the Office of Administrative Trials and Hearings (OATH) shall conduct any hearing necessary to the prosecution of the case and issue a report containing proposed findings of fact and a recommended decision to the Police Commissioner.]

#### §15-13 Expedited Cases.

Upon receipt of notification that a complaint has been found to be substantiated by the CCRB accompanied by a recommendation that Charges and Specifications be preferred, the DAO shall inquire as to whether the nature of the substantiated allegation and the status of the subject officer requires expedited prosecution of the substantiated case. In such cases, or in similar cases where the need for such expedited prosecution arises while the prosecution is pending, the DAO shall advise CCRB's Chair and Executive Director of the need for expedited prosecution. CCRB shall make every reasonable effort to conclude the prosecution within the required time frame. If CCRB determines that it will not be able to conclude the prosecution within the required time frame, CCRB will decline to prosecute the case and request that the DAO undertake the prosecution of such case.

#### §15-14 Other Misconduct.

If during the course of its prosecution of a substantiated civilian complaint, CCRB becomes aware of possible misconduct falling outside its FADO jurisdiction (such as the making of a false statement), which is alleged to have been committed by the subject officer, CCRB shall immediately refer the allegation of such other misconduct to NYPD for investigation. CCRB shall not itself undertake the prosecution of such other misconduct. CCRB shall provide assistance to NYPD as requested for purposes of investigation or prosecution of the alleged misconduct. If necessary, CCRB and the Department Advocate shall coordinate their prosecutions of such related cases.

#### [§15-13] §15-15 Assistance by Department and Application of Department [Rules, Regulations, and] Procedures and Disciplinary Policies.

[To assist CCRB in its prosecutorial function and OATH in its adjudicatory function, the Department shall provide to CCRB and OATH all relevant Department rules, regulations, and disciplinary policies. To the extent practicable and relevant, CCRB shall comply with Department Patrol Guide Series 206, "Disciplinary Matters" and shall utilize Department forms such as Charges and Specifications (PD468-121) and Supervisor's Complaint Report/Command Discipline Election Report (PD468-123), provided that if amendments or variations in Department forms utilized by CCRB are appropriate, they shall be developed jointly by the parties.]

CCRB personnel conducting administrative prosecutions pursuant to the MOU executed on April 2, 2012 shall familiarize themselves with and apply Department disciplinary policies and standards to the extent practicable and relevant. Attorneys and support staff shall be trained in all aspects of Department procedures and policies as they affect such administrative prosecution, including the provisions of Subchapter A of this Chapter. The Department shall provide all reasonable assistance requested by CCRB in the creation of a unit of attorneys and support staff responsible for conducting administrative prosecutions, including training and guidance in both legal and administrative matters. During the course of its administrative prosecution, CCRB's prosecutorial staff may contact the DAO to request the assistance of Department personnel as needed to effectively evaluate, prepare, and prosecute the case. The DAO shall arrange for Department personnel to provide reasonable assistance to CCRB.

#### §15-14 Expedited Cases.

Where the nature of the substantiated allegation and the status of the subject officer requires expedited prosecution of the substantiated case, the Department shall notify the Chair and the Executive Director of the need for expedited prosecution. CCRB shall make every reasonable effort to conclude the prosecution and provide a recommendation to the Police Commissioner within the requested time frame, including contacting OATH as necessary to request expedited procedures as provided in §1-26(c) of Title 48 of the Rules of the City of New York.

#### §15-15 Summary of Employment History.

Upon request by CCRB, the Department shall provide a summary of the employment history of the respondent as provided in the Memorandum of Understanding referenced in §15-12. CCRB may similarly obtain a summary of employment history for a witness officer upon demonstrating to the Department a particularized need for such summary based upon the facts and circumstances of a specific administrative prosecution. Such summary shall not include records relating to complaints against the respondent which are unsubstantiated, exonerated, unfounded, or open. Where the case has received a hearing at OATH and the Administrative Law Judge has determined that the petition shall be sustained in whole or in part, he or she may request the subject officer's summary of employment history from CCRB.]

#### §15-16 Conclusion of Administrative Prosecution.

At the conclusion of the administrative prosecution, in all instances other than cases culminating in a report and recommendation by [OATH] the Deputy Commissioner of Trials, the CCRB shall forward to the Commissioner a final recommendation reflecting the results of its prosecution of the case. The CCRB shall include all relevant forms, memoranda and background information to assist the Commissioner in making [and implementing] a final disciplinary determination. If the case culminated in a hearing before [OATH] the Deputy Commissioner of Trials, [OATH shall forward to the Commissioner the report and recommendation accompanied by the transcript of the proceedings and the exhibits received in evidence, with a copy of the report and recommendation to CCRB. Upon receipt of a copy of the report and recommendation, CCRB may provide to the Commissioner a letter commenting on the OATH report and recommendation] the provisions of Subchapter A of this Chapter shall apply, subject to the provisions of §15-19 of this Subchapter.

#### §15-17 Police Commissioner's Determination.

(a) In all instances other than cases culminating in a report and recommendation by [OATH] the Deputy Commissioner of Trials, upon receiving the final recommendation of CCRB

with accompanying documents, the Commissioner may accept, reject, or modify the recommendation presented, or may ask CCRB for additional investigative or background information in its possession. He or she may also request further investigation or development of the record in the case to enable him or her to make a final determination in the case. If CCRB's recommendation is rejected or modified, CCRB will then be responsible for [implementing the Commissioner's decision and] taking [the] any appropriate follow-up action [as directed], such as proceeding with prosecution of the subject officer, engaging in additional investigation, or further developing the record in the case. [After taking the appropriate follow-up action, the CCRB shall forward to the Commissioner a final recommendation as provided in §15-16.]

(b) [In cases culminating in a report and recommendation by OATH, the Commissioner may accept, reject, or modify the report and recommendation based upon the record presented. He may in the alternative remand the matter to OATH, stating his reasons therefor, with instructions for further proceedings as appropriate. In the event of such a remand, CCRB shall take appropriate steps in conformance with the reasons set forth in the Police Commissioner's statement for remand to reopen the case.]

(c) The Department shall notify CCRB of the final disciplinary result and specific penalty in each case within thirty calendar days of the [imposition of the specific penalty] Commissioner's final determination.

#### §15-18 Correspondence Following Final Determination of Substantiated Civilian Complaints.

In any case substantiated by the CCRB in which the Police Commissioner intends to impose discipline that is of a lower level than that recommended by CCRB or by the Deputy Commissioner of Trials, the Commissioner shall notify the CCRB, with notice to the subject officer, at least ten business days prior to the imposition of such discipline. Such notification shall be in writing and include a detailed explanation of the reasons for deviating from CCRB's recommendation including but not limited to each factor the Commissioner considered in making his or her decision. The CCRB and the subject officer may respond to such a notification within five business days of its receipt, after which the Commissioner shall make a final determination.

#### §15-19 Confidentiality.

(a) Documents or verbal information provided to CCRB by the Department or created by CCRB pursuant to the MOU executed on April 2, 2012 shall be considered confidential to the extent provided by New York State Civil Rights Law § 50-a or any other applicable law. CCRB shall not disclose any such document or verbal information to any person, organization or agency without first notifying the Department's Deputy Commissioner, Legal Matters and providing the Deputy Commissioner, Legal Matters a reasonable opportunity to review the proposed disclosure. This restriction on disclosure shall not apply to disclosures to the Deputy Commissioner of Trials, DAO, or the Department's Internal Affairs Bureau.

(b) Notwithstanding the provisions of subdivision (a) of this section, the CCRB and Department may also exchange information pursuant to subdivision (b) of §15-12 and §15-18 of this Subchapter to the extent that the disclosure of such information does not tend to reveal the identity of a party or witness involved in the investigation or prosecution of the substantiated civilian complaint which is the subject matter of the correspondence.

#### STATEMENT OF BASIS AND PURPOSE OF RULES CHANGES

Chapter 15 of Title 38 of the Rules of the City of New York outlines the rules governing adjudication of disciplinary proceedings applicable to uniform and civilian members of the New York City Police Department. The Rules required amendment due to the execution in April, 2012 of a Memorandum of Understanding by the Civilian Complaint Review Board and the New York City Police Department, concerning the prosecution of substantiated civilian complaints.

Subchapter B of Chapter 15, entitled "Substantiated Civilian Complaints Against Uniform Members," was promulgated in 2001 in order to implement the terms of a similar memorandum, executed that year, which ultimately did not take effect. The amendments to Subchapter B update the rules to reflect the terms of the Memorandum of Understanding executed in 2012, which will take effect when these Rule amendments take effect.

The Memorandum of Understanding reflects an agreement between the two agencies that the Civilian Complaint Review Board, rather than the New York City Police Department, will conduct administrative prosecutions of substantiated civilian complaints in which the Board has recommended that Charges and Specifications be preferred against a subject officer. The Memorandum of Understanding outlines the responsibilities of the two agencies, including provisions regarding mutual assistance, information sharing, and the procedures to be followed by both agencies as the prosecutions proceed.

Conforming changes were also made to Subchapter A of Chapter 15, entitled "Disciplinary Proceedings Against Civilian and Uniform Members before the Deputy Commissioner of Trials," to incorporate the participation of attorneys of the Civilian Complaint Review Board in the disciplinary prosecution process, as well as to update the Rules to reflect current procedures.

#### Notice Date: March 11, 2013

#### To: Occupants, Former Occupants, and Other Interested Parties

| Property                         | Address | Application # | Inquiry Period               |
|----------------------------------|---------|---------------|------------------------------|
| 211 East 34th Street, Manhattan  |         | 10/13         | February 7, 2010 to Present  |
| 207 East 34th Street, Manhattan  |         | 12/13         | February 8, 2010 to Present  |
| 209 East 34th Street, Manhattan  |         | 13/13         | February 8, 2010 to Present  |
| 123 West 118th Street, Manhattan |         | 15/13         | February 12, 2010 to Present |
| 136 West 118th Street, Manhattan |         | 16/13         | February 11, 2010 to Present |
| 611 West 112th Street, Manhattan |         | 19/13         | February 20, 2010 to Present |
| a/k/a 617 West 112th Street      |         |               |                              |
| 341 West 30th Street, Manhattan  |         | 20/13         | February 21, 2010 to Present |
| 607 Jefferson Avenue, Brooklyn   |         | 9/13          | February 1, 2010 to Present  |
| 340 Putnam Avenue, Brooklyn      |         | 14/13         | February 14, 2010 to Present |
| 133 Smith Street, Brooklyn       |         | 17/13         | February 11, 2010 to Present |
| a/k/a 82 Dean Street             |         |               |                              |
| 191 Mac Donough Street, Brooklyn |         | 18/13         | February 20, 2010 to Present |
| a/k/a 191 McDonough Street       |         |               |                              |
| 160-05 Hillside Avenue, Queens   |         | 8/13          | February 1, 2010 to Present  |

#### Authority: SRO, Administrative Code §27-2093

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

The owner of the building identified above has applied for a Certification of No Harassment. If you have any comments or evidence of harassment at this building, please notify HPD at CONH Unit, 100 Gold Street, 3rd 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, (212) 863-8211 or (212) 863-8298.

m11-18

## YOUTH AND COMMUNITY DEVELOPMENT

### ■ NOTICE

#### Notice of Concept Paper

In accordance with Section 3-03(b)(1) of the Procurement Policy Board Rules, the Department of Youth and Community Development (DYCD) will be issuing a Concept Paper for the Neighborhood Development Area program. Following release of this concept paper, DYCD will issue a request-for-proposals (RFP) for new Community Services Block Grant (CSBG) programs targeted to the most needed services identified by community representatives. Through this RFP, DYCD will seek appropriately qualified organizations to provide a wide spectrum of programming to match the self-defined needs, assets, and priorities of New York City's (City's) 42 low-income communities, each of which has been designated as a Neighborhood Development Area (NDA). The Concept Paper can be found on DYCD's website at [www.nyc.gov/dycd](http://www.nyc.gov/dycd) under the Resources for CBO's link.

Please email comments to DYCD at [CP@dycd.nyc.gov](mailto:CP@dycd.nyc.gov) no later than April 22, 2013. Please enter "NDA Concept Paper" in th subject line. Written comments also may be submitted to: Nancy Russell, Project Director, Department of Youth and Community Development, 156 William Street, 2nd Floor, New York, New York 10038.

m7-13

## LATE NOTICE

## TRANSPORTATION

### ■ PUBLIC HEARINGS

#### CORRECTED NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Contract Public Hearing will be held on Thursday, March 14, 2013 at Spector Hall, 22 Reade Street, Main Floor, Borough of Manhattan, commencing at 10:00 AM on the following:

IN THE MATTER of a proposed contract between the Department of Transportation of the City of New York and US Army Corps of Engineers Research & Development Center, 26 Federal Plaza, New York, NY 10278 for the provision of Assessment, Design, Construction Management Services of a Hazard Mitigation Program for Improvements to East River Bridges. **The contract amount shall be \$165,518,220.00.** The contract term shall be from 5/31/2013 to 5/31/2023 and may be renewed at the Department's sole discretion for **three additional 5 year term periods.** PIN #: 84113MBBR729, E-PIN #: 84113T0001.

The proposed contractor has been selected by means of a Government-to-Government procurement method, pursuant to Section 3-13 of the Procurement Policy Board Rules.

A draft copy of the proposed contract will be available for inspection by members of the public between March 7, 2013 to March 14, 2013, excluding Saturdays, Sundays and legal Holiday, from 9:00 AM to 5:00 PM, at the Department of Transportation, Office of the Agency Chief Contracting Officer at 55 Water Street, Room 825, New York, NY 10041.

m12-13

## HOUSING PRESERVATION & DEVELOPMENT

### ■ NOTICE

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