

**SPECIAL PUBLIC MEETING**

**FRANCHISE AND CONCESSION REVIEW COMMITTEE**

**WEDNESDAY, NOVEMBER 12, 2008 @ 1:15 P.M.**

**22 READE STREET, MANHATTAN**

NOTE: INDIVIDUALS REQUESTING SIGN LANGUAGE INTERPRETERS SHOULD CONTACT THE MAYOR'S OFFICE OF CONTRACT SERVICES, 253 BROADWAY, 9TH FL., NEW YORK, NEW YORK, N.Y. 10007 (212) 788-7490, NO LATER THAN SEVEN (7) BUSINESS DAYS PRIOR TO THE PUBLIC MEETING. TDD USERS SHOULD CALL VERIZON RELAY SERVICE.

*Franchise and Concession Review Committee Public Meeting –  
Wednesday, November 12, 2008 @ 1:15 P.M.*

**NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION ON BEHALF OF  
THE NEW YORK CITY DEPARTMENT OF SMALL BUSINESS SERVICES**

**No. 1:** IN THE MATTER of the intent to seek Franchise & Concession Review Committee approval to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, for the New York City Department of Small Business Services to enter into an Occupancy Permit with MMPI Piers LLC for the use of Pier 92 and Pier 94, including the associated head house, located in the Borough of Manhattan, for the purpose of operating a trade and consumer show facility and supporting and other ancillary uses, for a term of one (1) year, commencing upon written notice to proceed, with two (2) one-year renewal periods, exercisable at the City's sole discretion. Compensation to the City will be as follows: a Base Charge consisting of \$360,000 for the initial period, \$396,000 for the First Renewal Period (if exercised) and \$435,600 for the Second Renewal Period (if exercised). Additional compensation will include an Event Revenue Participation Charge consisting of 15% of the Net Operating Income relating to the use of Pier 92 and Pier 94 (other than revenue generated by the operation of the parking facility on Pier 92), plus a Parking Revenue Participation Charge consisting of 50% of Threshold Gross Revenues above \$400,000 for the operation of the roof of Pier 92 as a parking facility.

A proposed resolution was submitted, relative thereto.

**RESOLUTION FOR ADOPTION.**

**Original**

-----X  
SPECIAL PUBLIC HEARING  
FRANCHISE AND CONCESSION REVIEW COMMITTEE  
-----X

22 Reade Street  
New York, New York

Wednesday,  
November 12, 2008  
1:15 o'clock p.m.



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1 FCRC ATTENDEES

2  
3 MAYOR, CAS HOLLOWAY  
4 OFFICE OF THE MAYOR, BRIAN GELLER  
5 COMPTROLLER, VALERIE BVOZIK  
6 CORPORATION COUNSEL, HOWARD FRIEDMAN  
7 OFFICE OF MANAGEMENT & BUDGET, YVONNE  
8 QUINTAIN  
9 BOROUGH PRESIDENT OF BROOKLYN, JASON  
10 OTANO  
11 BOROUGH PRESIDENT OF MANHATTAN,  
12 JIMMY YAN  
13 BOROUGH PRESIDENT OF QUEENS, MARK  
14 McMILLAN  
15 BOROUGH PRESIDENT OF STATEN ISLAND,  
16 LEE COVINO

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1 MR. HOLLOWAY: Good afternoon and  
2 thank you all for being here. The  
3 Franchise and Concession Review Committee  
4 will now come to order.

5 Will the clerk please call the  
6 roll?

7 THE CLERK: Mayor.

8 MR. HOLLOWAY: Here.

9 THE CLERK: Office of the Mayor.

10 MR. GELLER: Here.

11 CLERK: Comptroller.

12 MS. BVOZIK: Here.

13 CLERK: Corporation Counsel.

14 MR. FRIEDMAN: Here.

15 CLERK: Office of Management and  
16 Budget.

17 MS. QUINTAIN: Here.

18 THE CLERK: President Borough of  
19 the Bronx.

20 (No response)

21 President Borough of Brooklyn.

22 MR. OTANO: Here.

23 THE CLERK: President Borough of  
24 Manhattan.

25 MR. YAN: Here.

1 THE CLERK: President Borough of  
2 Queens.

3 MR. McMILLAN: Here.

4 THE CLERK: President Borough of  
5 Staten Island.

6 MR. COVINO: Here.

7 MR. HOLLOWAY: Thank you very  
8 much. Will the clerk please call the  
9 calendar.

10 THE CLERK: New York City  
11 Economic Development Corporation on Behalf  
12 of New York City Department of Small  
13 Business Services.

14 Under item No. 1: In the matter  
15 of the intent to seek Franchise &  
16 Concession Review Committee approval to  
17 utilize a different procedure Concession  
18 Rules of the City of New York, for the  
19 Department of Small Business Services to  
20 enter into an Occupancy Permit with MMPI  
21 Piers for use of Pier 92 and Pier 94,  
22 located in the Borough of Manhattan, for  
23 the purposes of operating trade and  
24 consumer show facility and supporting uses  
25 for a term of one year, with two one-year



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1 renewal periods, exercisable at the City's  
2 discretion.

3 Compensation to the City will be  
4 a base charge for the initial period, or  
5 the additional renewal period, if  
6 exercised. Additional compensation will  
7 include an Event Revenue Participation  
8 Charge relating to use of Pier 92 and Pier  
9 94, plus a Parking Revenue Participation  
10 Charge.

11 A proposed resolution was  
12 submitted, relative thereto.

13 Resolution for adoption.

14 MR. HOLLOWAY: Thank you. Is  
15 there a member who wishes to make a  
16 statement or ask a question on this matter?

17 MS. BVOZIK: The Comptroller's  
18 office would like to make a statement in  
19 this matter. The Comptroller's office is  
20 going to vote no on this item.

21 Concerning the item for the FCRC  
22 today is an occupancy permit for a short  
23 period of time pending negotiation of the  
24 longer-term arrangement with Vernado and  
25 MMPI. That long-term arrangement is being



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1 handled as a lease and, therefore, will not  
2 come back to the FCRC.

3 We understand the Law  
4 Department's legal argument as to why the  
5 City is entitled to proceed through a lease  
6 in terms of the long-term arrangement.  
7 Nonetheless, the Comptroller's office is  
8 uncomfortable with that.

9 We think the long-term  
10 arrangement should be handled as a  
11 concession and subject to review and  
12 approval by the FCRC. And we think that  
13 without that review and approval you have  
14 less transparency and oversight, and we  
15 think more transparency and oversight is  
16 appropriate for this type of transaction.  
17 And, due to those concerns, the Comptroller  
18 will vote no on this item.

19 MR. HOLLOWAY: Any other members  
20 wish to make a statement or ask a  
21 questions?

22 MR. YAN: Yes. On behalf of  
23 Manhattan Borough President, we share some  
24 of the concerns of the Comptroller's Office  
25 and we would like to try to ask the City

1 and the Law Department about their  
2 decision-making behind the process.

3 Can you describe for us how you  
4 decided to take this transaction as a lease  
5 as opposed to a concession?

6 MR. FRIEDMAN: That ultimately is  
7 a business decision actually. I mean the  
8 City could have chosen to do this as a  
9 concession.

10 The question for the Law  
11 Department is whether or not the City has  
12 the power to enter into a long-term lease.  
13 1301G of the Charter gives the Department  
14 of Small Business Services the power to  
15 enter into lease for waterfront and water  
16 property for non-maritime uses.

17 And when it's for non-maritime  
18 uses it has to go through ULURP. That's  
19 the process that has been discussed. That,  
20 in fact, in my point of view, does provide  
21 a transparency for the lease process. It's  
22 something that, in fact, is subject to even  
23 more review than the FCRC provides.

24 But, in any event, the Charter  
25 under 1301G gives the City the power to do



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1 this as lease.

2 Now it takes time, and, for the  
3 various reasons that have been discussed,  
4 SBS and EDC have the need to have an  
5 interim arrangement. Their interim  
6 arrangement is a license, and it's a  
7 license that's subject to the FCRC. And so  
8 here we are. You'll have to ask EDC why  
9 they think it's a good business decision to  
10 have a lease through the long-term  
11 arrangement.

12 MR. YAN: The Comptroller seems  
13 not to be objecting to the -- it doesn't  
14 sound like the Comptroller is saying the  
15 City does not have authority to conduct  
16 this transaction as a lease, but, as a  
17 policy matter, that may not be the best  
18 approach for the public input, so...

19 MR. HOLLOWAY: Somebody is here.  
20 If you can identify yourself?

21 MR. PEDRONE: My name is Ernie  
22 Pedrone from Transaction Services Group,  
23 EDC.

24 The decision to offer a long-term  
25 lease through an RFP process for Pier 94

1 rose from the identification of a need for  
2 the trade show industry to be accommodated  
3 in New York City that's been growing over  
4 the last several years. And it has reached  
5 a point where we are starting to lose  
6 business in the City because we can't  
7 accommodate certain trade shows.

8 Moreover, the facility was not  
9 originally built as a trade show facility  
10 and there are certain capital improvements,  
11 substantial capital improvements, that need  
12 to be made to the facility.

13 In order to induce the capital  
14 management funding from the private sector,  
15 in order to be able to secure that  
16 financing, we need to have a long-term  
17 lease. You wouldn't be able to have  
18 somebody spend the time and money that you  
19 need to renovate these piers for that use  
20 under a license that's terminable at will  
21 by the City and is only good for one year  
22 at a time.

23 MR. YAN: So you're saying one of  
24 the main advantages of a lease is that it  
25 provides more financial incentive for the



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1 security.

2           And we're not talking about  
3 inalienable property here; and the charter  
4 gives SBS -- and, therefore, EDC -- the  
5 ability to do that.

6           So to come up with non-Park -- I  
7 mean, I guess you could say if there was a  
8 major capital improvement in the middle of  
9 the street because they're both  
10 inalienable -- but that's silly, right.  
11 You're asking about a situation that  
12 probably doesn't exist once you've accepted  
13 that part.

14           MR. YAN: Just to make sure I  
15 understand you, you're saying that you  
16 believe, even though you don't have all the  
17 information really, but your sense is that  
18 there is not a significant number of other  
19 transactions that are similar to this in  
20 terms of the generating of revenue for the  
21 City and requiring certain capital outlay,  
22 financial incentives for the vendor, that  
23 they are no similar situations; so I'm just  
24 going to treat it as a concession rather  
25 than a lease?

1           MR. FRIEDMAN: A really large  
2 capital improvement that has to be made,  
3 no. A lot of Parks concessions require  
4 some amount of capital work to be done  
5 prior to the concession, but not at a large  
6 scale.

7           MS. BVOZIK: There are some Park  
8 concessions that do involve substantial  
9 capital improvement.

10           We don't discount EDC's argument.  
11 We understand that financing might be more  
12 difficult if you have a concession  
13 terminable at will versus a lease; but,  
14 nonetheless, we have many examples where  
15 the operator was able to obtain the  
16 financing.

17           And, in our view, this is a value  
18 to get -- but as a City focus shouldn't  
19 really be borne on the process of  
20 transparency, and the public having comfort  
21 that the transaction was handled  
22 appropriately.

23           ULURP does involve, you know,  
24 public hearing notice, public input. But  
25 we think the FCRC focuses on different

1 types of issues, and there is value added.  
2 And we think it's a policy matter and this  
3 type of transaction shouldn't go through  
4 the FCRC.

5 MS. SIMPSON: Marla Simpson,  
6 Director of the Mayor's Office of Contract  
7 Services.

8 One relevant example on the Parks  
9 example, Jim, is that, as you may recall,  
10 there was an exercise park to do a  
11 concession from development of this very  
12 important point.

13 And they were unable to really  
14 get that capital investment to the scale  
15 that it was going to happen because of the  
16 absence of an interest of the security  
17 type.

18 And, therefore, again because  
19 that property is inalienable, the way the  
20 City chose to proceed with that project was  
21 by having the City front the construction  
22 loan in order to build the golf course --  
23 and then the plan given to them was to have  
24 a concession contribute additional capital  
25 primarily for construction that would be on

1 the golf course and to operate it, and at  
2 that scale which is modest.

3 The expectation is that, perhaps,  
4 the concession and what we think is best,  
5 but when you're talking about large-scale  
6 investments, it's our experience the lease  
7 advantage has been in the market.

8 MR. HOLLOWAY: Just to touch on  
9 some of the things that have been said, and  
10 then address one or two other points.

11 Stepping back for a second, the  
12 two issues are transparency and  
13 competition. So, in this case, you have an  
14 RFP conducted, you have the competition and  
15 then the ULURP process -- you'll have the  
16 ability for the public comment.

17 And that gets me to a couple of  
18 other points. At the public hearing on  
19 this, which was nine days ago, some  
20 concerns were raised by some people who  
21 spoke -- I think Community Board 4 and some  
22 others -- in terms of concerns about the  
23 long-term development and what it would be  
24 in terms of traffic impact and other  
25 things. And we're sure that those issues



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1 can be raised and vetted through the ULURP  
2 process that will happen as part of the  
3 long-term.

4 The reason that we're being asked  
5 to take this action toward the short-term  
6 concession is to ensure continuity at the  
7 site, which, I think, everybody on this  
8 Committee agrees is an important thing to  
9 maintain while we go forward with the  
10 long-term investment, so...

11 Any other comments or questions?

12 MR. YAN: Question. Please remind  
13 me, are there any public hearing  
14 requirements?

15 MR. FRIEDMAN: 1301G requires  
16 there be a public hearing. And, of course,  
17 because 1301G also requires the ULURP  
18 process, there's a whole string of public  
19 hearings that can be provided as part of  
20 that process.

21 MR. HOLLOWAY: Okay. If there  
22 are no other comments or questions, Can I  
23 have a motion?

24 MR. McMILLAN: I make a motion.

25 MR. HOLLOWAY: Is there a second?

1 MR. COVINO: Second.

2 MR. HOLLOWAY: Thank you. Clerk  
3 please take the vote.

4 THE CLERK: Mayor.

5 MR. HOLLOWAY: Yes.

6 THE CLERK: Office of the Mayor.

7 MR. GELLER: Yes.

8 THE CLERK: Comptroller.

9 MS. BVOZIK: No.

10 THE CLERK: Corporation Counsel.

11 MR. FRIEDMAN: Yes.

12 THE CLERK: Office of Management  
13 and Budget.

14 MS. QUINTAIN: Yes.

15 THE CLERK: President Borough of  
16 Manhattan.

17 MR. YAN: The President Borough  
18 of Manhattan votes yes; but we agree that  
19 some of the terms raised by the Comptroller  
20 are very important and valid.

21 In this particular instance, we  
22 will get help with the opportunity for  
23 public input, the ULURP process, with the  
24 RFP process that was conducted.

25 And in particular circumstances,

1 public safety circumstances, I do want to  
2 echo some on the Comptroller's concerns.  
3 We think that public input into significant  
4 transactions of City property is important  
5 and ask the Mayor's office to consider such  
6 input in future transactions.

7 THE CLERK: Calendar Item No. 1  
8 resolution adopted.

9 MR. HOLLOWAY: Thank you very  
10 much. Meeting is adjourned.

11 (Whereupon, at 1:25 p.m., the  
12 above matter concluded.)  
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C E R T I F I C A T E

I, SHERRY SPALLIERO, a Notary Public for and within the State of New York, do hereby certify that the above is a correct transcription of my stenographic notes.

*Sherry Spalliero*  
SHERRY SPALLIERO *KS*

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