

SPECIAL PUBLIC HEARING

FRANCHISE AND CONCESSION REVIEW COMMITTEE

MONDAY, AUGUST 17, 2009 @ 2:30 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 HEARING. TDD USERS SHOULD CALL VERIZON RELAY SERVICE.

*Franchise and Concession Review Committee Special Public Hearing –
Monday, August 17, 2009 @ 2:30PM*

NEW YORK CITY DEPARTMENT OF TRANSPORTATION

No. 1: IN THE MATTER of the intent to seek Franchise and 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 Transportation (“DOT”) to enter into a Sole Source License Agreement (“Agreement”) with the Flatiron/23rd Street Partnership Business Improvement District (the “FLATIRON BID”) to provide for the operation, management, and maintenance of a pedestrian plaza located on 5th Avenue and Broadway between 22nd and 24th Streets in Manhattan (“Licensed Plaza”), including through DOT-approved events, sponsorships, and subconcessions, including but not limited to providing for the sale of any of the following: prepared food, flowers, locally grown produce or locally manufactured products, merchandise (such as souvenirs or T-shirts) that helps brand or promote the neighborhood of the FLATIRON BID, and other similar merchandise within the Licensed Plaza. The FLATIRON BID shall issue solicitations in the basic form of a Request for Proposals or a Request for Bids to select the entity/entities, which will operate and manage such subconcessions. The selection of the entity/entities to operate and manage the subconcessions will be subject to DOT’s approval. The Agreement will provide for one (1) five-year term, commencing upon written Notice to Proceed, with four (4) one-year renewal options, exercisable at the sole discretion of DOT. FLATIRON BID will be required to use any revenue generated by this concession for the maintenance, repair and/or improvement (“Services”) of the Licensed Plaza. Any revenue received by the FLATIRON BID in excess of the amount attributable to the Services of the Licensed Plaza and reasonable administrative costs associated with this concession shall be paid to DOT for the City’s General Fund.

NEW YORK CITY DEPARTMENT OF TRANSPORTATION

No. 2: **IN THE MATTER** of the intent to seek Franchise and 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 Transportation (“DOT”) to enter into a Sole Source License Agreement (“Agreement”) with the Fashion Center District Management Association, Inc. (“FASHION CENTER”) to provide for the operation, management, and maintenance of pedestrian plazas located on Broadway between 41st and 36th Streets in Manhattan (“Licensed Plaza”), including through DOT-approved events, sponsorships, and subconcessions, including but not limited to providing for the sale of any of the following: prepared food, flowers, locally grown produce or locally manufactured products, merchandise (such as souvenirs or T-shirts) that helps brand or promote the neighborhood or FASHION CENTER, and other similar merchandise within the Licensed Plaza. FASHION CENTER shall issue solicitations in the basic form of a Request for Proposals or a Request for Bids to select the entity/entities, which will operate and manage such subconcessions. The selection of the entity/entities to operate and manage the subconcessions will be subject to DOT’s approval. The Agreement will provide for one (1) five-year term, commencing upon written Notice to Proceed, with four (4) one-year renewal options, exercisable at the sole discretion of DOT. FASHION CENTER will be required to use any revenue generated by this concession for the maintenance, repair and/or improvement (“Services”) of the Licensed Plaza. Any revenue received by FASHION CENTER in excess of the amount attributable to the Services of the Licensed Plaza and reasonable administrative costs associated with this concession shall be paid to DOT for the City’s General Fund.

NEW YORK CITY DEPARTMENT OF TRANSPORTATION

No. 3: **IN THE MATTER** of the intent to seek Franchise and 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 Transportation (“DOT”) to enter into a Sole Source License Agreement (“Agreement”) with the 34th Street Partnership, Inc. (the “PARTNERSHIP”) to provide for the operation, management, and maintenance of pedestrian plazas located on Broadway and 6th Avenue between West 33rd and West 36th Streets in Manhattan (“Licensed Plaza”), including through DOT-approved events, sponsorships, and subconcessions, including but not limited to providing for the sale of any of the following: prepared food, flowers, locally grown produce or locally manufactured products, merchandise (such as souvenirs or T-shirts) that helps brand or promote the neighborhood or the PARTNERSHIP, and other similar merchandise with the Licensed Plaza. The PARTNERSHIP shall issue solicitations in the basic form of a Request for Proposals or a Request for Bids to select the entity/entities, which will operate and manage such subconcessions. The selection of the entity/entities to operate and manage the subconcessions will be subject to DOT’s approval. The term of the Agreement shall be up to and including December 31, 2009, commencing upon written Notice to Proceed, with one (1) five-year renewal option and four (4) one-year renewal options, exercisable at the sole discretion of DOT. The PARTNERSHIP will be required to use any revenue generated by this concession for the maintenance, repair and/or improvement (“Services”) of the Licensed Plaza. Any revenue received by the PARTNERSHIP in excess of the amount attributable to the Services of the Licensed Plaza and reasonable administrative costs associated with this concession shall be paid to DOT for the City’s General Fund.

NEW YORK CITY DEPARTMENT OF TRANSPORTATION

No. 4: **IN THE MATTER** of the intent to seek Franchise and 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 Transportation (“DOT”) to enter into a Sole Source License Agreement (“Agreement”) with the Times Square District Management Association, Inc. (“TSA”) to provide for the operation, management, and maintenance of pedestrian plazas located on Broadway and 7th Avenue between West 41st and West 47th Streets in Manhattan (“Licensed Plaza”), including through DOT-approved events, sponsorships, and subconcessions, including but not limited to providing for the sale of any of the following: prepared food, flowers, locally grown produce or locally manufactured products, merchandise (such as souvenirs or T-shirts) that helps brand or promote the neighborhood or TSA, and other similar merchandise with the Licensed Plaza. TSA shall issue solicitations in the basic form of a Request for Proposals or a Request for Bids to select the entity/entities, which will operate and manage such subconcessions. The selection of the entity/entities to operate and manage the subconcessions will be subject to DOT’s approval. The term of the Agreement shall be up to and including December 31, 2009, commencing upon written Notice to Proceed, with one (1) five-year renewal option and four (4) one-year renewal options, exercisable at the sole discretion of DOT. TSA will be required to use any revenue generated by this concession for the maintenance, repair and/or improvement (“Services”) of the Licensed Plaza. Any revenue received by TSA in excess of the amount attributable to the Services of the Licensed Plaza and reasonable administrative costs associated with this concession shall be paid to DOT for the City’s General Fund.

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FRANCHISE AND CONCESSION REVIEW COMMITTEE

SPECIAL PUBLIC HEARING

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22 Reade Street
New York, New York

August 17, 2009
2:45 p.m.

P R E S E N T:
COMMITTEE MEMBERS:

- CAS HOLLOWAY, Chairman
- BRIAN GELLAR, Mayor's Office
- VALERIE BUDZIK, Comptroller's Office
- HOWARD FRIEDMAN, ESQ., Corporation Counsel
- SARAH URBANSKI, Office of Management and Budget
- JIMMY YAN, Manhattan Borough President
- JASON OTANO, Brooklyn Borough President
- MARK McMILLAN, Queens Borough President
- LEE COVINO, Staten Island Borough President

1 THE CHAIRMAN: Good afternoon. The
2 special Joint Public Hearing will now come to
3 order.

4 Will the clerk please call the roll.

5 THE CLERK: Mayor?

6 MR. HOLLOWAY: Here.

7 THE CLERK: Offices of the Mayor?

8 MR. GELLAR: Here.

9 THE CLERK: Comptroller?

10 MS. BUDZIK: Here.

11 THE CLERK: Corporation Counsel?

12 MR. FRIEDMAN: Here.

13 THE CLERK: Office o Management and
14 Budget?

15 MS. URBANSKI: Here.

16 THE CLERK: President of the Borough
17 of the Bronx?

18 (No response)

19 THE CLERK: President of the Borough
20 of Brooklyn?

21 MR. OTANO: Here.

22 THE CLERK: President of the Borough
23 of Manhattan?

24 MR. YAN: Here.

25 THE CLERK: President of the Borough

1 of Queens?

2 MR. McMILLAN: Here.

3 THE CLERK: President of the Borough
4 of Staten Island?

5 MR. COVINO: Here.

6 THE CHAIRMAN: Welcome to the Special
7 Joint Public Hearing of the Franchising Concession
8 Review Committee. The hearing is being conducted
9 today as publicly advertised in the City record at
10 least 15 days prior to the hearing, in accordance
11 with the Charter of the City of New York and the
12 Concession Rules of the City of New York.

13 We want to be sure that anyone desiring to
14 be heard has an opportunity to do so. If you wish
15 to speak, please just make sure that you fill out a
16 slip with the clerk so we know who you are, and
17 then state your affiliation, and you will be able
18 to speak at will.

19 Before we call the first calendar item,
20 let me also ask, just looking at the length of the
21 calendar items here, the entire resolution will go
22 into the record in terms of reading it to the
23 Committee members, would it be okay if we read the
24 essential elements of it, and then move so, Clerk,
25 you can interpret that and I will let you know if I

1 think your should fill anything else.

2 Will the Clerk please call the first
3 calendar item.

4 THE CLERK: This is a Special Joint
5 Public Hearing for the Franchise and Concession
6 Review Committee and the New York City Department
7 of Transportation held on August 17, 2009.
8 New York State Department of Transportation
9 Calendar Item Number 1, in the matter of the intent
10 to seek Franchising Concession Review Committee
11 approval to utilize a different procedure pursuant
12 to Section 1-16 of the Concession Rules of the City
13 of New York, the New York State Department of
14 Transportation to enter into a Sole Source License
15 Agreement with the Flatiron/23rd Street Partnership
16 Business Improvement District to provide for the
17 operation, management, and maintenance of a
18 pedestrian plaza located on Fifth Avenue and
19 Broadway between 22nd and 24th Streets in
20 Manhattan.

21 THE CHAIRMAN: Great. Is there a
22 member of the public who wishes to testify on this
23 first item?

24 MR. GOLAB: My name is David Golab. I
25 am now Chair of Manhattan Community Board Five's

1 BID Committee Improvement District. I represent
2 the Community Board Five as a liaison to the
3 Fashion Center BID and East Midtown BID.

4 My interest in BIDs dates to the mid 1980s
5 when I played a very small part in establishing the
6 Philadelphia's Center City District, one of the
7 nation's first and most successful BIDs.

8 I am testifying today on the concessions
9 or license agreements between the Department of
10 Transportation Fashion Center, Flatiron, Herald
11 Square BIDs, the Times Square Alliance and the 34th
12 Street Partnership, all of which are within the
13 Community Board Five.

14 There is a general consensus on our board
15 that the pedestrian plazas are wonderful public
16 amenities. As promised, they are found public
17 spaces and an improvement to the civic environment.

18 We would, however, like to express two
19 strong concerns before the committee today.

20 Because community boards have a strong
21 formal advisory role regarding transportation,
22 parks, street activity applications, we strongly
23 believe we should have a role in the review process
24 for granting of concessions or events awarded under
25 these license agreements. In fact, license

1 agreements themselves make note on the very first
2 page that there is a strong relationship between
3 the community boards and all the BIDs. We believe
4 these agreements and events can only be
5 strengthened with the input of the community's
6 voice as expressed through the community board
7 process.

8 Our second concern is related to the
9 potential for the proliferation of commercial
10 events and advertising in these public plazas,
11 something is already happening to our dismay in the
12 parks. These new public plazas were created, in
13 part, as an oasis from the congestion of traffic in
14 our streets. New York City is saturated with both
15 traffic and commercials. There is no public
16 benefit to removing one for the other.

17 There are many unanswered questions
18 regarding these agreements, such as provisions for
19 the sale of alcohol, the frequency, size and scale
20 of special events, the nature of sponsorships, the
21 definition of what is appropriate regarding sound
22 levels and the maintenance of what was to have been
23 temporary designs. Community Board Five will
24 review these agreements more carefully and comment
25 before they are renewed in January 2010.

1 We seek to be constructive partners in
2 this exciting new urban experiment and feel we have
3 an important role to play as the community's voice.
4 We ask you and the City to carefully take our
5 concerns into account, and I thank you for allowing
6 us to share our thoughts today.

7 THE CHAIRMAN: Thank you very much.
8 Is there anyone else here who wishes to testify on
9 this first item?

10 (No response)

11 If not, will the Clerk please call the
12 second calendar item.

13 THE CLERK: New York City Department
14 of Transportation Calendar Item Number 2, in the
15 matter of the intent to seek FCRC approval for DOT
16 to enter into a license agreement with the Fashion
17 Center, the operation, management, and maintenance
18 of pedestrians plazas located on Broadway between
19 41st and 36th Street in Manhattan.

20 THE CHAIRMAN: Thank you. Is there a
21 member of the public who wishes to have testify on
22 this item?

23 COMPTROLLER: The gentleman left the
24 room, but I assume the administration will provide
25 a response to the question of the Community Board?

1 THE CHAIRMAN: Yes. We will certainly
2 consult with the administration of the DOT.

3 COMPTROLLER: Wednesday?

4 THE CHAIRMAN: Yes. If there is not a
5 member of the public who wishes to testify on the
6 second item, will the Clerk please call the third
7 calendar item.

8 THE CLERK: New York City Department
9 of Transportation Calendar Item Number 3, in the
10 matter of intent to seek FCRC approval for DOT to
11 enter into a license agreement with the 34th Street
12 Partnership, Inc. to provide the operation,
13 management, and maintenance for pedestrian plazas
14 located on Broadway and Sixth Avenue between West
15 33rd and West 36th Streets in Manhattan.

16 THE CHAIRMAN: Thank you. Does anyone
17 wish to testify on this third calendar item.

18 (No response)

19 If not, will the Clerk please call the
20 fourth calendar item.

21 THE CLERK: New York City Department
22 of Transportation Calendar Item Number 4, in the
23 matter of the intent to seek FCRC approval to
24 utilize different procedure for the New York City
25 Department of Transportation to enter into a

1 license agreement with the Times Square District
2 Management Association Incorporated to provide for
3 the operation, management, and maintenance of
4 pedestrian plazas located on Broadway and Seventh
5 Avenue between 41st and 47th Streets in Manhattan.

6 THE CHAIRMAN: Thank you. Is there a
7 member of the public or anyone who wishes to
8 testify on this item?

9 (No response)

10 Okay. If not, that is the final calendar
11 item for today, and that means that this public
12 hearing is closed. See you Wednesday.

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