

# Memo

**To:** All NYC Borough Presidents  
All NYC Community Board Presidents

**From:** Courtney Kaadi  
NYC & Company Inc.

**CC:** Tia Pierce  
Department of Small Business Services

Gregg Alleyne  
Mayor's Office of Contract Services

Natalie Koepff  
NYC & Company Inc.

**Date:** August 2, 2019

**Re:** Notice of Intent to Seek FCRC approval to utilize a different procedure to negotiate a Sole Source License Agreement with Vineyard Vines, LLC for the non-exclusive use of city-owned trademarks on merchandise

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Dear NYC Borough Presidents and NYC Community Board Presidents:

Pursuant to §1-16 of the Concession Rules of the City of New York, this is to notify the affected Borough Presidents and Community Boards that NYC & Company Inc., on behalf of the NYC Department of Small Business Services, intends to seek Franchise and Concession Review Committee approval to utilize a different procedure to negotiate a sole source license agreement with Vineyard Vines, LLC for a non-significant concession for the non-exclusive use of city-owned trademarks on merchandise.

The proposed concession has been determined not to be a major concession as defined in Chapter 7 of the Rules of the City Planning Commission.

If you have any questions or comments, please contact me by e-mail at [ckaadi@nycgo.com](mailto:ckaadi@nycgo.com).

Best,

Courtney Kaadi

**CONCESSION AGREEMENT PRE-SOLICITATION REVIEW MEMORANDUM COVER SHEET**  
 (Complete and attach a CPSR Memorandum only if the selection procedure will be other than Competitive Sealed Bids)

<b>AGENCY:</b> NYC & Company, Inc. on behalf of NYC Department of Small Business Services	<b>CONCESSION TITLE/DESCRIPTION:</b> Non-Exclusive Use of City-Owned Trademarks on Merchandise  <b>CONCESSION IDENTIFICATION #</b> NYCCO-2019-012
<b># VOTES required for proposed action =</b> 4 <input type="checkbox"/> N/A	

**SELECTION PROCEDURE**  
 (\* City Chief Procurement Officer approval of CPSR required)

Competitive Sealed Bids (CSB) (CSP)\*
  Competitive Sealed Proposals

Different Procedure \* ( Sole Source Agreement  Other \_\_\_\_\_)

Negotiated Concession\*

Recommended Concessionaire: Vineyard Vines, LLC.  EIN  SSN # 06-1531016  
 Attach Memo(s) \*

<p align="center"><b>CONCESSION AGREEMENT TERM</b></p> <p><b>Initial Term:</b> to be negotiated</p> <p><b>Renewal Option(s) Term:</b> to be negotiated</p> <p><b>Total Potential Term:</b> to be negotiated</p>	<p align="center"><b>ESTIMATED REVENUE/ANTICIPATED BUSINESS TERMS</b> (Check all that apply)</p> <p align="center"><input type="checkbox"/> Additional description attached</p> <p><input type="checkbox"/> Annual Minimum Fee(s) \$ _____</p> <p><input type="checkbox"/> % Gross Receipts _____%</p> <p><input type="checkbox"/> The Greater of Annual Minimum Fee(s of \$_____ v. _____% of Gross Receipts</p> <p><input checked="" type="checkbox"/> Other formula: to be negotiated</p>
<p><b>LOCATION OF CONCESSION SITE(S)*</b> <input checked="" type="checkbox"/> N/A</p> <p><b>Address</b> _____</p> <p><b>Borough</b> _____ <b>C.B.</b> _____</p> <p><b>Block #</b> _____ <b>Lot #</b> _____</p> <p><small>*Attach additional sheet</small></p>	

**CONCESSION TYPE (Check all that apply)**

> **Significant Concession:**

**NO**  
 **YES Basis:**  
 Total potential term =>10 years  Projected annual income/value to City >\$100,000  Major Concession

> **Major Concession:**

**NO**  
 **YES** - Award will be subject to review and approval pursuant to Sections 197-c and 197-d of NYC Charter.

**NOTIFICATION REQUIREMENTS**

**Subject concession will be awarded by CSB or CSP.**  YES  NO

**If YES, check the applicable box(es) below:**

The subject concession is a Significant Concession and the Agency has/will complete its consultations with each affected CB/BP regarding the scope of the solicitation at least 30 days prior to its issuance.

The subject concession is a Significant Concession and the Agency provided notification of such determination to each affected CB/BP by inclusion of this concession in the Agency's Plan pursuant to §1- 10 of the Concession Rules.

The subject concession has been determined not to be a Major Concession and the Agency has sent/will send written notification of such determination to each affected CB/BP at least 40 days prior to issuance of the solicitation.

The subject concession has been determined not to be a Major Concession and the Agency provided notification of such determination to each affected CB/BP by inclusion of this concession in the Agency's Plan pursuant to §1-10 of the Concession Rules.

**If NO, check the applicable box below:**

The Agency certifies that each affected CB/BP has received/will receive written notice at least 40 days in

advance of the FCRC meeting at which the agency will seek approval to use a different selection procedure.

- The Agency certifies that based on exigent circumstances it has requested/will request unanimous approval of the FCRC to waive advance written notice to each affected CB/BP.
- The Agency certifies that each affected CB/BP will receive written notice that the concession was determined to be non-major along with a summary of the terms and conditions of the proposed concession upon publication of a Notice of Intent to Enter into Negotiations. The agency further certifies that it will send a copy of this notice to the members of the Committee within five days of the notice to each affected CB/BP.

**AUTHORIZED AGENCY STAFF**

This is to certify that the information presented herein is accurate.

Name \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_/\_\_/\_\_

**CITY CHIEF PROCUREMENT OFFICER**

This is to certify that the agency's plan presented herein will comply with the prescribed procedural requisites for the award of the subject concession.

Signature \_\_\_\_\_ Date \_\_/\_\_/\_\_

City Chief Procurement Officer

# CONCESSION AGREEMENT PRE-SOLICITATION REVIEW MEMORANDUM

**A. DETERMINATION TO UTILIZE OTHER THAN COMPETITIVE SEALED BIDS  N/A**

***Instructions:*** Attach copy of draft RFP or other solicitation document, and check all applicable box(es) below.

**The Agency has determined that it is not practicable or advantageous to use Competitive Sealed Bids because:**

- Specifications cannot be made sufficiently definite and certain to permit selection based on revenue to the City alone.
- Judgment is required in evaluating competing proposals, and it is in the best interest of the City to require a balancing of revenue to the City, quality and other factors.
- The agency will be pursuing a negotiated concession for the reasons listed in section (B)(3)(b)
- Other (Describe)

NYC & Company Inc. on behalf of New York City Department of Small Business Services (SBS), intends to seek Franchise and Concession Review Committee approval to utilize a different procedure to negotiate a non-exclusive, sole source license agreement with Vineyard Vines, LLC. pursuant to Section 1-16 of the Concession Rules of the City of New York (different procedures) for the reasons listed in Section (B)(2) below.

**B. DETERMINATION TO USE OTHER THAN COMPETITIVE SEALED PROPOSALS  N/A**

- 1. Briefly summarize the terms and conditions of the concession. *Add additional sheet(s), if necessary.***

To be determined at a later date- when/if the Franchise and Concession Review Committee (FCRC) approves the use of a different procedure to negotiate an agreement with Souvenir Avanti Inc.

- 2. Briefly explain the basis for the determination not to solicit Competitive Sealed Proposals. *[Explain]***

Vineyard Vines, LLC. is a well-known American clothing and accessory retailer/brand founded in 1998 and recognized for their high-end apparel and accessory items. Vineyard Vines, LLC has a distinct logo that consists of a whale and has stand-alone retail stores around the United States as well as placement in high-end retail stores such as Bloomingdales and Nordstrom. With no other entity able to place the Vineyard Vines branded items, it is in the City's best interest to negotiate a sole source agreement with Vineyard Vines, LLC. This proposed non-exclusive license agreement will not bar opportunities for other types of apparel or accessories manufacturers

- 3a. Briefly explain the selection procedure that will be utilized. *[Explain]***

NYC & Company Inc./SBS is requesting authorization to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, to negotiate a sole source agreement with Vineyard Vines, LLC for the non-exclusive use of City-owned trademarks on apparel and accessories. Vineyard Vines, LLC. holds a non-concession agreement for the purpose of testing the product interest to its distribution channels and customers unique to Vineyard Vines, LLC. At the time the non-concession agreement with Vineyard Vines, LLC was executed the parties anticipated that the revenue would not exceed administrative costs which were estimated to be \$11,000, however the products released by Vineyard Vines, LLC. were such a success that the royalties for these items exceeded \$18,102.71 in the first four quarters of the term of the agreement . It was impossible to determine during negotiation of the non-concession agreement that the pilot program would have been so successful and based on the information available at the time there was no basis to justify bringing the matter before the FCRC for a concession agreement. Given that interest in the products has been successful, it is now in the City's best interest to negotiate a concession agreement with Vineyard Vines, LLC., to develop this market segment. NYC & Company/SBS is seeking to negotiate an agreement that includes the excess revenue from the non-concession agreement. We intend to bring this matter before the FCRC on September 11, 2019 ("Step 1"). Once negotiated and if determined by NYC & Company Inc./SBS to be a significant concession, NYC & Company

Inc./SBS and the FCRC will hold a joint public hearing on the proposed Agreement before presenting it to the FCRC for (“Step 2”) approval at a second public meeting. If NYC & Company Inc./SBS determines the concession to be non-significant, NYC & Company Inc./ SBS will present the fully negotiated Agreement directly (without need for an initial joint public hearing).

**3b. If the selection procedure is a negotiated concession, check the applicable box:  N/A**

*The Agency made a determination that it is not practicable and/or advantageous to award a concession by competitive sealed bidding or competitive sealed proposals due to the existence of a time-sensitive situation where a concession must be awarded quickly because:*

- The Agency has an opportunity to obtain significant revenues that would be lost or substantially diminished should the agency be required to solicit the concession by competitive sealed bids or competitive sealed proposals and the diminished revenue does not relate only to the present value of the revenue because of the additional time needed to solicit competitive sealed bids or competitive sealed proposals; *[Explain]*
- An existing concessionaire has been terminated, has defaulted, has withdrawn from, or has repudiated a concession agreement, or has become otherwise unavailable; *[Explain]*
- The Agency has decided, for unanticipated reasons, not to renew an existing concession in the best interest of the City and requires a substitute/successor concessionaire. *[Explain]*
- DCAS is awarding a concession to an owner of property adjacent to the concession property, or to a business located on such adjacent property, and has determined that it is not in the best interest of the City to award the concession pursuant to a competitive process because of the layout or some other characteristic of the property, or because of a unique service that can be performed only by the proposed concessionaire. *[Explain]*

**Approved by CCPO:** \_\_\_\_\_ **on** \_\_\_/\_\_\_/\_\_\_.

4. If the Agency has/will request unanimous FCRC approval to waive advance written notice each affected CB/BP that a selection procedure other than CSB or CSP will be utilized, explain the exigent circumstances. *[Explain]*  **N/A**

**CITY OF NEW YORK**

**FRANCHISE AND CONCESSION REVIEW COMMITTEE**

**(Cal. No. 1)**

**RESOLVED**, that the Franchise and Concession Review Committee (“FCRC”) authorizes NYC & Company, Inc. on behalf of New York City Department of Small Business Services (“SBS”) to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, to negotiate a non-exclusive, Sole Source License Agreement with Vineyard Vines, LLC. (“Vineyard Vines”) for the non-exclusive use of city-owned trademarks on merchandise.

**BE IT FURTHER RESOLVED**, that NYC & Company, Inc. on behalf of SBS shall submit the License Agreement SBS proposes to enter into with Vineyard Vines, LLC to the FCRC for approval.

THIS IS A TRUE COPY OF THE RESOLUTION ADOPTED BY THE  
FRANCHISE AND CONCESSION REVIEW COMMITTEE ON

**September 11, 2019**

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

Title: Director of the Mayor's Office of Contract Services

# Memo

**To:** All NYC Borough Presidents  
All NYC Community Board Presidents

**From:** Courtney Kaadi  
NYC & Company Inc.

**CC:** Tia Pierce  
Department of Small Business Services

Alexandre Stamoulis  
Mayor's Office of Contract Services

Gregg Alleyne  
Mayor's Office of Contract Services

Natalie Koepff  
NYC & Company Inc.

**Date:** August 2, 2019

**Re:** Notice of Intent to Seek FCRC approval to utilize a different procedure to negotiate a Sole Source License Agreement with City Merchandise, Inc. for the non-exclusive use of city-owned trademarks on merchandise

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Dear NYC Borough Presidents and NYC Community Board Presidents:

Pursuant to §1-16 of the Concession Rules of the City of New York, this is to notify the affected Borough Presidents and Community Boards that NYC & Company Inc., on behalf of the NYC Department of Small Business Services, intends to seek Franchise and Concession Review Committee approval to utilize a different procedure to negotiate a sole source license agreement with City Merchandise, Inc. for a non-significant concession for the non-exclusive use of city-owned trademarks on merchandise.

The proposed concession has been determined not to be a major concession as defined in Chapter 7 of the Rules of the City Planning Commission.

If you have any questions or comments, please contact me by e-mail at [ckaadi@nycgo.com](mailto:ckaadi@nycgo.com).

Best,

Courtney Kaadi

**CONCESSION AGREEMENT PRE-SOLICITATION REVIEW MEMORANDUM COVER SHEET**  
 (Complete and attach a CPSR Memorandum only if the selection procedure will be other than Competitive Sealed Bids)

<b>AGENCY:</b> NYC & Company on behalf of NYC Department of Small Business Services	<b>CONCESSION TITLE/DESCRIPTION:</b> Non-exclusive Use of City-Owned Trademarks on Merchandise  <b>CONCESSION IDENTIFICATION #</b> NYCCO-2019-014
<b># VOTES required for proposed action =</b> 4 <input type="checkbox"/> N/A	

**SELECTION PROCEDURE**  
 (\* City Chief Procurement Officer approval of CPSR required)

Competitive Sealed Bids (CSB) (CSP)\*
  Competitive Sealed Proposals

Different Procedure \* ( Sole Source Agreement  Other \_\_\_\_\_)

Negotiated Concession\*

Recommended Concessionaire: City Merchandise Inc  EIN  SSN # 112825148  
 Attach Memo(s) \*

<p align="center"><b>CONCESSION AGREEMENT TERM</b></p> <p> <b>Initial Term:</b> <u>To be negotiated</u>  <b>Renewal Option(s) Term:</b> <u>To be negotiated</u> </p> <p> <b>Total Potential Term:</b> <u>To be negotiated</u> </p>	<p align="center"><b>ESTIMATED REVENUE/ANTICIPATED BUSINESS TERMS</b>                  (Check all that apply)</p> <p align="center"> <input type="checkbox"/> Additional description attached             </p> <p> <input type="checkbox"/> Annual Minimum Fee(s) \$ _____             </p> <p> <input type="checkbox"/> % Gross Receipts _____ %             </p> <p> <input type="checkbox"/> The Greater of Annual Minimum Fee(s of \$ _____ v. _____ % of Gross Receipts             </p> <p> <input checked="" type="checkbox"/> Other formula <u>To be negotiated</u> </p>
<p> <b>LOCATION OF CONCESSION SITE(S)*</b> <input checked="" type="checkbox"/> N/A                  Address _____                  Borough _____ C.B. _____                  Block # _____ Lot # _____                  *Attach additional sheet             </p>	

**CONCESSION TYPE (Check all that apply)**

**> Significant Concession:**  
 NO  
 YES Basis:  
 Total potential term =>10 years  Projected annual income/value to City >\$100,000  Major Concession

**> Major Concession:**  
 NO  
 YES - Award will be subject to review and approval pursuant to Sections 197-c and 197-d of NYC Charter.

**NOTIFICATION REQUIREMENTS**

**Subject concession will be awarded by CSB or CSP.**  YES  NO

**If YES, check the applicable box(es) below:**

The subject concession is a Significant Concession and the Agency has/will complete its consultations with each affected CB/BP regarding the scope of the solicitation at least 30 days prior to its issuance.

The subject concession is a Significant Concession and the Agency provided notification of such determination to each affected CB/BP by inclusion of this concession in the Agency's Plan pursuant to §1-10 of the Concession Rules.

The subject concession has been determined not to be a Major Concession and the Agency has sent/will send written notification of such determination to each affected CB/BP at least 40 days prior to issuance of the solicitation.

The subject concession has been determined not to be a Major Concession and the Agency provided notification of such determination to each affected CB/BP by inclusion of this concession in the Agency's Plan pursuant to §1-10 of the Concession Rules.

**If NO**, check the applicable box below:

- The Agency certifies that each affected CB/BP has received/will receive written notice at least 40 days in advance of the FCRC meeting at which the agency will seek approval to use a different selection procedure.
- The Agency certifies that based on exigent circumstances it has requested/will request unanimous approval of the FCRC to waive advance written notice to each affected CB/BP.
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**AUTHORIZED AGENCY STAFF**

**This is to certify that the information presented herein is accurate.**

Name \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_/\_\_/\_\_

**CITY CHIEF PROCUREMENT OFFICER**

**This is to certify that the agency's plan presented herein will comply with the prescribed procedural requisites for the award of the subject concession.**

Signature \_\_\_\_\_ Date \_\_/\_\_/\_\_

**City Chief Procurement Officer**

# CONCESSION AGREEMENT PRE-SOLICITATION REVIEW MEMORANDUM

## A. DETERMINATION TO UTILIZE OTHER THAN COMPETITIVE SEALED BIDS N/A

***Instructions:*** Attach copy of draft RFP or other solicitation document, and check all applicable box(es) below.

**The Agency has determined that it is not practicable or advantageous to use Competitive Sealed Bids because:**

- Specifications cannot be made sufficiently definite and certain to permit selection based on revenue to the City alone.
- Judgment is required in evaluating competing proposals, and it is in the best interest of the City to require a balancing of revenue to the City, quality and other factors.
- The agency will be pursuing a negotiated concession for the reasons listed in section (B)(3)(b)
- Other (Describe)

NYC & Company Inc. on behalf of New York City Department of Small Business Services (SBS), intends to seek Franchise and Concession Review Committee approval to utilize a different procedure to negotiate a non-exclusive, sole source license agreement with City Merchandise, Inc. pursuant to Section 1-16 of the Concession Rules of the City of New York (different procedures) for the reasons listed in Section (B)(2) below.

## B. DETERMINATION TO USE OTHER THAN COMPETITIVE SEALED PROPOSALS N/A

1. **Briefly summarize the terms and conditions of the concession.** *Add additional sheet(s), if necessary.*

To be determined at a later date- when/if the Franchise and Concession Review Committee (FCRC) approves the use of a different procedure to negotiate an agreement with City Merchandise, Inc.

2. **Briefly explain the basis for the determination not to solicit Competitive Sealed Proposals.** *[Explain]*

City Merchandise, an MWBE partner, currently has an agreement, awarded through an RFP in 2014, for the sale of Souvenirs, Novelties & Collectibles that the parties have determined to terminate early. Because of this agreement, there is unique space set up in City Merchandise retailers specifically to sell New York City product. City Merchandise has prominent and vast placement throughout the City in key souvenir retailers such as Hudson News, as well as a vast amount of window space in the largest souvenir shop in Time Square. City Merchandise is the only licensee that has this valuable relationship with Hudson News and that maintains retail space in their stores right now. These relationships give us high visibility at large-scale retailers around the City.

Without a relationship with City Merchandise, the City will lose approximately \$500,000 in retail sales that it could not get from another current licensee selling Souvenirs, Novelties & Collectibles. The City plans on issuing another RFP for these goods, but, due to the substantial amount of time necessary to complete a competitive solicitation process, has determined that it is in the City's best interest to enter into negotiations for a sole source agreement with City Merchandise. City Merchandise has successfully created valuable relationships with high visibility retailers around the City, which, if allowed to lapse due to the lengthy competitive solicitation process, could not be easily replaced in a timely manner, if at all, and time is of the essence. Thus, negotiating and thereafter entering into a Sole Source Agreement with City Merchandise would give the City time to issue a new RFP while also allowing the City to maintain its

souvenir and accessory business at the current level of sales during the lengthy competitive solicitation process and thus avoid financial loss.

**3a. Briefly explain the selection procedure that will be utilized. [Explain]**

NYC & Company Inc./SBS is requesting authorization to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, to negotiate a sole source agreement with City Merchandise, Inc. for the non-exclusive use of City-owned trademarks on souvenirs and accessories. We intend to bring this matter before the FCRC on September 11, 2019 ("Step 1"). Once negotiated and if determined by NYC & Company Inc./SBS to be a significant concession, NYC & Company Inc./SBS and the FCRC will hold a joint public hearing on the proposed Agreement before presenting it to the FCRC for ("Step 2") approval at a second public meeting. If NYC & Company Inc./SBS determines the concession to be non-significant, NYC & Company Inc./SBS will present the fully negotiated Agreement directly (without need for an initial joint public hearing).

**3b. If the selection procedure is a negotiated concession, check the applicable box:  N/A**

*The Agency made a determination that it is not practicable and/or advantageous to award a concession by competitive sealed bidding or competitive sealed proposals due to the existence of a time-sensitive situation where a concession must be awarded quickly because:*

- The Agency has an opportunity to obtain significant revenues that would be lost or substantially diminished should the agency be required to solicit the concession by competitive sealed bids or competitive sealed proposals and the diminished revenue does not relate only to the present value of the revenue because of the additional time needed to solicit competitive sealed bids or competitive sealed proposals; [Explain]
- An existing concessionaire has been terminated, has defaulted, has withdrawn from, or has repudiated a concession agreement, or has become otherwise unavailable; [Explain]
- The Agency has decided, for unanticipated reasons, not to renew an existing concession in the best interest of the City and requires a substitute/successor concessionaire. [Explain]
- DCAS is awarding a concession to an owner of property adjacent to the concession property, or to a business located on such adjacent property, and has determined that it is not in the best interest of the City to award the concession pursuant to a competitive process because of the layout or some other characteristic of the property, or because of a unique service that can be performed only by the proposed concessionaire. [Explain]

**Approved by CCPO:** \_\_\_\_\_ **on** \_\_\_/\_\_\_/\_\_\_.

4. If the Agency has/will request unanimous FCRC approval to waive advance written notice each affected CB/BP that a selection procedure other than CSB or CSP will be utilized, explain the exigent circumstances. [Explain]  **N/A**

**CITY OF NEW YORK**

**FRANCHISE AND CONCESSION REVIEW COMMITTEE**

**(Cal. No. 2 )**

**RESOLVED**, that the Franchise and Concession Review Committee (“FCRC”) authorizes the NYC & Company, Inc. on behalf of New York City Department of Small Business Services (“SBS”) to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, to negotiate a non-exclusive, Sole Source License Agreement with City Merchandise, Inc. for the non-exclusive use of city-owned trademarks on merchandise.

**BE IT FURTHER RESOLVED**, that NYC & Company, Inc. on behalf of SBS shall submit the License Agreement SBS proposes to enter into with City Merchandise, Inc to the FCRC for approval.

**THIS IS A TRUE COPY OF THE RESOLUTION ADOPTED BY THE  
FRANCHISE AND CONCESSION REVIEW COMMITTEE ON**

**September 11<sup>th</sup>, 2019**

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

Title: Director of the Mayor's Office of Contract Services